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## Legislation

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## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 1773/97**

**of 12 September 1997**

**on a special intervention measure for cereals in Finland and Sweden**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 923/96<sup>(2)</sup>, and in particular Article 6 thereof,

Whereas oats are one of the products covered by the common organization of the market in cereals; whereas it is not, however, included among the basic cereals referred to in Article 4 of Regulation (EEC) No 1766/92 for which provision is made for intervention buying-in;

Whereas oats is a major traditional crop in Finland and Sweden which is well suited to the weather conditions obtaining in those countries; whereas production far exceeds requirements in those countries with the result that they are required to dispose of surpluses by exporting them to third countries; whereas membership of the Community has not altered the previously existing situation;

Whereas any reduction in the quantity of oats grown in Finland and Sweden would be beneficial to other cereals qualifying for the intervention arrangements, especially barley; whereas production of barley is in surplus both in the two Nordic countries and across the whole of the Community; whereas a switch from oats to barley would only worsen the situation and create further surpluses; whereas it is necessary therefore to ensure that exports of oats to third countries can continue;

Whereas refunds may be granted in respect of oats pursuant to Article 13 of Regulation (EEC) No 1766/92; whereas the geographical situation of Finland and Sweden places them in a less favourable position from the point of view of exporting than other Member States; whereas

the fixing of refunds on the basis of Article 13 favours primarily those other Member States; whereas it is anticipated therefore that the production of oats in the two Nordic countries will give way increasingly to that of barley; whereas, consequently, in coming years, substantial quantities of barley must be expected to enter intervention storage in Finland and Sweden pursuant to Article 4 of Regulation (EEC) No 1766/92, the only possibility of disposal being export to third countries; whereas exports from intervention storage are more costly to the Community budget than direct exports;

Whereas a special intervention measure within the meaning of Article 6 of that Regulation could prevent these additional costs; whereas this intervention measure should be taken in the form of a measure intended to relieve the market in oats in Finland and Sweden; whereas the grant of a refund by a tendering procedure which would apply only to oats produced and exported from those two countries would be the most appropriate measure in the circumstances;

Whereas the nature and objectives of the said measure make it appropriate to apply to it, *mutatis mutandis*, Article 13 of Regulation (EEC) No 1766/92 and the Regulations adopted for its implementation, in particular Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of 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<sup>(3)</sup>, as last amended by Regulation (EC) No 1259/97<sup>(4)</sup>;

Whereas Regulation (EC) No 1501/95 requires tenderers to apply for an export licence among their other undertakings; whereas compliance with this obligation may be ensured by requiring tenderers to lodge a security of ECU 12 per tonne when they submit their tenders;

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 147, 30. 6. 1995, p. 7.

<sup>(4)</sup> OJ L 174, 2. 7. 1997, p. 10.

Whereas the cereals in question should actually be exported from the Member States for which a special intervention measure was implemented; whereas it is necessary therefore to limit the use of export licences to exports from the Member State in which application for the licence was made and to oats produced in Finland and Sweden;

Whereas, in order to ensure equal treatment for all concerned, it is necessary to make provision that the licences issued have an identical period of validity;

Whereas, in order to ensure the smooth operation of the export tendering procedure, it is necessary to prescribe a minimum quantity and a time limit and form for the submission of tenders to the competent agencies;

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

1. A special intervention measure in the form of an export refund shall be implemented in respect of 250 000 tonnes of oats produced in Finland and Sweden and intended for export from Finland and Sweden to all third countries.

Article 13 of Regulation (EEC) No 1766/92 and the provisions adopted for the application of that Article shall apply, *mutatis mutandis*, to the said refund.

2. The Finnish and Swedish intervention agencies shall be responsible for implementing the measure referred to in paragraph 1.

#### Article 2

1. Tenders shall be invited in order to determine the amount of the refund referred to in Article 1.

2. The invitation to tender shall relate to the quantity of oats referred to in Article 1 (1) for export to all third countries.

3. The invitation shall remain open until 25 June 1998. During its period of validity weekly awards shall be made, for which the time limits for the submission of tenders shall be specified in the notice of invitation to tender.

Notwithstanding Article 4 (4) of Regulation (EC) No 1501/95, the time limit for the submission of tenders for the first partial invitation to tender shall be 18 September 1997.

4. Tenders must be submitted to the Finnish and Swedish intervention agencies named in the notice of invitation.

5. The tendering procedure shall take place in accordance with this Regulation and Regulation (EC) No 1501/95.

#### Article 3

A tender shall be valid only if:

- (a) it relates to not less than 1 000 tonnes;
- (b) it is accompanied by a written undertaking from the tenderer specifying that it relates solely to oats grown in Finland and Sweden which are to be exported from those countries.

Where the undertaking referred to in paragraph (b) is not fulfilled, the security provided for in Article 10 of Commission Regulation (EC) No 1162/95<sup>(1)</sup> shall be forfeited, except in cases of *force majeure*.

#### Article 4

Under the tendering procedure referred to in Article 2, one of the following entries shall be made in box 20 of applications and export licences:

- 'Asetus (EY) N:o 1773/97 — Todistus on voimassa ainoastaan Suomessa ja Ruotsissa',
- 'Förordning (EG) nr 1773/97 — Licensen giltig endast i Finland och Sverige'.

#### Article 5

The refund shall be valid only for exports from Finland and Sweden.

#### Article 6

The security referred to in Article 5 of Regulation (EC) No 1501/95 shall be ECU 12 per tonne.

