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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1852/96
of 24 September 1996
amending Regulation (EC) No 3089/95 allocating, for 1996, certain catch quotas
between Member States for vessels fishing in Polish waters

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⁾, and in particular Article 8 (4) thereof,

Having regard to the proposal from the Commission,

Whereas, in accordance with Article 124 of the 1994 Act of Accession, fisheries agreements concluded by the Kingdom of Sweden with third countries are managed by the Community;

Whereas Regulation (EC) No 3089/95 ⁽²⁾ allocates, for 1996, certain catch quotas between Member States for vessels fishing in Polish waters;

Whereas, in accordance with the procedure provided for in Article III of the Agreement on Fisheries of 1 February 1978 between the Kingdom of Sweden and the Republic of Poland, the Community has held further consultations concerning the reciprocal fishing rights for 1996; whereas

these consultations have resulted in the allocation of 150 tonnes of cod to the Community;

Whereas, to ensure efficient management of the catch possibilities available in Polish waters, they should be allocated among Member States as quotas in accordance with Article 8 of Regulation (EEC) No 3760/92,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EC) No 3089/95, the table relating to the allocation of Community catch quotas in Polish waters for 1996 is hereby replaced by the table set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that 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, 24 September 1996.

For the Council

The President

E. FITZGERALD

⁽¹⁾ OJ No L 389, 31. 12. 1992, p. 1. Regulation as amended by the 1994 Act of Accession.

⁽²⁾ OJ No L 330, 21. 12. 1995, p. 106.

ANNEX

Allocation of Community catch quotas in Polish waters for 1996

(in tonnes, fresh round weight for salmon: numbers of individual fish)

Species	ICES division	Community catch quotas	Quotas allocated to Member States	
Herring	III d	1 000	Sweden	1 000
Salmon	III d	1 350	Sweden	1 350
Sprat	III d	15 000	Sweden	15 000
Flatfish	III d	50	Sweden	50
Cod	III d	150	Sweden	150

**COUNCIL REGULATION (EC) No 1853/96
of 24 September 1996**

**amending Regulation (EC) No 3088/95 laying down, for 1996, certain measures
for the conservation and management of fishery resources applicable to vessels
flying the flag of Poland**

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⁾, and in particular Article 8 (4) thereof,

Having regard to the proposal from the Commission,

Whereas, in accordance with Article 124 of the 1994 Act of Accession, fisheries agreements concluded by the Kingdom of Sweden with third countries are managed by the Community;

Whereas Regulation (EC) No 3088/95 ⁽²⁾ allocates, for 1996, certain catch quotas to vessels flying the flag of Poland in Community waters;

Whereas, in accordance with the procedure provided for in Article III of the Agreement on Fisheries of 1 February 1978 between the Kingdom of Sweden and the Republic of Poland, the Community has held further consultations

concerning the reciprocal fishing rights for 1996; whereas these consultations have resulted in the allocation of 130 tonnes of cod to Poland;

Whereas the specific conditions under which such catches must be taken should be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex I to Regulation (EC) No 3088/95, the table relating to Polish catch quotas for 1996 in the fishing zone of Sweden is hereby replaced by the table set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that 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, 24 September 1996.

For the Council

The President

E. FITZGERALD

⁽¹⁾ OJ No L 389, 31. 12. 1992, p. 1. Regulation as amended by the 1994 Act of Accession.

⁽²⁾ OJ No L 330, 21. 12. 1995, p. 99.

ANNEX

Polish catch quotas for 1996

Fishing zone of Sweden⁽¹⁾

Species	Area within which fishing is authorized	Quantity (tonnes)	Number of licences
Herring	ICES III d	10 000	} 50 ⁽²⁾
Sprat	ICES III d	3 000	
Flatfish	ICES III d	50	5
Cod	ICES III d	130	

⁽¹⁾ Swedish waters south of 59°30' N in the Baltic Sea.

⁽²⁾ A maximum of three non-fishing mother ships may also be used simultaneously.

**COMMISSION REGULATION (EC) No 1854/96
of 26 September 1996**

**establishing a list of reference methods to be applied for the analysis and quality
evaluation of milk and milk products under the common market organization**

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

Having regard to Council Regulation No 804/68 of 27
June 1968 on the common organization of the market in
milk and milk products⁽¹⁾, as last amended by Regulation
(EC) No 1587/96⁽²⁾, and in particular Articles 6 (6), 7 (5),
8 (4), 9 (3), 10 (3), 11 (3), 12 (3), 13 (3), 16 (1) and (4), and
17 (14) thereof,

Whereas Article 2 (1) of Commission Regulation (EC) No
2721/95 of 24 November 1995 on the establishment of
rules for the application of reference and routine methods
for the analysis and quality evaluation of milk and milk
products under the common market organization⁽³⁾,
specifies, that each year a list of reference methods ap-
plicable for the analyses mentioned in Article 1 of that
Regulation has to be established; whereas a first list has
been drawn up and should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to this Regulation contains the list of
reference methods applicable to the analyses referred to
in Article 1 of Commission Regulation (EC) No 2721/95.

Article 2

This Regulation shall enter into force on 1 October 1996.

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

Done at Brussels, 26 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ No L 283, 25. 11. 1995, p. 7.

ANNEX

LIST OF REFERENCE METHODS PURSUANT TO REGULATION (EC) No 2721/95

Applicable from 1 October 1996

Index:

Min. = minimum, Max. = maximum, Annex = Annex to quoted Regulation, SnF = solids not fat, r = repeatability, R = reproducibility, FFA = free fatty acids, PV = peroxide value, A = appearance, F = flavour, C = consistency, TBC = total bacterial count, Therm = thermophilic bacterial count, MS = Member State, IDF = International Dairy Federation, ISO = International Standards Organization, IUPAC = International Union of Pure and Applied Chemistry, ADPI = American Dairy Products Institute, SCM = Sweetened Condensed Milk, EMC = Evaporated Milk or Cream, MSNF = Milk Solids Non Fat, WC = Whey Cheese.

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EC) No 454/95 Annex I	Butter	Milk-Fat	82 % Min.	IDF Standard 80:1977	Note 1
		Water	16 % Max.	IDF Standard 80:1977	
		SnF	2 % Max.	IDF Standard 80:1977	
		Fat acidity (Max.)	1,2 mmol/100 g fat	IDF Standard 6B:1989	
		PV (Max.)	0,3 mequiv. oxygen/1 000 g fat	ISO 3976:1977	
		Coliform	not detectable in 1 g	Commission Regulation (EC) No 1080/96 (OJ No L 142, 15. 6. 1996, p. 13)	
		non milk fat	not detectable by triglyceride analysis	Annex III	
		Sterol tracers	not detectable	Commission Regulation (EC) No 86/94 (OJ No L 17, 20. 1. 1994, p. 7)	
		Other tracers	not detectable	Methods approved by competent authority	
		Sensory characteristics	At least 4 out of 5 points for A, F, C	Annex IV	
Regulation (BEC) No 570/88	Non-salted butter	Water dispersion	At least 4 points	IDF 112A:1989	Note 2
		Milk-Fat	82 % Min.	IDF Standard 80:1977	
		Water	16 % Max.	IDF Standard 80:1977	
		Tracers			
		Sterols			
		Vanillin			
		Carotenic acid ethyl ester		Regulation (EC) No 86/94	
				Methods approved by competent authority	
				Commission Regulation (EC) No 1082/96 (OJ No L 142, 15. 6. 1996, p. 26)	
		Triglycerides of enanthic acid		IUPAC 2.301 sub 5	

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 570/88	Salted butter	Milk-fat	80 % Min.	IDF Standard 80:1977	
		Water	16 % Max.	IDF Standard 80:1977	
		Tracers		Commission Regulation (EC) No 86/94	
		Sterols		Methods approved by competent authority	Note 2
		Vanillin		Regulation (EC) No 1082/96	
Regulation (EEC) No 570/88	Concentrated butter	Carotenic acid ethyl ester		IUPAC 2.301 sub 5	
		Triglycerides of enanthic acid			
		Milk-fat	99,8 % Min.	IDF Standard 24:1964	
		Moisture & MSNF	0,2 % Max.	IDF 23A:1988 (moisture) IDF 24:1964 (MSNF)	
		Fat acidity	0,35 % (oleic) Max.	IDF Standard 6B:1989	
		PV (Max.)	0,5 mequiv. oxygen/1 000 g fat	ISO 3976:1977	Note 1
		Flavour	Fresh		
		Smell	absence of extraneous odours		
		Other	Absence of neutralizing agents, antioxidants and preservatives		
		Tracers		Regulation (EEC) No 3942/92	
Regulation (EEC) No 570/88	Cream	Sterols		Methods approved by competent authority	Note 2
		Vanillin		Regulation (EC) No 1082/96	
		Carotenic acid ethyl ester		IUPAC 2.301 sub 5	
		Triglycerides of enanthic acid			
		Fat	35 % — 49 %	IDF Standard 16C:1987	
		Tracers		Methods approved by competent authority	Note 2
		Sterols		Methods approved by competent authority	Note 2
		Vanillin		Method approved by competent authority	Note 2
		Carotenic acid ethyl ester		IUPAC 2.301 sub 5	
		Triglycerides of enanthic acid			

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 429/90	Concentrated butter	Milk-fat	96 %	IDF Standard 24:1964	
		Snf	2 %	IDF 80:1977	
		Tracers			
		stigmastanol (95 %)	15 g/100 butter concentrate	Commission Regulation (EEC) No 3942/92 (OJ No L 399, 31. 12. 1992, p. 29)	
		stigmastanol (85 %)	17 g/100 kg butter concentrate	Commission Regulation (EEC) No 3942/92 (OJ No L 399, 31. 12. 1992, p. 29)	
		triglycerides of enanthic acid ethyl ester of butyric acid and stigmastanol	1,1 kg/100 kg butter concentrate see Annex point 1c.	IUPAC 2.301 sub 5	
		lecithin (E322)		Commission Regulation (EEC) No 3942/92 (stigmastanol) and method approved by competent authority (butyric acid)	
			0,5 % Max.	Methods approved by competent authority	Note 2
		NaCl	0,75 % Max.	IDF Standard 12B:1988	
		Fat acidity	0,35 % (oleic) Max.	IDF Standard 6B:1989	Note 2
Regulation (EEC) No 2191/81	Non-salted butter	PV (Max.)	0,5 mequiv. oxygen/1 000 g fat	ISO 3976:1977	Note 1
		Flavour	Fresh		
Regulation (EEC) No 2191/81	Salted butter	Smell	absence of extraneous odours		
		Other	absence of neutralizing agents, antioxidants and preservatives		
		Milk fat	82 % Min.	IDF Standard 80:1977	
		Water	16 % Min.	IDF Standard 80:1977	
		Milk fat	80 % Min.	IDF Standard 80:1977	
		Water	16 % Min.	IDF Standard 80:1977	
		Salt	2 % Max.	IDF Standard 12B:1988	
		Water	12,00 % Max.	IDF Standard 78C:1990	
		Fat	1,75 % Max.	IDF 127A:1988	
		Free acidity	0,3 % (lactic) Max.	IDF Standard 91:1979	
Regulation (EEC) No 2921/90	Annex I — Acid Casein	Water			
		Fat			
Regulation (EEC) No 2921/90	Annex I — Rennet Casein	Free acidity			
		Water	12,00 % Max.	IDF Standard 78C:1990	
		Fat	1,00 % Max.	IDF 127A:1988	
Regulation (EEC) No 2921/90		Ash	7,50 % Min.	IDF Standard 90:1979	

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 2921/90	Annex I — Caseinate	Water	6,00 % Max.	IDF Standard 78C:1990	
		Milk protein	88,0 % Min.	IDF Standard 92:1979	
		Fat and ash	6,00 % Max.	IDF 127A:1988 IDF Standard 89:1979 or IDF Standard 90:1979	
Regulation (EEC) No 2921/90	Annex II — Acid Casein	Water	10 % Max.	IDF Standard FIL 78C:1990	
		Fat	1,5 % Max.	IDF 127A:1988	
		Free acidity	0,2 % (lactic) Max.	IDF Standard 91:1979	
		TBC (Max.)	30 000/1 g	IDF Standard 100B:1991	Note 3
		Coliforms (Max.)	absence/0,1 g	Regulation (EC) No 1080/96	
		Therm. (Max.)	5 000/1 g	IDF Standard 100B:1991	Note 3, 4
Regulation (EEC) No 2921/90	Annex II — Rennet Casein	Water	8 % Max.	IDF Standard 78C:1990	
		Fat	1,0 % Max.	IDF 127A:1988	
		Ash (Min.)	7,5 %	IDF Standard 90:1979	
		TBC (Max.)	30 000/1 g	IDF Standard 100B:1991	Note 3
		Coliforms (Max.)	absence/0,1 g	Regulation (EC) No 1080/96	
		Therm. (Max.)	5 000/1 g	IDF Standard 100B:1991	Note 3, 4
Regulation (EEC) No 2921/90	Annex II — Caseinate	Water	6,00 % Max.	IDF Standard 78C:1990	
		Milk Protein	88,0 % Min.	IDF Standard 92:1979	
		Fat and ash	6,00 % Max.	IDF 127A:1988 IDF 89:1979 or IDF 90:1979	
		TBC (Max.)	30 000/1 g	IDF Standard 100B:1991	Note 3
		Coliforms (Max.)	absence/0,1 g	Commission Regulation (EC) No 1080/96	
		Therms (Max.)	5 000/1 g	IDF Standard 100B:1991	Note 3, 4
Regulation (EEC) No 2921/90	Annex III — Caseinate	Water	6,00 % Max.	IDF Standard 78C:1990	
		Milk protein	85,00 % Min.	IDF Standard 92:1979	
		Fat	1,5 % Max.	IDF 127A:1988	
		Lactose	1,00 % Max.	IDF Standard 106:1982	
		Ash	6,5 % Max.	IDF 89:1979 or IDF 90:1979	
		TBC (Max.)	30 000/1 g	IDF Standard 100B:1991	Note 3
		Coliforms (Max.)	absence/0,1 g	Regulation (EC) No 1080/96	
		Therm. (Max.)	5 000/1 g	IDF Standard 100B:1991	Note 3, 4

