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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1842/96

of 25 September 1996

fixing the export refunds on white sugar and raw sugar exported in its unaltered 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 1599/96⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 1785/81 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 17a of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽³⁾, as amended by Regulation (EC) No 3290/94⁽⁴⁾; whereas, furthermore, this refund should be fixed in accordance with Article 17a (4) of Regulation (EEC) No 1785/81; whereas candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector⁽⁵⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their

sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas Council Regulation (EEC) No 990/93⁽⁶⁾, as amended by Regulation (EC) No 1380/95⁽⁷⁾, 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⁽⁸⁾; whereas account should be taken of this fact when fixing the refunds;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁹⁾, as last amended by Regulation (EC) No 150/95⁽¹⁰⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽¹¹⁾, as last amended by Regulation (EC) No 1482/96⁽¹²⁾;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

Whereas it follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto;

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

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁴⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ No L 214, 8. 9. 1995, p. 16.

⁽⁶⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁷⁾ OJ No L 138, 21. 6. 1995, p. 1.

⁽⁸⁾ OJ No L 65, 15. 3. 1996, p. 1.

⁽⁹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽¹⁰⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽¹¹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹²⁾ OJ No L 188, 27. 7. 1996, p. 22.

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, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 26 September 1996.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 25 September 1996 fixing 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	37,27 ⁽¹⁾
1701 11 90 910	37,69 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	37,27 ⁽¹⁾
1701 12 90 910	37,69 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,4052
	— ECU/100 kg —
1701 99 10 100	40,52
1701 99 10 910	41,67
1701 99 10 950	41,67
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,4052

⁽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 1843/96

of 25 September 1996

fixing the maximum export refund for white sugar for the eighth 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 Regulation (EC) No 1599/96⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1464/96 of 25 July 1996 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 eighth 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 eighth 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 44,709 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 26 September 1996.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 187, 26. 7. 1996, p. 42.

⁽⁴⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁵⁾ OJ No L 138, 21. 6. 1995, p. 1.

⁽⁶⁾ OJ No L 65, 15. 3. 1996, p. 1.

COMMISSION REGULATION (EC) No 1844/96

of 25 September 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 Regulation (EC) No 1599/96⁽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 26 September 1996.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽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, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

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

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,17	—	0,04
1703 90 00 ⁽¹⁾	11,22	—	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 1845/96
of 25 September 1996
fixing the import duties in the rice sector

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽²⁾, and in particular Article 4 (1) thereof,

Whereas Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12 (3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product;

Whereas Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing;

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

Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11 (1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 26 September 1996.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ No L 189, 30. 7. 1996, p. 71.

ANNEX I

to the Commission Regulation of 25 September 1996 fixing the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ⁽¹⁾			
	Third countries (except ACP and Bangladesh) ⁽²⁾ ⁽⁸⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Basmati India ⁽⁵⁾ Article 4 of Regulation (EC) No 1573/95	Basmati Pakistan ⁽⁷⁾ Article 4 of Regulation (EC) No 1573/95
1006 10 21	⁽⁸⁾	140,81		
1006 10 23	⁽⁸⁾	140,81		
1006 10 25	⁽⁸⁾	140,81		
1006 10 27	⁽⁸⁾	140,81		
1006 10 92	⁽⁸⁾	140,81		
1006 10 94	⁽⁸⁾	140,81		
1006 10 96	⁽⁸⁾	140,81		
1006 10 98	⁽⁸⁾	140,81		
1006 20 11	300,30	145,81		
1006 20 13	300,30	145,81		
1006 20 15	300,30	145,81		
1006 20 17	302,24	146,78	52,24	252,24
1006 20 92	300,30	145,81		
1006 20 94	300,30	145,81		
1006 20 96	300,30	145,81		
1006 20 98	302,24	146,78	52,24	252,24
1006 30 21	557,83	264,01		
1006 30 23	557,83	264,01		
1006 30 25	557,83	264,01		
1006 30 27	⁽⁸⁾	271,09		
1006 30 42	557,83	264,01		
1006 30 44	557,83	264,01		
1006 30 46	557,83	264,01		
1006 30 48	⁽⁸⁾	271,09		
1006 30 61	557,83	264,01		
1006 30 63	557,83	264,01		
1006 30 65	557,83	264,01		
1006 30 67	⁽⁸⁾	271,09		
1006 30 92	557,83	264,01		
1006 30 94	557,83	264,01		
1006 30 96	557,83	264,01		
1006 30 98	⁽⁸⁾	271,09		
1006 40 00	⁽⁸⁾	84,38		

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

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

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11 (3) of Regulation (EC) No 3072/95.

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

⁽⁵⁾ No import duty applies to products originating in the OCT pursuant to Article 101 (1) of amended Council Decision 91/482/EEC (OJ No L 263, 19. 9. 1991, p. 1).

⁽⁶⁾ For husked rice of the Basmati variety originating in India, a reduction of ECU 250 per tonne applies (Article 4 of Regulation (EC) No 1503/96).

⁽⁷⁾ For husked rice of the Basmati variety originating in Pakistan, a reduction of ECU 50 per tonne applies (Article 4 of Regulation (EC) No 1503/96).

⁽⁸⁾ Duties fixed in the Common Customs Tariff.

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne)	(¹)	302,24	572,00	300,30	557,83	(¹)
2. Elements of calculation:						
(a) Arag cif price (\$/tonne)	—	417,02	385,37	455,00	480,00	—
(b) fob price (\$/tonne)	—	—	—	425,00	450,00	—
(c) Sea freight (\$/tonne)	—	—	—	30,00	30,00	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 1846/96
of 25 September 1996
amending Regulation (EC) No 716/96 adopting exceptional support measures for
the beef market in the United Kingdom

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

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1588/96 ⁽²⁾, and in particular Article 23 thereof,

Whereas Commission Regulation (EC) No 716/96 ⁽³⁾, as last amended by Regulation (EC) No 1512/96 ⁽⁴⁾, provides for exceptional support measures for the beef market in the United Kingdom, providing, in particular, for compensation for animals slaughtered under the scheme laid down in that Regulation; whereas the Community pays part of the cost for each animal purchased and destroyed; whereas, for technical reasons, there are very long delays between the rendering and the destruction of the animals; whereas the United Kingdom should therefore be paid in advance of 80 % after the animals concerned have been rendered;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following is added to the third subparagraph of Article 2(1) of Regulation (EC) No 716/96:

‘An advance equal to 80 % of the Community contribution shall be paid after the animal concerned has been rendered in accordance with Article 1 (2).’

Article 2

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

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 23.

⁽³⁾ OJ No L 99, 20. 4. 1996, p. 14.

⁽⁴⁾ OJ No L 189, 30. 8. 1996, p. 93.

COMMISSION REGULATION (EC) No 1847/96

of 25 September 1996

on the issue of import licences on 30 September 1996 for sheepmeat and goatmeat products pursuant to GATT-WTO non-country specific tariff quotas for the fourth quarter of 1996

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EC) No 1589/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1439/95 of 26 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 3013/89 as regards the import and export of products in the sheepmeat and goatmeat sector⁽³⁾, as last amended by Regulation (EC) No 2526/95⁽⁴⁾, and in particular Article 16 (4) thereof,

Whereas Regulation (EC) No 1439/95 laid down, in Title II B, detailed rules, in respect of imports of products falling within CN codes 0104 10 30, 0104 10 80, 0104 20 90 and 0204 pursuant to GATT/WTO non-country specific tariff quotas; whereas provision should be made, pursuant to Article 16 (4) of Regulation (EC) No 1439/95, for determining the extent to which import licences may be issued in connection with applications lodged in respect of the fourth quarter of 1996;

Whereas, in cases where the quantities in respect of which licence applications have been lodged exceed the quantities which may be imported pursuant to Article 15

of Regulation (EC) No 1439/95, such quantities should be reduced by a single percentage figure in accordance with Article 16 (4) (b) of that Regulation;

Whereas all the licence applications may be granted in cases where the quantities in respect of which licence applications have been lodged do not exceed the quantities provided for in Regulation (EC) No 1439/95;

Whereas applications relating to products originating in the United States of America have been lodged in the Netherlands,

HAS ADOPTED THIS REGULATION:

Article 1

The Netherlands shall, on 30 September 1996, issue the import licences provided for in Title II B of Regulation (EC) No 1439/95 and applied for from 1 to 10 September 1996. For products falling within CN code 0204, the quantities applied for originating in the United States of America, shall be granted in full.

Article 2

This Regulation shall enter into force on 26 September 1996.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 25.

⁽³⁾ OJ No L 143, 27. 6. 1995, p. 7.

⁽⁴⁾ OJ No L 258, 28. 10. 1995, p. 48.

COMMISSION REGULATION (EC) No 1848/96

of 25 September 1996

determining the extent to which import licence applications submitted in September 1996 under the tariff quotas for beef provided for in the Agreements on free trade between the Community, of the one part, and Lithuania, Latvia, and Estonia, of the other part, 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 542/96 of 28 March 1996 laying down for 1996 detailed rules of application for the tariff quotas for beef provided for in the Agreements on free trade between the Community, of the one part, and Lithuania, Latvia, and Estonia, of the other part⁽¹⁾, and in particular Article 3 (3) thereof,

Whereas Article 1 (1) and (3) of Regulation (EC) No 542/96 fixes the quantities of fresh, chilled and frozen beef and veal originating in Lithuania, Latvia and Estonia and of processed products originating in Latvia which may be imported on special terms during the period 1 July to 31 December 1996; whereas no applications were

submitted for import licences for beef and veal or processed products,

HAS ADOPTED THIS REGULATION:

Article 1

No applications for import licences were submitted for the period from 1 July to 31 December 1996 under the import quotas referred to in Article 1 (1) of Regulation (EC) No 542/96.

Article 2

This Regulation shall enter into force on 26 September 1996.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 79, 29. 3. 1996, p. 12.

COMMISSION REGULATION (EC) No 1849/96

of 25 September 1996

fixing the maximum export refunds for olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2544/95

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1581/96⁽²⁾, and in particular Article 3 thereof,

Whereas Commission Regulation (EC) No 2544/95⁽³⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

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 Article 6 of Regulation (EC) No 2544/95 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Commu-

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2544/95 are hereby fixed in the Annex, on the basis of the tenders submitted by 23 September 1996.

Article 2

This Regulation shall enter into force on 26 September 1996.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

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

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ No L 260, 31. 10. 1995, p. 38.

⁽⁴⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁵⁾ OJ No L 138, 21. 6. 1995, p. 1.

⁽⁶⁾ OJ No L 65, 15. 3. 1996, p. 1.

ANNEX

to the Commission Regulation of 25 September 1996 fixing the maximum export refunds for olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2544/95

(ECU/100 kg)	
Product code	Amount of refund (1)
1509 10 90 100	37,00
1509 10 90 900	—
1509 90 00 100	43,25
1509 90 00 900	—
1510 00 90 100	6,10
1510 00 90 900	—

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

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

COMMISSION REGULATION (EC) No 1850/96
of 25 September 1996
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1581/96⁽²⁾, and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72⁽³⁾, as last amended by Regulation (EEC) No 2962/77⁽⁴⁾;

Whereas Article 3 (3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 3 (4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market; whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period; whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 3 (3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender; whereas the tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 3 (3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁵⁾, as last amended by Regulation (EC) No 150/95⁽⁶⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁷⁾, as last amended by Regulation (EC) No 1482/96⁽⁸⁾;

Whereas Council Regulation (EEC) No 990/93⁽⁹⁾, as amended by Regulation (EC) No 1380/95⁽¹⁰⁾, prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof and in Council Regulation (EC) No 462/96⁽¹¹⁾; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 26 September 1996.

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

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ No L 78, 31. 3. 1972, p. 1.

⁽⁴⁾ OJ No L 348, 30. 12. 1977, p. 53.

⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ No L 188, 27. 7. 1996, p. 22.

⁽⁹⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽¹⁰⁾ OJ No L 138, 21. 6. 1995, p. 1.

⁽¹¹⁾ OJ No L 65, 15. 3. 1996, p. 1.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 25 September 1996 fixing the export refunds on olive oil

<i>(ECU/100 kg)</i>	
Product code	Amount of refund ⁽¹⁾ ⁽²⁾
1509 10 90 100	33,00
1509 10 90 900	0,00
1509 90 00 100	40,00
1509 90 00 900	0,00
1510 00 90 100	3,00
1510 00 90 900	0,00

⁽¹⁾ For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ No L 351, 14. 12. 1987, p 1), as well as for exports to third countries.

⁽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.

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

COMMISSION REGULATION (EC) No 1851/96

of 25 September 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 Commission fixes the standard values for imports from third

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 September 1996.

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

Done at Brussels, 25 September 1996.

For the Commission

Franz FISCHLER

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 25 September 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	89,5	0808 10 92, 0808 10 94, 0808 10 98	624	67,7
	060	80,2		999	113,5
	064	70,8		039	121,0
	066	54,0		052	68,6
	068	80,3		064	57,6
	204	86,8		070	90,2
	208	44,0		284	72,1
	212	97,5		388	56,8
	400	170,4		400	54,4
	624	95,8		404	63,6
ex 0707 00 25	999	86,9	0808 20 57	416	72,7
	052	82,8		508	113,5
	053	156,2		512	126,1
	060	61,0		524	100,3
	066	53,8		528	53,0
	068	69,1		624	86,5
	204	144,3		728	107,3
	624	87,1		800	141,3
	999	93,5		804	94,7
	052	54,3		999	87,0
0709 90 79	204	77,5	0809 30 41, 0809 30 49	039	104,1
	412	54,2		052	69,5
	508	42,9		064	76,3
	624	151,9		388	57,2
	999	76,2		400	70,4
0805 30 30	052	80,3		512	88,7
	204	88,8		528	132,9
	220	74,0		624	79,0
	388	73,1		728	115,4
	400	68,2		800	84,0
	512	80,0		804	73,0
	520	66,5		999	86,4
	524	72,4		052	93,8
	528	66,5		220	121,8
	600	96,5		624	106,8
0806 10 40	624	48,9	0809 40 30	999	107,5
	999	74,1		052	66,3
	052	78,2		064	49,0
	064	49,5		066	71,2
	066	49,4		068	37,1
	220	110,8		400	75,6
	400	139,2		624	63,8
	412	58,5		676	68,6
	508	307,2		999	61,7
	512	186,0			
	600	88,5			

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 September 1996

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

(96/561/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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)⁽¹⁾, as last amended by Regulation (EC) No 619/96⁽²⁾, and in particular Article 27 thereof,

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,

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;

Whereas the applications for import licences submitted between 1 and 10 September 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;

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

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 on importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries⁽⁴⁾, as last amended by the Act of Accession of Austria, Finland and Sweden,

HAS ADOPTED THIS DECISION:

Article 1

The following Member States shall issue on 21 September 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:

⁽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.

Germany:

— 105,000 tonnes originating in Madagascar

Denmark:

— 15,000 tonnes originating in Madagascar

United Kingdom:

— 300,000 tonnes originating in Botswana

— 430,000 tonnes originating in Namibia.

— Botswana: 8 646,000 tonnes,

— Kenya: 142,000 tonnes,

— Madagascar: 6 162,257 tonnes,

— Swaziland: 2 884,000 tonnes,

— Zimbabwe: 4 317,180 tonnes,

— Namibia: 5 135,006 tonnes.

Article 3

This Decision is addressed to the Member States.

Article 2

Done at Brussels, 18 September 1996.

Licence applications may be submitted, pursuant to Article 3 (3) of Regulation (EC) No 589/96 during the first 10 days of October 1996 for the following quantities of boned beef and veal:

For the Commission

Franz FISCHLER

Member of the Commission

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 53/96/COL

of 15 May 1996

on the eighth amendment of the Procedural and Substantive Rules in the Field of State Aid

THE EFTA SURVEILLANCE AUTHORITY

has amended the Procedural and Substantive Rules in the Field of State Aid ⁽¹⁾, adopted on 19 January 1994 ⁽²⁾, as last amended by Decision No 23/96/COL ⁽³⁾, as follows:

Chapter 14 of the State Aid Guidelines shall be replaced by the following:

'14. AID FOR RESEARCH AND DEVELOPMENT' ⁽¹⁾

14.1. *Introduction*

- (1) It is widely acknowledged that research and development can contribute to economic growth, improved competitiveness and better employment prospects. The Contracting Parties to the EEA Agreement have declared as one of their common objectives to strengthen the scientific and technological basis of European industry and to encourage it to become more competitive at the international level. To this end Part VI of the Agreement establishes detailed arrangements aimed at strengthening and broadening cooperation in the framework of the Community's activities *inter alia* in the field of research and technological development (R&TD).
- (2) EFTA States participate in the implementation of the fourth framework programme of Community activities in the field of research

and technological development (1994-98) through participation in its specific programmes. The EFTA States contribute financially to the programmes and in consequence thereof have access to all parts of these programmes and participate fully in the EC committees which assist the EC Commission in the management of the programmes. At the project level, institutions, undertakings, organizations and nationals of EFTA States shall have the same rights and obligations, including with regard to exploitation of results, as those applicable to their partners and counterparts in EC Member States.

- (3) Measures taken by the Contracting Parties to the EEA Agreement in support of research and development have to be compatible with the functioning of the Agreement. State aid rules in the EEA Agreement must be applied constructively to encourage cooperation which helps new technology to be developed and disseminated, while observing the rules on intellectual property rights. In the control of State aid, regard must be paid to the need for resources to be made available to those sectors which will contribute to improving the competitiveness of European industry.

