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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2514/1999
of 29 November 1999
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, and in particular Article 4 (1) thereof,

Whereas:

- (1) 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;

- (2) 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 30 November 1999.

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

Done at Brussels, 29 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 29 November 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	81,0
	204	59,5
	999	70,3
0707 00 05	052	158,7
	628	134,8
	999	146,8
0709 90 70	052	92,0
	999	92,0
0805 20 10	204	63,2
	999	63,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	51,3
	999	51,3
0805 30 10	052	55,9
	528	77,3
	600	71,7
	999	68,3
	039	90,7
0808 10 20, 0808 10 50, 0808 10 90	052	65,1
	060	34,4
	400	84,2
	404	71,4
	804	26,8
	999	62,1
	052	148,2
0808 20 50	064	60,2
	400	91,2
	999	99,9
	999	99,9

(¹) Country nomenclature as fixed by Commission Regulation (EC) No 2645/98 (OJ L 335, 10.12.1998, p. 22). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2515/1999
of 29 November 1999
setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

- (1) Whereas, pursuant to Article 3 of Regulation (EEC) No 1601/92, the requirements of the Canary Islands for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;
- (2) Whereas Commission Regulation (EC) No 2790/94 ⁽³⁾, as last amended by Regulation (EC) No 1620/1999 ⁽⁴⁾, lays down common detailed rules for implementation of

the specific arrangements for the supply of certain agricultural products, including rice, to the Canary Islands;

- (3) Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market, the aid for supply to the Canary Islands should be set at the amounts given in the Annex;
- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 December 1999.

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

Done at Brussels, 29 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 13.

⁽²⁾ OJ L 320, 11.12.1996, p. 1.

⁽³⁾ OJ L 296, 17.11.1994, p. 23.

⁽⁴⁾ OJ L 192, 24.7.1999, p. 19.

ANNEX

to the Commission Regulation of 29 November 1999 setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

(EUR/t)

Product (CN code)	Amount of aid
Milled rice (1006 30)	129,00
Broken rice (1006 40)	28,00

**COMMISSION REGULATION (EC) No 2516/1999
of 29 November 1999**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

- (1) Whereas, pursuant to Article 10 of Regulation (EEC) No 1600/92, the requirements of the Azores and Madeira for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;
- (2) Whereas Commission Regulation (EEC) No 1696/92 ⁽³⁾, as last amended by Regulation (EEC) No 2596/93 ⁽⁴⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Azores and Madeira; whereas Commission Regulation (EEC) No 1983/92 of 16 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice products to the Azores and Madeira and establishing the forecast supply balance for these prod-

ucts ⁽⁵⁾, as last amended by Regulation (EC) No 1683/94 ⁽⁶⁾, lays down detailed rules which complement or derogate from the provisions of the aforementioned Regulation;

- (3) Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market the aid for supply to the Azores and Madeira should be set at the amounts given in the Annex;
- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 December 1999.

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

Done at Brussels, 29 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 1.

⁽²⁾ OJ L 76, 13.3.1998, p. 6.

⁽³⁾ OJ L 179, 1.7.1992, p. 6.

⁽⁴⁾ OJ L 238, 23.9.1993, p. 24.

⁽⁵⁾ OJ L 198, 17.7.1992, p. 37.

⁽⁶⁾ OJ L 178, 12.7.1994, p. 53.

ANNEX

to the Commission Regulation of 29 November 1999 setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira

(EUR/t)

Product (CN code)	Amount of aid	
	Destination	
	Azores	Madeira
Milled rice (1006 30)	129,00	129,00

**COMMISSION REGULATION (EC) No 2517/1999
of 29 November 1999**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

- (1) Whereas Article 13 of Regulation (EC) No 3072/95 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;
- (2) Whereas Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 228 of the Treaty;
- (3) Whereas Commission Regulation (EEC) No 1361/76 ⁽³⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;
- (4) Whereas export possibilities exist for a quantity of 6 371 t of rice to certain destinations; whereas the procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 ⁽⁴⁾, as last amended by Regulation (EC) No 1432/1999 ⁽⁵⁾ should be used; whereas account should be taken of this when the refunds are fixed;
- (5) Whereas Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account

when the export refund on rice and broken rice is being calculated;

- (6) Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;
- (7) Whereas a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;
- (8) Whereas the refund must be fixed at least once a month; whereas it may be altered in the intervening period;
- (9) Whereas it follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto;
- (10) Whereas, for the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted;
- (11) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

With the exception of the quantity of 6 371 t provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

Article 3

This Regulation shall enter into force on 1 December 1999.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 154, 15.6.1976, p. 11.

⁽⁴⁾ OJ L 117, 24.5.1995, p. 2.

⁽⁵⁾ OJ L 166, 1.7.1999, p. 56.

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

Done at Brussels, 29 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 29 November 1999 fixing the export refunds on rice and broken rice and suspending, the issue of export licences

(EUR/t)			(EUR/t)		
Product code	Destination (1)	Amount of refunds	Product code	Destination (1)	Amount of refunds
1006 20 11 9000	01	101,00	1006 30 65 9900	01	127,00
1006 20 13 9000	01	101,00		04	121,00
1006 20 15 9000	01	101,00	1006 30 67 9100	05	121,00
1006 20 17 9000	—	—	1006 30 67 9900	—	—
1006 20 92 9000	01	101,00	1006 30 92 9100	01	127,00
1006 20 94 9000	01	101,00		02	121,00 (2)
1006 20 96 9000	01	101,00		03	126,00 (2)
1006 20 98 9000	—	—		04	121,00
1006 30 21 9000	01	101,00		05	121,00
1006 30 23 9000	01	101,00	1006 30 92 9900	01	127,00
1006 30 25 9000	01	101,00		04	121,00
1006 30 27 9000	—	—	1006 30 94 9100	01	127,00
1006 30 42 9000	01	101,00		02	121,00 (2)
1006 30 44 9000	01	101,00		03	126,00 (2)
1006 30 46 9000	01	101,00		04	121,00
1006 30 48 9000	—	—		05	121,00
1006 30 61 9100	01	127,00	1006 30 94 9900	01	127,00
	02	121,00 (2)		04	121,00
	03	126,00 (2)	1006 30 96 9100	01	127,00
	04	121,00		02	121,00 (2)
	05	121,00		03	126,00 (2)
1006 30 61 9900	01	127,00		04	121,00
	04	121,00		05	121,00
1006 30 63 9100	01	127,00	1006 30 96 9900	01	127,00
	02	121,00 (2)		04	121,00
	03	126,00 (2)	1006 30 98 9100	05	121,00
	04	121,00	1006 30 98 9900	—	—
	05	121,00	1006 40 00 9000	—	—
1006 30 63 9900	01	127,00			
	04	121,00			
1006 30 65 9100	01	127,00			
	02	121,00 (2)			
	03	126,00 (2)			
	04	121,00			
	05	121,00			

(1) The destinations are identified as follows:

01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia, refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 2 923 t of wholly milled rice equivalent,

02 Zones I, II, III, VI, excluding Turkey,

03 Zones IV, V, VII (c), Canada and Zone VIII excluding Suriname, Guyana and Madagascar,

04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87, refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 1 000 t.

05 Ceuta and Melilla, refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 714 t.

(2) For rice of destinations 02 and 03, refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 1 734 t.

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

COMMISSION REGULATION (EC) No 2518/1999
of 29 November 1999
on the issuing of system B export licences for fruit and vegetables

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

Having regard to Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EEC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1303/1999 ⁽²⁾, and in particular Article 5(6) thereof,

- (1) Whereas Commission Regulation (EC) No 1926/1999 ⁽³⁾ fixes the indicative quantities laid down for the issue of export licences other than those requested in the context of food aid;
- (2) Whereas, in the light of information now available to the Commission, the indicative quantities have been exceeded in the case of hazelnuts in shell, walnuts in shell, table grapes and apples;
- (3) Whereas as a consequence, for system B licences applied for between 16 September and 15 November 1999, a rate of refund which is lower than the indicative rate

should be fixed for hazelnuts in shell, walnuts in shell, table grapes and apples;

HAS ADOPTED THIS REGULATION:

Article 1

The percentages for the issuing of system B export licences, as referred to in Article 5 of Regulation (EC) No 2190/96, and applied for between 16 September and 15 November 1999, by which the quantities applied for and the rates of refund applicable must be multiplied, shall be as fixed in the Annex hereto.

The above subparagraph shall not apply to licences applied for in connection with food-aid operations as provided for in Article 10(4) of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations.

Article 2

This Regulation shall enter into force on 30 November 1999.

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

Done at Brussels, 29 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15.11.1996, p. 12.

⁽²⁾ OJ L 155, 22.6.1999, p. 29.

⁽³⁾ OJ L 238, 9.9.1999, p. 20.

ANNEX

Percentages for the issuing of licences and rates of refund applicable to system B licences applied for between 16 September and 15 November 1999

Product	Destination or group of destinations	Percentage for the issuing of licences	Rate of refund (EUR/tonne net)
Tomatoes	A01	100 %	20,0
Shelled almonds	A01	100 %	50,0
Hazelnuts in shell	A01	100 %	45,5
Shelled hazelnuts	A01	100 %	114,0
Walnuts in shell	A01	100 %	69,1
Oranges	F01, F02, F05	100 %	50,0
Lemons	A01	100 %	35,0
Table grapes	A01	100 %	23,4
Apples	F01	100 %	37,2
	F02	100 %	28,8
	F03, F04	100 %	46,2
Peaches and nectarines	A21	100 %	27,0

COMMISSION REGULATION (EC) No 2519/1999
of 29 November 1999
on the supply of white sugar as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;
- (2) following the taking of a number of decisions on the allocation of food aid, the Commission has allocated white sugar to certain beneficiaries;
- (3) it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied

pursuant to Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; it is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

White sugar shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 29 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action No:** 636/97
2. **Beneficiary** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag, Nederland
tel. (31-70) 33 05 757; fax 36 41 701; telex 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** Haiti
5. **Product to be mobilised:** white sugar
6. **Total quantity (tonnes net):** 84
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾ ⁽⁹⁾: see OJ C 114, 29.4.1991, p. 1 (V. A.(1))
9. **Packaging** ⁽⁷⁾ ⁽⁸⁾: see OJ C 267, 13.9.1996, p. 1 (11.2 A 1. b, 2. b and B.4)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (V. A.(3))
 - Language to be used for the markings: French
 - Supplementary markings: —
11. **Method of mobilisation of the product:** sugar produced in the Community in accordance with Article 1(2) of Council Regulation (EC) No 2038/1999 as follows: A or B sugar (points (e) and (f))
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 17.1-6.2.2000
 - second deadline: 31.1-20.2.2000
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 14.12.1999
 - second deadline: 4.1.2000
20. **Amount of tendering guarantee:** EUR 15 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel. Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable to white sugar on 19.11.1999, fixed by Commission Regulation (EC) No 2436/1999 (OJ L 297, 18.11.1999, p. 3)

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65)
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that indicated in point 22 of this Annex.
The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted (fax (322) 296 20 05).
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— health certificate.
- (⁶) Notwithstanding OJ C 114 of 29.4.1991, point V.A(3)(c) is replaced by the following: 'the words "European Community".'
- (⁷) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁸) Shipment to take place in 20-foot containers, condition FCL/FCL.
The supplier shall be responsible for the cost of making the container available in the stack position at the container terminal at the port of shipment. The beneficiary shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.
The supplier has to submit to the beneficiary's agent a complete packing list of each container, specifying the number of bags belonging to each action number as specified in the invitation to tender.
The supplier has to seal each container with a numbered locktainer (Oneseal, Sysko, Locktainer 180 or a similar high-security seal) the number of which is to be provided to the beneficiary's representative.
- (⁹) The rule provided at the second indent of Article 18(2)(a) of Commission Regulation (EEC) No 2103/77 (OJ L 246, 27.9.1977, p. 12), as last amended by Regulation (EC) No 260/96 (OJ L 34, 13.2.1996, p. 16), is binding for determination of the sugar category.
-

COMMISSION REGULATION (EC) No 2520/1999
of 29 November 1999
on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;
- (2) following the taking of a number of decisions on the allocation of food aid, the Commission has allocated vegetable oil to certain beneficiaries;
- (3) it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; it is necessary to specify the time limits and conditions of supply to determine the resultant costs;
- (4) in order to ensure that the supplies are carried out for a given lot, provision should be made for tenderers to be able to mobilise either rape-seed oil or sunflower oil; the

contract for the supply of each such lot is to be awarded to the tenderer submitting the lowest tender,

HAS ADOPTED THIS REGULATION:

Article 1

Vegetable oil shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The supply shall cover the mobilisation of vegetable oil produced in the Community. For lot A mobilisation may not involve a product manufactured and/or packaged under inward processing arrangements.

For lot A tenders shall cover either rape-seed oil or sunflower oil. Tenders shall be rejected unless they specify the type of oil to which they relate.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 29 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action No:** 267/98
2. **Beneficiary** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag, Nederland. Tel. (31-70) 33 05 757; fax (31-70) 36 41 701; telex 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** Burkina Faso
5. **Product to be mobilised:** refined rapeseed oil or refined sunflower oil
6. **Total quantity (tonnes net):** 34
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (III.A.(1)(a) or (b))
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (10.4. A, B and C(2))
10. **Labelling or marking** ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (III.A.(3))
 - Language to be used for the markings: French
 - Supplementary markings: —
11. **Method of mobilisation of the product:** mobilisation of refined vegetable oil produced in the Community. Mobilisation may not involve a product manufactured and/or packaged under inward-processing arrangements.
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 17.1-6.2.2000
 - second deadline: 7-27.2.2000
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 14.12.1999
 - second deadline: 4.1.2000
20. **Amount of tendering guarantee:** EUR 15 per tonne
21. **Address for submission of tenders and tendering guarantee** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi 200, B-1049 Bruxelles. Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund:** —

LOT B

1. **Action No:** 265/98
2. **Beneficiary** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag, Nederland. Tel. (31-70) 33 05 757; fax (31-70) 36 41 701; telex 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** India
5. **Product to be mobilised:** refined soya-bean oil
6. **Total quantity (tonnes net):** 45
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽⁸⁾: —
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, 1 (10.4 A, B and C.2)
10. **Labelling or marking** ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (III.A.(3))
 - Language to be used for the markings: English
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 17.1-6.2.2000
 - second deadline: 31.1-20.2.2000
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 14.12.1999
 - second deadline: 4.1.2000
20. **Amount of tendering guarantee:** EUR 15 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi 200, B-1049 Bruxelles. Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund:** —

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65),
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— health certificate.
- (⁵) Notwithstanding OJ C 114 of 29.4.1991, point III.A(3)(c) is replaced by the following: 'the words "European Community"'.
(⁶) Tenders shall be rejected unless they specify the type of oil to which they relate.
- (⁷) Shipment to take place in 20-foot containers, condition FCL/FCL (each containing maximum 15 t net).
The supplier shall be responsible for the cost of making the container available in the stack position at the container terminal at the port of shipment. The beneficiary shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.
The supplier has to submit to the beneficiary's agent a complete packing list of each container, specifying the number of bags belonging to each action number as specified in the invitation to tender.
The supplier has to seal each container with a numbered locktainer (Oneseal, Sysko, Locktainer 180 or a similar high-security seal) the number of which is to be provided to the beneficiary's representative.
- (⁸) Refined soya oil meeting the following requirements:
— appearance, at ambient temperature: clear and shining
— water and volatile matter: maximum 0,2 % m/m
— insoluble impurities: maximum 0,05 % m/m
— free fatty acids: maximum 0,1 % expressed as oleic acid
— colour, Lovibond 5 1/4" (red/yellow): maximum 1,5/15
— soap: maximum 0,005 % m/m
— no foreign odours or flavours
— peroxide number: maximum 2 milliequivalents of active oxygen per kg of oil
— specific weight at 20 °C: 0,919-0,925 g/cm³
— refractive index at 40 °C: 1,466-1,470
— iodine number (Wijs): 125-140 g/100 g.
-

COMMISSION REGULATION (EC) No 2521/1999
of 29 November 1999
on the supply of milk products as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;
- (2) following the taking of a number of Decisions on the allocation of food aid, the Commission has allocated milk powder to certain beneficiaries;
- (3) it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied

pursuant to Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; it is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Milk products shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 29 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action Nos:** 637/97 (A1); 701/97 (A2)
2. **Beneficiary** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag, Nederland. Tel. (31-70) 33 05 757; fax 36 41 70; telex 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** Haiti
5. **Product to be mobilised:** vitaminised skimmed-milk powder
6. **Total quantity (tonnes net):** 119
7. **Number of lots:** 1 on 2 parts (A1: 60 tonnes; A2: 59 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (I.B.(1))
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (6.3 A and B.2)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (I.B.(3))
 - Language to be used for the markings: French
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market. The manufacture of the skimmed-milk powder, and the incorporation of vitamins, must be carried out after the award of the supply contract
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 17.1-6.2.2000
 - second deadline: 31.1-20.2.2000
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 14.12.1999
 - second deadline: 4.1.2000
20. **Amount of tendering guarantee:** EUR 20 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, Bâtiment Loi 130, bureau 7/46, rue de la Loi 200, B-1049 Bruxelles. Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 23.11.1999, fixed by Commission Regulation (EC) No 2283/1999 (OJ L 279, 29.10.1999, p. 32)

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65)
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 22 of this Annex.
The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted (fax (32 2) 296 20 05).
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following documents:
- health certificate issued by an official entity stating that the product was processed under excellent sanitary conditions which are supervised by qualified technical personnel. The certificate must state the temperature and duration of the pasteurisation, the temperature and duration in the spray-drying-tower and the expiry date for consumption,
 - veterinary certificate issued by an official entity stating that the area of production of raw milk had not registered foot-and-mouth disease nor any other notifiable infectious/contagious disease during the 12 months prior to the processing.
- (⁶) Notwithstanding OJ C 114 of 29.4.1991, point I.A(3)(c) is replaced by the following: 'the words "European Community"'.

- (⁷) Shipment to take place in 20-foot containers, condition FCL/FCL.
The supplier shall be responsible for the cost of making the container available in the stack position at the container terminal at the port of shipment. The beneficiary shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.
The supplier has to submit to the beneficiary's agent a complete packing list of each container, specifying the number of bags belonging to each action number as specified in the invitation to tender.
The supplier has to seal each container with a numbered locktainer (Oneseal, Sysko, Locktainer 180 or a similar high-security seal) the number of which is to be provided to the beneficiary's representative.

COMMISSION REGULATION (EC) No 2522/1999
of 29 November 1999
on the supply of cereals as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;
- (2) following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to certain beneficiaries;
- (3) it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied

under Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; it is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 29 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action Nos:** 706/97 (A1); 264/98 (A2)
2. **Beneficiary** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag, Nederland. Tel. (31-70) 33 05 757; fax 36 41 701; telex: 30960 EURON NL
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** A1 Haiti; A2 Nicaragua
5. **Product to be mobilized:** milled rice (product code 1006 30 92 9900, 1006 30 94 9900, 1006 30 96 9900, 1006 30 98 9900)
6. **Total quantity (tonnes net):** 1 347
7. **Number of lots:** 1 in 2 parts (A1: 1 252 tonnes; A2: 95 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 114, 29.4.1991, p. 1 (II.A.(1)(f))
9. **Packaging** ⁽⁷⁾ ⁽⁸⁾: see OJ C 267, 13.9.1996, p. 1 (1.0 A 1.c 2.c and B.6)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (II.A.(3))
 - Language to be used for the markings: A1: French; A2: Spanish
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 17.1-6.2.2000
 - second deadline: 31.1-20.2.2000
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 14.12.1999
 - second deadline: 4.1.2000
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi 200, B-1049 Bruxelles. Telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 30.11.1999, fixed by Commission Regulation (EC) No 2300/1999 (OJ L 280 30.10.1999, p. 15)

Notes

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65),
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that indicated in point 22 of this Annex. The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted fax (32 2) 296 20 05.
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following documents:
- phytosanitary certificate,
 - fumigation certificate (Cereals/cereals derivatives are to be fumigated prior to shipment by way of magnesium phosphide (min. 2 g/m³) for a minimum period of five (5) days between the application of the fumigant and the venting process. The appropriate certification must be made available at the time of shipment.),
 - A2: the radioactivity certificate and the certificate of origin must be legalized by the diplomatic representation in the country of origin of the goods.
- (⁶) Notwithstanding OJ C 114, 29.4.1991, point II.A(3)(c) is replaced by the following: 'the words "European Community"'.
(⁷) Since, the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
(⁸) Shipment to take place in 20-foot containers, condition FCL/FCL.

The supplier shall be responsible for the cost of making the container available in the stack position at the container terminal at the port of shipment. The beneficiary shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.

The supplier has to submit to the beneficiary's agent a complete packing list of each container, specifying the number of bags belonging to each action number as specified in the invitation to tender.

The supplier has to seal each container with a numbered locktainer (ONESEAL, SYSKO Locktainer 180 or a similar high-security seal) the number of which is to be provided to the beneficiary's representative.

II

(Acts whose publication is not obligatory)

COUNCIL

**COUNCIL DECISION
of 15 November 1999**

concerning the conclusion of a Protocol on veterinary matters supplementing the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part

(1999/778/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of the first subparagraph of Article 300(2) and Article 300(4) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Whereas the Protocol on veterinary matters supplementing the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol on veterinary matters supplementing the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

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

the Community and to give the notification provided for in Article 4 of the Protocol (*).

Article 3

The Commission, assisted by the representatives of the veterinary services of the Member States, shall represent the Community in the veterinary sub-group established by Article 2 of the Protocol. The Community position in the Joint Committee on the recommendations of the veterinary sub-group shall be established by the Council, acting by a qualified majority on a proposal from the Commission.

Article 4

This Decision shall take effect on the day of its adoption.

Done at Brussels, 15 November 1999.

For the Council

The President

K. HEMILÄ

⁽¹⁾ OJ C 274, 28.9.1999, p. 11.

(*) The date of the entry into force of the Protocol will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

PROTOCOL ON VETERINARY MATTERS

supplementing the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part

THE EUROPEAN COMMUNITY,

of the one part, and

THE GOVERNMENT OF DENMARK AND THE HOME GOVERNMENT OF THE FAROE ISLANDS,

of the other part,

Having regard to the Agreement between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, signed in Brussels on 6 December 1996 (the 'Agreement'),

Recalling the desire to consolidate and extend the economic relations existing between the European Community and the Faroe Islands and to ensure, with due regard to fair conditions of competition, the harmonious development of trade between the Parties,

Recalling the commitment of the Parties to apply their rules in veterinary matters in a non-discriminatory fashion and not to introduce any new measures that have the effect of unduly obstructing trade,

Reaffirming their commitment to the rights and obligations established pursuant to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures,

Desiring to ensure that trade in live animals and animal products between the Community and the Faroe Islands is conducted in a manner that safeguards public and animal health,

- (1) Whereas, to this end, such trade is to be conducted in compliance with Community veterinary rules;
- (2) Whereas the Agreement should, accordingly, be supplemented by this Protocol,

HAVE AGREED AS FOLLOWS:

Article 1

The Faroe Islands undertake to apply Community veterinary rules in respect of the following:

- I. Preventive measures/notification of diseases,
- II. Animal health: trade and placing on the market (except as regards third countries' rules which are referred to in point VI),

III. Animal health protective measures for animal health products (except as regards third countries' rules which are referred to in point VI),

IV. Public health protective measures: rules governing placing on the market (except as regards third countries' rules which are referred to in point VI),

V. Hormones, residues, BST, zoonoses, animal residues, medicated feed,

VI. Imports from third countries,

VII. Inspection, animal identification, mutual assistance,

VIII. Zootechnics (including provisions in respect of third countries),

IX. Animal welfare,

X. Institutional matters.

Article 2

A list of the Community veterinary provisions to be applied by the Faroe Islands, and conditions for the application of these provisions, shall be drawn up by the Joint Committee set up under Article 31 of the Agreement.

A veterinary sub-group shall be set up under the Joint Committee. It shall periodically examine the situation concerning Community law applicable to the Faroe Islands. If necessary, the sub-group shall make recommendations to the Joint Committee with a view to amending or updating the legislation in question.

Article 3

This Protocol shall form an integral part of the Agreement.

Article 4

This Protocol shall be approved by the Contracting Parties in accordance with their own procedures. It shall enter into force on the first day of the month following notification of the completion of such procedures by the Contracting Parties.

Article 5

This Protocol is drawn up in two copies in the Danish, Dutch, English, Faroese, French, Finnish, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

COMMISSION

COMMISSION DECISION

of 3 February 1999

on an Austrian state aid granted in the form of an exemption from beverage tax of wine and other fermented beverages sold directly on the place of production to the consumer

(notified under document number C(1999) 325)

(Only the German text is authentic)

(1999/779/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Articles 92 and 93 thereof,

Having regard to the Act concerning the Accession of Austria, Finland and Sweden to the European Union, and in particular Articles 144(a) and 149 thereof, and to the Commission decision of 24 July 1998 on transitional measures for Austria concerning tax exemptions for wine and other fermented beverages taken by virtue of Article 149,

After giving notice to the parties concerned to submit their comments, in accordance with Article 93(2),

Whereas:

I

Answering a request from the Commission of 21 March 1996, Austria sent a letter of 30 May 1996 presenting information about a national scheme for a tax exemption. As part of the preliminary procedure according to Article 93(3) of the EC Treaty, Austria has submitted further information by letter of 19 July 1996.

The measure in question provides for an exemption from beverage tax in favour of wine (heading Nos 2204 21 and 2204 29 of the Common Customs Tariff) and other fermented beverages (heading No 2206 00 of the Common Customs Tariff), where these products are sold direct to the consumer at the place of production ('farm-gate' sales). The beverage tax is generally levied at a rate of 7,58 % of the retail price (10 % excluding value added tax) for sales of alcoholic beverages to the consumers.

This exemption from the beverage tax is provided for in the *Finanzausgleichsgesetz* 1993 (Act on redistribution of income between the Federal State, the *Länder* and the municipalities of

Austria), as last amended in 1997, which empowers the *Länder* and the municipalities to levy the beverage tax except for farm-gate sales of wine and other fermented beverages. As for the delimitation of the range of products covered by this exemption the *Finanzausgleichsgesetz* refers to the *Umsatzsteuergesetz* 1994 (Act on turnover tax). Appropriate provisions are laid down in the secondary legislation of the *Länder* and of the municipalities in the wine-growing regions of Austria (e.g. *Steiermärkisches Getränke- und Speiseabgabengesetz* 1993, *Oberösterreichische Gemeinde-Getränkesteuergesetz-Novelle* 1993, *Salzburger Getränkesteuergesetz* 1993, *Getränksteuerverordnung der Stadt Salzburg*, *Niederösterreichisches Getränke- und Speiseeissteuergesetz* 1992, *Getränksteuerverordnung 1992 der Stadt Wien*).

The scheme had come into force before Austria's accession to the European Union and has been continuously applied since Austria became a member of the European Union.

II

By letter of 20 November 1996 the Commission informed Austria of its decision to open the procedure under Article 93(2) of the EC Treaty with regard to the measure. The decision was published in the *Official Journal of the European Communities* and the Commission invited the Member States and other interested parties to submit their observations⁽¹⁾.

In the decision, the Commission expressed its doubts as to the compatibility of the measure with the common market. It stated that the measure might constitute state aid incompatible with the common market, as it appears to fulfil the conditions of Article 92(1) of the EC Treaty without qualifying for any of the derogations provided for in paragraphs 2 and 3 of that Article. Moreover, the aid could not be considered to constitute an 'existing' aid within the meaning of Article 93(1) of the EC Treaty as it had not been notified in accordance with Article 144 of the Act of Accession.

⁽¹⁾ OJ C 82, 14.3.1997, p. 9.

No observations from Member States or third parties were received after publication of the decision. Austria submitted observations by letters of 21 January 1997 and of 31 January 1997 and it sent supplementary observations in letters of 5 December 1997 and of 22 December 1997.

On 24 July 1998 the Commission, pursuant to Article 149(1) of the Act of Accession, decided, after having followed the procedure under Article 38 of Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EC) No 1638/98 ⁽²⁾, that 'Austria may maintain, until 31 December 1998, the existing provisions of various Austrian laws exempting producers of wine and other fermented beverages from the beverage tax in relation to produce sold directly at the place of production to the consumer' ⁽³⁾. The application of Article 149 was initially due to end on 31 December 1997 but extended until 31 December 1998 by Council Regulation (EC) No 2596/97 of 18 December 1997 extending the period provided for in Article 149(1) of the Act of Accession of Austria, Finland and Sweden ⁽⁴⁾, by the procedure laid down in Article 149(2).

In the recitals of the preamble to the Commission decision of 24 July 1998 it was stated that the Austrian scheme purports to facilitate the development of wine growing in small or very small holdings in areas with difficult production conditions or frontier areas. Therefore, in order to facilitate the transition of the production concerned to the relevant common market organisations of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽⁵⁾, as last amended by Regulation (EC) No 1627/98 ⁽⁶⁾, and Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organisation of the market in certain products listed in Annex II to the EC Treaty ⁽⁷⁾, as last amended by Commission Regulation (EC) No 195/96 ⁽⁸⁾, Austria was authorised to maintain the tax exemptions on a temporary basis.

Consequently, this decision relates to whether the measure is compatible with Community rules on state aid, given that the measure is, as of 1 January 1999, no longer considered to constitute a transitional measure and is therefore subject to those rules.

III

As regards the status of the measure, Austria recalls that the tax exemption had been in force since before Austria's accession to the Community. Even from a formalistic point of view, it was thus wrong and misleading to categorise it as a new measure and to invite the other Member States and third parties to submit their comments on it.

⁽¹⁾ OJ 172, 30.9.1966, p. 3025/66.

⁽²⁾ OJ L 210, 28.7.1998, p. 32.

⁽³⁾ Written procedure E/1462/98.

⁽⁴⁾ OJ L 351, 23.12.1997, p. 12.

⁽⁵⁾ OJ L 84, 27.3.1987, p. 1.

⁽⁶⁾ OJ L 210, 28.7.1998, p. 8.

⁽⁷⁾ OJ L 151, 30.6.1968, p. 16.

⁽⁸⁾ OJ L 26, 2.2.1996, p. 13.

Austria argues that, if the Commission considered that the differences in taxation between Austria and other Member States created a distortion of the conditions of competition which should be eliminated, consultations according to Article 101 of the EC Treaty would be a more appropriate way to proceed with the case.

Furthermore, Austria contests that the measure constitutes state aid within the meaning of Article 92(1) of the EC Treaty.

In particular, the measure should be considered a general measure, quite devoid of selectivity; rather, it constitutes a normal tax measure in the agricultural sector, justified by its purpose and place within the taxation system. This system would, furthermore, not allow for any discretion on the part of the authorities charged with implementing the measure.

Austria alleges that the measure is highly unlikely to distort competition since it only reflects a traditional pattern of consumption. In this regard it is submitted that beverage tax of the present type was peculiar to Austria and that it has internal relevance only, as cross-border trade is not taxed. By exempting from beverage tax those Austrian farmers who sell wine direct on their farms, they are put on an equal footing with agricultural holdings in the rest of the European Union, where no such beverage taxes exist in the first place.

In the alternative, Austria claims that the measure qualifies for an exemption under Article 92(3)(c) of the EC Treaty. This provision allows aid to facilitate the development of certain economic activities or of certain economic areas, provided that certain preconditions are fulfilled. Austria claims that more than 7 000 viticultural holdings are concerned which are mainly situated in less favoured areas or frontier areas and are small or very small. These holdings find themselves in an economically and financially precarious situation and are often not in the position to pass the burden of the beverage tax on to the consumer.

Austria rejects the view that the measure infringes the common market organisations: the core element of the common market organisation for wine is not the management of prices but rather intervention measures such as land clearing, storage, distillation, grape juice production and the import and export regime. Previous decisions on aid measures, such as Commission Decision 93/155/EEC ⁽⁹⁾, would mainly refer to such measures. The prohibitive effect of common market organisations could only refer to areas covered by these. Austria, in this connection, invokes Commission Decision 89/228/EEC ⁽¹⁰⁾ concerning an Italian measure setting a maximum price on rectified concentrated grape juice, held by the Commission to be an infringement of the common market organisation. Austria affirms that, although the setting of maximum prices did indeed amount to a serious market intervention, the case of a tax exemption justified by economic and social considerations was in no way comparable.

⁽⁹⁾ OJ L 61, 13.3.1993, p. 55.

⁽¹⁰⁾ OJ L 94, 7.4.1989, p. 38.

IV

Applicability of state aid rules

The measure in question applies to wine made from fresh grapes under heading Nos 2204 21 and 2204 29 of the Common Customs Tariff, covered by Regulation (EEC) No 822/87, and other fermented beverages under heading No 2206 00 of the Common Customs Tariff, covered by Regulation (EEC) No 827/68. By virtue of Article 42 of the EC Treaty, the rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the Council. The Council, acting under Article 76 of Regulation (EEC) No 822/87 and Article 5 of Regulation (EEC) No 827/68, decided that Articles 92, 93 and 94 of the EC Treaty apply to the production and the trade in the products covered by those Regulations.

Status of the national measure in question

The status of 'existing aid' within the meaning of Article 93(1) of the EC Treaty, is generally only awarded to a given measure after it has been formally approved by the Commission, or, where the Commission has not reacted within two months of proper notification of the measure, after the Member State has notified the Commission of its introduction.

As regards aid schemes which operated in the new Member States before their accession, Article 144, point (a) of the Act of Accession provides that 'among the aids applied in the new Member States prior to accession only those communicated to the Commission by 30 April 1995 will be deemed to be "existing" aids within the meaning of Article 93(1) of the EC Treaty'.

The mere fact of the measure's existence prior to accession, as is claimed by Austria, is not sufficient to qualify it as 'existing' within the meaning of Article 93(1) of the EC Treaty. Austria did not include the measure in the notification of existing schemes to the Commission before 30 April 1995 with reference to Article 144 of the Act of Accession; nor did Austria notify the measure after accession in accordance with Article 93(3) of the EC Treaty. The Commission came to know of the measure by way of a complaint. The measure thus cannot be deemed 'existing' within the meaning of Article 93(1) and cannot, for this reason, benefit from the legal status of such aid.

The prohibition of state aid

Pursuant to Article 92(1) of the EC Treaty, any aid granted by a Member State or through state resources in any form whatsoever which distorts or threatens to distort competition by

favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

The measure fulfils the above conditions and must therefore be considered to constitute state aid for the purposes of that Article.

Aid granted through state resources

The exemption from beverage taxes applying to wine made from fresh grapes and other fermented beverages sold direct at the place of production (farm-gate sale) is equivalent to a waiver of the fiscal revenue which would otherwise have to be paid by the producer. The exemption is borne by the public budget of Austrian *Länder* and municipalities in so far as it reduces revenues and has to be regarded as granted through state resources ⁽¹⁾.

Regarding the question of direct or indirect aid, Article 92(1) also applies to indirect aid. However, despite the objections of Austria, the measure at issue is to be regarded as direct aid since the addressee of the legal provision is the same holding that actually benefits economically from the tax exemption.

Favouring certain undertakings

The measure benefits farmers who pursue a permanent economic activity. These businesses, provided that they sell on the farm to the consumer, are exempted from paying a tax generally levied on sales of beverages at about 7,58 % of the price charged to the consumer. The measure refers particularly to wine made from fresh grapes and other fermented beverages. The measure is therefore considered to favour certain undertakings and the production of certain goods. Austria did not take issue with these arguments.

As far as the selectivity of the measure is concerned, Austria pointed to the absence of any discretion on the part of the tax authorities to apply or withhold the exemption. This, indeed, is a necessary, but not a sufficient condition for demonstrating that a measure is non-selective. Commission policy attributes the character of specificity to any measure which derogates from the general tax system of the Member State unless this is justified by the logic of the system itself. Admissible derogations from the general system are those which, for economic reasons, prove necessary or practical in terms of the efficiency of the system (see the judgments of the Court of Justice of 2 July 1974 in Case C-173/73 *Italy v. Commission* ⁽²⁾ and of 17 March 1993 in Case C-72/91 *Sloman Neptun* ⁽³⁾).

The tax system in Austria provides that, in general, sales of alcoholic beverages to consumers are taxable under the beverage tax. Exemption from the beverage tax for a small group of beneficiaries selling wine or other fermented beverages directly to the consumer on the place of production constitutes a derogation from the general taxation system. This exemption does not apply to wine sold by traders to the consumer nor to off-farm sales by farmers to consumers. The Commission does not hold any evidence showing that the exemption at issue arises from the logic of the tax system; nor does it see the collection of such a tax as a technical impossibility.

⁽¹⁾ For the classification of tax exemptions as a 'State aid', see for example the judgment of the Court of Justice in Case C-387/92 *Banco Exterior de Espana* [1994] ECR I-877.

⁽²⁾ [1974] ECR 709.

⁽³⁾ [1993] ECR 887.

Distortion of competition

An aid measure distorts competition if it intervenes in an existing or developing competitive relationship between holdings or sectors of production and if the measure artificially modifies the conditions of competition for competitors. As may be seen from the judgment of the Court of 17 September 1980 in Case C-730/79 *Philip Morris* ⁽¹⁾, the strengthening of the economic position of an undertaking by means of a state aid normally indicates the distortion of competition in relation to competing undertakings.

Wine and other fermented beverages sold direct to the consumer at the vineyard compete with wine and other fermented beverages offered to the same consumer by retail traders. By exempting from charges one group of products while charging the others, conditions of competition are distorted. In the case at issue the competitive advantage conferred on producers of wine who sell at the farm-gate to consumers amounts to about 7,58 % of the sales price.

Austria, in its letter of 19 July 1996, referred to a judgment of the Austrian constitutional court of 27 November 1995 ⁽²⁾. In this judgment, the court finds that the exemption of certain

producers from beverage taxes does not infringe the principle of equality between producers and traders since different circumstances justify different treatment. However, it has to be noted that this judgment refers to the issue of discrimination, and not to the question of the existence of a state aid and its compatibility with the common market under Article 92 of the EC Treaty. It has, therefore, no bearing on the above considerations.

Impact on trade between Member States

A measure will affect trade between Member States if it makes imports from Member States more difficult or if it makes exports from one Member State to other Member States easier. A decisive factor is whether, on account of the measure, trade within the Community evolves differently or is likely to do so.

There is trade in wine and other fermented beverages between Austria and other Member States. The following tables illustrate imports and exports for the year 1997 by referring to selected States.

Exports of wine (headings No 2204 21 and 2204 29 of the Common Customs Tariff) from Austria to selected Member States in 1997 (in litres)		Imports of wine (headings No 2204 21 and 2204 29 of the Common Customs Tariff) from selected Member States into Austria in 1997 (in litres)	
Netherlands	334 111	France	4 470 800
Germany	12 943 617	Germany	3 592 229
Sweden	861 885	Italy	44 547 248
Italy	1 110 507	Spain	3 899 658
Total exports to other Member States	14 513 937	Total imports from other Member States	57 475 859
Exports of other fermented beverages (heading No 2206 00 of the Common Customs Tariff) from Austria to selected Member States in 1997 (in litres)		Imports of other fermented beverages (heading No 2206 00 of the Common Customs Tariff) from selected Member States into Austria in 1997 (in litres)	
France	5 335	Belgium-Luxembourg	146 209
Germany	126 550	Germany	214 662
Sweden	150 938	Italy	135 789
Italy	1 751	Sweden	9 877
Total exports to other Member States:	285 074	Total imports from other Member States:	3 904 775

The beverages imported into Austria are marketed to consumers via the retail trade. By exempting Austrian wine and other fermented beverages, if sold on-farm to consumers, from a tax which is levied on wine and other fermented beverages imported into Austria from other Member States and offered by retailers, the measure creates an artificial price-gap discriminating against imports which can evidently not benefit from beverage-tax exempted sales. It is important to note that according to estimates Austrian wine sold on the farm to the consumer accounts for about 50 % of the total sales of wine in Austria. The measure thus affects trade between Member States. It can be assumed that, in absence of the measure, imports of wine (and other fermented beverages) from other Member States into Austria would be higher than at present, possibly to the detriment of sales of Austrian wine (and other fermented beverages).

⁽¹⁾ [1980] ECR 2671, at paragraphs 11 and 12.

⁽²⁾ B 1648/94.

Moreover, businesses benefiting from the measure might export to other Member States and could conceivably use the proceeds from the aid to cross-subsidise their exports.

Austria states that the duty to pay beverage tax has to be seen as a competitive disadvantage for Austrian producers since other Member States do not levy such a tax. This line of argument cannot be accepted as foreign wine and other fermented beverages sold in Austria are subject to the beverage tax while Austrian wine and other fermented beverages sold in other Member States are not subject to the Austrian beverage tax. In any event; the Court of Justice has held in its judgment of 10 December 1969, Joined Cases 6 and 11-69 *Banque de France* ⁽¹⁾, that the existence of a state aid measure cannot be refuted on the basis that a Member State tries to approximate rates that bear on its national products to be exported to those applied in other Member States. This finding applies *mutatis mutandis* to the case at issue.

The derogations from the prohibition of state aid

The prohibition in Article 92(1) of the EC Treaty is followed by exemptions in Article 92(2) and (3).

Article 92(2) of the EC Treaty

The exemptions listed in Article 92(2) are inapplicable given the nature of the aid measure in question and its objectives. Austria has in fact not submitted that Article 92(2) is applicable.

Article 92(3) of the EC Treaty

Article 92(3) defines the circumstances under which state aids may be considered to be compatible with the common market. Their compatibility with the common market must be assessed from the viewpoint of the Community and not that of an individual Member State. In the interests of the smooth functioning of the common market and in keeping with Article 3g of the EC Treaty, exemptions from the prohibition of State aid must be interpreted restrictively.

With regard to Article 92(3)(a), it has to be noted that the measure does not apply exclusively in a region where, pursuant to the Guidelines on national regional aid ⁽²⁾, the economic situation is extremely unfavourable in relation to the Community as a whole (meaning per capita gross domestic product, measured in purchasing-power standards, of less than 75 % of the Community average).

With regard to Article 92(3)(b), it is considered that the aid in question is not intended to promote the execution of an important project of common European interest or to remedy a serious disturbance in Austria's economy.

⁽¹⁾ [1969] ECR 523, at paragraphs 18 to 21.

⁽²⁾ OJ C 74, 10.3.1998, p. 9.

The aid is, indeed, neither intended to achieve nor suitable for achieving the objectives contained in Article 92(3)(d).

Austria has not submitted that the above exemptions are applicable.

Article 92(3)(c) of the EC Treaty

According to Article 92(3)(c) of the EC Treaty, aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, may be considered to be compatible with the common market.

In justifying the measure, Austria relies on Article 92(3)(c) and refers to the small-scale structure of production of the beneficiaries, their disadvantageous location and their difficult economic and financial situation. According to Austria, without the aid many of these holdings would succumb to economic stress and would have to close down.

The Commission does not endorse state aid measures under Article 92(3)(c) which do not induce the development of a sector or region but simply preserve the *status quo*. The aid in question is not designed and is not likely to bring about structural improvements as it does not link the benefit of the tax exemption to technical or structural changes in the beneficiaries' holdings. The artificial competitive advantage conferred on the beneficiaries of the aid only persists as long as the aid is granted. Such aid does not facilitate the development of the sector or a region but is considered to be operating aid, that is to say aid which is intended to relieve an undertaking of the expenses which it would normally have to bear. Operating aid is in principle incompatible with the common market (judgment of the Court of Justice of 15 May 1997 in Case 278/95 P *Siemens* [1997] ECR I-2507).

The foregoing arguments do not detract from the view which the Commission expressed in the decision of 24 July 1998 wherein it considered the measure to be transitional, gaining time for the addressees to adapt to a new legal and economic environment. However, if Article 92(3)(c) of the EC Treaty is to operate, the Commission requires the measure to exhibit a clear and unambiguous linkage to the development of a sector or a region in order to qualify for the derogation. Since no such effect may be associated with the measure at issue, it cannot be deemed to match the exceptional circumstances envisaged by Article 92(3)(c).

The aid thus neither satisfies the requirements of Article 92(3)(c) of the EC Treaty nor matches any other derogation for state aid under Article 92(1) thereof, and consequently is considered to be incompatible with the common market.

Article 101 of the EC Treaty

If the Commission finds that disparities between the legal and administrative provisions of Member States distort competition, it follows a special procedure provided for in Article 101 so as to remedy the situation. Austria invokes this Article when asserting that the state aid procedure commenced by the Commission is inappropriate. The Commission cannot accept Austria's line of argument since, as has been shown above, the tax exemption at issue constitutes state aid in its own right. In its judgment in Case 173/73 ⁽¹⁾, the Court of Justice held a unilateral modification of one particular factor in the cost of production in a given sector of the economy to be liable to disturb the existing balance between the Member States regardless of the operation of Articles 99 to 102 of the EC Treaty, which provide detailed rules for the abolition of general distortions resulting from the differences between the tax systems of the different Member States.

The common organisation of the markets

As the Commission considers the measure to constitute a state aid incompatible with the common market according to Article 92(1) of the EC Treaty, there is no need to examine further how far the measure infringes the common organisation of the markets which govern the products covered by the tax exemption.

Article 95 of the EC Treaty

The same holds true in respect of the application of Article 95 of the EC Treaty. In this connection it should be mentioned that the Commission has asked the Austrian Government in the framework of the preliminary stage which can lead to the initiation of proceedings under Article 169 of the EC Treaty to present its views on whether the tax exemption constitutes a discriminatory taxation measure contrary to Article 95 (Commission letter of 6 November 1998). This decision on the aspects of the beverage tax exemption representing state aid does not prejudice the outcome of the contacts between the Commission and Austria in the framework of the Article 169 procedure.

Furthermore, reference should be made to a procedure pending before the Court of Justice under Article 177 of the Treaty ⁽²⁾. The Austrian High Court of Administration (*Verwaltungsgerichts-*

hof) has asked the Court of Justice, on the subject of the Austrian beverage tax, for a preliminary interpretation of the sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes ⁽³⁾, as last amended by Directive 98/80/EC ⁽⁴⁾, and of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products ⁽⁵⁾, as last amended by Directive 96/99/EC ⁽⁶⁾, and of Article 92(1) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The measure notified by Austria whereby wine and other fermented beverages, sold direct to the consumer at the place of production, are exempted from the beverage tax which is normally levied at a rate of about 7,58 % (10 % before VAT) of the retail sales price of the product, is incompatible with the common market.

Austria may not maintain, after 31 December 1998, the measure referred to in the first paragraph.

Article 2

Austria shall inform the Commission, within two months of the date of notification of this Decision, of the measures adopted to comply with it.

Article 3

This Decision is addressed to the Republic of Austria.

Done at Brussels, 3 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ [1974] ECR 709.

⁽²⁾ Case 437/97 before the Court of Justice.

⁽³⁾ OJ L 145, 13.6.1977, p. 1.

⁽⁴⁾ OJ L 281, 17.10.1998, p. 31.

⁽⁵⁾ OJ L 76, 23.3.1992, p. 1.

⁽⁶⁾ OJ L 8, 11.1.1997, p. 12.