Commission Regulation	Product	Parameter	Limit	Reference method	Remark
Regulation (EEC) No 1725/79	Compound feedingsuffs & SMP (animal grade)	Water (acid buttermilk powder)	5 % Max.	Annex VI	
		Water (SMP)	5 % Max.	IDF Standard 26A:1993	
		Fat (SMP)	11 % Max.	IDF Standard 9C:1987	
		SMP content Final Product	50 % Min.	Annex III	
		Fatty matter Final Product	2,5 % or 5 % Min.	Directive 84/4/EEC (OJ No L 15, 18. 1. 1984, p. 28)	
		Copper Final Product	25 ppm	Directive 78/633/EEC (OJ No L 206, 29. 7. 1978, p. 43)	
		Starch Final Product	≥ 2 %	Annex V	
		Rennet Whey Final Product	Absence	Annex IV.	
		Fat	1,0 % Max.	IDF Standard 9C:1987	
		Protein	31,4 % (Min. of the non-fat dry matter)	IDF Standard 20B:1993	
Regulation (EC) No 322/96	SMP spray	Water	3,5 % Max.	IDF Standard 26A:1993	
		Acidity (N/10 NaOH)	19,5 mls Max.	IDF Standard 86:1981	
		Lactates	150 mg/100 g Max.	IDF Standard 69B:1987	
		Phosphatase	negative	ISO Standard 3356:1975	
		Solubility	0,5 ml Max. at 24 °C	IDF 129A:1988	
		Scorched Particles	disk B Min. (15,0 mg)	ADPL:1990	
		TBC	40 000/1 g	IDF Standard 100B:1991	
		Coliform	negative/0,1 g	Regulation (EC) No 1080/96	
		Buttermilk	negative	Annex VI	
		Whey — Rennet	negative	Annex V	
Regulation (EEC) No 1081/96	Cheese made from ewes' milk	Whey — Acid	negative	Method approved by competent authority	
		Antimicrobial agents		Annex VII	
		Cows' milk	< 1 %	Regulation (EC) No 1081/96 (OJ No L 142, 15. 6. 1996, p. 15)	

Commission Regulation	Product	CN code	Parameter	Limit	Reference method	Remark
	Milk and cream, not concentrated nor sweetened	CN code 0401	Fat ($\leq 6\%$) Fat ($> 6\%$)		IDF Standard 1C:1987 IDF Standard 16C:1987	
	Milk and cream, concentrated or containing added sugar	CN code 0402	Fat (liquid form) Fat (solid form) Sucrose Total solids (SCM) Total solids (EMC)		IDF Standard 13C:1987 IDF Standard 9C:1993 IDF Standard 35A:1992 IDF Standard 15B:1991 IDF Standard 21B:1987	
Regulation (EC) No 1466/95	Buttermilk, fermented or acidified milk and cream, concentrated or unconcentrated containing added sugar	CN code 0403	Fat Sucrose	As specified in the description to the CN code for the particular product.	IDF 1C:1987, IDF 9C:1987 IDF 16C:1987, IDF 22B:1987 IDF Standard 35A:1992	
Regulation (EEC) No 584/92	Whey, whether or not concentrated or sweetened; products consisting of natural milk constituents	CN code 0404	Fat Protein Sucrose	As specified in Part 9 of the export refund nomenclature in Regulation 3846/87 as amended	IDF 9C:1987, IDF 16C:1987 IDF 22B:1987 IDF Standard 20B:1993 IDF Standard 35A:1992	
Regulation (EC) No 1713/95	Butter and other fats derived from milk; dairy spreads	CN code 0405 Butter Butteroil	Fat (if fat $\leq 85\%$) Water Solids not fat NaCl Fat (fat $> 99\%$) Water (if fat $> 99\%$)		IDF Standard 80:1977 IDF Standard 80:1977 IDF Standard 80:1977 IDF Standard 12B:1988 IDF Standard 24:1964 IDF Standard 23A:1988	
Regulation (EEC) No 1150/90	Cheese and curd	CN code 0406	Fat Dry matter Dry matter (Ricotta) NaCl Lactose		IDF Standard 5B:1986 IDF Standard 4A:1982 IDF Standard 58:1970 IDF Standard 88A:1988 IDF Standard 79B:1991	

Notes to list of European Union reference methods

Note 1: Milk fat isolation as described in IDF Standard 6B:1989 (protection from light).

Note 2: No reference method has been established.

Note 3: Sample preparation to be carried out according to IDF Standard 122B:1992 or according to IDF Standard 73A:1985.

Note 4: Incubation for 48 hours at a temperature of 55 °C.

COMMISSION REGULATION (EC) No 1855/96
of 26 September 1996
fixing 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 Regulation (EC) No 1587/96 ⁽²⁾, and in particular Article 17 (3) thereof,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas Regulation (EEC) No 804/68 provides that when the refunds on the products listed in Article 1 of the abovementioned Regulation, exported in the natural state, are being fixed account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organization of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, and
- the need to avoid disturbances on the Community market, and
- the economic aspect of the proposed exports;

Whereas Article 17 (5) of Regulation (EEC) No 804/68 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

- (a) prices ruling on third country markets;
- (b) the most favourable prices in third countries of destination for third country imports;

- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and

- (d) free-at-Community-frontier offer prices;

Whereas Article 17 (3) of Regulation (EEC) No 804/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination;

Whereas Article 17 (3) of Regulation (EEC) No 804/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; whereas the amount of the refund may, however, remain at the same level for more than four weeks;

Whereas, in accordance with Article 12 of Commission Regulation (EC) No 1466/95 of 27 June 1995 on specific detailed rules for the application of export refunds on milk and milk products ⁽³⁾, as last amended by Regulation (EC) No 1315/96 ⁽⁴⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components, one of which is intended to take account of the quantity of milk products and the other is intended to take account of the quantity of added sucrose; whereas, however, the latter component is applied only if the added sucrose was produced from sugar beet or cane harvested in the Community; whereas, for products falling within CN codes ex 0402 99 11, ex 0402 99 19, ex 0404 90 51, ex 0404 90 53, ex 0404 90 91 and ex 0404 90 93, with a fat content by weight not exceeding 9,5 % and a non-fatty milk content in the dry matter equal to or greater than 15 % by weight, the former abovementioned component is fixed for 100 kilograms of the whole product; whereas, for the other products containing added sugar falling within CN codes 0402 and 0404, that component is calculated by multiplying the basic amount by the milk products content of the product concerned; whereas that basic amount is equal to the refund to be fixed for one kilogram of milk products contained in the whole product;

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽⁵⁾, as last amended by Regulation (EC) No 1599/96 ⁽⁶⁾;

Whereas the level of refund for cheeses is calculated for products intended for direct consumption; whereas the

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ No L 144, 28. 6. 1995, p. 22.

⁽⁴⁾ OJ No L 170, 9. 7. 1996, p. 20.

⁽⁵⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽⁶⁾ OJ No L 206, 16. 8. 1996, p. 43.

cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 230,00 per 100 kilograms;

Whereas Commission Regulation (EEC) No 896/84 ⁽⁷⁾, as last amended by Regulation (EEC) No 222/88 ⁽⁸⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of varying refunds according to the date of manufacture of the products;

Whereas for the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account;

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

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, with a view to better management of cheese exports in the light of the new constraints affecting subsidized exports, the refunds applying to some cheeses on export to certain destinations should be reduced;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in the Annex.
2. There shall be no refunds for exports to destination No 400 for products falling within CN codes 0401, 0402, 0403, 0404, 0405 and 2309.
3. There shall be no refunds for exports to destinations No 022, 024, 028, 043, 044, 045, 046, 052, 404, 600, 800 and 804 for products falling within CN code 0406.

Article 2

This Regulation shall enter into force on 27 September 1996.

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

Done at Brussels, 26 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽⁷⁾ OJ No L 91, 1. 4. 1984, p. 71.

⁽⁸⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽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.

ANNEX

to the Commission Regulation of 26 September 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 (")
0401 10 10 000	+	4,748	0402 21 99 600	+	131,29
0401 10 90 000	+	4,748	0402 21 99 700	+	137,24
0401 20 11 100	+	4,748	0402 21 99 900	+	143,96
0401 20 11 500	+	7,340	0402 29 15 200	+	0,6300
0401 20 19 100	+	4,748	0402 29 15 300	+	0,9530
0401 20 19 500	+	7,340	0402 29 15 500	+	1,0040
0401 20 91 100	+	9,775	0402 29 15 900	+	1,0802
0401 20 91 500	+	11,39	0402 29 19 200	+	0,6300
0401 20 99 100	+	9,775	0402 29 19 300	+	0,9530
0401 20 99 500	+	11,39	0402 29 19 500	+	1,0040
0401 30 11 100	+	14,62	0402 29 19 900	+	1,0802
0401 30 11 400	+	22,55	0402 29 91 100	+	1,0878
0401 30 11 700	+	33,87	0402 29 91 500	+	1,1851
0401 30 19 100	+	14,62	0402 29 99 100	+	1,0878
0401 30 19 400	+	22,55	0402 29 99 500	+	1,1851
0401 30 19 700	+	33,87	0402 91 11 110	+	4,748
0401 30 31 100	+	40,34	0402 91 11 120	+	9,775
0401 30 31 400	+	63,00	0402 91 11 310	+	14,00
0401 30 31 700	+	69,47	0402 91 11 350	+	17,15
0401 30 39 100	+	40,34	0402 91 11 370	+	20,85
0401 30 39 400	+	63,00	0402 91 19 110	+	4,748
0401 30 39 700	+	69,47	0402 91 19 120	+	9,775
0401 30 91 100	+	79,18	0402 91 19 310	+	14,00
0401 30 91 400	+	116,37	0402 91 19 350	+	17,15
0401 30 91 700	+	135,80	0402 91 19 370	+	20,85
0401 30 99 100	+	79,18	0402 91 31 100	+	19,31
0401 30 99 400	+	116,37	0402 91 31 300	+	24,65
0401 30 99 700	+	135,80	0402 91 39 100	+	19,31
0402 10 11 000	+	63,00	0402 91 39 300	+	24,65
0402 10 19 000	+	63,00	0402 91 51 000	+	22,55
0402 10 91 000	+	0,6300	0402 91 59 000	+	22,55
0402 10 99 000	+	0,6300	0402 91 91 000	+	79,18
0402 21 11 200	+	63,00	0402 91 99 000	+	79,18
0402 21 11 300	+	95,30	0402 99 11 110	+	0,0475
0402 21 11 500	+	100,40	0402 99 11 130	+	0,0978
0402 21 11 900	+	108,00	0402 99 11 150	+	0,1336
0402 21 17 000	+	63,00	0402 99 11 310	+	16,14
0402 21 19 300	+	95,30	0402 99 11 330	+	19,37
0402 21 19 500	+	100,40	0402 99 11 350	+	25,75
0402 21 19 900	+	108,00	0402 99 19 110	+	0,0475
0402 21 91 100	+	108,78	0402 99 19 130	+	0,0978
0402 21 91 200	+	109,53	0402 99 19 150	+	0,1336
0402 21 91 300	+	110,88	0402 99 19 310	+	16,14
0402 21 91 400	+	118,51	0402 99 19 330	+	19,37
0402 21 91 500	+	121,15	0402 99 19 350	+	25,75
0402 21 91 600	+	131,29	0402 99 31 110	+	0,2094
0402 21 91 700	+	137,24	0402 99 31 150	+	26,81
0402 21 91 900	+	143,96	0402 99 31 300	+	0,4034
0402 21 99 100	+	108,78	0402 99 31 500	+	0,6947
0402 21 99 200	+	109,53	0402 99 39 110	+	0,2094
0402 21 99 300	+	110,88	0402 99 39 150	+	26,81
0402 21 99 400	+	118,51	0402 99 39 300	+	0,4034
0402 21 99 500	+	121,15			

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0402 99 39 500	+	0,6947	0404 90 29 160	+	136,02
0402 99 91 000	+	0,7918	0404 90 29 180	+	142,66
0402 99 99 000	+	0,7918	0404 90 81 100	+	0,6194
0403 10 11 400	+	4,748	0404 90 81 910	+	0,0475
0403 10 11 800	+	7,340	0404 90 81 950	+	16,00
0403 10 13 800	+	9,775	0404 90 83 110	+	0,6194
0403 10 19 800	+	14,62	0404 90 83 130	+	0,9445
0403 10 31 400	+	0,0475	0404 90 83 150	+	0,9950
0403 10 31 800	+	0,0734	0404 90 83 170	+	1,0703
0403 10 33 800	+	0,0978	0404 90 83 911	+	0,0475
0403 10 39 800	+	0,1462	0404 90 83 913	+	0,0978
0403 90 11 000	+	61,94	0404 90 83 915	+	0,1462
0403 90 13 200	+	61,94	0404 90 83 917	+	0,2255
0403 90 13 300	+	94,45	0404 90 83 919	+	0,3387
0403 90 13 500	+	99,50	0404 90 83 931	+	16,00
0403 90 13 900	+	107,03	0404 90 83 933	+	19,20
0403 90 19 000	+	107,83	0404 90 83 935	+	25,52
0403 90 31 000	+	0,6194	0404 90 83 937	+	26,55
0403 90 33 200	+	0,6194	0404 90 89 130	+	1,0783
0403 90 33 300	+	0,9445	0404 90 89 150	+	1,1746
0403 90 33 500	+	0,9950	0404 90 89 930	+	0,4843
0403 90 33 900	+	1,0703	0404 90 89 950	+	0,6947
0403 90 39 000	+	1,0783	0404 90 89 990	+	0,7918
0403 90 51 100	+	4,748	0405 10 11 500	+	185,37
0403 90 51 300	+	7,340	0405 10 11 700	+	190,00
0403 90 53 000	+	9,775	0405 10 19 500	+	185,37
0403 90 59 110	+	14,62	0405 10 19 700	+	190,00
0403 90 59 140	+	22,55	0405 10 30 100	+	185,37
0403 90 59 170	+	33,87	0405 10 30 300	+	190,00
0403 90 59 310	+	40,34	0405 10 30 500	+	185,37
0403 90 59 340	+	63,00	0405 10 30 700	+	190,00
0403 90 59 370	+	69,47	0405 10 50 100	+	185,37
0403 90 59 510	+	79,18	0405 10 50 300	+	190,00
0403 90 59 540	+	116,37	0405 10 50 500	+	185,37
0403 90 59 570	+	135,80	0405 10 50 700	+	190,00
0403 90 61 100	+	0,0475	0405 10 90 000	+	196,95
0403 90 61 300	+	0,0734	0405 20 90 500	+	173,78
0403 90 63 000	+	0,0978	0405 20 90 700	+	180,73
0403 90 69 000	+	0,1462	0405 90 10 000	+	240,00
0404 90 21 100	+	61,94	0405 90 90 000	+	190,00
0404 90 21 910	+	4,748	0406 10 20 100	+	—
0404 90 21 950	+	13,87	0406 10 20 230	037	—
0404 90 23 120	+	61,94		039	—
0404 90 23 130	+	94,45		099	24,03
0404 90 23 140	+	99,50		400	24,72
0404 90 23 150	+	107,03		...	36,05
0404 90 23 911	+	4,748	0406 10 20 290	037	—
0404 90 23 913	+	9,775		039	—
0404 90 23 915	+	14,62		099	22,36
0404 90 23 917	+	22,55		400	22,99
0404 90 23 919	+	33,87		...	33,54
0404 90 23 931	+	13,87	0406 10 20 610	037	—
0404 90 23 933	+	17,00		039	—
0404 90 23 935	+	20,66		099	41,70
0404 90 23 937	+	24,43		400	50,04
0404 90 23 939	+	25,54		...	62,55
0404 90 29 110	+	107,83			
0404 90 29 115	+	108,54			
0404 90 29 120	+	109,89			
0404 90 29 130	+	117,46			
0404 90 29 135	+	120,05			
0404 90 29 150	+	130,11			