- (4) The EFTA Surveillance Authority has taken a favourable view of State aid for R&D. This favourable attitude is justified on several counts: the aims of such aid, the often considerable financial requirements and risks of R&D operations and, given the distance from the market place of such projects, the reduced likelihood that such aid will distort competition and trade.

⁽¹⁾ Hereinafter referred to as the State Aid Guidelines.

⁽²⁾ OJ No L 231, 3. 9. 1994, p. 1.

⁽³⁾ OJ No L 140, 13. 6. 1996, p. 54.

14.2. *Applicability of Article 61 of the EEA Agreement to aid for R&D*

made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements.

14.2.1. Definitions of the stages of R&D

- (1) The closer R&D is to the market, the more significant may be the distortive effect of the State aid. In order to determine the proximity to the market of the aided R&D, the EFTA Surveillance Authority makes a distinction between fundamental research, industrial research and precompetitive development activity.

- (2) The following definitions, which correspond to those laid down in the WTO Agreement on Subsidies and Countervailing Measures, are designed to help the EFTA States to formulate their notifications. They are intended to be indicative not normative.

— By *fundamental research* is meant an activity to broaden scientific and technical knowledge not linked to industrial or commercial objectives.

— By *industrial research* is meant planned research or critical investigation aimed at the acquisition of new knowledge, the objective being that such knowledge may be useful in developing new products, processes or services or in bringing about a significant improvement in existing products, processes or services.

— By *precompetitive development activity* is meant the shaping of the results of industrial research into a plan, arrangement or design for new, altered or improved products, processes or services, whether they are intended to be sold or used, including the creation of an initial prototype which could not be used commercially. This may also include the conceptual formulation and design of other products, processes or services and initial demonstration projects or pilot projects, provided that such projects cannot be converted or used for industrial applications or commercial exploitation. It does not include the routine or periodic changes

- (3) Innovation does not qualify as a separate category of R&D. Aid for activities that could be regarded as innovative but do not correspond to the categories mentioned in point 14.2 can benefit from State aid only if it conforms with the EFTA Surveillance Authority policy on investment aid.

14.2.2. R&D by public research establishments and R&D contracts

- (1) Public financing of R&D activities by public non-profit-making higher-education or research establishments is normally not covered by Article 61 (1) of the EEA Agreement.

- (2) Where the results of publicly financed R&D projects carried out by such establishments are made available to European industry on a non-discriminatory basis, the EFTA Surveillance Authority will assume that State aid within the meaning of Article 61 (1) of the EEA Agreement is not normally involved.

- (3) Where R&D is carried out by public non-profit-making, higher-education or research establishments on behalf of, or in collaboration with industry, the EFTA Surveillance Authority will assume that State aid within the meaning of Article 61 (1) of the EEA Agreement is not involved either:

(a) where the public non-profit-making higher-education or research establishments contribute to research projects as a commercial firm would, for example, in return for payment at the market rate for the services they provide;

(b) or

— where the industrial participants in the research bear the full cost of the project, or

- where the results which do not give rise to intellectual property rights may be widely disseminated and any intellectual property rights to the R&D results are fully allocated to the public non-profit-making establishments, or
 - where the public non-profit-making establishments receive from the industrial participants compensation equivalent to the market price for the intellectual property rights which result from the research project and which are held by those industrial participants, and where the results which do not give rise to intellectual property rights may be widely disseminated to interested third parties.
- (4) Public authorities may commission R&D from firms or buy the results of R&D directly from them. If there is no open tender procedure, the EFTA Surveillance Authority will assume that State aid within the meaning of Article 61 (1) of the EEA Agreement may be involved. If these contracts are awarded according to market conditions, in particular after an open tender procedure in accordance with the act referred to in point 5b of Annex XVI to the EEA Agreement⁽³⁾, it will normally be assumed that no State aid within the meaning of Article 61 (1) of the EEA Agreement is involved.
- (4) major advance over specific Community or European R&D programmes.
- (4) In the past, the European Commission has applied the derogation contained in Article 92 (3) (b) of the EC Treaty (which corresponds to Article 61 (3) (b) of the EEA Agreement) in a limited number of cases. It has transpired that, as regards R&D, this derogation may apply particularly to transnational projects of major qualitative and, in principle, quantitative significance (e.g. projects related to the formulation of industrial standards that could enable European industries to secure the full benefit of the single market and the EEA Agreement)⁽³⁾.
- (5) If State aid for R&D does not qualify for the derogation provided for in Article 61 (3) (b), it may nevertheless be compatible with the EEA Agreement by virtue of Article 61 (3) (c), which provides a derogation for aid that facilitates the development of certain economic activities as long as it does not adversely affect trading conditions to an extent contrary to the common interest.
- (6) When examining whether or not Article 61 (3) (c) of the EEA Agreement is applicable, the EFTA Surveillance Authority will pay special attention to the type of research carried out, the beneficiaries, the aid intensity, the accessibility to the results and other relevant factors as mentioned in Sections 14.5 to 14.7.

14.3. *Assessment of aid for R&D under Article 61 of the EEA Agreement*

- (1) Where it satisfies the tests of Article 61 (1) of the EEA Agreement and therefore has to be examined by the EFTA Surveillance Authority, aid granted to firms for R&D may be regarded as compatible with the functioning of the EEA Agreement by virtue of one of the derogations provided for in Article 61 (3).
- (2) In all cases where, after examination, the EFTA Surveillance Authority concludes that the purpose of the aid in question is to promote the execution of an important project of common European interest, that aid may qualify for the derogation contained in Article 61 (3) (b).
- (3) The common European interest must be demonstrated in practical terms: for example, it must be proved that the project represents a

14.4. *Specific notification requirements*

- (1) State aid for R&D has to be notified to the EFTA Surveillance Authority pursuant to Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement. Annex I to these guidelines contains a checklist of the information to be supplied in State aid notifications. Section II of Annex I lists additional information to be provided concerning aid for R&D. Furthermore, paragraph 14.4 (8) contains additional requirements for major R&D projects and paragraphs 14.4 (6) and (7) provide derogation from the general rule concerning notification of budget increases and extension in time of existing aid schemes.
- (2) The EFTA Surveillance Authority aims to achieve the highest possible degree of transparency in the application of aid schemes. This means that there must be a clear statement of objectives to be achieved, the beneficiaries,

etc. The different categories of costs which the aid is designed to reduce must be specified and the aid must be granted in such a form that the intensity of the aid in relation to these costs, as listed in Section 14.6, can be calculated.

- (3) In the case of R&D projects, all types of aid may be authorized. The EFTA States must nevertheless make it possible for the EFTA Surveillance Authority to calculate the grant equivalent of the aid if the latter is not paid in the form of an outright grant and must consequently provide sufficient information to enable the Authority to do this.
- (4) Where an EFTA State is of the opinion that Article 61 (3) (b) of the EEA Agreement is applicable, it must examine whether the relevant conditions are met and demonstrate to the EFTA Surveillance Authority, in its notification, that they are met.
- (5) The provisions of Chapter 11 of these guidelines, on the accelerated clearance of new aid schemes for SMEs and of modifications of existing schemes, applies in full to State aid for R&D, as does the *de minimis* rule set out in Chapter 12 of these guidelines.
- (6) The EFTA Surveillance Authority also considers that a notification of the increase in the annual budget of an authorized R&D scheme is not necessary if, expressed in ecus, it is not more than 100 % (in nominal terms) of the initial annual amount, provided that the scheme is of unlimited duration or that the increase takes place within the period of validity of a scheme of limited duration.
- (7) Extensions with or without a budgetary increase (up to the abovementioned limit of 100 %), without changes in the conditions for implementing the previously approved aid schemes and consistent with the present rules need be renotified only from the fifth year following the expiry of the validity of the original scheme. The EFTA States, however, are obliged to inform the EFTA Surveillance Authority of such refinancings/extensions in advance and to continue to submit an annual report to it on the application of the schemes in question.
- (8) Individual grants of aid under an R&D scheme that has been authorized by the EFTA Surveillance Authority do not, in principle,

need to be notified. However, in order to allow the Authority to assess significant amounts of aid under approved schemes and the compatibility of such aid with the functioning of the EEA Agreement, the EFTA Surveillance Authority requires prior notification of any individual research project costing more than ECU 25 million (ECU 30 million for Eureka projects⁽⁴⁾) and for which it is proposed to provide aid with a gross grant equivalent of more than ECU 5 million.

- (9) Individual grants of aid outside the scope of authorized R&D schemes are to be notified in the normal manner pursuant to Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement unless they constitute *de minimis* awards.

14.5. *Aid intensity*

14.5.1. *Basic rules*

- (1) The allowable intensity of aid will be determined by the EFTA Surveillance Authority on a case-by-case basis. The Authority's assessment in each case will take into consideration the nature of the project or programme, overall policy considerations relating to the competitiveness of European industry, the risk of distortion of competition and the effect on trade between the Contracting Parties. A general evaluation of such risks leads the Authority to consider that fundamental research and industrial research and industrial research may qualify for higher level of aid than precompetitive development activities, which are more closely related to the market introduction of R&D results and, if aided, could therefore more easily lead to distortions of competition and trade.
- (2) The public financing of fundamental research that is normally independently carried out by non-profit-making higher-education or research establishments does not constitute State aid within the meaning of Article 61 (1) of the EEA Agreement.
- (3) In exceptional cases where fundamental research is carried out by or for firms, the aid would fall within Article 61 (1) of the Agreement but, since this type of research is far from the market and its results are, in principle, widely available for exploitation on a non-discriminatory basis and at market rates, it may be awarded at a gross aid intensity of up to 100 %.

- (4) To qualify as fundamental research, the work should not be linked to any industrial or commercial objectives of a particular enterprise, and a wide dissemination of the results of the research must be guaranteed.
- (5) As a general rule, the gross aid intensity for industrial research must not exceed 50 % of the eligible costs of the project (as defined in Section 14.6).
- (6) Technical feasibility studies preparatory to industrial research activities may qualify for aid amounting to 75 % of study costs, while such studies preparatory to precompetitive development activities may qualify for support amounting to 50 % of study costs; these ceilings have been set in the light of the negligible impact of such aid on competition and trade conditions.
- (7) Precompetitive development activities are close to the market and there is a greater risk that any such aid will distort competition and intra-EEA trade. The permissible gross aid intensity for such activities is fixed at 25 % of the eligible costs (as defined in Section 14.6).

14.5.2. Intensities in certain specific circumstances

- (1) As stated in point 14.4 (3), the EFTA States are free to use all instruments of aid to support R&D. In the case of advances that are repayable only in the event of a successful outcome of research activities, the permissible aid intensity (in gross grant equivalent) is that stipulated by this framework for the various stages of research. In the event of failure of the research concerned, the EFTA Surveillance Authority may allow a higher level of aid intensity since the project's failure reduces the risk of competition and trade being distorted.
- (2) When notifying reimbursable aid, the EFTA States are required to inform the EFTA Surveillance Authority of the amounts and exact procedures for repayment, with the proposed conditions being assessed by the Authority on a case-by-case basis.
- (3) With a view to encouraging dissemination of research results, the EFTA Surveillance Authority considers that aid in support of patent applications and renewals by SMEs (as defined in Chapter 10 of these guidelines)

may be granted up to the same level as that for the research activities which first led to the patents concerned.

- (4) In the case of State aid for an R&D project being carried out in collaboration between public research establishments and enterprises, the combined aid deriving from direct government support for a specific research project and, where they constitute aid (see points 14.2.2 (1) to (3) above), contributions from public research establishments to that project may not exceed the abovementioned aid ceilings.
- (5) In cases of R&D activity spanning industrial research and precompetitive development activities, the permissible aid intensity will not normally exceed the weighted average of the permissible aid intensities applicable to the two types of research.

14.5.3. Additions to the basic intensities

- (1) Without prejudice to the case-by-case assessment, which, as indicated in point 14.5.1 (1), will normally be made, the aid intensities specified in points 14.5.1 (5) to 14.5.2 (4) may be exceeded in the following situations:
 - where the aid is to be given to SMEs⁽³⁾: an extra 10 percentage points,
 - where the research project is carried out in an Article 61 (3) (a) region: an extra 10 percentage points,
 - where the research project is carried out in an Article 61 (3) (c) region: an extra 5 percentage points.
- (2) The abovementioned regional bonuses may be exceeded, taking into account the ceilings applicable to regional investment aid and the need to stimulate intangible investment, without however exceeding the limits set out in point 14.5.3 (7) below.
- (3) Where the research project is in accordance with the objectives of a specific project or programme undertaken as part of the European Community's current framework programme for R&D, it will qualify for an extra 15 percentage points.
- (4) That figure will rise to 25 percentage points where the project also involves effective cross-border cooperation between firms and public research bodies or between at least two independent partners in two States parties to the

EEA Agreement and where its results are widely disseminated and published, while observing intellectual and industrial property rights.

(5) Where the research project is not in accordance with the objectives of a specific project or programme undertaken as part of the European Community's current framework programme for R&D, the EFTA Surveillance Authority will allow increases of up to 10 percentage points provided that at least one of the following conditions is satisfied:

(a) the project involves effective cross-border cooperation between at least two independent partners in two States parties to the EEA Agreement, particularly in the context of coordinating national R&TD policies;

(b) the project involves effective cooperation between firms and public research bodies, particularly in the context of coordination of national R&TD policies;

(c) the project's results are widely disseminated and published, patent licences are granted or other appropriate steps are taken under conditions similar to those for the dissemination of European Community R&TD results.

(6) The EFTA State concerned must provide the EFTA Surveillance Authority with sufficient information to enable it to assess whether these criteria are met.

(7) The combination of the increases described at points 14.5.3 (1) to (5) with the percentages specified at points 14.5.1 (5) and 14.5.2 (4) may not exceed a maximum gross intensity of 75 % for industrial research and 50 % for precompetitive development activities. These limits must be respected in all cases.

research, 50 % for precompetitive development activities).

(2) The ceilings laid down above in respect of R&D aid apply to State aid. However, when examining R&D aid, the EFTA Surveillance Authority must take into account the effect on competition and trade of a combination of State aid with financing obtained through participation of EFTA States in Community programmes, according to the arrangements in Part VI and Protocols 31 and 32 of the EEA Agreement. When new aid measures foresee the possibility of such co-financing, the EFTA States shall inform of this in their notifications to the EFTA Surveillance Authority as well as of the arrangement made to ensure that the overall aid ceilings are not exceeded.

(3) Where co-financing according to point 14.5.4 (2) and State aid are combined, total official support may not exceed 75 % in the case of industrial research and 50 % in the case of precompetitive development activities.

(4) Gross intensities of 75 % for industrial research and 50 % for precompetitive development activities (maximum intensities authorized by the WTO Agreement on Subsidies and Countervailing Measures for non-actionable subsidies) may be authorized if similar projects or programmes of competitors located outside the territory covered by the EEA Agreement have received (in the last three years), or are going to receive, aid of an equivalent intensity for the two types of research.

(5) The EFTA State concerned will provide the EFTA Surveillance Authority with sufficient information to enable it to assess the situation, in particular regarding the need to offset the competitive advantage enjoyed by a third-country competitor.

14.5.4. Application of aid ceilings of the WTO rules

(1) Where State aid for R&D qualifies for the derogation laid down in Article 61 (3) (b) of the EEA Agreement, the gross aid intensity must not exceed the limits authorized by the WTO Subsidies Code (75 % for industrial

14.6. *Eligible R&D costs for the purpose of calculating the aid intensity*

(1) The costs set out below will be regarded as eligible for the purposes of calculating the intensity of R&D aid (where generated by other activities as well in particular other R&D activities they must be broken down by type of activity):

- personnel costs (researchers, technicians and other supporting staff employed solely on the research activity),
- cost of instruments, equipment, and land and premises used solely and on a continual basis (except where transferred commercially) for the research activity,
- cost of consultancy and equivalent services used exclusively for the research activity, including the research, technical knowledge and patents, etc. bought from outside sources,
- additional overheads incurred directly as a result of the research activity,
- other operating expenses (e.g. costs of materials, supplies and similar products) incurred directly as a result of the research activity.

14.7. *Incentive effect of R&D aid*

- (1) State aid for R&D should serve as an incentive for firms to undertake R&D activities in addition to their normal day-to-day operations. It may also encourage firms not carrying out research and development to undertake such activities. Where this incentive effect is not evident, the EFTA Surveillance Authority may consider such aid less favourably than it usually does.
- (2) In order to verify that the planned aid will induce firms to pursue research which they would not otherwise have pursued, the EFTA Surveillance Authority must take particular account of quantifiable factors (such as changes in R&D spending, in the number of people assigned to R&D activities and in R&D spending as a proportion of total turnover), market failures, additional costs connected with cross-border cooperation and other relevant factors indicated by the EFTA State that made the notification. Proposed aid may also be permitted if it contributes towards expanding the scope of research or speeding it up.

- (3) Accordingly, the EFTA Surveillance Authority calls on the EFTA States, both when notifying R&D aid and when submitting annual reports on the implementation of approved aid schemes, to demonstrate that the aid is necessary as an incentive, and is on no account operating aid.
- (4) The EFTA Surveillance Authority may assume that the aid provides a necessary incentive if the recipient is an SME within the meaning of the definition laid down in Chapter 10 of these guidelines.
- (5) The EFTA Surveillance Authority will attribute particular importance to the conditions at points 14.7 (2) and (3):
 - in the case of individual, close-to-the-market research projects to be undertaken by large firms,
 - in all cases in which a significant proportion of the R&D expenditure has already been made prior to the aid application.

