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Legislation

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Corrigenda

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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2035/93

of 27 July 1993

fixing the import levies on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals (1), and in particular Article 10 (5) and Article 11 (3) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (2),

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 1680/93 (3) and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 26 July 1993, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1680/93 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 28 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 181, 1. 7. 1992, p. 21.
(2) OJ No L 387, 31. 12. 1992, p. 1.
(3) OJ No L 159, 1. 7. 1993, p. 8.

ANNEX

to the Commission Regulation of 27 July 1993 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Third countries (8)
0709 90 60	129,58 (2) (3)
0712 90 19	129,58 (2) (3)
1001 10 00	152,73 (1) (5)
1001 90 91	126,55
1001 90 99	126,55 (9)
1002 00 00	135,78 (6)
1003 00 10	126,07
1003 00 20	126,07
1003 00 80	126,07 (9)
1004 00 00	77,55
1005 10 90	129,58 (2) (3)
1005 90 00	129,58 (2) (3)
1007 00 90	137,08 (4)
1008 10 00	29,16 (9)
1008 20 00	80,65 (4)
1008 30 00	33,09 (5)
1008 90 10	(7)
1008 90 90	33,09
1101 00 00	203,92 (9)
1102 10 00	219,09
1103 11 30	241,95
1103 11 50	241,95
1103 11 90	230,89
1107 10 11	236,14
1107 10 19	179,19
1107 10 91	235,28
1107 10 99	178,55
1107 20 00	206,29

(1) Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

(2) In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

(3) Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.

(4) Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

(5) Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

(6) The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10), as last amended by Regulation (EEC) No 1902/92 (OJ No L 192, 11. 7. 1992, p. 3), and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22), as amended by Regulation (EEC) No 560/91 (OJ No L 62, 8. 3. 1991, p. 26).

(7) The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

(8) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

(9) Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 2036/93

of 27 July 1993

fixing the premiums to be added to the import levies on cereals, flour and malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals (1), and in particular Article 12 (4) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (2),

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1681/93 (3) and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 26 July 1993, as regards floating currencies, should be used to calculate the levies;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums to be added to the levies fixed in advance for the import in respect of the products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 28 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 181, 1. 7. 1992, p. 21.
(2) OJ No L 387, 31. 12. 1992, p. 1.
(3) OJ No L 159, 1. 7. 1993, p. 11.

ANNEX

to the Commission Regulation of 27 July 1993 fixing the premiums to be added to the import levies on cereals, flour and malt

A. **Cereals and flour**

(ECU/tonne)

CN code	Current	1st period	2nd period	3rd period
	7	8	9	10
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 00	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 20	0	0	0	0
1003 00 80	0	0	0	0
1004 00 00	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0
1102 10 00	0	0	0	0
1103 11 30	0	0	0	0
1103 11 50	0	0	0	0
1103 11 90	0	0	0	0

B. **Malt**

(ECU/tonne)

CN code	Current	1st period	2nd period	3rd period	4th period
	7	8	9	10	11
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 2037/93

of 27 July 1993

laying down detailed rules of application of Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (1), and in particular Article 16 thereof,

Whereas the conditions should be laid down in which a natural or legal person may apply exceptionally for registration;

Whereas, in order to take account of the various legal situations in the Member States, a statement of objection within the meaning of Article 7 of Regulation (EEC) No 2081/92 presented by a group of individuals linked by a common interest may be admissible;

Whereas, in order to ensure that Regulation (EEC) No 2081/92 is uniformly applied, precise deadlines should be set concerning objections, which would apply when the registration procedure is initiated;

Whereas, with a view to defining the cases referred to in Article 3 (1) of Regulation (EEC) No 2081/92 and the situations likely to mislead consumers in Member States within the meaning of Regulation (EEC) No 2081/92, the Commission may take appropriate action;

Whereas these arrangements constitute a new Community system designed to protect designations of origin and geographical indications entailing distinctive new indications; whereas it is essential to explain their meaning to the public, without thereby removing the need for producers and/or processors to promote their respective products;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Regulatory Committee on Geographical indications and Designations of Origin,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for registration pursuant to Article 5 of Regulation (EEC) No 2081/92, may be submitted by a natural or legal person not complying with the definition laid down in the second subparagraph of paragraph 1 of that Article in exceptional, duly substantiated cases where the person concerned is the only producer in the geographical area defined at the time the application is submitted.

The application may be accepted only where:

(a) the said single person engages in authentic and unvarying local methods; and

(b) the geographical area defined possesses characteristics which differ appreciably from those of neighbouring areas and/or the characteristics of the product are different.

2. In the case referred to in paragraph 1, the single natural or legal person who has submitted the application for registration shall be deemed to constitute a group within the meaning of Article 5 of Regulation (EEC) No 2081/92.

Article 2

Where national law treats a group of individuals without legal personality as a legal person, the said group of individuals shall be authorized to submit an application within the meaning of Article 1 of this Regulation, to consult the application within the meaning and subject to the conditions of Article 7 (2) of Regulation (EEC) No 2081/92 and to lodge an objection within the meaning and subject to the conditions of Article 7 (3) of that Regulation.

Article 3

For the purposes of applying the deadline referred to in Article 7 (1) of Regulation (EEC) No 2081/92, account shall be taken of:

— either the date of dispatch of the statement of the objection by the Member State, the postmark being accepted as the date of dispatch, or

— the date of receipt where the statement of the objection by the Member State is delivered to the Commission directly or by telex or fax.

Article 4

The Commission may take all appropriate action in order to define the cases where a designation has become generic within the meaning of Article 3 (1) of Regulation (EEC) No 2081/92, as well as the situations likely to mislead consumers and in respect of which a decision has been taken in accordance with Article 15 of that Regulation.

(1) OJ No L 208, 24. 7. 1992, p. 1.

Article 5

For a period of five years after the date of entry into force of this Regulation, the Commission shall take the necessary steps to inform the public of the meaning of the indications 'PDO', 'PGI', 'protected designation of origin' and 'protected geographical indication' in the Community languages. Such steps shall not take the form of aid to producers and/or processors.

Article 6

The period of three months referred to in Article 7 (5) of Regulation (EEC) No 2081/92 shall commence on the date of dispatch of the Commission's invitation to the Member States to reach agreement among themselves.

Article 7

This Regulation shall enter into force on 26 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EEC) No 2038/93

of 27 July 1993

laying down rules for implementing Council Regulation (EEC) No 1658/93 setting up a specific measure in favour of cephalopod producers permanently based in the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1658/93 of 24 June 1993 setting up a specific measure in favour of cephalopod producers permanently based in the Canary Islands [1], and in particular Article 2 thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [2], and in particular Article 6 thereof,

Whereas Regulation (EEC) No 1658/93 introduced annual aid for cephalopod producers permanently based in the Canary Islands;

Whereas for the satisfactory operation of the aid scheme the aid should be paid to producer organizations;

Whereas provision should be made for the possibility of the payment of an advance which should be subject to the lodging of a security;

Whereas it is necessary to give details of and adjust the operative events for agricultural conversion rates laid down in Articles 10 and 12 of Commission Regulation (EEC) No 1068/93 [3], in order to take account of the terms on which the aid is granted;

Whereas the national authorities must implement the measures necessary to check that the terms on which the aid is granted are complied with;

Whereas Regulation (EEC) No 1658/93 is applicable with effect from 1 January 1993; whereas this Regulation must therefore be applicable from that date;

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

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down implementing rules for the annual and granted for a transitional period to cephalopod producers permanently based in the Canary Islands.

Article 2

The aid shall be paid to producer organizations, which shall distribute it to their producer members in line with the quantities actually produced and marketed on their account.

Article 3

1. Producer organizations may apply for an advance on the annual aid of up to 50 % of the ceiling set in Article 1 (2) of Regulation (EEC) No 1658/93, on the basis of the average production of their members over the previous three years, provided that they have lodged a security for 110 % of the advance.

The annual application for an advance must reach the intervention agency by 1 May at the latest of the year in question. For 1993 this date shall be 1 August. The intervention agency shall pay the advance within two months of receiving the application.

The agricultural conversion rate for the advance and the security shall be that applicable on the day on which the application is lodged.

2. Producer organizations shall submit to the intervention agency before 1 March of the following year an application for payment of the balance of the aid, broken down by eligible quantity marketed in each month of the year.

The intervention agency shall pay the balance within two months of submission of the application.

The agricultural conversion rate for the aid for the eligible quantities marketed each month shall be that applicable on the first day of that month. The balance to be paid shall be the total aid due in national currency less the advance paid in national currency.

Article 4

1. The competent national authorities shall set up whatever surveillance arrangements are required to verify that producers to whom the aid is paid are entitled to it.

[1] OJ No L 158, 30. 6. 1993, p. 9.
[2] OJ No L 387, 31. 12. 1992, p. 1.
[3] OJ No L 108, 1. 5. 1993, p. 106.

2. For surveillance purposes producer organizations shall keep production and marketing records for eligible products and make quarterly notification to the competent authorities of the Member States of the information required for surveillance.

3. Details of the information required in records and notifications to the competent authorities shall be decided by the Member State.

4. Within three months of the end of each annual period for which the aid is granted the national authorities shall send the Commission a report on quantities and values produced and marketed and the state of the stocks and eligible quantities on which the aid has been paid, showing that the requirements of Article 1 (2) of Regulation (EEC) No 1658/93 have been met.

Article 5

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

It shall apply with effect from 1 January 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

COMMISSION REGULATION (EEC) No 2039/93

of 27 July 1993

determining the amount fixed in ecus by the Council of production aid for potatoes in the Canary Islands and reduced as a result of monetary realignments

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [1], and in particular Article 9 (1) thereof,

Whereas Commission Regulation (EEC) No 3824/92 of 28 December 1992 laying down the prices and amounts fixed in ecus as a result of monetary realignments [2], as last amended by Regulation (EEC) No 1663/93 [3], establishes the list of prices and amounts affected by the coefficient of 1,013088 fixed by Commission Regulation (EEC) No 537/93 [4], as last amended by Regulation (EEC) No 1331/93 [5], from the beginning of the 1993/94 marketing year under the arrangements for automatically dismantling negative monetary gaps; whereas Article 2 of Regulation (EEC) No 3824/92 provides that the resulting reduction in prices and amounts should be specified for each sector and the value of the reduced prices should be fixed;

Whereas Council Regulation (EEC) No 1601/92 [6], as amended by Commission Regulation (EEC) No 3714/92 [7], fixes an aid for the local production of potatoes for human consumption in the Canary Islands; whereas the amount of the aid should be adjusted pursuant to the above provisions;

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

HAS ADOPTED THIS REGULATION:

Article 1

The amount of the aid referred to in Article 20 (2) of Regulation (EEC) No 1601/92, reduced in accordance with Article 2 of Regulation (EEC) No 3824/92, is hereby fixed at ECU 494 per hectare.

Article 2

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

It shall apply from 1 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 387, 31. 12. 1992, p. 1.
(2) OJ No L 387, 31. 12. 1992, p. 29.
(3) OJ No L 158, 30. 6. 1993, p. 18.
(4) OJ No L 57, 10. 3. 1993, p. 18.
(5) OJ No L 132, 29. 5. 1993, p. 114.
(6) OJ No L 173, 27. 6. 1992, p. 13.
(7) OJ No L 378, 23. 12. 1992, p. 23.

COMMISSION REGULATION (EEC) No 2040/93

of 27 July 1993

determining the amount of production aid for potatoes for human consumption in Madeira and the amounts of production aid for seed potatoes and endives in the Azores fixed in ecus by the Council and reduced as a result of monetary realignments

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (1), and in particular Article 9 (1) thereof,

Whereas Commission Regulation (EEC) No 3824/92 of 28 December 1992 amending the prices and amounts fixed in ecus as a result of the monetary realignment of September and November 1992 (2), as last amended by Regulation (EEC) No 1663/93 (3), establishes the list of prices and amounts affected by the coefficient of 1,013088 fixed by Commission Regulation (EEC) No 537/93 (4), as amended by Regulation (EEC) No 1331/93 (5), from the beginning of the 1993/94 marketing year under the arrangements for automatically dismantling negative monetary gaps; whereas Article 2 of Regulation (EEC) No 3824/92 provides that the resulting reduction in prices and amounts should be specified for each sector and the value of the reduced prices should be fixed;

Whereas Council Regulation (EEC) No 1600/92 (6), as amended by Commission Regulation (EEC) No 3714/92 (7), fixes an aid for the local production of potatoes for human consumption in Madeira and for seed potatoes and endives in the Azores; whereas the amounts of the aids should be adjusted pursuant to the above provisions;

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

HAS ADOPTED THIS REGULATION:

Article 1

The aids referred to in Articles 16 and 27 of Regulation (EEC) No 1600/92, reduced in accordance with Article 2 of Regulation (EEC) No 3824/92, are hereby fixed at ECU 494 per hectare.