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 10 20 620	037	—	0406 30 10 150	037	—
	039	—		039	—
	099	45,73		099	8,173
	400	54,87		400	9,064
	...	68,59		...	12,26
0406 10 20 630	037	—	0406 30 10 200	037	—
	039	—		039	—
	099	51,63		099	17,43
	400	61,95		400	19,69
	...	77,44		...	26,14
0406 10 20 640	037	—	0406 30 10 250	037	—
	039	—		039	—
	099	60,59		099	17,43
	400	72,70		400	19,69
	...	90,88		...	26,14
0406 10 20 650	037	—	0406 30 10 300	037	—
	039	—		039	—
	099	63,07		099	25,57
	400	38,26		400	28,89
	...	94,61		...	38,36
0406 10 20 660	+	—	0406 30 10 350	037	—
0406 10 20 810	037	—		039	—
	039	—		099	17,43
	099	9,820		400	19,69
	400	11,78		...	26,14
	...	14,73	0406 30 10 400	037	—
0406 10 20 830	037	—		039	—
	039	—		099	25,57
	099	16,77		400	28,89
	400	20,12		...	38,36
	...	25,15	0406 30 10 450	037	—
0406 10 20 850	037	—		039	—
	039	—		099	37,21
	099	20,33		400	42,07
	400	24,39		...	55,81
	...	30,49	0406 30 10 500	+	—
0406 10 20 870	+	—		037	—
0406 10 20 900	+	—		039	—
0406 20 90 100	+	—		099	17,43
0406 20 90 913	037	—		400	19,69
	039	—		...	26,14
	099	39,59	0406 30 10 600	037	—
	400	47,50		039	—
	...	59,38		099	25,57
0406 20 90 915	037	—		400	28,89
	039	—		...	38,36
	099	52,78	0406 30 10 650	037	—
	400	63,34		039	—
	...	79,17		099	37,21
0406 20 90 917	037	—		400	42,07
	039	—		...	55,81
	099	56,07	0406 30 10 700	037	—
	400	67,29		039	—
	...	84,11		099	37,21
0406 20 90 919	037	—		400	42,07
	039	—		...	55,81
	099	62,67	0406 30 10 100	+	—
	400	75,21		037	—
	...	94,01		039	—
0406 20 90 990	+	—		099	37,21
0406 30 10 100	+	—		400	42,07
	+	—		...	55,81

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 30 10 750	037	—	0406 30 39 700	037	—
	039	—		039	—
	099	44,13		099	37,21
	400	49,89		400	42,07
	...	66,19		...	55,81
0406 30 10 800	037	—	0406 30 39 930	037	—
	039	—		039	—
	099	44,13		099	37,21
	400	49,89		400	42,07
	...	66,19		...	55,81
0406 30 31 100	+	—	0406 30 39 950	037	—
0406 30 31 300	037	—		039	—
	039	—		099	44,13
	099	8,173		400	49,89
	400	9,064		...	66,19
	...	12,26	0406 30 90 000	037	—
0406 30 31 500	037	—		039	—
	039	—		099	44,13
	099	17,43		400	49,89
	400	19,69		...	66,19
	...	26,14	0406 40 50 000	037	—
0406 30 31 710	037	—		039	—
	039	—		099	58,96
	099	17,43		400	49,60
	400	19,69		...	88,44
	...	26,14	0406 40 90 000	037	—
0406 30 31 730	037	—		039	—
	039	—		099	58,96
	099	25,57		400	49,60
	400	28,89		...	88,44
	...	38,36	0406 90 07 000	037	—
0406 30 31 910	037	—		039	—
	039	—		099	68,69
	099	17,43		400	97,72
	400	19,69		...	103,03
	...	26,14	0406 90 08 100	037	—
0406 30 31 930	037	—		039	—
	039	—		099	72,30
	099	25,57		400	102,86
	400	28,89		...	108,45
	...	38,36	0406 90 08 900	+	—
0406 30 31 950	037	—		037	—
	039	—	0406 90 09 100	039	—
	099	37,21		099	68,69
	400	42,07		400	97,72
	...	55,81		...	103,03
0406 30 39 100	+	—	0406 90 09 900	+	—
	037	—		037	—
	039	—		039	—
	099	17,43		099	68,69
	400	19,69	0406 90 12 000	400	97,72
0406 30 39 300	...	26,14		...	103,03
	037	—		037	—
	039	—		039	—
	099	17,43		099	72,30
	400	25,57	0406 90 14 100	400	102,86
0406 30 39 500	...	38,36		...	108,45
	037	—		+	—
	039	—		037	—
	099	25,57		039	—
	400	28,89	0406 90 14 900	099	72,30
	...	38,36		400	102,86

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 90 16 100	037	—	0406 90 35 190	037	30,47
	039	—		039	30,47
	099	68,69		099	75,47
	400	97,72		400	79,25
	...	103,03		...	113,21
0406 90 16 900	+	—	0406 90 35 990	037	—
0406 90 21 900	037	—		039	—
	039	—		099	57,56
	099	70,69		400	60,44
	400	66,96		...	86,34
	...	106,04	0406 90 37 000	037	—
0406 90 23 900	037	—		039	—
	039	—		099	74,25
	099	48,04		400	102,86
	400	27,93		...	111,38
	...	72,06	0406 90 61 000	037	42,75
0406 90 25 900	037	—		039	42,75
	039	—		099	82,02
	099	58,34		400	86,12
	400	31,81		...	123,03
	...	87,51	0406 90 63 100	037	39,07
0406 90 27 900	037	—		039	39,07
	039	—		099	67,25
	099	48,04		400	100,88
	400	27,93		...	100,88
	...	72,06	0406 90 63 900	037	31,07
0406 90 31 119	037	—		039	31,07
	039	—		099	46,62
	099	45,07		400	69,93
	400	34,60		...	69,93
	...	67,61	0406 90 69 100	+	—
0406 90 31 151	037	—		037	—
	039	—		039	—
	099	42,01		099	51,51
	400	32,34		400	77,27
	...	63,02		...	77,27
0406 90 31 159	+	—	0406 90 73 900	037	—
0406 90 33 119	037	—		039	—
	039	—		099	70,37
	099	45,07		400	73,89
	400	34,60		...	105,56
	...	67,61	0406 90 75 900	037	—
0406 90 33 151	037	—		039	—
	039	—		099	58,71
	099	42,01		400	33,48
	400	32,34		...	88,06
	...	63,02	0406 90 76 100	037	—
0406 90 33 919	037	—		039	—
	039	—		099	43,06
	099	39,83		400	27,27
	400	30,57		...	64,59
	...	59,74	0406 90 76 300	037	—
0406 90 33 951	037	—		039	—
	039	—		099	52,73
	099	39,08		400	30,26
	400	30,08		...	79,09
	...	58,62	0406 90 76 500	037	—
				039	—
				099	52,73
				400	34,92
				...	79,09

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 90 78 100	037	—	0406 90 86 400	037	—
	039	—		039	—
	099	43,06		099	49,09
	400	27,27		400	51,54
	...	64,59		...	73,63
0406 90 78 300	037	—	0406 90 86 900	037	—
	039	—		039	—
	099	52,73		099	57,63
	400	30,26		400	60,52
	...	79,09		...	86,45
0406 90 78 500	037	—	0406 90 87 100	+	—
	039	—	0406 90 87 200	037	—
	099	52,73		039	—
	400	34,92		099	36,61
	...	79,09		400	38,44
0406 90 79 900	037	—		...	54,92
	039	—	0406 90 87 300	037	—
	099	53,45		039	—
	400	28,91		099	40,13
	...	80,17		400	42,13
0406 90 81 900	037	—		...	60,19
	039	—	0406 90 87 400	037	—
	099	57,56		039	—
	400	60,44		099	45,41
	...	86,34		400	47,68
0406 90 85 910	037	30,47		...	68,11
	039	30,47	0406 90 87 951	037	—
	099	75,47		039	—
	400	79,25		099	66,49
	...	113,21		400	69,82
0406 90 85 991	037	—		...	99,74
	039	—	0406 90 87 971	037	—
	099	57,56		039	—
	400	60,44		099	55,36
	...	86,34		400	51,74
0406 90 85 995	037	—		...	83,04
	039	—	0406 90 87 972	099	21,09
	099	59,92		400	20,55
	400	31,81		...	31,64
	...	89,88	0406 90 87 979	037	—
0406 90 85 999	+	—		039	—
	+	—		099	55,36
0406 90 86 100	037	—		400	36,22
	039	—		...	83,04
	099	39,59	0406 90 88 100	+	—
	400	41,57		037	—
	...	59,38		039	—
0406 90 86 200	037	—		099	39,59
	039	—		400	41,57
	099	39,59		...	59,38
	400	41,57	0406 90 88 200	037	—
	...	59,38		039	—
0406 90 86 300	037	—		099	39,59
	039	—		400	41,57
	099	43,39		...	59,38
	400	45,56	0406 90 88 300	037	—
	...	65,08		039	—
				099	43,39
				400	45,56
				...	65,08

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
2309 10 15 010	+	—	2309 90 35 010	+	—
2309 10 15 100	+	—	2309 90 35 100	+	—
2309 10 15 200	+	—	2309 90 35 200	+	—
2309 10 15 300	+	—	2309 90 35 300	+	—
2309 10 15 400	+	—	2309 90 35 400	+	—
2309 10 15 500	+	—	2309 90 35 500	+	—
2309 10 15 700	+	—	2309 90 35 700	+	—
2309 10 19 010	+	—	2309 90 39 010	+	—
2309 10 19 100	+	—	2309 90 39 100	+	—
2309 10 19 200	+	—	2309 90 39 200	+	—
2309 10 19 300	+	—	2309 90 39 300	+	—
2309 10 19 400	+	—	2309 90 39 400	+	—
2309 10 19 500	+	—	2309 90 39 500	+	—
2309 10 19 600	+	—	2309 90 39 600	+	—
2309 10 19 700	+	—	2309 90 39 700	+	—
2309 10 19 800	+	—	2309 90 39 800	+	—
2309 10 70 010	+	—	2309 90 70 010	+	—
2309 10 70 100	+	14,58	2309 90 70 100	+	14,58
2309 10 70 200	+	19,44	2309 90 70 200	+	19,44
2309 10 70 300	+	24,30	2309 90 70 300	+	24,30
2309 10 70 500	+	29,16	2309 90 70 500	+	29,16
2309 10 70 600	+	34,02	2309 90 70 600	+	34,02
2309 10 70 700	+	38,88	2309 90 70 700	+	38,88
2309 10 70 800	+	42,77	2309 90 70 800	+	42,77

(*) 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).

However, '099' covers all destination codes from 053 to 096 inclusive.

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 1856/96
of 26 September 1996**

**amending Regulation (EC) No 2993/94 fixing the aid for the supply of milk
products to the Canary Islands under the arrangements provided for in Articles 2
to 4 of Council Regulation (EEC) No 1601/92**

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

Having regard to Council Regulation (EEC) No 1601/92
of 15 June 1992 concerning specific measures for the
Canary Islands with regard to certain agricultural
products⁽¹⁾, as last amended by Regulation (EC) No
2537/95⁽²⁾, and in particular Article 3 (4) thereof,

Whereas Commission Regulation (EC) No 2790/94⁽³⁾, as
amended by Regulation (EC) No 2883/94⁽⁴⁾, lays down in
particular the detailed rules for the application of the
specific arrangements for the supply of certain agricul-
tural products to the Canary Islands;

Whereas Commission Regulation (EC) No 2993/94⁽⁵⁾, as
last amended by Regulation (EC) No 1778/96⁽⁶⁾, fixed the
amount of aid for milk products;

Whereas Commission Regulation (EC) No 1855/96 of 26
September 1996 fixing the export refunds on milk and

milk products⁽⁷⁾ fixes the refunds on those products;
whereas the Annex to Regulation (EC) No 2993/94
should be adapted to take account of those adjustments;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to amended Regulation (EC) No 2993/94 is
hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 27 September
1996.

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

Done at Brussels, 26 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ No L 260, 31. 10. 1995, p. 10.

⁽³⁾ OJ No L 296, 17. 11. 1994, p. 23.

⁽⁴⁾ OJ No L 304, 29. 11. 1994, p. 18.

⁽⁵⁾ OJ No L 316, 9. 12. 1994, p. 11.

⁽⁶⁾ OJ No L 232, 13. 9. 1996, p. 32.

⁽⁷⁾ See page 13 of this Official Journal.