#### Article 7

1. Notwithstanding Article 21 (1) of Commission Regulation (EEC) No 3719/88<sup>(2)</sup>, export licences issued in accordance with Article 8 (1) of Regulation (EC) No 1501/95 shall, for the purpose of determining their period of validity, be deemed to have been issued on the day on which the tender was submitted.

2. Export licences issued under this tendering procedure shall be valid from their date of issue, as defined in paragraph 1, until the end of the fourth month following that of issue.

3. Notwithstanding Article 11 of Regulation (EEC) No 3719/88, export licences issued under this tendering procedure shall be valid in Finland and Sweden only.

<sup>(1)</sup> OJ L 117, 24. 5. 1995, p. 2.

<sup>(2)</sup> OJ L 331, 2. 12. 1988, p. 1.

*Article 8*

1. On the basis of tenders notified, the Commission shall decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, either:

- to fix a maximum export refund, taking into account in particular the criteria laid down in Article 1 of Regulation (EC) No 1501/95, or
- to make no award.

2. Where a maximum export refund is fixed, a contract shall be awarded to any tenderer whose tender specifies a rate of refund not exceeding such maximum export refund.

*Article 9*

Tenders submitted must reach the Commission via the Finnish and Swedish intervention agencies not later than one and a half hours following expiry of the deadline for

the weekly submission of tenders as specified in the notice of invitation to tender. They must be communicated in the form shown in Annex I to the telex or fax numbers given in Annex II.

If no tenders are received, the Finnish and Swedish intervention agencies shall inform the Commission thereof within the period specified in the first paragraph.

The times fixed for the submission of tenders shall correspond to Belgian time.

*Article 10*

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

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

Done at Brussels, 12 September 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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*ANNEX I***Weekly tender for the refund for the export of oats from Finland and Sweden to all third countries**

(Regulation (EC) No 1773/97)

(Closing date for the submission of tenders (date/time))

1	2	3
Number of tenderer	Quantity in tonnes	Amount of export refund in ecus per tonne
1		
2		
3		
etc.		

*ANNEX II*

The only numbers to use to call Brussels (DG VI-C-1, (Attention: Messrs Thibault and Brus)) are:

- telex:           — 22037 AGREC B,  
                  — 22070 AGREC B (Greek characters);
  - fax:             — 295 25 15,  
                  — 296 49 56.
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## COMMISSION REGULATION (EC) No 1774/97

of 12 September 1997

fixing the maximum buying-in price and the quantities of beef to be bought in under the 188th partial invitation to tender as a general intervention measure pursuant to Regulation (EEC) No 1627/89

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal<sup>(1)</sup>, as last amended by Regulation (EC) No 2222/96<sup>(2)</sup>, and in particular Article 6 (7) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 2456/93 of 1 September 1993 laying down detailed rules for the application of Council Regulation (EEC) No 805/68 as regards the general and special intervention measures for beef<sup>(3)</sup>, as last amended by Regulation (EC) No 1304/97<sup>(4)</sup>, an invitation to tender was opened pursuant to Article 1 (1) of Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender<sup>(5)</sup>, as last amended by Regulation (EC) No 1743/97<sup>(6)</sup>;

Whereas, in accordance with Article 13 (1) of Regulation (EEC) No 2456/93, a maximum buying-in price is to be fixed for quality R3, where appropriate, under each partial invitation to tender in the light of tenders received; whereas, in accordance with Article 14 of that Regulation, only tenders quoting prices not exceeding the maximum buying-in price and not exceeding the average national or regional market price, plus the amount referred to in paragraph 1 of that Article, are to be accepted;

Whereas, once tenders submitted in respect of the 188th partial invitation to tender have been considered and taking account, pursuant to Article 6 (1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market and the seasonal trend in slaughtering, the maximum buying-in price and the quantities which may be bought in should be fixed;

Whereas the quantities offered at present exceed the quantities which may be bought in; whereas a reducing coefficient or, where appropriate, depending on the differences in prices and the quantities tendered for, several reducing coefficients should accordingly be applied to the quantities which may be bought in in

accordance with Article 13 (3) of Regulation (EEC) No 2456/93;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Under the 188th partial invitation to tender opened pursuant to Regulation (EEC) No 1627/89:

(a) for category A:

- the maximum buying-in price shall be ECU 268 per 100 kg of carcasses or half-carcasses of quality R3,
- the maximum quantity of carcasses, half-carcasses or forequarters accepted shall be 2 917 tonnes,
- the quantities offered at a price greater than ECU 255 and less than or equal to ECU 264 shall be multiplied by a coefficient of 30 % in accordance with Article 13 (3) of Regulation (EEC) No 2456/93 and those offered at a price greater than ECU 264 shall be multiplied by a coefficient of 12 %;

(b) for category C:

- the maximum buying-in price shall be ECU 268 per 100 kg of carcasses or half-carcasses of quality R3,
- the maximum quantity of carcasses, half-carcasses or forequarters accepted shall be 5 278 tonnes,
- the quantities offered at a price less than or equal to ECU 255 shall be multiplied by a coefficient of 75 %,
- the quantities offered at a price greater than ECU 255 and less than or equal to ECU 264 shall be multiplied by a coefficient of 60 %, in accordance with Article 13 (3) of Regulation (EEC) No 2456/93, and those offered at a price greater than ECU 264 shall be multiplied by a coefficient of 12 %.

*Article 2*

This Regulation shall enter into force on 15 September 1997.

<sup>(1)</sup> OJ L 148, 28. 6. 1968, p. 24.

<sup>(2)</sup> OJ L 296, 21. 11. 1996, p. 50.

<sup>(3)</sup> OJ L 225, 4. 9. 1993, p. 4.

<sup>(4)</sup> OJ L 177, 5. 7. 1997, p. 8.

<sup>(5)</sup> OJ L 159, 10. 6. 1989, p. 36.

<sup>(6)</sup> OJ L 244, 6. 9. 1997, p. 10.

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

Done at Brussels, 12 September 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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**COMMISSION REGULATION (EC) No 1775/97**  
**of 12 September 1997**  
**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<sup>(1)</sup>, as last amended by Regulation (EC) No 2375/96<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EC) No 150/95<sup>(4)</sup>, 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 13 September 1997.

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

Done at Brussels, 12 September 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 337, 24. 12. 1994, p. 66.

<sup>(2)</sup> OJ L 325, 14. 12. 1996, p. 5.

<sup>(3)</sup> OJ L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ L 22, 31. 1. 1995, p. 1.



## ANNEX

to the Commission Regulation of 12 September 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
ex 0707 00 25	060	128,2
	999	128,2
0709 90 79	052	65,2
	999	65,2
0805 30 30	388	59,6
	524	56,0
	528	55,3
	999	57,0
0806 10 40	052	74,8
	064	50,4
	400	187,7
	999	104,3
0808 10 92, 0808 10 94, 0808 10 98	388	45,8
	400	55,4
	512	50,7
	528	52,4
	804	72,0
	999	55,3
	052	91,7
0808 20 57	064	86,4
	388	30,1
	528	64,8
	999	68,3
0809 30 41, 0809 30 49	052	118,3
	400	136,7
	999	127,5
0809 40 30	052	61,1
	064	54,2
	066	56,4
	068	49,5
	400	107,2
	624	146,4
	999	79,1

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 1776/97**  
**of 12 September 1997**  
**on the issuing of A1 export licences for 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 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EEC) No 1035/72 as regards export refunds on fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EC) No 610/97<sup>(2)</sup>, and in particular Article 2 (3) thereof,

Whereas Commission Regulation (EC) No 1744/97<sup>(3)</sup> sets the quantities for which A1 export licences, other than those requested in the context of food aid, may be issued;

Whereas Article 2 of Regulation (EC) No 2190/96 sets the conditions under which special measures may be taken by the Commission with a view to avoiding an overrun of the quantities for which A1 licences may be issued;

Whereas the Commission has received information which indicates that those quantities, reduced or increased by the quantities referred to in Article 2 (3) of Regulation (EC) No 2190/96, would be exceeded if A1 licences were issued without restriction for hazelnuts in shell and apples in response to applications submitted since 10 September

1997; whereas, therefore, a percentage should be fixed for the issuing of licences for quantities applied for on 10 September 1997 and applications for A1 licences submitted later in that application period should be rejected,

HAS ADOPTED THIS REGULATION:

*Article 1*

A1 export licences for hazelnuts in shell and apples for which applications were submitted on 10 September 1997 pursuant to Article 1 of Regulation (EC) No 1744/97 shall be issued for 90,4 % and 16,7 % of the quantities applied for (for hazelnuts in shell and apples respectively).

Applications for A1 export licences submitted after 10 September 1997 and before 12 November 1997 for those products shall be rejected.

*Article 2*

This Regulation shall enter into force on 13 September 1997.

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

Done at Brussels, 12 September 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 292, 15. 11. 1996, p. 12.

<sup>(2)</sup> OJ L 93, 8. 4. 1997, p. 11.

<sup>(3)</sup> OJ L 244, 6. 9. 1997, p. 12.

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 21 May 1997

on the aid granted by Germany to Bremer Vulkan Werft GmbH

(Only the German text is authentic)

(Text with EEA relevance)

(97/616/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,

After giving notice to the parties concerned, in accordance with the abovementioned Article, to submit their comments,

Whereas:

## I

By letter dated 1 August 1996 the Commission informed Germany of its decision to open the procedure pursuant to Article 93 (2) of the Treaty in respect of contract-related aid granted to Bremer Vulkan Werft GmbH in respect of the construction of the cruise vessel Costa I.

The Commission's decision to open the procedure was published in the *Official Journal of the European Communities*<sup>(1)</sup>, inviting other Member States and interested third parties to submit their comments on the matter.

The German Government gave its reaction by letters of 26 November 1996, 13 January 1997, and 12 March 1997, registered on the same day.

No other Member State nor any interested party submitted comments to the Commission.

By letter of 12 August 1996 the Commission informed Germany of its decision to open the procedure pursuant to Article 93 (2) of the Treaty in respect of contract-related aid intended for Bremer Vulkan Werft GmbH in respect of the construction of two container vessels.

The Commission's decision to open the procedure was published in the *Official Journal of the European Communities*<sup>(2)</sup>, inviting other Member States and interested third parties to submit their comments on the matter.

The German Government gave its reaction by letters of 13 January 1997, 4 March 1997, and 14 March 1997, of which the latter was registered on 17 March 1997.

One Member State submitted comments to the Commission.

## II

## 1. The cruise vessel Costa I

In April 1994 the Italian shipping company Costa Crociere and Bremer Vulkan Werft GmbH (hereinafter referred to as 'BVW' or 'the Yard') signed the contract for the construction of a cruise vessel on which the Yard started working in June 1994. Delivery was planned for the end of July 1996. The contract value amounted to

<sup>(1)</sup> OJ C 290, 3. 10. 1996, p. 10.

<sup>(2)</sup> OJ C 330, 5. 11. 1996, p. 6.

DM 602,219 million at the time. The financial crisis of BVW which started in the autumn of 1995 and culminated in bankruptcy in May 1996 exacerbated the situation further, as subcontractors dropped out or required prepayment of their contracts. As a result, the Yard had a cash loss of more than DM 100 million in connection with this new building contract.

The *Land* of Bremen provided a first construction-financing guarantee in 1994 for an amount of DM 200 million as collateral for a commercial bank loan of DM 440 million. A supplementary guarantee on an amount of DM 40,7 million followed in 1995 to back a loan for the financing of cost increases.

Other contract-related aid in the form of a grant totalling DM 40,6 million has been committed out of the 'competition-aid (*Wettbewerbshilfe*) scheme'.

From a letter of the German Government dated 10 April 1996 the Commission learnt that the *Land* of Bremen had declared its preparedness to provide a loan of DM 72,075 million, in order to cover the additional costs attributable to the compromise reached with creditors. According to the German Government, the granting of the loan at an interest rate of 4,851 % was necessary to secure completion of the ship, as otherwise the *Land* of Bremen would have had to honour the guarantees up to the amount of DM 260,7 million. It was further argued that the banks had agreed to provide at the same time DM 120 million for completion of the ship, which they would recover at delivery.

The Commission pointed out that according to the revised contract data the contract-related aid even without the loan in question would amount to an intensity of 9,52 % of contract value before aid. That percentage would increase substantially on account of the envisaged loan.

The Commission would not accept without question the argument that the *Land* of Bremen had acted in a similar way to the commercial banks, which had provided fresh funds as well. The loans of the banks were secured in such a way as to be fully paid off through the sale of the ship. To the knowledge of the Commission, there are no comparable collaterals for the loan provided by the Bremen Government. The Commission therefore had to categorize the entire loan as State aid.

Hence the total of the aid provided for this contract substantially exceeded the ceiling of 9 %, and therefore the aid could not be regarded as being consistent with Council Directive 90/684/EEC of 21 December 1990 on

aid to shipbuilding<sup>(1)</sup>, as last amended by Regulation (EC) No 1904/96<sup>(2)</sup>.

## 2. The container vessels

Contract-related aid in favour of BVW for the construction of two medium-sized (2 700 TEU) container vessels (Nos 110 and 111) on which work started in 1995 and which were originally to be delivered in late 1996 and late 1997 respectively, led to the opening of the procedure.

At the time, the contract price for each of the ships was DM 84,6 million.

The *Land* of Bremen agreed in principle to take over two financing guarantees in favour of BVW, to run during the construction period, to secure the advance payment and interim payments of the shipowner.

In addition, competition aid amounting to DM 4,9 million had already been committed for each of the contracts.

The guarantees of the *Land* and the *Wettbewerbshilfe* form contract-related production aid which had to be assessed pursuant to Article 4 of Directive 90/684/EEC, according to the Commission in its decision to open the procedure. The planned guarantees covered 100 % of the advance and interim payments of the shipowner. However, as was decided by the Commission on 28 February 1996 (aid No 108/96 concerning the *Land* of Bremen), a construction guarantee may cover no more than 80 % of the amount of the loan to be secured.

Furthermore, the sales proceeds from the vessels did not even cover the cost of production, and the resulting heavy losses were to be met out of the company's residual assets. The Commission therefore doubted whether the financial arrangements for the contracts, and in particular the substantial State guarantees, could be considered compatible with the common market.

## III

The Government of one of the Member States, via its Permanent Representation, provided the Commission with its observations in respect of the procedure concerning the two container vessels.

It shared the Commission's doubts as to the compatibility of the aid. It argued that the aid could only be regarded as compatible with the common market in the event of a full or partial closure of the Yard. A reduction of capacity only, whilst the Yard continued its activities, would not be sufficient.

<sup>(1)</sup> OJ L 380, 31. 12. 1990, p. 27.

<sup>(2)</sup> OJ L 251, 3. 10. 1996, p. 5.

## IV

As regards the *Costa I*, the German Government communicated to the Commission a calculation of costs and prices, together with a financial review.

They reveal that the difference between income from the vessel (the contract price of DM 632,419 million plus the competition aid of DM 40,6 million totalling DM 673,019 million) and the costs of DM 791,569 million amounts to DM 118,55 million. The major part of this loss on the contract was financed by the *Land* of Bremen by way of a credit provided by Hibeg GmbH and amounting to DM 100,25 million. This amount had to be repaid by the Yard at the time of delivery of the vessel or by 1 August 1996 at the latest. However, the credit has not been repaid by the Yard and consequently Hibeg has requested the administrator in bankruptcy to recognize the credit as a liability and to have it entered in full on the list of creditors' claims. According to the German Government, there is still a chance that Hibeg will receive a partial repayment in the course of the winding-up procedure.

Germany also requested the Commission to treat the aid that exceeded the ceiling for contract-related aid as closure aid within the meaning of Article 7 of Directive 90/684/EEC.

With regard to the two container vessels, Germany likewise proposed that the State aid to the Yard be treated as closure aid within the meaning of Article 7 of Directive 90/684/EEC.

The German Government notified the Commission of the following aids:

- for the container vessel numbered 110, a guarantee for an amount of DM 37,90 million plus interest to cover the advance and interim payments by the shipowner over the period from January to May 1997 and competition aid amounting to DM 3,794 million.

Total construction costs for this vessel stand at DM 88,60 million, paid for by the shipowner (DM 54,25 million) and by the Yard's administrator in bankruptcy (DM 34,35 million). By 31 December 1996 the administrator had already invested DM 50,10 million.

