ISSN 0378-6978

Official Journal

of the European Communities

L 32

Volume 42

5 February 1999

English edition

Legislation

Contents

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

Contents (continued)

EN

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 263/1999

of 4 February 1999

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 1498/98 [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 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 337, 24. 12. 1994, p. 66.
[2] OJ L 198, 15. 7. 1998, p. 4.
[3] OJ L 387, 31. 12. 1992, p. 1.
[4] OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 4 February 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	55,0
	204	41,8
	999	48,4
0707 00 05	068	116,3
	999	116,3
0709 10 00	220	213,2
	999	213,2
0709 90 70	052	150,2
	204	187,0
	999	168,6
0805 10 10, 0805 10 30, 0805 10 50	052	73,9
	204	42,6
	212	42,4
	600	47,0
	624	52,3
	999	51,6
0805 20 10	204	72,5
	624	82,3
	999	77,4
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	56,2
	204	65,5
	464	94,1
	600	72,5
	624	69,5
	999	71,6
0805 30 10	052	53,4
	600	62,3
	999	57,9
0808 10 20, 0808 10 50, 0808 10 90	039	76,4
	060	49,2
	400	73,3
	404	61,9
	728	78,5
	999	67,9
0808 20 50	052	134,7
	388	104,8
	400	85,9
	624	55,7
	999	95,3

(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 264/1999

of 4 February 1999

amending Regulation (EEC) No 139/81 defining the conditions for the admission of certain kinds of frozen beef and veal to subheading 0202 30 50 of the Combined Nomenclature

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 organisation of the market in beef and veal [1], as last amended by Regulation (EC) No 1633/98 [2],

Having regard to Commission Regulation (EEC) No 139/81 of 16 January 1981 defining the conditions for the admission of certain kinds of frozen beef and veal to subheading 0202 30 50 of the Combined Nomenclature [3], as last amended by Regulation (EC) No 134/1999 [4], and in particular Article 5(2) thereof,

Whereas New Zealand has nominated a new issuing agency for certificates of authenticity; whereas Annex II to Regulation (EEC) No 139/81 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EEC) No 139/81 is hereby replaced by the following:

'ANNEX II

List of agencies in exporting countries authorised to issue certificates of authenticity

Third country	Issuing agency	
	Name	Address
Argentina	Secretaría de Agricultura, Ganadería, Pesca y Alimentación (SAGPyA), Dirección General de Mercados Ganaderos	Paseo Colón 922 1er Piso Oficina 146 (1063) Buenos Aires Argentina
Australia	Department of Agriculture, Fisheries and Forestry — Australia	PO Box 858 Canberra, ACT 2601
Botswana	Ministry of Agriculture, Department of Animal Health and Production	Principal Veterinary Officer (Abattoir) Private Bag 12 Lobatse
New Zealand	New Zealand Meat Board	PO Box 121 Wellington
Swaziland	Ministry of Agriculture	PO Box 162 Mbabane
Uruguay	Instituto Nacional de Carnes (INAC)	Rincón 459 Montevideo
South Africa	South African Livestock and Meat Industries Control Board	Hamilton and Vermeulen Streets Pretoria
Zimbabwe	Ministry of Agriculture Department of Veterinary Services	PO Box 8012 Causeway Harare Zimbabwe
Namibia	Ministry of Agriculture, Water and Rural Development, Directorate of Veterinary Services	Private Bag 12002 Auspanplatz Windhoek 9000 Namibia'

[1] OJ L 148, 28. 6. 1968, p. 24.
[2] OJ L 210, 28. 7. 1998, p. 17.
[3] OJ L 15, 17. 1. 1981, p. 4.
[4] OJ L 17, 21. 1. 1999, p. 22.

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, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 265/1999

of 4 February 1999

fixing the advance on the aid for oranges for the 1998/99 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits [1],

Having regard to Commission Regulation (EC) No 1169/97 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits [2], as last amended by Regulation (EC) No 1145/98 [3], and in particular Article 14(5) thereof,

Whereas Article 14(1) of Regulation (EC) No 1169/97 provides that producer organisations may submit applications, by product and delivery period, for advances on the aid in respect of oranges, mandarins, clementines, satsumas and lemons delivered for processing under contracts; whereas Article 14(2) of Regulation (EC) No 1169/97 provides that advances are to be equal to 70 % of the amounts set out in the Annex to Regulation (EC) No 2202/96; whereas Article 14(5) of Regulation (EC) No 1169/97 provides that where there is a risk that the processing thresholds fixed in Article 5 of Regulation (EC) No 2202/96 may be exceeded the Commission may reduce that figure of 70 %;

Whereas, pursuant to Article 22(1) of Regulation (EC) No 1169/97, the Member States have notified the Commission of the quantities of oranges covered by contracts for the 1998/99 marketing year, broken down by delivery period; whereas, in view of those figures and of the quantities processed with benefit of the aid in the 1996/97 and 1997/98 marketing years, there is a risk that the processing threshold for that product may be exceeded; whereas the advance on the aid for the 1998/99 marketing year should accordingly be reduced;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1998/99 marketing year, the advance provided for in Article 14(2) of Regulation (EC) No 1169/97 shall amount to 48 % of the aid for oranges fixed in the Annex to Regulation (EC) No 2202/96.

Article 2

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

It shall apply from the 1998/99 marketing year.

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

Done at Brussels, 4 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

---

[1] OJ L 297, 21. 11. 1996, p. 49.
[2] OJ L 169, 27. 6. 1997, p. 15.
[3] OJ L 159, 3. 6. 1998, p. 29.

COMMISSION REGULATION (EC) No 266/1999

of 4 February 1999

fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2850/98

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 organisation of the market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular Article 12(1) thereof,

Whereas an invitation to tender for the maximum reduction in the duty on maize imported into Portugal was opened pursuant to Commission Regulation (EC) No 2850/98 [3];

Whereas, pursuant to Article 5 of Commission Regulation (EC) No 1839/95 [4], as amended by Regulation (EC) No 1963/95 [5], the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty; whereas in fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1;

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

For tenders notified from 29 January to 4 February 1999, pursuant to the invitation to tender issued in Regulation (EC) No 2850/98, the maximum reduction in the duty on maize imported shall be EUR 70,76 per tonne and be valid for a total maximum quantity of 53 600 tonnes.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 358, 31. 12. 1998, p. 44.
[4] OJ L 177, 28. 7. 1995, p. 4.
[5] OJ L 189, 10. 8. 1995, p. 22.