ANNEX

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter ⁽¹⁾ :			
0401 10	— Of a fat content, by weight, not exceeding 1 %:			
0401 10 10	— — In immediate packings of a net content not exceeding 2 litres	0401 10 10 000	(¹)	4,748
0401 10 90	— — Other	0401 10 90 000	(¹)	4,748
0401 20	— Of a fat content, by weight, exceeding 1 % but not exceeding 6 %:			
	— — Not exceeding 3 %:			
0401 20 11	— — — In immediate packings of a net content not exceeding 2 litres:			
	— — — Of a fat content, by weight, not exceeding 1,5 %	0401 20 11 100	(¹)	4,748
	— — — Of a fat content, by weight, exceeding 1,5 %	0401 20 11 500	(¹)	7,340
0401 20 19	— — — Other:			
	— — — Of a fat content, by weight, not exceeding 1,5 %	0401 20 19 100	(¹)	4,748
	— — — Of a fat content, by weight, exceeding 1,5 %	0401 20 19 500	(¹)	7,340
	— — Exceeding 3 %:			
0401 20 91	— — — In immediate packings of a net content not exceeding 2 litres:			
	— — — Of a fat content, by weight, not exceeding 4 %	0401 20 91 100	(¹)	9,775
	— — — Of a fat content, by weight, exceeding 4 %	0401 20 91 500	(¹)	11,39
0401 20 99	— — — Other:			
	— — — Of a fat content, by weight, not exceeding 4 %	0401 20 99 100	(¹)	9,775
	— — — Of a fat content, by weight, exceeding 4 %	0401 20 99 500	(¹)	11,39
0401 30	— Of a fat content, by weight, exceeding 6 %:			
	— — Not exceeding 21 %:			
0401 30 11	— — — In immediate packings of a net content not exceeding 2 litres:			
	— — — Of a fat content, by weight:			
	— — — Not exceeding 10 %	0401 30 11 100	(¹)	14,62
	— — — Exceeding 10 % but not exceeding 17 %	0401 30 11 400	(¹)	22,55
	— — — Exceeding 17 %	0401 30 11 700	(¹)	33,87
0401 30 19	— — — Other:			
	— — — Of a fat content, by weight:			
	— — — Not exceeding 10 %	0401 30 19 100	(¹)	14,62
	— — — Exceeding 10 % but not exceeding 17 %	0401 30 19 400	(¹)	22,55
	— — — Exceeding 17 %	0401 30 19 700	(¹)	33,87
	— — Exceeding 21 % but not exceeding 45 %:			
0401 30 31	— — — In immediate packings of a net content not exceeding 2 litres:			
	— — — Of a fat content, by weight:			
	— — — Not exceeding 35 %	0401 30 31 100	(¹)	40,34
	— — — Exceeding 35 % but not exceeding 39 %	0401 30 31 400	(¹)	63,00
	— — — Exceeding 39 %	0401 30 31 700	(¹)	69,47

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0401 30 39	— — — Other: — Of a fat content, by weight: — Not exceeding 35 % — Exceeding 35 % but not exceeding 39 % — Exceeding 39 % — — Exceeding 45 %:	0401 30 39 100 0401 30 39 400 0401 30 39 700	(¹) (¹) (¹)	40,34 63,00 69,47
0401 30 91	— — — In immediate packings of a net content not exceeding 2 litres: — Of a fat content, by weight: — Not exceeding 68 % — Exceeding 68 % but not exceeding 80 % — Exceeding 80 %	0401 30 91 100 0401 30 91 400 0401 30 91 700	(¹) (¹) (¹)	79,18 116,37 135,80
0401 30 99	— — — Other: — Of a fat content, by weight: — Not exceeding 68 % — Exceeding 68 % but not exceeding 80 % — Exceeding 80 %	0401 30 99 100 0401 30 99 400 0401 30 99 700	(¹) (¹) (¹)	79,18 116,37 135,80
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter:			
0402 10	— In powder, granules or other solid forms, of a fat content, by weight, not exceeding 1,5 % (⁷): — — Not containing added sugar or other sweetening matter (²):			
0402 10 11	— — — In immediate packings of a net content not exceeding 2,5 kg	0402 10 11 000	(²)	63,00
0402 10 19	— — — Other — — Other (³):	0402 10 19 000	(²)	63,00
0402 10 91	— — — In immediate packings of a net content not exceeding 2,5 kg	0402 10 91 000	(³)	0,6300
0402 10 99	— — — Other — In powder, granules or other solid forms, of a fat content, by weight, exceeding 1,5 % (⁷):	0402 10 99 000	(³)	0,6300
0402 21	— — Not containing added sugar or other sweetening matter (²): — — — Of a fat content, by weight, not exceeding 27 %:			
0402 21 11	— — — — In immediate packings of a net content not exceeding 2,5 kg: — Of a fat content, by weight: — Not exceeding 11 % — Exceeding 11 % but not exceeding 17 % — Exceeding 17 % but not exceeding 25 % — Exceeding 25 % — — — — Other:	0402 21 11 200 0402 21 11 300 0402 21 11 500 0402 21 11 900	(²) (²) (²) (²)	63,00 95,30 100,40 108,00
0402 21 17	— — — — — Of a fat content, by weight, not exceeding 11 %	0402 21 17 000	(²)	63,00
0402 21 19	— — — — — Of a fat content, by weight, exceeding 11 % but not exceeding 27 %: — Not exceeding 17 % — Exceeding 17 % but not exceeding 25 % — Exceeding 25 % — — — Of a fat content, by weight, exceeding 27 %:	0402 21 19 300 0402 21 19 500 0402 21 19 900	(³) (²) (²)	95,30 100,40 108,00

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0402 21 91	— — — — In immediate packings of a net content not exceeding 2,5 kg: — Of a fat content, by weight: — Not 28 % — Exceeding 28 % but not exceeding 29 % — Exceeding 29 % but not exceeding 41 % — Exceeding 41 % but not exceeding 45 % — Exceeding 45 % but not exceeding 59 % — Exceeding 59 % but not exceeding 69 % — Exceeding 69 % but not exceeding 79 % — Exceeding 7 %	0402 21 91 100 0402 21 91 200 0402 21 91 300 0402 21 91 400 0402 21 91 500 0402 21 91 600 0402 21 91 700 0402 21 91 900	(2) (2) (2) (2) (2) (2) (2) (2)	108,78 109,53 110,88 118,51 121,15 131,29 137,24 143,96
0402 21 99	— — — — Other: — Of a fat content, by weight: — Not exceeding 28 % — Exceeding 28 % but not exceeding 29 % — Exceeding 29 % but not exceeding 41 % — Exceeding 41 % but not exceeding 45 % — Exceeding 45 % but not exceeding 59 % — Exceeding 59 % but not exceeding 69 % — Exceeding 69 % but not exceeding 79 % — Exceeding 79 %	0402 21 99 100 0402 21 99 200 0402 21 99 300 0402 21 99 400 0402 21 99 500 0402 21 99 600 0402 21 99 700 0402 21 99 900	(2) (2) (2) (2) (2) (2) (2) (2)	108,78 109,53 110,88 118,51 121,15 131,29 137,24 143,96
ex 0402 29	— — Other ⁽³⁾ : — — — Of a fat content, by weight, not exceeding 27 %: — — — — Other:			
0402 29 15	— — — — — In immediate packings of a net content not exceeding 2,5 kg: — Of a fat content, by weight: — Not exceeding 11 % — Exceeding 11 % but not exceeding 17 % — Exceeding 17 % but not exceeding 25 % — Exceeding 25 %	0402 29 15 200 0402 29 15 300 0402 29 15 500 0402 29 15 900	(3) (3) (3) (3)	0,6300 0,9530 1,0040 1,0802
0402 29 19	— — — — — Other: — Of a fat content, by weight: — Not exceeding 11 % — Exceeding 11 % but not exceeding 17 % — Exceeding 17 % but not exceeding 25 % — Exceeding 25 % — — — Of a fat content, by weight, exceeding 27 %:	0402 29 19 200 0402 29 19 300 0402 29 19 500 0402 29 19 900	(3) (3) (3) (3)	0,6300 0,9530 1,0040 1,0802

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0402 29 91	— — — — In immediate packings of a net content not exceeding 2,5 kg: — Of a fat content, by weight: — Not exceeding 41 % — Exceeding 41 %	0402 29 91 100 0402 29 91 500	(³) (³)	1,0878 1,1851
0402 29 99	— — — — Other: — Of a fat content, by weight: — Not exceeding 41 % — Exceeding 41 %	0402 29 99 100 0402 29 99 500	(³) (³)	1,0878 1,1851
0402 91	— — Not containing added sugar or other sweetening matter (²): — — — Of a fat content, by weight, not exceeding 8 %:			
0402 91 11	— — — — In immediate packings of a net content not exceeding 2,5 kg: — Of a non-fat lactic dry matter content: — Of less than 15 % and of a fat content, by weight: — Not exceeding 3 % — Exceeding 3 % — Of 15 % or more and of a fat content, by weight: — Not exceeding 3 % — Exceeding 3 % but not exceeding 7,4 % — Exceeding 7,4 %	0402 91 11 110 0402 91 11 120 0402 91 11 310 0402 91 11 350 0402 91 11 370	(²) (²) (²) (²) (²)	4,748 9,775 13,98 17,15 20,85
0402 91 19	— — — — Other: — Of a non-fat lactic dry matter content: — Of less than 15 % and of a fat content, by weight: — Not exceeding 3 % — Exceeding 3 % — Of 15 % or more and of a fat content, by weight: — Not exceeding 3 % — Exceeding 3 % but not exceeding 7,4 % — Exceeding 7,4 % — — — Of a fat content, by weight, exceeding 8 % but not exceeding 10 %:	0402 91 19 110 0402 91 19 120 0402 91 19 310 0402 91 19 350 0402 91 19 370	(²) (²) (²) (²) (²)	4,748 9,775 13,98 17,15 20,85
0402 91 31	— — — — In immediate packings of a net content not exceeding 2,5 kg: — Of a non-fat lactic dry matter content: — Of less than 15 % — Of 15 % or more	0402 91 31 100 0402 91 31 300	(²) (²)	19,31 24,65
0402 91 39	— — — — Other: — Of a non-fat lactic dry matter content: — Of less than 15 % — Of 15 % or more — — — Of a fat content, by weight, exceeding 10 % but not exceeding 45 %:	0402 91 39 100 0402 91 39 300	(²) (²)	19,31 24,65
0402 91 51	— — — — In immediate packings of a net content not exceeding 2,5 kg	0402 91 51 000	(²)	22,55
0402 91 59	— — — — Other	0402 91 59 000	(²)	22,55

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
	— — — Of a fat content, by weight, exceeding 45 %:			
0402 91 91	— — — — In immediate packings of a net content not exceeding 2,5 kg	0402 91 91 000	(2)	79,18
0402 91 99	— — — — Other	0402 91 99 000	(2)	79,18
0402 99	— — Other:			
	— — — Of a fat content, by weight, not exceeding 9,5 %:			
0402 99 11	— — — — In immediate packings of a net content not exceeding 2,5 kg:			
	— Of a non-fat lactic dry matter content of less than 15 % and of a fat content, by weight (3):			
	— Not exceeding 3 %	0402 99 11 110	(3)	0,0475
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 11 130	(3)	0,0978
	— Exceeding 6,9 %	0402 99 11 150	(3)	0,1336
	— Of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight (4):			
	— Not exceeding 3 %	0402 99 11 310	(4)	16,14
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 11 330	(4)	19,37
	— Exceeding 6,9 %	0402 99 11 350	(4)	25,75
0402 99 19	— — — — Other:			
	— Of a non-fat lactic dry matter content of less than 15 % and of a fat content, by weight (3):			
	— Not exceeding 3 %	0402 99 19 110	(3)	0,0475
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 19 130	(3)	0,0978
	— Exceeding 6,9 %	0402 99 19 150	(3)	0,1336
	— Of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight (4):			
	— Not exceeding 3 %	0402 99 19 310	(4)	16,14
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 19 330	(4)	19,37
	— Exceeding 6,9 %	0402 99 19 350	(4)	25,75
	— — — Of a fat content, by weight, exceeding 9,5 % but not exceeding 45 %:			
0402 99 31	— — — — In immediate packings not exceeding 2,5 kg:			
	— Of a fat content, by weight, not exceeding 21 %:			
	— Of a non-fat lactic dry matter content, by weight, of less than 15 % (3)	0402 99 31 110	(3)	0,2094
	— Of a non-fat lactic dry matter content, by weight, of 15 % or more (4)	0402 99 31 150	(4)	26,81
	— Of a fat content, by weight, exceeding 21 % but not exceeding 39 % (3)	0402 99 31 300	(3)	0,4034
	— Of a fat content, by weight, exceeding 39 % (3)	0402 99 31 500	(3)	0,6947

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0402 99 39	- - - - Other: - Of a fat content, by weight, not exceeding 21 %: - Of a non-fat lactic dry matter content, by weight, of less than 15 % ⁽³⁾ - Of a non-fat lactic dry matter content, by weight, of 15 % or more ⁽⁴⁾ - Of a fat content, by weight, exceeding 21 % but not exceeding 39 % ⁽³⁾ - Of a fat content, by weight, exceeding 39 % ⁽³⁾ - - - Of a fat content, by weight, exceeding 45 %:	0402 99 39 110 0402 99 39 150 0402 99 39 300 0402 99 39 500	⁽³⁾ ⁽⁴⁾ ⁽³⁾ ⁽³⁾	0,2094 26,81 0,4034 0,6947
0402 99 91	- - - - In immediate packings not exceeding 2,5 kg ⁽³⁾	0402 99 91 000	⁽²⁾	0,7918
0402 99 99	- - - - Other ⁽³⁾	0402 99 99 000	⁽²⁾	0,7918
ex 0405	Butter and other fats and oils derived from milk; dairy spreads:			
0405 10	- Butter:			
	- - Of a fat content, by weight, not exceeding 85 %:			
	- - - Natural butter:			
0405 10 11	- - - - In immediate packings of a net content not exceeding 1 kg:			
	- - - - - Of a fat content by weight:			
	- - - - - - Of 80 % or more but less than 82 %	0405 10 11 500		185,37
	- - - - - - Of 82 % or more	0405 10 11 700		190,00
0405 10 19	- - - - Other:			
	- - - - - Of a fat content by weight:			
	- - - - - - Of 80 % or more but less than 82 %	0405 10 19 500		185,37
	- - - - - - Of 82 % or more	0405 10 19 700		190,00
0405 10 30	- - - Recombined butter:			
	- - - - In immediate packings of a net content not exceeding 1 kg:			
	- - - - - Of a fat content by weight:			
	- - - - - - Of 80 % or more but less than 82 %	0405 10 30 100		185,37
	- - - - - - Of 82 % or more	0405 10 30 300		190,00
	- - - - Other:			
	- - - - - Of a fat content by weight:			
	- - - - - - Of 80 % or more but less than 82 %	0405 10 30 500		185,37
	- - - - - - Of 82 % or more	0405 10 30 700		190,00
0405 10 50	- - - Whey butter:			
	- - - - In immediate packings of a net content not exceeding 1 kg:			
	- - - - - Of a fat content by weight:			
	- - - - - - Of 80 % or more but less than 82 %	0405 10 50 100		185,37
	- - - - - - Of 82 % or more	0405 10 50 300		190,00
	- - - - Other:			
	- - - - - Of a fat content by weight:			
	- - - - - - Of 80 % or more but less than 82 %	0405 10 50 500		185,37
	- - - - - - Of 82 % or more	0405 10 50 700		190,00
0405 10 90	- - Other	0405 10 90 000		196,95

<i>(in ECU/100 kg weight, if no other indication)</i>				
CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
ex 0405 20	– Dairy spreads:			
0405 20 90	– – Of a fat content by weight of more than 75 % but less than 80 %:			
	– – – Of a fat content by weight:			
	– – – – Of more than 75 % but less than 78 %	0405 20 90 500		173,78
	– – – – Of 78 % or more	0405 20 90 700		180,73
0405 90	– Other:			
0405 90 10	– – Of a fat content by weight of 99,3 % or more and of a water content by weight not exceeding 0,5 %:	0405 90 10 000		240,00
0405 90 90	– – Other	0405 90 90 000		190,00
0406	– Cheese:			
0406 30	– Processed, cheese, not grated or powdered (*):			
0406 30 10	– – In the blending of which only Emmentaler, Gruyere and Appenzell have been used and which may contain, as an addition, Glarus herb cheese (known as Schabziger); put up for retail sale, of a fat content by weight in the dry matter, not exceeding 56 %:			
	– – – In the blending of which only Emmentaler and Gruyere have been used of a fat content by weight in the dry matter, not exceeding 56 %:			
	– – – – Of a fat content, by weight, not exceeding 36 % and of a fat content, by weight, in the dry matter:			
	– – – – – Not exceeding 48 %:			
	– – – – – Of a dry matter content, by weight:			
	– – – – – – Of less than 27 %	0406 30 10 100		—
	– – – – – – Of 27 % or more but less than 33 %	0406 30 10 150		12,26
	– – – – – – Of 33 % or more but less than 38 %	0406 30 10 200		26,14
	– – – – – – Of 38 % or more but less than 43 % and of a fat content, by weight, in the dry matter:			
	– – – – – – – Of less than 20 %	0406 30 10 250		26,14
	– – – – – – – Of 20 % or more	0406 30 10 300		38,36
	– – – – – – Of 43 % or more and of a fat content, by weight, in the dry matter:			
	– – – – – – – Of less than 20 %	0406 30 10 350		26,14
	– – – – – – – Of 20 % or more but less than 40 %	0406 30 10 400		38,36
	– – – – – – – Of 40 % or more	0406 30 10 450		55,81
	– – – – – Exceeding 48 %:			
	– – – – – Of a dry matter content, by weight:			
	– – – – – – Of less than 33 %	0406 30 10 500		—
	– – – – – – Of 33 % or more but less than 38 %	0406 30 10 550		26,14
	– – – – – – Of 38 % or more but less than 43 %	0406 30 10 600		38,36

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0406 30 10 (cont'd)	— Of 43 % or more but less than 46 % — Of 46 % or more and of a fat content, by weight, in the dry matter: — Of less than 55 % — Of 55 % or more — — — Of a fat content, by weight, exceeding 36 % — — — Other — — Other: — — — Of a fat content, by weight, not exceeding 36 % and of a fat content, by weight, in the dry matter:	0406 30 10 650		55,81
		0406 30 10 700		55,81
		0406 30 10 750		66,19
		0406 30 10 800		66,19
		0406 30 10 900		—
0406 30 31	— — — Not exceeding 48 %: — Of a dry matter content, by weight: — Of less than 27 % — Of 27 % or more but less than 33 % — Of 33 % or more but less than 38 % — Of 38 % or more but less than 43 % and of a fat content, by weight, in the dry matter: — Of less than 20 % — Of 20 % or more — Of 43 % or more and of a fat content, by weight, in the dry matter: — Of less than 20 % — Of 20 % or more but less than 40 % — Of 40 % or more	0406 30 31 100		—
		0406 30 31 300	(⁵)	12,26
		0406 30 31 500	(⁵)	26,14
		0406 30 31 710	(⁵)	26,14
		0406 30 31 730	(⁵)	38,36
		0406 30 31 910	(⁵)	26,14
		0406 30 31 930	(⁵)	38,36
		0406 30 31 950	(⁵)	55,81
0406 30 39	— — — Exceeding 48 %: — Of a dry matter content, by weight: — Of less than 33 % — Of 33 % or more but less than 38 % — Of 38 % or more but less than 43 % — Of 43 % or more but less than 46 % — Of 46 % or more and of a fat content, by weight, in the dry matter: — Of less than 55 % — Of 55 % or more	0406 30 39 100		—
		0406 30 39 300	(⁵)	26,14
		0406 30 39 500	(⁵)	38,36
		0406 30 39 700	(⁵)	55,81
0406 30 90	— — — Of a fat content, by weight, exceeding 36 %	0406 30 90 000	(⁵)	66,19
0406 90 23	— — — Edam: — Of a fat content, by weight, in the dry matter: — Of less than 39 % — Of 39 % or more	0406 90 23 100		—
		0406 90 23 900	(⁵)	72,06
0406 90 25	— — — Tilsit: — Of a fat content, by weight, in the dry matter: — Of less than 39 % — Of 39 % or more	0406 90 25 100		—
		0406 90 25 900	(⁵)	87,51

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0406 90 27	— — — Butterkäse: — Of a fat content, by weight, in the dry matter: — Of less than 39 % — Of 39 % or more	0406 90 27 100		—
		0406 90 27 900	(³)	72,06
0406 90 76	— — — — — Danbo, Fontal, Fontina, Fynbo, Havarti, Maribo, Samsø: — Of a fat content, by weight, in the dry matter of less than 39 % — Of a fat content, by weight, in the dry matter of 39 % or more but less than 55 % — Of a fat content, by weight, in the dry matter of 55 % or more	0406 90 76 100	(³)	64,59
		0406 90 76 300	(³)	79,09
		0406 90 76 500	(³)	79,09
0406 90 78	— — — — — Gouda: — Of a fat content, by weight, in the dry matter of less than 39 % — Of a fat content, by weight, in the dry matter of 39 % or more but less than 55 % — Of a fat content, by weight, in the dry matter of 55 % or more — — — — — Other cheeses, of a water content, calculated by weight, of the non-fatty matter	0406 90 78 100	(³)	64,59
		0406 90 78 300	(³)	79,09
		0406 90 78 500	(³)	79,09
0406 90 79	— — — — — Estrom, Italico, Kernhem, Saint-Nectaire, Saint-Paulin and Taleggio: — Of a fat content, by weight, in the dry matter of less than 39 % — Of a fat content, by weight, in the dry matter of 39 % or more	0406 90 79 100		—
		0406 90 79 900	(³)	80,17
0406 90 81	— — — — — Cantal, Cheshire, Wensleydale, Lancashire, Double Gloucester, Blarney, Colby and Monterey: — Of a fat content, by weight, in the dry matter of less than 39 % — Of a fat content, by weight, in the dry matter of 39 % or more	0406 90 81 100		—
		0406 90 81 900	(³)	86,34
0406 90 86	— — — — — Exceeding 47 % but not exceeding 52 %: — Cheeses produced from whey — Other: — Of a fat content, by weight, in the dry matter: — Of less than 5 % — Of 5 % or more but less than 19 % — Of 19 % or more but less than 39 % — Of more than 39 %	0406 90 86 100		—
		0406 90 86 200	(³)	59,38
		0406 90 86 300	(³)	65,08
		0406 90 86 400	(³)	73,63
		0406 90 86 900	(³)	86,45

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0406 90 87	— — — — — Exceeding 52 % but not exceeding 62 %:			
	— Cheeses produced from whey	0406 90 87 100		—
	— Other:			
	— Of a fat content, by weight, in the dry matter:			
	— Of less than 5 %	0406 90 87 200	(¹)	54,92
	— Of 5 % or more but less than 19 %	0406 90 87 300	(¹)	60,19
	— Of 19 % or more but less than 39 %	0406 90 87 400	(¹)	68,11
	— Of more than 39 %:			
	— Idiazabal, Manchego and Roncal, manufactured exclusively from sheep's milk	0406 90 87 951	(¹)	99,74
	— Maasdam	0406 90 87 971	(¹)	83,04
	— Manouri, of a fat content, by weight, of 30 % or more	0406 90 87 972	(¹)	31,64
	— Other	0406 90 87 979	(¹)	83,04
0406 90 88	— — — — — Exceeding 62 % but not exceeding 72 %:			
	— Cheeses produced from whey	0406 90 88 100		—
	— Other:			
	— Of a fat content, by weight, in the dry matter:			
	— Of less than 5 % and of a dry matter content, by weight, of 32 % or more	0406 90 88 200	(¹)	59,38
	— Of 5 % or more but less than 19 % and of a dry matter content, by weight, of 32 % or more	0406 90 88 300	(¹)	65,08
	— Other	0406 90 88 900		—

(¹) When the product falling within this subheading is a mixture containing added whey and/or added lactose and/or casein and/or caseinates, no aid shall be granted.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added to the product.

(²) The weight of the added non-lactic matter and/or added whey and/or added lactose and/or added casein and/or added caseinates shall not be taken into account for the purpose of calculation of the fat content by weight. When the product falling within this subheading is a mixture containing added whey and/or added lactose and/or added casein and/or added caseinates, the whey and/or added casein and/or caseinates shall not be taken into account in the added calculation of the amount of aid.

When completing customs formalities, the applicant shall state, on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added, and where this is the case:

- the actual content by weight of whey and/or lactose and/or casein and/or caseinates added per 100 kilograms of finished product, and in particular,
- the lactose content of the added whey.

(³) The weight of added non-lactic matter and/or added whey and/or added lactose and/or added casein and/or added caseinates shall not be taken into account for the purpose of calculation of the fat content, by weight.

The aid per 100 kilograms of product falling within this subheading shall be equal to the sum of the following components:

- (a) the amount per kilogram shown, multiplied by the weight of the lactic part contained in 100 kilograms of product; however, where whey and/or lactose and/or casein and/or caseinates have been added to the product, the amount per kilogram shown shall be multiplied by the weight of lactic part excluding the weight of added whey and/or added lactose and/or added caseinates, contained in 100 kilograms of product;

- (b) a component calculated in accordance with the provisions of Article 12 (3) of amended Regulation (EC) No 1466/95 (OJ No L 144, 28. 6. 1995, p. 22).
When completing customs formalities, the applicant shall state, on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added, and where this is the case:
- the actual content by weight of whey and/or lactose and/or casein and/or caseinates added per 100 kilograms of finished products, and in particular,
 - the lactose content of the added whey.
- (*) The aid on 100 kilograms of product falling within this subheading is equal to the sum of the following elements:
- (a) the amount per 100 kilograms shown; however, where whey and/or lactose and/or casein and/or caseinates have been added to the products, the amount per 100 kilograms shown shall be:
- multiplied by the weight of the lactic part other than the added whey and/or added lactose and/or added casein and/or added caseinates contained in 100 kilograms of product, and then
 - divided by the weight of the lactic part contained in 100 kilograms of product;
- (b) a component calculated in accordance with the provisions of Article 12 (3) of Regulation (EC) No 1466/95.
When completing customs formalities, the applicant shall state, on the declaration provided for this purpose, whether or not whey and/or lactose and/or casein and/or caseinates have been added, and where this is the case:
- the actual content by weight of whey and/or lactose and/or casein and/or caseinates added per 100 kilograms of finished product, and, in particular,
 - the lactose content of the added whey.
- (†) In the case of cheeses presented in containers which also contain conserving liquid, in particular brine, the aid is granted on the net weight, the weight of the liquid being deducted.
- (‡) Where the product contains casein and/or caseinates, the part corresponding to the casein and/or the added caseinates will not be taken into account for the purpose of calculating the aid.
When completing customs formalities, the party concerned is to state, on the declaration provided for the purpose, whether or not casein and/or caseinates have been added per 100 kilograms and where this is the case, the actual content by weight of added casein and/or added caseinates of finished product.
- (§) The aid on frozen condensed milk is the same as that on products falling within CN codes 0402 91 or 0402 99.
-

COMMISSION REGULATION (EC) No 1857/96

of 26 September 1996

amending Regulation (EEC) No 2219/92 laying down detailed rules for the application of the specific supply arrangements for Madeira relating to milk products regarding the amounts of aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products⁽¹⁾, as last amended by Regulation (EC) No 2537/95⁽²⁾, and in particular Article 10 thereof,

Whereas Commission Regulation (EEC) No 1696/92⁽³⁾, as last amended by Regulation (EEC) No 2596/93⁽⁴⁾, lays down in particular the detailed rules for the application of the specific arrangements for the supply of certain agricultural products to the Azores and Madeira;

Whereas Annex II to Regulation (EEC) No 2219/92 of 30 July 1992 laying down detailed rules for the application of the specific supply arrangements for Madeira relating to milk products and establishing the forecast supply balance⁽⁵⁾, as last amended by Regulation (EC) No 1777/96⁽⁶⁾, fixes the aid for milk products;

Whereas Commission Regulation (EC) No 1855/96 of 26 September 1996 fixing the export refunds on milk and

milk products⁽⁷⁾ fixes the refunds on those products; whereas Annex II to Regulation (EEC) No 2219/92 should be adapted to take account of those adjustments;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to amended Regulation (EEC) No 2219/92 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 27 September 1996.

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

Done at Brussels, 26 September 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 1.
⁽²⁾ OJ No L 260, 31. 10. 1995, p. 10.
⁽³⁾ OJ No L 179, 1. 7. 1992, p. 6.
⁽⁴⁾ OJ No L 238, 23. 9. 1993, p. 24.
⁽⁵⁾ OJ No L 218, 1. 8. 1992, p. 75.
⁽⁶⁾ OJ No L 232, 13. 9. 1996, p. 27.

⁽⁷⁾ See page 13 of this Official Journal.

ANNEX

ANNEX II

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter ⁽¹⁾ :			
0401 10	– Of a fat content, by weight, not exceeding 1 %:			
0401 10 10	– – In immediate packings of a net content not exceeding 2 litres	0401 10 10 000	⁽¹⁾	4,748
0401 10 90	– – Other	0401 10 90 000	⁽¹⁾	4,748
0401 20	– Of a fat content, by weight, exceeding 1 % but not exceeding 6 %:			
	– – Not exceeding 3 %:			
0401 20 11	– – – In immediate packings of a net content not exceeding 2 litres:			
	– Of a fat content, by weight, not exceeding 1,5 %	0401 20 11 100	⁽¹⁾	4,748
	– Of a fat content, by weight, exceeding 1,5 %	0401 20 11 500	⁽¹⁾	7,340
0401 20 19	– – – Other:			
	– Of a fat content, by weight, not exceeding 1,5 %	0401 20 19 100	⁽¹⁾	4,748
	– Of a fat content, by weight, exceeding 1,5 %	0401 20 19 500	⁽¹⁾	7,340
	– – Exceeding 3 %:			
0401 20 91	– – – In immediate packings of a net content not exceeding 2 litres:			
	– Of a fat content, by weight, not exceeding 4 %	0401 20 91 100	⁽¹⁾	9,775
	– Of a fat content, by weight, exceeding 4 %	0401 20 91 500	⁽¹⁾	11,39
0401 20 99	– – – Other:			
	– Of a fat content, by weight, not exceeding 4 %	0401 20 99 100	⁽¹⁾	9,775
	– Of a fat content, by weight, exceeding 4 %	0401 20 99 500	⁽¹⁾	11,39
0401 30	– Of a fat content, by weight, exceeding 6 %:			
	– – Not exceeding 21 %:			
0401 30 11	– – – In immediate packings of a net content not exceeding 2 litres:			
	– Of a fat content, by weight:			
	– Not exceeding 10 %	0401 30 11 100	⁽¹⁾	14,62
	– Exceeding 10 % but not exceeding 17 %	0401 30 11 400	⁽¹⁾	22,55
	– Exceeding 17 %	0401 30 11 700	⁽¹⁾	33,87
0401 30 19	– – – Other:			
	– Of a fat content, by weight:			
	– Not exceeding 10 %	0401 30 19 100	⁽¹⁾	14,62
	– Exceeding 10 % but not exceeding 17 %	0401 30 19 400	⁽¹⁾	22,55
	– Exceeding 17 %	0401 30 19 700	⁽¹⁾	33,87
	– – Exceeding 21 % but not exceeding 45 %:			
0401 30 31	– – – In immediate packings of a net content not exceeding 2 litres:			
	– Of a fat content, by weight:			
	– Not exceeding 35 %	0401 30 31 100	⁽¹⁾	40,34
	– Exceeding 35 % but not exceeding 39 %	0401 30 31 400	⁽¹⁾	63,00
	– Exceeding 39 %	0401 30 31 700	⁽¹⁾	69,47
0401 30 39	– – – Other:			
	– Of a fat content, by weight:			
	– Not exceeding 35 %	0401 30 39 100	⁽¹⁾	40,34
	– Exceeding 35 % but not exceeding 39 %	0401 30 39 400	⁽¹⁾	63,00
	– Exceeding 39 %	0401 30 39 700	⁽¹⁾	69,47
	– – Exceeding 45 %:			

(in ECU/100 kg weight, if no other indication)

CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0401 30 91	— — — In immediate packings of a net content not exceeding 2 litres: — Of a fat content, by weight: — Not exceeding 68 % — Exceeding 68 % but not exceeding 80 % — Exceeding 80 %	0401 30 91 100 0401 30 91 400 0401 30 91 700	(¹) (¹) (¹)	79,18 116,37 135,80
0401 30 99	— — — Other: — Of a fat content, by weight: — Not exceeding 68 % — Exceeding 68 % but not exceeding 80 % — Exceeding 80 %	0401 30 99 100 0401 30 99 400 0401 30 99 700	(¹) (¹) (¹)	79,18 116,37 135,80
ex 0402	Skimmed-milk powder of a fat content, by weight, not exceeding 1,5 %	0402 10 11 000 0402 10 19 000	(²)	63,00
ex 0402	Whole milk powder of a fat content, by weight, not exceeding 27 %	0402 21 11 900 0402 21 19 900	(²)	108,00
0402 21 11	— — — — In immediate packings of a net content not exceeding 2,5 kg: — Of a fat content, by weight: — Not exceeding 11 % — Exceeding 11 % but not exceeding 17 % — Exceeding 17 % but not exceeding 25 % — Exceeding 25 %	0402 21 11 200 0402 21 11 300 0402 21 11 500 0402 21 11 900	(²) (²) (²) (²)	63,00 95,30 100,40 108,00
0402 21 19	— — — — Other: — — — — — Of a fat content, by weight, exceeding 11 % but not exceeding 27 %: — Not exceeding 17 % — Exceeding 17 % but not exceeding 25 % — Exceeding 25 %	0402 21 19 300 0402 21 19 500 0402 21 19 900	(⁴) (²) (²)	95,30 100,40 108,00
ex 0405	— — — Of a fat content, by weight, exceeding 27 %: Butter and other fats and oils derived from milk; dairy spreads:			
0405 10	— Butter: — — Of a fat content, by weight, not exceeding 85 %: — — — Natural butter:			
0405 10 11	— — — — In immediate packings of a net content not exceeding 1 kg: — — — — — Of a fat content by weight: — — — — — — Of 80 % or more but less than 82 % — — — — — — Of 82 % or more	0405 10 11 500 0405 10 11 700		185,37 190,00
0405 10 19	— — — — Other: — — — — — Of a fat content by weight: — — — — — — Of 80 % or more but less than 82 % — — — — — — Of 82 % or more	0405 10 19 500 0405 10 19 700		185,37 190,00
0405 10 30	— — — Recombined butter: — — — — In immediate packings of a net content not exceeding 1 kg: — — — — — Of a fat content by weight: — — — — — — Of 80 % or more but less than 82 % — — — — — — Of 82 % or more — — — — Other: — — — — — Of a fat content by weight: — — — — — — Of 80 % or more but less than 82 % — — — — — — Of 82 % or more	0405 10 30 100 0405 10 30 300 0405 10 30 500 0405 10 30 700		185,37 190,00 185,37 190,00

(in ECU/100 kg weight, if no other indication)				
CN code	Description of goods	Product code	Notes	Amount of aid
(1)	(2)	(3)	(4)	(5)
0405 10 50	— — — Whey butter: — — — — In immediate packings of a net content not exceeding 1 kg: — — — — — Of a fat content by weight: — — — — — — Of 80 % or more but less than 82 % — — — — — — Of 82 % or more — — — — — Other: — — — — — Of a fat content by weight: — — — — — — Of 80 % or more but less than 82 % — — — — — — Of 82 % or more	0405 10 50 100 0405 10 50 300 0405 10 50 500 0405 10 50 700		185,37 190,00 185,37 190,00
0405 10 90	— — Other	0405 10 90 000		196,95
ex 0405 20	— Dairy spreads:			
0405 20 90	— — Of a fat content by weight of more than 75 % but less than 80 %: — — — Of a fat content by weight: — — — — Of more than 75 % but less than 78 % — — — — Of 78 % or more	0405 20 90 500 0405 20 90 700		173,78 180,73
0405 90	— Other:			
0405 90 10	— — Of a fat content by weight of 99,3 % or more and of a water content by weight not exceeding 0,5 %:	0405 90 10 000		240,00
0405 90 90	— — Other	0405 90 90 000		190,00
ex 0406	Cheeses:			
0406 90 23	Edam	0406 90 23 900		72,06
0406 90 25	Tilsit	0406 90 25 900		87,51
0406 90 76	— — — — — Danbo, Fontal, Fontina, Fynbo, Havarti, Maribo, Samsø	0406 90 76 100		64,59
0406 90 78	— — — — — Gouda: — — — — — — Of a fat content, by weight, in the dry matter of less than 39 % — — — — — — Of a fat content, by weight, in the dry matter of 39 % or more but less than 55 % — — — — — — Of a fat content, by weight, in the dry matter of 55 % or more — — — — — — Other cheeses, of a water content, calculated by weight, of the non-fatty matter	0406 90 78 100 0406 90 78 300 0406 90 78 500	(3) (3) (3)	64,59 79,09 79,09
0406 90 79	Esrom, Italico, Kernhem, Saint-Nectaire, Saint-Paulin, Taleggio	0406 90 79 900		80,17
0406 90 81	Cantal, Cheshire, Wensleydale, Lancashire, Double Gloucester, Blarney, Colby, Monterey	0406 90 81 900		86,34
0406 90 86	— — — — — Exceeding 47 % but not exceeding 52 %: — — — — — — Cheeses produced from whey — — — — — — Other: — — — — — — — Of a fat content, by weight, in the dry matter: — — — — — — — — Of less than 5 % — — — — — — — — Of 5 % or more but less 19 % — — — — — — — — Of 19 % or more but less than 39 % — — — — — — — — Of more than 39 %	0406 90 86 100 0406 90 86 200 0406 90 86 300 0406 90 86 400 0406 90 86 900	(3) (3) (3) (3)	— 59,38 65,08 73,63 86,45

COMMISSION REGULATION (EC) No 1858/96
of 26 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 27 September 1996.

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

Done at Brussels, 26 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 26 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	113,3
	064	70,8		039	121,0
	066	54,0		052	68,6
	068	80,3		064	58,8
	204	86,8		070	90,2
	208	44,0		284	72,1
	212	97,5		388	56,6
	400	170,4		400	54,4
	624	95,8		404	63,6
	999	86,9		416	72,7
				508	113,5
ex 0707 00 25	052	82,8	0808 20 57	512	126,1
	053	156,2		524	100,3
	060	61,0		528	53,0
	066	53,8		624	86,5
	068	69,1		728	107,3
	204	144,3		800	141,3
	624	87,1		804	97,1
	999	93,5		999	87,2
	052	54,3		039	104,1
	204	77,5		052	73,0
	412	54,2		064	79,3
	508	42,9		388	57,2
0709 90 79	624	151,9	0809 30 41, 0809 30 49	400	70,4
	999	76,2		512	88,7
	052	74,6		528	132,9
	204	88,8		624	79,0
	220	74,0		728	115,4
	388	78,9		800	84,0
	400	68,2		804	73,0
	512	80,0		999	87,0
	520	66,5		052	93,8
	524	66,5		220	121,8
	528	67,5		624	106,8
	600	96,5		999	107,5
0805 30 30	624	48,9	0809 40 30	052	66,3
	999	73,7		064	13,1
	052	75,8		066	71,9
	064	49,5		068	37,1
	066	49,4		400	75,6
	220	110,8		624	63,8
	400	139,4		676	68,6
	412	58,5		999	56,6
	508	307,2			
	512	186,0			
	600	88,5			
0806 10 40					

⁽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 30 April 1996

enjoining the Kingdom of Spain to provide the necessary information in order to prove definitively that aid was granted under an existing aid scheme

(Only the Spanish text is authentic)

(Text with EEA relevance)

(96/562/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

ment of Navarra valued at Pta 600 million with a subsidy of 20 %.

Having regard to the Treaty establishing the European Community, and in particular Articles 5, 92 and 93 thereof, and having regard to the Agreement establishing the European Economic Area, and in particular Articles 61 and 62 thereof,

By letter dated 23 January 1995, the Commission requested the Spanish authorities to provide relevant information on the aid schemes in favour of Ponsal as they were alleged by the complainant.

Whereas:

By letter dated 16 December 1994, the Commission received a complaint concerning Porcelanas del Norte SAL (Ponsal). The complainant alleged that Ponsal had been given significant amounts of aid in 1994 by the Government of Navarra, including a bank guarantee of Pta 1 200 million, a subsidy of Pta 100 million for creating employment, a subsidy of 20 % for investing in fixed assets and a partial waiver of taxes and social duties due to the Spanish authorities.

These aids were not notified to the Commission in spite of the obligations to be fulfilled by the Member States pursuant to Article 93 (3) of the EC Treaty.

The complainant also enclosed a copy of Foral Law 11/1994 of 4 July by which the Parliament of Navarra would have approved the grant of a bank guarantee of Pta 1 200 million, mentioned above, and the purchase by Ponsal of an industrial estate belonging to the Govern-

By letter dated 17 March 1995, the Spanish authorities answered that all aid to Ponsal was awarded under an existing aid scheme for rationalizing and reviving companies in crisis, as previously communicated to and not challenged by the Commission on the occasion of Spain's accession to the European Community and contained in Foral Law 1/1985 of 4 March. According to the Spanish authorities, the Government of Navarra's freedom to award aid under this aid scheme was limited later by two additional legal acts: Foral Law 17/1985 of 27 September and Foral Law 8/1988 of 26 December. These two laws established ceilings for the government's award of aid, above which parliamentary approval was required for awarding aid under Foral Law 1/1985 of 4 March. Thus, Foral Law 17/1985 of 27 September required approval by the Parliament of Navarra if the Government of Navarra undertook the sale of any real estate valued at more than Pta 200 million whereas Foral Law 8/1988 of 26 December required specific authorization by the Parliament of Navarra if a bank guarantee to be awarded was to exceed Pta 100 million. As this was the case with

Ponsal, since the aid in question exceeded the ceilings set out in those two Foral Laws, parliamentary approval was needed; it was given by Foral Law 11/1994 of 4 July. The objective of this law therefore solely consisted in authorizing the government to award a bank guarantee of Pta 1 200 million and to dispose of assets worth Pta 480 million.

The Commission understands that existing aids are the specific measures to implement an existing aid scheme and covered by it. In order to use an existing aid scheme as a legal basis to award aid, it is necessary that the legal act conferring the actual aid refers expressly to the general aid scheme so that it may be considered to be covered by it.

The Commission asserts, however, that the legal act awarding the specific aid to Ponsal, Foral Law 11/1994 of 4 July, refers to Foral Laws 17/1985 of 27 September and 8/1988 of 26 December but not to Foral Law 1/1985 of 4 March, which, according to the Spanish authorities, afforded the legal basis.

By letter dated 31 July 1995, the Commission requested the Spanish authorities to explain the apparent inconsistency of bringing into force a formal legal act without citing the legal basis on which it was based, that means, the supposed award of two aids, a bank guarantee and the disposal of real estate at a subsidized price by virtue of Foral Law 11/1994 of 4 July, without citing expressly Foral Law 1/1985 of 4 March which contained the general scheme under which the aids were awarded. The Spanish authorities, however, did not respond to this request.

Consequently, on the basis of the information now available to the Commission, it is not possible to assess whether the aids granted to Ponsal were awarded within the framework of an aid scheme previously communicated to, and not challenged by, the Commission, because neither in Foral Law 11/1994 of 4 July nor in any other legal act held by the Commission is any reference made to the general scheme under which in the Spanish authorities' opinion the aid was granted to Ponsal.

According to the case-law of the Court of Justice in its judgment of 5 October 1994 in Case C-47/91 (Italgrani),

the Commission is entitled to take a provisional decision requiring the Member State concerned to provide all the documents, information and particulars necessary for proving that the aid was awarded under an existing scheme.

