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Legislation

Contents

(Continued overleaf)

EN

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

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

Contents (continued)

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 198/2001

of 29 January 2001

amending the Annex to Regulation (EC) No 2042/2000 imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1],

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) No 1015/94 [2] the Council imposed a definitive anti-dumping duty on imports of television camera systems (TCS) originating in Japan.

(2) The Council specifically excluded from the scope of the anti-dumping duty professional camera systems listed in the Annex to that Regulation (hereinafter referred to as 'the Annex'), representing high-end profesionnal camera systems technically falling within the product definition under Article 1(2) of Regulation (EC) No 1015/94, but which cannot be regarded as television camera systems, due to the fact that they cannot be used for broadcast purposes.

(3) In October 1995, the Council amended Regulation (EC) No 1015/94 by Regulation (EC) No 2474/95 [3], in particular as regards the like product definition and as regards certain models of professional camera systems which were explicitly exempted from the definitive anti-dumping duty.

(4) In October 1997, the Council, by Regulation (EC) No 1952/97 [4], amended the rates of the definitive anti-dumping duty for two companies concerned, namely for Sony Corporation and Ikegami Tsushinki in accordance with Article 12 of Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation'). Furthermore, the Council specifically excluded from the scope of the anti-dumping duty certain new models of professional camera systems by adding them to the Annex.

(5) In January 1999 and 2000, the Council, by Regulation (EC) No 193/1999 [5] and Regulation (EC) No 176/2000, amended Regulation (EC) No 1015/94, adding certain successor models of professional camera systems to the Annex and thus excluding those from the application of the definitive anti-dumping duty.

(6) In September 2000, the Council, by Regulation (EC) No 2042/2000 [6], confirmed the definitive anti-dumping duties imposed by Regulation (EC) No 1015/94 in accordance with Article 11(2) of the basic Regulation.

(7) In December 2000, the Council, by Regulation (EC) No 2676/2000, made the latest amendment to the Annex to Regulation (EC) No 2042/2000, adding a number of new professional camera systems to it and thus exempting these models from the application of the definitive anti-dumping duty.

B. INVESTIGATION CONCERNING NEW MODELS OF PROFESSIONAL CAMERA SYSTEMS

1. **Procedure**

(8) Two Japanese exporting producers, namely Matsushita and Hitachi Denshi, informed the Commission that they intended to introduce new models of professional camera systems including their accessories be added to the Annex, thus exempting them from the scope of the anti-dumping duties.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 111, 30.4.1994, p. 106. Regulation as last amended by Regulation (EC) No 176/2000 (OJ L 22, 27.1.2000, p. 29).
[3] OJ L 255, 25.10.1995, p. 11.
[4] OJ L 276, 9.10.1997, p. 20.
[5] OJ L 22, 29.1.1999, p. 10.
[6] OJ L 244, 29.9.2000, p. 38. Regulation as last amended by Regulation (EC) No 2676/2000 (OJ L 308, 8.12.2000, p. 1).

(9) The Commission informed the Community industry accordingly and commenced an investigation limited to the determination of whether the products under consideration fall within the scope of the anti-dumping duties and whether the operational part of Regulation (EC) No 1015/94 should be amended accordingly.

2. **Models under investigation**

(10) The applications received concerned the following models of professional camera systems, supplied with the relevant technical information:

(i) *Matsushita:*

— camera head AW-E800A,

— viewfinder AW-VF80;

(ii) *Hitachi Denshi Ltd:*

— camera base station RU-Z3,

— camera control panel RC-Z3,

— camera adaptor CA-ZD1.

All the above models were presented as being part of professional camera systems dedicated to the professional video market.

3. **Findings**

(11) The Commission carried out a technical examination including a detailed comparison of the models concerned with their predecessor models already listed in the Annex to Regulation (EC) No 2042/2000 and found that they were almost identical. The differences found are the result of the technical development in the sector of professional camera systems but did not affect the classification of the models investigated as professional camera systems. Therefore, it was concluded that all models concerned should be excluded from the scope of the existing anti-dumping measures.

(12) The Commission informed the Community producers and the exporers of the TCS of its findings and provided them with an opportunity to present their views. On this basis and in the light of the fact that the interested parties did not object to the Commission's conclusions, all models and related equipment listed in recital 10 are considered as professional camera systems. It follows that they should be exempted from the application of the anti-dumping duty applicable on TCS originating in Japan, and that the Annex should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2042/2000 shall be replaced by the text of the Annex hereto.

Article 2

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

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

Done at Brussels, 29 January 2001.

For the Council

The President

M. WINBERG

ANNEX

'ANNEX

List of professional camera systems not qualified as television camera systems (broadcast camera systems) which are exempted from the measures

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Sony	DXC-M7PK	DXF-3000CE	CCU-M3P	RM-M7G	—	CA-325P
	DXC-M7P	DXF-325CE	CCU-M5P			CA-325AP
	DXC-M7PH	DXF-501CE	CCU-M7P			CA-325B
	DXC-M7PK/1	DXF-M3CE				CA-327P
	DXC-M7P/1	DXF-M7CE				CA-537P
	DXC-M7PH/1	DXF-40CE				CA-511
	DXC-327PK	DXF-40ACE				CA-512P
	DXC-327PL	DXF-50CE				CA-513
	DXC-327PH	DXF-601CE				VCT-U14 (1)
	DXC-327APK	DXF-40BCE				
	DXC-327APL	DXF-50BCE				
	DXC-327AH	DXF-701CE				
	DXC-537PK	DXF-WSCE (1)				
	DXC-537PL					
	DXC-537PH					
	DXC-537APK					
	DXC-537APL					
	DXC-537APH					
	EVW-537PK					
	EVW-327PK					
	DXC-637P					
	DXC-637PK					
	DXC-637PL					
	DXC-637PH					
	PVW-637PK					
	PVW-637PL					
	DXC-D30PF					
	DXC-D30PK					
	DXC-D30PL					
	DXC-D30PH					
	DSR-130PF					
	DSR-130PK					
	DSR-130PL					
	PVW-D30PF					
	PVW-D30PK					
	PVW-D30PL					
	DXC-327BPF					
	DXC-327BPK					
	DXC-327BPL					
	DXC-327BPH					
	DXC-D30WSP (1)					

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Ikegami	HC-340 HC-300 HC-230 HC-240 HC-210 HC-390 LK-33 HDL-30MA HDL-37 HC-400 (1) HC-400W (1)	VF15-21/22 VF-4523 VF15-39 VF15-46 (1) VF5040 (1) VF5040W (1)	MA-200/230 MA-200A (1)	RCU-240 RCU-390 (1)	—	CA-340 CA-300 CA-230 CA-390 CA-400 (1)
Hitachi	SK-H5 SK-H501 DK-7700 DK-7700SX HV-C10 HV-C11 HV-C10F Z-ONE (L) Z-ONE (H) Z-ONE Z-ONE A (L) Z-ONE A (H) Z-ONE A (F) Z-ONE A Z-ONE B (L) Z-ONE B (H) Z-ONE B (F) Z-ONE B Z-ONE B (M) Z-ONE B (R) FP-C10 (B) FP-C10 (C) FP-C10 (D) FP-C10 (G) FP-C10 (L) FP-C10 (R) FP-C10 (S) FP-C10 (V) FP-C10 (F) FP-C10 FP-C10 A FP-C10 A (A) FP-C10 A (B)	GM-5 (A) GM-5-R2 (A) GM-5-R2 GM-50 GM-8A (1) GM-9 (1) GM-51 (1)	RU-C1 (B) RU-C1 (D) RU-C1 RU-C1-S5 RU-C10 (B) RU-C10 (C) RC-C1 RC-C10 RU-C10 RU-Z1 (B) RU-Z1 (C) RU-Z1 RC-C11 RU-Z2 RC-Z1 RC-Z11 RC-Z2 RC-Z21 RC-Z2A (1) RC-Z21A (1) RU-Z3 (1) RC-Z3 (1)	—	—	CA-Z1 CA-Z2 CA-Z1SJ CA-Z1SP CA-Z1M CA-Z1M2 CA-Z1HB CA-C10 CA-C10SP CA-C10SJA CA-C10M CA-C10B CA-Z1A (1) CA-Z31 (1) CA-Z32 (1) CA-ZD1 (1)

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
Hitachi *(continued)*	FP-C10 A (C) FP-C10 A (D) FP-C10 A (F) FP-C10 A (G) FP-C10 A (H) FP-C10 A (L) FP-C10 A (R) FP-C10 A (S) FP-C10 A (T) FP-C10 A (V) FP-C10 A (W) Z-ONE C (M) Z-ONE C (R) Z-ONE C (F) Z-ONE C HV-C20 HV-C20M Z-ONE-D Z-ONE-D (A) Z-ONE-D (B) Z-ONE-D (C) Z-ONE.DA (1) V-21 (1) V-21W (1)					
Matsushita	WV-F700 WV-F700A WV-F700SHE WV-F700ASHE WV-F700BHE WV-F700ABHE WV-F700MHE WV-F350 WV-F350HE WV-F350E WV-F350AE WV-F350DE WV-F350ADE WV-F500HE (*) WV-F565HE AW-F575HE AW-E600 AW-E800 AW-E800A	WV-VF65BE WV-VF40E WV-VF39E WV-VF65BE (*) WV-VF40E (*) WV-VF42E WV-VF65B AW-VF80	WV-RC700/B WV-RC700/G WV-RC700A/B WV-RC700A/G WV-RC36/B WV-RC36/G WV-RC37/B WV-RC37/G WV-CB700E WV-CB700AE WV-CB700E (*) WV-CB700AE (*) WV-RC700/B (*) WV-RC700/G (*) WV-RC700A/B (*) WV-RC700A/G (*) WV-RC550/G WV-RC550/B WV-RC700A WV-CB700A WV-RC550 WV-CB550 AW-RP501 AW-RP505	—	—	WV-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E (*) AW-AD500AE AW-AD700BSE

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adaptors
JVC	KY-35E KY-27ECH KY-19ECH KY-17FITECH KY-17BECH KY-F30FITE KY-F30BE KY-27CECH KH-100U KY-D29ECH KY-D29WECH (1)	VF-P315E VF-P550E VF-P10E VP-P115E VF-P400E VP-P550BE VF-P116 VF-P116WE (1) VF-P550WE (1)	RM-P350EG RM-P200EG RM-P300EG RM-LP80E RM-LP821E RM-LP35U RM-LP37U RM-P270EG	—	—	KA-35E KA-B35U KA-M35U KA-P35U KA-27E KA-20E KA-P27U KA-P20U KA-B27E KA-B20E KA-M20E KA-M27E
Olympus	MAJ-387N MAJ-387I		OTV-SX2 OTV-S5 OTV-S6			
	Camera OTV-SX					

(*) Also called master set up unit (MSU) or master control panel (MCP).
(1) Models exempted under the condition that the corresponding triax system or triax-adaptor is not sold on the EC-market.'

COMMISSION REGULATION (EC) No 199/2001

of 31 January 2001

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 1 February 2001.

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

Done at Brussels, 31 January 2001.

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 31 January 2001 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	91,9
	204	45,8
	999	68,8
0707 00 05	052	95,9
	624	196,9
	628	141,3
	999	144,7
0709 90 70	052	121,2
	204	74,3
	624	185,9
	999	127,1
0805 10 10, 0805 10 30, 0805 10 50	052	41,4
	204	48,0
	212	37,7
	624	72,7
	999	50,0
0805 20 10	204	100,4
	624	57,9
	999	79,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	73,1
	204	111,3
	600	75,5
	624	80,7
	662	47,1
	999	77,5
0805 30 10	052	60,4
	600	64,8
	999	62,6
0808 10 20, 0808 10 50, 0808 10 90	400	91,6
	404	90,8
	720	120,7
	728	79,8
	999	95,7
0808 20 50	052	189,0
	388	116,6
	400	100,8
	999	135,5

(1) Country nomenclature as fixed by Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 200/2001
of 31 January 2001
fixing the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2],

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector [3], as last amended by Regulation (EC) No 2235/2000 [4], and in particular Article 2 (1) thereof,

Whereas:

(1) Article 10 of Regulation (EEC) No 1766/92 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. 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 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

(2) Pursuant to Article 10 (3) of Regulation (EEC) No 1766/92, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

(3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector.

(4) The import duties are applicable until new duties are fixed and enter into force. They also remain in force in cases where no quotation is available for the reference exchange referred to in Annex II to Regulation (EC) No 1249/96 during the two weeks preceding the next periodical fixing.

(5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.

(6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10 (2) of Regulation (EEC) No 1766/92 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 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 161, 29.6.1996, p. 125.
[4] OJ L 256, 10.10.2000, p. 13.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne)	Import duty by air or by sea from other ports (2) (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00	0,00
	medium quality (1)	0,00	0,00
1001 90 91	Common wheat seed	0,00	0,00
1001 90 99	Common high quality wheat other than for sowing (3)	0,00	0,00
	medium quality	23,35	13,35
	low quality	50,15	40,15
1002 00 00	Rye	42,09	32,09
1003 00 10	Barley, seed	42,09	32,09
1003 00 90	Barley, other (3)	42,09	32,09
1005 10 90	Maize seed other than hybrid	66,04	56,04
1005 90 00	Maize other than seed (3)	66,04	56,04
1007 00 90	Grain sorghum other than hybrids for sowing	42,09	32,09

(1) In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

(2) For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

(3) The importer may benefit from a flat-rate reduction of EUR 24 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 17 to 30 January 2001)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	129,49	129,43	110,83	90,46	212,76 (**)	202,76 (**)	126,36 (**)
Gulf premium (EUR/t)	45,28	15,67	7,48	11,96	—	—	—
Great Lakes premium (EUR/t)	—	—	—	—	—	—	—

(*) A discount of 10 EUR/t (Article 4(1) of Regulation (EC) No 1249/96).
(**) Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: 18,63 EUR/t; Great Lakes — Rotterdam: 28,78 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 201/2001

of 31 January 2001

fixing the maximum export refund for white sugar for the 25th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1531/2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 1527/2000 [2], and in particular the second subparagraph of Article 18(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 1531/2000 of 13 July 2000 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar [3], requires partial invitations to tender to be issued for the export of this sugar.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1531/2000 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.

(3) Following an examination of the tenders submitted in response to the 25th partial invitation to tender, the provisions set out in Article 1 should be adopted.

(4) 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 25th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1531/2000 the maximum amount of the export refund is fixed at 44,162 EUR/100 kg.

Article 2

This Regulation shall enter into force on 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 252, 25.9.1999, p. 1.
[2] OJ L 175, 14.7.2000, p. 59.
[3] OJ L 175, 14.7.2000, p. 69.

COMMISSION REGULATION (EC) No 202/2001
of 31 January 2001
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 (EC) No 2038/1999 of 13 September 1999 on the common organisation of the market in sugar [1], as amended by Commission Regulation 1527/2000 [2],

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 [3], and in particular Articles 1(2) and 3(1) thereof,

Whereas:

(1) 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 [4]. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.

(2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; 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. The standard quality for molasses is defined in Regulation (EEC) No 785/68.

(3) 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. 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.

(4) 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. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

(5) 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.

(6) 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.

(7) 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. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.

(8) 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.

(9) 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 1 February 2001.

[1] OJ L 252, 25.9.1999, p. 1.
[2] OJ L 175, 14.7.2000, p. 59.
[3] OJ L 141, 24.6.1995, p. 12.
[4] 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, 31 January 2001.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2001 fixing the representative prices and additional import duties 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 (2)
1703 10 00 (1)	8,70	—	0
1703 90 00 (1)	10,11	—	0

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

(2) 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 203/2001
of 31 January 2001
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 (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 1527/2000 [2], and in particular the third subparagraph of Article 18(5) thereof,

Whereas:

(1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 137/2001 [3].

(2) It follows from applying the detailed rules contained in Regulation (EC) No 137/2001 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 (EC) No 2038/1999, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 137/2001 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 252, 25.9.1999, p. 1.
[2] OJ L 175, 14.7.2000, p. 59.
[3] OJ L 23, 25.1.2001, p. 15.

ANNEX

to the Commission Regulation of 31 January 2001 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	A00	EUR/100 kg	37,85 (1)
1701 11 90 9910	A00	EUR/100 kg	33,73 (1)
1701 11 90 9950	A00	EUR/100 kg	(2)
1701 12 90 9100	A00	EUR/100 kg	37,85 (1)
1701 12 90 9910	A00	EUR/100 kg	33,73 (1)
1701 12 90 9950	A00	EUR/100 kg	(2)
1701 91 00 9000	A00	EUR/1 % of sucrose × net 100 kg of product	0,4115
1701 99 10 9100	A00	EUR/100 kg	41,15
1701 99 10 9910	A00	EUR/100 kg	41,15
1701 99 10 9950	A00	EUR/100 kg	41,15
1701 99 90 9100	A00	EUR/1 % of sucrose × net 100 kg of product	0,4115

(1) 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 19 (4) of Council Regulation (EC) No 2038/1999.

(2) 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).

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14).

COMMISSION REGULATION (EC) No 204/2001
of 31 January 2001
fixing the export refunds on syrups and certain other sugar 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 (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 1527/2000 [2], and in particular the second subparagraph of Article 18(5) thereof,

Whereas:

(1) Article 18 of Regulation (EC) No 2038/1999 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(d) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [3], provides that the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 2038/1999 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.

(3) Article 21(3) of Regulation (EC) No 2038/1999 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one-hundredth of the production refund applicable, pursuant to Council Regulation (EEC) No 1010/86 of 25 March 1986 laying down general rules for the production refund on sugar used in the chemical industry [4], as last amended by Commission Regulation (EC) No 1888/2000 [5], to the products listed in the Annex to the last mentioned Regulation;

(4) According to the terms of Article 21(1) of Regulation (EC) No 2038/1999, the basic amount of the refund on the other products listed in Article 1(1)(d) of the said Regulation exported in the natural state must be equal to one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward processing arrangements.

(5) According to the terms of Article 21(4) of Regulation (EC) No 2038/1999, the application of the basic amount may be limited to some of the products listed in Article 1(1)(d) of the said Regulation.

(6) Article 18 of Regulation (EC) No 2038/1999 makes provision for setting refunds for export in the natural state of products referred to in Article 1(1)(f) and (g) and (h) of that Regulation; the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1(1)(d) of Regulation (EC) No 2038/1999 and of the economic aspects of the intended exports; in the case of the products referred to in the said Article (1)(f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; for the products referred to in Article 1(1)(h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95.

(7) The refunds referred to above must be fixed every month; they may be altered in the intervening period.

(8) Application of these quotas results in fixing refunds for the products in question at the levels given in the Annex to this Regulation.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

[1] OJ L 252, 25.9.1999, p. 1.
[2] OJ L 175, 14.7.2000, p. 59.
[3] OJ L 214, 8.9.1995, p. 16.
[4] OJ L 94, 9.4.1986, p. 9.
[5] OJ L 227, 7.9.2000, p. 15.

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d)(f)(g) and (h) of Regulation (EC) No 2038/1999, exported in the natural state, shall be set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2001 fixing the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	A00	EUR/100 kg dry matter	41,15 (2)
1702 60 10 9000	A00	EUR/100 kg dry matter	41,15 (2)
1702 60 80 9100	A00	EUR/100 kg dry matter	78,19 (4)
1702 60 95 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4115 (1)
1702 90 30 9000	A00	EUR/100 kg dry matter	41,15 (2)
1702 90 60 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4115 (1)
1702 90 71 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4115 (1)
1702 90 99 9900	A00	EUR/1 % sucrose × net 100 kg of product	0,4115 (1) (3)
2106 90 30 9000	A00	EUR/100 kg dry matter	41,15 (2)
2106 90 59 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4115 (1)

(1) 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.

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

(3) 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).

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

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14).

COMMISSION REGULATION (EC) No 205/2001

of 31 January 2001

amending Regulation (EC) No 174/2001 on the issue of import licences for rice against applications submitted during the first ten working days of January 2001 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 [1], as amended by Regulation (EC) No 648/98 [2], and in particular Article 5(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 174/2001 [3] fixes the reduction percentages to be applied to the quantities applied for under the tranche for January 2001 and the quantities available for the following tranche.

(2) As a result of a calculating error, the applicable reduction percentages and the quantities available for the following tranche must be amended,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 174/2001 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 February 2001.

It shall apply from 27 January 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 37, 11.2.1998, p. 5.
[2] OJ L 88, 24.3.1998, p. 3.
[3] OJ L 26, 27.1.2001, p. 22.

ANNEX

to the Commission Regulation of 31 January 2001 amending Regulation (EC) No 174/2001 on the issue of import licences for rice against applications submitted during the first ten working days of January 2001 pursuant to Regulation (EC) No 327/98

Reduction percentages to be applied to quantities applied for under the tranche for January 2001 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 April 2001 (in t)
United States of America	0 (1)	1 974,85
Thailand	0 (1)	3 958,35
Australia	—	—
Other origins	—	—

(1) 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 April 2001 (in t)
Australia	0 (1)	2 176,10
United States of America	0 (1)	—
Thailand	100,0000	—
Other origins	—	—

(1) Issue for the quantity applied for.

(c) quantity referred to in Article 2: broken rice falling within CN code 1006 40 00

Origin	Reduction (%)	Quantity available for the additional tranche for July 2001 (in t)
Thailand	0 (1)	5 119,25
Australia	0 (1)	—
Guyana	0 (1)	4 251,00
United States of America	97,3684	—
Other origins	91,6667	—

(1) Issue for the quantity applied for.

COMMISSION REGULATION (EC) No 206/2001
of 31 January 2001
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 [1], as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council [2],

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 [3], as last amended by Regulation (EC) No 1602/2000 [4], and in particular Article 173 (1) thereof,

Whereas:

(1) 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.

(2) 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 2 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission
Erkki LIIKANEN
Member of the Commission

[1] OJ L 302, 19.10.1992, p. 1.
[2] OJ L 311, 12.12.2000, p. 17.
[3] OJ L 253, 11.10.1993, p. 1.
[4] OJ L 188, 26.7.2000, p. 1.

ANNEX

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	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 50	a) b) c)	42,13 250,48 375,22	579,68 276,34 1 699,41	82,39 33,18 26,60	314,35 81 569,63	14 354,84 92,84	7 009,38 8 445,75
1.30	Onions (other than seed) 0703 10 19	a) b) c)	10,69 63,56 95,22	147,10 70,12 431,24	20,91 8,42 6,75	79,77 20 699,11	3 642,69 23,56	1 778,70 2 143,19
1.40	Garlic 0703 20 00	a) b) c)	124,86 742,39 1 112,11	1 718,12 819,03 5 036,87	244,21 98,34 78,85	931,70 241 764,03	42 546,28 275,16	20 775,07 25 032,32
1.50	Leeks ex 0703 90 00	a) b) c)	57,98 344,75 516,44	797,86 380,34 2 339,02	113,40 45,67 36,62	432,66 112 270,16	19 757,61 127,78	9 647,51 11 624,49
1.60	Cauliflowers 0704 10 00	a) b) c)	55,28 328,68 492,37	760,67 362,61 2 229,99	108,12 43,54 34,91	412,49 107 037,01	18 836,66 121,82	9 197,82 11 082,64
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	11,99 71,29 106,79	164,98 78,65 483,67	23,45 9,44 7,57	89,47 23 215,49	4 085,52 26,42	1 994,93 2 403,74
1.90	Sprouting broccoli or calabrese *(Brassica oleracea L. convar. botrytis (L.) Alef* var. *italica Plenck)* ex 0704 90 90	a) b) c)	74,29 441,71 661,69	1 022,25 487,31 2 996,85	145,30 58,51 46,91	554,34 143 845,50	25 314,32 163,71	12 360,82 14 893,81
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	116,04 689,96 1 033,57	1 596,78 761,19 4 681,15	226,96 91,39 73,28	865,90 224 690,19	39 541,58 255,72	19 307,90 23 264,49
1.110	Cabbage lettuce (head lettuce) 0705 11 00	a) b) c)	90,36 537,26 804,82	1 243,38 592,72 3 645,11	176,73 71,16 57,06	674,26 174 961,36	30 790,17 199,13	15 034,64 18 115,55
1.130	Carrots ex 0706 10 00	a) b) c)	47,27 281,05 421,01	650,43 310,06 1 906,82	92,45 37,23 29,85	352,72 91 525,35	16 106,88 104,17	7 864,88 9 476,56
1.140	Radishes ex 0706 90 90	a) b) c)	97,82 581,59 871,22	1 345,97 641,63 3 945,87	191,31 77,04 61,77	729,89 189 397,41	33 330,67 215,56	16 275,15 19 610,27
1.160	Peas *(Pisum sativum)* 0708 10 00	a) b) c)	154,17 916,64 1 373,14	2 121,39 1 011,27 6 219,09	301,53 121,42 97,36	1 150,38 298 509,52	52 532,51 339,74	25 651,28 30 907,77

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	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 *(Vigna* spp., *Phaseolus* ssp.) ex 0708 20 00	a) b) c)	164,40 977,47 1 464,27	2 262,17 1 078,38 6 631,82	321,54 129,47 103,82	1 226,73 318 320,08	56 018,82 362,29	27 353,63 32 958,96
1.170.2	Beans *(Phaseolus* ssp., *vulgaris* var. *Compressus Savi)* ex 0708 20 00	a) b) c)	220,09 1 308,58 1 960,28	3 028,48 1 443,68 8 878,33	430,45 173,33 138,99	1 642,27 426 149,79	74 994,99 485,01	36 619,56 44 123,68
1.180	Broad beans ex 0708 90 00	a) b) c)	157,74 937,88 1 404,96	2 170,55 1 034,71 6 363,22	308,51 124,23 99,61	1 177,04 305 427,23	53 749,91 347,61	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)	412,32 2 451,54 3 672,45	5 673,65 2 704,64 16 632,96	806,43 324,73 260,38	3 076,69 798 363,23	140 498,11 908,63	68 604,31 82 662,78
1.200.2	— other ex 0709 20 00	a) b) c)	397,04 2 360,71 3 536,38	5 463,43 2 604,43 16 016,67	776,55 312,70 250,73	2 962,69 768 782,06	135 292,33 874,97	66 062,36 79 599,93
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	121,88 724,66 1 085,55	1 677,08 799,47 4 916,57	238,37 95,99 76,97	909,45 235 989,68	41 530,10 268,58	20 278,88 24 434,45
1.220	Ribbed celery *(Apium graveolens L.,* var. *dulce (Mill.) Pers.)* ex 0709 40 00	a) b) c)	74,07 440,40 659,73	1 019,23 485,87 2 987,98	144,87 58,33 46,78	552,70 143 419,52	25 239,35 163,23	12 324,21 14 849,70
1.230	Chantarelles 0709 51 30	a) b) c)	2 154,59 12 810,61 19 190,50	29 647,80 14 133,18 86 915,95	4 214,01 1 696,88 1 360,62	16 077,34 4 171 867,98	734 176,54 4 748,09	358 493,61 431 956,51
1.240	Sweet peppers 0709 60 10	a) b) c)	175,70 1 044,67 1 564,93	2 417,69 1 152,52 7 087,72	343,64 138,38 110,95	1 311,06 340 202,83	59 869,81 387,19	29 234,04 35 224,71
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	54,08 321,53 481,66	744,12 354,73 2 181,48	105,77 42,59 34,15	403,52 104 708,64	18 426,91 119,17	8 997,74 10 841,57
2.10	Chestnuts *(Castanea* spp.*)*, fresh ex 0802 40 00	a) b) c)	176,48 1 049,30 1 571,87	2 428,42 1 157,63 7 119,19	345,16 138,99 111,45	1 316,88 341 712,93	60 135,56 388,91	29 363,80 35 381,06
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	63,90 379,96 569,18	879,34 419,18 2 577,89	124,99 50,33 40,36	476,85 123 735,98	21 775,39 140,83	10 632,78 12 811,66

Code	Description Species, varieties, CN code		Amount of unit values per 100 kg EUR FIM SEK	 ATS FRF BEF/LUF	 DEM IEP GBP	 DKK ITL	 GRD NLG	 ESP PTE
2.40	Avocados, fresh ex 0804 40 00	a) b) c)	141,32 840,28 1 258,75	1 944,67 927,03 5 701,04	276,41 111,30 89,25	1 054,55 273 643,36	48 156,49 311,44	23 514,50 28 333,12
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	89,92 534,66 800,93	1 237,37 589,86 3 627,48	175,87 70,82 56,79	671,00 174 115,21	30 641,26 198,16	14 961,93 18 027,94
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, shamoutis, 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 satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:							
2.70.1	— Clementines ex 0805 20 10	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.70.2	— Monreales and satsumas ex 0805 20 30	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.70.3	— Mandarines and wilkings ex 0805 20 50	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.85	Limes *(Citrus aurantifolia, Citrus latifolia)*, fresh ex 0805 30 90 ex 0805 90 00	a) b) c)	139,17 827,47 1 239,56	1 915,02 912,89 5 614,10	272,19 109,61 87,89	1 038,47 269 470,50	47 422,14 306,69	23 155,92 27 901,06
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 00	a) b) c)	49,81 296,13 443,61	685,34 326,70 2 009,16	97,41 39,23 31,45	371,65 96 437,48	16 971,33 109,76	8 286,99 9 985,17
2.90.2	— pink ex 0805 40 00	a) b) c)	54,92 326,54 489,17	755,73 360,26 2 215,50	107,42 43,25 34,68	409,81 106 341,50	18 714,26 121,03	9 138,05 11 010,63
2.100	Table grapes 0806 10 10	a) b) c)	194,34 1 155,48 1 730,92	2 674,14 1 274,77 7 839,54	380,09 153,05 122,72	1 450,12 376 288,90	66 220,33 428,26	32 334,96 38 961,07

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	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)	62,40 371,04 555,82	858,70 409,34 2 517,37	122,05 49,15 39,41	465,65 120 830,80	21 264,13 137,52	10 383,14 12 510,86
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)	65,87 391,63 586,67	906,35 432,06 2 657,07	128,82 51,87 41,60	491,49 127 536,49	22 444,21 145,15	10 959,36 13 205,17
2.120.2	— other ex 0807 19 00	a) b) c)	120,14 714,34 1 070,09	1 653,20 788,09 4 846,55	234,98 94,62 75,87	896,49 232 628,90	40 938,66 264,76	19 990,08 24 086,47
2.140	Pears							
2.140.1	Pears — nashi *(Pyrus pyrifolia)*, Pears — Ya *(Pyrus bretscheideri)* ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.140.2	Other ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— —	— —	— —
2.150	Apricots 0809 10 00	a) b) c)	107,42 638,70 956,78	1 478,16 704,64 4 333,38	210,10 84,60 67,84	801,57 207 997,61	36 603,98 236,73	17 873,48 21 536,14
2.160	Cherries 0809 20 95 0809 20 05	a) b) c)	427,24 2 540,25 3 805,33	5 878,94 2 802,51 17 234,79	835,61 336,48 269,80	3 188,02 827 250,64	145 581,79 941,51	71 086,64 85 653,79
2.170	Peaches 0809 30 90	a) b) c)	207,73 1 235,09 1 850,18	2 858,39 1 362,60 8 379,69	406,28 163,60 131,18	1 550,04 402 215,56	70 782,98 457,77	34 562,86 41 645,52
2.180	Nectarines ex 0809 30 10	a) b) c)	200,09 1 189,70 1 782,18	2 753,33 1 312,52 8 071,71	391,35 157,59 126,36	1 493,07 387 432,91	68 181,49 440,95	33 292,57 40 114,92
2.190	Plums 0809 40 05	a) b) c)	153,38 911,98 1 366,16	2 110,62 1 006,14 6 187,51	299,99 120,80 96,86	1 144,54 296 993,61	52 265,73 338,01	25 521,02 30 750,81
2.200	Strawberries 0810 10 00	a) b) c)	308,40 1 833,69 2 746,89	4 243,73 2 023,00 12 440,99	603,19 242,89 194,76	2 301,28 597 153,41	105 088,66 679,63	51 314,11 61 829,45
2.205	Raspberries 0810 20 10	a) b) c)	1 632,79 9 708,15 14 542,96	22 467,72 10 710,42 65 866,70	3 193,47 1 285,93 1 031,11	12 183,74 3 161 527,91	556 374,18 3 598,20	271 673,88 327 345,59
2.210	Fruit of the species *Vaccinium myrtillus* 0810 40 30	a) b) c)	1 514,99 9 007,75 13 493,75	20 846,77 9 937,71 61 114,71	2 963,07 1 193,15 956,72	11 304,74 2 933 437,82	516 234,27 3 338,61	252 073,82 303 729,07
2.220	Kiwi fruit *(Actinidia chinensis Planch.)* 0810 50 00	a) b) c)	85,34 507,41 760,11	1 174,30 559,79 3 442,61	166,91 67,21 53,89	636,80 165 241,28	29 079,60 188,06	14 199,38 17 109,13

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) 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) b) c)	128,90 766,42 1 148,10	1 773,73 845,54 5 199,89	252,11 101,52 81,40	961,85 249 588,69	43 923,29 284,06	21 447,45 25 842,49
2.240	Khakis (including sharon fruit) ex 0810 90 85	a) b) c)	204,00 1 212,95 1 817,02	2 807,16 1 338,18 8 229,51	399,00 160,67 128,83	1 522,26 395 007,21	69 514,43 449,57	33 943,44 40 899,17
2.250	Lychees ex 0810 90 30	a) b) c)	130,03 773,15 1 158,19	1 789,31 852,97 5 245,57	254,32 102,41 82,12	970,30 251 781,51	44 309,19 286,56	21 635,89 26 069,54

COMMISSION REGULATION (EC) No 207/2001
of 31 January 2001
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 [1], as last amended by Regulation (EC) No 1667/2000 [2],

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 [3], as last amended by Regulation (EC) No 2831/98 [4], and in particular Article 4(1) thereof,

Whereas:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 329, 30.12.1995, p. 18.
[2] OJ L 193, 29.7.2000, p. 3.
[3] OJ L 189, 30.7.1996, p. 71.
[4] OJ L 351, 29.12.1998, p. 25.

ANNEX I

Import duties on rice and broken rice

(EUR/t)

CN code	Duties [5]				
	Third countries (except ACP and Bangladesh) [3]	ACP [1] [2] [3]	Bangladesh [4]	Basmati India and Pakistan [6]	Egypt [8]
1006 10 21	[7]	69,51	101,16		158,25
1006 10 23	[7]	69,51	101,16		158,25
1006 10 25	[7]	69,51	101,16		158,25
1006 10 27	[7]	69,51	101,16		158,25
1006 10 92	[7]	69,51	101,16		158,25
1006 10 94	[7]	69,51	101,16		158,25
1006 10 96	[7]	69,51	101,16		158,25
1006 10 98	[7]	69,51	101,16		158,25
1006 20 11	264,00	88,06	127,66		198,00
1006 20 13	264,00	88,06	127,66		198,00
1006 20 15	264,00	88,06	127,66		198,00
1006 20 17	218,83	72,25	105,08	0,00	164,13
1006 20 92	264,00	88,06	127,66		198,00
1006 20 94	264,00	88,06	127,66		198,00
1006 20 96	264,00	88,06	127,66		198,00
1006 20 98	218,83	72,25	105,08	0,00	164,13
1006 30 21	[7]	133,21	193,09		312,00
1006 30 23	[7]	133,21	193,09		312,00
1006 30 25	[7]	133,21	193,09		312,00
1006 30 27	[7]	133,21	193,09		312,00
1006 30 42	[7]	133,21	193,09		312,00
1006 30 44	[7]	133,21	193,09		312,00
1006 30 46	[7]	133,21	193,09		312,00
1006 30 48	[7]	133,21	193,09		312,00
1006 30 61	[7]	133,21	193,09		312,00
1006 30 63	[7]	133,21	193,09		312,00
1006 30 65	[7]	133,21	193,09		312,00
1006 30 67	[7]	133,21	193,09		312,00
1006 30 92	[7]	133,21	193,09		312,00
1006 30 94	[7]	133,21	193,09		312,00
1006 30 96	[7]	133,21	193,09		312,00
1006 30 98	[7]	133,21	193,09		312,00
1006 40 00	[7]	41,18	[7]		96,00

[1] 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).

[2] 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.

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

[4] 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).

[5] 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).

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

[7] Duties fixed in the Common Customs Tariff.

[8] 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)	(1)	218,83	416,00	264,00	416,00	(1)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	318,20	264,01	260,95	284,31	—
(b) fob price (EUR/tonne)	—	—	—	228,33	251,69	—
(c) Sea freight (EUR/tonne)	—	—	—	32,62	32,62	—
(d) Source	—	USDA and operators	USDA and operators	Operators	Operators	—

(1) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 208/2001

of 31 January 2001

fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 15 May 1999 on the common organisation of the market in milk and milk products [1], as last amended by Regulation (EC) No 1670/2000 [2], and in particular Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1 (a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund. Whereas Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and criteria for fixing the amount of such refunds [3], as amended by Regulation (EC) No 2390/2000 [4], specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EC) No 1255/1999.

(2) In accordance with the first subparagraph of Article 4 (1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.

(3) Article 4(3) of Regulation (EC) No 1520/2000 provides that, when the rate of the refund is being fixed, account should be taken, where necessary, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the market in the product in question to the basic products listed in Annex A to that Regulation or to assimilated products.

(4) Article 11(1) of Regulation (EC) No 1255/1999 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(5) Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs [5], as last amended by Regulation (EC) No 635/2000 [6], lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

(6) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.

(7) 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

1. The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1 of Regulation (EC) No 1255/1999, exported in the form of goods listed in the Annex to Regulation (EC) No 1255/1999, are hereby fixed as shown in the Annex to this Regulation.

2. No rates of refund are fixed for any of the products referred to in the preceding paragraph which are not listed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 February 2001.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 193, 29.7.2000, p. 10.
[3] OJ L 177, 15.7.2000, p. 1.
[4] OJ L 276, 28.10.2000, p. 3.
[5] OJ L 350, 20.12.1997, p. 3.
[6] OJ L 76, 25.3.2000, p. 9.

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

Done at Brussels, 31 January 2001.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2001 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description	Rate of refund
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):	
	(a) On exportation of goods of CN code 3501	—
	(b) On exportation of other goods	15,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):	
	(a) Where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 2571/97 are exported	34,88
	(b) On exportation of other goods	68,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):	
	(a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 2571/97 are exported	75,00
	(b) On exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	177,25
	(c) On exportation of other goods	170,00

COMMISSION REGULATION (EC) No 209/2001

of 31 January 2001

fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the market in sugar [1], as amended by Commission Regulation (EC) No 1527/2000 [2], and in particular Article 18(5)(a) and (15),

Whereas:

(1) Article 18(1) and (2) of Regulation (EEC) No 1785/81 provides that the differences between the prices in international trade for the products listed in Article 1(1)(a), (c), (d), (f), (g) and (h) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in the Annex to that Regulation. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds [3], as amended by Regulation (EC) No 2390/2000 [4], specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EC) No 2038/1999.

(2) In accordance with Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.

(3) Article 18(3) of Regulation (EC) No 2038/1999 and Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lay down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

(4) The refunds fixed under this Regulation may be fixed in advance as the market situation over the next few months cannot be established at the moment.

(5) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardized by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

(6) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.

(7) 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 rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1(1) and (2) of Regulation (EC) No 2038/1999, exported in the form of goods listed in Annex I to Regulation (EC) No 2038/1999, are fixed as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Erkki LIIKANEN

Member of the Commission

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[1] OJ L 252, 25.9.1999, p. 1.
[2] OJ L 175, 14.7.2000, p. 59.
[3] OJ L 177, 15.7.2000, p. 1.
[4] OJ L 276, 28.10.2000, p. 3.

ANNEX

to the Commission Regulation of 31 January 2001 fixing the rates of the refunds applicable to certain products in the sugar sector exported in the form of goods not covered by Annex I to the Treaty

Product	Rate of refund in EUR/100 kg	
	In case of advance fixing of refunds	Other
White sugar:	41,15	41,15

COMMISSION REGULATION (EC) No 210/2001
of 31 January 2001
determining the world market price for unginned cotton and the rate for the aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1553/95 [1],

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995 [2] laying down general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81, as last amended by Regulation (EC) No 1419/98 [3], and in particular Articles 3, 4 and 5 thereof,

Whereas:

(1) Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginned cotton to be periodically determined from the world market price determined for ginned cotton, using the historical relationship between the two prices as specified in Article 1(2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton [4], as last amended by Regulation (EC) No 1624/1999 [5]. If it cannot be determined in this way it is to be based on the last price determined.

(2) Article 4 of Regulation (EC) No 1554/95 requires the world market price for ginned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend. To this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade. These rules for determination of the world market price for ginned cotton provide for adjustments to reflect differences in product quality and the nature of offers and quotations. These adjustments are specified in Article 2 of Regulation (EEC) No 1201/89.

(3) Application of the above rules gives the world market price for unginned cotton indicated hereunder.

(4) The second subparagraph of Article 5(3a) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity is based on the revised production estimate for unginned cotton plus at least 7,5 %. Commission Regulation (EC) No 2714/2000 [6] fixes the revised production estimate for the 2000/2001 marketing year, and the relevant percentage increase. The application of this method results in the fixing of the advance payment rate for each Member State at the levels set out below,

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at 36,936 EUR/100 kg.

2. The advance payment of the aid referred to in Article 5(3a), second subparagraph, of Regulation (EC) No 1554/95 is fixed at:

— 54,801 EUR/100 kg in Spain,

— 30,352 EUR/100 kg in Greece,

— 69,364 EUR/100 kg in other Member States.

Article 2

This Regulation shall enter into force on 1 February 2001.

[1] OJ L 148, 30.6.1995, p. 45.
[2] OJ L 148, 30.6.1995, p. 48.
[3] OJ L 190, 4.7.1998, p. 4.
[4] OJ L 123, 4.5.1989, p. 23.
[5] OJ L 192, 24.7.1999, p. 39.
[6] OJ L 313, 13.12.2000, p. 7.

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

Done at Brussels, 31 January 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 211/2001
of 31 January 2001
amending the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 13(8) thereof,

Whereas:

(1) The corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 9/2001 [3], as amended by Regulation (EC) No 144/2001 [4].

(2) On the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered.

(3) The corrective amount must be fixed according to the same procedure as the refund. It may be altered in the period between fixings,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 2, 5.1.2001, p. 10.
[4] OJ L 23, 25.1.2001, p. 29.

ANNEX

to the Commission Regulation of 31 January 2001 altering the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7	6th period 8
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	A00	0	–1,00	–2,00	–3,00	–4,00	—	—
1002 00 00 9000	A00	0	0,00	0,00	0,00	0,00	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	A00	0	–1,00	–2,00	–3,00	–4,00	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	A00	0	0,00	0,00	0,00	0,00	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	A00	0	–1,00	–2,00	–3,00	–4,00	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9130	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9150	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9170	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9180	A00	0	0,00	0,00	0,00	0,00	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	A00	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9700	A00	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	–1,50	–3,00	–4,50	–6,00	—	—
1103 11 10 9400	A00	0	–1,34	–2,68	–4,02	–5,36	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	–1,37	–2,74	–4,11	–5,48	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14).

COMMISSION REGULATION (EC) No 212/2001
of 31 January 2001
altering the corrective amount applicable to the refund on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular Article 13(8) thereof,

Whereas:

(1) The corrective amount applicable to the refund on malt was fixed by Commission Regulation (EC) No 55/2001 [3].

(2) On the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on malt should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 13(4) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to is hereby altered to the amount set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2001.

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

Done at Brussels, 31 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 8, 12.1.2001, p. 34.

ANNEX

to the Commission Regulation of 31 January 2001 altering the corrective amount applicable to the refund on malt

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	−1,27	−2,54	−3,81	−5,08	−6,35
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	−1,27	−2,54	−3,81	−5,08	−6,35
1107 20 00 9000	A00	0	−1,49	−2,98	−4,47	−5,96	−7,45

(EUR/t)

Product code	Destination	6th period 8	7th period 9	8th period 10	9th period 11	10th period 12	11th period 1
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	−7,62	−8,89	—	—	—	—
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	−7,62	−8,89	—	—	—	—
1107 20 00 9000	A00	−8,94	−10,43	—	—	—	—

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14).

COMMISSION DIRECTIVE 2001/6/EC

of 29 January 2001

adapting for the third time to technical progress Council Directive 96/49/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail [1], as last amended by European Parliament and Council Directive 2000/62/EC [2], and in particular Article 8 thereof,

Whereas:

(1) The Annex to Directive 96/49/EC contains the Regulations concerning the international carriage of dangerous goods by rail, usually known as 'the RID', as applicable from 1 July 1999.

(2) The RID is updated every two years and therefore an amended version will be in force as from 1 July 2001 with a transitory period until 31 December 2002, except of dangerous goods of class 7 (radioactive material), for which the transitory period will end on 31 December 2001.

(3) It is therefore necessary to amend the Annex to Directive 96/49/EC.

(4) The measures provided for in this Directive are in accordance with the opinion of the Committee on the transport of dangerous goods provided by Article 9 of Directive 96/49/EC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Annex to Directive 96/49/EC is replaced by the following:

'*ANNEX*

Regulations concerning the international carriage of dangerous goods by rail (RID), appearing as Annex I to Appendix B to COTIF, as applicable with effect from 1 July 2001, on the understanding that "Contracting Party" and "the States or the railways" will be replaced by "Member State"

NB: The consolidated text of the 2001 version of the RID will be published as soon as the text is available in all the official languages of the Community.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive concerning dangerous goods of class 7 by 31 December 2001 and concerning dangerous goods of other classes by 31 December 2002 at the latest. They shall forthwith inform the Commission thereof.

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

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

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 29 January 2001.

For the Commission

Loyola DE PALACIO

Vice-President

[1] OJ L 235, 17.9.1996, p. 25.
[2] OJ L 279, 1.11.2000, p. 44.

COMMISSION DIRECTIVE 2001/7/EC

of 29 January 2001

adapting for the third time to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road [1], as last amended by European Parliament and Council Directive 2000/61/EC [2], and in particular Article 8 thereof,

Whereas:

(1) The Annexes A and B to Directive 94/55/EC contain the Annexes A and B to the European Agreement concerning the international carriage of dangerous goods by road, usually known as 'the ADR' as applicable from 1 July 1999.

(2) The ADR is updated every two years and therefore an amended version will be in force as from 1 July 2001 with a transitory period until 31 December 2002, except of dangerous goods of class 7 (radioactive material), for which the transitory period will end on 31 December 2001.

(3) It is therefore necessary to amend the Annexes to Directive 94/55/EC.

(4) The measures provided for in this Directive are in accordance with the opinion of the Committee on the transport of dangerous goods,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes to Directive 94/55/EC are amended as follows:

1. Annex A is replaced by the following:

'*ANNEX A*

Provisions of Annex A to the European Agreement concerning the international carriage of dangerous goods by road (ADR) as in force from 1 July 2001, "Member State" being substituted for "Contracting Party"

NB: The consolidated text of the 2001 version of Annex A to the ADR will be published as soon as the text is available in all the official languages of the Community.'

2. Annex B is replaced by the following:

'*ANNEX B*

Provisions of Annex B to the European Agreement concerning the international carriage of dangerous goods by road (ADR) as in force from 1 July 2001, "Member State" being substituted for "Contracting Party"

NB: The consolidated text of the 2001 version of Annex B to the ADR will be published as soon as the text is available in all the official languages of the Community.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive concerning dangerous goods of class 7 by 31 December 2001 and concerning dangerous goods of other classes by 31 December 2002 at the latest. They shall forthwith inform the Commission thereof.

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

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

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 29 January 2001.

For the Commission

Loyola DE PALACIO

Vice-President

[1] OJ L 319, 12.12.1994, p. 7.
[2] OJ L 279, 1.11.2000, p. 40.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 December 2000

on the signing, on behalf of the European Community, of the United Nations Convention against transnational organised crime and its Protocols on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea

(2001/87/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47, 62(2)(a), 63 first subparagraph (3)(b), and 95 read in conjunction with the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The elements of the Convention and the two Protocols thereto which are subject to Community competence were negotiated by the Commission, with the approval of the Council, on behalf of the Community.

(2) The Council also instructed the Commission to negotiate the accession of the Community to the international agreements in question.

(3) Negotiations were successfully concluded and the resulting instruments will be open for signing by the States and, within their areas of competence, by regional organisations for economic integration in Palermo from 12 to 15 December 2000 and thereafter at the United Nations headquarters for a period of two years.

(4) The Member States having stated that they will sign the instruments as soon as they are open for signing in Palermo, the European Community should also be able to sign,

HAS DECIDED AS FOLLOWS:

Sole Article

1. The President of the Council is authorised to designate the persons who are empowered, on behalf of the Community, to sign the Convention against transnational organised crime and the Protocols thereto on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea.

2. The text of the Convention and its additional Protocols, which were adopted by the General Assembly of the United Nations in its Resolution No 25 of 15 November 2000, will be published in the *Official Journal of the European Communities* upon the accession of the Community.

Done at Brussels, 8 December 2000.

For the Council

The President

H. VÉDRINE

COMMISSION

COMMISSION DECISION
of 21 April 1999
concerning aid granted by Greece to two fertiliser companies

(notified under document number C(1999) 1120)

(Only the Greek text is authentic)

(Text with EEA relevance)

(2001/88/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given notice to the parties concerned to submit their comments in accordance with the same Article [1], and having regard to those comments,

Whereas:

I

The Commission's attention was drawn by a complaint to aid given by the Greek authorities to two fertiliser companies: Protypos Ktimatikif Touristiki Ltd, also known as Moretco (Model Real Estate and Tourism Co., (PKT)), and Anonimi Eteria Biomihania Azotouhon Lipasmaton, also known as AEVAL (Nitrogen Fertiliser Industry Ltd (NFI)).

On 3 October 1996, the Commission decided to initiate the procedure provided for in Article 93(2) of the EC Treaty with respect to the aid under consideration. The Greek authorities were informed by letter of 16 October 1996 that the procedure had been initiated. Their reply was received by the Commission in a letter dated 7 January 1997, which was registered on 15 January.

The text of the letter to the Greek authorities was published in the *Official Journal of the European Communities* [2] and prompted reactions from three interested parties, namely two European industrial associations in the field concerned and a chamber of commerce from one Member State. The views of the interested parties were conveyed to the Greek authorities for their observations in a letter of 23 September 1997. In this letter, the Commission also asked for further information regarding certain specific points in the case. The Greek authorities' reply was received in a letter dated 21 November 1997.

II

A. THE RECIPIENTS

PKT and Drapetsona Fertilisers (DF)

According to the Commission's original information as submitted when the procedure was launched, until 1992 PKT was called Anonimi Elliniki Eteria Himikon Proiondon ke Lipasmaton (Hellenic Chemical Products and Fertilisers Ltd (AEEHPL). This company was placed in the hands of the receiver for failing to pay off an outstanding debt of GRD 18 billion to the National Bank of Greece (NBG). Its fixed assets were bought by the NBG for GRD 9 billion and used to set up PKT. At the same time, the bank wrote off the remaining GRD 9 billion of unpaid debt.

The assets were transferred to PKT on certain conditions, of which the main ones were that it should continue to operate the fertiliser factory on a temporary basis and later refund the purchase price of the assets to the NBG. According to the available information, the factory continued to operate and the NBG allowed unlimited time for payment of the first instalments.

Furthermore, PKT was in a poor financial position. The balance sheets for 1994 and 1995, covering the first two years of operation, show that losses greatly exceeded the company's equity, with the result that its overall net position came out as negative from the first year. The second financial year also closed with substantial losses even though PKT had, on 30 November 1995, ceased to engage in fertiliser production, which was taken over by a newly established subsidiary, Lipasmata Drapetsonas (Drapetsona Fertilisers (DF)). In 1995, DF registered losses of GRD 1,3 billion, reducing its equity to approximately GRD 1,2 billion.

[1] OJ C 82, 14.3.1997, p. 5.
[2] footnote 1.

NFI

According to the information which the Commission holds and which was submitted to it when the procedure was launched, NFI belongs to the Agricultural Bank of Greece (ABG), which is controlled by the Greek State. NFI has been running at a loss since 1992. In 1993, its equity came, in practice, to nil. From then on the equity became largely negative, owing to further losses. There was doubt as to whether the company could meet its short-term obligations, as a serious liquidity problem had already arisen in 1994.

B. THE AID

These proceedings have been initiated in respect of the following measures:

— The writing off of the abovementioned GRD 9 billion debt by the NBG and the indefinite postponement of payment of at least the first instalment of the refund of the purchase price of GRD 9 billion paid by the NBG.

— The loan of GRD 500 million made to PKT by the NBG on 7 September 1995 and the corresponding State guarantee granted on 18 October 1995.

— The loan of GRD 1,2 billion made to DF by the NBG on 16 January 1996, and the corresponding State aid; this loan was intended to cover the losses the company sustained in 1994 (GRD 500 million) and 1995 (GRD 700 million), although, it should be noted, the company had not yet been set up at that time.

— The loan of GRD 600 million also made to DF by the NBG in 1996, and the corresponding State aid granted on 30 July 1996.

— The capital injection of GRD 1 billion which the ABG carried out in favour of NFI and the support given by National Electricity Board in not enforcing payment of the outstanding debts of GRD 4,5 billion.

— The quota system brought into operation in 1995 by Synel, a fertiliser marketing organisation in Greece which is controlled by the State-owned bank ABG, for the purpose of ensuring a certain level of outlet and turnover for PKT/DF and NFI which they would not have been able to achieve under ordinary market conditions.

III

The interested third parties unanimously backed the Commission's position, stressing the difficulties which Community producers face on the Greek fertiliser market because of the State support which certain local companies receive.

IV

The position of the Greek authorities in these proceedings can be summarised as follows:

(a) The NBG did not write off any of AEEHPL's debts. The assets of that company, which was placed in the hands of the receiver, have already been liquidated, virtually in their entirety. The NBG was admitted as a creditor both for claims prior to the commencement of receivership and in respect of loans granted while the company was being wound up.

(b) Payment of the purchase price for the factory by PKT was made following an increase in its equity by an amount equal to each annual instalment, with the amount of the increase covered by its shareholder the NBG. The first three instalments (1995 to 1997) were paid normally and the balance will be paid on the agreed payment dates. The statements of discharge in respect of these payments have been passed on to the Commission.

(c) The difficulties faced by PKT and subsequently DF were due to the annulment by the Council of State of the Government order granting the then AEEHPL company authorisation to modernise its plant. Following the annulment, the State ordered certain production units to cease operating for environmental reasons (contaminating activity in a densely populated area). This led to a 50 % fall in production, which meant that enough sales could not be made to reach break-even point.

The purpose of the NBG loans and the Greek State guarantees was to enable the company to cope with the operating difficulties it was facing after certain production units were shut down. Furthermore, the factory is operating on a temporary basis, as the Prefecture of Piraeus has ordered it to cease operating for good by 31 July 2000 at the latest. In other words, the object of the State contribution was to enable the firm to restructure while scaling down production for environmental reasons.

The Greek authorities consider that the aid measures under consideration may be regarded as compatible with the Treaty by virtue of the exemptions allowed in Article 92(3)(a) and/or (c) and in the Community rules on State aid for environmental protection [3], particularly point 3.4, which refers to operating aid.

(d) The aid does not affect trade between Member States, since Greece's share of this trade is only minimal, fluctuating between 0,4 % and 1,1 %.

(e) As regards NFI, in February 1995 its chief shareholder, the ABG, increased its equity so that it could launch an investment plan to modernise its plant with a view to manufacturing new products. By increasing production the company hoped that it would improve its financial situation. The scheme did not produce the results hoped for and the company failed to overcome its financial difficulties; in August 1997, in fact, it was forced to close down its operations. The bank's contribution does not fall within the category of State aid since the bank's object in investing in its subsidiaries is to maximise its profits.

[3] OJ C 72, 10.3.1994, p. 3.

(f) Synel is a private company. At no time (since 1992, when the fertiliser market was liberalised) has it imposed production quotas on the fertiliser manufacturers who supply it. Payment terms are fixed by agreement and may vary depending on the quantities of fertiliser purchased. Synel is a nationwide company with customers all over Greece; the factor which determines its choice of suppliers is therefore the comparative advantage of their physical location. Thus, PKT/DF is more competitive in terms of the cost of transporting the product to Central and Southern Greece, since its competitors are established in Northern Greece.

V

A. THE EXISTENCE OF STATE AID WITHIN THE MEANING OF ARTICLE 92(1) OF THE TREATY

Operations by the NBG, the Greek State, the ABG, the National Electricity Board and Synel need to be considered in this context.

(a) *The actions of the NBG*

According to the complaint in this case, the NBG is indirectly controlled by the Greek State. Another complaint tangentially related to this case and also referring to the activities of the NBG claims that the bank is to all intents and purposes identical with the Greek State, since to a large extent the shares in it belong to the State and to legal persons governed by public law.

According to the information in the second complaint, although it is true that the State holds approximately 5 % of the bank's capital, holdings by organisations controlled by the State come to 43,67 %. Therefore the total State holding is 48,779 %. The remaining 51,221 % is divided up among a great many shareholders who have no real control over the running of the bank.

According to the same source, the board of directors is elected by the general meeting of shareholders. However, at least four of the total of 15 board members, namely the governor and the three deputy governors of the bank, who are simultaneously the chairman and vice-chairmen of the board respectively, are appointed by the Government before appearing before the general meeting. Other members of the board represent public interests, as, for example, a bishop representing the Greek Church, which, under the Constitution, is not separate from the State.

In other cases (particularly State aid cases NN 137/97 and NN 138/97 — Greece), the Commission has asked the Greek authorities whether the NBG is a public-sector or private-sector body. From the answers received, particularly those from the bank, it emerges that under Article 91 of Law No 1892/1990 the NBG is no longer within the public sector, since the State no longer holds either the whole of its capital or a majority stake in it. Direct State participation in the bank's capital comes to 5,097 %, while total State participation comes to 49,194 %. The shares held by the public sector do not confer any special rights.

The board of directors is elected freely and is controlled by the general meeting of shareholders. All the provisions entitling the State to appoint certain members of the board were repealed by Law No 2076/1992. The same law also repealed the provisions requiring public-sector organisations to be represented at the general meeting of shareholders by the Ministries of Finance, Labour, etc., or by a shared representative. Consequently, the Greek authorities maintain that it can no longer be argued that the acts of the bank's governing bodies are acts of the State. The bank's decisions do not, therefore, constitute State aid.

The Commission takes into account the composition of the bank's capital, the larger share of which belongs to the private sector. In so far as none of the information passed on to it shows that a majority of the members of the board of directors of the NBG are representatives of the public sector, the Commission concludes that the bank is not controlled by the Greek State.

The board of directors' decisions do not, therefore, fall within the scope of Article 92(1) of the Treaty. The Commission has already notified the Greek authorities of this conclusion, in the context of another case, on 24 April 1997. Consequently, neither the possible writing off of the GRD 9 billion debt in favour of AEEHPL nor the possible deferment of PKT's debt payments to the NBG - which the Greek authorities deny took place — constitutes a State aid measure. The Commission can therefore close the procedure in respect of those matters and of the loans granted to PKT and DF. It remains to be considered, however, whether the bank would have granted loans to those two firms if there had not been the State guarantees.

(b) *The State guarantees in favour of PKT and DF*

These guarantees were given by ministerial decisions of 16 October 1995 and 16 January and 23 June 1996, and were published in the Greek Government Gazette ([4]). As these were ad hoc measures, they favour certain undertakings or certain production units within the meaning of Article 92(1) of the EC Treaty.

In the course of the procedure, the Greek authorities have given an assurance that no guarantee was ever given for the GRD 500 million loan in 1995. The authorities produced a letter from the Ministry of Finance to the Ministry of Economic Affairs, dated 7 October 1997, which showed that the guarantee for the loan in question was withdrawn for lack of first-rate security. It has to be concluded, then, that the PKT did not receive a State guarantee for a loan of GRD 500 million. The Commission is therefore able to close the procedure relating to this matter.

In their observations in the course of the procedure, the Greek authorities have not denied that the guarantees in favour of the PKT (evidence of the cancellation of which was produced only later) and DF did constitute aid. They consider that they constituted operating aid granted for the purpose of meeting environmental requirements.

([4]) Refs FEK 876, 20.10.1995; FEK 34, 19.1.1996; FEK 658, 30.7.1996.

The Greek authorities also maintain that the State contributions under consideration did not have any impact on trade between Member States, since Greece's share in that trade was limited in scope, as described by the Commission in the course of the procedure. It might, therefore, be concluded, although the Greek authorities, contradicting their own line of argument, do not do so, that the measures in question do not constitute aid within the meaning of Article 92(1) of the Treaty.

This argument does not stand up Greece does in fact have a share, albeit slight, in intra-Community trade, as the Commission stated in initiating the procedure. The Commission there showed that trade on the Community fertiliser market was substantial: 16.8 million tonnes in 1992 and 19,5 million tonnes in 1994. Greece's exports to the other Member States accounted (in terms of volume) for 0,66 % of the intra-Community trade in 1993 and 0,44 % in 1994. Still in terms of volume, Greece's imports came to 1,1 % of the intra-Community trade in the sector in 1993 and 0,89 % in 1994. The Commission concluded its survey of the fertiliser market with the information that imports from other Member States meet from 10 % to 15 % (depending on estimates) of the country's requirements.

The importance of the trade has also been stressed by third parties who have played a part in the procedure. According to one of the European fertiliser producers' associations involved in this case, Greece's fertiliser imports fluctuate between 350 000 and 400 000 tonnes, of which 150 000 tonnes involve types of fertilisers produced in Greece. Of these 150 000 tonnes, 90 % comes from members of the association in question.

Furthermore, according to another producers' association involved in the procedure, Greece imported 63 700 tonnes of fertiliser from other Member States in 1996, which comes to roughly 5 % of domestic consumption.

In so far as the Greek authorities acknowledge that DF used to export part of its production to the other Member States, the Commission concludes that the State intervention for the purpose of sustaining the company's viability had an effect on its production and, therefore, on its exports. Consequently, the State intervention in question affects trade between Member States.

As regards distortion of the rules of competition, the 1997 *Survey of Community Industry* ([5]) reports that the fertiliser trade in Western Europe shrank in the first half of the 1990s, hit by a fall in consumption and slightly higher prices. The financial situation of producers in Western Europe deteriorated with the rise in imports into the European Union and competition on overseas markets from producers in Central and Eastern Europe.

This development led to many factories restructuring or closing down more rapidly. The trend continues in certain Member States even today. In 1983, the Community fertiliser industry employed 140 000 people, while in 1995 the figure had dropped to 20 000.

Since the mid-1990s, the industry has recovered its competitiveness and is once again technically and financially in a position to service the European market in terms of the quantities and qualities of fertiliser in demand. According to the forecasts, the market appears stable for the near future. This trend was apparent in 1995, as the *Survey of Community Industry* for that year ([6]) reported that production would stabilise over the coming few years, following a number of years of excess production capacity and low demand.

In so far as the purpose of the State intervention is to speed up the restructuring of the industry in question in Greece, while the process has already been carried through in the other Member States or is still under way in some of them, the Commission concludes that the aid distorts competition.

This view is shared by the interested third parties who have submitted comments, who have also stressed that they suffer from a comparative disadvantage compared with undertakings in receipt of aid, since State support enables the latter to carry on selling at a loss.

According to figures supplied by these third parties, which the Greek authorities have not disputed, the difficulties faced by PKT and DF did not prevent them (or NFI) from selling their output, in 1994 and 1995, at prices from 9 % to 25 % below the prevailing market prices. According to the same source, this was because the firms in question pursued a steady policy of systematically charging lower prices than those charged by other suppliers. It should not be forgotten that this grievance was among those which first prompted the complainant to act in this case.

It is therefore concluded that the aid in the form of State guarantees affects trade between the Member States. The State guarantees in favour of DF therefore constitute State aid caught by Article 92(1) of the EC Treaty.

Although this analysis is in itself sufficient to demonstrate that the measures under consideration are State aid, the Commission has felt it advisable to add further comments on certain contentions put forward by the Greek authorities. The Greek authorities do refer to figures which could be taken as grounds for supposing that the guarantees in question are not aid within the meaning of Article 92(1) of the Treaty. At no point, however, do they explicitly make any such assertion.

In their letter of 21 November 1997, the Greek authorities say that when DF was wound up its assets were sufficient, on being auctioned off, to cover not only its liabilities to the NBG but also its liabilities to third parties. Furthermore, again according to the Greek authorities, the objective value of DF's real estate and other immovable property came to GRD 16,34 billion. This is certified by a declaration submitted to the Piraeus Revenue Office.

([5]) Office for Official Publications of the European Communities, 1997.

([6]) Office for Official Publications of the European Communities, 1995.

This declaration actually dates from 1993 and is not consistent with the purchase price paid by the NBG (or PKT) for the assets in question, i.e. GRD 9 billion, also in 1993. According to the Greek authorities, the purchase of the property by the NBG took place on the basis of a public call for bids. Consequently, the second of these figures must be taken, where necessary, as a market estimate for 1993. In fact, a sum of that order was entered in the PKT balance sheet.

The Greek authorities say that any charge registered on DF's property in respect of the loans made to DF by the NBG is therefore covered without difficulty by the objective value of the company's land and other immovable property. They state, lastly, that the value of the NBG's charge on DF's property was GRD 5 billion. Furthermore, in their letter of 7 January 1997, the Greek authorities certify that no problem ever arose with the company's creditworthiness, without it being possible to ascertain whether they mean PKT or DF; they say that thanks to the company's turnover and the property available for liquidation which it was able to mortgage, it was in a position to obtain the requisite working capital from any bank.

Remembering that the Greek authorities at no point assert that the security which DF was able to offer would have enabled it to obtain the loans intended for covering its losses without needing to have recourse to a State guarantee, the matters referred to above require a detailed commentary.

To begin with, DF, which was set up exclusively for the purpose of exploiting the factory, uses the plant belonging to PKT on leasehold terms and is not, therefore, the owner. This is demonstrated by a reading of DF's balance sheets, which do not contain any reference to land or buildings under immovable assets. DF does not, therefore, possess GRD 16,34 billion in fixed property assets. This makes one wonder how DF's slender fixed assets (GRD 36 million in 1995 and GRD 40 million in 1996), particularly when the figure for its equity position is negative, could be enough to cover its debts (GRD 5,67 billion in 1995 and GRD 7,5 billion in 1996). The current figures for property assets are slightly higher, but still not enough (GRD 4,45 billion in 1995 and GRD 4,5 billion in 1996).

It should also be noted that, in contrast to what happened with the State guarantee on the GRD 500 million loan in favour of PKT, there is no evidence that the Greek State required DF to take out a mortgage on all the Drapetsona Fertilisers factory's immovable property.

One might imagine PKT being guarantor for DF, for example mortgaging part of the abovementioned fixed property assets. That has been neither maintained nor demonstrated by the Greek authorities in the course of this procedure. One might in any case wonder how PKT would have given such a guarantee, when it was unwilling to offer security to the State in return for the State guarantee on the GRD 500 million loan referred to above.

As far as the NBG's notice of a charge on DF Ltd's property assets, to a value of GRD 5 billion, the documents produced by the Greek authorities show that the Mortgage Registry certified that on 17 July 1995 the NBG had a charge for that amount against the PKT, which was registered in 1994. The charge in question in no way relates to the property assets of DF, which had not yet been set up at that time.

The Greek authorities also explain that the grants of financing to PKT and, from 1996 onwards, DF by the NBG were made on the basis of financial and credit criteria of a purely bank-related kind. The terms (interest rates, security etc.) on the loans granted as working capital are those the NBG usually applies in respect of companies with a creditworthiness similar to that of the undertaking under consideration.

One might legitimately wonder what was the economic rationale behind these loans. The purpose of a grant of working capital to an undertaking is, in reality, to enable it to settle its current debts, not to carry out structural changes in order to improve its position. Furthermore, given that there were plans for the fertiliser factory to be closed down, it is doubtful whether other banking institutions would have made any long-term loans to DF.

In their letter of 21 November 1997, the Greek authorities say that: 'with the guarantees it had been given for loans of GRD 1,2 billion and GRD 0,6 billion respectively, the Drapetsona factory took loans for those amounts from the NBG to cover its losses in 1994, 1995 and 1996'.

This assertion calls for detailed commentary. Firstly, it implies that the loans were given only after the State had consented to act as guarantor for the company. In fact, according to the Greek authorities' letter of 21 November 1997, the loan of GRD 1,2 billion was made to DF on 16 January 1996, the date on which the ministerial decision approving the guarantee was issued. The text of the decision actually uses the future tense to refer to the granting of the loan, stating that 'the loan will be granted and serviced in accordance with the National Bank (NBG) document of 7 September 1995...'. If DF could have obtained this capital from the market without a State guarantee, it is curious that the NBG waited until 16 January 1996, i.e. the very date on which the State guarantee was given, while, according to the instruction quoted above, the terms of the loan had been known since 7 September 1995. It needs to be pointed out once again that DF was not yet in existence on that date, as it was set up on 30 November 1995.

Secondly, the Commission finds it somewhat hard to believe that the NBG does not take into account the financial and credit situation of a company to which it proposes to make a loan or that the bulk of the NBG's clients are in the same financial and credit situation as DF. Like any other bank, the National Bank should, normally speaking, take account of the financial risk attaching to a company in such difficulties and adjust the possible lending terms to allow for that risk. It is therefore perfectly understandable that the NBG should have reserved the same treatment for DF as for other companies, since it had first received the State guarantee which removed all risk to the creditor bank.

It is also somewhat hard to believe the claim that DF had no problems obtaining a loan on normal market terms, since its accounts for 1996 show that it did not succeed in paying off a debt of GRD 3,76 billion which fell due for payment in that year. The only logical explanation is to be sought in a note to the 1996 balance sheet by the auditors stating that the whole of the GRD 3,76 billion was covered by a State guarantee. This means that, in 1996, 87,6 % of the short-term debts to banks represented payments due which were guaranteed by the State.

The 1995 balance sheet already shows that DF faced serious difficulties in repaying its bank loans, as the due date for repayment of a GRD 1,16 billion debt with a State guarantee had already arrived. This by itself represented 82 % of its short-term bank debt. There is no evidence that the remaining amount in short-term bank debts was not also covered by a State guarantee, nor have the Greek authorities put forward any such claim.

In view of the above, the Commission finds that the Greek authorities have failed to show that DF could have obtained loans to cover its operating losses in 1994, 1995 and 1996 without a guarantee from the Greek State.

As a result, the guarantees in question affect trade between the Member States and distort competition. They made it possible for the fertiliser factory to cope with the operating difficulties it was facing, while the cut in production capacity which the State imposed on it made it impossible for it to achieve sufficient sales to reach break-even point.

The guarantees under consideration consequently impede the natural restructuring of the industry in Greece, a process which has already taken place in most of the other Member States, since they temporarily and artificially keep alive a company which is incapable of showing a profit and is irrevocably required to go out of business in 2000. In addition, artificially keeping PKT and DF running makes it impossible for other national or Community producers to assume their share of the market. The guarantees under consideration therefore constitute aid within the meaning of Article 92(1) of the Treaty.

The Greek authorities have been unable to show in the course of this procedure that DF would have been able to obtain loans for the purpose of covering its operating losses in 1994, 1995 and 1996 without the State guarantee, primarily because of the extremely difficult financial position of the beneficiary company. No evidence has emerged during the examination procedure to overturn the view stated when the procedure was launched, that the guarantees coincide with the amount guaranteed minus 1 % commission on the amount of the loan, paid in order to secure the guarantee.

No private individual would have continued to engage in a loss-making activity without a State guarantee, when, what is more, the activity was for a limited period of time and would entail further losses owing to an inability to achieve sufficient sales to reach break-even point. It is understandable that in the circumstances the shareholder bank, NBG, preferred to advance loans to DF with a State guarantee rather than restructure the company's capital, since in the first case the bank ran no risk of losing its investment.

Having regard to the company's balance sheets and the decisions relating to the granting of the guarantees, the Commission cannot rule out the possibility that all or a substantial part of the State guarantees for the loans obtained by DF have been activated. The orders granting the guarantees provide that the State undertakes to pay the NBG every instalment of the loan which is not repaid within two months following the due date for payment. In addition, according to the 1996 balance sheet, DF had overdue debts of GRD 3,76 billion (including interest) consisting of loans with State guarantees.

(c) *The increase in NFI's capital and the debt to the National Electricity Board*

(i) In February 1995, the ABG, NFI's principal shareholder, increased the company's' equity by GRD 1 billion (GRD 1 000 000 041 according to the 1995 balance sheet), so that the company could carry out a programme of investment in modernising its plant with a view to manufacturing new products.

The Greek authorities represent this operation as a normal commercial operation. The investment programme involved installing mechanical equipment to automate the filling-bagging line and the building of a warehouse to store raw and ancillary materials. The company hoped in this way to improve its financial situation through an increase in production. The Greek authorities admit, however, that the programme failed and that the operation in question was a mistaken choice by the ABG.

If we are to conclude that the capital injection under discussion was not State aid, it would have to be shown that the ABG behaved like a private investor in normal market conditions. The principles applied to determine whether a State-owned undertaking behaves like a private investor in market conditions are contained in the Commission communication to the Member States on the application of Articles 92 and 93 of the EEC Treaty and of Article 5 of Commission Directive 80/723/EEC (on the transparency of financial relations between Member States and public undertakings) to public undertakings in the manufacturing sector ([7]).

Examination of NFI's accounts reveals that the company in question began to show losses at least as early as 1992 and went on doing so until 1996, the year of the last balance sheet of which the Commission has a copy. There is, however, no evidence to suggest that the ABG, as investor, could have expected a satisfactory yield on its investment, since it had for many years let the company's position deteriorate without acting in any way.

([7]) OJ C 307, 13.11.1993, p. 3.

Neither the Greek authorities nor the ABG have sent the Commission any detailed rationalisation plan such as should have been drawn up by the bank in order to restore NFI to long-term viability and which would have shown that the ABG's investment would produce a return. Furthermore, the Greek authorities have sent a copy of a study drawn up by the Ministry of Industry in 1994 on the productivity of the four fertiliser factories in Greece. The study lists NFI's problems and suggests a number of solutions.

The difficulties enumerated include the fact that part of the production units were shut down and stopped operating in 1991, the fact that following the upturn in fertiliser production in 1992, sales were too low to reach break-even point and, most of all, the GRD 4,5 billion debt which the National Electricity Board has been calling in.

As far as the solutions are concerned, the study recommends maintaining the plant (estimated cost GRD 350 million) and modernising it (estimated cost GRD 3,6 million), solving the ammonia procurement problems, improving sales figures on the domestic market, particularly in areas accessible at low transport cost, reaching an agreement with Synel to ensure a certain volume of sales and, lastly, endeavouring to work out an agreement with the National Electricity Board, as requiring the company to pay off the debt would entail an increase in the price of fertilisers which would inevitably cause the company to go out of business.

Because of these difficulties, at the end of 1993 the company's equity position continued to be just barely positive, i.e. GRD 1,6 million as against capital of GRD 3,37 billion. At the end of 1994, it was negative by approximately -GRD 800 million, and at the end of 1995, despite the increase in capital referred to above, it remained negative by roughly GRD 500 million. At the end of 1996 the equity came to -GRD 1,4 billion. The reason for this trend was the accumulation of losses in the various financial years. The company's position apparently deteriorated until it was placed in the hands of the receiver in 1997 ([8]).

According to the balance sheets of which the Commission has copies, Article 47 of Law No 2190/1920 has been applied to NFI at least since 1992. This article provides that the board of directors must convene a general meeting within six months of the end of the trading year if the total equity of a company is less than half its nominal capital. The general meeting must then decide whether to wind up the company or take other steps. So, since the middle of 1993, the ABG should have wound NFI up or taken steps to restructure it. Not until two years later, however, in November 1995, did the bank decide to restructure the capital of its subsidiary, NFI.

This capital injection does not seem sufficient to make any major change in the company's financial position, since it is equivalent to at least one quarter of the accumulated losses, it does not make for any improvement in the equity position such as to obviate the application of Article 47 to the company, since the equity position remains highly negative, and, lastly, it only just covers the difference between the company's current assets and liabilities. Furthermore, the contribution is not enough to cover the cost of modernising the plant as estimated by the Greek authorities in the study referred to above. What is more, it should be noted that the ABG's investment programme, as described by the Greek authorities, entails nothing more than increasing fertiliser sales, without, apparently, any account having been taken of the remaining points in the study in question.

It should also be noted that, according to the information in the Commission's possession ([9]), the purpose of the capital injection was to finance the purchase of raw materials, not to modernise the plant. At least partial confirmation of this is to be found in the balance sheet for 1995, where there is a note saying that production costs rose by GRD 800 million as compared with 1994, while reserves rose by GRD 200 million. During the same period, equipment and machinery went up by GRD 34 million and buildings and construction by roughly GRD 100 million. If interpreted correctly, this would be a further argument for the view that the purpose of the capital injection was not to alter the company's structure by rationalising its expenditure but to attempt to keep the factory operating and increase production.

In either case, the capital injection into NFI from the ABG was not enough to make the company viable again, while the Commission was not notified of any other rationalisation measure of the kind which the shareholders should have adopted under Greek law and according to the guidelines in the report from the Ministry of Industry. This failure to take additional measures may very well be the reason why the company went bankrupt.

Since the State bank ABG allowed NFI's financial position to deteriorate without taking any action for at least two years and, even when a decision was taken to act, the action was not sufficient to restore the company to viability, it has to be concluded that the bank did not behave like a private investor in normal market conditions. Consequently, the GRD 1 billion increase in NFI's capital has to be regarded as State aid within the meaning of Article 92(1) of the Treaty.

([8]) According to *Fertiliser Week* of 23 March 1998, NFI was put up for sale by the receiver at the beginning of 1998.

([9]) *Fertiliser Week* of 12 June 1995.

(ii) As regards the measures taken by the National Electricity Board to secure payment of the money owed by NFI, which it puts at GRD 4,5 billion (including interest), the Greek authorities stated that the creditor has availed itself of all legal recourses provided for in law.

The debt relates to consumption of electricity from 1989 to 1991. In 1990, the National Electricity Board instituted an action against NFI before the single-member Athens Court of First Instance. In the context of the present proceedings, the Greek authorities have stated that that case was heard in December 1995 but that no ruling has yet been given ([10]).

In addition, the National Electricity Board went to the Greek courts and lodged an application for interim protection measures against NFI. In 1993 it registered notice of a charge on NFI property to the value of GRD 4 billion.

NFI has actually settled part of its debt, for the period from April to December 1991, involving a sum of approximately GRD 800 million.

In view of the above acts, it is concluded that the National Electricity Board has taken the requisite steps to secure collection of the money owed to it by NFI. The Commission is therefore able to close the procedure in relation to that matter.

(d) *The action taken by Synel*

Before the procedure was initiated, the complainant reported that Synel was under the control of the State bank ABG. In the information which it continued to pass on to the Commission after the procedure had been initiated, the complainant made it clear that the control was partial. In a previous decision, in 1992 ([11]), relating to aid to Synel, the Commission found that it was 30 % controlled by the ABG and 70 % by agricultural cooperative associations. In the context of this procedure, the Greek authorities have stated that Synel is still a private undertaking and its actions do not, therefore, fall within the scope of Article 92(1) of the EC Treaty.

The fact that Synel allows its suppliers different payment terms depending on the amounts of fertiliser purchased, and on the physical location of the suppliers, does not conflict with the rationale of the market. The distortion of competition to which the complainant refers clearly lies in the fact that certain suppliers, particularly PKT, sell their products at a loss.

This is confirmed by one of the interested third parties who submitted comments in the course of the procedure and who maintains that Synel's selling prices on the national market are directly linked to the prices charged by the suppliers.

The Commission reserves the right to investigate this point under any other provisions of the Treaty.

([10]) Letter from the Greek authorities dated 21 November 1997.
([11]) OJ C 266, 15.10.1992, p. 5.

VI

In so far as it has been shown that the State aid for DF and the capital contribution to NFI constitute State aid within the meaning of Article 92(1) of the EC Treaty, it has now to be considered whether they were lawful and compatible with the common market.

All the above aid was granted to the two undertakings without the Commission being notified in advance, in violation of Article 93(3) of the Treaty. The aid is therefore found to be unlawful.

Compatibility of the aid in favour of DF

There were two aid measures, in the form of two State guarantees for loans of GRD 1.2 billion and GRD 600 million respectively.

(a) *Community rules on State aid for environmental protection*

The Greek authorities consider that the aid measures in question are compatible with these rules ([12]), particularly section 3.4. This section provides that the Commission may make an exception to the general rule that it does not approve operating aid which relieves firms of costs resulting from the pollution or nuisance they cause. Such an exception can be made for example in fields such as waste management and relief from environmental taxes. In such cases, the aid must only compensate for extra production costs by comparison with traditional costs, and should be temporary and in principle degressive, so as to provide an incentive for reducing pollution or introducing more efficient uses of resources more quickly.

In their observations on the initiation of this procedure, the Greek authorities stated (in a letter dated 7 January 1997) that, since the factory is operating only temporarily, the object of the State contribution was to meet certain fixed operating costs, for environmental reasons, since the State itself has ordered a permanent reduction in production.

The Greek authorities consider that these fixed costs come to GRD 1,5 billion per annum and relate to the operating of environmental protection plant (filters, waste water processing unit, solid waste disposal: GRD 300 million), purchase of essential materials and spare parts for short-term maintenance (GRD 300 million) and staff costs (GRD 900 million). These costs hardly reduce at all with the cut in production.

Again according to the Greek authorities, the company also reduced its staff: the 820 employees working for it in 1995 were reduced to 520 at the end of 1996 and 450 in 1997. In other words, the purpose of the aid was not to keep an unproductive company in a state of artificial viability but to restructure it as part of moves to reduce production for environmental reasons, until it finally shut down altogether. The shutdown is scheduled to take place in three to five years' time.

([12]) See footnote 3.

In their letter of 21 November 1997, the Greek authorities said that the final shutdown on 31 July 2000 had been ordered by decision of the Prefecture of Piraeus on 18 June 1997. According to this letter, the purpose of the aid was to cover losses arising from the 50 % production cut ordered by the authorities and to enable the staff to be made redundant gradually. The text of the decisions granting the State aid says that the object of the loans and the guarantees is to cover losses over successive financial years.

The exception invoked by the Greek authorities is inapplicable in this particular case. The fact is that since it was the authorities themselves who required the closure of the polluting production units, there are no extra production costs by comparison with traditional costs, as the Community rules require.

Nor can it be maintained that the aid granted is degressive, so as to provide an incentive for reducing pollution or introducing more efficient uses of resources more quickly. These costs will not reduce in the future in such a way as to bring about a less polluting method of production, since there is no plan to introduce such a method. In any case, the purpose of the aid is to cover the company's fixed operating costs, not the additional costs arising from more polluting types of activity with a view to reducing them gradually. What is more, there is no evidence that the aid is degressive if the purpose of it is to cover the company's fixed costs.

In this case, the factory's difficulties arise from the fact that the production cut ordered by the State on grounds of pollution has not been accompanied by any reorganisation of the company's activity to take account of the new operating conditions. Any such reorganisation would certainly have been pointless, as the plan since the time the PKT was set up in 1993 had obviously been that the factory should cease operating completely within the next few years.

(b) *Community guidelines on State aid for rescuing and restructuring firms in difficulty* ([13])

Although the Greek authorities do not invoke the above guidelines, they mention many failed attempts at restructuring and the difficulties faced by the Drapetsona factory. So the possibility that they are referring at least indirectly to this set of guidelines cannot be ruled out.

DF, the PKT subsidiary set up in November 1995, took over PKT's fertiliser production business while PKT occupied itself with developing real estate. PKT is still the owner of the plant, which it rents to DF. Although it was set up in November 1995, DF published accounts covering the period from 31 January to 31 December 1995. Its turnover is more or less the same as that achieved by PKT between 9 March 1993 and 31 December 1994. Furthermore, it appears that DF took over part of PKT's liabilities, but not of its assets. In these circumstances, the Commission doubts whether DF, which assumed only an undefined portion of PKT's liabilities, can be regarded as a company in difficulty within the meaning of the guidelines referred to above. And even if it were regarded as being in difficulty, the Commission considers, only in the alternative, that the conditions for assessing the aid as compatible are not met.

DF inherited an unspecified part of PKT's financial burdens and continued to show losses since its operating expenditure did not cover actual turnover. To add to this already difficult situation, DF's debts increased. Thus, in the financial year 1995, DF made losses of GRD 1,3 billion, followed by approximately GRD 2,5 billion in 1996. For the whole duration of its existence the company came under Article 47 of the abovementioned Law No 2190/1920, since it never showed a positive net position. The company was finally wound up in August 1997.

The aid in the form of State guarantees under consideration here cannot be regarded as rescue aid compatible with the guidelines, since it is not confined to whatever is essential to the running of the undertaking but covers part of the fixed costs and/or the operating losses, even if its purpose is to keep the recipient company viable.

In any case the aid greatly exceeds the time limit (generally speaking, six months) for the drafting of rationalisation measures under the guidelines in question. In this particular case, the guarantees covered loans for a period of two and a half years in the first instance and one and a half in the second, during which times no rationalisation measures whatever were drawn up or, at any rate, the Commission was not notified of anything to that effect.

Lastly, rescue aid must be an exceptional operation. In this case, however, the operation was repeated at least once, so as to cover losses over successive financial years.

As regards the compatibility of the aid as restructuring aid, it should be pointed out that the Commission was not notified of any restructuring plan which would have enabled the factory to be restored to long-term viability.

Furthermore, according to the information given in the Greek authorities' letter of 7 January 1997, it appears that the decision to close the factory's operations down for good had already been taken before the Prefecture of Piraeus issued its decision to that effect on 18 June 1997. Even before that decision was issued the letter referred to above states it as a given fact that the factory was merely operating on a temporary basis until the expected shutdown of operations in three or five years' time.

Both the Greek authorities and the complainant agree on at least one point, which is that the object of PKT was to develop land with a view to building. The purchase of the land on which the factory stands should logically be seen in conjunction with the business objectives of PKT, which wanted to use the land on which the factory had been built. It therefore makes no sense to refer to the long-term viability of the undertaking managing the factory (DF), since the undertaking itself was already in an extremely parlous condition and there were already plans to shut down operations and wind the company up. The fact that DF was placed in the hands of the receiver in 1997 seems the natural consequence of the condition the undertaking was in.

([13]) OJ C 368, 23.12.1994, p. 12.

Since the condition that a restructuring plan to make the company viable again should be submitted to the Commission was not complied with, there is no need to examine the other conditions laid down by the guidelines. The aid measures in the form of guarantees cannot, therefore, be approved as restructuring aid.

(c) *Operating aid*

The aid under consideration cannot be regarded as regional investment aid either, since the purpose of it was not to carry out productive investment. It must therefore be regarded as operating aid.

Operating aid may be granted only in the areas stated in Article 92(3)(a) of the Treaty. This article covers the whole territory of Greece. In its communication on the method for the application of Article 92(3)(a) and (c) to regional aid ([14]), the Commission accepts that operating aid may be given on certain conditions, as follows:

(i) that the aid is limited in time and designed to overcome the structural handicaps of undertakings located in Article 92(3)(a) areas;

(ii) that the aid is granted to promote the durable and balanced development of economic activity and does not lead to surplus production capacity in particular sectors at the Community level, such that the resulting Community sectoral problem is more serious than the original regional problem;

(iii) that aid is not granted in violation of the specific rules on aid granted to companies in difficulty;

(iv) that an annual report on how the aid is applied is sent to the Commission, showing total expenditure by type of aid and the sectors to which the aid relates;

(v) that aid designed to promote exports to other Member States is excluded.

Having regard to what has been said above as regards the possibility of applying the Community guidelines on State aid for the rescuing and restructuring of companies in difficulty, the third condition has clearly not been met. It is also doubtful whether the aid can possibly promote the durable and balanced development of economic activity when it is borne in mind that, because there was no restructuring, there would obviously be a deterioration in the position of the company, even without considering the announcement that the factory was to shut down.

Since the aid measures in the form of guarantees to DF covering loans of GRD 1,2 billion and 600 million respectively cannot be approved as operating aid, they cannot be covered by the exemption laid down by Article 92(3)(a) of the Treaty. Nor can they be exempted under Article 92(3)(b), since their purpose is not to promote the execution of an important project of common European interest.

([14]) OJ C 212, 12.8.1988, p. 2.

Furthermore, the aid under consideration cannot be allowed the exemption laid down in Article 92(3)(c), since it does not meet the conditions for approval as aid for the rescuing or restructuring of companies in difficulty. Lastly, it is not eligible for exemption under Article 92(3)(d), since its purpose is not to promote culture and heritage conservation.

Nor can the exemptions laid down by Article 92(2) of the Treaty be allowed, since the aid was not granted to individual consumers or to make good the damage caused by natural disasters or exceptional occurrences.

The aid in question is therefore not compatible with the common market.

Compatibility of the aid in favour of NFI

As stated above, at the end of financial year 1993, the company's equity position was still positive, by GRD 1,6 million as compared with nominal capital of GRD 3,37 billion. At the end of 1994, the position was negative by approximately -GRD 800 million, and at the end of 1995, despite the increase in capital referred to above, it remained negative by some -GRD 500 million. At the end of 1996, the net position was negative by -GRD 1,4 billion. Consequently, the undertaking in question must be regarded as being in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring companies in difficulty and the capital injection of GRD 1 billion has to be regarded as restructuring aid.

The aid was intended for modernising the plant with a view to manufacturing new products (artificial fertilisers). More specifically, the investment programme comprised installing mechanical equipment to automate the loading-bagging line and the construction of a warehouse for raw and ancillary materials.

Furthermore, apart from the simple reference to the fact that the purpose of the investment was to improve the company's financial position by means of an increase in production, no forecast yield was notified to the Commission. The only indication of the favourable results which the ABG expected for its subsidiary NFI which the Greek authorities communicated to the Commission was a copy of the company's annual production record which was clearly put together after the company ceased operating on 18 July 1997.

The Commission was not sent any restructuring plan regarding the restoration of the company to a state of long-term viability within a reasonable period of time, on the basis of realistic assumptions as to future operating conditions. Where DF is concerned, since the condition that a restructuring plan for the restoration of viability should be submitted to the Commission was not met, it is not necessary to examine the other conditions laid down by the Community guidelines on State aid for the rescuing and restructuring of companies in difficulty. As this *sine qua non* under the guidelines was not complied with, the aid cannot be allowed the exemption laid down by the rules, i.e. that provided for in Article 92(3)(c).

On exactly the same grounds as those invoked with respect to DF, the aid cannot be approved as operating aid. Again, on the same grounds, the exemptions provided for in Article 92(3)(b) and (d) cannot be allowed. The same argument applies to the exemptions provided for in Article 92(2). Consequently, this aid is not compatible with the common market either.

VII

The Commission finds that Greece unlawfully applied the aid for DF and NFI in violation of Article 92(3) of the Treaty.

Where aid is incompatible with the common market under Article 93(2) of the EC Treaty, as confirmed by the judgments of the Court of the Justice of the European Communities on 12 July 1973 in Case 70/72 *Commission* v *Germany* ([15]), on 24 February 1987 in Case 310/85 *Deufil* v *Commission* ([16]) and on 20 September 1990 in Case C-5/98 *Commission* v *Germany* ([17]), the Commission is required to ask the Member State to recover from the recipient all aid unduly granted. The aid measures in question must therefore be repealed and, if the aid has already been paid, it must be recovered by the Greek authorities.

As regards the State guarantees in favour of DF, for the reasons stated above, they are guarantees of which the aid element coincides with the amount of the guaranteed loan, as stated when the procedure was initiated.

The Greek authorities must recover the corresponding amounts from DF, after the commission of 1 % of the amount of the loans paid by the company to secure the State guarantee has been deducted.

As regards the capital injection of GRD 1 billion to NFI, the Greek State must recover the amount in question from the company,

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The State guarantees in favour of Lipasmata Drapetsonas (Drapetsona Fertilisers) AE to cover two loans of GRD 1,2 billion and GRD 600 million respectively, granted pursuant to ministerial decisions of 16 January 1996 and 23 June 1996, constitute State aid within the meaning of Article 92(1) of the Treaty.

The capital injection of GRD 1 billion by the Agrotiki Trapeza Ellados (Agricultural Bank of Greece) into its subsidiary Viomihania Azotouhon Lipasmaton (Nitrogen Fertiliser Industry in 1995) also constitutes State aid within the meaning of Article 92(1) of the Treaty.

The aid measures in question are hereby found to be unlawful in that they were put into effect without prior notification to the Commission, in violation of Article 93(3) of the Treaty.

Article 2

The aid measures in question are, furthermore, incompatible with the common market, in that they do not qualify for any of the exemptions provided for in Article 92(2) and (3) of the Treaty.

Article 3

Greece shall take the measures necessary to recover the aid referred to in Article 1. Recovery from Lipasmata Drapetsonas shall be effected after deduction of the commission, equivalent to 1 % of the sums guaranteed, which the company in question was required to pay in order to secure the State guarantees.

Article 4

Recovery shall be effected in accordance with the substantive and procedural requirements of Greek law. The sums to be recovered shall bear interest from the date on which the aid was disbursed until its actual recovery. The interest shall be calculated on the basis of the reference rate used to determine grant equivalent under the regional aid system in Greece.

Article 5

Within two months of notification of this Decision, Greece shall inform the Commission of the measures it has taken to comply with it.

Article 6

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 21 April 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

([15]) [1972/1973] ECR 609.
([16]) [1987] ECR 901.
([17]) [1990] ECR I-3437.