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## Legislation

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## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 634/94**

**of 10 March 1994**

**on the conclusion of the Protocol establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of The Gambia on fishing off The Gambia for the period 1 July 1993 to 30 June 1996**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof in conjunction with the first sentence of Article 228 (2) and the first subparagraph of Article 228 (3),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Whereas, pursuant to the Agreement between the European Economic Community and the Government of The Gambia on fishing off The Gambia<sup>(2)</sup>, the two parties conducted negotiations to determine the amendments or additions to be made to the Agreement at the end of the period of application of the Protocol annexed thereto<sup>(3)</sup>;

Whereas, as a result of those negotiations, a new Protocol establishing the fishing rights and financial compensation provided for in the abovementioned Agreement for the period 1 July 1993 to 30 June 1996 was initialled on 17 June 1993;

Whereas, it is in the Community's interest to conclude the new Protocol,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Protocol establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of The Gambia on fishing off The Gambia for the period 1 July 1993 to 30 June 1996 is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation.

*Article 2*

The President of the Council is hereby authorized to designate the persons empowered to sign the Protocol in order to bind the Community.

*Article 3*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 March 1994.

*For the Council*

*The President*

Y. PAPANTONIOU

<sup>(1)</sup> Opinion delivered on 11 February 1994 (not yet published in the Official Journal).

<sup>(2)</sup> OJ No L 146, 6. 6. 1987, p. 3.

<sup>(3)</sup> OJ No L 379, 31. 12. 1990, p. 15.

**PROTOCOL****establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Republic of The Gambia on fishing off the coast of The Gambia for the period 1 July 1993 to 30 June 1996***Article 1*

Pursuant to Article 4 of the Agreement and for the period 1 July 1993 to 30 June 1996, annual fishing rights shall be as follows:

1. tuna vessels:
  - (a) freezer seiners: 23 vessels
  - (b) pole-and-line: 7 vessels
2. trawlers and other vessels:
  - (a) fresh fish trawlers: 410 GRT
  - (b) freezer trawlers:
    - fishing for shrimps: 2 000 GRT
    - fishing for other species: 750 GRT.

*Article 2*

The total number of fishing days by fresh fish vessels and freezer trawlers in The Gambia's fishing zone is limited to 1 000 fishing days and 4 000 fishing days, respectively, in each fishing year of application of the Protocol.

The authorities of The Gambia shall notify the Commission Delegation in The Gambia when 80 % of the fishing days authorized for each category of vessel have been utilized.

*Article 3*

1. For the period referred to in Article 1 the financial compensation referred to in Article 9 of the Agreement shall be ECU 1 100 000 payable in three equal annual instalments.
2. The use to which this compensation is put shall be the sole responsibility of the authorities of The Gambia.
3. The compensation shall be paid to the Accountant General's Department of The Gambia.

*Article 4*

1. The Community shall also contribute during the period referred to in Article 1 the sum of ECU 80 000 towards the financing of scientific programmes designed to improve knowledge on the fish resources within the waters of The Gambia.

2. Following communication by the relevant authorities of The Gambia of the content of the scientific programmes, the corresponding amounts shall be transmitted to the account specified by those authorities.

3. The relevant authorities of The Gambia shall submit to the relevant services of the Commission reports on the realization of these programmes.

*Article 5*

The two Parties agree that improving the skills and knowledge of those involved in sea-fishing is a vital element in the success of their cooperation. To that end, the Community shall make it easier for nationals of The Gambia to find places in establishments in its Member States and shall provide for that purpose awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries. The awards may also be used in any country linked with the Community by a cooperation agreement.

The total cost of the awards may not exceed ECU 220 000. At the request of the relevant authorities of The Gambia, part of this sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries. The sum shall be payable as and when it is used.

*Article 6*

Should the Community fail to make the payments provided for in Articles 3 and 4, the application of this Protocol may be suspended.

*Article 7*

The Annex to the Agreement between European Economic Community and the Government of the Republic of The Gambia on fishing off the coast of The Gambia is hereby repealed and replaced by the Annex to this Protocol.

*Article 8*

This Protocol shall enter into force on the date on which it is signed.

It shall be applicable from 1 July 1993.

## ANNEX

**CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY COMMUNITY VESSELS  
IN THE GAMBIA'S FISHING ZONE****A. Licence application and issuing formalities**

1. The relevant Community authorities shall present to the relevant authorities of The Gambia, via the Commission Delegation in The Gambia, an application for each vessel that is to be used for fishing under the Agreement, at least 15 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the relevant authorities of The Gambia, a specimen of which is attached hereto (Appendix 1).

2. Each licence application shall be accompanied by proof of payment of the fee for the period of the licence's validity. Payment shall be made into an account opened with a financial institution or any other body designated by The Gambia's authorities.

The fees shall include all national and local charges except for port taxes and service charges.

3. Licences for all vessels shall be issued by the relevant authorities of The Gambia, within 15 days following receipt of proof of payment as laid down at 2, to the shipowners or their representatives via the Commission Delegation in The Gambia.
4. Licences shall be issued for a specific vessel and shall not be transferable. However, at the request of the European Economic Community, a vessel's licence may and in the case of *force majeure* shall be replaced by a new licence for another vessel with features similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the relevant authorities of The Gambia via the Commission Delegation in The Gambia.

The new licence shall indicate :

- the date of issue,
- the fact it replaces the licence of the previous vessel for the remaining period of validity.

In the case, no fee shall be due for unexpired period of validity.

5. The licence must be held on board at all times.
6. The Accountant General's Department of The Gambia shall give notice, before the Agreement enters into force, of the arrangements for payment of the fee, including information on bank accounts and the currencies to be used.

**B. Provisions applicable to licences for tuna vessels**

1. Licences shall be valid for one year. They shall be renewable.
2. The fee shall be set at ECU 20 per tonne caught within The Gambia's fishing zone.
3. Licences shall be issued following payment to the Accountant General's Department of The Gambia of a lump sum of ECU 1 000 a year for each tuna seiner and ECU 200 a year for each pole-and-line tuna vessel, equivalent to the fees payable for a catch of :
  - 50 tonnes of tuna per year in the case of seiners,
  - 10 tonnes per year in the case of pole-and-line tuna vessels.
4. The final statement of the fees due for the fishing period shall be drawn up by the Commission of the European Communities at the end of each calendar year on the basis of the catch statements made for each vessel and confirmed by the relevant scientific institutes, including the French Office de la recherche scientifique et technique d'outre-mer (Orstom) and the Instituto Español de Oceanografía (IEO).

The statement shall be forwarded simultaneously to the relevant authorities of The Gambia and to the shipowners. Any additional payment due shall be made by the shipowners to the Accountant General's Department of The Gambia no later than 30 days after notification of the final statement, to be paid into the account opened with a financial institution or any other body designated by the relevant authorities of The Gambia.

However, if the amount of the final statement is lower than the abovementioned amount, the resulting balance shall not be reimbursable.

#### C. Provisions applicable to licences for other vessels

1. Licences shall be valid for three, six or 12 months. The annual fee shall be fixed according to GRT, in proportion to the duration of the licence, at the rate of:

(a) fresh fish vessels:

- ECU 96 per GRT for vessels fishing for crustaceans,
- ECU 60 per GRT for other vessels;

(b) freezer vessels:

- ECU 96 per GRT for shrimp vessels,
- ECU 72 per GRT for other vessels.

These fees shall be paid to the Accountant General's Department of The Gambia in the currency indicated by the relevant authorities of The Gambia.

2. Trawlers fishing in The Gambia's fishing zone shall be limited at a maximum of 1 500 GRT.
3. Each vessel shall be represented by an agent selected by the shipowner and based in The Gambia. An agent may represent more than one vessel.

#### D. Statement of catch

1. For tuna seiners and pole-and-line tuna vessels, a fishing log shall be kept, in accordance with the model in Appendix 2, for each fishing period spent in The Gambia's fishing zone. The form must be sent, within 45 days of the end of the fishing voyage spent in The Gambia's fishing zone, to the relevant authorities of The Gambia via the Commission Delegation in The Gambia.
2. Trawlers are obliged to notify the relevant authorities of The Gambia of their catches using the standard form given in Appendix 3 via the Commission Delegation in The Gambia. The statements shall be monthly and must be communicated at least once every three months.
3. Forms must be completed legibly and be signed by the master of the vessel.
4. Should these provisions not be adhered to, the relevant authorities of The Gambia reserve the right to suspend the licence of the offending vessel until the formality has been complied with.

In this case, the Commission Delegation in The Gambia shall be informed.

#### E. Landing of catch

Trawlers authorized to fish in The Gambia's fishing zone shall, in order to make a contribution towards supplying the local population with fish caught in The Gambia's fishing zone, be obliged to land free of charge, to the Ministry of Water Resources, Forestry and Fisheries of The Gambia, 30 kilograms per GRT per year of fish for local consumption.

Landings may be made individually or collectively, mention being made of the vessels concerned.

#### F. Signing-on of seamen

1. Trawler owners who have been issued fishing licences under the Agreement shall contribute to the on-the-job vocational training of The Gambia nationals, taking on board one seaman per trawler.
2. The wage of this fisherman, to be borne by the shipowners, shall be fixed by mutual agreement between shipowners and the relevant authorities of The Gambia. Should the fisherman not be signed on, the shipowners shall be obliged to pay a lump sum equivalent to 60 % of the seaman's wage. This sum will be used for the training of fishermen in The Gambia and is to be paid into an account specified by the relevant authorities of The Gambia.

#### G. Fishing zones

Community vessels may carry out fishing activities in the following zones:

- beyond seven miles from the coast for trawlers equal to or less than 250 GRT,
- beyond 12 miles from the coast for trawlers of more than 250 GRT,
- throughout the waters under sovereignty or jurisdiction of The Gambia for tuna vessels.

**H. Meshes authorized**

The minimum mesh size authorized for the trawl body (mesh fully extended) shall be, when fishing for :

- live bait : 8 mm,
- cephalopods : 40 mm,
- fin fish : 60 mm,
- shrimp : 40 mm.

In the case of tuna, the international standards recommended by Iccat shall apply.

**I. Entering and leaving the zone**

1. All Community vessels fishing under the Agreement in The Gambia's fishing zone shall communicate to the Banjul radio station the date and time and their position when entering and leaving The Gambia's fishing zone.
2. While fishing in The Gambia's fishing zone, vessels shall notify their position and their catch to the relevant authorities of The Gambia every three days via the Banjul radio station, and give their total catch each time they leave the zone.
3. The call sign and operating frequencies and working hours of the station shall be communicated to the shipowners or their representatives by the relevant authorities of The Gambia at the time the licence is issued.
4. In cases where this radio communication cannot be used, vessels may use alternative means, such as telex or telegram.

**J. Procedure in case of arrest and detention**

The Commission Delegation in The Gambia shall be notified within 48 hours of any arrest and detention within The Gambia's fishing zone of a fishing vessel flying the flag of a Member State of the Community and operating under this Agreement. A brief report of the circumstances and reasons leading to the arrest shall be provided within 72 hours.

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Appendix 1

REPUBLIC OF THE GAMBIA

APPLICATION FORM FOR FISHING VESSEL TO FISH  
IN GAMBIAN WATERS

I. APPLICANT :

- 1. Name of applicant : .....
- 2. Name of company : .....
- 3. Address : .....

II. VESSEL :

- 1. Name : .....
- 2. Registration No : .....
- 3. Date and place of construction : .....
- 4. Radio call sign : .....
- 5. Country of registration : .....
- 6. Gross register tonnes : .....
- 7. Number of fish holds : .....
- 8. Capacity of holds : .....
- 9. Total number of crew : .....
- 10. Fishing method : .....
- 11. Is the vessel a freezer? .....
- 12. If yes : .....

  - Freezer capacity : .....
  - Storage capacity : .....

- 13. Name of master of vessel : .....

III. PERIOD OF APPLICATION :

From ....., to .....

.....  
(Date)

.....  
(Signature)











**COMMISSION REGULATION (EC) No 635/94**  
**of 22 March 1994**  
**amending for the fifth time Regulation (EC) No 3088/93 adopting exceptional**  
**support measures for the market in pigmeat in Germany**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat<sup>(1)</sup>, as last amended by Commission Regulation (EEC) No 1249/89<sup>(2)</sup>, and in particular Article 20 thereof,

Whereas, because of the outbreak of classical swine fever in certain production regions in Germany, exceptional support measures for the market in pigmeat were adopted for that Member State in Commission Regulation (EC) No 3088/93<sup>(3)</sup>, as last amended by Regulation (EC) No 113/94<sup>(4)</sup>;

Whereas it is necessary to adjust the aid granted for the delivery of pigs to the present market situation taking into account the increase in market prices in Germany as from 14 March 1994;

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 4 of Regulation (EC) No 3088/93 is hereby amended as follows:

1. in paragraph 1, 'ECU 100' is replaced by 'ECU 105';
2. in paragraph 2, 'ECU 28' is replaced by 'ECU 35' and 'ECU 22,5' is replaced by 'ECU 28'.

*Article 2*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 14 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 282, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 129, 11. 5. 1989, p. 12.

<sup>(3)</sup> OJ No L 277, 10. 11. 1993, p. 30.

<sup>(4)</sup> OJ No L 20, 25. 1. 1994, p. 1.

## COMMISSION REGULATION (EC) No 636/94

of 22 March 1994

amending for the fifth time Regulation (EC) No 3337/93 adopting exceptional support measures for the market in pigmeat in Belgium

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat<sup>(1)</sup>, as last amended by Commission Regulation (EEC) No 1249/89<sup>(2)</sup>, and in particular Article 20 thereof,Whereas, because of the outbreak of classical swine fever in one production region in Belgium, exceptional support measures for the market in pigmeat were adopted for that Member State in Commission Regulation (EC) No 3337/93<sup>(3)</sup>, as last amended by Regulation (EC) No 334/93<sup>(4)</sup>;

Whereas it is necessary to adjust the buying-in price for pigs to the present market situation taking into account the increase in market prices as from 7 March 1994;

Whereas in view of a new outbreak of classical swine fever, the veterinary and commercial restrictions have been extended by the Belgian authorities to a new region at end February 1994; whereas it is appropriate to include, as from 7 March 1994, the animals coming from this region in the buying-in price scheme provided for by Regulation (EC) No 3337/93;

Whereas the region around the municipality of Wingede is no longer subject to veterinary and commercial restrictions and should therefore be excluded from the buying-in scheme provided for by Regulation (EC) No 3337/93;

Whereas an error has been found in Annex I to Regulation (EC) No 3337/93 which has been applied from 9 February 1994; whereas this error should be corrected;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 3337/93 is hereby amended as follows:

1. Article 4 is amended as follows:

- (a) in paragraph 1, 'ECU 105' is replaced by 'ECU 110' and 'ECU 89' is replaced by 'ECU 94';
- (b) in paragraph 2, 'ECU 30' is replaced by 'ECU 36' and 'ECU 25,5' is replaced by 'ECU 31';
- (c) in paragraph 3, 'ECU 23' is replaced by 'ECU 29' and 'ECU 19,5' is replaced by 'ECU 25';

2. Annex I is replaced by the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 7 March 1994. However, the inclusion of point (i) into Annex I to Regulation (EC) No 3337/93 shall apply with effect from 9 February 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*<sup>(1)</sup> OJ No L 282, 1. 11. 1975, p. 1.<sup>(2)</sup> OJ No L 129, 11. 5. 1989, p. 12.<sup>(3)</sup> OJ No L 299, 4. 12. 1993, p. 23.<sup>(4)</sup> OJ No L 43, 16. 2. 1994, p. 1.

*ANNEX**ANNEX I*

- (a) Part of the municipality of Maldegem located :
    - 1. south of the streets : Meeuslaan, Schautenstraat, Bogaardestraat and N 9 national road ;
    - 2. east of the streets : Stationsstraat, Noordstraat, Aardenburgsekalseide to the Leopold-canal ;
    - 3. south of the Leopold-canal.
  - (b) Part of the municipality of Sint-Laureins located :
    - 1. south of the Leopold-canal ;
    - 2. west of Sint-Jansstraat.
  - (c) Part of the municipality of Kaprijke located west of N 456 of national road.
  - (d) Part of the municipality of European located west of the following roads :  
N 456 national road of the crossing with Zevekotestraat, Zevekotestraat, Kromvelde to the crossing with Oostendestraat, Belzeledorp, Kuitenbergstraat and Kuitenberg.
  - (e) Part of the municipality of Lovendegem located east of the following roads : Pyramidestraat, Kuitenberstraat, Appensvoorde, Larestraat, Vaartstraat, Koning Leopoldstraat, Lobrug, Lostraat.
  - (f) Part of the municipality of Nevele located :
    - 1. west of Lostraat, Eikendreef, Veldestraat, Stationsstraat, Landegemdorp and Vosselarestraat to E 40 motorway ;
    - 2. north of the E 40 motorway.
  - (g) Part of the municipality of Aalter located north of the E 40 motorway.
  - (h) Part of the municipality of Beernem located :
    - 1. north of the E 40 motorway to the crossing with Wingenesteenweg ;
    - 2. east of Wingenesteenweg, Stationsstraat, Scherpestraat, Beernemstraat, Knesselarestaat to the crossing with Hoogstraat and Hoogstraat to the border of the Province.
  - (i) The municipality of Knesselare.
  - (j) The municipalities of Eeklo, Waarschoot and Zomergem.
-

**COMMISSION REGULATION (EC) No 637/94**  
**of 22 March 1994**  
**amending Regulation (EC) No 555/94 on the supply of cereals as food aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management <sup>(1)</sup>, as last amended by Regulation (EEC) No 1930/90 <sup>(2)</sup>, and in particular Article 6 (1) (c) thereof,

Whereas Commission Regulation (EC) No 555/94 <sup>(3)</sup> issued an invitation to tender for the supply, as food aid, of 61 512 tonnes of cereals; whereas some of the conditions specified in the Annex to the Regulation should be altered,

HAS ADOPTED THIS REGULATION:

*Article 1*

For lot C of Regulation (EC) No 555/94, point 10 of the Annex is replaced by the following:

'10. Packaging and marking <sup>(\*)</sup> <sup>(\*)</sup> <sup>(\*)</sup>: see OJ No C 114, 29. 4. 1991, p. 1 (under II.A (2) (c) and II.A (3))  
Markings in English.'

*Article 2*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 30. 12. 1986, p. 1.

<sup>(2)</sup> OJ No L 174, 7. 7. 1990, p. 6.

<sup>(3)</sup> OJ No L 71, 15. 3. 1994, p. 3.



## COMMISSION REGULATION (EC) No 638/94

of 22 March 1994

amending Regulation (EEC) No 1198/93 increasing to 4 600 000 tonnes the quantity of bread-making wheat held by the French intervention agency for which a standing invitation to tender for export has been opened

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as amended by Commission Regulation (EEC) No 2193/93<sup>(2)</sup>, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93<sup>(3)</sup>, as amended by Regulation (EC) No 120/94<sup>(4)</sup>, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;

Whereas Commission Regulation (EEC) No 1198/93<sup>(5)</sup>, as last amended by Regulation (EC) No 325/94<sup>(6)</sup>, opened a standing invitation to tender for the export of 4 400 000 tonnes of bread-making wheat held by the French intervention agency; whereas, in a communication of 10 March 1994, France informed the Commission of the intention of its intervention agency to increase by 200 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of bread-making wheat held by the French intervention agency for which a standing invitation to tender for export has been opened should be increased to 4 600 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EEC) No 1198/93 must therefore be amended;

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 2 of Regulation (EEC) No 1198/93 is replaced by the following:

*'Article 2*

1. The invitation to tender shall cover a maximum of 4 600 000 tonnes of bread-making wheat to be exported to all third countries.
2. The regions in which the 4 600 000 tonnes of bread-making wheat are stored are stated in Annex I to this Regulation.'

*Article 2*

Annex I to Regulation (EEC) No 1198/93 is replaced by the Annex hereto.

*Article 3*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ No L 196, 5. 8. 1993, p. 22.

<sup>(3)</sup> OJ No L 191, 31. 7. 1993, p. 76.

<sup>(4)</sup> OJ No L 21, 26. 1. 1994, p. 1.

<sup>(5)</sup> OJ No L 122, 18. 5. 1993, p. 23.

<sup>(6)</sup> OJ No L 41, 12. 2. 1994, p. 47.

## ANNEX

## ANNEX I

*(tonnes)*

Place of storage	Quantity
Amiens	293 000
Bordeaux	55 000
Clermont-Ferrand	10 000
Châlons-sur-Marne	554 000
Dijon	110 000
Lille	557 000
Lyon	23 000
Nancy	90 000
Nantes	115 000
Orléans	920 000
Paris	310 000
Poitiers	385 000
Rennes	145 000
Rouen	588 000
Toulouse	49 000
Ghent (Belgium)	396 000

## COMMISSION REGULATION (EC) No 639/94

of 22 March 1994

**amending Regulation (EEC) No 1516/93 increasing to 450 000 tonnes the quantity of bread-making wheat held by the Danish intervention agency for which a standing invitation to tender for export has been opened**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as amended by Regulation (EEC) No 2193/93<sup>(2)</sup>, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93<sup>(3)</sup>, as amended by Regulation (EC) No 120/94<sup>(4)</sup>, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;

Whereas Commission Regulation (EEC) No 1516/93<sup>(5)</sup>, as last amended by Regulation (EC) No 325/94<sup>(6)</sup>, opened a standing invitation to tender for the export of 400 000 tonnes of bread-making wheat held by the Danish intervention agency; whereas, in a communication of 10 March 1994, Denmark informed the Commission of the intention of its intervention agency to increase by 50 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of bread-making wheat held by the Danish intervention agency for which a standing invitation to tender for export has been opened should be increased to 450 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EEC) No 1516/93 must therefore be amended;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 2 of Regulation (EEC) No 1516/93 is replaced by the following:

*Article 2*

1. The invitation to tender shall cover a maximum of 450 000 tonnes of bread-making wheat to be exported to all third countries.
2. The regions in which the 450 000 tonnes of bread-making wheat are stored are stated in Annex I to this Regulation.

*Article 2*

Annex I to Regulation (EEC) No 1516/93 is replaced by the Annex hereto.

*Article 3*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ No L 196, 5. 8. 1993, p. 22.

<sup>(3)</sup> OJ No L 191, 31. 7. 1993, p. 76.

<sup>(4)</sup> OJ No L 21, 26. 1. 1994, p. 1.

<sup>(5)</sup> OJ No L 150, 22. 6. 1993, p. 24.

<sup>(6)</sup> OJ No L 41, 12. 2. 1994, p. 47.

*ANNEX**ANNEX I*

*(tonnes)*

Place of storage	Quantity
Jylland	128 925
Sjælland	207 575
Falster	85 500
Møn	28 000'

**COMMISSION REGULATION (EC) No 640/94**  
**of 22 March 1994**  
**fixing the aid for cotton**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 thereto, as amended by the Act of Accession of Spain and Portugal, and in particular Protocol 14 annexed thereto, and Commission Regulation (EEC) No 4006/87<sup>(1)</sup>,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton<sup>(2)</sup>, as last amended by Regulation (EEC) No 1554/93<sup>(3)</sup>, and in particular Article 5 (1) thereof,

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 2419/93<sup>(4)</sup>, as last amended by Regulation (EC) No 564/94<sup>(5)</sup>;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2419/93 to the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The aid for unginned cotton provided for in Article 5 of Regulation (EEC) No 2169/81 shall be ECU 50,492 per 100 kilograms.

*Article 2*

This Regulation shall enter into force on 23 March 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 377, 31. 12. 1987, p. 49.

<sup>(2)</sup> OJ No L 211, 31. 7. 1981, p. 2.

<sup>(3)</sup> OJ No L 154, 25. 6. 1993, p. 23.

<sup>(4)</sup> OJ No L 222, 1. 9. 1993, p. 35.

<sup>(5)</sup> OJ No L 71, 15. 3. 1994, p. 22.

## COMMISSION REGULATION (EC) No 641/94

of 22 March 1994

## fixing the import levies on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as amended by Regulation (EEC) No 2193/93 <sup>(2)</sup>, and in particular Articles 10 (5) and 11 (3) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>, as amended by Regulation (EC) No 3528/93 <sup>(4)</sup>,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2703/93 <sup>(5)</sup> and subsequent amending Regulations ;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market

rate established during the reference period from 21 March 1994, as regards floating currencies, should be used to calculate the levies ;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2703/93 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

*Article 1*

The import levies to be charged on products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 23 March 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ No L 196, 5. 8. 1993, p. 22.

<sup>(3)</sup> OJ No L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ No L 320, 22. 12. 1993, p. 32.

<sup>(5)</sup> OJ No L 245, 1. 10. 1993, p. 108.

## ANNEX

## to the Commission Regulation of 22 March 1994 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Third countries <sup>(*)</sup>
0709 90 60	93,10 <sup>(2)</sup>
0712 90 19	93,10 <sup>(2)</sup>
1001 10 00	0 <sup>(1)</sup>
1001 90 91	97,37
1001 90 99	97,37 <sup>(2)</sup>
1002 00 00	119,20 <sup>(2)</sup>
1003 00 10	122,80
1003 00 90	122,80 <sup>(2)</sup>
1004 00 00	97,15
1005 10 90	93,10 <sup>(2)</sup>
1005 90 00	93,10 <sup>(2)</sup>
1007 00 90	104,11 <sup>(2)</sup>
1008 10 00	31,89 <sup>(2)</sup>
1008 20 00	46,40 <sup>(2)</sup>
1008 30 00	0 <sup>(2)</sup>
1008 90 10	( <sup>2)</sup>
1008 90 90	0
1101 00 00	173,86 <sup>(2)</sup>
1102 10 00	203,99
1103 11 10	33,95
1103 11 90	197,49
1107 10 11	184,20
1107 10 19	140,38
1107 10 91	229,46 <sup>(10)</sup>
1107 10 99	174,20 <sup>(2)</sup>
1107 20 00	201,22 <sup>(10)</sup>

(<sup>1</sup>) Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

(<sup>2</sup>) In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

(<sup>3</sup>) Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.

(<sup>4</sup>) Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

(<sup>5</sup>) Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

(<sup>6</sup>) The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10), as last amended by Regulation (EEC) No 1902/92 (OJ No L 192, 11. 7. 1992, p. 3), and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22), as amended by Regulation (EEC) No 560/91 (OJ No L 62, 8. 3. 1991, p. 26).

(<sup>7</sup>) The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

(<sup>8</sup>) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

(<sup>9</sup>) Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

(<sup>10</sup>) In accordance with Council Regulation (EEC) No 1180/77 this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

**COMMISSION REGULATION (EC) No 642/94****of 22 March 1994****fixing the premiums to be added to the import levies on cereals, flour and malt**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as amended by Regulation (EEC) No 2193/93 <sup>(2)</sup>, and in particular Article 12 (4) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>, as amended by Regulation (EC) No 3528/93 <sup>(4)</sup>,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1681/93 <sup>(5)</sup> and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 21

March 1994, as regards floating currencies, should be used to calculate the levies;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The premiums to be added to the levies fixed in advance for the import in respect of the products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 23 March 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ No L 196, 5. 8. 1993, p. 22.

<sup>(3)</sup> OJ No L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ No L 320, 22. 12. 1993, p. 32.

<sup>(5)</sup> OJ No L 159, 1. 7. 1993, p. 11.



## ANNEX

to the Commission Regulation of 22 March 1994 fixing the premiums to be added to the import levies on cereals, flour and malt

## A. Cereals and flour

*(ECU/tonne)*

CN code	Current	1st period	2nd period	3rd period
	3	4	5	6
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 00	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 00	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0
1102 10 00	0	0	0	0
1103 11 10	0	0	0	0
1103 11 90	0	0	0	0

## B. Malt

*(ECU/tonne)*

CN code	Current	1st period	2nd period	3rd period	4th period
	3	4	5	6	7
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 22 September 1993

concerning Italian Law No 102 of 2 May 1990 providing for the reconstruction and regeneration of the Valtellina

(Only the Italian text is authentic)

(94/172/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having, in accordance with the abovementioned Article, given notice to the parties concerned to submit their comments to it,

Whereas :

## I

By letter dated 14 October 1992<sup>(1)</sup>, the Commission informed the Italian authorities that it had decided to initiate Article 93 (2) proceedings in respect of the aid provided by Law No 102 of 2 May 1990 on the reconstruction and regeneration of the Valtellina, and it gave the Italian authorities and the other Member States and interested parties notice to submit their comments.

The Italian authorities submitted comments by letters dated 22 January, 9 and 24 February and 8 and 16 June 1993. A meeting was held between Italian and Commission representatives on 29 January 1993.

No other Member States or interested parties submitted comments.

On 4 December 1992 the Italian Prime Minister issued a decree approving the plan for the reconstruction and

development of the Valtellina put forward by the Lombard Regional Council. The plan specifies the principles and conditions governing the various aid measures. The decree stipulates that the tax reliefs and contributions to the guarantee funds are subject to verification that they are compatible with the Community rules. General provisions on the implementation of the plan have not yet been adopted.

## II

The aid in respect of which the Article 93 (2) proceedings were initiated as regards the sectors other than agriculture is the following :

- the grants, interest repayments and low-interest loans provided for in Articles 5 (1) (c) and 12 of Law No 102/1990 (points 5.2.1 and 5.2.2 of the plan),
- the support for productive activity generically defined in Article 5 (1) (c) of Law 102/1990 (point 5.2.3 of the plan),
- the contributions to the Guarantee Fund for Industry, Commerce and Craft Enterprises provided for in Article 5 (1) (c) of Law No 102/1990 (point 5.2.2 of the plan states that these contributions may be granted only to the 'Consorzi garanzia fidi' (agencies set up to provide collateral security, thereby assisting SMEs' access to credit) in the Province of Sondrio and that the guarantees may be accompanied by interest subsidies),
- the tax exemptions and reductions, including those relating to the energy tax, provided for in Article 11 of Law No 102/1990 (point 5.2.1 of the plan).

<sup>(1)</sup> OJ No C 324, 10. 12. 1992, p. 3.

## III

In their comments, the Italian authorities undertook to ensure that the aid in question would be granted under the following conditions:

- (a) the aid will be restricted to SMEs as defined in the Community guidelines on State aid for small and medium-sized enterprises (SMEs)<sup>(1)</sup>. Enterprises not meeting these conditions will qualify only for a total sum not exceeding ECU 50 000 for each three-year period and for each general category of expenditure;
- (b) aid for productive investment, which will be granted solely in the form of interest subsidies (including the subsidies granted by the 'ConSORZI garanzia fidi' in the Province of Sondrio), will be limited to an intensity ceiling of:

- 15 % gross for small enterprises, and
- 7,5 % gross for medium-sized enterprises.

In the case of areas qualifying for assistance from the Structural Funds under Objective 2 or 5 (b) pursuant to Regulation (EEC) No 2052/88<sup>(2)</sup>, as last amended by Regulation (EEC) No 2081/93<sup>(3)</sup>, those percentages will be 20 and 10 % respectively;

- (c) the tax reliefs for productive investment alone or combined with other aid, will not exceed the above-mentioned intensities. Any tax reliefs which are not for productive investment will not exceed the ceiling of ECU 50 000 per enterprise for each three-year period and may be combined only with aid for productive investment;
- (d) the guarantees provided by the 'ConSORZI garanzia fidi' in the Province of Sondrio will be made available to SMEs at the market rate and subject to the contractual conditions stipulated in the Commission's letter of 5 April 1989 to the Member States. The interest subsidies granted by these bodies which are not for productive investment will not exceed the current equivalent of ECU 50 000 over each three-year period and for each enterprise and may be combined only with aid for productive investment;
- (e) 'soft' aid will be granted only to SMEs and at least 50 % of the cost will be borne by the enterprise in question. Rehabilitated land and business premises will be transferred at the market price only; this condition will also apply to the provision of industrial parks.

The Italian authorities will notify the Commission if they wish to grant other aid to enterprises bigger than SMEs.

The Italian authorities have not proposed any change in the aid for the recovery and treatment of industrial waste referred to in point 5.2.3 (1/4) of the plan for the reconstruction and development of the Valtellina, and mentioned in point 13 of the notice initiating the procedure pursuant to Article 93 (2) of the Treaty. Moreover, no comments were submitted on this issue.

Finally, the Italian authorities have stated that the financing of a chair-lift in Formazza does not constitute aid for a commercial investment in tourism, since the owner of the chair-lift can only be the municipality of Formazza. The steps for verifying this have been taken.

## IV

The adjusted measures described in point III (a), (b), (c), (d) and (e) are compatible with the common market for the following reasons:

- (a) the aid for productive investment for SMEs (point III (b)), the tax reliefs for productive investment (point III (c)) and the soft aid for SMEs (point III (e)) meet the conditions as to compatibility set out in the Community guidelines on State aid for small and medium-sized enterprises. They are therefore compatible with the common market pursuant to Article 92 (3) (c) of the Treaty for the reasons specified in the guidelines and incorporated in full into this Decision. The intensities to be applied in the areas qualifying for assistance under Objectives 2 and 5 (b) pursuant to Regulation (EEC) No 2052/88 are in accordance with the principles established by the Commission in this area and decisions adopted in similar cases;
- (b) the tax reliefs which are not conditional on investment being productive (point III (c)) and interest subsidies from the 'ConSORZI garanzia fidi' which are not conditional on investment being productive (point III (d)) are limited to a ceiling of ECU 50 000 for each enterprise for each three-year period and may only be combined pursuant to the Law, with aid for productive investment. They therefore meet the *de minimis* criteria set out by the Commission in point 3.2 of the Community guidelines on State aid for SMEs and in its letter of 23 March 1993 to the Member States. This aid is therefore compatible with the common market because it does not have any appreciable effect on trade and competition between Member States. The Commission refers in this connection to the reasons which are set out in point 3.2 of guidelines and which are incorporated in full into this Decision;

<sup>(1)</sup> OJ No C 213, 19. 8. 1992, p. 2.

<sup>(2)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(3)</sup> OJ No L 193, 31. 7. 1993, p. 5.

- (c) the aid to enterprises bigger than small and medium-sized enterprises (point III (a)) also meets the *de minimis* criteria and is therefore compatible with the common market. Nevertheless, the conditions on which it is granted must be clarified along the lines of the Commission's letter of 23 March 1993;
- (d) the transfer at market prices of rehabilitated commercial land and premises and the offer at market prices of industrial parks (point III (e)) do not constitute aid because these measures do not have the effect of reducing for such enterprises the prices they would have had to pay to other proprietors for similar property;
- (e) the foregoing also applies to the guarantees provided for SMEs by the 'Consorti garanzia fidi' in the Province of Sondrio (point III (d)), on condition that such guarantees are not provided to enterprises which are known, or should have been known, to be insolvent at the time when the guarantee was provided. Since the charge for the guarantee is wholly met by the enterprise concerned and the mobilization conditions for calling of guarantees set out in the Commission's letter of 5 April 1989 have been met, these guarantees, subject to the conditions set out above, do not constitute aid.

On the other hand, as the Commission has already pointed out in its notice initiating the procedure provided for in Article 93 (2) of Treaty, the assistance for the treatment and recovery of industrial waste constitutes operating aid since it reduces the business costs of the enterprises receiving it. This aid is therefore liable to affect competition and trade between Member States since it is intended indiscriminately for business in all sectors. For that reason it is caught by the prohibition in Article 92 (1) of the Treaty, and no argument in support of an exception to that prohibition has been put forward.

## V

The aid measures provided for in Articles 5 (1) (c), 11 and 12 of Law No 102/90 also apply to agriculture. Those provisions and the Lombardy development plan for the provinces of Sondrio, Bergamo, Brescia and Como indicate that the various aid measures envisaged (either in the form of grants or in the form of interest rate subsidies on loans) for agriculture relate to:

1. investment in the primary production sector;
2. investment in improving the processing and marketing of agricultural products;
3. the advertising of agricultural products;
4. vocational training for farmers;
5. the improvement of wooded areas;
6. research.

In presenting their comments (letter of 16 June 1993) following the initiation of the Article 93 (2) proceedings,

the Italian authorities stated that the aid measures relating to agriculture provided for in the Law and the development plan were not measures which were already well defined and specific, but merely represented priorities to be observed (notably, sectors that should receive assistance) when the specific aid envisaged was granted.

The specific aid measures, their precise nature and the details of how they would be implemented would be established at a later stage.

In the same letter, the Italian authorities also gave an assurance that, in providing this specific assistance,

— as regards the aid referred to under 1, the sectoral restrictions and the maximum intensities indicated in Regulation (EEC) No 2328/91<sup>(1)</sup>, as last amended by Regulation (EEC) No 870/93<sup>(2)</sup>, and in the Community guidelines for the sugar sector (Commission's letter to the Member States of 1 February 1972, No 936/VI/72) would be complied with,

— as regards the aid referred to under 2, the Community guidelines in force on aid for investments for improving the processing and marketing conditions for agricultural products, the sectoral restrictions provided for in point 2 of the Annex to Commission Decision 90/342/EEC<sup>(3)</sup> and the maximum rates allowed by the Commission for aid of this type would be complied with,

— as regards the aid referred to under 3, the guidelines on the advertising of agricultural products<sup>(4)</sup> would be complied with.

The initiation of Article 93 (2) proceedings in respect of agriculture was based on the fact that the measures envisaged for agriculture appeared, in the absence of precise information on aid intensities, the products concerned and compliance with the Community guidelines and sectoral restrictions on state aid for agriculture, to be incompatible with the common market.

However, the Italian authorities have provided additional information on the abovementioned aspects with regard to the measures specified under points 1, 2 and 3; they have given an assurance that they will comply with the Community criteria applicable when aid of this type is examined pursuant to Articles 92 to 93 of the Treaty.

<sup>(1)</sup> OJ No L 218, 6. 8. 1991, p. 1.

<sup>(2)</sup> OJ No L 91, 15. 4. 1993, p. 10.

<sup>(3)</sup> OJ No L 163, 29. 6. 1990, p. 71.

<sup>(4)</sup> OJ No C 302, 12. 11. 1987, p. 6.

On the basis of the undertakings given by the Italian authorities, therefore, these measures should be regarded as having as their objective the development of the sectors concerned and as being eligible for the derogation provided for in Article 92 (3) of the Treaty.

As far as the vocational training aid for farmers is concerned (point 4); the Commission has always allowed aid of this type to cover 100 % of permissible expenditure. No objections should therefore be raised in respect of this aid.

As regards the aid for research and for the improvement of wooded areas (points 5 and 6), the Italian authorities have not provided the necessary information to enable the Commission to assess these measures under the Community rules governing agriculture.

However, since, on these points too, the specific aid and details of how it will be granted will be established by the national authorities at a later stage, the Commission will decide on such specific measures once they have been notified to it in accordance with Article 93 (3) of the Treaty.

On the basis of these factors, the Commission considers that as regards the aid measures envisaged for investment in the primary production sector, for investment in improving the processing and marketing of agricultural products and for the advertising of agricultural products, it has no objections under the competition rules laid down in the Treaty. In arriving at this position, it took account of the Italian authorities assurance of compliance with :

- the sectoral restrictions and maximum intensities laid down in the Community rules (as set out in Regulation (EEC) No 2328/91 and in the Community guidelines for the sugar sector — letter to the Member States of 1 February 1972, No 936/VI/72) in the case of aid in the primary production sector,
- in the case of the aid for investment relating to processing and marketing, the sectoral restrictions provided for in point 2 of the Annex to Commission Decision 90/342/EEC on the selection criteria to be adopted for investments to be financed pursuant to Council Regulation (EEC) No 866/90<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, which is used by analogy in applying Article 92 of the Treaty, and the Community framework for aid in the dairy sector<sup>(3)</sup> and the framework for the sugar and isoglucose sectors (letters to the Member States, No 936/VI/72 of 1 February 1972 and SG(77) D/3832 of 29 March 1977),
- the maximum rate allowed by the Commission in respect of aid for investment in the processing and marketing of agricultural products,
- the guidelines on the advertising of agricultural products.

As regards the measures to improve wooded areas and for carrying out research, the Commission is not at present

able to take a decision pursuant to Articles 92 and 93 of the Treaty on such measures, which are presented only in general terms. It will examine the measures once it has been informed on the specific aid that the national authorities propose to adopt; it accordingly requests the Italian Government to notify it, in sufficient time, in accordance with Article 93 (3) of the Treaty, of the plans to grant such specific aid,

HAS ADOPTED THIS DECISION :

#### *Article 1*

The aid schemes for sectors other than agriculture provided for in Articles 5 (1) (c), 11 and 12 of Italian Law No 102 of 2 May 1990, as specified in points 5.2.1, 5.2.2 and 5.2.3 of the plan for the reconstruction and development of the Valtellina, approved by Prime Ministerial Decree on 4 December 1992 and adjusted in accordance with point III of this Decision, are compatible with the common market on the conditions set out in Article 2, except for the aid specified in the first paragraph of Article 3.

The aid schemes for agriculture provided for in Articles 5 (1) (c), 11 and 12 of Italian Law No 102 of 2 May 1990, as specified in points 5.2.1 and 5.2.4 of the plan for the reconstruction and development of the Valtellina are, in view of the Italian authorities' undertaking to comply with the intensity ceilings and sectoral restrictions referred to in point V of this Decision, compatible with the common market, except for the aid specified in the second paragraph of Article 3.

#### *Article 2*

The aid granted to enterprises other than those defined as small and medium-sized enterprises in the Community guidelines on State aid for small and medium-sized enterprises shall be limited, for each three-year period, to :

- ECU 50 000 for each investment, irrespective of type and purpose, other than research and development, and
- ECU 50 000 for all other expenditure.

#### *Article 3*

The aid for the recovery and treatment of industrial waste provided for in point 5.2.3 (1/4) of the plan for the reconstruction and development of the Valtellina is incompatible with the common market. Italy shall refrain from granting it.

The aid measures for improving wooded areas and for carrying out research in agriculture will be decided on separately on the basis of the specific measures to be notified by the Italian authorities pursuant to Article 93 (3) of the Treaty.

<sup>(1)</sup> OJ No L 91, 6. 4. 1990, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No C 302, 12. 11. 1987, p. 4.

*Article 4*

The guarantees provided by the 'ConSORZI garanzia fidi' in the Province of Sondrio may not be made available to enterprises which were known, or should have been known, to be insolvent at the time when the guarantee was provided.

*Article 5*

The aid must conform to the rules of Community law on the combination of aid for different purposes and on certain industries, including those covered by the ECSC Treaty, agriculture and fisheries.

*Article 6*

This Decision is addressed to Italy.

Done at Brussels, 22 September 1993.

*For the Commission*

Karel VAN MIERT

*Member of the Commission*

## COMMISSION DECISION

of 22 March 1994

on the selection criteria to be adopted for investments for improving the processing and marketing conditions for agricultural and forestry products and repealing Decision 90/342/EEC

(94/173/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 866/90 of 29 March 1990 on improving the processing and marketing conditions for agricultural products<sup>(1)</sup>, as last amended by Regulation (EC) No 3669/93<sup>(2)</sup>, and in particular Article 8 (3) thereof,

Whereas Council Regulation (EEC) No 867/90 of 29 March 1990 on improving the processing and marketing conditions for forestry products<sup>(3)</sup> extends the measure introduced by Regulation (EEC) No 866/90 to cover forestry products;

Whereas on 7 June 1990 the Commission adopted Decision 90/342/EEC on the selection criteria to be adopted for investments for improving the processing and marketing conditions for agricultural and forestry products<sup>(4)</sup>;

Whereas the selection criteria drawn up pursuant to Article 8 of Regulation (EEC) No 866/90 in accordance with the Community's policy guidelines are intended to ensure that the investments financed are consistent with the health and plant-health rules, the Community rules on the quality of agricultural products and foodstuffs and the agricultural markets policies and to determine the categories of investments to be given priority for a grant from the Fund or to be excluded from Community aid;

Whereas, as a result of the reform of the common agricultural policy, the selection criteria should be adjusted and the provisions in force should be recast in the interests of clarity;

Whereas the selection criteria may be adjusted later in line with market developments in the different sectors; whereas, particularly in the case of markets which have yet to be reformed, such criteria should, if appropriate and

necessary, be revised to take account of decisions taken in the context of such reforms of common organizations of the market; whereas the application of the criteria should also take account of the duly justified specific needs of certain local productions;

Whereas Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(5)</sup>, as amended by Regulation (EEC) No 2081/93<sup>(6)</sup>, lays down the different objectives of the Community structural policy, Objective 1 of which takes specific account of the regions whose development is lagging behind; whereas provision should be made for certain criteria specific to Objective 1 regions and for the possibility of *ad hoc* derogations for the remotest regions to take account of the special conditions in those regions;

Whereas the selection criteria reflect the guidelines of the common agricultural policy; whereas these criteria must therefore be applied consistently to all decisions approving the granting of assistance from a Community Fund to investments to improve the processing and marketing conditions for agricultural and forestry products;

Whereas the Committee on Agricultural Structures and Rural Development has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The Community's selection criteria for investments eligible for Community assistance under Regulations (EEC) No 866/90 and (EEC) No 867/90 are set out in the Annex hereto.

<sup>(1)</sup> OJ No L 91, 6. 4. 1990, p. 1.

<sup>(2)</sup> OJ No L 338, 31. 12. 1993, p. 26.

<sup>(3)</sup> OJ No L 91, 6. 4. 1990, p. 7.

<sup>(4)</sup> OJ No L 163, 29. 6. 1990, p. 71.

<sup>(5)</sup> OJ No L 185, 15. 7. 1988, p. 9.

<sup>(6)</sup> OJ No L 193, 31. 7. 1993, p. 5.

2. These criteria might be the subject of *ad hoc* derogations to be decided in the framework of the implementation of specific measures approved by the Council for the remotest regions or, in the case of refrigeration units, for the Aegean islands.

*Article 2*

Decision 90/342/EEC is hereby repealed.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 22 March 1994.

*For the Commission*

René STEICHEN

*Member of the Commission*



## ANNEX

**1. Priorities and exclusions concerning all sectors :****1.1. Priority is accorded to the following investments, subject to compliance with the exclusions provided for under 1 (b) and 2 :**

- investments related to environmental protection, prevention of pollution and elimination of waste,
- investments involving a substantial amount of technological innovation or leading to the creation of new products,
- investments designed to make the production of processed goods less seasonal and less uncertain,
- investments seeking to cut the costs of prepared products, either fresh or processed, by reducing the intermediate costs of collection or of commercial preparation, processing, packaging, storage or marketing,
- investments, leading to an improvement of quality of hygiene conditions, particularly investments relating to the processing and marketing of products as defined in Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(1)</sup>, and investments relating to the production of agricultural products eligible for a certificate of a specific character pursuant to Council Regulation (EEC) No 2082/92<sup>(2)</sup>,
- investments relating to organic products produced in accordance with Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs<sup>(3)</sup>.

**1.2. The following investments are excluded :**

- investments relating to the production of processed goods for which the existence of realistic potential outlets has not been demonstrated,
- investments in storage capacity which is mainly intended for intervention purposes,
- investments in cold stores for frozen or deep-frozen products, unless required for the normal operation of processing installations,
- replacement investments which are identical or similar to investments for which EAGGF Guidance Section assistance has already been granted previously to the same undertaking.

**2. Exclusions for certain specific sectors :****2.1. The following investments are excluded in the cereals and rice sectors (not including seeds):**

- investments relating to starch production, milling, malting and semolina production, as well as investments concerning products derived from such processes, with the exception of products for new non-food uses (except hydrogenated starch-derived products),
- investments in silos, except silos intended for the storage, drying and packaging of local produce in production zones where there is a proven shortage of such facilities, provided there is no increase in shortage capacity,
- investments relating to animal feed production, except for units producing less than 20 000 tonnes per year in Objective 1 regions where there is a proven shortage of capacity. In such cases, beneficiaries must undertake not to make any further investments like those for which aid has been granted for three years following the said grant, and the investments must not lead to an increase in production capacity, except :
  - if equivalent capacity is abandoned by the same or another specified undertaking,
  - or if the investments enhance the value of the by-products of grain growing,
  - or if the output is destined for local consumption in the French overseas departments or on islands.

**2.2. The following investments are excluded in the fruit and vegetables sector (not including medicinal plants and spices), except products involving substantial innovation in line with trends in demand :**

<sup>(1)</sup> OJ No L 208, 24. 7. 1992, p. 1.

<sup>(2)</sup> OJ No L 208, 24. 7. 1992, p. 9.

<sup>(3)</sup> OJ No L 198, 22. 7. 1991, p. 1.

- investments to increase marketing capacity for products which have been the subject of large-scale withdrawal operations in the regions concerned (as a result of surplus production) during the last three years,
  - all investments resulting in increased processing capacity, except where equivalent capacity is abandoned by the same or another specified undertaking or in the case of particular products for which there is a proven significant increase in outlets; this prohibition shall not apply in Objective 1 regions where there is a proven shortage of capacity,
  - investments relating to the production of tomato concentrate, peeled tomatoes, citrus juice, peaches in syrup and pears in syrup, except where such investments concern new processing capacity equivalent to at least 20 % less than total pre-existing capacity which has been abandoned in the region concerned.
- 2.3. The following investments are excluded in the sector of cow's milk and cow's milk products :
- investments concerning the heat treatment of liquid milk to give a long-life product, except in Greece, Spain, the French overseas departments, Corsica, the Mezzogiorno, Sardinia and Portugal, if there is a proven shortage of facilities,
  - investments relating to quantities of milk exceeding the combined total of the individual reference quantities, within the framework of the additional levy rules, of producers delivering to the processing plant or investments resulting in an increase in milk utilization capacity, unless equivalent capacity is abandoned by the same or another specified undertaking,
  - investments concerning the following products : butter, whey powder, milk powder, butteroil, lactose, casein, caseinate,
  - investments in the manufacture of fresh products or cheese, except production involving substantial innovation in line with trends in demand and products for which there is a shortage of capacity and for which the existence of realistic potential outlets has been demonstrated, as well as the manufacture of products using traditional or organic methods as defined by Community rules.
- The following investments are not concerned by the prohibitions referred to in the preceding indents provided that they do not lead to an increase in capacity :
- investments to bring establishments into line with Community health standards,
  - investments concerning environmental protection.
- 2.4. In the fodder-plant sector, all investments are excluded, including investments concerning the drying of beet pulp.
- 2.5. In the oil seeds and protein crop sectors (with the exception of seeds), all investments are excluded except those involving production of new non-food products and those carried out in units producing less than 20 000 tonnes per year in Objective 1 regions, provided they do not lead to an increase in production capacity, unless equivalent capacity is abandoned by the same or another specified undertaking, provided they concern animal feed and :
- either involve the direct incorporation of Community oil seeds in the manufacture of feedingstuffs,
  - or lead to reduced energy consumption for drying and dehydration,
  - or involve the use of peas, field beans and lupins,
- and provided the beneficiary undertakes not to make any further investments like those for which aid has been granted for three years following the said grant.
- 2.6. The following types of investment are excluded in the olive-oil sector :
- investments leading to an increase in the total production of the oil mill, unless equivalent production is abandoned by the same or another specified undertaking,
  - investments concerning the extraction or refining of olive-residue oil.
- 2.7. Investments in the potato sector are excluded where they concern starch and starch-derived products, not including products for new non-food uses (except hydrogenated starch-derived products).
- 2.8. All investments concerning sugar, isoglucose and all other natural sweeteners derived from agricultural products which can be used as sugar or isoglucose substitutes are excluded, with the exception of those which provide for :
- rationalization, without increase in capacity, in the French overseas departments, in the case of raw sugar;
  - utilization of the quota provided for in the Act of Accession of Portugal (for mainland Portugal, 60 000 tonnes of sugar).

- 2.9. All investments in the tobacco sector are excluded.
- 2.10. The following types of investment are excluded in the meat and egg sectors :
- investments leading to an increase in the grading and packing capacity for hens' eggs,
  - investments concerning specialist pig markets,
  - investments relating to the slaughter of pigs, cattle, sheep or poultry, except where such investments concern new slaughter capacity equivalent to at least 20 % less than total pre-existing capacity which has been abandoned in the region concerned or, in the case of pigs, cattle, sheep and poultry other than chickens in Objective 1 regions, where there is a proven shortage of capacity in the region.
- The prohibitions referred to in the preceding indents do not apply to the following types of investment, provided they do not lead to an increase in capacity :
- investments to bring establishments into line with Community health standards,
  - investments concerning animal welfare,
  - investments concerning environmental protection.
- 2.11. All investments in the wine and alcohol sector are excluded, except :
- investments needed to regroup undertakings or producer groups, in the case of restructuring of processing capacity, provided the new processing capacity is equivalent to at least 20 % less than total pre-existing capacity which has been abandoned in the region concerned,
  - investments relating to environmental protection, prevention of pollution, elimination of waste and recovery of packaging or containers,
  - investments in organic wine products produced in accordance with the provisions referred to in the last indent of point 1 (a),
  - investments by bodies primarily comprising producers and other economic operators for the purpose of improving quality control or reducing wine yields which further the restructuring of the sector.
- 2.12. All investments in the flax and hemp sector are excluded except where they concern products for new non-food uses or modernization without increase in total capacity in the region concerned.
- 2.13. The following types of investments are excluded in the forestry sector :
- investments which, by using unsuitable materials and equipment, result in serious damage to the environment (such as the deterioration of forest roads, soil compaction and the degradation of vegetation),
  - investments relating to the production, harvesting and marketing of Christmas trees and other trees for ornamental purposes,
  - all ancillary investments in sawmills (except for investments carried out in undertakings which fall within the definition of small and medium-sized enterprises laid down in the Community rules on aid to SMEs<sup>(1)</sup>), without prejudice to the conditions laid down in Article 1 (2) of Regulation (EEC) No 867/90.

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<sup>(1)</sup> OJ No C 213, 19. 8. 1992, p. 2.