COMMISSION REGULATION (EC) No 267/1999

of 4 February 1999

fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2849/98

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 organisation of the market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular Article 12(1) thereof,

Whereas an invitation to tender for the maximum reduction in the duty on maize imported into Spain was opened pursuant to Commission Regulation (EC) No 2849/98 [3];

Whereas, pursuant to Article 5 of Commission Regulation (EC) No 1839/95 [4], as amended by Regulation (EC) No 1963/95 [5], the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix a maximum reduction in the import duty; whereas in fixing this maximum the criteria provided for in Article 6 and 7 of Regulation (EC) No 1839/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 29 January to 4 February 1999 pursuant to the invitation to tender issued in Regulation (EC) No 2849/98, the maximum reduction in the duty on maize imported shall be EUR 74,78 per tonne and be valid for a total maximum quantity of 42 000 tonnes.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 358, 31. 12. 1998, p. 43.
[4] OJ L 177, 28. 7. 1995, p. 4.
[5] OJ L 189, 10. 8. 1995, p. 22.

COMMISSION REGULATION (EC) No 268/1999

of 4 February 1999

concerning tenders notified in response to the invitation to tender for the export of barley issued in Regulation (EC) No 1564/98

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 923/96 [2],

Having regard to 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 [3], as last amended by Regulation (EC) No 2513/98 [4], and in particular Article 7 thereof,

Whereas an invitation to tender for the refund for the export of barley exported by Spain to all third countries was opened pursuant to Commission Regulation (EC) No 1564/98 [5], as amended by Regulation (EC) No 2309/98 [6];

Whereas Article 7 of Regulation (EC) No 1501/95, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award;

Whereas on the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed;

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

No action shall be taken on the tenders notified from 29 January to 4 February 1999 in response to the invitation to tender for the refund for the export of barley issued in Regulation (EC) No 1564/98.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 147, 30. 6. 1995, p. 7.
[4] OJ L 313, 21. 11. 1998, p. 16.
[5] OJ L 203, 21. 7. 1998, p. 6.
[6] OJ L 288, 27. 10. 1998, p. 11.

COMMISSION REGULATION (EC) No 269/1999

of 4 February 1999

fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 2004/98

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 923/96 [2],

Having regard to 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 [3], as last amended by Regulation (EC) No 2513/98 [4], and in particular Article 7 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of common wheat to certain ACP States was opened pursuant to Commission Regulation (EC) No 2004/98 [5];

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

For tenders notified from 29 January to 4 February 1999, pursuant to the invitation to tender issued in Regulation (EC) No 2004/98, the maximum refund on exportation of common wheat shall be EUR 38,00 per tonne.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 147, 30. 6. 1995, p. 7.
[4] OJ L 313, 21. 11. 1998, p. 16.
[5] OJ L 258, 22. 9. 1998, p. 4.

COMMISSION REGULATION (EC) No 270/1999

of 4 February 1999

concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 2007/98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Regulation (EC) No 923/96 [2],

Having regard to 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 [3], as last amended by Regulation (EC) No 2513/98 [4],

Having regard to Commission Regulation (EC) No 2007/98 of 21 September 1998 on a special intervention measure for cereals in Finland and Sweden [5], as last amended by Regulation (EC) No 244/1999 [6], and in particular Article 8 thereof,

Whereas an invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 2007/98;

Whereas Article 8 of Regulation (EC) No 2007/98 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award;

Whereas on the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed;

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

No action shall be taken on the tenders notified from 29 January to 4 February 1999 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 2007/98.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 147, 30. 6. 1995, p. 7.
[4] OJ L 313, 21. 11. 1998, p. 16.
[5] OJ L 258, 22. 9. 1998, p. 13.
[6] OJ L 27, 2. 2. 1999, p. 10.

COMMISSION REGULATION (EC) No 271/1999

of 4 February 1999

fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1079/98

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 organisation of the market in cereals ([1]), as last amended by Regulation (EC) No 923/96 ([2]),

Having regard to 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 ([3]), as last amended by Regulation (EC) No 2513/98 ([4]), and in particular Article 4 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of common wheat to all third countries with the exception of certain ACP States was opened pursuant to Commission Regulation (EC) No 1079/98 ([5]), as amended by Regulation (EC) No 2005/98 ([6]);

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

For tenders notified from 29 January to 4 February 1999, pursuant to the invitation to tender issued in Regulation (EC) No 1079/98, the maximum refund on exportation of common wheat shall be EUR 33,48 per tonne.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

([1]) OJ L 181, 1. 7. 1992, p. 21.
([2]) OJ L 126, 24. 5. 1996, p. 37.
([3]) OJ L 147, 30. 6. 1995, p. 7.
([4]) OJ L 313, 21. 11. 1998, p. 16.
([5]) OJ L 154, 28. 5. 1998, p. 24.
([6]) OJ L 258, 22. 9. 1998, p. 8.

COMMISSION REGULATION (EC) No 272/1999

of 4 February 1999

fixing the maximum export refund on rye in connection with the invitation to tender issued in Regulation (EC) No 1746/98

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 923/96 [2],

Having regard to 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 [3], as last amended by Regulation (EC) No 2513/98 [4], and in particular Article 7 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of rye to all third countries was opened pursuant to Commission Regulation (EC) No 1746/98 [5];

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

For tenders notified from 29 January to 4 February 1999, pursuant to the invitation to tender issued in Regulation (EC) No 1746/98, the maximum refund on exportation of rye shall be EUR 74,45 per tonne.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 147, 30. 6. 1995, p. 7.
[4] OJ L 313, 21. 11. 1998, p. 16.
[5] OJ L 219, 7. 8. 1998, p. 3.

