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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 190/98
of 19 January 1998
concerning the export of certain ECSC and EC steel products from the former
Yugoslav Republic of Macedonia to the Community (double-checking system)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas a Cooperation Agreement between the European Community and the former Yugoslav Republic of Macedonia⁽¹⁾ entered into force on 1 January 1998;

Whereas the Parties agreed in the Protocol to the Agreement on additional trade arrangements for certain iron and steel products to establish a double-checking system, without quantitative limits, for the import into the Community of steel products originating in the former Yugoslav Republic of Macedonia,

HAS ADOPTED THIS REGULATION:

Article 1

1. From the date of entry into force of the Cooperation Agreement until further notice, in accordance with the provisions of the Protocol on additional trade arrangements for certain iron and steel products, imports into the Community of certain iron and steel products covered by the ECSC and EC Treaties originating in the former Yugoslav Republic of Macedonia, as listed in Annex I, shall be subject to the presentation of a surveillance document issued by the authorities in the Community.

2. The classification of the products covered by this Regulation is based on the tariff and statistical nomenclature of the Community (hereinafter called the 'Combined Nomenclature', or in abbreviated form 'CN'). The origin of the products covered by this Regulation shall be determined in accordance with the rules in force in the Community.

3. From the date of entry into force of the Cooperation Agreement until further notice, imports into the Community of the products originating in the former Yugoslav

Republic of Macedonia listed in Annex I shall, in addition, be subject to the issue of an export document issued by the competent authorities of the exporting country. Presentation by the importer of the original of the export document must be effected not later than 31 March of the year following that in which the goods covered by the document were shipped.

4. An export document will not be required for goods originating in the former Yugoslav Republic of Macedonia already shipped to the Community before the date of entry into force of the cooperation Agreement, provided that the destination of such products is not changed from a non-Community destination and that those products which, under the prior surveillance regime in force at the time, may be put into free circulation only on presentation of a surveillance document are in fact accompanied by such a document.

5. Shipment is considered to have taken place on the date of loading on to the exporting means of transport.

6. The export document shall conform to the model shown in Annex II. It shall be valid for exports throughout the customs territory of the Community.

Article 2

1. The surveillance document referred to in Article 1 (1) shall be issued automatically by the competent authority in the Member States, without charge for any quantities requested, within five working days of presentation of an application by any Community importer, wherever established in the Community. This application shall be deemed to have been received by the competent national authority not later than three working days after submission, unless it is proved otherwise.

2. A surveillance document issued by one of the competent national authorities listed in Annex III shall be valid throughout the Community.

3. The surveillance document shall be made out on a form corresponding to the model set out in Annex IV. The importer's application shall include the following elements:

⁽¹⁾ OJ L 348, 18. 12. 1997, p. 2.

- (a) the name and full address of the applicant (including telephone and fax numbers, and possible identification number used by the competent national authorities) and VAT registration number, if subject to VAT;
- (b) if applicable, the name and full address of the declarant or representative of the applicant (including telephone and fax numbers);
- (c) the full name and address of the exporter;
- (d) the exact description of the goods, including
 - their trade name,
 - the Combined Nomenclature (CN) code(s),
 - the country of origin,
 - the country of consignment;
- (e) the net weight, expressed in kilograms and also quantity in the unit prescribed where other than net weight, by Combined Nomenclature heading;
- (f) the cif value of the goods in ecus at the Community frontier by Combined Nomenclature heading;
- (g) whether the products concerned are seconds or of substandard quality, using the criteria laid down in Commission communication 91/C 180/04 (1);
- (h) the proposed period and place of customs clearance;
- (i) whether the application is a repeat of a previous application concerning the same contract;
- (j) the following declaration, dated and signed by the applicant with the transcription of his name in capital letters:

'I, the undersigned, certify that the information provided in this application is true and given in good faith, and that I am established in the Community.'

The importer shall also submit a copy of the contract of sale or purchase and of the pro forma invoice. If so requested, for example in cases where the goods are not directly purchased in the country of production, the importer shall present a certificate of production issued by the producing steel mill.

4. Surveillance documents may be used only for such time as arrangements for liberalisation of imports remain in force in respect of the transactions concerned. Without prejudice to possible changes in the import regulations in force or decisions taken in the framework of an agreement or the management of a quota:

- the period of validity of the surveillance document is hereby fixed at four months,

— unused or partly used surveillance documents may be renewed for an equal period.

5. The importer shall return surveillance documents to the issuing authority at the end of their period of validity.

6. The competent authorities may, under the conditions fixed by them, allow the submission of declarations or requests to be transmitted or printed by electronic means. However, all documents and evidence must be available to the competent authorities.

7. The surveillance document may be issued by electronic means as long as the customs offices involved have access to this document across a computer network.

Article 3

1. A finding that the unit price at which the transaction is effected varies from that indicated in the surveillance document by less than 5 % in either direction or that the total value or quantity of the products presented for import exceeds the value or quantity given in the surveillance document by less than 5 % shall not preclude the release for free circulation of the products in question.

2. Applications for surveillance documents and the documents themselves shall be confidential. They shall be restricted to the competent authorities and the applicant.

Article 4

1. Member States shall communicate to the Commission:

- (a) on as regular and up-to-date a basis as possible and at least by the last day of each month, details of the quantities and values (calculated in ecus) for which surveillance documents have been issued;
- (b) within six weeks of the end of each month, details of imports during that month, in accordance with Article 26 of Commission Regulation (EC) No 840/96 (2).

The information provided by Member States shall be broken down by product, CN code and by country.

2. Member States shall give notification of any anomalies or cases of fraud which they discover and, where relevant, the basis on which they have refused to grant a surveillance document.

(1) OJ C 180, 11. 7. 1991, p. 4.

(2) OJ L 114, 8. 5. 1996, p. 7.

Article 5

Any notices to be given hereunder shall be given to the Commission of the European Communities and shall be communicated electronically within the integrated network set up for this purpose, unless for imperative technical reasons it is necessary to use other means of communication temporarily.

Article 6

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

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

Done at Brussels, 19 January 1998.

