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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2594/95

of 7 November 1995

opening and administering a Community tariff quota for certain poultrymeat products originating in Bulgaria for the period from 1 July to 31 December 1995 in accordance with Council Regulation (EC) No 2179/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2179/95 of 8 August 1995 providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements and amending Regulation (EC) No 3379/94 opening and administering certain Community tariff quotas in 1995 for certain agricultural products and for beer, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations, and in particular Article 7 thereof⁽¹⁾,

Whereas Bulgaria has taken or will take as soon as possible, *vis-à-vis* the European Union, measures of comparable effect to those referred to in Article 7 (5) of Regulation (EC) No 2179/95;

Whereas, in accordance with Article 7 (10) of Regulation (EC) No 2179/95, the measures provided for in Article 7 (5) of that Regulation should therefore be applied;

Whereas, as a result, a tariff quota should be opened for poultrymeat products for the period from 1 July to 31 December 1995; whereas, provision should be made for applying a specific administration method;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for poultry meat and eggs,

HAS ADOPTED THIS REGULATION:

Article 1

For the period from 1 July to 31 December 1995 the import tariff quota shown in the Annex is hereby opened for products originating in Bulgaria under the conditions laid down in that Annex.

⁽¹⁾ OJ No L 223, 20. 9. 1995, p. 29.

Article 2

1. In order to qualify for the quota shown in the Annex, the importer must present to the competent authorities of the importing Member State a declaration for release for free circulation comprising an application to this effect for the products concerned accompanied by the certificate referred to in Article 8 of Commission Regulation (EC) No 1559/94⁽²⁾.

If this declaration is accepted by the competent authorities of the Member State, those authorities shall inform the Commission of the relevant applications for withdrawals, broken down by quota.

2. The application for withdrawal together with indication of the date of acceptance of the declaration for release for free circulation shall be sent to the Commission without delay.

3. The withdrawals shall be granted by the Commission on the basis of the date of acceptance of declarations for release for free circulation by the competent authorities of the importing Member State, in so far as the available balance permits.

Any unused balance shall be returned as soon as possible to the corresponding quota quantity.

Where the quantities applied for exceed the available balance of the quota quantities the allocation shall be made in proportion to the applications. The Member States shall be informed as soon as possible by the Commission of the withdrawals made.

4. Each Member State shall ensure that importers of the products set out in the Annex have equal and continuous access to the quantities laid down therein as long as the residual balance of the quota quantities permits.

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 1 July to 31 December 1995.

⁽²⁾ OJ No L 166, 1. 7. 1994, p. 62.

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

Done at Brussels, 7 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Tariff quota opened from 1 July to 31 December 1995 for certain poultrymeat products from Bulgaria

CN code	Quantity (tonnes)	Duty (ECU/t)
0207 23 19	} 1 400	549
0207 39 55		946
0207 43 15		946
0207 43 63		513

COMMISSION REGULATION (EC) No 2595/95**of 7 November 1995****opening individual invitations to tender for the sale for export of vinous alcohol**

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 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 1544/95 ⁽²⁾,

Having regard to Council Regulation (EEC) No 3877/88 of 12 December 1988 laying down general rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies ⁽³⁾,

Whereas Commission Regulation (EEC) No 377/93 ⁽⁴⁾, as last amended by Regulation (EC) No 3152/94 ⁽⁵⁾, lays down detailed rules for the disposal of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by intervention agencies ;

Whereas individual invitations to tender for the export of vinous alcohol to certain Caribbean and Central American countries should be opened so as to guarantee continuity of supplies to those countries ;

Whereas the amount of the performance guarantee should take account of the possible storage of a large quantity of alcohol in Caribbean countries, guarantee the export of the alcohol put up for sale within the first year of application of the commitments entered into under the General Agreement on Tariffs and Trade in the alcohol sector, and the end use of the alcohol in the motor fuel sector ;

Whereas Commission Regulation (EEC) No 2192/93 ⁽⁶⁾, concerning the operative events for the agricultural conversion rates used in the wine sector and amending Regulation (EEC) No 377/93 specifies the agricultural conversion rates to be used to convert the payments and securities provided for in connection with individual invitations to tender into national currency ;

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

The sale by five individual invitations to tender Nos 184/95 EC, 185/95 EC, 186/95 EC, 187/95 EC and 188/95 EC of a total of 375 000 hectolitres of alcohol obtained from the distillation operations referred to in Articles 35, 36 and 39 of Regulation (EEC) No 822/87 and held by the Italian, Spanish and French intervention agencies, is hereby opened.

Each of the individual invitations to tender Nos 184/95 EC, 185/95 EC, 186/95 EC, 187/95 EC and 188/95 EC covers a quantity of 75 000 hectolitres of alcohol at 100 % vol.

Article 2

The alcohol offered for sale :

— shall be for export outside the European Community,

— must be imported and dehydrated :

— in the case of individual invitation to tender No 184/95 EC, to :

- Costa Rica,
- Guatemala,
- Honduras, including the Swan Islands,
- El Salvador,

— in the case of individual invitations to tender Nos 185/95 EC, 186/95 EC, 187/95 EC and 188/95 EC, to one of the following countries :

- Saint Christopher and Nevis,
- Bahamas,
- Dominican Republic,
- Antigua and Barbuda,
- Dominica,
- British Virgin Islands and Montserrat,
- Jamaica,
- Saint Lucia,
- Saint Vincent, including the Northern Grenadines,
- Barbados,
- Trinidad and Tobago,
- Belize,

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 148, 30. 6. 1995, p. 31.

⁽³⁾ OJ No L 346, 15. 12. 1988, p. 7.

⁽⁴⁾ OJ No L 43, 20. 2. 1993, p. 6.

⁽⁵⁾ OJ No L 332, 22. 12. 1994, p. 34.

⁽⁶⁾ OJ No L 196, 5. 8. 1993, p. 19.

- Grenada, including the Southern Grenadines,
- Aruba,
- Netherlands Antilles (Curaçao, Bonaire, Saint Eustace, Saba and the southern part of Saint Martin),
- Guyana,
- Virgin Islands of the United States,
- Haiti,

— must be used only as motor fuel.

Article 3

The location and reference numbers of the vats concerned, the quantity of alcohol contained in each vat, the alcoholic strength and the characteristics of the alcohol as well as certain specific conditions are given in Annex I hereto.

Article 4

The sale shall take place in accordance with Articles 13 to 18 and Articles 30 to 38 of Regulation (EEC) No 377/93.

Article 5

1. The tendering security referred to in Article 15 of Regulation (EEC) No 377/93 shall be ECU 3,622 per hectolitre of alcohol at 100 % volume and shall be lodged for the total quantity of alcohol offered for sale in each of the invitations to tender referred to in Article 1.

Maintenance of the tender after the time limit submitting tenders and the lodging of a performance guarantee shall constitute the primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85⁽¹⁾, as regards the tendering security.

The tendering security shall be released immediately if the tender is not accepted or if the successful tenderer meets the conditions set out in the preceding subparagraph.

2. The performance guarantee shall be ECU 30,19 per hectolitre of alcohol at 100 % volume.

The guarantee shall be released in accordance with Article 34 (3) (b) of Regulation (EEC) No 377/93.

Article 6

1. The alcohol awarded under the invitation to tender referred to in Article 1 shall be exported by 30 June 1996 at the latest.

2. The awarded alcohol shall be used within three years from the date of first removal.

Article 7

To be valid, tenders must indicate the place where end use of the alcohol awarded is to take place and must include an undertaking by the tenderer to the effect that the alcohol will be sent to that destination and used for that purpose. The tender shall also include proof that the tenderer has binding commitments with an operator in the motor fuel sector in one of the third countries listed in Article 2 who has undertaken to dehydrate the alcohol awarded in one of those countries and to export it for use solely as motor fuel.

Article 8

1. Before the awarded alcohol is removed, the intervention agency and the successful tenderer shall take a reference sample and shall analyse that sample to verify the alcoholic strength expressed in % vol of the alcohol in question.

Where the final results of the analysis of the sample show a difference between the alcoholic strength by volume of the alcohol to be removed and the minimum alcoholic strength by volume stated in the notice of invitation to tender, the following provisions shall apply:

- (i) the intervention agency shall, the same day, inform the Commission thereof in accordance with Annex II, as well as the storer and the successful tenderer;
- (ii) the successful tenderer may:
 - either agree to take over the lot with its characteristics as established, subject to the Commission's agreement,
 - or refuse to take over the lot in question.

In either case, the successful tenderer shall, the same day, inform the intervention agency and the Commission thereof in accordance with Annex III.

Once these formalities have been completed, if he has refused to take over the lot concerned, he shall be immediately released from all his obligations relating to that lot.

2. Where the successful tenderer refuses the merchandise, as provided for in paragraph 1, the intervention agency shall supply him with another quantity of alcohol of the requisite quality, at no extra charge, within a maximum of eight days.

3. If physical removal of the alcohol is delayed by more than five working days in relation to the date of acceptance of the lot to be removed by the successful tenderer for reasons attributable to the intervention agency, the Member State shall be responsible for the payment of compensation.

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

Article 9

Notwithstanding the first subparagraph of Article 36 (2) of Regulation (EEC) No 377/93, the alcohol contained in the vats indicated in the communication from the Member States referred to in Article 36 of Regulation (EEC) No 377/93 and covered by the invitation to tender referred to in Article 1 of this Regulation may be substituted by alcohol of the same type by the intervention agencies holding the alcohol concerned in agreement with the Commission, or mixed with other alcohol deli-

vered to the intervention agency until a removal order is issued for that alcohol, in particular for logistical reasons.

Article 10

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, 7 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

INDIVIDUAL INVITATION TO TENDER No 184/95 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
FRANCE	DEULEP	72	12 310	35 + 36	Raw alcohol
	Boulevard Chanzy F-30800 Saint-Gilles-du-Gard		5 431	35 + 36	Raw alcohol
	Port-la-Nouvelle	1	9 149	35 + 36	Raw alcohol
	Avenue Adolphe-Turrel Boîte postale 62 F-11210 Port-la-Nouvelle		48 110	35 + 36	Raw alcohol
	Total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2,415 per litre or the equivalent thereof in French francs, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 75 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

Any tender relating to a smaller quantity will not be considered.

2. Tenders must:

- be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi/Wetstraat, B-1049 Brussels, or
- be submitted at the reception of the Loi 130 building of the Commission of the European Communities, 130 rue de la Loi/Wetstraat, B-1049 Brussels, between 11 a.m. and 12 noon on the date mentioned in point 4.

3. Tenders must be enclosed in a sealed envelope marked "Tender for individual sale No 184/95 EC (alcohol), DG VI (E-2), to be opened only at the meeting of the group", which itself must be enclosed in an envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon (Brussels time) on 23. 11. 1995.

5. Tenders must state the name and address of the tenderer and must:

- (a) include a reference to individual sale by tender No 184/95 EC;
- (b) specify the price tendered, expressed in ecus per hectolitre of alcohol at 100 % vol;
- (c) include all the undertakings and statements referred to in Article 31 of Regulation (EEC) No 377/93, specify the final destination of the alcohol awarded and include proof of a commitment with an operator for dehydration and use solely as motor fuel.

6. Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agency:

- SAV par délégation de l'Onivins, zone industrielle, avenue de la Ballastière, boîte postale 231, F-33505 Libourne Cedex (tel. 57 51 03 03; telex 572 025; fax 57 25 07 05).

This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

The successful tenderer must provide proof that a performance guarantee of ECU 30,19 per hectolitre of alcohol at 100 % vol. has been lodged with each intervention agency concerned by the date of issue of a removal order for the quantity of alcohol in question at the latest.

INDIVIDUAL INVITATION TO TENDER No 185/95 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
ITALY	Dist. Soc. vinicola adriatica		1 650	39	Raw alcohol
	Dist. D'Auria SpA		2 000	39	Raw alcohol
	Industria italiana alcol		2 000	39	Raw alcohol
	Dist. SAPI S SpA		2 500	39	Raw alcohol
	Dist. SASRIV SpA		1 500	39	Raw alcohol
	Dist. Aniello Esposito Sas		750	36	Raw alcohol
	Dist. F. Palma SpA		2 500	36	Raw alcohol
	Dist. lavorazione sociale vinacce Modena Srl		2 500	35	Raw alcohol
	Dist. emiliane SpA		2 600	39	Raw alcohol
	Dist. Villapana SpA		2 500	35	Raw alcohol
	Dist. Mazzari SpA		3 350	35	Raw alcohol
	Dister coop Srl		1 750	39	Raw alcohol
	Dist. Neri Srl		6 000	35 + 39	Raw alcohol
	Dist. Bonollo SpA		6 000	39	Raw alcohol
	Dist. centro adriatico SpA		1 500	35	Raw alcohol
	Dist. del Sud SpA		3 100	36	Raw alcohol
	Dist. Giacomo De Luca Sas		750	35	Raw alcohol
	CAVIRO Srl		6 250	39	Raw alcohol
	Dist. di Trani SpA		5 000	39	Raw alcohol
	Dist. Sadz SpA		2 050	36 + 39	Raw alcohol
	DI.CO.VI.SA. Srl		2 500	35	Raw alcohol
	Enodistil SpA		2 500	39	Raw alcohol
	Dist. Bertolino SpA		2 500	35	Raw alcohol
	Dist. Kronion Srl		750	39	Raw alcohol
	GE.DIS. SpA		3 000	35	Raw alcohol
	Dist. Italcol		1 400	35	Raw alcohol
	Dist. F.lli Cipriani SpA		1 500	35	Raw alcohol
	Dist. G. Di Lorenzo Srl		3 500	35	Raw alcohol
	Dist. ind. chimica valenzana SpA		1 100	39	Raw alcohol
	Total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2,415 per litre or the equivalent thereof in Italian lire, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 75 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

Any tender relating to a smaller quantity will not be considered.

2. Tenders must :

- be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi/Wetstraat, B-1049 Brussels, or
- be submitted at the reception of the Loi 130 building of the Commission of the European Communities, 130 rue de la Loi/Wetstraat, B-1049 Brussels, between 11 a.m. and 12 noon on the date mentioned in point 4.

3. Tenders must be enclosed in a sealed envelope marked 'Tender for individual sale No 185/95 EC (alcohol), DG VI (E-2), to be opened only at the meeting of the group', which itself must be enclosed in an envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon (Brussels time) on 23. 11. 1995.

5. Tenders must state the name and address of the tenderer and must :

- (a) include a reference to individual sale by tender No 185/95 EC ;
- (b) specify the price tendered, expressed in ecus per hectolitre of alcohol at 100 % vol ;
- (c) include all the undertakings and statements referred to in Article 31 of Regulation (EEC) No 377/93, specify the final destination of the alcohol awarded and include proof of a commitment with an operator for dehydration and use solely as motor fuel.

6. Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agency :

- AIMA, via Palestro 81, I-00185 Roma (tel. 47 49 91 ; telex 62 03 31, 62 02 52, 61 30 03 ; fax 445 39 40, 495 39 40).

This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

The successful tenderer must provide proof that a performance guarantee of ECU 30,19 per hectolitre of alcohol at 100 % vol. has been lodged with each intervention agency concerned by the date of issue of a removal order for the quantity of alcohol in question at the latest.

INDIVIDUAL INVITATION TO TENDER No 186/95 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
ITALY	Dist. Soc. vinicola adriatica		1 650	39	Raw alcohol
	Dist. D'Auria SpA		2 000	39	Raw alcohol
	Industria italiana alcol		2 000	39	Raw alcohol
	Dist. SAPIS SpA		2 500	39	Raw alcohol
	Dist. SASRIV SpA		1 500	39	Raw alcohol
	Dist. Aniello Esposito Sas		750	36	Raw alcohol
	Dist. F. Palma SpA		2 500	36	Raw alcohol
	Dist. lavorazione sociale vinacce Modena Srl		2 500	35	Raw alcohol
	Dist. emiliane SpA		2 600	39	Raw alcohol
	Dist. Villapana SpA		2 500	35	Raw alcohol
	Dist. Mazzari SpA		3 350	35	Raw alcohol
	Dister coop Srl		1 750	39	Raw alcohol
	Dist. Neri Srl		6 000	35 + 39	Raw alcohol
	Dist. Bonollo SpA		6 000	39	Raw alcohol
	Dist. centro adriatico SpA		1 500	35	Raw alcohol
	Dist. del Sud SpA		3 100	36	Raw alcohol
	Dist. Giacomo De Luca Sas		750	35	Raw alcohol
	CAVIRO Srl		6 250	39	Raw alcohol
	Dist. di Trani SpA		5 000	39	Raw alcohol
	Dist. Sadz SpA		2 050	36 + 39	Raw alcohol
	DI.CO.VI.SA. Srl		2 500	35	Raw alcohol
	Enodistil SpA		2 500	39	Raw alcohol
	Dist. Bertolino SpA		2 500	35	Raw alcohol
	Dist. Kronion Srl		750	39	Raw alcohol
	GE.DIS. SpA		3 000	35	Raw alcohol
	Dist. Italcol		1 400	35	Raw alcohol
	Dist. F.lli Cipriani SpA		1 500	35	Raw alcohol
	Dist. G. Di Lorenzo Srl		3 500	35	Raw alcohol
	Dist. ind. chimica valenzana SpA		1 100	39	Raw alcohol
	Total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2,415 per litre or the equivalent thereof in Italian lire, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 75 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

Any tender relating to a smaller quantity will not be considered.

2. Tenders must:

- be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi/Wetstraat, B-1049 Brussels, or
- be submitted at the reception of the Loi 130 building of the Commission of the European Communities, 130 rue de la Loi/Wetstraat, B-1049 Brussels, between 11 a.m. and 12 noon on the date mentioned in point 4.

3. Tenders must be enclosed in a sealed envelope marked 'Tender for individual sale No 186/95 EC (alcohol), DG VI (E-2), to be opened only at the meeting of the group', which itself must be enclosed in an envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon (Brussels time) on 23. 11. 1995.

5. Tenders must state the name and address of the tenderer and must:

- (a) include a reference to individual sale by tender No 186/95 EC;
- (b) specify the price tendered, expressed in ecus per hectolitre of alcohol at 100 % vol;
- (c) include all the undertakings and statements referred to in Article 31 of Regulation (EEC) No 377/93, specify the final destination of the alcohol awarded and include proof of a commitment with an operator for dehydration and use solely as motor fuel.

6. Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agency:

- AIMA, via Palestro 81, I-00185 Roma (tel. 47 49 91; telex 62 03 31, 62 02 52, 61 30 03; fax 445 39 40, 495 39 40).

This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

The successful tenderer must provide proof that a performance guarantee of ECU 30,19 per hectolitre of alcohol at 100 % vol. has been lodged with each intervention agency concerned by the date of issue of a removal order for the quantity of alcohol in question at the latest.

INDIVIDUAL INVITATION TO TENDER No 187/95 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
SPAIN	Tarancón	C-8	1 866	39	Raw alcohol
	Tarancón	F-3	26 604	39	Raw alcohol
	Tarancón	F-5	8 358	39	Raw alcohol
	Villarrobledo	17	38 172	39	Raw alcohol
	Total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2,415 per litre or the equivalent thereof in Spanish pesetas, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 75 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

Any tender relating to a smaller quantity will not be considered.

2. Tenders must:

- be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi/Wetstraat, B-1049 Brussels, or
- be submitted at the reception of the Loi 130 building of the Commission of the European Communities, 130 rue de la Loi/Wetstraat, B-1049 Brussels, between 11 a.m. and 12 noon on the date mentioned in point 4.

3. Tenders must be enclosed in a sealed envelope marked 'Tender for individual sale No 187/95 EC (alcohol), DG VI (E-2), to be opened only at the meeting of the group', which itself must be enclosed in an envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon (Brussels time) on 23. 11. 1995.

5. Tenders must state the name and address of the tenderer and must:

- (a) include a reference to individual sale by tender No 187/95 EC;
- (b) specify the price tendered, expressed in ecus per hectolitre of alcohol at 100 % vol;
- (c) include all the undertakings and statements referred to in Article 31 of Regulation (EEC) No 377/93, specify the final destination of the alcohol awarded and include proof of a commitment with an operator for dehydration and use solely as motor fuel.

6. Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agency:

- SENPA, Beneficencia 8, E-28004 Madrid (tel. 347 65 00; telex 23427 SENPA; fax 521 98 32).

This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

The successful tenderer must provide proof that a performance guarantee of ECU 30,19 per hectolitre of alcohol at 100 % vol. has been lodged with each intervention agency concerned by the date of issue of a removal order for the quantity of alcohol in question at the latest.

INDIVIDUAL INVITATION TO TENDER No 188/95 EC

I. Place of storage, volume and characteristics of the alcohol offered for sale

Member State	Location	Reference number of vat	Volume in hectolitres of pure alcohol	Reference to Regulation (EEC) No 822/87	Type of alcohol
SPAIN	Tarancón	C-6	11 501	39	Raw alcohol
	Tarancón	D-6	26 283	39	Raw alcohol
	Tarancón	C-7	27 258	39	Raw alcohol
	Tarancón	C-8	9 958	39	Raw alcohol
	Total		75 000		

Any interested party may, on application to the intervention agency concerned and on payment of ECU 2,415 per litre or the equivalent thereof in Spanish pesetas, obtain samples of the alcohol offered for sale. Such samples shall be taken by a representative of the intervention agency concerned.

II. Destination and use of the alcohol

The alcohol offered for sale must be exported from the Community. It must be imported into and dehydrated in one of the non-member countries listed in Article 2 of this Regulation as for use exclusively as motor fuel.

Evidence relating to the destination and use of the alcohol is to be obtained by an international security company and transmitted to the intervention agency concerned.

The costs thus incurred are to be borne by the successful tenderer.

III. Submission of tenders

1. Tenders should be submitted for a quantity of 75 000 hectolitres of alcohol, expressed in hectolitres of alcohol at 100 % vol.

Any tender relating to a smaller quantity will not be considered.

2. Tenders must:

- be sent by registered mail to the Commission of the European Communities, 200 rue de la Loi/Wetstraat, B-1049 Brussels, or
- be submitted at the reception of the Loi 130 building of the Commission of the European Communities, 130 rue de la Loi/Wetstraat, B-1049 Brussels, between 11 a.m. and 12 noon on the date mentioned in point 4.

3. Tenders must be enclosed in a sealed envelope marked 'Tender for individual sale No 188/95 EC (alcohol), DG VI (E-2), to be opened only at the meeting of the group', which itself must be enclosed in an envelope addressed to the Commission.

4. Tenders must reach the Commission not later than 12 noon (Brussels time) on 23. 11. 1995.

5. Tenders must state the name and address of the tenderer and must:

- (a) include a reference to individual sale by tender No 188/95 EC;
- (b) specify the price tendered, expressed in ecus per hectolitre of alcohol at 100 % vol;
- (c) include all the undertakings and statements referred to in Article 31 of Regulation (EEC) No 377/93, specify the final destination of the alcohol awarded and include proof of a commitment with an operator for dehydration and use solely as motor fuel.

6. Each tender must be accompanied by attestations of the lodging of a tendering security, issued by the following intervention agency:

— SENPA, Beneficencia 8, E-28004 Madrid (tel. 347 65 00; telex 23427 SENPA; fax 521 98 32).

This security must correspond to a sum of ECU 3,622 per hectolitre of alcohol at 100 % vol.

IV. Award of contract

The successful tenderer must provide proof that a performance guarantee of ECU 30,19 per hectolitre of alcohol at 100 % vol. has been lodged with each intervention agency concerned by the date of issue of a removal order for the quantity of alcohol in question at the latest.

ANNEX II

The only telex and fax numbers in Brussels to be used are :

DG VI (E-2) (for the attention of Mr Chiappone/Mr Van der Stappen)

- telex : 22037 AGREC B,
22070 AGREC B (Greek characters),
— fax : (32 2) 295 92 52.

ANNEX III

Communication of refusal or acceptance of lots under the individual invitation to tender for the export of vinous alcohol opened by Regulation (EC) No 2595/95

- Name of the successful tenderer :
— Date of award of contract :
— Date of refusal or acceptance of the lot by the successful tenderer :

Lot No	Quantity in hectolitres	Location of alcohol	Reason for refusal or acceptance to take over

COMMISSION REGULATION (EC) No 2596/95**of 7 November 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 Regu-
lation (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 stan-
dard 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 8 November
1995.

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

Done at Brussels, 7 November 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 7 November 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 45	052	52,2	0806 10 50	528	94,7
	060	80,2		600	71,6
	064	59,6		624	78,0
	066	41,7		999	83,8
	068	62,3		052	104,0
	204	57,2		064	75,6
	212	117,9		066	49,4
	624	80,5		220	110,8
	999	68,9		400	158,8
0707 00 35	052	98,6	0808 10 92, 0808 10 94, 0808 10 98	412	132,4
	053	166,9		512	186,0
	060	61,0		600	64,5
	066	53,8		624	123,2
	068	60,4		999	111,6
	204	49,1		064	77,3
	624	144,5		388	39,2
0709 90 79	999	90,6		400	59,4
	052	61,2		404	58,5
	204	77,5		508	68,4
	624	196,3		512	24,4
0805 20 31	999	111,7		524	57,4
	204	66,2		528	48,0
	999	66,2		800	73,8
0805 20 33, 0805 20 35, 0805 20 37, 0805 20 39	052	52,2		804	22,3
	464	111,5	0808 20 67	999	52,9
	624	139,8		052	80,8
	999	101,2		064	70,2
0805 30 40	052	69,3		388	79,6
	388	67,5		400	53,8
	400	151,4		512	89,7
	512	54,8		528	84,1
	520	66,5		800	55,8
	524	100,8		804	112,9
				999	78,4

⁽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.'

COUNCIL DIRECTIVE 95/52/EC

of 25 October 1995

amending Directive 90/675/EEC laying down the principles governing the organization of veterinary checks on products entering the Community from third countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas the establishment of the internal market made it necessary to fix common principles for veterinary checks given that internal border checks were to be abolished ;

Whereas Directive 90/675/EEC ⁽³⁾ lays down the principles governing the organization of veterinary checks on products entering the Community from third countries ;

Whereas, in order to facilitate the move to the new system of veterinary checks, it is possible for the Commission, pursuant to Article 30 of the abovementioned Directive, to take transitional measures until 30 June 1995 ;

Whereas, by Decision 92/571/EEC ⁽⁴⁾, the Commission took transitional measures taking into account the difficulties of carrying out veterinary checks on non fully-harmonized products at the external border ;

Whereas it has not been possible to put in place, within the existing time frame, all the necessary checking arrangements, and in particular to complete the process of harmonizing the import conditions for animal products originating in third countries ;

Whereas, in order to avoid disruption of trade in animal products, it is necessary to extend the possibility of taking

transitional measures for a limited period of time, given that the deadline provided for this purpose was reached on 30 June 1995,

HAS ADOPTED THIS DIRECTIVE :

Article 1

In Article 30 of Directive 90/675/EEC, 'for three years' shall be replaced by 'until 31 December 1996'.

Article 2

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

It shall apply with effect from 1 July 1995.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 25 October 1995.

For the Council

The President

L. ATIENZA

⁽¹⁾ OJ No C 185, 19. 7. 1995, p. 16.

⁽²⁾ OJ No C 269, 16. 10. 1995.

⁽³⁾ OJ No L 373, 31. 12. 1990, p. 1. Directive as last amended by the 1994 Act of Accession.

⁽⁴⁾ OJ No L 367, 16. 12. 1992, p. 36. Decision as last amended by Decision 95/55/EC (OJ No L 53, 9. 3. 1995, p. 37).

COUNCIL DIRECTIVE 95/53/EC**of 25 October 1995****fixing the principles governing the organization of official inspections in the field of animal nutrition**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas animal nutrition has become a very important aspect of Community agriculture ;

Whereas fixing at Community level the principles governing the organization of official inspections in the field of animal nutrition helps safeguard animal health, human health and the environment, ensure the fairness of commercial transactions and protect the interests of consumers ;

Whereas rules must be laid down for the organization of official inspections of feedingstuffs in view of the very wide range of products used, the large volume of consignments of goods commercially traded, the integrated structure of the sector and, in particular, the need to ensure both the wholesomeness of the feedingstuff to be consumed by animals and the quality of the foodstuff ;

Whereas, in order to attain the desired objective, the rules laid down in this Directive must cover all products and substances used in animal nutrition in the Community ; whereas inspections should therefore be organized to cover products imported into or released for free circulation in the Community ;

Whereas the definition of 'competent authority' does not prevent Member States from delegating in whole or in part the responsibility of the authority for the purpose of carrying out official checks in the field of animal nutrition, provided that inspections continue to be carried out under their authority ;

Whereas, to be effective, inspections must be carried out regularly ; whereas they must not be restricted as to the subject, stage or moment at which they are carried out ; whereas they must take the most suitable forms to ensure their effectiveness ;

Whereas, in order to ensure that inspection procedures are not evaded, it is necessary to provide that Member States shall not exclude a product from appropriate inspection on the grounds that it is intended for export outside the Community ;

Whereas products from third countries must be subject to random documentary and identity checks on entry into the Community territory ;

Whereas provision should be made for Member States to have the possibility of designating entry points in order to ensure the efficient conduct of inspections of imported products, without prejudice to the provisions laid down in other relevant Community legislation, in particular Directives 90/675/EEC ⁽⁴⁾ and 92/118/EEC ⁽⁵⁾ concerning veterinary checks and animal health and public health requirements ;

Whereas principles should be laid down to govern the organization of and steps to be taken following the physical checks to be carried out by the competent authorities ;

Whereas, as regards intra-Community trade, emphasis should be placed on the checks to be carried out at the place of origin ; whereas, however, in the event of a presumption of irregularity, the check may, exceptionally, be carried out while the products are in transit or at the place of destination ;

Whereas this solution requires greater confidence in the inspections carried out by the Member State of dispatch ; whereas the Member State of dispatch must ensure that such checks are carried out in an appropriate fashion ;

Whereas provision should be made for action to be taken where a check discloses that a consignment is irregular ;

Whereas, for reasons of effectiveness, it is for the Member State of dispatch to ensure that the products comply with Community rules ; whereas, in the event of infringements, the Commission must be able to take action, in cooperation with the Member States concerned, particularly by making on-the-spot visits and adopting measures appropriate to the situation ;

⁽¹⁾ OJ No C 313, 19. 11. 1993, p. 10.

⁽²⁾ OJ No C 128, 9. 5. 1994, p. 97.

⁽³⁾ OJ No C 127, 7. 5. 1994, p. 10.

⁽⁴⁾ OJ No L 373, 31. 12. 1990, p. 1. Directive as last amended by Regulation (EEC) No 1601/92 (OJ No L 173, 27. 6. 1992, p. 13).

⁽⁵⁾ OJ No L 62, 15. 3. 1993, p. 49. Directive as last amended by Commission Decision 94/723/EC (OJ No L 288, 9. 11. 1994, p. 48).

Whereas, in accordance with Council Directive 70/373/EEC⁽¹⁾, all methods of sampling and methods of analysis necessary for carrying out official checks on feedingstuffs should be adopted at Community level;

Whereas, although undertakings should not have the right to oppose inspections, their legitimate rights must nevertheless be preserved, in particular the right to manufacturing secrecy and the right of appeal;

Whereas the authorities responsible for inspections may differ from one Member State to another; whereas it is therefore desirable to publish a list of the competent authorities in the field in each Member State, with an indication of the territories for which they are competent and the laboratories authorized to carry out analyses in connection with such inspections;

Whereas, although it is primarily for the Member States to lay down their inspection programmes, it is necessary, with a view to the proper functioning of the internal market, to arrange also for coordinated programmes at Community level;

Whereas the Commission should be entrusted with the task of adopting measures for applying this Directive,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

1. This Directive sets out the principles governing the organization of official inspections in the field of animal nutrition.

2. This Directive shall apply without prejudice to more specific Community rules, in particular Community customs rules and Community veterinary rules.

Article 2

1. For the purposes of this Directive the following definitions shall apply:

(a) 'official inspection in the field of animal nutrition', hereinafter called 'inspection', means an inspection by the competent authorities to check compliance with the Community provisions laid down in:

⁽¹⁾ OJ No L 170, 3. 8. 1970, p. 2. Directive as last amended by Regulation (EEC) No 3768/85 (OJ No L 362, 31. 12. 1985, p. 8).

- Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs⁽²⁾,
- Council Directive 74/63/EEC of 17 December 1973 on the fixing of maximum permitted levels for undesirable substances and products in feedingstuffs⁽³⁾,
- Council Directive 77/101/EEC of 23 November 1976 on the marketing of straight feedingstuffs⁽⁴⁾,
- Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs⁽⁵⁾,
- Council Directive 82/471/EEC of 30 June 1982 concerning certain products used in animal nutrition⁽⁶⁾,
- Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes⁽⁷⁾, and
- any other rules in the field of animal nutrition in which provision is made for official inspections to be carried out in accordance with the provisions of this Directive;

- (b) 'documentary check' means verification of the documents accompanying a product or of any other information provided on the product;
- (c) 'identity check' means verification, by visual inspection only, for consistency between the documents, the labelling and the products;
- (d) 'physical check' means a check of the product itself, including, where appropriate, sampling and laboratory testing;
- (e) 'product' means feedingstuffs and all substances used in animal nutrition;
- (f) 'competent authority' means the Member State's authority responsible for carrying out official checks in the field of animal nutrition;
- (g) 'establishment' means any undertaking which produces or manufactures a product or which holds the product at an intermediate stage before marketing or which markets the products;

⁽²⁾ OJ No L 270, 14. 12. 1970. Directive as last amended by Commission Directive 94/77/EC (OJ No L 350, 31. 12. 1994, p. 113).

⁽³⁾ OJ No L 38, 11. 2. 1974, p. 31. Directive as last amended by Commission Directive 94/16/EC (OJ No L 104, 23. 4. 1994, p. 32).

⁽⁴⁾ OJ No L 32, 3. 2. 1977, p. 1. Directive as last amended by Directive 90/654/EEC (OJ No L 353, 17. 12. 1990, p. 48).

⁽⁵⁾ OJ No L 86, 6. 4. 1979, p. 30. Directive as last amended by Directive 93/74/EEC (OJ No L 237, 22. 9. 1993, p. 23).

⁽⁶⁾ OJ No L 213, 21. 7. 1982, p. 8. Directive as last amended by Directive 93/74/EEC (OJ No L 237, 22. 9. 1993, p. 23).

⁽⁷⁾ OJ No L 237, 22. 9. 1993, p. 23.

(h) 'marketing' means the holding of products with a view to their sale or other forms of disposal to others, by way of gift or in return for payment, and also sale and other forms of disposal themselves.

2. The definitions given in the Community legislation relating to the field of animal nutrition shall apply where appropriate.

Article 3

1. Member States shall take all the necessary measures to ensure that inspections are carried out in accordance with this Directive.

2. Member States shall not exclude a product from appropriate inspection on the grounds that it is intended for export.

Article 4

1. Inspections shall be carried out :

- (a) at regular intervals ;
- (b) where non-compliance is suspected ;
- (c) using means proportionate to the desired objective and particularly in the light of the risks and of experience gained.

2. Inspections shall cover all stages of production and manufacture, the intermediate stages prior to marketing, including importation, and the use of products.

The competent authority shall select the stage or stages most appropriate for the intended purpose of the inspection.

3. As a general rule, inspections shall be carried out without prior warning.

4. Inspections shall also cover uses prohibited in relation to animal nutrition.

CHAPTER II

IMPORTS FROM THIRD COUNTRIES

Article 5

Notwithstanding Article 4 (1), Member States shall take all the necessary steps to ensure that when products are introduced into the customs territory of the Community they are subjected by the competent authorities to a documentary check of each batch and to random identity checks in order to verify :

- their nature,
- their origin,
- their geographical destination,

so as to determine the customs procedure applicable to them.

Article 6

For the purpose of the checks provided for in Article 5, Member States may designate particular entry points in their territory for the various types of products.

To the same end they may require notice to be given to them of arrival of products at a particular entry point.

Article 7

Member States shall ensure the conformity of products by means of random physical checks before they are marketed.

Article 8

1. Where the checks show that products do not meet the requirements of the rules, the Member State shall prohibit their entry or marketing and order their redispach out of Community territory ; it shall immediately inform the Commission and the other Member States that it has rejected the products, indicating the infringements found.

2. Notwithstanding paragraph 1, Member States may authorize the carrying out, under the conditions laid down by the competent authority, of one of the following operations :

- bringing the products into line with the requirements within a deadline to be determined, or
- decontamination where appropriate, or
- processing in any other suitable manner, or
- use for other purposes, or
- destruction of the products.

Member States shall ensure that the operations listed in the first subparagraph do not give rise to any adverse effects on human and animal health or on the environment.

3. The costs incurred in the measures taken in accordance with paragraphs 1 and 2 shall be borne by the authorization holder or his representative.

Article 9

1. Where products are not marketed in the territory of the Member State which carries out the checks referred to in Article 5 and, where appropriate, a physical check, that Member State shall provide the person concerned with a document indicating the type of check carried out and its outcome. Commercial documents shall contain a reference to this document.

However, the right of the Member State of destination to carry out random checks on products shall not be affected.

2. A standard document and, where appropriate, detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure laid down in Article 23 before the 30 April 1998.

CHAPTER III

TRADE WITHIN THE COMMUNITY

Article 10

Member States shall take all necessary measures to ensure that products intended for dispatch to another Member State are inspected with the same care as those intended to be marketed in their own territory.

Section 1

Checks at source

Article 11

1. Member States shall ensure that the competent authority carries out checks on establishments in order to satisfy itself that they meet their obligations under Community rules and that products intended to be marketed comply with Community requirements.

2. Where there are grounds for suspecting that requirements are not being met, the competent authority shall carry out the necessary checks and, if the suspicion is confirmed, take the appropriate measures.

Section 2

Control at destination

Article 12

1. The competent authority of the Member State of destination may, at places of destination, check the compliance of products with the provisions of Article 2 (1) (a) by means of non-discriminatory random checks.

2. However, where the competent authority of the Member State of transit or the Member State of destination has information leading it to suspect an infringement,

checks may also be carried out during the transport of products in its territory.

Article 13

1. If, during a check carried out at the place of destination of a consignment or during transport, a Member State establishes the non-compliance of the products with the provisions of Article 2 (1) (a), it shall take the appropriate measures and formally require the consignor, the consignee or any other person entitled to carry out, under the conditions laid down by the competent authority, one of the following operations:

- bringing of the products into compliance within a deadline to be determined, or
- decontamination where appropriate, or
- processing in any other suitable manner, or
- use for other purposes, or
- redispach to the country of origin, after informing the competent authority of the country of the establishment of origin, or
- destruction of the products.

2. The costs incurred in the measures taken in accordance with paragraph 1 shall be borne by the consignor or any other person entitled, including where appropriate the consignee.

Section 3

Cooperation in the event of infringements

Article 14

In the event of the destruction, use for other purposes, redispach to the country of origin or decontamination of the products as provided for in Article 13 (1), the Member State of destination shall contact the Member State of dispatch without delay. In other cases, the Member State of destination may contact the Member State of dispatch. The Member State of dispatch shall take all necessary measures and notify the Member State of destination of the nature and outcome of the checks carried out, the decisions taken and the reasons for such decisions.

If the Member State of destination fears that such measures are inadequate, the two Member States shall together seek ways and means of remedying the situation; if appropriate this may involve a joint on-the-spot inspection.

Where the checks carried out in accordance with Article 12 show repeated irregularities, the Member State of destination shall inform the Commission and the other Member States.

Article 15

1. At the request of the Member State of destination or on its own initiative, taking into account the nature of the infringements established, the Commission may :

- send representatives, in cooperation with the Member State concerned, to the establishment in question,
- request the Member State of dispatch to intensify its checks on the products of the establishment concerned.

2. The Commission shall inform the Member States concerned of its findings.

Pending the Commission's findings, the Member State of dispatch must, if so requested by the Member State of destination, intensify checks on products coming from the establishment in question.

The Member State of destination may, for its part, intensify checks on products coming from the same establishment.

3. The Commission may review the situation within the Committee referred to in Article 23. It may adopt the necessary decisions, including those relating to intra-Community movements of products, in accordance with the procedure laid down in the same Article.

Section 4

Inspections on holdings*Article 16*

Member States shall ensure that the competent authority has access to places where agricultural production is carried on and where the products are manufactured or used in order to carry out the prescribed checks.

CHAPTER IV

GENERAL PROVISIONS*Article 17*

1. Member States shall ensure that inspections are carried out in such a way that delays in the delivery of products are minimized and that inspections do not result in unjustified obstacles to the marketing thereof.

2. Member States shall provide that officials responsible for inspection are subject to professional confidentiality.

Article 18

1. Where products are sampled for the purpose of analysis, Member States shall adopt the provisions necessary :

- to ensure that those subject to checks are entitled to a second opinion,
- to ensure that officially sealed reference samples are preserved.

2. Member States shall draw up a list of laboratories responsible for carrying out analyses ; they shall ensure that such laboratories are designated on account of their capabilities.

3. Member States shall ensure that sampling and analysis are carried out in accordance with Community rules.

However, in the absence of Community rules and methods, Member States shall take all necessary steps to satisfy themselves that inspections are carried out :

- in accordance with standards recognized by international bodies,
- in the absence of such standards, in accordance with scientifically recognized national rules which comply with the general principles of the Treaty.

4. Detailed rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 23.

Article 19

Each Member State shall take the measures required to ensure that all the provisions of this Directive are applied in full. Penalties must be laid down for the event of a failure to comply with those measures. Such penalties shall be effective, shall be commensurate with their purpose and shall have an adequate deterrent effect.

Article 20

Rights of appeal existing under the laws in force in the Member States against decisions by the competent authorities shall not be affected by this Directive.

Decisions taken by the competent authority where an infringement has been found and the reasons for such decisions must be notified to the operator concerned by such decisions or his representative.

If the operator concerned or his representative so requests, the said decisions and reasons must be communicated to him in writing with details of the rights of appeal which are available to him under the law in force in the Member State performing the checks and of the procedure and time limits applicable.

Article 21

Each Member State shall communicate to the Commission one year after this Directive enters into force :

- the competent authority or authorities, their geographical coverage and their sphere of competence,
- the laboratory or laboratories referred to in Article 18 (2),
- where appropriate, the list of entry points referred to in Article 6.

This information, together with subsequent amendments, shall be published in the 'C' series of the *Official Journal of the European Communities*.

Article 22

1. By 1 October 1998 at the latest, Member States shall draw up programmes setting out the national measures to be taken to achieve the aim of this Directive.

These programmes must take into account the specific situation of each Member State and specify the type and frequency of the inspections, which must be performed regularly.

2. Before 1 April each year and before 1 April 2000 for the first time, the Member States shall transmit to the Commission all relevant information concerning the implementation of the programmes referred to in paragraph 1 during the previous year, specifying:

- the criteria used in drawing up the programmes,
- the number and type of inspections carried out,
- the results of the inspections, in particular the number and type of infringements found,
- action taken where infringements have been found.

3. Before 1 October each year and before 1 October 2000 for the first time, the Commission shall submit an overall summary report on the results of inspections carried out at Community level, together with a proposal for a recommendation concerning a coordinated inspection programme for the following year, for adoption in accordance with the procedure under Article 23. This recommendation may be amended at a later date as required by the implementation of the coordinated programme.

The coordinated programme shall indicate, in particular, the priority criteria to be followed for its implementation.

The information provided for in paragraph 2 shall contain a separate section specifically concerning implementation of the coordinated programme.

Article 23

1. The Commission shall be assisted by the Standing Committee for Feedingstuffs, set up by Decision 70/372/EEC⁽¹⁾, hereinafter referred to as 'the Committee'.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the

Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

(b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission, save where the Council has decided against the said measures by a simple majority.

Article 24

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive not later than 30 April 1998. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the area covered by this Directive.

Article 25

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

Article 26

This Directive is addressed to the Member States.

Done at Luxembourg, 25 October 1995.

For the Council

The President

L. ATIENZA

⁽¹⁾ OJ No L 170, 3. 8. 1970, p. 1.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 1 March 1995

on the arrangements for reducing the social security contributions paid by firms in the Mezzogiorno and for assigning to the State some of those contributions

(Only the Italian text is authentic)

(Text with EEA relevance)

(95/455/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 requested the parties concerned to submit their comments pursuant to Article 93,

Whereas :

The measures should have applied from 1 December 1991 to 30 November 1992 as regards Article 1, and from 1 January 1992 to 31 December 1993 as regards Article 2. The draft Law replaced Decree-Law No 14 of 21 January 1992, which covered the same subject, was not notified pursuant to Article 93 (3) of the EC Treaty and was finally reproduced in a Decree-Law of 21 July 1992, also not notified, in response to which the Commission initiated the procedure provided for in Article 93 (2) of the EC Treaty by Decision of 25 June 1992 ⁽¹⁾.

I

(1) By letter dated 8 October 1992 the Italian authorities notified the Commission, pursuant to Article 93 (3) of the EC Treaty, of draft Law No 1536 of 8 September 1992 containing *inter alia* the following provisions :

— Article 1, providing for the refinancing of the reduction in social security contributions provided for in Law No 64 of 1 March 1986 on arrangements for special aid to the Mezzogiorno.

— Article 2, providing for the assignment to the State of social security contributions entailing a further selective reduction in social security contributions for firms in the Mezzogiorno.

(2) Since the aforementioned Decree-Laws had not become laws within the time-limit imposed by the Italian Constitution and had been replaced by draft Law No 1536, the Commission stated in its notice of 18 November 1992, pursuant to Article 93 (2) of the EC Treaty ⁽²⁾, that its Decision of 25 June 1992 had become void, and it initiated the procedure provided for in Article 93 (2) of the EC Treaty in respect of draft Law No 1536 as regards the said measures.

This notice was communicated to Italy on 18 November 1992, and the other Member States and other parties concerned were informed through its publication in the *Official Journal of the European Communities*. Italy, the other Member States

⁽¹⁾ OJ No C 240, 19. 9. 1992, p. 7.

⁽²⁾ OJ No C 99, 8. 4. 1994, p. 3.

and the other parties concerned were given notice of one month within which to submit their comments.

No other Member States or parties availed themselves of this opportunity. The Italian Government initially requested an extension of the deadline. A number of interdepartmental meetings were then held: on 14 December 1992, 11 February 1993, 15 February 1993, 1 July 1993, 4 February 1994, 4 July 1994, 1 August 1994, 25 October 1994, 24 November 1994 and 10 January 1995. The Commissioner responsible met the Italian Minister for the Budget and Economic Planning on the matter on 13 January 1995.

II

- (3) Law No 64 of 1 March 1986, which allows the Italian authorities to reduce the social security contributions of firms in the Mezzogiorno, was declared compatible with the common market, subject to certain conditions, by Commission Decision 88/318/EEC⁽¹⁾. In Italy the contributions amount on average to 45 % of taxable income. In the case in point, the reduction took the form, as regards all non-agricultural firms, of total exemption from contributions during the first ten years for each new job created and a general reduction equivalent to 8,5 % of taxable income. Further, very substantial reductions were also authorized, determined by the recruitment date. The budget allocation for this measure under Article 18, within the total amount of Lit 120 billion (ECU 60 000 million) for Law No 64 as a whole, was Lit 30 000 billion (ECU 15 000 million).

The Italian authorities have made use of the option allowed them regarding social security contributions. They have over the years adopted various acts enabling firms in the Mezzogiorno to enjoy uninterruptedly the maximum reductions allowed. The average reduction per firm (basic rate and additional reductions) has been about 20 %. Since the budget allocation of Lit 30 000 billion was used up in 1989, the measure was refinanced under a number of legislative measures, not notified under Article 93 (3) of the EC Treaty, the total amount of refinancing being Lit 8 188 billion (ECU 4 094 million). In its Decision of 2 October 1991, the Commission declared the refinancing measures compatible with the common market.

- (4) Article 1 of the draft Law under consideration extends the reductions in social security contribu-

tions in the Mezzogiorno from 1 December 1991 to 30 November 1992, limits the total exemption to one year, lowers the general reduction to 7,5 % and provides for total refinancing of Lit 6 766 billion (ECU 3 383 million).

- (5) Since the end of the 1970s, the Italian authorities have in addition granted certain firms other reductions in social security contributions, under a policy known as 'fiscalizzazione', whereby some such contributions are assigned to the State. Starting with an initial Decree-Law No 102 of 7 February 1977, such measures have been provided for by dozens of legislative measures.

The policy whereby some social security contributions are taken over by the State is aimed at charging to taxation social welfare policies (notably health care) which, although extended to include the whole of the population, were historically financed by social security contributions paid by firms. According to information provided by the Italian authorities during the meetings referred to in point 2 above, such contributions represented 17 % of taxable income, with social security contributions as a whole amounting to 45 %. For historical reasons, these contributions are larger in manufacturing than in other sectors. Since the national budget could not bear the burden of an operation on this scale in a single instalment, the scheme was implemented gradually and in stages. The result has been over the years an initially variable reduction in social security contributions by sector and, following Law No 687 of 28 October 1980, by region. In particular, as from 1 July 1990, pursuant to Law No 687, firms in the Mezzogiorno have benefited from a selective reduction, compared with firms in the other Italian regions, of 2,54 %. Following further legislative measures, this advantage reached the level of 6,2 % under Decree-Law No 210 of 4 June 1990. Since 1990, sectoral differences have been eliminated.

- (6) The Commission was informed of the initial legislative acts providing for the scheme up to and including Decree-Law No 633 of 30 December 1979 and assessed them under Article 92 of the EC Treaty, in Decision 80/932/EEC⁽²⁾.

Given the fact that the scheme involved, directly or indirectly, sectoral differences in the taking-over of social security contributions by the State, the Commission took the view that some of the differences, because they were temporary or marginally selective, could be considered not to constitute aid.

⁽¹⁾ OJ No L 143, 10. 6. 1988, p. 37.

⁽²⁾ OJ No L 264, 8. 10. 1980, p. 28.

Since then, no legislative act relating to the scheme has been notified under Article 93 (3) of the EC Treaty, with the exception of the draft Law now being examined.

- (7) Article 2 of the new draft Law increases — until 31 December 1993 — the extent to which social security contributions are charged to general taxation: the increase is 1,44 % for the Centre-North and 1,4 % for the other regions. As the Italian authorities pointed out in the course of the discussions referred to in point 2 above, this meant that the relative advantage enjoyed by firms from the Mezzogiorno as a result of 'fiscalization', which amounted to 6,2 % by virtue of Decree-Law No 210 of 4 June 1990, was reduced by 0,04 % to 6,16 %.

Lastly, Article 2 (4) introduces a new exemption of 0,4 % for certain firms in the building and construction industry. The Italian authorities have explained that this measure is the same for the whole of Italy and does not involve sectoral selectivity because the building and construction industry was excluded nationwide from the measure applied to all other sectors. The fact that the State has shouldered 0,4 % of contributions throughout the country is a first step towards reversing this discrimination, and therefore the measure does not constitute aid.

The amount allocated to these new measures under the scheme is Lit 4 200 billion (ECU 2 100 million).

III

- (8) During the proceedings the Italian authorities argued — leaving aside their comments on the facts as reported above — that due account should be taken of the difficulty, even in social terms, of reviewing aid measures in the disadvantaged regions and the employment-boosting legislation adopted by the Italian Government.

- (9) Since then the measures provided for in the notified draft Law have entered into force through various provisions, particularly Decree-Laws last amended by Law No 151 of 20 May 1993, which in turn was amended by Decree-Law No 245 of 20 July 1993. More integrated regulations were adopted by Law No 21 of 14 January 1994, which *inter alia* established the rate of reduction in social security contributions up to 30 June 1994.

None of those instruments was notified to the Commission pursuant to Article 93 (3) of the EC Treaty. It should be noted that Article 1 (4) of Decree-Law No 12 of 18 January 1993 — which has not become law — provides for the Minister for Labour and Social Welfare, working in conjunction with the Ministers for the Treasury and the Budget, to establish the criteria for reviewing State aid to promote employment as to whether or not it is compatible with Community policy. That provision is incorporated in Law No 21 of 14 January 1994, which empowers the three ministers *inter alia* to adopt new rates of reduction.

Implementation of the measures provided for in the draft Law examined in the present Decision, as contained in all the above acts, entailed the following:

- the reductions in social security contributions in the Mezzogiorno were renewed until the payment period ending 30 June 1994,
- total exemption from social security contributions for new jobs was limited to one year. The general reduction was reduced from 8,5 % to 5 %. The average rate per firm was 16 %,
- authorization was given for the assignment of social security contributions as provided for in the draft Law up to 31 December 1994.

During the interdepartmental discussions the Italian authorities argued that the statement in Decree-Law No 12 of 18 January 1993, to the effect that the Government had taken account of the compatibility of aid measures for the Mezzogiorno with Community guidelines when carrying out its review, constituted a first step towards bringing the Italian system into line with the principles of the common market.

IV

- (10) Whatever their economic or social objective, the measures providing for a selective reduction in social security contributions referred to in Articles 1 and 2 of draft Law No 1536 constitute aid within the meaning of Article 92 (1) of the EC Treaty, since they have the effect of reducing the costs borne by firms in the Mezzogiorno. They thus distort competition and are liable to affect trade, since they apply to all firms in that region. They are consequently aid that is prohibited *per se* under Article 92 (1) of the EC Treaty.

The Commission would stress, in connection with the so-called 'fiscalization' measures, that measures of a general character designed to reduce to cost of social security contributions uniformly in a Member State do not constitute aid. However, selective reductions that favour certain firms compared with others in the same Member State, whether such selectivity is individual, sectoral or regional (as in this case), do constitute aid within the meaning of Article 92 (1) of the EC Treaty, at least as far as the differential portion of the reduction is concerned.

Although the reductions in social security contributions enshrined in Law No 64/86 were deemed by the Commission to be compatible with the common market pursuant to 92 (3) (a) of the EC Treaty in its Decisions on the compatibility of Law No 64/86, their refinancing for the period after 30 November 1991, particularly in view of the fact that they must be seen in conjunction with the 'fiscalization' differential available to firms in the Mezzogiorno from 4 June 1990 at the latest, and the differential itself, as contained in 'fiscalization' legislation after the adoption of Article 2 of the draft Law in question, are not in themselves compatible with the common market.

In its Decision on the compatibility of the Law on the Mezzogiorno, the Commission took the view that only the — already substantial — reductions in social security contributions provided for in Law No 64 of 1 March 1986 were compatible, because of the clearly defined circumstances governing the granting of such reductions. Such circumstances restricted the powers of the Italian authorities, which could grant firms situated in the Mezzogiorno total exemption for ten years in respect of each new job created, a general reduction of 8,5 % and additional reductions throughout the period of assistance — i.e. until 31 December 1993.

However, beginning with Decree-Law No 210 of 4 June 1990, the Italian authorities have granted such firms much larger reductions in social security contributions, through the legislative provisions on the assignment of contributions to the State. Firms in the Mezzogiorno have, by way of a reduction in social security contributions, enjoyed an advantage over their Italian competitors through total exemption in respect of all new jobs created, a reduction in the basic rate plus the 'fiscalization' differential and additional reductions. The average rate per firm was consequently around 27 % when the present proceedings were initiated.

This substantial increase in the reduction percentage which the Commission deemed compatible in the Mezzogiorno has significantly distorted the impact of the reductions authorized by the Commission for the benefit of firms in this region.

V

- (11) The Italian authorities pointed out that by virtue of the provisions adopted and implemented after proceedings had been initiated under Article 93 (2) of the Treaty, the advantages conferred by the reductions in social security contributions authorized for firms in the Mezzogiorno had been significantly reduced, since :

- total exemption for new jobs created, previously valid for ten years, had been limited to one year,
- the general reduction had been cut from 8,5 % to 5 %,
- the 'fiscalization' differential had been cut from 6,2 % to 6,16 %.

The average rate of reduction per firm was thus cut, at 30 June 1994, to 16 % plus 6,16 % 'fiscalization' differential.

Furthermore, this reduction was merely to be the start of a comprehensive review of the system, to be carried out gradually with the long-term aim of eradicating both the reductions authorized under Law No 64 and the 'fiscalization' differential.

- (12) With this in view, by letter of 5 August 1994 from the Ministers for Labour, the Treasury and the Budget, the Italian authorities communicated to Mr Van Miert the text of the interministerial decree of that date extending the reduction rates for social security contributions under Law 64/86 until 30 November 1996. The letter also stated that the Italian Government was prepared to withdraw any reductions granted outside Law 64/86 by 31 December 1997 according to an attached timetable, and to phase out the 'fiscalization' differential.

The timetable for dismantling the system of reductions in social security contributions granted outside Law 64/86 was accordingly established in terms of the overall reduction rate per firm :

- 14,6 % at 1 July 1994
- 14 % at 1 December 1994
- 10,6 % at 1 December 1995
- 6,8 % at 1 December 1996
- 0 % at 1 December 1997.

In the cases of Abruzzi and Molise, which no longer met the conditions for exemption from the prohibition on aid enshrined in Article 92 (3) (a) of the Treaty, the following timetable applied:

- 12 % at 1 July 1994
- 0 % at 1 December 1994.

Finally, in all the regions of the Mezzogiorno the one-year exemption from social security contributions for each new job created prior to 31 December 1997 was confirmed.

- (13) By letter dated 16 December 1994, amended by letter dated 17 January 1995, the Italian Minister for the Budget notified, pursuant to Article 93 (3) of the Treaty, a comprehensive project for State aid to Italian firms which confirmed the measures already examined and included a project for the gradual dismantling of the 'fiscalization' differential enjoyed by firms in the Mezzogiorno until then. The differential was to be phased out according to the following timetable:

in regions other than Abruzzi

- 5 % at 1 July 1995
- 4 % at 1 January 1996
- 3 % at 1 January 1997
- 2 % at 1 January 1998
- 1 % at 1 January 1999
- 0 % at 1 January 2000

in Abruzzi

- 5 % at 1 July 1995
- 3 % at 1 January 1996
- 1 % at 1 July 1996
- 0 % at 1 January 1997.

VI

- (14) The Commission — deciding on other measures of the comprehensive scheme within the framework of aid measure N 40/95 — considers that the reductions being examined and the differential in the extent to which social security contributions are taken over by the Italian authorities are, all in all, incompatible with the common market, but that if the dismantling plan were to be adopted, aid granted as part of this plan would be rendered compatible.

The regions other than Abruzzi and Molise meet all the requisite conditions for exemption under Article 92 (3) (a) covering aid to firms for regional development purposes. The figures for per capita GDP in these regions, expressed as a percentage of the Community average, are as follows: Campania 69,75 %, Basilicata 64,98 %, Apulia 74,3 %, Calabria 58,6 %, Sicily 68,35 %, Sardinia 74,4 %. The

method for the application of Article 92 (3) (a) and (c) ⁽¹⁾ provides for the granting of aid in those regions on condition that it is degressive. In view of the situation of the regions concerned, which have been worse affected than the others by the recent recession and are classified by the Community as Objective 1 areas of the Structural Funds, it is unthinkable that the weak production system could cope overnight with a sharp increase in labour costs generated by a rise in social security contributions as a result of the outright withdrawal of relief. These reductions must be dismantled at a reasonable pace; the timetable applied and proposed by the Italian authorities, which in cumulative terms amounts to approximately 5 % per annum, strikes the right balance between competition requirements and the need to maintain viable production infrastructure in the interest of the regions concerned. The extension *ratione temporis* of the 'fiscalization' differential is justified not merely by the low level of residual aid but also by the burden that absorbing it would represent for the national budget, in that the 'fiscalization' process would have to be speeded up in the Centre-North.

- (15) As regards Abruzzi and Molise, there is no justification for according exemption from the prohibition of aid pursuant to Article 92 (3) (a) of the Treaty. Although some socio-economic indicators still suggest that these regions are experiencing difficulties as compared with the Centre-North, these are not such as to imply an abnormally low standard of living or serious structural underemployment. Furthermore, the per capita GDP of these regions measured in purchasing power standards by the Statistical Office of the European Communities — which is the indicator required under the said method for the application of Article 92 (3) (a) and (c) of the Treaty — is equivalent to 89,85 % of the Union average in the case of Abruzzi and to 78,97 % in the case of Molise. In other words, it is significantly above the threshold qualifying regions for Article 92 (3) (a) of the EC Treaty, which is set at 75 % by the method. Accordingly, the difficulties in question are elements which should be taken into consideration for exemption under Article 92 (3) (c) of the Treaty. Taken as a whole, the provinces of the two regions (NUTS level III) meet the conditions for such exemption: under the first phase of the aforementioned method, the provinces of Pescara (GDP 77,54 %), Chieti (unemployment 119,68 %), Isernia (GDP 81,75 %, unemployment 114,15 %) and Campobasso (GDP 75,17 %, unemployment 140,75 %), the national index being 100; under the second phase (relative weakness of industry, increasing youth unemployment, isolation and ageing of the population), the

⁽¹⁾ OJ No C 212, 12. 8. 1988, p. 2.

provinces of Aquila and Teramo. Both these regions are covered by Objective 1 of the Structural Funds; in the case of Abruzzi, this is limited to 31 December 1996. The aforementioned method does not provide for the awarding of operating aid to the regions qualifying under Article 92 (3) (c). However, the Commission takes into account that the two regions qualified for the exemption under 92 (3) (a) until 31 December 1993 and that in the only comparable case of a region meeting the same conditions (no longer qualifying for Article 92 (3) (a) but eligible for Article 92 (3) (c)) the Commission, by Decision 88/318/EEC⁽¹⁾, had deemed it to be appropriate and compatible with the common market provided that trading conditions were not affected to an extent contrary to the common interest, that temporary accompanying measures — including certain operating aid measures — should be authorized with a view to helping firms in the region, which were still badly affected by development problems, to adapt to new, less incisive forms of economic support. The Commission considers that this is a general principle which takes account of any objective peculiarities of situations which are not comparable to those of the other regions which may qualify for exemption pursuant to Article 92 (3) (c), and it intends to continue applying that principle, whilst accepting that in the same circumstances minor operating aid may be granted on an exceptional, temporary basis. Accordingly, it considers the measures set out by the Italian authorities as part of the comprehensive project, or more specifically, as regards the present decision, the relief from social security contributions authorized in the two regions by the interministerial decree of 5 August 1994 and the gradual reduction in the 'fiscalization' differential, which takes into account the different levels of development in Molise and Abruzzi, to be compatible with the common market in the present case.

Furthermore, the one-year exemption from social security contributions on new jobs created before 31 December 1997 is deemed to be compatible in all the regions concerned. This is an aid measure to promote job creation, the intensity of which is considerably below that of the aid normally approved for this purpose.

- (16) The Commission is forced to conclude that all the reductions enjoyed to date by firms in the Mezzogiorno as from 1 December 1991 as regards relief

from social security contributions already governed by Law No 64/86 and as from 1 July 1990 as regards the 'fiscalization' differential are unlawful because they were awarded in breach of Article 93 (3) of the Treaty.

- (17) The Commission considers that in view of the concerns expressed as to the maintenance of production infrastructure in the regions concerned and the difficulty in estimating with any degree of accuracy the advantage accruing to each recipient, it would not be appropriate to order the Member State to recover aid improperly received,

HAS ADOPTED THIS DECISION :

Article 1

The aid in the form of exemption and relief from social security contributions in the Mezzogiorno referred to in Articles 2, 3 and 4, is deemed compatible with the common market in accordance with the conditions set out therein.

Article 2

The one-year exemption from social security contributions on all new jobs created shall be limited to new jobs created by 31 December 1997 at the latest.

Article 3

In Campania, Basilicata, Apulia, Calabria, Sicily and Sardinia the overall reductions in social security contributions as defined in Article 1 of the relevant Italian interministerial decree of 5 August 1994 shall be limited to :

- 14,6 % as from 1 July 1994
- 14 % as from 1 December 1994
- 10,6 % as from 1 December 1995
- 6,8 % as from 1 December 1996
- 0 % as from 1 December 1997.

⁽¹⁾ OJ No L 143, 10. 6. 1988, Articles 2, 3, 4 and 7.

In Abruzzi and Molise these reductions shall be limited to :

- 12 % as from 1 July 1994
- 0 % as from 1 November 1994.

Article 4

In Campania, Basilicata, Apulia, Calabria, Sicily, Sardinia and Molise the 'fiscalization' differential with the regions of the Centre-North shall be limited to :

- 5 % as from 1 July 1995
- 4 % as from 1 January 1996
- 3 % as from 1 January 1997
- 2 % as from 1 January 1998
- 1 % as from 1 January 1999
- 0 % as from 1 January 2000.

In Abruzzi this differential shall be limited to :

- 5 % as from 1 July 1995
- 3 % as from 1 January 1996

- 1 % as from 1 July 1996
- 0 % as from 1 January 1997.

Article 5

Italy shall adopt all general measures necessary to comply with Articles 2 and 3 by 30 June 1996. It shall notify the Commission thereof by 30 July 1996.

Italy shall adopt all general measures necessary for compliance with Article 4 by 15 April 1995. It shall notify the Commission thereof by 30 April 1995.

Article 6

This Decision is addressed to the Italian Republic.

Done at Brussels, 1 March 1995.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 1 March 1995

**State Aid No C 1A/92 — Greek aid scheme in the pharmaceutical sector,
financed by means of levies on pharmaceutical and other related products**

(Only the Greek text is authentic)

(Text with EEA relevance)

(95/456/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 given notice in accordance with the above Article to interested parties to submit their comments, and having regard to those comments,

Whereas :

I

The Greek National Organization of Pharmaceuticals (NOP) is a public entity founded by Law No 1316 of 11 January 1983.

NOP had the statutory task of protecting and improving public health, as well as the promotion of public interest in the sectors of production, import and movement of pharmaceutical and other related products; the development of relevant commercial/industrial undertakings and the development of technology and research in the pharmaceutical sector.

Until 1991, NOP was financed through collecting directly the proceeds of (a) a levy of 15 % on the wholesale prices of all pharmaceutical products sold in the Greek market whether they originated in Greece, in another Member State or in a third country; (b) a levy of 1 % on the wholesale prices of all cosmetics sold on the Greek market irrespective of Community, Greek or third country origin; (c) other fees and charges imposed on the circulation of pharmaceuticals and related products in the Greek market. NOP was also financed indirectly through State budget transfers, when necessary.

Law No 1316/83 provided for the establishment of two parallel legal entities under the tutelage and control of NOP, namely the National Industry of Pharmaceuticals SA (NIP) in the field of production and the State Deposit

of Pharmaceuticals SA (SDP), in the field of distribution of medicinal products. These were to be legal persons governed by private law.

The statutory task of NIP was the production, import and sale of pharmaceutical items in the internal market, the export of these items, and obtaining any other material necessary for achieving the purposes of NIP and covering the needs of the market.

The share capital of the company consisted of a single share, owned by NOP. The share capital was paid in instalments by NOP through direct transfers from 1985 to 1989 and again in 1991. NIP also disposed of revenues from its own economic activities.

The statutory task of SDP was to import, export and market pharmaceuticals. As in the case of NIP, its share capital consisted of a single share owned by NOP. The operational costs of SDP were also paid by NOP, with profits being returned to NOP.

After 1991, by Law No 1759/88, 1821/1988 and especially Law No 1965/91, Law No 2001/1991 and Law No 2065/92, both the aim of NOP and the method of financing it were altered. Its statutory task is now to protect and improve public health and to promote the public interest as regards pharmaceuticals and other related products; to ensure that there are adequate supplies of guaranteed pharmaceutical products of the best quality on the Greek market; finally to promote and develop technology and research in the pharmaceutical sector.

Regarding the NOP financing, the main source of revenue of this organization is a percentage of 10 % of the product of a levy of 15 % on wholesale prices of all pharmaceutical goods circulating in the Greek market and of a levy of 1 % on wholesale prices of all cosmetic products. These levies strike indiscriminately both locally produced and imported products, whether they originate from other Member States or third countries. By Law No 1965/91, both NIP and SDP were closed down.

Within the framework of NOP and under its tutelage, an Institute for Pharmaceutical Research and Technology (IFET) has been established (Law No 1965/91). Although IFET has been established in law, it has not yet come into operation. IFET is a legal person governed by private law and its statutory tasks include the development of research in pharmaceuticals; quality control for medicines; development and import of technology in the field of pharmaceuticals and import/export of pharmaceuticals only if there is no other possibility of covering specific needs of the Greek market by other means (private importers).

IFET will be partially financed by direct transfers of NOP, by its own revenues from research activities, by loans and by the product of an eventual sale of parts of its property. Thus, a percentage of the public funds directly transferred to NOP will be channelled towards financing of IFET activities.

II

Following a complaint, the Commission requested the Greek authorities by letter dated 22 February 1991 to provide information on aid granted to NIP and SDP, owned by NOP. It also asked for details concerning the levies imposed on pharmaceutical and cosmetic products sold in Greece, which, together with an annual contribution from the State, financed NOP and thus indirectly both NIP and SDP.

The reply from the Greek authorities, dated 2 October 1991, containing general information on NOP's objectives and financial structure, was limited to a proposal to amend the law on NOP. However, the detailed information requested on several occasions by letter and during talks with the Greek authorities was not received (letter dated 25 April 1991 and meeting of the Commission with the Greek Minister of Energy on 18 November 1991).

According to information in the Commission's possession at the time the procedure was initiated, the two undertakings referred to above still received, despite a number of legislative amendments, large transfers of funds from their sole shareholder, the State.

The Commission considered that the conditions of Article 92 (1) were present and none of the derogations provided for in Article 92 (3) (a) (b) or (c) seemed to be applicable.

In the light of the foregoing, the Commission informed the Greek Government by letter of 6 February 1992 that it had initiated the procedure provided for in Article 93 (2) in respect of this scheme of aid by means of levies and invited it to present, within one month of being notified

of that letter, its comments and any information relevant to the aid scheme.

By publication in the *Official Journal of the European Communities*⁽¹⁾, the Commission gave the other Member States and other parties concerned notice to submit their comments on the measures in question within one month of the date of publication of that notice.

III

After a request for prolongation of the initial deadline fixed for the submission of comments, which was accepted by the Commission, the Greek Government submitted its observations by letter dated 30 April 1992.

The Greek authorities replied only partially to the question formulated by the Commission, and were requested by letter dated 28 July 1992 to complete their answer.

After a request for prolongation of the deadline fixed for submission of supplementary information, the Greek Government completed its reply by letters dated 2 and 23 October 1992.

New information submitted by the Greek Government showed that this aid scheme was applied to imports and consisted of an exemption for exports of pharmaceutical and other related products (cosmetics) from Greece from all taxes and levies, including the 15 % levy and the 1 % levy. There were also transfers of funds by NOP to a small research entity, IFET. These transfers could possibly constitute aid.

A new set of questions was submitted to the Greek authorities by letter of 11 March 1993, in order to clarify the situation in the overall aid scheme. In its answer of 21 April 1993, the Greek Government notified the Commission that it was examining the possibility of revising the taxation arrangements in favour of NOP.

At the request of the Greek authorities a meeting was held on 28 May 1993 in Athens. During the meeting the representatives of the Greek Government indicated the willingness of their government to modify the existing legal framework concerning NOP, in accordance with Community legislation.

By letter of 7 June 1993, the Commission reminded the Greek authorities that following the meeting of 28 May 1993, they were expected to notify to the Commission, within 15 working days the measures they were planning to take in order to conform with Community law regarding the scheme of State aid to the pharmaceuticals and cosmetic products sector.

⁽¹⁾ OJ No C 48, 22. 2. 1992, p. 6.

By letter dated 18 October 1993, the Greek authorities informed the Commission that the Greek Government was planning to abolish both the refund of the para-fiscal levy of 15 % and 1 % and the transfer of a 10 % percentage of total receipts from the para-fiscal levy in favour of NOP. However, for internal reasons it had not been possible to introduce these measures in the legislative process up to that moment. By letter of 10 November 1993, the Commission informed the Greek Government that an additional period of 15 working days was granted, in order for it to elaborate and introduce the legislative texts necessary to conform with Community law.

Finally, by letter received on 28 January 1994, the Greek authorities reverted to their former argument that the levies in question were not para-fiscal taxes, since they were paid through the budget of the Ministry of Health, Welfare and Social Security. They repeated that the 10 % was an indicative percentage for calculating the level of the subsidies, so that NOP could plan ahead.

No other Member States or third parties submitted observations within the framework of the procedure further to the publication in the *Official Journal of the European Communities*.

IV

In examining whether the taxation system and the transfers of funds constitute aid within the meaning of Article 92 of the EC Treaty, a distinction has to be made between the initial scheme existing up to 1991 and the scheme existing up to the present.

From January 1983 until 1991, the measures under examination consisted of (a) financing NOP mainly by means of a levy of 15 % on all local and imported pharmaceuticals and of 1 % on other related products (cosmetics) and (b) transferring funds to the two undertakings, NIP and SDP, through NOP.

The transfer of funds from NOP to NIP amounted to Dr 6 billion for the period 1985 to 1989 and again in 1991. Of those amounts, Dr 5 billion were destined as the starting capital of NIP to which Dr 1 billion was added later. These monies were intended for the acquisition and/or construction of three pharmaceuticals factories and printing information material of a public health nature. NIP factories never came into production. As NIP did not own medicine-producing factories, it placed orders for drug production in the private sector.

The transfer of these monies allowed NIP to lower its costs and thus compete on unequal terms with its compe-

titors in the production and marketing of pharmaceutical and other related products. The competitors, both national and other Community producers, not only had to assume all their production costs but were also obliged to finance the development and accrued competition of NOP subsidiaries, at the same time.

The funds transferred to SDP from 1985 to 1991 amounted to Dr 1 185 476 663 and were, according to the Greek Government, intended mainly to finance imports of rare and/or special medicines which the private sector was not importing (AIDS medicines, kidney disorder medicines, etc.).

These transfers allowed SDP to cover its operating costs without bearing any financial costs — thus it could compete with other potential private importers of medicines, who had to bear their full operating costs themselves.

The proceeds of levies are to be considered as public funds, when these are instituted by law. The use of public funds in a Member State to finance an organization which among other activities also promotes the development of undertakings and thus strengthens their position vis-à-vis their competitors within that State and in the Community must be deemed to affect those competitors. The fact that the transfers were financed through levies which also applied to imports from other Member States created additional advantages for the Greek pharmaceutical and cosmetics producers, since companies in other Member States were obliged to co-finance actions benefiting their Greek competitors.

After 1991 and the amendments brought about mainly by Laws Nos 1965/91, 2000/91 and 2065/92, the aid scheme at issue consisted of the following: (a) financing NOP by means of an earmarked percentage of all its revenues including the 15 % and 1 % levies on all pharmaceutical and other related products respectively; (b) possible State aid to research and development in the pharmaceutical sector, through the creation of IFET.

Concerning the first point, it is to be noted that the system of taxation in favour of NOP provides that all revenues of NOP from all sources, including the 15 % and 1 % levies on pharmaceutical and other related products are assimilated to State revenues. They are collected directly by the Treasury and they enter into the State budget. However, a percentage of 10 % of all these revenues is transferred by legal provision to the financing of the organization (NOP). A part of these revenues is to be used to partially finance pharmaceutical research and technology activities undertaken by IFET.

When examining the compatibility of this State aid, a distinction should be made between the part of it which partially finances public health and related activities and that which partially finances applied research and development activities.

Measures to encourage public health activities relatively far from the market are unlikely to affect Community trade. The activities of NOP include public information functions benefiting the whole population in Greece, as well as certification activities for all products originating in the Greek pharmaceutical market. Certification activities benefit all Greek and foreign producers without distinction and the certification charges apply to all producers. So there is no specific, preferential treatment for the Greek pharmaceutical sector. All these activities are unlikely to affect Community trade. Thus they do not fulfil the tests set out in Article 92 (1) of the Treaty and cannot be considered to be aid.

Turning now to the other type of measures within the overall scheme, namely aid to applied research and development in the pharmaceutical sector, the following considerations are relevant. The statutory tasks of IFET as enumerated above include development and advancing of research in pharmaceuticals, quality control for medicines, development and import of technology if there is no other possibility of covering the market needs (no private importers). A percentage of the public funds transferred to NOP will be channeled to financing IFET activities.

According to the judgment of the Court of Justice of the European Communities of 25 June 1970 in Case 47/69, *Government of the French Republic v. Commission*⁽¹⁾, financing a State aid by imposing a compulsory charge constitutes an essential element of the aid and, when assessing such aid, both the aid and the method of financing should be examined for compatibility with Community law.

In this particular case, even if the research bodies were to place the results of their research at the disposal of any interested parties in other Member States, this would not necessarily result in all parties genuinely and equally sharing in the benefits of the research, since even if equality of treatment were legally guaranteed, at a practical level Greek operators would inevitably be in a more favourable position.

Such research is prompted by national specialization, needs and shortcomings. In addition, operators in other Member States often pay for identical research, either directly or by paying a financial contribution to their

counterpart national research centres, and therefore have no need to make use of the findings of Greek bodies.

Even in cases where proposed research aid is considered with the common market as regards both their form and their objectives, financing such aid by means of para-fiscal taxes also imposed on imported Community products has a protective effect beyond that of the aid itself, according to the aforementioned judgment of 25 June 1970.

The use of public funds (proceeds of levies) to finance a research agency which by its activity will strengthen the position of certain undertakings *vis-à-vis* their national or Community competitors, affects those competitors. Moreover, the fact that the transfers will be partly financed through levies on imports from other Member States will create an additional advantage for the Greek pharmaceutical and cosmetics sector, since companies in other Member States will be obliged to co-finance actions benefiting their Greek competitors. This measure clearly constitutes public aid within the meaning of Article 92 (1).

The establishment, until 1991, of the taxation system in favour of NOP, namely the granting of aid to NOP and through it to its subsidiaries NIP and SDP, had not been notified in advance to the Commission as it should have been, according to the procedural rules established in Article 93 (3).

Likewise, the changes brought about in 1991 to the system of granting aid to NOP as well as to IFET had not been notified to the Commission in advance as they should have been according to the procedural rules established in Article 93 (3). Consequently, in both periods the aid was and is being granted illegally by the Greek Government.

V

The volume of trade in pharmaceutical and other related products within the Community exceeded ECU 24 billion in 1991. In the same year Community trade with the four EEA countries (Austria, Finland, Sweden and Norway) in these products exceeded ECU 2,7 billion.

The Greek pharmaceuticals market, on which the undertakings in question were strongly represented, had a turnover of some ECU 320 million in 1991. In the same year exports of pharmaceutical and cosmetic products from Member States to Greece amounted to ECU 282 million. Greek exports of pharmaceutical and cosmetic products to other Member States amounted to ECU 38 million in the same year. It is clear that there existed trade between manufacturers of pharmaceutical and cosmetic products in the Community as well as competition in those products between Member States.

⁽¹⁾ [1970] ECR 487.

In a parallel fashion, trade and competition existed between Community manufacturers of pharmaceutical and cosmetic products and the members of the EEA (Austria, Norway, Finland and Sweden). Exports of those four countries to Greece amounted to ECU 12 million while Greek exports to those countries amounted to ECU 183 000 in the same year.

Consequently, the aid to NOP and through it to NIP and SDP until 1991, reinforced the position of Greek producers *vis-à-vis* their Community and EEA competitors. This aid, partly financed by a levy paid by their competitors, was liable to distort competition and affect Community trade within the meaning of Article 92 (1).

Likewise, the transfer of funds to NOP and through it to IFET after 1991, reinforces the position of Greek producers *vis-à-vis* their competitors. This aid is liable to distort competition and affect trade within the meaning of Article 92 (1).

VI

According to the aforementioned judgment of the Court of Justice, the fact that aid is financed by means of an obligatory contribution constitutes an essential element of the aid; when the compatibility of such aid is assessed, the aid, as well as the way it is financed, must be examined with respect to Community law.

Article 92 (1) of the EC Treaty provides that, in principle, any aid fulfilling the criteria set out therein is incompatible with the common market. The exceptions to this principle, set out in Article 92 (2), are inapplicable in this case in view of the nature and objectives of the aid.

Article 92 (3) lists aid which may be considered compatible with the common market. Compatibility with the Treaty must be viewed in the context of the Community as a whole and not in that of a single Member State. In order to ensure the proper functioning of the common market, the exceptions to the principle of Article 92 (1) set out in paragraph 3 of that Article must be interpreted strictly when any aid scheme or any individual aid award is examined.

The Greek Government has been unable to give, and the Commission to discover any regional consideration in the award of aid to pharmaceutical firms. Consequently, the derogations provided for in Article 92 (3) (a) and (c) for aid that promotes or facilitates the development of certain areas cannot be applied.

As regards the exemption provided for in Article 92 (3) (c) for aid to facilitate the development of certain economic activities, and for the period until 1991, while the aid in question facilitated the development of the individual undertakings in question, they did not appear to foster development of the activities concerned at Community level without adversely affecting trading conditions to an extent contrary to the Community interest. The aid in question allowed the recipient undertakings (namely NIP and SDP) to bear only part of their costs and thus sell at a low price, increasing their market share to the detriment of competitors, who had to finance their development from their own resources.

As regards the exceptions provided for in Article 92 (3) (b), the aid to NIP and SDP intended neither to promote the execution of an important project of common European interest, nor to remedy a serious disturbance in the Greek economy; neither has the Greek Government advanced any arguments in favour of a possible application of these exceptions.

The Commission therefore considers that until 1991 the aid granted to NOP and through it to NIP and SDP, financed by means of levies on sales of pharmaceutical and cosmetic products, does not qualify for any of the exemptions provided for in Article 92 (3) of the EC Treaty.

After 1991, by transferring 10 % of all its revenues, including proceeds of the 15 % and 1 % levy to the financing of NOP, the Greek authorities continue to transfer public funds to that organization.

These transfers, in so far as they finance public health protection activities relatively far from the market, are unlikely to affect trade. Certification activities provided at a fee by NOP indiscriminately to all pharmaceutical producers do not give a competitive advantage to Greek producers. Thus these transfers cannot be considered as aid within the meaning of Article 92 (1).

The transfers used to finance applied research and technology development through NOP to IFET are likely to affect Community trade and to distort competition within the meaning of Article 92 (1). Such aid is intended to facilitate the development of the pharmaceutical sector in Greece and is unlikely to affect trade to an extent contrary to the common interest, if the research fees are paid by the Greek pharmaceutical sector itself. It could qualify, in principle, for the exemption provided for in Article 92 (3) (c).

However, this option cannot be considered because this element of the aid is partially financed by taxes imposed on products from other Member States. Thus the method of financing the aid renders it incompatible with the common market.

This aid is illegal, since it was not notified to the Commission, and must therefore be abolished, unless the method of financing it is amended, so that products from other Member States are no longer taxed.

The Commission notes that the undertakings which benefited from aid prior to 1991, namely NIP and SDP, have been wound up by Law No 1965/91 published on 24 December 1991. The surplus on the winding up has already been transferred to the State budget. Those undertakings did not produce medicinal products themselves, rather they subcontracted their production to third companies. For these reasons a reimbursement of the aid is impossible.

Finally, according to the information provided by the Greek authorities, IFET has not initiated its activities yet — no levy proceeds have been transferred to it,

HAS ADOPTED THIS DECISION :

Article 1

The aid that Greece has granted to the National Organization of Pharmaceuticals up to 1991 and through it to its subsidiaries, the National Industry of Pharmaceuticals SA

and the State Deposit of Pharmaceuticals SA, aid financed through levies also imposed on imports from other Member States, is incompatible with the common market.

Article 2

The aid that Greece plans to award in the form of transfers from the State to the National Organization of Pharmaceuticals and through it to the Institute for Pharmaceutical Research and Technology, in so far as it is partially financed through a levy also imposed on imported pharmaceutical and other related products (cosmetics) is incompatible with the common market and must not be granted.

Article 3

Greece shall inform the Commission within two months from notification of this Decision of the measures it has taken to comply with this Decision.

Article 4

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 1 March 1995.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 19 October 1995

concerning a request for exemption lodged by the Italian Republic pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the Italian text is authentic)

(95/457/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by Commission Directive 93/81/EEC⁽²⁾,

Whereas on 2 May 1995 the authorities of the Italian Republic lodged a request for approval, by the Commission, of an exemption pursuant to Article 8 (2) (c) of Directive 70/156/EEC; whereas this request contains the information required by the abovementioned Article 8; whereas this request concerns the fitting of vehicles with a third stop lamp, as provided for in category ECE S3 by ECE (United Nations Economic Commission for Europe) Regulation No 7 and fitted in accordance with ECE Regulation No 48;

Whereas the reasons stated, whereby the fitting of the stop lamps and the stop lamps themselves do not meet the requirements of Council Directive 76/758/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to end-outline marker lamps, front position (side) lamps, rear position (side) lamps and stop lamps for motor vehicles and their trailers⁽³⁾, as last amended by Commission Directive 89/516/EEC⁽⁴⁾, nor of Council Directive 76/756/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to the installation of lighting and light-signalling devices on motor vehicles and their trailers⁽⁵⁾, as last amended by Commission Directive 91/663/EEC⁽⁶⁾, are justified; whereas the descriptions of the tests, the results thereof and their compliance with ECE Regulations No 7 and No 48 ensure a satisfactory level of safety;

Whereas the Directives concerned will be amended in order to authorize the production and fitting of such stop

lamps; whereas, this being the case, it is therefore justified to authorize EC type-approval for vehicles fitted with the stop lamps covered by this request;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee for the adaptation to technical progress of the Directives for the removal of technical barriers to trade in the motor vehicles sector, as set up by Directive 70/156/EEC,

HAS ADOPTED THIS DECISION:

Article 1

The Commission hereby approves the request lodged by the Italian Republic on 2 May 1995, pursuant to Article 8 (2) (c) of Directive 70/156/EEC, for an exemption concerning the production and fitting of a third stop lamp, as provided for in category ECE S3 by ECE Regulation No 7 and fitted in accordance with ECE Regulation No 48, with a view to granting EC type-approval.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 19 October 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 264, 23. 10. 1993, p. 49.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 54.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 1.

⁽⁵⁾ OJ No L 262, 27. 9. 1976, p. 1.

⁽⁶⁾ OJ No L 366, 31. 12. 1991, p. 17.

COMMISSION DECISION

of 19 October 1995

concerning a request for exemption lodged by the Federal Republic of Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(95/458/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by Commission Directive 93/81/EEC⁽²⁾,

Whereas on 3 January 1995 the authorities of the Federal Republic of Germany lodged a request for approval, by the Commission, of an exemption pursuant to Article 8 (2) (c) of Directive 70/156/EEC; whereas this request contains the information required by the abovementioned Article 8; whereas this request concerns the fitting of vehicles with a third stop lamp, as provided for in category ECE S3 by ECE (United Nations Economic Commission for Europe) Regulation No 7 and fitted in accordance with ECE Regulation No 48;

Whereas the reasons stated, whereby the fitting of the stop lamps and the stop lamps themselves do not meet the requirements of Council Directive 76/758/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to end-outline marker lamps, front position (side) lamps, rear position (side) lamps and stop lamps for motor vehicles and their trailers⁽³⁾, as last amended by Commission Directive 89/516/EEC⁽⁴⁾, nor of Council Directive 76/756/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to the installation of lighting and light-signalling devices on motor vehicles and their trailers⁽⁵⁾, as last amended by Directive 91/663/EEC⁽⁶⁾, are justified; whereas the descriptions of the tests, the results thereof and their compliance with ECE Regulations No 7 and No 48 ensure a satisfactory level of safety;

Whereas the Directives concerned will be amended in order to authorize the production and fitting of such stop lamps; whereas, this being the case, it is therefore justified to authorize EC type-approval for vehicles fitted with the stop lamps covered by this request;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee for the adaptation to technical progress of the Directives for the removal of technical barriers to trade in the motor vehicles sector, as set up by Directive 70/156/EEC,

HAS ADOPTED THIS DECISION:

Article 1

The Commission hereby approves the request lodged by the Federal Republic of Germany on 3 January 1995, pursuant to Article 8 (2) (c) of Directive 70/156/EEC, for an exemption concerning the production and fitting of a third stop lamp, as provided for in category ECE S3 by ECE Regulation No 7 and fitted in accordance with ECE Regulation No 48, with a view to granting EC type-approval.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 19 October 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 264, 23. 10. 1993, p. 49.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 54.

⁽⁴⁾ OJ No L 265, 12. 9. 1989, p. 1.

⁽⁵⁾ OJ No L 262, 27. 9. 1976, p. 1.

⁽⁶⁾ OJ No L 366, 31. 12. 1991, p. 17.

COMMISSION DECISION

of 19 October 1995

concerning a request for exemption lodged by the United Kingdom pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the English text is authentic)

(95/459/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers ⁽¹⁾, as last amended by Commission Directive 93/81/EEC ⁽²⁾,

Whereas on 30 August 1994 the United Kingdom authorities lodged a request for approval, by the Commission, of an exemption pursuant to Article 8 (2) (c) of Directive 70/156/EEC; whereas this request was accompanied by a report containing the information required by the above-mentioned Article 8; whereas this request concerns the fitting of outside rear-view mirrors to a particular type of vehicle, namely a motor vehicle with a reclined fixed-back driver's seat located at the centre of the vehicle;

Whereas the reasons stated, whereby the fitting of an outside rear-view mirror to this particular type of vehicle does not meet the requirements of Commission Directive 88/321/EEC ⁽³⁾, particularly with regard to the driver's field of vision, are justified; whereas the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that provided by the Directive in force;

Whereas the Directive concerned will be amended in order, *inter alia*, to enable outside rear-view mirrors to be fitted correctly to vehicles with the driver's seat located in a central position; whereas, this being the case, it is therefore justified to allow the type of vehicle covered by this request for an exemption to benefit immediately from the granting of EC type-approval;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee for the adaptation to technical progress of the Directives for the removal of technical barriers to trade in the motor vehicles sector, as set up by Council Directive 70/156/EEC,

HAS ADOPTED THIS DECISION:

Article 1

The Commission hereby approves the request lodged by the United Kingdom on 30 August 1994, pursuant to Article 8 (2) (c) of Directive 70/156/EEC, for an exemption concerning the fitting of outside rear-view mirrors to a type of vehicle with a reclined fixed-back driver's seat located at the centre of the vehicle with a view to granting EC type-approval.

Article 2

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 19 October 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 264, 23. 10. 1993, p. 49.

⁽³⁾ OJ No L 147, 14. 6. 1988, p. 77.

COMMISSION DECISION

of 19 October 1995

concerning a request for exemption lodged by the Federal Republic of Germany pursuant to Article 8 (2) (c) of Council Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers

(Only the German text is authentic)

(95/460/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾, as last amended by Commission Directive 93/81/EEC⁽²⁾,

Whereas the authorities of the Federal Republic of Germany lodged a request, consolidated by the request of 5 December 1994, for approval, by the Commission, of an exemption pursuant to Article 8 (2) (c) of Directive 70/156/EEC; whereas these requests were accompanied by a report containing the information required by the abovementioned Article 8; whereas these requests concern one type of gas discharge light source to be installed in four types of headlamps intended for use in motor vehicles;

Whereas the information submitted by the authorities of the Federal Republic of Germany shows that the technology and principle embodied in these new types of gas discharge light source and headlamp do not meet the requirements of Community regulations; whereas, however, the descriptions of the tests, the results thereof and the action taken in order to ensure road safety are satisfactory and ensure a level of safety equivalent to that of the lamps and headlamps covered by the requirements of the Directives in force and, in particular, of Council Directive 76/761/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to motor-vehicle headlamps which function as main-beam and/or dipped-beam headlamps and to incandescent electric filament lamps for such headlamps⁽³⁾;

Whereas these new types of gas discharge light source and headlamp meet the requirements of regulations adopted by the United Nations Economic Commission for Europe; whereas, this being the case, it is therefore justified to allow vehicles equipped with headlamps fitted with the lamps covered by the request for exemption to benefit immediately from the granting of EC type-approval on condition that the vehicles are equipped with

an automatic beam levelling system, a headlamp cleaning system and a system guaranteeing a permanent dipped beam;

Whereas the Community directive concerned will be amended in order to enable discharge lamps embodying this new technology and headlamps equipped with such lamps to be placed on the market;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Committee for the adaptation to technical progress of the Directives for the removal of technical barriers to trade in the motor vehicles sector, as set up by Council Directive 70/156/EEC,

HAS ADOPTED THIS DECISION:

Article 1

The Commission hereby approves the request lodged by the Federal Republic of Germany, as consolidated by the request of 5 December 1994, pursuant to Article 8 (2) (c) of Directive 70/156/EEC, for an exemption concerning one type of gas discharge light source to be installed in four types of headlamps intended to be fitted to motor vehicles.

This request is granted on condition that such vehicles are equipped with an automatic beam levelling system, a headlamp cleaning system and a system guaranteeing a permanent dipped beam.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 19 October 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 264, 23. 10. 1993, p. 49.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 96.

COMMISSION DECISION

of 27 October 1995

**on protection measures in relation to Venezuelan equine encephalomyelitis in
Venezuela and in Colombia**

(Text with EEA relevance)

(95/461/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Community,Having regard to Council Directive 91/496/EEC of 15
July 1991 laying down the principles governing the
organization of veterinary checks on animals entering the
Community from third countries and amending Direc-
tives 89/662/EEC, 90/425/EEC and 90/675/EEC⁽¹⁾, as last
amended by the Act of Accession of Austria, Finland and
Sweden, and in particular Article 18 thereof,Whereas the presence of Venezuelan equine encephalo-
myelitis has been confirmed in Venezuela and in
Colombia ;Whereas the appearance of Venezuelan equine encephalo-
myelitis in Venezuela and in Colombia constitutes a
serious threat to *equidae* of the Member States, taking
into account the various movements of *equidae* ;Whereas, accordingly, it is necessary to prohibit the
re-admission of registered horses after temporary export
from Venezuela and Colombia ;Whereas the measures provided for in this Decision are in
accordance with the opinion of the Standing Veterinary
Committee,

HAS ADOPTED THIS DECISION :

*Article 1*The Member States shall prohibit the re-admission after
temporary export of registered horses from Venezuela and
Colombia.*Article 2*Member States shall amend the measures they apply in
respect of Venezuela and Colombia to bring them into
line with this Decision. They shall inform the Commis-
sion thereof.*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 27 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 268, 24. 9. 1991, p. 56.