

English edition

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1979/2002
of 7 November 2002
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 8 November 2002.

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

Done at Brussels, 7 November 2002.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 7 November 2002 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	64,8
	096	25,3
	204	59,2
	999	49,8
0707 00 05	052	103,8
	628	151,4
	999	127,6
0709 90 70	052	79,5
	999	79,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	65,7
	624	79,7
	999	72,7
0805 50 10	052	63,4
	528	51,6
	600	69,0
	999	61,3
0806 10 10	052	130,5
	400	282,9
	508	356,7
	999	256,7
0808 10 20, 0808 10 50, 0808 10 90	400	97,3
	404	82,3
	512	69,8
	800	168,2
	999	104,4
0808 20 50	052	121,1
	720	34,4
	999	77,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 1980/2002
of 7 November 2002**

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 1260/2001 of 19 June 2001 on the common organisation of the market in sugar ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽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 Article 1(2) and Article 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 8 November 2002.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽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, 7 November 2002.

For the Commission
 J. M. SILVA RODRÍGUEZ
 Agriculture Director-General

ANNEX

to the Commission Regulation of 7 November 2002 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⁾	8,24	—	0
1703 90 00 ⁽¹⁾	11,55	—	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 1981/2002
of 7 November 2002**

altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular the third subparagraph of Article 27(5) thereof,

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 1941/2002 are hereby altered to the amounts shown in the Annex hereto.

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 1941/2002 ⁽³⁾.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 1941/2002 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,

Article 2

This Regulation shall enter into force on 8 November 2002.

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

Done at Brussels, 7 November 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 299, 1.11.2002, p. 5.

ANNEX

to the Commission Regulation of 7 November 2002 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	40,61 ⁽¹⁾
1701 11 90 9910	A00	EUR/100 kg	39,19 ⁽¹⁾
1701 11 90 9950	A00	EUR/100 kg	⁽²⁾
1701 12 90 9100	A00	EUR/100 kg	40,61 ⁽¹⁾
1701 12 90 9910	A00	EUR/100 kg	39,19 ⁽¹⁾
1701 12 90 9950	A00	EUR/100 kg	⁽²⁾
1701 91 00 9000	A00	EUR/1 % of sucrose × net 100 kg of product	0,4415
1701 99 10 9100	A00	EUR/100 kg	44,15
1701 99 10 9910	A00	EUR/100 kg	42,60
1701 99 10 9950	A00	EUR/100 kg	42,60
1701 99 90 9100	A00	EUR/1 % of sucrose × net 100 kg of product	0,4415

⁽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 28(4) of Council Regulation (EC) No 1260/2001.

⁽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 2020/2001 (OJ L 273, 16.10.2001, p. 6).

**COMMISSION REGULATION (EC) No 1982/2002
of 7 November 2002**

**fixing the maximum export refund for white sugar for the 14th partial invitation to tender issued
within the framework of the standing invitation to tender provided for in Regulation (EC) No
1331/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular Article 27(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1331/2002 of 23 July 2002 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, for the 2002/2003 marketing year, requires partial invitations to tender to be issued for the export of this sugar.
- (2) Pursuant to Article 9(1) of Regulation (EC) No 1331/2002 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 14th 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 14th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1331/2002 the maximum amount of the export refund is fixed at 47,099 EUR/100 kg.

Article 2

This Regulation shall enter into force on 8 November 2002.

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

Done at Brussels, 7 November 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 195, 24.7.2002, p. 6.

**COMMISSION REGULATION (EC) No 1983/2002
of 7 November 2002**

**amending Regulation (EC) No 2848/98 laying down detailed rules for the application of the quota
buy-back programme in the raw tobacco sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco ⁽¹⁾, as last amended by Regulation (EC) No 546/2002 ⁽²⁾, and in particular Articles 14 and 14a thereof,

Whereas:

- (1) Article 36 of Commission Regulation (EC) No 2848/98 of 22 December 1998 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the premium scheme, production quotas and the specific aid to be granted to producer groups in the raw tobacco sector ⁽³⁾, as last amended by Regulation (EC) No 1501/2002 ⁽⁴⁾, set the amounts to which producers were entitled whose quotas were bought under the quota buy-back programme during the 1999, 2000, 2001 and subsequent harvests.
- (2) Since the measure entered into force for the 1999 harvest, only insignificant quantities have been bought back for each group of varieties. Under the current rules for this arrangement it has not been possible to meet the planned objectives of rationalising production, since producers are continuing to have great difficulty in selling their production of certain groups of tobacco varieties, for which they can secure only extremely low prices.
- (3) To make the arrangement more attractive, therefore, the buy-back prices should be increased considerably for groups III and V and to a lesser degree for the other groups, starting with the 2002 harvest, and the period during which the buy-back price is paid should be extended.
- (4) In addition, the producer Member States should be required to widely publicise the buy-back terms and a time limit should be laid down for the payment of the buy-back price to producers.
- (5) Most tobacco growers hold very small production quotas, the economic viability of which is extremely doubtful, especially in the case of types of tobacco sold at very low prices. The programme should be made more attractive for small producers by modulating the buy-back prices according to the size of the production quota, in order to help them switch production.

- (6) In order to allow producers interested in selling their quotas for the 2002 harvest sufficient time in which to decide to leave the sector, the final date for announcing their decision should be deferred for the 2002 harvest year.
- (7) Regulation (EC) No 2848/98 should therefore be amended.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2848/98 is amended as follows:

1. Article 36 is replaced by the following:

'Article 36

1. Producers whose quotas were bought back during the 1999 and 2000 harvests shall be entitled to receive the amounts shown in Annex VII(A) each year when the premiums are paid for the three harvests following that in which their quotas were bought back.

Producers whose quotas were bought back in 2001 shall be entitled, when the premiums are paid for the three harvests following that in which their quotas were bought back, to receive each year an amount equal to a percentage of the premium as referred to in Article 3(1) of Regulation (EEC) No 2075/92, applicable to raw tobacco produced during the harvest year concerned. The relevant percentages are given in the table in Annex VII(B).

Without prejudice to any future amendments, producers whose quotas are bought back during the 2002 and 2003 harvests shall be entitled to receive an amount equal to a percentage of the premium as shown in the tables in Annex VII(C) for each of the five harvest years following the year in which their quota is bought back. These amounts shall be paid before 31 May each year.

2. As an exception to paragraph 1, producers whose quotas are bought back during the 2001 and 2002 harvests and who have held these quotas only since the 2001 and 2002 harvests, respectively, shall be entitled to receive the same amounts as those for the 1999 harvest for the three subsequent harvests.

⁽¹⁾ OJ L 215, 30.7.1992, p. 70.

⁽²⁾ OJ L 84, 28.3.2002, p. 4.

⁽³⁾ OJ L 358, 31.12.1998, p. 17.

⁽⁴⁾ OJ L 227, 23.8.2002, p. 16.

3. The Member States shall publicise the terms of the quota buy-back.'
2. The following paragraph is added to Article 55:
- '3. For the 2002 harvest, as an exception to Article 35, the final date of 1 November 2002 in paragraphs 1 and 2 shall be extended to 1 December 2002, and the period of two months in paragraph 3 shall be reduced to one month.'

3. The Annex to this Regulation shall be added as Annex VII.

Article 2

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

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

Done at Brussels, 7 November 2002.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

'ANNEX VII

A. Quota buy-backs for the 1999 and 2000 harvests

— Group I quotas	EUR 0,67741/kg
— Group II quotas	EUR 0,54187/kg
— Group III quotas	EUR 0,54187/kg
— Group IV quotas	EUR 0,59591/kg
— Group V quotas	EUR 0,54187/kg
— Group VI quotas	EUR 0,93854/kg
— Group VII quotas	EUR 0,79635/kg
— Group VIII quotas	EUR 0,56904/kg

B. Quota buy-back for the 2001 harvest

Group of varieties	Year		
	1st	2nd	3rd
Group I quotas	25 %	25 %	25 %
Group II quotas	25 %	25 %	25 %
Group III quotas	25 %	25 %	25 %
Group IV quotas	25 %	25 %	25 %
Group V quotas	75 %	75 %	50 %
Group VI quotas	25 %	25 %	25 %
Group VII quotas	25 %	25 %	25 %
Group VIII quotas	25 %	25 %	25 %

C. Quota buy-backs for the 2002 and 2003 harvests

Producers with a production quota of less than 10 tonnes					
Group of varieties	Year				
	1st	2nd	3rd	4th	5th
Group I quotas	25 %	25 %	25 %	15 %	10 %
Group II quotas	25 %	25 %	25 %	15 %	10 %
Group III quotas					
— 2002 harvest	40 %	40 %	25 %	25 %	20 %
— 2003 harvest	75 %	75 %	50 %	25 %	25 %
Group IV quotas	25 %	25 %	25 %	15 %	10 %
Group V quotas	100 %	100 %	75 %	50 %	50 %
Group VI quotas	25 %	25 %	25 %	15 %	10 %
Group VII quotas	25 %	25 %	25 %	15 %	10 %
Group VIII quotas	25 %	25 %	25 %	15 %	10 %

Producers with a production quota of 10 tonnes or more up to 40 tonnes					
Group of varieties	Year				
	1st	2nd	3rd	4th	5th
Group I quotas	25 %	25 %	20 %	10 %	10 %
Group II quotas	25 %	25 %	20 %	10 %	10 %
Group III quotas					
— 2002 harvest	35 %	35 %	20 %	20 %	20 %
— 2003 harvest	75 %	50 %	40 %	20 %	20 %
Group IV quotas	25 %	25 %	20 %	10 %	10 %
Group V quotas	90 %	90 %	50 %	50 %	50 %
Group VI quotas	25 %	25 %	20 %	10 %	10 %
Group VII quotas	25 %	25 %	20 %	10 %	10 %
Group VIII quotas	25 %	25 %	20 %	10 %	10 %

Producers with a production quota of 40 tonnes or more					
Group of varieties	Year				
	1st	2nd	3rd	4th	5th
Group I quotas	20 %	20 %	20 %	10 %	10 %
Group II quotas	20 %	20 %	20 %	10 %	10 %
Group III quotas					
— 2002 harvest	30 %	30 %	20 %	15 %	15 %
— 2003 harvest	65 %	65 %	20 %	20 %	20 %
Group IV quotas	20 %	20 %	20 %	10 %	10 %
Group V quotas	75 %	75 %	40 %	40 %	40 %
Group VI quotas	20 %	20 %	20 %	10 %	10 %
Group VII quotas	20 %	20 %	20 %	10 %	10 %
Group VIII quotas	20 %	20 %	20 %	10 %	10 %

COMMISSION REGULATION (EC) No 1984/2002
of 7 November 2002
concerning tenders notified in response to the invitation to tender for the export of barley issued
in Regulation (EC) No 901/2002

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 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of barley to all third countries except the United States of America, Canada, Estonia and Latvia was opened pursuant to Commission Regulation (EC) No 901/2002 ⁽⁶⁾, as amended by Regulation (EC) No 1230/2002 ⁽⁷⁾.

- (2) Article 7 of Regulation (EC) No 1501/95, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.
- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 1 to 7 November 2002 in response to the invitation to tender for the refund for the export of barley issued in Regulation (EC) No 901/2002.

Article 2

This Regulation shall enter into force on 8 November 2002.

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

Done at Brussels, 7 November 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 127, 9.5.2002, p. 11.

⁽⁷⁾ OJ L 180, 10.7.2002, p. 3.

COMMISSION REGULATION (EC) No 1985/2002
of 7 November 2002
concerning tenders notified in response to the invitation to tender for the export of rye issued in
Regulation (EC) No 900/2002

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 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 7 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of rye to all third countries excluding Hungary, Estonia, Lithuania and Latvia was opened pursuant to Commission Regulation (EC) No 900/2002 ⁽⁶⁾, as amended by Regulation (EC) No 1632/2002 ⁽⁷⁾.

- (2) Article 7 of Regulation (EC) No 1501/95 allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.
- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 1 to 7 November 2002 in response to the invitation to tender for the refund for the export of rye issued in Regulation (EC) No 900/2002.

Article 2

This Regulation shall enter into force on 8 November 2002.

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

Done at Brussels, 7 November 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 142, 31.5.2002, p. 14.

⁽⁷⁾ OJ L 247, 14.9.2002, p. 3.

COMMISSION REGULATION (EC) No 1986/2002
of 7 November 2002
concerning tenders notified in response to the invitation to tender for the export of common
wheat issued in Regulation (EC) No 899/2002

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 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of common wheat to all third countries, with the exclusion of Poland, Estonia, Lithuania and Latvia was opened pursuant to Commission Regulation (EC) No 899/2002 ⁽⁶⁾, as amended by Regulation (EC) No 1520/2002 ⁽⁷⁾.

- (2) Article 7 of Regulation (EC) No 1501/95 allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.
- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 1 to 7 November 2002 in response to the invitation to tender for the refund for the export of common wheat issued in Regulation (EC) No 899/2002.

Article 2

This Regulation shall enter into force on 8 November 2002.

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

Done at Brussels, 7 November 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 133, 16.5.2001, p. 3.

⁽⁷⁾ OJ L 228, 24.8.2002, p. 18.

**COMMISSION REGULATION (EC) No 1987/2002
of 7 November 2002**

fixing the rates of the refunds applicable to certain cereal and rice-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 (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(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽³⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) 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 ⁽⁵⁾, as last amended by Regulation (EC) No 1052/2002 ⁽⁶⁾, 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 B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.
- (3) 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.
- (4) 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 jeopardised 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.

(5) Now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC ⁽⁷⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.

(6) Pursuant to Article 4(3) and (5) of Regulation (EC) No 1520/2000 provides that a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council Regulation (EEC) No 1722/93 ⁽⁸⁾, as last amended by Commission Regulation (EC) No 1786/2001 ⁽⁹⁾, for the basic product in question, used during the assumed period of manufacture of the goods.

(7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 of the Act of Accession of the United Kingdom, Ireland and Denmark stipulates that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1(1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to amended Regulation (EC) No 3072/95 respectively, are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 8 November 2002.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 62, 5.3.2002, p. 27.

⁽⁵⁾ OJ L 117, 15.7.2000, p. 1.

⁽⁶⁾ OJ L 160, 18.6.2002, p. 16.

⁽⁷⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁸⁾ OJ L 159, 1.7.1993, p. 112.

⁽⁹⁾ OJ L 242, 12.9.2001, p. 3.

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

Done at Brussels, 7 November 2002.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

**to the Commission Regulation of 7 November 2002 fixing the rates of the refunds applicable to certain cereals
and rice products exported in the form of goods not covered by Annex I to the Treaty**

		(EUR/100 kg)	
CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases	— —	— —
1001 90 99	Common wheat and meslin: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases	— — — —	— — — —
1002 00 00	Rye	1,470	1,470
1003 00 90	Barley – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	— —	— —
1004 00 00	Oats	—	—
1005 90 00	Maize (corn) used in the form of: – starch: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 ⁽⁴⁾ : – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – where goods falling within subheading 2208 ⁽³⁾ are exported – other (including unprocessed) Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	0,916 — 0,916 0,687 — 0,687 0,916 0,916 — 0,916	0,916 — 0,916 0,687 — 0,687 0,916 0,916 — 0,916

(EUR/100 kg)

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly-milled rice:		
	– round grain	15,500	15,500
	– medium grain	15,500	15,500
	– long grain	15,500	15,500
1006 40 00	Broken rice	3,900	3,900
1007 00 90	Sorghum	—	—

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E of amended Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).

⁽²⁾ The goods concerned fall under CN code 3505 10 50.

⁽³⁾ Goods listed in Annex B of Council Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.

⁽⁴⁾ For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

COMMISSION REGULATION (EC) No 1988/2002
of 7 November 2002
on the issuing of A1 export licences for fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as amended by Regulation (EC) No 1176/2002 ⁽²⁾, and in particular Article 2(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1109/2002 ⁽³⁾ sets the quantities for which A1 export licences, other than those requested in the context of food aid, may be issued.
- (2) Article 2 of Regulation (EC) No 1961/2001 sets the conditions under which special measures may be taken by the Commission with a view to avoiding an overrun of the quantities for which A1 licences may be issued.
- (3) The Commission has received information which indicates that those quantities, reduced or increased by the quantities referred to in Article 2(3) of Regulation (EC) No 1961/2001, would be exceeded if A1 licences were issued without restriction for shelled almonds in

response to applications submitted since 5 November 2002. Therefore, one percentage should be fixed for the issuing of licences for quantities applied for on 5 November 2002 and applications for A1 licences submitted later in that application period should be rejected,

HAS ADOPTED THIS REGULATION:

Article 1

A1 export licences for shelled almonds for which applications were submitted on 5 November 2002 pursuant to Article 1 of Regulation (EC) No 1109/2002 shall be issued for 94,7 % of the quantities applied for.

Applications for A1 export licences submitted after 5 November 2002 and before 8 January 2003 for this product shall be rejected.

Article 2

This Regulation shall enter into force on 8 November 2002.

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

Done at Brussels, 7 November 2002.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 268, 9.10.2001, p. 8.

⁽²⁾ OJ L 170, 29.6.2002, p. 69.

⁽³⁾ OJ L 168, 27.6.2002, p. 5.

COMMISSION REGULATION (EC) No 1989/2002
of 7 November 2002
on the issue of system B export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1176/2002 ⁽²⁾, and in particular Article 6(6) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1312/2002 ⁽³⁾ fixes the indicative quantities for system B export licences other than those sought in the context of food aid.
- (2) In the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for oranges will shortly be exceeded. This overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector.

- (3) To avoid this situation, applications for system B licences for oranges exported after 7 November 2002 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for oranges submitted pursuant to Article 1 of Regulation (EC) No 1312/2002, export declarations for which are accepted after 7 November 2002 and before 16 November 2002, are hereby rejected.

Article 2

This Regulation shall enter into force on 8 November 2002.

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

Done at Brussels, 7 November 2002.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 268, 9.10.2001, p. 8.

⁽²⁾ OJ L 170, 29.6.2002, p. 69.

⁽³⁾ OJ L 192, 20.7.2002, p. 13.

**COMMISSION REGULATION (EC) No 1990/2002
of 7 November 2002**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular the second subparagraph of Article 13(3) and (15) thereof,

Whereas:

- (1) Article 13 of Regulation (EC) No 3072/95 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other. The same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 300 of the Treaty.
- (3) Commission Regulation (EEC) No 1361/76 ⁽³⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum.
- (4) Export possibilities exist for a quantity of 11 891 tonnes of rice to certain destinations. The procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 ⁽⁴⁾, as last amended by Regulation (EC) No 1322/2002 ⁽⁵⁾, should be used. Account should be taken of this when the refunds are fixed.
- (5) Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

With the exception of the quantity of 11 891 tonnes provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

Article 3

This Regulation shall enter into force on 8 November 2002.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 154, 15.6.1976, p. 11.

⁽⁴⁾ OJ L 117, 24.5.1995, p. 2.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 22.

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

Done at Brussels, 7 November 2002.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 7 November 2002 fixing the export refunds on rice and broken rice and suspending the issue of export licences

Product code	Destination	Unit of measurement	Amount of refunds (1)	Product code	Destination	Unit of measurement	Amount of refunds (1)
1006 20 11 9000	R01	EUR/t	127	1006 30 65 9100	R01	EUR/t	159
1006 20 13 9000	R01	EUR/t	127		R02	EUR/t	155
1006 20 15 9000	R01	EUR/t	127		R03	EUR/t	160
1006 20 17 9000	—	EUR/t	—		064 and 066	EUR/t	148
1006 20 92 9000	R01	EUR/t	127		A97	EUR/t	155
1006 20 94 9000	R01	EUR/t	127	1006 30 65 9900	021 and 023	EUR/t	155
1006 20 96 9000	R01	EUR/t	127		R01	EUR/t	159
1006 20 98 9000	—	EUR/t	—		064 and 066	EUR/t	148
1006 30 21 9000	R01	EUR/t	127		A97	EUR/t	155
1006 30 23 9000	R01	EUR/t	127	1006 30 67 9100	021 and 023	EUR/t	155
1006 30 25 9000	R01	EUR/t	127		064 and 066	EUR/t	148
1006 30 27 9000	—	EUR/t	—		A97	EUR/t	155
1006 30 42 9000	R01	EUR/t	127	1006 30 67 9900	064 and 066	EUR/t	148
1006 30 44 9000	R01	EUR/t	127		064 and 066	EUR/t	148
1006 30 46 9000	R01	EUR/t	127	1006 30 92 9100	R01	EUR/t	159
1006 30 48 9000	—	EUR/t	—		R02	EUR/t	155
1006 30 61 9100	R01	EUR/t	159		R03	EUR/t	160
	R02	EUR/t	155		064 and 066	EUR/t	148
	R03	EUR/t	160	1006 30 92 9900	064 and 066	EUR/t	148
	064 and 066	EUR/t	148		A97	EUR/t	155
	A97	EUR/t	155		021 and 023	EUR/t	155
	021 and 023	EUR/t	155	1006 30 94 9100	021 and 023	EUR/t	155
1006 30 61 9900	R01	EUR/t	159		R01	EUR/t	159
	A97	EUR/t	155		R02	EUR/t	155
	064 and 066	EUR/t	148		R03	EUR/t	160
1006 30 63 9100	R01	EUR/t	159	1006 30 94 9900	064 and 066	EUR/t	148
	R02	EUR/t	155		A97	EUR/t	155
	R03	EUR/t	160		064 and 066	EUR/t	148
	064 and 066	EUR/t	148	1006 30 96 9100	R01	EUR/t	159
	A97	EUR/t	155		R02	EUR/t	155
	021 and 023	EUR/t	155		R03	EUR/t	160
1006 30 63 9900	R01	EUR/t	159		064 and 066	EUR/t	148
	064 and 066	EUR/t	148	1006 30 96 9900	A97	EUR/t	155
	A97	EUR/t	155		021 and 023	EUR/t	155
					R01	EUR/t	159
					A97	EUR/t	155
					064 and 066	EUR/t	148
				1006 30 98 9100	021 and 023	EUR/t	155
				1006 30 98 9900	—	EUR/t	—
				1006 40 00 9000	—	EUR/t	—

(1) The procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 applies to licences applied for under that Regulation for quantities according to the destination:
 destination R01: 2 595 t,
 all destinations R02 and R03: 1 000 t,
 destinations 021 and 023: 597 t,
 destinations 064 and 066: 7 399 t,
 destination A97: 300 t.

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 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are defined as follows:

R01 Switzerland, Liechtenstein, communes of Livigno and Campione d'Italia.

R02 Morocco, Algeria, Tunisia, Malta, Egypt, Israel, Lebanon, Libya, Syria, Ex-Spanish Sahara, Cyprus, Jordan, Iraq, Iran, Yemen, Kuwait, United Arab Emirates, Oman, Bahrain, Qatar, Saudi Arabia, Eritrea, West Bank/Gaza Strip, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovenia, Slovakia, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Yugoslavia, Former Yugoslav Republic of Macedonia, Albania, Bulgaria, Georgia, Armenia, Azerbaijan, Moldova, Ukraine, Kazakstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.

R03 Colombia, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Venezuela, Canada, Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Cuba, Bermuda, South Africa, Australia, New Zealand, Hong Kong SAR, Singapore, A40, A11 except Suriname, Guyana, Madagascar.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION
of 5 November 2002

authorising Austria to apply a measure derogating from Article 21 of Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2002/880/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) In a request addressed to the Commission, registered by the Commission's Secretariat-General on 7 May 2002, Austria sought authorisation to apply a measure derogating from Article 21(1)(a) of Directive 77/388/EEC.
- (2) The other Member States were informed of Austria's request by letter of 21 June 2002.
- (3) Article 21(1) of Directive 77/388/EEC, as worded in Article 28g thereof, stipulates that, under the internal system, the taxable person supplying taxable goods or services is normally liable to pay value added tax (VAT).
- (4) The purpose of the requested derogation is to enable Austria to designate the person to whom the services are provided as the person liable to pay tax, in the following cases: where construction work and labour are provided by a subcontractor to either a general contractor, a company which carries out its own construction work or another subcontractor.
- (5) The requested measure is to be considered first and foremost as a measure to prevent certain types of tax evasion or avoidance in the construction sector, such as

the non-payment of invoiced VAT by a subcontractor who subsequently becomes untraceable. The measure also has the effect of simplifying the work of the tax authorities, which very frequently have major problems collecting the VAT due by subcontractors in that sector, without having any effect on the amount of tax due.

- (6) The measure is proportionate to the objectives pursued, since it is not intended to apply to all taxable operations in the sector concerned but only to specific operations which pose considerable problems of tax evasion or avoidance.
- (7) The authorisation should apply from the date envisaged for the application of the corresponding national provision in the second Abgabenänderungsgesetz 2002. It should be limited to 31 December 2007, so that in the light of experience gleaned up to that date an assessment may be made of whether or not the derogation remains justified.
- (8) This derogation does not adversely affect the Communities' own resources from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 21(1)(a) of Directive 77/388/EEC, as worded in Article 28(g) thereof, Austria is hereby authorised, with effect from 1 October 2002, to designate the recipients of the supplies of services referred to in Article 2 of this Decision as the persons liable to pay VAT.

⁽¹⁾ OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2002/38/EC (OJ L 128, 15.5.2002, p. 41).

Article 2

The recipient of the supply of services may be designated as the person liable to pay VAT in the following instances:

1. where construction work and labour are provided by a subcontractor to a general contractor;
2. where construction work and labour are provided by a subcontractor to a company which carries out its own construction work;
3. where construction work and labour are provided by a subcontractor to another subcontractor.

Article 3

This Decision shall expire on 31 December 2007.

Article 4

This Decision is addressed to the Republic of Austria.

Done at Brussels, 5 November 2002.

For the Council
The President
T. PEDERSEN

COMMISSION

COMMISSION DECISION of 5 November 2002

excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF)

(notified under document number C(2002) 4127)

(Only the Danish, German, English, French, Greek, Italian, Dutch, Portuguese and Spanish texts are authentic)

(2002/881/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾, as last amended by Regulation (EC) No 1287/95 ⁽²⁾, and in particular Article 5(2)(c) thereof,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽³⁾, and in particular Article 7(4) thereof,

After consulting the Committee for the European Agricultural Guidance and Guarantee Fund,

Whereas:

- (1) Article 5(2)(c) of Regulation (EEC) No 729/70 and Article 7(4) of Regulation (EC) No 1258/1999 stipulate that the Commission is to exclude expenditure from Community financing where it finds that it has not been incurred in accordance with Community rules.
- (2) The above Articles of Regulation (EEC) No 729/70 and Regulation (EC) No 1258/1999 as well as Article 8(1) and (2) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section ⁽⁴⁾, as last amended by Regulation (EC) No 2025/2001 ⁽⁵⁾, provide that the Commission is to carry out the necessary checks, forward its findings to the Member States, consider any comments from the latter, enter into bilateral discussions to reach an agreement with the Member States concerned and formally communicate its conclusions to them, referring to Commission Decision 94/442/EC of 1 July 1994 setting up a conciliation procedure in the context of the

clearance of the accounts of the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section ⁽⁶⁾, as last amended by Decision 2001/535/EC ⁽⁷⁾.

- (3) The Member States have had the opportunity to request that a conciliation procedure be initiated. That procedure has been applied in some cases and the reports issued on the outcome have been considered by the Commission.
- (4) Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999 provide that refunds on exports to third countries and intervention intended to stabilise agricultural markets may be financed only where they are either granted or undertaken in accordance with the Community rules governing the common organisations of agricultural markets.
- (5) The findings of checks performed, the results of bilateral discussions and the outcome of the conciliation procedures have shown that some expenditure declared by the Member States does not meet those conditions and cannot therefore be financed under the EAGGF Guarantee Section.
- (6) The Annex to this Decision sets out the amounts that are not recognised as being chargeable to the EAGGF Guarantee Section. Those amounts do not relate to expenditure incurred more than 24 months before the Commission's written notification of the results of the checks to the Member States.
- (7) As regards the cases covered by this Decision, the assessment of the amounts to be excluded on grounds of non-compliance with Community rules was notified by the Commission to the Member States and is set out in a summary report on the subject.

⁽¹⁾ OJ L 94, 28.4.1970, p. 13.

⁽²⁾ OJ L 125, 8.6.1995, p. 1.

⁽³⁾ OJ L 160, 26.6.1999, p. 103.

⁽⁴⁾ OJ L 158, 8.7.1995, p. 6.

⁽⁵⁾ OJ L 274, 17.10.2001, p. 3.

⁽⁶⁾ OJ L 182, 16.7.1994, p. 45.

⁽⁷⁾ OJ L 193, 17.7.2001, p. 25.

- (8) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 31 May 2002 and relating to its content,

HAS ADOPTED THIS DECISION:

Article 1

The expenditure itemised in the Annex hereto that has been incurred by the Member States' accredited paying agencies and declared under the EAGGF Guarantee Section is hereby excluded from Community financing because it does not comply with Community rules.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 5 November 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

CORRECTION TOTALS

Sector	Member State	Budget item	Reason	Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Public storage	Austria	1013	Non-compliance with Commission Regulation (EEC) No 689/92, Article 4a (1)	EUR	- 71 861,57	0,00	- 71 861,57	1998-1999
	Total Austria				- 71 861,57	0,00	- 71 861,57	
Public storage	Spain	1232	Non-compliance with Commission Regulation (EC) No 561/1999 (2)	EUR	- 37 621,55	0,00	- 37 621,55	1999
Olive oil	Spain	1210	Annulment of Commission Decision 1999/186/EC (3)	EUR	29 795 787,00	0,00	29 795 787,00	1996
Olive oil	Spain	1210	Flat-rate correction of 5 % for 1999	EUR	- 45 524 432,65	0,00	- 45 524 432,65	1999
Arable crops	Spain	1041-1858	Flat-rate corrections of 2 % and 5 % — inadequate checks	EUR	- 9 535 463,00	0,00	- 9 535 463,00	1999-2000
Livestock premiums	Spain	2220-2512	Incorrect livestock balance 1996-98	EUR	- 4 154 200,63	0,00	- 4 154 200,63	1997-2000
Livestock premiums	Spain	2120-2122	Flat-rate correction of 2 % — penalties not applied	EUR	- 2 671 717,14	0,00	- 2 671 717,14	1999-2000
Livestock premiums	Spain	2120-2128	Flat-rate corrections of 2 % and 5 % — major shortcomings	EUR	- 1 928 233,71	0,00	- 1 928 233,71	1998-2000
Livestock premiums	Spain	2120-2125	Flat-rate corrections of 2 %, 5 % and 10 % — major shortcomings	EUR	- 1 463 027,00	0,00	- 1 463 027,00	1999
Milk and milk products	Spain	2071	Annulment of Commission Decision 1999/187/EC (4) by Court of Justice	EUR	8 146 987,47	0,00	8 146 987,47	1995
	Total Spain				- 27 371 921,21	0,00	- 27 371 921,21	
Public storage	Denmark	1011-1014	Correction to annual declaration + non-compliance Regulation (EC) No 689/92 — takeover date	DKK	- 642 063,05	0,00	- 642 063,05	1997-1998
	Total Denmark				- 642 063,05	0,00	- 642 063,05	
Public storage	France	3190	Non-compliance with Commission Regulation (EC) No 1799/1999 (5)	EUR	- 13 547,69	0,00	- 13 547,69	2000
Public storage	France	2111-2113	Non-compliance with Commission Regulation (EC) No 1799/1999	EUR	- 106 833,39	0,00	- 106 833,39	2000
Financial audit	France	320	Flat-rate correction of 10 % for inadequate checks	EUR	- 251 329,28	0,00	- 251 329,28	2000
Financial audit	France	B1-4	Financial errors detected	EUR	- 7 641 715,23	0,00	- 7 641 715,23	2000
Financial audit	France	Various	Flat-rate correction	EUR	- 35 612,70	0,00	- 35 612,70	2000
Financial audit	France	Various	Incomplete administrative checks	EUR	- 2 988 000,00	0,00	- 2 988 000,00	2000
Public storage	France	1011-1014	Storage conditions not acceptable	EUR	- 3 070 983,88	0,00	- 3 070 983,88	1998-1999
	Total France				- 14 108 022,17	0,00	- 14 108 022,17	

Sector	Member State	Budget item	Reason	Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Fruits and vegetables	Greece	1515	Corrections of 3 % (insurance premiums) and 2 % (inadequate checks)	EUR	- 2 438 896,91	0,00	- 2 438 896,91	1997-2001
Livestock premiums	Greece	2120-2125	Flat-rate correction of 10 % — major shortcomings	EUR	- 11 352 868,00	- 11 352 868,00	0,00	1999-2001
Livestock premiums	Greece	2220-2221	Flat-rate correction of 5 % — major shortcomings	EUR	- 22 969 271,00	- 22 969 271,00	0,00	1998-1999
	Total Greece				- 36 761 035,91	- 34 322 139,00	- 2 438 896,91	
Wine and tobacco	Italy	1710	Guarantee threshold exceeded	EUR	- 10 325,00	0,00	- 10 325,00	2000
Fruit and vegetables	Italy	1501	Non-compliance with Commission Regulation (EC) No 659/97 ⁽⁶⁾ and Regulation (EC) No 2200/96 ⁽⁷⁾ — ICR too high	EUR	- 75 903,00	0,00	- 75 903,00	2000-2001
Public storage	Italy	1011-1014	Non-compliance with Regulation (EEC) No 689/92 Article 4(1)	EUR	- 1 272 615,34	0,00	- 1 272 615,34	1998-1999
	Total Italy				- 1 358 843,34	0,00	- 1 358 843,34	
Livestock premiums	Netherlands	2120-2128	Flat-rate corrections of 5 % and 25 % — major shortcomings	EUR	- 3 841 421,24	0,00	- 3 841 421,24	1998-2000
	Total Netherlands				- 3 841 421,24	0,00	- 3 841 421,24	
Rural development	Portugal	5012-405	Flat-rate correction of 2 % — non-compliance with Commission Regulation (EC) No 749/96 ⁽⁸⁾ — cross-checks	EUR	- 859 727,00	0,00	- 859 727,00	1999-2000
	Total Portugal				- 859 727,00	0,00	- 859 727,00	
Rural development	United Kingdom	5011	Flat-rate correction of 2 % — supplementary checks not done — CCW	GBP	- 31 244,89	0,00	- 31 244,89	1999
Rural development	United Kingdom	5011	Flat-rate correction of 2 % — supplementary checks not done — SERAD	GBP	- 86 158,44	0,00	- 86 158,44	1999
Rural development	United Kingdom	5011-405	Flat-rate correction of 2 % — supplementary checks not done — MAFF	GBP	- 1 054 141,52	0,00	- 1 054 141,52	1999-2000
	Total United Kingdom			GBP	- 1 171 544,85	0,00	- 1 171 544,85	

⁽¹⁾ OJ L 74, 20.3.1992, p. 18

⁽²⁾ OJ L 69, 16.3.1999, p. 13.

⁽³⁾ OJ L 61, 10.3.1999, p. 34.

⁽⁴⁾ OJ L 61, 10.3.1999, p. 37.

⁽⁵⁾ OJ L 217, 17.8.1999, p. 20.

⁽⁶⁾ OJ L 100, 17.4.1997, p. 22.

⁽⁷⁾ OJ L 297, 21.11.1996, p. 1.

⁽⁸⁾ OJ L 102, 25.4.1996, p. 33.