Should the Spanish Government fail to comply with this Decision and not provide the information requested within the period allowed in Article 1 of this Decision, the Commission will be obliged to consider this case as an *ad hoc* aid and to act accordingly, namely by opening the procedure provided for in Article 93 (2) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Spain shall, within 15 working days of the notification of this Decision, provide all appropriate information allowing a substantive appraisal to be made as to the nature of the aid awarded to Porcelanas del Norte SAL. In particular, the Spanish Government shall submit adequate evidence to show that the aid granted to Ponsal in 1994, two of which aids were awarded under Foral Law 11/1994 of 4 July, were so granted in pursuance of a general scheme for rationalizing and reviving companies in crisis, as previously communicated to, and not challenged by, the Commission, and as contained in Foral Law 1/1985 of 4 March.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 30 April 1996.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 29 May 1996

on aid from the *Land* of Lower Saxony to the company JAKO Jadekost GmbH & Co. KG

(Only the German text is authentic)

(Text with EEA relevance)

(96/563/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having given notice to the parties concerned to submit their comments in accordance with the abovementioned Article, and having considered those comments,

Whereas:

I

A number of competitors and associations in Germany, Denmark, France and the United Kingdom provided the Commission with information indicating that the *Land* of Lower Saxony had granted aid to the Jadekost company in Wilhelmshaven, in the form of a security for an operating loan. In a letter of 30 June 1994 the Commission asked Germany for a statement on this matter and expressed doubt as to whether the aid was compatible with point 1.3 in the guidelines for the examination of State aid in the fisheries and aquaculture sector⁽¹⁾.

Germany replied by letter dated 19 July 1994, which essentially said that as well as producing meat products and ready-made dishes, in June 1993 the Jadekost company had also started producing predominantly deep-frozen fish products (fish fingers, fish fillets, 'gourmet' fish fillets).

- It said that Jadekost, one of the most modern fish- and meat-processing works in Europe, in a market where growth rates reached double figures in some areas, was certain to develop positively once it had got beyond the initial market-entry phase.
- The security provided by the *Land* was not, it was said, a maintenance measure, but a temporary one which would lead to lasting improvement. Nor had the security been provided without any obligation

having been imposed as to its use. Utilization of the funds was subject to strict supervision and they were provided only for the requirements specified in the financing plan. The purpose of their use was defined by the specific expenditure items set out in that plan.

The German Government said that the company had originally intended to finance the total amount (investment and operating funds) from its own funds and bank loans, without provision of any third-party security. However, reduced liquidity resulting from sharp drops in profits had meant that, to start up operations, outside funding was needed in the form of a loan of DM 35 million, for which the banks required an 80 % security to be provided by the *Land* of Lower Saxony. The security provided by the *Land* for this operating loan thus constituted, it was said, the equivalent of the investments made with the company's own funds. If the secured credit had been used for investment, the company would have been able to use DM 32,5 million of its own funds as operating funds. The aid would then comply with the guidelines. Furthermore, the loan secured was being provided under the usual market conditions. Application fees and other expenses had led to additional costs.

After a discussion of the case on 31 August 1994 between representatives of the Commission, the Federal Ministry of Food, Agriculture and Forestry, and the Lower Saxony Ministries of Economic Affairs, Technology and Transport and of Agriculture and Forestry, the Commission requested further information in a letter of 1 September 1994, and the information was provided within the extended time limit for a reply, on 13 October and 2 November 1994.

On the basis of the information at its disposal, the Commission concluded that the security was provided in pursuance of the scheme authorized under the notified aid Case No 255/90-Germany. In its letter No (SG) D/27176 of 14 September 1990, the Commission had pointed out to Germany in this connection that pursuant to the scheme authorized for certain sectors, including fisheries, standards and guidelines applicable to those sectors had to be complied with. Given this reference to

⁽¹⁾ OJ No C 152, 17. 6. 1992, p. 2.

relevant sectoral framework rules, the aid in question must be analysed in terms of the abovementioned guidelines. Under point 1.3 of those guidelines, the aid in question was operating aid incompatible with the common market, since the security provided by the *Land* of Lower Saxony for the loan granted by a consortium of banks to the Jadekost company served to cover operating costs for that company. The aid had been granted without imposing any obligation on the part of the recipients and its effect was therefore to improve the recipients' income.

II

The Commission therefore decided to initiate the procedure laid down in Article 93 (2) of the Treaty and notified the German Government of this decision by letter of 20 February 1995 and gave it notice to submit its comments within one month.

In its reply of 13 April 1995, the German Government stated that those parts of the security which did not have to be attributed exclusively to specific sectors should be regarded as approved aid, since the security in question had been granted in accordance with the General Directives on Securities of the *Land* of Lower Saxony, which had been approved by the Commission.

The Commission's statement that the guidelines for fisheries and aquaculture should be applied could, the German Government said, only apply to part of the security. Initial planning had forecast that between 10 and 20 % of production would be ready-made dishes, with approximately equal amounts of meat and fish products. The part of the security which was to be attributed to ready-made dishes must, it said, be regarded as approved under the General Directives on Securities.

It said that in the view of the *Land* of Lower Saxony, no operating aid incompatible with the common market had been granted. The *Land* claimed that none of the grounds listed in point 1.3 of the guidelines for applying such a classification applied: the security depended neither on the quantity nor the price of the products, nor of the units produced nor the means of production. The security did not result in a reduction in production costs or in improvement of the recipients' income. The security had been granted in strict accordance with the General Directives on Securities. In conformity with these Directives, the Jadekost company was primarily responsible as the loan recipient not only for paying interest on the loan and security and administration fees from the loan, as well as for repaying the loan itself, but it also had to lodge a number of securities itself. These were directly enforceable guarantees from the proprietor and the associated Nordfrost company — both for the full amount of the loan.

The security and the loan granted on that security had not, said the *Land*, resulted in any improvement in

income for the Jadekost company, since the loan was granted on normal market terms. There was even an additional fee of 0,75 % for administration of the security.

Lower Saxony further expressed the view that the security given to the financing banks and the secured loan could not be considered separately from the overall project — the investment eligible for assistance — of the Jadekost company. The very fact that the different steps were so closely connected in time meant that the loan could not be considered separately. The investment phase had not yet come to an end when the loan, the security for which is the subject of the procedure, was taken up. The financing of investment and of operating costs were, said Lower Saxony, closely linked in that both were aspects of the same liquidity planning. The investments were to be made in such a way that of the total investment of DM 100 million, DM 17,5 million was to be provided by regional assistance, which was well below Community assistance ceilings.

Before the investment phase was completed, it transpired that the operating funds which it had originally been planned also to cover from the proprietor's own funds could not in fact be provided in full without borrowing, because of a drop in the Nordfrost company's cash flow. The financing banks were ready to make the loan available but, because of the considerable commitment they had already made in financing the investment, did not feel able to grant this additional loan unless a security was provided. For reasons relating to banking procedure, it was then decided to grant a new loan rather than combining all the company's financing needs in a single loan. It would also have been possible to combine both parts of the loan into a single loan.

A comprehensive approach should, however, in the view of the *Land* of Lower Saxony, be taken in assessing the legality of the aid. For the purposes of establishing whether the Jadekost company had received more aid overall than was permissible, the loans should not be artificially separated. The classification of the loans as investment loans or operating loans was a matter of chance; an assessment of the legality of the aid should not be based on such separation. What should therefore be examined was whether and, if so, how much aid was permissible for the investment in total.

This would show that the Jadekost company had not received more aid overall than would have been permissible in total for the investment project carried out by the company.

Thus, the *Land* said, a global view of the situation of the Jadekost company would lead to the following conclusions: the total financing requirement was DM 132 million, of which the bulk concerned investments. DM 32,5 million was provided by the proprietor. DM 17,5 million came from regional assistance funds. A further DM 32,5 million of regional assistance could have been

granted before the ceiling was reached. Of the DM 83 million actually granted in loans, DM 32 million were 80 % covered by a security from the *Land* of Lower Saxony. Although the security covered up to 80 % of DM 35 million, the funds provided for the loan secured in fact amounted to DM 32 million, i. e. the sum really covered was DM 25,6 million. The aid element of the security should therefore be classified as additional investment assistance. Even when the aid elements were added together, the total was still below the admissible assistance ceiling set by the Community.

The *Land* also said that the Commission should further investigate whether it could really be established that the security had led to a distortion of competition and or had a harmful effect on national trade. These conditions had not been met.

Finally, the *Land* said that immediately before the Jadekost company entered the market the price levels of fish products had been substantially reduced by its competitors. There was good reason to believe that this was done

to impede Jadekost's market access. In any case, it was not Jadekost but its competitors who, to that extent, had been the price leaders.

In a communication ⁽¹⁾ published in the *Official Journal of the European Communities* pursuant to Article 93 (2) of the EC Treaty, the Commission informed the other Member States and interested parties of this situation and invited them to submit their comments to the Commission within one month.

The German Government replied to this communication by letter of 1 September 1995. Referring the Commission to its previous letters, it summarized the points it had made so far and, essentially, made the following new points.

It said that assessment of the aid must be on the basis of the version of the guidelines published on 17 June 1992, which was in force at the time the security was granted. The *Land* had granted the security on the basis of the following quantities and turnover amounts, drawn from Jadekost's 1994 sales plans:

	1994		1995	
	tonnes	DM thousands	tonnes	DM thousands
Fish	9 000	49 500	14 000	77 000
Meat	9 000	58 500	12 000	78 000
Ready-made dishes	2 000	9 000	4 000	18 000
Total	20 000	117 000	30 000	173 000

The secured operating loan was used by Jadekost to finance its entire operation, and by no means exclusively to produce deep-frozen fish products. Application of the fisheries and aquaculture guidelines could only be considered to the extent that the security could have an effect on competition in the market for deep-frozen fish products. Since the business operation receiving the secured loan planned to achieve only 42,3 % of its turnover in fish products, not more than the corresponding proportion of the security should be subject to the guidelines. The bulk of the security could, however, it said, have been awarded in accordance with the approved General Directives on Securities of the *Land* of Lower Saxony.

Consequently, it said, no individual notification had been necessary either, since Jadekost had fewer than 300 employees.

In addition to the 0,75 % fee for administering the security, the banks also required an application fee of DM 140 000. This, in the view of the Lower Saxony, meant that the security granted by the *Land* had not resulted in any improvement in income for Jadekost.

As a further argument for taking a comprehensive approach, the German Government pointed out that Lower Saxony could have provided a security of DM 32,5 million for the financing of construction. The company could then have used its share to finance operating costs (without a security from the *Land*), as had been planned by the group of companies, had business developed normally.

⁽¹⁾ OJ No C 201, 5. 8. 1995, p. 6.

In the meantime, the letter said, bankruptcy proceedings had been initiated against the operating assets of the Jadekost company on 31 March 1995. The loan had been declared due. Under the bankruptcy proceedings, the realization of the securities lodged for the secured loan had been commenced.

The parts not covered by proceeds from realization, including interest claims and security fees, had been entered in the bankruptcy schedule. All measures possible on the basis of the bankruptcy proceedings under German law had thus been taken against the assets of the company to recover the secured loan. The Jadekost company no longer enjoyed any benefit from the security.

In the view of the *Land* of Lower Saxony, this was now a case of liquidation. It therefore proposed that the procedure initiated by the Commission should be dropped.

Interested parties had the following points to make on this matter:

- Letters of 13 March 1995, 15 June 1995 and 8 December 1995 from the legal representatives of the banks which had granted the loan giving detailed statements on the material and legal position and putting forward the view that an aid relationship existed exclusively between the *Land* of Lower Saxony and the Jadekost company, so that any recovery proceedings could only take place within this relationship,
- a joint letter of 31 August 1995 from two competitor companies, referring to previous correspondence, and, among other things, giving as grounds for their doubt as to the legality of the aid the fact that Jadekost had offered goods for prices below production costs, thereby causing considerable losses to its competitors,
- a letter of 1 September 1995 from another competitor company expressing its doubt as to the legality of the aid and pointing out that, among other things, Jadekost had used the financial assistance to win market share from its competitors through sales at below-cost prices,
- a letter of 4 September 1995 from another competitor company which, among other things, informed the Commission about Jadekost's business activities, market trends and the treatment of the case in the lower house of the Lower Saxony parliament.

III

The company JAKO Jadekost GmbH & Co. KG, based in Wilhelmshaven, was founded in August 1991. The company is part of the Nordfrost group of companies owned by Jadekost's managing director. Construction of the plant began in January 1992.

The company's objective was to produce and sell deep-frozen foods (fish and meat products and ready-made dishes). A production hall for fish processing and another for meat processing were built, each with several production lines.

The company went into operation with the manufacture of meat products (cevapcik (spicy meatballs), steaklets, hamburgers and kebabs) in February 1993. It started producing fish products (fish fingers, fish fillets, 'gourmet' fish fillets) in June 1993, and ready-made dishes (nasi goreng, chili con carne, Bauernschmaus (a chopped potato, meat and egg dish) in November 1993. The bulk of these products were deep-frozen. The only product sold chilled is meatballs, and that in very small amounts.

According to the figures provided by Germany in its letter of 1 September 1995, in 1994 planned fish product output was 9 000 tonnes (turnover DM 49,5 million), planned meat product output 9 000 tonnes (turnover DM 58,5 million) and planned ready-made dish output 2 000 tonnes (turnover DM 9 million). The Commission is assuming that these figures correspond to actual production.

At the end of 1993 the company had around 120 to 130 employees, and at the end of February 1994 it had 244 employees. In the start-up phase, the Nordfrost group also bore the cost of the advance financing of operating funds, in particular for purchase of goods, storage and receivables.

After a temporary boom on the deep-frozen food market, associated with the opening-up of new markets in the five eastern *Länder*, there were marked price collapses after Jadekost entered the market. Those concerned estimated that in some cases prices covering costs could no longer be obtained. This led to cash flow problems for Jadekost. Since only very limited securities were available in the start-up phase, Jadekost took steps to obtain a security from the *Land* for the operating loans granted to it by its bank, the Bayerische Hypotheken- und Wechselbank AG. On the basis of a favourable business analysis by that bank, on 2 February 1994 Jadekost submitted a corresponding application for a security from the *Land* of Lower Saxony. On 1 March 1994 the Cabinet of the Government of Lower Saxony decided as follows:

'The Ministry hereby authorizes the *Land* to provide an 80 % security for an operating loan of DM 35 million and authorizes cover of the additional liquidity requirement of DM 15 million which has arisen under the liquidity plan until December 1996. The Ministry's authorization is subject to the decision of the *Land* Loans Committee and the approval of the Budget Committee of the lower house of the *Land* Parliament'.

C&L Treuarbeit — German audit — prepared a business report, dated 29 March 1994, on the basic figures on the Jadekost company. The report found that the Jadekost company's planning data were realistic, but at the same time assessed the risk for the security as very high. On 6 April 1994 the *Land* Loans Committee approved the security; the Budget Committee of the lower house of the *Land* Parliament declared its consent on 27 April 1994.

On the basis of the decision by the *Land* Loans Committee, the Treuarbeit in a letter of 6 April 1994 for and on behalf of the Lower Saxony Finance Ministry, informed the Bayerische Hypotheken- und Wechselbank AG that the security had been granted, giving the detailed conditions of approval. The loan was for an eight-year period, with no repayment requirements in the first two years.

On 31 March 1995 bankruptcy proceedings were initiated against the operating assets of the Jadekost company. The parts not covered by proceeds from realization, including interest claims and security fees were entered in the bankruptcy schedule. In order to use up existing supplies, the receiver founded a new company called 'Jadefood', which has taken up production on the old premises without financial assistance from the *Land* of Lower Saxony.

IV

Under Article 92 (1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertaking or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market.

In assessing the measure taken by the *Land* of Lower Saxony, account must also be taken of the 'Guidelines for the examination of State aid in the fisheries and aquaculture sector' in the version published in the *Official Journal of the European Communities* on 17 June 1992. In its letter of 14 September 1990, the Commission explicitly pointed out to the German authorities that in application of the aid scheme for certain sectors, including fisheries, the standards and guidelines applicable to those sectors had to be complied with. Those guidelines apply to the entire fisheries sector, i.e. also to processing and marketing of fish products (see Introduction to the guidelines). Under point 1 (3) of the guidelines, the following principles, among others, apply:

'State aids which are granted without imposing any obligation on the part of the recipients and which are intended to improve the liquidity situation of their

undertakings, (subject to the provisions of point 2.10.2) and the amount of which depends on the quantity produced or marketed, the prices of the products, the unit of production or the factors of production and the result of which would be a reduction in the recipient's production costs or an improvement in the recipient's income are, as operating aids, incompatible with the common market.'

The subsidy granted to the Jadekost company in the form of a security by the *Land* of Lower Saxony is an aid within the meaning of Article 92 of the Treaty. Neither the German Government nor other interested parties have questioned this Commission assessment. Under point 1.1 of the guidelines the granting of a State security for a bank loan is to be regarded as aid.

The security for Jadekost is therefore clearly aid within the meaning of the abovementioned Article, since it was granted on the basis of aid arrangements authorized by the Commission in principle.

Jadekost thus obtained, with the assistance of the *Land* of Lower Saxony, financing which it would otherwise not have been granted because of its financial difficulties.

The aid deriving from such a loan guarantee is generally equal to the difference between the rate of interest on a loan raised on normal market terms and the actual rate secured by virtue of the guarantee. The Commission has consistently taken the view that, whenever, owing to the undertaking's severe financial circumstances, no credit institution would agree to lend to it without a State guarantee, the entire amount of the loan is to be regarded as aid (see Decision 94/696/EC⁽¹⁾).

Since the security was the precondition for granting the loan, it contains a clear aid element which — because of the very high risk of the security (see C&L Treuarbeit report of 29 March 1994) — corresponds in full to the loan granted. Although this aid was granted by the *Land* of Lower Saxony, it is nevertheless to be categorized as aid granted by Germany.

The aid granted to the Jadekost company is, in the Commission's view, an operating aid, incompatible with the common market under point 1.3 of the guidelines. The purpose of the security was, according to the application of 28 December 1993, to secure an 'operating loan for the working assets', and was also officially granted for that purpose according to the wording of the *Land* Cabinet decision of 1 March 1994 and the letter from the

⁽¹⁾ OJ No L 273, 25. 10. 1994, p. 22.

Lower Saxony Ministry of Finance of 2 May 1994 confirming the security ('purpose of use of loan: operating funds'). The Federal Government, too, in its letter No 413-1256-5, p. 3, of 19 July 1994, referred to the loan as 'an operating loan'. Irrespective of the 'comprehensive approach' advocated by the German authorities (see below on this subject), the loan served, according to Commission findings, to cover running costs for the operation of the Jadekost company.

The aid in question was granted without any obligation being imposed on Jadekost with regard to its use. The Lower Saxony Finance Ministry letter of 2 May 1994 confirming the security admittedly contains various conditions and requirements for the loan, but does not impose any obligation on the recipients within the meaning of point 1.3 of the guidelines.

In particular, the company benefiting from the aid did not pay the premium which should have been calculated on the basis of the very high risk taken on by the lender and the guarantor (according to the report of C&L Treuarbeit of 29 March 1994). The application charge of DM 140 000 and the administration fee of 0,75 % (for administration of the security) are not adequate for this purpose. Taking the charge and fee into account, the net subsidy equivalent is 98,7 % (100 % minus 0,75 % administration fee and 0,55 % application charge (DM 140 000 as a proportion of DM 25.6 million)).

The aid improved Jadekost's income since it freed the company from costs which it would have to bear in the normal course of business and the aid cannot be classified under any other heading. This aid enabled Jadekost to offer its products at prices kept artificially low for the customers at a specific time. Point 1.3 of the guidelines specifies that this type of operating aid is fundamentally incompatible with the common market, there being no need to examine the other conditions specified in Article 92 (1) of the EC Treaty in order to establish this. The Court of First Instance shares this view, as it stated in its judgment of 8 June 1995 in Case T-459/93, Siemens AG v. Commission⁽¹⁾ as a general rule operating aid distorts the conditions of competition in the sector in which it is granted.

Irrespective of the foregoing, the Commission considers that the aid granted to the Jadekost company does in fact threaten to distort competition. It benefits a particular company (Jadekost) and reduces the costs to be borne by that company, which artificially strengthens its position

on the market. It is therefore liable to distort competition on the market in deep-frozen fish products with other companies in Germany and the other Member States which do not receive benefits of this type. There is competition on this market in the Community, and the products concerned are traded between the Member States. Since the aid granted to Jadekost strengthens the position of that company in relation to other companies, it is liable to distort trade between Member States.

The Commission cannot accept the 'comprehensive approach' advocated by Germany, according to which the security and the secured loan cannot be considered separately from the project as a whole, i.e. the investment, and that a *Land* security of DM 32,5 million could very well have been granted for the investment costs, which were covered without State subsidies, with the result that Jadekost would not have needed the *Land* security to finance its operating costs. In the Commission's view, when considering the legality of aid, the situation should be judged as it was at the time when the decision to grant aid was taken, which in this case was early 1994. It is a fact that the security was expressly sought, and granted, for an operating loan and not for an investment loan. A 'comprehensive approach' should be rejected, since otherwise this could include an ever-increasing number of financing measures.

Since the guidelines are only applicable to fish products, and only the proportion of the aid which supported that part of production is to be recovered, the percentage of fish products in comparison with meat products and ready-made dishes must be determined. For this purpose the Commission has taken as a basis the quantities and turnover amounts stated by the German Government in its letter of 1 September 1995 from the sales plan for 1994 — the year in which the aid was granted. Of the total production of 20 000 tonnes, 45 % were fish products, a further 45 % were meat products and 10 % were ready-made dishes. In terms of turnover in the different sectors, 42,3 % was accounted for by fish products, 50 % by meat products and 7,7 % by ready-made dishes. The Commission is taking turnover as the proportion of fish products, resulting in a percentage of 42,3 %.

In calculating the amount to be recovered, it must be taken into account that the security only covers 80 % of the DM 35 million loan, and funds provided for the loan secured amounted to only DM 32 million, 80 % of which is DM 25,6 million. On the basis of the premise of a net subsidy equivalent of 98,7 %, the resulting amount is DM 25 267 200. Of this, DM 10 688 025 (= 42,3 %) comes under the heading of fish products.

⁽¹⁾ [1995] ECR II-1675.

V

The derogations provided for in Article 92 (2) of the EC Treaty do not apply to the case in point, given the nature and objectives of the aid. The aid in question does not have a social character, does not serve to make good the damage caused by natural disasters, nor is it aid granted to the economy of certain areas of Germany affected by the division of Germany. Indeed, the German Government has not pleaded these derogations.

Derogations from the principle of incompatibility of aid with the common market within the meaning of Article 92 (3) of the EC Treaty must, in the interests of the proper functioning of the common market and taking account of the objectives set out in Article 3 (e) of the EC Treaty, be interpreted restrictively in assessing any aid scheme or individual aid measure.

In particular, the derogations may be applied only if the Commission establishes that, without the aid, market forces would not in themselves be sufficient to induce recipients to act in such a way as to achieve any of the desired objectives.

Applying the derogations to cases which do not contribute to such an objective, or where aid is not necessary for that purpose, would be tantamount to conferring advantages on the industries or firms of certain Member States, whose financial position would be artificially strengthened, and to affecting trade between Member States and distorting competition without any justification based on the common interest referred to in Article 92 (3) of the EC Treaty.

The aid in question does not qualify for any of the derogations provided for in Article 92 (3) of the EC Treaty.

As regards the derogation provided for in Article 92 (3) (a), the aid is not designed to promote the economic development of an area where the standard of living is abnormally low or where there is serious unemployment. Nor has the German Government attempted to justify the aid on such grounds.

As far as the derogation provided for in Article 92 (3) (b) is concerned, the aid is clearly not intended to promote a project of common European interest or to remedy a serious disturbance in the German economy, nor has the German Government attempted to justify the aid on those grounds.

The Commission has studied both the sectoral and regional aspects of the aid in the context of the derogation provided for in Article 92 (3) (c) of the EC Treaty for aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to

the common interest. For both the sectoral and regional aspects, it is significant that the aid in question is an operating aid maintaining the status quo, which is fundamentally unsuitable for facilitating development within the meaning of Article 92 (3) (c) (see Commission Decisions 73/274/EEC ⁽¹⁾, 87/533/EEC ⁽²⁾, 87/585/EEC ⁽³⁾ and 88/605/EEC ⁽⁴⁾ and the seventeenth Report on Competition Policy, 1987, paragraph 234). This also follows from point 1.3 of the abovementioned guidelines and was confirmed by the decision of the Court of First Instance of 8 June 1995 in Case T-459/93, Siemens AG v. Commission. In that decision, the Court also explained that operating aid could in no case be declared compatible with the common market under Article 92 (3) (c) of the EC Treaty, since it was in the nature of such aid to alter trade conditions in a way contrary to the common interest.

The aid to the Jadekost company artificially kept the company in operation when, under normal market conditions, it would have had to cease trading or be restructured, and prevented other companies from increasing their share of the market.

Since the aid in the form of a *Land* security granted to Jadekost does not fulfil any of the conditions for derogation set out in Article 92 of the EC Treaty, it is incompatible with the common market.

VI

The German Government failed to notify the aid in advance pursuant to Article 93 (3) of the EC Treaty. In addition, it failed to comply with the suspensory effect of that rule, since the aid was granted in 1994 without waiting for the Commission to make its position known. Furthermore, the aid has effects that must be considered incompatible with the common market.

Where aid is incompatible with the common market, the Commission can make use of the facility afforded it by the judgment of the Court of Justice of the European Communities of 12 July 1973 in Case 70/72, Commission v. Germany ⁽⁵⁾ and confirmed by the judgments of 24 February 1987 in Case 310/85, Deufil v. Commission ⁽⁶⁾ and 20 September 1990 in Case C-5/89, Commission v. Germany ⁽⁷⁾ and require Member States to recover from recipients aid illegally granted.

⁽¹⁾ OJ No L 254, 11. 9. 1973, p. 14.

⁽²⁾ OJ No L 313, 4. 11. 1987, p. 24.

⁽³⁾ OJ No L 352, 15. 12. 1987, p. 42.

⁽⁴⁾ OJ No L 334, 6. 12. 1988, p. 22.

⁽⁵⁾ [1973] ECR 813.

⁽⁶⁾ [1987] ECR 901.

⁽⁷⁾ [1990] ECR I-3437.

VII

As explained in Section VI, the Commission may require Member States in such cases to recover from recipients aid unlawfully granted.

The recovery of aid which has been granted unlawfully is the logical consequence of the fact that its illegality has been established (see the judgment of the Court of Justice of 21 March 1990 in Case C-142/87, *Belgium v. Commission (Tubemeuse)*⁽¹⁾).

The aid granted to the Jadekost company in 1994 in the form of a security by the *Land* must be revoked and recovered.

In the view of the Commission, the obligation to recover the aid granted is not put in doubt by the initiation of bankruptcy proceedings against the operating assets of the company. The Commission cannot therefore act upon the proposal of Germany that the procedure it has initiated should be discontinued.

To lift the obligation to recover aid because of the initiation of the bankruptcy proceedings would render meaningless the Community rules on individual State aid and the provisions laid down on the recovery of illegal and incompatible aid (see Commission communication of 24 November 1983⁽²⁾).

Furthermore, it must be stressed that it has already been unsuccessfully argued before the Court of Justice (Case C-142/87) that the provisions on the recovery of the aid should not apply where a decision to liquidate an undertaking has been taken.

Recovery must be made in accordance with the procedures and provisions of German law, including those concerning interest on overdue payments to be paid to the State, the interest being calculated from the date the aid in question was granted, on the basis of the reference interest rate used to assess regional aid programmes. This is necessary in order to restore the previous situation by revoking all the unlawful financial advantages enjoyed by the company receiving the illegal aid since the date on which it was granted.

This Decision is without prejudice to any decision of the Commission regarding that part of the aid which is not governed by the guidelines for the examination of State aid in the fisheries and aquaculture sector,

HAS ADOPTED THIS DECISION:

Article 1

The aid in the form of a security provided by the *Land* of Lower Saxony for a loan of DM 10 688 025 granted by Germany in 1994 to JAKO Jadekost GmbH & Co. KG is illegal, having been granted in breach of the rules of procedure laid down in Article 93 (3) of the EC Treaty. The aid is also incompatible with the common market within the meaning of Article 92 (1) of the EC Treaty.

Article 2

Germany shall ensure that the aid referred to in Article 1 is revoked and recovered in full within two months of the date of notification of this Decision.

The aid shall be recovered in accordance with the procedures and provisions of national law, in particular those concerning interest on overdue amounts owed to the State, and subject to the reference interest rate used to assess regional aid programmes, with interest running from the date on which the unlawful aid was granted.

Article 3

Germany shall inform the Commission within two months of the date of notification of this Decision of the measures it has taken to comply herewith.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 29 May 1996.

For the Commission

Emma BONINO

Member of the Commission

⁽¹⁾ [1990] ECR I-959.

⁽²⁾ OJ No C 318, 24. 11. 1983, p. 3.