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## Legislation

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## I

*(Acts whose publication is obligatory)*

**COMMISSION REGULATION (EC) No 873/1999**  
**of 28 April 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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1498/98 <sup>(2)</sup>, 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 29 April 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 198, 15.7.1998, p. 4.

## ANNEX

to the Commission Regulation of 28 April 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	77,7
	999	77,7
0709 90 70	052	66,9
	999	66,9
0805 10 10, 0805 10 30, 0805 10 50	052	32,6
	204	40,5
	212	63,8
	600	59,5
	624	46,4
0808 10 20, 0808 10 50, 0808 10 90	999	48,6
	388	87,9
	400	95,8
	508	78,2
	512	77,9
	524	75,1
	528	71,7
	720	101,2
	804	103,7
	999	86,4
0808 20 50	388	69,5
	512	73,8
	528	69,2
	720	81,8
	999	73,6

<sup>(1)</sup> 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 874/1999****of 28 April 1999****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar<sup>(1)</sup>, as last amended by Regulation (EC) No 1148/98<sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68<sup>(3)</sup>, and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68<sup>(4)</sup>; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a

small quantity that is not representative of the market; whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

<sup>(1)</sup> OJ L 177, 1.7.1981, p. 4.

<sup>(2)</sup> OJ L 159, 3.6.1998, p. 38.

<sup>(3)</sup> OJ L 141, 24.6.1995, p. 12.

<sup>(4)</sup> OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 28 April 1999.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

ANNEX

**fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector**

*(in EUR)*

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 <sup>(2)</sup>
1703 10 00 <sup>(1)</sup>	5,91	0,36	—
1703 90 00 <sup>(1)</sup>	7,34	0,01	—

<sup>(1)</sup> For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

<sup>(2)</sup> This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

**COMMISSION REGULATION (EC) No 875/1999**  
**of 28 April 1999**

**fixing the maximum export refund for white sugar for the 36th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1574/98**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 1148/98<sup>(2)</sup>, and in particular the second subparagraph of Article 17 (5)(b) thereof,

Whereas Commission Regulation (EC) No 1574/98 of 22 July 1998 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar<sup>(3)</sup>, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1574/98 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 36th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 36th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1574/98 the maximum amount of the export refund is fixed at 55,000 EUR/100 kg.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 177, 1.7.1981, p. 4.

<sup>(2)</sup> OJ L 159, 3.6.1998, p. 38.

<sup>(3)</sup> OJ L 206, 23.7.1998, p. 7.

**COMMISSION REGULATION (EC) No 876/1999**  
**of 28 April 1999**  
**altering the export refunds on white sugar and raw sugar exported in the natural state**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 1148/98<sup>(2)</sup>, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 825/1999<sup>(3)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 825/1999 to the information known to the Commission that the export refunds

at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1(1)(a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 825/1999 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 177, 1.7.1981, p. 4.

<sup>(2)</sup> OJ L 159, 3.6.1998, p. 38.

<sup>(3)</sup> OJ L 105, 22.4.1999, p. 4.



## ANNEX

## to the Commission Regulation of 28 April 1999 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— EUR/100 kg —
1701 11 90 9100	47,78 <sup>(1)</sup>
1701 11 90 9910	46,90 <sup>(1)</sup>
1701 11 90 9950	<sup>(2)</sup>
1701 12 90 9100	47,78 <sup>(1)</sup>
1701 12 90 9910	46,90 <sup>(1)</sup>
1701 12 90 9950	<sup>(2)</sup>
	— EUR/1 % of sucrose × 100 kg —
1701 91 00 9000	0,5194
	— EUR/100 kg —
1701 99 10 9100	51,94
1701 99 10 9910	51,94
1701 99 10 9950	51,94
	— EUR/1 % of sucrose × 100 kg —
1701 99 90 9100	0,5194

<sup>(1)</sup> Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

<sup>(2)</sup> Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21. 11. 1985, p. 14).

**COMMISSION REGULATION (EC) No 877/1999**  
**of 28 April 1999**

**on the issue of import licences for rice against applications submitted during the first 10 working days of April 1999 pursuant to Regulation (EC) No 327/98**

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

Having regard to Commission Regulation (EC) No 327/98 of 10 February 1998 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice <sup>(1)</sup>, as amended by Regulation (EC) No 648/98 <sup>(2)</sup>, and in particular Article 5(2) thereof,

Whereas, pursuant to Article 5(2) of Regulation (EC) No 327/98, within 10 days of the closing date for notification by the Member States of licence applications, the Commission must decide to what extent the applications may be accepted and fix the quantities available under the following tranche;

Whereas examination of the quantities for which applications have been submitted shows that licences should be issued for the quantities applied for reduced, where

appropriate, by the percentages set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Import licences for rice against applications submitted during the first 10 working days of April 1999 pursuant to Regulation (EC) No 327/98 and notified to the Commission shall be issued for the quantities applied for reduced, where appropriate, by the percentages set out in the Annex hereto.

2. The quantities available under the following tranche shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 37, 11.2.1998, p. 5.

<sup>(2)</sup> OJ L 88, 24.3.1998, p. 3.

## ANNEX

Reduction percentages to be applied to quantities applied for under the tranche for April 1999 and quantities available for the following tranche:

(a) quantity referred to in Article 2: semi-milled and wholly-milled rice falling within CN code 1006 30

Origin	Reduction (%)	Quantity available for the additional tranche for July 1999 (in tonnes)
United States of America	0 (!)	19 978,84
Thailand	0 (!)	6 050,53
Australia	0 (!)	890
Other origins	98,2459	—

(!) Issue for the quantity applied for.

(b) quantity referred to in Article 2: husked rice falling within CN code 1006 20

Origin	Reduction (%)	Quantity available for the additional tranche for July 1999 (in tonnes)
Australia	—	10 386
United States of America	0 (!)	3 877
Thailand	0 (!)	102
Other origins	0 (!)	76

(!) Issue for the quantity applied for.

**COMMISSION REGULATION (EC) No 878/1999**  
**of 27 April 1999**  
**establishing unit values for the determination of the customs value of certain**  
**perishable goods**

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(1)</sup>, as last amended by Regulation (EC) No 82/97 <sup>(2)</sup>,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code <sup>(3)</sup>, as last amended by Regulation (EC) No 502/1999 <sup>(4)</sup>, and in particular Article 173 (1) thereof,

Whereas Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation;

Whereas the result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

*Article 1*

The unit values provided for in Article 173 (1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 30 April 1999.

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

Done at Brussels, 27 April 1999.

*For the Commission*  
Martin BANGEMANN  
*Member of the Commission*

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<sup>(1)</sup> OJ L 302, 19.10.1992, p. 1.

<sup>(2)</sup> OJ L 17, 21.1.1997, p. 1.

<sup>(3)</sup> OJ L 253, 11.10.1993, p. 1.

<sup>(4)</sup> OJ L 65, 12.3.1999, p. 1.

## ANNEX

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 51 0701 90 59	a)	40,73	560,46	79,66	302,77	13 286,13	6 776,90
		b)	242,17	267,17	32,08	78 864,28	89,76	8 165,63
		c)	362,27	1 643,04	26,81			
1.30	Onions (other than seed) 0703 10 19	a)	26,21	360,66	51,26	194,83	8 549,70	4 360,98
		b)	155,84	171,93	20,64	50 749,64	57,76	5 254,63
		c)	233,12	1 057,31	17,25			
1.40	Garlic 0703 20 00	a)	136,21	1 874,29	266,40	1 012,52	44 431,70	22 663,44
		b)	809,87	893,48	107,27	263 739,34	300,17	27 307,65
		c)	1 211,52	5 494,70	89,67			
1.50	Leeks ex 0703 90 00	a)	45,47	625,68	88,93	338,00	14 832,31	7 565,57
		b)	270,35	298,26	35,81	88 042,20	100,20	9 115,92
		c)	404,43	1 834,26	29,93			
1.60	Cauliflowers 0704 10 10 0704 10 05 0704 10 80	a)	75,84	1 043,58	148,33	563,76	24 739,01	12 618,71
		b)	450,92	497,48	59,73	146 846,72	167,13	15 204,55
		c)	674,56	3 059,38	49,93			
1.70	Brussels sprouts 0704 20 00	a)	59,69	821,35	116,74	443,71	19 470,88	9 931,58
		b)	354,90	391,54	47,01	115 575,96	131,54	11 966,77
		c)	530,91	2 407,89	39,29			
1.80	White cabbages and red cabbages 0704 90 10	a)	43,91	604,21	85,88	326,40	14 323,44	7 306,01
		b)	261,08	288,03	34,58	85 021,62	96,76	8 803,16
		c)	390,56	1 771,33	28,91			
1.90	Sprouting broccoli or calabrese ( <i>Brassica oleracea</i> L. <i>convar. botrytis</i> (L.) <i>Alef</i> var. <i>italica</i> Plenck) ex 0704 90 90	a)	105,95	1 457,90	207,22	787,58	34 560,89	17 628,60
		b)	629,95	694,99	83,44	205 147,81	233,48	21 241,07
		c)	942,37	4 274,01	69,75			
1.100	Chinese cabbage ex 0704 90 90	a)	67,40	927,44	131,82	501,02	21 985,88	11 214,42
		b)	400,74	442,12	53,08	130 504,60	148,53	13 512,49
		c)	599,49	2 718,91	44,37			
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 05 0705 11 80	a)	152,67	2 100,79	298,60	1 134,87	49 800,95	25 402,15
		b)	907,73	1 001,45	120,24	295 610,34	336,44	30 607,59
		c)	1 357,92	6 158,69	100,50			
1.120	Endives ex 0705 29 00	a)	21,82	300,25	42,68	162,20	7 117,68	3 630,54
		b)	129,74	143,13	17,18	42 249,41	48,08	4 374,52
		c)	194,08	880,22	14,36			
1.130	Carrots ex 0706 10 00	a)	72,95	1 003,81	142,68	542,27	23 796,29	12 137,86
		b)	433,74	478,52	57,45	141 250,90	160,76	14 625,16
		c)	648,85	2 942,80	48,02			
1.140	Radishes ex 0706 90 90	a)	117,77	1 620,55	230,34	875,44	38 416,57	19 595,28
		b)	700,23	772,52	92,75	228 034,52	259,53	23 610,77
		c)	1 047,51	4 750,83	77,53			
1.160	Peas ( <i>Pisum sativum</i> ) 0708 10 90 0708 10 20 0708 10 95	a)	391,16	5 382,48	765,04	2 907,69	127 596,39	65 083,55
		b)	2 325,73	2 565,84	308,06	757 391,37	862,00	78 420,54
		c)	3 479,17	15 779,36	257,50			

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans ( <i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	106,31 632,09 945,57	1 462,86 697,35 4 288,53	207,92 83,73 69,98	790,26 205 844,86	34 678,32 234,28	17 688,50 21 313,24
1.170.2	Beans ( <i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus Savi</i> ) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	213,37 1 268,64 1 897,82	2 936,04 1 399,62 8 607,32	417,32 168,04 140,46	1 586,09 413 141,93	69 601,29 470,21	35 501,78 42 776,84
1.180	Broad beans ex 0708 90 00	a) b) c)	157,74 937,88 1 403,02	2 170,55 1 034,71 6 363,22	308,51 124,23 103,84	1 172,56 305 427,23	51 454,79 347,61	26 245,73 31 624,03
1.190	Globe artichokes 0709 10 00	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	315,67 1 876,89 2 807,73	4 343,71 2 070,66 12 734,10	617,40 248,61 207,81	2 346,53 611 222,35	102 971,55 695,65	52 523,07 63 286,15
1.200.2	— other ex 0709 20 00	a) b) c)	318,85 1 895,80 2 836,01	4 387,47 2 091,52 12 862,38	623,62 251,11 209,90	2 370,17 617 379,69	104 008,87 702,65	53 052,18 63 923,69
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	161,86 962,38 1 439,66	2 227,24 1 061,73 6 529,42	316,57 127,48 106,55	1 203,19 313 404,66	52 798,73 356,69	26 931,24 32 450,02
1.220	Ribbed celery ( <i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	38,72 230,22 344,40	532,80 253,99 1 561,96	75,73 30,49 25,49	287,83 74 972,37	12 630,46 85,33	6 442,47 7 762,66
1.230	Chantarelles 0709 51 30	a) b) c)	1 886,75 11 218,11 16 781,70	25 962,25 12 376,27 76 111,31	3 690,16 1 485,94 1 242,05	14 025,16 3 653 257,42	615 457,85 4 157,85	313 928,79 378 259,41
1.240	Sweet peppers 0709 60 10	a) b) c)	237,73 1 413,48 2 114,49	3 271,24 1 559,41 9 590,00	464,96 187,23 156,50	1 767,17 460 309,47	77 547,53 523,89	39 554,94 47 660,59
1.250	Fennel 0709 90 50	a) b) c)	73,55 437,31 654,19	1 012,07 482,46 2 967,00	143,85 57,93 48,42	546,73 142 412,66	23 992,01 162,08	12 237,69 14 745,45
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	62,72 372,92 557,86	863,05 411,42 2 530,12	122,67 49,40 41,29	466,23 121 442,85	20 459,26 138,22	10 435,73 12 574,23
2.10	Chestnuts ( <i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	176,48 1 049,30 1 569,70	2 428,42 1 157,63 7 119,19	345,16 138,99 116,18	1 311,86 341 712,93	57 567,78 388,91	29 363,80 35 381,06
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	60,81 361,56 540,87	836,76 398,89 2 453,07	118,93 47,89 40,03	452,03 117 744,58	19 836,22 134,01	10 117,93 12 191,31

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.40	Avocados, fresh ex 0804 40 90 ex 0804 40 20 ex 0804 40 95	a) b) c)	146,53 871,23 1 303,31	2 016,30 961,17 5 911,01	286,59 115,40 96,46	1 089,23 283 721,64	47 798,09 322,91	24 380,54 29 376,63
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	113,06 672,22 1 005,61	1 555,74 741,62 4 560,83	221,13 89,04 74,43	840,43 218 914,69	36 880,17 249,15	18 811,60 22 666,49
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 10	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamou- tis, ovalis, trovita and hamlins 0805 10 30	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.3	— Others 0805 10 50	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70	Mandarins (including tangerines and satsu- mas), fresh; clementines, wilkings and simi- lar citrus hybrids, fresh:							
2.70.1	— Clementines 0805 20 10	a) b) c)	63,51 377,61 564,89	873,92 416,60 2 561,99	124,21 50,02 41,81	472,10 122 972,51	20 716,96 139,96	10 567,17 12 732,61
2.70.2	— Monreales and satsumas 0805 20 30	a) b) c)	79,99 475,60 711,47	1 100,69 524,70 3 226,79	156,45 63,00 52,66	594,61 154 882,24	26 092,74 176,27	13 309,22 16 036,56
2.70.3	— Mandarines and wilkings 0805 20 50	a) b) c)	96,04 571,03 854,23	1 321,54 629,98 3 874,24	187,84 75,64 63,22	713,91 185 959,37	31 328,25 211,64	15 979,71 19 254,29
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	a) b) c)	68,80 409,07 611,94	946,71 451,30 2 775,39	134,56 54,18 45,29	511,42 133 215,38	22 442,56 151,62	11 447,36 13 793,16
2.85	Limes ( <i>Citrus aurantifolia</i> ), fresh ex 0805 30 90	a) b) c)	161,61 960,89 1 437,44	2 223,80 1 060,09 6 519,33	316,08 127,28 106,39	1 201,33 312 920,59	52 717,18 356,14	26 889,64 32 399,90
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	38,48 228,79 342,26	529,50 252,41 1 552,28	75,26 30,31 25,33	286,04 74 507,67	12 552,18 84,80	6 402,53 7 714,55
2.90.2	— pink ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	50,93 302,82 453,00	700,81 334,08 2 054,51	99,61 40,11 33,53	378,59 98 614,23	16 613,37 112,23	8 474,04 10 210,55
2.100	Table grapes ex 0806 10 10	a) b) c)	129,79 771,70 1 154,42	1 785,95 851,37 5 235,72	253,85 102,22 85,44	964,79 251 308,48	42 337,50 286,02	21 595,24 26 020,56

Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.110	Water melons 0807 11 00	a) b) c)	62,67 372,62 557,42	862,36 411,09 2 528,10	122,57 49,36 41,26	465,86 121 346,04	20 442,95 138,11	10 427,41 12 564,21
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	a) b) c)	72,02 428,21 640,58	991,02 472,42 2 905,28	140,86 56,72 47,41	535,36 139 450,17	23 492,92 158,71	11 983,12 14 438,71
2.120.2	— other ex 0807 19 00	a) b) c)	147,03 874,20 1307,76	2 023,18 964,45 5 931,18	287,57 115,80 96,79	1 092,95 284 689,78	47 961,19 324,01	24 463,73 29 476,87
2.140	Pears							
2.140.1	Pears — nashi ( <i>Pyrus pyrifolia</i> ) ex 0808 20 50	a) b) c)	235,45 1 399,92 2 094,21	3 239,86 1 544,45 9 498,03	460,50 185,43 155,00	1 750,22 455 894,77	76 803,79 518,86	39 175,58 47 203,49
2.140.2	Other ex 0808 20 50	a) b) c)	77,57 461,21 689,95	1 067,39 508,83 3 129,17	151,71 61,09 51,06	576,62 150 196,46	25 303,33 170,94	12 906,56 15 551,39
2.150	Apricots 0809 10 00	a) b) c)	202,62 1 204,72 1 802,20	2 788,11 1 329,10 8 173,67	396,29 159,58 133,38	1 506,18 392 327,03	66 094,64 446,52	33 713,13 40 621,66
2.160	Cherries 0809 20 05 0809 20 95	a) b) c)	334,09 1 986,41 2 971,56	4 597,18 2 191,49 13 477,16	653,42 263,12 219,93	2 483,46 646 888,44	108 980,16 736,24	55 587,90 66 979,03
2.170	Peaches 0809 30 90	a) b) c)	155,49 924,50 1 383,01	2 139,59 1 019,95 6 272,45	304,11 122,46 102,36	1 155,83 301 070,62	50 720,84 342,65	25 871,36 31 172,95
2.180	Nectarines ex 0809 30 10	a) b) c)	91,08 541,54 810,11	1253,29 597,45 3674,16	178,14 71,73 59,96	677,04 176 355,47	29 710,30 200,71	15 154,44 18 259,90
2.190	Plums 0809 40 05	a) b) c)	115,68 687,80 1 028,92	1 591,79 758,81 4 666,52	226,25 91,11 76,15	859,91 223 987,71	37 734,82 254,93	19 247,53 23 191,76
2.200	Strawberries 0810 10 10 0810 10 05 0810 10 80	a) b) c)	329,50 1 959,12 2 930,74	4 534,02 2 161,38 13 292,00	644,45 259,50 216,91	2 449,34 638 000,96	107 482,90 726,12	54 824,19 66 058,82
2.205	Raspberries 0810 20 10	a) b) c)	1 648,10 9 799,16 14 659,03	22 678,35 10 810,83 66 484,19	3 223,40 1 297,98 1 084,94	12 251,15 3 191 166,59	537 610,22 3 631,93	274 220,77 330 414,38
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a) b) c)	724,96 4 310,42 6 448,16	9 975,67 4 755,43 29 244,81	1 417,90 570,95 477,24	5 388,99 1 403 718,30	236 481,95 1 597,60	120 623,19 145 341,43
2.220	Kiwi fruit ( <i>Actinidia chinensis Planch.</i> ) 0810 50 10 0810 50 20 0810 50 30	a) b) c)	106,02 630,37 942,99	1 458,87 695,45 4276,84	207,36 83,50 69,79	788,10 205 283,35	34 583,72 233,64	17 640,24 21 255,10



Code	Description Species, varieties, CN code	Amount of unit values per 100 kg						
		a) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.230	Pomegranates ex 0810 90 85	a)	52,98	729,02	103,62	393,83	17 282,08	8 815,13
		b)	315,00	347,53	41,73	102 583,58	116,75	10 621,54
		c)	471,23	2 137,21	34,88			
2.240	Khakis (including sharon fruit) ex 0810 90 85	a)	400,36	5 509,07	783,04	2 976,08	130 597,43	66 614,30
		b)	2 380,43	2 626,19	315,31	775 205,06	882,28	80 264,97
		c)	3 561,00	16 150,48	263,56			
2.250	Lychees ex 0810 90 30	a)	588,59	8 099,17	1 151,18	4375,28	191 998,06	97 933,14
		b)	3 499,60	3 860,90	463,55	1 139 669,16	1 297,08	118 001,70
		c)	5 235,21	23 743,66	387,47			

**COMMISSION REGULATION (EC) No 879/1999**  
**of 28 April 1999**  
**amending Regulation (EC) No 2004/98 opening an invitation to tender for the**  
**refund or the tax for the export of common wheat to certain ACP States**

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<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 923/96<sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals<sup>(3)</sup>, as last amended by Regulation (EC) No 2513/98<sup>(4)</sup>, and in particular Article 4 thereof,

Whereas Commission Regulation (EC) No 2004/98<sup>(5)</sup>, as amended by Regulation (EC) No 456/1999<sup>(6)</sup>, opens an invitation to tender relating to the export of common wheat to certain ACP States;

Whereas for economical reasons, it is appropriate to extend the period during which this invitation to tender

remains open; whereas Article 1 of Regulation (EC) No 2004/98 must therefore be amended;

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*

Article 1(3) of Regulation (EC) No 2004/98 is replaced by the following:

‘3. The invitation shall remain open until 27 May 1999. During the period of its validity weekly awards shall be made for which the quantities and time limits for the submission of tenders shall be as prescribed in the notice of invitation to tender.’