He is to receive in May 1997, upon delivery of the vessel, a refund of DM 15,75 million, which limits his contribution to DM 34,35 million. The competition aid will also be paid to the administrator and will therefore effectively further reduce his contribution, by the amount given above,

- for the vessel numbered 111 the advance and interim payments by the shipowner over the period January to May 1997 amount to DM 32,50 million. A guarantee is proposed to cover these payments. Furthermore, a bank loan is necessary to cover residual construction costs. The amount of this loan is DM 31,60 million, and a guarantee is proposed for this sum as well. The loan will be reimbursed in August 1997 upon delivery of the vessel. Finally, the German Government proposes to grant competition aid amounting to DM 3,794 million.

By 31 December 1996 the administrator had invested DM 13,90 million in the construction of this vessel. Total costs are DM 90,60 million, of which the shipowner pays DM 54,25 million and the administrator contributes DM 29,65 million. The competition aid of DM 3,794 million will reduce his contribution by the same amount. The difference between cost and income, DM 6,70 million, will be borne by the *Land* of Bremen.

It is claimed by Germany that the completion of both vessels is closely linked, in the sense that non-completion of vessel No 111 could have had serious consequences for vessel 110. Not only would it probably have led to problems with the workforce, of which approximately half is working on vessel No 110, but also with subcontractors who calculated their prices on work on two ships. Apart from the DM 14 million already spent on No 111, the administrator in bankruptcy has already awarded work contracts of around some DM 20 million on this vessel. A roughly equal value of contracts was placed for No 110. According to Germany, the non-completion of vessel No 111 could have resulted in damages amounting to over DM 100 million should vessel No 110 not have been completed either, in consequence.

The German Government further announced the total closure of Bremer Vulkan Werft GmbH i.K. after the completion of the two vessels and some work on vessel No 108 (the hull of the former *Costa II*, which was sold to a new owner) around August 1997.

The closure will be in accordance with Article 7 of Directive 90/684/EEC. This means a closure of not less than five years. If, after a period of five years but before the 10th anniversary of the closure, Germany wishes to reopen the closed Yard, it must obtain the Commission's prior approval. Germany is entitled to grant social aid pursuant to Article 7 of Directive 90/684/EEC once it has received the consent of the Commission.

The administrator in bankruptcy is currently engaged in selling the shares in Bremer Vulkan Marineschiffbau GmbH, a subsidiary of Bremer Vulkan Verbund AG, together with a dock owned by the Yard, to Friedrich Lurssen Werft GmbH. Germany, on behalf of the administrator in bankruptcy, has given assurances that this dock will only be used for activities not qualifying as shipbuilding activities pursuant to Directive 90/684/EEC. The dock is to be used by Friedrich Lurssen Werft GmbH for building naval vessels and yachts, which fall outside that Directive.

#### V

Germany has asked the Commission to regard the aid to the Costa I and the aid for vessels Nos 110 and 111 as closure aid pursuant to Article 7 of Directive 90/684/EEC.

The Commission accepts the closure of Bremer Vulkan Werft GmbH i.K. as a total closure within the meaning of Article 7 of Directive 90/684/EEC.

Article 7 of Directive 90/684/EEC stipulates that aid to defray the normal costs resulting from the partial or total closure of shipbuilding or ship repair yards may be considered compatible with the common market provided that the capacity reduction resulting from such aid is of a genuine and irreversible nature.

In order to ensure the irreversible nature of aided closures, the Member State concerned must see to it that the closed shipbuilding facility remains closed for a period of not less than five years. Article 7 (2) of Directive 90/684/EEC gives a non-exhaustive list of the costs eligible for closure aid, namely, an illustration of the normal costs resulting from the partial or total closure of a shipbuilding yard.

Other costs not mentioned explicitly in Article 7 (2) of Directive 90/684/EEC can also be considered to be

eligible as aid, so long as they are normal costs resulting from the closure of the Yard. In view of the need to organize an orderly closure of the Yard, taking account of the many suppliers and sub-contractors involved, and since a substantial part of the construction has already been carried out and furthermore a substantial number of supply and service contracts involve third parties for their performance, the Commission recognizes that an effort must be made to contain the social and economic damage resulting from the closure and that the costs of completing the vessels are therefore normal costs resulting from the closure.

The amount and intensity of the aid is justified by the fact that the costs towards which the aid is given are entailed entirely by the closure of the Yard. The aid therefore facilitates the complete withdrawal from shipbuilding activities and is limited to the completion of the vessels.

In the two decisions to open the procedure the Commission had already indicated that the aid ceiling might be exceeded for the completion of the last vessels in the event of total closure, in order to effect an orderly closure and to avoid subsequent insolvencies among subcontractors. A precedent in this respect is the Commission's decision in aid No 272/87 (closure of the French yard La Ciotat) in which it approved aid to complete ships already under construction as closure aid within the meaning of Article 7 of Directive 90/684/EEC.

Bremer Vulkan Werft GmbH i.K. is to be closed around August 1997, upon delivery of the vessels. This closure is of a genuine and irreversible nature. Germany has committed itself to this through its willingness to accept the conditions of Article 7 of Directive 90/684/EEC, including closure for not less than five years.

According to the Yard itself, its total capacity amounts to 225 000 cgt. While this figure may represent the maximum attainable capacity rather than the actual use made, it is clear that the closure of the Yard will result in a substantial reduction of German shipbuilding capacity.

At the moment some 1 050 workers are still engaged in the work on vessels Nos 110 and 111. In order to facilitate an orderly termination of work and to avoid social unrest in the region of Bremen, already heavily affected by the process of laying off workers due to the bankruptcy of Bremer Vulkan Verbund AG, a continuation of work for some months is called for. Furthermore, a sudden halt to the work on the two vessels would almost certainly lead to serious material and financial consequences for many subcontractors.

The orderly withdrawal was also in view at the time the loans totalling DM 100,25 million for Costa I were granted. Without the loans a sudden collapse of the Yard with all its attendant consequences for the workforce and subcontractors would have occurred as the vessel would not have been completed. This would have led to cancellation of the order by the shipowner and the *Land* of Bremen would have had to honour the guarantees to which it had already committed itself.

Even the fact that the dock is likely to be sold to Friedrich Lurssen Werft GmbH does not change the principle that the capacity reduction will be genuine and irreversible. The dock will only be used for naval shipbuilding and for yachts — activities not falling within the scope of Directive 90/684/EEC.

As the closure of the Bremer Vulkan Werft GmbH i.K. is recognized as a total closure within the meaning of Article 7 of Directive 90/684/EEC, it is, in the case of the Costa I, no longer necessary to distinguish exactly between contract-related production aid and closure aid, as the aid described under IV is considered to be closure aid in so far as it exceeds the aid ceiling for contract-related aid.

The observations of the Member State given under III endorses the Commission's decision, inasmuch as it has contended that the aid can indeed be regarded as compatible in the case of a total closure,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The loans granted by the *Land* of Bremen amounting to DM 100,25 million, which were made available to offset losses on the cruise vessel Costa I, are to be considered State aid within the meaning of Article 92 (1) of the EC Treaty.
2. The guarantees amounting to DM 220 million and DM 40,7 million, as well as the grant of DM 40,6 million, are likewise to be considered State aid within the meaning of Article 92 (1) of the EC Treaty.
3. The State aid mentioned in paragraphs 1 and 2, is approved, up to the permitted maximum, as contract-related production aid within the meaning of Article 4 of Directive 90/684/EEC; the remaining balance is approved as closure aid within the meaning of Article 7 of the said Directive.

#### *Article 2*

1. The guarantee given by the *Land* of Bremen, amounting to DM 37,9 million and the grant of DM 3,794 million in respect of container vessel No 110 is to be considered State aid within the meaning of Article 92 (1) of the EC Treaty.
2. The State aid mentioned in paragraph 1 is approved as closure aid within the meaning of Article 7 of Directive 90/684/EEC.

#### *Article 3*

1. The guarantees given by the *Land* of Bremen, covering DM 32,5 million and DM 31,6 million, as well as the grant of DM 3,794 million and the defraying of losses of DM 6,70 million financed by the *Land* of Bremen in respect of container vessel No 111, is to be considered State aid within the meaning of Article 92 (1) of the EC Treaty.
2. The State aid mentioned in paragraph 1 is approved as closure aid within the meaning of Article 7 of Directive 90/684/EEC.

#### *Article 4*

Germany shall comply with its commitment to close Bremer Vulkan Werft GmbH i.K. at Vegesack immediately after completion of vessels Nos 110 and 111 and termination of the work on vessel No 108.

Germany shall inform the Commission of the exact closure date. Should closure not have taken place by the end of August 1997, it shall likewise inform the Commission, giving reasons for the delay.

Germany shall adhere fully to the conditions laid down in Article 7 of Directive 90/684/EEC.

#### *Article 5*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 21 May 1997.

*For the Commission*

Karel VAN MIERT

*Member of the Commission*

## COMMISSION DECISION

of 29 July 1997

amending Commission Decision 97/252/EC drawing up provisional lists of third country establishments from which the Member States authorize imports of milk and milk-based products for human consumption

(Text with EEA relevance)

(97/617/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/408/EC of 22 June 1995 on the conditions for drawing up, for an interim period, provisional lists of third country establishments from which the Member States are authorized to import certain products of animal origin, fishery products or live bivalve molluscs<sup>(1)</sup>, as last amended by Council Decision 97/34/EC<sup>(2)</sup>, and in particular Articles 2 (1) and 7 thereof,

Whereas Commission Decision 95/340/EEC<sup>(3)</sup>, as last amended by Decision 96/584/EC<sup>(4)</sup>, draws up a list of third countries from which the Member States authorize imports of milk and milk-based products;

Whereas the health and veterinary certification requirements for imports of milk and milk-based products from the countries appearing on that list have been laid down in Commission Decision 95/343/EEC<sup>(5)</sup>, as last amended by Decision 97/115/EC<sup>(6)</sup>;

Whereas Commission Decision 97/252/EC<sup>(7)</sup>, as last amended by Decision 97/598/EC<sup>(8)</sup>, draws up provisional lists of third country establishments from which the Member States authorize imports of milk and milk-based products for human consumption;

Whereas a Community on-the-spot inspection in Poland has shown that certain establishments do not meet the

Community health requirements and that the guarantees provided by the competent authorities have not been complied with;

Whereas the appropriate measures should therefore be taken;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Decision 97/252/EC is replaced by the Annex to this Decision for Poland.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 29 July 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 243, 11. 10. 1995, p. 17.

<sup>(2)</sup> OJ L 13, 16. 1. 1997, p. 33.

<sup>(3)</sup> OJ L 200, 24. 8. 1995, p. 38.

<sup>(4)</sup> OJ L 255, 9. 10. 1996, p. 20.

<sup>(5)</sup> OJ L 200, 24. 8. 1995, p. 52.

<sup>(6)</sup> OJ L 42, 13. 2. 1997, p. 16.

<sup>(7)</sup> OJ L 101, 18. 4. 1997, p. 46.

<sup>(8)</sup> OJ L 240, 2. 9. 1997, p. 8.



ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO —  
BIJLAGE — ANEXO — LIITE — BILAGA

País: POLONIA / Land: POLEN / Land: POLEN / Χώρα: ΠΟΛΩΝΙΑ / Country: POLAND /  
Pays: POLOGNE / Paese: POLONIA / Land: POLEN / País: POLÓNIA / Maa: PUOLA / Land:  
POLEN

1	2	3	4	5 (**)
013/ML	Danone Sp. Z.o.o	WARSZAWA		30. 11. 1997
022/ML	Okregowa Spoldzielnia Mleczarska	LOSICE		30. 11. 1997
023/ML	Spoldzielnia Mleczarska "Spomlek"	RADZYN PODLASKI		30. 11. 1997
027/ML	Okregowa Spoldzielnia Mleczarska	MONKI		30. 11. 1997
028/ML	Okregowa Spoldzielnia Mleczarska	LAPY		30. 11. 1997
029/ML	Okregowa Spoldzielnia Mleczarska	BIELSK PODLASKI		30. 11. 1997
030/ML	Okregowa Spoldzielnia Mleczarska	HAJNOWKA		30. 11. 1997
031/ML	Nadbuzanska Spoldzielnia Mleczarska	SIEMIATYCZE		30. 11. 1997
037/ML	Okregowa Spoldzielnia Mleczarska	WADOWICE		30. 11. 1997
042/ML	Okregowa Spoldzielnia Mleczarska	SKOCZOW		30. 11. 1997
049/ML	Okregowa Spoldzielnia Mleczarska	INOWROCLAW		30. 11. 1997
053/ML	Okregowa Spoldzielnia Mleczarska	ZNIN		30. 11. 1997
065/ML	Spoldzielnia Mleczarska "Biomlek"	CHELM		30. 11. 1997
066/ML	Okregowa Spoldzielnia Mleczarska	KRASNYSTAW		30. 11. 1997
074/ML	Okregowa Spoldzielnia Mleczarska	CIECHANOW		30. 11. 1997
076/ML	Okregowa Spoldzielnia Mleczarska	RACIAZ		30. 11. 1997
080/ML	Friesland Mlawa Sp. z.o.o	MLAWA		30. 11. 1997
081/ML	Okregowa Spoldzielnia Mleczarska	ZUROMIN		30. 11. 1997
084/ML	Okregowa Spoldzielnia Mleczarska	PAJECZNO		30. 11. 1997
102/ML	"I.C.C. Sery" Sp. z.o.o	PASLEK		30. 11. 1997
124/ML	Okregowa Spoldzielnia Mleczarska	GORZOW WLKP		30. 11. 1997
130/ML	Okregowa Spoldzielnia Mleczarska	RZEPIN		30. 11. 1997
157/ML	"Jogser" Spoldzielnia Mleczarska	SOSNOWIEC		30. 11. 1997
162/ML	"Milkos" Mleczarska Spoldzielnia Pracy	BYTOM		30. 11. 1997
170/ML	"Mildes" Spolka z.o.o	BIERUN		30. 11. 1997
182/ML	Okregowa Spoldzielnia Mleczarska	KONSKIE		30. 11. 1997
184/ML	Okregowa Spoldzielnia Mleczarska	WLOSZCZOWA		30. 11. 1997
191 ML	Okregowa Spoldzielnia Mleczarska	KOLO		30. 11. 1997
192/ML	Okregowa Spoldzielnia Mleczarska	KONIN		30. 11. 1997
195/ML	Okregowa Spoldzielnia Mleczarska	TUREK		30. 11. 1997
202/ML	Okregowa Spoldzielnia Mleczarska	BIALOGARD		30. 11. 1997

