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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2112/94

of 29 August 1994

on the issuing of a standing invitation to tender for the resale on the internal market of 145 290 tonnes of cereals held by the intervention agency of the United Kingdom

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas, in the present market situation, a standing invitation to tender for the resale on the internal market of 145 290 tonnes of cereals held by the intervention agency of the United Kingdom should be issued;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The intervention agency of the United Kingdom shall issue pursuant to Regulation (EEC) No 2131/93 a standing invitation to tender for the resale on the internal market of:

- 42 000 tonnes of common wheat fodder
- 3 290 tonnes of bread-making wheat
- 100 000 tonnes of barley

held by it.

Article 2

1. The final date for the submission of tenders for the first partial invitation to tender shall be 8 September 1994.
2. The final date for the submission of tenders for the last partial invitation to tender shall be 15 December 1994.
3. Tenders must be lodged with the intervention agency of the United Kingdom:

Intervention Board for Agricultural Produce,
Fountain House,
2 Queens Walk,
UK-Reading RG1 7QW Berks,
(Telex : 848 302).

Article 3

Not later than Tuesday of the week following the final date for the submission of tenders, the intervention agency of the United Kingdom shall notify the Commission of the quantities and average prices of the various lots sold.

Article 4

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

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION REGULATION (EC) No 2113/94

of 29 August 1994

on the issuing of a standing invitation to tender for the resale on the internal market of 2 196 tonnes of barley held by the Luxembourg intervention agency

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 last amended by Regulation (EC) No 1866/94 ⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93 ⁽³⁾, as amended by Regulation (EC) No 120/94 ⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by the intervention agencies;

Whereas, in the present market situation, a standing invitation to tender for the resale on the internal market of 2 196 tonnes of barley held by the Luxembourg intervention agency should be issued;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The Luxembourg intervention agency shall issue pursuant to Regulation (EEC) No 2131/93 a standing invitation to tender for the resale on the internal market of 2 196 tonnes of barley held by it.

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

Article 2

1. The final date for the submission of tenders for the first partial invitation to tender shall be 6 September 1994.

2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 13 December 1994.

3. Tenders must be lodged with the Luxembourg intervention agency:

Service d'économie rurale,
Office du blé,
113-115, route de Hollerich,
L-1741 Luxembourg,
(Telex : AGRIM L 2537 ; telefax : 4501178).

Article 3

Not later than Tuesday of the week following the final date for the submission of tenders, the Luxembourg intervention agency shall notify the Commission of the quantities and average prices of the various lots sold.

Article 4

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

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2114/94

of 29 August 1994

on the issuing of a standing invitation to tender for the resale on the internal market of 107 809 tonnes of cereals held by the Italian intervention agency

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedure and conditions governing the offer for sale of cereals held by intervention agencies;

Whereas, in the present market situation, a standing invitation to tender for the resale on the internal market of 107 809 tonnes of cereals held by the Italian intervention agency should be issued;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The Italian intervention agency shall issue pursuant to Regulation (EEC) No 2131/93 a standing invitation to tender for the resale on the internal market of:

— 54 783 tonnes of barley

— 53 026 tonnes of maize

held by it.

Article 2

1. The final date for the submission of tenders for the first partial invitation to tender shall be 8 September 1994.

2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 15 December 1994.

3. Tenders must be lodged with the Italian intervention agency:

Ente per gli interventi nel mercato agricolo (EIMA)

Via Palestro 81,

I-00100 Rome,

(Tel: 49 49 91; telex: 620331).

Article 3

Not later than Tuesday of the week following the final date for the submission of tenders, the Italian intervention agency shall notify the Commission of the quantities and average prices of the various lots sold.

Article 4

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

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2115/94

of 29 August 1994

on the issuing of a standing invitation to tender for the resale on the internal market of 56 687 tonnes of cereals held by the Irish intervention agency

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by the intervention agencies;

Whereas, in the present situation, a standing invitation to tender for the resale on the internal market of 56 687 tonnes of cereals held by the Irish intervention agency should be issued;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The Irish intervention agency shall issue pursuant to Regulation (EEC) No 2131/93 a standing invitation to tender for the resale on the internal market of:

- 6 687 tonnes of common wheat fodder
 - 50 000 tonnes of barley
- held by it.

Article 2

1. The final date for the submission of tenders for the first partial invitation to tender shall be 8 September 1994.
2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 15 December 1994.
3. Tenders must be lodged with the Irish intervention agency:

Department of Agricultural and Food,
Cereals Division,
Agriculture House,
Kildare Street,
IRL-Dublin 2 (Telex: AGRI EI 93607; telefax: 661 62 63).

Article 3

Not later than Tuesday of the week following the final date for the submission of tenders, the Irish intervention agency shall notify the Commission of the quantities and average prices of the various lots sold.

Article 4

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

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2116/94**of 29 August 1994****on the opening of a standing invitation to tender for the resale on the internal market of 37 304 tonnes of cereals held by the Belgian intervention agency**

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedures and conditions governing the offer for sale of cereals held by the intervention agencies;

Whereas, in the present market situation, a standing invitation to tender should be opened for the resale on the internal market of 37 304 tonnes of cereals held by the Belgian intervention agency;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

— 2 523 tonnes of bread-making wheat
— 4 000 tonnes of common wheat fodder
— 30 781 tonnes of barley
held by it.

Article 2

1. The deadline for the submission of tenders for the first partial invitation to tender shall be 6 September 1994.

2. The deadline for the submission of tenders for the final partial invitation to tender shall be 13 December 1994.

3. The tenders shall be deposited with the Belgian intervention agency:

Bureau d'Intervention et de restitution belge (BIRB),
Belgisch Interventie- en Restitutiebureau,
rue de Trèves 82/Trierstraat 82,
B-1040 Bruxelles-Brussel,
(Telex : OBEA 24076, 65567 ; telefax : 230 25 33).

Article 3

The Belgian intervention agency shall notify the Commission, by no later than the Tuesday of the week following the expiry of the deadline for the submission of tenders, of the quantity and the average prices of the different lots sold.

Article 4

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

HAS ADOPTED THIS REGULATION:

Article 1

The Belgian intervention agency shall, pursuant to the terms specified in Regulation (EEC) No 2131/93, initiate a standing invitation to tender for the resale on the internal market of:

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2117/94

of 29 August 1994

on the opening of a standing invitation to tender for the resale on the internal market of 189 858 tonnes of cereals 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 (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedures and conditions governing the offer for sale of cereals held by the intervention agencies;

Whereas, in the present market situation, a standing invitation to tender should be opened for the resale on the internal market of 189 858 tonnes of cereals held by the Spanish intervention agency;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The Spanish intervention agency shall, pursuant to the terms specified in Regulation (EEC) No 2131/93, initiate a standing invitation to tender for the resale on the internal market of:

- 100 000 tonnes of barley
 - 17 364 tonnes of bread-making rye
 - 72 494 tonnes of fodder rye
- held by it.

Article 2

1. The deadline for the submission of tenders for the first partial invitation to tender shall be 8 September 1994.
2. The deadline for the submission of tenders for the final partial invitation to tender shall be 15 December 1994.
3. The tenders shall be deposited with the Spanish intervention agency:
Servicio Nacional de Productos Agrarios,
(SENPA) c/Beneficiencia 8,
E-28004 Madrid,
(Telex: 41 818, 23 427 SENPA E; telefax 521 98 32, 522 43 87).

Article 3

The Spanish intervention agency shall notify the Commission, by no later than the Tuesday of the week following the expiry of the deadline for the submission of tenders, of the quantity and the average prices of the different lots sold.

Article 4

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

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2118/94

of 29 August 1994

on the opening of a standing invitation to tender for the resale on the internal market of 400 490 tonnes of cereals held by the German intervention agency

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedures and conditions governing the offer for sale of cereals held by the intervention agencies;

Whereas, in the present market situation, a standing invitation to tender should be opened for the sale on the internal market of 400 490 tonnes of cereals held by the German intervention agency;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The German intervention agency shall, pursuant to the terms specified in Regulation (EEC) No 2131/93, initiate a standing invitation to tender for the resale on the internal market of:

- 100 000 tonnes of bread-making wheat
 - 50 490 tonnes common wheat fodder
 - 100 000 tonnes of barley
 - 50 000 tonnes of bread-making rye
 - 100 000 tonnes of maize
- held by it.

Article 2

1. The deadline for the submission of tenders for the first partial invitation to tender shall be 6 September 1994.

2. The deadline for the submission of tenders for the final partial invitation to tender shall be 13 December 1994.

3. The tenders shall be deposited with the German intervention agency:

Bundesanstalt für landwirtschaftliche Marktordnung (BALM),
Adicksallee 40,
D-60322 Frankfurt am Main,
(Telex: 41 17 27; telefax (169) 156 47 91).

Article 3

The German intervention agency shall notify the Commission, by not later than the Tuesday of the week following the expiry of the deadline for the submission of tenders, of the quantity and the average prices of the different lots sold.

Article 4

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

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2119/94

of 29 August 1994

on the opening of a standing invitation to tender for the resale on the internal market of 248 387 tonnes of cereals held by the Danish intervention agency

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedure and conditions governing the offer for sale of cereals held by the intervention agencies;

Whereas, in the present market situation, a standing invitation to tender should be opened for the resale on the internal market of 248 387 tonnes of cereals held by the Danish intervention agency;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The Danish intervention agency shall, pursuant to the terms specified in Regulation (EEC) No 2131/93, initiate a standing invitation to tender for the resale on the internal market of:

- 100 000 tonnes of bread-making wheat
- 53 559 tonnes of common wheat fodder
- 50 000 tonnes of fodder rye
- 44 828 tonnes of barley

held by it.

Article 2

1. The deadline for the submission of tenders for the first partial invitation to tender shall be 8 September 1994.
2. The deadline for the submission of tenders for the final partial invitation to tender shall be 15 December 1994.
3. The tenders shall be deposited with the Danish intervention agency:

EF-Direktoratet,
Nyropsgade 26,
DK-1602 København V,
(Tel : 33 92 70 00, telefax : 33 92 69 48, telex : 15 137).

Article 3

The Danish intervention agency shall notify the Commission, by no later than the Tuesday of the week following the expiry of the deadline for the submission of tenders, of the quantity and the average prices of the different lots sold.

Article 4

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

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2120/94

of 29 August 1994

on the opening of a standing invitation to tender for the resale on the internal market of 414 357 tonnes of cereals held by the French intervention agency

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as amended by Regulation (EC) No 120/94⁽⁴⁾, lays down the procedures and conditions governing the offer for sale of cereals held by the intervention agencies;

Whereas, in the present market situation, a standing invitation to tender should be opened for the resale on the internal market of 414 357 tonnes of cereals held by the French intervention agency;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The French intervention agency shall, pursuant to the terms specified in Regulation (EEC) No 2131/93, initiate a standing invitation to tender for the resale on the internal market of:

- 100 000 tonnes of bread-making wheat
 - 100 000 tonnes of barley
 - 4 713 tonnes of fodder rye
 - 50 000 tonnes of maize
 - 159 644 tonnes of sorghum
- held by it.

Article 2

1. The deadline for the submission of tenders for the first partial invitation to tender shall be 6 September 1994.
2. The deadline for the submission of tenders for the final partial invitation to tender shall be 13 December 1994.
3. The tenders shall be deposited with the French intervention agency:

Office national interprofessionnel des céréales,
21, avenue Bosquet,
F-75341 Paris Cedex 07,
(Telex: 20 04 90F/OFIDM 20 36 62F; Telefax:
47 05 61 32).

Article 3

The French intervention agency shall notify the Commission, by no later than the Tuesday of the week following the expiry of the deadline for the submission of tenders, of the quantity and the average prices of the different lots sold.

Article 4

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

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.
⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.
⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.
⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

COMMISSION REGULATION (EC) No 2121/94

of 29 August 1994

fixing the export refunds on products processed from cereals and rice

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular the third subparagraph of Article 13 (2) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EC) No 1869/94⁽⁴⁾, and in particular the fourth subparagraph of Article 17 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 and Article 17 of Regulation (EEC) No 1418/76 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 1431/76⁽⁵⁾ laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds, provide that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other; whereas the same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market;

Whereas Article 4 of Council Regulation (EEC) No 1620/93⁽⁶⁾ on the import and export system for products processed from cereals and from rice defines the specific

criteria to be taken into account when the refund on these products is being calculated;

Whereas the refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product;

Whereas there is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products; whereas, for certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

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 the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas Council Regulation (EEC) No 990/93⁽¹¹⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽⁵⁾ OJ No L 166, 25. 6. 1976, p. 36.

⁽⁶⁾ OJ No L 155, 26. 6. 1993, p. 29.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹¹⁾ OJ No L 102, 28. 4. 1993, p. 14.

Whereas certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted;

Whereas, pursuant to the abovementioned provisions, the refunds should be as set out in the Annex hereto;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1766/92 and in Article 1 (1) (c) of Regulation (EEC) No 1418/76 and subject to Regulation (EEC) No 1620/93 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 September 1994.

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

Done at Brussels, 29 August 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 August 1994 fixing the export refunds on products processed from cereals and rice

(ECU/tonne)		(ECU/tonne)	
Product code	Refund (1)	Product code	Refund (1)
1102 20 10 200 (2)	99,01	1104 23 10 300	81,33
1102 20 10 400 (2)	84,86	1104 29 11 000	37,94
1102 20 90 200 (2)	84,86	1104 29 91 000	37,20
1102 90 10 100	86,37	1104 29 95 000	37,20
1102 90 10 900	58,73	1104 30 10 000	9,30
1102 90 30 100	78,64	1104 30 90 000	17,68
1103 12 00 100	78,64	1107 10 11 000	66,22
1103 13 10 100 (2)	127,30	1107 10 91 000	102,49
1103 13 10 300 (2)	99,01	1108 11 00 200	74,40
1103 13 10 500 (2)	84,86	1108 11 00 300	74,40
1103 13 90 100 (2)	84,86	1108 12 00 200	113,15
1103 19 10 000	49,75	1108 12 00 300	113,15
1103 19 30 100	89,25	1108 13 00 200	113,15
1103 21 00 000	37,94	1108 13 00 300	113,15
1103 29 20 000	58,73	1108 19 10 200	77,52
1104 11 90 100	86,37	1108 19 10 300	77,52
1104 12 90 100	87,38	1109 00 00 100	0,00
1104 12 90 300	69,90	1702 30 51 000 (3)	147,80
1104 19 10 000	37,94	1702 30 59 000 (3)	113,15
1104 19 50 110	113,15	1702 30 91 000	147,80
1104 19 50 130	91,94	1702 30 99 000	113,15
1104 21 10 100	86,37	1702 40 90 000	113,15
1104 21 30 100	86,37	1702 90 50 100	147,80
1104 21 50 100	115,16	1702 90 50 900	113,15
1104 21 50 300	92,13	1702 90 75 000	154,88
1104 22 10 100	69,90	1702 90 79 000	107,49
1104 22 30 100	74,27	2106 90 55 000	113,15
1104 23 10 100	106,08		

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

(2) No refund shall be granted on products given a heat treatment resulting in pregelatinization of the starch.

(3) Refunds are granted in accordance with Regulation (EEC) No 2730/75.

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1), as last amended by Regulation (EC) No 607/94 (OJ No L 77, 19. 3. 1994, p. 5).

COMMISSION REGULATION (EC) No 2122/94
of 29 August 1994
fixing production refunds on cereals and rice

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 last amended by Regulation (EC) No 1866/94 ⁽²⁾, and in particular Article 7 (3) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 1869/94 ⁽⁴⁾, and in particular Article 9 (3) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors ⁽⁵⁾, as amended by Regulation (EC) No 1586/94 ⁽⁶⁾, and in particular Article 3 thereof,

Whereas Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund; whereas the basis for the calculation is established in Article 3 of the said Regulation; whereas the refund thus calculated must be fixed once a month and may be altered if the price of maize or wheat changes significantly;

Whereas the production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The production refunds payable on cereals and rice in accordance with Regulation (EEC) No 1722/93 shall be ECU 74,54 per tonne.

Article 2

This Regulation shall enter into force on 1 September 1994.

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

Done at Brussels, 29 August 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽⁵⁾ OJ No L 159, 1. 7. 1993, p. 112.

⁽⁶⁾ OJ No L 167, 1. 7. 1994, p. 5.

COMMISSION REGULATION (EC) No 2123/94

of 29 August 1994

fixing the export refunds on cereal-based compound feedingstuffs

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 last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular the third subparagraph of Article 13 (4) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Commission Regulation (EEC) No 1913/69 of 29 September 1969 on the granting and the advance fixing of the export refund on cereal-based compound feedingstuffs⁽³⁾, as last amended by Regulation (EC) No 1707/94⁽⁴⁾, provides that calculation of the export refund must take account of, in particular, the averages of the refunds granted and the levies calculated on the most commonly used basic cereals, adjusted on the basis of the threshold price in force during the current month;

Whereas that calculation must also take account of the cereal products content; whereas in the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products; whereas a refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff;

Whereas furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export;

Whereas, however, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as the Community and world markers, allowing more accurate accounts to be taken of the commercial conditions under which such products are exported;

Whereas under the terms of Article 4 of Commission Regulation (EEC) No 1619/93⁽⁵⁾, the refund may be varied on the basis of the destination;

Whereas the representative market areas defined in Article I of Council Regulation (EEC) No 3813/92⁽⁶⁾, as amended by Regulation (EC) No 3528/93⁽⁷⁾, are used on 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⁽⁸⁾, as amended by Regulation (EC) No 547/94⁽⁹⁾;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas Council Regulation (EEC) No 930/93⁽¹⁰⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas, pursuant to the abovementioned provisions, the refunds should be as set out in the Annex hereto;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EEC) No 1619/93 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 September 1994.

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 246, 30. 9. 1969, p. 11.

⁽⁴⁾ OJ No L 180, 14. 7. 1994, p. 19.

⁽⁵⁾ OJ No L 155, 26. 6. 1993, p. 24.

⁽⁶⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁸⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁹⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹⁰⁾ OJ No L 102, 28. 4. 1993, p. 14.

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

Done at Brussels, 29 August 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 August 1994 fixing the export refunds on cereal-based compound feedingstuffs

Product code benefitting from export refund ⁽¹⁾:

2309 10 11 000, 2309 10 13 000, 2309 10 31 000,
2309 10 33 000, 2309 10 51 000, 2309 10 53 000,
2309 90 31 000, 2309 90 33 000, 2309 90 41 000,
2309 90 43 000, 2309 90 51 000, 2309 90 53 000.

<i>(ECU/tonne)</i>	
Cereal products ⁽²⁾	Amount of refund ⁽³⁾
Maize and maize products : CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10.	70,72
Cereal products ⁽²⁾ excluding maize and maize products	47,39

⁽¹⁾ The product codes are defined in Sector 5 of the Annex to Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p 1), as last amended by Regulation (EC) No 607/94.

⁽²⁾ For the purposes of the refund only the starch coming from cereal products is taken into account.

Cereal products means the products falling within subheadings 0709 90 60 and 0712 90 19, Chapter 10, and headings Nos 1101, 1102, 1103 and 1104 (excluding subheading 1104 30) and the cereals content of the products falling within subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature. The cereals content in products under subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature is considered to be equal to the weight of this final product.

No refund is paid for cereals where the origin of the starch cannot be clearly established by analysis.

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

COMMISSION REGULATION (EC) No 2124/94**of 29 August 1994****fixing the export refunds on rice and broken rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1869/94 ⁽²⁾, and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,

Whereas Article 17 of Regulation (EEC) No 1418/76 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 1431/76 of 21 June 1976 laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds ⁽³⁾, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market;

Whereas export possibilities exist for a quantity of 4 000 tonnes of white rice to certain destinations; whereas the procedure laid down in Article 9 (4) of Commission Regulation (EEC) No 891/89 ⁽⁴⁾, as last amended by Regulation (EC) No 1755/94 ⁽⁵⁾, should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Commission Regulation (EEC) No 1361/76 ⁽⁶⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

Whereas Article 3 of Regulation (EEC) No 1431/76 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;

Whereas the refund must be fixed at least once a month; whereas it may be altered in the intervening period;

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 it follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto;

Whereas Council Regulation (EEC) No 990/93 ⁽¹¹⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 36.

⁽⁴⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 183, 19. 7. 1994, p. 7.

⁽⁶⁾ OJ No L 154, 15. 6. 1976, p. 11.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹¹⁾ OJ No L 102, 28. 4. 1993, p. 14.

ADOPTED THIS REGULATION :

listed in paragraph 1 (c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 1

The export refunds on the products listed in Article 1 of Regulation (EEC) No 1418/76 with the exception of those

Article 2

This Regulation shall enter into force on 1 September 1994.

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

Done at Brussels, 29 August 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 August 1994 fixing the export refunds on rice and broken rice

(ECU/tonne)			(ECU/tonne)		
Product code	Destination (1)	Amount of refunds (2)	Product code	Destination (1)	Amount of refunds (2)
1006 20 11 000	01	174,00	1006 30 65 100	01	217,00
	05	174,00		05	217,00
1006 20 13 000	01	174,00	1006 30 65 900	02	223,00
	05	174,00		03	228,00
1006 20 15 000	01	174,00		04	217,00
	05	174,00		01	217,00
1006 20 17 000	—	—		05	217,00
1006 20 92 000	01	174,00		04	217,00
	05	174,00	1006 30 67 100	—	—
1006 20 94 000	01	174,00		—	—
	05	174,00	1006 30 67 900	—	—
1006 20 96 000	01	174,00		01	217,00
	05	174,00	1006 30 92 100	05	217,00
1006 20 98 000	—	—		02	223,00
1006 30 21 000	01	174,00		03	228,00
	05	174,00		04	217,00
1006 30 23 000	01	174,00	1006 30 92 900	01	217,00
	05	174,00		05	217,00
1006 30 25 000	01	174,00		04	217,00
	05	174,00		01	217,00
1006 30 27 000	—	—	1006 30 94 100	05	217,00
1006 30 42 000	01	174,00		02	223,00
	05	174,00		03	228,00
1006 30 44 000	01	174,00		04	217,00
	05	174,00	1006 30 94 900	01	217,00
1006 30 46 000	01	174,00		05	217,00
	05	174,00		04	217,00
1006 30 48 000	—	—		01	217,00
1006 30 61 100	01	217,00		05	217,00
	05	217,00	1006 30 96 100	04	217,00
	02	223,00		01	217,00
	03	228,00		05	217,00
	04	217,00		02	223,00
1006 30 61 900	01	217,00		03	228,00
	05	217,00	1006 30 96 900	04	217,00
	04	217,00		01	217,00
	01	217,00		05	217,00
1006 30 63 100	05	217,00		04	217,00
	02	223,00	1006 30 98 100	—	—
	03	228,00		—	—
	04	217,00		—	—
	01	217,00		—	—
1006 30 63 900	05	217,00	1006 40 00 000	—	—
	04	217,00		—	—

(1) The destinations are identified as follows:

01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia,

02 Zones I, II, III, VI, Ceuta and Melilla,

03 Zones IV, V, VII (c), Canada and Zone VIII excluding Surinam, Guyana and Madagascar,

04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,

05 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of 4 000 tonnes of white rice destined for Austria.

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

NB: The zones are those defined in the Annex to Commission Regulation (EEC) No 2145/92.

COMMISSION REGULATION (EC) No 2125/94

of 29 August 1994

fixing the corrective amount applicable to the refund on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1869/94 ⁽²⁾, and in particular the second subparagraph of Article 17 (4) thereof,

Whereas the first subparagraph of Article 17 (4) of Regulation (EEC) No 1418/76 provides that the export refund applicable to rice and broken rice on the day on which application for an export licence is made, adjusted for the threshold price which will be in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the licence ;

Whereas export possibilities exist for a quantity of 4 000 tonnes of white rice to certain destinations ; whereas the procedure laid down in Article 9 (4) of Commission Regulation (EEC) No 891/89 ⁽³⁾, as last amended by Regulation (EC) No 1755/94 ⁽⁴⁾, should be used ; whereas account should be taken of this when the refunds are fixed ;

Whereas Commission Regulation No 474/67/EEC ⁽⁵⁾, as amended by Regulation (EEC) No 1397/68 ⁽⁶⁾, lays down detailed rules for the advance fixing of the export refund on rice and broken rice ;

Whereas that Regulation provides that the refund applicable on the day on which application for an export licence is made must, when it is fixed in advance, be reduced by an amount no greater than the difference between the cif forward delivery price and the cif price, where the former exceeds the latter by more than ECU 0,30 per tonne ; whereas on the other hand, the refund must be increased by an amount no greater than the difference between the cif price and the cif forward delivery price, where the former exceeds the latter by more than ECU 0,30 per tonne ;

Whereas the cif price is that determined in accordance with Article 16 of Regulation (EEC) No 1418/76 ; whereas

the cif forward delivery price is that determined in accordance with Article 3 (2) of Council Regulation (EEC) No 1428/76 ⁽⁷⁾, based in respect of each month for which the export licence is valid, on the cif price calculated on the basis of offers for shipment during the month of exportation ;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁸⁾, as amended by Regulation (EC) No 3528/93 ⁽⁹⁾ 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 ⁽¹⁰⁾, as amended by Regulation (EC) No 547/94 ⁽¹¹⁾ ;

Whereas it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto ;

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

HAS ADOPTED THIS REGULATION :

Article 1

The corrective amount referred to in Article 17 (4) of Regulation (EEC) No 1418/76 which is applicable to the export refunds fixed in advance in respect of rice and broken rice shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 September 1994.

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽³⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁴⁾ OJ No L 183, 19. 7. 1994, p. 7.

⁽⁵⁾ OJ No 204, 24. 8. 1967, p. 20.

⁽⁶⁾ OJ No L 222, 10. 9. 1968, p. 6.

⁽⁷⁾ OJ No L 166, 25. 6. 1976, p. 30.

⁽⁸⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁹⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽¹⁰⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹¹⁾ 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, 29 August 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 August 1994 fixing the corrective amount applicable to the refund on rice and broken rice

(ECU/tonne)					
Product code	Destination (1)	Current 9	1st period 10	2nd period 11	3rd period 12
1006 20 11 000	01	0	0	0	0
	05	0	0	0	0
1006 20 13 000	01	0	0	0	0
	05	0	0	0	0
1006 20 15 000	01	0	0	0	0
	05	0	0	0	0
1006 20 17 000	—	—	—	—	—
1006 20 92 000	01	0	0	0	0
	05	0	0	0	0
1006 20 94 000	01	0	0	0	0
	05	0	0	0	0
1006 20 96 000	01	0	0	0	0
	05	0	0	0	0
1006 20 98 000	—	—	—	—	—
1006 30 21 000	01	0	0	0	0
	05	0	0	0	0
1006 30 23 000	01	0	0	0	0
	05	0	0	0	0
1006 30 25 000	01	0	0	0	0
	05	0	0	0	0
1006 30 27 000	—	—	—	—	—
1006 30 42 000	01	0	0	0	0
	05	0	0	0	0
1006 30 44 000	01	0	0	0	0
	05	0	0	0	0
1006 30 46 000	01	0	0	0	0
	05	0	0	0	0
1006 30 48 000	—	—	—	—	—
1006 30 61 100	01	0	0	0	0
	05	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 61 900	01	0	0	0	0
	05	0	0	0	0
	04	0	0	0	0

(ECU/tonne)

Product code	Destination (1)	Current 9	1st period 10	2nd period 11	3rd period 12
1006 30 63 100	01	0	0	0	0
	05	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 63 900	01	0	0	0	0
	05	0	0	0	0
	04	0	0	0	0
1006 30 65 100	01	0	0	0	0
	05	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 65 900	01	0	0	0	0
	05	0	0	0	0
	04	0	0	0	0
1006 30 67 100	—	—	—	—	—
1006 30 67 900	—	—	—	—	—
1006 30 92 100	01	0	0	0	0
	05	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 92 900	01	0	0	0	0
	05	0	0	0	0
	04	0	0	0	0
1006 30 94 100	01	0	0	0	0
	05	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 94 900	01	0	0	0	0
	05	0	0	0	0
	04	0	0	0	0
1006 30 96 100	01	0	0	0	0
	05	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 96 900	01	0	0	0	0
	05	0	0	0	0
	04	0	0	0	0
1006 30 98 100	—	—	—	—	—
1006 30 98 900	—	—	—	—	—
1006 40 00 000	—	—	—	—	—

(1) The destinations are identified as follows:

01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia,

02 Zones I, II, III, VI, Ceuta and Melilla,

03 Zones IV, V, VII (c), Canada and zone VIII, except Surinam, Guyana and Madagascar,

04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,

05 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of a quantity of 4 000 tonnes of white rice destined for Austria.

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

NB: The zones are those defined in the Annex to Commission Regulation (EEC) No 2145/92.

COMMISSION REGULATION (EC) No 2126/94

of 29 August 1994

setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

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

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products last for the benefit of the Canary Islands⁽¹⁾, as last amended by Regulation (EEC) No 1974/93⁽²⁾, and in particular Article 2 thereof,

Whereas, pursuant to Article 3 of Regulation (EEC) No 1601/92, the requirements of the Canary Islands for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EEC) No 1695/92⁽³⁾, as last amended by Regulation (EEC) No 2596/93⁽⁴⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Canary Islands; whereas Commission Regulation (EEC) No 1997/92 of 17 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice products to the Canary Islands and establishing the forecast supply balance for these products⁽⁵⁾, as last amended by Regulation (EC) No 1683/94⁽⁶⁾, lays down detailed rules which complement or derogate from the provisions of the aforementioned Regulation;

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, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market, the aid for supply to the Canary islands should be set at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 3 of Regulation (EEC) No 1601/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Canary Islands shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 September 1994.

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

Done at Brussels, 29 August 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ No L 180, 23. 7. 1993, p. 26.

⁽³⁾ OJ No L 179, 1. 7. 1992, p. 1.

⁽⁴⁾ OJ No L 238, 23. 9. 1993, p. 24.

⁽⁵⁾ OJ No L 199, 18. 7. 1992, p. 20.

⁽⁶⁾ OJ No L 178, 12. 7. 1994, p. 53.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

ANNEX

to the Commission Regulation of 29 August 1994 setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

(ECU/tonne)

Product (CN code)	Amount of aid
	Canary Islands
Milled rice (1006 30)	231,00
Broken rice (1006 40)	51,00

COMMISSION REGULATION (EC) No 2127/94

of 29 August 1994

setting the amounts of aid for the supply of rice products from the Community
to the Azores and Madeira

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

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira ⁽¹⁾, as last amended by Regulation (EEC) No 1974/93 ⁽²⁾, and in particular Article 10 thereof,

Whereas, pursuant to Article 10 of Regulation (EEC) No 1600/92, the requirements of the Azores and Madeira for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EEC) No 1696/92 ⁽³⁾, as last amended by Regulation (EEC) No 2596/93 ⁽⁴⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Azores and Madeira; whereas Commission Regulation (EEC) No 1983/92 of 16 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice products to the Azores and Madeira and establishing the forecast supply balance for these products ⁽⁵⁾, as last amended by Regulation (EC) No 1683/94 ⁽⁶⁾, lays down detailed rules which complement or derogate from the provisions of the aforementioned Regulation;

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, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market the aid for supply to the Azores and Madeira should be set at the amounts given in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

Pursuant to Article 10 of Regulation (EEC) No 1600/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Azores and Madeira shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 September 1994.

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

Done at Brussels, 29 August 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 1.
⁽²⁾ OJ No L 180, 23. 7. 1993, p. 26.
⁽³⁾ OJ No L 179, 1. 7. 1992, p. 6.
⁽⁴⁾ OJ No L 238, 23. 9. 1993, p. 24.
⁽⁵⁾ OJ No L 198, 17. 7. 1992, p. 37.
⁽⁶⁾ OJ No L 178, 12. 7. 1994, p. 53.
⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.
⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.
⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

ANNEX

to the Commission Regulation of 29 August 1994 setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira

Product (CN code)	(ECU/tonne)	
	Amount of aid	
	Destination	
	Azores	Madeira
Milled rice (1006 30)	231,00	231,00

COMMISSION REGULATION (EC) No 2128/94
of 29 August 1994
on the issue of import licences for garlic originating in China

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 29 (2) thereof,

Having regard to Council Regulation (EC) No 1213/94 of 27 May 1994 concerning a protective measure applicable to imports of garlic from China ⁽³⁾, as amended by Regulation (EC) No 1992/94 ⁽⁴⁾, and in particular Article 1 (4) thereof,

Whereas Council Regulation (EEC) No 2707/72 ⁽⁵⁾ lays down the conditions for applying protective measures for fruit and vegetables;

Whereas pursuant to Commission Regulation (EEC) No 1859/93 ⁽⁶⁾, as amended by Regulation (EC) No 1662/94 ⁽⁷⁾, the release for free circulation in the Community of garlic imported from third countries is subject to presentation of an import licence;

Whereas Article 1 (2) of Commission Regulation (EC) No 1213/94, restricts the issue of import licences for garlic originating in China to a maximum monthly quantity in the case of applications lodged from 25 August 1994 to 24 May 1995;

Whereas, given the criteria laid down in Article 1 (3) of that Regulation and the import licences already issued,

the quantity applied for at 25 August 1994 is in excess of the maximum monthly quantity for September 1994; whereas it is therefore necessary to determine to what extent import licences may be issued in response to these applications; whereas the issue of licences in response to these applications; whereas the issue of licences in response to applications lodged after 25 August 1994 and before 26 September 1994 should be refused,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences applied for under Article 1 of Regulation (EEC) No 1859/93 at 25 August 1994 for garlic falling within CN code 0703 20 00 originating in China shall be issued for 1,079 % of the quantity applied for, having regard to the information available to the Commission on 26 August 1994.

For the abovementioned products applications for import licences lodged after 25 August and before 26 September 1994 shall be refused.

Article 2

This Regulation shall enter into force on 30 August 1994.

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

Done at Brussels, 29 August 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 338, 31. 12. 1993, p. 26.

⁽³⁾ OJ No L 133, 28. 5. 1994, p. 36.

⁽⁴⁾ OJ No L 200, 3. 8. 1994, p. 11.

⁽⁵⁾ OJ No L 291, 28. 12. 1972, p. 3.

⁽⁶⁾ OJ No L 170, 13. 7. 1993, p. 10.

⁽⁷⁾ OJ No L 176, 9. 7. 1994, p. 1.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 July 1994

relating to a proceeding under Article 85 of the EC Treaty and Article 53 of the
EEA Agreement

(IV/34.518 — ACI)

(Only the English and French texts are authentic)

(94/594/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Community,

Having regard to the Agreement on the European
Economic Area,

Having regard to Council Regulation (EEC) No 1017/68
of 19 July 1968 applying rules of competition to trans-
port by rail, road and inland waterway⁽¹⁾, as amended by
the Act of Accession of Greece, and in particular Article 5
thereof,

Having regard to the summary of the relevant agreements
published in accordance with Article 12 (2) of Regulation
(EEC) No 1017/68⁽²⁾,

Having regard to the Commission's decision to raise
serious doubts within the meaning of Article 12 (3) of
Regulation (EEC) No 1017/68, taken on 27 May 1993,

Having regard to the notice published⁽³⁾ in accordance
with Article 26 (3) of Regulation (EEC) No 1017/68, in
which the Commission announced that it was considering
exempting the agreement and invited interested parties to
submit their observations,

After consulting the Advisory Committee on Restrictive
Practices and Dominant Positions in the Transport
Industry,

Whereas :

I. THE FACTS

A. The notification

- (1) On 13 November 1992 the Commission received
an application from the British Railways Board
(BR), Société Nationale des Chemins de Fer Fran-
çais (SNCF) and Intercontainer (IC) seeking a
declaration under Article 5 of Regulation (EEC) No
1017/68 that Article 2 of the Regulation was inap-
plicable to two agreements they had concluded
between them.

B. The parties

- (2) BR and SNCF are two public railway undertakings
whose main business is to provide rail transport
services for goods and passengers, using their own
rail traction for the purpose.

⁽¹⁾ OJ No L 175, 23. 7. 1968, p. 1.

⁽²⁾ OJ No C 57, 27. 2. 1993, p. 5.

⁽³⁾ OJ No C 115, 26. 4. 1994, p. 5.

- (3) IC is a cooperative jointly owned by 24 railway undertakings, including BR and SNCF, and is specialized in the combined transport of goods in Europe.
- (4) Fret Manche Europe (FME) is a French *groupeement d'intérêt économique* formed by SNCF and IC.
- (5) Allied Continental Intermodal Services Ltd (ACI) is a company formed jointly by BR, SNCF and IC, which have subheadings of 25 %, 25 % and 50 % respectively.

C. Special features of the combined transport market

- (6) In the combined transport of goods, railway undertakings do not sell transport services direct to consignors, except in very exceptional cases involving large consignments.
- (7) Combined transport services are arranged and sold to consignors by combined transport operators, who may be subsidiaries of railway undertakings. These operators are transport undertakings with their own specific equipment: maintenance facilities and specialized wagons. They approach customers, organize transport by entire trainloads or in isolated consignments, complete the administrative and customs formalities on crossing borders, and supervise delivery of loads on arrival.
- (8) To perform these services, operators must purchase rail traction services and access to infrastructure from railway undertakings, the only parties able to supply them.

D. The relevant market

- (9) The relevant market is the market in international transport between the United Kingdom and continental Europe of goods travelling in the same road vehicle, container or swap body, the goods remaining unloaded throughout the operation.
- (10) Before the boring of the Channel Tunnel, such loads travelled by lorry or train to a seaport, then onward by boat, and then overland once again.
- (11) As a result of the opening of the Tunnel, transport can be provided:

- by lorry, using Eurotunnel's rail shuttle services;
- by lorry, using sea transport services;
- by international train, travelling between a terminal in the United Kingdom and a terminal on the continent.

E. The agreements

- (12) ACI was formed by BR, SNCF and IC on 2 September 1992, in order to exploit the opportunities created by the opening of the Channel Tunnel for the transport between the United Kingdom and continental Europe of goods loaded in road vehicles, containers, swap bodies, semi-trailers or other loading units suitable for intermodal transport.
- (13) According to the parties, ACI will do business on the same level of the market as IC, that is to say as a combined transport operator. Likewise according to the parties, BR and SNCF will be doing business at a level different of that from ACI, namely as suppliers of rail traction.
- (14) ACI's main business will be the sale of terminal-to-terminal combined rail transport services. It will also perform certain related services such as the provision of wagons, maintenance at terminals, customs clearance and wagon pool management for other organizations.
- (15) The routes initially served will link the United Kingdom to points in Italy, Spain, Switzerland, Austria, Germany and France. Further routes will be decided by ACI's Board.
- (16) It is intended that ACI should sell its services on a wholesale basis, to any customer, but primarily to forwarding agents and intermodal and integrated operators, including companies associated with European railway undertakings.
- (17) The duration of the ACI agreement, at 55 years, is the same as that of the agreement concluded on 29 July 1987 between Eurotunnel, BR and SNCF, under which a proportion of train paths available in the Channel Tunnel was to be held for BR and SNCF. The duration may, however, be shortened by agreement between the parties or in the event that one party takes control of the entire capital of ACI.

(18) The second agreement is a 'wagon provision agreement' between ACI, BR and FME, under which BR and FME agree to provide ACI with specialized low-platform railway wagons for the movement of containerized freight. BR and FME are to provide 720 such wagons by 1993 and 1 200 by 1994, with an option to raise the number to 1 800 if certain conditions are satisfied. In addition, BR intends to buy up to 2 000 specialized wagons for its own purposes, while SNCF has 300.

(19) To carry on the business, ACI will hire wagons from FME and BR according to the terms outlined in the wagon provision agreement or, in the event of insufficiency, in such other manner as it shall determine.

(20) ACI is to offer to sub-hire any long-term surplus of wagons in the following order:

1. first to the wagon providers for use on routes through the Channel Tunnel, in the same ratio as they provided wagons to ACI;
2. second, to other intermodal freight operators for use on routes through the Channel Tunnel;
3. third, to the wagon providers for use on routes not passing through the Channel Tunnel, in the same ratio as they provided wagons to ACI; and
4. fourth, to other intermodal freight operators for use on routes not passing through the Channel Tunnel.

II. LEGAL ASSESSMENT

A. Relevant legal provisions

(21) When they notified the agreements the parties to the agreements requested a declaration under Article 5 of Regulation (EEC) No 1017/68 that Article 2 of that Regulation was inapplicable.

For reasons which it set out in Decision 93/174/EEC⁽¹⁾ (tariff structures in the combined transport of goods), the Commission is of the opinion that land transport is subject to Article

85(1) of the Treaty. Exemption, however, is governed by Article 12 of Regulation (EEC) No 1017/68, which provides for an opposition procedure and is itself based on Article 5 thereof. Since the agreements in question are capable of having an effect in the territory of the European Economic Area, they are also subject to Article 53 of the EEA Agreement.

B. The concept of agreements between undertakings

(22) ACI is a company 50 % of whose capital is held by IC and 25 % each by BR and The Board is made up of two representatives of BR, two of SNCF and four of IC. Decisions are to be taken by a simple majority of the members, except that important decisions require the agreement of one representative of each of the three parent undertakings. A chairman is appointed for two years by rotation between the members of the board.

(23) Thus BR, SNCF and IC have joint control of ACI, which constitutes a joint venture within the meaning of the Commission Notice concerning the assessment of cooperative joint ventures pursuant to Article 85 of the Treaty⁽²⁾.

(24) ACI is operate on a lasting basis and to perform all the functions of an autonomous economic entity.

(25) Among the parent undertakings, IC, and in some measure BR and SNCF too, are not withdrawing fully and permanently from ACI's market. BR and SNCF will continue to do their main business on an upstream market, the market in the necessary rail services which railway undertakings sell to combined transport operators.

(26) The Commission consequently takes the view the joint venture has as its object and effect the coordination of the competitive conduct of undertakings which remain independent.

(27) ACI is accordingly a cooperative joint venture caught by Article 85 of the EC Treaty.

⁽¹⁾ OJ No L 73, 26. 3. 1993, p. 38.

⁽²⁾ OJ No C 43, 16. 2. 1993, p. 2.

C. The restrictions of competition

(a) *Restrictions on competition between the parent undertakings and effects on third parties*

- (28) IC is a combined transport operator accustomed to selling international combined transport services. It would therefore have no great difficulty in supplying combined transport services between United Kingdom and continental Europe by itself, buying the necessary railway undertakings.
- (29) BR and SNCF both have the technical and financial resources needed to be able to supply services on ACI's market by themselves.
- (30) BR and SNCF are therefore potential competitors on this market, especially as Article 10 (2) of Council Directive 91/440/EEC⁽¹⁾ gives railway undertakings established in one Member State a right of access to the infrastructure in the other Member States for the purpose of operating international combined transport goods services.
- (31) By entrusting the marketing of these services to a joint venture, BR, SNCF and IC have eliminated of appreciably restricted the competition there would be between them if they were to supply the same services on an individual basis.
- (32) IC is one of the main combined transport operations in Europe. BR and SNCF retain their dominant positions on the markets in the rail services necessary to combined transport operators in the United Kingdom and France.
- (33) The existence of a special relationship between the parent undertakings and their joint subsidiary might place other combined transport operators at a disadvantage in competition for the necessary rail services.
- (34) The parties to the agreements also control the bulk of the specialized wagons needed to supply the relevant services through the Tunnel; independent operators would be unable to bear similar investment costs alone.
- (35) The usage contract concluded between Eurotunnel, BR and SNCF has also to be taken into consideration. Even if in this case Community law would prevent BR and SNCF from holding all the avail-

able paths for international trains, they will nevertheless control an appreciable proportion of those paths in order to operate international trains and to meet their commitments to Eurotunnel.

- (36) Given the commercial strength of the parent undertakings, therefore, the formation of ACI may impede access to the market by compined rail transport operators in a position to compete with it.

(b) *Tighter restrictions caused by the presence of networks of joint ventures*

- (37) In general, networks of joint ventures can have a particularly restrictive effect on competition because they intensify the effects of individual joint ventures on the policy of the parent undertakings and on the market position of third parties.

Every new joint venture set up strengthens the links between the parent undertakings, and consequently weakens what competition there still is between them. This is the case where the parent undertakings form several joint ventures providing complementary or non-complementary services.

- (38) The Commission takes the view that that is happening in the case at issue. BR and SNCF are taking part to varying degrees in a network of joint ventures for the operation of goods transport, particularly combined transport services, and passenger transport.
- (39) In the combined transport business, BR and SNCF, along with other railway undertakings, have stakes in the capital of IC. As regards transport through the Channel Tunnel, BR and SNCF are party to the formation of European Night Services Ltd, which is to transport passengers, and BR is party to the formation of Autocare Europe, which is to provide rail transport for motor vehicles.
- (40) The formation of ACI has to be seen against the background of this network of joint ventures. It further limits competition between the parties. Given the investment they have made jointly in these projects, the parties will be reluctant to compete with one another on the relevant markets or elsewhere.

- (41) The network effect is augmented by the fact that these joint ventures intend to supply services through the Channel Tunnel, where BR and SNCF jointly hold a substantial share of the paths available for international trains.

⁽¹⁾ OJ No L 237, 24. 8. 1991, p. 25.

- (42) From what has been said in recitals 29 to 42, therefore, it has to be concluded that the ACI agreements have as their object and effect the restriction of competition contrary to Article 85 (1) of the EC Treaty.

D. Effect on trade between Member States

- (43) The purpose of ACI is to operate transport services between the United Kingdom and continental Europe. The agreement therefore affects trade between Member States within the meaning of Article 85 (1).

E. Article 3 of Regulation (EEC) No 1017/68

- (44) It is clear from the wording of Article 3 of Regulation (EEC) No 1017/68 that it applies to agreements the sole object and sole effect of which is :

— to apply technical improvements,

or

— to achieve technical cooperation,

by the means set out in points (a) to (g) of the same Article.

- (45) According to the notification submitted by the parties, the main object of the joint venture is to market combined transport and related services between the United Kingdom and continental Europe.

- (46) The joint venture also has three other commercial objectives :

— to exploit the commercial opportunities created by the opening of the Channel Tunnel for the transport of containerized goods ;

— to enable BR and SNCF to operate international trains through the Channel Tunnel in accordance with their obligations under the usage contract they have concluded with Euro-tunnel ;

— to share the financial risk associated with the operation of regular train services as soon as the Tunnel opens.

- (47) The Commission accordingly takes the view that the ACI agreement is not an agreement the sole object and sole effect of which is to apply technical improvements or to achieve technical cooperation,

so that the requirements of Article 3 of Regulation (EEC) No 1017/68 are not satisfied.

F. Article 5 of Regulation (EEC) No 1017/68

(a) *Contribution to economic progress*

- (48) The opening of the Channel Tunnel creates new opportunities for railway undertakings and combined transport operators.

The formation of ACI is intended to take advantage of these opportunities in order to provide new transport services.

- (49) The grouping function performed by ACI will be particularly important factor in the development of combined transport.

- (50) Although it is not yet fully clear to what extent the different modes of transport can be substituted for one another, the services offered by ACI may in certain circumstances increase competition with sea transport.

- (51) In general, therefore, the formation of ACI is likely to promote economic progress.

(b) *Benefits for users*

- (52) Users will benefit directly, as ACI is to introduce services which did not previously exist.

(c) *Indispensable nature of the restrictions*

- (53) One of the parent undertakings, IC, is an important combined transport operator which has been providing European-scale services for many years ; it might well be able to provide new services between the United Kingdom and continental Europe by itself.

- (54) Under Article 10 of Directive 91/440/EEC, BR and SNCF are also entitled to provide international combined transport services themselves.

- (55) But account has to be taken of the specific features of the case : in particular, the service is completely new, and if it is to succeed trains covering several routes on a regular basis must be laid on immediately, which would involve considerable financial risks which a single undertaking would be unable to bear alone.

- (56) The fact that know-how, facilities and human resources are being pooled by the three parties should also contribute to the successful launch of regular services when the Channel Tunnel opens.

(57) Nonetheless, the Commission should impose conditions so as to limit the restrictions as much as possible and, in particular, to guarantee the presence on the market of combined transport operators in competition with ACI.

(58) The Commission accordingly takes the view that the restrictions of competition associated with the formation of ACI are necessary, at least for a transitional period, in view of the specific features of the relevant market.

(d) No elimination of competition

(59) There are transport operators in Europe other than ACI and IC which are capable of supplying the same services. The formation of ACI consequently does not eliminate competition in respect of a substantial part of the relevant market.

(66) First, consignors and other transport operators must be able to acquire from BR and SNCF the same necessary rail services as BR and SNCF provide to ACI.

(67) BR and FME must also agree to hire their specialized wagons to any operator or consignor, under contracts of at least six months' duration, if they go unused for six months or more, so that those operators or consignors can run services in competition with ACI through the Tunnel. No priority must be given to applications from subsidiary or associated undertakings.

(68) Given the specialized nature of the wagons, however, priority may be given to services using the Tunnel.

HAS ADOPTED THIS DECISION:

G. Terms of exemption

(60) Article 13 of Regulation (EEC) No 1017/68 states that an exemption decision must indicate the period for which it is to be valid, and that conditions and obligations may be attached.

(61) The combined transport operators are generally of the opinion that a period of five years is needed to set up the new services and ensure their viability.

(62) A period of the same order is needed to allow the transfer of know-how from the parent undertakings, especially IC, to the joint venture.

(63) Account has also to be taken of the fact that market conditions may change substantially over the next few years, so that it cannot be foreseen with certainty what the position with regard to competition will be more than five years hence.

(64) The Commission accordingly takes the view that the duration of the exemption can be set at five years from the date on which the Channel Tunnel opens to goods trains.

(65) The exemption must, however, be subject to certain conditions aimed at preventing the restrictions of competition from going beyond what is indispensable.

Article 1

Pursuant to Article 5 of Regulation (EEC) No 1017/68 and Article 53 (3) of the EEA Agreement, Article 85 (1) of the EC Treaty and Article 53 (1) of the EEA agreement are hereby declared inapplicable to the agreements between British Railways Board, Société Nationale de Chemins de Fer Français and Intercontainer relating to Allied Continental Intermodal Services Ltd for a period of five years from the date on which the Channel Tunnel opens to good trains.

Article 2

The following conditions are attached to the exemption in Article 1:

(a) the railway undertakings party to the ACI agreement must supply to any consignor or combined transport operator the same rail services as they supply to their subsidiary ACI, on a non-discriminatory basis;

(b) BR and FME must hire out to any operator or consignor the specialized wagons they have at their disposal for the transport of containers through the Channel Tunnel under contracts of at least six months' duration, if they go unused for six months or more; the parties may not give priority to subsidiary months' associated undertakings, but may give priority to undertakings wishing to supply services through the Channel Tunnel.

Article 3

This Decision is addressed to :

British Railways Board,
Euston House,
24 Eversholt Street,
UK-London NW1 1DZ ;

SNCF,
88, rue Saint Lazare,
F-75009 Paris ;

Intercontainer,
85, rue de France,
B-1070 Bruxelles.

Done at Brussels, 27 July 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

CORRIGENDA

Corrigendum to Council Regulation (EC) No 3672/93 of 22 December 1993 opening and providing for the administration of Community tariff quotas for certain industrial products (second series 1994)

(Official Journal of the European Communities No L 338 of 31 December 1993)

On page 42 in Article 1, the table, in the fourth column 'Amount of quota' against Order Nos 09.2741 and 09.2744:

for: '1 000 pieces',

read: '1 000 tonnes'.
