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Legislation

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(1) Text with EEA relevance

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EN

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(1) Text with EEA relevance

EN

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2494/95

of 23 October 1995

concerning harmonized indices of consumer prices

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 213 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the European Monetary Institute (3),

Having regard to the opinion of the Economic and Social Committee (4),

Whereas Article 109j of the Treaty requires the Commission and the EMI to report to the Council on the progress made by the Member States in the fulfilment of their obligations regarding the achievement of economic and monetary union in respect of a high degree of price stability;

Whereas Article 1 of the Protocol on the convergence criteria referred to in Article 109j of the Treaty states that the required sustainable price performance for Member States should be in terms of inflation measured by means of the consumer price index on a comparable basis, taking into account differences in national definitions; whereas existing consumer price indices are not compiled on a directly comparable basis;

Whereas there is a need for the Community and particularly its fiscal and monetary authorities to have regular and timely consumer price indices for the purpose of providing comparisons of inflation in the macro-economic and international context as distinct from indices for national and micro-economic purposes;

Whereas it is recognized that inflation is a phenomenon manifesting itself in all forms of market transactions including capital purchases, government purchases, payments to labour as well as purchases by consumers; whereas it is recognized that a range of statistics, of which consumer price indices from an essential part, is relevant for an understanding of the inflationary process at national level and between the Member States;

Whereas comparable indices of consumer prices may be produced instead of or in addition to similar indices of consumer prices already produced or to be produced in future by Member States;

Whereas the production of comparable indices will involve costs to be allocated between the Community and Member States;

Whereas, according to the principle of subsidiarity, the creation of common statistical standards for consumer price indices is a task that can be dealt with effectively only at Community level and whereas the collection of data and compilation of comparable consumer price indices will be implemented in each Member State under the aegis of the organizations and institutions responsible for compiling official statistics at national level;

Whereas, with a view to the achievement of economic and monetary union, a consumer price index will be needed for the Community as a whole;

Whereas the Statistical Programme Committee (SPC), established by Council Decision 89/382/EEC, Euratom (5), has given a favourable opinion on the draft Regulation,

(1) OJ No C 84, 6. 4. 1995, p. 7.
(2) OJ No C 249, 25. 9. 1995.
(3) Opinion delivered on 31 March 1995 (OJ No C 236, 11. 9. 1995, p. 11).
(4) OJ No C 236, 11. 9. 1995, p. 11.
(5) OJ No L 181, 28. 6. 1989, p. 47.

HAS ADOPTED THIS REGULATION:

Article 1

Aim

The aim of this Regulation is to establish the statistical bases necessary for arriving at the calculation of comparable indices of consumer prices at Community level.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) Harmonized index of consumer prices (HICP): the comparable index of consumer prices produced by each Member State;

(b) European index of consumer prices (EICP): the consumer price index produced for the Community by the Commission (Eurostat), based on the HICPs of Member States;

(c) Monetary Union index of consumer prices (MUICP): the consumer price index produced in the context of Economic and Monetary Union by the Commission (Eurostat) based on the HICPs of Member States without a derogation under Article 109k of the Treaty, as long as such derogations exist.

Article 3

Scope

The HICP shall be based on the prices of goods and services available for purchase in the economic territory of the Member State for the purposes of directly satisfying consumer needs. Questions concerning weighting shall be decided on by the Commission under the procedure laid down in Article 14.

Article 4

Comparability

HICPs shall be considered to be comparable if they reflect only differences in price changes or consumption patterns between countries.

HICPs which differ on account of differences in the concepts, methods or practices used in their definition and compilation shall not be considered comparable.

The Commission (Eurostat), shall adopt rules to be followed to ensure the comparability of HICPs under the procedure laid down in Article 14.

Article 5

Timetable and derogations therefrom

1. The measures necessary to achieve comparable indices of consumer prices shall be implemented in stages, as follows:

(a) *Stage I:*

By March 1996 at the latest, the Commission (Eurostat), shall, in collaboration with Member States, produce for the purposes of the report referred to in Article 109j of the Treaty ('convergence criteria') an interim set of indices of consumer prices for each Member State. These indices shall be based wholly on data underlying existing national consumer price indices, adjusted in particular as follows:

(i) to exclude owner-occupied housing;

(ii) to exclude health and educational services;

(iii) to exclude certain other items not covered or treated differently by a number of Member States.

(b) *Stage II:*

The HICP shall start with the index for January 1997. The common index reference period shall be the year 1996. The estimates of price changes for the twelve months prior to January 1997 and subsequent months shall be established on the basis of the indices for 1996.

2. Where necessary the Commission (Eurostat) may, at the request of a Member State and after consulting the EMI, grant derogations from the provisions of paragraph 1 not exceeding a period of one year where the Member State concerned has to make significant adjustments to its statistical system in order to fulfil its obligations under this Regulation.

3. The implementing measures for this Regulation which are necessary for ensuring the comparability of HICPs and for maintaining and improving their reliability and relevance shall be adopted, after consultation of the EMI, in accordance with the procedure laid down in Article 14.

Article 6

Basic information

The basic information shall be those prices and weightings of goods and services which it is necessary to take into account in order to achieve comparability of indices as defined in Article 4.

That information shall be obtained from statistical units as defined in Council Regulation (EEC) No 696/93 of 15 March 1993 on the statistical units for the observation and analysis of the production system in the Community (1) or from other sources, provided that the comparability requirements for indices referred to in Article 4 of this Regulation are met.

(1) OJ No L 76, 30. 3. 1993, p. 1.

Article 7

Sources

The statistical units called upon by the Member States to cooperate in the collection or provision of price data shall be obliged to allow observation of the prices actually charged and to give honest and complete information at the time it is requested.

Article 8

Frequency

1. The HICP, EICP and MUICP shall be compiled each month.

2. The required frequency of price collection shall be once a month. Where less frequent collection does not preclude production of an HICP which meets the comparability requirements referred to in Article 4, the Commission (Eurostat) may allow exceptions to monthly collection. This paragraph shall not preclude more frequent price collection.

3. The weightings of the HICP shall be updated with a frequency sufficient to meet the comparability requirement laid down in Article 4. This paragraph shall not require family budget surveys to be carried out more frequently than once every five years, except in Member States which, under the procedure in Article 14, are acknowledged as experiencing changes in consumption patterns such as to make more frequent surveys necessary.

Article 9

Production of results

Member States shall process the data collected in order to produce the HICP, which shall be a Laspeyres-type index, covering the categories of the Coicop international classification (classification of individual consumption by purpose) [1], which shall be adapted under the procedure in Article 14 to establish comparable HICPs. The methods, procedures and formulae to ensure that the comparability requirements are met shall be determined by the same procedure.

Article 10

Transmission of results

Member States shall transmit the HICPs to the Commission (Eurostat) within a period which shall not exceed thirty days from the end of the calendar month to which the indices relate.

[1] Published by the United Nations, series F No 2, revision 3, table 6.1, amended by the OECD (DES/NI/86.9), Paris 1986.

Article 11

Publication

The HICP, the EICP, the MUICP and corresponding subindices for a set of categories within those referred to in Article 9, selected by the procedure laid down in Article 14, shall be published by the Commission (Eurostat) within a period which shall not exceed five working days from the end of the period referred to in Article 10.

Article 12

Comparability of data

Member States shall provide the Commission (Eurostat) at its request with information, *inter alia* that collected pursuant to Article 6, at the level of detail necessary to evaluate compliance with the comparability requirements and the quality of the HICPs.

Article 13

Funding

The implementing measures for this Regulation shall be adopted taking the greatest account of cost-effectiveness and on condition that no major additional resources are needed in a Member State, unless the Commission (Eurostat) bears two-thirds of the additional costs until the end of the second year of implementation of those measures.

Article 14

Procedure

1. The Commission shall be assisted by the Statistical Programme Committee, (hereinafter referred to as 'the Committee').

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 15

Review

After consulting the Committee, the Commission (Eurostat) shall, within two years of the date of entry into force of this Regulation and again within two years thereafter, submit a report to the Council on the HICPs established pursuant to this Regulation and in particular on their reliability and compliance with the comparability requirements.

In those reports, the Commission shall state its views on the operation of the procedure described in Article 14 and shall propose any amendments it considers appropriate.

Article 16

Entry into force

This Regulation shall enter into force on the twentieth 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 Luxembourg, 23 October 1995.

For the Council

The President

P. SOLBES MIRA

COMMISSION REGULATION (EC) No 2495/95

of 26 October 1995

laying down certain additional detailed rules for the application of the supplementary trade mechanism (STM) between Spain and the Community, with the exception of Portugal, as regards certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 3210/89 of 23 October 1989 laying down general rules for applying the supplementary trade mechanism to fresh fruit and vegetables [1], as amended by Regulation (EEC) No 3818/92 [2], and in particular Article 9 thereof,

Whereas Commission Regulation (EEC) No 816/89 [3], as amended by Regulation (EC) No *997/95* [4], establishes the list of products subject to the supplementary trade mechanism in the fresh fruit and vegetables sector from 1 January 1990 ; whereas tomatoes, artichokes and melons are included in the list ;

Whereas Commission Regulation (EEC) No 3944/89 [5], as last amended by Regulation (EEC) No 3308/91 [6], lays down detailed rules for applying the supplementary trade mechanism, hereinafter called 'STM', to fresh fruit and vegetables ;

Whereas Commission Regulation (EC) No 2247/95 [7] lays down that the periods referred to in Article 2 of Regulation (EEC) No 3210/89 shall be up to 5 November 1995 for tomatoes, artichokes and melons ; whereas in view of expected exports from Spain to the rest of the Community, with the exception of Portugal, and of the Community market situation, a period I should be fixed up to 31 December 1995 for tomatoes, artichokes and melons in accordance with the Annex ;

Whereas it should be stipulated that the provisions of Regulation (EEC) No 3944/89 relating to statistical monitoring and to the various communications from the Member States apply in order to ensure that the STM operates ;

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

HAS ADOPTED THIS REGULATION :

Article 1

For tomatoes, artichokes and melons covered by the CN codes set out in the Annex, the periods provided for in Article 2 of Regulation (EEC) No 3210/89 shall be as set out in the Annex hereto.

Article 2

For consignments from Spain to the rest of the Community market, with the exception of Portugal, of the products listed in Article 1, the provisions of Regulation (EEC) No 3944/89 shall apply.

However, the notification referred to in Article 2 (2) of the said Regulation shall be made each Tuesday at the latest for the quantities consigned during the preceding week.

The communications referred to in the first paragraph of Article 9 of Regulation (EEC) No 3944/89 shall be made once a month by the fifth of each month at the latest for information referring to the previous month ; where appropriate, this communication shall bear the word 'nil'.

Article 3

This Regulation shall enter into force on 6 November 1995.

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[1] OJ No L 312, 27. 10. 1989, p. 6.
[2] OJ No L 387, 31. 12. 1992, p. 15.
[3] OJ No L 86, 31. 3. 1989, p. 35.
[4] OJ No L 101, 4. 5. 1995, p. 16.
[5] OJ No L 379, 28. 12. 1989, p. 20.
[6] OJ No L 313, 14. 11. 1991, p. 13.
[7] OJ No L 229, 26. 9. 1995, p. 3.

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

Done at Brussels, 26 October 1995.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

Determination of the periods provided for in Article 2 of Regulation (EEC) No 3210/89

Period from 6 November to 31 December 1995

Description of product	CN code	Period
Tomatoes	0702 00 45	I
	0702 00 50	I
Artichokes	0709 10 40	I
Melons	0807 10 90	I

COMMISSION REGULATION (EC) No 2496/95
of 26 October 1995
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EC) No 1538/95 (2), and in particular Article 17 (3) thereof,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas Regulation (EEC) No 804/68 provides that when the refunds on the products listed in Article 1 of the abovementioned Regulation, exported in the natural state, are being fixed account must be taken of:

— the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,

— marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,

— the aims of the common organization of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,

— the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, and

— the need to avoid disturbances on the Community market, and

— the economic aspect of the proposed exports;

Whereas Article 17 (5) of Regulation (EEC) No 804/68 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

(a) prices ruling on third country markets;

(b) the most favourable prices in third countries of destination for third country imports;

(c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and

(d) free-at-Community-frontier offer prices;

Whereas Article 17 (3) of Regulation (EEC) No 804/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination;

Whereas Article 17 (3) of Regulation (EEC) No 804/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; whereas the amount of the refund may, however, remain at the same level for more than four weeks;

Whereas, in accordance with Article 12 of Commission Regulation (EC) No 1466/95 of 27 June 1995 on specific detailed rules for the application of export refunds on milk and milk products (3), as amended by Regulation (EC) No 2452/95 (4), the refund granted for milk products containing added sugar is equal to the sum of the two components, one of which is intended to take account of the quantity of milk products and the other is intended to take account of the quantity of added sucrose; whereas, however, the latter component is applied only if the added sucrose was produced from sugar beet or cane harvested in the Community; whereas, for products falling within CN codes ex 0402 99 11, ex 0402 99 19, ex 0404 90 51, ex 0404 90 53, ex 0404 90 91 and ex 0404 90 93, with a fat content by weight not exceeding 9,5 % and a non-fatty milk content in the dry matter equal to or greater than 15 % by weight, the former abovementioned component is fixed for 100 kilograms of the whole product; whereas, for the other products containing added sugar falling within CN codes 0402 and 0404, that component is calculated by multiplying the basic amount by the milk products content of the product concerned; whereas that basic amount is equal to the refund to be fixed for one kilogram of milk products contained in the whole product;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 148, 30. 6. 1995, p. 17.
(3) OJ No L 144, 28. 6. 1995, p. 22.
(4) OJ No L 252, 20. 10. 1995, p. 12.

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector (1), as last amended by Regulation (EC) No 1101/95 (2);

Whereas the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 181,13 per 100 kilograms;

Whereas Commission Regulation (EEC) No 896/84 (3), as last amended by Regulation (EEC) No 222/88 (4), laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of varying refunds according to the date of manufacture of the products;

Whereas for the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account;

Whereas it follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation;

Whereas Council Regulation (EEC) No 990/93 (5), as amended by Regulation (EC) No 1380/95 (6) prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas the repeal of Commission Regulation (EEC) No 1098/68 of 27 July 1968 on detailed rules for the application of export refunds on milk and milk products (7), as last amended by Regulation (EEC) No 2767/90 (8), makes it necessary to replace the references to destination zones with the code numbers of the destination countries listed in the Annex to Commission Regulation (EC) No 3079/94 of 16 December 1994 on the country nomenclature for the external trade statistics of the Community and statistics of trade between Member States (9);

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in the Annex.

2. There shall be no refunds for exports to destination No 400 for products falling within CN codes 0401, 0402, 0403, 0404, 0405 and 2309.

Article 2

This Regulation shall enter into force on 27 October 1995.

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

Done at Brussels, 26 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 110, 17. 5. 1995, p. 1.
(3) OJ No L 91, 1. 4. 1984, p. 71.
(4) OJ No L 28, 1. 2. 1988, p. 1.
(5) OJ No L 102, 28. 4. 1993, p. 14.
(6) OJ No L 138, 21. 6. 1995, p. 1.
(7) OJ No L 184, 29. 7. 1968, p. 10.
(8) OJ No L 267, 29. 9. 1990, p. 14.
(9) OJ No L 325, 17. 12. 1994, p. 17.

ANNEX

to the Commission Regulation of 26 October 1995 fixing the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (**)
0401 10 10 000	+	5,586
0401 10 90 000	+	5,586
0401 20 11 100	+	5,586
0401 20 11 500	+	8,635
0401 20 19 100	+	5,586
0401 20 19 500	+	8,635
0401 20 91 100	+	11,50
0401 20 91 500	+	13,40
0401 20 99 100	+	11,50
0401 20 99 500	+	13,40
0401 30 11 100	+	17,20
0401 30 11 400	+	26,53
0401 30 11 700	+	39,85
0401 30 19 100	+	17,20
0401 30 19 400	+	26,53
0401 30 19 700	+	39,85
0401 30 31 100	+	47,46
0401 30 31 400	+	74,12
0401 30 31 700	+	81,73
0401 30 39 100	+	47,46
0401 30 39 400	+	74,12
0401 30 39 700	+	81,73
0401 30 91 100	+	93,15
0401 30 91 400	+	136,90
0401 30 91 700	+	159,76
0401 30 99 100	+	93,15
0401 30 99 400	+	136,90
0401 30 99 700	+	159,76
0402 10 11 000	+	60,00
0402 10 19 000	+	60,00
0402 10 91 000	+	0,6000
0402 10 99 000	+	0,6000
0402 21 11 200	+	60,00
0402 21 11 300	+	91,08
0402 21 11 500	+	95,96
0402 21 11 900	+	103,21
0402 21 17 000	+	60,00
0402 21 19 300	+	91,08
0402 21 19 500	+	95,96
0402 21 19 900	+	103,21
0402 21 91 100	+	103,97
0402 21 91 200	+	104,68
0402 21 91 300	+	105,97
0402 21 91 400	+	113,27
0402 21 91 500	+	115,79
0402 21 91 600	+	125,48
0402 21 91 700	+	131,17
0402 21 91 900	+	137,59
0402 21 99 100	+	103,97
0402 21 99 200	+	104,68
0402 21 99 300	+	105,97
0402 21 99 400	+	113,27
0402 21 99 500	+	115,79
0402 21 99 600	+	125,48
0402 21 99 700	+	131,17
0402 21 99 900	+	137,59
0402 29 15 200	+	0,6000
0402 29 15 300	+	0,9108
0402 29 15 500	+	0,9596
0402 29 15 900	+	1,0321
0402 29 19 200	+	0,6000
0402 29 19 300	+	0,9108
0402 29 19 500	+	0,9596
0402 29 19 900	+	1,0321
0402 29 91 100	+	1,0397
0402 29 91 500	+	1,1327
0402 29 99 100	+	1,0397
0402 29 99 500	+	1,1327
0402 91 11 110	+	5,586
0402 91 11 120	+	11,50
0402 91 11 310	+	18,18
0402 91 11 350	+	22,29
0402 91 11 370	+	27,10
0402 91 19 110	+	5,586
0402 91 19 120	+	11,50
0402 91 19 310	+	18,18
0402 91 19 350	+	22,29
0402 91 19 370	+	27,10
0402 91 31 100	+	22,72
0402 91 31 300	+	32,03
0402 91 39 100	+	22,72
0402 91 39 300	+	32,03
0402 91 51 000	+	26,53
0402 91 59 000	+	26,53
0402 91 91 000	+	93,15
0402 91 99 000	+	93,15
0402 99 11 110	+	0,0559
0402 99 11 130	+	0,1150

Product code	Destination (*)	Amount of refund (**)
0402 99 11 150	+	0,1735
0402 99 11 310	+	20,98
0402 99 11 330	+	25,17
0402 99 11 350	+	33,46
0402 99 19 110	+	0,0559
0402 99 19 130	+	0,1150
0402 99 19 150	+	0,1735
0402 99 19 310	+	20,98
0402 99 19 330	+	25,17
0402 99 19 350	+	33,46
0402 99 31 110	+	0,2463
0402 99 31 150	+	34,83
0402 99 31 300	+	0,4746
0402 99 31 500	+	0,8173
0402 99 39 110	+	0,2463
0402 99 39 150	+	34,83
0402 99 39 300	+	0,4746
0402 99 39 500	+	0,8173
0402 99 91 000	+	0,9315
0402 99 99 000	+	0,9315
0403 10 02 000	+	—
0403 10 04 200	+	—
0403 10 04 300	+	—
0403 10 04 500	+	—
0403 10 04 900	+	—
0403 10 06 000	+	—
0403 10 12 000	+	—
0403 10 14 200	+	—
0403 10 14 300	+	—
0403 10 14 500	+	—
0403 10 14 900	+	—
0403 10 16 000	+	—
0403 10 22 100	+	5,586
0403 10 22 300	+	8,635
0403 10 24 000	+	11,50
0403 10 26 000	+	17,20
0403 10 32 100	+	0,0559
0403 10 32 300	+	0,0864
0403 10 34 000	+	0,1150
0403 10 36 000	+	0,1720
0403 90 11 000	+	59,14
0403 90 13 200	+	59,14
0403 90 13 300	+	90,27
0403 90 13 500	+	95,10
0403 90 13 900	+	102,29
0403 90 19 000	+	103,05
0403 90 31 000	+	0,5914
0403 90 33 200	+	0,5914
0403 90 33 300	+	0,9027
0403 90 33 500	+	0,9510
0403 90 33 900	+	1,0229
0403 90 39 000	+	1,0305
0403 90 51 100	+	5,586
0403 90 51 300	+	8,635
0403 90 53 000	+	11,50
0403 90 59 110	+	17,20
0403 90 59 140	+	26,53
0403 90 59 170	+	39,85
0403 90 59 310	+	47,46
0403 90 59 340	+	74,12
0403 90 59 370	+	81,73
0403 90 59 510	+	93,15
0403 90 59 540	+	136,90
0403 90 59 570	+	159,76
0403 90 61 100	+	0,0559
0403 90 61 300	+	0,0864
0403 90 63 000	+	0,1150
0403 90 69 000	+	0,1720
0404 90 11 100	+	59,14
0404 90 11 910	+	5,586
0404 90 11 950	+	18,02
0404 90 13 120	+	59,14
0404 90 13 130	+	90,27
0404 90 13 140	+	95,10
0404 90 13 150	+	102,29
0404 90 13 911	+	5,586
0404 90 13 913	+	11,50
0404 90 13 915	+	17,20
0404 90 13 917	+	26,53
0404 90 13 919	+	39,85
0404 90 13 931	+	18,02
0404 90 13 933	+	22,09
0404 90 13 935	+	26,86
0404 90 13 937	+	31,75
0404 90 13 939	+	33,19
0404 90 19 110	+	103,05
0404 90 19 115	+	103,74
0404 90 19 120	+	105,03
0404 90 19 130	+	112,26
0404 90 19 135	+	114,74
0404 90 19 150	+	124,35
0404 90 19 160	+	130,00
0404 90 19 180	+	136,35
0404 90 31 100	+	59,14
0404 90 31 910	+	5,586
0404 90 31 950	+	18,02
0404 90 33 120	+	59,14
0404 90 33 130	+	90,27
0404 90 33 140	+	95,10
0404 90 33 150	+	102,29
0404 90 33 911	+	5,586
0404 90 33 913	+	11,50
0404 90 33 915	+	17,20
0404 90 33 917	+	26,53

Product code	Destination (*)	Amount of refund (**)
0404 90 33 919	+	39,85
0404 90 33 931	+	18,02
0404 90 33 933	+	22,09
0404 90 33 935	+	26,86
0404 90 33 937	+	31,75
0404 90 33 939	+	33,19
0404 90 39 110	+	103,05
0404 90 39 115	+	103,74
0404 90 39 120	+	105,03
0404 90 39 130	+	112,26
0404 90 39 150	+	114,74
0404 90 51 100	+	0,5914
0404 90 51 910	+	0,0559
0404 90 51 950	+	20,79
0404 90 53 110	+	0,5914
0404 90 53 130	+	0,9027
0404 90 53 150	+	0,9510
0404 90 53 170	+	1,0229
0404 90 53 911	+	0,0559
0404 90 53 913	+	0,1150
0404 90 53 915	+	0,1720
0404 90 53 917	+	0,2653
0404 90 53 919	+	0,3985
0404 90 53 931	+	20,79
0404 90 53 933	+	24,95
0404 90 53 935	+	33,16
0404 90 53 937	+	34,51
0404 90 59 130	+	1,0305
0404 90 59 150	+	1,1226
0404 90 59 930	+	0,5698
0404 90 59 950	+	0,8173
0404 90 59 990	+	0,9315
0404 90 91 100	+	0,5914
0404 90 91 910	+	0,0559
0404 90 91 950	+	20,79
0404 90 93 110	+	0,5914
0404 90 93 130	+	0,9027
0404 90 93 150	+	0,9510
0404 90 93 170	+	1,0229
0404 90 93 911	+	0,0559
0404 90 93 913	+	0,1150
0404 90 93 915	+	0,1720
0404 90 93 917	+	0,2653
0404 90 93 919	+	0,3985
0404 90 93 931	+	20,79
0404 90 93 933	+	24,95
0404 90 93 935	+	33,16
0404 90 93 937	+	34,51
0404 90 99 130	+	1,0305
0404 90 99 150	+	1,1226
0404 90 99 930	+	0,5698
0404 90 99 950	+	0,8173
0404 90 99 990	+	0,9315
0405 00 11 200	+	120,98
0405 00 11 300	+	152,20
0405 00 11 500	+	156,10
0405 00 11 700	+	160,00
0405 00 19 200	+	120,98
0405 00 19 300	+	152,20
0405 00 19 500	+	156,10
0405 00 19 700	+	160,00
0405 00 90 100	+	181,13
0405 00 90 900	+	233,21
0406 10 20 100	+	—
0406 10 20 230	028	—
	400	34,33
	404	—
	...	42,17
0406 10 20 290	028	—
	400	34,33
	404	—
	...	42,17
0406 10 20 610	028	11,87
	037	—
	039	—
	400	76,69
	404	—
	...	78,67
0406 10 20 620	028	17,59
	037	—
	039	—
	400	84,55
	404	—
	...	86,26
0406 10 20 630	028	21,10
	037	—
	039	—
	400	96,10
	404	—
	...	97,40
0406 10 20 640	028	—
	037	—
	039	—
	400	114,29
	404	—
	...	114,29
0406 10 20 650	028	24,18
	037	—
	039	—
	400	57,14
	404	—
	...	118,98