COMMISSION REGULATION (EC) No 273/1999

of 4 February 1999

fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1078/98

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 organisation of the market in cereals [1], as last amended by Regulation (EC) No 923/96 [2],

Having regard to 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 [3], as last amended by Regulation (EC) No 2513/98 [4], and in particular Article 4 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of barley to all third countries was opened pursuant to Commission Regulation (EC) No 1078/98 [5];

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

For tenders notified from 29 January to 4 February 1999, pursuant to the invitation to tender issued in Regulation (EC) No 1078/98, the maximum refund on exportation of barley shall be EUR 49,98 per tonne.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission
Franz FISCHLER
Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 147, 30. 6. 1995, p. 7.
[4] OJ L 313, 21. 11. 1998, p. 16.
[5] OJ L 154, 28. 5. 1998, p. 20.

COMMISSION REGULATION (EC) No 274/1999

of 4 February 1999

fixing the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular Article 13 (2) thereof,

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

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [3], as last amended by Regulation (EC) No 2513/98 [4];

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 147, 30. 6. 1995, p. 7.
[4] OJ L 313, 21. 11. 1998, p. 16.

ANNEX

to the Commission Regulation of 4 February 1999 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(EUR/tonne)

Product code	Destination (1)	Amount of refund
1001 10 00 9200	—	—
1001 10 00 9400	01	0
1001 90 91 9000	—	—
1001 90 99 9000	03	23,50
	02	0
1002 00 00 9000	03	64,50
	02	0
1003 00 10 9000	—	—
1003 00 90 9000	03	40,00
	02	0
1004 00 00 9200	—	—
1004 00 00 9400	—	—
1005 10 90 9000	—	—
1005 90 00 9000	03	39,00
	02	0
1007 00 90 9000	—	—
1008 20 00 9000	—	—
1101 00 11 9000	—	—
1101 00 15 9100	01	46,00
1101 00 15 9130	01	43,00
1101 00 15 9150	01	39,75
1101 00 15 9170	01	36,75
1101 00 15 9180	01	34,25
1101 00 15 9190	—	—
1101 00 90 9000	—	—
1102 10 00 9500	01	82,00
1102 10 00 9700	—	—
1102 10 00 9900	—	—
1103 11 10 9200	01	30,00 (2)
1103 11 10 9400	01	27,00 (2)
1103 11 10 9900	—	—
1103 11 90 9200	01	30,00 (2)
1103 11 90 9800	—	—

(1) The destinations are identified as follows:
01 All third countries,
02 Other third countries,
03 Switzerland, Liechtenstein.

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

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

COMMISSION REGULATION (EC) No 275/1999

of 4 February 1999

fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2], and in particular the third subparagraph of Article 13 (2) thereof,

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

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [3], as last amended by Regulation (EC) No 2513/98 [4];

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on malt listed in Article 1 (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 February 1999.

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

Done at Brussels, 4 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

---

[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 147, 30. 6. 1995, p. 7.
[4] OJ L 313, 21. 11. 1998, p. 16.

ANNEX

to the Commission Regulation of 4 February 1999 fixing the export refunds on malt

(EUR/tonne)

Product code	Refund
1107 10 19 9000	46,00
1107 10 99 9000	63,50
1107 20 00 9000	74,50

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 3 June 1998

concerning Sicilian Regional Law No 25/93 on measures to promote employment (Articles 51, 114, 117 and 119)

(notified under document number C(1998) 1713)

(Only the Italian text is authentic)

(Text with EEA relevance)

(1999/99/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 aforementioned Article, to submit their comments,

Whereas:

I

(1) By letter No 3416 of 2 May 1997 [1], the Commission informed the Italian Government of its decision to initiate proceedings pursuant to Article 93(2) of the Treaty in respect of aid referred to in Articles 51, 114, 117 and 119 of Sicilian Regional Law No 25/93. In the same letter it asked the Italian Government to submit its comments within 30 days of being notified of the letter and asked interested parties to submit their comments within 30 days of the date of publication of the letter.

[1] OJ C 204, 4. 7. 1997, p. 10.

II

(2) The Italian Government submitted its comments by letters from the Permanent Representative's Office No 4319 of 30 June 1997, No 6799 of 10 October 1997, No 7072 of 22 October 1997 and of 6 May 1998.

No other Member State or interested party submitted comments to the Commission.

III

(3) The aid referred to in the letter of 2 May 1997 is set out below.

(4) Article 51 of Sicilian Regional Law No 25/93 provides for the refinancing of an aid scheme for cooperatives introduced by Regional Law No 36/91 up to an amount of ITL 24 billion (ECU 12,7 million). After refinancing, the following forms of aid will be available:

(a) under Article 8(1), grants to cooperatives of up to 50 % of eligible expenditure, subject to a ceiling of ITL 150 million (some ECU 78 000);

(b) under Article 8(2), loans at an interest rate of 4 % to cooperatives to finance that part of the investment not covered by grants under Article 8(1);

Those grants and loans are available for investment in the construction, modernisation, expansion and development of production facilities, for investment in safeguarding and creating jobs, and for expenditure on plant and machinery. The maximum intensity of the aid must not exceed the maximum intensities laid down for Sicily [1] according to the size and location of the firm.

(c) under Article 14(1), loans at an interest rate of 4 % for a period of not more than 24 months to finance working capital;

(d) under Article 14(2), loans at an interest rate of 4 % (for a period of 15 years, including a two-year grace period) and leasing agreements at an interest rate of 7.5 %. The same type of investments and expenditure as those covered by Article 8(1) and (2) are eligible for such aid.

(5) Article 114 of Regional Law No 25/93 authorises IRCAC (Instituto Regionale per il credito alle cooperative — regional agency providing credit to cooperatives) to grant to cooperatives in the hotel and tourist trade and in agri-tourism the subsidised loans referred to in Article 14(2) of abovementioned Regional Law No 36/91 so as to enable them duly to settle their debts to public bodies at national and regional levels and to banks. This assistance is limited to debts contracted before 30 June 1993.

(6) The scheme is also open to firms in the leisure and sports sector which have contracted loans under the regional laws and are experiencing financial difficulties as a result of the decline in the number of visitors.

(7) Article 117, which modifies an aid scheme established under Regional Law No 46/67, provides for grants covering 20 % of costs which are aimed at promoting tourist transport by charter flights and are available to tour operators who hire aircraft for carrying tourists to Sicily.

(8) Grants are also available, again to cover 20 % of transport costs, to Italian and foreign travel agencies for providing tourist travel as part of inclusive tours and for carrying tourists by rail or sea.

(9) The eligibility conditions are set out in Sicilian Regional Circular No 15353 of 14 October 1993 and on the grant application form. The grants are provided only where the tourists carried spend at least six nights in Sicily. Tour operators and travel agencies are required to supply the administration with the name of the establishment where the tourist is staying. The competent administrations are to enter into agreements with these tourism businesses to ensure that the amounts of aid they receive are reflected in equivalent reductions in the rates they charge to tourists.

Tour operators and travel agencies are required to present the necessary documentation to enable the administration to check the unit cost of transport per passenger (invoice showing the cost of transport, number of passengers carried, etc.). They must also produce the necessary documentation to allow the administration to check that they have passed on the grants they have received in the form of equivalent reductions in the rates they charge to tourists. They are also required to publicise the Sicilian scheme in their brochures, informing tourists of the benefits to them.

(10) The annual budget allocated to the scheme is ITL 15 billion (ECU 7,7 million).

(11) Article 119 provides for loans to be granted at a rate of 4 % to travel agencies and other operators providing unscheduled road transport services. The loans are intended to finance working capital and are granted up to a ceiling of ITL 150 million. A subsidiary guarantee can also be provided by the Region of Sicily.

The budget allocated for 1993, 1994 and 1995 is ITL 3 billion.

The competent authorities informed the Commission by letter No 4319 of 30 June 1997 that the scheme provided for under the measure in question had been repealed by Sicilian Regional Law No 33/96 and that no aid had previously been granted. The proceedings initiated in respect of the scheme therefore no longer served any useful purpose.

IV

(12) The grants for cooperatives refinanced under Article 51 of Regional Law No 25/93 and modified by Article 114 of the same Law fall within the scope of Article 92(1) of the EC Treaty.

[1] That is to say, the maximum intensities set out in the Commission Decision of 1 March 1995 on regional aid in Italy (Aid No 40/95): OJ C 184, 18. 7. 1995, p. 4.

(13) This aid is granted to firms operating in certain areas of Italy which are thus given an advantage over firms located elsewhere.

(14) The aid distorts competition in so far as it strengthens the financial position and opportunities of the recipient firms with respect to competitors who do not receive the aid. It also affects intra-Community trade whenever this effect occurs in that context.

In particular, it distorts competition and affects trade between Member States where the recipient firms export some of their products to other Member States; equally, even where such firms do not export their goods, national production is favoured because firms established in other Member States have less chance of exporting their products to the Italian market ([1]).

(15) The aid influences decisions on the location of recipient firms, and this also affects trade. Since the aid encourages firms to relocate to subsidised areas or to move from one Member State to another, production at the new site and the supply of goods from it alter the patterns of trade between the Member States.

(16) From the above it can be seen that the aid granted under the scheme provided for in Regional Law No 36/91 which was refinanced on the basis of Article 51 of Law No 25/93 and modified by Article 114 of Law No 25/93 falls within the scope of Article 92(1). It is therefore incompatible with the common market, unless it qualifies for one of the derogations provided for in the Treaty. It is also illegal since it was put into effect by the Italian Government before the Commission had given its opinion, notwithstanding the suspensory effect of Article 93(3).

(17) With regard to the refinancing — provided for in Article 51 of Law No 25/93 — of the scheme set up by Regional Law No 36/91 and the modification of one of the measures under Article 114 of Law No 25/93, the initiation of proceedings was justified principally on the grounds of lack of information concerning the basic scheme. It was possible to ascertain from the supplementary information provided by the competent authorities that the scheme introduced by Law No 36/91 had been notified and approved by the Commission in April 1991 ([2]). Furthermore, the information currently at the Commission's disposal justifies the following conclusions.

(18) With regard to the refinancing of aid for productive investment provided for under Article 8(1) and (2) and Article 14(2) of Law No 36/91, the Commission confirms the approval it gave in 1991. Sicily, which suffers particularly serious problems compared with the rest of the Community, qualifies for the derogation under Article 92(3)(a) ([3]). The arrangements for granting the aid are in line with the Community rules on eligible investment expenditure and with the maximum intensities applicable. The aid in question therefore qualifies for the derogation under Article 92(3)(a) in so far as it is intended to promote the economic development of a region where the standard of living is abnormally low and where there is serious underemployment.

(19) With regard to the refinancing of the aid intended to finance working capital under Article 14(1) of Law No 36/91, the Italian Government did not dispute the objections raised by the Commission when it initiated the proceedings. At the time, one of the Commission's observations was that the aid constituted operating aid and did not fulfil the conditions laid down in the Commission's 1988 communication on the method for the application of Article 92(3)(a) and (c) to regional aid ([4]) as it was neither limited in time, nor degressive, nor designed to overcome structural handicaps. These facts were not denied.

(20) The same considerations are valid for the granting under Article 114 of Law No 25/93 of loans provided for in Article 14(2) of Law No 36/91 to firms in the hotel and tourist trade and in agritourism to enable them to settle their debts to

([1]) Judgment in Case 102/87 [1988] ECR 4067 (SEB).

([2]) Aid N 582/90, OJ C 192, 23. 7. 1991, p. 2.
([3]) Commission Decision of I March 1995 (Aid N 40/95).
([4]) OJ C 212, 12. 8. 1988, p. 2.

national and regional bodies and to banks. The competent authorities did not dispute that this measure concerned operating aid. Moreover, it was non-degressive operating aid. Furthermore, given that the aid was granted in respect of expenditure already incurred, it did not in any way act as an incentive to stimulate additional investment.

(21) It its notice on the *de minimis* rule for State aid [1] the Commission stipulated that the ceiling of ECU 100 000 over a three-year period was a threshold figure below which Article 92(1) can be said not to apply, with the result that a measure need no longer be notified in advance under Article 93(3).

The Commission nevertheless laid down the conditions for applying the rule, in particular to ensure that, where aid is given to the same recipient under separate measures covered by the *de minimis* rule, the total amount of the aid does not exceed the threshold set and that, where aid is provided other than in the form of a grant, it has to be converted into its grant equivalent. The *de minimis* rule is of interest primarily to SMEs, but it applies to all recipients irrespective of size.

(22) Accordingly, aid under Article 14(1) of Law No 36/91 and aid under Article 14(2), as amended by Article 114 of Law No 25/93, is not in conformity with Community rules governing operating aid. It does not qualify for any derogation and is therefore incompatible with the Treaty for the part not covered by the *de minimis* rule.

V

(23) With regard to the aid provided for in Article 117 of Law No 25/93, the Italian authorities sent the Commission the following observations:

(24) First, they point out that the measure is not discriminatory on grounds of nationality or with regard to the means of transport used. Both Italian and foreign travel agencies and tour operators benefit and all means of transport are covered. The Italian authorities consider, therefore, that there can be no effect on competition in these respects.

(25) Second, in their view, the direct beneficiaries of the grants are the consumers, i.e. the tourists themselves, since the tour operators and travel agents are obliged by law to reduce the rates they charge for transport by an amount equivalent to the grant paid by the Region and thus to pass on in the rates charged all the grants they receive. The tour operators and travel agents thus act simply as intermediaries since they cannot themselves keep any of the aid they receive from the Region.

(26) The Italian authorities therefore consider that, although the measure is undoubtedly aimed at attracting tourists to Sicily, the grants have only indirect effects which are spread over the island's entire tourist industry and economy in general. In their opinion, such advantages, which are in themselves indirect and widespread and cannot be quantified, do not fall within the scope of Article 92(1) of the Treaty.

(27) The Italian authorities have also provided the following information on the tourist industry in Sicily, which, in their view, requires such aid if it is to develop:

Table 1

Data from the Region of Sicily

Year	Nights	Average number of days spent in Sicily
1991	10 820 000	4,2
1992	7 033 000	3,80
1995	9 548 000	3,01
1996	10 228 000	2,99
1997	10 329 000	3,10

[1] OJ C 68, 6. 3. 1996, p. 9.

Table 2

Data for 1996 from the Region of Sicily

Region	Tourists/residents	Tourists/km²	Average stay (days) (1)
Sicily	1,74	344	2,99
Veneto	12,04	2 899	5,10
Friuli-V G	7,97	1 210	5,80
Valle d'Aosta	22,62	821	4,02
Emilia-Romagna	7,17	1 271	4,31

(1) The average stay of tourists in Italy is 4,3 days.

(28) The Commission also has the following additional information concerning the Region of Sicily:

Table 3

Added value at factor cost of the tourist industry as a percentage of the added value of overall economic activity

(1991 data, source: Istituto Tagliacarne)

(%)

Italy	2,8
Trentino	9,7
Valle d'Aosta	7,1
Friuli-V G	3,5
Veneto	3,1
Emilia-Romagna	2,8
Sicily	1,9

(29) In 1996 productivity in the Mezzogiorno (which includes Sicily) was 76,6 % of that of centre-north Italy. Infrastructure endowment in Sicily in 1995 was 69,3 % of the national index (Italy = 100). The unemployment rate in 1996 was 24 % and youth unemployment was 60,1 %. Training courses provided in the Mezzogiorno represent only 22 % of the national total.

(30) As regards the nature of the aid, the Commission notes first of all that:

(a) the measure may be considered non-discriminatory, in the sense intended by the Italian authorities, since there will be no effect on competition with regard to either travel agencies or the means of transport used;

(b) given the scheme's arrangements, the direct effects of the aid in terms of financial advantages are effectively passed on from the travel agencies and tour operators to the consumer, which means that these traders do not gain any direct financial advantage from the aid.

Notwithstanding the observations under (a) and (b), however, the object and the effect of the measure is to encourage tourists to visit Sicily. Tour operators therefore gain an indirect advantage in terms of the increase in demand made possible by the grants.

(31) While the Commission can agree with the Italian Government that the effect of the advantage obtained is indirect, widespread and not quantifiable, it nevertheless considers that it falls within the scope of Article 92(1). This is because the aid benefits only firms operating in certain areas, which therefore enjoy an advantage since the aid is not granted for the transport of tourists outside those areas.

(32) Since the aid influences the choices made by tourists, trade is also affected. In so far as the grants encourage tourists to choose to stay in the areas that benefit, the patterns of tourism in the Community are altered. The aid therefore distorts competition and strengthens the financial position and opportunities of the recipient firms with respect to competitors who do not receive the aid. Whenever this occurs in the context of intra-Community trade, competitors feel the effects.

(33) In the light of the above observations, the Commission therefore considers that the aid in question falls within the scope of Article 92(1). Accordingly, the aid is not compatible with the common market unless it qualifies for one of the derogations provided for in the Treaty. It is also illegal since it was put into effect by Italy before the Commission had given its opinion, notwithstanding the suspensory effect of Article 93(3).

(34) With a view to assessing the compatibility of the aid, the Commission must first of all point out, as it did when initiating the proceedings, that it constitutes operating aid. At the time, the Commission noted that the measures did not comply with the Community rules on operating aid, specifically those stipulating that the aid must be limited in time, degressive and designed to overcome structural handicaps.