1	2	3	4	5 (*)
204/ML	Okregowa Spoldzielnia Mleczarska	KOLOBRZEG		30. 11. 1997
206/ML	"Elmilk" spolka z.o.o	SZCZECINEK		30. 11. 1997
209/ML	Lindals Food Spolka z.o.o	KOSZALIN		30. 11. 1997
238/ML	Okregowa Spoldzielnia Mleczarska	GORA		30. 11. 1997
241/ML	Spoldzielnia Mleczarska	GOSTYN		30. 11. 1997
243/ML	Zaklad Przetworstwa Mleka "bona"	OSOWA SIEN		30. 11. 1997
252/ML	Okregowa Spoldzielnia Mleczarska	MICHOW		30. 11. 1997
254/ML	Okregowa Spoldzielnia Mleczarska	KUROW		30. 11. 1997
255/ML	Okregowa Spoldzielnia Mleczarska	RYKI		30. 11. 1997
256/ML	Okregowa Spoldzielnia Mleczarska	OPOLE LUBELSKIE		30. 11. 1997
259/ML	Spoldzielnia Mleczarska "Mleczarska"	WYSOKIE MAZOWIECKIE		30. 11. 1997
260/ML	Spoldzielnia Mleczarska "Mlekpól"	GRAJEWÓ		30. 11. 1997
261/ML	Spoldzielnia Mleczarska	ZAMBROW		30. 11. 1997
262/ML	Spoldzielnia Mleczarska	PIATNICA		30. 11. 1997
269/ML	Okregowa Spoldzielnia Mleczarska	OZORKÓW		30. 11. 1997
292/ML	Spoldzielnia Mleczarska	LUBAWA		30. 11. 1997
294/ML	"Warnia Dairy" Spolka z.o.o	LIDZBARK WARMINSKI		30. 11. 1997
295/ML	Okregowa Spoldzielnia Mleczarska	MORAG		30. 11. 1997
297/ML	Okregowa Spoldzielnia Mleczarska	MRAGOWA		30. 11. 1997
304/ML	"Vonkpol" Spolka z.o.o	MORAG		30. 11. 1997
307/ML	Okregowa Spoldzielnia Mleczarska	GRODKÓW		30. 11. 1997
321/ML	Okregowa Spoldzielnia Mleczarska	KRAPKOWICE		30. 11. 1997
330/ML	Okregowa Spoldzielnia Mleczarska "Kurpie"	BARANÓWÓ		30. 11. 1997
331 ML	Okregowa Spoldzielnia Mleczarska	OSTROLEKA		30. 11. 1997
332/ML	Mazowiecka Spoldzielnia Mleczarska	OSTROW MAZOWIE		30. 11. 1997
335/ML	KRAFT	CHORZELE		30. 11. 1997
350/ML	Okregowa Spoldzielnia Mleczarska	RADOMSKO		30. 11. 1997
355/ML	Okregowa Spoldzielnia Mleczarska	KUTNO		30. 11. 1997
358/ML	Okregowa Spoldzielnia Mleczarska	SIERPC		30. 11. 1997
390/ML	PHZ "Lacpol" Zaklad Przerworczy Kazeiny	MUROWANA GOSLINA		30. 11. 1997
399/ML	Rolnicza Spoldzielnia Mleczarska	RADOM		30. 11. 1997
403/ML	Okregowa Spoldzielnia Mleczarska	KOZIENICE		30. 11. 1997
404/ML	Okregowa Spoldzielnia Mleczarska	ZWOLEN		30. 11. 1997
407/ML	Okregowa Spoldzielnia Mleczarska Bidziny	LIPSKO		30. 11. 1997
410/ML	Okregowa Spoldzielnia Mleczarska	MIELEC		30. 11. 1997
414/ML	Rzeszowska Spoldzielnia Mleczarska	TRZEBOWNISKO		30. 11. 1997

1	2	3	4	5 (*)
424/ML	Zakład Mleczarski "Ovita — Nutricia"	WEGROW		30. 11. 1997
428/ML	R.S.P Zakład Prod. Kazienu	MORSZKOW		30. 11. 1997
437/ML	Okregowa Spoldzielnia Mleczarska	SIERADZ		30. 11. 1997
443/ML	Spoldzielnia Dostawcow Mleka	WIELUN		30. 11. 1997
446/ML	Okregowa Spoldzielnia Mleczarska	SKIERNIEWICE		30. 11. 1997
447/ML	Bongrain Europa Polska Sp. z.o.o	SKIERNIEWICE		30. 11. 1997
449/ML	Okregowa Spoldzielnia Mleczarska	LOWICZ		30. 11. 1997
460/ML	Slupska Spoldzielnia Mleczarska	KOBYLNICA		30. 11. 1997
465/ML	Okregowa Spoldzielnia Mleczarska	GIZYCKO		30. 11. 1997
471/ML	Okregowa Spoldzielnia Mleczarska	OLECKO		30. 11. 1997
475/ML	Spoldzielnia Mleczarska "Sejnmlek"	SEJNY		30. 11. 1997
476/ML	Spoldzielnia Mleczarska "SUDOWIA"	SUWALKI		30. 11. 1997
477/ML	PPHU Lactopol	SUWALKI		30. 11. 1997
481/ML	Szczecinska Spoldzielnia Mleczarska	SZCZECIN		30. 11. 1997
483/ML	Okregowa Spoldzielnia Mleczarska	PYRZYCE		30. 11. 1997
484/ML	Okregowa Spoldzielnia Mleczarska	STARGARD SZCZECINSKI		30. 11. 1997
489/ML	Okregowa Spoldzielnia Mleczarska	NOWOGARD		30. 11. 1997
494/ML	Okregowa Spoldzielnia Mleczarska	OPATOW		30. 11. 1997
505/ML	Okregowa Spoldzielnia Mleczarska	SZCZUROWA		30. 11. 1997
510/ML	Zakład Mleczarski "Mlektar" SA	TARNOW		30. 11. 1997
515/ML	Valk Primat GmbHJV	BOBROWO		30. 11. 1997
538/ML	Kujawska Spoldzielnia Mleczarska	WLOCLAWEK		30. 11. 1997
540/ML	Spoldzielnia Mleczarska "Rotor"	RYPIN		30. 11. 1997
544/ML	P.H.Z. "Lacpol" Sp. z.o.o	PIOTRKOW KUJAWSKI		30. 11. 1997
548/ML	Okregowa Spoldzielnia Mleczarska	STRZELIN		30. 11. 1997
549/ML	Okregowa Spoldzielnia Mleczarska	SRODA SLASKA		30. 11. 1997
563/ML	Roztoczanska Spoldzielnia Mleczarska	LASZCZOW		30. 11. 1997
581/ML	Zakład Przetworstwa Mleka "MLECZ"	WOLSZTYN		30. 11. 1997
588/ML	"Hochland Polska" Sp. z.o.o	KAZIMIERZ WLKP		30. 11. 1997
590/ML	Zakład Przetworstwa kazeina "Fleur"	LODZ		30. 11. 1997'

(\*) Autorización hasta:  
 Godkendt indtil:  
 Zugelassen bis:  
 Χρονικός περιορισμός:  
 Approval limit:  
 Date limite de l'agrément:  
 Autorizzati fino al:  
 Einddatum:  
 Aprovação até:  
 Aikaraja:  
 Tidsgräns: