

Official Journal

of the European Communities

ISSN 0378-6978

L 198

Volume 39

8 August 1996

English edition

Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1602/96

of 25 July 1996

**fixing special management measures for North Sea herring and amending
Regulation (EC) No 3074/95**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture⁽¹⁾ as amended by the 1994 Act of Accession, and in particular Article 8 (4) thereof,

Whereas the most recent scientific information, and in particular the report of the Advisory Committee for Fisheries Management of the International Council for the Exploration of the Sea, indicates that the stock of herring in the North Sea is outside safe biological limits, that the present fishing mortality is more than double the level considered to be sustainable and that recent recruitment of young fish to the stock is not sufficient to replenish the stock at present exploitation levels;

Whereas, according to scientific advice from the above-mentioned sources, it is necessary to take rapid action to rebuild the stock and to reduce fishing mortality; whereas these measures should consist of a reduction of the catch of herring by fleets landing herring for human consumption in 1996 to half the present figure of total allowable catch (TAC) and of a decrease by 50 % of the fishing mortality of herring caught as a by-catch by other fleets in 1996;

Whereas, in accordance with the procedure provided in Articles 2 and 7 of the Agreement on Fisheries between the European Economic Community and the Kingdom of Norway⁽²⁾, the Community and Norway have held consultations concerning the measures which fall within their remit to be taken for North Sea herring; whereas these consultations have been successfully concluded and measures have been agreed;

Whereas the Commission has already implemented in its Regulation (EC) No 1265/96⁽³⁾ of 1 July 1996 estab-

lishing urgent conservation measures to protect the stock of North Sea Herring such measures under powers delegated to it in accordance with Article 15 of Regulation (EEC) No 3760/92;

Whereas additional, complementary measures are also required to support the measures already implemented; whereas these additional measures should include reduction in the TAC for spats in the North Sea, specification of conditions to be implemented when limits on by-catch are reached and of conditions governing the catching, recording and landing of herring in certain areas;

Whereas it is appropriate to merge these measures and those stipulated in Regulation (EC) No 1265/96 in a single act and to repeal the said Regulation;

Whereas Regulation (EC) No 3074/95⁽⁴⁾ fixes, for certain stocks and group of stocks, the TACs, their allocation to Member States and certain conditions under which they may be fished; whereas certain of its provisions should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Member States where landings occur of herring unsorted from the remainder of the catch shall ensure that adequate sampling systems are in place in order to monitor effectively all landings of by-catches of herring.

It shall be prohibited to land in harbours where such a sampling system is not in place catches of fish containing unsorted herring.

⁽¹⁾ OJ No L 389, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 226, 29. 8. 1980, p. 48.

⁽³⁾ OJ No L 163, 2. 7. 1996, p. 24.

⁽⁴⁾ OJ No L 330, 30. 12. 1995, p. 1. Regulation as last amended by Regulation (EC) No 1088/96 (OJ No L 144, 18. 6. 1996, p. 1).

Article 2

Member States shall adopt special control and management measures and any other actions concerning the capture, sorting and landing of herring taken from the North Sea or from the Skagerrak and Kattegat with a view to ensuring the observance of catch limitations. These measures shall include, in particular:

- (i) special control and inspection programmes;
- (ii) effort plans, including lists of authorized vessels and, where deemed necessary on the basis of quota exhaustion beyond the level of 70 %, limitations on the activity of authorized vessels;
- (iii) control of transshipment and of practices which incur discarding;
- (iv) where possible, temporary prohibition to fish in areas where high by-catch rates of herring, in particular juveniles are known to occur.

Article 3

Inspectors of the Commission shall, in accordance with Article 29 Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾ and whenever the Commission deems it necessary for the purposes of this Regulation, carry out independent inspections to verify the implementation by the competent authorities of the sampling programmes and of the detailed measures mentioned in Articles 1 and 2.

Article 4

The Commission shall prohibit landings of herring if it is deemed that the implementation of the measures mentioned in Articles 1 and 2 do not constitute a sufficient guarantee that a strict control of fishing mortality of herring in all fisheries is achieved.

Article 5

Member States shall communicate to the Commission, at the latest by Friday of every week, the landings of herring and of sprat caught in the zones mentioned in Annexes I and II made in the preceding week.

Article 6

1. All landings of herring caught in ICES areas III a, IV and VII d by vessels which carry on board towed nets only of minimum mesh size equal to or greater than 32 mm, while taking these catches in these areas, will be

counted against a relevant quota as defined in Annex I to this Regulation.

2. All landings of herring caught in ICES areas III a, IV and VII d by vessels which carry on board towed nets of minimum mesh size less than 32 mm, while taking these catches in these areas, will be counted against a relevant quota as defined in Annex II to this Regulation.

3. Herring landed by vessels operating within the conditions defined in paragraph 2 shall not be offered for sale for human consumption.

4. Notwithstanding the conditions defined in paragraphs 1 and 2, all herring caught in ICES area IIIa by vessels fishing for species other than herring as defined in Annex II to this Regulation shall be counted against the corresponding quota defined in Annex II.

Article 7

Regulation (EC) No 3074/95 is hereby amended as follows:

1. The following paragraph shall be inserted in Article 5:

‘2 a Notwithstanding paragraphs 1 and 2, when any of the catch limitations indicated in Annex II to this Regulation are exhausted, it shall be prohibited for vessels operating within the fisheries to which the relevant catch limitations apply to land catches which are unsorted and which contain herring.’

2. The Annex shall become Annex I and shall be amended as follows:

(a) with regard to herring, the entries and footnotes referring to zones IIIa, IVab and IVc, VIId shall be replaced by the entries and footnotes referring to those zones appearing in Annex I to this Regulation;

(b) with regard to sprat, the entries and footnotes referring to zone IIa, IV shall be replaced by the entries and footnotes referring to that zone appearing in Annex I to this Regulation.

3. An Annex II shall be added, as set out in Annex II to this Regulation.

Article 8

Commission Regulation (EC) No 1265/96 is hereby repealed.

Article 9

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

It shall apply until 31 December 1996.

⁽¹⁾ OJ No L 261, 20. 10. 1993, p. 1.

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

Done at Brussels, 25 July 1996.

For the Council

The President

H. COVENY

ANNEX I

Species: Herring ⁽¹⁾ <i>Clupea harengus</i>		Zone: IIIa
België/Belgique		(1) Landed as the entire catch or sorted from the remainder of the catch.
Danmark	37 580 ⁽²⁾	
Deutschland	600 ⁽³⁾	(2) No fishing of this quota may take place, in the Skagerrak, within 4 miles of the baselines of the Kingdom of Norway.
Ελλάδα		(3) No fishing of this quota may take place, in the Skagerrak, within 12 miles of the baselines of the Kingdom of Norway.
España		(4) Precautionary TAC.
France		
Ireland		
Italia		
Luxembourg		
Nederland		
Österreich		
Portugal		
Suomi/Finland		
Sverige	39 320 ⁽²⁾	
United Kingdom		
EC	77 500	
TAC	90 000 ^(*)	
Species: Herring ⁽¹⁾ <i>Clupea harengus</i>		Zone: IVab
België/Belgique		(1) Landed as the entire catch or sorted from the remainder of the catch.
Danmark	21 240	
Deutschland	13 230	(2) May only be fished in IVa and IVb.
Ελλάδα		(3) Of which no more than 45 240 t may be fished in waters under the sovereignty or jurisdiction of Norway.
España		
France	5 410	(4) Member States must inform the Commission of their landings of herring distinguishing between ICES Divisions IVa and IVb.
Ireland		
Italia		
Luxembourg		
Nederland	21 380	
Österreich		
Portugal		
Suomi/Finland		
Sverige	1 590 ⁽²⁾	
United Kingdom	22 910	
EC	85 760 ^{(3) (*)}	
TAC	131 000	

Species: Herring ⁽¹⁾ <i>Clupea harengus</i>		Zone: IVc, VIIId ⁽²⁾
België/Belgique	7 100	⁽¹⁾ Landed as the entire catch or sorted from the remainder of the catch. ⁽²⁾ Except Blackwater stock: reference is to the herring stock in the maritime region of the Thames estuary within a zone delimited by a line running due south from Landguard Point (51° 56'N, 1° 19.1'E) to latitude 51° 33'N and hence due west to a point on the coast of the United Kingdom. ^(*) Precautionary TAC.
Danmark	350	
Deutschland	350	
Ελλάδα		
España		
France	8 680	
Ireland		
Italia		
Luxembourg		
Nederland	6 790	
Österreich		
Portugal		
Suomi/Finland		
Sverige		
United Kingdom	1 730	
EC	25 000	
TAC	25 000 ^(*)	
Species: Sprat <i>Sprattus sprattus</i>		Zone: IIa ⁽¹⁾ , IV ⁽¹⁾
België/Belgique	1 500	⁽¹⁾ Community waters. ⁽²⁾ Available to all member States except Spain, Portugal, Sweden and Finland. ⁽³⁾ Including sandeel. ^(*) Precautionary TAC.
Danmark	1 500	
Deutschland	1 500	
Ελλάδα		
España		
France	1 500	
Ireland		
Italia		
Luxembourg		
Nederland	1 500	
Österreich		
Portugal		
Suomi/Finland		
Sverige	1 330 ⁽³⁾	
United Kingdom	1 500	
	114 670 ⁽²⁾	
EC	125 000	
TAC	150 000 ^(*)	

ANNEX II

ANNEX II

Species: Herring ⁽¹⁾ <i>Clupea harengus</i>	Zone: IIIa
België/Belgique Danmark Deutschland Ελλάδα España France Ireland Italia Luxembourg Nederland Österreich Portugal Suomi/Finland Sverige United Kingdom	⁽¹⁾ By-catches of herring taken in the fishery for sprat and landed unsorted. ⁽²⁾ Available to all Member States except Spain, Portugal and Finland.
12 000 ⁽²⁾	
EC	12 000
TAC	12 000
Species: Herring ⁽¹⁾ <i>Clupea harengus</i>	Zone: IIIa
België/Belgique Danmark Deutschland Ελλάδα España France Ireland Italia Luxembourg Nederland Österreich Portugal Suomi/Finland Sverige United Kingdom	⁽¹⁾ By-catches of herring taken in fisheries for species other than sprat and landed unsorted. ⁽²⁾ Available to all Member States except Spain, Portugal and Finland.
87 000 ⁽²⁾	
EC	87 000
TAC	87 000

Species: Herring ⁽¹⁾ <i>Clupea harengus</i>	Zone: IIa ⁽²⁾ , IV, VIIId
België/Belgique Danmark Deutschland Ελλάδα España France Ireland Italia Luxembourg Nederland Österreich Portugal Suomi/Finland Sverige United Kingdom	⁽¹⁾ By-catches of herring taken in fisheries for species other than herring and landed unsorted. ⁽²⁾ Community waters. ⁽³⁾ Available to all Member States, except Spain, Portugal and Finland. ³
44 000 ⁽³⁾	
EC	44 000
TAC	44 000

COMMISSION REGULATION (EC) No 1603/96

of 7 August 1996

altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Commission Regulation (EC) No 1126/96⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 1536/96⁽³⁾;

Whereas it follows from applying the detailed rules contained in amended Regulation (EC) No 1536/96 to the

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 1536/96 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 August 1996.

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

Done at Brussels, 7 August 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.⁽²⁾ OJ No L 150, 25. 6. 1996, p. 3.⁽³⁾ OJ No L 191, 1. 8. 1996, p. 18.

ANNEX

to the Commission Regulation of 7 August 1996 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund ⁽¹⁾
	— ECU/100 kg —
1701 11 90 100	35,62 ⁽¹⁾
1701 11 90 910	37,12 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	35,62 ⁽¹⁾
1701 12 90 910	37,12 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,3872
	— ECU/100 kg —
1701 99 10 100	38,72
1701 99 10 910	40,64
1701 99 10 950	40,64
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,3872

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

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

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 and Regulation (EC) No 462/96 are observed.

COMMISSION REGULATION (EC) No 1604/96

of 7 August 1996

fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽¹⁾, as last amended by Commission Regulation (EC) No 1126/96 ⁽²⁾,

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

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

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

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

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

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 August 1996.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 150, 25. 6. 1996, p. 3.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ No L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 7 August 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

ANNEX

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

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,04	—	0,17
1703 90 00 ⁽¹⁾	11,43	—	0,00

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

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

COMMISSION REGULATION (EC) No 1605/96

of 7 August 1996

fixing the maximum export refund for white sugar for the first partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1464/96

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Commission Regulation (EC) No 1126/96⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1464/96 of 26 July 1995 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1464/96 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

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

Whereas Council Regulation (EEC) No 990/93⁽⁴⁾, as amended by Regulation (EC) No 1380/95⁽⁵⁾, prohibits trade between the European Community and the Federal

Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof and in Council Regulation (EC) No 462/96⁽⁶⁾; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the first partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1464/96 the maximum amount of the export refund is fixed at ECU 43,643 per 100 kilograms.

2. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 and Regulation (EC) No 462/96 are observed.

Article 2

This Regulation shall enter into force on 8 August 1996.

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

Done at Brussels, 7 August 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 150, 25. 6. 1996, p. 3.

⁽³⁾ OJ No L 175, 27. 7. 1995, p. 12.

⁽⁴⁾ OJ No L 98, 19. 4. 1996, p. 11.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁶⁾ OJ No L 138, 21. 6. 1995, p. 1.

COMMISSION REGULATION (EC) No 1606/96
of 7 August 1996
altering the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by Commission Regulation (EC) No 2931/95⁽²⁾, and in particular Article 17 (3) thereof,

Whereas the export refunds on milk and milk products were fixed by Commission Regulation (EC) No 1466/96⁽³⁾;

Whereas it follows from the application of the detailed rules contained in Regulation (EC) No 1466/96 to the

information known to the Commission that the export refunds for the products listed in the Annex hereto should be altered to the amounts set out therein,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state, as fixed in the Annex to Regulation (EC) No 1466/96 are hereby altered, in respect of the products set out in the Annex hereto, to the amounts set out therein.

Article 2

This Regulation shall enter into force on 8 August 1996.

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

Done at Brussels, 7 August 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 307, 20. 12. 1995, p. 10.

⁽³⁾ OJ No L 187, 26. 7. 1996, p. 59.

ANNEX

to the Commission Regulation of 7 August 1996 fixing the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 10 20 100	+	—	0406 10 20 650	037	—
0406 10 20 230	037	—		039	—
	039	—		046	66,22
	046	25,24		052	66,22
	052	25,24		400	47,83
	400	30,90		404	—
	404	—		600	66,22
	600	25,24		...	94,61
	...	36,05	0406 10 20 660	+	—
0406 10 20 290	037	—	0406 10 20 810	037	—
	039	—		039	—
	046	23,47		046	10,31
	052	23,47		052	10,31
	400	28,74		400	14,73
	404	—		404	—
	600	23,47		600	10,31
	...	33,54		...	14,73
0406 10 20 610	037	—	0406 10 20 830	037	—
	039	—		039	—
	046	43,79		046	17,60
	052	43,79		052	17,60
	400	62,55		400	25,15
	404	—		404	—
	600	43,79		600	17,60
	...	62,55		...	25,15
0406 10 20 620	037	—	0406 10 20 850	037	—
	039	—		039	—
	046	48,01		046	21,34
	052	48,01		052	21,34
	400	68,59		400	30,49
	404	—		404	—
	600	48,01		600	21,34
	...	68,59		...	30,49
0406 10 20 630	037	—	0406 10 20 870	+	—
	039	—	0406 10 20 900	+	—
	046	54,22	0406 20 90 100	+	—
	052	54,22	0406 20 90 913	037	—
	400	77,44		039	—
	404	—		046	41,57
	600	54,22		052	41,57
	...	77,44		400	59,38
0406 10 20 640	037	—		404	—
	039	—		600	41,57
	046	63,61		...	59,38
	052	63,61	0406 20 90 915	037	—
	400	90,88		039	—
	404	—		046	55,42
	600	63,61		052	55,42
	...	90,88		400	79,17
				404	—
				600	55,42
				...	79,17

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 20 90 917	037	—	0406 30 10 400	037	—
	039	—		039	—
	046	58,87		046	26,85
	052	58,87		052	26,85
	400	84,11		400	36,11
	404	—		404	—
	600	58,87		600	26,85
	...	84,11		...	38,36
0406 20 90 919	037	—	0406 30 10 450	037	—
	039	—		039	—
	046	65,81		046	39,07
	052	65,81		052	39,07
	400	94,01		400	52,59
	404	—		404	—
	600	65,81		600	39,07
	...	94,01		...	55,81
0406 20 90 990	+	—	0406 30 10 500	+	—
0406 30 10 100	+	—	0406 30 10 550	037	—
0406 30 10 150	037	—		039	—
	039	—		046	18,31
	046	8,586		052	18,31
	052	8,586		400	24,61
	400	11,33		404	10,75
	404	—		600	18,31
	600	8,586		...	26,14
	...	12,26	0406 30 10 600	037	—
0406 30 10 200	037	—		039	—
	039	—		046	26,85
	046	18,31		052	26,85
	052	18,31		400	36,11
	400	24,61		404	15,04
	404	—		600	26,85
	600	18,31		...	38,36
	...	26,14	0406 30 10 650	037	—
0406 30 10 250	037	—		039	—
	039	—		046	39,07
	046	18,31		052	39,07
	052	18,31		400	52,59
	400	24,61		404	—
	404	—		600	39,07
	600	18,31		...	55,81
	...	26,14	0406 30 10 700	037	—
0406 30 10 300	037	—		039	—
	039	—		046	39,07
	046	26,85		052	39,07
	052	26,85		400	52,59
	400	36,11		404	—
	404	—		600	39,07
	600	26,85		...	55,81
	...	38,36	0406 30 10 750	037	—
0406 30 10 350	037	—		039	—
	039	—		046	46,33
	046	18,31		052	46,33
	052	18,31		400	62,36
	400	24,61		404	—
	404	—		600	46,33
	600	18,31		...	66,19
	...	26,14			

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 30 10 800	037	—	0406 30 39 100	400	52,59
	039	—		404	—
	046	46,33		600	39,07
	052	46,33		...	55,81
	400	62,36		+	—
	404	—		037	—
	600	46,33		039	—
	...	66,19		046	18,31
0406 30 31 100	+	—	0406 30 39 300	052	18,31
	037	—		400	24,61
	039	—		404	10,75
	046	8,586		600	18,31
	052	8,586		...	26,14
	400	11,33		037	—
	404	—		039	—
	600	8,586		046	26,85
0406 30 31 300	...	12,26	0406 30 39 500	052	26,85
	037	—		400	36,11
	039	—		404	15,04
	046	18,31		600	26,85
	052	18,31		...	38,36
	400	24,61		037	—
	404	—		039	—
	600	18,31		046	39,07
0406 30 31 500	...	26,14	0406 30 39 700	052	39,07
	037	—		400	52,59
	039	—		404	—
	046	18,31		600	39,07
	052	18,31		...	55,81
	400	24,61		037	—
	404	—		039	—
	600	18,31		046	39,07
0406 30 31 710	...	26,14	0406 30 39 930	052	39,07
	037	—		400	52,59
	039	—		404	—
	046	18,31		600	39,07
	052	18,31		...	55,81
	400	24,61		037	—
	404	—		039	—
	600	18,31		046	39,07
0406 30 31 730	...	26,14	0406 30 39 950	052	39,07
	037	—		400	52,59
	039	—		404	—
	046	26,85		600	39,07
	052	26,85		...	55,81
	400	36,11		037	—
	404	—		039	—
	600	26,85		046	46,33
0406 30 31 910	...	38,36	0406 30 90 000	052	46,33
	037	—		400	62,36
	039	—		404	—
	046	18,31		600	46,33
	052	18,31		...	66,19
	400	24,61		037	—
	404	—		039	—
	600	18,31		046	46,33
0406 30 31 930	...	26,14	0406 40 50 000	052	46,33
	037	—		400	62,36
	039	—		404	—
	046	26,85		600	46,33
	052	26,85		...	66,19
	400	36,11		037	—
	404	—		039	—
	600	26,85		046	61,90
0406 30 31 950	...	38,36		052	61,90
	037	—		400	62,00
	039	—		404	—
	046	39,07		600	61,90
	052	39,07		...	88,44

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 40 90 000	037	—	0406 90 21 900	037	—
	039	—		039	—
	046	61,90		046	74,22
	052	61,90		052	74,22
	400	62,00		400	95,66
	404	—		404	—
	600	61,90		600	74,22
	...	88,44		...	106,04
0406 90 07 000	037	—	0406 90 23 900	037	—
	039	—		039	—
	046	72,11		046	50,53
	052	72,11		052	50,53
	400	97,72		400	39,90
	404	—		404	—
	600	72,11		600	50,53
	...	103,03		...	72,06
0406 90 08 100	037	—	0406 90 25 900	037	—
	039	—		039	—
	046	75,91		046	61,26
	052	75,91		052	61,26
	400	102,86		400	45,44
	404	—		404	—
	600	75,91		600	61,26
	...	108,45		...	87,51
0406 90 08 900	+	—	0406 90 27 900	037	—
0406 90 09 100	037	—		039	—
	039	—		046	56,13
	046	72,11		052	56,13
	052	72,11		400	41,30
	400	97,72		404	—
	404	—		600	56,13
	600	72,11		...	80,17
	...	103,03	0406 90 31 119	037	—
0406 90 09 900	+	—		039	—
0406 90 12 000	037	—		046	47,33
	039	—		052	47,33
	046	72,11		400	49,43
	052	72,11		404	12,03
	400	97,72		600	47,33
	404	—		...	67,61
	600	72,11	0406 90 31 151	037	—
	...	103,03		039	—
0406 90 14 100	037	—		046	44,12
	039	—		052	44,12
	046	75,91		400	46,20
	052	75,91		404	11,25
	400	102,86		600	44,12
	404	—		...	63,02
	600	75,91	0406 90 31 159	+	—
	...	108,45		037	—
0406 90 14 900	+	—		039	—
	037	—		046	47,33
	039	—		052	47,33
	046	72,11		400	49,43
	052	72,11		404	12,03
	400	97,72		600	47,33
	404	—		...	67,61
	600	72,11	0406 90 33 151	037	—
	...	103,03		039	—
0406 90 16 900	+	—		046	44,12
	037	—		052	44,12
	039	—			
	046	72,11			
	052	72,11			
	400	97,72			
	404	—			
	600	72,11			
	...	103,03			
	+	—			

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 90 33 919	400	46,20	0406 90 63 900	037	44,38
	404	11,25		039	44,38
	600	44,12		046	72,94
	...	63,02		052	72,94
	037	—		400	99,90
	039	—		404	50,53
	046	41,81		600	72,94
	052	41,81		...	104,14
	400	43,67		+	—
	404	10,63	0406 90 69 100	037	—
0406 90 33 951	600	41,81	0406 90 69 910	039	—
	...	59,74		046	80,74
	037	—		052	80,74
	039	—		400	110,38
	046	41,03		404	55,93
	052	41,03		600	80,74
	400	42,97		...	115,34
	404	10,46		037	—
	600	41,03		039	—
	...	58,62		046	73,90
0406 90 35 190	037	30,47	0406 90 73 900	052	73,90
	039	30,47		400	105,56
	046	79,25		404	83,90
	052	79,25		600	73,90
	400	113,21		...	105,56
	404	64,28	0406 90 75 900	037	—
	600	79,25		039	—
	...	113,21		046	61,64
	037	—		052	61,64
	039	—		400	47,83
	046	60,43		404	—
	052	60,43		600	61,64
	400	86,34		...	88,06
	404	—	0406 90 76 100	037	—
	600	60,43		039	—
	...	86,34		046	54,22
0406 90 35 990	037	—		052	54,22
	039	—		400	43,24
	046	60,43		404	—
	052	60,43		600	54,22
	400	86,34		...	77,44
	404	—	0406 90 76 300	037	—
	600	60,43		039	—
	...	86,34		046	66,22
0406 90 37 000	037	—		052	66,22
	039	—		400	47,83
	046	77,97		404	—
	052	77,97		600	66,22
	400	102,86		...	94,61
	404	—	0406 90 76 500	037	—
	600	77,97		039	—
	...	111,38		046	66,22
0406 90 61 000	037	42,75		052	66,22
	039	42,75		400	55,19
	046	85,98		404	—
	052	85,98		600	66,22
	400	123,03		...	94,61
	404	93,10		037	—
	600	85,98		039	—
	...	123,03		046	66,22
0406 90 63 100	037	55,81		052	66,22
	039	55,81		400	55,19
	046	101,06		404	—
	052	101,06		600	66,22
	400	144,12		...	94,61
	404	108,53			
	600	101,06			
	...	144,12			

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 90 78 100	037	—	0406 90 85 995	037	—
	039	—		039	—
	046	45,26		046	62,91
	052	45,26		052	62,91
	400	38,95		400	45,44
	404	—		404	—
	600	45,26		600	62,91
	...	64,59		...	89,88
0406 90 78 300	037	—	0406 90 85 999	+	—
	039	—		+	—
	046	55,37		0406 90 86 100	—
	052	55,37		0406 90 86 200	037
	400	43,23		039	—
	404	—		046	41,80
	600	55,37		052	41,80
	...	79,09		400	59,38
0406 90 78 500	037	—	0406 90 86 300	404	—
	039	—		600	41,80
	046	55,37		...	59,38
	052	55,37		037	—
	400	49,88		039	—
	404	—		046	45,60
	600	55,37		052	45,60
	...	79,09		400	65,08
0406 90 79 900	037	—	0406 90 86 400	404	—
	039	—		600	45,60
	046	56,13		...	65,08
	052	56,13		037	—
	400	41,30		039	—
	404	—		046	51,30
	600	56,13		052	51,30
	...	80,17		400	73,63
0406 90 81 900	037	—	0406 90 86 900	404	—
	039	—		600	51,30
	046	60,43		...	73,63
	052	60,43		037	—
	400	86,34		039	—
	404	—		046	60,33
	600	60,43		052	60,33
	...	86,34		400	86,45
0406 90 85 910	037	30,47	0406 90 87 100	404	—
	039	30,47		600	60,33
	046	79,25		...	86,45
	052	79,25		+	—
	400	113,21		037	—
	404	64,28		039	—
	600	79,25		046	38,67
	...	113,21		052	38,67
0406 90 85 991	037	—	0406 90 87 200	400	54,92
	039	—		404	—
	046	60,43		600	38,67
	052	60,43		...	54,92
	400	86,34			
	404	—			
	600	60,43			
	...	86,34			

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 90 87 300	037	—	0406 90 87 972	046	21,97
	039	—		052	21,97
	046	42,18		400	29,36
	052	42,18		404	—
	400	60,19		600	21,97
	404	—		...	31,64
	600	42,18	0406 90 87 979	037	—
	...	60,19		039	—
0406 90 87 400	037	—		046	58,00
	039	—		052	58,00
	046	47,45		400	51,74
	052	47,45		404	—
	400	68,11		600	58,00
	404	—		...	83,04
	600	47,45	0406 90 88 100	+	—
	...	68,11		037	—
0406 90 87 951	037	—	0406 90 88 200	039	—
	039	—		046	41,80
	046	69,86		052	41,80
	052	69,86		400	59,38
	400	99,74		404	—
	404	59,32		600	41,80
	600	69,86		...	59,38
	...	99,74	0406 90 88 300	037	—
0406 90 87 971	037	—		039	—
	039	—		046	45,60
	046	58,00		052	45,60
	052	58,00		400	65,08
	400	51,74		404	—
	404	—		600	45,60
	600	58,00		...	65,08
	...	83,04			

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6).

For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by '—'.

Where no destination ('+') is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1 (2) and (3).

(**) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 and Regulation (EC) No 462/96 are observed.

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1), as amended.

COMMISSION REGULATION (EC) No 1607/96**of 6 August 1996****establishing unit values for the determination of the customs value of certain perishable goods**

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as amended by Regulation (EEC) No 2454/93 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, as last amended by Regulation (EC) No 482/96 ⁽³⁾, and in particular Article 173 (1) thereof,

Whereas Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation;

Whereas the result of applying the rules and criteria laid down in the abovementioned Articles to the elements

communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173 (1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 August 1996.

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

Done at Brussels, 6 August 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ No L 253, 11. 10. 1993, p. 1.

⁽³⁾ OJ No L 70, 20. 3. 1996, p. 4.

ANNEX

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	øS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
1.10	New potatoes 0701 90 51 0701 90 59	a) b) c)	61,03 352,32 517,51	816,97 394,25 2 392,03	116,08 48,78 50,81	448,52 119 317,92	18 538,59 130,18	9 897,54 11 943,14
1.30	Onions (other than seed) 0703 10 19	a) b) c)	16,02 92,50 135,87	214,50 103,51 628,04	30,48 12,81 13,34	117,76 31 327,26	4 867,36 34,18	2 598,63 3 135,71
1.40	Garlic 0703 20 00	a) b) c)	102,36 590,90 867,93	1 370,17 661,21 4 011,79	194,69 81,82 85,22	752,24 200 113,54	31 091,92 218,32	16 599,62 20 030,39
1.50	Leeks ex 0703 90 00	a) b) c)	36,24 209,21 307,30	485,12 234,11 1 420,41	68,93 28,97 30,17	266,34 70 851,74	11 008,33 77,30	5 877,22 7 091,91
1.60	Cauliflowers 0704 10 10 0704 10 05 0704 10 80	a) b) c)	75,84 437,82 643,09	1 015,22 489,92 2 972,50	144,25 60,62 63,14	557,37 148 272,51	23 037,31 161,77	12 299,35 14 841,36
1.70	Brussels sprouts 0704 20 00	a) b) c)	53,71 310,07 455,44	718,98 346,96 2 105,13	102,16 42,93 44,72	394,73 105 006,81	16 315,06 114,56	8 710,42 10 510,67
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	40,58 234,27 344,10	543,22 262,14 1 590,51	77,19 32,44 33,79	298,23 79 336,74	12 326,66 86,56	6 581,06 7 941,22
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. <i>convar. botrytis</i> (L.) <i>Alef</i> var. <i>italica</i> Plenck) ex 0704 90 90	a) b) c)	105,95 611,65 898,41	1 418,28 684,43 4 152,65	201,52 84,69 88,21	778,65 207 139,67	32 183,58 225,99	17 182,44 20 733,67
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	78,85 455,20 668,61	1 055,51 509,36 3 090,48	149,98 63,03 65,65	579,49 154 157,27	23 951,63 168,19	12 787,50 15 430,39
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 05 0705 11 80	a) b) c)	56,79 327,85 481,55	760,21 366,86 2 225,85	108,02 45,39 47,28	417,36 111 028,43	17 250,64 121,13	9 209,92 11 113,41
1.120	Endives ex 0705 29 00	a) b) c)	21,82 125,97 185,02	292,09 140,96 855,22	41,50 17,44 18,17	160,36 42 659,63	6 628,09 46,54	3 538,66 4 270,02
1.130	Carrots ex 0706 10 00	a) b) c)	30,34 175,15 257,27	406,14 195,99 1 189,16	57,71 24,25 25,26	222,98 59 316,82	9 216,14 64,71	4 920,39 5 937,33
1.140	Radishes ex 0706 90 90	a) b) c)	49,31 284,67 418,13	660,08 318,54 1 932,68	93,79 39,42 41,05	362,39 96 404,50	14 978,50 105,18	7 996,85 9 649,62
1.160	Peas (<i>Pisum sativum</i>) 0708 10 90 0708 10 20 0708 10 95	a) b) c)	294,99 1 702,95 2 501,36	3 948,79 1 905,59 11 561,85	561,08 235,79 245,60	2 167,93 576 721,02	89 605,96 629,21	47 839,58 57 726,97

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	öS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
1.170	Beans:							
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	200,68 1 158,50 1 701,64	2 686,31 1 296,35 7 865,38	381,70 160,41 167,08	1 474,81 392 335,63	60 957,74 428,04	32 544,63 39 270,89
1.170.2	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	119,84 691,83 1 016,18	1 604,20 774,15 4 697,02	227,94 95,79 99,78	880,73 234 293,83	36 402,56 255,62	19 434,91 23 451,67
1.180	Broad beans ex 0708 90 00	a) b) c)	92,83 535,90 787,16	1 242,65 599,67 3 638,42	176,57 74,20 77,29	682,23 181 489,15	28 198,23 198,01	15 054,71 18 166,18
1.190	Globe artichokes 0709 10 30	a) b) c)	115,68 667,82 980,91	1 548,53 747,28 4 534,01	220,03 92,47 96,31	850,16 226 162,50	35 139,19 246,74	18 760,40 22 637,77
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	529,12 3 054,57 4 486,66	7 082,90 3 418,03 20 738,37	1 006,40 422,94 440,53	3 888,59 1 034 458,04	160 725,21 1 128,60	85 809,32 103 544,22
1.200.2	— other ex 0709 20 00	a) b) c)	454,50 2 623,81 3 853,95	6 084,07 2 936,02 17 813,85	864,48 363,30 378,41	3 340,23 888 579,31	138 059,83 969,44	73 708,54 88 942,47
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	142,25 821,21 1 206,23	1 904,22 918,93 5 575,47	270,57 113,71 118,44	1 045,44 278 112,03	43 210,66 303,42	23 069,67 27 837,66
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	84,57 488,22 717,11	1 132,08 546,31 3 314,67	160,86 67,60 70,41	621,52 165 340,27	25 689,15 180,39	13 715,14 16 549,76
1.230	Chantarelles 0709 51 30	a) b) c)	395,84 2 285,15 3 356,51	5 298,78 2 557,06 15 514,56	752,90 316,40 329,56	2 909,09 773 887,28	120 239,97 844,31	64 194,72 77 462,35
1.240	Sweet peppers 0709 60 10	a) b) c)	83,00 479,15 703,80	1 111,06 536,17 3 253,12	157,87 66,34 69,10	609,98 162 269,83	25 212,09 177,04	13 460,44 16 242,42
1.250	Fennel 0709 90 50	a) b) c)	73,55 424,60 623,67	984,56 475,13 2 882,75	139,90 58,79 61,24	540,54 143 795,40	22 341,70 156,88	11 927,97 14 393,22
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	73,47 424,14 622,99	983,49 474,61 2 879,61	139,74 58,73 61,17	539,95 143 638,99	22 317,39 156,71	11 915,00 14 377,56
2.10	Chestnuts (<i>Castanea</i> spp.) fresh ex 0802 40 00	a) b) c)	136,94 790,55 1 161,19	1 833,12 884,62 5 367,28	260,47 109,46 114,01	1 006,40 267 727,29	41 597,17 292,09	22 208,24 26 798,20
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	50,91 293,92 431,71	681,53 328,89 1 995,48	96,84 40,70 42,39	374,17 99 537,31	15 465,25 108,60	8 256,72 9 963,20

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	öS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
2.40	Avocados, fresh ex 0804 40 90 ex 0804 40 20 ex 0804 40 95	a) b) c)	170,83 986,20 1 448,56	2 286,79 1 103,55 6 695,60	324,93 136,55 142,23	1 255,47 333 985,39	51 891,78 364,38	27 704,42 33 430,31
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	111,54 643,91 945,80	1 493,09 720,53 4 371,70	212,15 89,16 92,86	819,73 218 066,36	33 881,28 237,91	18 088,82 21 827,38
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 42 0805 10 51 0805 10 37	a) b) c)	16,35 94,40 138,66	218,90 105,64 640,93	31,10 13,07 13,61	120,18 31 970,48	4 967,30 34,88	2 651,98 3 200,09
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamou- tis, ovalis, trovita and hamlins 0805 10 44 0805 10 55 0805 10 38	a) b) c)	40,91 236,19 346,93	547,68 264,30 1 603,58	77,82 32,70 34,06	300,68 79 988,76	12 427,97 87,27	6 635,15 8 006,49
2.60.3	— Others 0805 10 39 0805 10 46 0805 10 59	a) b) c)	17,96 103,71 152,33	240,48 116,05 704,12	34,17 14,36 14,96	132,03 35 122,44	5 457,02 38,32	2 913,44 3 515,59
2.70	Mandarins (including tangerines and satsu- mas), fresh; clementines, wilkings and simi- lar citrus hybrids, fresh:							
2.70.1	— Clementines 0805 20 21	a) b) c)	70,38 406,32 596,82	942,17 454,67 2 758,62	133,87 56,26 58,60	517,26 137 603,69	21 379,68 150,13	11 414,36 13 773,46
2.70.2	— Monreales and satsumas 0805 20 23	a) b) c)	54,18 312,78 459,42	725,27 350,00 2 123,55	103,05 43,31 45,11	398,18 105 925,69	16 457,83 115,57	8 786,64 10 602,65
2.70.3	— Mandarines and wilkings 0805 20 25	a) b) c)	57,56 332,29 488,08	770,52 371,83 2 256,03	109,48 46,01 47,92	423,02 112 533,83	17 484,54 122,77	9 334,79 11 264,09
2.70.4	— Tangerines and others ex 0805 20 27 ex 0805 20 29	a) b) c)	46,48 268,30 394,09	622,13 300,22 1 821,56	88,40 37,15 38,69	341,56 90 861,88	14 117,34 99,13	7 537,08 9 094,83
2.85	Limes (<i>Citrus aurantifolia</i>), fresh ex 0805 30 90	a) b) c)	113,40 654,67 961,61	1 518,05 732,57 4 444,76	215,70 90,65 94,42	833,42 221 710,80	34 447,52 241,89	18 391,13 22 192,17

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	öS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
2.90	Grapefruit, fresh:							
2.90.1	— white	a)	46,31	619,97	88,09	340,37	14 068,34	7 510,92
	ex 0805 40 90	b)	267,37	299,18	37,02	90 546,53	98,79	9 063,27
	ex 0805 40 20	c)	392,72	1 815,24	38,56			
	ex 0805 40 95							
2.90.2	— pink	a)	62,55	837,26	118,97	459,66	18 999,01	10 143,35
	ex 0805 40 90	b)	361,07	404,04	49,99	122 281,22	133,41	12 239,76
	ex 0805 40 20	c)	530,36	2 451,44	52,07			
	ex 0805 40 95							
2.100	Table grapes	a)	—	—	—	—	—	—
	0806 10 21	b)	—	—	—	—	—	—
	0806 10 29	c)	—	—	—	—	—	—
	0806 10 61							
	0806 10 30							
	0806 10 69							
2.110	Water melons	a)	13,69	183,19	26,03	100,58	4 157,04	2 219,40
	0807 11 00	b)	79,00	88,41	10,94	26 755,52	29,19	2 678,10
		c)	116,04	536,38	11,39			
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro	a)	40,17	537,76	76,41	295,24	12 202,85	6 514,96
	ex 0807 19 00	b)	231,91	259,51	32,11	78 539,85	85,69	7 861,46
		c)	340,64	1 574,53	33,45			
2.120.2	— other	a)	122,58	1 640,90	233,15	900,87	37 235,39	19 879,54
	ex 0807 19 00	b)	707,66	791,86	97,98	239 654,04	261,46	23 988,20
		c)	1 039,43	4 804,48	102,06			
2.140	Pears							
2.140.1	Pears — nashi (<i>Pyrus pyrifolia</i>)	a)	214,87	2 876,38	408,70	1 579,16	65 270,80	34 847,32
	ex 0808 20 41	b)	1 240,47	1 388,07	171,76	420 095,28	458,33	42 049,49
		c)	1 822,04	8 421,89	178,90			
2.140.2	Other	a)	—	—	—	—	—	—
	ex 0808 20 41	b)	—	—	—	—	—	—
		c)	—	—	—	—	—	—
2.150	Apricots	a)	457,51	6 124,37	870,21	3 362,35	138 974,15	74 196,68
	0809 10 10	b)	2 641,19	2 955,47	365,70	894 464,08	975,86	89 531,50
	0809 10 50	c)	3 879,47	17 931,83	380,91			
2.160	Cherries	a)	408,95	5 474,33	777,84	3 005,47	124 223,47	66 321,47
	0809 20 11	b)	2 360,86	2 641,78	326,89	799 525,88	872,29	80 028,65
	0809 20 19	c)	3 467,71	16 028,55	340,48			
	0809 20 21							
	0809 20 29							
	0809 20 71							
	0809 20 79							
2.170	Peaches	a)	—	—	—	—	—	—
	0809 30 19	b)	—	—	—	—	—	—
	0809 30 59	c)	—	—	—	—	—	—
2.180	Nectarines	a)	—	—	—	—	—	—
	ex 0809 30 11	b)	—	—	—	—	—	—
	ex 0809 30 51	c)	—	—	—	—	—	—

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	öS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
2.190	Plums 0809 40 10 0809 40 40	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.200	Strawberries 0810 10 10 0810 10 05 0810 10 80	a) b) c)	125,39 723,87 1 063,25	1 678,51 810,01 4 914,59	238,50 100,23 104,40	921,52 245 146,23	38 088,72 267,46	20 335,12 24 537,95
2.205	Raspberries 0810 20 10	a) b) c)	1 053,81 6 083,61 8 935,81	14 106,60 6 807,50 41 303,41	2 004,40 842,34 877,38	7 744,68 2 060 270,17	320 107,10 2 247,76	170 901,46 206 223,03
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a) b) c)	336,77 1 944,15 2 855,64	4 508,08 2 175,49 13 199,43	640,55 269,19 280,39	2 474,99 658 405,40	102 297,38 718,32	54 615,38 65 903,18
2.220	Kiwi fruit (<i>Actinidia chinensis Planch.</i>) 0810 50 00	a) b) c)	121,70 702,59 1 031,98	1 629,15 786,19 4 770,06	231,48 97,28 101,33	894,42 237 937,30	36 968,66 259,59	19 737,14 23 816,37
2.230	Pomegranates ex 0810 90 85	a) b) c)	115,43 666,37 978,79	1 545,18 745,67 4 524,21	219,55 92,27 96,10	848,32 225 673,73	35 063,25 246,21	18 719,86 22 588,84
2.240	Khakis (including sharon fruit) ex 0810 90 85	a) b) c)	92,38 533,32 783,36	1 236,65 596,78 3 620,86	175,72 73,84 76,92	678,94 180 613,47	28 062,17 197,05	14 982,07 18 078,53
2.250	Lychees ex 0810 90 30	a) b) c)	300,09 1 732,41 2 544,63	4 017,10 1 938,55 11 761,87	570,79 239,87 249,85	2 205,43 586 697,93	91 156,09 640,09	48 667,18 58 725,61

COMMISSION REGULATION (EC) No 1608/96

of 7 August 1996

determining the extent to which applications lodged in July 1996 for import rights in respect of frozen beef intended for processing may be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1382/96 of 17 July 1996 opening and providing for the administration of an import tariff quota for frozen beef intended for processing (1 July 1996 — 30 June 1997) ⁽¹⁾, and in particular the second subparagraph of Article 3 (3) thereof,

Whereas Article 1 (2) of Regulation (EC) No 1382/96 fixes the quantities of frozen beef intended for processing which may be imported under special terms in 1996/97;

Whereas Article 3 (3) of Regulation (EC) No 1382/96 lays down that the quantities applied for may be reduced; whereas the applications lodged relate to total quantities which exceed the quantities available; whereas, under these circumstances and taking care to ensure an equitable distribution of the available quantities, it is appropriate to reduce proportionally the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

Every application for import rights lodged in accordance with Regulation (EC) No 1382/96 for the period 1 July 1996 to 30 June 1997 shall be granted to the following extent, expressed as bone-in beef:

- (a) 0,5296 % of the quantity requested for beef imports intended for the manufacture of 'preserves' as defined by Article 1 (2) (a) of Regulation (EC) No 1382/96;
- (b) 50,0000 % of the quantity requested for beef imports intended for the manufacture of products as defined by Article 1 (2) (b) of Regulation (EC) No 1382/96.

Article 2

This Regulation shall enter into force on 8 August 1996.

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

Done at Brussels, 7 August 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

⁽¹⁾ OJ No L 179, 18. 7. 1996, p. 12.

COMMISSION REGULATION (EC) No 1609/96

of 7 August 1996

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 2933/95⁽²⁾, and in particular Article 4 (1) thereof,Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 August 1996.

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

Done at Brussels, 7 August 1996.

For the Commission

Hans VAN DEN BROEK

Member of the Commission⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.⁽²⁾ OJ No L 307, 20. 12. 1995, p. 21.⁽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 August 1996 establishing the standard import values
for determining the entry price of certain fruit and vegetables

(ECU/100 kg)			(ECU/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value	CN code	Third country code ⁽¹⁾	Standard import value
0702 00 35	052	69,4		388	83,2
	060	80,2		400	74,1
	064	70,8		404	63,6
	066	60,3		416	72,7
	068	80,3		508	113,5
	204	86,8		512	95,2
	208	44,0		524	100,3
	212	97,5		528	82,2
	624	95,8		624	86,5
	999	76,1		728	107,3
ex 0707 00 25	052	62,4	0808 20 57	800	133,4
	053	156,2		804	93,4
	060	61,0		999	90,1
	066	53,8		039	104,1
	068	69,1		052	76,7
	204	144,3		064	72,5
	624	87,1		388	63,5
0709 90 79	999	90,6		400	70,4
	052	54,3		512	88,2
	204	77,5		528	132,9
	412	54,2	0809 20 69	624	79,0
0805 30 30	624	151,9		728	115,4
	999	84,5		800	84,0
	052	131,9		804	73,0
	204	88,8		999	87,2
	220	74,0		052	200,2
	388	86,5		061	182,0
	400	68,2		064	137,1
0806 10 40	512	54,8		066	73,7
	520	66,5		068	91,0
	524	63,0	0809 30 41, 0809 30 49	400	196,4
	528	67,3		600	94,9
	600	96,5		616	123,1
	624	48,9		624	63,7
	999	76,9		676	166,2
	052	112,7	0809 40 30	999	132,8
	064	75,6		052	88,0
	066	49,4		220	121,8
	220	110,8		624	106,8
	400	156,3		999	105,5
0808 10 92, 0808 10 94, 0808 10 98	412	145,2		052	78,8
	508	307,2		064	65,6
	512	186,0		066	66,5
	600	78,4		068	61,2
	624	76,8		400	143,5
	999	129,8		624	180,7
	039	121,0		676	68,6
	052	64,0		999	95,0
	064	78,6			
	070	90,2			
	284	72,1			

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 16). Code '999' stands for 'of other origin'.

REGULATION (EC) No 1610/96 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 23 July 1996****concerning the creation of a supplementary protection certificate for plant protection products**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189b of the Treaty ⁽³⁾,

- (1) Whereas research into plant protection products contributes to the continuing improvement in the production and procurement of plentiful food of good quality at affordable prices;
- (2) Whereas plant protection research contributes to the continuing improvement in crop production;
- (3) Whereas plant protection products, especially those that are the result of long, costly research, will continue to be developed in the Community and in Europe if they are covered by favourable rules that provide for sufficient protection to encourage such research;
- (4) Whereas the competitiveness of the plant protection sector, by the very nature of the industry, requires a level of protection for innovation which is equivalent to that granted to medicinal products by Council Regulation (EEC) No 1768/92 of 18 June 1992 concerning the creation of a supplementary protection certificate for medicinal products ⁽⁴⁾;
- (5) Whereas, at the moment, the period that elapses between the filing of an application for a patent for a new plant protection product and authorization to place the said plant protection product on the market makes the period of effective protection under the patent insufficient to cover the investment put into the research and to generate the resources needed to maintain a high level of research;
- (6) Whereas this situation leads to a lack of protection which penalizes plant protection research and the competitiveness of the sector;
- (7) Whereas one of the main objectives of the supplementary protection certificate is to place European industry on the same competitive footing as its North American and Japanese counterparts;
- (8) Whereas, in its Resolution of 1 February 1993 ⁽⁵⁾ on a Community programme of policy and action in relation to the environment and sustainable development, the Council adopted the general approach and strategy of the programme presented by the Commission, which stressed the interdependence of economic growth and environmental quality; whereas improving protection of the environment means maintaining the economic competitiveness of industry; whereas, accordingly, the issue of a supplementary protection certificate can be regarded as a positive measure in favour of environmental protection;
- (9) Whereas a uniform solution at Community level should be provided for, thereby preventing the heterogeneous development of national laws leading to further disparities which would be likely to hinder the free movement of plant protection products within the Community and thus directly affect the functioning of the internal market; whereas this is in accordance with the principle of subsidiarity as defined by Article 3b of the Treaty;
- (10) Whereas, therefore, there is a need to create a supplementary protection certificate granted, under the same conditions, by each of the Member States at the request of the holder of a national or European patent relating to a plant protection product for

⁽¹⁾ OJ C 390, 31. 12. 1994, p. 21 and OJ C 335, 13. 12. 1995, p. 15.

⁽²⁾ OJ No C 155, 21. 6. 1995, p. 14.

⁽³⁾ Opinion of the European Parliament of 15 June 1995 (OJ C 166, 3. 7. 1995, p. 89), common position of the Council of 27 November 1995 (OJ C 353, 30. 12. 1995, p. 36) and decision of the European Parliament of 12 March 1996 (OJ C 96, 1. 4. 1996, p. 30).

⁽⁴⁾ OJ No L 182, 2. 7. 1992, p. 1.

⁽⁵⁾ OJ No C 138, 17. 5. 1993, p. 1.

which marketing authorization has been granted is necessary; whereas a Regulation is therefore the most appropriate legal instrument;

4, 8 (1) (c) and 17 of Council Regulation (EEC) No 1768/92,

(11) Whereas the duration of the protection granted by the certificate should be such as to provide adequate, effective protection; whereas, for this purpose, the holder of both a patent and a certificate should be able to enjoy an overall maximum of fifteen years of exclusivity from the time the plant protection product in question first obtains authorization to be placed on the market in the Community;

(12) Whereas all the interests at stake in a sector as complex and sensitive as plant protection must nevertheless be taken into account; whereas, for this purpose, the certificate cannot be granted for a period exceeding five years;

(13) Whereas the certificate confers the same rights as those conferred by the basic patent; whereas, consequently, where the basic patent covers an active substance and its various derivatives (salts and esters), the certificate confers the same protection;

(14) Whereas the issue of a certificate for a product consisting of an active substance does not prejudice the issue of other certificates for derivatives (salts and esters) of the substance, provided that the derivatives are the subject of patents specifically covering them;

(15) Whereas a fair balance should also be struck with regard to the determination of the transitional arrangements; whereas such arrangements should enable the Community plant protection industry to catch up to some extent with its main competitors, while making sure that the arrangements do not compromise the achievement of other legitimate objectives concerning the agricultural policy and environment protection policy pursued at both national and Community level;

(16) Whereas only action at Community level will enable the objective, which consists in ensuring adequate protection for innovation in the field of plant protection, while guaranteeing the proper functioning of the internal market for plant protection products, to be attained effectively;

(17) Whereas the detailed rules in recitals 12, 13 and 14 and in Articles 3 (2), 4, 8 (1) (c) and 17 (2) of this Regulation are also valid, *mutatis mutandis*, for the interpretation in particular of recital 9 and Articles 3,

HAVE ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'plant protection products': active substances and preparations containing one or more active substances, put up in the form in which they are supplied to the user, intended to:
 - (a) protect plants or plant products against all harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not otherwise defined below;
 - (b) influence the life processes of plants, other than as a nutrient (e.g. plant growth regulators);
 - (c) preserve plant products, in so far as such substances or products are not subject to special Council or Commission provisions on preservatives;
 - (d) destroy undesirable plants; or
 - (e) destroy parts of plants, check or prevent undesirable growth of plants;
2. 'substances': chemical elements and their compounds, as they occur naturally or by manufacture, including any impurity inevitably resulting from the manufacturing process;
3. 'active substances': substances or micro-organisms including viruses, having general or specific action:
 - (a) against harmful organisms; or
 - (b) on plants, parts of plants or plant products;
4. 'preparations': mixtures or solutions composed of two or more substances, of which at least one is an active substance, intended for use as plant protection products;
5. 'plants': live plants and live parts of plants, including fresh fruit and seeds;
6. 'plant products': products in the unprocessed state or having undergone only simple preparation such as milling, drying or pressing, derived from plants, but excluding plants themselves as defined in point 5;

7. 'harmful organisms': pests of plants or plant products belonging to the animal or plant kingdom, and also viruses, bacteria and mycoplasmas and other pathogens;
8. 'product': the active substance as defined in point 3 or combination of active substances of a plant protection product;
9. 'basic patent': a patent which protects a product as defined in point 8 as such, a preparation as defined in point 4, a process to obtain a product or an application of a product, and which is designated by its holder for the purpose of the procedure for grant of a certificate;
10. 'certificate': the supplementary protection certificate.

Article 2

Scope

Any product protected by a patent in the territory of a Member State and subject, prior to being placed on the market as a plant protection product, to an administrative authorization procedure as laid down in Article 4 of Directive 91/414/EEC⁽¹⁾, or pursuant to an equivalent provision of national law if it is a plant protection product in respect of which the application for authorization was lodged before Directive 91/414/EEC was implemented by the Member State concerned, may, under the terms and conditions provided for in this Regulation, be the subject of a certificate.

Article 3

Conditions for obtaining a certificate

1. A certificate shall be granted if, in the Member State in which the application referred to in Article 7 is submitted, at the date of that application:
 - (a) the product is protected by a basic patent in force;
 - (b) a valid authorization to place the product on the market as a plant protection product has been granted in accordance with Article 4 of Directive 91/414/EEC or an equivalent provision of national law;
 - (c) the product has not already been the subject of a certificate;

⁽¹⁾ OJ L 230, 19. 8. 1991, p. 1. Directive as last amended by Directive 95/36/EC (OJ L 172, 22. 7. 1995, p. 8).

- (d) the authorization referred to in (b) is the first authorization to place the product on the market as a plant protection product.

2. The holder of more than one patent for the same product shall not be granted more than one certificate for that product. However, where two or more applications concerning the same product and emanating from two or more holders of different patents are pending, one certificate for this product may be issued to each of these holders.

Article 4

Subject-matter of protection

Within the limits of the protection conferred by the basic patent, the protection conferred by a certificate shall extend only to the product covered by the authorizations to place the corresponding plant protection product on the market and for any use of the product as a plant protection product that has been authorized before the expiry of the certificate.

Article 5

Effects of the certificate

Subject to Article 4, the certificate shall confer the same rights as conferred by the basic patent and shall be subject to the same limitations and the same obligations.

Article 6

Entitlement to the certificate

The certificate shall be granted to the holder of the basic patent or his successor in title.

Article 7

Application for a certificate

1. The application for a certificate shall be lodged within six months of the date on which the authorization referred to in Article 3 (1) (b) to place the product on the market as a plant protection product was granted.
2. Notwithstanding paragraph 1, where the authorization to place the product on the market is granted before the basic patent is granted, the application for a certificate shall be lodged within six months of the date on which the patent is granted.

*Article 8***Content of the application for a certificate**

1. The application for a certificate shall contain:
 - (a) a request for the grant of a certificate, stating in particular:
 - (i) the name and address of the applicant;
 - (ii) the name and address of the representative, if any;
 - (iii) the number of the basic patent and the title of the invention;
 - (iv) the number and date of the first authorization to place the product on the market, as referred to in Article 3 (1) (b) and, if this authorization is not the first authorization to place the product on the market in the Community, the number and date of that authorization;
 - (b) a copy of the authorization to place the product on the market, as referred to in Article 3 (1) (b), in which the product is identified, containing in particular the number and date of the authorization and the summary of the product characteristics listed in Part A.I (points 1-7) or B.I (points 1-7) of Annex II to Directive 91/414/EEC or in equivalent national laws of the Member State in which the application was lodged;
 - (c) if the authorization referred to in (b) is not the first authorization to place the product on the market as a plant protection product in the Community, information regarding the identity of the product thus authorized and the legal provision under which the authorization procedure took place, together with a copy of the notice publishing the authorization in the appropriate official publication or, failing such a notice, any other document proving that the authorization has been issued, the date on which it was issued and the identity of the product authorized.
2. Member States may require a fee to be payable upon application for a certificate.

*Article 9***Lodging of an application for a certificate**

1. The application for a certificate shall be lodged with the competent industrial property office of the Member State which granted the basic patent or on whose behalf it was granted and in which the authorization referred to in Article 3 (1) (b) to place the product on the market was obtained, unless the member State designates another authority for the purpose.
2. Notification of the application for a certificate shall be published by the authority referred to in paragraph 1.

The notification shall contain at least the following information:

- (a) the name and address of the applicant;
- (b) the number of the basic patent;
- (c) the title of the invention;
- (d) the number and date of the authorization to place the product on the market, referred to in Article 3 (1) (b), and the product identified in that authorization;
- (e) where relevant, the number and date of the first authorization to place the product on the market in the Community.

*Article 10***Grant of the certificate or rejection of the application**

1. Where the application for a certificate and the product to which it relates meet the conditions laid down in this Regulation, the authority referred to in Article 9 (1) shall grant the certificate.
2. The authority referred to in Article 9 (1) shall, subject to paragraph 3, reject the application for a certificate if the application or the product to which it relates does not meet the conditions laid down in this Regulation.
3. Where the application for a certificate does not meet the conditions laid down in Article 8, the authority referred to in Article 9 (1) shall ask the applicant to rectify the irregularity, or to settle the fee, within a stated time.
4. If the irregularity is not rectified or the fee is not settled under paragraph 3 within the stated time, the application shall be rejected.
5. Member States may provide that the authority referred to in Article 9 (1) is to grant certificates without verifying that the conditions laid down in Article 3 (1) (c) and (d) are met.

*Article 11***Publication**

1. Notification of the fact that a certificate has been granted shall be published by the authority referred to in Article 9 (1). The notification shall contain at least the following information:
 - (a) the name and address of the holder of the certificate;
 - (b) the number of the basic patent;

- (c) the title of the invention;
- (d) the number and date of the authorization to place the product on the market referred to in Article 3 (1) (b) and the product identified in that authorization;
- (e) where relevant, the number and date of the first authorization to place the product on the market in the Community;
- (f) the duration of the certificate.

2. Notification of the fact that the application for a certificate has been rejected shall be published by the authority referred to in Article 9 (1). The notification shall contain at least the information listed in Article 9 (2).

Article 12

Annual fees

Member States may require the certificate to be subject to the payment of annual fees.

Article 13

Duration of the certificate

1. The certificate shall take effect at the end of the lawful term of the basic patent for a period equal to the period which elapsed between the date on which the application for a basic patent was lodged and the date of the first authorization to place the product on the market in the Community, reduced by a period of five years.
2. Notwithstanding paragraph 1, the duration of the certificate may not exceed five years from the date on which it takes effect.
3. For the purposes of calculating the duration of the certificate, account shall be taken of a provisional first marketing authorization only if it is directly followed by a definitive authorization concerning the same product.

Article 14

Expiry of the certificate

The certificate shall lapse:

- (a) at the end of the period provided for in Article 13;
- (b) if the certificate-holder surrenders it;
- (c) if the annual fee laid down in accordance with Article 12 is not paid in time;
- (d) if and as long as the product covered by the certificate may no longer be placed on the market following the withdrawal of the appropriate authorization or authorizations to place it on the market in accordance with Article 4 of Directive 91/414/EEC or equivalent provisions of national law. The authority referred to in

Article 9 (1) may decide on the lapse of the certificate either on its own initiative or at the request of a third party.

Article 15

Invalidity of the certificate

1. The certificate shall be invalid if:
 - (a) it was granted contrary to the provisions of Article 3;
 - (b) the basic patent has lapsed before its lawful term expires;
 - (c) the basic patent is revoked or limited to the extent that the product for which the certificate was granted would no longer be protected by the claims of the basic patent or, after the basic patent has expired, grounds for revocation exist which would have justified such revocation or limitation.
2. Any person may submit an application or bring an action for a declaration of invalidity of the certificate before the body responsible under national law for the revocation of the corresponding basic patent.

Article 16

Notification of lapse or invalidity

If the certificate lapses in accordance with Article 14 (b), (c) or (d) or is invalid in accordance with Article 15, notification thereof shall be published by the authority referred to in Article 9 (1).

Article 17

Appeals

1. The decisions of the authority referred to in Article 9 (1) or of the body referred to in Article 15 (2) taken under this Regulation shall be open to the same appeals as those provided for in national law against similar decisions taken in respect of national patents.
2. The decision to grant the certificate shall be open to an appeal aimed at rectifying the duration of the certificate where the date of the first authorization to place the product on the market in the Community, contained in the application for a certificate as provided for in Article 8, is incorrect.

Article 18

Procedure

1. In the absence of procedural provisions in this Regulation, the procedural provisions applicable under national law to the corresponding basic patent and, where appropriate, the procedural provisions applicable to the certificates referred to in Regulation (EEC) No 1768/92,

shall apply to the certificate, unless national law lays down special procedural provisions for certificates as referred to in this Regulation.

2. Notwithstanding paragraph 1, the procedure for opposition to the granting of a certificate shall be excluded.

TRANSITIONAL PROVISIONS

Article 19

1. Any product which, on the date on which this Regulation enters into force, is protected by a valid basic patent and for which the first authorization to place it on the market as a plant protection product in the Community was obtained after 1 January 1985 under Article 4 of Directive 91/414/EEC or an equivalent national provision may be granted a certificate.

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

Done at Brussels, 23 July 1996.

For the European Parliament
The President
K. HÄNSCH

2. An application made under paragraph 1 for a certificate shall be submitted within six months of the date on which this Regulation enters into force.

Article 20

In those Member States whose national law did not, on 1 January 1990, provide for the patentability of plant protection products, this Regulation shall apply from 2 January 1998.

Article 19 shall not apply in those Member States.

FINAL PROVISION

Article 21

Entry into force

This Regulation shall enter into force six months after its publication in the *Official Journal of the European Communities*.

For the Council
The President
M. LOWRY

NINETEENTH COMMISSION DIRECTIVE 96/41/EC

of 25 June 1996

adapting to technical progress Annexes II, III, VI and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community,

Article 1

Directive 76/768/EEC is hereby amended as shown in the Annex.

Having regard to Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products⁽¹⁾, as last amended by Commission Directive 95/34/EC⁽²⁾, and in particular Article 8 (2) thereof,

Article 2

After consultation of the Scientific Committee on Cosmetology,

1. Member States shall take the necessary measures to ensure that as from 1 July 1997 for the substances set out in the Annex, neither manufacturers or importers established in the Community shall place on the market products which do not comply with the requirements of this Directive.

Whereas the available scientific data indicate that urocanic acid interferes with the immune process in the presence of ultraviolet radiation and, therefore, its use should be prohibited;

2. Member States shall take the necessary measures to ensure that the products referred to in paragraph 1 containing the substances set out in the Annex shall not be sold or otherwise supplied to the final consumer after 30 June 1998.

Whereas calcium hydroxide in combination with a guanidine salt and lithium hydroxide used as hair straighteners, may have undesirable effects if they enter into contact with the eyes; whereas, therefore, their use should be subject to certain restrictions and conditions;

Article 3

Whereas, on the basis of the latest scientific and technical research, chlorphenesin, sodium hydroxymethylglycinate and silver chloride deposited on titanium dioxide may be used as preservatives in cosmetic products;

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 June 1997. They shall forthwith inform the Commission thereof.

Whereas, on the basis of the latest scientific and technical research, the polymer of N-[(2 and 4)-[(2-oxoborn-3-ylidene)methyl]benzyl]acrylamide may be used as a UV filter in cosmetic products;

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

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

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in the Cosmetics Products Sector,

Article 4

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

⁽¹⁾ OJ No L 262, 27. 9. 1976, p. 169.

⁽²⁾ OJ No L 167, 18. 7. 1995, p. 19.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 25 June 1996.

For the Commission

Emma BONINO

Member of the Commission

ANNEX

The Annexes to Directive 76/768/EEC are amended as follows:

1. in Annex II the following reference number 418 is added:

'418. 3-Imidazol-4-ylacrylic acid and its ethyl ester (urocanic acid)';

2. reference number 15 in Annex III is replaced by the following reference numbers:

(a)	(b)	(c)	(d)	(e)	(f)
'15a	Potassium or sodium hydroxide	(a) Nail cuticle solvent (b) Hair straightener 1. General use 2. Professional use (c) pH adjuster — depilatories (d) Other uses as pH adjuster	(a) 5 % by weight ⁽¹⁾ (b) 1. 2 % by weight ⁽¹⁾ 2. 4,5 % by weight ⁽¹⁾ (c) Up to pH 12,7 (d) Up to pH 11	.	(a) Contains alkali. Avoid contact with eyes. Can cause blindness. Keep out of reach of children (b) 1. Contains alkali. Avoid contact with eyes. Can cause blindness. Keep out of reach of children 2. For professional use only. Avoid contact with eyes. Can cause blindness. (c) Keep out of reach of children. Avoid contact with eyes
15b	Lithium hydroxide	(a) Hair straightener 1. General use 2. Professional use (b) Other uses	1. 2 % by weight ⁽¹⁾ 2. 4,5 % by weight ⁽¹⁾		1. Contains alkali. Avoid contact with eyes. Can cause blindness. Keep out of reach of children 2. For professional use only. Avoid contact with eyes. Can cause blindness
15c	Calcium hydroxide	(a) Hair straighteners containing two components: calcium hydroxide and a guanidine salt (b) Other uses	7 % by weight calcium hydroxide		Contains alkali. Avoid contact with eyes. Can cause blindness. Keep out of reach of children

⁽¹⁾ The quantity of sodium, potassium or lithium hydroxide is expressed as weight of sodium hydroxide. In cases of mixtures, the sum should not exceed the limits given in column d.

3. in Annex VI:

(a) Part one:

The following reference numbers are added:

(a)	(b)	(c)	(d)	(e)
'50	3-(p-chlorophenoxy)-propane-1,2 diol (chlorphenesin)	0,3 %		
51	Sodium hydroxymethylamino acetate (Sodium hydroxymethylglycinate)	0,5 %		
52	Silver chloride deposited on titanium dioxide	0,004 % calculated as AgCl	20 % AgCl (W/W) on TiO ₂ . Prohibited in products for children under three years of age, in oral hygiene products and in products intended for application around the eyes and on the lips.'	

(b) Part two:

Reference numbers 2 and 30 are deleted.

'30. 6. 1996' is replaced by '30. 6. 1997' for reference numbers 16, 21 and 29;

4. in Annex VII:

(a) Part one:

The following reference number is added:

(a)	(b)	(c)	(d)	(e)
'11	Polymer of N-[(2 and 4)-[(2-oxoborn-3-ylidene)methyl]benzyl]acrylamide	6 %'		

(b) Part two:

Reference numbers 33 and 34 are deleted.

'30. 6. 1996' is replaced by '30. 6. 1997' for reference numbers 2, 5, 6, 12, 13, 17, 25, 26, 29 and 32.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 March 1996

on State aid that Bavaria granted to the ECSC steel undertaking Neue Maxhütte Stahlwerke GmbH, Sulzbach-Rosenberg

(Only the German text is authentic)

(Text with EEA relevance)

(96/484/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4 (c) thereof,

Having regard to Decision No 3855/91/ECSC of 27 November 1991 establishing Community rules for aid to the steel industry⁽¹⁾,

Having given notice, in accordance with Article 6 (4) of that Decision, to the other Member States and the parties concerned to submit their comments,

Having regard to the comments received,

Whereas:

I

On 19 July 1995 the Commission decided to initiate the procedure provided for in Article 6 (4) of Decision No 3855/91/ECSC (Steel Aids Code, hereinafter referred to as 'the SAC') with respect to a series of loans totalling DM 24,1125 million (ECU 12,82 million) which Freistaat Bayern (Bavaria) granted between July 1994 and March 1995 to Neue Maxhütte Stahlwerke GmbH (hereinafter referred to as 'NMH'). The Commission concluded, on the basis of the information provided by the German Government, that the loans granted to the company were possibly not to be regarded as a genuine provision of risk

capital according to usual investment practice in a market economy and might therefore represent State aid that would be incompatible with the provisions of the SAC and the Treaty establishing the European Coal and Steel Community (hereinafter referred to as 'the ECSC Treaty').

The Commission informed the German Government, by letter dated 25 September 1995, of its decision to initiate the procedure and requested its comments and additional information it might consider relevant to the case. The reply of the German authorities dated 20 October 1995 contained some additional information concerning the Bavarian Government's reasons for granting the loans and referred to its communications dated 13 January 1995 and 15 May 1995, submitted in the framework of the procedure initiated on 30 November 1994⁽²⁾, in which it further referred to its communications of 15 July 1994, 14 September 1994 and 9 December 1994, submitted in the procedure concerning the intended financial measures in favour of NMH and Lech-Stahlwerke GmbH (hereinafter referred to as 'LSW') in relation to the privatization plan of Bavaria; it stressed that the loans should only ever be viewed in relation to this plan (for a full description of the German Government's position see section III).

The Commission decided on 4 April 1995⁽³⁾, that the intended loss compensation of DM 125,7 million (ECU 67,81 million) and the contribution for investment of DM

⁽¹⁾ OJ No L 362, 31. 12. 1991, p. 57.

⁽²⁾ OJ No C 173, 8. 7. 1995, p. 3.

⁽³⁾ OJ No L 253, 21. 10. 1995, p. 22.

56 million (ECU 29,78 million) in favour of NMH, together with the intended loss compensation of DM 20 million (ECU 10,63 million) for LSW, would represent State aid incompatible with the Steel Aids Code and that Bavaria should consequently not grant the aids. The measures were foreseen in connection with the intended privatization of the 45 % share of Bavaria in NMH and its 19,734 % share in LSW to the Aicher group. The German Government filed an application for annulment of the decision with the European Court of Justice⁽¹⁾. NMH filed an application for annulment of the decision with the European Court of First Instance⁽²⁾.

On 18 October 1995, the Commission decided that loans totalling DM 49,825 million (ECU 26,5 million) which Bavaria had granted between March 1993 and August 1994 to Neue Maxhütte Stahlwerke GmbH represented State aid incompatible with the provisions of the SAC and the ECSC Treaty and should therefore be recovered⁽³⁾. The German Government filed an application for annulment of that decision with the European Court of Justice⁽⁴⁾ and submitted an application under Article 39 (2) of the ECSC Treaty. NMH filed an application for annulment of the decision with the European Court of First Instance⁽⁵⁾.

The letter by which the Commission informed the German authorities of its decision to initiate the current procedure was published in the *Official Journal of the European Communities*⁽⁶⁾, inviting the other Member States and interested third parties to submit their comments.

In the framework of the present procedure the Commission received the following comment:

A national Steel Producers Association referred to its comments submitted in the framework of the procedure initiated on 30 November 1994, in which it pointed out that it is a basic tenet of Community case-law on State aid that in the case of enterprises with mixed State and private ownership, such as NMH, the action of the private investor is a key indicator of whether the State's involvement can be construed as normal market practice in a market economy. It further stressed that Bavaria, holding only 45 % of the shares of the company, was the only shareholder to grant loans during the period from July 1994 until March 1995 while the other shareholders had not participated in the financing of the company. It therefore endorsed the Commission's initial conclusion that the loans might represent State aid.

The comment was communicated to the German Government by letter dated 18 January 1996, requesting its reaction. By letter dated 13 February 1996, the German authorities submitted their remarks as requested. They repeated their opinion that the loans should be seen exclusively in connection to the privatization plan of the Bavarian Government. The loans were granted, according to the German Government, to maintain the company in operation until the privatization plan of the Bavarian Government could finally be implemented. Since the Commission had decided in April 1995 that the financial measures of the State necessary for the privatization constituted illegal State aid, the privatization plan could only be implemented after the expected annulment of that decision by the Court of Justice.

The German authorities pointed out that the State of Bavaria could expect a repayment of the loans should it keep its shares and should the financial performance of NMH improve.

II

On the basis of the information received, the relevant facts appear to be as follows:

On 16 April 1987, formal bankruptcy proceedings concerning Eisenwerk-Gesellschaft Maximilianshütte mbH ('Maxhütte') were initiated. The administrator in bankruptcy decided to continue operations in order to prepare a restructuring plan. In mid-1990, two newly created companies, Neue Maxhütte Stahlwerke GmbH (NMH), covering the ECSC products range of Maxhütte, and Rohrwerke Neue Maxhütte GmbH (RNM), covering tube production, took over the activities of the former Maxhütte. NMH is 85 % shareholder of RNM, the remaining 15 % being held by Kühnlein, Nuremberg, the main sales agency for the tubes produced.

The initial shareholders of NMH were Bavaria (45 %), Thyssen Edelstahlwerke AG (5,5 %), Thyssen Stahl AG (5,5 %), Lech-Stahlwerke GmbH (11 %), Krupp Stahl AG (11 %), Klöckner Stahl GmbH (11 %) and Mannesmann Röhrenwerke AG (11 %)⁽⁷⁾. In order to enable LSW to participate in NMH, Bavaria took over a 19,734 % share in LSW in 1988. By Decision dated 26 July 1988, the Commission concluded that the participation of the State in both companies did not contain State aid elements⁽⁸⁾.

In August 1992, the German authorities notified the Commission of the intention of the Bavarian Government to grant a loan totalling DM 4,5 million (ECU 2,4

⁽¹⁾ Case C/158/95, OJ No C 208, 12. 8. 1995, p. 8.

⁽²⁾ Case T/129/95, OJ No C 229, 2. 9. 1995, p. 21.

⁽³⁾ OJ No L 53, 2. 3. 1996, p. 41.

⁽⁴⁾ Case C/399/95, OJ No C 77, 16. 3. 1996, p. 5.

⁽⁵⁾ Case T/2/96, OJ No C 64, 2. 3. 1996, p. 23.

⁽⁶⁾ OJ No C 312, 23. 11. 1995, p. 19.

⁽⁷⁾ See Commission Decision of 27 June 1989, 19th Report on Competition Policy (1990), point 75, p. 86; *Bulletin EC* 6-1989, point 2. 1. 74.

⁽⁸⁾ See 18th Report on Competition Policy (1989), point 198, p. 163.

million) to NMH. The Commission decided that the loan would not constitute State aid because all private shareholders were prepared to grant similar loans under the same conditions in line with their participation. The State thus acted similarly to the private shareholders of the company. The German authorities were informed about this decision and its reasoning by letter dated 2 February 1993 (¹).

By agreement dated 7 December 1992 and 3 March 1993, Klöckner Stahl GmbH transferred its shares in NMH to Annahütte Max Aicher GmbH & Co KG, Hammerau (hereinafter referred to as 'Annahütte'), for a purchase price of 1,00 DM (ECU 0,53). On 14 June 1993, Krupp Stahl AG, Thyssen Stahl AG and Thyssen Edelstahlwerke AG transferred their shares in NMH to LSW for a purchase price totalling DM 200 000 (ECU 106 382). The transfer of the shares of those four shareholders to the two companies of the Aicher group became valid on 21 March 1994 when the Bavarian Government had given its assent, which was necessary according to the partnership agreement.

The present shareholding situation therefore is as follows:

Bavaria	45 %
LSW	33 %
Annahütte	11 %
Mannesmann Röhrenwerke AG	11 %

LSW and Annahütte are controlled by the entrepreneur Mr Aicher.

NMH is producing some 299 kilotons per year (kt/y) crude steel (capacity: 444 kt/y), 81 kt/y semi-finished products and some 85 kt/y p.a. light and heavy sections (capacity: 258 kt/y). Its subsidiary RNM produces approximately 70 kt/y tubes (capacity: 136 kt/y). NMH employs about 870 persons (as at 31 October 1995); RNM employs 560 persons. NMH has never made profits since its establishment in mid-1990. The total losses until the end of 1994 were established at DM 156,4 million (ECU 83,19 million). In 1993, the company suffered losses of approximately DM 88 million (ECU 46,8 million) and had a turnover of DM 216 million (ECU 114,9 million). 25 % of the losses were related to the agreement of transfer of profits and losses with RNM. In 1994, NMH suffered losses of around DM 44 million (ECU 23,4 million) and had a turnover of DM 284 million (ECU 151 million). Around one-third of these losses were related to the agreement of transfer of profits and losses with RNM.

As from March 1992, when Thyssen, Krupp and Klöckner informed their fellow shareholders that they had decided to withdraw from their participation, Bavaria was looking for a viable privatization and restructuring

plan. The Bavarian entrepreneur Max Aicher, participating in NMH through LSW, proposed a restructuring of the company based on traditional blast furnace technology using the synergy advantages of a grouping of the Bavarian steel companies NMH, Annahütte and LSW. The costs of this plan to Bavaria were estimated at about DM 200 million (ECU 106,4 million). Manfred Kühnlein, the Nuremberg tube trader holding 15 % in RNM, proposed a plan called M.A.R.S., in which a group of 14 partners would have implemented a new technology designed by Voest Alpine AG and Mercedes Benz AG for the recycling of car frames. The costs of this plan to Bavaria were finally estimated at about DM 280 million (ECU 148,9 million). Later in 1993, the US recycling specialist WMX Technologies Inc. with its German subsidiary Waste Management GmbH started feasibility studies concerning the car recycling plan. In early 1994, Waste concluded that the recycling plan would not become viable. The Bavarian authorities decided in March 1994 the honour the proposal of Aicher. In May 1994, the German Government notified the Commission of Bavaria's intended financial measures in connection with the Aicher plan.

Bavaria and Max Aicher GmbH & Co. agreed by contract dated 27 January 1995 that the State would sell its 45 % share in NMH to Max Aicher GmbH & Co. for DM 3,00 (ECU 1,59). They further agreed that Bavaria would pay 80,357 % of the losses of NMH accumulated until the end of 1994. The losses were finally fixed at DM 156,4 million (ECU 83,19 million), so that the payment of Bavaria under the contract would amount to DM 125,7 million (ECU 67,81 million). The shareholders' loans granted by Bavaria could, according to the contract, be offset against the intended contribution once the contract entered into force. The parties to the said contract further agreed that Bavaria should pay up to DM 56 million (ECU 29,78 million) to cover costs of investments. The Bavarian State and Mr Aicher agreed in a second contract dated 27 January 1995 that the State would sell its 19,734 % share in LSW to Mr Aicher for DM 1,00 (ECU 0,53) and that the State should pay a 'countervailing payment' of DM 20 million (ECU 10,63 million) to LSW.

The German Government notified the Commission of the intended financial measures as described above. The Commission decided on 4 April 1995 that these measures would represent State aid and should therefore not be granted. The contracts consequently did not enter into force because they were concluded under the condition of the assent of the Commission.

By letters dated 13 January 1995 and 15 May 1995 the German Government informed the Commission that the Bavarian Government had granted the following loans to NMH, in addition to those subject to the decision of 18 October 1995, to allow the company to continue its operations.

(¹) Commission Decision of 23 December 1992, see *Bulletin EC* 12-1992, point 1. 3. 78.

July 1994	DM 4,7 million (ECU 2,47 million)
September 1994	DM 10,0 million (ECU 5,26 million)
October 1994	DM 4,3125 million (ECU 2,27 million)
March 1995	DM 5,1 million (ECU 2,68 million)
DM 24,1125 million (ECU 12,68 million)	

The loans were granted for ten years at an interest rate of 7,5 % p.a. NMH was supposed to make annual repayments, but only if it achieved profits during the preceding year.

The other shareholders of NMH (Mannesmann Röhrenwerke AG (11 %), LSW (33 %) and Annahütte (11 %)) did not participate in the financing of the company after December 1993.

III

The German Government submitted its comments on the Commission's decision to initiate the procedure and replied to the comments received. The German Government is of the opinion that the loans in question should be seen exclusively in connection with the privatization and restructuring plan and should not be regarded as aid.

The German authorities explained that Bavaria had decided in 1992 to terminate its participation in NMH and to find an industrial solution for the future of the company. The Bavarian authorities conducted difficult negotiations with several potential industrial partners throughout the year 1993 and until March 1994. In May 1994, they notified the Commission of the intended financial measures related to the Aicher plan, which adopted its final decision as regards these measures on 4 April 1995.

The loss-making NMH would not have survived the period up to the final decision of the Commission concerning the intended financial measure to allow privatization without the liquidity being provided by its shareholder, Bavaria. The loans of Bavaria were granted to hedge the intended privatization of its shares. Since Bavaria was the major shareholder (45 %) in NMH, the German authorities consider the financing of NMH to be in line with the normal behaviour of a solvent partner in a social market economy, even in a situation in which the other shareholders, holding the majority of shares, are not prepared to participate in the financing.

The German authorities referred to their communications during the procedure covering the intended financial

measures in connection with the privatization and restructuring plan in which they reported some cases which they consider to support their opinion that private investors would behave in a comparable way. They referred in particular to the example of the private Schörghuber group in the case of Heilit & Woerner Bau AG ⁽¹⁾.

As regards the behaviour of the other shareholders of NMH during the period July 1994 until March 1995, the German authorities are of the opinion that it should not be taken as an indicator for normal market investors' behaviour. The shareholders Annahütte and LSW, part of the Aicher group, terminated their participation in the financing of NMH by August and December 1993 respectively because, according to the German authorities, of the uncertainty regarding the possibility of implementing their plans for the future of the company. Mannesmann was, according to the German Government, only interested in RNM and therefore was not prepared to participate in the financing of NMH. The German authorities are of the opinion that in such a situation the financing of NMH by its major shareholder Bavaria was in line with the normal behaviour of any private investor who has sufficient financial means to provide the company with liquidity to continue its operations.

In addition, the German Government stressed that any assessment of the financing of NMH should take into account the low share of the company in the European steel market, which is reported by the German authorities to be at around 0,2 %.

IV

Neue Maxhütte Stahlwerke GmbH is a company falling under Article 80 of the ECSC Treaty because it produces products listed in Annex I to the ECSC Treaty, so that the provisions of the ECSC Treaty and the Steel Aids Code are applicable.

State aid within the meaning of Article 4 (c) of the ECSC Treaty is any transfer of State resources to public or private steel firms, in the form of acquisitions of share-

⁽¹⁾ For a detailed description of this case, see Commission Decision of 4 April 1995, OJ No L 253, 21. 10. 1995, p. 22.

holdings or provision of capital or similar financing if the financial transfer is not a genuine provision of risk capital according to usual investment practice in a market economy, allowing for a prospect of future return on investment or other revenue⁽¹⁾.

Bavaria's loans totalling DM 24,1125 million (ECU 12,82 million) to NMH constituted a transfer of State resources to a steel firm. It is to be established whether this transfer of State resources may be considered a genuine provision of risk capital according to usual investment practice in a market economy allowing for a prospect of future repayment or other revenue.

The Commission has always focussed on the behaviour of private investors that are in exactly the same situation as the State when establishing whether a certain public provision of capital would correspond to normal market practice. The private shareholders of the relevant company would only consider the particular economic situation of the company when assessing whether a provision of financial means would be economically reasonable.

A private shareholder would not be prepared to provide financing for a company in difficulties if its fellow shareholders were not prepared to contribute in line with their participation in the equity. German law provides for the treatment of shareholders' loans which have been granted or not redeemed when the company was in a financial situation calling for liquidation or the additional provision of risk capital by its shareholders, to be treated similarly to the injection of risk capital in the event of later bankruptcy ('eigenkapitalersetzende Darlehen', see §§ 32a, 32b Gesetz betreffend die Gesellschaften mit beschränkter Haftung, hereinafter referred to as 'the GmbHG'). Owing to this legal situation, shareholders' loans granted to avoid illiquidity and subsequent bankruptcy of a company are in general considered to be comparable to the injection of risk capital. The GmbHG refers to the general principle that shareholders would only provide additional risk capital if the fellow shareholders would also provide new risk capital in line with the percentage of their share in

the company in its § 26 (2). A shareholder, however, is in principle not liable to effect further contributions to the equity of a private limited company (§ 707 of the Civil Code) even if it would otherwise become insolvent.

Between July 1994 and March 1995, Bavaria, the 45 % shareholder of NMH, provided 100 % of the liquidity made available by shareholders to keep the loss-making NMH in operation. The companies of the Aicher group had terminated their participation in the financing of NMH by the beginning of 1994, immediately before the Bavarian Government finally decided to implement the Aicher plan, and did not take up its provision of liquidity after having been chosen to become the future majority shareholder of NMH, relying on the State's readiness to retain NMH in operation, to await the Commission's approval for the injection of further public finance by Bavaria.

Mannesmann Röhrenwerke AG, as a shareholder of NMH, was not prepared to make any financial contribution to allow the restructuring of NMH. The motivation concerning the industrial leadership in RNM may be an explanation for the fact that it did not behave in the same way as Krupp, Thyssen and Klöckner but may not prove that the behaviour of the State is in line with normal investors' behaviour in a market economy. If shareholders' loans to NMH would have been economically reasonable and profitable, the private company Mannesmann would have made them.

Therefore, it must be concluded that the behaviour of the other, private, shareholders of NMH, holding the remaining 55 % of the shares of the company, indicates that a private investor in a comparable situation would not have provided the financing that the State of Bavaria paid.

It must further be concluded that Bavaria could never have expected to receive any repayment on the loans. In the event of the bankruptcy of NMH, the loans would have been treated similarly to an injection of risk capital, in line with the legislation (§§ 32a, 32b GmbHG) explained above, so that the State would only have received any repayment after the paying-off of all other creditors, a highly unlikely prospect.

At the time when the loans in question were granted Bavaria was, furthermore, prepared to waive the claims based on these loans to allow the privatization of its shares in NMH and thereby to safeguard the jobs in the disadvantaged region of Oberpfalz. It had decided already in March 1994 to honour the Aicher plan that included

⁽¹⁾ See Court of Justice, C 40/85, *Belgium v. Commission*, [1986] ECR 2321, p. 2345; C 303/84, *Italy v. Commission*, [1991] ECR I-1433, p. 1476; Commission Decision No 3855/91/ECSC, OJ No L 362, 31. 12. 1991, p. 57, fifth paragraph under II and Communication of the Commission to the Member States concerning public undertakings, OJ No C 307, 13. 11. 1993, p. 3, paragraphs 10-21.

the waiver of repayment of the loans. In May 1995 it notified the Commission of its plan to cover about 80 % of the losses accumulated until 1994, which were finally calculated at DM 125,7 million (ECU 67,81 million). The shareholders' loans granted by Bavaria up to the entry into force of the privatization agreement could, according to the plan notified, be offset against the intended contribution.

A private investor in a market economy would always expect to have at least a long-term prospect of a return on its lendings or other financings. In this context it shall be recalled that the Court of Justice held in its judgment of 21 March 1991 ⁽¹⁾ that '... when injections of capital by a public investor disregard any prospect of profitability, even in the long term, such provision of capital must be regarded as aid.'

The behaviour of Bavaria in making the loans in question is therefore not the normal behaviour of a private investor in a market economy. The examples of private companies referred to by the German authorities do not indicate the contrary. The Commission explained in detail in its Decision of 4 April 1995 that these examples are not such as to show that a private investor would be ready to provide liquidity without having at least a reasonable chance to receive an economic advantage in return.

Even the particular example of the private Bavarian Schörghuber group, in transferring its shares in Heilit & Woerner Bau AG to Walter Bau AG after a final loss compensation, does not indicate that private investors would be prepared to keep a loss-making company in operation only to comply with alleged altruistic obligations in a social market economy. It is true that private companies, as well as private natural persons, may from time to time choose to dispose of their finances in a benevolent, charitable or public-spirited way. Such behaviour, however, is very different from the behaviour of investors in a private market economy and therefore cannot be relevant to the comparison of the behaviour of the State with the typical behaviour of a private investor in a market economy.

The behaviour of the State in the current case may be motivated by the wish of its Government to avoid social difficulties in a disadvantaged region, to avoid being held responsible by public opinion for the bankruptcy of a company, and to allow an ailing company to recover its viability. Such motivations are the typical reasons why

States grant subsidies. They do not prove that the financial support made available as a result of such motivation does not represent aid in the sense of Article 4 (c) of the ECSC Treaty and Article 1 of the SAC.

It must consequently be concluded that the shareholders' loans totalling DM 24,1125 million (ECU 12,82 million), granted by Bavaria to Neue Maxhütte Stahlwerke GmbH between July 1994 and March 1995 constituted State aid.

The aid element of these loans is not inherent in any preferential treatment as regards the level of interest but in the capital itself. The loans are to be regarded as comparable to a direct injection of risk capital because the lender, Bavaria, would only have received redemption, to be paid annually, if the company had made profits during the preceding year. This is the normal result of the injection of risk capital. The loans would be treated similarly to the injection of risk capital in case of later bankruptcy ('eigenkapitalersetzende Darlehen', see §§ 32a, 32b GmbHG). Bavaria has no reasonable chance of ever receiving any repayment on the capital-replacing loans. It follows that the loans themselves are comparable to injected risk capital made available by a shareholder of an ailing private limited company.

Any State aid to steel companies is prohibited under Article 4 (c) of the ECSC Treaty. The Steel Aids Code, adopted with the unanimous assent of the Council under Article 95 of the ECSC Treaty, provides that certain categories of aid may be deemed compatible with the common market, such as aid for research and development (Article 2), environmental protection (Article 3), closures (Article 4) and aid under general regional investment aid schemes in certain territories of the Community (Article 5). The aid granted to NMH does not fall into any of these categories.

V

The Commission therefore concludes that an amount of DM 24,1125 million (ECU 12,82 million), granted as loans by Bavaria to the ECSC steel undertaking Neue Maxhütte Stahlwerke GmbH between July 1994 and March 1995 constituted State aid incompatible with the ECSC Treaty and the Steel Aids Code.

Any State aid granted unlawfully is, in principle, to be recovered from the recipient firm. Repayment is to be made in accordance with the procedures and provisions of German law with interest, based on the interest rate used as reference rate in the assessment of regional aid schemes, starting to run on the date of which the aid was granted.

⁽¹⁾ *Italy v. Commission* (ENI Lanerossi), [1991] ECR I-1433, p. 1476 at paragraphs 21 and 22.

The fact that NMH has only a small share in the European steel market is not relevant to the question whether unlawful aid shall be reimbursed or not. Any State aid to companies in the ECSC sector that has not been authorized by the Commission under the provisions of the ECSC Treaty or the Steel Aids Code is unlawful regardless of whether or not the distortive effect of the aid may be relatively small owing to the size of the company concerned.

There is no legal basis for suspension of the order to recover aid that has been granted unlawfully without awaiting the prior decision of the Commission as to whether the aid would be compatible with the common market or not. The provisions of the ECSC Treaty and the Steel Aids Code apply equally to all European ECSC steel undertakings and no undertaking should benefit from the readiness of the State to transfer public resources to such undertaking in breach of its obligation under Article 6 (2) of the SAC.

There is no reason to suspend the order to recover the aid that has been granted unlawfully in the present case until after the decision of the Court of Justice and the European Court of First Instance in Cases C-158/95 and T-129/95. An action against a Commission decision that certain intended financial measures in favour of a steel company would represent aid and should therefore not be granted brought before the Court do not have suspensory effect.

A company which is intended to be the beneficiary of such financial measures may not receive State aid to allow the continuation of its operations until the final decision of the Courts. The fact that the Commission and a Member State disagree as to whether intended financial measures would constitute aid or not does not render the company concerned eligible for operating aid that is in all other cases prohibited for companies in the ECSC steel sector,

HAS ADOPTED THIS DECISION:

Article 1

The amount of DM 24,1125 million granted as loans by Bavaria in four tranches between July 1994 and March 1995 to the ECSC steel undertaking Neue Maxhütte Stahlwerke GmbH, Sulzbach-Rosenberg, constitutes State aid incompatible with the common market and prohibited under the provisions of the ECSC Treaty and Commission Decision No 3855/91/ECSC.

Article 2

Germany shall recover the aid from the recipient company. Repayment shall be made in accordance with the procedures and provisions of German law with interest, based on the interest rate used as reference rate in the assessment of regional aid schemes, running from the date on which the aid was granted.

Article 3

The German Government shall inform the Commission, within two months after being notified of this Decision, about the measures taken to comply with this Decision.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 13 March 1996.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 18 July 1996

on import licences in respect of beef and veal products originating in Botswana,
Kenya, Madagascar, Swaziland, Zimbabwe and Namibia

(96/485/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas the quantities in respect of which licences may be applied for from 1 August 1996, should be fixed within the scope of the total quantity of 52 100 tonnes;

Having regard to the Treaty establishing the European Community,

Whereas it seems expedient to recall that this Decision is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden,

Having regard to Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP) or in the overseas countries and territories (OCT)⁽²⁾, as last amended by Regulation (EC) No 619/96⁽³⁾, and in particular Article 27 thereof,

HAS ADOPTED THIS DECISION:

Having regard to Commission Regulation (EC) No 589/96 of 2 April 1996 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EEC) No 715/90 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories⁽³⁾, in particular Article 4 thereof,

Article 1

The following Member States shall issue on 21 July 1996 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

Whereas Article 1 of Regulation (EC) No 589/96 provides for the possibility of issuing import licences for beef and veal products; whereas, however, imports must take place within the limits of the quantities specified for each of these exporting non-member countries;

Germany:

- 980,000 tonnes originating in Botswana,
- 241,930 tonnes originating in Madagascar,
- 900 000 tonnes originating in Namibia;

Whereas the applications for import licences submitted between 1 and 10 July 1996, expressed in terms of boned meat, in accordance with Regulation (EC) No 589/96, do not exceed, in respect of products originating from Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia the quantities available from these States; whereas it is therefore possible to issue import licences in respect of the quantities requested;

United Kingdom:

- 1 250,000 tonnes originating in Botswana,
- 110,000 tonnes originating in Swaziland,
- 1 600,000 tonnes originating in Zimbabwe,
- 1 400,000 tonnes originating in Namibia.

⁽¹⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽²⁾ OJ No L 89, 10. 4. 1996, p. 1.

⁽³⁾ OJ No L 84, 3. 4. 1996, p. 22.

⁽⁴⁾ OJ No L 302, 31. 12. 1972, p. 28.

Article 2

Licence applications may be submitted, pursuant to Article 3 (3) of Regulation (EC) No 589/96 during the first 10 days of August for the following quantities of boned beef and veal:

— Botswana:	9 906,000 tonnes,
— Kenya:	142,000 tonnes,
— Madagascar:	6 402,257 tonnes,
• Swaziland:	2 954,000 tonnes,
— Zimbabwe:	4 417,180 tonnes,
— Namibia:	6 335,006 tonnes.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 18 July 1996.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 6 August 1996

on protective measures in relation to Venezuelan equine encephalomyelitis in Mexico

(Text with EEA relevance)

(96/486/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 Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, as last amended by Directive 96/43/EC ⁽²⁾, and in particular Article 18 thereof,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and import from third countries of equidae ⁽³⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 12 thereof,

Whereas the presence of Venezuelan equine encephalomyelitis has been confirmed in Mexico;

Whereas the appearance of Venezuelan equine encephalomyelitis in Mexico constitutes a serious threat to equidae of the Member States, taking into account the various movements of equidae;

Whereas it is therefore necessary to prohibit the re-admission of registered horses after temporary export and the temporary admission and import of equidae from Mexico;

Whereas, in view of the guarantees provided by the Mexican authorities, the re-admission of registered horses after temporary export to the metropolitan area of Monterrey (Mexico) and the temporary admission of registered horses from that area of Mexico should be permitted;

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 temporary admission of registered horses, the re-admission of registered horses after temporary export and the import of equidae from Mexico.

Article 2

However, Member States shall authorize:

- the re-admission of registered horses after temporary export to the metropolitan area of Monterrey,
- the temporary admission of registered horses from the metropolitan area of Monterrey.

Article 3

Member States shall amend the measures they apply in respect of Mexico to bring them into line with this Decision. They shall inform the Commission thereof.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 6 August 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 268, 24. 9. 1991, p. 56.

⁽²⁾ OJ No L 162, 1. 7. 1996, p. 1.

⁽³⁾ OJ No L 224, 18. 8. 1990, p. 42.

COMMISSION DECISION
of 6 August 1996
on protective measures in relation to dourine in Russia
(Text with EEA relevance)

(96/487/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

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 Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, as last amended by Directive 96/43/EC ⁽²⁾, and in particular Article 18 thereof,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and import from third countries of equidae ⁽³⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 12 thereof,

Whereas the presence of dourine has been confirmed in Russia;

Whereas the appearance of dourine in Russia constitutes a serious threat to equidae of the Member States, taking into account the various movements of equidae;

Whereas it is therefore necessary to prohibit the re-admission of registered horses after temporary export and the temporary admission and import of equidae from Russia;

Whereas, in view of the guarantees provided by serological tests, under certain conditions, the re-admission of registered horses after temporary export to the territories west of Ural Mountains (Russia) and the temporary admission of registered horses from that area of Russia should be permitted;

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

Article 1

The Member States shall prohibit the temporary admission of registered horses, the re-admission of registered horses after temporary export and the import of equidae from Russia.

Article 2

1. However, Member States shall authorize:

- the re-admission of registered horses after temporary export to the territories west of Ural Mountains (Russia),
- the temporary admission of registered horses from the territories west of Ural Mountains (Russia), where accompanied by an additional certificate signed by the competent veterinary authorities in Russia.

2. The certificate referred to in paragraph 1 second indent must attest that the equidae underwent a complement fixation test for dourine at a dilution of 1 in 10 on ... ⁽⁴⁾ during the ten days preceding despatch with negative results.

Article 3

Member States shall amend the measures they apply in respect of Russia to bring them into line with this Decision. They shall inform the Commission thereof.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 6 August 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 268, 24. 9. 1991, p. 56.

⁽²⁾ OJ No L 162, 1. 7. 1996, p. 1.

⁽³⁾ OJ No L 224, 18. 8. 1990, p. 42.

⁽⁴⁾ Insert date.