(35) The Commission must take into account the following additional factors. Given the natural beauty and architectural heritage of the island, the tourist industry could play an important role in developing the economy of Sicily, which is one of the less-favoured areas of the Union within the meaning of Article 92(3)(a) of the Treaty. Because of a number of structural factors, such as the underdevelopment of infrastructure and the low level of training, the tourist industry in Sicily has not yet been developed as it deserves to be. As the figures provided by the Italian authorities show (see Table 2), compared with five other Italian regions visited by tourists, Sicily is the least developed in terms of the number of visitors, both in relation to the number of residents (1,75 for Sicily and between 7,17 and 22,62 for the other regions) and per km^2 of land (344 for Sicily and between 821 and 2 899 for the other regions). The figures also show that the number of visitors has not increased since at least 1991 and that the added value of the tourist industry as a proportion of the added value of the economy as a whole is much lower in Sicily than in Italy generally and in the country's other tourist regions. Finally, the average stay of tourists in Sicily (2,99 days) is much shorter than the average for the country as a whole (4,3 days).

(36) As a general rule, the Commission takes the view that development must be based on long-term policies capable of influencing the infrastructure required for that purpose. However, the measures in question can provide a useful addition to structural measures. Firstly, since they apply only if the tourist stays at least six nights in Sicily, the measures should have the effect of prolonging stays by tourists. Secondly, in view of both the economic situation of the island and the structural shortcomings of the sector, the efforts at developing temporarily the Region's tourist potential by means of the measures in question should continue to be supported. Since underpinning demand is likely to be a key factor in improving tourist facilities, the measures can make a useful contribution to improving infrastructure and promoting the development of the sector.

(37) On the basis of the above considerations, the Commission believes that, provided they are limited in time, the aid measures in question are compatible with the common market by virtue of the derogation laid down in Article 92(3)(a). With regard to the limitation in time, an appropriate period is five years from the date on which the proceedings were initiated. The date by which the scheme should be brought to an end is therefore set at 31 December 2002. Since it has been operating since 1967, there can be no question of extending or refinancing it,

HAS ADOPTED THIS DECISION:

Article 1

The refinancing and modification of the aid scheme for cooperatives under Articles 51 and 144 of Sicilian Regional Law No 25/93 is illegal as regards the part not covered by the *de minimis* rule since it was put into effect before the Commission had given its opinion pursuant to Article 93(3) of the EC Treaty.

Article 2

The refinancing of the aid measures under Article 8(1) and (2) and Article 14(2) of Sicilian Regional Law No 36/91 provided for by Article 51 of Law No 25/93 is compatible with the common market by virtue of the derogation laid down in Article 92(3)(a) of the EC Treaty.

Article 3

The refinancing of the aid measures under Article 14(1) of Sicilian Regional Law No 36/91 provided for by Article 51 of Law No 25/93 and the modification pursuant to Article 114 of Law No 25/93 of the aid measure under Article 14(2) are incompatible with the common market for the part exceeding the ceiling of ECU 100 000 over a three-year period fixed by the *de minimis* rule, since the aid measures do not qualify for any of the derogations provided for by Article 92(2) and (3) of the EC Treaty or by Article 61(2) and (3) of the EEA Agreement.

Article 4

Italy shall take the appropriate measures to discontinue forthwith the aid measures referred to in Article 3 of this Decision if the total amount of aid exceeds the ceiling fixed by the *de minimis* rule referred to in that Article.

Italy shall also take measures to recover the aid paid illegally within the meaning of Article 3. The aid shall be paid back in accordance with the procedures and provisions of domestic law, together with interest at the reference rate used to calculate the net grant equivalent of regional aid in Italy, until such time as the aid is effectively recovered.

Article 5

The aid measures provided for under Article 117 of Sicilian Regional Law No 25/93 are illegal since they were put into effect before the Commission had given its opinion in accordance with Article 93(3) of the EC Treaty.

The aid measures referred to in the preceding paragraph are compatible with the common market by virtue of the derogation provided for in Article 92(3)(a) of the EC Treaty for a limited period of five years from the date on which the proceedings were initiated. That period shall end on 31 December 2002. The scheme shall not be extended or refinanced.

Article 6

Italy shall take the appropriate measures to terminate on 31 December 2002 the aid measures referred to in Article 5.

Article 7

The Italian Government is required to inform the Commission, within two months of notification of this Decision, of the measures it has taken to comply with it.

Article 8

This Decision is addressed to the Italian Republic.

Done at Brussels, 3 June 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 14 July 1998

on aid for lentil producers in the Prefecture of Levkas (Greece)

(notified under document number C(1998) 2367)

(Only the Greek text is authentic)

(1999/100/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organisation of the market in certain products listed in Annex II of the Treaty [1], as last amended by Regulation (EC) No 195/96 [2], and in particular Article 5 thereof,

After giving notice to the parties concerned to submit their comments to the Commission in accordance with Article 93(2), first subparagraph, of the Treaty [3],

Whereas:

I

1. In its letter of 19 November 1996, registered on 22 November 1996, the Permanent Representation of Greece to the European Union notified the measures in question to the Commission in accordance with Article 93(3) of the Treaty.

   In its letter of 7 March 1997, registered on 10 March 1997, the Permanent Representation of Greece to the European Union communicated to the Commission the additional information requested by the Commission in its letter of 21 January 1997. In that letter, the Greek authorities stated that the draft Joint Ministerial Decision had already been adopted at national level. Nevertheless, the Greek authorities gave assurances that it had not yet been applied.

2. In 1996 drought affected the economic situation of producers in the Prefecture of Levkas (Ionian islands). Most of these farmers live in hill communities and their incomes depend largely on the cultivation of lentils. The State aid under consideration relates to the provision of financial assistance for lentil cultivators in the Prefecture of Levkas, at least 50 % of whose crops were destroyed by drought in 1996, to compensate them for their loss of income during that year.

   The aid for each farmer who sustained losses amounts to 30 % of the gross value of the production concerned up to a maximum of GRD 500 000/hectare. The amount of aid was calculated by the Greek authorities as follows:

   — the production of lentils taken into account is the mean yield per hectare over the previous four years, equal to 680 kg/hectare,

   — the prices paid to producers ranged from GRD 1 500 to 2 000 per kg, and for the purposes of calculating the aid the latter figure (GRD 2 000/kg) was used,

   — the gross production value is 680 kg/hectare x GRD 2 000/kg = GRD 1 360 000/hectare,

   — the maximum aid, representing 30 % of the gross production value, amounts to 30 % of GRD 1 360 000 per hectare = GRD 408 000 per hectare.

   The Greek authorities estimated the number of beneficiaries at 120 and the total budget made available by the Greek State for this measure amounted to GRD 40 million.

II

1. In its letter SG(97) D/4136 of 30 May 1997 the Commission informed the Greek authorities of its decision to set in motion the procedure laid down in Article 93(2) of the Treaty in relation to the measures notified.

2. In that letter the Commission informed the Greek authorities that the measure did not appear to qualify for the derogation provided for under Article 92(2)(b) of the Treaty, and that it therefore had to be considered incompatible with the common market.

[1] OJ L 151, 30. 6. 1968, p. 16.
[2] OJ L 26, 2. 2. 1996, p. 13.
[3] OJ C 225, 24. 7. 1997, p. 19.

The Commission considered that the aid seemed to satisfy the conditions for application of the Commission's established practice concerning compensation for losses resulting from natural disasters or other untoward circumstances. The Commission considers that climatic events such as frost, hail, hoar-frost, rain or drought can be regarded as natural disasters within the meaning of Article 92(2)(b) of the Treaty only when the damage caused attains a certain level as regards each beneficiary of the aid. For annual crops this level is defined as 30 % loss of production relative to a normal period (in principle, the average of the three years preceding that during which the event took place), and 20 % in less-favoured areas within the meaning of Article 21(2) of Council Regulation (EC) No 950/97 [1]. The damage can be compensated up to a maximum of 100 % of the losses sustained.

In fact, in the case under consideration the compensation mechanism is activated only if the level of damage amounts to 50 % of the usual production level. Moreover, the compensation level was set at 30 % of the gross production value.

Nevertheless, the Commission considered that the maximum gross production level for lentil cultivation was ECU 881 hectare (± GRD 270 000/hectare in April 1997) [2] at Community level. According to the calculation communicated by the Greek authorities, the gross production value of lentils on Levkas amounted to GRD 1 360 000/hectare, which at the exchange rate applicable in April 1997, represented about five times as much as the maximum production value for the same crop in other parts of the Community.

The market price of GRD 2 000/kg was considered by the Commission to be abnormally high for products such as lentils. Indeed, the market value of lentils from Levkas was nine times higher than the Community price at the top of the range of ECU 0,7 kg (± GRD 215/kg) received by producers in other Member States. The said value was so high that the Commission doubted its credibility, even taking into account the special quality characteristics attributed by the Greek authorities to the said lentils.

The Commission also considered that the method employed by the Greek authorities to calculate the gross production value led to overcompensation, additional to that mentioned in connection with the product sale price, by 22,5 %. The Commission considered that there were indications that the losses caused by drought were being overcompensated, and that the aid in question could not be considered compatible with the provisions of Article 92(2)(b).

3. Within the scope of this procedure, the Commission set the Greek Government a time limit for it to submit its comments on the matter.

The Commission also published in the *Official Journal of the European Communities* an invitation to other Member States and other interested parties to submit their comments.

III

1. In its letter of 23 June 1997 the Greek Government submitted its comments on the subject of the measures described above.

(a) As regards the procedural aspects, the Greek authorities state that the support measures have not been implemented before the procedure has led to a final decision.

Indeed, the Greek authorities state that the adoption of the Joint Ministerial Decision by the relevant Ministers does not necessarily mean that it will be implemented automatically. According to the said authorities, implementation of the decision requires the adoption of two further decisions by the Ministry for Agriculture defining the details pertaining to the implementation and payment of the aid.

Those texts have not been adopted and consequently Greece has not implemented the disputed Joint Ministerial Decision. The Greek authorities inform the Commission that the aid will not be implemented before the adoption of the Commission's final decision in the context of the procedure laid down by Article 93(2) of the Treaty.

(b) As to the substance, the Greek authorities inform the Commission that the high price per kilogram stems from the fact that the lentil variety 'Enklouvi' is cultivated on terraces of low strength so that machinery cannot be used. All the cultivation work, as well as the threshing after harvesting, has to be done by hand and this greatly increases the cost of production.

The Greek authorities also state that in the specific case, the price paid to the producers is a retail price since the producers themselves sell their (very small) production immediately after the harvest. The said authorities add that the production amounts to very little (30 to 35 tonnes in all).

Finally, the Greek authorities state that should the Commission agree to the aid in question, they will calculate it on the basis of the lower limit of the price paid to producers, namely GRD 1 500/kg, within the scope of the decision determining the implementation details.

[1] OJ L 142, 2. 6. 1997, p. 1.
[2] When the procedure laid down in Article 93(2) of the Treaty was instituted, the Commission's calculations and conclusions were based on the exchange rate ECU 1 = GRD 305 which applied in April 1997.

2. The Commission has not received any comments from other Member States or other interested parties.

IV

Regarding the arguments put forward by the Greek authorities, the Commission makes clear the following:

(a) The last sentence of Article 93(3) of the Treaty provides that the Member State concerned may not put its proposed measures into effect before the Commission has reached a final decision regarding those measures.

'Putting into effect' means not only the actual provision of aid to the beneficiary, but also the granting of authorisation enabling the aid to be provided without further formalities ([1]). To avoid such an infringement, when adopting the measures at legislative level, Member States are recommended either to notify them while still at the planning stage or, failing that, to insert a provision pursuant to which the body which is to pay the aid can make the payments only with the Commission's approval.

In the case under consideration, the Greek authorities transmitted to the Commission with the notification a draft Joint Ministerial Decision. In its reply accompanying the additional information requested by the Commission, the Greek authorities informed the Commission that the Joint Ministerial Decision had already been adopted but it had not yet been implemented. In the information initially communicated, no mention was made of the need to adopt orders concerning the measure's implementation. In those circumstances and given that the aid measures had been put into effect within the meaning of the aforesaid Community definition, the aid was reclassified as aid that had not been notified.

However, the Commission takes note of the fact that the two decisions by the Ministry of Agriculture on provisions concerning implementation and payment were necessary for the aid to be provided, that they had not yet been adopted, and that the measures notified had therefore not actually been implemented.

(b) When setting in motion the procedure provided for in Article 93(2) of the Treaty, the Commission had considered that the arguments put forward by the Greek authorities did not seem sufficient to justify the tenfold increase in the commercial value of the crop. Even if it were true that the particular characteristics of production improved the quality of these lentils and consequently increased their commercial value, the Commission expressed strong reservations about whether that value could really be 10 times as much as the ordinary market price for lentils.

The nature of the additional information provided by the Greek authorities has done nothing to modify the Commission's original position.

Although it has clear consequences for the competitiveness of the enterprises in question, the higher production cost resulting from the impracticability of using machinery for the cultivation work, the very small production, and the fact that the product is sold directly to consumers, do not provide sufficient reasons to justify a higher commercial value. The Greek authorities have not supplied, and the Commission has not been able to ascertain, any information demonstrating that consumers are prepared to pay for these lentils a price 10 times higher than the highest price paid by the average European consumer for the same product. Bearing in mind the aid mechanism (30 % of the gross production value), this commercial valuation of the lentils would result in the payment of compensation three times greater than the losses calculated at normal market prices.

Besides, the fact that the Greek authorities commit themselves, when establishing the details of how the aid is to be implemented, to use a production value corresponding to a market price of GRD 1 500/kg, does not mean that those producers will not still receive excessive compensation for their losses. In fact, the commercial valuation of the lentils would still remain six times higher than the maximum value achieved by other producers in the Community. Bearing in mind the aid mechanism, that price would represent excessive compensation amounting to almost twice as much as the losses calculated at normal market prices.

V

Article 5 of Regulation (EEC) No 827/68 stipulates that Articles 92, 93 and 94 of the Treaty are applicable to the production and trade of products listed in the Annex to that Regulation.

Under Article 92(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market.

The Community's production of protein-rich crops amounts to 5,26 million tonnes ([2]). Greece's production of protein-rich crops amounts to 39 300 tonnes. The products concerned are traded between the other Member States and Greece. In fact, Greece imports 3 600 tonnes of protein-rich crops from the other Member States every year and exports 513 tonnes. The monetary value of those transactions so far as Greece is concerned amounts to ECU 0,73 million for exports and ECU 1,54 million for imports.

([1]) Letter from the Commission to the Member States SG(89) D/5521 of 27 April 1989.

([2]) Source Eurostat.

Consequently, these measures could affect trade in protein-rich crops between the Member States, such being affected when aid schemes favour entrepreneurs active in one Member State compared with those in others. The measures in question have a direct and immediate impact on the production costs of the enterprises in question. They give them an economic advantage relative to enterprises in the same sector which do not have access, in Greece and in other Member States, to comparable aid. Consequently, they distort or threaten to distort competition.

In view of the foregoing, the aid in question is to be regarded as State aid which satisfies the criteria specified by Article 92(1) of the Treaty.

VI

Article 92(1) of the Treaty provides that aid which meets the criteria it specifies is in principle incompatible with the common market.

The derogations from such incompatibility specified in Article 92(2)(a) (aid having a social character) and (c) (aid for certain areas of Germany) clearly do not apply in the case of the aid in question. Indeed, the Greek Government did not invoke them.

The derogation provided for by Article 92(2)(b) (aid to make good the damage caused by natural disasters or exceptional occurrences) does not apply since the measure affords excessive compensation for the damage caused by the drought.

As for the derogations provided for by Article 92(3), it is stated that the objectives pursued must be in the interest of the Community and not just of particular sectors of a national economy. Those derogations (which have to be interpreted strictly) can be allowed only in cases where the Commission is able to ascertain that the aid is necessary for the realisation of one of the objectives envisaged by that provision. If aid not meeting that condition were granted the benefit of those derogations, this would effectively allow trade between the Member States to be affected and competition to be distorted without its being justified by the common interest, and consequently allow unjustified advantages to be conferred in relation to traders in other Member States.

In this case, no such condition is met by the granting of the said aid. The Greek Government has not provided and the Commission has not ascertained any justification to show that the aid satisfies the conditions required for application of any of the derogations envisaged in Article 92(3) of the Treaty.

The measures do not serve to promote the execution of an important project of common European interest within the meaning of Article 92(3)(b) since because of its possible effect on trade, the said aid conflicts with the common interest.

Nor do the measures proposed serve to remedy a serious disturbance of the economy of the Member State in question, within the meaning of the same provision.

As for the derogations envisaged by Article 92(3)(a) and (c), which relate to aid intended to promote or facilitate the economic development of certain regions or activities, it must be pointed out that since the aid in question is in the nature of operational aid, it cannot bring a lasting improvement to conditions in the sector and the region concerned ([1]).

Consequently, the said aid does not qualify for any of the derogations provided for under Article 92(3) of the Treaty.

It should further be borne in mind that the aid in question relates to one of the products covered by a common organisation of the market and that there are limits to the authority of any Member State to intervene in the operation of any such organisation, which is now the exclusive prerogative of the Commission.

Common organisations of the market must be regarded as complete and exhaustive systems that exclude any power on the part of the Member States to enact measures which can derogate from them or modify them.

The aid in question must therefore be held to contravene Community rules. Consequently, none of the derogations provided by Article 92(3) can be invoked.

The said aid measure is therefore incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The aid measure which Greece proposes to grant to lentil producers in the Prefecture of Levkas is incompatible with the common market. The grant of that aid cannot therefore be permitted.

Article 2

Greece must inform the Commission within two months following notification of this Decision of the measures it has adopted to comply therewith.

([1]) Judgment of the Court of First Instance in Case T-459/93, Siemens v. Commission [1995] ECR II-1675.

Article 3

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 14 July 1998.

For the Commission
Karel VAN MIERT
Member of the Commission