14.8. *Annual reports*

- (1) For each authorized aid scheme, the EFTA Surveillance Authority will generally request an annual report on implementation. On the basis of these reports, the Authority will be in a position to monitor the allocation of aid and, if necessary, propose appropriate measures if it considers that the scheme is distorting, or is likely to distort, competition contrary to the common interest, for example, by undue concentration on specific sectors or firms.
- (2) These reports have to be in accordance with the requirements set out in Annexes III and IV to these guidelines.

14.9. *Implementation and duration*

- (1) State aid for R&D activities in the shipbuilding and ship repair sector is governed by the rules stipulated in the relevant act on aid to shipbuilding referred to in Annex XV to the EEA Agreement.

- (2) The EFTA Surveillance Authority will review the present rules in five years' time. It may also decide to amend them at any time, in cooperation with the EFTA States, should it prove necessary for reasons connected with competition policy or to take into account developments in the European Union.

⁽¹⁾ This chapter corresponds to the Community framework for State aid for research and development (OJ No C 45, 17. 2. 1996, p. 5).

⁽²⁾ Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ No L 209, 24. 7. 1992).

⁽³⁾ Thus, the Commission has decided to regard a number of Eureka projects in the field of electro-

nics (EU 127 Jessi, EU 102 Eprom, EU 147 DAB, EU 43 ESF) or high-definition television (EU 95 HDTV) as being of common European interest.

⁽⁴⁾ The Authority aims to amend the notification procedure for Eureka projects at a later stage and may propose appropriate measures to that effect.

⁽⁵⁾ See definition in Section 10.2 of these guidelines.'

Done at Brussels, 15 May 1996.

For the EFTA Surveillance Authority

Knut ALMESTAD

The President

EFTA SURVEILLANCE AUTHORITY DECISION

No 54/96/COL

of 15 May 1996

on the ninth amendment of the procedural and substantive rules in the field of
State Aid

THE EFTA SURVEILLANCE AUTHORITY,

has amended the Procedural and Substantive Rules in the Field of State Aid ⁽¹⁾, adopted on 19 January 1994 ⁽²⁾, as last amended by Decision No 53/96/COL ⁽³⁾, as follows:

1. Chapter 12 of the State Aid Guidelines shall be replaced by the following:

‘12. THE *DE MINIMIS* RULE AND ITS APPLICATION ⁽¹⁾

12.1. *The de minimis rule*

- (1) The EFTA Surveillance Authority is of the view that aid below a certain amount is considered not to have an appreciable effect on trade and competition between the Contracting Parties. Therefore Article 61 (1) of the EEA Agreement can be said not to apply and notification is not required for payments of aid as defined below.
- (2) Individual awards of aid to any one firm of up to ECU 100 000 and schemes under which the amount of aid a given firm may receive over a three-year period is limited to that figure need not be notified under Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement, provided that the conditions laid down below are observed.
- (3) The three-year period to which the limit is to be applied should be regarded as beginning on the date when the firm first was granted aid under the *de minimis* rule.
- (4) The ceiling for the *de minimis* aid applies to the total of all public assistance considered to be *de minimis* aid and will not affect the possibility of the recipient obtaining other aid under schemes approved by the EFTA Surveillance Authority.
- (5) The ceiling will apply to all aid granted by national, regional and local authorities, and to aid of all kinds, irrespective of the form it takes or the objective pursued, with the exception of export aid, which is excluded from the benefit of the *de minimis* rule ⁽²⁾.
- (6) The *de minimis* rule will be of interest primarily to SMEs, though it applies irrespective of the size of the recipient. It does not apply to the steel industry covered by ECSC Treaty nor to shipbuilding or transport.

12.2. *Principles for calculating the cash grant equivalent of de minimis aid*

- (1) The limit in the *de minimis* rule is expressed as a cash grant of ECU 100 000. In cases where assistance is provided otherwise than as a grant, it has to be converted into its cash grant equivalent value for the purposes of applying the *de minimis* limit. Of the other forms in which aid with a low cash value is given, the commonest are soft loans, tax allowances and loan guarantees. The conversion of aid in these forms into its cash grant equivalent is to be carried out as follows.

⁽¹⁾ Hereinafter referred to as the State Aid Guidelines.

⁽²⁾ OJ No L 231, 3. 9. 1994, p. 1.

⁽³⁾ See page 20 of this Official Journal.

- (2) The cash grant equivalent should be calculated gross, i.e. before tax, if the aid is taxable. If the aid is not taxable, as in the case of some tax allowances, the nominal amount of the aid, which is both gross and net, should be taken.
- (3) All aid receivable in the future should be discounted to its present value. The discount rate used should be the reference interest rate which applies at the time the aid is granted. However, a cash grant is to be counted as a single lump sum even if it is to be paid in instalments.
- (4) The cash grant equivalent of a *soft loan* in a given year is the difference between the interest due at the reference interest rate and that actually paid. All the interest that will be saved until the loan has been fully repaid should be discounted to its value at the time the loan is granted and added together. An example of how to calculate the cash grant equivalent of a soft loan is given in section 12.4.
- (5) The cash grant equivalent of a *tax allowance* is the saving in tax payments in the year concerned. Again, tax savings to be obtained in the future should be discounted to their present value using the reference interest rate.
- (6) For loan *guarantees*, the cash grant equivalent in a given year can be either:
 - calculated in the same way as the cash grant equivalent of a soft loan, once the premiums paid have been deducted, the interest subsidy representing the difference between the reference interest rate and the rate obtained thanks to the state guarantee (when the risk of default of payment is particularly high, e.g. due to a poor financial position or limited creditworthiness of the beneficiary, lack of security or owing to the terms of the guarantee itself, the use of this option has to be assessed in the light of other relevant rules applicable in such situations), or
 - taken to be the difference between (a) the outstanding sum guaranteed, multiplied by the risk factor (the probability of default) and (b) any premium paid, i.e.

$$(\text{guaranteed sum} \times \text{risk}) - \text{premium}$$

The risk factor should reflect the experience of default on loans extended in similar circumstances (sector, size of firm, level of general economic activity). Discounting to present value should be carried out in the same way as before.

12.3. *Monitoring of the de minimis rule by the EFTA States*

- (1) The EFTA Surveillance Authority has a duty to satisfy itself that the EFTA States are not given their enterprises aid which is incompatible with the functioning of the EEA Agreement⁽³⁾. The EFTA States are under an obligation to facilitate the achievement of this task by establishing machinery to ensure that, where aid is given to the same recipient under separate measures all of which are covered by the *de minimis* rule, the total amount of the aid does not exceed ECU 100 000 over a period of three years. In particular, any decision granting *de minimis* aid or the rules of any scheme providing for aid of this kind must include an explicit stipulation that any additional aid granted to the same recipient under the *de minimis* rule must not raise the total *de minimis* aid received by the enterprise to a level above the ceiling of ECU 100 000 over a period of three years. The machinery established must also enable the EFTA States to answer any questions which the EFTA Surveillance Authority might wish to ask.

12.4. *Calculation of the cash grant equivalent of a soft loan*

- (1) The following gives an example of how the grant equivalent of a soft loan can be calculated.
- (2) A public authority commits itself to paying an interest subsidy on a ECU 500 000 10-year loan to maintain the interest rate to the borrower at 6 %. The official reference interest rate fixed by the EFTA Surveillance Authority for the country concerned in that year is 8 %. In calculating the cash grant equivalent of the subsidy throughout the term of the loan, it may be assumed that the reference interest rate remains constant over the period. The cash equivalent of the subsidy depends on whether or not a grace period on principal repayments is granted.

12.4.1. *No grace period*

- (1) The loan is assumed to be paid off in linear instalments starting in year one. The cash grant equivalent of the interest subsidy in the first year is the principal sum multiplied by the interest subsidy in percent, divided by the reference interest rate, thus:

$$1. \text{ ECU } 500\,000 \times 0,02/1,08 = \text{ ECU } 9\,259.$$

The subsidy in years two to ten is calculated similarly, but at a compound discount rate, i.e.:

$$\begin{aligned} 2. & \text{ ECU } 450\,000 \times 0,02/(1,08)^2 = \text{ ECU } 7\,716 \\ 3. & \text{ ECU } 400\,000 \times 0,02/(1,08)^3 = \text{ ECU } 6\,351 \\ 4. & \text{ ECU } 350\,000 \times 0,02/(1,08)^4 = \text{ ECU } 5\,145 \\ 5. & \text{ ECU } 300\,000 \times 0,02/(1,08)^5 = \text{ ECU } 4\,083 \\ 6. & \text{ ECU } 250\,000 \times 0,02/(1,08)^6 = \text{ ECU } 3\,151 \\ 7. & \text{ ECU } 200\,000 \times 0,02/(1,08)^7 = \text{ ECU } 2\,334 \\ 8. & \text{ ECU } 150\,000 \times 0,02/(1,08)^8 = \text{ ECU } 1\,621 \\ 9. & \text{ ECU } 100\,000 \times 0,02/(1,08)^9 = \text{ ECU } 1\,000 \\ 10. & \text{ ECU } 50\,000 \times 0,02/(1,08)^{10} = \text{ ECU } 463. \end{aligned}$$

- (2) The total cash grant equivalent is the sum of the discounted subsidies in each year, i.e. ECU 41 123.

12.4.2. *With grace period*

- (1) It is assumed that no repayments of the principal have to be made in the first two years.
- (2) The loan is repaid in linear instalments of ECU 62 500 from the third year onwards. The discounted cash grant equivalent of the interest subsidy in each year is:

$$\begin{aligned} 1. & \text{ ECU } 500\,000 \times 0,02/1,08 = \text{ ECU } 9\,259 \\ 2. & \text{ ECU } 500\,000 \times 0,02/(1,08)^2 = \text{ ECU } 8\,573 \\ 3. & \text{ ECU } 500\,000 \times 0,02/(1,08)^3 = \text{ ECU } 7\,938 \\ 4. & \text{ ECU } 437\,500 \times 0,02/(1,08)^4 = \text{ ECU } 6\,432 \\ 5. & \text{ ECU } 375\,000 \times 0,02/(1,08)^5 = \text{ ECU } 5\,104 \\ 6. & \text{ ECU } 312\,500 \times 0,02/(1,08)^6 = \text{ ECU } 3\,939 \\ 7. & \text{ ECU } 250\,000 \times 0,02/(1,08)^7 = \text{ ECU } 2\,917 \\ 8. & \text{ ECU } 187\,500 \times 0,02/(1,08)^8 = \text{ ECU } 2\,026 \\ 9. & \text{ ECU } 125\,000 \times 0,02/(1,08)^9 = \text{ ECU } 1\,251 \\ 10. & \text{ ECU } 62\,500 \times 0,02/(1,08)^{10} = \text{ ECU } 579 \end{aligned}$$

(3) In this case the total cash grant equivalent is ECU 48 018.

(¹) This chapter corresponds to the Commission notice on the *de minimis* rule for State aid (OJ No C 68, 6. 3. 1996).

(²) 'Export aid' means any aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to current expenditure linked to the export activity. It does not include aid towards the cost of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market.

(³) The Authority also reserves the right to take appropriate action against any aid which complies with the *de minimis* rule but infringes other provisions of the EEA Agreement.

2. Paragraph 16.2.3 (2) of the State Aid Guidelines shall read as follows:

'(2) The only general exception is aid that is too small in amount to have a significant effect on competition and trade between the Contracting Parties and qualifies as *de minimis* aid (see Chapter 12 of these guidelines).'

Done at Brussels, 15 May 1996.

For the EFTA Surveillance Authority

Knut ALMESTAD

The President