*Article 2*

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

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21.

<sup>(2)</sup> OJ L 126, 24.5.1996, p. 37.

<sup>(3)</sup> OJ L 147, 30.6.1995, p. 7.

<sup>(4)</sup> OJ L 313, 21.11.1998, p. 16.

<sup>(5)</sup> OJ L 258, 22.9.1998, p. 4.

<sup>(6)</sup> OJ L 55, 3.3.1999, p. 5.

## COMMISSION REGULATION (EC) No 880/1999

of 28 April 1999

## redistributing unused portions of the 1998 quantitative quotas for certain products originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas <sup>(1)</sup>, as amended by Regulation (EC) No 138/96 <sup>(2)</sup>, and in particular Articles 2(5), 14 and 24 thereof,

(1) Whereas Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) No 3420/83 <sup>(3)</sup>, as last amended by Regulation (EC) No 1138/98 <sup>(4)</sup>, introduced annual quantitative quotas for certain products originating in the People's Republic of China listed in Annex II to that Regulation; whereas the provisions of Regulation (EC) No 520/94 are applicable to those quotas;

(2) Whereas the Commission accordingly adopted Regulation (EC) No 738/94 <sup>(5)</sup>, as last amended by Regulation (EC) No 983/96 <sup>(6)</sup>, laying down general rules for the implementation of Regulation (EC) No 520/94; whereas these provisions apply to the administration of the above quotas subject to the provisions of this Regulation;

(3) Whereas, in accordance with Article 20 of Regulation (EC) No 520/94, the competent authorities of the Member States notified the Commission of the quantities of quotas assigned in 1998 and not used;

(4) Whereas the unused quantities could not be redistributed in time to be used before the end of the 1998 quota year;

(5) Whereas examination of the data received for each of the products in question indicates that the quantities not used in the 1998 quota year should be redistributed in 1999, up to a limit of the amounts set out in Annex I to this Regulation;

(6) Whereas, the different administrative methods provided for by Regulation (EC) No 520/94 having been considered, the method based on traditional trade flows should be adopted; whereas under this method quota tranches are divided into two portions, one of which is reserved for traditional importers and the other for other applicants;

(7) Whereas this has proved to be the best way of ensuring the continuity of business for the Community importers concerned and avoiding any disturbance of trade flows;

(8) Whereas quantities redistributed under this Regulation should be divided using the same criteria as for the allocation of the 1999 quotas;

(9) Whereas the reference period used for the apportionment of the 1999 quotas, consisting of either the year 1996 or 1997, should again be applied to the allocation of the share set aside for traditional importers, since it continues to reflect the normal trend of trade flows for the products in question; whereas, therefore, traditional importers must prove that they imported products originating in China subject to the relevant quotas in the course of either 1996 or 1997;

(10) Whereas it is necessary to simplify the formalities to be fulfilled by traditional importers who already hold import licences issued when the 1999 Community quotas were allocated; whereas the competent administrative authorities already possess the requisite evidence of either 1996 or 1997 imports for all traditional importers; whereas the latter need therefore only enclose a copy of their previous licences with their new licence applications;

(11) Whereas measures should be taken to provide the best conditions for the allocation of that portion of the quota reserved for non-traditional importers with a view to optimum use of quotas; whereas, to this end, it is appropriate to provide for that

<sup>(1)</sup> OJ L 66, 10.3.1994, p. 1.

<sup>(2)</sup> OJ L 21, 27.1.1996, p. 6.

<sup>(3)</sup> OJ L 67, 10.3.1994, p. 89.

<sup>(4)</sup> OJ L 159, 3.6.1998, p. 1.

<sup>(5)</sup> OJ L 87, 31.3.1994, p. 47.

<sup>(6)</sup> OJ L 131, 1.6.1996, p. 47.

portion to be allocated in proportion to the quantities requested, on the basis of a simultaneous examination of import licence applications actually lodged, and grant access only to importers who can prove that they obtained and made use of at least 80 % of an import licence for the product in question during the 1998 quota year and to importers who did not obtain an import licence for the product in question during the 1998 quota year; whereas the amount that any non-traditional importer may request should also be restricted to a set volume or value;

- (12) Whereas for the purposes of quota allocation, a time limit must be set for the submission of licence applications by traditional and other importers;
- (13) Whereas with a view to optimum use of quotas, licence applications for imports of footwear under quotas which refer to several CN codes must specify the quantities required for each code;
- (14) Whereas the Member States must inform the Commission of the import licence applications received, in accordance with the procedure laid down in Article 8 of Regulation (EC) No 520/94; whereas the information about traditional importers' previous imports must be expressed in the same units as the quota in question;
- (15) Whereas in the light of the experience gained in the management of the quotas, in order to facilitate import administration formalities to economic operators and in view of the fact that unused quantities may not be carried over to the following year more than once, thus the risk of excessive accumulation of imports appear to be limited, it is deemed appropriate, without prejudice to the results of a further analysis which may appear to be warranted in this respect in the future, to set the expiry date of the redistribution import licences at 31 December 1999;
- (16) Whereas these measures are in accordance with the opinion of the Committee for the administration of quotas set up under Article 22 of Regulation (EC) No 520/94,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

This Regulation lays down specific provisions for the redistribution in 1999 of portions of the quantitative quotas referred to in Annex II to Regulation (EC) No 519/94 which were not used in the 1998 quota year.

The quantities not used in the 1998 quota year shall be redistributed up to the limit of the volumes or values set out in Annex I to this Regulation.

Regulation (EC) No 738/94 laying down general rules for the implementation of Regulation (EC) No 520/94 shall apply, subject to the specific provisions of this Regulation.

#### *Article 2*

1. The quantitative quotas referred to in Article 1 shall be allocated using the method based on traditional trade flows, referred to in Article 2(2)(a) of Regulation (EC) No 520/94.
2. The portions of each quantitative quota set aside for traditional importers and other importers are set out in Annex II to this Regulation.
3. The portion set aside for non-traditional importers shall be apportioned using the method based on allocation in proportion to quantities requested; the volume requested by a single importer may not exceed that shown in Annex III. Only importers who can prove that they imported at least 80 % of the volume of the product for which they were granted an import licence pursuant to Commission Regulations (EC) No 2021/97<sup>(1)</sup> and/or (EC) No 1280/98<sup>(2)</sup> and importers who declare that they did not obtain an import licence pursuant to Regulations (EC) No 2021/97 and/or (EC) No 1280/98 shall be entitled to apply for import licences.

#### *Article 3*

Applications for import licences shall be lodged from the day following the day of publication of this Regulation in the *Official Journal of the European Communities* to 27 May 1999 at 3 p.m., Brussels time, with the competent authorities listed in Annex IV to this Regulation.

#### *Article 4*

1. For the purposes of allocating the portion of each quota set aside for traditional importers, 'traditional' importers shall mean importers who can show that they have imported goods in either the calendar year 1996 or 1997.

2. The evidence referred to in Article 7 of Regulation (EC) No 520/94 shall relate to the release into free circulation during either calendar year 1996 or 1997, as indicated by the importer, of products originating in the People's Republic of China which are covered by the quota in respect of which the application is made.

<sup>(1)</sup> OJ L 284, 16.10.1997, p. 42.

<sup>(2)</sup> OJ L 176, 20.6.1998, p. 17.

3. Instead of the evidence referred to in the first indent of Article 7 of Regulation (EC) No 520/94:

- applicants may enclose with their licence applications documents drawn up and certified by the competent national authorities on the basis of available customs information as evidence of the imports of the product in question during calendar year 1996 or 1997 carried out by themselves or, where applicable, by the operator whose activities they have taken over,
- applicants already holding import licences issued for 1999 under Commission Regulation (EC) No 2297/98<sup>(1)</sup>, for products covered by the licence application may enclose a copy of their previous licences with their licence applications. In that case they shall indicate in their licence application the aggregate quantity of imports of the product in question during the chosen reference period.

*Article 5*

Member States shall inform the Commission no later than 10 June 1999 at 10 a.m., Brussels time, of the number and aggregate quantity of import licence applica-

tions and, in the case of applications from traditional importers, of the volume of previous imports carried out by traditional importers during the reference period referred to in Article 4(1) of this Regulation.

*Article 6*

No later than 30 June 1999 the Commission shall adopt the quantitative criteria to be used by the competent national authorities for the purpose of meeting importers' applications.

*Article 7*

Import licences shall be valid up to 31 December 1999. The validity shall not be extendable.

*Article 8*

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

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

Done at Brussels, 28 April 1999.

*For the Commission*

Leon BRITTAN

*Vice-President*

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<sup>(1)</sup> OJ L 287, 24.10.1998, p. 10.

## ANNEX I

## Quantities to be redistributed

Product description	HS/CN code	Quantities redistributed
Footwear falling within HS/CN codes	ex 6402 99 <sup>(1)</sup>	6 508 239 pairs
	6403 51 6403 59	1 294 088 pairs
	ex 6403 91 <sup>(1)</sup> ex 6403 99 <sup>(1)</sup>	1 823 036 pairs
	ex 6404 11 <sup>(2)</sup>	5 863 051 pairs
	6404 19 10	15 869 720 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	8 175,49 tonnes
Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china falling within HS/CN code	6912 00	7 043,15 tonnes

<sup>(1)</sup> Excluding footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

<sup>(2)</sup> Excluding:

- (a) footwear which is designed for a sporting activity and has, or has a provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- (b) footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

## ANNEX II

## Allocation of the quotas

Product description	HS/CN code	Portion reserved for traditional importers	Portion reserved for other importers
Footwear falling within HS/CN codes	ex 6402 99 <sup>(1)</sup>	4 881 179 pairs (75 %)	1 627 060 pairs (25 %)
	6403 51 6403 59	970 566 pairs (75 %)	323 522 pairs (25 %)
	ex 6403 91 <sup>(1)</sup> ex 6403 99 <sup>(1)</sup>	1 367 277 pairs (75 %)	455 759 pairs (25 %)
	ex 6404 11 <sup>(2)</sup>	4 397 288 pairs (75 %)	1 465 763 pairs (25 %)
	6404 19 10	11 902 290 pairs (75 %)	3 967 430 pairs (25 %)
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	6 131,62 tonnes (75 %)	2 043,87 tonnes (25 %)
Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china falling within HS/CN code	6912 00	5 282,36 tonnes (75 %)	1 760,79 tonnes (25 %)

<sup>(1)</sup> Excluding footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

<sup>(2)</sup> Excluding:

- (a) footwear which is designed for a sporting activity and has, or has a provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- (b) footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

## ANNEX III

## Maximum quantity which may be requested by each importer other than traditional

Product description	HS/CN code	Predetermined maximum quantity
Footwear falling within HS/CN codes	ex 6402 99 <sup>(1)</sup>	4 000 pairs
	6403 51 6403 59	4 000 pairs
	ex 6403 91 <sup>(1)</sup> ex 6403 99 <sup>(1)</sup>	4 000 pairs
	ex 6404 11 <sup>(2)</sup>	4 000 pairs
	6404 19 10	4 000 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	4 tonnes
Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china falling within HS/CN code	6912 00	4 tonnes

<sup>(1)</sup> Excluding footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

<sup>(2)</sup> Excluding:

- (a) footwear which is designed for a sporting activity and has, or has a provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- (b) footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.



## ANNEX IV

## LIST OF THE COMPETENT NATIONAL AUTHORITIES

1. BELGIQUE/BELGIË  
**Ministère des affaires économiques**  
 Administration des relations économiques, 4<sup>e</sup> division: Mise en œuvre des politiques commerciales. Services licences  
**Ministerie van Economische Zaken**  
 Bestuur van de Economische Betrekkingen. 4e afdeling: Toepassing van de handelspolitiek. Dienst Vergunningen  
 60, rue Général Leman/Generaal Lemanstraat 60  
 B-1040 Bruxelles/Brussel  
 Tél./Tel.: (32 2) 206 58 16  
 Télécopieur/Fax: (32 2) 230 83 22 231 14 84  
 Tel.: (39 6) 59 931  
 Telefax: (39 6) 59 93 26 31/59 93 22 35  
 Telex: 610083-610471-614478
2. DANMARK  
**Erhvervsfremme Styrelsen**  
 Søndergade 25  
 DK-8600 Silkeborg  
 Tlf. (45) 87 20 40 60  
 Fax (45) 87 20 40 77
3. DEUTSCHLAND  
**Bundesamt für Wirtschaft**  
 Frankfurter Straße 29-31  
 D-65760 Eschborn  
 Tel.: (49) 61 96 404-0  
 Fax: (49) 61 96 40 42 12
4. GREECE  
**Ministry of National Economy**  
 1, Kornarou Street  
 GR-Athens 105-63  
 Tel.: (301) 328-6031/328-60 32  
 Fax: (301) 328 60 94/328 60 59
5. ESPAÑA  
**Ministerio de Economía y Hacienda**  
 Dirección General de Comercio Exterior  
 Paseo de la Castellana, 162  
 E-28071 Madrid  
 Tel.: (34) 913 49 38 94/913 49 37 78  
 Fax: (34) 913 49 38 32.
6. FRANCE  
**Service des titres du commerce extérieur**  
 8, rue de la Tour-des-Dames  
 F-75436 Paris Cedex 09  
 Tél.: (331) 40 04 04 04  
 Télécopieur: (331) 55 07 46 59
7. IRELAND  
**Department of Enterprise Trade and Employment**  
 Licencing Unit  
 Kildare Street  
 Dublin 2  
 Tel.: (353 1) 631 21 21  
 Fax: (353 1) 676 61 54
8. ITALIA  
**Ministero del Commercio con l'estero**  
 Direzione generale delle importazioni e delle esportazioni  
 Viale America 341  
 I-00144 Roma
9. LUXEMBOURG  
**Ministère des affaires étrangères**  
 Office des Licences  
 Boîte postale 113  
 L-2011 Luxembourg  
 Tél.: (352) 22 61 62  
 Télécopieur: (352) 46 61 38
10. NEDERLAND  
**Centrale Dienst voor in- en uitvoer**  
 Engelse Kamp 2  
 Postbus 30003  
 NL-9700 RD Groningen  
 Tel.: (31 50) 523 91 11  
 Fax: (31 50) 526 06 98
11. ÖSTERREICH  
**Bundesministerium für wirtschaftliche Angelegenheiten**  
 Landstrasser Hauptstraße 55/57  
 A-1031 Wien  
 Tel.: (43) 1 71 10 23 61  
 Fax: (43) 1 715 83 47
12. PORTUGAL  
**Ministério da Economia**  
 Direcção-Geral do Comércio  
 Avenida da República, 79  
 P-1094 Lisboa  
 Tel.: (351 1) 793 09 93/793 30 02  
 Fax: (351 1) 793 22 10/796 37 23  
 Telex: 13418
13. SUOMI  
**Tullihallitus**  
 PL 512  
 FIN-00101 Helsinki  
 P. (358-9) 61 41  
 F. (358-9) 614 28 52
14. SVERIGE  
**Kommerskollegium**  
 Box 6803  
 S-113 86 Stockholm  
 Tfn (46-8) 690 48 00  
 Fax (46-8) 30 67 59
15. UNITED KINGDOM  
**Department of Trade and Industry**  
 Import Licencing Branch  
 Queensway House, West Precinct Billingham  
 Stockton on Tees TS23 2NF  
 Tel.: (44 1642) 36 43 33/36 43 34  
 Fax: (44 1642) 53 35 57

**COMMISSION REGULATION (EC) No 881/1999**  
of 28 April 1999

**amending Regulation (EC) No 1854/96 establishing a list of reference methods to be applied for the analysis and quality evaluation of milk and milk products under the common market organisation**

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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1587/96 <sup>(2)</sup>, and in particular Articles 6(6), 7(5), 8(4), 9(3), 10(3), 11(3), 12(3), 13(3), 16(1) and (4) and 17(14) thereof,

Whereas Article 2(1) of Commission Regulation (EC) No 2721/95 of 24 November 1995 establishing rules for the application of reference and routine methods for the analysis and quality evaluation of milk and milk products under the common market organisation <sup>(3)</sup> specifies that before 1 April each year a list of reference methods applicable for the analyses mentioned in Article 1 of that Regulation has to be established; whereas the list is established by Commission Regulation (EC) No 1854/96 <sup>(4)</sup>, as last amended by Regulation (EC) No 745/98 <sup>(5)</sup>; whereas

the list of reference methods should be updated; whereas the Annex to Regulation (EC) No 1854/96 should be replaced;

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 Annex to Regulation (EC) No 1854/96 is replaced by the Annex hereto.

*Article 2*

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

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 148, 28.6.1968, p. 13.

<sup>(2)</sup> OJ L 206, 16.8.1996, p. 21.

<sup>(3)</sup> OJ L 283, 25.11.1995, p. 7.

<sup>(4)</sup> OJ L 246, 27.9.1996, p. 5.

<sup>(5)</sup> OJ L 103, 3.4.1998, p. 8.

## LIST OF REFERENCE METHODS PURSUANT TO REGULATION (EC) No 2721/95

*Index:*

min. = minimum, max. = maximum, Annex = Annex to quoted Regulation, SnF = solids not fat, FFA = free fatty acids, PV = peroxide value, A = appearance, F = flavour, C = consistency, TBC = total bacterial count, Therm = thermophilic bacterial count, MS = Member State, IDF = International Dairy Federation, ISO = International Standards Organisation, IUPAC = International Union of Pure and Applied Chemistry, ADPI = American Dairy Products Institute, SCM = Sweetened condensed milk, EMC = Evaporated milk or cream, MSNF = Milk solids non fats.

## PART A:

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EC) No 454/95 Public storage	Unsalted butter	Milk fat	82 % min.	Commission Regulation (EC) No 880/98 (OJ L 124, 25.4.1998, p. 16)	
		Water	16 % max.	Commission Regulation (EC) No 880/98	
		SnF	2 % max.	Commission Regulation (EC) No 880/98	
		Fat acidity (Max.)	1,2 mmol/100 g fat	IDF Standard 6B:1989	
		PV (Max.)	0,3 mequiv. oxygen/1 000 g fat	IDF Standard 74A:1991 (English version)	Note 1
		Coliform	Not detectable in 1 g	Commission Regulation (EC) No 1080/96 (OJ L 142, 15.6.1996, p. 13)	Note 3
		Non milk fat	Not detectable by triglyceride analysis	Annex III	
		Sterol tracers	Not detectable	Commission Regulation (EC) No 86/94 (OJ L 17, 20.1.1994, p. 7)	
Other tracers: — Vanillin	Not detectable	Commission Regulation (EC) No 1459/98 (OJ L 193, 9.7.1998, p. 16)	Note 2		

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EC) No 454/95 Private storage	Unsalted butter	— Carotenic acid ethyl ester	Not detectable	Regulation (EC) No 1082/96 (OJ L 142, 15.6.1996, p. 26)	
		— Triglyceride of enanthic acid	Not detectable	IUPAC 2.301 sub 5	
		Sensory characteristics	At least four out of five points for A, F, C	Annex IV	
		Water dispersion	At least four points	IDF Standard 112A:1989	
Regulation (EC) No 454/95 Private storage	Unsalted butter	Milk fat	82 % min.	Commission Regulation (EC) No 880/98	Note 6
		Water	16 % max.	Commission Regulation (EC) No 880/98	
Regulation (EC) No 454/95 Private storage	Salted butter	Milk fat	80 % min.	Commission Regulation (EC) No 880/98	Note 6
		Water	16 % max.	Commission Regulation (EC) No 880/98	
		Salt	2 % max.	IDF Standard 12B:1988	
Regulation (EC) No 2571/97	Non-salted butter	Milk fat	82 % min.	Commission Regulation (EC) No 880/98	Note 2
		Water	16 % max.	Commission Regulation (EC) No 880/98	
		Tracers:			
		— Sterols		Commission Regulation (EC) No 86/94	
		— Vanillin		Commission Regulation (EC) No 1459/98	
— Carotenic acid ethyl ester		Commission Regulation (EC) No 1082/96			
— Triglycerides of enanthic acid		IUPAC 2.301 sub 5			

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EC) No 2571/97	Salted butter	Milk fat	80 % min.	Commission Regulation (EC) No 880/98	Note 2
		Water	16 % max.	Commission Regulation (EC) No 880/98	
		Salt	2 % max.	IDF Standard 12B:1988	
		Tracers:			
		— Sterols		Commission Regulation (EC) No 86/94	
		— Vanillin		Commission Regulation (EC) No 1459/98	
		— Carotenic acid ethyl ester		Commission Regulation (EC) No 1082/96	
— Triglycerides of enanthic acid		IUPAC 2.301 sub 5			
Regulation (EC) No 2571/97	Concentrated butter	Milk fat	99,8 % min.	IDF Standard 24:1964	Note 1
		Moisture and MSNF	0,2 % max.	IDF Standard 23A:1988 (moisture) IDF Standard 24:1964 (MSNF)	
		Fat acidity	0,35 % (oleic) max.	IDF Standard 6B:1989	
		PV (max.)	0,5 mequiv. oxygen/1 000 g fat	IDF Standard 74A:1991 (English version)	
		Non milk fat	Absent	Annex III to Regulation (EC) No 454/95 (OJ L 46, 1.3.1995, p. 1)	
		Flavour	Fresh		
		Smell	Absence of extraneous odours		
		Other	Absence of neutralising agents, antioxidants and preservatives		
		Tracers:			
		— Sterols		Commission Regulation (EEC) No 3942/92 (OJ L 399, 31.12.1992, p. 29)	
— Vanillin		Commission Regulation (EC) No 1459/98	Note 2		
— Carotenic acid ethyl ester		Commission Regulation (EC) No 1082/96			
— Triglycerides of enanthic acid		IUPAC 2.301 sub 5			

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EC) No 2571/97	Cream	Fat	35 %	IDF Standard 16C:1987	
		Tracers:			
		— Sterols		Methods approved by competent authority	Note 2
		— Vanillin		Commission Regulation (EC) No 1459/98	Note 2
		— Carotenic acid ethyl ester		Methods approved by competent authority	Note 2
		— Triglycerides of enanthic acid		IUPAC 2.301 sub 5	
Regulation (EEC) No 429/90	Concentrated butter	Milk fat	96 % min.	Methods approved by competent authority	Note 2
		Snf	2 % max.	Methods approved by competent authority	Note 2
		Tracers:			
		— Stigmasterol (95 %)	15 g/100 kg butter concentrate	Commission Regulation (EEC) No 3942/92	
		— Stigmasterol (85 %)	17 g/100 kg butter concentrate	Commission Regulation (EEC) No 3942/92	
		— Triglycerides of enanthic acid	1,1 kg/100 kg butter concentrate	IUPAC 2.301 sub 5	
		— Ethyl ester of butyric acid and stigmasterol	See Annex point 1(c)	Commission Regulation (EEC) No 3942/92 (stigmasterol) and method approved by competent authority (butyric acid)	Note 2
		— Lecithin (E322)	0,5 % max.	Methods approved by competent authority	Note 2
		NaCl	0,75 % max.	IDF Standard 12B:1988	
		Fat acidity	0,35 % (oleic) max.	IDF Standard 6B:1989	
		PV (max.)	0,5 mequiv. oxygen/1 000 g fat	IDF Standard 74A:1991 (English version)	Note 1
		Flavour	Fresh		
		Smell	Absence of extraneous odours		
Other	Absence of neutralising agents, antioxidants and preservatives				

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 2191/81	Non-salted butter	Milk fat	82 % min.	Commission Regulation (EC) No 880/98 Commission Regulation (EC) No 880/98	
		Water	16 % max.		
Regulation (EEC) No 2191/81	Salted butter	Milk fat	80 % min.	Commission Regulation (EC) No 880/98 Commission Regulation (EC) No 880/98 IDF Standard 12B:1988	
		Water	16 % max.		
		Salt	2 % max.		
Regulation (EEC) No 2990/82	Non-salted butter	Milk fat	82 % min.	Commission Regulation (EC) No 880/98 Commission Regulation (EC) No 880/98	
		Water	16 % max.		
Regulation (EEC) No 2990/82	Salted butter	Milk fat	80 % min.	Commission Regulation (EC) No 880/98 Commission Regulation (EC) No 880/98 IDF Standard 12B:1988	
		Water	16 % max.		
		Salt	2 % max.		
Regulation (EC) No 1081/96	Cheese made from ewes and/or goats milk	Cows' milk	< 1 %	Commission Regulation (EC) No 1081/96 (OJ L 142, 15.6.1996, p. 15)	
Regulation (EEC) No 2921/90	Annex I — Acid casein	Water	12,00 % max.	IDF Standard 78C:1991 IDF 127A:1988 IDF Standard 91:1979	
		Fat	1,75 % max.		
		Free acidity	0,30 % (lactic) max.		
Regulation (EEC) No 2921/90	Annex I — Rennet casein	Water	12,00 % max.	IDF Standard 78C:1991 IDF 127A:1998 IDF Standard 90:1979	
		Fat	1,00 % max.		
		Ash	7,50 % min.		

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 2921/90	Annex I — Caseinate	Water Milk protein Fat and ash	6,00 % max. 88,00 % min. 6,00 % max.	IDF Standard 78C:1991 IDF Standard 92:1979 IDF 127A:1988 IDF Standard 89:1979 or IDF Standard 90:1979	
Regulation (EEC) No 2921/90	Annex II — Acid casein	Water Fat Free acidity TBC (max.) Coliforms  Therm. (max.)	10,00 % max. 1,50 % max. 0,20 % (lactic) max. 30,000/l g Absence/0,1 g  5,000/l g	IDF Standard 78C:1991 IDF 127A:1988 IDF Standard 91:1979 IDF Standard 100B:1991 Commission Regulation (EC) No 1080/96 IDF Standard 100B:1991	Note 3 Note 3  Note 3, 4
Regulation (EEC) No 2921/90	Annex II — Rennet casein	Water Fat Ash TBC (max.) Coliforms  Therm. (max.)	8,00 % max. 1,00 % max. 7,50 % min. 30,000/l g Absence/0,1 g  5,000/l g	IDF Standard 78C:1991 IDF 127A:1988 IDF Standard 90:1979 IDF Standard 100B:1991 Commission Regulation (EC) No 1080/96 IDF Standard 100B:1991	Note 3 Note 3  Note 3, 4
Regulation (EEC) No 2921/90	Annex II — Caseinate	Water Milk Protein Fat and ash  TBC (max.) Coliforms  Therm. (max.)	6,00 % max. 88,00 % min. 6,00 % max.  30,000/l g Absence/0,1 g  5,000/l g	IDF Standard 78C:1991 IDF Standard 92:1979 IDF 127A:1988 IDF 89:1979 or IDF 90:1979 IDF Standard 100B:1991 Commission Regulation (EC) No 1080/96 IDF Standard 100B:1991	Note 3 Note 3  Note 3, 4
Regulation (EEC) No 2921/90	Annex III — Caseinate	Water Milk protein Fat Lactose Ash TBC (max.) Coliforms  Therm. (max.)	6,00 % max. 85,00 % min. 1,50 % max. 1,00 % max. 6,50 % max. 30,000/l g Absence/0,1 g  5,000/l g	IDF Standard 78C:1991 IDF Standard 92:1979 IDF 127A:1988 IDF Standard 106:1982 IDF 89:1979 or IDF 90:1979 IDF Standard 100B:1991 Commission Regulation (EC) No 1080/96 IDF Standard 100B:1991	Note 3 Note 3  Notes 3 and 4



Commission Regulation	Product	Parameter	Limit	Reference method	Remark		
Regulation (EEC) No 1725/79	Compound feedingstuffs and SMP (animal grade)	Water (acid buttermilk powder)	5 % max.	Annex VI			
		Water (SMP)	5 % max.	IDF Standard 26A:1993			
		Fat (SMP)	11 % max.	IDF Standard 9C:1987			
		Rennet whey (SMP)	Absence	Annex IV			
		Starch (SMP)	Absence	Annex V			
		Water (Mixture)	5 % max. in non fat dry matter	IDF Standard 26A:1993			
		Fatty material (Mixture)	—	Commission Directive 84/4/EEC (OJ L 15, 18.1.1984, p. 28)	Note 7		
		Rennet whey (Mixture)	Absence	Annex IV			
		SMP content (final product)	50 % Minimum	Annex III			
		Fatty matter (final product)	2,5 % or 5 % minimum	Commission Directive 84/4/EEC	Note 7		
		Starch (final product)	2 % min.	Annex V	Note 8		
		Copper (final product)	25 ppm	Commission Directive 78/633/EEC (OJ L 206, 29.7.1987, p. 43)	Note 9		
		Regulation (EC) No 322/96	SMP spray	Fat	1,0 % max.	IDF Standard 9C:1987	
				Protein	31,4 % (min. in non-fat dry matter)	IDF Standard 20B:1993	
Water	3,5 % max.			IDF Standard 26A:1993			
Acidity (N/10 NaOH)	19,5 mls max.			IDF Standard 86:1981			
Lactates	150 mg/100 g max.			IDF Standard 69B:1987			
Phosphatase	Negative			ISO Standard 3356:1975			
Solubility	0,5 ml max. at 24 °C			IDF 129A:1988			
Scorched particles	Disk B min. (15,0 mg)			ADPI:1990			
TBC	40,000/l g			IDF Standard 100B:1991	Note 3		
Coliform	Negative/0,1 g			Commission Regulation (EC) No 1080/96	Note 3		
Buttermilk	Negative			Annex VI			
Whey — Rennet	Negative			Annex V			
Whey — Acid	Negative			Method approved by competent authority	Note 2		
Antimicrobial agents				Annex VII			

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 1105/68	Skimmed milk	Fat Solids non fat Total solids Freezing point	1 % max. 8,75 % min. — —	IDF Standard 22B:1987  IDF Standard 21B:1987 IDF 108B:1991	Note 5
Regulation (EEC) No 1105/68	Buttermilk	Fat Solids non fat Total solids	1 % max. 8,00 % min. —	IDF Standard 22B:1987  IDF Standard 21B:1987	Note 5

## PART B:

The reference methods listed under Part B are applicable to analyses of products covered by any of the Regulations indicated in the first column.

Commission Regulation	Product	CN code	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 1150/90 Regulation (EC) No 1466/95 Regulation (EC) No 1600/95 Regulation (EC) No 2508/97	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	CN code 0401	Fat ( $\leq 6\%$ )  Fat ( $> 6\%$ )	The limits are those specified in the description to the CN code for the particular product or where applicable those specified in Part 9 of the export refund nomenclature in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1)	IDF Standard 1D:1996  IDF Standard 16C:1987	Note 2
	Milk and cream, concentrated or containing added sugar or other sweetening matter	CN code 0402	Fat (liquid form) Fat (solid form) Sucrose (normal content) Sucrose (low content)  Total solids (SCM) Total solids (EMC)		IDF Standard 13C:1987 IDF Standard 9C:1993 IDF Standard 35A:1992 Method approved by competent authority IDF Standard 15B:1991 IDF Standard 21B:1987	

Commission Regulation	Product	CN code	Parameter	Limit	Reference method	Remark
	Buttermilk, fermented or acidified milk and cream, concentrated or unconcentrated containing added sugar or other sweetening matter	CN code 0403	Fat Sucrose (normal content) Sucrose (low content)		IDF 1D:1996, IDF 9C:1987 IDF 16C:1987, IDF 22B:1987 IDF 126A:1988 IDF Standard 35A:1992  Method approved by competent authority	Note 2
	Whey, concentrated or unconcentrated containing added sugar or other sweetening matter; products consisting of natural milk constituents	CN code 0404	Fat Protein Sucrose (normal content) Sucrose (low content)		IDF 9C:1987, IDF 16C:1987 IDF 22B:1987 IDF Standard 20B:1993 IDF Standard 35A:1992 Method approved by competent authority	Note 2
	Butter and other fats derived from milk; dairy spreads	CN code 0405	Fat (if fat ≤ 85 %) Water Butter Solids non fat NaCl Butteroil Fat (fat > 99 %) Water (if fat. < 99 %)		Commission Regulation (EC) No 880/98 Commission Regulation (EC) No 880/98 Commission Regulation (EC) No 880/98 IDF Standard 12B:1988 IDF Standard 24:1964 IDF Standard 23A:1988	
	Cheese and curd	CN code 0406	Fat Dry matter Dry matter (Ricotta) NaCl Lactose		IDF Standard 5B:1986 IDF Standard 4A:1982 IDF Standard 58:1970 IDF Standard 88A:1988 IDF Standard 79B:1991	

**Notes to list of European Union reference methods**

Note 1: Milk fat isolation as described in IDF Standard 6B:1989 (protection from light).

Note 2: No reference method has been established.

Note 3: Sample preparation to be carried out according to IDF Standard 122C:1996 or according to IDF Standard 73A:1985.

Note 4: Incubation for 48 hours at a temperature of 55 °C, precautions against drying out of the growth medium to be taken.

Note 5: % solids non fat = % total solids – % fat.

Note 6: The butter must correspond to the national quality class of the Member State of production referred to in Annex II to Commission Regulation (EC) No 454/95.

Note 7: Commission Directive 84/4/EEC.

Note 8: Commission Regulation (EC) No 1758/94 (OJ L 183, 19.7.1994, p. 14).

Note 9: Commission Directive 78/633/EEC.'

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**COMMISSION REGULATION (EC) No 882/1999**  
**of 28 April 1999**

**fixing the minimum import price applicable to certain types of processed  
cherries during the 1999/2000 marketing year**

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

Having regard to Council Regulation (EC) No 2201/96 of  
28 October 1996 on the common organisation of the  
market in products processed from fruit and vegetables <sup>(1)</sup>,  
as amended by Regulation (EC) No 2199/97 <sup>(2)</sup>, and in  
particular Articles 1(3) and 13(8) thereof,

- (1) Whereas, pursuant to Article 13(1) of Regulation  
(EC) No 2201/96, minimum import prices are to  
be determined having regard in particular to:
- the free-at-frontier prices on import into the  
Community,
  - the prices obtained on world markets,
  - the situation on the internal Community  
market,
  - the trend of trade with non-member countries;
- (2) Whereas a minimum import price should be fixed  
on the basis of the abovementioned criteria for the

1999/2000 marketing year for processed cherries  
listed in Annex II to Regulation (EC) No 2201/96;

- (3) Whereas the measures provided for in this Regula-  
tion are in accordance with the opinion of the  
Management Committee for Products Processed  
from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. For each of the products listed in the Annex to this  
Regulation, the minimum import price applicable during  
the 1999/2000 marketing year shall be as set out in that  
Annex.
2. The marketing year for the products referred to in  
paragraph 1 shall run from 10 May 1999 to 9 May 2000.

*Article 2*

This Regulation shall enter into force on 10 May 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 297, 21.11.1996, p. 29.

<sup>(2)</sup> OJ L 303, 6.11.1997, p. 1.

## ANNEX

(EUR/100 kg net weight)

CN code	Description	Minimum import price
ex 0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter:	
ex 0811 90	– Other:	
	– – Containing added sugar or other sweetening matter:	
	– – – With a sugar content exceeding 13 % by weight:	
ex 0811 90 19	– – – – Other:	
	– – – – – Sour cherries ( <i>Prunus cerasus</i> ):	
	– – – – – Unstoned	58,20
	– – – – – Other	65,81
	– – – – – Other cherries:	
	– – – – – Unstoned	58,20
	– – – – – Other	65,81
	– – – Other:	
ex 0811 90 39	– – – – Other:	
	– – – – – Sour cherries ( <i>Prunus cerasus</i> )	
	– – – – – Unstoned	58,20
	– – – – – Other	65,81
	– – – – – Other cherries:	
	– – – – – Unstoned	58,20
	– – – – – Other	65,81
	– – Other:	
	– – – Cherries:	
0811 90 75	– – – – Sour cherries ( <i>Prunus cerasus</i> ):	
	– – – – – Unstoned	58,20
	– – – – – Other	65,81
0811 90 80	– – – – Other:	
	– – – – – Unstoned	58,20
	– – – – – Other	65,81
ex 0812	Fruit and nuts, provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption:	
0812 10 00	– Cherries:	
ex 0812 10 00	– – Sour cherries ( <i>Prunus cerasus</i> )	58,20
ex 0812 10 00	– – Other	58,20
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, no elsewhere specified or included:	
2008 60	– Cherries:	
	– – Not containing added spirit:	
	– – – Containing added sugar, in immediate packings of a net content exceeding 1 kg:	
2008 60 51	– – – – Sour cherries ( <i>Prunus cerasus</i> )	73,42
2008 60 59	– – – – Other	73,42
	– – – Containing added sugar, in immediate packings of a net content not exceeding 1 kg:	
2008 60 61	– – – – Sour cherries ( <i>Prunus cerasus</i> )	81,02

(EUR/100 kg net weight)

CN code	Description	Minimum import price
2008 60 69	— — — — Other	81,02
	— — — — Not containing added sugar, in immediate packings of a net content:	
	— — — — — Of 4,5 kg or more:	
2008 60 71	— — — — — Sour cherries ( <i>Prunus cerasus</i> )	64,84
2008 60 79	— — — — — Other	64,84
	— — — — — Of less than 4,5 kg:	
2008 60 91	— — — — — Sour cherries ( <i>Prunus cerasus</i> )	70,88
2008 60 99	— — — — — Other	70,88

**COMMISSION REGULATION (EC) No 883/1999**  
**of 28 April 1999**  
**on the issue of system B export licences in the fruit and vegetables sector**

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

Having regard to Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EC) No 1287/98 <sup>(2)</sup>, and in particular Article 5(5) thereof,

Whereas Commission Regulation (EC) No 458/1999 <sup>(3)</sup>, as amended by Regulation (EC) No 499/1999 <sup>(4)</sup>, fixes the indicative quantities for system B export licences other than those sought in the context of food aid;

Whereas, in the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for apples for the geographic Zone X will shortly be exceeded; whereas this overrun will prejudice the proper

working of the export refund scheme in the fruit and vegetables sector;

Whereas, to avoid this situation, applications for system B licences for apples for the geographic Zone X exported after 26 April 1999 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

*Article 1*

Applications for system B export licences for apples for the geographic Zone X submitted pursuant to Article 1 of Regulation (EC) No 458/1999, export declarations for which are accepted after 26 April 1999 and before 17 May 1999, are hereby rejected.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 292, 15.11.1996, p. 12.

<sup>(2)</sup> OJ L 178, 23.6.1998, p. 11.

<sup>(3)</sup> OJ L 55, 3.3.1999, p. 8.

<sup>(4)</sup> OJ L 59, 6.3.1999, p. 22.



**COMMISSION REGULATION (EC) No 884/1999**  
**of 28 April 1999**  
**fixing the export refunds on olive oil**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EC) No 1638/98<sup>(2)</sup>, and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72<sup>(3)</sup>, as last amended by Regulation (EEC) No 2962/77<sup>(4)</sup>;

Whereas Article 3 (3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 3 (4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market; whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period; whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world

market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 3 (3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender; whereas the tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 3 (3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

<sup>(1)</sup> OJ 172, 30. 9. 1966, p. 3025/66.

<sup>(2)</sup> OJ L 210, 28.7.1998, p. 32.

<sup>(3)</sup> OJ L 78, 31.3.1972, p. 1.

<sup>(4)</sup> OJ L 348, 30.12.1977, p. 53.

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

Done at Brussels, 28 April 1999.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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ANNEX

to the Commission Regulation of 28 April 1999 fixing the export refunds on olive oil  
(EUR/100 kg)

Product code	Amount of refund (1)
1509 10 90 9100	0,00
1509 10 90 9900	0,00
1509 90 00 9100	0,00
1509 90 00 9900	0,00
1510 00 90 9100	0,00
1510 00 90 9900	0,00

(1) For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ L 351, 14. 12. 1987, p 1), as well as for exports to third countries.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

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**COMMISSION REGULATION (EC) No 885/1999**  
**of 28 April 1999**  
**amending the export refunds on syrups and certain other sugar sector products**  
**exported in the natural state**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(1)</sup>, as last amended by Regulation (EC) No 1148/98 <sup>(2)</sup>, and in particular Article 17 <sup>(5)</sup> thereof,

Whereas the refunds on syrups and certain other sugar products were fixed by Commission Regulation (EC) No 714/1999 <sup>(3)</sup>;

Whereas it follows from applying the rules, criteria and other provisions contained in Regulation (EC) No 714/1999 to the information at present available to the

Commission that the export refunds at present in force should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The refunds to be granted on the products listed in Article 1 (1) (d), (f) and (g) of Regulation (EEC) No 1785/81, exported in the natural state, as fixed in the Annex to Regulation (EC) No 714/1999 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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<sup>(1)</sup> OJ L 177, 1.7.1981, p. 4.

<sup>(2)</sup> OJ L 159, 3.6.1998, p. 38.

<sup>(3)</sup> OJ L 89, 1.4.1999, p. 63.

## ANNEX

## to the Commission Regulation of 28 April 1999 amending the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Amount of refund
	— EUR/100 kg dry matter —
1702 40 10 9100	51,94 <sup>(2)</sup>
1702 60 10 9000	51,94 <sup>(2)</sup>
1702 60 80 9100	98,69 <sup>(4)</sup>
	— EUR/1 % sucrose × 100 kg —
1702 60 95 9000	0,5194 <sup>(1)</sup>
	— EUR/100 kg dry matter —
1702 90 30 9000	51,94 <sup>(2)</sup>
	— EUR/1 % sucrose × 100 kg —
1702 90 60 9000	0,5194 <sup>(1)</sup>
1702 90 71 9000	0,5194 <sup>(1)</sup>
1702 90 99 9900	0,5194 <sup>(1)</sup> <sup>(2)</sup>
	— EUR/100 kg dry matter —
2106 90 30 9000	51,94 <sup>(2)</sup>
	— EUR/1 % sucrose × 100 kg —
2106 90 59 9000	0,5194 <sup>(1)</sup>

<sup>(1)</sup> The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

<sup>(2)</sup> Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

<sup>(3)</sup> The basic amount is not applicable to the product defined under point 2 of the Annex to Regulation (EEC) No 3513/92 (OJ L 355, 5. 12. 1992, p. 12).

<sup>(4)</sup> Applicable only to products defined under Article 6 of Regulation (EC) No 2135/95.

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

**COMMISSION REGULATION (EC) No 886/1999**  
**of 28 April 1999**  
**fixing the import duties in the rice sector**

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 <sup>(1)</sup>, as last amended by Regulation (EC) No 2072/98 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector <sup>(3)</sup>, as last amended by Regulation (EC) No 2831/98 <sup>(4)</sup>, and in particular Article 4(1) thereof,

Whereas Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12(3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product;

Whereas Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import duties in the rice sector referred to in Article 11(1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

*Article 2*

This Regulation shall enter into force on 29 April 1999.

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

Done at Brussels, 28 April 1999.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 329, 30.12.1995, p. 18.

<sup>(2)</sup> OJ L 265, 30.9.1998, p. 4.

<sup>(3)</sup> OJ L 189, 30.7.1996, p. 71.

<sup>(4)</sup> OJ L 351, 29.12.1998, p. 25.

## ANNEX I

## Import duties on rice and broken rice

(EUR/t)

CN code	Duties (°)				
	Third countries (except ACP and Bangladesh) (°) (°)	ACP (°) (°) (°)	Bangladesh (°)	Basmati India and Pakistan (°)	Egypt (°)
1006 10 21	(°)	83,41	121,01		188,03
1006 10 23	(°)	83,41	121,01		188,03
1006 10 25	(°)	83,41	121,01		188,03
1006 10 27	(°)	83,41	121,01		188,03
1006 10 92	(°)	83,41	121,01		188,03
1006 10 94	(°)	83,41	121,01		188,03
1006 10 96	(°)	83,41	121,01		188,03
1006 10 98	(°)	83,41	121,01		188,03
1006 20 11	207,25	68,20	99,29		155,44
1006 20 13	207,25	68,20	99,29		155,44
1006 20 15	207,25	68,20	99,29		155,44
1006 20 17	225,56	74,61	108,44	0,00	169,17
1006 20 92	207,25	68,20	99,29		155,44
1006 20 94	207,25	68,20	99,29		155,44
1006 20 96	207,25	68,20	99,29		155,44
1006 20 98	225,56	74,61	108,44	0,00	169,17
1006 30 21	418,93	134,23	194,56		314,20
1006 30 23	418,93	134,23	194,56		314,20
1006 30 25	418,93	134,23	194,56		314,20
1006 30 27	(°)	160,51	232,09		370,50
1006 30 42	418,93	134,23	194,56		314,20
1006 30 44	418,93	134,23	194,56		314,20
1006 30 46	418,93	134,23	194,56		314,20
1006 30 48	(°)	160,51	232,09		370,50
1006 30 61	418,93	134,23	194,56		314,20
1006 30 63	418,93	134,23	194,56		314,20
1006 30 65	418,93	134,23	194,56		314,20
1006 30 67	(°)	160,51	232,09		370,50
1006 30 92	418,93	134,23	194,56		314,20
1006 30 94	418,93	134,23	194,56		314,20
1006 30 96	418,93	134,23	194,56		314,20
1006 30 98	(°)	160,51	232,09		370,50
1006 40 00	(°)	49,58	(°)		114,00

(°) The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 1706/98 (OJ L 215, 1.8.1998, p. 12) and amended Commission Regulation (EC) No 2603/97 (OJ L 351, 23.12.1997, p. 22).

(°) In accordance with Regulation (EC) No 1706/98, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

(°) The import levy on rice entering the overseas department of Réunion is specified in Article 11(3) of Regulation (EC) No 3072/95.

(°) The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4.12.1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9.4.1991, p. 7).

(°) No import duty applies to products originating in the OCT pursuant to Article 101(1) of amended Council Decision 91/482/EEC (OJ L 263, 19.9.1991, p. 1).

(°) For husked rice of the Basmati variety originating in India and Pakistan, a reduction of EUR 250 per tonne applies (Article 4a of amended Regulation (EC) No 1503/96).

(°) Duties fixed in the Common Customs Tariff.

(°) The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15.11.1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1.2.1997, p. 53).

## ANNEX II

## Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	( <sup>1</sup> )	225,56	494,00	207,25	418,93	( <sup>1</sup> )
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	346,66	276,75	390,40	429,86	—
(b) fob price (EUR/tonne)	—	—	—	362,18	401,64	—
(c) Sea freight (EUR/tonne)	—	—	—	28,22	28,22	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(<sup>1</sup>) Duties fixed in the Common Customs Tariff.

## II

*(Acts whose publication is not obligatory)*

## EUROPEAN ECONOMIC AREA

## EFTA SURVEILLANCE AUTHORITY

## EFTA SURVEILLANCE AUTHORITY DECISION

No 316/98/COL

of 4 November 1998

**on the fourteenth amendment of the Procedural and Substantive Rules in the Field of State Aid**

THE EFTA SURVEILLANCE AUTHORITY,

has amended the Procedural and Substantive Rules in the Field of State Aid <sup>(1)</sup>, adopted on 19 January 1994 <sup>(2)</sup>, as last amended on 4 March 1998 <sup>(3)</sup>, as follows:

1. the attached new chapter 25, National regional aid, shall be introduced;
2. subject to the transitional arrangement provided for in Section 25.6(5) and (6) of the new Chapter 25, the existing Chapters 25 to 28 shall be deleted;
3. the attached new Chapter 33.2, Reference rate of interest, shall be introduced;
4. the attached new annex, Annex X, Net grant equivalent of investment aid, shall be introduced;
5. the attached new Annex XI, Aid to offset additional transport costs in regions qualifying for exemption under article 61(3)(c) on the basis of the population density test, shall be introduced;
6. the attached new Annex XII, Method of determining the ceilings on the population covered by the 61(3)(c) derogation, shall be introduced;
7. the attached changes in Chapter 13.4 and certain footnotes shall be made,

<sup>(1)</sup> Hereinafter referred to as the State Aid Guidelines.

<sup>(2)</sup> OJ L 231, 3.9.1994, p. 1; EEA Supplement to the OJ No 32, 3.9.1994.

<sup>(3)</sup> OJ L 120, 23.4.1998, p. 27; EEA Supplement to the OJ No 16, 23.4.1998.



**'PART VI****RULES ON REGIONAL AID**25. NATIONAL REGIONAL AID <sup>(1)</sup>25.1. *Introduction*

- (1) The aid measures which form the subject-matter of these Guidelines ("regional aid") differ from the other categories of government support (in particular aid for R & D, environmental protection, or firms in difficulty) in that they are reserved for particular regions and have as their specific aim the development of those regions <sup>(2)</sup>.
- (2) Regional aid is designed to develop the less-favoured regions by supporting investment and job creation in a sustainable context. It promotes the expansion, modernisation and diversification of the activities of establishments located in those regions and encourages new firms to settle there. In order to foster this development and reduce the potential negative effects of any relocation, it is necessary to make the granting of such aid conditional on the maintenance of the investment and the jobs created during a minimum period in the less-favoured region.
- (3) In exceptional cases, such aid may not be enough to trigger a process of regional development, if the structural handicaps of the region concerned are too great. Only in such cases may regional aid be supplemented by operating aid.
- (4) The EFTA Surveillance Authority considers that regional aid can play effectively the role that is assigned to it and hence justify the consequent distortions of competition, provided that it adheres to certain principles and obeys certain rules. Foremost among these principles is the exceptional nature of the instrument, in keeping with the letter and spirit of Article 61 of the EEA Agreement.
- (5) In fact, such aid is conceivable in the EEA only if it is used sparingly and remains concentrated on the most disadvantaged regions. If aid were to become generalised and, as it were, the norm, it would lose all its incentive quality and its economic impact would be nullified. At the same time, the aid would interfere with the normal inter-play of market forces and reduce the efficacy of the Single Market.

25.2. *Scope*

- (1) THE EFTA Surveillance Authority will apply these Guidelines to regional aid granted in every sector of the economy falling within the scope of the EEA Agreement and the competences of the Authority. In addition, some of the sectors they cover are also governed by rules aimed specifically at the sectors in question <sup>(3)</sup>.
- (2) A derogation from the general prohibition against State aid established by Article 61(1) of the EEA Agreement may be granted in respect of regional aid only if the equilibrium between the resulting distortions of competition and the advantages of the aid in terms of the development of a less-favoured region <sup>(4)</sup> can be guaranteed. The weight given to the advantages of the aid is likely to vary according to the derogation applied, having a more adverse effect on competition in the situations described in Article 61(3)(a) than in those described in Article 61(3)(c) <sup>(5)</sup>.

- (3) An individual *ad hoc* aid payment <sup>(6)</sup> made to a single firm, or aid confined to one area of activity, may have a major impact on competition in the relevant market, and its effects on regional development are likely to be too limited. Such aid generally comes within the ambit of specific or sectoral industrial policies and is often not in keeping with the spirit of regional aid policy as such <sup>(7)</sup>. The latter must remain neutral towards the allocation of productive resources between the various economic sectors and activities. The EFTA Surveillance Authority considers that, unless it can be shown otherwise, such aid does not fulfil the requirements set out in the preceding paragraph <sup>(8)</sup>.
- (4) Consequently, the derogations in question will normally be granted only for multisectoral aid schemes open, in a given region, to all firms in the sectors concerned.

### 25.3. *Demarcation of regions*

- (1) In order that the aid schemes directed at them may benefit from one of the derogations, the regions concerned must satisfy the conditions set forth in those derogations. The EFTA Surveillance Authority establishes whether the conditions are met by applying predetermined analytical criteria.
- (2) In the light of the exceptional nature of regional aid, the EFTA Surveillance Authority considers *prima facie* that the total extent of assisted regions in the EFTA States must remain smaller than that of unassisted regions. In practice this means that the total population coverage of regional aid in the EFTA States must be less than 50 % of the combined EFTA population. When determining the overall population ceiling for the EFTA States, the Authority will in accordance with its principle of ensuring a uniform implementation, application and interpretation of the EEA rules on State aid, take due account of the overall population ceilings for regional aid within the European Union.
- (3) As the two derogations in question relate to regional problems of a different nature and intensity, priority must be given, within the limits of the total aid coverage referred to in paragraph (2), to the regions affected by the most acute problems.
- (4) The demarcation of eligible regions must therefore lead to a spatial concentration of aid in accordance with the principles mentioned in paragraphs (2) and (3).

#### **The derogation in Article 61(3)(a)**

- (5) Article 61(3)(a) provides that aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment may be considered compatible with the functioning of the EEA Agreement. As the Court of Justice of the European Communities has held, "the use of the words "abnormally" and "serious" in the exemption contained in Article 92(3)(a) shows that it concerns only areas where the economic situation is extremely unfavourable in relation to the Community as a whole <sup>(9)</sup>".
- (6) The EFTA Surveillance Authority accordingly considers, following a tried and tested approach, that the conditions laid down are fulfilled if the region, being a NUTS <sup>(10)</sup> level II geographical unit, has a per capita gross domestic product (GDP), measured in purchasing power standards (PPS), of less than 75 % of the EEA average <sup>(11)</sup>. The GDP/PPS of each region and the EEA average to be used in the analysis must relate to the average of the last three years for which statistics are available. These amounts are calculated on the basis of data furnished by the Statistical Office for the European Communities or other official statistical sources.

**The derogation in Article 61(3)(c)**

- (7) In contrast to Article 61(3)(a), where the situation in view is identified precisely and formally, Article 61(3)(c) allows greater latitude when it comes to defining the difficulties of a region that can be alleviated with the help of aid measures. The relevant indicators do not therefore necessarily boil down in this case to standards of living and underemployment. The appropriate framework for evaluating these difficulties may also be provided by the relevant EFTA State.
- (8) The European Court of Justice, in Case 248/84 (see footnote 9), has expressed its views on these two matters (range of problems covered and reference framework for the analysis), as follows: "The exemption in Article 92(3)(c), on the other hand, is wider in scope inasmuch as it permits the development of certain areas without being restricted by the economic conditions laid down in Article 92(3)(a), provided such aid "does not adversely affect trading conditions to an extent contrary to the common interest". That provision gives the Commission power to authorise aid intended to further the economic development of areas of a Member State which are disadvantaged in relation to the national average."
- (9) The regional aid covered by the derogation in point (c) must, however, form part of a coherent regional policy of the EFTA State and adhere to the principles of geographical concentration set out above. Inasmuch as it is intended for regions which are less disadvantaged than those to which point (a) relates, such aid is, to a greater extent than the latter, exceptional and can be allowed only to a very limited degree. This being so, only a small part of the national territory of a EFTA State may *prima facie* qualify for the aid in question. This is why the population coverage of regions falling under Article 61(3)(c) must not exceed 50 % of the national population not covered by the derogation under Article 61(3)(a)<sup>(12)</sup>.
- (10) On the other hand, the fact that the nature of such aid makes it possible to take account of the national peculiarities of an EFTA State does not exempt the aid from the need for scrutiny from the viewpoint of common interest of the contracting Parties to the EEA Agreement. The designation of the regions eligible for regional aid in each EFTA State must therefore fit into a framework guaranteeing an overall coherence at EEA level<sup>(13)</sup>.
- (11) So as to afford national authorities sufficient latitude when it comes to choosing eligible regions without jeopardising the effectiveness of the system of checks operated by the EFTA Surveillance Authority in respect of this type of aid and the equal treatment of all EEA States, the determination of the regions eligible under the derogation in question consists of two parts:
- the fixing by the EFTA Surveillance Authority, for each country, of a ceiling on the coverage of such aid,
  - the selection of eligible regions.

The latter part will obey transparent rules but will also be sufficiently flexible to allow for the diversity of situations potentially justifying the application of the derogation. The aid coverage ceiling is designed to be conducive to the abovementioned flexibility in the choice of eligible regions whilst ensuring the uniform treatment required by acceptance of such aid from the EEA point of view.

- (12) To guarantee effective control of regional aid, the EFTA Surveillance Authority sets ceilings in terms of population for the coverage of regional aid eligible under Article 61(3)(c) in each of the EFTA States. In fixing these ceilings, and with a view of being consistent with the approach chosen in the European Community, the Authority

takes into account effects of the population ceiling for coverage of regional aid fixed by the European Commission according to Article 92(3) of the EC Treaty, and by ensuring that the overall ceiling for coverage of regional aid according to either Article 61(3)(a) or 61(3)(c) in the EFTA countries together in terms of population under no circumstances exceeds the corresponding ceiling applicable for all the Member States of the European Community. The method of determining the ceilings in each EFTA State is described in Annex XII to these Guidelines.

- (13) The EFTA States notify to the EFTA Surveillance Authority, under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, the methodology and the quantitative indicators which they wish to use to determine the eligible regions, and the list of regions they propose for the (c) derogation and the relative intensities<sup>(14)</sup>. The percentage for the population of the regions concerned may not exceed the said ceiling on coverage for the purposes of the 61(3)(c) derogation.
- (14) The methodology must satisfy the following conditions:
- it must be objective,
  - it must make it possible to measure the disparities in the socio-economic circumstances of the regions in question in the EFTA State concerned, highlighting significant differences,
  - it must be presented in a clear, detailed fashion, to enable the EFTA Surveillance Authority to assess its merits.
- (15) The indicators must satisfy the following conditions:
- their number, including both simple indicators and combinations of indicators, must be limited to five,
  - they must be objective and relevant to the examination of the socio-economic circumstances of the regions,
  - they must either be based on statistical series relating to the indicators used over a period including at least the three years prior to the moment of notification, or be derived from the last survey carried out, if the relevant statistics are not available on an annual basis,
  - they must be drawn up by reliable statistical sources.
- (16) The list of regions must satisfy the following conditions:
- the regions must conform to NUTS level III or, in justified circumstances, to a different homogeneous geographical unit. Only one type of geographical unit may be submitted by each EFTA State,
  - the individual regions proposed or the groups of contiguous regions must form compact zones, each of which must have a population of at least 100 000. If the population of the regions is less, a fictitious figure of 100 000 inhabitants will be used for the calculation of the percentage of the population covered. Exceptions to this rule are the NUTS level III regions with a population of less than 100 000, islands and other regions characterised by similar geographical isolation<sup>(15)</sup>,
  - the list of regions must be arranged on the basis of the indicators set out at Chapter 25.3, paragraph (14). The regions proposed must show significant disparities (half of the standard deviation) compared with the average of the potential 61(3)(c) regions of the EFTA State concerned, in respect of one or other indicator used in the method.

- (17) Regions with a low population density:
- subject to the ceiling for each Member State mentioned in paragraph (12), regions with a population density of less than 12,5 inhabitants per square kilometre <sup>(16)</sup> may also qualify for the derogation in question.

#### 25.4. *Object, form and level of aid*

- (1) The object of regional aid is to secure either productive investment (initial investment) or job creation which is linked to investment. Thus this method favours neither the capital factor nor the labour factor.
- (2) To ensure that the productive investment aided is viable and sound, the recipient's contribution <sup>(17)</sup> to its financing must be at least 25 %.
- (3) The form of the aid is variable: grant, low-interest loan or interest rebate, government guarantee or purchase of a State shareholding on favourable terms, tax exemption, reduction in social security contributions, supply of goods and services at a concessionary price, etc.
- (4) In addition, aid schemes must lay down that an application for aid must be submitted before work is started on the projects.
- (5) The level of the aid is defined in terms of intensity compared with reference costs (see paragraphs (8), (9), (10), (11) and (24)).

#### **Aid for initial investment**

- (6) Initial investment means an investment in fixed capital relating to the setting-up of a new establishment, the extension of an existing establishment, or the starting-up of an activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation) <sup>(18)</sup>.
- (7) An investment in fixed capital undertaken in the form of the purchase of an establishment which has closed or which would have closed had it not been purchased may also be regarded as initial investment, unless the establishment concerned belongs to a firm in difficulty. In the latter case, aid for the purchase of an establishment may include an advantage for the firm in difficulty, which must be examined in accordance with the Guidelines on State aid for rescuing and restructuring firms in difficulty.
- (8) Aid for initial investment is calculated as a percentage of the investment's value. This value is established on the basis of a uniform set of items of expenditure (standard base) corresponding to the following elements of the investment: land, buildings and plant/machinery <sup>(19)</sup>.
- (9) In the event of a purchase, only the costs of buying these assets <sup>(20)</sup> should be taken into consideration (the transaction must take place under market conditions). Assets for whose acquisition aid has already been granted prior to the purchase should be deducted.
- (10) Eligible expenditure may also include certain categories of intangible investment up to a limit of 25 % of the standard base in the case of large firms <sup>(21)</sup>.
- (11) Such expenditure must be confined to expenditure entailed by the transfer of technology through the acquisition of:
  - patents,
  - operating or patented know-how licences,
  - unpatented know-how.

- (12) Eligible intangible assets will be subject to the necessary conditions for ensuring that they remain associated with the recipient region eligible for the regional aid and, consequently, that they are not the subject of a transfer benefiting other regions, especially other regions not eligible for regional aid. To this end, eligible intangible assets will have to satisfy the following conditions in particular:
- they must be used exclusively in the establishment receiving the regional aid,
  - they must be regarded as amortisable assets,
  - they must be purchased from third parties under market conditions,
  - they must be included in the assets of the firm and remain in the establishment receiving the regional aid for at least five years.
- (13) Aid notified by the EFTA States must normally be expressed in gross terms, i.e. before tax.
- (14) In order to make (i) the various forms of aid comparable with one another and (ii) aid intensities comparable from one EEA State to another, the EFTA Surveillance Authority converts aid notified by EFTA States into aid expressed in net grant equivalent (NGE) <sup>(22)</sup>.
- (15) The intensity of the aid must be adapted to take account of the nature and intensity of the regional problems that are being addressed. A distinction must therefore be drawn from the outset between the intensities allowed in regions eligible under the derogation in point (a) and those allowed in regions eligible under the derogation in point (c). Regard has to be had in this connection to the fact that regions which are eligible under the derogation in Article 61(3)(c) are not characterised by an abnormally low standard of living or serious underemployment in the sense in which these terms are used in the derogation in point (a) of that paragraph. The distorting effects of aid are accordingly less justified there than in regions qualifying for exemption under point (a). This means that the admissible aid intensities are from the outset less high in regions qualifying for exemption under point (c) than in those qualifying for exemption under point (a).
- (16) In the case of regions falling under Article 61(3)(a), the intensity of regional aid must not exceed the rate of 50 % NGE. In the Article 61(3)(c) regions, the ceiling on regional aid must not exceed 20 % NGE in general, except in the low population density regions where it may be as high as 30 % NGE.
- (17) In the regions corresponding to NUTS level II regions in the European Union, eligible under Article 61(3)(a), whose per capita GDP/PPS is greater than 60 % of the EEA average, the intensity of regional aid must not exceed 40 % NGE.
- (18) In the regions eligible under Article 61(3)(c) which have both a higher per capita GDP/PPS and a lower unemployment rate than the respective EEA average <sup>(23)</sup>, the intensity of regional aid must not exceed 10 % NGE except in the low population density regions, where it may be as high as 20 % NGE. Exceptionally in the case of regions subject to the said ceiling of 10 % NGE, higher intensities not exceeding the normal ceiling of 20 % NGE may be approved for regions (corresponding to NUTS level III or smaller) adjoining a region with Article 61(3)(a) status.
- (19) All the above mentioned ceilings constitute upper limits. Beneath these ceilings, the EFTA Surveillance Authority will ensure that the regional aid intensity is adjusted to reflect the seriousness and intensity of the regional problems addressed when examined in an EEA context.

- (20) The ceilings indicated in paragraphs (15)-(19) may be raised by the supplements for SMEs<sup>(24)</sup>, i. e. by 15 percentage points gross<sup>(25)</sup> in the case of regions qualifying for exemption under point (a) and by 10 percentage points gross in the case of regions qualifying for exemption under point (c). The final ceiling applies to the base for SMEs. These supplements for SMEs do not apply to transport firms.
- (21) Aid for initial investment must be made conditional, through its method of payment or through the conditions associated with its acquisition, on the maintenance of the investment in question for a minimum period of five years.

#### **Aid for job creation**

- (22) As was indicated above regional aid may also focus on job creation. However, unlike aid for job creation, which is defined in the Guidelines on aid to employment and relates to jobs not linked to an investment project<sup>(26)</sup>, we are concerned here solely with jobs linked to the carrying-out of an initial investment project<sup>(27)</sup>.
- (23) Job creation means a net increase in the number of jobs<sup>(28)</sup> in a particular establishment compared with the average over a period of time. Any jobs lost during that period must therefore be deducted from the apparent number of jobs created during the same period<sup>(29)</sup>.
- (24) As with investment aid, the aid for job creation provided for in these Guidelines must be tailored to the nature and intensity of the regional problems it addresses. The EFTA Surveillance Authority considers that the amount of aid must not exceed a certain percentage of the wage cost<sup>(30)</sup> of the person hired, calculated over a period of two years. The percentage is equal to the intensity allowed for investment aid in the area in question.
- (25) Aid for job creation must be made conditional, through its method of payment or through the conditions associated with its acquisition, on the maintenance of the employment created during a minimum period of five years.

#### **Operating aid**

- (26) Regional aid aimed at reducing a firm's current expenses (operating aid) is normally prohibited. Exceptionally, however, such aid may be granted in regions eligible under the derogation in Article 61(3)(a) provided that (i) it is justified in terms of its contribution to regional development and its nature and (ii) its level is proportional to the handicaps it seeks to alleviate<sup>(31)</sup>. It is for the EFTA State to demonstrate the existence of any handicaps and gauge their importance.
- (27) In the regions of low population density qualifying either for exemption under Article 61(3)(a) or under 61(3)(c) on the basis of the population density test referred to in Chapter 25.3, paragraph (15), aid intended partly to offset additional transport costs<sup>(32)</sup> may be authorised under special conditions<sup>(33)</sup>. It is up to the EFTA State to prove that such additional costs exist and to determine their amount.
- (28) With the exception of the cases mentioned in paragraph (27), operating aid must be both limited in time and progressively reduced. In addition, operating aid intended to promote exports<sup>(34)</sup> between EEA States is ruled out.

**Rules on the cumulation of aid**

- (29) The aid intensity ceilings laid down in accordance with the criteria set out in paragraphs (15) to (20) apply to the total aid:
- where assistance is granted concurrently under several regional schemes,
  - whether the aid comes from local, regional, national or other sources.
- (30) The job creation aid described in paragraphs (22) to (25) and the investment aid described in paragraphs (6) to (21) may be combined<sup>(35)</sup>, subject to the intensity ceiling laid down for the region<sup>(36)</sup>.
- (31) Where the expenditure eligible for regional aid is eligible in whole or in part for aid for other purposes, the common portion will be subject to the most favourable ceiling under the schemes in question.
- (32) Where the EFTA State lays down that State aid under one scheme may be combined with aid under other schemes, it must specify, for each scheme, the method by which it will ensure compliance with the conditions listed above.

**25.5. *Regional aid map and declaration of compatibility of aid***

- (1) The regions of an EFTA State eligible under the derogations and the ceilings on the intensity of aid for initial investment or the aid for job creation approved for each region together form an EFTA State's regional aid map.
- (2) Under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement (SCA), the EFTA States notify the draft map drawn up in accordance with the criteria set out above in Chapter 25.3, paragraphs (4) and (11), and Chapter 25.4, paragraphs (15) to (20). The EFTA Surveillance Authority adopts the map in accordance with the procedure laid down in Protocol 3 of SCA, normally by a single decision for all the relevant regions of a EFTA State and for a fixed period. National regional aid maps will thus be reviewed periodically.
- (3) Draft aid schemes are approved by the EFTA Surveillance Authority either when the map is drawn up or subsequently, subject to the regions, ceilings and duration defined for the map.
- (4) The implementation of the schemes mentioned in paragraph (3) forms the subject matter, on the part of EFTA States, of annual reports to EFTA Surveillance Authority in accordance with the rules in force.
- (5) During the period of validity of the map, EFTA States may request adjustments to it, if it is shown that socio-economic conditions have changed significantly. Such changes may relate to the rates of intensity and the eligible regions, provided that the possible inclusion of new regions is offset by the exclusion of regions having the same population. The validity of the adjusted map expires on the date already set for the original map.
- (6) For regions losing their Article 61(3)(a) status as a result of the review of the regional aid map, and acquiring Article 61(3)(c) status, the EFTA Surveillance Authority could accept, during a transitional period, a progressive reduction of the aid intensities for which such regions had been eligible under Article 61(3)(a), at a linear or faster rate, until the intensity ceiling corresponding to the application of Chapter 25.4, paragraphs (15) to (20) is reached<sup>(37)</sup>. The transitional period should not exceed two years in the case of operating aid and four years in the case of aid for initial investment and job creation.



- (7) With a view to drawing up the map, EFTA States are invited to notify to the EFTA Surveillance Authority under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, in addition to the list of regions they propose as being eligible for the derogations in question and the ceilings on intensity, any other factors that need to be taken into account in determining a framework scheme for aid schemes (purpose and form of the aid, size of firms, etc.) which they propose to adopt, whether at central or regional and local level. During the period of validity of the map and within the limits of its duration, all schemes conforming to this framework scheme may be notified in the context of an accelerated procedure.

#### 25.6. *Entry into force, implementation and review*

- (1) Except for the transitional provisions set out in paragraphs (5) and (6) below, the EFTA Surveillance Authority will assess the compatibility of regional aid with the EEA Agreement on the basis of these Guidelines as soon as they are applicable. However, aid proposals which are notified before these Guidelines are communicated to the EFTA States and on which the EFTA Surveillance Authority has not yet adopted a final decision will be assessed on the basis of criteria in force at the time of notification.
- (2) In addition, the EFTA Surveillance Authority will propose appropriate measures under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement to the EFTA States to ensure that all the regional aid maps and all the regional aid schemes in force on 1 January 2000 are compatible with these Guidelines.
- (3) In this connection, the EFTA Surveillance Authority will propose, as an appropriate measure under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, that the EFTA States limit the validity of all lists of assisted regions approved by the EFTA Surveillance Authority without an expiry date, or with an expiry date after 31 December 1999, to 31 December 1999.
- (4) The EFTA Surveillance Authority will also propose, as an appropriate measure under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, that the EFTA States amend all existing regional aid schemes which will be in force after 31 December 1999, so as to make them compatible with these Guidelines from 1 January 2000, and that they communicate the proposed changes within six months.
- (5) The EFTA Surveillance Authority may derogate from these Guidelines until 31 December 1999, with regard to examination of the eligibility of the lists of assisted regions (new lists or amendments) notified prior to 1 January 1999, provided that the validity of the said lists expires on 31 December 1999. In such cases, the EFTA Surveillance Authority will continue to base itself on the method laid down in Chapter 28 of the Guidelines adopted and issued by the EFTA Surveillance Authority on 19 January 1994 (published in OJ L 231, 3 September 1994).
- (6) The EFTA Surveillance Authority may also derogate from these Guidelines until 31 December 1999, with regard to the examination of the compatibility of the aid intensities and ceilings on combination proposed in new schemes, ad hoc cases and modifications of existing schemes notified prior to 1 January 1999, provided that the validity of the said intensities and ceilings on combination expires on 31 December 1999 or that the intensities and ceilings on combination proposed from 1 January 2000 are compatible with these Guidelines.
- (7) The EFTA Surveillance Authority will review these Guidelines within five years of their becoming applicable. It may, in addition, decide to amend them at any time, if this should be necessary for reasons associated with competition policy or in order to take account of other developments within EEA.

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- (<sup>1</sup>) Chapter 25 corresponds to communication from the Commission "Guidelines on national regional aid" (OJ C 74, 10.3.1998).
- (<sup>2</sup>) Also regarded as regional aid is aid to SMEs that provides for increases to assist regional development.
- (<sup>3</sup>) The sectors covered by special rules over and above those set out here are currently as follows: transport, steel, shipbuilding, synthetic fibres, and motor vehicles. In addition, specific rules apply to investment covered by the multisectoral framework for regional aid to large projects.
- (<sup>4</sup>) See in this respect the judgement of the European Court of Justice in Case 730/79 Philip Morris 1980 ECR 2671, at paragraph 17 and in Case C-169/95 Spain v. Commission 1997 ECR I-135, paragraph 20.
- (<sup>5</sup>) See in this respect the judgement of the European Court of First Instance in T-380/94 AIUFFASS and AKT 1996 ECR II-2169, paragraph 54.
- (<sup>6</sup>) See in this respect the judgement of the European Court of Justice in Joined Cases C-278, C-279 and C-280/92, Spain v. Commission 1994 ECR I-4103.
- (<sup>7</sup>) As a result, under the WTO Agreement on subsidies and countervailing measures, this type of aid has been expressly excluded from the category of non-actionable regional aid (authorised without scrutiny).
- (<sup>8</sup>) *Ad hoc* aid for firms in difficulty is governed by specific rules and is not conceived of as regional aid as such.
- (<sup>9</sup>) Case 248/84 Germany v Commission 1987 ECR 4013, at paragraph 19. Art. 92(3)(a) of the EC Treaty corresponds to Art. 61(3)(a) in the EEA Agreement.
- (<sup>10</sup>) Nomenclature of Statistical Territorial Units.
- (<sup>11</sup>) The underlying assumption being that the GDP indicator is capable of reflecting synthetically both the phenomena mentioned.
- (<sup>12</sup>) Barring a transitional exception arising from the application of point 8 of Annex XII to these Guidelines.
- (<sup>13</sup>) See, in this connection, the judgements of the European Court of Justice in Cases 730/79 (Philip Morris) paragraph 26, and 310/85 (Deufil) ECR 1987, p. 901, paragraph 18.
- (<sup>14</sup>) See Chapter 25.4, paragraphs (15)-(20).
- (<sup>15</sup>) Because of the size of their population, Iceland and Liechtenstein are also exempt from this rule.
- (<sup>16</sup>) See Chapter 28.2.3 in the Guidelines adopted by the EFTA Surveillance Authority on 19 January 1994 (OJ L 231, 3.9.1994). Ch. 28.2.3 was inserted as a new section by EFTA Surveillance Authority decision of 20 July 1994 and corresponds to Commission Notice, addressed to Member States and other interested parties, concerning an amendment to Part II of the Communication on the method for the application of Article 92(3)(a) and (c) to regional aid (OJ C 364, 20.12.1994, p. 8).
- (<sup>17</sup>) This minimum contribution of 25 % must not contain any aid. This is not the case, for instance, where a loan carries an interest-rate subsidy or is backed by government guarantees containing elements of aid.
- (<sup>18</sup>) Replacement investment is thus excluded from the concept. Aid for this type of investment falls within the category of operating aid, to which the rules described at paragraphs (26) to (27) apply. Also excluded from this concept is aid for the financial restructuring of a

firm in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring firms in difficulty. Restructuring aid within the meaning of the said Guidelines may be granted, in so far as it relates to investment measures (rationalisation, modernisation, diversification), without needing separate notification, under a scheme of regional aid. However, since such regional aid is part of proposed aid for the restructuring of a firm in difficulty, it must be taken into account in the examination carried out under the said Guidelines.

- <sup>(19)</sup> In the transport sector, expenditure on the purchase of transport equipment (movable assets) cannot be included in the uniform set of items of expenditure (standard base). Such expenditure, therefore, is not eligible for aid for initial investment.
- <sup>(20)</sup> Where a purchase is accompanied by other initial investment, the expenditure relating to the latter should be added to the cost of the purchase.
- <sup>(21)</sup> For SMEs, the criteria and conditions applying are defined in the Guidelines on State aid for small and medium-sized enterprises.
- <sup>(22)</sup> For the method used to calculate NGE, see Annex X of these Guidelines.
- <sup>(23)</sup> GDP and unemployment must be measured at NUTS level III.
- <sup>(24)</sup> Regional aid supplements are also provided for in R & D and aid for environmental protection. The basis on which such aid is calculated is, however, different from that for regional aid (including the SME variant). The supplements in question, therefore, are added, not to the regional aid, but to the other type of aid concerned. The texts currently applicable to the two types of aid mentioned are, in the case of R & D, Chapter 14 of these Guidelines and, in the case of environmental protection, Chapter 15 of these Guidelines.
- <sup>(25)</sup> Aid intensity supplements in gross terms are used, as defined in the guidelines on aid for SMEs.
- <sup>(26)</sup> For the version currently in force, see Part III, Chapter 18, of these Guidelines.
- <sup>(27)</sup> A job is deemed to be linked to the carrying-out of an investment project if it concerns the activity to which the investment relates and if it is created within three years of the investment's completion. During this period, the jobs created following an increase in the utilisation rate of the capacity created by the investment are also linked to the investment.
- <sup>(28)</sup> The number of jobs corresponds to the number of annual labour units (ALU), i. e. the number of persons employed full time in one year, part-time and seasonal work being ALU fractions.
- <sup>(29)</sup> It goes without saying that such a definition holds true as much for an existing establishment as for a new establishment.
- <sup>(30)</sup> The wage cost comprises the gross wage, i. e. before tax, and the compulsory social security contributions.
- <sup>(31)</sup> Operating aid takes the form in particular of tax exemptions or reductions in social security contributions.
- <sup>(32)</sup> Additional transport costs mean the extra costs occasioned by movements of goods within the borders of the country concerned. In no circumstances may such aid constitute export aid, nor must it constitute measures having an equivalent effect to quantitative restrictions on imports, within the meaning of Article 11 of the EEA Agreement.
- <sup>(33)</sup> With regard to the special conditions for regions qualifying for the Article 61(3)(c) derogation under the population density criterion, see Annex XI. As for the other regions eligible for aid to offset in part additional transport costs, the conditions applicable are similar to those in Annex XI.
- <sup>(34)</sup> "Export aid" means any aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to current expenditure linked to the export activity. It does not include aid towards the cost of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market. (See Chapter 12, footnote 2, of these Guidelines).

- (<sup>35</sup>) The job creation aid and the investment aid provided for in these Guidelines may not be combined with the job creation aid defined in the Guidelines on aid to employment indicated in footnote 27, since it applies in different circumstances and at different times. However, increases in aid for particularly less-favoured categories of beneficiaries will be acceptable under arrangements to be laid down in the Guidelines on aid to employment.
- (<sup>36</sup>) This condition is deemed to be met if the sum of the aid for the initial investor, expressed as a percentage of the investment, and of the job creation aid, expressed as a percentage of wage costs, does not exceed the most favourable amount resulting from application of either the ceiling set for the region in accordance with the criteria indicated at paragraphs (15) to (20) or the ceiling set for the region in accordance with the criteria indicated at paragraph (24).
- (<sup>37</sup>) The transitional provisions do not apply to the parts of regions, corresponding to NUTS level II regions in the European Community, losing their Article 61(3)(a) status which, where the additional population-density percentage obtained by applying the second adjustment at paragraph 8 of Annex XII to these Guidelines is not available, would have had to be excluded from the new aid map.'

### '33.2. *Reference rate of interest*

- (1) A reference rate of interest is used to adjust aid to current values and to calculate aid elements of loans. The reference rate shall reflect the average rate of interest in the market concerned. The reference rate of interest is fixed by the EFTA Surveillance on proposal from the EFTA State at the beginning of each year on the basis of the average of the relevant indicative rate of the preceding quarter (for technical reasons September, October and November). However, the reference rate will be adjusted again in the course of the year if the difference between the current reference rate and the average of the indicative rate recorded over the last three months should exceed 15 % of the prevailing reference rate.
- (2) The reference/discount rates for each EFTA State are for the present fixed as follows:
- Iceland: Average interest rates (prime) on bank loans plus 1.5 percentage points on
    - (a) General loans (not indexed); *Almenn skuldabréf, kjörvextir*
    - (b) Indexed loans; *Vísitölubundin lán, kjörvextir*.
  - Norway: Average interest rate of secured loans (categories 1 and 2) by the Norwegian Industrial and Regional Development Fund.'

## ANNEX X

### NET GRANT EQUIVALENT OF INVESTMENT AID (<sup>1</sup>)

The method of calculating the net grant equivalent (NGE) is used by the EFTA Surveillance Authority in its assessment of aid schemes notified by the EFTA States. In principle, therefore, the EFTA States do not have to apply it, and it is published here simply for reasons of transparency.

#### 1. *General Principles*

The calculation of net grant equivalent (NGE) consists in reducing all the forms of aid connected with an investment (<sup>2</sup>) to a common measure irrespective of the country concerned, i. e. the net intensity, for the purposes of comparing them with each other or with a predetermined ceiling. What is involved is an *ex ante* comparative method that does not always reflect accounting practice.

The net intensity represents the final benefit which a firm is deemed to derive from the value without tax of the aid in relation to the assisted investment. This calculation may take account only of fixed capital expenditure corresponding to land, building and plant, which represent the standard base.

In the case of schemes whose base includes supplementary expenditure, the latter must be limited to a certain proportion of the standard base. Thus, all schemes will be examined, in the light of their intensities reduced to the expenditure appearing in the standard base, as shown in the following examples <sup>(3)</sup>.

*Example 1*

- Base of scheme: plant,
- Maximum intensity of scheme: 30 %.

As all the expenditure eligible for the scheme appears in the standard base, the EFTA Surveillance Authority will take the maximum intensity of the scheme, i. e. 30 %, into account without further ado. If the intensity ceiling authorised by the EFTA Surveillance Authority in the region in question is 30 %, the scheme will be considered compatible in this respect.

*Example 2*

- Base of scheme: plant, buildings + patents up to 20 % of the preceding expenditure
- Maximum intensity of scheme: 30 %

All the expenditure eligible for the scheme appears either in the standard base (plant, buildings) or in the list of eligible intangible expenditure (patents). The latter expenditure may not exceed 25 % of the standard base. In these circumstances, the EFTA Surveillance Authority will take the maximum intensity of the scheme, i.e. 30 %, into account without further ado. If the intensity ceiling authorised by the EFTA Surveillance Authority in the region in question is 30 %, the scheme will be considered compatible in this respect.

*Example 3*

- Base of scheme: buildings, plant, land + stocks up to 50 % of the preceding expenditure
- Maximum intensity of scheme: 30 %

The EFTA Surveillance Authority will take into account the maximum intensity of the scheme reduced to the standard base, i.e.  $30 \% \times 1,5 = 45 \%$ . If the intensity ceiling authorised by the EFTA Surveillance Authority in the region in question is 30 %, the scheme will not be considered compatible, unless its intensity is reduced to  $30 \% / 1,5 = 20 \%$ .

*Example 4*

- Base of scheme: buildings
- Maximum intensity of scheme: 60 %

If the regional ceiling authorised by the EFTA Surveillance Authority is 30 %, there is nothing to ensure that the aid will comply with the ceiling. The intensity provided for by the scheme is higher than the regional ceiling, but it is applied to a reduced base. The scheme will therefore not be considered compatible in this respect, unless an express condition is added concerning compliance with the regional ceiling applied to the complete base.

The determination of the NGE is based solely on calculation of tax and present value, except in the case of certain forms of aid which require specific treatment. Such calculations are based on elements supplied by the aid scheme or the tax law of the country concerned and on certain parameters established by convention.

### 1.1. Taxation

The intensity of aid must be calculated after taxation, i. e. after having deducted the taxes payable on it, and in particular taxes on company profits. This is the basis for the term net grant equivalent (NGE), which represents the aid accruing to the recipient after payment of the relevant tax, assuming that the enterprise makes a profit right from the first year, so that maximum tax is charged on the aid.

### 1.2. Discounting

Present value is calculated at various stages in the determination of an NGE. First, when aid and/or investment expenditure is staggered over time, the actual timing of aid disbursement and expenditure must be taken into account. Consequently, the investment expenditure and aid payments are discounted back to the end of the year in which the enterprise made its first depreciation write-off. Second, the present value is calculated of benefits obtained on repayment of a subsidised loan, or of the tax charged on a grant.

The rate used in such cases is the reference/discount rate determined by the EFTA Surveillance Authority for each EFTA State. In addition to being used as the discount rate, it is also used to calculate the interest subsidy on a low-interest loan.

### 1.3. Specific cases

In addition to the taxation and discounting calculations described above, some forms of aid require specific handling. Thus, in the case of aid for the renting of a building, the aid is measured by discounting the differences between the rent paid by the enterprise and a theoretical rent equivalent to the reference rate applied to the value of the building, plus an amount corresponding to depreciation for the building in the year in question. A similar method is used for aid to finance leasing<sup>(4)</sup>.

In the case of aid for the renting of land, the theoretical rent is calculated on the basis of the reference rate, minus the rate of inflation, applied to the value of the land.

## 2. *Net grant equivalent of investment aid in the form of a capital grant*

### 2.1. General

Investment aid given to an enterprise in the form of a capital grant is expressed first as a percentage of the investment, representing the nominal grant equivalent or the gross grant equivalent.

According to the common assessment method, the net grant equivalent (NGE) of aid is the benefit accruing to the recipient after payment of taxes on company profits.

In most cases, grants are not taxable in themselves, but are deducted from the value of the depreciable investment. This means that the investor depreciates a smaller amount each year than if he had not received aid. Since depreciation amounts are deductible from taxable profits, a grant increases the proportion taken by the State each year in the form of tax on company profits.

The taxation method applying to grants described above, which consists in adding the grant to profits in step with depreciation, is the one most commonly used in all the EEA States, but other taxation methods are encountered in certain schemes.

## 2.2. Calculation examples

### *Example 1: the aid is not subject to tax*

In all EEA States, grants are generally entered in the accounts as income and are made subject to tax. It may be, however, particularly in the case of certain R & D aid, that they are exempt from tax. In this case, the NGE is equal to the nominal grant.

### *Example 2: the investment involves only one category of expenditure and the grant is fully subject to tax at the end of the first financial year*

This means that the full grant is subject to corporate profits tax from the first year onward. This convention is not excessive, if one remembers that firms, which generally record a loss in their first years of operation, can carry over their losses for several financial years.

To calculate the NGE of the grant, the amount of tax charged is deducted from it.

For instance:

- investment: 100,
- nominal grant: 20,
- rate of tax: 40,0 %.

The tax charged on the grant is thus  $20 \times 40 \% = 8$

The NGE will thus be:  $(20 - 8)/100 = 12 \%$

### *Example 3: The investment involves only one category of expenditure and the grant is subject to tax on a straight-line basis over five years.*

Here the grant is subject to tax in equal portions over five years. One fifth of the aid will thus be added to profits each year for five years. To calculate the NGE, the discounted amounts of tax charged each year on each fifth under the tax arrangements applicable are deducted from the grant.

For instance:

- investment: 100,
- nominal grant: 20,
- rate of tax: 40,0 %,
- discount rate: 8,0 %.

The table below shows how the taxes charged each year, and the discounted values, are calculated:

Period	Tax charged on grant (1)	Discount factor (2)	Discounted value (1) × (2)
End of first year	$(20/5) \times 40 \%$	1,0	1,600
End of second year	$(20/5) \times 40 \%$	$1/(1 + 0,08)^1$	1,481
End of third year	$(20/5) \times 40 \%$	$1/(1 + 0,08)^2$	1,372
End of fourth year	$(20/5) \times 40 \%$	$1/(1 + 0,08)^3$	1,270
End of fifth year	$(20/5) \times 40 \%$	$1/(1 + 0,08)^4$	1,176
Total			6,900

The total in the last column represents the sum of the discounted taxes charged each year. It has to be deducted from the nominal grant to obtain the Net Grant Equivalent.

Thus the NGE is:  $(20 - 6,9)/100 = 13,1 \%$

*Note:* The tax charged on the grant is discounted at the end of the first year on the assumption that this is the date when the enterprises makes its first depreciation write-off.

*Example 4: the investment involves three categories of capital expenditure: land, buildings and plant, taxed over different timescales*

The three types of expenditure constitute what is referred to as the standard base for aid. Expenditure is apportioned within the standard base using the following breakdown for all the EFTA States:

- Land: 5,
- Buildings: 45,
- Plant: 50.

These factors are used to calculate the theoretical NGEs under aid schemes. In individual cases of aid, on the other hand, the actual apportionment breakdown of the three categories of expenditure in the standard base is used.

As the timescale over which a grant is subject to tax differs according to the category of expenditure, the first step is to allocate the grant proportionally among the items forming the base of the aid.

The next step is to calculate the amounts charged as tax, separately for each category of expenditure (the calculations are of the same kind as those in Example 3).

Lastly, the taxes are deducted from the nominal grant in order to arrive at the NGE:

NGE = nominal grant less:

- the tax charged on aid allocated to land,
- the tax charged on aid allocated to buildings,
- the tax charged on aid allocated to plant,



For instance:

— investment: 100

of which:

- land: 3 not depreciable,
- buildings 33 straight-line depreciation over 20 years,
- plant: 64 decreasing-line depreciation over five years,

— nominal grant: 20,

— rate of tax: 55 %,

— discount rate: 8 %.

To calculate the tax on aid allocated to land

In general, land is not depreciable. Assuming that the aid is to be subject to tax at the same pace as depreciation, aid granted to land is not taxed and no tax is to be deducted from the grant made in respect of land.

To calculate the tax on aid allocated to buildings

Assuming that the aid allocated to buildings is to be subject to tax in equal portions at the same pace as depreciation, i.e. over 20 years:

— the nominal grant allocated to buildings would be:  $20 \times 33 \% = 6,6$ ,

— each year, the portion of the grant included in profits would be:  $6,6/20 = 0,33$ ,

— the amount of tax charged on that portion would be:  $0,33 \times 55 \% = 0,18$ .

An amount of 0,18 would be due from profits each year for 20 years in respect of the grant made for buildings. If this stream of amounts is discounted at the end of the first year (same kind of calculation as in the table in Example 3), the total tax charged in the period on the aid grant to buildings will be 1,925.

To calculate the tax on aid allocated to plant

Let us assume that the aid allocated to plant is to be subject to tax at the same pace as depreciation, i. e. by the decreasing-line method, over five years, at the following rates: 40 %, 24 %, 14,4 %, 10,8 % and 10,8 %.

Unlike the case of buildings, taxation here is different each year. The tax will therefore have to be calculated year by year. The share of the nominal grant allocated to plant is  $20 \times 64 \% = 12,8$ .

To calculate the tax charges

Period	Tax charged on grant (1)	Discount factor (2)	Discounted value (1) × (2)
End of first year	$12,8 \times 40 \% \times 55 \%$	1,0	2,816
End of second year	$12,8 \times 24 \% \times 55 \%$	$1/(1 + 0,08)^1$	1,564
End of third year	$12,8 \times 14,4 \% \times 55 \%$	$1/(1 + 0,08)^2$	0,869
End of fourth year	$12,8 \times 10,8 \% \times 55 \%$	$1/(1 + 0,08)^3$	0,604
End of fifth year	$12,8 \times 10,8 \% \times 55 \%$	$1/(1 + 0,08)^4$	0,559
Total			6,412

To calculate the NGE:

Nominal grant:	20
less:	
— tax charged on aid allocated to land:	0
— tax charged on aid allocated to buildings	-1,925
— tax charged on aid allocated to plant:	-6,412

$$\text{NGE} = 11,6 \%$$

*Notes:*

1. The taxation of grants, referred to in the common method of assessing aid, is governed both by the tax laws of the EFTA States concerned and by any special arrangements under the scheme in question.
2. For the purposes of determining an NGE, it is therefore necessary to have precise information on:
  - (a) the scale of tax rates on profits in the country concerned,
  - (b) the depreciation rules in force, or the specific method of incorporating aid into profits prescribed by the scheme in question.

### 3. *Net grant equivalent of investment aid in the form of a subsidised loan*

#### 3.1. **General**

Investment aid given to an enterprise in the form of a subsidised loan is expressed first as the number of percentage points of the rebate, i.e. the difference between the reference rate and the rate charged by the lender.

The sole effect of the interest rebate is to reduce interest charges, since it is assumed that capital repayments are carried out in the same way whether the interest rate is normal or reduced.

This benefit obtained on repayment of the loan is expressed as a percentage of the investment, as for capital grants. This gives the nominal grant equivalent or gross grant equivalent.

This does not represent the final benefit which the enterprises derives from the interest subsidy. Since interest charges are deductible from taxable profits, an interest subsidy means the loss of part of such tax benefit by increasing the share taken by the State in the form of tax on company profits.

Consequently, the net grant equivalent (NGE) is obtained by deducting from the gross grant equivalent the tax charged by the State on the increase in taxable profits that is attributable to the rebate.

As in the case of a grant, the NGE of a subsidised loan is based on elements supplied either by the aid scheme or by the tax law of the country in question, plus any other factors established by convention.

The following elements are needed to calculate the NGE of investment aid in the form of a subsidised loan:

- period of the loan,
- length of the grace period, i. e. the initial period when no repayments need to be made, interest being paid on the total amount of principal,
- number of percentage points of the rebate,
- duration of the rebate, not necessarily the same as the loan,
- amount of the loan as a percentage or proportion of the investment,
- reference/discount rate,
- rate of tax.

It is also necessary to know the terms for repayment of the loan. In most cases the loan is repaid on a straight-line basis, in equal portions, interest being due on the balance outstanding. Repayment is occasionally by constant annual instalments, in which case this is taken into account in calculating the NGE.

### 3.2. Calculation examples

#### *Example 1*

##### 1. Parameters

- the loan is for ten years with straight-line repayment and no grace period,
- the rebate is three percentage points throughout the period of the loan,
- the loan is for 40 % of the investment,
- the reference/discount rate is 8 %,
- the rate of tax is 35 %.

##### 2. Calculation of the unit gift element

The unit gift element is the nominal grant equivalent of a one-point interest rebate on a loan of 100 % of the investment, taking account of the characteristics of the aid used as parameters. It is calculated as follows:

End of year No	Loan: balance outstanding (1)	0-0-point rebate (2)	Benefit obtained (1) × (2)	Discount factor (3)	Discounted value (1) (1) × (2) × (3)
1	100	1 %	1	$1/(1 + 0,08)^1$	0,926
2	90	1 %	0,9	$1/(1 + 0,08)^2$	0,772
3	80	1 %	0,8	$1/(1 + 0,08)^3$	0,635
4	70	1 %	0,7	$1/(1 + 0,08)^4$	0,515
5	60	1 %	0,6	$1/(1 + 0,08)^5$	0,408
6	50	1 %	0,5	$1/(1 + 0,08)^6$	0,315

End of year No	Loan: balance outstanding (1)	0-0-point rebate (2)	Benefit obtained (1) × (2)	Discount factor (3)	Discounted value (1) (1) × (2) × (3)
7	40	1 %	0,4	$1/(1 + 0,08)^7$	0,233
8	30	1 %	0,3	$1/(1 + 0,08)^8$	0,162
9	20	1 %	0,2	$1/(1 + 0,08)^9$	0,100
10	10	1 %	0,1	$1/(1 + 0,08)^{10}$	0,046
				Unit gift element:	4,112

(1) Discounting starts at the beginning of the first year.

### 3. Calculation of net grant equivalent

The net grant equivalent is obtained simply by multiplying the unit gift element by the characteristics of the aid (three-point rebate, 40 % share, non-taxable portion of aid: (1 - 35 %):

$$\text{NGE} = 4,112 \times 3 \times 40 \% \times (1 - 35\%) = 3,21 \%$$

#### Example 2

##### 1. Parameters

The parameters are the same as in Example 1, but with a two-year grace period from repayment. This means that capital is not repaid in the first two years. The ten-year loan will thus be repaid in eight equal portions from the third to the tenth year. Interest is payable during the ten years on the balance outstanding.

##### 2. Calculation of unit gift element

End of year No	Loan: balance outstanding (1)	0-0-point rebate (2)	Benefit obtained (1) × (2)	Discount factor (3)	Discounted value (1) (1) × (2) × (3)
1	100	1 %	1	$1/(1 + 0,08)^1$	0,926
2	100	1 %	1	$1/(1 + 0,08)^2$	0,857
3	100	1 %	1	$1/(1 + 0,08)^3$	0,794
4	87,5	1 %	0,875	$1/(1 + 0,08)^4$	0,643
5	75,0	1 %	0,750	$1/(1 + 0,08)^5$	0,510
6	62,5	1 %	0,625	$1/(1 + 0,08)^6$	0,394
7	50	1 %	0,500	$1/(1 + 0,08)^7$	0,292
8	37,5	1 %	0,375	$1/(1 + 0,08)^8$	0,203
9	25,0	1 %	0,250	$1/(1 + 0,08)^9$	0,125
10	12,5	1 %	0,125	$1/(1 + 0,08)^{10}$	0,058
				Unit gift element:	4,802

(1) Discounting starts at the beginning of the first year.

### 3. To calculate the net grant equivalent

As in Example 1, the unit gift element is multiplied by the number of rebate points, the proportion of expenditure covered by the loan and the complement to unity of the rate of tax:

$$\text{NGE} = 4,802 \times 3 \times 40 \% \times (1 - 35 \%) = 3,75 \%$$

*Note:* It will be seen that, other things being equal, the result of introducing a grace period from capital repayments is to increase the NGE. The grace period increases the balance due each year and hence the benefit attributable to the rebate and, consequently, the unit gift element.

#### Example 3

##### 1. Parameters

The same facts as in Example 2, but the loan is to be repaid in constant annual instalments.

In this case, the calculation method differs fundamentally from that used in the preceding two examples: first the "normal" annual instalments excluding the interest rebate are calculated, then the "rebated" instalments; the difference between the two series is established year by year, and the results discounted in order to obtain the grant equivalent.

##### 2. To calculate the grant equivalent

The constant annual instalments, expressed as a percentage of the loan, are calculated as follows:

$$A = i/(1-r^n)$$

$$\text{where } r = 1/(1+i)$$

"i" being the interest rate and "n" the number of years for which the instalment is calculated. The calculations below are based on a loan of 100 units:

Year	Normal instalment (1)	Rebated annual instalment (2)	Benefit obtained (3)	Discount factor (4)	Discounted value (1) (3) × (4)
1	8	5	3	$1/(1 + 0,08)^1$	2,778
2	8	5	3	$1/(1 + 0,08)^2$	2,572
3	17,401	15,472	1,929	$1/(1 + 0,08)^3$	1,532
4	17,401	15,472	1,929	$1/(1 + 0,08)^4$	1,418
5	17,401	15,472	1,929	$1/(1 + 0,08)^5$	1,313
6	17,401	15,472	1,929	$1/(1 + 0,08)^6$	1,216
7	17,401	15,472	1,929	$1/(1 + 0,08)^7$	1,126
8	17,401	15,472	1,929	$1/(1 + 0,08)^8$	1,042
9	17,401	15,472	1,929	$1/(1 + 0,08)^9$	0,965
10	17,401	15,472	1,929	$1/(1 + 0,08)^{10}$	0,894
				Grant equivalent:	14,85 %

(1) Discounting starts at the beginning of the first year.

### 3. To calculate the net grant equivalent

The net grant equivalent is obtained by multiplying the grant equivalent by the proportion, then deducting the portion charged as tax:

$$\text{NGE} = 14,85 \times 40 \% \times (1 - 35 \%) = 3,86 \%$$

*Note:* If there is no grace period from repayment, the NGE calculated in the same way is 3,41 %.

### 3.3. Formular for calculating the NGE of a subsidised loan

The preceding methods, which can easily be transposed to a spreadsheet, make it possible to calculate the NGE of a low-interest loan according to the characteristics of the case in question. In standard cases, the NGE may also be calculated direct by means of the following formulae.

#### 1. Terms

- $i$  is the reference rate per maturity interval and  $r = 1/(1+i)$ ,
- $i'$  is the subsidised rate, per maturity interval and  $r' = 1/(1+i')$ ,
- $P$  is the period (in number of maturity intervals) of the loan,
- $Q$  is the proportion,
- $T$  is the rate of tax,
- $F$  is the period, in number of intervals, of any grace period from repayment of principal: during the grace period, only interest on the loan is repaid, at the subsidised rate. ( $F = 0$  where there is no grace period).

#### 2. Straight-line repayment

$$\text{ESN} = (1 - T) Q \left(1 - \frac{i'}{i}\right) \left(1 + \frac{r^P - r'^P}{i \times (P - F)}\right)$$

#### 3. Repayment in constant annual instalments

$$\text{ESN} = (1 - T) Q \left[1 - \left(\frac{i'}{i}\right) \times \left(1 - r^F + \frac{r^F - r'^P}{1 - r'^{P-F}}\right)\right]$$

(<sup>1</sup>) Annex X corresponds to Annex I of Communication from the Commission — Guidelines on national regional aid (OJ C 74, 10.3.98).

(<sup>2</sup>) Tax aid may be considered to be aid connected with an investment where it is based on an amount invested in the region. In addition, any tax aid may be connected with an investment if one sets a ceiling expressed as a percentage of the amount invested in the region. Where the grant of tax aid is spread over several years, any balance remaining at the end of a given year may be carried over to the following year and increased in accordance with the reference rate.

(<sup>3</sup>) This system of recalculating intensities does not apply to the intangible investments referred to at Chapter 25.4, paragraphs (10) to (12).

(<sup>4</sup>) It should be noted that the expenditure associated with the purchase of the land or the building by the renting firm may be considered as eligible, provided that the need for the aid in question is demonstrated.<sup>7</sup>

*ANNEX XI***AID TO OFFSET ADDITIONAL TRANSPORT COSTS IN REGIONS QUALIFYING FOR EXEMPTION UNDER ARTICLE 61(3)(c) ON THE BASIS OF THE POPULATION DENSITY TEST****Conditions to be met**

- Aid may serve only to compensate for the additional cost of transport. The EFTA State concerned will have to show that compensation is needed on objective grounds. There must never be overcompensation. Account will have to be taken here of other schemes of assistance to transport.
- Aid may be given only in respect of the extra cost of transport of goods inside the national borders of the country concerned. It must not be allowed to become export aid.
- Aid must be objectively quantifiable in advance, on the basis of an aid-per-kilometre ratio or on the basis of an aid-per-kilometre and an aid-per-unit-weight ratio, and there must be an annual report drawn up which, among other things, shows the operation of the ratio or ratios.
- The estimate of additional cost must be based on the most economical form of transport and the shortest route between the place of production or processing and commercial outlets.
- Aid may be given only to firms located in areas qualifying for regional aid on the basis of the new population density test. Such areas will be made up essentially of NUTS (1) level III geographic regions with a population density of less than 12,5 inhabitants per square kilometre. However, a certain flexibility is allowed in the selection of areas, subject to the following limitations:
  - flexibility in the selection of areas must not mean an increase in the population covered by transport aid;
  - the NUTS III parts qualifying for flexibility must have a population density of less than 12,5 inhabitants per square kilometre;
  - they must be contiguous with NUTS III regions which satisfy the low population density test;
  - their population must remain low compared with the total coverage of the transport aid.
- No aid may be given towards the transport or transmission of the products of businesses without an alternative location (products of the extractive industries, hydroelectric power stations, etc.).
- Transport aid given to firms in industries which the EFTA Surveillance Authority considers sensitive (motor vehicles, synthetic fibres, shipbuilding and steel) must always be notified in advance and will be subject to the industry guidelines in force.

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(1) Nomenclature of Statistical Territorial Units in the European Communities.

## ANNEX XII

## METHOD OF DETERMINING THE CEILINGS ON THE POPULATION COVERED BY THE ARTICLE 61(3)(c) DEROGATION

1. In applying Article 61(3)(c), the EFTA Surveillance Authority bases its decisions on a method which takes account of regional disparities in a national and EEA context (see section I). The results thus obtained are then adjusted to take account of certain other aspects (see section II).

## SECTION I

2. The geographical unit used is NUTS level III or, in justified circumstances, a different homogeneous geographical unit. For each NUTS III region, an average value over three years is calculated for per capita GDP/PPS and unemployment indices, defined in relation to the national average.
3. The socio-economic situation of a region is considered in relation to certain thresholds. The thresholds are calculated for per capita GDP/PPS and unemployment, and for each of the EFTA States concerned.
4. The thresholds are calculated in two stages. The first stage establishes an identical basic threshold for all EFTA States, set at 85 for per capita GDP and 115 for the unemployment rate.
5. In the second stage, the basic thresholds are adjusted to take account of the relative situation of each of the EFTA States compared with the average for the EEA. The formula applied is as follows:

$$\text{Threshold} = \frac{1}{2} \times \left( \text{Basic threshold} + \frac{\text{Basic threshold} \times 100}{\text{EEA index}} \right)$$

The EEA index expresses the position of the different EFTA States in terms of unemployment or per capita GDP/PPS, as a percentage of the corresponding EEA average. The EEA index is calculated as an average value over the same three-year period used for the regional indices.

6. Thus, the more favourable an EFTA State's situation as regards unemployment or the standard of living, the more selective the thresholds used for the distribution of the ceiling on 61(3)(c) coverage, and vice versa.
7. However, so that the unemployment criterion does not become too rigorous, the corresponding threshold is subject to a ceiling of 150. This facilitates the granting of regional aid in EFTA States which show considerable disparities in domestic unemployment but whose situation does not seem that unfavourable at the EEA level. Since for the per capita GDP/PPS threshold the differences observed between the EEA States are small, it has not been thought necessary to establish a minimum level.
8. The regional indices are then compared with the above mentioned thresholds, which make it possible to determine whether the region concerned shows a sufficient regional disparity to be taken into account in the calculation of the national population ceilings. The population of all the regions not eligible for regional aid under the Article 61(3)(a) derogation, which show a sufficient regional disparity compared with at least one of the two abovementioned thresholds, is aggregated for each EFTA State.
9. The population ceiling for each EFTA State under the Article 61(3)(c) derogation is calculated by multiplying the EFTA State's aggregates as described above, with the ratio between the total population ceiling for Article 92(3)(c) of the EC Treaty regions and the total EC population living in regions with a sufficient regional disparity.



## SECTION II

10. The results obtained in section I are corrected, if necessary, in order:
    - to guarantee each EFTA State that the population assisted under the (c) derogation is at least equal to 15 % and does not exceed 50 % of its population not covered by the Article 61(3)(a) derogation;
    - to attain, in each EFTA State, a sufficient level to include all the regions which have just lost Article 61(3)(a) status and the areas with a low population density;
    - to limit the reduction in the total coverage (under the two Article 61(3) regional derogations) of an EFTA State to 25 % of its previous coverage.
  11. To the extent these corrections imply that the share of total population in assisted regions under the Article 61(3) derogations in the EFTA States exceeds the overall ceiling covered by the Article 92(3) of the EC Treaty derogations in the EC, the EFTA States ceilings will be reduced to achieve the same overall population coverage as in the EC.'
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**EFTA PROCEDURAL AND SUBSTANTIVE RULES IN THE FIELD OF STATE AID <sup>(1)</sup>****Changes in Chapter 13.4 and certain footnotes**

- (a) Footnote 4, Chapter 6.2.3. <sup>(2)</sup> shall be changed to read as follows:  
'See Part VII of these Guidelines.'
- (b) Footnote 1, Chapter 10.3.1. <sup>(3)</sup> shall be changed to read as follows:  
'There are certain exceptional circumstances in which operating aid is admissible in regions qualifying for regional aid under Article 61(3)(a) and (c). See Part VI of these Guidelines.'
- (c) Footnote 1, Chapter 10.3.2.1. <sup>(4)</sup> shall be changed to read as follows:  
'In accordance with Part VI of these Guidelines.'
- (d) Footnote 2, Chapter 10.3.2.1. <sup>(5)</sup> shall be changed to read as follows:  
'See Part VI of these Guidelines'
- (e) Chapter 13.4 Special Rules <sup>(6)</sup>, shall be changed to read as follows:  
(1) 'The cumulation rules are without prejudice to the rules on regional aid and to the EFTA States' obligations under existing or future provisions laid down by the EFTA Surveillance Authority in decisions on particular regional or sectoral aid schemes to notify individual cases.'
- (f) Footnote 1, Chapter 18.4.(4) <sup>(7)</sup>, shall be changed to read as follows:  
'See Part VI of these Guidelines'

Done at Brussels, 4 November 1998.

*For the EFTA Surveillance Authority*

*The President*

Knut ALMESTAD

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<sup>(1)</sup> Adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published OJ L 231, 3.9.1994.

<sup>(2)</sup> Amended 6 December 1995, OJ L 124, 23.5.1996, p. 41

<sup>(3)</sup> Amended 11 September 1996, OJ L 42, 13.2.1997, p. 33

<sup>(4)</sup> Amended 11 September 1996, OJ L 42, 13.2.1997, p. 33

<sup>(5)</sup> Amended 11 September 1996, OJ L 42, 13.2.1997, p. 33

<sup>(6)</sup> OJ L 231, 3.9.1994.

<sup>(7)</sup> Amended 6 December 1995, OJ L 124, 23.5.1996, p. 41

**EFTA SURVEILLANCE AUTHORITY DECISION****No 317/98/COL****of 4 November 1998****on the fifteenth amendment of the Procedural and Substantive Rules in the Field of State Aid**

THE EFTA SURVEILLANCE AUTHORITY,

has amended the Procedural and Substantive Rules in the Field of State Aid <sup>(1)</sup>, adopted on 19 January 1994 <sup>(2)</sup> as last amended on 1 July 1998 <sup>(3)</sup>, as follows:

1. Chapter 21, Aid to the textile and clothing industry, is deleted.
2. The following rules on regional aid for large investment projects shall be added to the State Aid Guidelines as a new Chapter 26, and as a new Annex XIII, respectively:

‘26. MULTISECTORAL FRAMEWORK ON REGIONAL AID FOR LARGE INVESTMENT PROJECTS <sup>(1)</sup>

26.1. *Need for and scope of the measure*

- (1) The need for more systematic controls on regional aid to large-scale mobile investment projects has been widely acknowledged in recent years. The establishment of the European Economic Area makes it more important than ever to maintain tight controls on State aid for such projects since the distortive effect of aid is magnified as other government induced distortions of competition are eliminated and markets become more open and integrated.
- (2) Investors in large projects often consider alternative sites in different EEA States, which may lead to a spiral of increasingly generous promises of aid. Such subsidy auctions carry a considerable risk of distorting competition. The EFTA Surveillance Authority is therefore introducing this framework, initially for a trial period only, with the aim of limiting aid for large-scale projects to a level which avoids as much as possible adverse effects on competition but which at the same time maintains the attraction of the assisted area.
- (3) Several sensitive industrial sectors are already subject to special rules on aid, notably steel, shipbuilding, synthetic fibres, the motor industry, transport and the coal industry. During the trial period these sectors will continue to be covered exclusively by their own existing sectoral Guidelines (with the exception of the textile and clothing sector which will be subject solely to the provisions of this Framework <sup>(2)</sup>). This situation will be reviewed after an evaluation has been carried out of the efficacy of this Framework. In other sectors the only current restriction on regional investment aid is that the amount of aid must not exceed the ceilings authorised by the EFTA Surveillance Authority for the regional scheme in question. However, the regional ceilings are in general designed to provide an incentive for the type of investment facing the biggest problems and are usually in excess of the average regional handicaps. The purpose of this Framework is to limit this net incentive for large projects to a level which avoids as much as possible adverse sectoral effects caused by the project.

<sup>(1)</sup> Hereinafter referred to as the State Aid Guidelines.

<sup>(2)</sup> OJ L 231, 3.9.1994, p. 1; EEA Supplement to the OJ 32, 3.9.1994.

<sup>(3)</sup> See page 46 of this Official Journal.

- (4) Under this Framework the EFTA Surveillance Authority will decide on a case-by-case basis a maximum allowable aid intensity for projects which are subject to the notification requirement. This might lead to aid intensities below the applicable regional ceiling. This Framework does not apply to restructuring aid cases, which will continue to be covered by the EFTA Surveillance Authority guidelines on State aid for rescuing and restructuring firms in difficulty<sup>(3)</sup>. Similarly, this Framework will not affect the operation of the existing horizontal frameworks, such as the EFTA Surveillance Authority framework for State aid for research and development<sup>(4)</sup> and the EFTA Surveillance Authority guidelines on State aid for environmental protection<sup>(5)</sup>.
- (5) The EFTA Surveillance Authority would stress that it has no intention of seeking to interfere unnecessarily with the discretion of EFTA States in the field of regional policy. Nor does it seek to weaken the application of Article 61(3)(a) and (c) of the EEA Agreement, which aims to encourage companies to invest in disadvantaged areas, despite the structural handicaps that they face there. On the contrary, the intention is strictly to limit the scope of the new rules to those large-scale projects, often capital intensive in nature, which could have a serious impact on unaided competitors located elsewhere in the EEA; and to examine more critically the planned levels of aid for those projects which do not have, directly or indirectly, a significant impact on employment in the region concerned, which is an important objective of regional policy. The EFTA States will continue to be able freely to decide on the aid intensity in the vast majority of cases, within the terms of the approved regional aid schemes.
- (6) In drawing up this Framework, the EFTA Surveillance Authority has attempted to ensure that, as far as possible, it is clear and unambiguous, predictable, certain and efficient and that the additional administrative burden it entails is kept to a minimum.

#### 26.2. *Notification requirement*

- (1) Under this Framework EFTA States are required to notify pursuant to Article 1(3) of Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice (hereafter referred to as the Surveillance and Court Agreement), any proposal to award regional investment aid<sup>(6)</sup>, within the scope of an approved scheme<sup>(7)</sup>, where either of the following two criteria are met:
  - (i) the total project cost is at least EUR 50 million<sup>(8)</sup>, and the cumulative aid intensity expressed as a percentage of the eligible investment costs is at least 50 % of the regional aid ceiling for large companies in the area concerned and aid per job created or safeguarded amounts to at least EUR 40 000<sup>(9)</sup>;
  - or
  - (ii) the total aid is at least EUR 50 million.

#### *Notification format*

- (2) The standard notification form is contained in Annex XIII of these Guidelines. This form should be sent directly to the EFTA Surveillance Authority.

#### 26.3. *Assessment rules*

- (1) The EFTA Surveillance Authority will determine, in accordance with the calculation formula set out in paragraph (10), a maximum allowable aid intensity for a proposal to award aid. It will begin by identifying the maximum aid intensity (regional aid ceiling) which a large company could obtain in the assisted area concerned within the context of the authorised regional aid system valid at the moment of notification (unless it is *ad hoc* aid in which case the aid ceiling fixed for the region concerned will be applied). A range of adjustment factors will then be applied to that percentage figure, in accordance with three specific assessment factors (see below), in order to calculate a maximum allowable aid intensity for the project in question. In the case of the third

criterion, the regional impact indicator, a positive factor or bonus may be applied, depending on the degree of benefit the project is likely to confer on the region concerned. The question of the viability of an individual project will be for the EFTA States themselves to determine. However, the EFTA Surveillance Authority will be entitled, if it deems it to be necessary, to request information on a project's viability. Finally, the EFTA Surveillance Authority will, where appropriate, utilise independent external data to assess the likely impact on competition in the relevant market; where this is not easily obtainable, however, the EFTA Surveillance Authority will give full weight to the representations made by the EFTA States.

*The three assessment criteria*

(i) Competition factor

- (2) The authorisation of aid to companies operating in sectors which are in structural overcapacity poses particular risks for the distortion of competition. Any capacity expansion which is not compensated by capacity reductions elsewhere will exacerbate the problem of structural overcapacity. If such expansion is aided, the aid recipient may be left with excess capacity that it will not be able to use in the future or it may start a price-war in order to drive other producers out of the relevant market. It is also likely to threaten jobs elsewhere. Thus the competition factor will involve an analysis of whether the proposed project would take place in a sector or subsector suffering from structural overcapacity.
- (3) In determining whether structural overcapacity exists in the sector or subsector concerned, the EFTA Surveillance Authority will consider, at the EEA level, the difference between the average capacity utilisation rate for manufacturing industry as a whole and the capacity utilisation rate of the relevant sector or subsector. In order to allow for cyclical fluctuations in relative capacity utilisation rates, the reference period will be the last five years for which data are available.
- (4) In the absence of sufficient data on capacity utilisation, the EFTA Surveillance Authority will consider whether the investment takes place in a declining market. For this purpose, the EFTA Surveillance Authority will compare the evolution of apparent consumption of the product(s) in question (that is, production plus imports minus exports) with the growth rate of EEA manufacturing industry as a whole.
- (5) For the purpose of determining whether the investment will result in a capacity expansion, the relevant capacity is the total viable capacity of the prospective beneficiary (and/or, if appropriate, the group to which it belongs) for the relevant product. In all cases, viable capacity would include temporarily idle capacity (that is, capacity that would be reactivated when sales improve) but would exclude obsolete and inactive capacity (that is, idle capacity that cannot be re-used without substantial additional investment).
- (6) Wherever a company, prior to making an application for aid, already has a high market share for the product(s) concerned, which for the purpose of this Framework will be assumed to be at least 40 %, there is a risk that the award of maximum levels of aid normally permitted in the region concerned will unduly distort competition. In such circumstances the company should, in principle, receive less aid than would otherwise be the case, even if its investment contributes to regional development. There could, however, be exceptions to this general rule, for example where the company creates, through genuine innovation, a new product market.

## (ii) Capital-labour factor

- (7) Since regional aid is usually granted in the form of capital subsidies, there is a natural tendency for capital intensive projects to locate in assisted areas. While this is a positive development, such a policy does not necessarily contribute to the creation of many new jobs and the reduction of unemployment. Only highly capital-intensive projects will be captured by this factor. The notion of jobs safeguarded will only be relevant where it is demonstrated that they are directly linked to the investment project in question and can thus be assessed in terms of investment aid, as opposed to employment aid.
- (8) This criterion would also take account of the possible distorting effect of the aid on the price of the final product. Undertakings with a relatively high share of capital in total costs realise an important reduction of their unit cost through the aid and could obtain thereby a considerable competitive advantage over non-aided competitors. The higher the capital intensity of the supported investment project, the more distortive the effects of capital grants on competition are likely to be.

## (iii) Regional impact factor

- (9) Whereas the competition and capital-labour factors look at the project's potentially distorting effects, the regional impact factor takes account of the beneficial effects on the economies of the assisted regions. The EFTA Surveillance Authority considers that job creation can be used as an indicator of a project's contribution to the development of a region. Where a capital-intensive investment creates only a limited number of direct jobs, it may nevertheless create a significant number of indirect jobs in the assisted region concerned and any adjacent assisted region(s). Job creation in this context refers to jobs created directly by the project together with jobs created by first-tier suppliers and customers in response to the aided investment. When applying this factor to the calculation formula to arrive at an allowable aid intensity, the EFTA Surveillance Authority will give a higher positive weighting to the indirect creation of jobs by aid recipients located in Article 61(3)(a) regions than in Article 61(3)(c) regions in recognition of the more severe economic problems faced by the former.

*Calculation formula*

- (10) The complete calculation formula is obtained by multiplying the regional aid ceiling by the coefficients that result from the examination of the three factors mentioned above, which are represented by the following symbols:

R = authorized maximum aid intensity for large companies in the assisted area concerned (regional ceiling)

T = competition factor

I = capital-labour factor

M = regional impact factor

The formula of the maximum allowable aid intensity is then:  $R \times T \times I \times M$ .

The following adjustment factors will apply to each of the three assessment criteria:

1. Competition factor

- (i) Project which results in a capacity expansion in a sector facing serious structural overcapacity and/or an absolute decline in demand: 0,25;
- (ii) Project which results in a capacity expansion in a sector facing structural overcapacity and/or a declining market and which is likely to reinforce high market share: 0,50;
- (iii) Project which results in a capacity expansion in a sector facing structural overcapacity and/or a declining market: 0,75;
- (iv) No likely negative effects in terms of (i) - (iii): 1,00.

2. Capital-labour factor

New capital/jobs <sup>(1)</sup> (ECU 000s)	Factor
< 200	1,0
200 to 400	0,9
401 to 700	0,8
701 to 1 000	0,7
> 1 000	0,6

<sup>(1)</sup> = total amount of proposed capital divided by number of jobs created or safeguarded.

3. Regional impact indicator

	Article 61(3)(a) regions	Article 61(3)(c) regions
(i) High degree of indirect job creation <sup>(1)</sup> for each job created by the aid recipient (more than 100 %)	1,5	1,2
(ii) Medium degree of indirect job creation for each job created by the aid recipient (between 50 % and 100 %)	1,25	1,1

	Article 61(3)(a) regions	Article 61(3)(c) regions
(iii) Low degree of indirect job creation for each job created by the aid recipient (less than 50 %)	1,0	1,0

(<sup>1</sup>) = That is, jobs created with first-tier suppliers and customers in the assisted region where the company is located or in any adjacent assisted regions (i.e. Article 61(3)(a) or (c) regions).

*NB:* No project would of course be allowed to receive aid above the regional ceiling.

#### 26.4. *Date of introduction and period of validity*

- (1) This Framework will be applicable from 1 January 1999 for an initial trial period of three years. Before the end of the trial period, the EFTA Surveillance Authority will carry out a review of the utility and scope of the Framework, which will, *inter alia*, consider the question of whether it should be renewed, revised or abolished.

#### 26.5. *Procedure for assessment of cases by the EFTA surveillance authority*

- (1) The EFTA Surveillance Authority aims, in principle, to take a decision either to authorise the aid or to open the procedure laid down in Article 1(2) of Protocol 3 to the Surveillance and Court Agreement within a period of two months following the receipt of a complete notification, which should follow the standard format set out in Annex XIII. (In the case of incomplete notifications, the EFTA Surveillance Authority will send a request for additional information to the EFTA State within ten working days). The two-month time-limit may only be extended with the consent of the EFTA State concerned.
- (2) In the event that the EFTA Surveillance Authority initiates the procedure laid down in Article 1(2) of Protocol 3 to the Surveillance and Court Agreement, the EFTA Surveillance Authority will take a final decision within four months following the decision to open the procedure. The EFTA Surveillance Authority will take account of all the evidence which can be gathered during that period, including information from interested third parties and any additional elements not considered during the initial investigation. Thus the maximum period for investigation into an individual case would normally not exceed six months.

#### 26.6. *Ex-post monitoring*

- (1) In view of the sensitive nature of the large mobile investments involved, it is essential that a mechanism exists which helps to ensure that the level of aid actually disbursed to the beneficiary conforms with the EFTA Surveillance Authority decision.
- (2) For each aided project approved by the EFTA Surveillance Authority under this framework, the EFTA Surveillance Authority will require either that any aid contract between the relevant authority of the EFTA State and the aid recipient contains a reimbursement provision in the event of non-compliance with the contract or that the final significant payment of the aid (e.g. 25 %) will be made only when the aid beneficiary has satisfied the EFTA State that execution of the project is in compliance with the EFTA Surveillance Authority decision and on condition that the EFTA Surveillance Authority, on the basis of information provided by the EFTA State concerning implementation of the project, has, within 60 working days, indicated its agreement or raised no objections to the final payment of the aid.



- (3) A copy of any aid contract between the EFTA State and the aid beneficiary must be communicated to the EFTA Surveillance Authority immediately after it has been signed by the parties.
- (4) In order to ensure compliance with the EFTA Surveillance Authority decision, the EFTA State, in cooperation with the aid beneficiaries, must provide the EFTA Surveillance Authority with an annual report on the project, including information on the subsidies already paid, any interim report on the execution of the aid contract, and a final report indicating the objectives in terms of the timetable, the investments, and compliance with any specific conditions laid down by the authority granting the aid.

#### 26.7. *Definition of terms used*

- (1) The following definitions of the terms used in this Framework will apply.

##### *Investment project*

- (2) "Investment project" means an initial investment in fixed assets in the creation of a new establishment, the extension of an existing establishment or engaging in an activity involving a fundamental change in the product or production process of an existing establishment (by means of rationalisation, diversification or modernisation). It may also take the form of the takeover of an establishment which has closed or which would have closed had such a takeover not taken place, but does not include the acquisition of assets from a company in financial difficulties (for which the Guidelines on State aid for rescuing and restructuring firms in difficulty apply).

An investment project should not be artificially divided into sub-projects in order to escape the notification obligation.

##### *Total project cost*

- (3) "Total project cost" means the total expenditure on tangible and non-tangible new assets which are purchased by an undertaking to carry out an investment project and will be depreciated (or leased) over the lifetime of the assets concerned.

##### *Eligible expenses*

- (4) "Eligible expenses" mean expenditure on those tangible and non-tangible assets permitted under the regional aid guidelines.

##### *Jobs*

- (5) "Job" means a permanent full-time job or its part-time equivalent. It may be a new job or the safeguarding of an existing job to the extent that the latter is directly associated with the investment project, would require a significant amount of re-training and would no longer exist at the start of the new production if not for that investment.

##### *Relevant market*

- (6) The relevant product market(s) for determining market share comprises the products envisaged by the investment project and, where appropriate, its substitutes considered by the consumer (by reason of the products' characteristics, their prices and their intended use) or by the producer (through flexibility of the production installations)<sup>(10)</sup>. The relevant geographic market comprises usually the EEA or, alternatively,

any significant part of it if the conditions of competition in that area can be sufficiently distinguished from other areas of the EEA. Where appropriate the relevant market(s) may be considered to be global.

#### *Structural overcapacity*

- (7) Structural overcapacity is deemed to exist when, on average over the last five years, the capacity utilisation rate of the relevant sector or subsector<sup>(1)</sup> is more than two percentage points below that of manufacturing as a whole. Serious structural overcapacity is deemed to exist when the difference with respect to the average for manufacturing is more than five percentage points.

#### *Declining market*

- (8) The market for the product(s) in question will be deemed to be declining if, over the last five years, the average annual growth rate of apparent consumption of the product(s) in question is significantly (more than 10 %) below the annual average of EEA manufacturing industry as a whole, unless there is a strong upward trend in the relative growth rate of demand for the product(s). An absolutely declining market is one in which the average annual growth rate of apparent consumption over the last five years is negative.

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<sup>(1)</sup> This chapter corresponds to Communication from the Commission — Multisectoral framework on regional aid for large investment projects (OJ C 107, 7.4.1998, p. 7).

<sup>(2)</sup> This Framework consequently replaces Chapter 21, Aid to the textile and clothing industry, of the Guidelines adopted and issued by the EFTA Surveillance Authority on 19 January 1994 (OJ L 231, 3.9.1994).

<sup>(3)</sup> See Chapter 16 of these Guidelines.

<sup>(4)</sup> See Chapter 14 of these Guidelines.

<sup>(5)</sup> See Chapter 15 of these Guidelines.

<sup>(6)</sup> Regional investment aid awarded solely for the creation of jobs as described in the EFTA Surveillance Authority regional aid guidelines is not covered by this Framework.

<sup>(7)</sup> The notification requirement also applies, of course, to proposals to award ad hoc aid.

<sup>(8)</sup> ECU 15 million in the case of projects carried out in the textile and clothing sector.

<sup>(9)</sup> ECU 30 000 in the case of projects carried out in the textile and clothing sector.

<sup>(10)</sup> If the investment concerns the production of intermediates, the relevant market may be the market for the final product if most of the production is not sold on the open market.

<sup>(11)</sup> The sector or subsector will be established at the lowest available segmentation of the NACE classification.'

### *ANNEX XIII*

## **STANDARD NOTIFICATION FORM PURSUANT TO THE MULTISECTORAL FRAMEWORK ON REGIONAL AID FOR LARGE INVESTMENT PROJECTS**

### **Introduction**

This form specifies the information to be provided by an EFTA State when notifying the EFTA Surveillance Authority on an investment project to be located in an assisted area which is subject to the notification rules of the multisectoral framework on regional aid for large investment projects.

The EFTA States should note that:

- (a) all information requested by this form must be provided. However if notifying parties, in good faith, are unable to provide a response to a question or can only respond to a limited extent on the basis of available information they should indicate this and give reasons;
- (b) unless all sections are completed in full or adequate reasons are given explaining why it has not been possible to answer the questions in full, the notification will be incomplete and will become effective only on the date on which all the information is received;
- (c) the EFTA Surveillance Authority may request the EFTA State and the aid recipient concerned to provide additional information and/or explanation on the information supplied in this form in order to facilitate the initial assessment, which should be provided within ten working days and may form the subject of a technical meeting to be arranged by the EFTA Surveillance Authority with the competent public authority.

### Supporting documentation

- (a) a copy of the draft aid agreement or, if that is unavailable, a copy of the envisaged aid offer letter. If the draft aid agreement is unavailable at the time of the notification, it should be submitted as soon as possible and not later than when it is posted to the aid recipients;
- (b) copies of the most recent annual reports and accounts of the aid recipient(s), and if the recipient is part of a larger group, the most recent annual reports and accounts of the group;
- (c) a list and short description of the contents of all other analyses, reports, studies and surveys prepared by or for the aid recipient(s) for the purpose of assessing or analysing the proposed aided investment with respect to competitive conditions, competitors (actual and potential), and market conditions. Each item in the list must include the name and position of the author.

### How to notify

The notification must be completed in the official language of the EFTA Surveillance Authority (English) or in the official language of an EFTA State.

Supporting documents may be submitted in their original language or translated into English.

The financial data requested must be provided in local currency or Euro indicating the conversion rates used.

The notification should be sent to:

EFTA Surveillance Authority  
rue de Trèves/Trierstraat 74,  
B-1040 Brussels,

or delivered by hand during normal working hours to the same address.

### Secrecy

The EFTA State and/or the aid recipient concerned should take note that any of the information requested may be used as a basis to prepare a decision on the case. Notifying parties should indicate that part of the information submitted in this notification which should not be published or otherwise divulged to other parties by marking it "Business secrets". They should also set out the reasons why this information should not be divulged or published. However, if sensitive information is needed in the preparation of the decision, the EFTA Surveillance Authority would first consult the EFTA State and/or the aid recipient about the publication of the parts of the decision containing sensitive information.

### Ex-post control

The EFTA Surveillance Authority acknowledges that part of the information requested in this notification form cannot be given entirely accurately in advance. The EFTA State and/or the aid recipient concerned are requested to give their best estimate and to provide a justification of the information to be provided. The aided investment project will be subject to ex-post control by which the EFTA Surveillance Authority can verify the accuracy of the information provided in the context of the notification.

## SECTION 1

### EFTA STATE

#### 1.1. *Information on notifying public authority*

1.1.2. name and address of notifying authority;

1.1.3. name, telephone, fax and e-mail address of, and position held by, the person(s) to be contacted in case of further inquiry.

#### 1.2. *Information of contact in Permanent Representation*

1.2.1. Name, telephone, fax and e-mail address of, and position held by, the person to be contacted in case of further inquiry.

## SECTION 2

### AID RECIPIENT

#### 2.1. *Structure of a company or companies investing in the project*

2.1.1. Identity of aid recipient;

2.1.2. If the legal identity of the aid recipient is different from the undertaking(s) that finance(s) the project or that receive(s) the aid, describe also these differences;

2.1.3. Identify the parent group of the aid recipient, describe the group structure and ownership structure of each parent company.

2.2. *For a company or companies investing in the project, provide the following data for the last three financial years:*

2.2.1. Worldwide turnover, EEA turnover, turnover in EFTA State concerned;

2.2.2. Profit after tax and cash flow (on a consolidated basis);

2.2.3. Employment worldwide, at EEA level and in EFTA State concerned;

2.2.4. Market breakdown of sales in the EFTA State concerned, in the rest of the EEA and outside the EEA.

2.3. *If the investment takes place in an existing industrial location, provide the following data for the last three financial years of that entity*

2.3.1. Total turnover;

2.3.2. Profit after tax and cash flow;

2.3.3. Employment;

2.3.4. Market breakdown of sales: in the EFTA State concerned, in the rest of the EEA and outside the EEA.

## SECTION 3

## PROVISION OF PUBLIC ASSISTANCE

For each measure of proposed public assistance, provide the following:

- 3.1. *Details*
  - 3.1.1. Scheme title (or indicate if it is an "ad-hoc" aid);
  - 3.1.2. Legal basis (law, decree, etc.);
  - 3.1.3. Public entity providing the assistance;
  - 3.1.4. If the legal basis is an aid scheme approved by the EFTA Surveillance Authority, provide the date of the approval and the State aid case reference number.
- 3.2. *Form of the proposed assistance*
  - 3.2.1. Is the proposed assistance a grant, interest subsidy, reduction in social security contributions, tax credit (relief), equity participation, debt conversion or write off, soft loan, deferred tax provision, amount covered by a guarantee scheme, etc?
  - 3.2.2. Provide the conditions attached to the payment of the proposed assistance.
- 3.3. *Amount of the proposed assistance*
  - 3.3.1. Nominal amount of support and its gross and net grant equivalent;
  - 3.3.2. Is the assistance measure subject to corporate tax (or other direct taxation)? If only partially, to what extent?
  - 3.3.3. Provide a complete schedule of the payment of the proposed assistance.

For the package of proposed public assistance, provide the following:

- 3.4. *The characteristics of the assistance measures*
  - 3.4.1. Are any of the assistance measures of the overall package not yet defined? If yes, specify;
  - 3.4.2. Indicate which of the above mentioned measures does not constitute State aid and for what reason(s).
- 3.5. *Cumulation of public assistance measures*
  - 3.5.1. Estimated gross grant equivalent (before taxation) of the combined aid measures;
  - 3.5.2. Estimated net grant equivalent (after taxation) of the combined aid measures.

## SECTION 4

## ASSISTED PROJECT

(The information to be given in this section is used, *inter alia*, to determine the outcome of the application of the capital-labour assessment factor.)

- 4.1. *Location of the project*
  - 4.1.1. Specify the region and the municipality as well as the address.

4.2. *Duration of the project*

4.2.1. Specify the start date of the investment project as well as the completion date of the investment;

4.2.2. Specify the planned start date of the new production and the year by which full production may be reached.

4.3. *Description of the project*

4.3.1. Specify the type of the project and whether it is a new establishment or a capacity expansion or other;

4.3.2. Provide a short general description of the project.

4.4. *Breakdown of the project costs*

4.4.1. Specify the total cost of capital expenditure to be invested and depreciated over the lifetime of the project;

4.4.2. Provide a detailed breakdown of the capital and non-capital <sup>(1)</sup> expenditure associated with the investment project by filling in the following table:

	Total expenditure				Eligible expenditure			
	Year 1	Year 2	Year 3	Etc.	Year 1	Year 2	Year 3	Etc.
<b>Capital</b>								
land								
buildings								
installations, machines								
tools								
intangibles <sup>(1)</sup>								
other (specify)								
<b>Non-capital</b>								
additional working capital								
R&D								
launching costs								
other (specify)								
<b>Total</b>								

<sup>(1)</sup> For large enterprises, certain categories of intangible investments can be included in the eligible capital expenditure, however, not exceeding 25 % of the total eligible capital expenditure (see Regional aid guidelines, Chapter 2.5.4, paragraphs (10)-(12)).

4.5. *Financing of total project costs*

4.5.1. Indicate the financing of the total cost of the investment project by filling in the following table:

	Amount			
	Year 1	Year 2	Year 3	Etc.
Internal resources				
Equity contributions				
Borrowing from private institutions				
Borrowing from public institutions				
Public assistance (national and other)				
Other (specify)				
Total				

4.6. *Employment creation*

4.6.1. Does the project create new permanent jobs (full-time equivalent)? If yes, provide a number of the jobs to be created and over which period as well as a description of the jobs to be created.

4.7. *Safeguard of existing employment*

4.7.1. Does the project safeguard existing permanent jobs? If yes, provide a number of the jobs to be safeguarded and over which period as well as a description of the jobs to be safeguarded;

4.7.2. Explain in detail the re-training in average number of hours and cost (excluding the salaries of the trainees) necessary to safeguard these permanent jobs;

4.7.2. Explain why these jobs would be at imminent risk if the project was not realised.

## SECTION 5

**CAPACITY CONSIDERATIONS AND AFFECTED MARKET(S)**

(The information to be given in this section is used to determine the outcome of the application of the competition assessment factor. A definition of the relevant market(s) as well as a definition of structural overcapacity and market(s) in decline are given in the appendix)

5.1. *Characterisation of product(s) envisaged by the project*

- 5.1.1. Specify the product(s) that will be produced in the aided facility upon the completion of the investment (indicate the CN code) and the relevant (sub-) sector(s) to which the product belong(s) (indicate the NACE code);
- 5.1.2. What product(s) will it replace? If these replaced products are not produced at the same location, indicate where they are currently produced;
- 5.1.3. What other product(s) can be produced with the same new facilities at little or no additional cost?

5.2. *Characterisation of relevant geographic market(s)*

- 5.2.1. Specify the relevant geographic market(s) where different from EEA;
- 5.2.2. Why is the geographic market considered to be different from EEA?

5.3. *Capacity considerations*

- 5.3.1. Quantify the impact of the project on the aid recipient's total viable capacity in the EEA (including at Group level) for each of the product(s) concerned (in units per year in the year preceeding the start year and on completion of the project);
- 5.3.2. Provide an estimate of the total EEA (or of the relevant geographic market) capacity utilisation rate of the relevant (sub-)sector(s) for the last five years. What proportion of this capacity during this period is accounted for by the aid recipient and what has been its rate of capacity utilisation in the relevant (sub)-sector?

5.4. *Market data*

- 5.4.1. Provide for each of the last five financial years data on apparent consumption (2) of the product(s) concerned. If available, include statistics prepared by other sources to illustrate the answer;
- 5.4.2. Provide for the next three financial years a forecast of the evolution of apparent consumption of the product(s) concerned. If available, include statistics prepared by other sources to illustrate the answer;
- 5.4.3. Is the relevant market in decline and for what reasons? If not, why?
- 5.4.4. An estimate of the market share (in value) of the aid recipient or of the group to which the aid recipient belongs in the year preceding the start year and on completion of the project.

## SECTION 6

### REGIONAL IMPACT

(The information to be given in this section is used to determine the outcome of the application of the regional impact assessment factor.)

- 6.1. *Information on the employment created with first tier suppliers and customers of the aid recipient*



- 6.1.1. In the opinion of the EFTA State and/or aid recipient, which of the three options below best describes the degree of jobs created with first-tier suppliers and customers resulting from the project:
- (i) High degree of job creation for each job created by the aid recipient (more than 100 %);
  - (ii) Medium degree of job creation for each job created by the aid recipient (between 50 % and 100 %);
  - (iii) Low degree of job creation for each job created by the aid recipient (less than 50 %).
- 6.1.2. Justify and explain your answer to the previous question;
- 6.1.3. Provide as complete a list as possible of the prospective first-tier suppliers for the new production within the assisted region and/or assisted regions;
- 6.1.4. Provide as complete a list as possible of the prospective customers for the new production within the assisted region and/or assisted regions.

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(<sup>1</sup>) Investment expenditure that cannot be depreciated over the lifetime of the investment project.

(<sup>2</sup>) Production plus imports minus exports.'

Done at Brussels, 4 November 1998.

*For the EEA Surveillance Authority*

*The President*

Knut ALMESTAD

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## CORRIGENDA

**Corrigendum to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code**

*(Official Journal of the European Communities L 253 of 11 October 1993)*

In Article 313(2):

*for:* 'By way of derogation from this provision ...',

*read:* 'By way of derogation from point (a) of this paragraph ...'.

In Article 444(2):

*for:* '... as provided for in Article 311(c) of the Code, ...',

*read:* '... as provided for in Article 311(c), ...'.

In Annex 49, under 'II. Acceptance by the office of departure':

*for:* 'to cover the T1/T2F(\*) transit operation ...',

*read:* 'to cover the T1/T2/T2F(\*) transit operation ...'.

In Annex 77, against 'Numerical order 115', in column (4):

*for:* 'Semi-milled rice, ...',

*read:* 'Wholly milled rice, ...'.

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