Article 2

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

It shall apply from 1 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 387, 31. 12. 1992, p. 1.
(2) OJ No L 387, 31. 12. 1992, p. 29.
(3) OJ No L 158, 30. 6. 1993, p. 18.
(4) OJ No L 57, 10. 3. 1993, p. 18.
(5) OJ No L 132, 29. 5. 1993, p. 114.
(6) OJ No L 173, 27. 6. 1992, p. 1.
(7) OJ No L 378, 23. 12. 1992, p. 23.

COMMISSION REGULATION (EEC) No 2041/93

of 27 July 1993

adopting derogatory arrangements in the beef and veal sector as a result of certain animal health measures

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal (1), as last amended by Regulation (EEC) No 125/93 (2), and in particular Article 23 thereof,

Whereas the second indent of Article 6 (4) of Commission Regulation (EEC) No 3619/92 of 15 December 1992 introducing management measures for imports of certain bovine animals for 1993 (3) provides for the issue of a certain number of import licences between 15 April and 30 June 1993; whereas the term of validity of the licences referred to above is restricted to 90 days in accordance with Article 6 (6) of that Regulation; whereas, in the light of the situation as regards imports resulting from the application of animal health measures relating to the outbreak of foot-and-mouth disease in certain countries, the term of validity of the said licences should be suitably extended;

Whereas the urgency of the matter requires that this Regulation enter into force on the day of its publication in the *Official Journal of the European Communities*;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Notwithstanding the provisions of Article 6 (6) of Regulation (EEC) No 3619/92, the term of validity of the licences issued in accordance with the second indent of Article 6 (4) of that Regulation shall be extended to 30 September 1993 at the request of the operator in question.

2. The request referred to in paragraph 1 above must be accompanied by the original of the licence concerned.

Article 2

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

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 148, 28. 6. 1968, p. 24.
(2) OJ No L 18, 27. 1. 1993, p. 1.
(3) OJ No L 367, 16. 12. 1992, p. 17.

COMMISSION REGULATION (EEC) No 2042/93

of 27 July 1993

reducing the basic price and the buying-in prices for apples for the 1993/94 marketing year as a result of the monetary realignments of September and November 1992, January and May 1993 and the overrun of the intervention threshold fixed for the 1992/93 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [1], as last amended by Regulation (EEC) No 638/93 [2], and in particular Article 16b (4) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [3], and in particular Article 9 (1) thereof,

Having regard to Commission Regulation (EEC) No 3824/92 of 28 December 1992 laying down the prices and amounts fixed in ecus as a result of the monetary realignments [4], as amended by Regulation (EEC) No 1663/93 [5], and in particular Article 2 thereof,

Whereas Article 1 of Commission Regulation (EEC) No 3820/92 of 28 December 1992 on transitional measures for the application of the agrimonetary arrangements laid down in Council Regulation (EEC) No 3813/92 [6] established a link between the agrimonetary arrangements applicable with effect from 1 January 1993 and those applying previously;

Whereas Regulation (EEC) No 3824/92 lays down the list of prices and amounts in the fruit and vegetables sector which are to be divided by the reducing coefficient fixed by Commission Regulation (EEC) No 537/93 [7], as last amended by Regulation (EEC) No 1331/93 [8], with effect from the beginning of the 1993/94 marketing year, under the arrangements for the automatic dismantlement of negative monetary gaps; whereas Article 2 of Regulation (EEC) No 3824/92 provides that the resulting reductions in the prices and amounts are to be specified for each sector concerned and that the reduced prices and amounts are to be fixed; whereas the basic and the buying-in prices for apples for the 1993/94 marketing year have been fixed by Council Regulation (EEC) No 1289/93 [9], as amended by Commission Regulation (EEC) No 1334/93 [10];

Whereas Council Regulation (EEC) No 1352/93 has fixed a basic and a buying-in price for apples for the month of June 1993 [11];

Whereas Commission Regulation (EEC) No 1845/92 [12] fixes the intervention thresholds for the 1992/93 marketing year at 242 000 tonnes for apples;

Whereas, according to Article 16a (1) of Regulation (EEC) No 1035/72 and Article 1 of Council Regulation (EEC) No 1121/89 of 27 April 1989 fixing the intervention threshold for apples and cauliflowers [13], as last amended by Regulation (EEC) No 1754/92 [14], if during the preceding three marketing years, the average intervention measures adopted for apples concern quantities which exceed the thresholds for those products and for that marketing year, the basic and buying-in prices for the following marketing year are to be reduced by 1 % for every 85 100 tonnes by which threshold is exceeded;

Whereas, according to the information provided by the Member States, the average intervention measures taken within the Community for 1992/93 concerned 684 250 tonnes in the case of apples; whereas the Commission has established therefore that the intervention thresholds for this marketing year have been exceeded by 442 250 tonnes in the case of apples;

Whereas in consequence of the above the basic and the buying-in prices for apples for the 1993/94 marketing year fixed by Regulation (EEC) No 1289/93 must be reduced by 5 %; whereas this reduction is to be added to that resulting from the monetary realignments of September and November 1992, January and May 1993;

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[1] OJ No L 118, 20. 5. 1972, p. 1.
[2] OJ No L 69, 20. 3. 1993, p. 7.
[3] OJ No L 387, 31. 12. 1992, p. 1.
[4] OJ No L 387, 31. 12. 1992, p. 29.
[5] OJ No L 158, 30. 6. 1993, p. 18.
[6] OJ No L 387, 31. 12. 1992, p. 22.
[7] OJ No L 57, 10. 3. 1993, p. 18.
[8] OJ No L 132, 29. 5. 1993, p. 114.
[9] OJ No L 132, 29. 5. 1993, p. 3.
[10] OJ No L 132, 29. 5. 1993, p. 120.
[11] OJ No L 133, 2. 6. 1993, p. 19.
[12] OJ No L 187, 6. 7. 1992, p. 37.
[13] OJ No L 118, 29. 4. 1989, p. 21.
[14] OJ No L 180, 1. 7. 1992, p. 23.

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

HAS ADOPTED THIS REGULATION:

Article 1

The basic and the buying-in prices for apples for the 1993/94 marketing year fixed by Regulation (EEC) No 1289/93 are hereby reduced by 6,23 % and shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 August 1993.

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

Done at Brussels, 27 July 1993.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

BASIC PRICES AND BUYING-IN PRICES

1993/94

APPLES
(other than cider apples)

For the period 1 August 1993 to 31 May 1994

(in ecus per 100 kg net)

	Basic price	Buying-in price
August	24,62	12,54
September	24,62	12,54
October	24,62	12,66
November	25,33	13,09
December	27,72	14,20
January to May	30,12	15,30

These prices refer to the following packed products:

— apples of the Reine des reinettes and Verde Doncella varieties, quality Class I, size 65 mm or more,

— apples of the Delicious Pilafa, Golden Delicious, James Grieve, Red Delicious, Reinette grise du Canada and Starking Delicious varieties, Quality Class I, size 70 mm or more.

COMMISSION REGULATION (EEC) No 2043/93

of 27 July 1993

determining the Member States in which the campaigns to promote the consumption of grape juice are to be carried out during the 1992/93 wine year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 1566/93 (2), and in particular Article 46 (5) and 81 thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (3),

Whereas Article 1 (2) of Commission Regulation (EEC) No 3461/85 of 9 December 1985 on the organization of campaigns to promote the consumption of grape juice (4), as last amended by Regulation (EEC) No 1977/93 (5), provides that the Member States in which the campaigns to promote the consumption of grape juice are to be carried out and the total amounts allocated for the financing of the campaigns in each of the said Member States must be determined for each wine year;

Whereas Article 4 (2) of Commission Regulation (EEC) No 2641/88 of 25 August 1988 laying down detailed rules for the application of the aid scheme for the use of grapes, grape must and concentrated grape must to produce grape juice (6), as last amended by Regulation (EEC) No 2056/91 (7), fixes that part of the aid intended to finance 35 % of the promotion campaign;

Whereas Annex IV to Commission Regulation (EEC) No 2167/92 of 30 July 1992 fixing the buying-in prices, aids and certain other amounts applicable for the 1992/93 wine year to intervention measures in the wine sector (8), as amended by Regulation (EEC) No 2959/92 (9), fixes the amount of aid for the 1992/93 wine year;

Whereas the amount available for such financing depends on the quantities of the products in respect of which the aid is to be granted; whereas the estimate adopted for the 1985/86, 1986/87, 1987/88, 1988/89, 1989/90, 1990/91 and 1991/92 campaigns will make it possible to finance an efficiency study covering an amount of approximately ECU 200 000; whereas the amount available for financing the measure for 1992/93 is estimated at ECU 7 000 000;

Whereas the amount adopted is not sufficient to enable effective campaigns to be mounted throughout the Community; whereas it therefore appears advisable to continue to operate promotional schemes in those Member States where campaigns have been mounted in previous years;

Whereas, in order to ensure better management of the budget funds, a final date must be fixed for the signing and payment of contracts;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 1992/93 wine year, campaigns to promote the consumption of grape juice as provided for in Article 1 (1) of Regulation (EEC) No 3461/85 shall be carried out in the Federal Republic of Germany, France, Italy, Spain and the Netherlands.

(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 154, 25. 6. 1993, p. 39.
(3) OJ No L 387, 31. 12. 1992, p. 1.
(4) OJ No L 332, 10. 12. 1985, p. 22.
(5) OJ No L 180, 23. 7. 1993, p. 33.
(6) OJ No L 236, 26. 8. 1988, p. 25.
(7) OJ No L 187, 13. 7. 1991, p. 30.
(8) OJ No L 217, 31. 7. 1992, p. 35.
(9) OJ No L 298, 14. 10. 1992, p. 8.

The total amount for the financing of those campaigns shall be :

— ECU 1 970 000 for the Federal Republic of Germany,
— ECU 1 590 000 for France,
— ECU 1 700 000 for Italy,
— ECU 1 305 000 for Spain,
— ECU 435 000 for the Netherlands.

2. Contracts for that campaign shall be signed within nine months at the latest following the date of entry into force of this Regulation. The payment of contracts shall be made three months at the latest after the contracts are fulfilled.

3. The amounts referred to in paragraph 1 shall be converted into national currency using the agricultural conversion rate in force on 1 September 1993.

Article 2

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

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

Done at Brussels, 27 July 1993.

For the Commission
René STEICHEN
Member of the Commission

COMMISSION REGULATION (EEC) No 2044/93

of 27 July 1993

laying down the prices and amounts fixed in ecus by the Council in the fibre textiles sector and reduced following the monetary realignments

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [1], and in particular Article 9 (1) thereof,

Having regard to Commission Regulation (EEC) No 3824/92 of 28 December 1992 laying down the prices and amounts fixed in ecus to be amended as a result of the monetary alignments [2], as last amended by Regulation (EEC) No 1663/93 [3], and in particular Article 2 thereof,

Whereas Regulation (EEC) No 3824/92 lists the prices and amounts to which the coefficient of 1,012674 or 1,013088 fixed by Commission Regulation (EEC) No 537/93 [4], amended by Regulation (EEC) No 1331/95 [5] is to be applied from the beginning of the 1993/94 marketing year within the framework of the arrangements for the automatic dismantlement of negative monetary gaps; whereas Article 2 of Regulation (EEC) No 3824/92 provides that the prices and amounts resulting from the reduction must be specified for each sector concerned and that the value of the reduced prices should be fixed;

Whereas, for the 1993/94 marketing year, Council Regulation (EEC) No 1558/93 [6] fixes the aid for fibre flax and hemp and the amount withheld to finance measures to promote the use of flat fibre; whereas Council Regulation (EEC) No 1559/93 [7] fixes the aid in respect of silkworms; whereas Council Regulation (EEC) No 1555/93 [8] fixes the guide price for unginned cotton; whereas Council Regulation (EEC) No 1556/93 [9] fixes the minimum price for unginned cotton; whereas Council Regulation (EEC) No 1152/90 [10], as amended by Regulation (EEC) No 2054/92 [11], fixes the aid for small cotton producers;

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

HAS ADOPTED THIS REGULATION:

Article 1

The prices and amounts fixed in ecus by the Council for the 1993/94 marketing year in the textile fibres sector and reduced in accordance with Article 2 of Regulation (EEC) No 3824/92 shall be as indicated in the Annex.

Article 2

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

It shall apply from the 1993/94 marketing year.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

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[1] OJ No L 387, 31. 12. 1992, p. 1.
[2] OJ No L 387, 31. 12. 1992, p. 29.
[3] OJ No L 158, 30. 6. 1993, p. 18.
[4] OJ No L 57, 10. 3. 1993, p. 18.
[5] OJ No L 132, 29. 5. 1993, p. 114.
[6] OJ No L 154, 25. 6. 1993, p. 28.
[7] OJ No L 154, 25. 6. 1993, p. 29.
[8] OJ No L 154, 25. 6. 1993, p. 24.
[9] OJ No L 154, 25. 6. 1993, p. 25.
[10] OJ No L 116, 8. 5. 1990, p. 1.
[11] OJ No L 215, 30. 7. 1992, p. 13.

ANNEX

REDUCED PRICES AND AMOUNTS

1. Aid for fibre flax	ECU 774,86/ha
2. Amount withheld from aid for fibre flax :	ECU 44,42/ha
3. Aid for hemp :	ECU 641,60/ha
4. Aid for silkworms :	ECU 110,41/box
5. Guide price for cotton :	ECU 101,46/100 kg
6. Minimum price for cotton :	ECU 96,39/100 kg
7. Aid for small cotton producers	ECU 246,77/ha

COMMISSION REGULATION (EEC) No 2045/93

of 27 July 1993

setting the intervention threshold for apples for the 1993/94 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1121/89 of 27 April 1989 on the introduction of an intervention threshold for apples and cauliflowers [1], as last amended by Regulation (EEC) No 1754/92 [2], and in particular Article 3 thereof,

Whereas Article 1 of Regulation (EEC) No 1121/89 specifies how the intervention threshold is to be determined; whereas it is for the Commission to set the intervention therehold by the percentages given in paragraph 1 of that Article to average production for fresh consumption in the last five marketing years for which figures are available;

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

HAS ADOPTED THIS REGULATION:

Article 1

The intervention threshold for apples for the 1993/94 marketing year shall be 257 200 tonnes.

Article 2

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

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

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[1] OJ No L 118, 29. 4. 1989, p. 21.
[2] OJ No L 180, 1. 7. 1992, p. 23.

COMMISSION REGULATION (EEC) No 2046/93

of 27 July 1993

amending Regulation (EEC) No 1201/89 laying down rules implementing the system of aid for cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Greece, and in particular Protocol 4 on cotton, as last amended by Regulation (EEC) No 4006/87 [1],

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton [2], as last amended by Regulation (EEC) No 1554/93 [3], and in particular Article 11 thereof,

Whereas Article 6 of Council Regulation (EEC) No 1201/89 [4], as last amended by Regulation (EEC) No 2328/92 [5], lays down certain detailed rules concerning the maximum guaranteed quantities provided for in Article 2 (2) of Council Regulation (EEC) No 1964/87 of 2 July 1987 adjusting the system of aid for cotton introduced by Protocol No 4 Act of Accession of Greece [6], as last amended by Regulation (EEC) No 1553/93 [7]; whereas in the interests of the proper management of the system, certain detailed specifications have been added to the aforementioned Article 2 (2); whereas, for the same purpose, certain detailed specifications should also be added to Article 6 of Regulation (EEC) No 1201/89;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following is inserted at the beginning of Article 6 of Regulation (EEC) No 1201/89:

'Once the condition referred to in the third subparagraph of Article 2 (2) of Regulation (EEC) No 1964/87 has been met, the reduction in the aid for a given marketing year shall be :'.

Article 2

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

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

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[1] OJ No L 377, 31. 12. 1987, p. 49.
[2] OJ No L 211, 31. 7. 1981, p. 2.
[3] OJ No L 154, 25. 6. 1993, p. 23.
[4] OJ No L 123, 4. 5. 1989, p. 23.
[5] OJ No L 223, 8. 8. 1992, p. 15.
[6] OJ No L 184, 3. 7. 1987, p. 14.
[7] OJ No L 154, 25. 6. 1993, p. 21.

COMMISSION REGULATION (EEC) No 2047/93

of 27 July 1993

authorizing the trade of ozone depleting substances and products containing such substances with non-parties to the Montreal Protocol on substances that deplete the ozone layer

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 594/91 of 4 March 1991 on substances that deplete the ozone layer (1), as amended through Council Regulation (EEC) No 3952/92 of 30 December 1992 (2),

Having regard to Council Decision 88/540/EEC of 14 October 1988 concerning the conclusion of the Vienna Convention for the protection of the ozone layer and the Montreal Protocol on substances that deplete the ozone layer (3), and to Council Decision 91/690/EEC of 12 December 1991 concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer as adopted in June 1990 in London by the Parties to the Protocol (4),

Whereas Articles 5, 6 (1) and (2) and 8 of Regulation (EEC) No 594/91 state that the Community imports from non-parties to the Protocol of controlled ozone depleting substances and of products containing such substances, and the Community exports to non-parties of such substances shall be prohibited;

Whereas Article 9 of Regulation (EEC) No 594/91 allows the Commission to permit the trade with any non-Party of controlled substances and of products which contain one or several of these substances to the extent that the non-Party is determined by a meeting of the Parties to be in full compliance with Articles 2, 2a to 2c and 4 of the Protocol and has submitted data to that effect as specified in Article 7 of the Protocol;

Whereas the Parties have decided at their Fourth Meeting in Copenhagen in 1992 that the trade referred to in Article 4 (1) to (4 bis) of the Protocol may be permitted with Colombia in terms of Article 4 (8) of the Protocol;

Whereas the Parties have determined provisionally at this Meeting, pending a final decision at their Fifth Meeting scheduled for 15 to 26 November 1993, that any State not Party which has notified its compliance with Articles 2, 2a to 2c and 4 of the Protocol to the UNEP Ozone Secretariat by 31 March 1993, and has submitted supporting data to that effect as specified in Article 7 of the Protocol, is in compliance with the relevant provisions of the Protocol and may be exempt from the controls on exports of ozone depleting substances;

Whereas several non-Parties to the Protocol and several Parties to the Protocol but non-Parties to its 1990 London amendment have submitted information and data to the UNEP Ozone Secretariat in the terms of this decision;

Whereas the provisions of this Regulation have a temporary character and might be modified by a Commission Regulation in the light of a Decision by the Parties at their Fifth meeting;

Whereas Article 12 of Regulation (EEC) No 594/91 sets out the procedure according to which legal acts can be taken concerning the implementation of that Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 12 of Regulation (EEC) No 594/91,

HAS ADOPTED THIS REGULATION:

Article 1

Trade with Colombia

By derogation from Articles 5, 6 (1) and (2) and 8 of Regulation (EEC) No 594/91, the trade with Colombia of controlled substances as defined in Article 2 of that Regulation and of products which contain one or several of these substances as to be defined by virtue of Article 6 (3) of that Regulation shall be permitted.

Article 2

Trade with other non-parties or with parties for which the London amendment to the Protocol has not entered into force

1. By derogation from Article 8 of Regulation (EEC) No 594/91, the exports from the Community of controlled substances as defined in Article 2 of that Regu-

(1) OJ No L 67, 14. 3. 1991, p. 1.
(2) OJ No L 405, 31. 12. 1992, p. 41.
(3) OJ No L 297, 31. 10. 1988, p. 8.
(4) OJ No L 377, 31. 12. 1991, p. 28.

lation to Slovakia, Solomon Islands, Gabon, Madagascar, Laos, Bahamas, Congo, Comoro, Dominica, Senegal, Peru, Jamaica, Vietnam, Lebanon, Myanmar, Ivory Coast, Suriname, Dominican Republic, Lithuania, Guyana and Mali shall be permitted.

2. By derogation from Article 8 (2) of Regulation (EEC) No 594/91, the exports from the Community of other fully halogenated chlorofluorocarbons, carbon tetrachloride and 1.1.1-trichloroethane as defined in Article 2 of that Regulation to Hong Kong, Jordan, Turkey, Nicaragua, Uruguay, Malta and Sudan shall be permitted.

Article 3

Entry into force

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

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

Done at Brussels, 27 July 1993.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

COMMISSION REGULATION (EEC) No 2048/93
of 27 July 1993
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], as last amended by Regulation (EEC) No 1548/93 [2], and in particular Article 16 (8) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [3], and in particular Article 5 thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1695/93 [4], as last amended by Regulation (EEC) No 2016/93 [5];

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 1695/93 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 26 July 1993, as regards floating currencies, should be used to calculate the levies,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 28 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission
René STEICHEN
Member of the Commission

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[1] OJ No L 177, 1. 7. 1981, p. 4.
[2] OJ No L 154, 25. 6. 1993, p. 10.
[3] OJ No L 387, 31. 12. 1992, p. 1.
[4] OJ No L 159, 1. 7. 1993, p. 40.
[5] OJ No L 182, 24. 7. 1993, p. 59.

ANNEX

to the Commission Regulation of 27 July 1993 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy (3)
1701 11 10	36,36 (1)
1701 11 90	36,36 (1)
1701 12 10	36,36 (1)
1701 12 90	36,36 (1)
1701 91 00	43,66
1701 99 10	43,66
1701 99 90	43,66 (2)

(1) The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68.

(2) In accordance with Article 16 (2) of Regulation (EEC) No 1785/81 this amount is also applicable to sugar obtained from white and raw sugar containing added substances other than flavouring or colouring matter.

(3) No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EEC) No 2049/93

of 27 July 1993

temporarily suspending the advance fixing of export refunds on beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Regulation (EEC) No 805/68 of the Council of 27 June 1968 on the common organization of the market in beef and veal [1], as last amended by Regulation (EEC) No 125/93 [2];

Having regard to Regulation (EEC) No 885/68 of the Council of 28 June 1968 laying down general rules for granting export refunds on beef and veal and criteria for fixing the amount of such refunds [3], as last amended by Regulation (EEC) No 427/77 [4], and in particular the second subparagraph of Article 5 (4) thereof,

Whereas it is necessary, in the light of the situation on certain markets, to adjust the refunds; whereas, in order to discourage applications for the advance fixing of refunds from being submitted for speculative purposes, the advance fixing of refunds should be suspended temporarily; whereas, however, applications lodged before 28 July 1993 need not be rejected,

HAS ADOPTED THIS REGULATION:

Article 1

The advance fixing of export refunds for the products referred to in Article 1 of Commission Regulation (EEC) No 1457/93 [5] is suspended for the period 28 to 30 July 1993.

Article 2

This Regulation shall enter into force on 28 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

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[1] OJ No L 148, 28. 6. 1968, p. 24.
[2] OJ No L 18, 27. 1. 1993, p. 1.
[3] OJ No L 156, 4. 7. 1968, p. 2.
[4] OJ No L 61, 5. 3. 1977, p. 16.
[5] OJ No L 142, 12. 6. 1993, p. 55.

COMMISSION REGULATION (EEC) No 2050/93

of 27 July 1993

amending Regulation (EEC) No 1586/93 introducing a countervailing charge on apples originating in Argentina

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [1], as last amended by Regulation (EEC) No 638/93 [2], and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 1586/93 [3], as last amended by Regulation (EEC) No 1869/93 [4], introduced a countervailing charge on apples originating in Argentina;

Whereas Article 26 (1) of Regulation (EEC) No 1035/72 laid down the conditions under which a charge introduced in application of Article 25 of that Regulation is amended; whereas, if those conditions are taken into consideration, the countervailing charge on the import of apples originating in Argentina, must be altered,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 1586/93 'ECU 4,92' is hereby replaced by 'ECU 13,39'.

Article 2

This Regulation shall enter into force on 28 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

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[1] OJ No L 118, 20. 5. 1972, p. 1.
[2] OJ No L 69, 20. 3. 1993, p. 7.
[3] OJ No L 152, 24. 6. 1993, p. 24.
[4] OJ No L 170, 13. 7. 1993, p. 29.

COMMISSION REGULATION (EEC) No 2051/93

of 27 July 1993

introducing a countervailing charge on fresh lemons originating in Uruguay

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables (1), as last amended by Regulation (EEC) No 638/93 (2), and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Article 25 (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a third country remains at least ECU 0,6 below the reference price for two consecutive market days, a countervailing charge must be introduced in respect of the exporting country concerned, save in exceptional circumstances; whereas this charge is equal to the difference between the reference price and the arithmetic mean of the last two entry prices available for that exporting country;

Whereas Commission Regulation (EEC) No 1319/93 of 28 May 1993 fixing for the 1993/94 marketing year the reference prices for fresh lemons (3) fixed the reference price for products of class I for the month of July 1993 at ECU 60,82 per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative prices recorded for at least 30 % of the quantities from the exporting country concerned which are marketed on all representative markets for which prices are available less the duties and the charges indicated in Article 24 (3) of Regulation (EEC) No 1035/72; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72;

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74 (4), as last amended by Regulation (EEC) No 249/93 (5), the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

Whereas, for fresh lemons originating in Uruguay the entry price calculated in this way has remained at least ECU 0,6 below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these fresh lemons;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 (6) are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 (7),

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 13,20 per 100 kilograms net is applied to fresh lemons (CN code ex 0805 30 10) originating in Uruguay.

Article 2

This Regulation shall enter into force on 29 July 1993.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 69, 20. 3. 1993, p. 7.
(3) OJ No L 132, 29. 5. 1993, p. 90.
(4) OJ No L 220, 10. 8. 1974, p. 20.
(5) OJ No L 28, 5. 2. 1993, p. 45.
(6) OJ No L 387, 31. 12. 1992, p. 1.
(7) OJ No L 108, 1. 5. 1993, p. 106.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EEC) No 2052/93

of 27 July 1993

altering the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], and in particular the fourth subparagraph of Article 13 (2) thereof,

Whereas the export refunds on cereals and on wheat or rye flour, groats and meal were fixed by Commission Regulation (EEC) No 1985/93 [2];

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 1985/93 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 [4] are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 [5],

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 1766/93, exported in the natural state, as fixed in the Annex to Regulation (EEC) No 1985/93 are hereby altered as shown in the Annex to this Regulation in respect of the products set out therein.

Article 2

This Regulation shall enter into force on 28 July 1993.

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

Done at Brussels, 27 July 1993.

For the Commission

René STEICHEN

Member of the Commission

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[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 180, 23. 7. 1993, p. 45.
[3] OJ No L 387, 31. 12. 1992, p. 1.
[4] OJ No L 108, 1. 5. 1993, p. 106.

ANNEX

to the Commission Regulation of 27 July 1993 amending the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU / tonne)

Product code	Destination (1)	Amount of refund (2)
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 00 200	—	—
1001 10 00 400	—	—
1001 90 91 000	—	—
1001 90 99 000	04	25,00
	05	17,00
	08	18,00
	02	15,00
1002 00 00 000	03	25,00
	06	17,00
	02	15,00
1003 00 10 000	—	—
1003 00 20 000	04	25,00
	02	15,00
1003 00 80 000	04	25,00
	02	15,00
1004 00 00 200	—	—
1004 00 00 400	—	—
1005 10 90 000	—	—
1005 90 00 000	07	15,00
	02	0
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 100	01	55,00
1101 00 00 130	01	52,00
1101 00 00 150	01	48,00
1101 00 00 170	01	44,00
1101 00 00 180	01	41,00
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 500	01	55,00
1102 10 00 700	—	—
1102 10 00 900	—	—
1103 11 30 200	01	47,00 (3)
1103 11 30 900	—	—
1103 11 50 200	01	47,00 (3)
1103 11 50 400	—	—
1103 11 50 900	—	—
1103 11 90 200	01	55,00 (3)
1103 11 90 800	—	—

(1) The destinations are identified as follows:
01 All third countries,
02 Other third countries,
03 Switzerland, Austria and Liechtenstein,
04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
05 Egypt, Morocco and Tunisia,
06 Korea and Japan,
07 Zones I, III b), VIII a), Cuba and Hungary,
08 Algeria.

(2) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

(3) No refund is granted when this product contains compressed meal.

NB: The zones are those defined in Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE 93/69/EEC

of 23 July 1993

adapting to technical progress Council Directive 76/116/EEC on the approximation of the laws of the Member States relating to fertilizers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilizers [1], as last amended by Directive 89/530/EEC [2], and in particular Article 9 (1) thereof,

Whereas Article 8a of the Treaty envisages an area without internal frontiers in which the free circulation of goods, persons, services and capital is assured;

Whereas Directive 76/116/EEC laid down rules for the marketing of EEC fertilizers;

Whereas new fertilizers need to be added to Annex I to Directive 76/116/EEC to enable them to be designated as 'EEC fertilizer'; whereas Council Directives 89/284/EEC [3] and 89/530/EEC supplementing and amending Directive 76/116/EEC both have specific Annexes which have not been incorporated into Annex I to Directive 76/116/EEC; whereas, therefore, it is necessary to restructure Annex I to Directive 76/116/EEC to make it clearer and easier to read and understand;

Whereas, in view of the scope and effects of the proposed action, the Community measures envisaged by this Directive are not only necessary but also indispensable for the attainment of the stated objectives; whereas those objectives cannot be achieved by Member States individually, and furthermore their attainment at Community level is already provided for by Directive 76/116/EEC;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress of the Directives for Removing Technical Barriers to Trade in Fertilizers,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/116/EEC shall be amended as follows:

(a) the straight nitrogenous fertilizers listed in Annex I to this Directive shall be added to point 1 of Part A;

(b) the compound fertilizers listed in Annex II to this Directive shall be added to Part B;

(c) the fluid fertilizer listed in Annex III to this Directive shall be added to point 1 of Part C.

Article 2

1. Annex I to Directive 89/284/EEC shall become Part D of Annex I to Directive 76/116/EEC and shall be entitled 'Secondary nutrient fertilizers'.

2. The fertilizer listed in Annex IV to this Directive shall be added to Part D of Annex I to Directive 76/116/EEC.

[1] OJ No L 24, 30. 1. 1976, p. 21.
[2] OJ No L 281, 30. 9. 1989, p. 116.
[3] OJ No L 111, 22. 4. 1989, p. 34.

Article 3

1. The Annex to Directive 89/530/EEC shall become Part E of Annex I to Directive 76/116/EEC and shall be entitled 'Trace element fertilizers'.

2. Chapter A in Part E of Annex I to Directive 76/116/EEC shall be replaced by Annex V to this Directive.

Article 4

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 April 1994. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall apply these provisions with effect from 1 May 1994.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 23 July 1993.

For the Commission

Martin BANGEMANN

Vice-President

ANNEX I

ANNEX I

A. STRAIGHT FERTILIZERS

1. NITROGENOUS FERTILIZERS

Number	Type designation	Data on method of production and essential ingredients	Minimum content of nutrients (percentage by weight) Data on the expression of nutrients Other requirements	Other data on the type designation	Nutrient content to be declared Forms and solubilities of the nutrients Other criteria
1	2	3	4	5	6
1 c	Magnesium nitrate	Chemically obtained product containing as its essential ingredient hexahydrated magnesium nitrate	10 % N Nitrogen expressed as nitric nitrogen 14 % MgO Magnesium expressed as water-soluble magnesium oxide	When marketed in the form of crystals as note 'in crystallized form' may be added	Nitric nitrogen Water-soluble magnesium oxide
10	Crotonylidene diurea	Product obtained by reaction of urea with crotonaldehyde Monomeric compound	28 % N Nitrogen expressed as total nitrogen At least 25 % N from the crotonylidene diurea. Maximum ureic nitrogen content: 3 %		Total nitrogen Ureic nitrogen where this is at least 1 % by weight Nitrogen from crotonylidene diurea
11	Isobutylidene diurea	Product obtained by reaction of urea with isobutyraldehyde Monomeric compound	28 % N Nitrogen expressed as total nitrogen At least 25 % N from isobutylidene diurea Maximum ureic nitrogen content: 3 %		Total nitrogen Ureic nitrogen where this is at least 1 % by weight Nitrogen from isobutylidene diurea
12	Urea formaldehyde	Product obtained by reaction of urea with formaldehyde and containing as its essential ingredients molecules of urea formaldehyde Polymeric compound	36 % total nitrogen Nitrogen expressed as total nitrogen At least 3/5 of the declared total nitrogen content must be soluble in hot water At least 31 % N from urea formaldehyde Maximum ureic nitrogen content: 5 %		Total nitrogen Ureic nitrogen where this is at least 1 % by weight Nitrogen from formaldehyde urea that is soluble in cold water Nitrogen from formaldehyde urea that is only soluble in hot water

Number	Type designation	Data on method of production and essential ingredients	Minimum content of nutrients (percentage by weight) Data on the expression of nutrients Other requirements	Other data on the type designation	Nutrient content to be declared Forms and solubilities of the nutrients Other criteria
1	2	3	4	5	6
13	Nitrogenous fertilizer containing crotonylidene diurea	Product obtained chemically containing crotonylidene diurea and a straight nitrogen fertilizer [List A-1 in Directive 76/116/EEC, excluding products 3 (a), 3 (b) and 5]	18 % N expressed as total nitrogen At least 3 % nitrogen in ammoniacal and/or nitric and/or ureic form At least 1/3 of the declared total nitrogen content must be derived from crotonylidene diurea Maximum biuret content : (ureic N + crotonylidene diurea N) × 0,026		Tota nitrogen For each form amounting to at least 1 % : nitric nitrogen ammoniacal nitrogen ureic nitrogen Nitrogen from crotonylidene diurea
14	Nitrogeneous fertilizer containing isobutylidene diurea	Product obtained chemically containing isobutylidene diurea and a straight nitrogenous fertilizer [List A-1 in Directive 76/116/EEC, excluding products 3 (a), 3 (b) and 5]	18 % N expressed as total nitrogen At least 3 % nitrogen in ammoniacal and/or nitric and/or ureic form. At least 1/3 of the declared total nitrogen content must derive from isobutylidene diurea Maximum biuret content : (Ureic N + isobutylidene diurea N) × 0,026		Total nitrogen For each form amounting to at least 1 % : nitric nitrogen ammoniacal nitrogen ureic nitrogen Nitrogen from isobutylidene diurea
15	Nitrogenous fertilizer containing urea formaldehyde	Product obtained chemically containing urea formaldehyde and a straight nitrogenous fertilizer [List A-1 in Directive 76/116//EEC, excluding products 3 (a), 3 (b) and 5]	18 % N expressed as total nitrogen At least 3 % nitrogen in ammoniacal and/or nitric and/or ureic form At least 1/3 of the declared total nitrogen content must derive from urea formaldehyde The nitrogen from the urea formaldehyde must contain at least 3/5 nitrogen that is soluble in hot water Maximum biuret content : (Ureic N + urea formaldehyde) × 0,026		Total nitrogen For each form amounting to at least 1 % : nitric nitrogen ammoniacal nitrogen ureic nitrogen Nitrogen from urea formaldehyde Nitrogen from urea formaldehyde that is soluble in cold water Nitrogen from urea formaldehyde that is only soluble in hot water

Number	Type designation	Data on method of production and essential ingredients	Minimum content of nutrients (percentage by weight) Data on the expression of nutrients Other requirements	Other data on the type designation	Nutrient content to be declared Forms and solubilities of the nutrients Other criteria
1	2	3	4	5	6
16	Ammonium sulphate with nitrification inhibitor (dicyandiamide)	Chemically obtained product containing ammonium sulphate and dicyandiamide	20 % N Nitrogen expressed as total nitrogen Minimum ammoniacal nitrogen content : 18 % Minimum content of nitrogen from dicyandiamide : 1,5 %		Total nitrogen Ammoniacal nitrogen Nitrogen from dicyandiamide Technical information (1)
17	Ammonium sulphonitrate with nitrification inhibitor (dicyandiamide)	Chemically obtained product containing ammonium sulphonitrate and dicyandiamide	24 % N Nitrogen expressed as total nitrogen Minimum nitric nitrogen content : 3 % Minimum content of nitrogen from dicyandiamide : 1,5 %		Total nitrogen Nitric nitrogen Ammoniacal nitrogen Nitrogen from dicyandiamide Technical information (1)

(1) Technical information as complete as possible must be provided with each package or bulk consignment by the person responsible for marketing. This information must in particular enable the user to determine the rates and timing of application in relation to the crop being grown.

ANNEX II

ANNEX I

B. LIST OF COMPOUND FERTILIZER TYPES

1. NPK FERTILIZERS

Type designation	Data on method of production	Minimum content of nutrients (percentage by weight)		Forms, solubilities and nutrient content to be declared as specified in columns 8, 9 and 10 Particle size			Data for identification of the fertilizers Other requirements		
		Total	For each of the nutrients	N	P_2O_5	K_2O	N	P_2O_5	K_2O
1	2	3	4	5	6	7	8	9	10
NPK fertilizer containing crotonylidene diurea or isobutylidene diurea or urea formaldehyde (as appropriate)	Product obtained chemically without addition of organic nutrients of animal or vegetable origin and containing crotonylidene diurea or isobutylidene diurea or urea formaldehyde	20 % ($N + P_2O_5 + K_2O$)	5 % N At least 1/4 of the declared content of total nitrogen must derive from nitrogen form (5) or (6) or (7). At least 3/5 of the declared nitrogen content (7) must be soluble in hot water 5 % P_2O_5 5 % K_2O	(1) Total nitrogen (2) Nitric nitrogen (3) Ammoniacal nitrogen (4) Ureic nitrogen (5) Nitrogen from crotonylidene diurea (6) Nitrogen from isobutylidene diurea (7) Nitrogen from urea formaldehyde (8) Nitrogen from urea formaldehyde that is only soluble in hot water (9) Nitrogen from urea formaldehyde that is soluble in cold water	(1) Water-soluble P_2O_5 (2) P_2O_5 soluble in neutral ammonium citrate (3) P_2O_5 soluble in neutral ammonium citrate and in water	Water-soluble K_2O	(1) Total nitrogen (2) If any of the forms of nitrogen (2) to (4) amounts to at least 1 % by weight, it must be declared (3) One of the forms of nitrogen (5) to (7) (as appropriate) Nitrogen form (7) must be declared in the form of nitrogen (8) and (9)	An NPK fertilizer free from Thomas slag, calcined phosphate, alulminium-calcium phosphate, partially solubilized natural phosphate and natural phosphate must be declared in accordance with solubilities (1), (2) or (3): — when the water-soluble P_2O_5 does not amount to 2 %, solubility (2) only shall be declared, — when the water-soluble P_2O_5 is at least 2 %, solubility (3) shall be declared, and the water-soluble P_2O_5 content must be indicated [solubility (1)]. The P_2O_5 content soluble in mineral acids only must not exceed 2 %. The test sample for determining solubilities (2) and (3) shall be 1 g.	(1) Water-soluble potassium oxide (2) The indication 'low in chlorine' is linked to a maximum content of 2 % CI (3) Chlorine content may be declared

2. NP FERTILIZERS

Type designation	Data on method of production	Minimum content of nutrients (percentage by weight)		Forms, solubilities and nutrient content to be declared as specified in columns 8, 9 and 10 Particle size			Data for identification of the fertilizers Other requirements		
		Total	For each of the nutrients	N	P_2O_5	K_2O	N	P_2O_5	K_2O
1	2	3	4	5	6	7	8	9	10
NP fertilizer containing crotonylidene diurea or isobutylidene diurea or urea formalidehyde (as appropriate)	Product obtained chemically without addition of organic nutrients of animal or vegetable origin and containing crotonylidene diurea or isobutylidene diurea or urea formaldehyde	18 % ($N + P_2O_5$)	5 % N At least 1/4 of the declared content of total nitrogen must derive from nitrogen form (5) or (6) or (7). At least 3/5 of the declared nitrogen content (7) must be soluble in hot water 5 % P_2O_5	(1) Total nitrogen (2) Nitric nitrogen (3) Ammoniacal nitrogen (4) Ureic nitrogen (5) Nitrogen from crotonylidene diurea (6) Nitrogen from isobutylidene diurea (7) Nitrogen from urea formaldehyde (8) Nitrogen from urea formaldehyde that is only soluble in hot water (9) Nitrogen from urea formaldehyde that is soluble in cold water	(1) Water-soluble P_2O_5 (2) P_2O_5 soluble in neutral ammonium citrate (3) P_2O_5 soluble in neutral ammonium citrate and in water		(1) Total nitrogen (2) If any of the forms of nitrogen (2) to (4) amounts to at least 1 % by weight, it must be declared (3) One of the forms of nitrogen (5) to (7) (as appropriate) Nitrogen form (7) must be declared in the form of nitrogen (8) and (9)	An NP fertilizer free from Thomas slag, calcined phosphate, aluminium-calcium phosphate, partially solubilized natural phosphate and natural phosphate must be declared in accordance with solubilities (1), (2) or (3): — when the water-soluble P_2O_5 does not amount to 2 %, solubility (2) only shall be declared, — when the water-soluble P_2O_5 is at least 2 %, solubility (3) shall be declared, and the water-soluble P_2O_5 content must be indicated [solubility (1)]. The P_2O_5 content soluble in mineral acids only must not exceed 2 %. The test sample for determining solubilities (2) and (3) shall be 1 g.	

3. NK FERTILIZERS

Type designation	Data on method of production	Minimum content of nutrients (percentage by weight)		Forms, solubilities and nutrient content to be declared as specified in columns 8, 9 and 10 Particle size			Data for identification of the fertilizers Other requirements		
		Total	For each of the nutrients	N	P_2O_5	K_2O	N	P_2O_5	K_2O
1	2	3	4	5	6	7	8	9	10
NK fertilizer containing crotonylidene diurea or isobutylidene diurea or urea formaldehyde (as appropriate)	Product obtained chemically without addition of organic nutrients of animal or vegetable origin and containing crotonylidene diurea or isobutylidene diurea or urea formaldehyde	18 % ($N + K_2O$)	5 % N At least 1/4 of the declared content of total nitrogen must derive from nitrogen form (5) or (6) or (7). At least 3/5 of the declared nitrogen content (7) must be soluble in hot water 5 % K_2O	(1) Total nitrogen (2) Nitric nitrogen (3) Ammoniacal nitrogen (4) Ureic nitrogen (5) Nitrogen from crotonylidene diurea (6) Nitrogen from isobutylidene diurea (7) Nitrogen from urea formaldehyde (8) Nitrogen from urea formaldehyde that is only soluble in hot water (9) Nitrogen from urea formaldehyde that is soluble in cold water		Water-soluble K_2O	(1) Total nitrogen (2) If any of the forms of nitrogen (2) to (4) amounts to at least 1 % by weight, it must be declared (3) One of the forms of nitrogen (5) to (7) (as appropriate) Nitrogen form (7) must be declared in the form of nitrogen (8) and (9)		(1) Water-soluble potassium oxide (2) The indication 'low in chlorine' is linked to a maximum content of 2 % Cl (3) Chlorine content may be declared

ANNEX III

ANNEX I

C. FLUID FERTILIZERS

1. STRAIGHT FLUID FERTILIZERS

Number	Type designation	Data on method of production and essential ingredients	Minimum content of nutrients (percentage by weight) Data on the expression of nutrients Other requirements	Other data on the type designation	Nutrient content to be declared Forms and solubilities of the nutrients Other criteria
1	2	3	4	5	6
4	Magnesium nitrate solution	Product obtained chemically and by dissolving magnesium nitrate in water	6 % N Nitrogen expressed as nitric nitrogen 9 % MgO Magnesium expressed as water-soluble magnesium oxide Minimum pH : 4		Nitric nitrogen Water-soluble magnesium oxide

ANNEX IV

ANNEX I

D. SECONDARY NUTRIENT FERTILIZERS

Number	Type designation	Data on method of production and essential ingredients	Minimum content of nutrients (percentage by weight) Data on the expression of nutrients Other requirements	Other data on the type of designation	Nutrient content to be declared Forms and solubilities of the nutrients Other criteria
1	2	3	4	5	6
5.1	Magnesium sulphate solution	Product obtained by dissolution in water of magnesium sulphate of industrial origin	5 % MgO 10 % SO_3 Magnesium and sulphur expressed as water-soluble magnesium oxide and water-soluble sulphuric anhydride	Usual trade names may be added	Water-soluble magnesium oxide Optionally : water-soluble sulphuric anhydride

ANNEX V

ANNEX I

E

Explanatory note: The following notes are applicable to the whole of part E.

Note 1: A chelating agent may be designated by means of its initials as set out in Chapter E.

Note 2: If the product leaves no solid residue after being dissolved in water it may be described as 'for dissolution'.

Note 3: Where a trace element is present in a chelated form, the pH range guaranteeing acceptable stability of the chelated fraction shall be stated.

CHAPTER A

FERTILIZERS CONTAINING ONLY ONE TRACE ELEMENT

Number	Type designation	Data on method of production and essential ingredients	Minimum content of nutrients (percentage by weight) Data on the expression of nutrients Other requirements	Other data on the type of designation	Nutrient content to be declared Forms and solubilities of the nutrients Other criteria
1	2	3	4	5	6
BORON					
1a	Boric acid	Product obtained by the action of an acid on a borate	14 % water-soluble B	The usual trade names may be added.	Water-soluble boron (B)
1b	Sodium borate	Chemically obtained product containing as its essential component a sodium borate	10 % water-soluble B	The usual trade names may be added.	Water-soluble boron (B)
1c	Calcium borate	Product obtained from colemanite or pandermite containing as its essential ingredient calcium borates	7 % total B Particle size : at least 98 % passing through a 0,063 mm sieve	The usual trade names may be added.	Total boron (B)
1d	Boron ethanol amine	Product obtained by reacting a boric acid with an ethanol amine	8 % water-soluble B		Water-soluble boron (B)
1e	Borated fertilizer in solution	Product obtained by dissolving types 1a and/or 1b and/or 1d	2 % water-soluble B	The designation must include the names of the constituents present	Water-soluble boron (B)
1f	Borated fertilizer in suspension	Product obtained by suspending types 1a and/or 1b and/or 1d in water	2 % water-soluble B	The designation must include the names of the constituents present	Water-soluble boron (B)

1	2	3	4	5	6
COBALT					
2a	Cobalt salt	Chemically obtained product containing a mineral salt of cobalt as its essential ingredient	19 % water-soluble Co	The designation must include the name of the mineral anion	Water-soluble cobalt (Co)
2b	Cobalt chelate	Water-soluble product obtained by combining cobalt chemically with a chelating agent	2 % water-soluble Co, at least 8/10 of the declared value of which has been chelated	Name of the chelating agent	Water-soluble cobalt (Co) Chelated cobalt (Co)
2c	Cobalt fertilizer solution	Product obtained by dissolving types 2a and/or one of the type 2b in water	2 % water-soluble Co	The designation must include : (a) the name(s) of the mineral anion(s) ; (b) the name of any chelating agent if present.	Water-soluble cobalt (Co). Chelated cobalt (Co) if present
COPPER					
3a	Copper salt	Chemically obtained product containing a mineral salt of copper as its essential ingredient	20 % water-soluble Cu	The designation must include the name of the mineral anion	Water-soluble copper (Cu)
3b	Copper oxide	Chemically obtained product containing copper oxide as its essential ingredient	70 % total Cu Particle size : at least 98 % passing through a 0,063 mm sieve		Total copper (Cu)
3c	Copper hydroxide	Chemically obtained product containing copper hydroxide as its essential ingredient	45 % total Cu Particle size : at least 98 % passing through a 0,063 mm sieve		Total copper (Cu)
3d	Copper chelate	Water-soluble product obtained by combining copper chemically with a chelating agent	9 % water-soluble Cu, at least 8/10 of the declared value of which has been chelated	Name of the chelating agent	Water-soluble copper (Cu). Chelated copper (Cu)
3e	Copper-based fertilizer	Product obtained by mixing types 3a and/or 3b and/or 3c and/or a single one of type 3d and, if required, filler that is neither nutrient nor toxic	5 % total Cu	The designation must include : (a) the name(s) of the copper components ; (b) the name of any chelating agent if present.	Total copper (Cu) Water-soluble copper (Cu) if this accounts for at least of the total copper Chelated cobalt (Co) if present
3f	Copper fertilizer solution	Product obtained by dissolving types 3a and/or 3d in water	3 % waters-soluble Cu	The designation must include : (a) the name(s) of the mineral anion(s) ; (b) the name of any chelating agent if present.	Water-soluble cobalt (Co) Chelated cobalt (Co) if present

1	2	3	4	5	6
3g	Copper oxychloride	Chemically-obtained product containing copper oxychloride [$Cu_2Cl(OH)_3$] as an essential ingredient	50 % total Cu Particle size : at least 98 % passing through a 0,063 mm sieve		Total copper (Cu)
3h	Copper oxychloride suspension	Product obtained by suspension of type 3g	17 % total Cu		Total copper (Cu)
IRON					
4a	Iron salt	Chemically obtained product containing a mineral iron salt as its essential ingredient	12 % water-soluble Fe	The designation must include the name of the mineral anion	Water-soluble iron (Fe)
4b	Iron chelate	Water-soluble product obtained by combining iron chemically with a chelating agent	5 % water-soluble Fe, at least 8/10 of the declared value of which has been chelated	Name of the chelating agent	Water-soluble iron (Fe) Chelated iron (Fe)
4c	Iron fertilizer solution	Product obtained by dissolving types 4a and/or one of the type 4b in water	2 % water-soluble Fe	The designation must include : (a) the name(s) of the mineral anion(s) ; (b) the name of any chelating agent if present.	Water-soluble iron (Fe) Chelated iron (Fe) if present
MANGANESE					
5a	Manganese salt	Chemically obtained product containing a mineral manganese salt (Mn II) as its essential ingredient	17 % water-soluble Mn	The designation must include the name of the combined anion	Water-soluble manganese (Mn)
5b	Manganese chelate	Water-soluble product obtained by combining manganese chemically with a chelating agent	5 % water-soluble Mn, at least 8/10 of the declared value of which has been chelated	Name of the chelating agent	Water-soluble manganese (Mn) Chelated manganese (Mn)
5c	Manganese oxide	Chemically obtained product containing manganese oxides as essential ingredients	40 % total Mn Particle size : at least 80 % passing through a 0,063 mm sieve		Total manganese (Mn)
5d	Manganese-based fertilizer	Product obtained by mixing types 5a and 5c	17 % total Mn	The designation must include the name of the manganese components	Total manganese (Mn) Water-soluble manganese (Mn) if this accounts for at least 1/4 of the total manganese
5e	Manganese-based fertilizer solution	Product obtained by dissolving types 5a and/or one of the type 5b in water	3 % water-soluble Mn	The designation must include : (a) the name(s) of the mineral anion(s) ; (b) the name of any chelating agent if present.	Water-soluble manganese (Mn) Chelated manganese (Mn) if present

1	2	3	4	5	6
MOLYBDENUM					
6a	Sodium molybdate	Chemically obtained product containing sodium molybdate as its essential ingredient	35 % water-soluble Mo		Water-soluble molybdenum (Mo)
6b	Ammonium molybdate	Chemically obtained product containing ammonium molybdate as its essential ingredients	50 % water-soluble Mo		Water-soluble moylbdenum (Mo)
6c	Molybdenum-based fertilizer	Product obtained by mixing types 6a and 6b	35 % water-soluble Mo	The designation must include the names of the molybdenum components	Water-soluble molybdenum (Mo)
6d	Molybdenum-based fertilizer solution	Product obtained by dissolving types 6a and/or one of the type 6b in water	3 % water-soluble Mo	The designation must include the name(s) of the molybdenum component(s)	Water-soluble molybdenum (Mo)
ZINC					
7a	Zinc salt	Chemically obtained product and having as its essential ingredient a mineral salt of zinc	15 % water-soluble Zn	The designation must include the name of the mineral anion	Water-soluble zinc (Zn)
7b	Zinc chelate	Water-soluble product obtained by combining zinc chemically with a chelating agent	5 % water-soluble Zn, at least 8/10 of the declared content of which has been chelated	Name of the chelating agent	Water-soluble zinc (Zn) Chelated Zinc (Zn)
7c	Zinc oxide	Chemically obtained product and having as its essential ingredient zinc oxide	70 % total Zn Particle size : at least 80 % passing through a 0,063 mm sieve		Total zinc (Zn)
7d	Zinc-based fertilizer	Product obtained by mixing types 7a and 7c	30 % total Zn	The designation must include the name of the zinc components present	Total zinc (Zn) Water-soluble zinc (Zn) if this accounts for at least 1/4 of the total zinc (Zn)
7e	Zinc-based fertilizer solution	Product obtained by dissolving types 7a and/or one of type 7b in water	3 % water-soluble Zn	The designation must include : (a) the name(s) of the mineral anion(s) ; (b) the name of any chelating agent if present.	Water-soluble zinc (Zn) Chelated zinc (Zn) if present

COMMISSION DECISION

of 6 April 1993

concerning aid awarded by the German Government to Hibeg and by Hibeg via Krupp GmbH to Bremer Vulkan AG, facilitating the sale of Krupp Atlas Elektronik GmbH from Krupp GmbH to Bremer Vulkan AG

(Only the German text is authentic)

(93/412/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given notice in accordance with the above Article 93 to interested parties to submit their comments and having regard to those comments,

Whereas :

I

By letter dated 17 December 1991 the German Government notified a guarantee given by the Freie Hansestadt Bremen/Land Bremen. The Commission, by letter D/00130 dated 20 January 1992, requested supplementary information from the German Government. The German Government's answer of 4 March 1992 was received on 9 March 1992. On 6 May 1992 the Commission decided to open the procedure provided for in Article 93 (2) of the EEC Treaty. This was communicated to the German Government by letter SG(92) D/6699 of 20 May 1992 and published in the *Official Journal of the European Communities*(1).

II

The German notification concerns a guarantee given by the Land of Bremen to support the buying of Krupp Atlas Elektronik GmbH (KAE) by Bremer Vulkan AG (BV) from Krupp GmbH (Krupp). The German Government described a complex plan involving various transactions which, in combination, affect the sale of KAE to BV.

In order to further diversify out of shipbuilding BV bought a 74,9 % share in KAE from Krupp. The price of DM 350 million was not paid in cash but with newly issued shares in BV. The following (summarized) transactions took place or were agreed on :

— 17 October 1991 : the general meeting of shareholders of BV decides on an increase in the share capital,

— 21 November 1991 : the Frei Hansestadt Bremen (Land Bremen) gives a guarantee of DM 126 million plus credit costs and interest to Hanseatische Industrie-Beteiligungen GmbH (Hibeg), a public company owned by the Land of Bremen,

— 26 November 1991 : a share-swap between Krupp and BV whereby BV yields 2,8 million new BV shares (total value according to BV, DM 350 million, i.e. DM 125 per share) to Krupp in order to acquire a 74,9 % holding in KAE,

— 26 November 1991 : Krupp and Hibeg together found a Gesellschaft bürgerlichen Rechts (GbR),

— 31 December 1991 : Krupp and Hibeg bring both their agreed holdings into the GbR. Krupp contributes the 2,8 million BV shares and Hibeg contributes DM 350 million in cash, financed by a bank credit partly covered by the Land's guarantee mentioned above,

— 31 December 1991 : on the basis of the agreement establishing the GbR, the GbR gives a DM 350 million advance to Krupp. Hibec gets the irrevocable entitlement to sell the BV-shares to a third person at a minimum price of DM 125 per share. Every share sold reduces the holding of the two partners in the GbR, by effecting both a reduction of the balance owed on the advance to Krupp and a repayment of the credit brought in by Hibeg,

— 28 February 1994 the earliest and at 31 December 1994 the latest : the GbR will be dissolved. The remaining BV shares are transferred to Hibeg while Krupp holds the balance of the advance. Hibeg was the option, agreed upon with the banks that gave it the credit, of repaying (part) of the credit by selling the BV shares to those banks for DM 80 per share at the end of the credit term.

In short, this means that BV buys a 74,9 % share in KAE by paying Krupp 2,8 million BV shares. Within the framework of the GbR Krupp exchanges those shares with Hibeg and Krupp receives DM 350 million. At the time of the transaction BV shares were quoted on the stock market at a value of around DM 80 per share, i.e. the total value of the 2,8 million shares was DM 224 million. The Land of Bremen/Freie Hansestadt Bremen supports Hibeg with a guarantee of DM 126 million, the

(1) OJ No C 171, 7. 7. 1992, p. 3.

difference between the agreed purchase price of KAE and the prevailing value of the shares, thereby allowing the original sale of KAE to BV to take place.

The German Government in its letter of 4 March 1992 states that the guarantee, with the exception of some modifications, does fulfil the requirements of the Bürgschaftsrichtlinien des Landes Bremen, approved by the Commission by letter SG(91) D/20146 of 28 October 1991 (N 512/91). The main amendment that the German letter mentions is that instead of an 'Ausfallbürgschaft' a 'selbstschuldnerische Bürgschaft' is used, the difference being that in the latter case the creditor can turn direct to the guarantor and does not have to go first to the debtor should the debtor be unable do pay.

III

In its assessment before commencing the procedure pursuant to Article 93 (2) the Commission gave its views on three questions: 1. whether aid is involved; 2. if so, how much aid is involved; and 3. who is receiving the supposed aid.

Its position on the first question was affirmative. The average share price for BV shares in November-December 1991, when the most important transactions took place, was arouned DM 80 per share. This price already reflected the lowering effect which a new share issue normally has, since as early as 17 October 1991 the general meeting of shareholders of BV had decided on the new issue. The issue price of new shares usually has to be below the market price of the shares in order to avoid failure of the issue. Accordingly, the Commission concluded that DM 80 per share was the maximum share price that could have been asked in an open issue. This view seemed confirmed by the banks' willingness to accept the unsold shares by the end of the credit term at DM 80 per share.

As the Commission concluded that DM 80 per share was the market price for the new shares, it is obvious that at this price KAE could not be bought by BV. The 2,8 million shares are worth DM 224 million and not DM 350 million (the price for 74,9 % of KAE). Hibeg, wholly owned by the Land Bremen and therefore to be regarded as a republic company, could only pusue this course of action and exchange DM 350 million for the new BV shares because the Land of Bremen covered the risk with a guarantee on DM 126 million. This DM 126 million represents exactly the difference between DM 350 million (the total credit) and DM 224 million (the value of the shares on the basis of a market price of DM 80 per share). The Commission therefore could not accept the implication that Hibeg's involvement was normal commercial practice because, as the German Government argues, the quoted price of BV shares averaged DM 130,8 per share in 1990, even reaching DM 170,5 per share on 1 June 1990, and fell at the end of 1991 as a consequence of the general down-turn in the stockmarket caused by the Gulf War.

The Commission answered the second question as to how much aid was involved by looking at the same facts. On the basis of a market price of DM 80 per share the new BV shares are worth DM 224 million. The difference as against the agreed purchase price for KAE of DM 350 million, i.e. DM 126 million, cannot be accounted for by commercial motives as explained above. Therefore the total of this difference, being equal to the total guarantee, has to be regarded as aid.

At the time of the opening of the procedure, an answer to the third question could not be given. It depends on the assessment of what is the real commercial market price for KAE. If it is held that 74,9 % of KAE is worth only DM 224 million then all the aid goes to Krupp. If it is held that the price of DM 350 million for 74,9 % of KAE is a justifiable market price, then all the aid goes via Hibeg to BV to make it possible for BV to acquire 74,9 % of KAE. If the real market value of 74,9 % of KAE is between those two values the aid is split between BV and Krupp accordingly.

As to the German citation of the Bürgschaftsrichtlinien des Landes Bremen (see II) the Commission could not accept that the guarantee fulfilled the requirements of this approved guarantee scheme. Not only is the form of the guarantee ('selbstschuldnerisch' instead of 'Ausfall') not in conformity with the approved scheme, but also the Commission could not agree, on the basis of the facts supplied, that there is a normal relationship between the proceeds of the investment in GbR and the funds needed to service the loan, as required in the gaurantee scheme. Moreover, the guarantee scheme requires that securities be given as a collateral and that a premium of 0,5 % of the guarantee on delivery and 0,5 % annually be paid, yet neither requirement, on the basis of the available information, seemed to be met. Therefore, conformity with the aproved guarantee scheme did not seem to be in evidence and, on the basis of Commission letters SG(89) D/4328 and SG(89) D/12772, the German Government should have notified the guarantee before granting it, to enable the Commission to investigate it pursuant to Articles 92 and 93 of the EEC Treaty.

Against this background the Commission decided to initiate the Article 93 (2) procedure in order to allow the Commission to examine the guarantee given by the Freie Hansestadt Bremen/Land Bremen on DM 126 million plus credit costs and interest of the bank credit of Hibeg and Hibeg's transactions with Krupp in the GbR and assess the overall compatibility with the common market.

IV

After publishing the opening of the procedure the following other parties concerned have submitted their comments:

— Bremer Vulkan AG, Bremen,

and

— Fried. Krupp AG, Essen.

Bremer Bulkan AG claimed to have received no aid and referred to the point of view of the German Government. Fried, Krupp AG was also of the opinion that it had received no aid, as the value of 74,9 % of KAE was at least DM 350 million. It pointed out that this value of 74,9 % of KAE was also acknowledged by Bremer Vulkan in its letter inviting its shareholders to the meeting to approve the issue of new BV shares and that the value was also the subject of scruting by two independent consultancy/accountancy companies.

The comments received from the parties concerned were transmitted by the Commission to the German Government by letter dated 16 September 1992 to give the German Government the opportunity to reply.

V

The German Government reacted on the opening of procedure by letter dated 1 July 1992. By letter dated 15 October 1992 the German Governement reacted to the comments of the other parties. By letter D/09810 dated 23 November 1992 the Commission requested additional information, to which the German Government replied by letter dated 8 January 1993. The German Government's comments can be summarized as follows:

1. the German Government does not agree that the value of the BV shares was or is DM 80 per share, although this was the traded price at the end of 1991 on the stock market. According to the German Governement the share price on the stock market does not reflect the situation of the individual company but is the expression of general national and international economic developments. The issued price was not to be based on the actual share price on the stock market but on past and future developments and expectations. The German Government assesses the value of BV shares at DM 125 per share at least, for a number of reasons:

   (a) the banks value the shares at DM 125 per share or more. This is reflected in the fact that the banks give a credit of DM 350 million. Normally banks only give a credit on 50 top 60 % of the securities on which the credit is based. It is only for the credit above this 50 to 60 % that the banks needed extra security, given by the Land of Bremen in the form of the guarantee.

   The very fact that the banks are prepared to buy the shares in BV for DM 80 per share at the end of the credit period indicates, on the basis of this same 50 to 60 % rule, that the banks estimated the value of BV shares to be at least DM 125 per share.

   In answer to a request of the Commission to receive bank analyses or reports pointing to such an evaluation, the German Government answered it could not supply such documents as it had no access to them;

   (b) the share price of BV shares averaged DM 130,8 per share in 1990 and even reached DM 170,5 on 1 June 1990. The price fell later, as a consequence of the Gulf War and the down-turn in the economy; that could not be foreseen at the time of the deal;

   (c) the synergy effects would result from integrating KAE in BV;

   (d) a big block of shares (2,8 million shares is around 20 % of all BV shares) is more attractive to an investor than individual shares;

   (e) the annual balance sheet of GbR, as approved by two independent accountants and tax advisers, testifies to the value of DM 350 million for the 2,8 million BV shares;

2. on the question as to the value of 74,9 % of KAE, the German Governement referred to extensive assessments made by two independent accountancy companies at the request of Krupp and BV at the time of the transaction between the two last mentioned. Those two accountancy firms assessed the value of the holding in KAE at DM 350 million;

3. as to whether the guarantee fulfils the requirements of the Bürgschaftsrichtlinien des Landes Bremen, the German Government gave the following answer. The Bürgschaftsrichtlinie requires that guarantees shall in principle ('grundsätzlich') be 'Ausfall' guarantees. According to the German Government this means that 'selbstschuldnerisch' guarantees are possible under the Bürgschaftsrichtlinie. As Hibeg is State-owned, an 'Ausfall' guarantee, with its possible insolvency procedures, is inappropraite from an economic point of view.

   As regards the question whether the proceeds of the investment will, under normal conditions, be sufficient to service the loan, the German Government answered that this depended on the valuation of the BV shares and referred in that respect to its arguments mentioned above (see 1).

   As regards the securities and premiums required under the Richtlinie, the German Government answered that they were not necessary as Hibeg is State-owned. The premiums would only result in an internal transfer ('Umbuchung'). As regards the notification before the granting of the guarantee the German Government commented that it had notified on 17 December 1991 and that the guarantee had only come into effect when the credit agreement became operative (end of December);

4. the Commission requested in its letters of 20 January, 20 May and 23 November 1992 to be informed on the private versus public ownership of BV. The German Government gave as an answer that Hibeg owned, at the time of the deal, 0,08 % of the shares of BV and that the Land of Bremen had no further participation.

VI

This first question to be answered in this final assessment is whether there is aid involved. The Commission's answer, in line with its reasoning at the opening of the procedure (see III), is affirmative. The average share price for BV share in November-December 1991, when the most important transactions took place, was around DM 80 per share (DM 84/94 in November and DM 75/43 in December). According to the Commission, the share price on the stock market does reflect the situation of the individual company, in the context of general national and international trends. The stock market price represents a genuine market evaluation of the share value as it reflects supply and demand equilibrium in a fully public, transparent environment. The issue price of new shares usually has to be below the market price of the shares in order to avoid a failure of the issue. this implies that, given the stock market price of around DM 80, the issue price would have needed to be below DM 80 per share. The Commission therefore concludes that DM 80 per share is the maximum share price that could have been asked in an open and commercial issue.

The reasons given by the German Government for valuing the shares of BV considerably higher at DM 125 per share (see V) cannot be accepted. The transaction at a value of DM 125 could take place only because of the granting of the guarantee covering the difference between DM 125 and DM 80 per share. The German Government was unable to supply analyses or reports of the banks to support such a high valuation. The fact the share price averaged DM 130,8 in 1990 does not take account of the fact that the share price has been consistently lower than DM 100 since as early as 1981, with the exception of the periods from the end of 1985 until 1986 and from early 1989 until the end of 1990. This has been confirmed *a posteriori* by the fact that from the end of 1991 until February 1993 the price of BV shares had been fluctuating around DM 80. Moreover, all market expectations about future profits will be reflected immediately in the share price. Therefore the price of the shares at the time of the transactions is the relevant real (market) value.

The same reasoning applies to the supposed synergy effects. These effects are taken into account immediately by the stock market. *A posteriori* the development of the BV share price since the end of 1991, fluctuating at around DM 80, does not show any evidence of any influence of such effects.

As regards the German argument that a big block of shares is more attractive to an investor than single shares, it is difficult to imagine that this could give a plausible explanation of the difference between DM 80 and DM 125 per share. It should also be borne in mind that a new share issue runs the risk of having the effect of lowering the share price.

As regards the approval of the balance sheet of GbR by two accountants/tax advisers the following should be noted : in general the accountants, while establishing an opening balance sheet, have to apply the principle of prudent valuation (Vorsichtsprinzip) which means that they have to value any asset at the lowest possible level (Niederstwertprinzip). If there is any market value, established for example by a stock exchange, that value is to be referred to. But if, as is the case with the Bremer Vulkan shares, there is a recent established price which differs from the stock market price, accountants are allowed to take that price into account for their valuation. Accordingly, the accountants only referred to the price of DM 350 million recently paid for the 2,8 million Bremer Vulkan share package, which was established by Krupp and Bremer Vulkan in collaboration with the Bremen Senate through Hibeg and the bank consortium, so that one cannot talk in terms of an independent valuation of the accountants. The only mirrored the valuation of the parties involved.

As the Commission concludes that DM 80 per BV share was the market price for the new shares at the time of the main transactions, it is obvious that at that price KAE could not be bought by BV. Hibeg, wholly owned by the Land of Bremen and therefore regarded as a public company, could only act in the interest of BV and pursue the arrangements with Krupp in the GbR as described above (see II), as the risk is covered with the guarantee on DM 126 million plus credit costs and interest. This DM 126 million represents exactly the difference between DM 350 million (the total credit and price of 74,9 % of KAE) and DM 224 million (the value of the 2,8 million BV shares at DM 80 per share). The Commission cannot accept the implication that Hibeg's involvement is normal commercial practice. As in previous cases, Hibeg is intervening as the instrument of the Land of Bremen and is supplying economic aid and assistance to a company — Bremer Vulkan — whose owners, despite many inuqiries, remain unknown the the Commission. On a previous occasion, Hibeg took upon itself to guarantee the issue in 1987 of BV shares to finance the shipbuilding activities of Bremer Vulkan. The guarantee to purchase the new shares not sold at issue was considered not to be a normal guarantee but to constitute aid for the full amount of the difference between the guaranteed priced and a stock market based real value of the shares. That assessment by the Commission was not contested by the German Government, nor was its approval of the aid under the prevailing aid ceiling of the Sixth Council Directive 87/167/EEC on aid to shipbuilding (1) (letter SG(90) D/28234 of 16 October 1990).

(1) OJ No L 69, 12. 3. 1987, p. 55.

The foregoing also answers the question as to how much aid is involved. As when the procedure commenced, this can be calculated as the full amount covered by the guarantee. On the basis of a market price of DM 80 per BV share the 2,8 million BV shares are worth DM 224 million. The difference with the price for KAE of DM 350 million, i.e. DM 126 million, cannot be accounted for by commercial motives. The total of this difference, being equal to the total guarantee, has to be viewed as aid. Hibeg, itself a public company, could exchange DM 350 million for the BV shares only DM 224 million only with the cover of the guarantee.

On the question of the recipient of the aid the German answer on the value of the 74,9 % holding in KAE confirms the hypothesis that the DM 350 million value, established in negotiations between two equal partners on the market, reflects the real market value of the 74,9 % stake. The Commission is assured hereof by the German explanation that the value of 74,9 % of KAE was set at DM 350 million by two independent accountancy firms (see V).

This means that the final recipient of the aid is BV. The total of the transactions and the aid involved made it possible to BV to acquire 74,9 % of KAE worth DM 350 million in exchange not for cash, but for 2,8 million BV shares worth DM 224 million. Under the arrangement chosen, the aid is given by Hibeg, subject to the conclusion of the transaction between BV and Krupp, in the form of a cash payment. In this regard it is important to note that the German Government in its different letters described the whole arrangement as seeking to achieve the diversification of BV through the buying of KAE. Although it was Krupp that received the cash payment direct from Hibeg within the agreements concerning the GbR, it is BV which effectively improves its financial position through the contribution by Hibeg and the related State guarantee and which is therefore the final aid recipient.

The German Government's unwillingness or inability to supply full information on the ownership of BV makes it impossible for the Commission to discover why it is necessary in the present case for Hibeg (0,08 % shareholder) and the Land of Bremen, rather than the company's own shareholders, to supply finance.

As to whether the guarantee fulfils the requirements of the Bürgerschaftsrichtlinien des Landes Bremen/Freie Hansestadt Bremen the German answer cannot be endorsed by the Commission. It is disputable whether the text of the Richtlinien, as notified to the Commission by letter dated 31 July 1991, allows 'selbstschuldnerische' instead or 'Ausfall' guarantees. The text reads : 'Die Bürgschaften werden grundsätzlich gegenüber Kreditinstituten im Sinne von § 1 des Gesetzes über das Kreditwesen als Ausfallbürgschaften übernommen' (Article 2.1 of the Bürgerschaftsrichtlinie). As regards the securities and premiums required under the Richtlinie it is clear that, as these were not required under the Richtlinie it is clear that, as these were not required from Hibeg, this constitutes a deviation from the approved Richtlinien. The fact that no securities and premiums were required from Hibeg constitutes aid *per se*. The costs of the guarantee should have weighed on the transaction between Krupp and Hibeg. Consequently, the guarantee should have been notified in accordance with the Commission's letters SG(89) D/4328 of 5 April and SG(89) D/12772 of 12 October 1989 before it was granted, and not, as the German Government did, before it became 'operational'.

The Commission therefore identifies the following aids : BV received DM 126 million aid from Hibeg. This aid operation by Hibeg was made possible by a guarantee on DM 126 million plus credit costs and interest given by the Freie Hansestadt Bremen/Land of Bremen to Hibeg, securing the amount by which the agreed purchase price of KAE exceeded the value of 2,8 million shares in BV. The Commission does not consider the guarantee to be a normal guarantee that has to be evaluated under the guarantee scheme, but considers the full amount of the guarantee to be aid given to Hibeg by the Freie Hansestadt Bremen/Land of Bremen.

VII

The German Government failed to notify those aid measures in advance pursuant to Article 93 (3) of the Treaty. The German Government notified the aid after the guarantee had been given and after Krupp and BV had sold or bought 74,9 % of KAE and after Hibeg and Krupp had founded a GbR.

Since the German Government did not notify the aid before granting it, as it should have done pursuant to Article 93 (3) of the EEC Treaty, the Commission was unable to make known its view on the measures before they were implemented. The aid was thus illegal under Community law from the date it was granted. The situation resulting from this breach of legal requirements is particularly serious, since the aid has already been given to the recipient. Moreover, the aid measures have had effects deemed to be incompatible with the common market.

In the case of aid which is incompatible with the common market, the Commission may — as the Court of Justice has confirmed in its Judgments of 12 July 1973 in Case 70/72 ('Kohlegesetz') (1), 21 March 1990 in Case C-142/87 ('Tubemeuse') (2) and 20 September 1990 in Case C-5/89 ('BUG-Alutechnik') (3) — require the Member States to make the recipients repay aid granted illegally.

VIII

KAE's main activities lie in the fields of marine and defence electronics (echo-sounding techniques, signal- and data-processing). There is competition in the Community between producers in these fields and there is trade between the Member States in the products involved.

(1) [1973] ECR, p. 813.
(2) [1990] ECR I, p. 959.
(3) [1990] ECR I, p. 3437.

According to the 1991 yearly report of (K)AE (the name of KAE was changed to AE after the acquisition by BV), KAE itself exported part of its turnover within the Community. Of its DM 689 million turnover for 1991, DM 45 million was derived from business with other community countries. For 1990 those figures were respectively DM 578 million and DM 30 million.

Within the marine and defence electronics sector, KAE operates in a number of specialized markets for which there is evidence to show that intra-Community trade exists. Such information is summarized in the following table :

Imports from other Community countries 1991

Different product categories

(million ecu)

Country	8531	8526	9014
France	114	36	130
Belgium/Luxembourg	49	21	11
Netherlands	51	20	63
Germany	48	70	55
Italy	36	20	64
United Kingdom	72	11	190
Ireland	16	3	3
Denmark	14	11	18
Greece	12	7	0,5
Portugal	18	3	5
Spain	41	7	11

8531 : electric sound or visual signalling apparatus

8526 : radar apparatus, radio navigational aid apparatus and radio remote control apparatus

9014 : direction finding compasses, other navigational instruments and appliances

Consequently, the aid which the German Government has granted to Bremer Vulkan and Hibeg affects trade between Member States and distorts competition between marine and defence electronics manufacturers within the meaning of Article 92 (1) of the Treaty.

IX

Article 92 (1) of the EEC Treaty lays down the principle that aid having the characteristics specified therein is incompatible with the common market. The derogations from that principle set out in Article 92 (2) of the EEC Treaty do not apply to the case in point, given the nature and objectives of the aid. The aid in this case does not have a social character, does not serve to make good the damage caused by natural disasters nor is it aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany.

Derogations from the principle of incompatibility of aid pursuant to Article 92 (3) of the EEC Treaty must, in the interests of maintaining the proper functioning of the common market and taking account of the objectives set out in Article 3 (f) of the EEC Treaty, be interpreted restrictively in assessing any aid scheme or individual aid measure.

In particular, the derogations may be applied only if the Commission established that, without the aid, market forces would not in themselves be sufficient to induce recipients to act in such a way as to achieve any of the desired objectives.

Applying the derogations to cases which do not contribute to such an objective, or where the aid is not necessary for that purpose, would amount to conferring advantages on the industries or firms of certain Member States, whose financial position would be artificially strengthened and to affecting trade between Member States and distorting competition without any justification based on the common interest, referred to in Article 92 (3) of the EEC Treaty.

In view of the above, the aid to which this Decision relates does not qualify for any of the derogations provided for in Article 92 (3) of the EEC Treaty.

As regards the exception pursuant to Article 92 (3) (a) the aid is not designed to promote the economic development of an area where the standard of living is abnormally low or where there is serious underemployment. Nor has the German Government attempted to justify the aid on such grounds.

As far as the derogation pursuant to Article 92 (3) (b) is concerned, the aid is clearly not intended to promote a project of common European interest or to remedy a serious distrubance in the German economy. Nor has the German Government attempted to justify the aid on such grounds.

As regards the derogation pursuant to Article 92 (3) (c) of the Treaty for aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, the Commission has examined the aid on its sectoral and regional aspects. In both respects it is important to note that the aid given to Bremer Vulkan is an investment aid to help Bremer Vulkan buy an already existing company (KAE) and not to create new production facilities or employment. It is also important to refer to Part VIII, in which is shown clearly that there is competition between producers in the Community and that there is trade between the Member States in the products involved. As regards the sectoral aspect it is the sector which receives investment that is of importance. This case concerns the electronics sector in which KAE operates.

As there is no Community sectoral justification for this aid, it has to be regarded as adversely affecting trading conditions to an extent contrary to the common interest. The aid would give BV, in operating KAE, an unjustified advantage over KAE's competitors on the market, which will not receive and have not received such aid. The German Government has not, indeed, attempted to justify the aid on such grounds. As regards the regional aspect Bremen is an area eligible for assistance on the national level ('Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur') and Community level ('Objective 2 area'). However, the aid in this case is not, as required, granted as part of an approved regional scheme but has been given as an *ad hoc* investment aid. In addition, the buying of an existing company or part of an existing company cannot be viewed as an investment eligible for aid under the previously mentioned 'Gemeinschaftsaufgabe', as no employment is thereby created and as the German Government has not supplied any evidence that KAE would have had to close had it not been sold to BV. Consequently, the aid cannot be justified on regional grounds pursuant to Article 92 (3) (c). Furthermore, the German Government did not notify nor attempt to justify the aid on regional grounds.

X

In conclusion, the aids granted by the Land of Bremen/ Freie Hansestadt Bremen to BV and Hibeg are not compatible with the common market, since they were granted illegally in violation of Article 93 (3) of the Treaty and furthermore do not meet any of the conditions provided for in Article 92 (2) and (3) of the Treaty.

The aid must be abolished and any aid granted must be repaid (see Judgment of the Court of Justice of 14 February 1990 in Case C-301/87 'Boussac', paragraph 22) [1].

Repayment must be made in accordance with the procedures and provisions of German law, in particular those relating to interest on arrears on State claims, with interest running from the date on which the unlawful aid was granted. That measure is necessary in order to restore the status quo by removing all the financial benefits which the firms receiving the unlawful aid have improperly enjoyed since the date on which the aid was paid (see Judgment of 21 March 1990 in Case C-142/87 'Tubemeuse', paragraph 66),

[1] [1990] ECR I, p. 307.

HAS ADOPTED THIS DECISION:

Article 1

1. Aid in favour of Bremer Vulkan totalling DM 126 million, granted within the context of the acquisition of 74,9 % of the capital of Krupp Atlas Elektronik GmbH through Hibeg, is unlawful, since it was granted in breach of the procedural rules laid down in Article 93 (3). Furthermore, the aid is also incompatible with the common market pursuant to Article 92 (1), since it does not meet any of the conditions for exemption provided for in Article 92 (2) and (3).

2. Aid in favour of Hibeg granted by the Land of Bremen/Freie Hansestadt Bremen in the form of a guarantee on DM 126 million plus credit costs and interest is unlawful, since it was granted in breach of the procedural rules laid down in Article 93 (3). Furthermore, the aid is also incompatible with the common market pursuant to Article 92 (1), since it does not meet any of the conditions for exemption provided for in Article 92 (2) and (3).

Article 2

1. The German Government shall ensure that the aid of DM 126 million to Bremer Vulkan referred to in Article 1 (1) is fully recovered and paid to Hibeg within two months of the notification of this Decision.

The aid shall be recovered in accordance with the procedures and provisions of national law, in particular those relating to interest on arrears payable on State claims, with interest running from the date on which the unlawful aid was granted.

2. The German Government shall abolish the guarantee referred to in Article 1 (2) within two months of the notification of this Decision.

Article 3

The German Government shall inform the Commission, within two months of the notification of this Decision, of the measures taken to comply with it.

Article 4

The Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 6 April 1993.

For the Commission
Karel VAN MIERT
Member of the Commission

COMMISSION DECISION

of 19 July 1993

terminating the anti-dumping proceeding concerning imports of compact discs originating in Taiwan, Singapore and Malaysia

(93/413/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission, after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. PROCEDURE

(1) In February 1992 the Commission received a complaint lodged by Compact (Committee of Mechoptronics Producers and Connected Technologies), on behalf of producers representing a major proportion of the Community production of compact disc players. The complaint contained evidence of dumping and of material injury resulting therefrom to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communites* [2], the initiation of an anti-dumping proceeding concerning imports of certain compact disc players, i.e. stand-alone sound reproducers with a laser optical reading system, with external dimensions of at least 150 × 45 × 170 mm, able to function with AC mains supply of usually 110/120/220/240 v, not capable of operating with internal or external power supply of 24 v DC or less, originating in Taiwan, Singapore and Malaysia.

In this notice, the Commission indicated that at least some of the compact disc players presently exported from Taiwan, Singapore and Malaysia may not originate, according to the Community rules on origin, in these three countries but in Japan. The Commission therefore stated that the findings on question of origin of these products could also be relevant to the review [3] of the anti-dumping measures established by Council Regulation (EEC) No 112/90 [4] which imposed anti-dumping duties on imports of the product concerned originating in Japan and Korea.

(2) The Commission officially so advised the exporters known to be concerned, the representatives of the exporting countries and the complainants, and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(3) All of the known producers in the three countries and some importers made their views known in writing.

(4) The Commission sought and verified all information deemed to be necessary for the purpose of a preliminary determination and carried out investigations at the premises of the major Community producer, producers in Taiwan, Singapore and Malaysia, some parent companies of these producers in Japan and a number of importers.

(5) Given the issue of origin referred to in the opening notice [see recital (1)], the investigation of dumping covered the period 1 January to 31 December 1991 in order to coincide with the investigation period in the review of Regulation (EEC) No 112/90.

B. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

(6) The two major Community producers officially advised the Commission of their intention to cease production of compact disc players in the Community. These producers declared that the discontinuation of their production within the Community would be completed by the end of 1993 and that they were of the opinion that there was no justification for protective measures.

(7) Furthermore, the complainant, Compact, representing the producers comprising the Community

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No C 148, 12. 6. 1992, p. 7.
[3] OJ No C 173, 4. 7. 1991, p. 3,
OJ No C 174, 5. 7. 1991, p. 15 and
OJ No C 334, 28. 12. 1990, p. 8.
[4] OJ No L 13, 17, 1. 1990, p. 21.

industry formally withdrew on 6 April 1993 its complaint concerning imports of compact disc players originating in Taiwan, Singapore and Malaysia. The Commission considered that a termination would not be against the interest of the Community.

(8) In these circumstances, it is considered that protective measures are unnecessary and that, accordingly, the anti-dumping proceeding concerning imports of compact disc players originating in Taiwan, Singapore and Malaysia should be terminated without the imposition of protective measures.

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of certain compact disc players, i.e. stand-alone sound reproducers with a laser optical reading system, with external dimensions of at least 150 × 45 × 170 mm, able to function with AC mains supply of usually 110/120/220/240 v, not capable of operating with internal or external power supply of 24 v DC or less, originating in Taiwan, Singapore and Malaysia is hereby terminated.

Done at Brussels, 19 July 1993.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 19 July 1993

suspending the buying-in of butter in certain Member States

(Only the Danish, German, English, French and Dutch texts are authentic)

(93/414/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk und milk products (1), as last amended by Regulation (EEC) No 2071/92 (2), and in particular the first subparagraph of Article 7a (1) and Article 7a (3) thereof,

Whereas Council Regulation (EEC) No 777/87 (3), as last amended by Regulation (EEC) No 1634/91 (4), sets out the circumstances under which the buying-in of butter and skimmed milk powder may be suspended and subsequently resumed and, where suspension takes place, the alternative measures that may be taken;

Whereas Commission Regulation (EEC) No 1547/87 (5), as last amended by Regulation (EEC) No 2011/91 (6), lays down the criteria on the basis of which the buying-in of butter by invitation to tender is to be opened and suspended in a Member State or, as regards the United Kingdom and the Federal Republic of Germany, in a region;

Whereas information on market prices shows that the condition laid down in Article 1 (3) of Regulation (EEC) No 1547/87 is currently met in Belgium, Denmark, Germany, France, Luxembourg, the Netherlands, Great Britain and Northern Ireland;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS DECISION:

Article 1

The buying-in of butter by invitation to tender as provided for in Article 1 (3) of Regulation (EEC) No 777/87 is hereby suspended in Belgium, Denmark, Germany, France, Luxembourg, the Netherlands, Great Britain and Northern Ireland.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the United Kingdom.

Done at Brussels, 19 July 1993.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 215, 30. 7. 1992, p. 64.
(3) OJ No L 78, 20. 3. 1987, p. 10.
(4) OJ No L 150, 15. 6. 1991, p. 26.
(5) OJ No L 144, 4. 6. 1987, p. 12.
(6) OJ No L 185, 11. 7. 1991, p. 5.

CORRIGENDA

Corrigendum to Council Regulation (EEC) No 1566/93 of 14 June 1993 amending Regulation (EEC) No 822/87 on the common organization of the market in wine

(Official Journal of the European Communities No L 154 of 25 June 1993)

On page 40 in Article 2:

Article 2 shall be replaced by the following:

'Article 2

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

Corrigendum to Commission Decision 93/244/EEC of 2 April 1993 concerning additional guarantees relating to Aujeszky's disease for pigs destined for certain parts of the territory of the Community

(Official Journal of the European Communities No L 111 of 5 May 1993)

On page 23 in Annex I:

Delete: 'Regions free of Aujeszky's disease which do not permit vaccination'.

for: 'Luxembourg: whole territory',
read: 'Luxembourg: Member State'.