For the Council

The President

G. BROWN

ANNEX I

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

LIST OF PRODUCTS SUBJECT TO DOUBLE-CHECKING

Complete CN heading 7208
Complete CN heading 7209
Complete CN heading 7210
Complete CN heading 7211
Complete CN heading 7212
Complete CN heading 7303
Complete CN heading 7304
Complete CN heading 7305
Complete CN heading 7306

ANNEX II

1. Exporter (name, full address, country)	ORIGINAL		2. No
	3. Year		4. Product group
5. Consignee (name, full address, country)	EXPORT DOCUMENT (ECSC and EC steel products)		
	6. Country of origin		7. Country of destination
8. Place and date of shipment – Means of transport	9. Supplementary details		
10. Description of goods – Manufacturer	11. CN code	12. Quantity ⁽¹⁾	13. FOB Value ⁽²⁾
14. CERTIFICATION BY THE COMPETENT AUTHORITY			
15. Competent authority (name, full address, country)	At, on		
 (Signature)		(Stamp)

⁽¹⁾ Show net weight (kg) and also quantity in the unit prescribed where other than net weight.
⁽²⁾ In the currency of the sale contract.

(¹) Show net weight (kg) and also quantity in the unit prescribed where other than net weight.
 (²) In the currency of the sale contract.

1. Exporter (name, full address, country)	COPY		2. No
	3. Year	4. Product group	
5. Consignee (name, full address, country)	EXPORT DOCUMENT (ECSC and EC steel products)		
	6. Country of origin	7. Country of destination	
8. Place and date of shipment – Means of transport	9. Supplementary details		
10. Description of goods – Manufacturer	11. CN code	12. Quantity (¹)	13. FOB Value (²)
14. CERTIFICATION BY THE COMPETENT AUTHORITY			
15. Competent authority (name, full address, country)	At, on		
 (Signature)		(Stamp)

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

LISTA DE LAS AUTORIDADES NACIONALES COMPETENTES
LISTE OVER KOMPETENTE NATIONALE MYNDIGHEDER
LISTE DER ZUSTÄNDIGEN BEHÖRDEN DER MITGLIEDSTAATEN
ΔΙΕΥΘΥΝΣΕΙΣ ΤΩΝ ΑΡΧΩΝ ΕΚΛΟΣΗΣ ΑΔΕΙΩΝ ΤΩΝ ΚΡΑΤΩΝ ΜΕΛΩΝ
LIST OF THE COMPETENT NATIONAL AUTHORITIES
LISTE DES AUTORITÉS NATIONALES COMPÉTENTES
ELENCO DELLE COMPETENTI AUTORITÀ NAZIONALI
LIJST VAN BEVOEGDE NATIONALE INSTANTIES
LISTA DAS AUTORIDADES NACIONAIS COMPETENTES
LUETTELO TOIMIVALTAISISTA KANSALLISISTA VIRANOMAISISTA
LISTA ÖVER KOMPETENTA NATIONELLA MYNDIGHETER

BELGIQUE/BELGIË

Administration des relations économiques
Quatrième division: Mise en œuvre des politiques commerciales
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Διεύθυνση Διαδικασιών Εξωτερικού Εμπορίου
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Ministerio de Economía y Hacienda
Dirección General de Comercio Exterior
Paseo de la Castellana, 162
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Fax: (34 1) 563 18 23/349 38 31

FRANCE

SERIBE
3-5, rue Barbet-de-Jouy
F-75357 Paris 07 SP
Télécopieur: (33 1) 43 19 43 69

IRELAND

Licensing Unit
Department of Tourism and Trade
Kildare Street
IRL-Dublin 2
Fax: (353 1) 676 61 54

ITALIA

Ministero del Commercio con l'estero
Direzione generale per la politica commerciale e
per la gestione del regime degli scambi
Viale America 341
I-00144 Roma
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LUXEMBOURG

Ministère des affaires étrangères
Office des Licences
Boîte postale 113
L-2011 Luxembourg
Télécopieur: (352) 46 61 38

NEDERLAND

Centrale Dienst voor In- en Uitvoer
Postbus 30.003, Engelse Kamp 2
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UNITED KINGDOM

Department of Trade and Industry
Import Licensing Branch
Queensway House — West Precinct
Billingham, Cleveland
UK-TS23 2NF
Fax (44 1642) 533 557

EUROPEAN COMMUNITY

SURVEILLANCE DOCUMENT

Holder's copy	1	1. Consignee <i>(name, full address, country, VAT number)</i>	2. Issue number
			3. Proposed place and date of import
			4. Authority responsible for issue <i>(name, address and telephone No)</i>
	1	5. Declarant/representative as applicable <i>(name and full address)</i>	6. Country of origin <i>(and geonomenclature code)</i>
			7. Country of consignment <i>(and geonomenclature code)</i>
			8. Last day of validity
9. Description of goods		10. CN code and category	
		11. Quantity in kilograms (net mass) or in additional units	
		12. Value in ecus, cif at Community frontier	
13. Additional remarks			
14. Competent authority's endorsement Date: Signature: Stamp			

15. ATTRIBUTIONS

Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof.

16. Net quantity (net mass or other unit of measure stating the unit)		19. Customs document (form and number) or extract No and date of attribution	20. Name, Member State, stamp and signature of the attributing authority
17. In figures	18. In words for the quantity attributed		
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			
1			
2			

Extension pages to be attached hereto.

Copy for the issuing authority	2	1. Consignee <i>(name, full address, country, VAT number)</i>	2. Issue number
			3. Proposed place and date of import
			4. Authority responsible for issue <i>(name, address and telephone No)</i>
		5. Declarant/representative as applicable <i>(name and full address)</i>	6. Country of origin <i>(and geonomenclature code)</i>
			7. Country of consignment <i>(and geonomenclature code)</i>
			8. Last day of validity
2	9. Description of goods		10. CN code and category
			11. Quantity in kilograms (net mass) or in additional units
			12. Value in ecus, cif at Community frontier
13. Additional remarks			
14. Competent authority's endorsement Date: Signature: Stamp			

15. ATTRIBUTIONS

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16. Net quantity (net mass or other unit of measure stating the unit)		19. Customs document (form and number) or extract No and date of attribution	20. Name, Member State, stamp and signature of the attributing authority
17. In figures	18. In words for the quantity attributed		
1			
2			
1			
2			
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2			
1			
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1			
2			
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2			
1			
2			
1			
2			

Extension pages to be attached hereto.

COUNCIL REGULATION (EC) No 191/98
of 20 January 1998

amending Regulation (EEC) No 1442/88 on the granting, for the 1988/89 to 1997/98 wine years, of permanent abandonment premiums in respect of wine-growing areas

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 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 Economic and Social Committee ⁽³⁾,

Whereas the limit of 25 000 ha laid down in point (a) of the second subparagraph of Article 1(1) of Regulation (EEC) No 1442/88 ⁽⁴⁾ for each of the last two wine years will not be reached as a result of the fact that some Member States have abandoned application of the scheme and others have applied it to a very limited extent only;

Whereas the number of hectares allocated to Germany (50 ha) has proved to be too small, preventing distribution in line with the requirements of the various wine-growing regions; whereas, therefore, that number of hectares should be increased in order to attain the objectives of the scheme;

Whereas consequent upon the adjustment made to the area eligible to receive a permanent abandonment premium for the 1997/98 wine year, the time limits laid down for presenting applications for the grant of the premium, for the grubbing-up undertaking and for applications for participation by the European Agricultural Guidance and Guarantee Fund, are insufficient to allow the implementation of the arrangements; whereas the time limits laid down should be extended,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1442/88 is hereby amended as follows:

1. In point (a) of the second subparagraph of Article 1(1), '50' allocated to Germany shall be replaced by '1 000', and '13 000' allocated to Spain shall be replaced by '12 050'.

2. In Article 4, the following paragraph shall be added:

'6. By way of derogation from paragraphs 1 and 2, for the 1997/1998 marketing year:

— the last date, referred to in paragraph 1, for the submission of applications for the payment of premium shall be 30 April 1998,

— the last date for grubbing-up, referred to in paragraph 2, shall be 31 May 1998.'

3. Article 15(1) shall be supplemented by the following subparagraph:

'By way of derogation from the first subparagraph, for the 1997/1998 marketing year, applications shall be submitted before 1 June 1998.'

Article 2

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

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

Done at Brussels, 20 January 1998.

For the Council

The President

J. CUNNINGHAM

⁽¹⁾ OJ C 312, 14. 10. 1997, p. 20.

⁽²⁾ Opinion delivered on 14 January 1998 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 10 December 1997 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 132, 28. 5. 1988, p. 3. Regulation as last amended by Regulation (EC) No 534/97 (OJ L 83, 25. 3. 1997, p. 2).

**COUNCIL REGULATION (EC) No 192/98
of 20 January 1998**

**amending Regulation (EC) No 3072/95 on the common organisation of the market
in rice and Regulation (EEC) No 2358/71 on the common organisation of the
market in seeds**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 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 Economic and Social Committee ⁽³⁾,

Whereas the system of compensatory payments introduced by Article 6 of Regulation (EC) No 3072/95 ⁽⁴⁾ should be extended to cover producers of rice in the husk (paddy or rough rice) for sowing; whereas the fall in prices attendant on the reduction in the intervention price provided for in Article 3 of that Regulation has an impact on prices of rice for sowing; whereas, given the lack of adequate compensation, there is a risk that the result would be lower use of certified seed and a deterioration in rice quality;

Whereas rice for sowing should be included among the products covered by Regulation (EC) No 3072/95 solely so it can qualify for compensatory payments; whereas it should be remembered that the product qualifies for production aid for seeds under Regulation (EEC) No 2358/71 ⁽⁵⁾;

Whereas Article 3 of Regulation (EC) No 3072/95 fixes the intervention price for paddy rice at the same level for the 1999/2000 and subsequent marketing years; whereas provision should be made at the same time for the compensatory payments fixed in Article 6(1) of that Regulation to remain the same for the 1999/2000 and subsequent marketing years;

Whereas, pursuant to Article 6(4) of Regulation (EC) No 3072/95, the system of compensatory payments is to

be applied on the basis of an area established by producer Member State; whereas provision should accordingly be made for the reduction applying in the event of an overrun in that area to be determined by the Member State concerned;

Whereas Article 6(5) of Regulation (EC) No 3072/95 provides for information to be forwarded by the Member States on the basis of declarations from producers and processors; whereas that provision should be amended to delete any reference to the national base area;

Whereas it seems economically justified for export refunds to be granted subject to provision of proof that the product has been wholly obtained in the Community within the meaning of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽⁶⁾; whereas that obligation does not apply in the event of re-export;

Whereas, following the extension of the system of compensatory payments to rice for sowing and in order to ensure balance on the market for rice seed, in particular to safeguard possibilities of disposal in line with the base area established in Article 6 of Regulation (EC) No 3072/95, it seems justified to introduce a mechanism to stabilise production of rice seed; whereas provision should be made for the system of compensatory payments to be extended and for the stabilisation mechanism established to apply from the beginning of the 1998/99 marketing year,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 3072/95 is hereby amended as follows:

1. in Article 1:

(a) paragraph 1 shall be replaced by the following:

⁽¹⁾ OJ C 312, 14. 10. 1997, p. 18.

⁽²⁾ Opinion delivered on 14 January 1998 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 10 December 1997 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 329, 30. 12. 1995, p. 18. Regulation as last amended by Regulation (EC) No 613/97 (OJ L 94, 9. 4. 1997, p. 1).

⁽⁵⁾ OJ L 246, 5. 11. 1971, p. 1. Regulation as last amended by Regulation (EC) No 3290/94 (OJ L 349, 31. 12. 1994, p. 105).

⁽⁶⁾ OJ L 302, 19. 10. 1992, p. 1. Regulation as last amended by Regulation (EC) No 82/97 (OJ L 17, 21. 1. 1997, p. 1).

'1. The common organisation of the market in rice shall comprise a price and trading system and shall cover the following products:

<i>CN code</i>	<i>Description</i>
(a) 1006 10	Rice in the husk (paddy or rough rice)
1006 20	Husked (brown) rice
1006 30	Semi-milled rice or wholly milled rice, whether or not polished or glazed
(b) 1006 40 00	Broken rice
(c) 1102 30 00	Rice flour
1103 14 00	Groats and meal of rice
1103 29 50	Pellets of rice
1104 19 91	Flaked rice
1108 19 10	Rice starch.'

(b) the following paragraph shall be added:

'3. This Regulation shall apply to rice in the husk (paddy or rough rice) for sowing covered by CN code 1006 10 10 solely for the purposes of the system of compensatory payments provided for in Article 6.'

