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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1399/94
of 17 June 1994
concerning the stopping of fishing for cod by vessels flying the flag of Germany

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

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21 (3) thereof,

Whereas Council Regulation (EC) No 3676/93 of 21 December 1993 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1994 and certain conditions under which they may be fished⁽²⁾, provides for cod quotas for 1994;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of cod in the waters of ICES division III a Kattegat by vessels flying the flag of Germany or registered in Germany have reached the quota allocated for 1994; whereas Germany has prohi-

bited fishing for this stock as from 5 June 1994; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in the waters of ICES division III a Kattegat by vessels flying the flag of Germany or registered in Germany are deemed to have exhausted the quota allocated to Germany for 1994.

Fishing for cod in the waters of ICES division III a Kattegat by vessels flying the flag of Germany or registered in Germany is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 5 June 1994.

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

Done at Brussels, 17 June 1994.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

⁽¹⁾ OJ No L 261, 20. 10. 1993, p. 1.

⁽²⁾ OJ No L 341, 31. 12. 1993, p. 1.

COMMISSION REGULATION (EC) No 1400/94

of 17 June 1994

concerning the stopping of fishing for cod by vessels flying the flag of Germany

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21 (3) thereof,

Whereas Council Regulation (EC) No 3689/93 of 20 December 1993 allocating, for 1994, catch quotas between Member States for vessels fishing in Lithuanian waters⁽²⁾, provides for cod quotas for 1994;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of cod in the waters of ICES division III d (Lithuanian waters) by vessels flying the flag of Germany or registered in Germany have reached the

quota allocated for 1994; whereas Germany has prohibited fishing for this stock as from 1 June 1994; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in the waters of ICES division III d (Lithuanian waters) by vessels flying the flag of Germany or registered in Germany are deemed to have exhausted the quota allocated to Germany for 1994.

Fishing for cod in the waters of ICES division III d (Lithuanian waters) by vessels flying the flag of Germany or registered in Germany is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 1 June 1994.

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

Done at Brussels, 17 June 1994.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

⁽¹⁾ OJ No L 261, 20. 10. 1993, p. 1.

⁽²⁾ OJ No L 341, 31. 12. 1993, p. 91.

COMMISSION REGULATION (EC) No 1401/94

of 17 June 1994

concerning the stopping of fishing for mackerel by vessels flying the flag of Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21 (3) thereof,Whereas Council Regulation (EC) No 3676/93 of 21 December 1993 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1994 and certain conditions under which they may be fished⁽²⁾, provides for mackerel quotas for 1994;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of mackerel in the waters of ICES divisions II (except EC-zone), V b (EC-zone), VI,

VII, VIII a, b, d, e, XII, XIV by vessels flying the flag of Spain or registered in Spain have reached the quota allocated for 1994,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of mackerel in the waters of ICES divisions II (except EC-zone), V b (EC-zone), VI, VII, VIII a, b, d, e, XII, XIV by vessels flying the flag of Spain or registered in Spain are deemed to have exhausted the quota allocated to Spain for 1994.

Fishing for mackerel in the waters of ICES divisions II (except EC-zone), V b (EC-zone), VI, VII, VIII a, b, d, e, XII, XIV by vessels flying the flag of Spain or registered in Spain is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of entry into force of this Regulation.

Article 2

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

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

Done at Brussels, 17 June 1994.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

⁽¹⁾ OJ No L 261, 20. 10. 1993, p. 1.

⁽²⁾ OJ No L 341, 31. 12. 1993, p. 1.

COMMISSION REGULATION (EC) No 1402/94

of 20 June 1994

laying down detailed rules for the application of Council Regulation (EEC) No 3438/92 laying down special measures for the transport of certain fresh fruit and vegetables originating in Greece in 1994

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3438/92 of 23 November 1992 laying down special measures for the transport of certain fresh fruit and vegetables originating in Greece ⁽¹⁾, as last amended by Regulation (EC) No 1016/94 ⁽²⁾,

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⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾, and in particular Article 3 thereof,

Whereas Regulation (EEC) No 3438/92, introduces a special temporary allowance in 1992, 1993 and 1994 for consignments, transported by refrigerated lorry, vessel or wagon from Greece to Member States other than Italy, Spain and Portugal, of certain fresh fruit and vegetables originating in Greece;

Whereas detailed rules for the application of Regulation (EEC) No 3438/92 have already been laid down in respect of consignments in 1992 and 1993;

Whereas it is necessary to determine the consignors and consignments eligible for the special temporary compensation in 1994 and the essential information which must appear on application for that compensation;

Whereas the additional costs arising from the need to avoid the former Yugoslavia can reasonably be regarded as being the same for the various means of transport and the various destinations concerned;

Whereas applications for the special temporary compensation should be checked and serious irregularities should be penalized;

Whereas it is necessary to specify the information to be sent to the Commission by the competent Greek authority and the relevant time limit;

Whereas the provisions in this Regulation must be applied with effect from 1 January 1994;

Whereas the Management Committee for Fruit and Vegetables has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The special temporary compensation referred to in Article 1 of Regulation (EEC) No 3438/92 shall be granted:

- (a) to the consignors, be they natural or legal persons, who actually met the cost of the consignments in question;
- (b) for the consignments leaving the territory of Greece during 1994;
- (c) for quantities actually imported into a Member State other than Italy, Spain and Portugal.

Article 2

1. Applications for the special temporary compensation shall be submitted to the competent Greek authority not later than six months after the consignments in question were dispatched.

However, such applications shall be submitted not later than six months following the entry into force of this Regulation in the case of consignments dispatched before that date.

2. Applications shall include:

- (a) the name or business name of the applicant and the address;
- (b) the total quantities of products qualifying under Article 1 of Regulation (EEC) No 3438/92 and Article 1 of this Regulation, expressed in net weight and broken down by product and consignment;
- (c) for each consignment:
 - the total quantity expressed in net weight and broken down by product,
 - the Member State of destination,
 - the means of transport used,
 - the invoice for the transport costs, made out to the applicant and receipted, or a copy of the transport document if it indicates the person who actually met the cost of the consignment,

⁽¹⁾ OJ No L 350, 1. 12. 1992, p. 1.

⁽²⁾ OJ No L 112, 3. 5. 1994, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

- a copy of the T5 document drawn up by the Greek authorities and endorsed by the Member State of destination,
 - a declaration by the applicant that the products consigned originated in Greece.
3. The competent Greek authority shall decide on the admissibility of applications.

Article 3

1. The amount of the special temporary compensation referred to in Article 1 of Regulation (EEC) No 3438/92 is hereby fixed at ECU 4 per 100 kilograms net weight for consignments dispatched in 1994.
2. The rate to be applied for converting the special temporary compensation into Greek drachmas shall be the agricultural conversion rate obtaining on the date of issue of the T5 document referred to in the fifth indent of Article 2 (2) (c).
3. Payment of the special temporary compensation shall be made not later than two months after submission of the application, provided that the application has been declared admissible.

Article 4

The competent Greek authorities shall carry out all checks relating to the grant of the special temporary compensation.

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

Done at Brussels, 20 June 1994.

Article 5

1. In cases where the special temporary compensation has been wrongly paid, the competent Greek authorities shall take steps to recover the amounts paid, plus interest running from the date of payment until actual recovery and, in the case of grave irregularities, a penalty equal to the amount wrongly paid. The rate applied for calculating the interest shall be the rate in force under Greek law for similar recovery operations.

2. The special temporary compensation recovered and, where appropriate, the interest and penalty shall be paid to the disbursing agencies or departments who shall deduct the amount concerned from the expenditure financed by the European Agricultural Guidance and Guarantee Fund, Guarantee Section.

Article 6

By 31 August 1995 at the latest, the competent Greek authority shall notify the Commission of the total quantities of products covered by admissible applications under this Regulation, broken down by product, means of transport and Member State of destination.

Article 7

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 1 January 1994.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 1403/94

of 20 June 1994

fixing for the 1994 marketing year the reference prices for table grapes

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 (EC) No 3669/93⁽²⁾, and in particular Article 27 (1) 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⁾, as amended by Regulation (EC) No 3528/93⁽⁴⁾, 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⁽⁵⁾, as last amended by Regulation (EEC) No 1663/93⁽⁶⁾, and in particular Article 2 thereof,

Whereas, pursuant to Article 23 (1) of Regulation (EEC) No 1035/72, reference prices valid for the whole Community are to be fixed at the beginning of the marketing year;

Whereas table grapes are produced in such quantities in the Community that reference prices should be fixed for them;

Whereas table grapes harvested during a given crop year are marketed from May to April of the next year; whereas the quantities harvested in May and June, during the first 20 days of July and also January to April of the next year are so small that there is no need to fix reference prices for these periods; whereas, due principally to developments in production techniques, a relatively large increase in the marketing of Community products during the last

10 days of November and in the month of December can be expected; whereas, however, the figures at present available are insufficiently conclusive to justify fixing a reference price for that period; whereas, reference prices should be fixed only for the period 21 July to 20 November inclusive;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

— the increase in production costs for fruit and vegetables, less productivity growth, and

— the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas, to take seasonal variations into account, the year should be divided into several periods and a reference price fixed for each of these periods;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

(¹) OJ No L 118, 20. 5. 1972, p. 1.

(²) OJ No L 338, 31. 12. 1993, p. 26.

(³) OJ No L 387, 31. 12. 1992, p. 1.

(⁴) OJ No L 320, 22. 12. 1993, p. 32.

(⁵) OJ No L 387, 31. 12. 1992, p. 29.

(⁶) OJ No L 158, 30. 6. 1993, p. 18.

Whereas Regulation (EEC) No 3824/92 establishes a list of prices and amounts for the fruit and vegetables sector which are to be divided by a coefficient of 1,000426, fixing by Commission Regulation (EEC) No 537/93 ⁽¹⁾, as amended by Regulation (EEC) No 1331/93 ⁽²⁾; whereas Article 2 of Regulation (EEC) No 3824/92 lays down that the resulting reduction in the prices and amounts for each sector concerned shall be specified and the level of such reduced prices fixed; whereas, however, this adjustment may not result in a reference price level below that of the preceding marketing year, in accordance with Article 23 (2) of Regulation (EEC) No 1035/72;

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

For the 1994 marketing year, the reference prices for table grapes, falling within CN codes 0806 10 15 and 0806 10 19, expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

21 July to 31 August:	51,92,
September and October:	49,20,
November (1 to 20):	44,87.

Article 2

This Regulation shall enter into force on 21 July 1994.

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 57, 10. 3. 1993, p. 18.

⁽²⁾ OJ No L 132, 29. 5. 1993, p. 114.

COMMISSION REGULATION (EC) No 1404/94

of 20 June 1994

laying down detailed rules for the financial monitoring of programmes approved under Council Regulation (EEC) No 2079/92 instituting a Community aid scheme for early retirement from farming

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2079/92 of 30 June 1992 instituting a Community aid scheme for early retirement from farming ⁽¹⁾, and in particular Article 10 thereof,

Whereas pursuant to Council Decision 88/377/EEC of 24 June 1988 concerning budget discipline ⁽²⁾, and in particular Article 6 thereof, the Commission must set up an effective early-warning system in order to ensure that the agricultural guideline is respected;

Whereas a reliable system must be established for the financial monitoring or the application of Regulation (EEC) No 2079/92; permitting reactions in the framework of the early-warning system for budget discipline and estimates of the trend in expenditure affecting future budgets as a result of the multi-annual nature of the commitments entered into under programmes approved under Regulation (EEC) No 2079/92 and resulting in expenditure to be charged to the Community budget over several years;

Whereas, to that end, the system of monitoring must be based on the individual undertakings made under the programmes approved under Regulation (EEC) No 2079/92 and on short-term forecasts updated regularly;

Whereas the decision approving the programmes fixes an amount to be part-financed for the period 1993 to 1997 which is subject to review on the basis of actual programme implementation, and it is therefore necessary that each programme approved be monitored;

Whereas Commission Regulation (EEC) No 2061/93 ⁽³⁾ meets the above needs in part and should, in the interests of clarity, be repealed and replaced by another one;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Agricultural Structure and Rural Development,

HAS ADOPTED THIS REGULATION:

Article 1

The Member States shall forward information on progress in implementing each programme approved under Regulation (EEC) No 2079/92 as at 15 April and 15 October of each financial year using the table given in Annex I hereto and distinguishing, where applicable, between Objective 1 regions and other regions.

The information must reach the Commission within 45 days of the stated dates.

Article 2

The Member States shall also forward forecasts of expenditure under Regulation (EEC) No 2079/92 to the Commission each quarter using the table given in Annex II hereto.

The forecasts must reach the Commission by 31 March, 30 June, 30 September and 31 December.

Article 3

Regulation (EEC) No 2061/93 is hereby repealed.

Article 4

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, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 91.

⁽²⁾ OJ No L 185, 15. 7. 1988, p. 29.

⁽³⁾ OJ No L 187, 29. 7. 1993, p. 19.

ANNEX I

INFORMATION TO BE COMMUNICATED UNDER REGULATION (EEC) No 2079/92

Member State/programme :

Objective 1 regions/non-Objective 1 (delete as appropriate):

	Previous cumulative position at ...	Past half-year : (please specify)		New cumulative position at ...
		Withdrawals from scheme	New undertakings	
Scheme : Farmers/workers (please specify) ⁽¹⁾ Number of applications pending : Total number of applicants accepted for Community part-financing — current age : 55 years 56 years 57 years 58 years 59 years 60 years 61 years 62 years 63 years 64 years 65 years and over ⁽²⁾ Retirement grants and annual compensation not linked to area 1. Retirement grants : — number of recipients — average grant 2. Annual compensation : — number of recipients — average grant Retirement grants and annual compensation linked to area ⁽³⁾ 1. Retirement grants : — number of recipients — number of hectares concerned — average grant per hectare 2. Annual compensation : — number of recipients — number of hectares concerned — average compensation per hectare Retirement pension supplement ⁽³⁾ — number of recipients — average supplement				

⁽¹⁾ Show separately for each scheme.⁽²⁾ Where the normal retirement age is not 65, the table should be altered accordingly.⁽³⁾ Applies only to the scheme for farmers.

Measure	Previous cumulative position at ...	Past half-year : (please specify)		New cumulative position at ...
		Withdrawals from scheme	New undertakings	
Start-up aid for services and networks				
Number of services concerned				
Total number of employees eligible				
Average annual aid per employee agent				

	Up to 15.10.199 .. F/year (t) (*)	F/year (t + 1)	F/year (t + 2)	F/year (t + 3)	F/year (t + 4)
Budget cost of accepted applications					
(a) Early retirement — farmers					
Total — cumulative position (estimate)					
of which					
EAGGF Guarantee Section					
(b) Early retirement — workers					
Total — cumulative position (estimate)					
of which					
EAGGF Guarantee Section					
(c) Start-up aid					
Total — cumulative position (estimate)					
of which					
EAGGF Guarantee Section					

(*) For the 15 April declaration, f/year (t) refers to the current financial year. For the 15 October declaration, (t) refers to the financial year just ended.

ANNEX II

**FORECAST FOR EXPENDITURE TO BE FORWARDED UNDER REGULATION (EEC)
No 2079/92**

Member State :

Notification of⁽¹⁾

	Budget year	
	Until 15.10.19... (financial year t)	Financial year (t + 1)
A. Forecast of total expenditure eligible for Community part-financing (in national currency) of which — in Objective 1 regions		
B. Expenditure to the EAGGF Guarantee Section		

⁽¹⁾ Specify date

Notes :

1. Forecasts must not be confined to applications approved definitively but must also take into account other payments contemplated.
2. Financial year t is the current financial year.

COMMISSION REGULATION (EC) No 1405/94

of 20 June 1994

laying down detailed rules for the financial monitoring of programmes approved under Council Regulation (EEC) No 2078/92 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside⁽¹⁾, and in particular Article 9 thereof,

Whereas pursuant to Council Decision 88/377/EEC of 24 June 1988 concerning budget discipline⁽²⁾, and in particular Article 6 thereof, the Commission must set up an effective early-warning system in order to ensure that the agricultural guideline is respected;

Whereas a reliable system must be established for the financial monitoring of the application of Regulation (EEC) No 2078/92; permitting reactions in the framework of the early-warning system for budget discipline and estimates of the trend in expenditure affecting future budgets as a result of the multi-annual nature of the commitments entered into under programmes approved under Regulation (EEC) No 2078/92 and resulting in expenditure to be charged to the Community budget over several years;

Whereas, to that end, the system of monitoring must be based on the individual undertakings made under the programmes approved under Regulation (EEC) No 2078/92 and on short-term forecasts updated regularly;

Whereas the decision approving the programmes fixes an amount to be part-financed for the period 1993 to 1997 which is subject to review on the basis of actual programme implementation, and it is therefore necessary that each programme approved be monitored;

Whereas Commission Regulation (EEC) No 2062/93⁽³⁾ meets the above needs in part and should, in the interests of clarity, be repealed and replaced by another one;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Agricultural Structures and Rural Development,

HAS ADOPTED THIS REGULATION:

Article 1

The Member States shall forward information on progress in implementing each programme approved under Regulation (EEC) No 2078/92 as at 15 April and 15 October of each financial year using the table given in Annex I hereto and distinguishing, where applicable, between Objective 1 regions and other regions.

The information must reach the Commission within 45 days of the stated dates.

Article 2

The Member States shall also forward forecasts of expenditure under Regulation (EEC) No 2078/92 to the Commission each quarter using the table given in Annex II hereto.

The forecasts must reach the Commission by 31 March, 30 June, 30 September and 31 December.

Article 3

Regulation (EEC) No 2061/93 is hereby repealed.

Article 4

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, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 85.

⁽²⁾ OJ No L 185, 15. 7. 1988, p. 29.

⁽³⁾ OJ No L 187, 29. 7. 1993, p. 22.

ANNEX I

INFORMATION TO BE COMMUNICATED UNDER REGULATION (EEC) No 2078/92

Member State :

Programme :

Objective 1 regions/non-Objective 1 (delete as appropriate) :

Scheme (please specify) :

Duration of individual undertaking (years) :

Number of applications to join the scheme pending :

	Previous cumulative position at ...	Past half-year : (please specify)		New cumulative position at ...	
		Withdrawals from scheme	New undertakings		
I. Applications accepted					
(a) Number of applicants accepted					
(b) Hectares/LU ⁽¹⁾ for which an undertaking has been made					
(c) Estimated average annual eligible premium per hectare/LU ⁽¹⁾					
II. Budget cost of accepted applications	Up to 15.10.199 .. F/year (t) ⁽²⁾	F/year (t + 1)	F/year (t + 2)	F/year (t + 3)	F/year (t + 4)
Total for new cumulative position (estimate) of which					
— EAGGF Guarantee Section					

⁽¹⁾ Show separately for each scheme.⁽²⁾ For the 15 April declaration, t/year (t) refers to the current financial year. For the 15 October declaration, (t) refers to the financial year just ended.

ANNEX II

**FORECAST FOR EXPENDITURE TO BE FORWARDED UNDER REGULATION (EEC)
No 2078/92**

Member State :

Notification of (1)

	Budget year	
	Until 15.10.19.. (financial year t)	Financial year (t + 1)
A. Forecast of total expenditure eligible for Community part-financing (in national currency) of which — in Objective 1 regions		
B. Expenditure to the EAGGF Guarantee Section		

(1) Specify date

Notes :

1. Forecasts must not be confined to applications approved definitively but must also take into account other payments contemplated.
2. Financial year t is the current financial year.

COMMISSION REGULATION (EC) No 1406/94
of 20 June 1994
on the supply of cereals as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as last amended by Regulation (EEC) No 1930/90⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated to certain beneficiaries 714 tonnes of cereals;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽⁴⁾, as amended by Regulation (EEC) No 790/91⁽⁵⁾; whereas it

is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

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

Article 2

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

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

ANNEX

LOT A

1. **Operation No** (1): 224/94
2. **Programme**: 1994
3. **Recipient** (2): Euronaid PO Box 12, NL-2501 CA Den Haag, (tel. (31 70) 33 05 757; fax 36 41 701; telex 30960 EURON NL)
4. **Representative of the recipient** (3): see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: Algeria
6. **Product to be mobilized**: durum wheat meal
7. **Characteristics and quality of the goods** (3) (7): see OJ No C 114, 29. 4. 1991, p. 1 (under II.B.1 (c))
8. **Total quantity**: 450 tonnes (714 tonnes of cereals)
9. **Number of lots**: one
10. **Packaging and marking** (6) (8) (9): see OJ No C 114, 29. 4. 1991, p. 1 (under II.B.2 (d) and II.B.3)
Markings in French
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 25. 7. 1994 to 14. 8. 1994
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 5. 7. 1994
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 19. 7. 1994
 - (b) period for making the goods available at the port of shipment: 8. to 28. 8. 1994
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** (1): Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, Bâtiment Loi 120, bureau 7/46, rue de la Loi 200, B-1049 Bruxelles (telex 22037 / 25670 AGREC B; fax (32 2) 296 20 05 / 295 01 32 / 296 10 97 / 295 01 30 / 296 33 04)
25. **Refund payable on request by the successful tenderer** (4): refund applicable on 30. 6. 1994, fixed by Commission Regulation (EC) No 1207/94 (OJ No L 133, 28. 5. 1994, p. 22)

Notes :

- (¹) The operation number should be mentioned in all correspondence.
- (²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

- (⁴) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 25. 7. 1989, p. 10), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 25 of this Annex.

The amount of the refund, shall be converted into national currency by applying the agricultural conversion rate applicable on the day of completion of the customs export formalities. The provisions of Articles 13 to 17 of Commission Regulation (EEC) No 1068/93 (OJ No L 108, 1. 5. 1993, p. 106), as amended by Regulation (EC) No 547/94 (OJ No L 69, 12. 3. 1994, p. 1) shall not apply to this amount.

- (⁵) The supplier should send a duplicate of the original invoice to : Willis Corroon Scheuer, PO Box 1315, NL-1000 BH Amsterdam.
- (⁶) Shipment to take place in 20-foot containers, condition FCL/FCL. The supplier shall be responsible for the cost of making the containers available in the stack position at the container terminal at the port of shipment. The recipient shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.

The provisions of Article 13 (2), second paragraph, of Regulation (EEC) No 2200/87 shall not apply.

The successful tenderer has to submit to the recipient's agent a complete packing list of each container, specifying number of bags belonging to each shipping number as specified in the invitation to tender.

The successful tenderer has to seal each container with a numbered locktainer (SYSKO locktainer 180 seal), number of which to be provided to the beneficiary's forwarder.

- (⁷) The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents :
 - phytosanitary certificate.
- (⁸) Notwithstanding OJ No C 114, point II. B. 3. (c) is replaced by the following : 'the words "European Community"'.
 - (⁹) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.

COMMISSION REGULATION (EC) No 1407/94
of 20 June 1994
on the supply of cereals as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1930/90 ⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management ⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated to certain beneficiaries 16 529 tonnes of cereals;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽⁴⁾, as amended by Regulation (EEC) No 790/91 ⁽⁵⁾; whereas it

is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annexes, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. Supplies shall be awarded by the tendering procedure.

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

Article 2

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

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

ANNEX I**LOTS A, B and C**

1. **Operation Nos** ⁽¹⁾: See Annex II
2. **Programme**: 1993 and 1994
3. **Recipient** ⁽²⁾: Euronaid PO Box 12, NL-2501 CA Den Haag (tel. (31 70) 330 57 57; fax: 364 17 01; telex: 30960 NL EURON)
4. **Representative of the recipient** ⁽¹⁾: see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: see Annex II
6. **Product to be mobilized**: milled rice (product code 1006 30 92 900, 1006 30 94 900, 1006 30 96 900)
7. **Characteristics and quality of the goods** ⁽³⁾ ⁽⁶⁾ ⁽¹²⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIA.1 (f))
8. **Total quantity**: 4 487 tonnes (10 769 tonnes of cereals)
9. **Number of lots**: 3; see Annex II
10. **Packaging and marking** ⁽⁷⁾ ⁽⁸⁾ ⁽¹⁰⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIA (2) (c) and IIA.3)
Markings in French (A2 + A3 + C6); English (C1-C5); Spanish (A1 + B2 - B4) and Portuguese (B1)
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 25. 7 — 7. 8. 1994
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 5. 7. 1994
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 19. 7. 1994
 - (b) period for making the goods available at the port of shipment: 8 — 21. 8. 1994
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 120, bureau 7/46, 200 rue de la Loi, B-1049 Bruxelles (telex 22037 / 25670 AGREC B; fax: (32 2) 296 20 05 / 295 01 32 / 296 10 97 / 295 01 30 / 296 33 04)
25. **Refund payable on request by the successful tenderer** ⁽⁴⁾: refund applicable on 30. 6. 1994, fixed by Commission Regulation (EC) No 1207/94 (OJ No L 133, 28. 5. 1994, p. 22.)

LOT D

1. **Operations No** (1): 1519/93
2. **Programme**: 1993
3. **Recipient** (2): CICR, 19, avenue de la Paix, CH-1202 Genève; tel. (41-22) 734 60 01; fax: 733 94 60; telex 22269 CH CICR.
4. **Representative of the recipient**: Délégation régionale du CICR, Immeuble Les Arcades (7^e étage), av. Franchet d'Esperey — Le Plateau 01, BP 459, Abidjan, Côte d'Ivoire, tél. (225) 22 24 59/60/61; fax 22 24 56
5. **Place or country of destination** (3): Ivory Coast
6. **Product to be mobilized**: milled rice (product code 1006 30 92 900, 1006 30 94 900 or 1006 30 96 900)
7. **Characteristics and quality of the goods** (3) (4): see OJ No C 114, 29. 4. 1991, p. 1 (under IIA 1 (f))
8. **Total quantity**: 2 400 tonnes (5 760 tonnes of cereals)
9. **Number of lots**: 1
10. **Packaging and marking** (8) (9) (10): see OJ No C 114, 29. 4. 1991, p. 1 (under II. A (2) (a) and IIA (3))
Markings in French
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at destination
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: San Pedro
16. **Address of the warehouse and, if appropriate, port of landing**:
Entrepôt CICR Man, délégation CICR, Man, Côte d'Ivoire; tel. (225) 79 06 45; telefax 79 00 53.
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 25. 7 — 7. 8. 1994
18. **Deadline for the supply**: 11. 9. 1994
19. **Procedure for determining the costs of supply**: invitation to tender
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 5. 7. 1994
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 19. 7. 1994
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 8 — 21. 8. 1994
 - (c) deadline for the supply: 25. 9. 1994
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** (11): Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, Bâtiment Loi 120, bureau 7/46, 200 rue de la Loi, B-1049 Bruxelles (telex 22037 AGREC B/25670 AGREC B telefax (32 2) 296 20 05 / 295 01 32 / 296 10 97 / 295 01 30 / 296 33 04)
25. **Refund payable on request by the successful tenderer** (12): Refund applicable on 30. 6. 1994, fixed by Commission Regulation (EC) No 1207/94 (OJ No L 133, 28. 5. 1994, p. 22.)

Notes:

- (¹) The operation number should be mentioned in all correspondence.
- (²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 25. 7. 1989, p. 10), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 25 of this Annex.
- The amount of the refund, shall be converted into national currency by applying the agricultural conversion rate applicable on the day of completion of the customs export formalities. The provisions of Articles 13 to 17 of Commission Regulation (EEC) No 1068/93 (OJ No L 108, 1. 5. 1993, p. 106), as amended by Regulation (EC) No 547/94 (OJ No L 69, 12. 3. 1994, p. 1), shall not apply to this amount.
- (⁵) Commission delegation to be contacted by the successful tenderer: see OJ No C 114, 29. 4. 1991, p. 33.
- (⁶) The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents:
- phytosanitary certificate.
 - carnation certificate (lot D).
- (⁷) Shipment to take place in 20-foot containers condition FCL/FCL. The supplier shall be responsible for the cost of making the containers available in the stock position at the container terminal at the port of shipment. The recipient shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal. The provisions of Article 13 (2), second paragraph, of Regulation (EEC) No 2200/87 shall not apply.
- The successful tenderer has to submit to the recipient's agent a complete packaging list of each container, specifying the number of bags belonging to each shipping number as specified in the invitation to tender.
- The successful tenderer has to seal each container with a numbered locktainer (SYSKO locktainer 180 seal), the number of which is to be provided to the beneficiary's forwarder.
- (⁸) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁹) Bagging must be carried out before shipment.
- (¹⁰) Notwithstanding OJ No C 114, point II.A.3 (c) is replaced by the following: 'the words "European Community".'
- (¹¹) The supplier should send a duplicate of the original invoice to: Willis Corroon Scheuer, PO Box 1315, NL-1000 BH Amsterdam.
- (¹²) The following documents must be legalized by the diplomatic representation in the country of origin of the goods:
- radioactivity certificate (A 1),
 - certificate of origin (A 1).

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II — ANEXO II

Lote	Cantidad total (en toneladas)	Cantidades parciales (en toneladas)	Acción n°	País de destino
Parti	Totalmængde (i tons)	Delmængde (i tons)	Aktion nr.	Bestemmelsesland
Partie	Gesamtmenge (in Tonnen)	Teilmengen (in Tonnen)	Maßnahme Nr.	Bestimmungsland
Παρτίδα	Συνολική ποσότητα (σε τόνους)	Μερικές ποσότητες (σε τόνους)	Δράση αριθ.	Χώρα προορισμού
Lot	Total quantity (in tonnes)	Partial quantities (in tonnes)	Operation No	Country of destination
Lot	Quantité totale (en tonnes)	Quantités partielles (en tonnes)	Action n°	Pays de destination
Lotto	Quantità totale (in tonnellate)	Quantitativi parziali (in tonnellate)	Azione n.	Paese di destinazione
Partij	Totale hoeveelheid (in ton)	Deelhoeveelheden (in ton)	Maatregel nr.	Land van bestemming
Lote	Quantidade total (em toneladas)	Quantidades parciais (em toneladas)	Acção n°	País de destino
A	1 328	A1 : 540	1640/93	Nicaragua
		A2 : 558	327/94	Haití
		A3 : 230	328/94	Haití
B	1 152	B1 : 18	329/94	Brasil
		B2 : 630	330/94	Perú
		B3 : 270	331/94	Perú
		B4 : 234	332/94	Perú
C	2 007	C1 : 684	1648/93	India
		C2 : 306	1649/93	India
		C3 : 180	1650/93	India
		C4 : 54	1651/93	India
		C5 : 288	359/94	India
		C6 : 495	360/94	Madagascar

COMMISSION REGULATION (EC) No 1408/94

of 20 June 1994

on the opening of an invitation to tender for the sale of olive oil held by the Spanish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 3179/93⁽²⁾, and in particular Article 12 (4) thereof,

Whereas Article 2 of Council Regulation (EEC) No 2754/78⁽³⁾, as amended by Regulation (EEC) No 2203/90⁽⁴⁾, provides that olive oil held by the intervention agencies is to be put up for sale by tender;

Whereas, pursuant to Article 12 (1) of Regulation No 136/66/EEC, the Spanish intervention agency holds certain quantities of olive oil;

Whereas Commission Regulation (EEC) No 2960/77⁽⁵⁾, as last amended by Regulation (EEC) No 3818/85⁽⁶⁾, lays down the conditions for the sale by tender on the Community market and for export of olive oil; whereas the situation on the market in olive oil is at present favourable for the sale of part of the said oil;

Whereas in the present situation of the market in virgin olive oil where supply is low compared with demand and in order to provide the greatest possible number of operators with minimum supplies for their immediate needs, it should be stipulated that an operator may only submit tenders up to a given quantity;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Spanish intervention agency, 'Servicio Nacional de Productos Agrarios', hereinafter referred to as 'Senpa' shall open an invitation to tender in accordance with the provisions of this Regulation and of Regulation (EEC)

No 2960/77 for the sale on the Community market of the following quantities of olive oil:

- 2 000 tonnes of extra virgin olive oil,
- 13 000 tonnes of virgin olive oil.

Notwithstanding Article 5 (2) of Regulation (EEC) No 2960/77, Senpa shall, where the quantity of oil in a container exceeds 500 tonnes, be authorized to establish several lots with part only of that oil.

Article 2

The notice of invitation to tender shall be published on 24 June 1994.

Particulars of the lots of oil offered for sale and of the places where they are stored shall be displayed at the central office of Senpa, calle Beneficencia 8, E-28004 Madrid, Spain.

A copy of the notice of invitation to tender shall be sent without delay to the Commission.

Article 3

The tenders must reach Senpa, calle Beneficencia 8, E-28004 Madrid, Spain, not later than 2 p.m. (local time) on 11 July 1994. Tenders shall be admissible only if they are submitted by a natural or legal person engaged in activity in olive oil and entered in that status as at 31 December 1993 in a public register of a Member State.

No tenderer may submit a tender for a quantity in excess of 2 000 tonnes.

Article 4

Not later than three days after the expiry of the time limit laid down for the submission of tenders, Senpa shall send the Commission a list, without mentioning names, stating the highest tender received for each lot put up for sale.

Article 5

The minimum selling price per 100 kilograms of oil shall be fixed, in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC, on the basis of the tenders received, not later than the 10th working day after the expiry of each final date laid down for the submission of tenders. The decision fixing the minimum selling price shall be notified forthwith to the Member State concerned.

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 285, 20. 11. 1993, p. 9.

⁽³⁾ OJ No L 331, 28. 11. 1978, p. 13.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 5.

⁽⁵⁾ OJ No L 348, 30. 12. 1977, p. 46.

⁽⁶⁾ OJ No L 368, 31. 12. 1985, p. 20.

Article 6

The olive oil shall be sold by Senpa not later than the fifth working day after the date of notification of the decision referred to in Article 6.

Senpa shall supply the agencies responsible for storage with a list of the lots remaining unsold.

Article 7

The security referred to in Article 7 of Regulation (EEC) No 2960/77 shall be ECU 18 per 100 kilograms.

Article 8

The storage charge referred to in Article 15 of Regulation (EEC) No 2960/77 shall be ECU 3 per 100 kilograms.

Article 9

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, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 1409/94

of 20 June 1994

opening an invitation to tender for the sale of olive oil held by the Greek intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 3179/93⁽²⁾, and in particular Article 12 (4) thereof,Whereas Article 2 of Council Regulation (EEC) No 2754/78⁽³⁾, as amended by Regulation (EEC) No 2203/90⁽⁴⁾, provides that olive oil held by the intervention agencies shall be put up for sale by tender;

Whereas, pursuant to Article 12 (1) of Regulation No 136/66/EEC, the Greek intervention agency holds certain quantities of olive oil;

Whereas Commission Regulation (EEC) No 2960/77⁽⁵⁾, as last amended by Regulation (EEC) No 3818/85⁽⁶⁾, laid down the conditions for the sale by tender on the Community market and for export of olive oil; whereas the state of the market in olive oil is at present favourable for the sale of part of the said oil;

Whereas in the present situation of the market in virgin olive oil where supply is low compared with demand and in order to provide the greatest possible number of operators with minimum supplies for their immediate needs, it should be stipulated that an operator may only submit tenders up to a given quantity;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Greek intervention agency, 'Diefthinsi Diachiriseos Agoron Georgikon Proïonton', hereinafter referred to as 'DIDAGEP', shall open an invitation to tender in accordance with the provisions of this Regulation and of Regulation (EEC) No 2960/77 for the sale on the Community market of the following quantities of olive oil:

- approximately 3 000 tonnes of extra virgin olive oil,
- approximately 3 000 tonnes of lampante virgin olive oil.

Article 2

The notice of invitation to tender shall be published on 24 June 1994.

Particulars of the lots of oil offered for sale and of the places where they are stored shall be displayed at the central office of DIDAGEP, Acharnon No 241, 11253 Athens, Greece.

A copy of the notice of invitation to tender shall be sent without delay to the Commission.

Article 3

The tenders must reach DIDAGEP at the central office, Acharnon No 241, 11253 Athens, Greece not later than 2 p.m. (local time) on 11 July 1994.

Tenders shall be admissible only if submitted by a natural or legal person who exercises an activity in the olive oil sector and is entered in that status as at 31 December 1993 in a public register of a Member State.

No tenderer may submit a tender for a quantity in excess of 1 000 tonnes.

Article 4

1. In the case of lampante virgin olive oil, tenders shall be submitted for an oil of 3° acidity.

2. Where the oil awarded has a different degree of acidity from that for which the tender was submitted, the price to be paid shall be equal to the price tendered, increased or reduced in accordance with the scale below:

— up to 3° acidity:

increase of ECU 0,32 for each tenth of a degree of acidity below 3°

— above 3° acidity:

reduction of ECU 0,32 for each tenth of a degree of acidity above 3°.

Article 5

Not later than three days after the expiry of the time limit laid down for the submission of tenders, DIDAGEP shall send the Commission a list, without mentioning names, stating the highest tender received for each lot put up for sale.

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 285, 20. 11. 1993, p. 9.

⁽³⁾ OJ No L 331, 28. 11. 1978, p. 13.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 5.

⁽⁵⁾ OJ No L 348, 30. 12. 1977, p. 46.

⁽⁶⁾ OJ No L 368, 31. 12. 1985, p. 20.

Article 6

The minimum selling price per 100 kilograms of oil shall be fixed, in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC, on the basis of the tenders received, not later than the 10th working day after the expiry of each final date laid down for the submission of tenders. The decision fixing the minimum selling price shall be notified forthwith to the Member State concerned.

Article 7

The olive oil shall be sold by DIDAGEP not later than the fifth working day after the date of notification of the decision referred to in Article 6.

DIDAGEP shall supply the agencies responsible for storage with a list of the lots remaining unsold.

Article 8

The security referred to in Article 7 of Regulation (EEC) No 2960/77 shall be ECU 18 per 100 kilograms.

Article 9

The storage charge referred to in Article 15 of Regulation (EEC) No 2960/77 shall be ECU 3 per 100 kilograms.

Article 10

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, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 1410/94

of 20 June 1994

suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of small-flowered roses originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as amended by Regulation (EEC) No 3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 lays down the conditions for applying a preferential duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports into the Community of fresh cut flowers;

Whereas Council Regulation (EEC) No 2604/93⁽³⁾ opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

Whereas Article 2 of Regulation (EEC) No 4088/87 provides, on the one hand, that for a given product of a given origin, the preferential customs duty is to be applicable only if the price of the imported product is at least equal to 85 % of the Community producer price; whereas, on the other hand, the preferential customs duty is, except in exceptional cases, suspended and the Common Customs Tariff duty introduced for a given product of a given origin:

(a) if, on two successive market days, the prices of the imported product are less than 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on representative import markets;

or

(b) if, over a period of five to seven successive market days, the prices of the imported product are alternatively above and below 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on the representative import markets and if, for three days during that period, the prices of the import product have been below that level;

Whereas Commission Regulation (EC) No 1168/94⁽⁴⁾ fixes the Community producer prices for carnations and roses for the application of the import arrangements;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as last amended by Regulation (EEC) No 2917/93⁽⁶⁾, lays down the detailed rules for the application of the arrangements;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁷⁾, as amended by Regulation (EC) No 3528/93⁽⁸⁾, 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⁽⁹⁾, as amended by Regulation (EC) No 547/94⁽¹⁰⁾;

Whereas, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for small-flowered roses originating in Israel; whereas the Common Customs Tariff duty should be re-established,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of small-flowered roses (CN codes ex 0603 10 11 and ex 0603 10 51) originating in Israel, the preferential customs duty fixed by Regulation (EEC) No 2604/93 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 21 June 1994.

⁽¹⁾ OJ No L 130, 25. 5. 1994, p. 21.

⁽²⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽³⁾ OJ No L 264, 23. 10. 1993, p. 33.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁶⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁷⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 239, 24. 9. 1993, p. 1.

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 1411/94
of 20 June 1994
fixing the agricultural conversion rates

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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⁾, as last amended by Regulation (EC) No 3528/93 ⁽²⁾, and in particular Article 3 (1) thereof,

Whereas the agricultural conversion rates were fixed by Commission Regulation (EC) No 1260/94 ⁽³⁾;

Whereas Article 4 of Regulation (EEC) No 3813/92 provides that the agricultural conversion rate for a floating currency is to be adjusted where the monetary gap between it and the representative market rate exceeds certain levels; whereas, notwithstanding that Article 4, Article 4a of that Regulation applies until 31 December 1994;

Whereas the representative market rates are determined on the basis of reference periods established in accordance with Commission Regulation (EEC) No 1068/93 of 30 April 1993 on detailed rules for determining and applying the agricultural conversion rates ⁽⁴⁾, amended by Regulation (EC) No 547/94 ⁽⁵⁾;

Whereas, as a consequence of the exchange rates recorded during the reference period 11 to 20 June 1994, it is necessary to fix a new agricultural conversion rate for the Greek drachma;

Whereas Article 15 (3) of Regulation (EEC) No 1068/93 provides that an agricultural conversion rate fixed in advance shall be adjusted if the gap between that rate and

the agricultural conversion rate in force at the time of the operative event applicable for the currency concerned exceeds four points; whereas, in that event, the agricultural conversion rate fixed in advance is brought more closely into line with the rate in force, up to the level of a gap of four points with that rate; whereas the rate which replaces the agricultural conversion rate fixed in advance should be specified,

HAS ADOPTED THIS REGULATION:

Article 1

The agricultural conversion rates are fixed in Annex I hereto.

Article 2

In the case referred to in Article 15 (3) of Regulation (EEC) No 1068/93, the agricultural conversion rate fixed in advance shall be replaced by the ecu rate for the currency concerned, shown in Annex II:

— Table A, where the latter rate is higher than the rate fixed in advance,

or

— Table B, where the latter rate is lower than the rate fixed in advance.

Article 3

Regulation (EC) No 1260/94 is hereby repealed.

Article 4

This Regulation shall enter into force on 21 June 1994.

⁽¹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽³⁾ OJ No L 137, 1. 6. 1994, p. 55.

⁽⁴⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁵⁾ OJ No L 69, 12. 3. 1994, p. 1.

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Agricultural conversion rates

ECU 1 =	49,3070	Belgian and Luxembourg francs
	9,34812	Danish kroner
	2,35418	German marks
	346,789	Greek drachmas
	192,319	Spanish pesetas
	7,98191	French francs
	0,976426	Irish punt
	2 274,93	Italian lire
	2,65256	Dutch guilders
	239,331	Portuguese escudos
	0,920969	Pound sterling

ANNEX II

Agricultural conversion rates fixed in advance and adjusted

Table A			Table B		
ECU 1 =	47,4106	Belgian and Luxembourg francs	ECU 1 =	51,3615	Belgian and Luxembourg francs
	8,98858	Danish kroner		9,73763	Danish kroner
	2,26363	German marks		2,45227	German marks
	333,451	Greek drachmas		361,239	Greek drachmas
	184,922	Spanish pesetas		200,332	Spanish pesetas
	7,67491	French francs		8,31449	French francs
	0,938871	Irish punt		1,01711	Irish punt
	2 187,43	Italian lire		2 369,72	Italian lire
	2,55054	Dutch guilders		2,76308	Dutch guilders
	230,126	Portuguese escudos		249,303	Portuguese escudos
	0,885547	Pound sterling		0,959343	Pound sterling

COMMISSION REGULATION (EC) No 1412/94**of 20 June 1994****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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as amended by Commission Regulation (EEC) No 2193/93 ⁽²⁾, 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 ⁽³⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EC) No 819/94 ⁽⁵⁾ 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 17 June 1994, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 819/94 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 21 June 1994.

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 94, 13. 4. 1994, p. 16.

ANNEX

to the Commission Regulation of 20 June 1994 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Third countries ^(*)
0709 90 60	95,72 ^(?) ^(*)
0712 90 19	95,72 ^(?) ^(*)
1001 10 00	44,65 ⁽¹⁾ ^(*)
1001 90 91	90,15
1001 90 99	90,15 ^(*)
1002 00 00	123,94 ^(*)
1003 00 10	125,96
1003 00 90	125,96 ^(*)
1004 00 00	102,45
1005 10 90	95,72 ^(?) ^(*)
1005 90 00	95,72 ^(?) ^(*)
1007 00 90	103,96 ^(*)
1008 10 00	36,00 ^(*)
1008 20 00	52,23 ^(*) ^(*)
1008 30 00	0 ^(?)
1008 90 10	^(?)
1008 90 90	0
1101 00 00	165,39 ^(*)
1102 10 00	210,43
1103 11 10	104,32
1103 11 90	189,34
1107 10 11	171,35
1107 10 19	130,78
1107 10 91	235,09 ⁽¹⁰⁾
1107 10 99	178,41 ^(*)
1107 20 00	206,12 ⁽¹⁰⁾

⁽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 or Hungary under the Agreements concluded between those countries and the Community and under the Interim Agreement between the Czech Republic, the Slovak Republic, Bulgaria and Romania and the Community and in respect of which EUR.1 certificates issued in accordance with Regulation (EC) No 121/94 or (EC) No 335/94 have been presented, are subject to the levies set out in the Annex to that Regulation.

⁽¹⁰⁾ In accordance with Council Regulation (EEC) No 1180/77 this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

COMMISSION REGULATION (EC) No 1413/94

of 20 June 1994

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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as amended by Commission Regulation (EEC) No 2193/93 ⁽²⁾, 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 ⁽³⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1681/93 ⁽⁵⁾ 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 17 June 1994, 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 21 June 1994.

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 159, 1. 7. 1993, p. 11.

ANNEX

to the Commission Regulation of 20 June 1994 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 6	1st period 7	2nd period 8	3rd period 9
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	1,02	0	0
1001 90 99	0	1,02	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	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	2,49	1,18	0
1102 10 00	0	0	0	0
1103 11 10	0	0	0	0
1103 11 90	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 6	1st period 7	2nd period 8	3rd period 9	4th period 10
1107 10 11	0	1,82	0	0	0
1107 10 19	0	1,36	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 (EC) No 1414/94
of 20 June 1994
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European 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 (EC) No 133/94 ⁽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⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾, 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 ⁽⁵⁾, as last amended by Regulation (EC) No 1358/94 ⁽⁶⁾;

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 17 June 1994, 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 21 June 1994.

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

Done at Brussels, 20 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 22, 27. 1. 1994, p. 7.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 159, 1. 7. 1993, p. 40.

⁽⁶⁾ OJ No L 148, 15. 6. 1994, p. 8.

ANNEX

to the Commission Regulation of 20 June 1994 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy ⁽¹⁾
1701 11 10	32,01 ⁽¹⁾
1701 11 90	32,01 ⁽¹⁾
1701 12 10	32,01 ⁽¹⁾
1701 12 90	32,01 ⁽¹⁾
1701 91 00	39,06
1701 99 10	39,06
1701 99 90	39,06 ⁽²⁾

⁽¹⁾ The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42), as last amended by Regulation (EEC) No 1428/78 (OJ No L 171, 28. 6. 1978, p. 34).

⁽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.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 December 1993

concerning aid granted by the Spanish Government to Merco, a company

(Only the Spanish text is authentic)

(94/343/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 3179/93⁽²⁾, and in particular Article 33 thereof, and the corresponding provisions of the other regulations on the common organization of the agricultural markets,

Having, in accordance with the first subparagraph of Article 93 (2), given notice to the parties concerned to submit their comments and having regard to those comments,

Whereas :

I

By letters dated 17 February and 20 March 1992, the Office of the Spanish Permanent Representative to the European Communities notified the Commission of aid paid to Merco, a company.

By telex messages of 1 April and 24 July 1992, the Commission requested further information. This information was submitted to the Commission by letters dated 27 May, 1 July and 31 July 1992.

By letter dated 27 May 1992, the Spanish authorities informed the Commission that capital of Pta 9 billion had been injected into Merco on 31 March 1992 by the State, which is a shareholder in that company. In addition,

it stated that a second instalment of Pta 9 billion and a possible third residual injection of a then unspecified amount were planned. The decision to inject this capital had been taken by the Spanish Government on 23 January 1992 at the same time as a decision to liquidate the company.

By letters dated 1 and 31 July 1992, the Spanish authorities provided additional information indicating that the total liquidation of the company and the cessation of all its activities had been decided on 23 January 1992. They also indicated that liquidation was at a very advanced stage and would be completed in the short term.

They specified that the injections of capital were intended and would be intended to cover compensation payments to staff, accumulated losses and losses on current trading.

On the basis of the information available, the Commission took the view that the injections of capital decided upon as part of the measures for the liquidation of the company could be considered as measures intended, *inter alia*, given the relative size of the sums involved, to cover the losses accumulated by Merco and to pay its creditors, in particular, the financial institutions. This aid, in the form of injections of capital, enabled the latter to remain protected from normal commercial risks by permitting them to recuperate their capital, something which would have been impossible under normal market conditions. The aid therefore constituted an implicit State guarantee to creditors without which they would not have provided the capital required to enable the company to continue its operations. Such aid could be construed as the retrospective payment of operating aid to the company in the form of bank credits granted without any prospect of normal repayment. Under such circumstances, a private operator operating under the normal conditions obtaining in a market economy would not inject such capital. In the

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 285, 20. 11. 1993, p. 9.

opinion of the Commission, therefore, it constitutes aid within the meaning of Article 92 (1) of the Treaty.

Since the Spanish Government did not suspend the measures in question pursuant to Article 93 (3) and did not await a Commission decision before making the first injection of capital of Pta 9 billion on 31 March 1992, the payment of this aid in the form of an injection of capital constitutes an infringement of Article 93 (3) and the aid was therefore granted unlawfully. Since the Commission also considered that the aid referred to in the decision of the Spanish Government of 23 January 1992 did not fulfil the conditions laid down in Article 92 (3) for eligibility for one of the derogations referred to in that Article, the Commission decided to initiate the procedure laid down in Article 93 (2).

By letter dated 22 October 1992, the Commission gave notice to the Spanish Government, the other Member States and other interested third parties to submit their comments (¹).

II

The Spanish Government submitted its comments by letters dated 23 November 1992, 4 January 1993 and 8 September 1993 and at meetings held on 8 July 1993 and 8 September 1993. It contended that the injections of capital in question did not constitute State aid within the meaning of Article 92 of the Treaty.

According to the Spanish authorities, the payments were intended and would be intended to be used for a controlled liquidation of the company. They maintain that this has permitted the sale of the company's assets at their maximum value, the payment of compensation to staff for the termination of their contracts, the negotiation and payment of financial credits and the payment of commercial creditors. In particular, according to the Spanish authorities, it has enabled the recovery of assets worth Pta 12 billion, the payment to the creditors, mainly small farmers, of Pta 5 billion and the payment of compensation to the employees of Pta 1,5 billion.

Furthermore, in their letter dated 14 January 1993, the Spanish authorities provided the Commission with a balance sheet for the company showing the following:

(in Pta million)

	31. 12. 1991	30. 9. 1992	difference
Fixed assets	3 429	2 228	- 1 201
Stocks	7 992	739	- 7 252
Creditors	11 080	5 537	- 6 542
Provisions	- 4 545	- 2 608	1 936

The Spanish authorities do not consider these payments to be operating aid since the main aim of the injections of capital is not to finance debts but to recover assets of a greater value. In order to clarify the details given in the letter dated 14 January 1993, meetings between the Commission and the Spanish authorities were held on 8 July and 8 September 1993.

By letter dated 10 September 1993, the Spanish authorities supplied the Commission with additional information. This indicated that a further injection of capital of Pta 9 billion had been made in 1992 and that a decision concerning a further payment of Pta 5,8 billion had been taken.

Furthermore, it also showed that a part of Merco's debt to the financial institutions was a result of the payments it had made to farmers for products supplied to the company.

The Spanish authorities do not consider these injections of capital to constitute an implicit State guarantee to the creditors concerned. According to those authorities, the financial institutions acted as they would have acted with a private company and to claim otherwise is to deny that financial institutions can be mistaken and is to ignore the fact that financial institutions lend additional funds to enterprises of a certain size in economic difficulties for refinancing and to ensure the recovery of all or part of a debt.

With regard to producers, the Spanish authorities state that they did not await the Commission's decision before making the injections of capital because any delay would have led to greater losses and would have placed the company in an untenable position with regard to farmers and to its employees.

(¹) OJ No C 291, 7. 11. 1992, p. 7.

III

Mercorsa (Mercados en origen de productos agrarios), a publicly owned company, was set up in 1972 by Ministry of Agriculture Decree No 3178/70 of 15 October 1970. In 1987, it changed its company and trading names to become Merco.

All the shares are held by the public authorities, 69,3 % of the capital being held by the Dirección General del Patrimonio del Estado (Ministry of Finance) and 30,7 % by Forppa (a public body responsible to the Ministry of Agriculture).

Merco was involved in the marketing of agricultural produce. It had capital of Pta 8,782 billion and 900 employees. It operated in the 55 agricultural produce purchasing centres established in the zones of production and selling the agricultural produce concerned both in Spain and abroad.

In 1990, it had a turnover of approximately Pta 71 billion, making it one of the largest companies in Spain.

Under the name of Uteco-Jaen, Merco was the third largest olive-oil bottling company in Spain in 1990 with domestic sales of 29 798 773 litres or 8,9 % of the total.

According to a 1991 report by auditors Price Waterhouse, in 1990 Merco had a deficit of Pta 18,527 billion.

The Merco annual report showed that, on 31 December 1990, the company had a non-trading debt of approximately Pta 33 billion.

On 23 January 1992, the Spanish authorities decided that the company should cease trading and be liquidated. They indicate that at that date Merco had already completely abandoned trading in olive oil, oil seeds and cotton.

As regards the fruit and vegetables division, Merco had sold or leased out with a purchase option a number of its centres and was negotiating the sale or lease of the remainder.

According to the information supplied by the Spanish authorities on 27 May 1992, a final decision had not yet been taken at that time on the sale of the centres belonging to the cereals division or the setting up of a service company.

Of the companies belonging to or associated with the Merco group, Olcesa, Coosur, Climadis, Indualagon, Indunorca, Mercocanarias, Mercolerida, Novofruit, Abasa and Agribetica had been sold, Comalsa, Merco of America and Mercojaen had been totally liquidated and Merco

Castellón, Paesa, Irjasa, Los Menestrales, Indulerida and Sprona were in the process of being sold.

IV

In the past, Merco received other significant grants of State aid. By letter dated 27 December 1990, the Commission informed the Spanish authorities of its decision to close the procedure provided for in Article 93 (2) of the EC Treaty and opened with regard to the aid granted to Mercorsa (Merco), Olcesa and Uteco-Jaen/Merco-Jaen (Aid No C 28/90 ex NN 17/89), since the aid, intended to finance restructuring, constituted measures decided upon before Spain's accession to the European Communities.

Moreover, it should be recalled that on 4 November 1992, under the procedure laid down in Article 93 (2) of the EC Treaty, the Commission adopted Decision 93/133/EEC⁽¹⁾ requiring the reimbursement of aid of Pta 5,9 billion paid to Merco by the Spanish authorities in 1990 in the form of an injection of capital.

V

Under Article 92 (1) of the Treaty, aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market.

The Commission defined its position with regard to public authorities' holdings in company capital in September 1984 and informed the Member States by letter dated 17 September 1984⁽²⁾.

According to that communication, there is State aid where a Member State contributes fresh capital in circumstances that would not be acceptable to a private investor operating under normal conditions in a market economy. Such is the case where the financial situation of the company, and particularly the structure and volume of its debt, is such that a normal return (in dividends or capital gains) cannot be expected within a reasonable time from the capital invested or where, because of its inadequate cash-flow if for no other reason, the company would be unable to raise the funds needed for an investment programme on the capital market.

⁽¹⁾ OJ No L 55, 6. 3. 1993, p. 54.

⁽²⁾ Communication to the Member States concerning public authorities' holdings in company capital (*Bulletin of the European Communities* 9-1984).

The Commission's position has been confirmed by the Court of Justice, in particular, in its judgments of 10 July 1986 (Case 234/84, *Belgium v. Commission* ⁽¹⁾) and 21 March 1991 (Case C-305/89, *Italy v. Commission* ⁽²⁾).

In deciding whether or not an injection of capital amounts to State aid, the Court took the view that it was necessary to determine whether the undertaking in question would have been able to obtain the necessary financing on the capital market. Where the facts show that the company receiving the aid would not have been in a position to obtain the necessary capital from a private investor, it can correctly be concluded that the capital received constitutes State aid.

In view of the financial losses sustained by Merco, its volume of debt, the lack of any indication in the accounts that the injections of capital concerned were a commercial practice and the decision to liquidate the undertaking taken at the same time as that to contribute capital, it is unlikely that the company could have obtained the funds for the contributions in question on the capital market or that any private company, basing its decision on the likely probability of profits without any regard for social considerations or for regional or sectoral policy, would have made such contributions of capital. The injections of capital in question therefore constitute State aid within the meaning of Article 92 (1) of the Treaty.

Given that, according to the Spanish authorities, between 31 December 1991 and 30 September 1992, Merco realized fixed assets and stocks of around Pta 8,4 billion (see Section II) and that, on 23 January 1993, the Spanish authorities decided to inject capital of at least Pta 18 billion, the undertaking had assets during this period of approximately Pta 26 billion. The Spanish authorities, however, only informed the Commission of the payment of compensation to employees (Pta 1,5 billion) and the payment of creditors, mainly small farmers, (Pta 5 billion). Given that, according to the Spanish authorities, the

injections of capital were intended and would be intended for the payment of compensation to employees, commercial creditors and financial creditors (see Section II), a considerable percentage of those injections of capital was or would be intended for the payment of the financial creditors.

In effect, the State has enabled Merco to continue trading when it would have been impossible under normal conditions. It gave an implicit guarantee that it would repay all credit extended by Merco's creditors, should the company become insolvent or unable to make repayment. Such measures must be considered as the retrospective payment of operating aid received by the company in the form of bank credits, the normal repayment of which would have been impossible without these measures.

Such measures are therefore likely to favour the undertaking concerned at the expense of other companies both from Spain and the other Member States not receiving such aid. The measures in question are therefore likely to distort competition in favour of Merco.

VI

The aid which the Spanish authorities have granted and plan to grant to Merco is, in the opinion of the Commission, aid which affects or is likely to affect trade between the Member States given that the agricultural produce marketed by the undertaking, in part using the credits granted by the financial institutions as a result of the intervention of the authorities, is traded between Member States.

Trade between Spain and the other Member States in the products marketed by Merco during 1991, the final year before the decision to cease trading taken on 23 January 1992, was as follows:

Product	1991					
	Intra-EEC		A		B	
	ECU 1 000	kg 1 000	ECU 1 000	kg 1 000	ECU 1 000	kg 1 000
Cotton seed ⁽¹⁾	2 912	16 343	1 159	6 098	0	0
Sunflower seed ⁽²⁾	465 820	995 496	17 617	25 436	6 177	11 242
Olive oil ⁽³⁾	1 124 864	436 486	778 905	319 417	57 428	23 720
Cereals ⁽⁴⁾	6 220 824	26 954 427	250 932	767 024	445 821	2 179 137
Fruit ⁽⁵⁾	6 050 293	7 508 485	1 961 096	2 769 572	127 143	155 823
Vegetables ⁽⁶⁾	6 216 291	13 414 299	964 981	1 292 583	211 850	703 320

A: EEC imports from Spain.

B: Spanish imports from the EEC.

⁽¹⁾ CN code 12 07 02.

⁽²⁾ CN code 12 06 00.

⁽³⁾ CN code 15 09.

⁽⁴⁾ CN code Chapter 10.

⁽⁵⁾ CN code Chapter 8.

⁽⁶⁾ CN code Chapter 7.

⁽¹⁾ [1986] ECR 2263.

⁽²⁾ [1991] ECR I-1603.

Merco's continued trading owing to the granting of State aid may affect the volume and conditions of trade between Spain and the other Member States. The aid granted to Merco may therefore affect trade between Member States.

The aid granted in the form of injections of capital and the aid planned therefore fulfil the criteria laid down in Article 92 (1) of the Treaty.

VII

In their letters dated 23 November 1992 and 14 January 1993, the Spanish authorities took the view that the injections of capital in question were not aid within the meaning of Article 92 (1), given that they permitted the recovery of assets of Pta 12 billion, and that they did not constitute an implicit Government guarantee for creditors. By telex message dated 21 December 1992, the Commission asked the Spanish authorities to justify the argument set out in their letter dated 23 November 1992 according to which the injections of capital permitted the recovery of assets of Pta 12 billion. Their reply, contained in a letter dated 14 January 1993, showed only that the company's accounts for the period 31 December 1991 to 30 September 1992 revealed a reduction in stocks, fixed assets, money owed to creditors and provisions (see Section II).

At the meeting held on 8 July 1993, the Spanish authorities explained that, without the injections of capital, the controlled liquidation of the company could not have taken place and the recovery of assets would therefore have been carried out under less favourable conditions.

According to the Spanish authorities, the contributions of capital enabled the recovery of assets greater than the sum of the contributions and the assets which would have been recovered under less favourable conditions and the payments do not therefore constitute aid.

The Commission cannot accept the argument put forward by the Spanish authorities that the injection of capital of Pta 18 billion in 1992 and that of Pta 5,8 billion were not aid even if they did permit a controlled liquidation of the undertaking and the recovery of more assets than would have been the case under the less favourable alternative conditions (bankruptcy). In any case, the argument does not prevent the contributions concerned constituting aid. The contributions simply permitted the amount of aid to be reduced by an amount equal to the advantage gained from a controlled liquidation.

This implicit guarantee given to its creditors enabled the company to continue trading under non-commercial conditions, thus remaining afloat artificially. The fact that

the injections of capital were decided upon at the same time as the liquidation of the undertaking is irrelevant. What must be considered is the fact that they are intended, in particular, to finance the losses sustained by the company arising from its activities carried out under non-market conditions before its liquidation, i.e. intended for the retrospective payment of operating aid received by the company in the form of bank credits granted in the absence of any prospect of normal repayment.

The argument put forward by the Spanish authorities in their letter dated 10 September 1993 according to which a part of Merco's debt to the financial institutions was caused by payments by the latter to farmers for produce supplied to Merco is irrelevant. It is not the farmers who are the creditors of Merco but the financial institutions. Even if part of the aid were intended to pay the farmers, the conclusions would remain the same, being based on factors unconnected with the status of the creditors.

Moreover, even if the claim by the Spanish authorities that the amounts recovered were in fact greater than the sum of the contributions and the assets that would have been recovered in the event of bankruptcy were true (figures can be no more than estimates), it must be pointed out that the contributions were made only by the Spanish authorities. The other creditors, the financial institutions for example, who might have benefited from a controlled liquidation of the company, did not supply additional funds, at the same time as the State and under the same conditions, to permit refinancing.

In the light of the above, the Commission must consider the contributions made and planned by the Spanish authorities not as the normal action of an economic operator but rather as State aid.

Where a financial contribution from the public authorities strengthens the position of certain undertakings or permits them to be maintained at the expense of their competitors in the Community, it must be considered as affecting the latter. The aid already granted and that planned favours one particular undertaking (Merco) and distorts competition between it and other undertakings in Spain and the other Member States receiving neither the aid already paid to Merco nor that planned. This is all the more true when, as in the present case, the aid has permitted an undertaking which would normally have disappeared much sooner or which would have been restructured to continue trading.

In view of the above, the aid granted to Merco is likely to affect trade between Member States and to distort competition by favouring Merco at the expense of competing companies. The aid therefore fulfils the conditions laid down in Article 92 (1) of the Treaty.

VIII

The Spanish Government did not comply with the suspensory effect of Article 93 (3) of the Treaty in that it did not await a Commission decision before granting the aid of Pta 18 billion paid in 1992. Since the provisions of Article 93 (3) were not complied with, the aid is illegal under Community law from the date of payment.

In this connection, it must be pointed out that the imperative character of the procedural rules set out in Article 93 (3), compliance with which is important from the point of view of public order, and the direct effect of which has been recognized by the Court of Justice in its judgments of 19 June 1973 in Case 77/72 (*Capolongo v. Azienda Agricola Maya*)⁽¹⁾, 11 December 1973 in Case 120/73 (*Gebrueder Lorenz GmbH v. Germany*)⁽²⁾, 22 March 1977 in Case 78/76 (*Steinike and Weinlig v. Germany*)⁽³⁾ and 21 November 1991 in Case C-354/90 (*Fédération nationale du commerce extérieur des produits alimentaires and others v. France*)⁽⁴⁾, is such that the illegality of the aid in question cannot be remedied by subsequent action.

Moreover, where aid is incompatible with the common market, the Commission can make use of the facility afforded it by the judgment of the Court of Justice of 12 July 1973 in Case 70/72, *Commission v. Germany*⁽⁵⁾, confirmed by the judgments of 24 February 1987 and 20 September 1990 in Cases 310/85, *Deufil v. Commission*⁽⁶⁾, and C-5/89, *Commission v. Germany*⁽⁷⁾, and require Member States to recover from recipients all aid illegally granted.

IX

Article 92 (1) of the Treaty lays down the principle that aid having the characteristics it specifies is incompatible with the common market.

As far as the exceptions to that principle are concerned, those provided for in Article 92 (2) do not apply to the case in question, given the nature and objectives of the aid. Furthermore, the Spanish Government has not invoked these exceptions.

Under the terms of Article 92 (3), in order to maintain the proper operation of the common market and to take account of the objectives set out in Article 3 (f) of the Treaty, derogations from the principle of incompatibility of aid must be interpreted strictly in an examination of any aid scheme or individual aid measure.

In particular, derogations may be granted only where the Commission can establish that, if the aid were not granted, market forces alone would not be sufficient to induce the recipients to act in such a way as to achieve one of the objectives laid down.

To apply the derogations to cases which do not contribute to such an objective, or where the aid is not necessary for that purpose, would be to give an unfair advantage to the industries or undertakings of certain Member States, whose financial position would be strengthened artificially, and to affect trading conditions between Member States and distort competition, without any justification based on the common interest referred to in Article 92 (3).

The derogations provided for in Article 92 (3) (a) and (c) for aid to promote or facilitate the development of certain areas do not apply to the aid measure in question.

Article 92 (3) (a) provides for a derogation for aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. Article 92 (3) (c) also provides for a derogation for aid for the development of certain areas. It should be noted, however, that, although Merco carried out certain of its activities in areas eligible for regional aid pursuant to Article 92 (3) (a) and (c), the aid measures in question were not applied as part of regional aid programmes but on the basis of *ad hoc* decisions taken by the Spanish Government and in the form of contributions of capital made on a discretionary basis.

Even were the aid in question to be considered as regional aid it could not be eligible for any of the derogations provided for in Article 92 (3) (a) and (c) since aid granted pursuant to the said Article must contribute to the long-term development of the area (which, in this case, would at least have involved the use of the aid to restore the profitability of the undertaking, which was impossible for Merco since the decision to inject capital was taken at the same time as that to liquidate the company) without having any unacceptable negative consequences for conditions of competition within the Community.

With regard to the derogations provided for in Article 92 (3) (b), the aid in question is obviously not intended to promote a project of common European interest nor to remedy a serious disturbance of the Spanish economy.

⁽¹⁾ [1973] ECR 611.

⁽²⁾ [1973] ECR 1471.

⁽³⁾ [1977] ECR 595.

⁽⁴⁾ [1991] ECR I-5505.

⁽⁵⁾ [1973] ECR 813.

⁽⁶⁾ [1987] ECR 901.

⁽⁷⁾ [1990] ECR I-3437.

Furthermore, the Spanish Government has not invoked such reasons to justify the aid.

Finally, with regard to the derogations provided for in Article 92 (3) (c) for aid to facilitate the development of certain economic activities, the Commission may judge certain sectoral aid to be compatible with the common market where two conditions, set out in Article 92 (3) (c), are fulfilled, i.e. the aid must be to facilitate the development of a sector from the point of view of the Community and must not adversely affect trading conditions in a manner contrary to the common interest.

In view of the fact that the contributions of capital were decided upon at the same time as the liquidation of the undertaking, they cannot be considered as being for the implementation of a restructuring programme intended to put the undertaking on a sound footing and develop the sector.

It is clear from the judgments handed down by the Court of Justice in abovementioned Case 234/84 and in Case 40/85, *Belgium v. Commission*,⁽¹⁾ that aid of this type does not fulfil the conditions laid down for the granting of one of the derogations provided for in Article 92 where it does not contribute to putting an undertaking on a sound footing, i.e. where the undertaking cannot be expected to be moved into profit without other assistance within a reasonable time.

Given that the financial assistance was granted before the Commission could reach a decision on its compatibility, that part of the aid was or would be used to compensate, at least in part, for losses, to reduce the undertaking's debts and probably to pay its creditors, principally financial institutions, that the measures in question were not linked to a restructuring programme intended to put the undertaking on a sound footing and that the measures may have had an adverse effect on its competitors in the Community, the Commission cannot consider the aid in question as compatible with the common market.

From the above it must be concluded that the aid granted to Merco, on the one hand, enabled the undertaking to be kept artificially afloat when, under normal market conditions, it would have disappeared or would have had to have undergone restructuring and, on the other hand, prevented other operators from increasing their market share.

Consequently, the aid paid to Merco and that planned, in the form of injections of capital, is not compatible with the common market since it fulfils none of the conditions

required for the granting of the derogations provided for in Article 92 of the Treaty.

X

As stated in Section VIII, the Commission may require Member States in such cases to recover from the recipients aid paid unlawfully.

It should be recalled that the recovery of aid which has been paid unlawfully is the logical consequence of the fact that its illegality had been established (see the judgment of the Court of 21 March 1990 in Case C-142/87, *Belgium v. Commission*)⁽²⁾.

The aid of Pta 18 billion paid to Merco in the form of contributions of capital in 1992 must be revoked and the sums paid recovered.

It should be stressed that the information submitted by the Spanish authorities does not give the Commission reason to believe that Merco has already used the money from the injections of capital to pay its creditors.

The Commission takes the view that the decision taken by the Spanish Government to liquidate the company does not remove the obligations to repay aid of Pta 18 billion paid in 1992.

To lift the obligation to repay aid where a decision to liquidate an undertaking is taken would be to render the rules on State aid and the provisions laid down on the recovery of illegal and incompatible aid⁽³⁾ meaningless. A decision to liquidate a company which had received financial support from the State would suffice to prevent the application of Articles 92 and 93 of the Treaty.

Furthermore, it must be stressed that it has already been unsuccessfully argued before the Court of Justice that the provisions on the recovery of aid should not apply where a decision to liquidate an undertaking has been taken⁽⁴⁾.

Repayment must be made in accordance with the procedures and provisions of Spanish law, in particular those concerning interest on overdue payments owed to the State, the interest being calculated from the date the aid in question was paid. This appears necessary in order to restore the previous situation by revoking all the financial advantages enjoyed by the company receiving the illegal aid since the date on which it was paid.

⁽²⁾ [1990] ECR I-959.

⁽³⁾ See Commission communication, OJ No C 318, 24. 11. 1983, p. 3.

⁽⁴⁾ See Case C-142/87, cited above, paragraphs 49, 50 and 51.

⁽¹⁾ [1986] ECR 2321.

The aid of Pta 5,8 billion planned by the Spanish authorities for the same purpose as the Pta 18 billion paid to Merco in 1992 may not be paid.

This Decision shall not prejudice any consequences the Commission might draw for the financing of the Common Agricultural Policy by the European Agricultural Guidance and Guarantee Fund (EAGGF),

HAS ADOPTED THIS DECISION:

Article 1

The aid amounting to Pta 18 billion paid by Spain to Merco, a company, in the form of contributions of capital in 1992 is illegal, having been granted in breach of the rules of procedure laid down in Article 93 (3) of the EC Treaty. This aid, and the aid of Pta 5,8 billion Spain has decided to grant to Merco, are also incompatible with the common market within the meaning of Article 92 of the Treaty.

Article 2

Spain shall withdraw the aid of Pta 18 billion granted in 1992 and order Merco to repay the money within two months of the date of notification of this Decision.

The aid shall be recovered in accordance with the procedures and provisions of national law, and in particular those relating to interest on overdue payments owed to the State, with interest starting to run from the date on which the unlawful aid was granted.

Article 3

Spain shall inform the Commission within two months of the date of notification of this Decision of the measures taken to comply herewith.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 7 December 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION DECISION

of 27 April 1994

laying down the animal health requirements and the veterinary certification for the importation from third countries of processed animal protein including products containing this protein intended for animal consumption

(Text with EEA relevance)

(94/344/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, in Directive 90/425/EEC⁽¹⁾, and in particular Article 10 paragraph 2 (c),

Whereas Chapter 6 of Annex I to Directive 92/118/EEC lays down requirements for the importation of processed animal protein, or products containing this protein, intended for animal consumption, and, whereas the said Chapter 6 allows Member States to maintain their national import rules in force before 18 December 1992, concerning the requirements applicable as regards BSE and scrapie, pending a decision on the type of heat treatment capable of destroying the agent responsible;

Whereas the import requirements for petfood in hermetically-sealed containers containing processed animal protein derived from high-risk materials and petfood derived from low-risk material are laid down in Commission Decision 94/309/EC⁽²⁾;

Whereas Commission Decision 94/278/EC⁽³⁾ has laid down a list of third countries from which Member States authorize the importation of processed animal protein, or products containing this protein, intended for animal consumption, except for fishmeal and similar products, and a list of third countries from which Member States authorize the importation of fishmeal and similar products;

Whereas animal health conditions and veterinary certification for the importation of these products from third countries must be laid down; whereas it is necessary to lay down different import requirements for fishmeal and similar products and other processed animal protein

intended for animal consumption, and for the latter to take into account the fact that they derive either from high-risk material or low-risk material, as defined by Council Directive 90/667/EEC⁽⁴⁾, as amended by Directive 92/118/EEC;

Whereas considering that a new certification regime is being established, a period of time should be provided for its implementation;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall authorize the importation from third countries of processed animal protein intended for animal consumption, derived from high-risk material, or the import of products, including mixtures, containing these proteins, if they are processed in a registered and approved plant in accordance with Directive 90/667/EEC, and if it is accompanied by a health certificate as set out in Annex A.

The first subparagraph shall not apply to petfood in hermetically-sealed containers containing processed animal protein derived from high-risk material.

2. Member States shall authorize the importation from third countries of processed animal protein intended for animal consumption, derived from low-risk material or the import of products, including mixtures, containing these proteins, if they are processed in a registered and approved plant in accordance with Directive 90/667/EEC, and if it is accompanied by a health certificate as set out in Annex B.

The first subparagraph shall not apply to petfood.

3. Member States shall authorize the importation from third countries of fishmeal and meal derived from other

⁽¹⁾ OJ No L 62, 15. 3. 1993, p. 49.

⁽²⁾ OJ No L 137, 1. 6. 1994, p. 62.

⁽³⁾ OJ No L 120, 11. 5. 1994, p. 44.

⁽⁴⁾ OJ No L 363, 27. 12. 1990, p. 51.

sea animals, excluding mammals, intended for animal consumption, or the import of products including mixtures, containing these proteins if it is processed in a registered and approved plant in accordance with Directive 90/667/EEC, and if it is accompanied by a health certificate as set out in Annex C.

The first subparagraph shall not apply to petfood.

4. The health certificates referred to in paragraphs 1, 2 and 3 shall consist of one sheet and shall be completed in at least one official language of the Member State carrying out import checks.

Article 2

This Decision shall apply from 1 July 1994.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 27 April 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX A

ANIMAL HEALTH CERTIFICATE

for processed animal protein intended for animal consumption derived from high risk material and products, including mixtures, other than petfood in hermetically sealed containers, containing these proteins, intended for dispatch to the European Community

Note for the importer:

This certificate is for veterinary purposes only and must accompany the consignment until it reaches the border inspection post.

Country of destination :

Reference number of the health certificate :

Exporting country :

Responsible ministry :

Certifying department :

I. Identification of the protein or product

Nature of the protein or product :

Protein of : (species)

Nature of packaging :

Number of packages ⁽¹⁾ :

Net weight :

II. Origin of the protein or product

Address and veterinary control number of the approved establishment :

.....

.....

III. Destination of the protein or product

The protein or product will be sent

from :

(place of loading)

to :

(country and place of destination)

by the following means of transport :

Number of the seal ⁽¹⁾ :

Name and address of consignor :

.....

Name and address of consignee :

.....

⁽¹⁾ Optional.

IV. Attestation

The undersigned official veterinarian certifies that :

- (a) the protein or product described above contains exclusively or partially processed animal protein not intended for human consumption derived from high risk material which has been subjected to the following heat treatment process :

heating to at least 133 °C throughout its substance for a minimum of 20 minutes at a pressure of 3 bars, with a particle size prior to processing of not more than 5 cm and the random sample complies with the following standards ⁽¹⁾ :

- *Clostridium perfringens* : absence in 1 g ⁽²⁾,
- *Salmonella* : absence in 25 g, n = 5, c = 0, m = 0, M = 0 ⁽³⁾,
- *Enterobacteriaceae* : n = 5, c = 2, m = 10, M = 3×10^2 in 1 g ⁽³⁾;

- (b) a random sample of the end product was examined immediately prior to dispatch by a competent authority and found to comply with the following standard ⁽¹⁾ :

Salmonella : absence in 25 g, n = 5, c = 0, m = 0, M = 0 ;

- (c) the protein or product described above

- was produced by using ruminant protein ⁽⁴⁾,
- was produced without using ruminant protein ⁽⁴⁾;

- (d) the end product

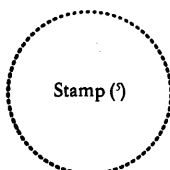
- was packed in new packaging material,
- or
- in case of dispatch as bulk transport, containers or any other means of transport were thoroughly cleaned and disinfected with a disinfectant approved by the competent authority before use ⁽⁵⁾;

- (e) the end product was stored only in enclosed storages ;

- (f) the end product has undergone all precautions to avoid recontamination with pathogenic agents after heat treatment.

Done at on
(place) (date)

.....
(signature of the official veterinarian ⁽⁶⁾)



.....
(name in capital letters, qualifications and title)

⁽¹⁾ where :

n = number of units comprising the sample ;

m = threshold value for the number of bacteria ; the result is considered satisfactory if the number of bacteria in all sample units does not exceed m ;

M = maximum value for the number of bacteria ; the result is considered unsatisfactory if the number of bacteria in one or more sample units is M or more ;

c = number of sample units the bacterial count of which may be between m and M, the sample still being considered acceptable if the bacterial count of the other sample units is m or less.

⁽²⁾ Sample taken after treatment.

⁽³⁾ Sample taken during storage at processing plant.

⁽⁴⁾ Delete as appropriate.

⁽⁵⁾ The signature and the stamp must be in a colour different to that of the printing.

ANNEX B

ANIMAL HEALTH CERTIFICATE

for processed animal protein intended for animal consumption derived from low risk material and products, including mixtures, other than petfood containing these proteins intended for dispatch to the European Community

Note for the importer:

This certificate is for veterinary purposes only and must accompany the consignment until it reaches the border inspection post.

Country of destination :

Reference number of the health certificate :

Exporting country :

Responsible ministry :

Certifying department :

I. Identification of the protein or product

The protein or product was produced from raw material of the following species :

.....

Nature of packaging :

Number of packages ⁽¹⁾ :

Net weight :

II. Origin of the protein or product

Address and veterinary registration number of the approved or registered establishment :

.....

.....

III. Destination of the protein or product

The protein or product will be sent

from :

(place of loading)

to :

(country and place of destination)

by the following means of transport :

Number of the seal ⁽²⁾ :

Name and address of consignor :

.....

Name and address of consignee :

.....

IV. Attestation

1. The undersigned official veterinarian certifies that the protein or product described above contains exclusively or partially animal protein derived from low risk material and

(a) was produced in such a way that it has been subjected to a treatment throughout its substance, in order to meet the standards as described under (b);

⁽¹⁾ Only appropriate if not in bulk.

⁽²⁾ Optional.

- (c) The signature and the stamp must be in a colour different to that of the printing.

ANNEX C

ANIMAL HEALTH CERTIFICATE

for fishmeal including meal of sea animals with the exception of mammals, and products, including mixtures, other than petfood, containing these products intended for dispatch to the European Community

Note for the importer:

This certificate is for veterinary purposes only and must accompany the consignment until it reaches the border inspection post.

Country of destination :

Reference number of the health certificate :

Exporting country :

Responsible ministry :

Certifying department :

I. Identification of the protein or product

Nature of packaging :

Number of packages :

Net weight :

II. Origin of the protein or product

Address and official control number of the approved establishment :

.....

.....

III. Destination of the protein or product

The fishmeal will be sent

from :

(place of loading)

to :

(country and place of destination)

by the following means of transport :

Number of the seal (''):

Name and address of consignor :

.....

Name and address of consignee :

.....

(') Optional.

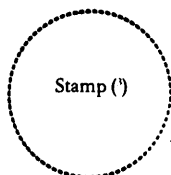
IV. Attestation

The undersigned official veterinarian certifies that the protein or product described above

- (a) has been subject to a heat treatment of at least 80 °C throughout its substance ;
- (b) was examined during storage at the processing plant by random sample and found to comply with the following standards ⁽¹⁾ :
 - *Salmonella* : absence in 25 g, n = 5, c = 0, m = 0, M = 0 ;
 - *Enterobacteriaceae* : n = 5, c = 2, m = 10, M = 3×10^2 in g ;
- (c) was derived from fish or other sea animals except sea mammals, caught in the open sea ; or from fresh fish offal from plants manufacturing fish products for human consumption ;
- (d) was not derived from fish which was spoiled ;
- (e) was not derived from fish which in the course of the inspection provided for in Community legislation failed to comply with the veterinary requirements for their importation into the Community ;
- (f) the end product was examined immediately prior to dispatch by the competent authority by a random sample and found to comply with the following standards ⁽¹⁾ :
 - Salmonella* : absence in 25 g, n = 5, c = 0, m = 0, M = 0 ;
- (g) — the end product was packed in new packaging material ⁽²⁾,
or
— in case of dispatch as bulk transport, containers or any other means of transport were thoroughly cleaned and disinfected with a disinfectant approved by the competent authority before use ⁽²⁾ ;
- (h) the end product has undergone all precautions to avoid recontamination with pathogenic agents after heat treatment.

Done at _____, on _____
(place) (date)

(signature of the official veterinarian ⁽¹⁾)



(name in capital letters, qualifications and title)

⁽¹⁾ where :

- n = number of units comprising the sample ;
- m = threshold value for the number of bacteria ; the result is considered satisfactory if the number of bacteria in all sample units does not exceed m ;
- M = maximum value for the number of bacteria ; the result is considered unsatisfactory if the number of bacteria in one or more sample units is M or more ;
- c = number of sample units the bacterial count of which may be between m and M, the sample still being considered acceptable if the bacterial count of the other sample units is m or less.

⁽²⁾ Delete as appropriate.

⁽¹⁾ The signature and the stamp must be in a colour different to that of the printing.