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EN

(1) Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 659/1999
of 22 March 1999
laying down detailed rules for the application of Article 93 of the EC Treaty

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 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],

(1) Whereas, without prejudice to special procedural rules laid down in regulations for certain sectors, this Regulation should apply to aid in all sectors; whereas, for the purpose of applying Articles 77 and 92 of the Treaty, the Commission has specific competence under Article 93 thereof to decide on the compatibility of State aid with the common market when reviewing existing aid, when taking decisions on new or altered aid and when taking action regarding non-compliance with its decisions or with the requirement as to notification;

(2) Whereas the Commission, in accordance with the case-law of the Court of Justice of the European Communities, has developed and established a consistent practice for the application of Article 93 of the Treaty and has laid down certain procedural rules and principles in a number of communications; whereas it is appropriate, with a view to ensuring effective and efficient procedures pursuant to Article 93 of the Treaty, to codify and reinforce this practice by means of a regulation;

(3) Whereas a procedural regulation on the application of Article 93 of the Treaty will increase transparency and legal certainty;

(4) Whereas, in order to ensure legal certainty, it is appropriate to define the circumstances under which aid is to be considered as existing aid; whereas the completion and enhancement of the internal market is a gradual process, reflected in the permanent development of State aid policy; whereas, following these developments, certain measures, which at the moment they were put into effect did not constitute State aid, may since have become aid;

(5) Whereas, in accordance with Article 93(3) of the Treaty, any plans to grant new aid are to be notified to the Commission and should not be put into effect before the Commission has authorised it;

(6) Whereas, in accordance with Article 5 of the Treaty, Member States are under an obligation to cooperate with the Commission and to provide it with all information required to allow the Commission to carry out its duties under this Regulation;

(7) Whereas the period within which the Commission is to conclude the preliminary examination of notified aid should be set at two months from the receipt of a complete notification or from the receipt of a duly reasoned statement of the Member State concerned that it considers the notification to be complete because the additional information requested by the Commission is not available or has already been provided; whereas, for reasons of legal certainty, that examination should be brought to an end by a decision;

(8) Whereas in all cases where, as a result of the preliminary examination, the Commission cannot find that the aid is compatible with the common market, the formal investigation procedure should be opened in order to enable the Commission to gather all the information it needs to assess the compatibility of the aid and to allow the interested parties to submit their comments; whereas the rights of the interested parties can best be safeguarded within the framework of the formal investigation procedure provided for under Article 93(2) of the Treaty;

[1] OJ C 116, 16. 4. 1998, p. 13.
[2] Opinion delivered on 14 January 1999 (not yet published in the Official Journal).
[3] OJ C 284, 14. 9. 1998, p. 10.

(9) Whereas, after having considered the comments submitted by the interested parties, the Commission should conclude its examination by means of a final decision as soon as the doubts have been removed; whereas it is appropriate, should this examination not be concluded after a period of 18 months from the opening of the procedure, that the Member State concerned has the opportunity to request a decision, which the Commission should take within two months;

(10) Whereas, in order to ensure that the State aid rules are applied correctly and effectively, the Commission should have the opportunity of revoking a decision which was based on incorrect information;

(11) Whereas, in order to ensure compliance with Article 93 of the Treaty, and in particular with the notification obligation and the standstill clause in Article 93(3), the Commission should examine all cases of unlawful aid; whereas, in the interests of transparency and legal certainty, the procedures to be followed in such cases should be laid down; whereas when a Member State has not respected the notification obligation or the standstill clause, the Commission should not be bound by time limits;

(12) Whereas in cases of unlawful aid, the Commission should have the right to obtain all necessary information enabling it to take a decision and to restore immediately, where appropriate, undistorted competition; whereas it is therefore appropriate to enable the Commission to adopt interim measures addressed to the Member State concerned; whereas the interim measures may take the form of information injunctions, suspension injunctions and recovery injunctions; whereas the Commission should be enabled in the event of non-compliance with an information injunction, to decide on the basis of the information available and, in the event of non-compliance with suspension and recovery injunctions, to refer the matter to the Court of Justice direct, in accordance with the second subparagraph of Article 93(2) of the Treaty;

(13) Whereas in cases of unlawful aid which is not compatible with the common market, effective competition should be restored; whereas for this purpose it is necessary that the aid, including interest, be recovered without delay; whereas it is appropriate that recovery be effected in accordance with the procedures of national law; whereas the application of those procedures should not, by preventing the immediate and effective execution of the Commission decision, impede the restoration of effective competition; whereas to achieve this result, Member States should take all necessary measures ensuring the effectiveness of the Commission decision;

(14) Whereas for reasons of legal certainty it is appropriate to establish a period of limitation of 10 years with regard to unlawful aid, after the expiry of which no recovery can be ordered;

(15) Whereas misuse of aid may have effects on the functioning of the internal market which are similar to those of unlawful aid and should thus be treated according to similar procedures; whereas unlike unlawful aid, aid which has possibly been misused is aid which has been previously approved by the Commission; whereas therefore the Commission should not be allowed to use a recovery injunction with regard to misuse of aid;

(16) Whereas it is appropriate to define all the possibilities in which third parties have to defend their interests in State aid procedures;

(17) Whereas in accordance with Article 93(1) of the Treaty, the Commission is under an obligation, in cooperation with Member States, to keep under constant review all systems of existing aid; whereas in the interests of transparency and legal certainty, it is appropriate to specify the scope of cooperation under that Article;

(18) Whereas, in order to ensure compatibility of existing aid schemes with the common market and in accordance with Article 93(1) of the Treaty, the Commission should propose appropriate measures where an existing aid scheme is not, or is no longer, compatible with the common market and should initiate the procedure provided for in Article 93(2) of the Treaty if the Member State concerned declines to implement the proposed measures;

(19) Whereas, in order to allow the Commission to monitor effectively compliance with Commission decisions and to facilitate cooperation between the Commission and Member States for the purpose of the constant review of all existing aid schemes in the Member States in accordance with Article 93(1) of the Treaty, it is necessary to introduce a general reporting obligation with regard to all existing aid schemes;

(20) Whereas, where the Commission has serious doubts as to whether its decisions are being complied with, it should have at its disposal additional instruments allowing it to obtain the information necessary to verify that its decisions are being effectively complied with; whereas for this purpose on-site monitoring visits are an appropriate and useful instrument, in particular for cases where aid might have been misused; whereas therefore the Commission must be empowered to undertake on-site monitoring visits and must obtain the cooperation of the competent authorities of the Member States where an undertaking opposes such a visit;

(21) Whereas, in the interests of transparency and legal certainty, it is appropriate to give public information on Commission decisions while, at the same time, maintaining the principle that decisions in State aid cases are addressed to the Member State concerned; whereas it is therefore appropriate to publish all decisions which might affect the interests of interested parties either in full or in a summary form or to make copies of such decisions available to interested parties, where they have not been published or where they have not been published in full; whereas the Commission, when giving public information on its decisions, should respect the rules on professional secrecy, in accordance with Article 214 of the Treaty;

(22) Whereas the Commission, in close liaison with the Member States, should be able to adopt implementing provisions laying down detailed rules concerning the procedures under this Regulation; whereas, in order to provide for cooperation between the Commission and the competent authorities of the Member States, it is appropriate to create an Advisory Committee on State aid to be consulted before the Commission adopts provisions pursuant to this Regulation,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL

Article 1

Definitions

For the purpose of this Regulation:

(a) 'aid' shall mean any measure fulfilling all the criteria laid down in Article 92(1) of the Treaty;

(b) 'existing aid' shall mean:

(i) without prejudice to Articles 144 and 172 of the Act of Accession of Austria, Finland and Sweden, all aid which existed prior to the entry into force of the Treaty in the respective Member States, that is to say, aid schemes and individual aid which were put into effect before, and are still applicable after, the entry into force of the Treaty;

(ii) authorised aid, that is to say, aid schemes and individual aid which have been authorised by the Commission or by the Council;

(iii) aid which is deemed to have been authorised pursuant to Article 4(6) of this Regulation or prior to this Regulation but in accordance with this procedure;

(iv) aid which is deemed to be existing aid pursuant to Article 15;

(v) aid which is deemed to be an existing aid because it can be established that at the time it was put into effect it did not constitute an aid, and subsequently became an aid due to the evolution of the common market and without having been altered by the Member State. Where certain measures become aid following the liberalisation of an activity by Community law, such measures shall not be considered as existing aid after the date fixed for liberalisation;

(c) 'new aid' shall mean all aid, that is to say, aid schemes and individual aid, which is not existing aid, including alterations to existing aid;

(d) 'aid scheme' shall mean any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be awarded to one or several undertakings for an indefinite period of time and/or for an indefinite amount;

(e) 'individual aid' shall mean aid that is not awarded on the basis of an aid scheme and notifiable awards of aid on the basis of an aid scheme;

(f) 'unlawful aid' shall mean new aid put into effect in contravention of Article 93(3) of the Treaty;

(g) 'misuse of aid' shall mean aid used by the beneficiary in contravention of a decision taken pursuant to Article 4(3) or Article 7(3) or (4) of this Regulation;

(h) 'interested party' shall mean any Member State and any person, undertaking or association of undertakings whose interests might be affected by the granting of aid, in particular the beneficiary of the aid, competing undertakings and trade associations.

CHAPTER II

PROCEDURE REGARDING NOTIFIED AID

Article 2

Notification of new aid

1. Save as otherwise provided in regulations made pursuant to Article 94 of the Treaty or to other relevant provisions thereof, any plans to grant new aid shall be

notified to the Commission in sufficient time by the Member State concerned. The Commission shall inform the Member State concerned without delay of the receipt of a notification.

2. In a notification, the Member State concerned shall provide all necessary information in order to enable the Commission to take a decision pursuant to Articles 4 and 7 (hereinafter referred to as 'complete notification').

Article 3

Standstill clause

Aid notifiable pursuant to Article 2(1) shall not be put into effect before the Commission has taken, or is deemed to have taken, a decision authorising such aid.

Article 4

Preliminary examination of the notification and decisions of the Commission

1. The Commission shall examine the notification as soon as it is received. Without prejudice to Article 8, the Commission shall take a decision pursuant to paragraphs 2, 3 or 4.

2. Where the Commission, after a preliminary examination, finds that the notified measure does not constitute aid, it shall record that finding by way of a decision.

3. Where the Commission, after a preliminary examination, finds that no doubts are raised as to the compatibility with the common market of a notified measure, in so far as it falls within the scope of Article 92(1) of the Treaty, it shall decide that the measure is compatible with the common market (hereinafter referred to as a 'decision not to raise objections'). The decision shall specify which exception under the Treaty has been applied.

4. Where the Commission, after a preliminary examination, finds that doubts are raised as to the compatibility with the common market of a notified measure, it shall decide to initiate proceedings pursuant to Article 93(2) of the Treaty (hereinafter referred to as a 'decision to initiate the formal investigation procedure').

5. The decisions referred to in paragraphs 2, 3 and 4 shall be taken within two months. That period shall begin on the day following the receipt of a complete notification. The notification will be considered as complete if, within two months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information. The period can be extended with the consent of both the Commission and the Member State concerned. Where appropriate, the Commission may fix shorter time limits.

6. Where the Commission has not taken a decision in accordance with paragraphs 2, 3 or 4 within the period laid down in paragraph 5, the aid shall be deemed to have been authorised by the Commission. The Member State concerned may thereupon implement the measures in question after giving the Commission prior notice thereof, unless the Commission takes a decision pursuant to this Article within a period of 15 working days following receipt of the notice.

Article 5

Request for information

1. Where the Commission considers that information provided by the Member State concerned with regard to a measure notified pursuant to Article 2 is incomplete, it shall request all necessary additional information. Where a Member State responds to such a request, the Commission shall inform the Member State of the receipt of the response.

2. Where the Member State concerned does not provide the information requested within the period prescribed by the Commission or provides incomplete information, the Commission shall send a reminder, allowing an appropriate additional period within which the information shall be provided.

3. The notification shall be deemed to be withdrawn if the requested information is not provided within the prescribed period, unless before the expiry of that period, either the period has been extended with the consent of both the Commission and the Member State concerned, or the Member State concerned, in a duly reasoned statement, informs the Commission that it considers the notification to be complete because the additional information requested is not available or has already been provided. In that case, the period referred to in Article 4(5) shall begin on the day following receipt of the statement. If the notification is deemed to be withdrawn, the Commission shall inform the Member State thereof.

Article 6

Formal investigation procedure

1. The decision to initiate the formal investigation procedure shall summarise the relevant issues of fact and law, shall include a preliminary assessment of the Commission as to the aid character of the proposed measure and shall set out the doubts as to its compatibility with the common market. The decision shall call upon the Member State concerned and upon other interested parties to submit comments within a prescribed period which shall normally not exceed one month. In duly justified cases, the Commission may extend the prescribed period.

2. The comments received shall be submitted to the Member State concerned. If an interested party so requests, on grounds of potential damage, its identity shall be withheld from the Member State concerned. The Member State concerned may reply to the comments submitted within a prescribed period which shall normally not exceed one month. In duly justified cases, the Commission may extend the prescribed period.

Article 7

Decisions of the Commission to close the formal investigation procedure

1. Without prejudice to Article 8, the formal investigation procedure shall be closed by means of a decision as provided for in paragraphs 2 to 5 of this Article.

2. Where the Commission finds that, where appropriate following modification by the Member State concerned, the notified measure does not constitute aid, it shall record that finding by way of a decision.

3. Where the Commission finds that, where appropriate following modification by the Member State concerned, the doubts as to the compatibility of the notified measure with the common market have been removed, it shall decide that the aid is compatible with the common market (hereinafter referred to as a 'positive decision'). That decision shall specify which exception under the Treaty has been applied.

4. The Commission may attach to a positive decision conditions subject to which an aid may be considered compatible with the common market and may lay down obligations to enable compliance with the decision to be monitored (hereinafter referred to as a 'conditional decision').

5. Where the Commission finds that the notified aid is not compatible with the common market, it shall decide that the aid shall not be put into effect (hereinafter referred to as a 'negative decision').

6. Decisions taken pursuant to paragraphs 2, 3, 4 and 5 shall be taken as soon as the doubts referred to in Article 4(4) have been removed. The Commission shall as far as possible endeavour to adopt a decision within a period of 18 months from the opening of the procedure. This time limit may be extended by common agreement between the Commission and the Member State concerned.

7. Once the time limit referred to in paragraph 6 has expired, and should the Member State concerned so request, the Commission shall, within two months, take a decision on the basis of the information available to it. If appropriate, where the information provided is not sufficient to establish compatibility, the Commission shall take a negative decision.

Article 8

Withdrawal of notification

1. The Member State concerned may withdraw the notification within the meaning of Article 2 in due time before the Commission has taken a decision pursuant to Article 4 or 7.

2. In cases where the Commission initiated the formal investigation procedure, the Commission shall close that procedure.

Article 9

Revocation of a decision

The Commission may revoke a decision taken pursuant to Article 4(2) or (3), or Article 7(2), (3), (4), after having given the Member State concerned the opportunity to submit its comments, where the decision was based on incorrect information provided during the procedure which was a determining factor for the decision. Before revoking a decision and taking a new decision, the Commission shall open the formal investigation procedure pursuant to Article 4(4). Articles 6, 7 and 10, Article 11(1), Articles 13, 14 and 15 shall apply *mutatis mutandis*.

CHAPTER III

PROCEDURE REGARDING UNLAWFUL AID

Article 10

Examination, request for information and information injunction

1. Where the Commission has in its possession information from whatever source regarding alleged unlawful aid, it shall examine that information without delay.

2. If necessary, it shall request information from the Member State concerned. Article 2(2) and Article 5(1) and (2) shall apply *mutatis mutandis*.

3. Where, despite a reminder pursuant to Article 5(2), the Member State concerned does not provide the information requested within the period prescribed by the Commission, or where it provides incomplete information, the Commission shall by decision require the information to be provided (hereinafter referred to as an 'information injunction'). The decision shall specify what information is required and prescribe an appropriate period within which it is to be supplied.

Article 11

Injunction to suspend or provisionally recover aid

1. The Commission may, after giving the Member State concerned the opportunity to submit its comments, adopt a decision requiring the Member State to suspend any unlawful aid until the Commission has taken a decision on the compatibility of the aid with the common market (hereinafter referred to as a 'suspension injunction').

2. The Commission may, after giving the Member State concerned the opportunity to submit its comments, adopt a decision requiring the Member State provisionally to recover any unlawful aid until the Commission has taken a decision on the compatibility of the aid with the common market (hereinafter referred to as a 'recovery injunction'), if the following criteria are fulfilled:

— according to an established practice there are no doubts about the aid character of the measure concerned

and

— there is an urgency to act

and

— there is a serious risk of substantial and irreparable damage to a competitor.

Recovery shall be effected in accordance with the procedure set out in Article 14(2) and (3). After the aid has been effectively recovered, the Commission shall take a decision within the time limits applicable to notified aid.

The Commission may authorise the Member State to couple the refunding of the aid with the payment of rescue aid to the firm concerned.

The provisions of this paragraph shall be applicable only to unlawful aid implemented after the entry into force of this Regulation.

Article 12

Non-compliance with an injunction decision

If the Member State fails to comply with a suspension injunction or a recovery injunction, the Commission shall be entitled, while carrying out the examination on the substance of the matter on the basis of the information available, to refer the matter to the Court of Justice of the European Communities direct and apply for a declaration that the failure to comply constitutes an infringement of the Treaty.

Article 13

Decisions of the Commission

1. The examination of possible unlawful aid shall result in a decision pursuant to Article 4(2), (3) or (4). In the case of decisions to initiate the formal investigation procedure, proceedings shall be closed by means of a decision pursuant to Article 7. If a Member State fails to comply with an information injunction, that decision shall be taken on the basis of the information available.

2. In cases of possible unlawful aid and without prejudice to Article 11(2), the Commission shall not be bound by the time-limit set out in Articles 4(5), 7(6) and 7(7).

3. Article 9 shall apply *mutatis mutandis*.

Article 14

Recovery of aid

1. Where negative decisions are taken in cases of unlawful aid, the Commission shall decide that the Member State concerned shall take all necessary measures to recover the aid from the beneficiary (hereinafter referred to as a 'recovery decision'). The Commission shall not require recovery of the aid if this would be contrary to a general principle of Community law.

2. The aid to be recovered pursuant to a recovery decision shall include interest at an appropriate rate fixed by the Commission. Interest shall be payable from the date on which the unlawful aid was at the disposal of the beneficiary until the date of its recovery.

3. Without prejudice to any order of the Court of Justice of the European Communities pursuant to Article 185 of the Treaty, recovery shall be effected without delay and in accordance with the procedures under the national law of the Member State concerned, provided that they allow the immediate and effective execution of the Commission's decision. To this effect and in the event of a procedure before national courts, the Member States concerned shall take all necessary steps which are available in their respective legal systems, including provisional measures, without prejudice to Community law.

Article 15

Limitation period

1. The powers of the Commission to recover aid shall be subject to a limitation period of ten years.

2. The limitation period shall begin on the day on which the unlawful aid is awarded to the beneficiary either as individual aid or as aid under an aid scheme.

Any action taken by the Commission or by a Member State, acting at the request of the Commission, with regard to the unlawful aid shall interrupt the limitation period. Each interruption shall start time running afresh. The limitation period shall be suspended for as long as the decision of the Commission is the subject of proceedings pending before the Court of Justice of the European Communities.

3. Any aid with regard to which the limitation period has expired, shall be deemed to be existing aid.

CHAPTER IV

PROCEDURE REGARDING MISUSE OF AID

Article 16

Misuse of aid

Without prejudice to Article 23, the Commission may in cases of misuse of aid open the formal investigation procedure pursuant to Article 4(4). Articles 6, 7, 9 and 10, Article 11(1), Articles 12, 13, 14 and 15 shall apply *mutatis mutandis*.

CHAPTER V

PROCEDURE REGARDING EXISTING AID SCHEMES

Article 17

Cooperation pursuant to Article 93(1) of the Treaty

1. The Commission shall obtain from the Member State concerned all necessary information for the review, in cooperation with the Member State, of existing aid schemes pursuant to Article 93(1) of the Treaty.

2. Where the Commission considers that an existing aid scheme is not, or is no longer, compatible with the common market, it shall inform the Member State concerned of its preliminary view and give the Member State concerned the opportunity to submit its comments within a period of one month. In duly justified cases, the Commission may extend this period.

Article 18

Proposal for appropriate measures

Where the Commission, in the light of the information submitted by the Member State pursuant to Article 17, concludes that the existing aid scheme is not, or is no longer, compatible with the common market, it shall issue a recommendation proposing appropriate measures to the Member State concerned. The recommendation may propose, in particular:

(a) substantive amendment of the aid scheme,

or

(b) introduction of procedural requirements,

or

(c) abolition of the aid scheme.

Article 19

Legal consequences of a proposal for appropriate measures

1. Where the Member State concerned accepts the proposed measures and informs the Commission thereof, the Commission shall record that finding and inform the Member State thereof. The Member State shall be bound by its acceptance to implement the appropriate measures.

2. Where the Member State concerned does not accept the proposed measures and the Commission, having taken into account the arguments of the Member State concerned, still considers that those measures are necessary, it shall initiate proceedings pursuant to Article 4(4). Articles 6, 7 and 9 shall apply *mutatis mutandis*.

CHAPTER VI

INTERESTED PARTIES

Article 20

Rights of interested parties

1. Any interested party may submit comments pursuant to Article 6 following a Commission decision to initiate the formal investigation procedure. Any interested party which has submitted such comments and any beneficiary of individual aid shall be sent a copy of the decision taken by the Commission pursuant to Article 7.

2. Any interested party may inform the Commission of any alleged unlawful aid and any alleged misuse of aid. Where the Commission considers that on the basis of the information in its possession there are insufficient grounds for taking a view on the case, it shall inform the interested party thereof. Where the Commission takes a decision on a case concerning the subject matter of the information supplied, it shall send a copy of that decision to the interested party.

3. At its request, any interested party shall obtain a copy of any decision pursuant to Articles 4 and 7, Article 10(3) and Article 11.

CHAPTER VII

MONITORING

Article 21

Annual reports

1. Member States shall submit to the Commission annual reports on all existing aid schemes with regard to which no specific reporting obligations have been imposed in a conditional decision pursuant to Article 7(4).

2. Where, despite a reminder, the Member State concerned fails to submit an annual report, the Commission may proceed in accordance with Article 18 with regard to the aid scheme concerned.

Article 22

On-site monitoring

1. Where the Commission has serious doubts as to whether decisions not to raise objections, positive decisions or conditional decisions with regard to individual aid are being complied with, the Member State concerned, after having been given the opportunity to submit its comments, shall allow the Commission to undertake on-site monitoring visits.

2. The officials authorised by the Commission shall be empowered, in order to verify compliance with the decision concerned:

(a) to enter any premises and land of the undertaking concerned;

(b) to ask for oral explanations on the spot;

(c) to examine books and other business records and take, or demand, copies.

The Commission may be assisted if necessary by independent experts.

3. The Commission shall inform the Member State concerned, in good time and in writing, of the on-site monitoring visit and of the identities of the authorised officials and experts. If the Member State has duly justified objections to the Commission's choice of experts, the experts shall be appointed in common agreement with the Member State. The officials of the Commission and the experts authorised to carry out the on-site monitoring shall produce an authorisation in writing specifying the subject-matter and purpose of the visit.

4. Officials authorised by the Member State in whose territory the monitoring visit is to be made may be present at the monitoring visit.

5. The Commission shall provide the Member State with a copy of any report produced as a result of the monitoring visit.

6. Where an undertaking opposes a monitoring visit ordered by a Commission decision pursuant to this Article, the Member State concerned shall afford the necessary assistance to the officials and experts authorised by the Commission to enable them to carry out the monitoring visit. To this end the Member States shall, after consulting the Commission, take the necessary measures within eighteen months after the entry into force of this Regulation.

Article 23

Non-compliance with decisions and judgments

1. Where the Member State concerned does not comply with conditional or negative decisions, in particular in cases referred to in Article 14, the Commission may refer the matter to the Court of Justice of the European Communities direct in accordance with Article 93(2) of the Treaty.

2. If the Commission considers that the Member State concerned has not complied with a judgment of the Court of Justice of the European Communities, the Commission may pursue the matter in accordance with Article 171 of the Treaty.

CHAPTER VIII

COMMON PROVISIONS

Article 24

Professional secrecy

The Commission and the Member States, their officials and other servants, including independent experts appointed by the Commission, shall not disclose information which they have acquired through the application of this Regulation and which is covered by the obligation of professional secrecy.

Article 25

Addressee of decisions

Decisions taken pursuant to Chapters II, III, IV, V and VII shall be addressed to the Member State concerned. The Commission shall notify them to the Member State concerned without delay and give the latter the opportunity to indicate the Commission which information it considers to be covered by the obligation of professional secrecy.

Article 26

Publication of decisions

1. The Commission shall publish in the *Official Journal of the European Communities* a summary notice of the decisions which it takes pursuant to Article 4(2) and (3) and Article 18 in conjunction with Article 19(1). The summary notice shall state that a copy of the decision may be obtained in the authentic language version or versions.

2. The Commission shall publish in the *Official Journal of the European Communities* the decisions which it takes pursuant to Article 4(4) in their authentic language version. In the Official Journal published in languages other than the authentic language version, the authentic language version will be accompanied by a meaningful summary in the language of that Official Journal.

3. The Commission shall publish in the *Official Journal of the European Communities* the decisions which it takes pursuant to Article 7.

4. In cases where Article 4(6) or Article 8(2) applies, a short notice shall be published in the *Official Journal of the European Communities.*

5. The Council, acting unanimously, may decide to publish decisions pursuant to the third subparagraph of Article 93(2) of the Treaty in the *Official Journal of the European Communities.*

Article 27

Implementing provisions

The Commission, acting in accordance with the procedure laid down in Article 29, shall have the power to adopt implementing provisions concerning the form, content and other details of notifications, the form, content and other details of annual reports, details of time-limits and the calculation of time-limits, and the interest rate referred to in Article 14(2).

Article 28

Advisory Committee on State aid

An Advisory Committee on State aid (hereinafter referred to as the 'Committee') shall be set up. It shall be composed of representatives of the Member States and chaired by the representative of the Commission.

Article 29

Consultation of the Committee

1. The Commission shall consult the Committee before adopting any implementing provision pursuant to Article 27.

2. Consultation of the Committee shall take place at a meeting called by the Commission. The drafts and documents to be examined shall be annexed to the notification. The meeting shall take place no earlier than two months after notification has been sent. This period may be reduced in the case of urgency.

3. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver an opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

4. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes. The Committee may recommend the publication of this opinion in the *Official Journal of the European Communities.*

5. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee on the manner in which its opinion has been taken into account.

Article 30

Entry into force

This Regulation shall enter into force on the twentieth 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, 22 March 1999.

For the Council

The President

G. VERHEUGEN

COUNCIL REGULATION (EC) No 660/1999

of 22 March 1999

amending Regulation (EEC) No 2075/92 and fixing the premiums and guarantee thresholds for leaf tobacco by variety group and Member State for the 1999, 2000 and 2001 harvests

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco [1], and in particular Articles 4(1), 8 and 9(2) thereof,

Having regard to the proposal from the Commission [2],

Having regard to the opinion of the European Parliament [3],

Having regard to the opinion of the Economic and Social Committee [4],

Whereas a supplementary amount is granted for flue-cured, light air-cured and dark air-cured tobaccos grown in Austria, Belgium, France and Germany; whereas the Council decided to raise that amount from 50 % to 65 % of the difference on the basis of the 1992 harvest; whereas this increase is to be calculated on the basis of the difference between the premium granted for those tobaccos for the 1998 harvest and the premium applicable to the 1992 harvest; whereas Article 3(2) of Regulation (EEC) No 2075/92 is not consistent with this; whereas Article 3(2) of Regulation (EEC) No 2075/92 should therefore be amended;

Whereas the level of premiums should be fixed having regard to the objectives of the common agricultural policy and in particular to ensure a fair standard of living for the farming community; whereas the premium amounts should reflect past and foreseeable market outlets for the various tobaccos under normal conditions of competition; whereas the level of the premiums should be fixed for three consecutive harvests and be linked to the guarantee thresholds established for the three harvests in 1999, 2000 and 2001 in order to ensure that the stability of the sector is maintained;

Whereas the second paragraph of Article 8 and Article 9(2) of Regulation (EEC) No 2075/92 provide for the allocation among producer Member States of guarantee thresholds for each variety group for three harvests as from the 1999 harvest;

Whereas the level of those thresholds for the three harvests in 1999, 2000 and 2001 should be fixed having regard, in particular, to market conditions and socio-economic and agricultural conditions obtaining in the production zones concerned; whereas such fixing should be done in good time to allow producers to plan their production for the said harvests;

Whereas, as a result of the increase in supplementary amounts for flue-cured, light air-cured and dark air-cured tobaccos grown in Austria, Belgium, France and Germany, the guarantee thresholds of these Member States should be reduced in order to ensure the maintenance of budget neutrality;

Whereas, while maintaining production potential and the allocation of quotas by Member States, quotas for varieties which have assured outlets and attract high market prices should be increased progressively to the detriment of quotas for varieties which are difficult to sell and attract low market prices;

Whereas the measures in question should be introduced as soon as possible,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3(2) of Regulation (EEC) No 2075/92 shall be replaced by the following:

'2. A supplementary amount shall, however, be granted on flue-cured, light air-cured and dark air-cured tobaccos grown in Austria, Belgium, France and Germany. That amount shall be equal to 65 % of the difference between the premium applicable to the 1998 harvest and the premium applicable to the 1992 harvest for those tobaccos.'

Article 2

For the 1999, 2000 and 2001 harvests, the premium amounts for each of the groups of raw tobacco and the supplementary amounts specified in Article 3 of Regulation (EEC) No 2075/92 shall be as shown in Annex I to this Regulation.

[1] OJ L 215, 30. 7. 1992, p. 70. Regulation as last amended by Regulation (EC) No 1636/98 (OJ L 210, 20. 7. 1998, p. 23).
[2] OJ C 361, 24. 11. 1998, p. 16.
[3] Opinion delivered on 11 March 1999 (not yet published in the Official Journal).
[4] Opinion delivered on 5 February 1999 (not yet published in the Official Journal).

Article 3

For the 1999, 2000 and 2001 harvests, the guarantee thresholds referred to in Articles 8 and 9 of Regulation (EEC) No 2075/92 by variety group and by Member State shall be as set out in Annex II to this Regulation.

Article 4

This Regulation shall enter into force on the 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, 22 March 1999.

For the Council

The President

G. VERHEUGEN

ANNEX I

PREMIUMS FOR LEAF TOBACCO FOR THE 1999, 2000 AND 2001 HARVESTS

	I Flue-cured	II Light air-cured	III Dark air-cured	IV Fire-cured	V Sun-cured	VI Basmas	VII Katerini	VIII Kaba Koulak
EUR/kg	2,98062	2,38423	2,38423	2,62199	2,38423	4,12957	3,50395	2,50377

SUPPLEMENTARY AMOUNTS

Varieties	EUR/kg
Badischer Geudertheimer, Pereg, Korso	0,5509
Badischer Burley E and its hybrids	0,8822
Virgin D and its hybrids, Virginia and its hybrids	0,5039
Paraguay and its hybrids, Dragon vert and its hybrids, Philippin, Petit Grammont (Flobecq), Semois, Appelterre	0,4112

ANNEX II

GUARANTEE THRESHOLDS FOR 1999

	I Flue-cured	II Light air-cured	III Dark air-cured	IV Fire-cured	V Sun-cured	Other			Total
						VI Basmas	VII Katerini	VIII Kaba Koulak	
Italy	48 125	46 655	18 056	7 173	12 000		500		132 509
Greece	30 700	12 400			14 800	26 100	22 250	20 407	126 657
Spain	29 000	2 470	10 800	30					42 300
Portugal	5 500	1 200							6 700
France	9 500	8 300	8 548						26 348
Germany	3 000	4 125	4 500						11 625
Belgium		191	1 662						1 853
Austria	30	446	100						576
	125 855	75 787	43 666	7 203	26 800	26 100	22 750	20 407	348 568

GUARANTEE THRESHOLDS FOR 2000

	I Flue-cured	II Light air-cured	III Dark air-cured	IV Fire-cured	V Sun-cured	Other			Total
						VI Basmas	VII Katerini	VIII Kaba Koulak	
Italy	48 500	47 000	17 900	6 965	10 100		1 500		131 965
Greece	31 200	12 400			12 640	26 330	22 750	20 788	126 108
Spain	29 000	2 470	10 800	30					42 300
Portugal	5 500	1 200							6 700
France	9 500	8 300	8 548						26 348
Germany	3 000	4 125	4 500						11 625
Belgium		191	1 662						1 853
Austria	30	446	100						576
	126 730	76 132	43 510	6 995	22 740	26 330	24 250	20 788	347 475

GUARANTEE THRESHOLDS FOR 2001

	I Flue-cured	II Light air-cured	III Dark air-cured	IV Fire-cured	V Sun-cured	Other			Total
						VI Basmas	VII Katerini	VIII Kaba Koulak	
Italy	48 500	47 000	17 900	6 965	10 100		1 500		131 965
Greece	31 900	12 400			11 000	26 330	23 270	20 788	125 688
Spain	29 000	2 470	10 800	30					42 300
Portugal	5 500	1 200							6 700
France	9 500	8 300	8 548						26 348
Germany	3 000	4 125	4 500						11 625
Belgium		191	1 662						1 853
Austria	30	446	100						576
	127 430	76 132	43 510	6 995	21 100	26 330	24 770	20 788	347 055

COMMISSION REGULATION (EC) No 661/1999

of 26 March 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,

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 March 1999.

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

Done at Brussels, 26 March 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.

ANNEX

to the Commission Regulation of 26 March 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	86,0
	204	45,4
	212	44,2
	999	58,5
0707 00 05	068	110,5
	999	110,5
0709 10 00	220	173,3
	999	173,3
0709 90 70	052	97,9
	204	157,1
	999	127,5
0805 10 10, 0805 10 30, 0805 10 50	052	50,5
	204	45,3
	212	45,1
	220	38,2
	600	73,1
	624	48,8
	999	50,2
0805 30 10	052	37,8
	600	81,9
	999	59,9
0808 10 20, 0808 10 50, 0808 10 90	039	106,9
	388	79,0
	400	83,6
	404	96,3
	508	80,9
	512	79,7
	524	68,3
	528	68,9
	720	82,5
	999	82,9
0808 20 50	052	133,1
	388	65,1
	512	65,8
	528	66,2
	624	74,4
	720	69,3
	999	79,0

(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 662/1999

of 26 March 1999

amending Regulation (EEC) No 391/92 setting the amounts of aid for the supply of cereals products from the Community to the French overseas departments

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments [1], as last amended by Regulation (EC) No 2598/95 [2], and in particular Article 2 (6) thereof,

Whereas the amounts of aid for the supply of cereals products to the French overseas departments (FOD) has been settled by Commission Regulation (EEC) No 391/92 [3], as last amended by Regulation (EC) No 430/1999 [4]; whereas, as a consequence of the changes of the rates and prices for cereals products in the European part of the Community and on the world market, the aid for supply to the FOD should be set at the amounts given in the Annex;

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 Annex of amended Regulation (EEC) No 391/92 is replaced by the Annex to the present Regulation.

Article 2

This Regulation shall enter into force on 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 356, 24. 12. 1991, p. 1.
[2] OJ L 267, 9. 11. 1995, p. 1.
[3] OJ L 43, 19. 2. 1992, p. 23.
[4] OJ L 52, 27. 2. 1999, p. 18.

ANNEX

to the Commission Regulation of 26 March 1999 amending Regulation (EEC) No 391/92 setting the amounts of aid for the supply of cereals products from the Community to the French overseas departments

(EUR/t)

Product (CN code)	Amount of aid			
	Destination			
	Guadeloupe	Martinique	French Guiana	Réunion
Common wheat (1001 90 99)	39,00	39,00	39,00	42,00
Barley (1003 00 90)	58,00	58,00	58,00	61,00
Maize (1005 90 00)	50,00	50,00	50,00	53,00
Durum wheat (1001 10 00)	12,00	12,00	12,00	16,00

COMMISSION REGULATION (EC) No 663/1999

of 26 March 1999

amending Regulation (EEC) No 1832/92 setting the amounts of aid for the supply of cereals products from the Community to the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Canary Islands [1], as last amended by Regulation (EC) No 2348/96 [2], and in particular Article 3 (4) thereof,

Whereas the amounts of aid for the supply of cereals products to the Canary Islands has been settled by Commission Regulation (EEC) No 1832/92 [3], as last amended by Regulation (EC) No 431/1999 [4]; whereas, as a consequence of the changes of the rates and prices for cereals products in the European part of the Community and on the world market, the aid for supply to the Canary Islands should be set at the amounts given in the Annex;

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 Annex of amended Regulation (EEC) No 1832/92 is replaced by the Annex to the present Regulation.

Article 2

This Regulation shall enter into force on 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 173, 27. 6. 1992, p. 13.
[2] OJ L 320, 11. 12. 1996, p. 1.
[3] OJ L 185, 4. 7. 1992, p. 26.
[4] OJ L 52, 27. 2. 1999, p. 20.

ANNEX

to the Commission Regulation of 26 March 1999 amending Regulation (EEC) No 1832/92 setting the amounts of aid for the supply of cereals products from the Community to the Canary Islands

(EUR/t)

Product (CN code)		Amount of aid
Common wheat	(1001 90 99)	36,00
Barley	(1003 00 90)	55,00
Maize	(1005 90 00)	47,00
Durum wheat	(1001 10 00)	8,00
Oats	(1004 00 00)	63,00

COMMISSION REGULATION (EC) No 664/1999

of 26 March 1999

amending Regulation (EEC) No 1833/92 setting the amounts of aid for the supply of cereals products from the Community to the Azores and Madeira

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira [1], as last amended by Regulation (EC) No 562/98 [2], and in particular Article 10 thereof,

Whereas the amounts of aid for the supply of cereals products to the Azores and Madeira has been settled by Commission Regulation (EEC) No 1833/92 [3], as last amended by Regulation (EC) No 432/1999 [4]; whereas, as a consequence of the changes of the rates and prices for cereals products in the European part of the Community and on the world market, the aid for supply to the Azores and Madeira should be set at the amounts given in the Annex;

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 Annex of amended Regulation (EEC) No 1833/92 is replaced by the Annex to the present Regulation.

Article 2

This Regulation shall enter into force on 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 173, 27. 6. 1992, p. 1.
[2] OJ L 76, 13. 3. 1998, p. 6.
[3] OJ L 185, 4. 7. 1992, p. 28.
[4] OJ L 52, 27. 2. 1999, p. 22.

ANNEX

to the Commission Regulation of 26 March 1999 amending Regulation (EEC) No 1833/92 setting the amounts of aid for the supply of cereals products from the Community to the Azores and Madeira

(EUR/t)

Product (CN code)		Amount of aid	
		Destination	
		Azores	Madeira
Common wheat	(1001 90 99)	36,00	36,00
Barley	(1003 00 90)	55,00	55,00
Maize	(1005 90 00)	47,00	47,00
Durum wheat	(1001 10 00)	8,00	8,00

COMMISSION REGULATION (EC) No 665/1999

of 26 March 1999

fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

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 2547/98 [2], and in particular the third subparagraph of Article 13(2) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [3], as amended by Regulation (EC) No 2072/98 [4], and in particular Article 13(3) thereof,

Whereas Article 2 of Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid [5] lays down that the portion of the expenditure corresponding to the export refunds on the products in question fixed under Community rules is to be charged to the European Agricultural Guidance and Guarantee Fund, Guarantee Section;

Whereas, in order to make it easier to draw up and manage the budget for Community food aid actions and to enable the Member States to know the extent of Community participation in the financing of national food aid actions, the level of the refunds granted for these actions should be determined;

Whereas the general and implementing rules provided for in Article 13 of Regulation (EEC) No 1766/92 and in Article 13 of Regulation (EC) No 3072/95 on export refunds are applicable *mutatis mutandis* to the abovementioned operations;

Whereas the specific criteria to be used for calculating the export refund on rice are set out in Article 13 of Regulation (EC) No 3072/95;

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

HAS ADOPTED THIS REGULATION:

Article 1

For Community and national food aid operations under international agreements or other supplementary programmes, and other Community free supply measures, the refunds applicable to cereals and rice sector products shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 181, 1. 7. 1992, p. 21.
[2] OJ L 126, 24. 5. 1996, p. 37.
[3] OJ L 329, 30. 12. 1995, p. 18.
[4] OJ L 265, 30. 9. 1998, p. 4.
[5] OJ L 288, 25. 10. 1974, p. 1.

ANNEX

to the Commission Regulation of 26 March 1999 fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

(EUR/t)

Product code	Refund
1001 10 00 9400	0,00
1001 90 99 9000	33,00
1002 00 00 9000	71,50
1003 00 90 9000	52,00
1004 00 00 9400	60,00
1005 90 00 9000	44,00
1006 30 92 9100	142,00
1006 30 92 9900	142,00
1006 30 94 9100	142,00
1006 30 94 9900	142,00
1006 30 96 9100	142,00
1006 30 96 9900	142,00
1006 30 98 9100	142,00
1006 30 98 9900	142,00
1006 30 65 9900	142,00
1006 40 00 9000	—
1007 00 90 9000	44,00
1101 00 15 9100	45,25
1101 00 15 9130	45,25
1102 20 10 9200	62,45
1102 20 10 9400	53,53
1102 30 00 9000	—
1102 90 10 9100	68,63
1103 11 10 9200	30,00
1103 11 90 9200	30,00
1103 13 10 9100	80,30
1103 14 00 9000	—
1104 12 90 9100	94,90
1104 21 50 9100	91,50

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

COMMISSION REGULATION (EC) No 666/1999

of 26 March 1999

fixing the export refunds on rice and broken rice and suspending the issue of export licences

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [1], as last amended by Regulation (EC) No 2072/98 [2], and in particular the second subparagraph of Article 13(3) and (15) thereof,

Whereas Article 13 of Regulation (EC) No 3072/95 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 Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas Commission Regulation (EEC) No 1361/76 [3] lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

Whereas export possibilities exist for a quantity of 2 542 t of rice to certain destinations; whereas the procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 [4], as last amended by Regulation (EC) No 444/98 [5] should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated;

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 a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;

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

Whereas it follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto;

Whereas, for the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted;

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 of Regulation (EC) No 3072/95 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

With the exception of the quantity of 2 542 t provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

Article 3

This Regulation shall enter into force on 29 March 1999.

[1] OJ L 329, 30. 12. 1995, p. 18.
[2] OJ L 265, 30. 9. 1998, p. 4.
[3] OJ L 154, 15. 6. 1976, p. 11.
[4] OJ L 117, 24. 5. 1995, p. 2.
[5] OJ L 56, 26. 2. 1998, p. 12.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 26 March 1999 fixing the export refunds on rice and broken rice and suspending, the issue of export licences

(EUR/t)

Product code	Destination (1)	Amount of refunds
1006 20 11 9000	01	87,00
1006 20 13 9000	01	87,00
1006 20 15 9000	01	87,00
1006 20 17 9000	—	—
1006 20 92 9000	01	87,00
1006 20 94 9000	01	87,00
1006 20 96 9000	01	87,00
1006 20 98 9000	—	—
1006 30 21 9000	01	87,00
1006 30 23 9000	01	87,00
1006 30 25 9000	01	87,00
1006 30 27 9000	—	—
1006 30 42 9000	01	87,00
1006 30 44 9000	01	87,00
1006 30 46 9000	01	87,00
1006 30 48 9000	—	—
1006 30 61 9100	01	109,00
	02	—
	03	—
	04	—
	05	115,00
1006 30 61 9900	01	109,00
	04	—
1006 30 63 9100	01	109,00
	02	—
	03	—
	04	—
	05	115,00
1006 30 63 9900	01	109,00
	04	—
1006 30 65 9100	01	109,00
	02	—
	03	—
	04	—
	05	115,00
1006 30 65 9900	01	109,00
	04	—
1006 30 67 9100	05	115,00
1006 30 67 9900	—	—
1006 30 92 9100	01	109,00
	02	—
	03	—
	04	—
	05	115,00
1006 30 92 9900	01	109,00
	04	—
1006 30 94 9100	01	109,00
	02	—
	03	—
	04	—
	05	115,00
1006 30 94 9900	01	109,00
	04	—
1006 30 96 9100	01	109,00
	02	—
	03	—
	04	—
	05	115,00
1006 30 96 9900	01	109,00
	04	—
1006 30 98 9100	05	115,00
1006 30 98 9900	—	—
1006 40 00 9000	—	—

(1) The destinations are identified as follows:

01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia; refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a quantity of 1 922 t of milled rice equivalent,
02 Zones I, II, III, VI,
03 Zones IV, V, VII (c), Canada and Zone VIII excluding Suriname, Guyana and Madagascar,
04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,
05 Ceuta and Melilla; refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 620 t.

NB: The zones are those defined in the Annex to amended Commission Regulation (EEC) No 2145/92.

COMMISSION REGULATION (EC) No 667/1999

of 26 March 1999

setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Canary Islands [1], as last amended by Regulation (EC) No 2348/96 [2], and in particular Article 3 thereof,

Whereas, pursuant to Article 3 of Regulation (EEC) No 1601/92, the requirements of the Canary Islands for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EC) No 2790/94 [3], as last amended by Regulation (EC) No 825/98 [4], lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Canary Islands;

Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market, the aid for supply to the Canary Islands should be set at the amounts given in the Annex;

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

Pursuant to Article 3 of Regulation (EEC) No 1601/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Canary Islands shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 173, 27. 6. 1992, p. 13.
[2] OJ L 320, 11. 12. 1996, p. 1.
[3] OJ L 296, 17. 11. 1994, p. 23.
[4] OJ L 117, 21. 4. 1998, p. 5.

ANNEX

to the Commission Regulation of 26 March 1999 setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

(EUR/t)

Product (CN code)	Amount of aid
Milled rice (1006 30)	123,00
Broken rice (1006 40)	27,00

COMMISSION REGULATION (EC) No 668/1999

of 26 March 1999

setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira [1], as last amended by Regulation (EC) No 2348/96 [2], and in particular Article 10 thereof,

Whereas, pursuant to Article 10 of Regulation (EEC) No 1600/92, the requirements of the Azores and Madeira for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EEC) No 1696/92 [3], as last amended by Regulation (EEC) No 2596/93 [4], lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Azores and Madeira; whereas Commission Regulation (EEC) No 1983/92 of 16 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice products to the Azores and Madeira and establishing the forecast supply balance for these products [5], as last amended by Regulation (EC) No 1683/94 [6], lays down detailed rules which complement or derogate from the provisions of the aforementioned Regulation;

Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market the aid for supply to the Azores and Madeira should be set at the amounts given in the Annex;

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

Pursuant to Article 10 of Regulation (EEC) No 1600/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Azores and Madeira shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 173, 27. 6. 1992, p. 1.
[2] OJ L 320, 11. 12. 1996, p. 1.
[3] OJ L 179, 1. 7. 1992, p. 6.
[4] OJ L 238, 23. 9. 1993, p. 24.
[5] OJ L 198, 17. 7. 1992, p. 37.
[6] OJ L 178, 12. 7. 1994, p. 53.

ANNEX

to the Commission Regulation of 26 March 1999 setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira

(EUR/t)

Product (CN code)	Amount of aid	
	Destination	
	Azores	Madeira
Milled rice (1006 30)	123,00	123,00

COMMISSION REGULATION (EC) No 669/1999

of 26 March 1999

fixing the maximum export refund on wholly milled medium round grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2565/98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [1], as last amended by Regulation (EC) No 2072/98 [2], and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2565/98 [3];

Whereas Article 5 of Commission Regulation (EEC) No 584/75 [4], as last amended by Regulation (EC) No 299/95 [5], allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice 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

The maximum export refund on wholly milled medium round grain and long grain A rice to be exported to certain third countries of Europe pursuant to the invitation to tender issued in Regulation (EC) No 2565/98 is hereby fixed on the basis of the tenders submitted from 22 to 25 March 1999 at EUR 155,00 per tonne.

Article 2

This Regulation shall enter into force on 27 March 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 329, 30. 12. 1995, p. 18.
[2] OJ L 265, 30. 9. 1998, p. 4.
[3] OJ L 320, 28. 11. 1998, p. 46.
[4] OJ L 61, 7. 3. 1975, p. 25.
[5] OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 670/1999

of 26 March 1999

fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2566/98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice [1], as amended by Regulation (EC) No 2072/98 [2], and in particular Article 13 (3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2566/98 [3];

Whereas, Article 5 of Commission Regulation (EEC) No 584/75 [4], as last amended by Regulation (EC) No 299/95 [5], allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice 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

The maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2566/98 is hereby fixed on the basis of the tenders submitted from 22 to 25 March 1999 at EUR 320,00 per tonne.

Article 2

This Regulation shall enter into force on 27 March 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 329, 30. 12. 1995, p. 18.
[2] OJ L 265, 30. 9. 1998, p. 4.
[3] OJ L 320, 28. 11. 1998, p. 49.
[4] OJ L 61, 7. 3. 1975, p. 25.
[5] OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 671/1999

of 26 March 1999

fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2564/98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [1], as last amended by Regulation (EC) No 2072/98 [2], and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2564/98 [3];

Whereas Article 5 of Commission Regulation (EEC) No 584/75 [4], as last amended by Regulation (EC) No 299/95 [5], allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice 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

The maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2564/98 is hereby fixed on the basis of the tenders submitted from 22 to 25 March 1999 at EUR 125,00 per tonne.

Article 2

This Regulation shall enter into force on 27 March 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 329, 30. 12. 1995, p. 18.
[2] OJ L 265, 30. 9. 1998, p. 4.
[3] OJ L 320, 28. 11. 1998, p. 43.
[4] OJ L 61, 7. 3. 1975, p. 25.
[5] OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 672/1999

of 26 March 1999

fixing the maximum aid for concentrated butter for the 200th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products [1], as last amended by Regulation (EC) No 1587/96 [2], and in particular Article 7a(3) thereof,

Whereas, in accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community [3], as last amended by Regulation (EC) No 124/1999 [4], the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; whereas Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; whereas the end-use security must be fixed accordingly;

Whereas, in the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 200th special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

— maximum aid:	117 EUR/100 kg
— end-use security:	129 EUR/100 kg.

Article 2

This Regulation shall enter into force on 27 March 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 148, 28. 6. 1968, p. 13.
[2] OJ L 206, 16. 8. 1996, p. 21.
[3] OJ L 45, 21. 2. 1990, p. 8.
[4] OJ L 16, 21. 1. 1999, p. 19.

COMMISSION REGULATION (EC) No 673/1999

of 26 March 1999

fixing the maximum purchasing price for butter for the 236th invitation to tender carried out under the standing invitation to tender governed by Regulation (EEC) No 1589/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products [1], as last amended by Regulation (EC) No 1587/96 [2], and in particular the first subparagraph of Article 7a(1) first indent and Article 7a(3) thereof,

Whereas Article 5 of Commission Regulation (EEC) No 1589/87 of 5 June 1987 on the sale by tender of butter to intervention agencies [3], as last amended by Regulation (EC) No 124/1999 [4], provides that, in the light of the tenders received for each invitation to tender, a maximum buying-in price is to be fixed in relation to the intervention price applicable and that it may also be decided not to proceed with the invitation to tender;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 236th invitation to tender issued under Regulation (EEC) No 1589/87, for which tenders had to be submitted not later than 23 March 1999, the maximum buying-in price is fixed at EUR 295,38/100 kg.

Article 2

This Regulation shall enter into force on 27 March 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 148, 28. 6. 1968, p. 13.
[2] OJ L 206, 16. 8. 1996, p. 21.
[3] OJ L 146, 6. 6. 1987, p. 27.
[4] OJ L 16, 21. 1. 1999, p. 19.

COMMISSION REGULATION (EC) No 674/1999

of 26 March 1999

fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 28th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products [1], as last amended by Regulation (EC) No 1587/96 [2], and in particular Article 6(3) and (6) and Article 12(3) thereof,

Whereas the intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs [3], as last amended by Regulation (EC) No 494/1999 [4], to sell by invitation to tender certain quantities of butter that they hold and to grant aid for cream, butter and concentrated butter; whereas Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter; whereas it is further stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted; whereas the amount(s) of the processing securities must be fixed accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum aid and processing securities applying for the 28th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 March 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 148, 28. 6. 1968, p. 13.
[2] OJ L 206, 16. 8. 1996, p. 21.
[3] OJ L 350, 20. 12. 1997, p. 3.
[4] OJ L 59, 6. 3. 1999, p. 17.

ANNEX

to the Commission Regulation of 26 March 1999 fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 28th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Processing security		Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Maximum aid	Butter ≥ 82 %		95	91	95	91
	Butter < 82 %		—	88	—	88
	Concentrated butter		117	113	117	113
	Cream		—	—	40	38
Processing security	Butter		105	—	105	—
	Concentrated butter		129	—	129	—
	Cream		—	—	44	—

COMMISSION REGULATION (EC) No 675/1999

of 26 March 1999

amending Regulation (EC) No 1394/98 adopting the balance and fixing the aid for the supply of breeding rabbits to the Canary Islands under the arrangements provided for in Article 4 of Council Regulation (EEC) No 1601/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products [1], as last amended by Commission Regulation (EC) No 2348/96 [2], and in particular Article 4 (4),

Whereas Commission Regulation (EC) No 1394/98 [3], as amended by Regulation (EC) No 457/1999 [4], fixed the quantities for the supply to the archipelago, of breeding rabbits originating in the rest of the Community;

Whereas that balance can be revised during the course of the year in line with the Canary Islands' needs; whereas information supplied by the competent authorities justifies an increase in the quantity of breeding rabbits for the 1998/1999 marketing year; whereas, therefore, the forecast balance for the supply to the Canary Islands of that product should be adjusted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1394/98 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 173, 27. 6. 1992, p. 13.
[2] OJ L 320, 11. 12. 1996, p. 1.
[3] OJ L 187, 1. 7. 1998, p. 37.
[4] OJ L 55, 3. 3. 1999, p. 6.

ANNEX

Supply to the Canary Islands of breeding rabbits originating in the Community for the period 1 July 1998 to 30 June 1999

CN code	Description	Number of animals to be supplied	Aid (EUR/head)
ex 0106 00 10	Breeding rabbits:		
	— pure-bred and grand-parents	2 750	30
	— parents	6 000	24

COMMISSION REGULATION (EC) No 676/1999

of 26 March 1999

amending for the fifth time Regulation (EC) No 785/95 laying down detailed rules for the application of Council Regulation (EC) No 603/95 on the common organisation of the market in dried fodder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 603/95 of 21 February 1995 on the common organisation of the market in dried fodder [1], as last amended by Regulation (EC) No 1347/95 [2], and in particular Article 18 thereof,

Whereas the first indent of Article 2(2)(a) of Commission Regulation (EC) No 785/95 of 6 April 1995 laying down detailed rules for the application of Council Regulation (EC) No 603/95 on the common organisation of the market in dried fodder [3], as last amended by Regulation (EC) No 1794/97 [4], stipulates that the driers to be used for the dehydration of fodder must reach an air temperature at the entry point not less than 93 °C;

Whereas a large number of scientific studies show that high-temperature fodder drying safeguards the nutritional value of a high-quality product, in particular its beta-carotene content;

Whereas the situation on the market in dried fodder, characterised by price reductions and production increases, is such that it is necessary to guarantee supplies of a finished product of high nutritional quality obtained under comparable competitive conditions and to justify the amount of aid granted as a contribution to processing costs; whereas that objective can be achieved by extending the practice of high-temperature drying;

Whereas fodder processing is carried out at high temperature in most processing plants; whereas provision should therefore be made for those plants still operating at an air temperature at the entry point of 93 °C to be modified within a reasonable time limit so as to conform to that practice;

Whereas the technical modifications needed for that purpose make confirmation of approval of the plant by the competent authority indispensable;

Whereas a small number of horizontal belt driers producing an air temperature at the entry point of a least 110 °C are currently in use in some Member States; whereas these are small, low-capacity installations whose operating temperature cannot be increased without considerable technical modifications; whereas they may, therefore, be granted a derogation from the requirement for a minimum drying temperature of 350 °C, on the understanding that no new installations of this type will be approved after the beginning of the 1999/2000 marketing year;

Whereas Article 15(b) of Regulation (EC) No 785/95 provides that Member States must inform the Commission of the areas and quantities covered by delivery contracts and declarations; whereas experience has shown that that notification can be the source of contradictory and unsatisfactory information; whereas it should therefore be abolished;

Whereas the Management Committee for Dried Fodder has not delivered an opinion within the timelimit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 785/95 is hereby amended as follows:

1. in Article 2(2)(a), the first indent is replaced by the following:

   '— air temperature at the entry point not less than 350 °C; however, horizontal belt driers producing an air temperature at the entry point of not less than 110 °C approved before the beginning of the 1999/2000 marketing year need not comply with this requirement,';

2. in Article 15, point (b) is deleted.

[1] OJ L 63, 21. 3. 1995, p. 1.
[2] OJ L 131, 15. 6. 1995, p. 1.
[3] OJ L 79, 7. 4. 1995, p. 5.
[4] OJ L 255, 18. 9. 1997, p. 12.

Article 2

1. The technical modifications to driers made necessary by Article 1(1) shall be carried out without prejudice to the obligation to notify the competent authority within the time limit laid down in the last subparagraph of Article 4(1)(a) of Regulation (EC) No 785/95 in order to obtain confirmation of approval.

2. The Member States shall send the Commission, by 15 May 1999, a list of horizontal belt driers granted approval before the beginning of the 1999/2000 marketing year and consequently eligible for the derogation provided for in Article 1(1).

Article 3

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

It shall apply from the date of its entry into force, with the exception of Article 1(1), which shall apply from 1 April 2000.

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

Done at Brussels, 26 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 677/1999

of 26 March 1999

amending Regulation (EC) No 2789/98 derogating temporarily from Regulation (EC) No 1445/95 on rules of application for import and export licences in the beef and veal sector

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], and in particular Articles 9, 13 and 25 thereof,

Whereas Commission Regulation (EC) No 2789/98 [3] grants a temporary derogation from Commission Regulation (EC) No 1445/95 [4], as last amended by Regulation (EC) No 2648/98 [5], on rules of application for import and export licences in the beef and veal sector;

Whereas the reasons for extending the term of validity of export licences with advance fixing of the refund and the derogation from Article 10(5) of Regulation (EC) No 1445/95 concerning products covered by CN code 0202 still hold; whereas the period of applicability of Regulation (EC) No 2798/98 should therefore be extended;

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

HAS ADOPTED THIS REGULATION:

Article 1

In the second paragraph of Article 2 of Regulation (EC) No 2789/98, '31 March 1999' is replaced by '30 June 1999'.

Article 2

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

It shall apply from 1 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 148, 28. 6. 1968, p. 24.
[2] OJ L 210, 28. 7. 1998, p. 17.
[3] OJ L 347, 23. 12. 1998, p. 33.
[4] OJ L 143, 27. 6. 1995, p. 35.
[5] OJ L 335, 10. 12. 1998, p. 39.

COMMISSION REGULATION (EC) No 678/1999

of 26 March 1999

laying down detailed rules governing the grant of private storage aid for Pecorino Romano cheese

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk products [1], as last amended by Regulation (EC) No 1587/96 [2], and in particular Articles 9(3) and 28 thereof,

Whereas Council Regulation (EEC) No 508/71 of 8 March 1971 laying down general rules on private storage aid for long-keeping cheeses [3] permits the granting of private storage aid for sheep's milk cheeses requiring at least six months for maturing where a serious market imbalance could be eliminated or reduced by seasonal storage;

Whereas the seasonal nature of Pecorino Romano cheese production results in the building up of stocks which are difficult to sell and which risk causing a lowering of prices; whereas seasonal storage should therefore be introduced for the quantities to improve the situation and allow producers time to find outlets for their cheese;

Whereas the detailed rules of this measure should determine the maximum quantity to benefit from it as well as the duration of the contracts in relation to the real requirements of the market and the keeping qualities of the cheeses in question; whereas it is necessary to specify the terms of the storage contract so as to enable the identification of the cheese and to maintain checks on the stock in respect of which aid is granted; whereas the aid should be fixed taking into account storage costs and the foreseeable trend of market prices;

Whereas Article 1(1) of Commission Regulation (EEC) No 1756/93 of 30 June 1993 fixing the operative events for the agricultural conversion rate applicable to milk and milk products [4], as last amended by Regulation (EC) No 569/1999 [5], fixes the conversion rate to be applied in the framework of private storage aid schemes in the milk products sector;

Whereas experience shows that provisions on checks should be laid down, particularly as regards the documents to be submitted and checks to be made on the spot; whereas therefore, it should be provided that Member States require the costs of checks be fully or partly borne by the contractor;

Whereas it is appropriate to guarantee the continuation of the storage operations in question;

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

HAS ADOPTED THIS REGULATION:

Article 1

Aid shall be granted in respect of the private storage of 15 000 tonnes of Pecorino Romano cheese manufactured in the Community and satisfying the requirements of Articles 2 and 3.

Article 2

1. The intervention agency shall conclude storage contracts only when the following conditions are met:

(a) the quantity of cheese to which the contract relates is not less than 2 tonnes;

(b) the cheese was manufactured at least 90 days before the date specified in the contract as being the date of commencement of storage, and after 1 October 1998;

(c) the cheese has undergone tests which show that it meets the condition laid down in (b) and that it is of first quality;

(d) the storer undertakes:

— not, during the term of the contract, to alter the composition of the batch which is the subject of the contract without authorisation from the intervention agency. If the condition concerning the minimum quantity fixed for each batch continues to be met, the intervention agency may authorise an alteration which is limited to the removal or replacement of cheeses which are found to have deteriorated to such an extent that they can no longer be stored.

[1] OJ L 148, 28. 6. 1968, p. 13.
[2] OJ L 206, 16. 8. 1996, p. 21.
[3] OJ L 58, 11. 3. 1971, p. 1.
[4] OJ L 161, 2. 7. 1993, p. 48.
[5] OJ L 70, 17. 3. 1999, p. 12.

In the event of release from store of certain quantities:

(i) if the aforesaid quantities are replaced with the authorisation of the intervention agency, the contract is deemed not to have undergone any alteration;

(ii) if the aforesaid quantities are not replaced, the contract is deemed to have been concluded *ab initio* for the quantity permanently retained.

Any supervisory costs arising from an alteration shall be met by the storer,

— to keep stock accounts and to inform the intervention agency each week of the quantity of cheese put into storage during the previous week and of any planned withdrawals.

2. The storage contract shall be concluded:

(a) in writing, stating the date when storage covered by the contract begins; this may not be earlier than the day following that on which the operations connected with putting the batch of cheese covered by the contract into storage were completed;

(b) after completion of the operations connected with putting the batch of cheese covered by the contract into storage and at the latest 40 days after the date on which the storage covered by the contract begins.

Article 3

1. Aid shall be granted only for cheese put into storage during the period 15 April to 31 December 1999.

2. No aid shall be granted in respect of storage under contract for less than 60 days.

3. The aid payable may not exceed an amount corresponding to 180 days storage under contract terminating before 31 March 2000. By way of derogation from the first indent of Article 2(1)(d), when the period of 60 days specified in paragraph 2 has elapsed, the storer may remove all or part of the batch under contract. The minimum quantity that may be removed shall be 500 kilograms. The Member States may, however, increase this quantity to 2 tonnes.

The date of the start of operations to remove cheese covered by the contract shall not be included in the period of storage under contract.

Article 4

1. The aid shall be as follows:

(a) EUR 100 per tonne for the fixed costs;

(b) EUR 0,35 per tonne per day of storage under contract for the warehousing costs;

(c) EUR 0,52 per tonne per day of storage under contract for the financial costs.

2. Aid shall be paid not later than 90 days from the last day of storage under contract.

Article 5

1. The Member States shall ensure that the conditions granting entitlement to payment of the aid are fulfilled.

2. The contractor shall make available to the national authorities responsible for verifying execution of the measure any documentation permitting in particular the following particulars of products placed in private storage to be verified:

(a) ownership at the time of entry into storage;

(b) the origin and date of manufacture of the cheeses;

(c) the date of entry into storage;

(d) presence in the store;

(e) the date of removal from storage.

3. The contractor or, where applicable, the operator of the store shall keep stock accounts available at the store, covering:

(a) identification, by contract number, of the products placed in private storage;

(b) the dates of entry into and removal from storage;

(c) the number of cheeses and their weight shown for each lot;

(d) the location of the products in the store.

4. Products stored must be easily identifiable and must be identified individually by contract. A special mark shall be affixed to cheese covered by contract.

5. Without prejudice to Article 2(1)(d), on entry into storage, the competent bodies shall conduct checks in particular to ensure that products stored are eligible, for the aid and to prevent any possibility of substitution of products during storage under contract.

6. The national authorities responsible for controls shall undertake:

(a) an unannounced check to see that the products are present in the store. The sample concerned must be representative and must correspond to at least 10 % of the overall quantity under contract for a private storage aid measure. Such checks must include, in addition to an examination of the accounts referred to in paragraph 3, a physical check of the weight and type of product and their identification. Such physical checks must relate to at least 5 % of the quantity subject to the unannounced check;

(b) a check to see that the products are present at the end of the storage period under contract.

7. Checks conducted pursuant to paragraphs 5 and 6 must be the subject of a report stating:

— the date of the check,

— its duration,

— the operations conducted.

The report on checks must be signed by the official responsible and countersigned by the contractor or, where applicable, by the store operator.

8. In the case of irregularities affecting at least 5 % of the quantities of products subject to the checks the latter shall be extended to a larger sample to be determined by the competent body.

The Member States shall notify such cases to the Commission within four weeks.

9. The Member States may provide that the costs of checks will be borne partly or fully by the contractor.

Article 6

Member States shall communicate to the Commission before 15 December 1999.

(a) the quantity of cheese for which storage contracts have been concluded;

(b) any quantities in respect of which the authorisation referred to in Article 2(1)(d) has been given.

Article 7

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 15 April 1999.

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

Done at Brussels, 26 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 679/1999

of 26 March 1999

amending Regulation (EC) No 2659/94 on detailed rules for the granting of private aid for Grana Padano, Parmigiano-Reggiano and Provolone cheeses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk products [1], as last amended by Regulation (EC) No 1587/96 [2], and in particular Articles 9(3) and 28 thereof,

Whereas Article 6(1) of Commission Regulation (EC) No 2659/94 [3], as last amended by Regulation (EC) No 671/97 [4], lays down the amounts of private storage aid for Grana Padano, Parmigiano-Reggiano and Provolone cheeses; whereas these amounts must be amended to take account of the trend in storage costs;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 6(1) of Regulation (EC) No 2659/94 is replaced by the following:

'1. The amount of private storage aid for cheese shall be as follows:

(a) EUR 100 per tonne for the fixed costs;

(b) EUR 0,35 per tonne per day of storage under contract for the warehousing costs;

(c) an amount for the financial costs in euro per tonne per day of storage under contract, as follows:

— 0,64 in the case of Grana Padano,

— 0,89 in the case of Parmigiano-Reggiano,

— 0,52 in the case of Provolone.'

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 to storage contracts concluded from the date of its entry into force.

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

Done at Brussels, 26 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 148, 28. 6. 1968, p. 13.
[2] OJ L 206, 16. 8. 1996, p. 21.
[3] OJ L 284, 1. 11. 1994, p. 26.
[4] OJ L 101, 18. 4. 1997, p. 14.

COMMISSION REGULATION (EC) No 680/1999

of 26 March 1999

deciding not to accept tenders submitted in response to the 220th partial invitation to tender as a general intervention measure pursuant to Regulation (EEC) No 1627/89

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organisation of the market in beef and veal [1], as last amended by Regulation (EC) No 1633/98 [2], and in particular Article 6(7) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 2456/93 of 1 September 1993 laying down detailed rules for the application of Council Regulation (EEC) No 805/68 as regards the general and special intervention measures for beef [3], as last amended by Regulation (EC) No 2812/98 [4], an invitation to tender was opened pursuant to Article 1(1) of Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender [5], as last amended by Regulation (EC) No 136/1999 [6];

Whereas, in accordance with Article 13(1) of Regulation (EEC) No 2456/93, a maximum buying-in price is to be fixed for quality R3, where appropriate, under each partial invitation to tender in the light of tenders received; whereas, in accordance with Article 13(2) of that Regulation, a decision may be taken not to proceed with the tendering procedure;

Whereas, once tenders submitted in respect of the 220th partial invitation to tender have been considered and taking account, pursuant to Article 6(1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market and the seasonal trend in slaughterings and prices, it has been decided not to proceed with the tendering procedure;

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

HAS ADOPTED THIS REGULATION:

Article 1

No award shall be made against the 220th partial invitation to tender opened pursuant to Regulation (EEC) No 1627/89.

Article 2

This Regulation shall enter into force on 29 March 1999.

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

Done at Brussels, 26 March 1999.

For the Commission
Franz FISCHLER
Member of the Commission

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[1] OJ L 148, 28. 6. 1968, p. 24.
[2] OJ L 210, 28. 7. 1998, p. 17.
[3] OJ L 225, 4. 9. 1993, p. 4.
[4] OJ L 349, 24. 12. 1998, p. 47.
[5] OJ L 159, 10. 6. 1989, p. 36.
[6] OJ L 17, 22. 1. 1999, p. 26.

COMMISSION DIRECTIVE 1999/19/EC

of 18 March 1999

amending Council Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over [1], and in particular Article 8 thereof,

(1) Whereas the Commission has examined the provisions on Chapter IX in Annex II to the Directive with regard to their application to new fishing vessels with a length between 24 and 45 metres, thereby taking due account to the limited size of the vessels and the number of persons on board;

(2) Whereas that examination has demonstrated that with regard to radio communications an equivalent level of safety can be guaranteed for such vessels, when operating exclusively in sea area A1, by requiring the carriage of an additional VHF radio using Digital Selective Calling (DSC) in lieu of an Emergency Position Indicating Radio Beacon (EPIRB);

(3) Whereas, in the light of that examination, Annex II to the Directive should be amended;

(4) Whereas the amendment is in compliance with the guidelines for the participation of non-SOLAS ships in the Global Maritime Distress and Safety System (GMDSS) as established by the Maritime Safety Committee of the International Maritime Organisation by its Circular 803 of 9 June 1997;

(5) Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee established by Article 12 of Council Directive 93/75/EEC [2], as last amended by Commission Directive 98/74/EC [3],

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following is added to Annex II to Directive 97/70/EC, under the heading 'CHAPTER IX: RADIOCOMMUNICATIONS':

'Regulation 7: **Radio equipment — sea area A1**

Insert a new paragraph (4) to read as follows:

"Notwithstanding the provisions of Regulation 4(a), the Administration may exempt new fishing vessels of 24 metres in length and over but less than 45 metres and engaged exclusively on voyages within sea area A1 from the requirements of Regulations 6(1)(f) and 7(3) provided that they are equipped with a VHF radio installation as prescribed by Regulation 6(1)(a) and, in addition, with a VHF radio installation using DSC for the transmission of ship-to-shore distress alerts as prescribed by Regulation 7(1)(a)."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 May 2000 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

[1] OJ L 34, 9. 2. 1998, p. 1.
[2] OJ L 247, 5. 10. 1993, p. 19.
[3] OJ L 276, 13. 10. 1998, p. 7.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 18 March 1999.

For the Commission
Neil KINNOCK
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 February 1999

concerning the conclusion of the Agreement of scientific and technical co-operation between the European Community and the State of Israel

(1999/224/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130m, in conjunction with Article 228(2), first sentence, and the first subparagraph of Article 228(3) thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas the European Community and Israel are pursuing specific research programmes in areas of common interest;

Whereas the State of Israel, on the one hand, and the European Community and its Member States, on the other hand, have signed a Euro-mediterranean association agreement providing for the negotiation of a cooperation agreement in the field of science and technology;

Whereas the European Community and the State of Israel have concluded an Agreement on scientific and technical cooperation for the duration of the fourth framework programme for RTD;

Whereas by its Decision of 18 May 1998, the Council authorised the Commission to negotiate the renewal of the Agreement on scientific and technical cooperation between the European Community and the State of Israel for the duration of the fifth framework programme;

Whereas the Agreement on scientific and technical cooperation between the Community and the State of Israel should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement on scientific and technical cooperation between the European Community and the State of Israel is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Community.

Article 3

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 13 of the Agreement.

Done at Luxembourg, 22 February 1999.

For the Council

The President

H.-F. von PLOETZ

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[1] OJ C 283, 12. 9. 1998, p. 5.

[2] Opinion delivered on 11 February 1999 (not yet published in the Official Journal).

AGREEMENT

on scientific and technical cooperation between the European Community and the State of Israel

THE COUNCIL OF THE EUROPEAN UNION, acting on behalf of the European Community (hereinafter 'the Community'),

of the one part, and

THE GOVERNMENT OF THE STATE OF ISRAEL, acting on behalf of the State of Israel (hereinafter 'Israel'),

of the other part,

hereinafter referred to as the 'Parties',

CONSIDERING the importance of scientific and technical research for Israel and the Community and their mutual interest in cooperating in this matter in order to make better use of resources and avoid unnecessary duplication;

WHEREAS Israel and the Community are currently implementing research programmes in fields of common interest;

WHEREAS Israel and the Community have an interest in cooperating on these programmes to their mutual benefit;

CONSIDERING the interest of both Parties in encouraging the mutual access of their research entities to research and development activities in Israel on the one hand, and to the Community's framework programmes for research and technological development on the other;

WHEREAS the State of Israel, on the one hand, and the European Community and its Member States, on the other hand, have signed an agreement, according to which the Parties undertake to intensify scientific and technological cooperation and agree to set out the arrangements for the implementation of this objective in separate agreements to be concluded for this purpose;

WHEREAS, the Community and Israel have concluded an Agreement on Scientific and Technical Cooperation for the duration of the fourth framework programme, which provides for its renewal under mutually agreed conditions;

WHEREAS, by Decision No 182/1999/EC, the European Parliament and the Council of the European Union adopted a framework programme of European Community activities in the field of research and technological development and demonstration (1998 to 2002), hereinafter called the 'fifth framework programme';

WHEREAS, without prejudice to the relevant provisions of the Treaty establishing the European Community, this Agreement and any activities entered into under it will in no way affect the powers vested in the Member States to undertake bilateral activities with Israel in the fields of science, technology, research and development, and to conclude, where appropriate, agreements to that end,

HAVE AGREED AS FOLLOWS:

Article 1

1. Research entities established in Israel may participate in all the specific programmes of the fifth framework programme.

2. Israeli scientists or research entities may participate in the activities of the Joint Research Centre.

3. Research entities established in the Community may participate in research programmes and projects in Israel in themes equivalent to those of the programmes of the fifth framework programme.

4. 'Research entities' as referred to in this Agreement, shall include, *inter alia,* universities, research organisations, industrial companies, including small and medium-sized enterprises, or individuals.

Article 2

Cooperation may take the following forms:

— participation of research entities established in Israel in the implementation of all specific programmes adopted under the fifth framework programme, in accordance with the terms and conditions laid down in the 'rules for the participation of undertakings, research centres and universities in research, technological development and demonstration activities of the European Community',

— financial contribution by Israel to the budgets of the programmes adopted for the implementation of the fifth framework programme on the basis of the ratio of Israel's GDP to that of the Member States of the European Union together with that of Israel,

— participation of research entities established in the Community in Israeli research projects and their results, in accordance with the terms and conditions applying in Israel in every case; research entities established in the Community participating in Israeli research projects within research and development programmes shall cover their own costs, including their relative share of the project's general management and administrative costs,

— regular discussions on the orientations and priorities of research policies and planning in Israel and the Community,

— discussions on cooporation prospects and development,

— timely provision of information concerning the implementation of RTD programmes in Israel and the Community, and concerning the results of work undertaken within the framework of cooperation.

Article 3

Cooperation may be achieved by the following means:

— participation in Community programmes or subprogrammes or joint research activities, and notably in shared-cost research contracts, concerted actions, coordination activities, including thematic networks, education and training activities, studies and assessments,

— joint meetings,

— visits and exchanges of research workers, engineers and technicians,

— regular, sustained contacts between programme or project managers,

— participation of experts in seminars, symposia and workshops.

Article 4

Cooperation may be adapted and developed at any time by mutual agreement between the Parties.

Article 5

Research entities established in Israel, participating in Community research programmes, shall, as regards ownership, exploitation and dissemination of information and intellectual property arising from such participation, have the same rights and obligations as those of research entities established in the Community, subject to Annex A.

Research entities established in the Community, taking part in Israeli research projects within research and development programmes, shall, as regards ownership, exploitation and dissemination of information and intellectual property arising from such participation, have the same rights and obligations as those of Israeli research entities in the project in question, subject to Annex C.

Article 6

A joint committee shall be established, to be called the 'EC-Israel Research Committee', whose functions shall include:

— reviewing and evaluating the implementation of this Agreement,

— examining any measure of a nature to improve and develop cooperation,

— regularly discussing the future orientations and priorities of research policies and research planning in Israel and the Community, and the prospects for future cooperation,

— ensuring the proper implementation of this Agreement.

The committee, which shall be composed of representatives of the Commission and of Israel, shall adopt its rules of procedure.

It shall meet, at the request of the Parties, at least once a year. Extraordinary meetings shall be held at the request of one or the other of the Parties.

Article 7

1. Israel's financial contribution deriving from participation in the implementation of the specific programmes shall be established in proportion to, and in addition to, the amount available each year in the general budget of the European Communities for commitment appropriations to meet the Commission's financial obligations stemming from work to be carried out in the forms necessary for the implementation, management and operation of these programmes.

2. The proportionality factor governing Israel's contribution shall be obtained by establishing the ratio between Israel's gross domestic product, at market prices, and the sum of gross domestic products, at market prices, of the Member States of the European Union together with that of Israel. This ratio shall be calculated on the basis of the latest statistical data from the International Bank for Reconstruction and Development, available at the time of publication of the preliminary draft budget of the European Communities.

3. The rules for financial participation by the Community are set out in Annex IV of Decision No 182/1999/EC of the European Parliament and of the Council, of 22 December 1998.

4. The rules governing Israel's financial contribution are set out in Annex B.

Article 8

1. Israeli representatives will participate in the programme management committees of the fifth framework programme. These committees shall meet without the presence of Israeli representatives at the time of voting and otherwise only in special circumstances. Israel will be informed.

2. Participation as referred to in paragraph 1 of this Article shall take the same form, including procedures for reciept of information and documentation, as that applicable to participants from Member States.

Article 9

1. Without prejudice to the provisions of Article 5, research entities established in Israel participating in the fifth framework programme shall have the same contractual rights and obligations as entities established in the Community, taking into account the mutual interests of the Community and Israel.

2. For Israeli research entities, the terms and conditions applicable for the submission and evaluation of proposals and those for the granting and conclusion of contracts under Community programmes shall be the same as those applicable for contracts concluded under the same programmes with research entities in the Community, taking into account the mutual interests of the Community and Israel.

3. Israeli experts shall be taken into consideration, alongside Community experts, in the selection of evaluators or referees. Israeli experts may serve as members of the advisory groups and other consultative bodies which assist the Commission in the implementation of the fifth framework programme.

4. An Israeli research entity may be coordinator of a project under the same terms and conditions applicable to entities established in the Community. In conformity with the Community's Financial Regulations, contractual arrangements concluded with, or by, Israeli research entities shall provide for controls and audits to be carried out by, or under the authority of, the Commission and the Court of Auditors. As far as financial audits are concerned, they may be carried out with the purpose of controlling such entities' income and expenditures, related to the contractual obligations towards the Community. In a spirit of cooperation and mutual interest, the relevant Israeli authorities shall provide any reasonable and feasible assistance as may be necessary or helpful under the circumstances to perform such controls and audits.

5. Without prejudice to the provisions of Article 5, research entities established in the Community participating in Israeli research projects within research and development programmes shall have the same contractual rights and obligations as Israeli entities, subject to Annex C, taking into account the mutual interests of the Community and Israel.

6. For research entities from the Community, the terms and conditions applicable for the submission and evaluation of proposals and those for the granting and conclusion of contracts for projects within Israeli research and development programmes shall be equivalent to those applicable for contracts concluded under the same research and development programmes with research entities in Israel, subject to Annex C, taking into account the mutual interests of the Community and Israel.

Article 10

Each Party undertakes, in accordance with its own rules and regulations, to facilitate the movement and residence of research workers participating, in Israel and in the Community, in the activities covered by this Agreement.

Article 11

Annexes A, B and C form an integral part of this Agreement.

Article 12

1. This Agreement is hereby concluded for the duration of the fifth framework programme.

2. Subject to paragraph 1, either of the Contracting Parties may terminate this Agreement at any time on 12 months' notice. Projects and activities in progress at the time of termination and/or expiry of this Agreement shall continue until their completion under the conditions laid down in this Agreement.

3. Should the Community decide to revise one or more Community programmes, this Agreement may be terminated under mutally agreed conditions. Israel shall be notified of the exact content of the revised programmes within one week of their adoption by the Community. the Partie shall notifiy one another, within one month after the adoption of the Community decision, of any intention to terminate this Agreement.

4. Where the Community adopts a new multiannual framework programme for research and development, this Agreement may be renegotiated or renewed under mutually agreed conditions.

Article 13

This Agreement shall be approved by the Parties in accordance with their existing procedures.

It shall enter into force on the date on which the Parties shall notify each other of the completion of the procedures necessary for this purpose.

Article 14

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Communities is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the State of Israel.

Article 15

This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Hebrew languages, each of these texts being equally authentic.

Hecho en Bruselas, el tercer día del mes de marzo de mil novecientos noventa y nueve, que corresponde al decimoquinto día de adar de cinco mil setecientos cincuenta y nueve.

Udfærdiget i Bruxelles den tredje marts nitten hundrede nioghalvfems, hvilket svarer til den femtende adar fem tusind syv hundrede nioghalvtreds.

Geschehen zu Brüssel am dritten März neunzehnhundertneunundneunzig; dieser Tag entspricht dem fünfzehnten Adar fünftausendsiebenhundertneunundfünfzig.

Έγινε στις Βρυξέλλες, την τρίτη ημέρα του μηνός Μαρτίου του έτους χίλια εννιακόσια ενενήντα εννέα που αντιστοιχεί στη δέκατη πέμπτη ημέρα του μηνός Αδάρ του έτους πέντε χιλιάδες επτακόσια πενήντα εννέα.

Done at Brussels on the third day of March one thousand nine hundred and ninety-nine, which corresponds to the fifteenth day of Adar, five thousand seven hundred and fifty nine.

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בשם ממשלת מדינת ישראל

ANNEX A

PRINCIPLES ON THE ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS

I. Ownership, allocation and exercise of rights

1. The contractual arrangements agreed on by the participants under the rules set out to implement Article 130j of the Treaty establishing the European Community, shall address, in particular the ownership and use, including publication, of information and intellectual property (IP) to be created in the course of joint research, taking into account the aims of the joint research, the relative contributions of the participants, the advantages and disadvantages of licensing by territory or for fields of use, requirements imposed by applicable laws, dispute settlement procedures, and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers, if any, in respect of IP shall also be addressed in the said arrangements.

2. In the implementation of this Agreement, as regards participation in the fifth framework programme, information and IP shall be exploited in conformity with the mutual interests of the Community and Israel, and the contractual arrangements shall provide accordingly.

3. Information or IP created in the course of joint research and not addressed in the contractual arrangements shall be allocated, according to the principles set out in the contractual arrangements, including dispute settlement. Where no binding decision is reached by the agreed dispute resolution technique chosen by participants, such information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results. Failing agreement on exploitation, each participant to whom this provision applies, shall have the right to use such information or IP for his own commercial exploitation with no geographical limitation.

4. Each Party shall ensure that the other Party and its participants may have the rights to IP allocated in accordance with the principles set out in Section I of this Annex.

5. While maintaining the conditions of competition in areas affected by the Agreement, each Party shall endeavour to ensure that rights acquired pursuant to this Agreement and arrangements made under it are exercised in such a way as to encourage in particular:

   (i) the dissemination and use of information created, disclosed, or otherwise made available, under the Agreement, and

   (ii) the adoption and implementation of international standards.

II. International conventions

IP belonging to the Parties or to their participants shall be accorded treatment consistent with the relevant international conventions, including the TRIPS Agreement of the GATT-WTO, the Berne Convention (Paris Act 1971), and the Paris Convention (Stockholm Act 1967).

ANNEX B

FINANCIAL RULES GOVERNING THE FINANCIAL CONTRIBUTION OF ISRAEL REFERRED TO IN ARTICLE 7 OF THIS AGREEMENT

1. Determination of the financial participation

1.1. The Commission of the European Communities shall communicate to Israel, and shall inform the EC-Israel Research Committee, together with relevant background material, as soon as possible, and at the latest on 1 September, of each financial year:

(a) the amounts in commitment appropriations, in the statement of expenditure of the preliminary draft budget of the European Communities corresponding to the fifth framework programme;

(b) the estimated amount of the contributions derived from the preliminary draft budget, corresponding to the participation of Israel in the fifth framework programme.

None the less, in order to facilitate internal budgetary procedures, the Commission services shall provide corresponding indicative figures at the latest on 30 May of each year.

1.2. As soon as the general budget has been finally adopted the Commission shall communicate to Israel the above amounts in the statement of expenditure corresponding to the participation of Israel.

2. Payment procedures

2.1. The Commission shall issue, at the latest on 1 January and 15 June of each financial year, a call for funds to Israel corresponding to its contribution under this Agreement. These calls for funds shall provide, respectively, for the payment:

— of six twelfths of Israel's contribution not later than 20 January,

— and six twelfths of its contribution not later than 15 July.

However, the six twelfths, to be paid not later than 20 January are calculated on the basis of the amount set out in the statement of revenue of the preliminary draft budget: the regularisation of the amount thus paid shall occur with the payment of the six twelfths not later than 15 July.

2.2. For the first year of implementation of this Agreement, the Commission shall issue a first call for funds within 30 days of its entry into force. Should this call be issued after 15 June, it shall provide for the payment of 12 twelfths of Israel's contribution within 30 days, calculated on the basis of the amount set out in the statement of the revenue of the budget.

2.3. The contributions of Israel shall be expressed and paid in euro.

2.4. Israel shall pay its contribution under this Agreement according to the schedule in paragraphs 2.1 and 2.2. Any delay in payment shall give rise to the payment of interest at a rate equal to the one-month interbank offered rate (IBOR) in euro as quoted by the International Swap Dealers' Association on the ISDA page of Reuters. This rate shall be increased by 1,5 % for each month of delay. The increased rate shall be applied to the entire period of delay. However, the interest shall be due only if the contribution is paid more than 30 days after the scheduled payment dates mentioned in paragraphs 2.1 and 2.2.

2.5. Travel costs incurred by Israeli representatives and experts for the purposes of taking part in the work of the committees referred to in Articles 8 and 9 of this Agreement and those involved in the implementation of the fifth framework programme shall be reimbursed by the Commission on the same basis as and in accordance with the procedures currently in force for the representatives and experts of the Member States of the European Union.

3. Conditions for the implementation

3.1. The financial contribution of Israel to the fifth framework programme in accordance with Article 7 of the Agreement shall normally remain unchanged for the financial year in question.

3.2. The Commission, at the time of the closure of the accounts relating to each financial year (n), within the framework of the establishment of the revenue and expenditure account, shall proceed to the regularisation of the accounts with respect to the participation of Israel, taking into consideration modifications which have taken place, either by transfer, cancellations, carry-overs, decommitments, or by supplementary and amending budgets during the financial year. This regularisation shall occur at the time of the second payment for the year n + 1. Further regularisations shall occur every year until July 2006.

Payments by Israel shall be credited to the Community programmes as budget receipts allocated to the appropriate budget heading in the statement of revenue of the general budget of the European Communities.

The Financial Regulation applicable to the general budget of the European Communities shall apply to the management of the appropriations.

4. **Information**

At the latest on 31 May of each financial year (n + 1), the statement of appropriations for the fifth framework programme related to the previous financial year (n), shall be prepared and transmitted to Israel for information, according to the format of the Commission's revenue and expenditure account.

ANNEX C

1. The participation of research entities established in the Community in projects of Israeli research and development programmes shall require the joint participation of at least one Israeli research entity. Proposals for such participation shall be submitted jointly with the Israeli research entity/ies.

2. The rights and obligations of research entities established in the Community participating in Israeli research projects within research and development programmes, and the terms and conditions applicable for the submission and evaluation of proposals and for the granting and conclusion of contracts in such projects, shall be subject to Israeli laws, regulations and government directives governing the operation of research and development programmes, as well as national security constraints where applicable, as applicable to Israeli participants and assuring equitable treatment, taking into account the nature of the cooperation between Israel and the Community in this field.

3. Depending on the nature of the project, proposals may be submitted to:

   (i) the Office of the Chief Scientist in the Ministry of Industry and Trade for joint industrial research and development projects with Israeli companies. There are no predefined fields in this research and development programme. Joint project proposals may be submitted in any field of industrial research and development. In addition, within the Magnet programme, proposals may be submitted by Israeli companies for cooperation with research entities established in the Community. Such cooperation will require the agreement of the relevant consortium and the Magnet management;

   (ii) the Ministry of Science, for strategic research in the fields of electrooptics, microelectronics, biotechnology, information technology, advanced materials, environment and water;

   (iii) the Office of the Chief Scientist in the Ministry of Agriculture — the Fund for the Encouragement of Agricultural Research;

   (iv) the Office of the Chief Scientist in the Ministry of National Infrastructures in the fields of energy infrastructure development and earth sciences;

   (v) the Office of the Chief Scientist in the Ministry of Health in the field of medical research.

   Israel shall regularly inform the Community and Israeli research entities of current Israeli programmes and participation opportunities for research entities established in the Community.

4. Any contractual arrangements between research entities established in the Community and Israeli entities, and/or between research entities established in the Community and Israeli Government bodies shall take account of the provisions of this Annex.

Joint declaration

On the occasion of the signing of the Agreement on scientific and technical cooperation, the European Community and the State of Israel hereby confirm that the reference in Annex A, point I, 1 to 'the rules set out to implement Article 130j of the Treaty establishing the European Community', makes the possible access by Israeli or Community entities to results emanating from projects pursuant to other international agreements to which either the Community or Israel are a party, contingent on agreement of the other party or parties to such other international agreements.

Hecho en Bruselas, el tercer día del mes de marzo de mil novecientos noventa y nueve, que corresponde al decimoquinto día de adar de cinco mil setecientos cincuenta y nueve.

Udfærdiget i Bruxelles den tredje marts nitten hundrede nioghalvfems, hvilket svarer til den femtende adar fem tusind syv hundrede nioghalvtreds.

Geschehen zu Brüssel am dritten März neunzehnhundertneunundneunzig; dieser Tag entspricht dem fünfzehnten Adar fünftausendsiebenhundertneunundfünfzig.

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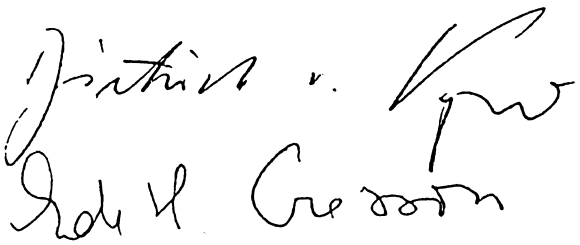

בשם ממשלת מדינת ישראל

COMMISSION

COMMISSION DECISION

of 13 May 1998

on aid granted by Germany to Herborn und Breitenbach GmbH (ex-Drahtziehmaschinenwerk Grüna GmbH)

(notified under document number C(1998) 1687)

(Only the German text is authentic)

(Text with EEA relevance)

(1999/225/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),

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having given the interested parties, pursuant to those Articles, a period in which to submit their comments [1],

Whereas:

I

On 15 March 1995 the Commission decided to initiate proceedings under Article 93(2) of the EC Treaty in respect of State aid for SKET Schwermaschinenbau Magdeburg GmbH, Magdeburg (SKET SMM) [2]. The proceedings also concerned the SKET SMM subsidiaries, i.e. Entstaubungstechnik Magdeburg GmbH, Magdeburg (ETM) and Drahtziehmaschinenwerk Grüna GmbH, Chemnitz (DZM). The aid in question had been received by SKET SMM before, and in the course of, its privatisation and restructuring. Previously, SKET SMM had already received aid, to which the Commission had not objected (NN 46/93 and NN 95/93). The proceedings were given the number C 16/95.

On 30 July 1996 the Commission decided to extend the C 16/95 proceedings to the State aid paid since the initiation decision, which was not covered by that decision [3]. The investors (Oestmann & Borchert Industriebeteiligungen GbR) had withdrawn from the restructuring plan at the end of 1995, and a new plan with additional aid had been notified.

In October 1996, SKET SMM was forced to file for a 'Gesamtvollstreckungsverfahren' (GV) (bankruptcy proceedings in the new *Länder*). The plan which was the subject of the initiation decision of 30 July 1996 had thus not been able to restore SKET SMM to viability. On 26 June 1997 the Commission adopted the negative final Decision 97/765/EC [4] with regard to the aid for SKET SMM. The GV does not apply to the two subsidiaries ETM and DZM, which were transferred to the Federal Office for Special Unification-related Tasks (the BvS). Decision 97/765/EC terminated Case C 16/95 in respect only of that part of SKET SMM which was covered by the GV. The case was therefore split into three separate parts, as follows: C 16a/95 for SKET SMM, C 16b/95 for ETM and C 16c/95 for DZM. In 1995 DZM merged with a west German company and trades today as Herborn & Breitenbach GmbH, Chemnitz (H&B). This Decision refers only to H&B.

[1] OJ C 215, 19. 8. 1995, p. 8.
[2] OJ C 215, 19. 8. 1995, p. 8 and OJ C 298, 9. 10. 1996, p. 2.
[3] OJ C 298, 9. 10. 1996, p. 2.
[4] OJ L 314, 18. 11. 1997, p. 20.

By letters dated 13 January 1997 (registered on 14 January) and 6 August 1997 (registered on 7 August), Germany informed the Commission that H&B had been transferred to the BvS and notified the aid granted to H&B since the initiation of the GV concerning SKET SMM. The second letter presented the restructuring plan, which had again been adapted to H&B's new situation. By letter dated 30 October 1997, Germany notified the conditions of the H&B privatisation agreement and the changes to the August 1997 restructuring plan.

II

On 24 March 1995 and 12 April 1995 SKET SMM acquired from Kolbus GmbH & Co. KG, under the direction of the investors Oestmann & Borchert Industriebeteiligungen (which withdrew from the privatisation project at the end of 1995), all the shares of H&B Beteiligungsgesellschaft GmbH and H&B GmbH & Co. KG. The combine merged with the subsidiary, DZM, and, under the name H&B, remained a subsidiary of SKET SMM until 31 December 1996. H&B was transferred, in its condition at that time (i.e. with debts), to the BvS by agreement dated 16 January 1997.

West Merchant Bank, which had been charged by the BvS with finding an investor, had by 1 May 1997 received four bids in response to an open tender in the course of which 112 firms throughout the world had been contacted. Negotiations were begun with two of the bidders and, taking account of the business plan, job maintenance guarantees and financial indicators, the best offer was selected. The option of dissolving the company, which would probably have entailed lower costs than a sell-off with accompanying financial measures, was not considered in the selection process. In accordance with the general principles applied by the Commission in its assessment of company privatisations ([5]), the privatisation of H&B thus contains aid.

The investor selected, Mr Henrich, is a natural person with experience in the wire-drawing machine industry. In 1994 he sold his family firm manufacturing such machines to a financial investment holding company, the EIS Group, after he had been a manager of that company for four years. Mr Henrich still has a contract of employment with the EIS Group, which agreed to the acquisition of H&B. On 24 September 1997 the investor took over H&B, assuming, first, 50 % of the management and then, on 1 January 1998, 100 %. He will also assume the position of chairman of the supervisory board of the Cable and Wire Division of the EIS Group, which consists of holdings in three companies. In this way, the investor supplies contacts and potential synergies as well as knowledge of the business.

The structure of the H&B combine is as follows:

(a) Herborn & Breitenbach GmbH, Chemnitz (ex-DZM), with a share capital of DEM 1 million. At the same time, the company is a general partner in H&B GmbH & Co. KG, Herborn. It has 107 employees, and its business is the planning, design and production of wire-drawing machines;

(b) Herborn & Breitenbach GmbH & Co. KG, Herborn (Hessen), with a limited liability capital of DEM 6 million and a general-partner capital of DEM 0,1 million. The firm has 78 employees, and its business is planning, design and production;

(c) Herborn & Breitenbach Beteiligungs GmbH, Unna (North Rhine-Westphalia), wholly owned by Herborn & Breitenbach GmbH, Chemnitz. Its capital is DEM 0,1 million. The company acts as a simple shell company without a specific object. It has no employees.

H&B's business is the sale, design, production, installation, testing and maintenance of wire-drawing machines at both the Chemnitz and Herborn sites. The machines are intended for very different branches of industry, for example, automobiles, structural steelwork, shipbuilding, construction, energy supply, telecommunications and lightbulb manufacture.

The investor's restructuring plan is aimed in short at protecting market share and reducing production costs. H&B was already in the restructuring phase when it was bought up by the investor; the latter intends to continue the firm's efforts and contribute his own contacts. It is planned:

(a) to maintain the two production sites of Herborn and Chemnitz. To reduce costs, however, the division of tasks will be clarified and rationalised: R&D, manufacturing and assembly in Chemnitz; administration, sales and customer demonstration in Herborn;

(b) to streamline the product range, so as to reduce the cost structure;

(c) to adapt machines to customer requirements (R&D);

(d) to concentrate more on after-sales service in view of the large stock of used DZM and H&B machines;

(e) to develop the production of spare parts and package deals for the modernisation and inspection of machines;

(f) to increase outsourcing, which the company already uses;

([5]) See the Twenty-third Report on Competition Policy, 1993, points 402-3.

(g) to cut jobs. The investor, however, has kept all 186 current jobs for the time being and has guaranteed to keep 150 of them, of which 90 in Chemnitz and 60 in Herborn. The guarantee is valid for the next three years. He also guarantees that production will continue at the Chemnitz site for a further two years with at least 25 jobs. The job guarantees are backed by contractually agreed fines.

H&B must protect its market shares (in Germany, Europe, the CIS, South-East Asia and the United States), initially by using the investor's contacts and business know-how but also through a programme for reducing costs and modernising the product range. The investor believes considerable synergies can be obtained from cooperating with other firms (chairmanship of the supervisory board of the Cable and Wire Division of the EIS Group).

In the past, DEM 16,5 million was invested in particular in the improvement of existing buildings and the modernisation of technical plant. For the next three years, the investor has guaranteed investment of approximately DEM 0,5 million a year (contractual fines).

According to the latest turnover forecasts, the combine will probably achieve a pre-tax profit for the year in 1999 [. . .] (6).

III

H&B remained in the SKET combine until 1997 and received restructuring aid on several occasions. In point of fact, the difficulties which SKET SMM was faced with (and which led to a 'Gesamtvollstreckung') delayed the restructuring of H&B.

The aid disbursed to H&B had been granted under successive restructuring plans. H&B was part of the SKET combine, and the plans provided for the restructuring of the group as a whole. After H&B was transferred to the BvS and hence split off from the combine, the plans for the company became significantly more precise. It was only then that the sale of the separate company was contemplated. Today, H&B has been privatised, and a restructuring plan with new financial indicators, adapted by the investor (see section II), has been examined by the Commission.

For clarity's sake, only those financial measures are listed which were actually implemented in the past or are provided for, in connection with privatisation, in the current plan (7). The following measures are concerned:

1. 1990 to 91: granting of special-purpose allocations (redundancy programme) amounting to DEM 1,4 million.

2. 1993: DEM 26,5 million in interest-free loans and waived claims, of which:

   (a) interest-free loans granted by the BvS (DEM 13,9 million), to repay inherited credits from before 1 July 1990;

   (b) a second loan from the BvS (DEM 4,5 million), to redeem inherited credits from before 1 July 1990;

   (c) interest-free credit from the BvS (DEM 1,7 million) to repay the interest on inherited loans;

   (d) waiver of claims (DEM 4,6 million) in connection with the discharge of equalisation liabilities;

   (e) waiver of interest (DEM 0,9 million) in connection with these liabilities.

   The above credits and waiver of claims, totalling DEM 26,5 million, were transformed on 31 December 1994 into grants (DEM 15,9 million) and the formation of capital reserves (DEM 5,6 million plus DEM 5 million) via SKET SMM.

3. 1996: DEM 11 million in loans, of which:

   (a) the granting of a loan of DEM 3,2 million to repay inherited credits from before 1 July 1990 via SKET SMM. The BvS will pay this amount to the bankruptcy trustee;

   (b) a DEM 5,4 million loan from the BvS (DEM 2,2 million for financing orders via SKET SMM (the BvS repays the bankruptcy trustee), DEM 2,1 million for maintaining liquidity and DEM 1,1 million for discharging liabilities to suppliers);

   (c) settlement by the BvS, in the form of an interest-free shareholder loan, of a customer payment (DEM 2,4 million) erroneously made to SKET SMM.

   At the end of 1996, H&B's liabilities amounted to DEM 38,9 million (DEM 26,5 million in loans which were transferred into non-repayable grants, DEM 11 million in loans and DEM 1,4 million in special-purpose allocations). In addition, there were guarantees of DEM 15 million on the following terms: 0,25 % per half year (1 January and 1 July), charged on the financing advanced by the BvS, and 0,5 % on the moneys retained by the bank, plus the conditional financing of DEM 1,377 million.

4. 1997: Privatisation (conditions of the privatisation agreement)

   The BvS releases H&B from all inherited debts and gives grants for the completion of restructuring.

(6) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.
(7) See footnotes 1 and 2

(a) Obligations of the seller (BvS):

(i) waiver of claims in respect of loans amounting to DEM 11 million (conversion into non-repayable grants);

(ii) waiver of claims in respect of the shareholder loan of DEM 3 million granted in 1997 (in connection with the GV of SKET SMM);

(iii) payment of a non-repayable restructuring grant of DEM 4 million (in two parts of DEM 2 million each, on 1 January and 30 June 1998) in order to maintain liquidity and finance investment;

(iv) share in the costs of eliminating inherited burdens (from before 1 July 1990) in excess of DEM 2 million, up to a ceiling of DEM 4 million;

(v) assumption of the possible risk of a repayment claim from the tax authorities, which could amount to DEM 0,3 million.

(b) Obligations of the investor:

(i) purchase price of DEM 0,25 million;

(ii) assumption of called guarantees of DEM 3,3 million in his own name and provision of guarantees totalling DEM 9 million;

(iii) assumption of an irrevocable, absolute guarantee, without time limit, of DM 3,0 million to the benefit of the BvS. From 30 August 1998 the guarantee is reduced by DEM 0,5 million annually, if the seller has met its contractual obligations;

(iv) assumption of the elimination of inherited burdens up to DEM 2 million (above this figure, the BvS assumes 80 % of the costs up to a ceiling of DEM 4 million);

(v) contractual guarantees with penalties attached: implementation of a DEM 1,5 million investment by 30 June 2000, maintenance of jobs at the Chemnitz site (90 persons for three years), and maintenance of the Chemnitz production site with 25 jobs guaranteed for a further two years;

(vi) the investor, H&B GmbH and H&B GmbH & Co. KG have undertaken not to make profit distributions or withdrawals (whether open or disguised) until 2 December 2002.

IV

As part of the C 16/95 proceedings the Commission received observations from third parties, including one German competitor's comments which related directly to H&B. These concerned the takeover of H&B by SKET SMM (the competitor itself is supposed to have been interested in a takeover) and the sale of products by H&B, apparently on terms below the market price level.

These remarks were communicated to Germany by letter dated 19 November 1996. The German authorities replied by letter dated 6 January 1997 (registered on 7 January under reference A/30033) with regard to H&B, giving detailed explanations. Thus the German competitor had, through a lawyer, already in 1995 raised its objections with the Commission, claiming that there was a problem of price dumping at DZM. Even at this stage, the German authorities could show that the competitor concerned enjoyed genuine opportunities on the market and that DZM's prices were not below the market price level.

With regard to the takeover of H&B by SKET SMM and the competitor's purchasing intentions, which are supposed to have been ignored in order to favour SKET SMM, Germany explained that the competitor had not been excluded from the privatisation negotiations but was considered to have withdrawn of its own accord.

V

The aid which DZM/H&B has received was granted from 1991. This consists first of all of aid granted during the period of validity of the Treuhand arrangements (NN 108/91, E 15/92 and N 768/94). The Treuhand arrangements applied up to 1 January 1996. Under these, the financing of firms was covered by the Treuhandanstalt (THA), if certain threshold values for the number of employees and the level of the aid were met. DZM/H&B could not, as a subsidiary of SKET SMM, be covered by these arrangements, since SKET SMM exceeded the maximum threshold values for the number of employees and the level of aid. The aid granted to the company, therefore, had to be notified to the Commission and examined by it separately.

The financing measures granted or planned (see section III) involve a total of DEM 50,2 million. In addition, the BvS has made available guarantees of DEM 3,3 million for financing the company's business activity.

Of these financial measures, DEM 28,2 million may be regarded, in accordance with the decisions on the Treuhand arrangements, as not constituting State aid within the meaning of Article 92(1) of the EC Treaty. This sum comprised DEM 24,2 million for the financing of inherited credits and a maximum of DEM 4 million for costs associated with the possible elimination of inherited burdens.

The aid to be examined here thus amounts to DEM 22 million, a figure which breaks down as follows:

(a) 1990 to 91: DEM 1,4 million in special-purpose allocations (financing of the redundancy programme);

(b) 1993: DEM 5,5 million in waived claims relating to equalisation liabilities (including interest);

(c) 1996: DEM 7,8 million in loans converted into non-repayable grants;

(d) 1997: DEM 3 million in loans for financing business activity, converted on privatisation into non-repayable grants;

(e) 1997: DEM 4 million in non-repayable restructuring grants;

(f) DEM 0,3 million for the assumption of possible tax liabilities.

In addition, there are the guarantees made available in recent years by the BvS (provision of DEM 15 million, of which only DEM 3,3 million has actually been called).

The notified aid for DZM/H&B is intended for the restructuring of the company and must satisfy the tests set out in point 3.2 of the Community guidelines on State aid for rescuing and restructuring firms in difficulty [8] of 1994 (the Guidelines).

The aid in question (i.e. the loans) was for the most part originally granted at a time when DZM/H&B was part of the SKET combine, one of the largest industrial groups on the territory of the new *Länder*. The difficulties of the combine, whose privatisation had proved to be impossible because of its cumbersome structure, and the associated GV have adversely affected the viability of DZM/H&B, which in 1990 and 1991 was still making a profit. In 1992 the results were negative [. . .], then they slowly improved [. . .], becoming positive in 1995 [. . .] but negative again in 1996 [. . .](*). A probable factor in the improvement of the results in 1995 was the merger of DZM with the H&B combine. The collapse of the result in 1996 is linked to developments at SKET SMM, which ultimately led to the opening of the GV in October 1996. H&B's results for 1997 continue to be influenced by this (see section II).

While the Treuhand arrangement applied, H&B received aid in 1990 to 1991 (financing of the redundancy programme) and 1993 (waiver of equalisation liabilities). The purpose of this aid was to make it possible to start restructuring the company. The THA, and later the BvS, were not responsible, moreover, for the ultimate restructuring of the companies. Their task was to prepare the companies for privatisation. The ultimate restructuring was a matter, therefore, for the investor. Undoubtedly, what distinguishes this company is that its parent, SKET SMM, could not be successfully privatised. During this period, DZM/H&B was integrated into the restructuring plans of the entire SKET group.

At the end of 1995 the investors, Oestmann & Borchert, withdrew from the privatisation plans for SKET SMM. Following this breakdown, the group's restructuring plan had to be adapted to the new situation by the Roland Berger consultancy. This plan still had the objective of restructuring the group as a whole.

After the GV against SKET SMM was initiated in October 1996 and H&B was transferred, H&B received further aid. This was partly to make it possible to finance orders which had been paid to SKET SMM as the parent company, and to repay loans which SKET SMM had granted to H&B. These amounts had been claimed for the bankrupt estate by the liquidator when the GV proceedings were initiated. The aid likewise provided the company with necessary liquidity and enabled it to pay suppliers (see section III, point 3).

Following the transfer of ETM and H&B to the BvS, the purpose of which was to prevent the two companies from being counted in the bankrupt estate, the plan for H&B was again revised. H&B had to overcome the difficulties which its parent's GV created for its business activity.

After the privatisation, Germany renotified the restructuring plan as amended by the investor, which however contained lower amounts of aid than before, since a private investor had not previously been involved.

The first condition of the Guidelines is the preparation of a plan which will make it possible in the long term for the company to return to profitability and viability without additional aid.

The forecasts of turnover and costs seem reasonable, and the results will probably be positive in 1999. The restructuring includes internal measures to reorganise production and redistribute tasks at the two sites. The investor contributes contacts and a considerable knowledge of the industry (see section II). Under the plan, the firm can meet all its costs. The plan will probably permit the company, under the conditions laid down, to return to viability (a positive pre-tax result is achieved from 1999).

[8] OJ C 368, 23. 12. 1994, p. 12.

The Guidelines also require firms operating in industries where there is excess capacity to reduce their capacity in proportion to the aid received.

H&B operates in the mechanical engineering industry, or more precisely in the manufacture of cable-spinning and wire-drawing machines. In this particular sector there are no signs of excess capacity. Growth declined generally in the mechanical engineering industry in the Community in 1996, but is now noticeably accelerating again (9). The industry was radically restructured in the Community and has gained in importance in eastern Europe as a result of the upturn in various countries and in Asia. The upturn in the United States is also producing an important market. Apart from Germany and the Community, the markets for H&B cable-spinning and wire-drawing machines are the United States and South-East Asia. Furthermore, H&B is traditionally represented in the countries of eastern Europe, where signs of an economic recovery can be observed. In addition, H&B ranks as a medium-sized firm.

A third criterion in the Guidelines is proportionality between the costs and benefits of recycling. The amount of aid must be limited to the strict minimum for financing the restructuring.

The aid which H&B has received since 1991 was limited to the financing of demand, in order to be able to maintain the firm as a going concern. The total involved is DEM 22 million, plus DEM 3,3 million in guarantees called. In 1996 it was necessary to cover claims and liabilities and to meet the demand for liquidity. In 1997 it was a question of finding the liquidity necessary for business activity and of funding investment. The total of DEM 4 million in non-repayable grants is allocated in tranches and paid out only if an audit shows they will be used in accordance with the objectives. The guarantees are being assumed by the investor. The BvS is assuming responsibility for possible claims for the recovery of tax of DEM 0,3 million.

The investor's contribution in this case to the restructuring costs (DEM 5,25 million, plus the provision of guarantees up to DEM 9 million) consists in particular in the payment of the purchase price of DEM 0,25 million, the assumption of an irrevocable, joint and several guarantee, without time limit, of DEM 3 million and of called guarantees of DEM 3,3 million, and the provision of additional guarantees (up to DEM 9 million overall). The investor, Mr Henrich, is contributing, as well as his personal commitment, considerable know-how and contacts in the industry concerned. He has also given a guarantee that he will implement investment, preserve jobs and maintain the Chemnitz site.

The Guidelines require the restructuring plan to be carried out in full. If it is not, the Commission may take measures calling for the aid to be repaid. Since the German authorities are the Commission's interlocutors in this examination of State aid, the Commission has noted their assurance that they will see the plans are properly implemented. The Commission is requesting that annual reports be submitted, so that it can itself monitor the implementation of this restructuring plan.

VI

In view of the foregoing, the Commission finds that the restructuring aid to Herborn & Breitenbach GmbH, Chemnitz (ex-Drahtziehmaschinenwerk Grüna GmbH) may be regarded as compatible with the common market, provided that it satisfies the conditions set out in the Guidelines on State aid for rescuing and restructuring firms in difficulty,

HAS ADOPTED THIS DECISION:

Article 1

The State restructuring aid granted to Drahtziehmaschinenwerk Grüna GmbH, now Herborn & Breitenbach GmbH, Chemnitz, is compatible with the common market in accordance with Article 92(3)(c) of the EC Treaty and Article 61(3)(c) of the EEA Agreement. The aid concerned comprises:

(a) the special-purpose allocations for financing the redundancy programme (DEM 1,4 million);

(b) the waived claims relating to equalisation payments from 1993, (DEM 4,6 million, plus DEM 0,9 million in interest);

(c) the shareholder loans granted in 1996 and subsequently converted into non-repayable grants (DEM 7,8 million);

(9) See *Panorama of EU Industry,* 1997, vol. 2.

(d) the loan converted into a grant and the non-repayable grants (totalling DEM 7 million);

(e) the assumption of possible tax liabilities (DEM 0,3 million);

(f) the provision of guarantees (DEM 15 million), of which DEM 3,3 million has actually been called prior to their assumption by the investor.

Article 2

In accordance with the Community Guidelines on State aid for rescuing and restructuring firms in difficulty (1994), Germany shall submit a detailed report every year on the implementation of the restructuring plan.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 13 May 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 1 July 1998

concerning aid which the Region of Friuli Venezia Giulia plans to grant to the steel company Servola SpA

(notified under document number C(1998) 1941)

(Only the Italian text is authentic)

(Text with EEA relevance)

(1999/226/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry [1], and in particular Article 6(5) thereof,

Having invited the interested parties to submit their comments, and taking account of those comments [2],

Whereas:

I

By letter of 28 June 1996 the Commission informed the Italian authorities of its decision to initiate proceedings under Article 6(4) of Commission Decision No 3855/91/ECSC (replaced from 1 January 1997 by Commission Decision No 2496/96/ECSC, hereinafter referred to as 'the Steel Aid Code') in respect of part of the aid which the Autonomous Region of Friuli Venezia Giulia planned to grant to the steel undertaking Servola SpA (hereinafter referred to as 'Servola').

From the information available to the Commission, which was based essentially on the statements of the Italian authorities in the documents submitted, the Commission draws the following conclusions.

Under draft Regional Law No 166, approved by the Regional Executive on 22 May 1995, the Autonomous Region of Friuli Venezia Giulia proposed to assist Servola to bring its Trieste plant into line with environmental standards. The assistance took the form of a capital contribution of ITL 8,5 billion towards environmental-protection investments of at least ITL 37,9 billion. The investments were aimed in particular at curbing smoke and dust emissions, reducing noise and improving water recovery.

Having analysed the notified aid and investments, the Commission decided to initiate proceedings under Article 6(4) of Decision No 3855/91/ECSC in view of the fact that part of the investments, totalling some ITL 10 billion which, according to the information submitted, was for environmental protection in the form of dust control at the plant, precipitation of dust generated at the cast-iron transfer stage and cleaning of the 'torpedoes', related mostly to plants that entered into service in 1991/92.

Because the environmental standards, i.e. the standards which the ITL 10 billion investment was intended to help attain, were adopted only in July 1990, the requirement in Article 3 of the abovementioned Decision that aid may be authorised only if plants entered into service at least two years before the entry into force of the environmental standards in question has not been complied with.

The Commission also had serious doubts as to the compatibility with the common market of another part of the notified investments, totalling some ITL 4 billion, aimed at reducing dust and noise levels by resurfacing roads and yards at the site. It took the view that this type of investment cannot be deemed eligible within the meaning of Article 3 of the Decision as roads and yards at an industrial steelworks do not appear to correspond to the concept of 'plants' as referred to in Article 3.

The Commission decided not to object to the remaining aid totalling ITL 23,94 billion.

II

The Commission invited the Italian Government to submit its comments on the proceedings, and informed other Member States and interested parties by publishing the decision initiating proceedings.

By letter dated 17 October 1996, the Commission received comments from the British Iron and Steel Producers Association (BISPA) which were then forwarded to the Italian authorities by letter of 23 December 1996.

In its letter, BISPA expressed support for the initiation of the proceedings by the Commission. In particular, it considered that no aid could be authorised for plants installed in 1991 or 1992 as the environmental standards had already entered into force in 1990. The aid for

[1] OJ L 338, 28. 12. 1996, p. 42.
[2] OJ C 273, 19. 9. 1996, p. 4.

resurfacing roads and yards does not relate to plants as defined in Article 3 of the Steel Aid Code since, according to the interpretation given by the Commission, plant means only machinery and equipment.

BISPA therefore asked the Commission to declare the aid in question incompatible with the common market for coal and steel, pursuant to Article 4(c) of the ECSC Treaty.

III

The Italian Government responded to the initiation of proceedings and the comments from third parties by letter dated 20 October 1997 in which, after first noting the Commission's position, it altered the eligible investments and the aid referred to in the notification, announcing that it would withdraw the aid objected to by the Commission (ITL 14 billion) and requesting approval of ITL 7,2 billion of aid for the other investments not disputed in the decision initiating proceedings.

It is also clear that some of the notified investments will lead to significant improvements in environmental protection, in particular the 'Still' equipment used to clean waste water ($NH_3$5 mg/l and H_2S 0,2 mg/l, whereas the current statutory limits in Italy are 15 mg/l for the former and 1 mg/l for the latter). The same is true of the planned primary dust extraction in the sintering plant (25 mg/m^3 for dusts and 250 mg/m^3 for nitrogen oxides, the statutory limits being 50 mg/m^3 and 400 No_x).

The Italian Government therefore requested approval for aid totalling ITL 7,2 billion for the other environmental protection investments, totalling ITL 23,94 billion [1], that had not been objected to in the initiation of proceedings.

The Commission would point out that, whenever a steel undertaking decides to introduce environmental standards that are stricter than required by law, investors must, in order to obtain the additional aid provided for in the Community Guidelines on State aid for environmental protection, demonstrate, *inter alia,* that they have freely decided to comply with the stricter standards, which call for additional investment, and that there is a less costly solution which complies with the minimum environmental protection standards imposed by national law.

In addition, contrary to the calculation method referred to by the Italian authorities according to which the higher level of aid provided for in the Community guidelines is based on the total environmental investment, the Commission considers that, in view of the said Guidelines, the additional aid is applicable solely to that part of the investment which exceeds the investment needed in order to comply with the minimum environmental standards.

It is clear that, in the present case, the amount of the environmental investment which exceeds the amount needed for compliance with national minimum standards is ITL 17,2 billion. This amount covers, in particular, the dust extraction equipment for the sintering plant, involving a cost of ITL 8 billion rather than ITL 1,5 billion; the ecological equipment for the coking plant, costing ITL 9 billion instead of ITL 2 billion; the ecological equipment for removing dust from the conveyor belts; the coal and ore storage bunkers (an extra ITL 1 billion of investment) and, lastly, the reduction in NH_3 levels in the water used in the production cycle (an extra ITL 800 million of investment).

The chief justification in the present case for the high level of extra investment is due to the fact that the steelworks are located in the centre of Trieste and that Servola therefore invests far more than required by the minimum standards in force.

In view of the foregoing, it must be concluded that, although Servola could have reduced the amount of most of the notified investments and still complied with the environmental standards provided for in Italian law, the proposed aid cannot be approved. The higher level cannot, contrary to the suggestion put forward by the Italian authorities, take account of the total investments, but only that part in excess of the investment required to comply with the minimum standards. Accordingly, the State aid may not exceed a total of ITL 6,171 billion, i.e. ITL 5,160 billion in aid (equal to 30 % of ITL 17,2 billion of investment), plus ITL 1,011 billion in aid (equal to 15 % of the remaining ITL 6,740 billion of investment).

The Commission points out, lastly, that no further aid may be authorised in the present case, in particular aid for small and medium-sized enterprises, in view of the fact that, at 31 December 1997, Servola employed 746 persons.

IV

Having noted the irrevocable decision of the Italian authorities to cancel the aid objected to by the Commission in its decision initiating proceedings, this Decision

[1] Basic plan 37 970
Excluding investment −14 000
Total = 23 940.

concerns only the remaining State aid proposals, against which, since they are considered compatible with the Community environmental standards in force at the time of the notification, the Commission has decided not to raise any objections,

HAS ADOPTED THIS DECISION:

Article 1

The environmental investment aid which the region of Friuli Venezia Giulia plans to grant to Servola SpA and which may not exceed ITL 6,171 billion gross is compatible with the common market for coal and steel.

Article 2

The Italian Government shall inform the Commission, within two months of the notification of this Decision, of the total aid actually granted to Servola SpA to enable the Commission to verify that the maximum amount has not been exceeded.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 1 July 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 29 July 1998

on aid granted by the *Land* of Lower Saxony (Germany) to Georgsmarienhütte GmbH

(notified under document number C(1998) 2556)

(Only the German text is authentic)

(Text with EEA relevance)

(1999/227/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Commission Decision No 2496/96/ECSC establishing Community rules for State aid to the steel industry [1], and in particular to Article 3 thereof,

Having, in accordance with Article 6(5) of the abovementioned Decision, given notice to interested parties to submit their comments,

Whereas:

I

On 15 July 1997, the Commission decided to initiate proceedings pursuant to Article 6(5) of Decision No 2496/96/ECSC in respect of DEM 61,64 million paid by the *Land* of Lower Saxony to Georgsmarienhütte GmbH (hereinafter referred to as 'GMH') for the removal of industrial dust.

Interested parties were informed by publication of a notice in the *Official Journal of the European Communities* [2]. Comments were sent by Neue Maxhütte Stahlwerke, the UK Steel Association and the United Kingdom Permanent Representation to the European Union. The German authorities sent their initial comments by letter dated 13 October 1997 and their observations on the third parties' comments by letter dated 13 March 1998. On 13 July 1998, Germany sent a further letter setting out its final position on the case.

II

GMH was formed through a management buy-out operation in April 1993, when Klöckner Edelstahl GmbH, Duisburg, a subsidiary of Klöckner Werke AG, was sold. Klöckner Werke AG had applied for composition proceedings *(Vergleichsverfahren)* on 11 December 1992, and these were formally initiated on 5 May 1993. On 15 June 1993, the Court approved the final composition arrangement, which led to a reduction of the company's indebtedness by 40 % (approximately DEM 1,46 billion).

The new management of GMH decided, as part of its restructuring, to replace the old blast furnace and converter by an electric arc furnace. In July 1993 Germany notified an aid plan covering R&D aid of DEM 32,5 million. The aid was intended to cover part of the research costs of examining how old dust could be recycled economically in an electric arc furnace. At present, in such cases or when the level of zinc is too high for it to be re-injected into the sinter installations (blast furnace production process), blast furnace dust is stored, for example, in disused mines.

In proceedings pursuant to Article 6(4) of Commission Decision No 3855/91/ECSC of 27 November 1991 establishing Community rules for aid to the steel industry [3], initiated in November 1993 [4], aid of DEM 15,243 million was approved by the Commission by Decision 95/437/ECSC in February 1995 [5]. In that Decision, the Commission refused as eligible costs the cost of construction of the electrical arc furnace and de-dusting installation (DEM 62,7 million).

III

GMH produces steel, including special steels and quality steels. Up until September 1994 the crude steel production was carried out in a blast furnace/converter plant. Filter dust, containing ferrum, zinc, carbon and various heavy metals, was collected from the waste air of the converter. Since September 1994 the company has been producing steel using an electric arc furnace.

[1] OJ L 338, 28. 12. 1996, p. 42.
[2] OJ C 323, 24. 10. 1997, p. 4.
[3] OJ L 362, 31. 12. 1991, p. 57.
[4] OJ C 71, 9. 3. 1994, p. 5.
[5] OJ L 257, 27. 10. 1995, p. 37.

After the company applied for composition proceedings at the end of 1992, the *Land* of Lower Saxony assumed the obligation of providing for proper disposal of the filter dust on stock at the GMH site. The new shareholders of GMH intended to cease blast furnace steel making and to replace it by electric steel making. In electric arc furnaces using current technology, converter filter dust cannot be recycled economically.

The *Land* of Lower Saxony instructed Niedersächsiche Landesentwicklungsgesellschaft mbH (hereinafter referred to as NILEG), a company entirely controlled by the *Land*, to provide for the proper recycling or disposal of the dust and paid it DEM 69,14 million for doing so. In February 1994, NILEG signed a contract with GMH and instructed GHM, the initial producer and owner of the dust, to try and dispose of it by recycling it using new industrial technology, which was under research as part of the abovementioned R&D project. For this, NILEG paid DEM 61,64 million to GMH in three instalments as follows:

— March 1994: DEM 21,82 million,

— November 1994: DEM 18,00 million,

— February 1995: DEM 21,82 million.

At the same time, in February 1994, GMH sold to NILEG several real estate assets, including the land where the old dust is stored (Westerkamp), for a total of DEM 14,5 million. The overall book value of the assets sold was set at DEM 38,996 million, implying that the Westerkamp land was sold at a loss price of DEM 24,496 million. The value of the assets sold, excluding the Westerkamp site, was later confirmed by an external assessment in June 1998, ordered by Germany.

IV

As part of the proceedings, Neue Maxhütte Stahlwerke GmbH, the UK Steel Association and the United Kingdom Permanent Representation to the European Union sent their comments on the case. They all took the position that the relief of GMH from the disposal/treatment of the dust constituted State aid which they considered to be operating aid and accordingly incompatible with the steel aid code.

The United Kingdom Permanent Representation further stated that it believed the reason for the payment was to make the company more attractive to a potential buyer. Neue Maxhütte Stahlwerke GmbH referred to a contract between GMH and another company 'Relux' to which GMH pays DEM 108/tonne for it to remove its industrial dust. It then compared the total price that will be paid to Relux, assuming a total of 150 000 tonnes of dust, and concluded that NILEG paid DEM 43,8 million too much to GMH.

V

In the earlier correspondence, Germany argued that the amount of DEM 61,64 million was paid by NILEG to GMH in the context of a normal services contract, in relation to the possibility of recycling the dust on the Westerkamp site, and that therefore there was no aid element in the payment.

According to Germany, there was no legal obligation for GMH to recycle the dust (it can stay in Westerkamp or be stored underground in old mines) and it was NILEG, as a public company and owner of the land where the dust is deposited, that wanted to have the dust recycled, for environmental reasons.

The amount paid by NILEG to GMH under the contract is even less than the expenses thus far incurred by GMH for having accepted to take part in this operation: the price of the furnace acquired was much higher in order to be able to recycle the dust and the running costs of this special furnace are much higher (particularly in electricity) than those of a normal production furnace. Also, if the company is to readapt the existing furnace to its normal production needs, it has again to incur high expenses.

The DEM 61,64 million paid by NILEG was used to cover that extra cost of the furnace (DEM 17 million) and the costs of recycling incurred until the end of 1996 (DEM 55 million). By then, GMH had informed NILEG that the recycling cost could not be brought down to much less than DEM 400/tonne, stopped the recycling operation and requested NILEG to revise the initial contract price upwards (the request was not accepted for lack of money). Also, during the first half of 1997, GMH claimed to have incurred DEM 2,5 million more as running costs, with its own production activity, because of the particularities of the electric arc furnace.

In a letter dated 26 June 1998, Germany also argued that GMH should be allowed to keep the amount corresponding to the extra expenses it had incurred as this did not constitute aid, and it arrived at an amount of DEM 38,586 million which it considered to be the aid paid to GMH. This amount would still have to be reduced by the negative selling price in view of the cancellation of the sale of the Westerkamp site.

As regards the third parties' comments, Germany reiterated its position that GMH had no legal obligation to recycle the dust and that therefore there was no aid involved. As to the particular comments made by the United Kingdom Permanent Representation to the European Union concerning the 'incentive for a potential buyer', Germany pointed out that GMH was formed in April 1993 and that the amount in question was paid under a contract subsequently entered into with the new company. As to the comments made by Neue Maxhütte concerning the Relux contract, Germany stated that the data on which the comments were based were not accurate, since the Relux contract related only to the dust newly produced by GMH, the transport costs were not included in the contract price but were GMH's responsibility and the quantity of old dust was not 150 000 tonnes but 300 000 tonnes.

By faxes of 10 and 13 July 1998, however, Germany informed the Commission that the sale of Westerkamp to NILEG would be annulled and that GMH would reimburse the amount received from NILEG, DEM 61,64 million, after deduction of the negative sale price of Westerkamp of around DEM 37 million. The letter dated 26 June was to be considered null and void. Furthermore, Germany informed the Commission that the environmental responsibility for the disposal/treatment of the old dust would remain with GMH.

VI

GMH is an undertaking within the meaning of Article 80 of the ECSC Treaty which produces products listed in Annex I to the ECSC Treaty, so that the provisions of the ECSC Treaty and of Decision No 2496/96/ECSC are applicable.

Pursuant to Article 6(1) of that Decision, the Commission must be informed, in sufficient time to enable it to submit its comments, of any plans to grant aid to an ECSC steel undertaking. The term 'aid' also covers the aid elements contained in transfers of State resources by Member States, regional or local authorities or other bodies to steel undertakings in the form of acquisitions of shareholdings or provisions of capital or similar financing (such as bonds convertible into shares, or loans on non-commercial conditions or the interest on or repayment of which is at least partly dependent on the undertaking's financial performance, including loan guarantees and real-estate transfers) which cannot be regarded as a genuine provision of risk capital according to usual investment practice in a market economy.

According to Community and German law, applying the polluter-pays principle, the producer and/or owner of waste is responsible for ensuring its environmentally acceptable disposal or recycling. The responsibility of the polluter is in principle an obligation to act and not simply to pay. The polluter may, of course, instruct a qualified third person to carry out the necessary disposal on his behalf and pay that third person for the services provided. The obligation of the polluter is independent of his financial situation. Even if he is in financial difficulties and has applied for composition proceedings *(Vergleichsverfahren)* in order to negotiate a partial waiving of claims by his creditors, he is still obliged to dispose properly of the waste he has produced.

If a particular polluter does not comply with his obligation, the public authorities may issue a removal order. If such order is not complied with, the State may decide to dispose of the waste and charge the expenses to the polluter. The risk of insolvency is in this case borne by the State, but the fact that a person might be unable to pay debts to the State does not mean that the State has a 'subsidiary responsibility' for his obligations. Since GMH was established under composition proceedings, the environmental liability of the old company remains with the new company. Discharging GMH from its obligations in this regard therefore constitutes State aid.

The relief of a particular company from the general responsibility to provide for the proper disposal or recycling of industrial dust represents State aid. A competitor is thereby relieved of production costs. Such relief is operating aid within the meaning of point 1.5.3. of the Community guidelines on State aid for environmental protection. The amount of State aid involved in such relief is in principle to be evaluated in accordance with the normal costs for the disposal or recycling of the waste in question.

In the current case, the *Land* of Lower Saxony assumed the responsibility for the disposal of industrial dust arising from the steel-making activities of GMH. The company was thereby relieved from the costs of the appropriate treatment of this dust. Subsequently the *Land* of Lower Saxony paid, via NILEG, DEM 61,64 million to GMH for the recycling of such dust which the company itself produced and which, under normal circumstances, it has to treat or dispose of appropriately at its own expense.

The fact that GMH sold the land where the dust is deposited to NILEG at a loss price of DEM 24,496 million could be accepted as entailing the transfer of GHM's environmental obligations only if the negative price paid covered the total cost of complying with such obligations. The German position that, because the land where the dust is deposited belongs to a public company, the latter is responsible for its disposal and that therefore any payments made in relation to that operation do not constitute aid, cannot be accepted.

After having valued the land at the negative price of DEM 24,496 million, which could be interpreted as being the amount necessary to clean it, GMH received, in its turn, DEM 61,64 million from NILEG in order to try and recycle its own dust, using the new technology for which it had also received aid.

The relief from the costs of the appropriate treatment of the filter dust by the State represents State aid. The exact amount of the presumed aid is unknown, since the operation has not been carried out and therefore the final and total costs of the operation are not known. DEM 61,64 million have so far been paid in relation to this operation.

However, as Germany stated in its fax of 10 July 1998, the sale of the Westerkamp site is to be cancelled, so that the responsibility for treating the dust/cleaning the land belongs to GMH. Once the annulment of the land sale has been formally confirmed, the aid element linked to the relief from environmental obligations will disappear.

As regards the DEM 61,64 million paid by NILEG, since GMH did not recycle the dust and is not going to, because it proved not to be economically viable, the amount cannot be considered to be aid under the Community Guidelines on State aid for environmental protection (no improvement in environmental protection took place). Nor can it be considered under the R&D aid framework since, in Decision 95/437/ECSC, the Commission already approved the maximum of such aid for this project.

The German authorities now state that GMH and NILEG are to cancel the sale contract concerning the Westerkamp site and that Germany accepts that the environmental responsibility for cleaning the land belongs to GMH. Provided that this cancellation actually takes place, it can be accepted that the negative price for which GMH had sold Westerkamp to NILEG (DEM 24,496 million) be set off against the DEM 61,64 million. If Westerkamp had not been included in the sale of real estate assets, GMH would have received DEM 24,496 million more for the sale of the other assets. Moreover, the market value of those assets was confirmed in June 1998 by an independent assessment ordered by the German authorities. This means that, following cancellation of the sale of the Westerkamp site, the amount of illegal aid from which GMH benefited is DEM 37,144 million.

This aid constitutes operating aid, which is not covered by Decision No 2496/96/ECSC. Operating aid to ECSC steel companies cannot be regarded as compatible with the common market. GMH must therefore pay back this aid, plus interest, in order to restore the normal market conditions that existed prior to the disbursement of such aid.

VII

In conclusion, the net amount of State aid from which GMH benefited under the contract signed between GMH and NILEG after deduction of the negative price for the sale of Westerkamp site and on condition that this sale is cancelled, is DEM 37,144 million. In view of the type of costs that GMH financed with the aid, that constitutes operating aid, which is not compatible with Decision No 2496/96/ECSC or with the ECSC Treaty. The aid in question must therefore be abolished and repaid by the company.

Repayment must be made in accordance with national procedures and legal provisions, with the interest being calculated, as from the date of disbursement of the aid, on the basis of the reference rate used in the calculation of the net grant equivalent of regional aid measures. This measure is necessary in order to restore the situation that existed prior to the aid disbursement by removing all the financial advantages from which the company benefited,

HAS ADOPTED THIS DECISION:

Article 1

The aid granted by Germany through Niedersächsiche Landesentwicklungsgesellschaft mbH to Georgsmarienhütte GmbH in the amount of DEM 61,64 million was paid unlawfully without prior notification to the Commission, as provided for in Article 6 of Decision No 2496/96/ECSC. The aid is incompatible with the ECSC Treaty and the common market since it does not fulfil any of the conditions for derogation from Article 4 of the ECSC Treaty laid down in Decision No 2496/96/ECSC.

Article 2

Germany shall abolish the aid referred to in Article 1 and require its recovery within two months from the notification of this Decision.

Provided that the sale of the Westerkamp site is cancelled, as announced by Germany in its last letter, the amount of aid to be repaid is reduced by DEM 24,496 million to DEM 37,144 million.

Repayment shall be made in accordance with national procedures and legal provisions with interest, based on the interest rate used as the reference rate in the calculation of the net grant equivalent of regional aid measures at the time when the aid was disbursed, starting to run on the date on which the aid was granted.

Article 3

Germany shall inform the Commission, within two months of being notified of this Decision, of the measures taken to comply therewith and shall provide evidence that the sale of the Westerkamp site to NILEG has been annulled, so that this element can be taken into consideration in the amount of aid to be repaid.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 29 July 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 5 March 1999

amending Council Decision 79/542/EEC and Decisions 92/160/EEC, 92/260/EEC and 93/195/EEC and 93/197/EEC with regard to the animal health conditions for the temporary admission, re-entry and imports into the Community of registered horses from certain parts of Saudi Arabia

(notified under document number C(1999) 496)

(Text with EEA relevance)

(1999/228/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and imports from third countries of *equidae* [1], as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Articles 12, 13, 15, 16 and 19(ii) thereof,

Whereas by Council Decision 79/542/EEC [2], as last amended by Commission Decision 98/622/EC [3], a list of third countries from which Member States authorise imports of bovine animals, swine, *equidae*, sheep and goats, fresh meat and meat products has been established;

Whereas by Commission Decision 92/160/EEC [4], as last amended by Decision 97/685/EC [5], the Commission has established the regionalisation of certain third countries for imports of *equidae;*

Whereas the health conditions and veterinary certification for the temporary admission, re-entry and imports of registered horses are laid down respectively in Commission Decisions 92/260/EEC [6], 93/195/EEC [7] and 93/197/EEC [8], all as last amended by Decision 98/594/EC [9];

Whereas following a Commission veterinary inspection mission to Saudi Arabia the animal health situation appears to be under the satisfactory control of the veterinary services and in particular the movement of *equidae* from certain parts of the territory into the rest of the country appears to be well controlled;

Whereas the veterinary authorities of Saudi Arabia have provided a written undertaking to notify within 24 hours by fax, telegram, or telex to the Commission and the Member States the confirmation of any infectious or contagious disease in *equidae* mentioned in Annex A to Directive 90/426/EEC, which are compulsorily notifiable in the country, and within due time any change in the vaccination or import policy in respect of *equidae;*

Whereas following a serological survey carried out over the entire territory of Saudi Arabia, the country should be considered free of glanders and dourine for at least six months; Venezuelan equine encephalomyelitis and vesicular stomatitis have never occured, however serological evidence was found for equine viral arteritis;

Whereas taking account of the results of the above survey, parts of Saudi Arabia have been free from African horse sickness for more than two years and vaccination against this disease has not been carried out in the country during the last 12 months and is officially banned; whereas, however, certain parts of Saudi Arabia cannot be considered free of the disease;

Whereas the competent authorities of Saudi Arabia have notified to the Commission the official approval of an insect-protected quarantine station near Riyadh and the specimen signatures of the official veterinarians entitled to sign international export certificates;

Whereas for reason of the health situation in certain parts of Saudi Arabia it appears appropriate to regionalise the country concerned, so as to allow importation into the Community of registered horses only from the disease-free part of the territory of Saudi Arabia;

Whereas the animal health conditions and veterinary certification must be adopted according to the animal health situation of the third country concerned; whereas the present case relates only to registered horses;

[1] OJ L 224, 18. 8. 1990, p. 42.
[2] OJ L 146, 14. 6. 1979, p. 15.
[3] OJ L 296, 5. 11. 1998, p. 16.
[4] OJ L 71, 18. 3. 1992, p. 27.
[5] OJ L 287, 21. 10. 1997, p. 54.
[6] OJ L 130, 15. 5. 1992, p. 67.
[7] OJ L 86, 6. 4. 1993, p. 1.
[8] OJ L 86, 6. 4. 1993, p. 16.
[9] OJ L 286, 23. 10. 1998, p. 53.

Whereas for clarity the ISO country code should be used for amendments of lists of third countries;

Whereas Decision 79/542/EEC and Decisions 92/160/EEC, 92/260/EEC, 93/195/EEC and 93/197/EEC must be amended accordingly;

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

HAS ADOPTED THIS DECISION:

Article 1

In Part 2 of the Annex to Decision 79/542/EEC, special column for registered horses, the following line is inserted in accordance with the alphabetical order of the ISO country code:

'SA	Saudi Arabia	X	(1)'

Article 2

The following words are added to the Annex to Decision 92/160/EEC:

'Saudi Arabia

the whole of the territory, excluding the protection and surveillance zones established in accordance with the provisions of Article 13(2)(a) of Directive 90/426/EEC, and delineated as follows:

1. Protection zone

1.1. Province Jizan

— the whole province, except the part north of the road control post at Ash Shuqaiq at road No 5 and north of road No 10.

1.2. Province Asir

— the part of the province delineated by road No 10 between Ad Darb, Abha and Kamis Mushayt to the north, except the equestrian clubs at the air and military bases,

— the part of the province delineated to the north by road No 15 leading from Kamis Mushayt through Jarash, Al Utfah and Dhahran Al Janoub to the border with the province of Najran,

— the part of the province delineated to the north by the road leading from Al Utfah through Al Fayd to Badr Al Janoub (Province Najran).

1.3. Province Najran

— the part of the province delineated by the road from Al Utfah (province Asir) to Badr Al Janoub and to As Sebt and from As Sebt along Wadi Habunah to the conjunction with road No 177 between Najran and Riyadh to the north and from this conjunction by road No 177 leading south to the conjunction with road No 15 from Najran to Sharourah,

— the part of the province south of road No 15 between Najran and Sharourah and the border with the Yemen.

2. Surveillance zone

2.1. Province Jizan

— the part of the province north of the road control post at Ash Shuqaiq at road No 5, controlled by the road control post at Al Qahmah, and north of road No 10.

2.2. Province Asir

— the equestrian clubs at the air and military bases,

— the part of the province between the border of the protection zone and road No 209 from Ash Shuqaiq to the road control post Muhayil on road No 211,

— the part of the province between the control post on road No 10 south of Abha, the city of Abha and the road control post Ballasmer 65 km from Abha on road No 15 leading north,

— the part of the province between Khamis Mushayt and the road control post 90 km from Abha on road No 255 to Samakh and the road control post at Yarah, 90 km from Abha, on road No 10 leading to Riyadh,

— the part of the province south of a virtual line between the road control post at Yarah on road No 10 and Khashm Ghurab on road No 177 up to the border of the province of Najran.

2.3. Province Najran

— the part of the province south of a line between the road control post at Yarah on road No 10 and Khashm Ghurab on road No 177 from the border of the province of Najran until the road control post Khashm Ghurab, 80 km from Najran, and west of road No 175 leading to Sharourah'.

Article 3

Decision 92/260/EEC is amended as follows:

1. The list of third countries in Group E of Annex I is replaced by the following:

'United Arab Emirates (AE), Bahrain (BH), Algeria (DZ), Egypt (1) (EG), Israel (IL), Jordan (JO), Kuwait (KW), Lebanon (LB), Libya (LY), Morocco (MA), Malta (MT), Mauritius (MU), Oman (OM), Qatar (QA), Saudi Arabia (1) (SA), Syria (SY), Tunisia (TN), Turkey (1) (TR)'.

2. The title of the health certificate set out in Annex II(E) is replaced by the following:

'HEALTH CERTIFICATE

for the temporary admission of registered horses into Community territory from United Arab Emirates, Bahrain, Algeria, Egypt (1), Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Malta, Mauritius, Oman, Qatar, Saudi Arabia (1), Syria, Tunisia, Turkey (1) for a period of less than 90 days'.

Article 4

Decision 93/195/EEC is amended as follows:

1. The list of third countries in Group E of Annex I is replaced by the following:

'United Arab Emirates (AE), Bahrain (BH), Algeria (DZ), Egypt (1) (EG), Israel (IL), Jordan (JO), Kuwait (KW), Lebanon (LB), Libya (LY), Morocco (MA), Malta (MT), Mauritius (MU), Oman (OM), Qatar (QA), Saudi Arabia (1) (SA), Syria (SY), Tunisia (TN), Turkey (1) (TR)'.

2. The list of third countries under Group E in the title of the health certificate set out in Annex II is replaced by the following:

'United Arab Emirates, Bahrain, Algeria, Egypt (1), Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Malta, Mauritius, Oman, Qatar, Saudi Arabia (1), Syria, Tunisia, Turkey (1)'.

Article 5

Decision 93/197/EEC is amended as follows:

1. The list of third countries in Group E of Annex I is replaced by the following:

'United Arab Emirates (2) (AE), Bahrain(2) (BH), Algeria (DZ), Egypt (1) (2) (EG), Israel (IL), Jordan (2) (JO), Kuwait (2) (KW), Lebanon (2) (LB), Libya (2) (LY), Morocco (MA), Malta (MT), Mauritius (MU), Oman (2) (OM), Qatar (2) (QA), Saudi Arabia (1) (2) (SA), Syria (2) (SY), Tunisia (TN)'.

2. The title of the health certificate set out in Annex II(E) is replaced by the following:

'HEALTH CERTIFICATE

for imports into Community territory of registered horses from United Arab Emirates, Bahrain, Egypt (1), Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia (1), Syria and of registered *equidae* and *equidae* for breeding and production from Algeria, Israel, Morocco, Malta, Mauritius, Tunisia'.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 5 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

CORRIGENDA

Corrigendum to Commission Decision 1999/90/EC of 25 January 1999 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards membranes

(Official Journal of the European Communities L 29 of 3 February 1999)

On page 39, Article 3 shall read as follows:

'Article 3

The procedure for attesting conformity as set out in Annex III shall be indicated in mandates for harmonised standards.'

Corrigendum to Commission Decision 1999/91/EC of 25 January 1999 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards thermal insulating products

(Official Journal of the European Communities L 29 of 3 February 1999)

On page 45, Article 3 shall read as follows:

'Article 3

The procedure for attesting conformity as set out in Annex III shall be indicated in mandates for harmonised standards.'

Corrigendum to Commission Decision 1999/93/EC of 25 January 1999 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards doors, windows, shutters, blinds, gates and related building hardware

(Official Journal of the European Communities L 29 of 3 February 1999)

On page 52, Article 3 shall read as follows:

'Article 3

The procedure for attesting conformity as set out in Annex III shall be indicated in mandates for harmonised standards.'

Corrigendum to Commission Decision 1999/94/EC of 25 January 1999 on the procedure for attesting the conformity of construction products pursuant to Article 20(2) of Council Directive 89/106/EEC as regards precast normal/lightweight/autoclaved aerated concrete

(Official Journal of the European Communities L 29 of 3 February 1999)

On page 56, Article 3 shall read as follows:

'Article 3

The procedure for attesting conformity as set out in Annex III shall be indicated in mandates for harmonised standards.'