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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2168/95**of 13 September 1995****fixing the representative prices and the additional import duties for molasses in the sugar sector**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68⁽³⁾, and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market; whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 September 1995.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ No L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question in the event of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,91	—	0,00
1703 90 00 ⁽¹⁾	9,63	—	0,00

⁽¹⁾ For the standard quality as defined in Article 1 of Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 2169/95
of 13 September 1995
altering the export refunds on white sugar and raw sugar exported in the natural state

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 1101/95 ⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 2119/95 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 2119/95 to the informa-

tion known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 2119/95 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 September 1995.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 212, 7. 9. 1995, p. 3.

ANNEX

to the Commission Regulation of 13 September 1995 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund ⁽¹⁾
	— ECU/100 kg —
1701 11 90 100	39,89 ⁽¹⁾
1701 11 90 910	39,62 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	39,89 ⁽¹⁾
1701 12 90 910	39,62 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,4336
	— ECU/100 kg —
1701 99 10 100	43,36
1701 99 10 910	43,49
1701 99 10 950	43,49
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,4336

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ No L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ No L 309, 21. 11. 1985, p. 14).

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

COMMISSION REGULATION (EC) No 2170/95

of 13 September 1995

fixing the maximum export refund for white sugar for the seventh partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1813/95

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 1101/95 ⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1813/95 of 26 July 1995 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1813/95 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the seventh partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas Council Regulation (EEC) No 990/93 ⁽⁴⁾, as amended by Regulation (EC) No 1380/95 ⁽⁵⁾, 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 Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the seventh partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1813/95 the maximum amount of the export refund is fixed at ECU 47,570 per 100 kilograms.

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

Article 2

This Regulation shall enter into force on 14 September 1995.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 175, 27. 7. 1995, p. 12.

⁽⁴⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁵⁾ OJ No L 138, 21. 6. 1995, p. 1.

COMMISSION REGULATION (EC) No 2171/95

of 13 September 1995

amending Regulations (EEC) No 3478/92 and (EC) No 1066/95 on raw tobacco as regards the setting of certain deadlines and certain minimum quality requirements for tobacco eligible for the premium

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organization of the market in raw tobacco ⁽¹⁾, as last amended by Regulation (EC) No 711/95 ⁽²⁾, and in particular Articles 7 and 11 thereof,

Regulation (EEC) No 3478/92 is hereby amended as follows:

1. Article 3 is amended as follows:

- (i) The last subparagraph of paragraph 1 is replaced by the following text:

'For the 1995 harvest, Member States may allow contracts which were concluded by 30 June 1995, or before 20 September 1995 in the case of contracts concluded as a result of the allocation of additional quantities pursuant to Article 11 (3) of Commission Regulation (EC) No 1066/95 ⁽³⁾, to benefit from the premium.'

⁽¹⁾ OJ No L 108, 13. 5. 1995, p. 5.'

- (ii) The last subparagraph of paragraph 2 is replaced by the following:

'For the 1995 harvest, Member States may allow contracts which were concluded by 7 July 1995, or before 30 September 1995 in the case of contracts concluded as a result of the allocation of additional quantities pursuant to Article 11 (3) of Regulation (EC) No 1066/95, to benefit from the premium.'

2. Article 5a is amended as follows:

- (i) The last subparagraph of paragraph 1 is replaced by the following text:

'For the 1995 harvest, Member States may allow cultivation declarations which have been submitted to the competent authorities by 30 June 1995 or before 20 September 1995 in the case of cultivation declarations made as a result of the allocation of additional quantities pursuant to Article 11 (3) of Regulation (EC) No 1066/95, to benefit from the premium.'

- (ii) The last sentence of paragraph 4 is replaced by the following:

'However, the date shall be postponed until 30 September 1995 for the registration of cultivation declarations made as a result of the allocation of additional quantities pursuant to Article 11 (3) of Regulation (EC) No 1066/95.'

Whereas certain Member States have encountered administrative difficulties in implementing Commission Regulation (EC) No 1066/95 of 12 May 1995 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the raw tobacco quota system for the 1995, 1996 and 1997 harvests ⁽³⁾, and in particular in complying with the deadline laid down for the second distribution of quota certificates for unused production; whereas, therefore, for the 1995 harvest Member States should be allowed to postpone the final deadline laid down for that operation;

Whereas Commission Regulation (EEC) No 3478/92 of 1 December 1992 laying down detailed rules for the application of the premium system for raw tobacco ⁽⁴⁾, as last amended by Regulation (EC) No 1067/95 ⁽⁵⁾, should therefore also be amended, giving Member States the right to postpone, for the 1995 harvest, the deadlines laid down for concluding and registering cultivation contracts following the second distribution of quota certificates for unused production; whereas the same right should be granted for the submitting and registering of cultivation contracts;

Whereas the second subparagraph of Article 8 (1) of Regulation (EEC) No 3478/92 provides for a maximum of 4 % moisture for the purposes of the adjustment of the weight of leaf tobacco; whereas this maximum limit is higher than the limit set in Annex II of the same Regulation which lays down the minimum quality requirements for leaf tobacco for the purposes of eligibility for this Community premium; whereas, in the interests of coherence, the text of (m) of that Annex should therefore be amended;

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

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 70.

⁽²⁾ OJ No L 73, 1. 4. 1995, p. 13.

⁽³⁾ OJ No L 108, 13. 5. 1995, p. 5.

⁽⁴⁾ OJ No L 351, 2. 12. 1992, p. 17.

⁽⁵⁾ OJ No L 108, 13. 5. 1995, p. 11.

3. In Annex II, point (m) is replaced by the following :

'(m) Leaf with moisture content exceeding by more than four points the moisture content fixed in Annex III.'

Article 2

The last subparagraph of Article 11 (3) of Regulation (EC) No 1066/95 is replaced by the following :

'For the 1995 harvest, Member States are hereby authorized to extend the deadline referred to in the first subparagraph until 8 September.'

Article 3

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

It shall apply from the 1995 harvest.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2172/95

of 13 September 1995

amending Regulation (EC) No 1938/95 and increasing to 243 000 tonnes the amount of durum wheat held by the Italian intervention agency for which a standing invitation to tender for resale on the internal market has been opened

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 1863/95⁽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 for the disposal of cereals held by intervention agencies;

Whereas Commission Regulation (EC) No 1938/95⁽⁵⁾, opened a standing invitation to tender for the resale on the internal market of 100 000 tonnes of durum wheat held by the Italian intervention agency;

Whereas in the present situation on the market the quantities of durum wheat held by the Italian intervention agency put up for sale on the internal market of the Community should be increased to 243 000 tonnes;

Whereas the last partial invitation to tender under Regulation (EC) No 1938/95 should be postponed;

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

In Article 1 of Regulation (EC) No 1938/95 '100 000 tonnes' is replaced by '243 000 tonnes'.

Article 2

Article 2 (2) of Regulation (EC) No 1938/95 is replaced by the following:

'2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 25 October 1995.'

Article 3

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, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 179, 29. 7. 1995, p. 1.

⁽³⁾ OJ No L 191, 31. 7. 1993, p. 76.

⁽⁴⁾ OJ No L 21, 26. 1. 1994, p. 1.

⁽⁵⁾ OJ No L 186, 5. 8. 1995, p. 23.

**COMMISSION REGULATION (EC) No 2173/95
of 13 September 1995**

**fixing the maximum export refunds on olive oil for the 18th partial invitation to
tender under the standing invitation to tender issued by Regulation (EC) No
2517/94**

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 the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94⁽²⁾,

Having regard to Council Regulation (EEC) No 1650/86 of 26 May 1986 on the refunds and levies applicable to exports of olive oil⁽³⁾, and in particular Article 7 thereof,

Whereas Commission Regulation (EC) No 2517/94⁽⁴⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Council Regulation (EEC) No 990/93⁽⁵⁾, as amended by Regulation (EC) No 1380/95⁽⁶⁾, 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 Article 6 of Regulation (EC) No 2517/94 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current

situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the above-mentioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

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 maximum export refunds for olive oil for the 18th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2517/94 are hereby fixed in the Annex, on the basis of the tenders submitted by 9 September 1995.

Article 2

This Regulation shall enter into force on 14 September 1995.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

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

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 268, 19. 10. 1994, p. 3.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁶⁾ OJ No L 138, 21. 6. 1995, p. 1.

ANNEX

to the Commission Regulation of 13 September 1995 fixing the maximum export refunds on olive oil for the 18th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2517/94

(ECU/100 kg)

Product code	Amount of refund ⁽¹⁾
1509 10 90 100	45,35
1509 10 90 900	—
1509 90 00 100	54,10
1509 90 00 900	—
1510 00 90 100	—
1510 00 90 900	—

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

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 2174/95
of 13 September 1995
fixing the import duties in the cereals sector

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1863/95⁽²⁾,

Having regard to Commission Regulation (EC) No 1502/95 of 29 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 for the 1995/96 marketing year as regards import duties in the cereals sector⁽³⁾, as amended by Regulation (EC) No 1817/95⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas Article 10 of Regulation (EEC) No 1766/92 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question;

Whereas, pursuant to Article 10 (3) of Regulation (EEC) No 1766/92, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market;

Whereas Regulation (EC) No 1502/95 lays down detailed rules for the application of Council Regulation (EEC) No

1766/92 for the 1995/96 marketing year as regards import duties in the cereals sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available for the reference exchange referred to in Annex II to Regulation (EC) No 1502/95 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1502/95 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10 (2) of Regulation (EEC) No 1766/92 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 14 September 1995.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 179, 29. 7. 1995, p. 1.

⁽³⁾ OJ No L 147, 30. 6. 1995, p. 13.

⁽⁴⁾ OJ No L 175, 27. 7. 1995, p. 23.

ANNEX I

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

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne) ⁽¹⁾	Import duty by sea from other ports ⁽²⁾ (ECU/tonne) ⁽¹⁾
1001 10 00	Durum wheat ⁽²⁾	10,00	0
1001 90 91	Common wheat seed	14,48	4,48
1001 90 99	Common high quality wheat other than for sowing ⁽⁴⁾	14,48	4,48
	medium quality	31,78	21,78
	low quality	38,74	28,74
1002 00 00	Rye	84,53	74,53
1003 00 10	Barley, seed	84,53	74,53
1003 00 90	Barley, other ⁽⁴⁾	84,53	74,53
1005 10 90	Maize seed other than hybrid	108,79	98,79
1005 90 00	Maize other than seed ⁽⁴⁾	108,79	98,79
1007 90 00	Grain sorghum other than hybrids for sowing	115,02	105,02

⁽¹⁾ Where import takes place in the month following the month of fixing, these import duty amounts are to be adjusted in accordance with the third subparagraph of Article 2 (1) of Regulation (EC) No 1502/95.

⁽²⁾ In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1502/95, the duty applicable is that fixed for low-quality common wheat.

⁽³⁾ For goods arriving in the Community via the Atlantic Ocean (Article 2 (4) of Regulation (EC) No 1502/95), the importer may benefit from a reduction in the duty of:

— ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽⁴⁾ The importer may benefit from a flat-rate reduction of ECU 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1502/95 are met.

ANNEX II

Factors for calculating duties (period from 30. 8. to 12. 9. 1995):

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Mid-America	Mid-America
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	134,41	135,63	134,09	90,37	181,36 ⁽¹⁾	83,66 ⁽¹⁾
Gulf premium (ECU/tonne)	—	13,46	8,04	12,20	—	—
Great lake premium (ECU/tonne)	28,92	—	—	—	—	—

⁽¹⁾ Fob Duluth.

2. Freight/cost : Gulf of Mexico — Rotterdam : ECU 13,87 per tonne ; Great Lakes/St Lawrence — Rotterdam : ECU 26,54 per tonne.

3. Subsidy (third paragraph of Article 4 (2) of Regulation (EC) No 1502/95 : ECU 0,00 per tonne).

COMMISSION REGULATION (EC) No 2175/95
of 13 September 1995
fixing the import duties in the rice sector

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 1530/95 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1573/95 of 30 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 1418/76 as regards import duties in the rice sector ⁽³⁾, as amended by Regulation (EC) No 1818/95 ⁽⁴⁾, and in particular Article 4 (1) thereof,

Whereas Article 12 of Regulation (EEC) No 1418/76 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention buying price valid for such products on importation and increased by a certain percentage according to whether it is Indica or Japonica rice and also husked or milled rice, minus the cif import price applicable to the consignment in question provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12 (4) of Regulation (EEC) No 1418/76, the cif import prices are calculated on the basis of the prices for the product in question on the world market;

Whereas Regulation (EC) No 1573/95 lays down detailed rules for the application of Regulation (EEC) No 1418/76 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available for the reference referred to in Annex I to Regulation (EC) No 1573/95 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1573/95 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 12 (1) and (2) of Regulation (EEC) No 1418/76 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 14 September 1995.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 5.

⁽³⁾ OJ No L 150, 1. 7. 1995, p. 53.

⁽⁴⁾ OJ No L 175, 27. 7. 1995, p. 25.

ANNEX I

to the Commission Regulation of 13 September 1995 fixing the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ⁽¹⁾				
	Third countries (except ACP and Bangladesh) ⁽²⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Basmati India ⁽²⁾ Article 4, Regulation (EC) No 1573/95	Basmati Pakistan ⁽²⁾ Article 4, Regulation (EC) No 1573/95	Arrangement in Regulation (EEC) No 3877/86 ⁽⁵⁾
1006 10 21	(²)	150,76			
1006 10 23	(²)	150,76			
1006 10 25	(²)	150,76			
1006 10 27	(²)	150,76			—
1006 10 92	(²)	150,76			
1006 10 94	(²)	150,76			
1006 10 96	(²)	150,76			
1006 10 98	(²)	150,76			—
1006 20 11	355,12	173,22			
1006 20 13	355,12	173,22			
1006 20 15	355,12	173,22			
1006 20 17	367,45	179,38	117,45	317,45	—
1006 20 92	355,12	173,22			
1006 20 94	355,12	173,22			
1006 20 96	355,12	173,22			
1006 20 98	367,45	179,38	117,45	317,45	—
1006 30 21	597,48	283,83			
1006 30 23	597,48	283,83			
1006 30 25	597,48	283,83			
1006 30 27	(²)	290,59			—
1006 30 42	597,48	283,83			
1006 30 44	597,48	283,83			
1006 30 46	597,48	283,83			
1006 30 48	(²)	290,59			—
1006 30 61	597,48	283,83			
1006 30 63	597,48	283,83			
1006 30 65	597,48	283,83			
1006 30 67	(²)	290,59			—
1006 30 92	597,48	283,83			
1006 30 94	597,48	283,83			
1006 30 96	597,48	283,83			
1006 30 98	(²)	290,59			—
1006 40 00	(²)	90,38			

⁽¹⁾ Subject to the application of the provisions of Articles 12 and 13 of amended Council Regulation (EEC) No 715/90 (OJ No L 84, 30. 3. 1990, p. 85).

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

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 12 (3) of Regulation (EEC) No 1418/76.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ No L 337, 4. 12. 1990, p. 1) and Commission Regulation (EEC) No 862/91 (OJ No L 88, 9. 4. 1991, p. 7).

- (⁹) Only for imports of rice of the long-grain aromatic Basmati variety under the arrangements laid down in amended Council Regulation (EEC) No 3877/86 (OJ No L 361, 20. 12. 1986, p. 1).
- (⁹) No import duty applies to products originating in the OCT pursuant to Article 101 (1) of amended Council Decision 91/482/EEC (OJ No L 263, 19. 9. 1991, p. 1).
- (⁷) For husked rice of the Basmati variety originating in India and not imported under the arrangements in Regulation (EEC) No 3877/86, a reduction of ECU 250 per tonne applies (Article 4, Regulation (EC) No 1573/95).
- (⁸) For husked rice of the Basmati variety originating in Pakistan and not imported under the arrangements in Regulation (EEC) No 3877/86, a reduction of ECU 50 per tonne applies (Article 4, Regulation (EC) No 1573/95).
- (⁹) Duties fixed in the Common Customs Tariff.

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne) (¹)	(²)	367,45	(²)	355,12	597,48	(²)
2. Elements of calculation :						
(a) Arag cif price (\$/tonne)	—	339,22	393,43	355	385	—
(b) fob price (\$/tonne)	—	—	—	320	350	—
(c) Sea freight (\$/tonne)	—	—	—	35	35	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Where rice is imported during the month following fixing, these import duties must be adjusted in accordance with the fourth subparagraph of Article 4 (1) of Regulation (EC) No 1573/95.

(²) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 2176/95**of 13 September 1995****establishing the standard import values for determining the entry price of
certain fruit and vegetables**

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 1740/95⁽²⁾, and in particular Article 4 (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 last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multi-lateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from

third countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 September 1995.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 167, 18. 7. 1995, p. 10.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 13 September 1995 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)			(ECU/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value	CN code	Third country code ⁽¹⁾	Standard import value
0702 00 35	052	44,7	0808 10 92, 0808 10 94, 0808 10 98	412	132,4
	060	80,2		512	186,0
	066	41,7		600	64,5
	068	62,3		624	123,2
	204	50,9		999	105,4
	212	117,9		039	79,3
	624	75,0		064	76,0
	999	67,5		388	69,0
ex 0707 00 25	052	70,1	0808 20 57	400	53,2
	053	166,9		508	68,4
	060	61,0		512	62,9
	066	53,8		524	57,4
	068	60,4		528	60,0
	204	49,1		800	96,7
	624	207,3		804	49,7
	999	95,5		999	67,3
0709 90 79	052	55,6	0809 30 41, 0809 30 49	052	85,6
	204	77,5		388	79,6
	624	196,3		512	89,7
	999	109,8		528	84,1
0805 30 30	052	80,1	0809 40 30	800	55,8
	388	62,5		804	112,9
	512	65,9		999	84,6
	520	86,0		052	56,5
	524	67,8		220	121,8
	528	63,5		624	106,8
	600	54,7		999	95,0
	624	78,0		052	73,4
0806 10 40	999	69,8		064	57,9
	052	86,1		066	65,8
	064	60,3		068	61,2
	066	49,4		624	174,3
	220	110,8		676	68,6
	400	135,8		999	83,5

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17). Code '999' stands for 'of other origin.'

**COMMISSION REGULATION (EC) No 2177/95
of 13 September 1995**

**temporarily suspending the issuing of export licences for certain milk products
and determining what proportion of the amounts covered by pending
applications for export licences may be allocated**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by Regulation (EC) No 1538/95⁽²⁾,

Having regard to Commission Regulation (EC) No 1466/95 of 27 June 1995 laying down special detailed rules of application for export refunds on milk and milk products⁽³⁾, and in particular Article 8 (3) thereof,

Whereas uncertainty is a feature of the market in certain milk products ; whereas it is necessary to prevent speculative applications that may lead to a distortion in competition between traders, threatening the continuity of exports of those products for the remainder of the current period ; whereas the issuing of export licences for the products concerned should be temporarily suspended,

HAS ADOPTED THIS REGULATION :

Article 1

1. The issuing of export licences for milk products falling within CN codes 0402 91 31 300 and 0402 99 11 350 is hereby suspended for 14 and 15 September 1995.

2. No further action shall be taken in respect of applications for licences pending which would have been issued from 14 September 1995.

Article 2

This Regulation shall enter into force on 14 September 1995.

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

Done at Brussels, 13 September 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 17.

⁽³⁾ OJ No L 144, 28. 6. 1995, p. 22.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 March 1995

on aid granted by Italy (Sardinia) in the agriculture sector

(Only the Italian text is authentic)

(95/366/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 Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 3290/94 ⁽²⁾, and in particular Article 24 thereof,

Whereas the parties concerned have been given notice to submit their comments in accordance with Article 93 (2) of the Treaty ⁽³⁾;

Whereas :

I

By letter of 1 September 1992, recorded as received on 7 September 1992, the Italian Permanent Representative to the European Communities notified the Commission of Regional Law (Sardinia) No 17/92, pursuant to Article 93 (3) of the Treaty.

The Regional Law in question came into force and the aid measures provided for therein were implemented before the Commission could take a position with regard to them. Furthermore, certain provisions of Regional Law No 17/92 apply previous legislative provisions which were

not notified pursuant to Article 93 (3). The Commission also considered those provisions, where necessary.

The aid measures covered by this Decision are the following :

Article 1 of Law No 17/92

The regional administration grants subsidies in the form of lower interest rates applying to loans taken out by members of cooperatives for the processing and marketing of agricultural products or of groups thereof, in order to acquire a share in the capital of such bodies. The application of the measure was limited to 1992 and the funds amounted to Lit 3 000 million.

Since no limit is laid down on the utilization of new resources (as represented by the increase in capital) by the abovementioned cooperatives or groups, the funds could be used not only to finance future investments or to improve the situation of the enterprises in accordance with rules complying with the criteria laid down by the Commission for aid to enterprises in difficulty (which criteria were reiterated in the Commission's letter notifying the Italian Government of its decision to initiate the procedure provided for in Article 93 (2) of the Treaty ⁽⁴⁾), as well as financing their operating expenditure.

Article 3 of Regional Law No 17/92, Article 6 of Regional Law No 17/92, Article 40 of Regional Law No 14/81 and Article 57 of Regional Law No 44/86

The abovementioned Articles provide for a system of public intervention to transform liabilities of agricultural cooperatives (measures (a) to (e)) and an individual case of aid to an enterprise (measure (f)).

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No C 159, 10. 6. 1994, p. 9.

⁽⁴⁾ OJ No C 159, 10. 6. 1994.

(a) *Article 40 of Law No 14/81* institutes a 'Regional Fund for transforming the liabilities of agricultural cooperatives'; according to the provisions establishing the fund, it operates by granting loans at reduced rates for a duration of ten years to the cooperatives in question to cover their liabilities.

(b) *Article 57 of Law No 44/86* provides for the granting of regional financing to cooperatives undertaking the incorporation of other cooperatives. Such aid is intended to absorb the debts of the cooperatives incorporated. The Article also provides that finance may also be granted to cooperatives which decide to cease operating on account of insufficient capital on the part of the members.

(c) *Article 3 (3) of Law No 17/92* provides for the use of resources from the abovementioned fund to cover the loss of income resulting from the termination by the public administration of loans made to cooperatives to which Article 40 of Law No 14/81 and Article 57 of Law No 44/86 apply (i.e. liquidation or incorporation).

(d) Pursuant to *Article 3 (4) of Law No 17/92*, the resources from the fund are used to finance a 'recapitalization' programme for cooperatives which according to the Regional Law are in a state of temporary financial imbalance but have potential as shown by their economic recovery.

The programme in question was introduced by a decision of the Regional Executive of 27 October 1992, which broke the public funds (Lit 10 thousand million) down into:

	(Lit million)
1. APOAC — S. Sperate	750
2. Cantina sociale di Mogoro	1 200
3. Cantina sociale di Santadi	600
4. Cantina sociale di Villacidro	150
5. Consorzio caseario del Gerrei	700
6. Consorzio sardo caseario — S. Gavino	2 500
7. Cooperativa allevatori fonnesi (Nuoro)	1 200
8. Cooperativa 'L'asparago' — Sanluri	1 250
9. Cooperativa pastori S. Giovanni	200
10. Latteria sociale cooperativa — Meana Sardo	400
11. Latteria sociale — Santadi	650
12. Oleificio cooperativo — Sassari	200
13. Organizzazione ortofrutticola oristanese	200

(e) A programme similar to that referred to in (d) is set out in *Article 3 (5) of Law No 17/92* to assist the

recovery of producers' organizations in a state of financial imbalance as the result of the insolvency of purchasers of products marketed by the associations. The two associations are:

	(Lit million)
Associazione produttori ovi-caprini	1 800
Associazione nuorese produttori	700

(f) *Article 6 of Law No 17/92* provides for emergency aid granted to CON.SAR.CO.RI. (a consortium of cooperatives which sells products for agriculture and agricultural products) in the form of a one-off subsidy of Lit 2 200 million. The aid is intended to cope with the consortium's financial imbalance as a result of the bankruptcy of certain cooperatives forming part thereof and the insolvency of others.

All these measures satisfy the criteria laid down by the Commission for the appraisal of aid to enterprises in difficulty. Although they are different in practice, they all have the effect of absorbing the debts of the recipient cooperatives.

No condition is laid down by the regional authorities regarding the origin of such debts; accordingly, it is impossible to verify compliance with the abovementioned criteria on the basis of the information provided by the Italian authorities. The state of financial imbalance which provides the 'condition' for the measures in question may thus have been brought about simply by the management of the enterprise; on that assumption, the public assistance has the same distorting effects as any operating aid.

The fact that in certain cases the recipients of the aid are enterprises which have ceased operating is unlikely to neutralize that distorting effect.

In practice, the economic advantage conferred by the aid is simply transferred in such cases to the members of the cooperatives and/or to the persons who financed them and, more generally, the existence of provisions such as Article 57 of Regional Law No 44/86 (applicable to all cases where cooperatives cease to operate) results in *a priori* cancellation of financial liability for the entrepreneurial risk of the operators who are members of the cooperative.

Article 4 of Law No 17/92 and Article 11 of Law No 6/92

Article 4 of Law No 17/92 extends to goat farmers the advantages provided for sheep farmers by Article 11 of Regional Law No 6/92; this involves exceptional aid granted as a result of the crisis affecting these sectors and

intended to cover a part of the expenses born by the producers and processors of sheep and goat milk. The measure was applied solely in relation to production from the 1990/91 marketing year. The aid was set at Lit 170 per litre of milk.

The total expenditure was Lit 29 000 million.

These measures constitute operating aid that cannot have any lasting effect on the sectors concerned as their impact (income supplement) will disappear with the measures themselves. In addition, they constitute an infringement of the rules laid down in Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products and in particular Article 24 thereof, which prohibits the granting of any aid where the amount therefore is linked to the prices or quantities of milk or milk products.

Article 7 of Law No 17/92 and Article 8 of Law No 17/92

(a) Article 7 of Law No 17/92

The regional administration has set aside Lit 900 million to cover operating expenditure of the producers' associations in 1990 and 1991 (Article 7 of Law No 17/92). The way that provision is worded does not permit the detailed rules for the application of the measure to be determined.

(b) Article 8 of Law No 17/92

This Article provides for the establishment of a fund amounting to Lit 500 million for COLVAS (Consorzio latte vaccino sardo — Sardinian cow's milk consortium) to cover expenditure as a result of its activity in accordance with its articles of association.

The Commission has decided that this also constitutes operating aid not capable of having any lasting effect on the sectors concerned since the fund may be used not only to finance investments but also 'for any management needs'.

II

1. By letter SG(94) D/3934 of 22 March 1994, the Commission notified the Italian Government that it had decided to initiate the procedure provided for in Article 93 (2) of the Treaty in respect of the aid measures provided for in Articles 1, 3, 4, 6, 7 and 8 of Sardinian Regional Law No 17/92 and the aid measures provided for in Article 40 of Regional Law No 14/81, Article 57 of

Regional Law No 44/86 and Article 11 of Regional Law No 6/92.

2. In that letter, the Commission notified the Italian authorities as follows. In accordance with its long-standing practice, it considered those aid measures as operating aid contravening Articles 92, 93 and 94 of the Treaty.

The aid measures are accordingly likely to distort competition and affect trade between Member States and they meet the criteria laid down in Article 92 (1) without qualifying under any of the exceptions provided for in paragraphs 2 and 3 of that Article.

In addition, the measure provided for in Article 4 of Law No 17/92 and Article 11 of Law No 6/92 constitutes an infringement of Regulation (EEC) No 804/68 on the common organization of the market in milk and milk products and in particular Article 24 thereof, which prohibits the granting of any aid where the amount thereof is linked to the prices or quantities of milk or milk products.

3. As part of that procedure, the Commission gave notice to the Italian Government to submit its comments.

The Commission also gave notice to the other Member States and other interested parties to submit their comments.

III

1. By telex messages of 5 and 31 January 1995 and by a fax message of 11 January 1995, the Italian Government submitted remarks concerning the abovementioned measures.

(i) As regards Article 1 of Regional Law No 17/92, the Italian authorities informed the Commission that the measures provided for therein have not been applied and stated that they are willing to amend the legislation in question. In addition, they claim that the general wording of the Article (like, moreover, that of Article 8) does not in itself constitute an infringement of the Community rules on State aid, and that such an infringement would occur only if the measures were actually used to finance the management costs of the recipient enterprises.

(ii) As regards Article 40 of Regional Law No 14/81 and Article 57 of Regional Law No 44/86, the Italian authorities reiterate the remarks set out above in point (i) concerning the general nature of the provisions and state they are willing to amend them. In addition, they point out that:

- the resources in the fund established by Article 40 of Regional Law No 14/81 will henceforth be used in addition to finance aid as provided for in Article 57 of Regional Law No 44/86,
 - as a result of the remarks of the Commission when the procedure was initiated, the utilization of the fund in question was limited, by decision of the Regional Executive No 18/15 of 21 June 1994 to the absorption of debts of cooperatives which decide spontaneously to cease operating, and to the granting of loans at reduced rates of interest to agricultural cooperatives in order to 'refinance the costs incurred by the latter, without public financing being granted, for works and projects and/or the purchase of machines and tools in compliance with the limits on rates of aid authorized by the EEC' or to 'cope with economic/financial imbalances which may be put down to natural disasters or exceptional weather conditions'.
- (iii) As a consequence, as regards Article 57 of Regional Law No 44/86, the Italian authorities informed the Commission that in the wake of the latter's observations, mergers involving the incorporation of cooperatives were no longer eligible for the aid intended to assist the recovery of the cooperatives incorporated; they are willing to repeal the provisions.
- (iv) As regards Articles 3 and 6 of Regional Law No 17/92, the Italian authorities stated that the measures in question were adopted as a result of crises caused by a lengthy drought or the insolvency of the customers of certain cooperatives.
- (v) As regards Article 4 of Regional Law No 17/92 and Article 11 of Regional Law No 6/92, the Italian Government informed the Commission that the granting of aid was suspended as a result of the initiation of the procedure provided for in Article 93 (2) of the Treaty by the Commission. In addition, the Italian Government wishes to point out that the measure in question was adopted with a view to remedying the crisis in the sheep and goat sector as a result of a lengthy drought.
- (vi) As regards the aid provided for in Article 7 of Regional Law No 17/92 (aid to producer groups), the Italian Government states that, although this is not clear from Article 7, the aid is granted pursuant to Regional Law No 15/83 implementing Regulation (EEC) No 1360/78 and is paid in accordance with

Regulations (EEC) No 2083/80 and (EEC) No 2084/80.

2. Comments were forwarded by Confindustria — Associazione dell'Industria della Sardegna (hereinafter referred to as 'Confindustria').
3. The remarks from Confindustria stress the following:
 - the aid measures provided for in Regional Law No 17/92 are an expression of Sardinia's long-standing policy towards agricultural cooperatives; that policy appears to be implemented in defiance of all economic logic by funding enterprises in difficulties to keep them in the market. This approach had adverse effects on the one hand on cooperatives since they were receiving regular injections of public money and on the other hand on the economic operators who are not members of cooperatives, who had to cope with conditions of competition distorted by public intervention,
 - the only aim of the aid in question is to cover the liabilities of cooperatives in order to ensure they survive; public intervention is not dependent on investments or any other conditions on granting it.

IV

1. As regards the aid provided for in Article 7 of Regional Law No 17/92 (refinancing of aid to producer groups as provided for in Regional Law No 15/83 pursuant to Regulation (EEC) No 1360/78), since the measures provided for in Law No 15/83 are not capable of being evaluated under Articles 92, 93 and 94 of the Treaty, the procedure initiated by the Commission pursuant to Article 93 (2) in respect of the refinancing measure (Article 7 of Regional Law No 17/92) has no purpose.
2. As regards the other provisions covered by the Commission's decision to initiate the procedure provided for in Article 93 (2), namely Articles 1, 3, 4, 6 and 8 of Regional Law No 17/92, Article 40 of Regional Law No 14/81, Article 57 of Regional Law No 44/86 and Article 11 of Regional Law No 6/92, the following remarks should be made.

The Italian Government has failed to fulfil its obligation under Article 93 (3) of the Treaty, first by failing to notify the aid measures in question at the draft stage and secondly by implementing them before the Commission could take a position with regard to them.

Those breaches have brought about a particularly serious situation since, as the Commission had occasion to note when examining the measures, certain provisions of Law No 17/92 simply apply other legislative provisions adopted in the past, which have never been notified pursuant to Article 93 (3).

In addition, the aid measures provided for in the provisions in question are, from the point of view of substance and for the reasons set out below, incompatible with the common market under Article 92 of the Treaty.

3. As regards the arguments put forward by the Italian Government, the Commission points out the following :

- (i) with regard to the Italian Government's argument that the very general drafting of a national provision providing for aid does not permit such aid to be considered incompatible with the provisions of the Treaty on State aids except on the introduction of the measures themselves, it suffices to point out that the system for verifying national aid introduced by the Treaty is based on the obligation of the Member States to notify the Commission, in sufficient time for the latter to put forward its comments, of any draft aid measure introducing or amending aid measures. As the Commission pointed out in its letter SG(89) D/5521 of 27 April 1989 to the Member States, '[...] The Commission considers that a Member State has failed to fulfil its obligation to notify it where the process of putting aid into effect has been initiated. By "putting into effect" it means not the action of granting aid to the recipient but rather the prior action of instituting or implementing the aid at a legislative level according to the constitutional rules of the Member State concerned. Aid is therefore deemed to have been put into effect as soon as the legislative machinery enabling it to be granted without form or formality has been set up. [...]
- (ii) the restriction on the application of aid for assisting the recovery of enterprises provided for in Article 57 of Regional Law No 44/86 (financed by the fund instituted by Article 40 of Regional Law No 14/81) to the cases referred to in Regional Executive Decision No 18/15 of 21 June 1994 provides no remedy to the incompatibility of the aid measures in question.

Namely :

- the Regional Executive Decision was not adopted until 21 June 1994 ; from a temporal point of view, therefore, the restriction provided for therein could not in itself affect the appraisal of the aid measures in question as regards the period

from the entry into force of the disputed provisions until its adoption,

- at all events, from the point of view of substance, the change/restriction introduced is not likely to ensure that the aid measures thus amended are compatible with the common market since no change was made with regard to the aid for cooperatives which cease operating of their own accord and the conditions on the granting of the aid (which therefore continued to be applied) in other cases are more restrictive ; however, they are not always in line with the conditions required by the Commission when considering national aid of this type (which conditions were set out in the Commission's letter notifying the Italian Government of its decision to initiate the procedure provided for in Article 93 (2) of the Treaty⁽¹⁾).

- (iii) The Italian authorities' argument that certain aid measures may be justified as aid granted following a natural disaster has already been put forward in their correspondence with the Commission before the decision to initiate the procedure.

In this connection, the Commission did in fact remind the Italian authorities of the criteria adopted by the Commission when considering aid measures of this type and requested that information on the aid in question should be forwarded to allow them to verify compliance with those criteria (Commission telex message of 27 May 1993) and, as a consequence, to ascertain the possibility of considering the aid compatible with the common market under the exception provided for in Article 92 (2) (b), namely as aid to make good the damage caused to farmers by exceptional weather conditions.

The Commission would like to point out that, in accordance with its long-standing practice, exceptional weather such as droughts cannot be treated in the same way as natural disasters within the meaning of Article 92 (2) (b) except under certain conditions, to ensure in particular that only agricultural operators who have suffered damage exceeding the level to which they should normally be liable as a normal risk of agricultural holdings should receive the aid/reimbursement. To that end, a minimum threshold of rate of losses suffered by each holder (30 % of gross normal production — 20 % in less-favoured regions) has been set.

The Italian Government has not provided (and the Commission has not seen) any information showing that those conditions are met in the case in point.

⁽¹⁾ OJ No C 159, 10. 6. 1994.

In view of the foregoing, the justifications put forward by the Italian Government cannot be accepted by the Commission.

As regards the desire expressed by the Italian authorities to amend the regional legislation in question, the Commission takes note and is willing to provide the necessary assistance for the implementation of Article 2 hereof.

V

As operating aid for agricultural holdings, the aid in question has the effect of reducing the costs of the recipient holdings, thereby facilitating the disposal of the goods produced and/or marketed by the latter.

Accordingly, the aid improves the commercial situation of the recipient enterprises as compared with their competitors who do not receive that assistance.

In accordance with Article 92 (1) of the Treaty, aid granted by Member States 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 incompatible with the common market insofar as it affects trade between Member States.

As the measures in question apply 'across the board' by affecting all sectors of agricultural production, all agricultural products may be affected by the aid in question.

Accordingly, the measures are likely to affect trade in agricultural products between the Member States (the value of which, as regards Italy, amounted to around ECU 13 800 million for imports and around ECU 6 800 million for exports in 1993⁽¹⁾), which trade is affected where aid favours national production to the detriment of imports from other Member States.

In view of the foregoing, the aid in question should be considered State aid meeting the criteria laid down in Article 92 (1) of the Treaty.

VI

Article 92 (1) of the Treaty provides that aid meeting the criteria it sets out is in principle incompatible with the common market.

The exceptions to that rule laid down in Article 92 (2) are clearly not applicable to the aid measures in question.

The exceptions provided for in Article 92 (3) state that the objectives must be pursued in the interests of the Community and not only in that of individual sectors of a national economy.

These exceptions (which must be interpreted strictly) can be allowed in particular only where the Commission can establish that the aid is necessary to achieve one of the objectives of those provisions. To allow such exceptions in respect of aid which does not offer such guarantees would amount to allowing trade between the Member States to be affected and competition to be distorted unjustifiably from the viewpoint of the Community interest and would, by corollary, give operators in certain Member States an undue advantage.

In the case in point, the conditions on the granting of the aid in question do not offer such guarantees since the Italian Government has been unable to provide any justification and the Commission could find none, showing that the aid in question fulfils the conditions required for allowing any of the exceptions set out in Article 92 (3).

The measures are not intended to promote an important project of common European interest within the meaning of Article 92 (3) (b), all the more so as their possible effects on trade run counter to the common interest.

Nor are the measures suitable to remedy a serious disturbance in the economy of a Member State within the meaning of the same provision.

As regards the exceptions provided for in Article 92 (3) (a) and (c) covering aid to promote or facilitate the economic development of certain areas or certain activities, it should be pointed out that the measures in question, on account of their status as operating aid, cannot improve in any lasting manner the conditions affecting the recipients. In other words, the aid measures have no effect on the structural situation of the recipients since their effects disappear as soon as they cease.

Accordingly, the aid cannot qualify under any of the exceptions provided for in Article 92 (3).

⁽¹⁾ Source : Eurostat.

In addition, as far as the aid for producers of sheep and goat milk (Article 4 of Regional Law No 17/92 and Article 11 of Regional Law No 6/92) is concerned, such aid must be considered as involving a product subject to a common organization of the market and there are limits to the powers of the Member States to intervene in the way such organizations, which entail, in particular, a system of common prices, which is now the exclusive province of the Union, operate and there is an explicit prohibition of any aid based on quantities produced.

The common market organizations should be considered as comprehensive, self-contained systems excluding any possibility of the Member States' adopting measures derogating therefrom or undermining them.

The aid measures in question should therefore be considered as infringing Community rules. Accordingly, none of the exceptions laid down in Article 92 (3) can be invoked.

The aid measures in question are therefore incompatible with the common market.

VII

The Commission should have been notified pursuant to Article 93 (3) of the regional measures referred to in Section I above (excepting those provided for in Article 7 of Regional Law No 17/92). Since the Italian Government omitted to do so, the Commission was not able to take a position on the planned aid before its implementation. As a consequence, the aid is illegal having regard to Community law once it is granted since Article 93 (3) was not complied with.

In this respect, it should be remembered that in view of the binding nature of the procedural rules laid down in Article 93 (3), which the Court of Justice recognized as having direct effect in (more particularly) its judgments of 19 June 1973 in Case 77/72 ⁽¹⁾ and of 21 November 1991 in Case 354/90 ⁽²⁾, the illegal nature of the aid in question cannot be redressed after the event.

In addition, in the event that aid measures are incompatible with the common market, the Commission may have recourse to the possibility afforded it by the judgment of the Court of Justice of 12 July 1973 in Case 70/72 ⁽³⁾, as confirmed by the judgments of 24 February 1987 in Case C-310/85 ⁽⁴⁾ and of 20 September 1990 in

Case C-5/89 ⁽⁵⁾, and compel the Member State to recover from the recipients all aid granted illegally.

VIII

As pointed out in Title VII, the Commission may require the Member States to compel the recipients of aid granted illegally to reimburse it.

In view of the foregoing, the aid granted by the Sardinian Region pursuant to the provisions referred to in Section I (excepting the measures provided for in Article 7 of Regional Law No 17/92) must be reimbursed.

Reimbursement must take place in accordance with the procedures and provisions of Italian law and in particular those concerning interest on delayed repayment of debts due to the State, interest becoming payable as from the date of granting of the illegal aid in question (Commission letter to the Member States SG(91) D/4571).

Such reimbursement is necessary to re-establish the situation obtaining beforehand and requires that all financial advantages from which the enterprises receiving the illegally granted aid have benefited unduly since the payment of the aid must be cancelled.

This Decision is without prejudice to any consequences which the Commission may draw, where applicable, as regards the financing of the common agricultural policy by the European Agricultural Guidance and Guarantee Fund (EAGGF),

HAS ADOPTED THIS DECISION:

Article 1

The aid measures provided for in Articles 1, 3, 4, 6 and 8 of Sardinian Regional Law No 17/92 and in Article 40 of Regional Law No 14/81, Article 57 of Regional Law No 44/86 and Article 11 of Regional Law No 6/92 are illegal since they have been established in breach of the rules of procedure set out in Article 93 (3) of the Treaty. Furthermore, they are also incompatible with the common market under Article 92 (1) of the Treaty since they do not meet the conditions for the exceptions provided for in Article 92 (2) and (3) thereof.

Article 2

Italy is required to repeal the provisions referred to in Article 1 or to amend them so as to render them compatible to the common market within two months of the date of notification of this Decision.

⁽¹⁾ [1973] ECR 611.

⁽²⁾ [1991] ECR 5505.

⁽³⁾ [1973] ECR 813.

⁽⁴⁾ [1987] ECR 901.

⁽⁵⁾ [1990] ECR I-3437.

Article 3

1. Within two months of the date of notification of this Decision, Italy shall require the repayment of:

- the aid paid to Apoac — Santa Sperate, Cantina sociale di Mogoro, Cantina sociale di Santadi, Cantina sociale di Villacidro, Consorzio caseario del Gerrei, Consorzio sardo caseario — S. Gavino, Cooperativa allevatori fonnesi (Nuoro), Cooperativa 'L'asparago' — Sanluri, Cooperativa pastori S. Giovanni, Latteria sociale cooperativa — Meana sardo, Latteria sociale — Santadi, Oleificio cooperative — Sassari, Organizzazione ortofrutticola oristanese, pursuant to Article 3 (4) of Sardinian Regional Law No 17/92;
- the aid paid to the 'Associazione produttori ovi-caprini' and to the 'Associazione nuorese produttori' pursuant to Article 3 (5) of Sardinian Regional Law No 17/92;
- the aid paid to CONSAR.CORI. pursuant to Article 6 of Sardinian Regional Law No 17/92;
- the aid paid to Colvas pursuant to Article 8 of Sardinian Regional Law No 17/92;
- the aid paid pursuant to Article 40 of Regional Law No 14/81, Article 57 of Regional Law No 44/86, Article 11 of Regional Law No 6/92 and Article 4 of Regional Law No 17/92.

2. The aid provided for in Article 3 (3) of Regional Law No 17/92 having been granted in the form of a waiver of loan debts owed to the public administration, recovery shall take place by collecting the debts concerned.

3. Recovery shall take place in accordance with the procedures and provisions of Italian law and in particular those concerning interest arising out of delayed repayment of debts owed to the State. The sums to be recovered shall incur interest as from the date of granting of the legal aid in question and, as regards the aid measures provided for in Article 3 (3) of Regional Law No 17/92, as from the date on which the loans granted by the public administration fall due.

Article 4

Italy shall inform the Commission, within two months from the date of notification of this Decision, of the measures taken to comply with it.

Article 5

This Decision is addressed to the Italian Republic.

Done at Brussels, 14 March 1995.

For the Commission

Franz FISCHLER

Member of the Commission

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 71/95/COL

of 5 July 1995

amending for the second time the Rules of Procedure of the EFTA Surveillance Authority

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, and in particular Article 13 thereof,

Considering the Rules of Procedure of the EFTA Surveillance Authority⁽¹⁾,

Whereas certain adjustments are needed to these Rules of Procedure,

HAS ADOPTED THIS DECISION :

1. In Article 2, the first paragraph shall be replaced by the following text :

‘In the performance of its official functions, the College shall be assisted by five departments, namely three Directorates, Legal & Executive Affairs and Administration’.

2. In Article 3, second paragraph, the words ‘The Legal Service’ shall be replaced by ‘Legal & Executive Affairs’.

3. In Articles 10, first paragraph, 11, second paragraph, 17, first paragraph, 18, first paragraph and 19, the words ‘the Executive Secretary’ shall be replaced by ‘the Director of Legal and Executive Affairs’.

4. In Article 21, the words ‘or the Executive Secretary’ and the words ‘and the Executive Secretary, respectively’ shall be deleted.

5. This Decision shall apply as from 1 July 1995.

6. This Decision, which is authentic in the English language, shall be published in the EEA Section of and the EEA Supplement to the *Official Journal of the European Communities*.

Done at Brussels, 5 July 1995.

For the EFTA Surveillance Authority

President

Knut ALMESTAD

⁽¹⁾ Adopted by the Authority on 7 January 1994, Decision No 1/94/COL (OJ No L 113, 4. 5. 1994, p. 19; EEA Supplement No 6, 4. 5. 1994, p. 1), amended by Decision 18/95/COL.