2. in Article 6:

(a) in paragraph 3, the heading of the fourth column of the table shall be replaced by '1999/2000 and subsequent marketing years';

(b) in paragraph 5:

(i) the second subparagraph shall be replaced by the following:

'Where the preceding subparagraph is applied, the Member State concerned shall, before a date fixed in accordance with the procedure laid down in Article 22 of this Regulation, determine the scale of the reductions to be applied to the compensatory payment. It shall previ-

ously inform the Commission and as quickly as possible thereof.;

(ii) at the beginning of the third subparagraph, the words 'For each base area' shall be deleted;

3. in Article 13:

(a) in the first subparagraph of paragraph 12, the first indent shall be replaced by the following:

'— the products have been wholly obtained in the Community within the meaning of Article 23 of Regulation (EEC) No 2913/92, except where paragraph 13 applies';

(b) the first subparagraph of paragraph 13 shall be replaced by the following:

'No export refund shall be granted on rice imported from and re-exported to third countries, unless the exporter proves that:

- the product to be exported and the product previously imported are one and the same,
- all the import duties were collected on the product's release for free circulation.'

Article 2

The following paragraph is hereby added to Article 3 of Regulation (EEC) No 2358/71:

'4a. The maximum quantity of rice seed on which the aid is payable in the Community shall be fixed in accordance with the procedure referred to in paragraph 5. That quantity shall be apportioned among the producer Member States.'

Article 3

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

However, Article 1(1) shall apply from 1 September 1998 and Article 2 shall apply from 1 July 1998.

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

Done at Brussels, 20 January 1998.

For the Council

The President

J. CUNNINGHAM

COUNCIL REGULATION (EC) No 193/98
of 20 January 1998
amending Regulation (EEC) No 1323/90 instituting specific aid for sheep and
goat farming in certain less-favoured areas of the Community

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas prices are in serious decline on the Community market in sheep's and goat's milk products and the situation is unlikely to improve in the medium term;

Whereas this situation leads to negative consequences for the incomes of the producers concerned; whereas this reduction in income is likely to be extremely unfavourable in less-favoured areas listed under Council Regulation (EC) No 950/97 of 20 May 1997 on improving the efficiency of agricultural structures⁽²⁾, where there is little alternative to production using the existing sheep and goat dairy breeds; whereas the producers in those areas should be compensated by increasing from 70 % to 90 % the percentage granted to them of the amount of specific aid for sheep and goat farming in certain less-favoured areas of the Community calculated under Regu-

lation (EEC) No 1323/90⁽³⁾, on the specific aid granted for non-dairy ewes,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(1) of Regulation (EEC) No 1323/90 is hereby amended as follows:

- in the second indent, 'ECU 4,589' shall be replaced by 'ECU 5,977',
- in the third indent, 'ECU 4,589' shall be replaced by 'ECU 5,977'.

Article 2

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

It shall apply from the beginning of the 1998 marketing year.

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

Done at Brussels, 20 January 1998.

For the Council
The President
J. CUNNINGHAM

⁽¹⁾ Opinion delivered on 14 January 1998 (not yet published in the Official Journal).

⁽²⁾ OJ L 142, 2. 6. 1997, p. 1.

⁽³⁾ OJ L 132, 23. 5. 1990, p. 17. Regulation as last amended by Regulation (EC) No 40/96 (OJ L 10, 13. 1. 1996, p. 6).

COMMISSION REGULATION (EC) No 194/98

of 26 January 1998

amending Regulation (EEC) No 3105/88 laying down detailed rules for the application of compulsory distillation as provided for in Articles 35 and 36 of Regulation (EEC) No 822/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 2087/97 ⁽²⁾, and in particular Article 36(6) thereof,

Whereas Commission Regulation (EEC) No 3105/88 ⁽³⁾, as last amended by Regulation (EC) No 2365/95 ⁽⁴⁾, introduced the detailed rules for the application of compulsory distillation as provided for in Article 36 of Regulation (EEC) No 822/87; whereas that distillation applies to wines exceeding the quantities normally produced; whereas Article 8 of Regulation (EEC) No 3105/88 lays down the rules for establishing the quantities normally produced; whereas in certain wine-producing regions, and in particular in those where the wines are also intended for the production of wine spirits, a situation of increased imbalance has arisen because the total production of wine has remained stable while traditional uses have decreased; whereas, in order to encourage wine-producers to stabilise their production, the determination of the quantity normally produced should also take account of efforts to stabilise production by abandoning land; whereas, therefore, Article 8 of that Regulation should be adjusted accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following subparagraph is added to Article 8(3) of Regulation (EEC) No 3105/88:

'With effect from the 1998/99 wine year, notwithstanding the previous subparagraph, and with regard to wine produced from grapes classified for the same administrative unit as both wine-grape varieties and varieties intended for the production of wine spirits, Member States shall be authorised, where the producer has received with effect from the 1997/98 wine year the permanent abandonment premium referred to in Council Regulation (EEC) No 1442/88 ^(*) for part of the wine-growing area of the holding, to maintain the quantity normally produced at the level attained prior to grubbing-up for the five wine years following that of the grubbing-up.

^(*) OJ L 132, 28. 5. 1998, p. 3.'

Article 2

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

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

Done at Brussels, 26 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ L 292, 25. 10. 1997, p. 1.

⁽³⁾ OJ L 277, 8. 10. 1988, p. 21.

⁽⁴⁾ OJ L 241, 10. 10. 1995, p. 17.

COMMISSION REGULATION (EC) No 195/98

of 26 January 1998

supplementing the Annex to Regulation (EC) No 2400/96 on the entry of certain names in the 'Register of protected designations of origin and protected geographical indications' provided for in Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(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 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁽¹⁾, as last amended by Commission Regulation (EC) No 1068/97⁽²⁾, and in particular Article 6(3) and (4) thereof,

Whereas, pursuant to Article 5 of Regulation (EEC) No 2081/92, Member States have sent the Commission applications for registration of certain names as geographical indications or designations of origin;

Whereas it has been found, pursuant to Article 6(1) of that Regulation, that an application meets all its requirements, in particular that all the information required pursuant to Article 4 has been given;

Whereas following publication of the name in the Annex to this Regulation in the *Official Journal of the European Communities*⁽³⁾ a statement of objection was made to the Commission pursuant to Article 7 of that Regulation but was deemed to be unfounded and therefore inadmissible;

Whereas the name should therefore be entered in the 'Register of protected designations of origin and protected geographical indications' and hence be protected throughout the Community as a designation of origin;

Whereas the Annex to this Regulation supplements the Annex to Commission Regulation (EC) No 2400/96⁽⁴⁾, as last amended by Regulation (EC) No 2396/97⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The name in the Annex hereto is hereby added to the Annex to Regulation (EC) No 2400/96 and, pursuant to Article 6(3) of Regulation (EEC) No 2081/92, entered in the 'Register of protected designations of origin and protected geographical indications' as a protected designation of origin (PDO).

Article 2

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

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

Done at Brussels, 26 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 208, 24. 7. 1992, p. 1.

⁽²⁾ OJ L 156, 13. 6. 1997, p. 10.

⁽³⁾ OJ C 246, 24. 8. 1996, p. 12.

⁽⁴⁾ OJ L 327, 18. 12. 1996, p. 11.

⁽⁵⁾ OJ L 331, 3. 12. 1997, p. 3.

*ANNEX***PRODUCTS LISTED IN ANNEX II TO THE EC TREATY, INTENDED FOR HUMAN CONSUMPTION****Meat-based products:**

SPAIN:

— Jamón de Huelva (PDO)

COMMISSION REGULATION (EC) No 196/98
of 26 January 1998
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 2375/96 ⁽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 January 1998.

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

Done at Brussels, 26 January 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 26 January 1998 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 00	204	48,3
	212	106,4
	624	159,7
	999	104,8
0707 00 05	052	159,1
	068	132,9
	204	85,9
	999	126,0
0709 10 00	220	72,2
	999	72,2
0709 90 70	052	136,2
	204	159,1
	999	147,7
0805 10 10, 0805 10 30, 0805 10 50	052	40,7
	204	41,2
	212	33,6
	220	48,3
	400	54,1
	448	28,7
	508	41,1
	600	59,6
	624	47,9
	625	32,0
	999	42,7
	0805 20 10	204
624		78,8
999		72,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	63,3
	204	71,0
	624	78,1
	999	70,8
0805 30 10	052	75,1
	400	73,1
	600	86,0
	999	78,1
0808 10 20, 0808 10 50, 0808 10 90	060	52,9
	400	88,6
	404	102,1
	720	101,7
	728	82,4
	999	85,5
0808 20 50	052	113,1
	064	88,4
	388	103,5
	400	82,9
	999	97,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 197/98
of 26 January 1998

determining the percentage of quantities which may be allowed in respect of import licence applications lodged in January 1998 under tariff quotas for beef and veal provided for in Regulation (EC) No 1939/97 for the Republic of Poland, the Republic of Hungary, the Czech Republic, Slovakia, Bulgaria and Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Commission Regulation (EC) No 1939/97 of 3 October 1997, laying down for the period 1 July 1997 to 30 June 1998, rules for the application of the tariff quotas for beef and veal provided for by Council Regulation (EC) No 3066/95 for the Republic of Poland, the Republic of Hungary, the Czech Republic, the Slovak Republic, the Republic of Bulgaria and Romania and amending Regulations (EC) No 2512/96 and (EC) No 1441/97⁽¹⁾, and in particular Article 3 (4) thereof,

Whereas Article 1 (1) and (3) of Regulation (EC) No 1939/97 fixes the quantities of fresh, chilled or frozen beef and veal originating in Poland, Hungary, the Czech Republic, Slovakia, Romania and Bulgaria, and, in the case of Poland, the equivalent of the quantity of meat expressed as weight of processed products which may be imported on special terms in respect of the period 1 January to 31 March 1998; whereas the quantities of fresh, chilled or frozen beef and veal originating in Hungary, the Czech Republic, Slovakia, Romania and Bulgaria, covered by import licence applications submitted are such that applications may be accepted in full; whereas, however, quantities covered by applications in respect of beef and veal originating in Poland and processed products must be reduced proportionately in accordance with Article 3 (4) of that Regulation;

Whereas Article 1 (4) of Regulation (EEC) No 1939/97 states that if for the quota period the quantities for which applications for import licences have been submitted for the first or the second period specified in paragraph 3 of the Article are less than the quantities available, the remaining quantities are to be added to the quantities in respect of the second period, the quantities available for the six countries concerned for the third period running from 1 April to 30 June 1998 should accordingly be determined,

1. The following percentages of quantities covered by import licence applications submitted in respect of the period 1 January to 31 March 1998 under the quotas referred to in Regulation (EC) No 1939/97 may be allowed:

- (a) 100 % of quantities covered by applications in respect of products falling within CN codes 0201 and 0202 originating in Hungary, the Czech Republic, Slovakia, Romania and Bulgaria;
- (b) 87,327 % of quantities covered by applications in respect of products falling within CN codes 0201, 0202, 1602 50 31 and 1602 50 39 originating in Poland.

2. The quantities available for the period referred to in Article 1 (3) of Regulation (EC) No 1939/97 running from 1 April to 30 June 1998 shall amount to:

- (a) beef and veal falling within CN codes 0201 and 0202:
 - 5 785,0 tonnes for meat originating in Hungary,
 - 2 710,0 tonnes for meat originating in the Czech Republic,
 - 2 020,0 tonnes for meat originating in Slovakia,
 - 310,0 tonnes for meat originating in Bulgaria,
 - 1 973,6 tonnes for meat originating in Romania;
- (b) 4 233,1 tonnes for beef and veal falling within CN codes 0201 and 0202 originating in Poland, or 1 978,1 tonnes for processed products falling within CN codes 1602 50 31 and 1602 50 39 originating in Poland.

Article 2

This Regulation shall enter into force on 27 January 1998.

⁽¹⁾ OJ L 272, 4. 10. 1997, p. 23.

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

Done at Brussels, 26 January 1998.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 198/98
of 26 January 1998

determining the extent to which the applications for import licences submitted in January 1998 for certain dairy products under certain tariff quotas opened by Regulation (EC) No 1600/95 can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1600/95 of 30 June 1995 laying down detailed rules for the application of the import arrangements and opening tariff quotas for milk and milk products⁽¹⁾, as last amended by Regulation (EC) No 2432/97⁽²⁾, and in particular Article 14 (4) thereof,

Whereas applications lodged for the products referred to in Annex II of Regulation (EC) No 1600/95 concern quantities greater than those available; whereas, therefore, the allocation factors should be fixed for the quantities applied for the period 1 January to 31 March 1998,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences applied for for products falling within the order numbers in Annex II to Regulation (EC) No 1600/95 listed in the Annex hereto, lodged under Regulation (EC) No 1600/95 for the period 1 January to 31 March 1998, shall be awarded in accordance with the allocation factors indicated.

Article 2

This Regulation shall enter into force on 27 January 1998.

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

Done at Brussels, 26 January 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 151, 1. 7. 1995, p. 12.

⁽²⁾ OJ L 337, 9. 12. 1997, p. 9.

ANNEX

Order number in Annex II to Regulation (EC) No 1600/95	Allocation factor
37	0,0086
38	0,0039
40	0,1146
41	0,0156
42	0,0536
43	0,0133
45	0,0066
48	0,0042

COMMISSION REGULATION (EC) No 199/98
of 26 January 1998

determining the extent to which applications for import licences submitted in January 1998 for certain products in the milk and milk products sector under the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Czech Republic, the Slovak Republic and Romania, in the Agreements on free trade between the Community and the Baltic States and in the Interim Agreement between the Community and the Republic of Slovenia may be accepted

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

Having regard to Commission Regulation (EC) No 2508/97 of 15 December 1997 laying down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria and Romania, the Agreements on free trade between the Community and the Baltic States and the Interim Agreement between the Community and the Republic of Slovenia and repealing Regulations (EEC) No 584/92, (EC) No 1588/94, (EC) No 1713/95 and (EC) No 455/97⁽¹⁾, and in particular Article 4(4) thereof,

Whereas the applications for import licences submitted for the products listed in Regulation (EC) No 2508/97 exceed the quantities available for certain products;

whereas allocation coefficients should therefore be set for the period 1 January to 30 June 1998 for certain quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences submitted for the period 1 January to 30 June 1998 under Regulation (EC) No 2508/97, shall be accepted by country of origin and by product covered by the CN codes set out in the Annex for the quantities applied for, multiplied by the allocation coefficients shown.

Article 2

This Regulation shall enter into force on 27 January 1998.

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

Done at Brussels, 26 January 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 345, 16. 12. 1997, p. 31.

ANNEX

Country	Czech Republic				Slovakia				Hungary	
	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 0405 10 30 0405 10 50	0406	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 0405 10 30 0405 10 50	0406	0402 10	0406 90 29	0406	1,0000
CN Codes										
Allocation coefficient	0,0094	0,0096	0,0674	0,0095	0,0116	0,0234	—	—	—	1,0000

Country	Latvia		Lithuania		Romania					
	0402 10 19 0402 21 19	0405 10	0406	ex 0402 29	0402 10 19 0402 21 19	0405 10 11 0405 10 19	0406	0402 99 11	0406	1,0000
CN Codes										
Allocation coefficient	0,0099	0,0096	0,0702	—	0,0099	0,0093	0,2389	—	—	1,0000

Country	Slovenia	
CN Codes	0402 10 0402 21	0403 10 0406 90
Allocation coefficient	0,5000	—
		1,0000

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 October 1997

concerning aid granted by the Region of Sardinia (Italy) to shipping companies
in Sardinia

(Only the Italian text is authentic)

(Text with EEA relevance)

(98/95/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 regard to the Agreement establishing the European Economic Area, and in particular point (a) of Article 62(1) thereof,

Having given the parties concerned the opportunity to submit their comments, in accordance with the above-mentioned Articles (¹),

Whereas:

I

By letter of 24 June 1996 (²), the Commission informed the Italian authorities of its decision to initiate the procedure provided for in Article 93(2) of the EC Treaty in respect of an unlawful aid scheme set up by the region of Sardinia, in favour of shipping companies.

In opening the procedure, the Commission, on the basis of the information at its disposal, has expressed serious doubts as to the compatibility of the aid, for the following reasons:

— the aid scheme contains provisions which involved discrimination on the grounds of nationality in that

ship operators were obliged, *inter alia*, as an effective condition of aid, to employ Sardinian seafarers on board their vessels,

- the scheme conflicts with the principle of freedom of establishment since aid was conditional, *inter alia*, on operators having their head office in Sardinia,
- the scheme involves aid to encourage investment in ships in a way which is liable to infringe Community rules.

II

Following the opening of the procedure, the Italian Government submitted comments to the Commission by letter of 31 October 1996. The Sardinian authorities submitted comments by letters of 11 October 1996 and 22 January 1997.

No comments were submitted by other Member States or third parties within the time limit of one month from publication of the decision to open the procedure. It may be noted, however, that a number of third parties submitted comments outside this deadline.

In their comments, the Italian and Sardinian authorities did not contest the objections of the Commission. They also informed the Commission of amendments to the aid scheme which, according to them, would meet the objections of the Commission. The main amendment is made by Regional Law No 9 of 15 February 1996 of the Region of Sardinia. It is to be noted that these amendments, including Law No 9/1996, are not the subject of this Decision and will be dealt with separately.

(¹) OJ C 368, 6. 12. 1996, p. 2.

(²) See footnote 1.

III

The Commission learned of the existence of the aid scheme in question from a complaint regarding a case in which the scheme was applied.

The aid scheme is established by Sardinian Regional Law No 20 of 15 May 1951, as amended by Regional Laws No 15 of 11 July 1954 and No 11 of 4 June 1988.

Law No 20/1951, as amended by Law No 15/1954 (hereinafter: 'Law No 20/1951') established a fund for the grant of loans to shipping companies intending to build, purchase, convert or repair vessels. These loans were to be granted only to companies whose head office, country of domicile for tax purposes and port of register were in the region of Sardinia. The loans could not exceed 20 % of the investment costs in the case of building, conversion or repair work where the applicant had already received aid for such work under national legislation in force at the time. Where no such aid under national legislation had been awarded, loans could not exceed 60 % of investment costs.

Under Law No 20/1951, interest, commission and other charges related to the loan could not exceed 4,5 % per year of the loan where aid had also been received under national legislation, and 3,5 % where no such aid had been received (an average interest rate subsidy of 10 to 12 percentage points). The capital was to be refunded in not more than 12 annual payments, from the third year following entry into service of the ship for which the loan had been granted.

By Regional Law No 11/1988, substantive amendments were made to the aid scheme established by Law No 20/1951. The Italian Government failed to notify the amendments to the Commission in accordance with Article 93(3) of the EC Treaty and thus the amended aid scheme (hereinafter: 'aid scheme') constituted a non-notified aid, as the Commission noted in its decision to open the procedure pursuant to Article 93(2). The Italian Government did not contest that finding in its comments.

Under the aid scheme, the granting of aid was made subject to the following requirements on the beneficiary companies:

- (a) that the undertaking should have its head office, administrative headquarters and shipping business and, where applicable, its main stores, depots and accessory equipment permanently in one of the ports of the region;
- (b) that all the vessels owned by the undertaking should be entered in the ports of registry of the region;
- (c) that the undertaking should use the ports of the region as the centre of its shipping activities, making them a normal port of call as part of those activities,

and, where regular services are operated, that these should terminate or regularly call at one or more of those ports;

- (d) that the undertaking should commit itself to carrying out refitting work in the ports of the region, provided that shipyards have the operational capacity and that there are no grounds of *force majeure*, unavoidable chartering requirements or obvious economic or time constraints;
- (e) that, as regards the crewing of vessels with a gross tonnage of more than 250 tonnes, the undertaking should establish a special complement, comprising all the seafarer categories needed to crew the vessel for which it was requesting aid, using solely crew members registered in the general duty roster of the port of registry, and to take from those rosters, whether general or special, all the crew required, the sole restrictions being the national regulations on the employment of seafarers ...

The aid scheme also introduced the option whereby the Sardinian authorities could grant a contribution to the costs of a lease where a shipping company had opted for a lease instead of a loan. The contribution is equal to the difference between the interest actually owed on a loan, corresponding to the annual amortisation rate, calculated at the commercial reference interest rate for shipping in Italy and the interest payable on the same loan calculated at 5 % (an average interest rate subsidy of about 10 percentage points). At the end of the contract, a vessel for which a contribution has been paid may be acquired by the lessee for an amount equal to 1 % of the purchase price.

According to data provided by the Sardinian authorities, the aid scheme has, since its entry into force, been used to provide loans and contributions totalling Lit 12 697 450 000.

IV

The aid scheme constitutes State aid within the meaning of Article 92(1) of the EC Treaty, since:

- (a) the beneficiary companies are relieved of a financial burden which they would normally bear (normal commercial interest rates and other charges on loans/leases);
- (b) the burden is borne by State resources (the Sardinian authorities);
- (c) the aid is selective (being reserved to the shipping sector);
- (d) the aid affects trade between Member States.

As regards point (d) above, it was noted in the decision opening the procedure that over 90 % of goods from Member States are transported to Sardinia by sea and that over 90 % of goods originating in Sardinia are transported to Member States in the same way. In addition, it was noted that 65 % of tourist traffic (passengers and vehicles) between the Community and Sardinia is handled by shipping companies. The Italian authorities in their comments did not contest the above statistics, nor indeed the designation of the aid scheme as State aid within the meaning of Article 92(1).

V

The aid is unlawful, since Law No 20/1951 was amended substantially by Law No 11/1988, that is, since the entry into force of the EEC Treaty, without prior notification of the amendments by the Italian authorities to the Commission in accordance with Article 93(3).

VI

Article 92(1) of the EC Treaty provides that aid meeting the criteria laid down therein is, in principle, incompatible with the common market.

In the case at issue, the exceptions provided for in Article 92(2) and (3) of the Treaty cannot apply because the aid conflicts with fundamental principles of Community law: freedom of establishment (Article 52 of the Treaty) and non-discrimination on grounds of nationality (Articles 6 and 48(2)).

As to freedom of establishment, the aid scheme requires not only establishment of the beneficiary in Sardinia but, *inter alia*, the siting of the head office of the beneficiary in Sardinia. Furthermore, it requires that all the vessels of the beneficiary company, not only those aided under this scheme, be registered in Sardinia. Those requirements alone are sufficient to constitute a breach of Article 52 of the Treaty, since companies established in Sardinia but having their head office elsewhere or vessels registered elsewhere are automatically excluded from aid.

As to non-discrimination on grounds of nationality, the aid scheme requires, for vessels of over 250 tonnes gross, a minimum contingent of seafarers who are registered in the general duty roster of the (Sardinian) port of registry of the vessel. This requirement is, in effect, an obligation on the beneficiary company to employ a quota of locally-based seafarers who will in practice be Sardinian, even if

other seafarers are objectively equally, or more, suited for the tasks to be carried out.

It is to be noted that, in their comments, the Italian authorities did not contest the above arguments of the Commission regarding a breach of Articles 6, 48(2) and 52 of the Treaty.

However, even if the aid did not conflict with basic principles of Community law, it would still be incompatible with the common market for the reasons set out below.

In the case at issue, the exceptions provided for in Article 92(2) of the Treaty are not applicable because the aid scheme is not directed towards the attainment of the objectives set out. Nor has such an exemption been requested by the Italian authorities.

Article 92(3) of the Treaty lists aid which may be considered compatible with the common market. Compatibility must be determined in the context of the Community as a whole and not in the context of a single Member State. In order to ensure the proper functioning of the common market, and having regard to the principle embodied in point (g) of Article 3 of the Treaty, the exceptions provided for in Article 92(3) must be construed narrowly when any aid scheme or individual aid award is scrutinised. In particular, they may be relied on only when the Commission is satisfied that, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the objectives of the said exceptions.

Applying the exceptions to aid which does not contribute to the attainment of such an objective, or where the aid is not necessary for that purpose, would be tantamount to conferring advantages on industries or firms of certain Member States whose financial position would be artificially strengthened, and to affecting trade between Member States and distorting competition without any justification based on the common interest as required by Article 92(3) of the Treaty.

Article 92(3)(a) exempts aid which promotes the development of areas where the standard of living is abnormally low or where there is serious underemployment. Although Sardinia is eligible for regional aid under Article 92(3)(a), the aid in question was not granted under an aid scheme designed primarily to promote regional development since it is limited to shipping companies. In any case, Article 92(3) does not apply to an aid scheme which, as the present one, breaches Community guidelines on aid to specific sensitive sectors such as maritime transport.

With regard to the exceptions provided for in Article 92(3)(b), the aid at issue is not intended to promote the execution of an important project of common interest nor to remedy a serious disturbance in the Italian economy, nor does it have any of the features of such projects. Furthermore, the Italian authorities, in their comments to the Commission, have not requested exemption on those grounds.

With regard to the exceptions provided for in Article 92(3)(c) relating to aid to facilitate the development of certain economic activities, the aid scheme affects trading conditions to an extent contrary to the common interest, since:

- both the guidelines on State aid to shipping companies of 3 August 1989⁽¹⁾ and the Community guidelines on State aid to maritime transport⁽²⁾ require that aid which is available to shipping companies for building, conversion or repair of ships (as in this case) be presented in a transparent way for the purposes of applying Council legislation on contract-related shipbuilding aid to Community yards (Council Regulation (EC) No 3094/95⁽³⁾, amended by Regulation (EC) No 1904/96⁽⁴⁾); this requirement also applies where, as in this case, aid is granted in an area qualifying for Article 92(3)(a) status; the aid scheme at issue contains no mechanism to ensure its adherence to those Community provisions,
- as far as aid for the leasing of ships is concerned, such aid constitutes operating aid of the type not allowed by either the 1989 or the 1997 guidelines.

VII

In conclusion, the aid scheme in question is unlawful and incompatible with the common market.

According to the Italian authorities, arrangements have already been put in place in order to render the aid scheme compatible with the common market, *inter alia*, by the adoption of Sardinian Regional Law No 9 of 15 February 1996. These arrangements are not the subject of this Decision.

Nevertheless, it remains the case that loans/leases totalling Lit 12 697 450 000 have been granted on favourable terms for the whole period falling between Regional Laws No 11/1988 and No 9/1996.

The aid element of these loans/leases must be repaid by the beneficiaries in accordance with the procedures and

provisions of Italian law, with interest applicable as from the date on which the unlawful aid was paid out. Interest is to be calculated using the reference rate for regional aid.

The Commission has not been enabled to quantify for itself the aid element to be recovered from each beneficiary, nor the total sum of aid to be recovered from all beneficiaries. For that reason, in adopting the implementing measures required for compliance with this Decision, the Italian authorities must determine themselves and communicate to the Commission the amount to be recovered from each beneficiary.

This Decision is without prejudice to any Commission appraisal of amendments communicated by Italy with a view to rendering the aid scheme in question compatible with Community law, and in particular Regional Law No 9/1996. That Law will be the subject of a separate examination,

HAS ADOPTED THIS DECISION:

Article 1

The loans/leases totalling Lit 12 697 450 000 granted to companies in the shipping sector under Regional Law No 20 of 15 May 1951 of the Region of Sardinia, as amended by Regional Laws No 15 of 11 July 1954 and No 11 of 4 June 1988, contain elements which constitute State aid within the meaning of Article 92(1) and are unlawful for having been granted in breach of Article 93(3) of the EC Treaty.

The above loans/leases are incompatible with the common market because they do not fulfil the criteria for the exceptions to Article 92(1) of the Treaty set out in Article 92(2) and (3) thereof.

Article 2

Italy shall recover from each beneficiary of a loan/lease as described in Article 1, an amount corresponding to the difference between, on the one hand, the total of interest and/or other charges which the beneficiary in question would have paid for the loan/lease under normal market conditions prevailing at the date at which the loan/lease was contracted and, on the other hand, the sum of the interest and/or the other charges actually paid by the beneficiary for that loan/lease.

⁽¹⁾ SEC(89) 921 final, of 3 August 1989.

⁽²⁾ OJ C 205, 5. 7. 1997, p. 5.

⁽³⁾ OJ L 332, 30. 12. 1995, p. 1.

⁽⁴⁾ OJ L 251, 3. 10. 1996, p. 5.

Where a loan/lease is still outstanding at the date of this Decision, Italy shall ensure that the remainder of the loan/lease is discharged by the borrower/lessee under normal market conditions. In addition to recovering the amount referred to in the first paragraph, the Italian authorities shall charge interest thereon, running from the date of grant of the loan/lease. Interest shall be calculated at the reference rate used by the Commission for regional aid.

Article 3

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

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 21 October 1997.

For the Commission

Neil KINNOCK

Member of the Commission

COMMISSION DECISION

of 20 January 1998

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

(98/96/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 African, Caribbean and Pacific States (ACP) or in the overseas countries and territories (OCT) ⁽¹⁾, as last amended by Regulation (EC) No 619/96 ⁽²⁾, and in particular Article 27 thereof,

Having regard to Commission Regulation (EC) No 589/96 of 2 April 1996 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EEC) No 715/90 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories ⁽³⁾, and in particular Article 4 thereof,

Whereas Article 1 of Regulation (EC) No 589/96 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 non-member countries;

Whereas the applications for import licences submitted between 1 and 10 January 1998, expressed in terms of boned meat, in accordance with Regulation (EC) No 589/96, do not exceed, in respect of products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia, the quantities available from these States; whereas it is therefore possible to issue import licences in respect of the quantities requested;

Whereas the quantities, in respect of which licences may be applied for from 1 February 1998, should be fixed within the scope of 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 on importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from

third countries ⁽⁴⁾, as last amended by Directive 96/91/EC ⁽⁵⁾,

HAS ADOPTED THIS DECISION:

Article 1

The following Member States shall issue on 21 January 1998 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:

- 290,000 tonnes originating in Botswana,
- 3,000 tonnes originating in Namibia.

United Kingdom:

- 540,000 tonnes originating in Botswana,
- 250,000 tonnes originating in Namibia.

Article 2

Licence applications may be submitted, pursuant to Article 3(3) of Regulation (EC) No 589/96 during the first 10 days of February 1998 for the following quantities of boned beef and veal:

- | | |
|---------------|--------------------|
| — Botswana: | 18 086,000 tonnes, |
| — Kenya: | 142,000 tonnes, |
| — Madagascar: | 7 579,000 tonnes, |
| — Swaziland: | 3 363,000 tonnes, |
| — Zimbabwe: | 9 100,000 tonnes, |
| — Namibia: | 12 747,000 tonnes. |

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 84, 30. 3. 1990, p. 85.

⁽²⁾ OJ L 89, 10. 4. 1996, p. 1.

⁽³⁾ OJ L 84, 3. 4. 1996, p. 22.

⁽⁴⁾ OJ L 302, 31. 12. 1972, p. 28.

⁽⁵⁾ OJ L 13, 16. 1. 1997, p. 26.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 860/97 of 14 May 1997 amending Regulation (EEC) No 3046/92 with regard to the reporting of the value of goods

(Official Journal of the European Communities L 123 of 15 May 1997)

On page 13 in the quoted matter in Article 1, paragraph 3, last subparagraph:

for: '... the conditions set out at 2 above continue to be obtained. The Member States shall publicize changes ...',

read: '... the conditions set out in the second subparagraph above continue to obtain. The Member States concerned shall publish changes ...';

in paragraph 4, second subparagraph:

for: '... by kinds of goods.',

read: '... by types of goods.';

in paragraph 5:

for: 'The statistical value shall be based of the goods ...',

read: 'The statistical value shall be based on the value of the goods ...';

and in the second indent of paragraph 5:

for: '— for arrivals, is within the statistical territory ...',

read: '— for arrivals, is outside the statistical territory ...'.