Product code	Destination (*)	Amount of refund (**)
0406 10 20 660	+	—
0406 10 20 810	028	—
	037	—
	039	—
	400	18,53
	404	—
	***	18,53
0406 10 20 830	028	—
	037	—
	039	—
	400	31,62
	404	—
	***	31,62
0406 10 20 850	028	—
	037	—
	039	—
	400	38,34
	404	—
	***	38,34
0406 10 20 870	+	—
0406 10 20 900	+	—
0406 20 90 100	+	—
0406 20 90 913	028	—
	400	74,68
	404	—
	***	74,68
0406 20 90 915	028	—
	400	99,57
	404	—
	***	99,57
0406 20 90 917	028	—
	400	105,78
	404	—
	***	105,78
0406 20 90 919	028	—
	400	118,23
	404	—
	***	118,23
0406 20 90 990	+	—
0406 30 10 100	+	—
0406 30 10 150	028	—
	037	—
	039	—
	400	15,85
	404	—
	***	18,06

Product code	Destination (*)	Amount of refund (**)
0406 30 10 200	028	—
	037	—
	039	—
	400	34,43
	404	—
	***	38,52
0406 30 10 250	028	—
	037	—
	039	—
	400	34,43
	404	—
	***	38,52
0406 30 10 300	028	—
	037	—
	039	—
	400	50,55
	404	—
	***	56,51
0406 30 10 350	028	—
	037	—
	039	—
	400	34,43
	404	—
	***	38,52
0406 30 10 400	028	—
	037	—
	039	—
	400	50,55
	404	—
	***	56,51
0406 30 10 450	028	—
	037	—
	039	—
	400	73,60
	404	—
	***	82,23
0406 30 10 500	+	—
0406 30 10 550	028	—
	037	—
	039	—
	400	34,43
	404	15,83
	***	38,52
0406 30 10 600	028	—
	037	—
	039	—
	400	50,55
	404	22,16
	***	56,51

Product code	Destination (*)	Amount of refund (**)
0406 30 10 650	028	—
	037	—
	039	—
	400	73,60
	404	—
	***	82,23
0406 30 10 700	028	—
	037	—
	039	—
	400	73,60
	404	—
	***	82,23
0406 30 10 750	028	—
	037	—
	039	—
	400	87,29
	404	—
	***	97,53
0406 30 10 800	028	—
	037	—
	039	—
	400	87,29
	404	—
	***	97,53
0406 30 31 100	+	—
0406 30 31 300	028	—
	037	—
	039	—
	400	15,85
	404	—
	***	18,06
0406 30 31 500	028	—
	037	—
	039	—
	400	34,43
	404	—
	***	38,52
0406 30 31 710	028	—
	037	—
	039	—
	400	34,43
	404	—
	***	38,52
0406 30 31 730	028	—
	037	—
	039	—
	400	50,55
	404	—
	***	56,51
0406 30 31 910	028	—
	037	—
	039	—
	400	34,43
	404	—
	***	38,52
0406 30 31 930	028	—
	037	—
	039	—
	400	50,55
	404	—
	***	56,51
0406 30 31 950	028	—
	037	—
	039	—
	400	73,60
	404	—
	***	82,23
0406 30 39 100	+	—
0406 30 39 300	028	—
	037	—
	039	—
	400	34,43
	404	15,83
	***	38,52
0406 30 39 500	028	—
	037	—
	039	—
	400	50,55
	404	22,16
	***	56,51
0406 30 39 700	028	—
	037	—
	039	—
	400	73,60
	404	—
	***	82,23
0406 30 39 930	028	—
	037	—
	039	—
	400	73,60
	404	—
	***	82,23

Product code	Destination (*)	Amount of refund (**)
0406 30 39 950	028	—
	037	—
	039	—
	400	87,29
	404	—
	***	97,53
0406 30 90 000	028	—
	037	—
	039	—
	400	87,29
	404	—
	***	97,53
0406 40 50 000	028	—
	400	105,52
	404	—
	***	111,22
0406 40 90 000	028	—
	400	105,52
	404	—
	***	111,22
0406 90 02 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 02 900	+	—
0406 90 03 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 03 900	+	—
0406 90 04 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 04 900	+	—
0406 90 05 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 05 900	+	—
0406 90 06 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08

Product code	Destination (*)	Amount of refund (**)
0406 90 06 900	+	—
0406 90 07 000	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 08 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 08 900	+	—
0406 90 09 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 09 900	+	—
0406 90 12 000	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 14 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 14 900	+	—
0406 90 16 100	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 16 900	+	—
0406 90 21 900	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	133,36
0406 90 23 900	028	—
	037	—
	039	—
	400	57,14
	404	—
	***	118,98

Product code	Destination (*)	Amount of refund (**)
0406 90 25 900	028	—
	037	—
	039	—
	400	57,14
	404	—
	***	118,98
0406 90 27 900	028	—
	037	—
	039	—
	400	49,34
	404	—
	***	100,83
0406 90 31 119	028	—
	037	—
	039	—
	400	54,92
	404	14,07
	***	79,08
0406 90 31 151	028	—
	037	—
	039	—
	400	51,33
	404	13,15
	***	73,71
0406 90 31 159	+	—
0406 90 33 119	028	—
	037	—
	039	—
	400	54,92
	404	14,07
	***	79,08
0406 90 33 151	028	—
	037	—
	039	—
	400	51,33
	404	13,15
	***	73,71
0406 90 33 919	028	—
	037	—
	039	—
	400	54,92
	404	14,07
	***	79,08
0406 90 33 951	028	—
	037	—
	039	—
	400	51,33
	404	13,15
	***	73,71
0406 90 35 190	028	—
	037	37,51
	039	37,51
	400	139,38
	404	79,13
	***	139,38
0406 90 35 990	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	114,29
0406 90 37 000	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	140,08
0406 90 61 000	028	—
	037	79,13
	039	79,13
	400	162,64
	404	123,07
	***	162,64
0406 90 63 100	028	—
	037	92,33
	039	92,33
	400	186,48
	404	140,66
	***	186,48
0406 90 63 900	028	—
	037	61,55
	039	61,55
	400	131,87
	404	70,33
	***	145,05
0406 90 69 100	+	—
0406 90 69 910	028	—
	037	61,55
	039	61,55
	400	131,87
	404	70,33
	***	145,05
0406 90 73 900	028	—
	037	37,51
	039	37,51
	400	132,76
	404	105,52
	***	132,76
0406 90 75 900	028	—
	037	—
	039	—
	400	57,14
	404	—
	***	110,74
0406 90 76 100	028	21,10
	037	—
	039	—
	400	51,66
	404	—
	***	97,40

Product code	Destination (*)	Amount of refund (**)
0406 90 76 300	028	—
	037	—
	039	—
	400	57,14
	404	—
	***	118,98
0406 90 76 500	028	—
	037	—
	039	—
	400	65,94
	404	—
	***	118,98
0406 90 78 100	028	21,10
	037	—
	039	—
	400	51,66
	404	—
	***	97,40
0406 90 78 300	028	—
	037	—
	039	—
	400	57,14
	404	—
	***	118,98
0406 90 78 500	028	—
	037	—
	039	—
	400	65,94
	404	—
	***	118,98
0406 90 79 900	028	—
	037	—
	039	—
	400	49,34
	404	—
	***	100,83
0406 90 81 900	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	114,29
0406 90 85 910	028	—
	037	37,51
	039	37,51
	400	139,38
	404	79,13
	***	139,38
0406 90 85 991	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	114,29
0406 90 85 995	028	24,18
	037	—
	039	—
	400	57,14
	404	—
	***	118,98
0406 90 85 999	+	—
0406 90 86 100	+	—
0406 90 86 200	028	11,87
	037	—
	039	—
	400	78,67
	404	—
	***	78,67
0406 90 86 300	028	17,59
	037	—
	039	—
	400	84,55
	404	—
	***	86,26
0406 90 86 400	028	21,10
	037	—
	039	—
	400	96,10
	404	—
	***	97,40
0406 90 86 900	028	—
	037	—
	039	—
	400	114,29
	404	—
	***	114,29
0406 90 87 100	+	—
0406 90 87 200	028	11,87
	037	—
	039	—
	400	78,67
	404	—
	***	78,67
0406 90 87 300	028	17,59
	037	—
	039	—
	400	84,55
	404	—
	***	86,26
0406 90 87 400	028	21,10
	037	—
	039	—
	400	96,10
	404	—
	***	97,40

Product code	Destination (*)	Amount of refund (**)
0406 90 87 951	028	—
	037	37,51
	039	37,51
	400	132,76
	404	79,13
	***	132,76
0406 90 87 971	028	24,18
	037	—
	039	—
	400	65,06
	404	—
	***	118,98
0406 90 87 972	028	—
	400	34,33
	404	—
	***	42,17
0406 90 87 979	028	24,18
	037	—
	039	—
	400	65,06
	404	—
	***	118,98
0406 90 88 100	+	—
0406 90 88 200	028	11,87
	037	—
	039	—
	400	78,67
	404	—
	***	78,67
0406 90 88 300	028	17,59
	037	—
	039	—
	400	84,55
	404	—
	***	86,26
2309 10 15 010	+	—
2309 10 15 100	+	—
2309 10 15 200	+	—
2309 10 15 300	+	—
2309 10 15 400	+	—
2309 10 15 500	+	—
2309 10 15 700	+	—
2309 10 19 010	+	—
2309 10 19 100	+	—
2309 10 19 200	+	—
2309 10 19 300	+	—
2309 10 19 400	+	—
2309 10 19 500	+	—
2309 10 19 600	+	—
2309 10 19 700	+	—
2309 10 19 800	+	—
2309 10 70 010	+	—
2309 10 70 100	+	19,03
2309 10 70 200	+	25,37
2309 10 70 300	+	31,72
2309 10 70 500	+	38,05
2309 10 70 600	+	44,39
2309 10 70 700	+	50,74
2309 10 70 800	+	55,82
2309 90 35 010	+	—
2309 90 35 100	+	—
2309 90 35 200	+	—
2309 90 35 300	+	—
2309 90 35 400	+	—
2309 90 35 500	+	—
2309 90 35 700	+	—
2309 90 39 010	+	—
2309 90 39 100	+	—
2309 90 39 200	+	—
2309 90 39 300	+	—
2309 90 39 400	+	—
2309 90 39 500	+	—
2309 90 39 600	+	—
2309 90 39 700	+	—
2309 90 39 800	+	—
2309 90 70 010	+	—
2309 90 70 100	+	19,03
2309 90 70 200	+	25,37
2309 90 70 300	+	31,72
2309 90 70 500	+	38,05
2309 90 70 600	+	44,39
2309 90 70 700	+	50,74
2309 90 70 800	+	55,82

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17).
For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by ***.
Where no destination ('+') is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1 (2).

(**) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1), as amended.

COMMISSION REGULATION (EC) No 2497/95

of 26 October 1995

amending the import duties in the cereals sector

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 [1], as last amended by Regulation (EC) No 1863/95 [2],

Having regard to Commission Regulation (EC) No 1502/95 of 29 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 for the 1995/96 marketing year as regards import duties in the cereals sector [3], as amended by Regulation (EC) No 1817/95 [4], and in particular Article 2 (1) thereof,

Wheres the import duties in the cereals sector are fixed by Commission Regulation (EC) No 2492/95 [5];

Whereas Article 2 (1) of Regualtion (EC) No 2492/95 provides that if during the period of application, the average import duty calculated differs by ECU 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 2492/95,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2492/95 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 27 October 1995.

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

Done at Brussels, 26 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 179, 29. 7. 1995, p. 1.
[3] OJ No L 147, 30. 6. 1995, p. 13.
[4] OJ No L 175, 27. 7. 1995, p. 23.
[5] OJ No L 256, 26. 10. 1995, p. 42.

ANNEX I

Import duties for the products listed in Article 10 (2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne) (1)	Import duty by sea from other ports (3) (ECU/tonne) (1)
1001 10 00	Durum wheat (2)	0,00	0,00
1001 90 91	Common wheat seed	8,35	0,00
1001 90 99	Common high quality wheat other than for sowing (4)	8,35	0,00
	medium quality	28,31	18,31
	low quality	35,71	25,71
1002 00 00	Rye	57,05	47,05
1003 00 10	Barley, seed	57,05	47,05
1003 00 90	Barley, other (4)	57,05	47,05
1005 10 90	Maize seed other than hybrid	75,28	65,28
1005 90 00	Maize other than seed (4)	75,28	65,28
1007 00 90	Grain sorghum other than hybrids for sowing	57,05	47,05

(1) Where import takes place in the month following the month of fixing, these import duty amounts are to be adjusted in accordance with the third subparagraph of Article 2 (1) of Regulation (EC) No 1502/95.

(2) In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1502/95, the duty applicable is that fixed for low-quality common wheat.

(3) For goods arriving in the Community via the Atlantic Ocean (Article 2 (4) of Regulation (EC) No 1502/95), the importer may benefit from a reduction in the duty of:

— ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

(4) The importer may benefit from a flat-rate reduction of ECU 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1502/95 are met.

ANNEX II

Factors for calculating duties (period from 25. 10. to 7. 11. 1995):

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Mid-America	Mid-America
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	139,06	142,19	137,46	97,40	186,13 (1)	109,38 (1)
Gulf premium (ECU/tonne)	—	13,61	10,95	11,43	—	—
Great lake premium (ECU/tonne)	18,70	—	—	—	—	—

(1) Fob Duluth.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 10,63 per tonne; Great Lakes/St Lawrence — Rotterdam: ECU 28,31 per tonne.

3. Subsidy (third paragraph of Article 4 (2) of Regulation (EC) No 1502/95: ECU 0,00 per tonne).

COMMISSION REGULATION (EC) No 2498/95

of 26 October 1995

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], as last amended by Regulation (EC) No 1740/95 [2], and in particular Article 4 (1) 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 [3], as last amended by Regulation (EC) No 150/95 [4], and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 October 1995.

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

Done at Brussels, 26 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 337, 24. 12. 1994, p. 66.
[2] OJ No L 167, 18. 7. 1995, p. 10.
[3] OJ No L 387, 31. 12. 1992, p. 1.
[4] OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 26 October 1995 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 40	052	54,3
	060	80,2
	064	59,6
	066	41,7
	068	62,3
	204	53,0
	212	117,9
	624	130,3
	999	74,9
ex 0707 00 30	052	70,1
	053	166,9
	060	61,0
	066	53,8
	068	60,4
	204	49,1
	624	149,4
	999	87,2
0709 90 79	052	55,6
	204	77,5
	624	196,3
	999	109,8
0805 30 30	052	66,4
	388	62,5
	400	151,4
	512	54,8
	520	66,5
	524	50,3
	528	61,0
	600	94,4
	624	78,0
	999	76,1
0806 10 40	052	94,0
	064	75,6
	066	49,4
	220	110,8
	400	151,8
	412	132,4
	512	186,0
	600	64,5
	624	123,2
	999	109,7
0808 10 92, 0808 10 94, 0808 10 98	064	76,4
	388	39,2
	400	56,5
	404	46,3
	508	68,4
	512	21,8
	524	57,4
	528	48,0
	800	72,7
	804	26,9
	999	51,4
0808 20 57	052	99,0
	064	81,4
	388	79,6
	400	53,8
	512	89,7
	528	84,1
	800	55,8
	804	112,9
	999	82,0

(1) Country nomenclature as fixed by Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17). Code '999' stands for 'of other origin.'

COMMISSION REGULATION (EC) No 2499/95

of 26 October 1995

amending representative prices and additional duties for the import of certain products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], as last amended by Regulation (EC) No 1101/95 [2],

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses [3], and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1568/95 [4], as last amended by Regulation (EC) No 2488/95 [5];

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 October 1995.

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

Done at Brussels, 26 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 177, 1. 7. 1981, p. 4.
[2] OJ No L 110, 17. 5. 1995, p. 1.
[3] OJ No L 141, 24. 6. 1995, p. 16.
[4] OJ No L 150, 1. 7. 1995, p. 36.
[5] OJ No L 256, 26. 10. 1995, p. 26.

ANNEX

to the Commission Regulation of 26 October 1995 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 (1)	23,66	4,47
1701 11 90 (1)	23,66	9,70
1701 12 10 (1)	23,66	4,28
1701 12 90 (1)	23,66	9,27
1701 91 00 (2)	28,42	11,02
1701 99 10 (2)	28,42	6,50
1701 99 90 (2)	28,42	6,50
1702 90 99 (3)	0,28	0,37

(1) For the standard quality as defined in Article 1 of Council Regulation (EEC) No 431/68 (OJ No L 89, 10. 4. 1968, p. 3).

(2) For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1).

(3) By 1 % sucrose content.

COMMISSION REGULATION (EC) No 2500/95

of 26 October 1995

on the issuing of import licences for bananas under the tariff quota for the fourth quarter of 1995 (second period)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas [1], as last amended by Regulation (EC) No 3290/94 [2],

Having regard to Commission Regulation (EEC) No 1442/93 of 10 June 1993 laying down detailed rules for the application of the arrangements for importing bananas into the Community [3], as last amended by Regulation (EC) No 1164/95 [4], and in particular Article 9 (3) thereof,

Having regard to Commission Regulation (EC) No 478/95 of 1 March 1995 on additional rules for the application of Council Regulation (EEC) No 404/93 as regards the tariff quota arrangements for imports of bananas into the Community and amending Regulation (EEC) No 1442/93 [5], as amended by Regulation (EC) No 702/95 [6], and in particular Article 4 (3) thereof,

Whereas Article 2 of Commission Regulation (EC) No 2234/95 of 21 September 1995 on the issuing of import licences for bananas under the tariff quota for the fourth quarter of 1995 and on the submission of new applications [7], as corrected by Regulation (EC) No 2329/95 [8], fixes the quantities available for new licence applications under the tariff quota during the fourth quarter of 1995; whereas Article 4 (3) of Regulation (EC) No 478/95 lays down that the quantities for which licences may be issued for the origin(s) concerned must be determined without delay;

Whereas Article 9 (3) of Regulation (EEC) No 1442/93 lays down that, where, in the case of a given quarter and origin, for a country or group of countries referred to in Annex I to Regulation (EC) No 478/95, the quantities covered by import licence applications from one or more of the categories of operators exceed the quantity available, a reduction percentage is to be applied to applications for that origin;

Whereas the quantities applied for for Cameroon exceed the quantity available and a reduction coefficient should therefore be applied; whereas applications for import licences submitted by category B operators for Costa Rica must be rejected since there are no longer quantities available for new applications for that origin and that category of operators; whereas import licences may be issued for the quantity referred to in all other new applications;

Whereas this Regulation should apply immediately to permit licences to be issued as quickly as possible,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences shall be issued under the tariff quota for the import of bananas during the fourth quarter 1995 against new applications as referred to in Article 4 (1) of Regulation (EC) No 478/95:

(a) for the quantity indicated in the new licence application multiplied by a reduction coefficient of 0,989300 for Cameroon;

(b) for the quantity indicated in the new licence application where it refers to an origin other than that referred to in point (a) above.

New applications from category B operators for Costa Rica shall be rejected.

Article 2

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

(1) OJ No L 47, 25. 2. 1993, p. 1.
(2) OJ No L 349, 31. 12. 1994, p. 105.
(3) OJ No L 142, 12. 6. 1993, p. 6.
(4) OJ No L 117, 24. 5. 1995, p. 14.
(5) OJ No L 49, 4. 3. 1995, p. 13.
(6) OJ No L 71, 31. 3. 1995, p. 84.
(7) OJ No L 225, 22. 9. 1995, p. 13.
(8) OJ No L 235, 4. 10. 1995, p. 7.

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

Done at Brussels, 26 October 1995.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 2501/95
of 26 October 1995
fixing the export refunds on 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 (1), as last amended by Regulation (EC) No 1863/95 (2), and in particular the third subparagraph of Article 13 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals (3);

Whereas the refund applicable in the case of malts must be calculated with amount taken of the quantity of cereals required to manufacture the products in question; whereas the said quantities are laid down in Regulation (EC) No 1501/95;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 (4), as last amended by Regulation (EC) No 150/95 (5), are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies;

whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 (6), as last amended by Regulation (EC) No 1053/95 (7);

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas Council Regulation (EEC) No 990/93 (8), as amended by Regulation (EC) No 1380/95 (9), prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas in follows from applying these rules to the present situation on markets in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on malt listed in Article 1 (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 27 October 1995.

(1) OJ No L 181, 1. 7. 1992, p. 21.
(2) OJ No L 179, 29. 7. 1995, p. 1.
(3) OJ No L 147, 30. 6. 1995, p. 7.
(4) OJ No L 387, 31. 12. 1992, p. 1.
(5) OJ No L 22, 31. 1. 1995, p. 1.
(6) OJ No L 108, 1. 5. 1993, p. 106.
(7) OJ No L 107, 12. 5. 1995, p. 4.
(8) OJ No L 102, 28. 4. 1993, p. 14.
(9) OJ No L 138, 21. 6. 1995, p. 1.

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

Done at Brussels, 26 October 1995.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 26 October 1995 fixing the export refunds on malt

(ECU / tonne)

Product code	Refund (1)
1107 10 19 000	0,00
1107 10 99 000	—
1107 20 00 000	—

(1) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

COMMISSION REGULATION (EC) No 2502/95

of 26 October 1995

fixing the corrective amount applicable to the refund on 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 (1), as last amended by Regulation (EC) No 1863/95 (2), and in particular Article 13 (4) thereof,

Whereas Article 13 (4) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence ; whereas, in this case, a corrective amount may be applied to the refund ;

Whereas Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals (3), allows for the fixing of a corrective amount for the malt referred to in Article 1 (1) (c) of Regulation (EEC) No 1766/92 ; whereas that corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95 ;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 (4), as last amended by Regulation (EC) No 150/95 (5), are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies ; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 (6), as last amended by Regulation (EC) No 1053/95 (7) ;

Whereas it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto ;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

The corrective amount referred to in Article 13 (4) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 October 1995.

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

Done at Brussels, 26 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

(1) OJ No L 181, 1. 7. 1992, p. 21.
(2) OJ No L 179, 29. 7. 1995, p. 1.
(3) OJ No L 147, 30. 6. 1995, p. 7.
(4) OJ No L 387, 31. 12. 1992, p. 1.
(5) OJ No L 22, 31. 1. 1995, p. 1.
(6) OJ No L 108, 1. 5. 1993, p. 106.
(7) OJ No L 107, 12. 5. 1995, p. 4.

ANNEX

to the Commission Regulation of 26 October 1995 fixing the corrective amount applicable to the refund on malt

(ECU/tonne)

Product code	Current	1st period	2nd period	3rd period	4th period	5th period
1107 10 11 000	0	0	0	0	0	0
1107 10 19 000	0	− 1,69	− 3,38	− 5,07	− 6,76	− 8,45
1107 10 91 000	—	—	—	—	—	—
1107 10 99 000	—	—	—	—	—	—
1107 20 00 000	—	—	—	—	—	—

(ECU/tonne)

Product code	6th period	7th period	8th period	9th period	10th period	11th period
1107 10 11 000	0	0	0	0	0	0
1107 10 19 000	− 10,14	− 11,83	− 11,83	− 11,83	− 11,83	− 11,83
1107 10 91 000	—	—	—	—	—	—
1107 10 99 000	—	—	—	—	—	—
1107 20 00 000	—	—	—	—	—	—

COMMISSION REGULATION (EC) No 2503/95

of 26 October 1995

fixing the export refunds 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 [1], as last amended by Regulation (EC) No 1863/95 [2], and in particular the third subparagraph of Article 13 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [3];

Whereas, as far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Regulation (EC) No 1501/95;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas Council Regulation (EEC) No 990/93 [4], as amended by Regulation (EC) No 1380/95 [5], prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 October 1995.

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

Done at Brussels, 26 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 179, 29. 7. 1995, p. 1.
[3] OJ No L 147, 30. 6. 1995, p. 7.
[4] OJ No L 102, 28. 4. 1993, p. 14.
[5] OJ No L 138, 21. 6. 1995, p. 1.

ANNEX

to the Commission Regulation of 26 October 1995 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU / tonne)

Product code	Destination (1)	Amount of refund (2)
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 00 200	—	—
1001 10 00 400	—	—
1001 90 91 000	—	—
1001 90 99 000	—	—
1002 00 00 000	01	0
1003 00 10 000	—	—
1003 00 90 000	01	—
1004 00 00 200	—	—
1004 00 00 400	—	—
1005 10 90 000	—	—
1005 90 00 000	—	—
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 11 000	—	—
1101 00 15 100	01	0
1101 00 15 130	01	0
1101 00 15 150	—	—
1101 00 15 170	—	—
1101 00 15 180	—	—
1101 00 15 190	—	—
1101 00 90 000	—	—
1102 10 00 500	01	25,00
1102 10 00 700	—	—
1102 10 00 900	—	—
1103 11 10 200	—	— (3)
1103 11 10 400	—	— (3)
1103 11 10 900	—	—
1103 11 90 200	—	— (3)
1103 11 90 800	—	—

(1) The destinations are identified as follows:
01 All third countries.

(2) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

(3) No refund is granted when this product contains compressed meal.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EC) No 2504/95
of 26 September 1995
fixing production refunds on cereals and rice

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 [1], as last amended by Regulation (EC) No 1863/95 [2], and in particular Article 7 (3) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice [3], as last amended by Regulation (EC) No 1530/95 [4], and in particular Article 9 (3) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors [5], as last amended by Regulation (EC) No 1516/95 [6], and in particular Article 3 thereof,

Whereas Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund; whereas the basis for the calculation is established in Article 3 of the said Regulation; whereas the refund thus calculated must be fixed once a month and may be altered if the price of maize, wheat and barley changes significantly;

Whereas the production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. The refund referred to in Article 3 (2) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from maize, wheat, potatoes, rice or broken rice, shall be ECU 30,26 per tonne.

2. The refund referred to in Article 3 (2) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from barley and oats, shall be ECU 0,00 per tonne.

Article 2

This Regulation shall enter into force on 27 October 1995.

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

Done at Brussels, 26 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 179, 29. 7. 1995, p. 1.
[3] OJ No L 166, 25. 6. 1976, p. 1.
[4] OJ No L 148, 30. 6. 1995, p. 5.
[5] OJ No L 159, 1. 7. 1993, p. 112.
[6] OJ No L 147, 30. 6. 1995, p. 49.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 23 October 1995

authorizing the Federal Republic of Germany to conclude an agreement with the Republic of Poland containing measures derogating from Articles 2 and 3 of the Sixth Directive 77/388/EEC on the harmonization of the laws of the Member States relating to turnover taxes

(95/435/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax : uniform basis of assessment (1), and in particular Article 30 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 30 of the Sixth VAT Directive, the Council, acting unanimously on a proposal from the Commission, may authorize any Member State to conclude with a non-member country or an international organization an agreement which may contain derogations from the said Directive ;

Whereas, by letter officially received by the Secretariat-General of the Commission on 20 January 1995, the German Government requested authorization to conclude an agreement with Poland concerning the link-up of the German road B97 and the Polish road 274, and the construction of a frontier bridge across the Neisse in the Guben and Gubinek area, which contains derogations from Articles 2 and 3 of the Sixth Directive as regards the construction of the frontier bridge ;

Whereas the other Member States were informed on 20 February 1995 of the German request ;

Whereas, in the absence of derogations, the construction work carried out on German territory would be subject to VAT in Germany while that carried out on Polish territory would be outside the scope of the Sixth Directive and whereas, in addition, each importation from Poland into Germany of goods used for the construction of the frontier bridge would be subject to VAT in Germany ;

Whereas the purpose of these derogations is to simplify the rules of taxation for the contractors carrying out the construction work on the frontier bridge in question ;

Whereas the derogations will have only a negligible effect on the own resources of the European Communities accruing from value added tax,

HAS ADOPTED THIS DECISION :

Article 1

The Federal Republic of Germany is authorized to conclude an agreement with the Republic of Poland concerning the link-up of the German road B97 and the Polish road 274 and the construction of a frontier bridge across the Neisse in the Guben and Gubinek area and containing measures derogating from the Sixth Directive 77/388/EEC. These derogations are defined in Articles 2 and 3 of this Decision.

(1) OJ No L 145, 13. 6. 1977, p. 1, Directive as last amended by Directive 94/76/EC (OJ No L 365, 31. 12. 1994, p. 53).

Article 2

By way of derogation from Article 3 of the Sixth Directive, that part of the territory of the Federal Republic of Germany in the region of Guben in which work to construct a frontier bridge across the Neisse linking German road B97 and Polish national road 274 is carried out shall be deemed to be part of the territory of the Republic of Poland for the purposes of supplies of goods and services intended for use in the construction of that bridge.

Article 3

By way of derogation from point 2 of Article 2 of the Sixth Directive, the importation of goods into Germany from Poland shall not be subject to value added tax insofar as those goods are used for the construction of a frontier bridge across the Neisse in the Guben and Gubinek area linking German road B97 and Polish road 274. However, this derogation shall not apply to importations of goods effected by a public authority.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Luxembourg, 23 October 1995.

For the Council

The President

P. SOLBES MIRA

COUNCIL DECISION

of 23 October 1995

appointing an alternate member of the Committee of the Regions

(95/436/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 198a thereof,

Having regard to the Council Decision 94/65/EC of 26 January 1994 appointing members and alternate members of the Committee of the Regions for the period 26 January 1994 to 25 January 1998 [1],

Whereas a seat as an alternate member on the Committee has become vacant following the resignation of Mr Juan José García Escribano, notified to the Council on 12 July 1995;

Having regard to the proposal from the Spanish Government,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Antonio Gómez Fayrén is hereby appointed an alternate member of the Committee of the Regions in place of Mr Juan José García Escribano for the remainder of the latter's term of office, which runs until 25 January 1998.

Done at Luxembourg, 23 October 1995.

For the Council

The President

P. SOLBES MIRA

[1] OJ No L 31, 4. 2. 1994, p. 29.

COMMISSION

COMMISSION DECISION

of 1 February 1995

concerning a German proposal to grant State aid to Georgsmarienhütte GmbH

(Only the German text is authentic)

(Text with EEA relevance)

(95/437/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4 (c) thereof,

Having regard to Commission Decision No 3855/91/ECSC of 27 November 1991 establishing Community rules for aid to the steel industry [1], and in particular Article 2 thereof,

Having, in accordance with Article 6 (4) of the abovementioned Decision, given notice to interested parties to submit their comments,

Whereas :

I

By letter dated 6 July 1993 the German authorities notified the Commission pursuant to Articles 2 and 6 of Decision No 3855/91/ECSC the 'steel aids code' (SAC) of State aid to Georgsmarienhütte GmbH to enable it to carry out investments for research and development purposes. The aid amounted to DM 32,5 million and represented 30 % of the eligible costs.

By letter of 7 September 1993 the German authorities answered several questions put to them by letter of 29 July 1993.

In November 1993 the Commission decided to open the procedure provided for in Article 6 (4) of the steel aids code in respect of the proposed State aid.

The German Government was informed of this decision by letter of 31 December 1993 (SG(93) D/21737). The same letter asked the German authorities to give their comments on the points raised in the Commission's decision.

The letter to the German authorities was published in the Official Journal [2], and other Member States and interested parties were requested to send their observations to the Commission within one month of the date of the publication.

The observations of the German Government were sent by telefax on 31 January 1994, registered on the following day.

Furthermore, the Commission received letters from the following parties :

— The British Iron and Steel Producers Association (BISPA) (letter of 28 March 1994, registered on 6 April 1994),

— European Independent Steel Works Associations (EISA) (letter of 6 April 1994, registered on 11 April 1994),

— Mefos Metallurgical and Metal Working Research Plant (letter of 7 April 1994, registered on 8 April 1994),

— Usinor Sacilor (letter of 8 April 1994, registered on 11 April 1994),

— The United Kingdom Permanent Representation to the European Communities (letter of 8 April 1994, registered on 18 April 1994).

By letter of 21 June 1994, those letters and their translated versions plus Annexes were sent to the German Permanent Representation.

The German Government replied by letter of 24 June 1994, registered the same day. An informal meeting between representatives of the Commission and the German Government took place in Brussels on 30 June 1994.

[1] OJ No L 362, 31. 12. 1991, p. 57.

[2] OJ No C 71, 9. 3. 1994, p. 5.

By letters of 11 July and 26 October 1994, the German authorities brought fresh information to the attention of the Commission.

II

The investment project includes the construction of a direct-current electric arc furnace to replace the existing blast furnace and converter. The aim of the investment is — according to the German Government — the environmentally-friendly use of iron-bearing waste materials (in particular 'iron dusts' and non-shredded car scrap), with the object of reducing production costs.

The German Government claims that this will be the first time that this type of furnace is used for large-scale production of quality and special steels.

In particular, the new furnace provides the introduction of a (single) hollow electrode, through which iron-bearing dusts resulting from iron and steel production together with carbon can be injected into the steel production process.

Further, a post-combustion of CO gases within the furnace and a corresponding anode-regulation will ensure that non-shredded car scrap can be economically recycled in an environmentally-friendly manner and in a one-step process.

Investment cost considered eligible by the German Government for State aid amounted to DM 108,2 million (ECU 57,1 million) and comprised the following items :

Items	DM million	ECU million
Electric arc furnace and de-dusting installation	41,715	22,0
R & D specific software	6,000	3,2
Construction works	8,985	4,7
Subtotal	56,700	29,9
Contribution to costs of construction of current-supply facility	12,000	6,3
Personnel costs	7,506	4,0
Other operating costs :		
— utilization of iron-bearing dust through a hollow electrode	15,135	8
— post-combustion of primary gases from the reactions	2,075	1,1
— the charge of unshredded car scrap in a single-step process	2,250	1,2
— fractional separation of filtration dust	3,475	1,8
— development of high-tension regulation by using dry anodes	4,337	2,3
— elevation of the electric arc voltage	0,270	0,1
Subtotal	27,542	14,5
Research institute	2,200	1,2
Additional general expenses (30 % of personnel costs of DM 7,506 million (see above))	2,252	1,2
Total costs	108,2	57,1

III

The investment cost of DM 108,2 million (ECU 57 million) considered eligible by the German Government and other costs related to the project totalling DM 16,3 million (ECU 8,6 million) were to be financed as follows :

Own resources (equity paid in by former owner Klöckner Werke AG)	DM	25,7 million
Bank loans (secured)	DM	45,0 million
Supplier credits	DM	21,3 million
R & D grant (30 % of DM 108,2 million)	DM	32,5 million
Total	DM	124,5 million (ECU 65,5 million)

The Commission had doubts, as expressed in the opening of the procedure pursuant to Article 6 (4) of the SAC, on the following points :

— the genuine R & D character of the project,

— the eligibility of the investment costs for R &D aid proposed,

— the inclusion of costs that are not eligible for R & D aid under any circumstances,

— the resulting aid intensity of 30 %. Owing to the high risk of the project, according to the reasoning set out in the notification, the intensity should be 30 % instead of 25 % which is the intensity normally acceptable to the Commission for applied R & D.

IV

The German Government, in its comments submitted by telefax of 31 January 1994, stated that the company had been created following the take over (by management buy-out) of the former 'Klöckner Edelstahl GmbH'. Its capacity amounted to 480 000 t/y of pig iron, 900 000 t/y of crude steel and 600 000 t/y of hot-rolled finished products. The new owners of the company are Mr J. Großmann (75 %), the former member of the Executive Board of Klöckner Werke AG, and 'Drueker & Co. GmbH' (25 %). The purchase contract was signed on 5 April 1993. The company had been acquired with a view to the restructuring of its production facilities in order to make the company competitive.

The company's restructuring plan consisted of the following measures :

— replacement of the existing blast-furnace and converter by an electric arc furnace, resulting in a reduction of crude steel capacity by 300 000 t/y to 600 000 t/y, as well as the entire dismantling of its pig iron capacity,

— closure of the adjustment line ('Adjustagelinie') linked to the light section steel mill after modernization of the hot-rolling mill.

It was reiterated that the whole concept had to be regarded as R & D and that due to high risks an aid-intensity of 30 % gross was appropriate. As far as the amount of additional overhead costs was concerned, following the Commission's request further information was provided in order to establish the accuracy of the notified amount of DM 2,2 million, representing 30 % of the personnel costs. Calculations on this subject were given and it was demonstrated that in 1992/93 the general overhead costs amounted to 28,3 % and for 1994 to 30,3 % of personnel costs.

Furthermore, it was declared that the duration of the R & D project would be extended by 15 months, leading to a total research period of 51 months instead of 36, for business reasons and because of the limited research capacity of the company. As a result, the costs rose by an extra DM 1,5 million to DM 109,7 million instead of DM 108,2 million.

V

The following observations were received under the procedure :

BISPA

Bispa stated that the project in its entirety was not a genuine R & D project and that a large part of it concerned existing technology. The costs of instruments and equipment were therefore not eligible for R & D aid because they would serve economic ends, on a full industrial scale.

EISA

EISA expressed doubts as to the R & D nature of parts of the project and of the feasibility of others, in particular as to the scope of the project. The processes of post combustion in arc furnaces have already been researched. The use of hollow electrodes has already been applied to other kinds of dust. EISA concludes that it regards the method described as problematic for mass-production purposes.

MEFOS

Mefos stated that the technology of feeding ferrous dust through a hollow electrode is already developed and known. Its objective has been to allow steel plant dust to be used economically. The project has come so far that discussions have started with a view to forming a production company in Norway together with a zinc producer. Regarding post-combustion in the electric arc furnace much development work had been performed. Mefos had nothing against the realization of the project.

Usinor Sacilor

Usinor Sacilor is of the opinion that the project is entirely based on already known technologies and that the aid is consequently only for investment purposes. It was especially worried that investment aid for the construction of a new arc furnace was being presented as aid for R & D purposes.

Government of the United Kingdom

The United Kingdom authorities are convinced that the plant will be a full-scale commercial operation from the outset, since it replaces the existing iron and steelmaking facilities on the site and there if no evidence of any valid R & D activities associated with the construction of the DC furnace. They therefore consider that any State finance provided would constitute illegal aid pursuant to Article 4 of the ECSC Treaty and under secondary legislation.

The German authorities gave their reaction to those observations by letter of 24 June 1994. They discuss the observations by the other parties in detail and they repeat their opinion that the whole project constitutes research and development. To answer the criticisms, it is conceded that neither a DC arc furnace nor a hollow electrode is new. However, the dust injection is not performed during the production of steel but outside the time when steel is

produced. Furthermore, a separation of Zn and Pb from the dust is not the objective of the process, as it is for existing technologies, but the dust is converted to a raw material than can be used instead of scrap in future steel production. Another aspect of the R & D is to render harmless certain gases that result from the extra energy fed into the smelting bath. Car bodies contain lacquers and oils and fats. When melted these sub-products produce extra energy and dioxin and furan, both toxic gases. Through the post-combustion phase these gases will be broken down. An optimal use of all the energy carriers with the appearance of a minimum of toxic gases should therefore become possible. With the cooperation of L'Air Liquide a tangential injection of oxygenous gases will be demonstrated which allows a good blending and a high degree of burning of the gases. It is expected that this will lead to energy-saving as well.

By letter of 11 July 1994, the German authorities informed the Commission of a modification of the costs connected to the R & D project. Because of the erosion and consumption of certain materials and equipment in the R & D project, which will be carried out on two days a week over 51 months, extra costs have to be incurred. These costs arise when blowing iron-bearing dust through the hollow electrode, and they break down as follows:

	Costs per campaign (DM)	Costs per 48 campaigns in 12 months (1 000 DM)	Total costs of the campaigns in 51 months (1 000 DM)
Erosion of cooling elements	1 452	69,7	296
Erosion of the cover of the furnace	2 626	126	536
Wear and tear on the anode	3 549	170,4	724
Consumption of de-dusting filters	10 368	497,7	2 115
Performance by third parties for the slag disposal	2 525	121,2	515
Treatment costs for the ladle	4 500	216	918
Consumption costs to keep the ladle furnace warm	3 500	168	714
Costs to return the ladle	3 000	144	612
De-dusting of the process dust from the filters including the assembled zinc	11 150	535	2 274
Special analysis of several campaigns	—	—	1 658
Maintenance costs	16 960	814	3 460
Total			13 822 (ECU 7,18 million)

The German authorities considered these costs to be eligible for R & D aid of DM 3,45 million (ECU 1,79 million). This represents an aid intensity of 25 %.

In the notification of State aid reference was made to costs, described as non R & D costs, but nevertheless declared eligible for R & D State aid. These costs will amount to 10 % of the eligible costs of DM 108,2 million, i.e. DM 10,82 million. The Commission commented that it could not accept such costs as eligible for R & D aid. By letter of 26 October 1994 this misunderstanding was cleared up. The non-R & D costs were never part of the costs considered eligible by the German authorities for State aid. They were therefore included in the total investment costs of DM 124,5 million, but not in the notified costs of DM 108,2 million, considered at the time by the German authorities to be eligible for State aid.

VI

Article 2 of the SAC allows aid to be granted to defray expenditures by steel undertakings on research and development projects if it is in compliance with the rules laid down in the 'Community framework for State aid for research and development' (1).

The abovementioned 'Community framework' lays down principles governing the intensity of proposed aid, which have to be assessed by the Commission on a case-by-case basis. The assessment has to take into consideration the nature of the project, the technical and financial risk involved, overall policy considerations relating to the competitiveness of European industry, and also the risks of distortion of competition and effects on trade between Member States.

(1) OJ No C 83, 11. 4. 1986, p. 2.

This points to the principle that basic industrial research may qualify for higher levels of aid than applied research and development; the latter are more closely related to the market application of R & D results and could therefore, if aided, lead more readily to distortions of competition and trade.

While the Commission considers that the level of aid for basic industrial research should not be more than 50 % of the gross costs of the project, it will look in principle for progressively lower levels of aid in cases as the activity being aided gets nearer to the market place, by extending into the areas of applied research and development. The Commission has adopted the practice of allowing an aid intensity of 25 % gross for applied R & D.

Moreover, the Commission will admit higher aid levels in cases where particular projects imply a very high specific risk.

The project itself consists of six sub-projects:

— utilization of iron-bearing dust through the use of a hollow electrode,

— post combustion of primary gases resulting from the reactions,

— the charge of unshredded car scrap in a single-step process (diminution of dioxin and furan emissions),

— fractional separation of filtration dust,

— development of high-tension regulation by using dry anodes,

— raising of the electric arc voltage.

One of the sub-projects (the utilization of iron-bearing dust through a hollow electrode) will only be carried out during two days of the week. Since Georgsmarienhütte will only produce 600 kt of steel a year, it is not necessary to produce for seven days a week, five days being sufficient. The other live sub-projects will be carried out throughout the production process since the pilot character has to be demonstrated under real circumstances.

Those projects together represent the R & D project and they have not previously been performed on a large scale in a combination like this. The outcome in terms of a new development resulting from the combination of the different technical processes is therefore unclear, but if success is achieved, it will have been demonstrated that the total blend of techniques can function under real circumstances.

The demonstrative character of this project consists of two parts. The first one is the blowing into the electric arc furnace (EAF) of iron-bearing dust (waste product of the steel-making process containing 50 % of iron) through a hollow electrode. In fact this amounts to a recycling of waste material, because it becomes possible to win back iron from the dust and to use other elements such as chromium.

The second part is to charge the furnace in a one-step process with non-shredded motor vehicle scrap. This way of charging the EAF is made being possible through an extreme post-combustion of Co-gas and a corresponding adjustment of the voltage between an anode and cathode.

Motor vehicle scrap contains approximately 25 % plastic and other material. This (in a way polluted) scrap can be used in a two-step process (smelting and converting) but here the aim is to use the non-shredded derelict cars as a whole and smelt them right away without creating dioxin-containing gases.

During the smelting of the scrap, CO-containing gasses are created. Normally the post-combustion of these gases take place outside the furnace. In order to use the heat caused by this burning, it has to take place inside the furnace. The problem is the just-in-time delivery of the necessary oxygen. The solution proposed was to inject oxygen at two levels, as a result of which a current would be established which allowed a better mixing of the gases. Very accurate measuring has to take place in order to establish the right moment for these injections of oxygen. Furthermore, the attempt will be made to let the post-combustion also take place in the foamed slag.

The fractional separation of dust is carried out to filter metals such as zinc. These metal dusts originate during the smelting phase and they will be filtered out before the superheating takes place. Zinc and other metals in concentrated form can be used elsewhere.

The aim of the high-tension regulation is to control the current between the anode and the cathode. Metal lying against the edge of the furnace (so-called 'cold spots') is not sufficiently heated. This is caused by the fact that only one electrode, instead of three, is used. By using dry anodes instead of watercooled ones, it is expected that the current can be controlled better.

The raising of electric arc voltage is in principle possible in a direct-current EAF. This leads to a higher electrical and thermal efficiency with less consumption of the electrode.

It has, however, to be demonstrated that this principle can be applied in practical operation.

The R & D project can be considered as development within the meaning of Annex I to the Community framework for State aids for research and development [1]: '... work based on applied research aimed at establishing new

[1] OJ No C 83, 11. 4. 1986, p. 5.

or substantially improved products, production processes or services up to but not including industrial application and commercial exploitation. This stage would normally include pilot and demonstration projects ...'.

The Commission answers the received comments and observations as follows :

BISPA :

The Commission agrees that the direct-current arc technology itself is established, and consequently it does not consider the electric arc furnace to be eligible for State aid (see below). One of the aims of the project is the recycling of iron and not of zinc, as stated in the observation. Bispa remarks that it is not clear how the post-combustion relates to the use of non-shredded car scrap. In order to find this out, the demonstration project has to be undertaken.

EISA :

The Commission agrees that electric arc furnaces are used for the manufacture of special steels. This, however, is not the object of the R & D. Post-combustion itself is known, but here it has to be demonstrated that this can lead to lower emission of dioxin. To achieve this, the functioning of a combination of techniques developed by Klöckner and L'Air Liquide has to be demonstrated.

As far as the blowing of the iron dust through hollow electrodes is concerned, Eisa remarks that so far this technique has been unable to deal with large quantities. It is the aim of the R & D to establish whether this is true.

MEFOS :

The Commission takes note of the fact that this research institute has nothing against the realization of the project. It emphasizes however that Georgsmarienhütte is already half-way to demonstrating the actual functioning of the technology of blowing ferrous dust through a hollow electrode and that the project in Norway is still under discussion.

Usinor Sacilor :

The Commission agrees that the technology of the electric arc furnace is established. The blowing of iron dust through a hollow electrode presents no industrial risk according to Usinor Sacilor, since the conversion to a normal type of electric arc furnace is very easy, if the technology proves unsatisfactory. This means, however, that it still has to be investigated whether the technology is satisfactory. Furthermore, Usinor Sacilor acknowledges that the use of non-shredded car scrap in a single-step process could be innovative. It has to be remarked that the aim of this part of the R & D is to combine several techniques in order to reduce the emission of dioxin and furan. The Commission agrees that the manufacture of special steels by a direct current arc furnace does take place ; but this is not the object of the R & D.

Government of the United Kingdom :

No arguments have been given that endorse the view that there is no original research. However, the Commission considers on the basis of the arguments put forward that there is evidence of R & D.

Costs that are incurred directly as a result of the R & D project are eligible for State aid for R & D.

In the context of this case, this means that certain costs cannot be considered eligible for R & D State aid.

Costs	DM million	ECU million
The electric arc furnace and de-dusting installation	41,715	22,0
Construction works	8,985	4,7
Contribution to cost of constructing the current-supply facility	12,000	6,3
Total	62,700	32,6

These costs are not incurred as a result of the R & D project and bear no direct relation to the R & D project as a whole or with any of the sub-projects. These costs are in fact industrial investment costs and they have to be made by the company in order to produce the products for the market.

On the other hand, the direct costs arising from the R & D projects are eligible for R & D State aid. These projects are :

Costs	DM million	ECU million
The injection of iron-bearing dust	16,135	8,0
The post combustion	2,075	1,1
The use of unshredded car scrap	2,250	1,2
Fractional separation of filtration dust	3,475	1,8
Anode regulation	4,337	2,3
Electric arc voltage	0,270	0,1
Total	28,542	14,84

The costs of the injection of iron-bearing dust was raised by DM 1 million over the figure given in the notification because of the longer duration of the project.

Apart from these costs, that cover equipment and materials necessary for the projects, the following costs are also incurred directly by the R & D work :

Costs	DM million	ECU million
Personnel costs	8,006	4,0
Scientific work contracted out to the TU Clausthal and the University ofd Patras	2,2	1,2
General expenses	2,4	1,2
R & D specific software	6,0	3,2
Total	18,606	9,6

As far as the general expenses are concerned, they are calculated as 30 % of the personnel costs. Georgsmarienhütte has demonstrated that over the past years such a percentage is reasonable and in conformity with its normal ratio between personnel costs and general expenses.

DM 108,2 million was originally notified as eligible for R & D aid. On the basis of the extension of the duration of the R & D project from 36 months to 51 months, DM 1,65 million (including 30 % of extra personnel costs for general expenses) was added to this amount, giving DM 109,85 million.

However, certain costs are not incurred directly as a result of the R & D project and they have to be deducted from the amount :

— notified as eligible for State aid for R & D — DM 109,85 million
— costs that are not considered to be R & D — DM 62,7 million
— leaves as R & D costs and eligible for State aid — DM 47,15 million (ECU 24,52 million)

For certain of these costs the German authorities proposed to grant aid with an intensity of 30 % and for one, the scientific cooperation with the TU Clausthal and the University of Patras, of 50 %.

However for applied research and development, the Commission has adopted the practice of allowing only 25 % gross. In cases of high specific risk a higher aid level may be considered by the Commission.

It has to be noted that this is an exception to the rule, since all R & D projects invoke risks. Such a high specific risk has not been adequately demonstrated. The R & D project at stake is a demonstration project showing the functioning of a blend of techniques in real-life conditions. This means that it is already very close to the market-place ; consequently, the technical risks are within acceptable limits. Furthermore, if the project demonstrates that the combination of the techniques does not deliver the desired outcome, Georgsmarienhütte will still have a direct-current electric arc furnace that can be adapted to normal standards with a minimum of extra costs. A risk premium of five percentage points is therefore not justified, and the aid intensity should not be higher than 25 %.

Originally, the German authorities sought approval for an aid for R & D of DM 32,46 million on the basis of DM 108,2 million eligible costs and an intensity of 30 %. Owing to the extension of the duration of the project from 36 months to 51 months, these costs were set at DM 109,85 million.

By letter of 11 July 1994 the German authorities informed the Commission of additional wear and tear and consumption costs of DM 13,822 million caused by the utilization of the iron-bearing dusts through the hollow electrode. Since these costs are directly caused by the R & D activity they are eligible for R & D State aid pursuant to Annex II to the Community framework for State aids for research and development. The aid intensity is 25 %.

Since there was no doubt as to the R & D nature of the costs, an extension of the procedure pursuant to Article 6 (4) of the steel aids code was not necessary. The same applies to the costs resulting from the extended duration of the R & D project from 36 to 51 months.

This brings the total costs as notified to DM 123,672 million and the aid to DM 35,9155 million.

Point 8.2 of the Community framework for State aids for research and development requires that the aid for R & D shall lead to additional efforts in the field of R & D. For the beneficiary of the aid it was perfectly possible not to carry out this R & D project and to use the electric arc furnace only for production. The fact that it has chosen to perform this R & D is in itself a proof of additional efforts in this field.

Since DM 62,7 million is not to be regarded as costs incurred by the R & D project, the basis of the eligible costs is narrowed to DM 60,972 million. Of this, 25 % can be granted as R & D State aid, namely DM 15,243 million.

The difference between DM 35,9155 million and DM 15,243 million — DM 20,6725 million — cannot be justified by one of the other categories that allow for State aid to the steel industry as stated in the steel aids code. The granting of such State aid, amounting to DM 20,6725 million, is consequently prohibited by Article 4 (c) of the ECSC Treaty.

VII

In conclusion, the State aids proposed by the German authorities can only partially be accepted as State aid for R & D within the meaning of Article 2 of the steel aids code. The rest of the aid is prohibited by point (c) of Article 4 of the ECSC Treaty.

Of the total notified R & D costs of DM 123,672 million (DM 109,85 million + DM 13,822 million), only DM 60,972 million is eligible as State aid for R & D. Of the proposed State aid of DM 35,9155 million only DM 15,243 million is compatible with the common market for steel whilst an amount of DM 20,6725 million is prohibited by point (c) of Article 4 of the ECSC Treaty,

HAS ADOPTED THIS DECISION :

Article 1

1. The Commission has established that the investment costs for the electric arc furnace and the de-dusting installation, the construction works and the contribution to costs for the construction of the current-supply facility, amounting to DM 62,7 million, are not to be considered research and development (R & D) costs.

2. The Commission has established that State aid amounting to DM 20,675 million is not compatible with the common market for steel and prohibited by point (c) of Article 4 of the ECSC Treaty.

Article 2

1. The Commission has acknowledged a total of DM 60,972 million as being R & D costs within the meaning of Article 2 of Decision No 3855/91/ECSC of 27 November 1991 establishing Community rules for aid to the steel industry, and it considers that an aid intensity of 25 % gross is compatible with the common market for steel.

2. The Commission concludes that State aid amounting to DM 15,243 million is compatible with the common market for steel.

Article 3

Germany shall inform the Commission, within two months of the notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 February 1995.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 14 March 1995

concerning investment aid granted by Spain to the company Piezas y Rodajes SA, a steel foundry located in Teruel province (Aragon), Spain

(Only the Spanish text is authentic)

(Text with EEA relevance)

(95/438/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having, in accordance with Article 93, given notice to interested parties to submit their comments, and having regard to those comments,

Whereas :

I

On 24 April 1991, the Commission adopted Decision NN 12/91 not to raise any objections to the aid for investment in a new firm granted to the Spanish company Piezas y Rodajes SA (Pyrsa) by certain Spanish public authorities at regional and local level.

Pyrsa was established in September 1988 and operates in the steel foundry sector, producing sprockets and GET parts.

On 30 July 1991, the British company Cook, which operates in the same sector as Pyrsa, brought an action to annul the above Commission Decision before the Court of Justice of the European Communities.

In its Judgment [1] of 19 May 1993, the Court of Justice annulled Commission decision NN 12/91 'to raise no objections' to several State aids granted to Pyrsa in so far as it related to aids other than the subsidy of Pta 975 905 000 granted by the Spanish Government under a regional aid scheme approved by the Commission.

The main reason for the Court's annulment of Decision NN 12/91 was that, since the Commission had sought to rely on the absence of overcapacity in the sprockets and GET parts sub-sector but was not able to demonstrate that such was the case, it should have initiated the procedure under Article 93 (2) of the Treaty in order to ascertain, after obtaining all the requisite opinions, whether its assessment was correct.

II

In accordance with the Court's judgment, on 28 July 1993 the Commission decided to initiate the procedure laid down in Article 93 (2) of the Treaty in respect of the following aid granted to Pyrsa :

1. a non-refundable grant of Pta 182 million,
2. a guarantee to cover a loan of Pta 490 million for 11 years (both granted by the Autonomous Community of Aragon),
3. an interest subsidy of seven percentage points for five years on the above loan (granted by the Provincial Government of Teruel),
4. a donation of land worth Pta 2,3 million (granted by the municipality of Monreal del Campo).

The decision to initiate the procedure was notified to the Spanish authorities by letter dated 6 August 1993. The letter was published in the *Official Journal of the European Communities* [2] in order to inform the other Member States and interested parties. In the letter the Commission stresses that, in the absence of detailed verification of the sectoral impact, the aid in question could not be eligible for any of the exemptions provided for in Article 92 (3) and, in such circumstances, would not be compatible with the common market. Accordingly, the Commission gave the Spanish Government notice to submit its comments and, more particularly, to provide all the information necessary for the sectoral analysis in question.

The time taken for this final Decision on the aid in question is the result of the complexity of the case and of the considerable volume of information that had to be processed. After analysing all the relevant information

[1] Case C-198/91, *William Cook plc v. Commission*, [1993] ECR I-2487.

[2] OJ No C 281, 19. 10. 1993, p. 8.

available to it under the Article 93 (2) procedure, the Commission concluded that it was necessary to engage an independent expert to carry out a market study to assist in determining the relevant sector.

III

Under the procedure, the Commission received comments direct from four firms located in France, Italy, Germany and Spain (the firm receiving the aid) and two letters sent by a firm of lawyers, one on behalf of a company located in Spain, the other containing comments by fourteen companies (located in France, Germany and the United Kingdom), together with a table of data from the Committee of European Foundry Associations (CAEF) concerning steel foundry capacity in different European countries.

With the exception of Pyrsa, all the firms that replied state that there is no clearly identifiable sub-sector for sprockets and GET parts, because steel foundry technology is the same everywhere and foundries specialize only in accordance with their experience and technical know-how. Accordingly, the sector analysed is the steel foundry sector in general. On the other hand, all the firms argue that in 1990 there was excess capacity in the sector and that since then the excess capacity has risen and forecasts up to the year 2000 show a further deterioration.

The data provided refer to capacity and production, volume of turnover and profits for foundry products in general and, in some cases, for GET parts and/or sprockets. The data cover 1990, 1991, 1992 and 1993.

With regard to 1990 and the steel foundry sector in general, of the eighteen firms that replied (not including the firm in receipt of aid), three submitted figures that did not demonstrate excess capacity clearly enough to be taken into account, eight clearly had indices of excess capacity (1) (between 26,6 % and 194 %) and the remaining seven had indices that could arise from normal activity (between 3,1 % and 17,6 %). All the seven firms that provided separate data for sprockets and/or GET parts showed a situation for those products that was worse than the sector in general, with much higher excess capacity indices (apart from one, with an index of 30 %, the rest above 100 %).

(1) Excess capacity is defined as the relationship between capacity and production.

Again for 1990 and the steel foundry sector in general, the table for European producer countries supplied by the CAEF shows, country by country, excess capacity indices that vary between a normal index of 11,5 % in Germany and a substantial excess capacity index of 42,9 % in Spain. The average index of the five leading producer countries in the Community (Germany, Spain, France, Italy and the United Kingdom) is 22,1 %.

With regard to the years following 1990, all firms indicate a serious worsening of their situation since they all have very high excess capacity indices. In 1991 only three reported excess capacity indices below 25 % and, in 1992, only two. One of those firms ceased trading in 1992. The simple average of the indices notified by firms that replied rose from 36,9 % in 1990 to 59,1 % in 1991 and 82,3 % in 1992. The CAEF table also forecasts a serious deterioration in the sector, at least until 1995.

IV

The Spanish authorities did not submit their own comments or the data requested, but they did submit comments on the replies given by interested parties. These comments may be summarized as follows:

— the firms that replied are not representative of the sector since they accounted for only 4 % of European production in 1990,

— the firms that replied provided information concerning 1990, 1991, 1992 and 1993, which are not the reference years because the aid was approved by the Spanish authorities in May 1988. When the decision was taken, demand and production forecasts for 1987 to 1990 were favourable,

— sprockets and GET parts constituted the relevant sector. Sub-sectors in the steel foundry sector were defined in relation to the size and type of plant. Pyrsa would have to carry out substantial investment (Pta 400 million) if it were to move from its current production specialization to another,

— the firms that replied stated that there was excess capacity in the steel foundry sector but did not specify that such was the case in the sprockets and GET parts sub-sector, which is the relevant sector,

— the firms that replied indicated that the market had deteriorated even further with the presence of new, cheap imports from India, China and the countries of Eastern Europe. However, Pyrsa was ready to compete with these imports because of its high level of specialization in production (not because of the advantage it derived from the aid granted),

— one of the aid measures to which the procedure relates, namely the guarantee granted by the Autonomous Community of Aragon, was not quantifiable, at least until it was activated,

— the Spanish authorities concluded their comments by stating once more that, above all, account had to be taken of the fact that the overall intensity of the aid granted to Pyrsa was still far below the maximum limit of 75 % set for the region in which the firm is located.

At the time Decision NN 12/91 was taken, the Commission did not have any accurate data on capacity utilization in the sub-sector for sprockets and GET parts. Accordingly, it took the decision to base its opinion on available production data as a substitute indicator in order to assess the situation in the sector. However, the Court of Justice held that 'The figures set out in those statistics are only partial. (...) They do not make it possible to ascertain production capacity and to compare it with production and demand on the market.'. In the circumstances, the Court of Justice took the view that the Commission should have initiated the procedure under Article 93 (2) in order to ascertain, after obtaining all the requisite opinions, whether or not there was excess capacity in the sector.

V

The Commission cannot accept the Spanish authorities' contention that the sample of firms that replied is not representative of the sector. The seventeen firms are located in the five Member States that are the leading producers of steel castings in the Community. In addition, the information provided by CAEF covers all countries and corroborates the data provided by the individual firms on the question of excess capacity in the sector.

The information received during the procedure seems to contradict the Commission's position that the products manufactured by Pyrsa form part of a specific sub-sector. All the firms that replied take the view that it is unrealistic to divide the sector into sub-sectors and that the relevant sector is the steel foundry sector as a whole.

The Commission also questions the figure of 4 % given by the Spanish authorities as the share of production in 1990 of the firms that replied. The Commission roughly estimates these firms' share of production of steel castings in the Community in 1990 to be above 15 %.

Nor can this argument be accepted with regard to the adverse effects of the aid on trade in the sector, since, even were the aid to damage only one other firm, to the extent that it distorts competition in the Community market, the adverse effects are sufficient for the aid to be regarded as incompatible with the common market.

With few exceptions, steel foundry capacities are completely flexible with regard to the type of components they produce. The only limitations preventing certain foundries from supplying their products to specific markets are those arising from experience and technical know-how or their own production capacity, and not from existing technology. Steel foundries producing GET parts and sprockets offer a wide range of products. When a foundry moves from manufacturing one component to another, the costs incurred relate solely to the moulds needed to produce the new components, which are not normally re-used and which account for some 20 % of the total production cost of one kilogram of product. Since large investments are not needed to carry out this change, certain foundries have exploited this flexibility of production to survive in recent years.

The figures supplied by the different firms refer to 1990 and subsequent years. The Spanish authorities take the view that those figures should not be taken into account since the aid was approved by the Spanish authorities in May 1988. However, this contradicts previous information, supplied by the same authorities by letter dated 13 May 1993. In that letter they stated that the aid referred to in the procedure was approved in 1989 and 1990. The guarantee to cover a loan of Pta 490 million was approved in April 1990. The grant of Pta 182 million was approved in June 1990 and was paid between 1990 and 1992. Furthermore, the data used in Decision NN 12/91 and in the subsequent proceedings before the Court of Justice related to 1990.

With a view to obtaining an independent opinion, the Commission asked an external expert to verify which was the relevant sector and to determine whether or not there was excess capacity. The expert concluded that there is no sub-sector for sprockets and GET parts and that steel foundries had capacity utilization indices of 69,3 % in 1991, 62 % in 1992 and 58 % in 1993, despite recording capacity reductions of 965 million tonnes in 1991, 910 million tonnes in 1992 and 862 million tonnes in 1993.

In the light of this new information, and contrary to the position it adopted previously, the Commission takes the view that the steel foundry sector as a whole is the relevant sector in this case for the purposes of assessing the effect of the aid on trading conditions. However, it would point out that when separate figures are produced for sprockets and GET parts, or for both products, the rate of excess capacity for firms that replied is even greater than that of the whole range of steel castings produced by those firms.

According to the information which certain firms and the CAEF communicated to the Commission under the procedure, as analysed in Section III, the Commission takes the view that as early as 1990 there was a situation of excess capacity in the steel foundry sector as a whole, without considering GET parts and sprockets separately.

The firms that replied did not provide any additional data for 1988 and 1989, which could also be relevant in this case. However, if one assumes that capacity during those years was equivalent to that in 1990, the production figures in those years supplied by the CAEF show excess capacity rates even greater than those in 1990 in the five leading producer countries in the Community.

The fact that Pyrsa is better placed than other steel foundries to cope with cheap imports proves nothing in relation to the compatibility of the aid, since this could be due to the advantage conferred on Pyrsa by the aid and not to its degree of specialization.

There can be no question that the guarantee is to be regarded as aid. In Decision NN 12/91, the Commission took the view that it was equivalent to an interest subsidy of 3 % on the loan of Pta 490 million, on the basis that this rate was the market premium for such guarantees. A guarantee has value from the date it is granted and not merely if it is activated at some time in the future.

As is indicated in the communication on the opening of proceedings, the aid in question has to be assessed in accordance with its sectoral impact. In its communication on the method for the application of Article 92 (3) (a) and (c) to regional aid [1], the Commission stated that, in order to qualify for the exemption under Article 92 (3) (a), the aid must not give rise to a sectoral overcapacity at the Community level such that the resulting Community sectoral problem produced is more serious than the original regional problem. Given that the aid in question is *ad hoc* aid, this assessment must be carried out in relation to the specific aid ; the fact that the overall aid intensity is less than the maximum approved for that region does not prejudge the findings of the analysis.

VI

The measures in question were identified clearly as State aid in Decision NN 12/91 and in the judgment of the Court of Justice. The aid consists of a non-refundable grant of Pta 182 million, the donation of land valued at Pta 2,3 million, the amount corresponding to the annual premium of 3 % (commercial premium applied at that time by banks to similar loans) on the State guarantee for the Pta 490 million loan and the amount corresponding to the interest subsidy of seven percentage points on the loan. In these circumstances, and having regard to the fact that foundry products are the subject of many intra-Community transactions, the Commission concludes that the aid granted affects trading conditions and distorts competition. Accordingly, the aid is caught by Article 92 (1), which provides that any aid fitting the definition given therein is, in principle, incompatible with the common market.

Given the nature and objectives of the aid in question, the exceptions to this principle established in Article 92 (2) are not applicable here. In any event, the Spanish Government has not requested that the exception be applied.

Article 92 (3) specifies that certain types of aid may be considered compatible with the common market. The compatibility of aid with the Treaty must be assessed in the Community context as a whole and not in the context of a single Member State. With the aim of guaranteeing the smooth functioning of the common market and compliance with Article 3 (g), the exceptions to the principle laid down in Article 92 (1) and set out in Article 92 (3) must be interpreted strictly when analysing any proposed aid scheme or any specific aid granted.

In particular, the exceptions apply only if the Commission can demonstrate that, if the aid were not granted, market forces alone would not prompt the potential recipient to act in such a way as to contribute to achievement of one of the objectives referred to above.

Permitting exceptions in favour of aid that does not contribute in any way to the achievement of such objectives or that is not necessary for that purpose would be tantamount to granting an unfair advantage to industries or firms in certain Member States, since it would improve their financial position and could have adverse effects on trade between Member States and distort competition to a degree contrary to the common interest.

[1] OJ No C 212, 12. 8. 1988, p. 2.

With regard to the exception laid down in Article 92 (3) (a), although the aid in question was approved for a firm located in a region which is eligible for such aid, it is not automatically authorized since it was not granted under a general regional aid scheme approved by the Commission. When such a scheme is authorized, it is understood that the benefits produced by aid granted under such a scheme will compensate for the possible distortion of competition caused by it. In a specific case, these effects must be considered for the aid in question. This view has been confirmed by the Court of Justice in its *Hytasa.* Judgment of 14 September 1994 [1] in which it clearly accepted that aid granted on the basis of an *ad hoc* decision may be regarded as regional aid compatible with Article 92 (3) (a) if it does contribute to the long-term development of the region without adversely affecting the common interest and competitive conditions in the Community.

As shown in Sections III and V, the information received by the Commission under the Article 93 (2) procedure demonstrates that the recipient firm operates in a sector with a problem of excess capacity at Community level. Given that the aid for investment in a new firm was granted to a firm that brought into service new production capacity of 5 000 tonnes per annum, the aid contributes to a further worsening in the excess capacity on the market.

Consequently, the conclusion must be that the conditions for the exemption under Article 92 (3) (a) are not fulfilled.

With regard to the exception laid down in Article 92 (3) (b), it is clear that the aid was not intended to promote the execution of an important project of common European interest or to remedy a serious disturbance in the Spanish economy.

Lastly, with regard to the exception in Article 92 (3) (c) for aid to facilitate the development of certain economic activities or of certain economic areas, aid may be deemed compatible if it does not adversely affect trading conditions to an extent contrary to the common interest. As has already been pointed out in relation to the exception laid down in Article 92 (3) (a), the aid contributes to the further worsening of a situation of excess capacity at Community level in the sector in which the firm operates. Consequently, the conclusion must be that the aid in question affects trading conditions to an extent contrary to the common interest. Accordingly, the aid cannot be said to comply with Article 92 (3) (c).

The aid in question cannot qualify for any of the exceptions laid down by the Treaty. The Commission therefore concludes that the aid is incompatible with the common market.

VII

The specific aid granted to Pyrsa and described in Section II is unlawful since it was granted in breach of Article 93 (3), which requires planned aid to be notified to the Commission.

Since the aid is unlawful and incompatible with the common market, it will have to be repaid. Furthermore, its economic consequences will have to be eliminated in order to restore the *status quo.* Accordingly, the total amount of aid paid must be increased by interest calculated from the date on which the aid was paid. Repayment must be made in accordance with the procedures and provisions of Spanish law, in particular the provisions concerning interest due for late payment of amounts owing to the government, which must be calculated from the date on which the aid was paid until the date on which it is actually reimbursed (letter from the Commission to the Member States SG(91) D/4571 of 4 March 1991),

HAS ADOPTED THIS DECISION :

Article 1

The aid set out below, granted by Spain to the company Piezas y Rodajes SA (Pyrsa), is unlawful since it was granted in breach of Article 93 (3) of the EC Treaty. Furthermore, it is incompatible with the common market under Article 92 of the EC Treaty :

1. a non-refundable grant of Pta 182 million (granted by the Autonomous Community of Aragon),

2. a guarantee to cover a loan of Pta 490 million for eleven years. The aid represented by this guarantee is equivalent to 3 % of the above loan (granted by the Autonomous Community of Aragon),

3. an interest subsidy of seven percentage points for five years, up to a maximum of Pta 150 million, for the above loan of Pta 490 million (granted by the Provincial Government of Teruel),

[1] Joined Cases C-278/92, C-279/92 and C-280/92, *Spain v. Commission,* [1994] ECR I-4103.

4. a donation of land valued at Pta 2,3 million (granted by the municipality of Monreal del Campo).

Article 2

Spain shall cease forthwith the aid that it currently grants to Piezas y Rodajes SA (Pyrsa), by applying normal market conditions to the guarantee premium on the loan of Pta 490 million and by discontinuing all payments of the interest subsidy on the above loan.

Article 3

The aid granted and consisting of:

1. the non-refundable grant of Pta 182 million,
2. the amount represented by the annual premium of 3 % inherent in the government guarantee to cover the loan of Pta 490 million, applied since April 1990 until the date on which the aid referred to in Article 2 ceases,
3. the amount already paid of the Pta 150 million, corresponding to the interest subsidy of seven percentage points on the above loan,
4. the donation of land valued at Pta 2,3 million;

shall be recovered in accordance with the procedures and provisions of Spanish law, in particular the provisions concerning interest due for late payment of amounts owing to the State, which shall be calculated from the date on which the aid was paid until the date on which it is actually reimbursed.

Article 4

Spain shall inform the Commission within two months of the date of notification of this Decision of the measures taken to comply herewith.

Article 5

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 14 March 1995.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 19 October 1995

on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia

(95/439/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the ACP States or in the overseas countries and territories (OCT) [1], as last amended by Regulation (EC) No 2484/94 [2], and in particular Article 27 thereof,

Having regard to Commission Regulation (EC) No 1636/95 of 5 July 1995 temporarily adapting the special import arrangements in the beef sector provided for in Council Regulation (EEC) No 715/90 with the view to the implementation of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations [3],

Whereas Article 1 of Regulation (EC) No 1636/95 provides for the possibility of issuing import licences for beef and veal products; whereas, however, imports must take place within the limits of the quantities specified for each of these exporting third countries;

Whereas the applications for import licences submitted between 1 and 10 October 1995, expressed in terms of boned meat, in accordance with Regulation (EC) No 1636/95, do not exceed, in respect of products originating from Botswana, Kenya, Madagascar, Swaziland and Namibia the quantities available from these States; whereas it is therefore possible to issue import licences in respect of the quantities requested for those countries;

Whereas Commission Regulation (EC) No 2449/95 of 19 October 1995 establishing for 1995 the breakdown for beef imports from the African, Caribbean and Pacific (ACP) States pursuant to Council Regulation (EEC) No 715/90 [4] provides in 1995 for a transfer to Zimbabwe of 1 642 tonnes from the quotas allocated to Kenya, Swaziland and Namibia; whereas, on the basis of that transfer and the licences applied for in October, the quantities for which licence applications may be submitted from 1 November 1995 should be fixed within the total quantity of 52 100 tonnes;

Whereas it seems expedient to recall that this Decision is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries [5], as last amended by the Act of Accession of Austria, Finland and Sweden,

HAS ADOPTED THIS DECISION:

Article 1

The following Member States shall issue on 21 October 1995 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

Germany:

— 980,000 tonnes originating in Botswana,
— 630,000 tonnes originating in Namibia;

France:

— 148,732 tonnes originating in Botswana,
— 15,000 tonnes originating in Swaziland,
— 60,000 tonnes originating in Namibia;

Greece:

— 1,227 tonnes originating in Madagascar;

Italy:

— 120,000 tonnes originating in Madagascar,

Netherlands:

— 79,193 tonnes originating in Madagascar;

United Kingdom:

— 657,000 tonnes originating in Botswana,
— 220,000 tonnes originating in Swaziland,
— 400,000 tonnes originating in Namibia.

[1] OJ No L 84, 30. 3. 1990, p. 85.
[2] OJ No L 265, 15. 10. 1994, p. 3.
[3] OJ No L 155, 6. 7. 1995, p. 25.
[4] OJ No L 252, 20. 10. 1995, p. 1.
[5] OJ No L 302, 31. 12. 1972, p. 28.

Article 2

Licence applications may be submitted, pursuant to Article 3 (3) of Regulation (EC) No 1636/95 during the first 10 days of November 1995 for the following quantities of boned beef and veal:

— Botswana:	6 090,652	tonnes,
— Kenya:	0,000	tonnes,
— Madagascar:	3 983,885	tonnes,
— Swaziland:	1 758,500	tonnes,
— Namibia:	1 681,300	tonnes,
— Zimbabwe:	1 642,000	tonnes.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 19 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission