

Official Journal

of the European Union

ISSN 1725-2555

L 108

Volume 47

16 April 2004

English edition

Legislation

Contents

I Acts whose publication is obligatory

Commission Regulation (EC) No 691/2004 of 15 April 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables	1
Commission Regulation (EC) No 692/2004 of 15 April 2004 on the issue of system B export licences in the fruit and vegetables sector (tomatoes)	3
Commission Regulation (EC) No 693/2004 of 15 April 2004 on the issuing of export licences for products processed from fruit and vegetables (sugar-preserved cherries) ...	4
Commission Regulation (EC) No 694/2004 of 15 April 2004 fixing the export refunds on milk and milk products	5
Commission Regulation (EC) No 695/2004 of 15 April 2004 fixing the representative prices and the additional import duties for molasses in the sugar sector	13
Commission Regulation (EC) No 696/2004 of 15 April 2004 fixing the export refunds on white sugar and raw sugar exported in its unaltered state	15
Commission Regulation (EC) No 697/2004 of 15 April 2004 fixing the maximum export refund for white sugar to certain third countries for the 25th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003	17
Commission Regulation (EC) No 698/2004 of 15 April 2004 amending the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty	18
Commission Regulation (EC) No 699/2004 of 15 April 2004 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	20

Commission Regulation (EC) No 700/2004 of 15 April 2004 on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements	24
Commission Regulation (EC) No 701/2004 of 15 April 2004 amending representative prices and additional duties for the import of certain products in the sugar sector	27
Commission Regulation (EC) No 702/2004 of 15 April 2004 fixing the export refunds on olive oil	29
Commission Regulation (EC) No 703/2004 of 15 April 2004 concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1814/2003	31
Commission Regulation (EC) No 704/2004 of 15 April 2004 fixing the export refunds on rice and broken rice and suspending the issue of export licences	32
Commission Regulation (EC) No 705/2004 of 15 April 2004 fixing the import duties in the cereals sector	35

II Acts whose publication is not obligatory

Commission

2004/343/EC:

★ Commission Decision of 16 December 2003 on the aid scheme implemented by France for the takeover of firms in difficulty ⁽¹⁾ (notified under document number C(2003) 4636)	38
---	----

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 691/2004
of 15 April 2004
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⁾, 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 16 April 2004.

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

Done at Brussels, 15 April 2004.

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

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to the Commission Regulation of 15 April 2004 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	88,0
	204	28,8
	212	120,5
	999	79,1
0707 00 05	052	134,0
	220	147,3
	999	140,7
0709 90 70	052	104,5
	204	55,7
	999	80,1
0805 10 10, 0805 10 30, 0805 10 50	052	55,5
	204	42,8
	212	67,7
	220	49,1
	400	43,8
	600	36,6
	999	50,9
0805 50 10	052	41,0
	999	41,0
0808 10 20, 0808 10 50, 0808 10 90	060	34,7
	388	88,1
	400	98,1
	404	100,3
	508	64,7
	512	76,6
	524	67,1
	528	71,3
	720	87,2
	804	117,2
	999	80,5
0808 20 50	388	79,6
	512	86,1
	528	77,5
	999	81,1

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 692/2004**of 15 April 2004****on the issue of system B export licences in the fruit and vegetables sector (tomatoes)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾,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 ⁽²⁾, and in particular Article 6(6) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2214/2003 ⁽³⁾ fixes the indicative quantities for which system B export licences may be issued.
- (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 tomatoes

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 tomatoes after 15 April 2004 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for tomatoes submitted pursuant to Article 1 of Regulation (EC) No 2214/2003, export declarations for which are accepted after 15 and before 30 April 2004, are hereby rejected.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

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

⁽¹⁾ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

⁽²⁾ OJ L 268, 9.10.2001, p. 8. Regulation as last amended by Regulation (EC) No 1176/2002 (OJ L 170, 29.6.2002, p. 69).

⁽³⁾ OJ L 332, 19.12.2003, p. 7.

COMMISSION REGULATION (EC) No 693/2004
of 15 April 2004
on the issuing of export licences for products processed from fruit and vegetables (sugar-preserved cherries)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the market in processed fruit and vegetable products ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1429/95 of 23 June 1995 on implementing rules for export refunds on products processed from fruit and vegetables other than those granted for added sugars ⁽²⁾, and in particular the second subparagraph of Article 4(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 266/2004 ⁽³⁾ fixed the quantities in respect of which applications may be submitted for export licences with advance fixing of the refund.
- (2) Article 4 of Regulation (EC) No 1429/95 fixed the conditions in which special measures may be taken by the Commission with a view to preventing an overrun in the quantities for which export licences may be issued.
- (3) In the light of information now available to the Commission, these quantities would be exceeded if all licences with advance fixing of the refund for the export of

sugar-preserved cherries applied for since 6 April 2004 were issued without restriction. A reducing factor should therefore be applied to the quantities of this product applied for on 6 April 2004 and all applications for export licences with advance fixing of the refund submitted after that date during the same application period should be rejected,

HAS ADOPTED THIS REGULATION:

Article 1

Export licences with advance fixing of the refund for sugar-preserved cherries for which applications were submitted on 6 April 2004 under Article 1 of Regulation (EC) No 266/2004 shall be issued for 64,0 % of the quantities applied for.

Applications for export licences with advance fixing of the refund for sugar-preserved cherries submitted after 6 April 2004 and before 24 April 2004 shall be rejected.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 297, 21.11.1996, p. 29. Regulation as last amended by Commission Regulation (EC) No 453/2002 (OJ L 72, 14.3.2002, p. 9).

⁽²⁾ OJ L 141, 24.6.1995, p. 28. Regulation as last amended by Regulation (EC) 1176/2002 (OJ L 170, 29.6.2002, p. 69).

⁽³⁾ OJ L 46, 17.2.2004, p. 18.

COMMISSION REGULATION (EC) No 694/2004
of 15 April 2004
fixing the export refunds on milk and milk products

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 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 31(3) thereof,

Whereas:

(1) Article 31 of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade 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 within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(2) Regulation (EC) No 1255/1999 provides that when the refunds on the products listed in Article 1 of the above-mentioned Regulation, exported in the natural state, are being fixed, account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, and
- the need to avoid disturbances on the Community market, and
- the economic aspect of the proposed exports.

(3) Article 31(5) of Regulation (EC) No 1255/1999 provides that when prices within the Community are being determined account should be taken of the ruling prices

which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

- (a) prices ruling on third-country markets;
- (b) the most favourable prices in third countries of destination for third-country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and
- (d) free-at-Community-frontier offer prices.

(4) Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination.

(5) Article 31(3) of Regulation (EC) No 1255/1999 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; the amount of the refund may, however, remain at the same level for more than four weeks.

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products ⁽²⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽³⁾, however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 188/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 20, 27.1.1999, p. 8. Regulation as last amended by Regulation (EC) No 1948/2003 (OJ L 287, 5.11.2003, p. 13).

⁽³⁾ OJ L 178, 30.6.2001, p. 1. Regulation as amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

- (7) Commission Regulation (EEC) No 896/84 ⁽¹⁾ laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.
- (8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.
- (9) With a view to enlargement on 1 May 2004 and to encourage the gradual alignment of prices in the new Member States on the Community level, all remaining refunds for exports to the new Member States should be abolished.
- (10) The consolidation of the maximum quantities for export within the limits set in the WTO Agreement will be more binding on the accession of the new Member States. In order to ensure the satisfactory management and optimum use of the maximum quantities for export, steps should therefore be taken to reduce or abolish the refunds for certain destinations, in particular those located in or close to the geographical area of the Community where the level of prices for milk products no longer justify the present level of refund rates, despite the collection of import duty in some of those countries.
- (11) The policy of some non-member countries is to prevent disturbance on the internal market by applying frontier measures. The refunds for certain milk products exported to those destinations should be differentiated in order to reduce the risk of such measures being applied.
- (12) It follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.
- (13) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds referred to in Article 31 of Regulation (EC) No 1255/1999 on products exported in the natural state shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 91, 1.4.1984, p. 71. Regulation as last amended by Regulation (EEC) No 222/88 (OJ L 28, 1.2.1988, p. 1).

ANNEX

to the Commission Regulation of 15 April 2004 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	1,911	0402 21 19 9500	L01	EUR/100 kg	—
0401 10 90 9000	970	EUR/100 kg	1,911		L02	EUR/100 kg	67,98
0401 20 11 9500	970	EUR/100 kg	2,953		A01	EUR/100 kg	87,27
0401 20 19 9500	970	EUR/100 kg	2,953	0402 21 19 9900	L01	EUR/100 kg	—
0401 20 91 9000	970	EUR/100 kg	3,737		L02	EUR/100 kg	72,45
0401 30 11 9400	970	EUR/100 kg	8,624		A01	EUR/100 kg	93,00
0401 30 11 9700	970	EUR/100 kg	12,95	0402 21 91 9100	L01	EUR/100 kg	—
0401 30 31 9100	L01	EUR/100 kg	—		L02	EUR/100 kg	72,90
	L02	EUR/100 kg	22,02		A01	EUR/100 kg	93,58
	A01	EUR/100 kg	31,46	0402 21 91 9200	L01	EUR/100 kg	—
0401 30 31 9400	L01	EUR/100 kg	—		L02	EUR/100 kg	73,33
	L02	EUR/100 kg	34,40		A01	EUR/100 kg	94,13
	A01	EUR/100 kg	49,14	0402 21 91 9350	L01	EUR/100 kg	—
0401 30 31 9700	L01	EUR/100 kg	—		L02	EUR/100 kg	74,08
	L02	EUR/100 kg	37,94		A01	EUR/100 kg	95,09
	A01	EUR/100 kg	54,20	0402 21 91 9500	L01	EUR/100 kg	—
0401 30 39 9100	L01	EUR/100 kg	—		L02	EUR/100 kg	79,62
	L02	EUR/100 kg	22,02		A01	EUR/100 kg	102,20
	A01	EUR/100 kg	31,46	0402 21 99 9100	L01	EUR/100 kg	—
0401 30 39 9400	L01	EUR/100 kg	—		L02	EUR/100 kg	72,90
	L02	EUR/100 kg	34,40		A01	EUR/100 kg	93,58
	A01	EUR/100 kg	49,14	0402 21 99 9200	L01	EUR/100 kg	—
0401 30 39 9700	L01	EUR/100 kg	—		L02	EUR/100 kg	73,33
	L02	EUR/100 kg	37,94		A01	EUR/100 kg	94,13
	A01	EUR/100 kg	54,20	0402 21 99 9300	L01	EUR/100 kg	—
0401 30 91 9100	L01	EUR/100 kg	—		L02	EUR/100 kg	74,08
	L02	EUR/100 kg	43,24		A01	EUR/100 kg	95,09
	A01	EUR/100 kg	61,77	0402 21 99 9400	L01	EUR/100 kg	—
0401 30 99 9100	L01	EUR/100 kg	—		L02	EUR/100 kg	78,19
	L02	EUR/100 kg	43,24		A01	EUR/100 kg	100,37
	A01	EUR/100 kg	61,77	0402 21 99 9500	L01	EUR/100 kg	—
0401 30 99 9500	L01	EUR/100 kg	—		L02	EUR/100 kg	79,62
	L02	EUR/100 kg	63,55		A01	EUR/100 kg	102,20
	A01	EUR/100 kg	90,78	0402 21 99 9600	L01	EUR/100 kg	—
0402 10 11 9000	L01	EUR/100 kg	—		L02	EUR/100 kg	85,23
	L02	EUR/100 kg	33,14		A01	EUR/100 kg	109,41
	A01	EUR/100 kg	40,00	0402 21 99 9700	L01	EUR/100 kg	—
0402 10 19 9000	L01	EUR/100 kg	—		L02	EUR/100 kg	88,41
	L02	EUR/100 kg	33,14		A01	EUR/100 kg	113,49
	A01	EUR/100 kg	40,00	0402 21 99 9900	L01	EUR/100 kg	—
0402 10 91 9000	L01	EUR/kg	—		L02	EUR/100 kg	92,09
	L02	EUR/kg	0,3314		A01	EUR/100 kg	118,21
	A01	EUR/kg	0,4000	0402 29 15 9200	L01	EUR/kg	—
0402 10 99 9000	L01	EUR/kg	—		L02	EUR/kg	0,3314
	L02	EUR/kg	0,3314		A01	EUR/kg	0,4000
	A01	EUR/kg	0,4000	0402 29 15 9300	L01	EUR/kg	—
0402 21 11 9200	L01	EUR/100 kg	—		L02	EUR/kg	0,6514
	L02	EUR/100 kg	33,14		A01	EUR/kg	0,8361
	A01	EUR/100 kg	40,00	0402 29 15 9500	L01	EUR/kg	—
0402 21 11 9300	L01	EUR/100 kg	—		L02	EUR/kg	0,6798
	L02	EUR/100 kg	65,14		A01	EUR/kg	0,8727
	A01	EUR/100 kg	83,61	0402 29 15 9900	L01	EUR/kg	—
0402 21 11 9500	L01	EUR/100 kg	—		L02	EUR/kg	0,7245
	L02	EUR/100 kg	67,98		A01	EUR/kg	0,9300
	A01	EUR/100 kg	87,27	0402 29 19 9300	L01	EUR/kg	—
0402 21 11 9900	L01	EUR/100 kg	—		L02	EUR/kg	0,6514
	L02	EUR/100 kg	72,45		A01	EUR/kg	0,8361
	A01	EUR/100 kg	93,00	0402 29 19 9500	L01	EUR/kg	—
0402 21 17 9000	L01	EUR/100 kg	—		L02	EUR/kg	0,6798
	L02	EUR/100 kg	33,14		A01	EUR/kg	0,8727
	A01	EUR/100 kg	40,00	0402 29 19 9300	L01	EUR/kg	—
0402 21 19 9300	L01	EUR/100 kg	—		L02	EUR/kg	0,6514
	L02	EUR/100 kg	65,14		A01	EUR/kg	0,8361
	A01	EUR/100 kg	83,61	0402 29 19 9500	L01	EUR/kg	—
					L02	EUR/kg	0,6798
					A01	EUR/kg	0,8727

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0402 29 19 9900	L01	EUR/kg	—	0403 90 59 9340	L01	EUR/100 kg	—
	L02	EUR/kg	0,7245		L02	EUR/100 kg	32,22
	A01	EUR/kg	0,9300		A01	EUR/100 kg	46,03
0402 29 91 9000	L01	EUR/kg	—	0403 90 59 9370	L01	EUR/100 kg	—
	L02	EUR/kg	0,7290		L02	EUR/100 kg	32,22
	A01	EUR/kg	0,9358		A01	EUR/100 kg	46,03
0402 29 99 9100	L01	EUR/kg	—	0403 90 59 9510	L01	EUR/100 kg	—
	L02	EUR/kg	0,7290		L02	EUR/100 kg	32,22
	A01	EUR/kg	0,9358		A01	EUR/100 kg	46,03
0402 29 99 9500	L01	EUR/kg	—	0404 90 21 9120	L01	EUR/100 kg	—
	L02	EUR/kg	0,7819		L02	EUR/100 kg	28,26
	A01	EUR/kg	1,0037		A01	EUR/100 kg	34,12
0402 91 11 9370	L01	EUR/100 kg	—	0404 90 21 9160	L01	EUR/100 kg	—
	L02	EUR/100 kg	5,312		L02	EUR/100 kg	33,14
	A01	EUR/100 kg	7,589		A01	EUR/100 kg	40,00
0402 91 19 9370	L01	EUR/100 kg	—	0404 90 23 9120	L01	EUR/100 kg	—
	L02	EUR/100 kg	5,312		L02	EUR/100 kg	33,14
	A01	EUR/100 kg	7,589		A01	EUR/100 kg	40,00
0402 91 31 9300	L01	EUR/100 kg	—	0404 90 23 9130	L01	EUR/100 kg	—
	L02	EUR/100 kg	6,278		L02	EUR/100 kg	65,14
	A01	EUR/100 kg	8,969		A01	EUR/100 kg	83,61
0402 91 39 9300	L01	EUR/100 kg	—	0404 90 23 9140	L01	EUR/100 kg	—
	L02	EUR/100 kg	6,278		L02	EUR/100 kg	67,98
	A01	EUR/100 kg	8,969		A01	EUR/100 kg	87,27
0402 91 99 9000	L01	EUR/100 kg	—	0404 90 23 9150	L01	EUR/100 kg	—
	L02	EUR/100 kg	26,57		L02	EUR/100 kg	72,45
	A01	EUR/100 kg	37,96		A01	EUR/100 kg	93,00
0402 99 11 9350	L01	EUR/kg	—	0404 90 29 9110	L01	EUR/100 kg	—
	L02	EUR/kg	0,1359		L02	EUR/100 kg	72,90
	A01	EUR/kg	0,1941		A01	EUR/100 kg	93,58
0402 99 19 9350	L01	EUR/kg	—	0404 90 29 9115	L01	EUR/100 kg	—
	L02	EUR/kg	0,1359		L02	EUR/100 kg	73,33
	A01	EUR/kg	0,1941		A01	EUR/100 kg	94,13
0402 99 31 9150	L01	EUR/kg	—	0404 90 29 9125	L01	EUR/100 kg	—
	L02	EUR/kg	0,1410		L02	EUR/100 kg	74,08
	A01	EUR/kg	0,2014		A01	EUR/100 kg	95,09
0402 99 31 9300	L01	EUR/kg	—	0404 90 29 9140	L01	EUR/100 kg	—
	L02	EUR/kg	0,1590		L02	EUR/100 kg	79,62
	A01	EUR/kg	0,2271		A01	EUR/100 kg	102,20
0402 99 39 9150	L01	EUR/kg	—	0404 90 81 9100	L01	EUR/kg	—
	L02	EUR/kg	0,1410		L02	EUR/kg	0,3314
	A01	EUR/kg	0,2014		A01	EUR/kg	0,4000
0403 90 11 9000	L01	EUR/100 kg	—	0404 90 83 9110	L01	EUR/kg	—
	L02	EUR/100 kg	32,67		L02	EUR/kg	0,3314
	A01	EUR/100 kg	39,43		A01	EUR/kg	0,4000
0403 90 13 9200	L01	EUR/100 kg	—	0404 90 83 9130	L01	EUR/kg	—
	L02	EUR/100 kg	32,67		L02	EUR/kg	0,6514
	A01	EUR/100 kg	39,43		A01	EUR/kg	0,8361
0403 90 13 9300	L01	EUR/100 kg	—	0404 90 83 9150	L01	EUR/kg	—
	L02	EUR/100 kg	64,56		L02	EUR/kg	0,6798
	A01	EUR/100 kg	82,87		A01	EUR/kg	0,8727
0403 90 13 9500	L01	EUR/100 kg	—	0404 90 83 9170	L01	EUR/kg	—
	L02	EUR/100 kg	67,38		L02	EUR/kg	0,7245
	A01	EUR/100 kg	86,49		A01	EUR/kg	0,9300
0403 90 13 9900	L01	EUR/100 kg	—	0404 90 83 9936	L01	EUR/kg	—
	L02	EUR/100 kg	71,81		L02	EUR/kg	0,1359
	A01	EUR/100 kg	92,17		A01	EUR/kg	0,1941
0403 90 19 9000	L01	EUR/100 kg	—	0405 10 11 9500	L01	EUR/100 kg	—
	L02	EUR/100 kg	72,24		075	EUR/100 kg	131,54
	A01	EUR/100 kg	92,73		L02	EUR/100 kg	108,54
0403 90 33 9400	L01	EUR/kg	—	A01	EUR/100 kg	146,34	
	L02	EUR/kg	0,6456	0405 10 11 9700	L01	EUR/100 kg	—
	A01	EUR/kg	0,8287		075	EUR/100 kg	134,83
L01	EUR/kg	—	L02		EUR/100 kg	111,25	
0403 90 33 9900	L02	EUR/kg	0,7181	A01	EUR/100 kg	150,00	
	A01	EUR/kg	0,9217	0405 10 19 9500	L01	EUR/100 kg	—
	L01	EUR/100 kg	1,911		075	EUR/100 kg	131,54
L02	EUR/100 kg	12,95	L02		EUR/100 kg	108,54	
0403 90 51 9100	970	EUR/100 kg	1,911	A01	EUR/100 kg	146,34	
0403 90 59 9170	970	EUR/100 kg	12,95				
0403 90 59 9310	L01	EUR/100 kg	—				
	L02	EUR/100 kg	22,02				
	A01	EUR/100 kg	31,46				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund	
0405 10 19 9700	L01	EUR/100 kg	—	0406 10 20 9620	L03	EUR/100 kg	—	
	075	EUR/100 kg	134,83		L04	EUR/100 kg	34,75	
	L02	EUR/100 kg	111,25		075	EUR/100 kg	36,92	
	A01	EUR/100 kg	150,00		400	EUR/100 kg	—	
0405 10 30 9100	L01	EUR/100 kg	—	0406 10 20 9630	A01	EUR/100 kg	43,43	
	075	EUR/100 kg	131,54		L03	EUR/100 kg	—	
	L02	EUR/100 kg	108,54		L04	EUR/100 kg	38,80	
	A01	EUR/100 kg	146,34		075	EUR/100 kg	41,21	
0405 10 30 9300	L01	EUR/100 kg	—	0406 10 20 9640	400	EUR/100 kg	—	
	075	EUR/100 kg	134,83		A01	EUR/100 kg	48,48	
	L02	EUR/100 kg	111,25		L03	EUR/100 kg	—	
	A01	EUR/100 kg	150,00		L04	EUR/100 kg	57,00	
0405 10 30 9700	L01	EUR/100 kg	—	0406 10 20 9650	075	EUR/100 kg	60,57	
	075	EUR/100 kg	134,83		400	EUR/100 kg	—	
	L02	EUR/100 kg	111,25		A01	EUR/100 kg	71,26	
	A01	EUR/100 kg	150,00		L03	EUR/100 kg	—	
0405 10 50 9300	L01	EUR/100 kg	—	0406 10 20 9650	L04	EUR/100 kg	47,50	
	075	EUR/100 kg	134,83		075	EUR/100 kg	50,47	
	L02	EUR/100 kg	111,25		400	EUR/100 kg	—	
	A01	EUR/100 kg	150,00		A01	EUR/100 kg	59,37	
0405 10 50 9500	L01	EUR/100 kg	—	0406 10 20 9830	L03	EUR/100 kg	—	
	075	EUR/100 kg	131,54		L04	EUR/100 kg	17,62	
	L02	EUR/100 kg	108,54		075	EUR/100 kg	18,73	
	A01	EUR/100 kg	146,34		400	EUR/100 kg	—	
0405 10 50 9700	L01	EUR/100 kg	—	0406 10 20 9850	A01	EUR/100 kg	22,03	
	075	EUR/100 kg	134,83		L03	EUR/100 kg	—	
	L02	EUR/100 kg	111,25		L04	EUR/100 kg	21,36	
	A01	EUR/100 kg	150,00		075	EUR/100 kg	22,70	
0405 10 90 9000	L01	EUR/100 kg	—	0406 10 20 9850	400	EUR/100 kg	—	
	075	EUR/100 kg	139,77		A01	EUR/100 kg	26,71	
	L02	EUR/100 kg	115,32		0406 20 90 9100	A00	EUR/100 kg	—
	A01	EUR/100 kg	155,49		0406 20 90 9913	L03	EUR/100 kg	—
0405 20 90 9500	L01	EUR/100 kg	—	0406 20 90 9913	L04	EUR/100 kg	39,39	
	075	EUR/100 kg	123,34		075	EUR/100 kg	41,85	
	L02	EUR/100 kg	101,76		400	EUR/100 kg	14,39	
	A01	EUR/100 kg	137,21		A01	EUR/100 kg	49,24	
0405 20 90 9700	L01	EUR/100 kg	—	0406 20 90 9915	L03	EUR/100 kg	—	
	075	EUR/100 kg	128,26		L04	EUR/100 kg	51,99	
	L02	EUR/100 kg	105,82		075	EUR/100 kg	55,24	
	A01	EUR/100 kg	142,69		400	EUR/100 kg	19,17	
0405 90 10 9000	L01	EUR/100 kg	—	0406 20 90 9917	A01	EUR/100 kg	64,99	
	075	EUR/100 kg	170,78		L03	EUR/100 kg	—	
	L02	EUR/100 kg	140,92		L04	EUR/100 kg	55,25	
	A01	EUR/100 kg	190,00		075	EUR/100 kg	58,71	
0405 90 90 9000	L01	EUR/100 kg	—	0406 20 90 9919	400	EUR/100 kg	20,38	
	075	EUR/100 kg	136,60		A01	EUR/100 kg	69,06	
	L02	EUR/100 kg	112,71		L03	EUR/100 kg	—	
	A01	EUR/100 kg	151,96		L04	EUR/100 kg	61,73	
0406 10 20 9100	A00	EUR/100 kg	—	0406 20 90 9919	075	EUR/100 kg	65,61	
0406 10 20 9230	L03	EUR/100 kg	—		400	EUR/100 kg	22,74	
L04	EUR/100 kg	25,26	A01		EUR/100 kg	77,18		
075	EUR/100 kg	26,84	L03		EUR/100 kg	—		
0406 10 20 9290	400	EUR/100 kg	—	0406 30 31 9710	L04	EUR/100 kg	5,20	
	A01	EUR/100 kg	31,57		075	EUR/100 kg	10,33	
	L03	EUR/100 kg	—		400	EUR/100 kg	—	
	L04	EUR/100 kg	23,50		A01	EUR/100 kg	12,15	
0406 10 20 9300	075	EUR/100 kg	24,96	0406 30 31 9730	L03	EUR/100 kg	—	
	400	EUR/100 kg	—		L04	EUR/100 kg	7,61	
	A01	EUR/100 kg	29,37		075	EUR/100 kg	15,16	
	L03	EUR/100 kg	—		400	EUR/100 kg	—	
0406 10 20 9610	L04	EUR/100 kg	10,31	0406 30 31 9730	A01	EUR/100 kg	17,84	
	075	EUR/100 kg	10,95		L03	EUR/100 kg	—	
	400	EUR/100 kg	—		L04	EUR/100 kg	7,61	
	A01	EUR/100 kg	12,88		075	EUR/100 kg	15,16	
0406 10 20 9610	L03	EUR/100 kg	—	0406 30 31 9730	400	EUR/100 kg	—	
	L04	EUR/100 kg	34,26		A01	EUR/100 kg	17,84	
	075	EUR/100 kg	36,40		L03	EUR/100 kg	—	
	400	EUR/100 kg	—		L04	EUR/100 kg	7,61	
0406 10 20 9610	A01	EUR/100 kg	42,83	0406 30 31 9730	075	EUR/100 kg	15,16	
	L03	EUR/100 kg	—		400	EUR/100 kg	—	
	L04	EUR/100 kg	34,26		A01	EUR/100 kg	17,84	
	075	EUR/100 kg	36,40		L03	EUR/100 kg	—	
0406 10 20 9610	400	EUR/100 kg	—	0406 30 31 9730	L04	EUR/100 kg	7,61	
	A01	EUR/100 kg	42,83		075	EUR/100 kg	15,16	
	L03	EUR/100 kg	—		400	EUR/100 kg	—	
	L04	EUR/100 kg	34,26		A01	EUR/100 kg	17,84	

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 30 31 9910	L03	EUR/100 kg	—	0406 90 23 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	5,20		L04	EUR/100 kg	60,58
	075	EUR/100 kg	10,33		075	EUR/100 kg	74,02
	400	EUR/100 kg	—		400	EUR/100 kg	—
0406 30 31 9930	A01	EUR/100 kg	12,15	0406 90 25 9900	A01	EUR/100 kg	87,08
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	7,61		L04	EUR/100 kg	60,17
	075	EUR/100 kg	15,16		075	EUR/100 kg	73,22
0406 30 31 9950	400	EUR/100 kg	—	0406 90 27 9900	400	EUR/100 kg	—
	A01	EUR/100 kg	17,84		A01	EUR/100 kg	86,14
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	11,07		L04	EUR/100 kg	54,50
0406 30 39 9500	075	EUR/100 kg	22,05	0406 90 31 9119	075	EUR/100 kg	66,31
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	25,94		A01	EUR/100 kg	78,02
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
0406 30 39 9700	L04	EUR/100 kg	7,61	0406 90 33 9119	L04	EUR/100 kg	50,09
	075	EUR/100 kg	15,16		075	EUR/100 kg	61,04
	400	EUR/100 kg	—		400	EUR/100 kg	11,62
	A01	EUR/100 kg	17,84		A01	EUR/100 kg	71,82
0406 30 39 9930	L03	EUR/100 kg	—	0406 90 33 9919	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,07		L04	EUR/100 kg	50,09
	075	EUR/100 kg	22,05		075	EUR/100 kg	61,04
	400	EUR/100 kg	—		400	EUR/100 kg	11,62
0406 30 39 9950	A01	EUR/100 kg	25,94	0406 90 33 9951	A01	EUR/100 kg	71,82
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	12,52		L04	EUR/100 kg	45,77
	075	EUR/100 kg	24,93		075	EUR/100 kg	55,99
0406 30 90 9000	400	EUR/100 kg	—	0406 90 35 9190	400	EUR/100 kg	—
	A01	EUR/100 kg	29,33		A01	EUR/100 kg	65,86
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	13,13		L04	EUR/100 kg	46,24
0406 40 50 9000	075	EUR/100 kg	26,15	0406 90 35 9990	075	EUR/100 kg	56,03
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	30,77		A01	EUR/100 kg	65,91
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
0406 40 90 9000	L04	EUR/100 kg	60,33	0406 90 37 9000	L04	EUR/100 kg	70,86
	075	EUR/100 kg	64,11		075	EUR/100 kg	86,60
	400	EUR/100 kg	—		400	EUR/100 kg	27,94
	A01	EUR/100 kg	75,42		A01	EUR/100 kg	101,87
0406 90 13 9000	L03	EUR/100 kg	—	0406 90 61 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	61,96		L04	EUR/100 kg	70,86
	075	EUR/100 kg	65,82		075	EUR/100 kg	86,60
	400	EUR/100 kg	—		400	EUR/100 kg	18,27
0406 90 15 9100	A01	EUR/100 kg	77,44	0406 90 63 9100	A01	EUR/100 kg	101,87
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	68,13		L04	EUR/100 kg	68,13
	075	EUR/100 kg	82,88		075	EUR/100 kg	82,88
0406 90 17 9100	400	EUR/100 kg	27,40	0406 90 63 9100	400	EUR/100 kg	27,40
	A01	EUR/100 kg	97,51		A01	EUR/100 kg	97,51
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	70,40		L04	EUR/100 kg	75,07
0406 90 21 9900	075	EUR/100 kg	85,65	0406 90 63 9100	075	EUR/100 kg	92,33
	400	EUR/100 kg	28,24		400	EUR/100 kg	26,01
	A01	EUR/100 kg	100,76		A01	EUR/100 kg	108,62
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
0406 90 21 9900	L04	EUR/100 kg	70,40	0406 90 63 9100	L04	EUR/100 kg	74,69
	075	EUR/100 kg	85,65		075	EUR/100 kg	91,57
	400	EUR/100 kg	28,24		400	EUR/100 kg	29,08
	A01	EUR/100 kg	100,76		A01	EUR/100 kg	107,73
0406 90 21 9900	L03	EUR/100 kg	—				
	L04	EUR/100 kg	68,99				
	075	EUR/100 kg	83,73				
	400	EUR/100 kg	20,26				
0406 90 21 9900	A01	EUR/100 kg	98,50				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund	
0406 90 63 9900	L03	EUR/100 kg	—	0406 90 86 9200	L03	EUR/100 kg	—	
	L04	EUR/100 kg	71,80		L04	EUR/100 kg	57,77	
	075	EUR/100 kg	88,45		075	EUR/100 kg	72,83	
	400	EUR/100 kg	22,25		400	EUR/100 kg	14,16	
	A01	EUR/100 kg	104,05		A01	EUR/100 kg	85,68	
0406 90 69 9100	A00	EUR/100 kg	—	0406 90 86 9300	L03	EUR/100 kg	—	
0406 90 69 9910	L03	EUR/100 kg	—		L04	EUR/100 kg	58,60	
	L04	EUR/100 kg	71,80		075	EUR/100 kg	73,59	
	075	EUR/100 kg	88,45		400	EUR/100 kg	15,53	
	400	EUR/100 kg	22,25		A01	EUR/100 kg	86,58	
	A01	EUR/100 kg	104,05	0406 90 86 9400	L03	EUR/100 kg	—	
0406 90 73 9900	L03	EUR/100 kg	—		L04	EUR/100 kg	62,25	
	L04	EUR/100 kg	62,53		075	EUR/100 kg	77,36	
	075	EUR/100 kg	76,15		400	EUR/100 kg	17,57	
	400	EUR/100 kg	23,94		A01	EUR/100 kg	91,02	
	A01	EUR/100 kg	89,59	0406 90 86 9900	L03	EUR/100 kg	—	
0406 90 75 9900	L03	EUR/100 kg	—		L04	EUR/100 kg	68,67	
	L04	EUR/100 kg	62,96		075	EUR/100 kg	83,97	
	075	EUR/100 kg	76,98		400	EUR/100 kg	20,57	
	400	EUR/100 kg	10,11		A01	EUR/100 kg	98,80	
	A01	EUR/100 kg	90,55	0406 90 87 9100	A00	EUR/100 kg	—	
0406 90 76 9300	L03	EUR/100 kg	—		0406 90 87 9200	L03	EUR/100 kg	—
	L04	EUR/100 kg	56,77			L04	EUR/100 kg	48,15
	075	EUR/100 kg	69,08			075	EUR/100 kg	60,67
	400	EUR/100 kg	—			400	EUR/100 kg	12,67
	A01	EUR/100 kg	81,27	A01		EUR/100 kg	71,38	
0406 90 76 9400	L03	EUR/100 kg	—	0406 90 87 9300	L03	EUR/100 kg	—	
	L04	EUR/100 kg	63,58		L04	EUR/100 kg	53,80	
	075	EUR/100 kg	77,36		075	EUR/100 kg	67,59	
	400	EUR/100 kg	10,52		400	EUR/100 kg	14,30	
	A01	EUR/100 kg	91,02		A01	EUR/100 kg	79,51	
0406 90 76 9500	L03	EUR/100 kg	—	0406 90 87 9400	L03	EUR/100 kg	—	
	L04	EUR/100 kg	60,49		L04	EUR/100 kg	55,21	
	075	EUR/100 kg	72,97		075	EUR/100 kg	68,61	
	400	EUR/100 kg	10,52		400	EUR/100 kg	15,67	
	A01	EUR/100 kg	85,85		A01	EUR/100 kg	80,72	
0406 90 78 9100	L03	EUR/100 kg	—	0406 90 87 9951	L03	EUR/100 kg	—	
	L04	EUR/100 kg	58,66		L04	EUR/100 kg	62,44	
	075	EUR/100 kg	72,84		075	EUR/100 kg	75,98	
	400	EUR/100 kg	—		400	EUR/100 kg	21,65	
	A01	EUR/100 kg	85,69		A01	EUR/100 kg	89,39	
0406 90 78 9300	L03	EUR/100 kg	—	0406 90 87 9971	L03	EUR/100 kg	—	
	L04	EUR/100 kg	62,20		L04	EUR/100 kg	62,44	
	075	EUR/100 kg	75,48		075	EUR/100 kg	75,98	
	400	EUR/100 kg	—		400	EUR/100 kg	17,57	
	A01	EUR/100 kg	88,81		A01	EUR/100 kg	89,39	
0406 90 78 9500	L03	EUR/100 kg	—	0406 90 87 9972	L03	EUR/100 kg	—	
	L04	EUR/100 kg	61,61		L04	EUR/100 kg	26,61	
	075	EUR/100 kg	74,33		075	EUR/100 kg	32,51	
	400	EUR/100 kg	—		400	EUR/100 kg	—	
	A01	EUR/100 kg	87,45		A01	EUR/100 kg	38,25	
0406 90 79 9900	L03	EUR/100 kg	—	0406 90 87 9973	L03	EUR/100 kg	—	
	L04	EUR/100 kg	50,30		L04	EUR/100 kg	61,32	
	075	EUR/100 kg	61,44		075	EUR/100 kg	74,60	
	400	EUR/100 kg	—		400	EUR/100 kg	12,33	
	A01	EUR/100 kg	72,29		A01	EUR/100 kg	87,77	
0406 90 81 9900	L03	EUR/100 kg	—	0406 90 85 9930	L03	EUR/100 kg	—	
	L04	EUR/100 kg	63,58		L04	EUR/100 kg	68,67	
	075	EUR/100 kg	77,36		075	EUR/100 kg	83,97	
	400	EUR/100 kg	21,64		400	EUR/100 kg	26,97	
	A01	EUR/100 kg	91,02		A01	EUR/100 kg	98,80	
0406 90 85 9930	L03	EUR/100 kg	—	0406 90 85 9970	L03	EUR/100 kg	—	
	L04	EUR/100 kg	68,67		L04	EUR/100 kg	62,96	
	075	EUR/100 kg	83,97		075	EUR/100 kg	76,98	
	400	EUR/100 kg	26,97		400	EUR/100 kg	23,60	
	A01	EUR/100 kg	98,80		A01	EUR/100 kg	90,55	
0406 90 85 9970	L03	EUR/100 kg	—	0406 90 86 9100	A00	EUR/100 kg	—	
	L04	EUR/100 kg	62,96					
	075	EUR/100 kg	76,98					
	400	EUR/100 kg	23,60					
	A01	EUR/100 kg	90,55					
A00	EUR/100 kg	—						

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9974	L03	EUR/100 kg	—	0406 90 87 9979	L03	EUR/100 kg	—
	L04	EUR/100 kg	66,55		L04	EUR/100 kg	60,58
	075	EUR/100 kg	80,62		075	EUR/100 kg	74,02
	400	EUR/100 kg	12,33		400	EUR/100 kg	12,33
	A01	EUR/100 kg	94,84		A01	EUR/100 kg	87,08
0406 90 87 9975	L03	EUR/100 kg	—	0406 90 88 9100	A00	EUR/100 kg	—
	L04	EUR/100 kg	67,87	0406 90 88 9300	L03	EUR/100 kg	—
	075	EUR/100 kg	81,51	L04	EUR/100 kg	47,53	
	400	EUR/100 kg	16,34	075	EUR/100 kg	59,48	
	A01	EUR/100 kg	95,90	400	EUR/100 kg	15,53	
				A01	EUR/100 kg	69,98	

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 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

L01 Holy See, Malta, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Slovenia, Cyprus and the United States of America,

L02 Andorra and Gibraltar,

L03 Ceuta, Melilla, Iceland, Norway, Switzerland, Liechtenstein, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Malta, Turkey, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Slovenia, Croatia, Canada, Cyprus, Australia and New Zealand,

L04 Albania, Bosnia and Herzegovina, Serbia and Montenegro and the Former Yugoslav Republic of Macedonia.

'970' includes the exports referred to in Articles 36(1)(a) and (c) and 44(1)(a) and (b) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11) and exports under contracts with armed forces stationed on the territory of a Member State which do not come under its flag.

COMMISSION REGULATION (EC) No 695/2004

of 15 April 2004

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⁾,

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 ⁽²⁾, 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 ⁽³⁾. 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 16 April 2004.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 141, 24.6.1995 p. 12. Regulation as amended by Commission Regulation (EC) No 79/2003 (OJ L 13, 18.1.2003, p. 4).

⁽³⁾ 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, 15 April 2004.

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

ANNEX

to the Commission Regulation of 15 April 2004 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⁾	7,04	0,02	—
1703 90 00 ⁽¹⁾	9,40	—	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 696/2004

of 15 April 2004

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

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⁾, and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.
- (3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of that Regulation. Candy sugar is defined in 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 ⁽²⁾. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.
- (4) In special cases, the amount of the refund may be fixed by other legal instruments.
- (5) The refund must be fixed every two weeks. It may be altered in the intervening period.
- (6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial.
- (8) To prevent any abuse through the re-import into the Community of sugar products in receipt of an export refund, no refund should be set for all the countries of the western Balkans for the products covered by this Regulation.
- (9) Import duties and export refunds still apply to certain sugar products traded between the Community, of the one part, and the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, hereinafter referred to as 'new Member States', of the other part, and the level of export refunds is appreciably greater than the level of import duties. In view of the accession of these countries to the Community on 1 May 2004, the appreciable gap between the level of import duties and the level of export refunds granted for the products in question may result in speculative trade flows.
- (10) To prevent any abuse through the re-import or re-introduction into the Community of sugar products in receipt of an export refund, no refund or levy should be set for all the new Member States for the products covered by this Regulation.
- (11) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be set at the appropriate amounts.
- (12) 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 export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 April 2004.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

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

Done at Brussels, 15 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

**REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING
APPLICABLE FROM 16 APRIL 2004**

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	43,62 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	42,14 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	43,62 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	42,14 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4742
1701 99 10 9100	S00	EUR/100 kg	47,42
1701 99 10 9910	S00	EUR/100 kg	45,81
1701 99 10 9950	S00	EUR/100 kg	45,81
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4742

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).

The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

The other destinations are:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 697/2004
of 15 April 2004

fixing the maximum export refund for white sugar to certain third countries for the 25th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003

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⁾, and in particular Article 27(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1290/2003 of 18 July 2003 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽²⁾, for the 2003/2004 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.
- (2) Pursuant to Article 9(1) of Regulation (EC) No 1290/2003 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 1290/2003 the maximum amount of the export refund to certain third countries is fixed at 48,948 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 181, 19.7.2003, p. 7. Regulation as amended by Regulation (EC) No 2126/2003 (OJ L 319, 4.12.2003, p. 4).

COMMISSION REGULATION (EC) No 698/2004
of 15 April 2004

amending 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 17 May 1999 on the common organisation of the markets in the milk and milk products sector ⁽¹⁾, and in particular Article 31(3) thereof,

Whereas:

- (1) The rates of the refunds applicable from 7 April 2004 to the products listed in the Annex, exported in the form of goods not covered by Annex I to the Treaty, were fixed by Commission Regulation (EC) No 646/2004 ⁽²⁾.

- (2) It follows from applying the rules and criteria contained in Regulation (EC) No 646/2004 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of refund fixed by Regulation (EC) No 646/2004 are hereby altered as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 1787/2003 (OJ L 270, 21.10.2003, p. 121).

⁽²⁾ OJ L 102, 7.4.2004, p. 42.

ANNEX

Rates of the refunds applicable from 16 April 2004 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	
		In case of advance fixing of refunds	Other
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	28,00	40,00
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	35,15	50,21
	(b) on exportation of other goods	65,10	93,00
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	45,50	65,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	110,08	157,25
	(c) on exportation of other goods	105,00	150,00

**COMMISSION REGULATION (EC) No 699/2004
of 15 April 2004**

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⁾, 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 ⁽²⁾, 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 ⁽³⁾, 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) Taking into account the settlement between the European Community and the United States of America on Community exports of pasta products to the United States, approved by Council Decision 87/482/EEC ⁽⁴⁾, 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, 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 ⁽⁵⁾, 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 to the Act of Accession of the United Kingdom, Ireland and Denmark provides 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) In accordance with Council Regulations (EC) No 1039/2003 ⁽⁶⁾, (EC) No 1086/2003 ⁽⁷⁾, (EC) No 1087/2003 ⁽⁸⁾, (EC) No 1088/2003 ⁽⁹⁾, (EC) No 1089/2003 ⁽¹⁰⁾ and (EC) No 1090/2003 ⁽¹¹⁾ the Council adopted autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia, Slovenia, Latvia, Lithuania, Slovakia and the Czech Republic and the exportation of certain processed agricultural products to those countries. Those regulations provide that with effect from 1 July 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Estonia, Slovenia, Latvia, Lithuania, Slovakia or the Czech Republic shall not be eligible for export refunds.

⁽⁴⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁵⁾ OJ L 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 216/2004 (OJ L 36, 7.2.2004, p. 13).

⁽⁶⁾ OJ L 151, 19.6.2003, p. 1.

⁽⁷⁾ OJ L 163, 1.7.2003, p. 1.

⁽⁸⁾ OJ L 163, 1.7.2003, p. 19.

⁽⁹⁾ OJ L 163, 1.7.2003, p. 38.

⁽¹⁰⁾ OJ L 163, 1.7.2003, p. 56.

⁽¹¹⁾ OJ L 163, 1.7.2003, p. 73.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1784/2003 (OJ L 270, 21.10.2003, p. 78).

⁽²⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽³⁾ OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 543/2004 (OJ L 87, 25.3.2004, p. 8).

- (9) Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary⁽¹⁾, provides that with effect from 1 July 2003, the goods referred to in Article 1(2) thereof which are exported to Hungary shall not be eligible for export refunds.
- (10) Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta⁽²⁾, provides that with effect from 1 November 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Malta shall not be eligible for export refunds.
- (11) With a view to enlargement of the European Union on 1 May 2004, the setting of all remaining export refunds has been discontinued in the cereals and rice sector, in relation to the Annex I processed products concerned when exported to the acceding States.
- (12) Therefore, with effect from 7 April 2004 no refund should be set for certain cereal and rice products exported in the form of goods not covered by Annex I to the Treaty when exported to Cyprus and Poland and for the goods which are not referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary.
- (13) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (14) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed 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 Regulation (EC) No 3072/95 respectively, are fixed as shown in the Annex to this Regulation.

Article 2

1. Without prejudice to Article 1 and with effect from 1 July 2003, the rates set out in the Annex are not applicable to goods not covered by Annex I to the Treaty when exported to the Czech Republic, Estonia, Latvia, Lithuania, Slovakia or Slovenia nor to the goods referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary.

With effect from 1 November 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Malta.

2. Without prejudice to Article 1 and with effect from 7 April 2004 no rates of refund shall be set in respect of goods not covered by Annex I to the Treaty when exported to Cyprus and Poland and in respect of goods which are not referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary.

Article 3

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 146, 13.6.2003, p. 10.

⁽²⁾ OJ L 278, 29.10.2003, p. 1.

ANNEX

Rates of the refunds applicable from 16 April 2004 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	—	—
1003 00 90	Barley		
	– where goods falling within subheading 2208 ⁽⁴⁾ 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⁾	1,370	1,370
	– – where goods falling within subheading 2208 ⁽³⁾ are exported	—	—
	– – in other cases	1,370	1,370
	– 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⁾	1,028	1,028
	– – where goods falling within subheading 2208 ⁽²⁾ are exported	—	—
	– – in other cases	1,028	1,028
	– where goods falling within subheading 2208 ⁽²⁾ are exported	—	—
	– other (including unprocessed)	1,370	1,370
	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 ⁽³⁾	1,370	1,370
	– – where goods falling within subheading 2208 ⁽³⁾ are exported	—	—
	– in other cases	1,370	1,370

(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	4,300	4,300
	– medium grain	4,300	4,300
	– long grain	4,300	4,300
1006 40 00	Broken rice	—	1,800
1007 00 90	Grain sorghum, other than hybrid for sowing	—	—

⁽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 to 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 to 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 700/2004**of 15 April 2004****on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements**

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⁾

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations ⁽²⁾,

Having regard to Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 ⁽³⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Article 9 of Regulation (EC) No 1159/2003 stipulates how the delivery obligations at zero duty of products of CN code 1701, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.
- (2) Article 16 of Regulation (EC) No 1159/2003 stipulates how the zero duty tariff quotas for products of CN code 1701 11 10, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.

(3) Article 22 of Regulation (EC) No 1159/2003 opens tariff quotas at a duty of EUR 98 per tonne for products of CN code 1701 11 10 for imports originating in Brazil, Cuba and other third countries.

(4) In the week of 5 to 9 April 2004 applications were presented to the competent authorities in line with Article 5(1) of Regulation (EC) No 1159/2003 for import licences for a total quantity exceeding a country's delivery obligation quantity of ACP-India preferential sugar determined under Article 9 of that Regulation.

(5) In these circumstances the Commission must set reduction coefficients to be used so that licences are issued for quantities scaled down in proportion to the total available and must indicate that the limit in question has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of import licence applications presented from 5 to 9 April 2004 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 2).

⁽²⁾ OJ L 146, 20.6.1996, p. 1.

⁽³⁾ OJ L 162, 1.7.2003, p. 25. Regulation as amended by Regulation (EC) No 96/2004 (OJ L 15, 22.1.2004, p. 3).

ANNEX

ACP-India Preferential Sugar**Title II of Regulation (EC) No 1159/2003****2003/04 marketing year**

Country	Week of 5 to 9 April 2004: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	0	reached
Congo	0	reached
Fiji	100	
Guyana	100	
India	0	reached
Côte d'Ivoire	100	
Jamaica	100	
Kenya	100	
Madagascar	100	
Malawi	48,3194	reached
Mauritius	0	reached
Saint Kitts and Nevis	100	
Swaziland	100	
Tanzania	100	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	0	reached

Special Preferential Sugar**Title III of Regulation (EC) No 1159/2003****2003/04 marketing year**

Quota opened for the Member States referred to in Article 39 of Regulation (EC) No 1260/2001, except Slovenia

Country	Week of 5 to 9 April 2004: percentage of requested quantity to be granted	Limit
India	100	
ACP	100	

Special Preferential Sugar**Title III of Regulation (EC) No 1159/2003****2003/04 marketing year****Quota opened for Slovenia**

Country	Week of 5 to 9 April 2004: percentage of requested quantity to be granted	Limit
ACP	100	

CXL concessions sugar
Title IV of Regulation (EC) No 1159/2003
2003/04 marketing year

Country	Week of 5 to 9 April 2004: percentage of requested quantity to be granted	Limit
Brazil	0	reached
Cuba	100	
Other third countries	0	reached

COMMISSION REGULATION (EC) No 701/2004
of 15 April 2004
amending representative prices and additional duties for the import of certain products 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 markets in the sugar sector ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽²⁾, and in particular the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1166/2003 ⁽³⁾.

- (2) It follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 141, 24.6.1995, p. 16. Regulation as last amended by Regulation (EC) No 624/98 (OJ L 85, 20.3.1998, p. 5).

⁽³⁾ OJ L 162, 1.7.2003, p. 57. Regulation as last amended by Regulation (EC) No 548/2004 (OJ L 87, 24.3.2004, p. 18).

ANNEX

to the Commission Regulation of 15 April 2004 altering representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(EUR)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	16,71	7,95
1701 11 90 ⁽¹⁾	16,71	14,25
1701 12 10 ⁽¹⁾	16,71	7,76
1701 12 90 ⁽¹⁾	16,71	13,73
1701 91 00 ⁽²⁾	21,26	15,52
1701 99 10 ⁽²⁾	21,26	10,08
1701 99 90 ⁽²⁾	21,26	10,08
1702 90 99 ⁽³⁾	0,21	0,43

⁽¹⁾ For the standard quality as defined in Annex I, point II, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽²⁾ For the standard quality as defined in Annex I, point I, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 702/2004
of 15 April 2004
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats ⁽¹⁾, and in particular Article 3(3) thereof,

Whereas:

- (1) Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries.
- (2) The detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72 ⁽²⁾.
- (3) Article 3(3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community.
- (4) In accordance with Article 3(4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market. However, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period. The amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market.

- (5) In accordance with Article 3(3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender. The tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations.
- (6) The second indent of Article 3(3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The refund must be fixed at least once every month. It may, if necessary, be altered in the intervening period.
- (8) It follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto.
- (9) The Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 172, 30.9.1966, p. 3025/66. Regulation as last amended by Regulation (EC) No 1513/2001 (OJ L 201, 26.7.2001, p. 4).

⁽²⁾ OJ L 78, 31.3.1972, p. 1. Regulation as last amended by Regulation (EEC) No 2962/77 (OJ L 348, 30.12.1977, p. 53).

ANNEX

to the Commission Regulation of 15 April 2004 fixing the export refunds on olive oil

Product code	Destination	Unit of measurement	Amount of refund
1509 10 90 9100	A00	EUR/100 kg	0,00
1509 10 90 9900	A00	EUR/100 kg	0,00
1509 90 00 9100	A00	EUR/100 kg	0,00
1509 90 00 9900	A00	EUR/100 kg	0,00
1510 00 90 9100	A00	EUR/100 kg	0,00
1510 00 90 9900	A00	EUR/100 kg	0,00

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 2081/2003 (OJ L 313, 28.11.2003, p. 11).

COMMISSION REGULATION (EC) No 703/2004**of 15 April 2004****concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1814/2003**

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⁾,

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 ⁽²⁾, and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1814/2003 of 15 October 2003 on a special intervention measure for cereals in Finland and Sweden for the marketing year 2003/04 ⁽³⁾, and in particular Article 9 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland and Sweden to all third countries, with the exception of Bulgaria, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Czech Republic, Romania, Slovakia and Slovenia was opened pursuant to Regulation (EC) No 1814/2003.

(2) According to Article 9 of Regulation (EC) No 1814/2003 the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide 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 9 to 15 April 2004 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1814/2003.

Article 2

This Regulation shall enter into force on 16 April 2004.

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

Done at Brussels, 15 April 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

⁽³⁾ OJ L 265, 16.10.2003, p. 25.

**COMMISSION REGULATION (EC) No 704/2004
of 15 April 2004**

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⁾, 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⁽²⁾ 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 7 800 tonnes of rice to certain destinations. The procedure laid down in Article 8(3) of Commission Regulation (EC) No 1342/2003⁽³⁾ 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 7 800 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 16 April 2004.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽²⁾ OJ L 154, 15.6.1976, p. 11.

⁽³⁾ OJ L 189, 29.7.2003, p. 12.

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

Done at Brussels, 15 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 15 April 2004 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	30	1006 30 65 9900	R01	EUR/t	37
1006 20 13 9000	R01	EUR/t	30		064 and 066	EUR/t	63
1006 20 15 9000	R01	EUR/t	30		A97	EUR/t	43
1006 20 17 9000	—	EUR/t	—	1006 30 67 9100	021 and 023	EUR/t	43
1006 20 92 9000	R01	EUR/t	30		064 and 066	EUR/t	63
1006 20 94 9000	R01	EUR/t	30	1006 30 67 9900	064 and 066	EUR/t	63
1006 20 96 9000	R01	EUR/t	30	1006 30 92 9100	R01	EUR/t	37
1006 20 98 9000	—	EUR/t	—		R02	EUR/t	43
1006 30 21 9000	R01	EUR/t	30		R03	EUR/t	48
1006 30 23 9000	R01	EUR/t	30		064 and 066	EUR/t	63
1006 30 25 9000	R01	EUR/t	30		A97	EUR/t	43
1006 30 27 9000	—	EUR/t	—		021 and 023	EUR/t	43
1006 30 42 9000	R01	EUR/t	30	1006 30 92 9900	R01	EUR/t	37
1006 30 44 9000	R01	EUR/t	30		A97	EUR/t	43
1006 30 46 9000	R01	EUR/t	30		064 and 066	EUR/t	63
1006 30 48 9000	—	EUR/t	—	1006 30 94 9100	R01	EUR/t	37
1006 30 61 9100	R01	EUR/t	37		R02	EUR/t	43
	R02	EUR/t	43		R03	EUR/t	48
	R03	EUR/t	48		064 and 066	EUR/t	63
	064 and 066	EUR/t	63		A97	EUR/t	43
	A97	EUR/t	43		021 and 023	EUR/t	43
	021 and 023	EUR/t	43	1006 30 94 9900	R01	EUR/t	37
1006 30 61 9900	R01	EUR/t	37		A97	EUR/t	43
	A97	EUR/t	43		064 and 066	EUR/t	63
	064 and 066	EUR/t	63	1006 30 96 9100	R01	EUR/t	37
1006 30 63 9100	R01	EUR/t	37		R02	EUR/t	43
	R02	EUR/t	43		R03	EUR/t	48
	R03	EUR/t	48		064 and 066	EUR/t	63
	064 and 066	EUR/t	63		A97	EUR/t	43
	A97	EUR/t	43		021 and 023	EUR/t	43
	021 and 023	EUR/t	43	1006 30 96 9900	R01	EUR/t	37
1006 30 63 9900	R01	EUR/t	37		A97	EUR/t	43
	064 and 066	EUR/t	63		064 and 066	EUR/t	63
	A97	EUR/t	43		021 and 023	EUR/t	43
	021 and 023	EUR/t	43	1006 30 98 9100	—	EUR/t	—
1006 30 65 9100	R01	EUR/t	37	1006 40 00 9000	—	EUR/t	—
	R02	EUR/t	43				
	R03	EUR/t	48				
	064 and 066	EUR/t	63				
	A97	EUR/t	43				
	021 and 023	EUR/t	43				

(1) The procedure laid down in Article 8(3) of Regulation (EC) No 1342/2003 applies to licences applied for under that Regulation for quantities according to the destination:

destination R01:	2 000 t,
all destinations R02 and R03:	4 000 t,
destinations 021 and 023:	500 t,
destinations 064 and 066:	1 000 t,
destination A97:	300 t.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

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, Serbia and Montenegro, 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 except the Netherlands Antilles, Aruba, Turks and Caicos Islands, A11 except Suriname, Guyana, Madagascar.

COMMISSION REGULATION (EC) No 705/2004
of 15 April 2004
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⁾,

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 ⁽²⁾, 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.
- (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 Annex I 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 16 April 2004.

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

Done at Brussels, 15 April 2004.

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

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

ANNEX I

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

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	12,59
1005 10 90	Maize seed other than hybrid	18,58
1005 90 00	Maize other than seed ⁽²⁾	18,58
1007 00 90	Grain sorghum other than hybrids for sowing	12,59

⁽¹⁾ 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.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24 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 31 March 2004 to 14 April 2004)

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2 (14 %)	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	146,04 (***)	105,59	162,42 (****)	152,42 (****)	132,42 (****)	105,18 (****)
Gulf premium (EUR/t)	—	8,04	—	—	—	—
Great Lakes premium (EUR/t)	10,05	—	—	—	—	—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

(****) Fob Duluth.

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico to Rotterdam: 33,47 EUR/t; Great Lakes to Rotterdam: 47,91 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).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 December 2003

on the aid scheme implemented by France for the takeover of firms in difficulty

(notified under document number C(2003) 4636)

(Only the French text is authentic)

(Text with EEA relevance)

(2004/343/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

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

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾,

Whereas:

2002 (D/51147), the Commission requested the missing information, which was furnished on 15 April 2002 (VB/myg 1116).

- (3) By letter dated 19 August 2002, the Commission initiated the formal investigation procedure. The decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽⁴⁾. The Commission invited interested parties to submit their comments on the measure.

I. PROCEDURE

(1) Within the framework of the notice on the application of the state aid rules to measures relating to direct business taxation ⁽²⁾ (hereinafter called the notice) the Commission examines and reviews tax aid schemes in force in the Member States ⁽³⁾. The present proceeding is to be viewed in this context.

(2) By letter dated 12 September 2001 (D/53716), the Commission sent a request for information to France concerning the tax exemption provided for in Article 44 septies of the General Tax Code. This tax exemption was not notified prior to its implementation as required by Article 88(3) of the Treaty. By letter dated 19 September 2001 (VB/myg No 2540), the French authorities requested an additional period of one month in which to supply the information, which was granted by the Commission on 1 October 2001 (D/54025). On 29 November 2001, the Commission sent a reminder (D/54953) with a view to obtaining the requested information. On 21 December 2001 (VB/myg No 3640), the French authorities provided part of the information requested by the Commission. By letter dated 15 March

- (4) The Commission received no comments from interested parties. By letter dated 10 September 2002, the French authorities asked for a 20-day extension of time to submit their comments, which was granted by the Commission. The comments by the French Government were finally received on 16 December 2002.

Detailed description of the scheme

- (5) Article 44 septies of the General Tax Code was introduced by Article 14A of the Budget Law for 1989 ⁽⁵⁾. The article provides for exemption from corporation tax for a period of two years for companies created to take over the activities of industrial firms in difficulty. Article 44 septies has been amended five times: in 1990, 1991, 1992, 1994 and 2000. Various amendments clarified the conditions of application of the tax exemption (1991) and extended its scope to complete and auto-

⁽¹⁾ OJ C 284, 21.11.2002, p. 5.

⁽²⁾ OJ C 384, 10.12.1998, p. 3.

⁽³⁾ See point 37 of the notice.

⁽⁴⁾ See footnote 1.

⁽⁵⁾ Law No 88-1149 of 23.12.1988, Official Journal of the French Republic, 28 December 1988, p. 16320.

mous branches of industrial activity forming the subject of a transfer (1990) and to firms in difficulty not forming the subject of a transfer ordered by a court (1992). The amendment introduced in 1994 concerns only the conditions of application of Law No 85-98 of 25 January 1985 on the restructuring and judicial liquidation of the firms to which Article 44 septies originally referred. The amendment made in 2000 replaced the reference to Law No 85-98 with a reference to the articles of the Commercial Code codifying that law.

- (6) Exemption is granted automatically where the takeover concerns a firm in difficulty forming the subject of a transfer ordered by a court, as part of insolvency proceedings, pursuant to Articles L 621-83 et seq. of the Commercial Code.
- (7) Exemption may also be granted with the consent of the Minister for Budgets in the following three cases:
- (a) where the restructuring procedure has not been implemented;
- (b) where the takeover, carried out as part of a transfer ordered by a court pursuant to Law No 85-98, concerns, not an entire enterprise, but complete branches of industrial activity;
- (c) where the takeover affects one or more industrial establishments in difficulty of an industrial firm that is not in difficulty.
- (8) The Minister's decision is necessary only in cases involving an industrial programme worth over FF 50 million (approximately EUR 7,6 million) before tax or firms with an annual turnover in excess of FF 1 billion (approximately EUR 150 million) and whose capital is held more than 50 % by a firm whose consolidated turnover exceeds FF 1 billion. In all other cases, the decision is taken by the head of the tax office in the département where the firm has its registered office.
- (9) Consent is given only if all of the following conditions are met:
- (a) the takeover must have as its object an industrial firm, one or more complete and autonomous branches of industrial activity or an establishment which performs an industrial activity;
- (b) the status of 'firm in difficulty' must be a confirmed one, consisting of a financial situation that renders the cessation of business imminent;
- (c) the new company must have been created for the sole purpose of taking over the industrial activity in difficulty;
- (d) the capital of the new company may not be directly or indirectly held by partners/associates, managers or indirect holders of more than 50 % of the capital of the firm in difficulty during the year preceding the takeover;

(e) in the event of the takeover of one or more industrial establishments in difficulty of an industrial firm, the newly created company must be legally and economically independent of the transferor firm.

- (10) Finally, in accordance with Articles 1383 A, 1464 B and 1464 C of the General Tax Code, firms benefiting from exemption under Article 44 septies may also benefit, with the agreement of the competent local authorities, from exemption from business tax and property tax for a period of two years.
- (11) The French authorities have provided information on the size of some beneficiaries under the measures (Table 1) and on the amount of aid granted between 1997 and 1999 (Table 2). The data relate only to cases in which consent was given by the Minister or the tax administration and do not therefore concern cases in which the benefit of the scheme was granted automatically.

Table 1

Number of employees	Number of firms	
	1991 to 1996	After 1.1.1997
Fewer than 10 employees	70	2
Between 11 and 50 employees	106	10
Between 51 and 250 employees	22	12
More than 250 employees	2	11
Firms for which the information is not available	25	11
Total	225	38

Table 2

	1997	1998	1999
Number of beneficiary firms	151	182	60
Cost (EUR million)	64	80	55

Reasons for the initiation of the procedure

- (12) In its decision to initiate the formal procedure, the Commission considered that the exemption from taxes granted to companies taking over firms in difficulty could amount to aid falling under Article 87(1) of the

EC Treaty. In particular, it took the preliminary view that the scheme conferred an advantage on beneficiaries because it relieved them of charges normally borne by French firms, namely corporation tax, property tax and business tax, which entailed a forgoing of tax revenue. The Commission expressed doubts about the compatibility of the measure with the guidelines on aid to firms in difficulty and the regional aid guidelines.

French authorities put forward a number of arguments. First of all, they emphasise that the granting of the exemptions has always been conditional on the existence of a restructuring programme. The viability of the programme has to be examined either by the judge hearing the insolvency matter or by the tax authorities authorising the exemptions. The restructuring plan must also ensure that the agreed exemptions do not exceed the minimum necessary to sustain the firm during the restructuring period. Secondly, the French authorities point out that the two-year time limit on exemption renders the measure insufficient to cover all the financial needs of the new firm.

Comments from France

(13) By letter dated 13 December 2002, the French authorities submitted their comments to the Commission. Those authorities consider that the provisions do not constitute State aid within the meaning of Article 87 of the Treaty. Alternatively, if the scheme were to be considered State aid, they deem the scheme to be justified under the Community guidelines on aid for rescuing and restructuring of firms in difficulty.

(14) According to the French authorities, the exemption provided for in Article 44 septies of the General Tax Code cannot be considered State aid because it benefits all new firms resulting from a transfer of assets, independently of their sector of activity. The French authorities provided some information about the sectors to which the beneficiaries of the exemption belong: these include, among others, shipbuilding, the motor industry, holding companies, the printing industry, the leather industry, the paper industry, the chemical industry and the production of telecommunications equipment. In the French authorities' opinion, the exemption does not constitute a derogation from the general tax regime.

(15) As regards the exemptions from business tax and property tax, the French authorities consider that they are not reserved for certain firms. They justify the need for a decision of the local authorities by reference to the financial autonomy of those authorities, which are said not to have any discretion in applying the exemptions. The exemptions are applicable to all firms established in their territory.

(16) The French Government argues that these exemptions can be considered neutral from the point of view of intra-Community trade for two main reasons: their temporary nature, and the low level of the aid compared with the cost of purchasing a firm in difficulty.

(17) In case the Commission might wish to examine the measures in the light of the guidelines on aid for rescuing and restructuring of firms in difficulty, the

Assessment of the aid

(18) This Decision concerns the scheme as such and does not examine the aid granted in each individual case. However, in some instances, the Commission has decided to examine certain categories of individual case which may merit separate assessment.

(19) Having considered the observations of the French authorities, the Commission maintains its position, as expressed in its letter of 19 August 2002 initiating the formal procedure, that the scheme under examination constitutes State aid within the meaning of Article 87(1) of the Treaty.

(20) The Commission considers that the measure contained in Article 44 septies of the French General Tax Code fulfil all the criteria laid down in Article 87(1) of the Treaty.

Advantage

(21) First of all, the measure must confer an advantage. The Commission, relying on the established case law of the Court of Justice, considers in its decision-making practice that the concept of aid embraces not only positive benefits, but also measures which, in various forms, mitigate the charges which are normally included in the budget of an undertaking⁽¹⁾. Article 44 septies grants exemption from corporation tax on the profits earned, during the two years following its creation, by a new company taking over a firm in difficulty. The measure is, contrary to what the French authorities maintain, a derogation from the general French tax system, which provides for payment of the tax by 'all legal persons carrying on a business or a lucrative economic activity'⁽²⁾. Therefore, corporation tax is a charge normally borne by French

⁽¹⁾ Judgment in Case C-143/99 *Adria-Wien Pipeline* [2001] ECR 8365, paragraph 38.

⁽²⁾ Article 206.1, last paragraph, of the General Tax Code.

companies. The exemption relieves companies newly created to take over the assets of a firm in difficulty of a cost borne by their competitors⁽¹⁾, thereby conferring on them an advantage. As stated in point 9 of the Commission notice, an exemption from tax is considered a form of advantage.

- (22) Additionally, Articles 1383A, 1464B and 1464C of the General Tax Code provide that firms benefiting from exemption from corporation tax under Article 44 septies may also benefit, with the agreement of the competent local authorities, from exemption from business tax and property tax for a period of two years. These exemptions also constitute an advantage in so far as such charges are normally borne by firms in France.

State resources

- (23) Secondly, the measure must be financed through State resources. Point 10 of the notice states that a loss of tax revenue is equivalent to consumption of State resources in the form of fiscal expenditure. By exempting these new companies from corporation tax on their profits and from property and business tax, the French authorities, both central and local, are forgoing revenue that constitutes State resources. The French authorities have thus estimated that, for the years 1997 to 1999, exemption from corporation tax alone resulted in a cost of almost EUR 200 million. The measure is therefore granted through State resources.

Effect on intra-Community trade

- (24) Thirdly, the measure must affect intra-Community trade and distort, or threaten to distort, competition. According to the information provided by the French authorities, the firms benefiting from the measures at issue belong to very different sectors of activity, among them several exposed to strong competition within the Community, such as shipbuilding, the motor industry, chemicals, paper and textiles. Contrary to what the French authorities assert, the Commission does not believe that the measures are neutral from the point of view of intra-Community trade on account of their temporary nature and small amount compared with the cost of taking over a firm in difficulty. Two arguments support this view. First, as pointed out in the notice and confirmed by established case law⁽²⁾, the fact that aid is relatively small in amount does not alter its nature⁽³⁾.

Second, aid given to newly created companies is still aid that affects intra-Community trade even if it is authorisable in certain cases. For these reasons, the Commission considers that the measures at issue, especially when applied to certain highly competitive sectors as is the case here⁽⁴⁾, affect intra-Community trade and distort or threaten to distort competition.

Selectivity of the aid

- (25) Lastly, the measure must be selective. The measures at issue are applicable only to companies newly created to take over the industrial activity of firms in difficulty. The conditions that must be met in order to benefit from the exemptions are very strict: only new companies taking over a failing firm as part of an insolvency procedure or obtaining the consent of the Ministry of Finance and/or local authorities can benefit from them. The French authorities maintain that the measure is open to all sectors. In its decision to initiate the procedure, the Commission noted, however, that the benefit of the measure was expressly limited to the industrial sector, thereby excluding the service sector, which, as the Commission observed in its decision, accounts for 70 % of GDP and 65 % of all jobs in France. This in itself suggests that the measure is selective⁽⁵⁾. Information supplied subsequently by the French authorities shows that at least one holding company and two firms of consultants have also benefited from the corporation tax exemption, despite not belonging to the industrial sector. However, the existence of such cases does not show that the measures were open under the same conditions to firms not involved in industrial activities. At all events, even if all sectors of activity can benefit from the provisions of Article 44 septies, those provisions do not cover all firms, despite the fact that the general rule in France is that all firms have to pay corporation tax, business tax and property tax. As confirmed by the Court of First Instance⁽⁶⁾, the mere fact that an advantage is limited to newly created companies excludes all other companies and the advantage must therefore be considered selective. This is all the more true where such newly created companies also have to fulfil other requirements in order to qualify for exemption, such as the taking over of the industrial activity of a firm in difficulty and independence from previous partners/associates, managers or majority shareholders or, where appropriate, from the transferor firm.

⁽¹⁾ Case 30/59 Steenkolenmijnen [1961] ECR 1.

⁽²⁾ See, most recently, the judgment in Case C-280/00 Altmark Trans, not yet reported, paragraph 81.

⁽³⁾ Point 11 of the notice.

⁽⁴⁾ See paragraph 14 of this Decision.

⁽⁵⁾ Case C-143/99 Adria-Wien Pipeline, cited above, paragraphs 39 et seq.

⁽⁶⁾ Joined Cases T-92/00 and T-103/00 Territorio Histórico de Álava [2002] ECR II-1385, paragraphs 48 and 49.

The selective character of the measure is borne out, moreover, by the relatively small number of firms that have benefited from the measure upon the granting of consent — only 263 between 1991 and 2002 — compared with the number of firms liable to the taxes in question, not to mention with the number of firms newly created in France during that period.

- (26) The French authorities have not put forward any argument to justify the measure based on the nature or general scheme of the French tax system. The Commission considers that such a justification cannot be relied on in the present case.
- (27) On the other hand, the Commission considers that local authorities do not exercise any discretionary power when they grant exemptions from business and property tax to new companies taking over activities in difficulty. From the information furnished by the French authorities, it is clear that the granting of exemption by local authorities holds good for any company newly created to take over a firm in difficulty established in their territory. Nevertheless, this fact does not alter the conclusion as to the selective character of the exemptions. Even if these exemptions from business and property tax are not granted on a case-by-case basis, as indicated above they still apply to a particular group of undertakings, namely those fulfilling the strict conditions set out in Article 44 septies of the General Tax Code.
- (28) To conclude, inasmuch as all the elements inherent in the concept of State aid are present, the measures in question constitute a State aid scheme within the meaning of Article 87(1) of the Treaty.

De minimis

- (29) The advantages in question are not limited in their amount and the scheme does not therefore come under the *de minimis* provisions. It cannot be ruled out, however, that in certain individual cases the advantages may have been granted in accordance with the conditions laid down in the Community rules on *de minimis* aid.
- (30) It was in the Community guidelines on State aid for small and medium-sized enterprises adopted by the Commission on 20 May 1992⁽¹⁾ (hereinafter called the SME guidelines) that a definition was given for the first time of what is meant by *de minimis* aid. Point 3.2 sets the scope of the *de minimis* rule at an aid amount of EUR 50 000 per firm over a period of three years for certain broad types of expenditure (e.g. investment, training). As a result, one-off payments of aid of up to

EUR 50 000 in respect of a given type of expenditure and aid schemes under which the amount of aid paid to firms for a given type of expenditure over a three-year period was limited to that figure were no longer subject to prior notification under Article 88(3) (former Article 93(3)) of the Treaty. There was, however, a proviso, namely that the individual notification or the aid scheme had to include an express condition that any further aid the same firm might receive in respect of the same type of expenditure from other sources or under other schemes must not take the total aid the firm receives above the EUR 50 000 limit. Point 3.2 states that the *de minimis* rule does not apply to the sensitive sectors (steel, shipbuilding, synthetic fibres, the motor industry, agriculture, fisheries, transport and the coal industry).

- (31) The Commission's 1996 notice on *de minimis* aid⁽²⁾ modified the *de minimis* rule as set out in the SME guidelines. The total maximum amount of *de minimis* aid was increased to EUR 100 000 over a three-year period beginning when the first *de minimis* aid is granted. This ceiling applied to the total of all public assistance considered to be *de minimis* aid and did not affect the possibility of the recipient obtaining other aid under schemes approved by the Commission. The rule did not apply to the industries covered by the ECSC Treaty, to shipbuilding, to transport or to aid towards expenditure in connection with agriculture or fisheries.
- (32) Article 1 of Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid⁽³⁾ extends the scope of the *de minimis* rule to all sectors with the exception of the transport sector and activities linked to the production, processing or marketing of products listed in Annex I to the Treaty, aid to export-related activities, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity, and aid contingent upon the use of domestic over imported goods. Under Article 2 of the Regulation, the total *de minimis* aid granted to any one enterprise must not exceed EUR 100 000 over any period of three years. This ceiling applies irrespective of the form of the aid or the objective pursued.
- (33) In line with the interpretation adopted by the Commission⁽⁴⁾, the scrutiny of non-notified measures, even where they predate the entry into force of Regulation (EC) No 69/2001, must be carried out in the light of that regulation, whereas the rules in force when the aid measure was implemented must be applied where the aid is not exempted under the regulation.

⁽²⁾ OJ C 68, 6.3.1996, p. 9.

⁽³⁾ OJ L 10, 13.1.2001, p. 30.

⁽⁴⁾ See, *inter alia*, Commission Decision 2003/626/EC of 27 November 2002 on the aid scheme implemented by Germany — Thuringia loan programme for small and medium-sized enterprises (OJ L 223, 5.9.2003, p. 32).

⁽¹⁾ OJ C 213, 19.8.1992, p. 2.

- (34) Consequently, instances of implementation of the measures in question do not constitute State aid where they comply with the conditions laid down in Regulation (EC) No 69/2001 or, alternatively, with the *de minimis* rules in force when the advantages were granted.

Compatibility

General remarks

- (35) Inasmuch as the measure constitutes an aid scheme within the meaning of Article 87(1), its compatibility must be assessed in the light of the exceptions laid down in paragraphs 2 and 3 of that Article.
- (36) The exceptions laid down in Article 87(2) and Article 87(3), points (b), (d) and (e), are clearly not applicable and have not been invoked by the French authorities. On the other hand, the exceptions relating to the development of certain areas or of certain sectors, laid down in Article 87(3), points (a) and (c), must be examined. As regards aid to promote the development of certain sectors, in view of the nature of the measures at issue the only relevant criteria are those concerning aid for rescuing and restructuring firms in difficulty and those concerning aid for small and medium-sized enterprises.
- (37) Consequently, as announced in the decision initiating the formal investigation procedure, the Commission will analyse the measure in the light of the Community guidelines on State aid for rescuing and restructuring of firms in difficulty and of those on regional aid. In accordance with the Commission notice on the determination of the applicable rules for the assessment of unlawful state aid⁽¹⁾, the measure must be examined in the light of the guidelines in force at the time when the aid was granted. The Commission must also examine the aid in question in the light of the rules applicable to aid for small and medium-sized enterprises. In this connection, the rules applicable are first and foremost those of the exemption regulation in force today, and it is only in the alternative that the notices in force at the time when the aid was granted will be applied⁽²⁾.

Aid for rescuing and restructuring firms in difficulty

- (38) With regard to the rules on aid for rescuing and restructuring firms in difficulty, three sets of provisions are applicable in the present case owing to the fact that the

measure, which was enacted in 1989, is still in force today. These are: points 227, 228 and 177 of the Commission's Eighth Report on Competition Policy (1979); the Community guidelines on State aid for rescuing and restructuring firms in difficulty published in 1994⁽³⁾; and the new guidelines published in 1999⁽⁴⁾.

- (39) In this respect, the French authorities put forward a 'subsidiary' argument to justify the measures under the guidelines: they stress that the application of the exemption is always dependent on the existence of an appropriate restructuring programme, approved by a judge, in cases where a judicial procedure is open, or by the tax authorities, where judicial intervention is not necessary.
- (40) First of all, it should be pointed out that firms which do not correspond to the Community concept of firm in difficulty might benefit from the measures in question. Even in the absence of an express definition, the guidelines of 1994⁽⁵⁾ and 1999⁽⁶⁾ list typical symptoms and signs of such firms which correspond basically to the criteria applied previously. Now, the very mechanism of the aid in the form of exemption from corporation tax presupposes that the beneficiary can make profits within two years of its being taken over. It is doubtful whether a firm generating profits so quickly can be deemed to be a firm in difficulty.
- (41) Secondly, with regard to the period before 1994, it should be pointed out that the national measures cannot be authorised as rescue aid. Such aid must, according to the Commission's Eighth Report on Competition Policy, consist of cash aid in the form of loan guarantees or loans bearing normal commercial interest rates, be restricted to the amount needed to keep the firm in business, be paid only for the time needed (generally six months) to draw up the recovery measures and not have any adverse effects on the industrial situation in other Member States. These conditions are clearly not met by the measures in question.

- (42) In the case of restructuring aid, the report requires the submission of a sound restructuring programme capable of restoring the viability of the activity concerned. The intensity and amount of the aid must not exceed the

⁽¹⁾ OJ C 119, 22.5.2002, p. 22.

⁽²⁾ These criteria, which result from the interpretation of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises (OJ L 10, 13.1.2001, p. 33) and from the abovementioned notice, are henceforth set out expressly in paragraph 1a of Article 10, inserted by the regulation adopted in principle by the Commission on 10 December 2003.

⁽³⁾ OJ C 368, 23.12.1994, p. 12.

⁽⁴⁾ OJ C 288, 9.10.1999, p. 2.

⁽⁵⁾ Point 2.1.

⁽⁶⁾ Point 2.1.

minimum needed to support the firm during the restructuring period and must be limited in time and gradually reduced. The report also stresses the need to reduce to a minimum the distortions of competition that might result from this type of aid, particularly in the most sensitive sectors.

- (43) These conditions are not met either by the measures in question. As far as the restructuring programme is concerned, within the judicial procedure, Article L 621-85 of the French Commercial Code sets forth the requirements that all offers to purchase the firm (or branch of activity) in difficulty must satisfy if they are to be approved by the judge. Such offers must include operational and financing forecasts, the transfer price and the method of payment, the level and prospects of employment that the business activity will create, the guarantees obtained in order to ensure the execution of the offer, and forecasts of asset sales during the first two years following the transfer. According to the Code, the determining criteria are the maintenance of employment and the guarantees as to the payment of creditors. Thus, contrary to what is required by the rules on State aid for restructuring firms in difficulty as set out in the Commission's Eighth Report on Competition Policy, no account is taken of the effect of the aid on competition. Neither the market situation nor the impact on competitors nor the existence of other aid is taken into account as part of the judicial procedure. Similarly, where the appraisal of the restructuring programme is to be carried out by the tax authorities, the only factor taken into account is the capacity of the restructuring programme to ensure a lasting maintenance of business activity; competition considerations are entirely absent. In addition, the intensity of the aid is neither limited to what is strictly necessary nor gradually reduced, as is required by the abovementioned rules. Consequently, the amount of the aid will depend solely on the capacity of the firm to generate profits. The larger the profits, the larger the amount of aid.
- (44) Regarding the period between 1994 and 1999, the 1994 Community guidelines contain essentially the same rules on rescue aid as the Eighth Report on Competition Policy. Consequently, the measure at issue cannot be declared compatible under these rules for the reasons already given in paragraph 41.
- (45) In relation to restructuring aid, the 1994 guidelines contain the same principle of avoidance of undue distortions of competition as the rules set out in the Eighth Report on Competition Policy. Those guidelines require, moreover, the limitation of aid to the strict minimum needed and compliance with the specific implementing
- rules concerning the sensitive sectors, rules which are not complied with in this case as is clear from paragraph 43 above.
- (46) A scheme of aid to firms in difficulty might, under certain conditions, be justified on the basis of the 1994 guidelines if the measure were to benefit only SMEs. Point 3.2.4 of the guidelines defines SMEs as enterprises which have no more than 250 employees and an annual turnover not exceeding ECU 20 million (or a balance sheet total not exceeding ECU 10 million) and are not more than 25 % owned by companies which are not SMEs. According to the information provided by the French authorities, there is no restriction on large firms benefiting and at least five such firms have benefited from the measure as part of the consent procedure. Similarly, all consents granted by the Finance Ministry must relate to firms whose turnover is higher than EUR 150 million. On the basis of the criteria in the 1994 guidelines, such firms could never have come under an aid scheme and the aid they received should have been individually notified (point 4.2).
- (47) With respect to SMEs, the Commission states in point 3.2.4 of the 1994 guidelines that, in view of the limited negative impact such aid has on competition, it does not require restructuring aid to SMEs to meet the same strict conditions as aid for restructuring large firms, particularly as regards capacity reductions and employment obligations. However, point 4.1 of the same guidelines stipulates that, to be approved, SME aid schemes must clearly identify the firms eligible, the circumstances under which aid may be granted and the maximum amount available. Point 3.2.2 requires the submission of a plan which can restore viability within a reasonable time scale and which is based on internal factors. The plan should take into account in particular the possible adverse effects on competitors and provide for aid in proportion to the restructuring costs and benefits. The French measure, for its part, does not set a ceiling on the aid amount. The identification of eligible firms is only relative as it is for the judge or the tax authorities to give their agreement to the new entities taking over the activities in difficulty benefiting from exemption. As has already been pointed out, neither the judge nor the tax administration considers questions of competition. Restructuring programmes are approved on the basis of their stability and viability, and their impact on competition is not evaluated. Consequently, the scheme under which aid was granted between 1994 and 1999 to SMEs newly created on the basis of Article 44 septies does not satisfy the requirements of the 1994 guidelines on State aid for rescuing and restructuring firms in difficulty.

(48) Lastly, with regard to the period from 1999 to the present day, point 3.1 of the 1999 guidelines limits the form, duration and amount of rescue aid and requires that there be no serious overspill effects in other Member States. For the reasons given in recital 41, the French scheme clearly does not fulfil these conditions.

(49) In relation to restructuring aid, point 3.2.2 of the 1999 guidelines requires that measures be taken to mitigate as far as possible any adverse effects of the aid on competitors and that the aid be limited to the strict minimum needed to enable restructuring to be undertaken in the light of the existing financial resources of the company, its shareholders or the business group to which it belongs. A scheme which, like the one at issue, takes no account of the effects of the aid and which determines its amount solely by reference to the taxes which would otherwise be due cannot, therefore, as has already been shown in recitals 43 and 47, be approved on this basis.

(50) As to the possibility of approving aid schemes for restructuring small and medium-sized enterprises, as provided for in Part 4 of the 1999 guidelines, suffice it to say that the French scheme is not reserved for such enterprises and that, even in the case of SMEs, it does not ensure that the aid amount is limited to the strict minimum as required by point 4.4(c) of the said guidelines.

(51) In addition, point 7 of the 1999 guidelines expressly provides that a newly created company is not eligible for rescue and restructuring aid where it emerges from the liquidation of a previous firm or merely takes over such firm's assets. The position is different only in the event of the creation by a company of a subsidiary merely as a vehicle for receiving some of its assets and, possibly, its liabilities. According to the information provided by the French authorities, the tax benefit is granted exclusively to firms whose sole purpose is to restart a failing business, being newly created just for that reason, without being limited to the case where a subsidiary is created as a takeover vehicle. Furthermore, persons who previously held, directly or indirectly, the failing firm's capital cannot hold more than 50 % of the new entity, which has to be legally and economically independent of the transferor entity. Therefore, tax exemptions granted after 1999 under Article 44 septies of the General Tax Code cannot be justified under the terms of the 1999 guidelines on rescue and restructuring aid.

Regional aid

(52) Secondly, the measure must be examined in the light of the provisions on regional aid. The instruments relevant to this examination are, first, the 1979 Commission communication on regional aid systems⁽¹⁾ for the period from 1991 to 1998, then the 1998 guidelines on national regional aid⁽²⁾, for the period from 1998 to the present.

(53) The 1979 communication provides in point 18(i) of its annex that initial investment may include 'investment in fixed assets by way of takeover of an establishment which has closed or which would have closed had such takeover not taken place'.

(54) It follows from the same communication that aid for initial investment could be authorised within the limits laid down in point 2 of the communication. Thus, in the case of France, a ceiling of 75 % net grant equivalent of initial investment applied to the overseas departments. In that part of France which receives the regional development premium⁽³⁾, the communication authorised aid of an intensity differentiated according to the regions.

(55) Subsequently, while the ceiling applicable to the overseas departments remained at 75 %, the eligible regions and the ceilings applicable in mainland France were set by the regional planning grant map approved by Commission Decision 85/18/EEC of 10 October 1984 demarcating the areas that could benefit under the regional planning grant scheme in France⁽⁴⁾ and by the subsequent amendments thereto⁽⁵⁾.

(56) In the present case, in those instances where the exemption from corporation tax is directly applicable because the transfer of the establishment takes place as part of an insolvency procedure, it can be considered that the establishment would have closed had it not been taken over. The same holds true where the exemption is granted by the tax administration inasmuch as one of the conditions that must be met in order to obtain its consent is that the firm's financial situation renders the cessation of business imminent. The provisions of the 1979 communication are therefore applicable in the present case.

(57) Consequently, the Commission considers that it is possible to declare compatible with the Treaty aid granted before the entry into force of the 1998 communication up to the amount of the ceilings of intensity applicable in the region concerned and at the time it was granted, increased, where appropriate, by the bonus provided for in the case of aid to SMEs⁽⁶⁾.

⁽¹⁾ OJ C 31, 3.2.1979, p. 9.

⁽²⁾ OJ C 74, 10.3.1998, p. 9.

⁽³⁾ As listed in Annex 1 to Decree No 76/325 of 14 April 1976 — Official Journal of the French Republic No 90 of 14 April 1976.

⁽⁴⁾ OJ L 11, 12.1.1985, p. 28.

⁽⁵⁾ See *inter alia* the Commission decisions in Cases N 515/94, N 699/94 and N 45/2000.

⁽⁶⁾ See point 4.1 of the 1992 Community guidelines on State aid for small and medium-sized enterprises and point 4.2.1 of the 1996 Community guidelines on State aid for small and medium-sized enterprises (OJ C 213, 23.7.1996, p. 4).

- (58) As far as the 1998 guidelines are concerned, point 4.4 thereof states that the purchase of an establishment which has closed or which would have closed had it not been purchased may be regarded as initial investment, unless the establishment concerned belongs to a firm in difficulty. This last exception was abolished by point 7.1 of the 1999 Community guidelines on State aid for rescuing and restructuring firms in difficulty. For the reasons already given above, the Commission considers that what is involved in the present case is in fact the takeover of an establishment which 'has closed or which would have closed had such takeover not taken place'. Even during the period between March 1998 and October 1998 when the abovementioned exception was applicable, the measure constitutes a tax exemption which benefits solely the new company taking over the activity, and it cannot be deduced that it would confer an advantage on a firm in difficulty transferring the activity.
- (59) The 1998 guidelines provide, in point 4.10, that aid for initial investment must be made conditional on the maintenance of the investment in question for a minimum period of five years.
- (60) In the present case, it cannot be ruled out, in certain individual instances, that exemptions covering part of the price paid for an establishment or for certain assets (such as land, buildings, plant or machinery) may be considered compatible aid if it is conditional on the maintenance of the investment for a minimum period of five years. This last condition, which is not expressly laid down by Article 44 septies, might nevertheless have been fulfilled in certain specific situations.
- (61) Lastly, according to point 4.8 of the guidelines, the intensity of aid must be adapted to take account of the nature of the aided regions. For the period 2000-2006, the eligible regions and the ceilings of intensity applicable in France result from the regional aid map approved by the Commission's decision of 13 March 2000 in Case N 45/2000. The scheme forming the subject-matter of the present Decision provides for no limit to the intensity of aid in the form of a tax advantage. However, there are grounds for considering that the aid granted under this scheme is compatible with the common market in so far as it has been granted to firms situated in eligible regions up to the intensity authorised in those regions, and on condition that the investment in question has been maintained for a minimum period of five years.

Aid to SMEs

- (62) Thirdly, with regard to the rules applicable to aid to SMEs, it should be pointed out straight away that the French measures are not limited to SMEs and that, therefore, the scheme cannot be declared compatible on that basis.

- (63) However, in certain individual instances, aid might be in keeping with the conditions laid down by Regulation (EC) No 70/2001 or, alternatively, with the earlier provisions on aid to SMEs ⁽¹⁾.
- (64) Article 4 of Regulation (EC) No 70/2001 declares compatible and exempt from the notification requirement aid for investment in tangible assets carried out by small enterprises, up to an intensity of 15 %, or by medium-sized enterprises, up to an intensity of 7.5 %, subject to fulfilment of the conditions it lays down. Pursuant to Article 2, point (c), of the Regulation, an investment in fixed assets undertaken in the form of the takeover of an establishment which would have closed had it not been purchased is to be regarded as investment in tangible assets.
- (65) For the reasons given in recital 56 the Commission considers that the French scheme applies to instances of the takeover of an establishment which has closed or which would have closed had it not been purchased. This being so, aid granted to SMEs under the scheme is compatible with the common market in so far as it fulfils the other conditions laid down in Regulation (EC) No 70/2001.
- (66) Inasmuch as the conditions laid down by the 1992 and 1996 frameworks are not more favourable than those of Regulation (EC) No 70/2001, it is not necessary to analyse them in greater detail.

Conclusion as to compatibility

- (67) Viewed as a whole, the scheme is incompatible with the common market. However, aid granted under the scheme which fulfils the criteria of the 1979 communication on regional aid systems and of the 1998 guidelines on national regional aid and aid granted in accordance with Regulation (EC) No 70/2001 can be declared compatible with the common market.

Recovery and monitoring of repayment

- (68) The measures at issue were introduced in 1989. The Commission requested information on them for the first time in September 2001, thereby interrupting the 10-year limitation period provided for in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽²⁾. Inasmuch as the tax exemptions constitute unlawful aid because they were not notified to the Commission, any aid granted after September 1991 must therefore be recovered.

⁽¹⁾ See the Sixth Report on Competition Policy (1976), points 253 to 255, and the 1992 and 1996 Community frameworks.

⁽²⁾ OJ L 83, 27.3.1999, p. 1.

- (69) Having never been notified, the aid scheme is unlawful. Aid outside the scope of Regulation (EC) No 69/2001, the previously applicable *de minimis* rules and Regulation (EC) No 70/2001 is likewise unlawful.
- (70) By virtue of the Commission's established decision-making practice, any aid which has been granted unlawfully and which is incompatible in the light of Article 87 of the Treaty must be recovered from the beneficiaries. This practice has been confirmed by Article 14 of Regulation (EC) No 659/1999.
- (71) Pursuant to that Article, the Member State concerned must take all necessary measures to recover the aid from the beneficiary. In order to establish the number of cases in which recovery must be effected, and in keeping with the duty of loyal cooperation between Member States and the Commission, the latter considers that France must draw up a list of enterprises which fall outside the scope of Regulation (EC) No 69/2001, the other *de minimis* rules and Regulation (EC) No 70/2001 and which do not fulfil the criteria of the 1979 communication on regional aid systems and of the 1998 guidelines on national regional aid.

Conclusions

- (72) The Commission finds that France has unlawfully implemented an aid scheme by granting a tax exemption to companies taking over the activities of firms in difficulty in breach of Article 88(3) of the Treaty. It considers that the scheme cannot be justified either on the basis of the guidelines applicable to aid for rescuing and restructuring firms in difficulty or on the basis of the rules applicable to regional aid and that it is therefore incompatible with the common market.
- (73) (42) The Commission considers that France must take all necessary measures to recover the aid from the beneficiaries of the scheme, without prejudice to cases coming under Regulation (EC) No 69/2001 or the other *de minimis* rules and without prejudice to individual cases in which the amounts of aid granted have been found to be wholly or partly compatible in accordance with the 1979 communication on regional aid systems, the 1998 guidelines on national regional aid or Regulation (EC) No 70/2001.
- (74) The Commission would ask France to return to it the attached questionnaire concerning the current status of the recovery procedure and to draw up a list of beneficiaries to which the recovery relates,

HAS ADOPTED THIS DECISION:

Article 1

The State aid scheme provided for in Article 44 septies of the General Tax Code in the form of a scheme of tax exemptions for companies taking over the assets of firms in difficulty that

France has implemented in breach of Article 88(3) of the Treaty is incompatible with the common market, without prejudice to Articles 2 and 3.

Article 2

The exemptions granted under the scheme referred to in Article 1 does not constitute State aid if they fulfil the conditions laid down by Regulation (EC) No 69/2001 or by the *de minimis* rules applicable at the time of grant.

Article 3

Aid granted under the scheme referred to in Article 1 which fulfils the conditions laid down by the 1979 communication on regional aid systems or by the 1998 guidelines on national regional aid or by Regulation (EC) No 70/2001 is compatible with the common market to the amount of the admissible intensities.

Article 4

France shall abolish the aid scheme referred to in Article 1.

Article 5

France shall take all necessary measures to recover from its beneficiaries aid granted under the scheme referred to in Article 1, other than that referred to in Articles 2 and 3, and unlawfully made available to those beneficiaries.

Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of this Decision. The aid to be recovered shall include interest from the date on which it was at the disposal of the beneficiaries until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant-equivalent of regional aid, on a compound basis in accordance with the Commission communication on the interest rates to be applied when aid granted unlawfully is being recovered.

Article 6

France shall inform the Commission, within two months of notification of this Decision, of the measures taken and to be taken in order to comply with it.

Article 7

France shall furnish this information on the basis of the attached questionnaire and shall draw up an exhaustive list of companies granted exemption under the scheme referred to in Article 1 and of the amounts paid in each case.

France shall draw up a list of companies in receipt of aid under the scheme referred to in Article 1 which does not fulfil the conditions laid down by Regulation (EC) No 69/2001, by the *de minimis* rules applicable at the time of grant of the aid, by Regulation (EC) No 70/2001, by the 1979 communication on regional aid systems or by the 1998 guidelines on national regional aid. The list shall also specify the amount of aid each company has received.

Article 8

This Decision is addressed to the French Republic.

Done at Brussels, 16 December 2003.

For the Commission
Mario MONTI
Member of the Commission

ANNEX

Information sheet on the recovery of unlawfully granted aid

1. What is the total number of aid recipients?
2. What is the total amount of aid granted?
3. What is the total amount of aid to be recovered?
4. How will your authorities calculate the amount of aid to be recovered?
 - principal
 - interest ⁽¹⁾
5. What measures are to be taken to secure the immediate and effective repayment of the aid in accordance with Article 14 of Council Regulation (EC) No 659/1999? Please specify the legal basis for those measures.
6. What measures have already been taken to secure the immediate and effective repayment of the aid in accordance with Article 14 of Council Regulation (EC) No 659/1999? Please specify the legal basis for those measures.
7. By what date should all the aid have been recovered?
8. Other comments.

⁽¹⁾ In accordance with the Commission communication on the interest rates to be applied when aid granted unlawfully is being recovered (OJ C 110, 8.5.2003, p. 21), the reference rate will be applied on a compound basis. The calculation of compound interest on an annual basis uses the formula Interest = [Capital (1 + Interest rate) Number of years] – Capital.