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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 714/98
of 31 March 1998
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 2375/96 ⁽²⁾, and in particular Article 4 (1) thereof,

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 31 March 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	99,7
	204	79,3
	212	108,6
	624	121,5
	999	102,3
0709 10 00	220	174,9
	999	174,9
0709 90 70	052	107,3
	204	137,7
	999	122,5
0805 10 10, 0805 10 30, 0805 10 50	052	74,6
	204	34,7
	212	42,6
	400	46,3
	600	42,8
	624	50,0
	999	48,5
0805 30 10	600	63,1
	999	63,1
0808 10 20, 0808 10 50, 0808 10 90	052	56,3
	060	39,0
	388	91,8
	400	99,4
	404	99,2
	508	91,5
	512	74,1
	524	86,8
	528	69,3
	720	144,0
	999	85,1
	999	85,1
0808 20 50	388	71,1
	400	75,8
	512	67,8
	528	72,4
	999	71,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 715/98**of 31 March 1998****fixing the export refunds on syrups and certain other sugar products exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular Article 17 (5) thereof,

Whereas Article 17 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (d) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽³⁾, provides that the export refund on 100 kilograms of the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; whereas the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95;

Whereas Article 17 (6) of Regulation (EEC) No 1785/81 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one-hundredth of the production refund applicable, pursuant to Council Regulation (EEC) No 1010/86 of 25 March 1986 laying down general rules for the production refund on sugar used in the chemical industry ⁽⁴⁾, last amended by Commission Regulation (EC) No 1126/96 ⁽⁵⁾, to the products listed in the Annex to the last mentioned Regulation;

Whereas the basic amount of the refund on the other products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 exported in the natural state must be equal to

one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward processing arrangements;

Whereas the application of the basic amount may be limited to some of the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81;

Whereas Article 17 of Regulation (EEC) No 1785/81 makes provision for setting refunds for export in the natural state of products referred to in Article 1 (1) (f) and (g) and (h) of that Regulation; whereas the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1 (1) (d) of Regulation (EEC) No 1785/81 and of the economic aspects of the intended exports; whereas, in the case of the products referred to in the said Article 1 (1) (f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; whereas, for the products referred to in Article 1 (1) (h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95;

Whereas the refunds referred to above must be fixed every month; whereas they may be altered in the intervening period;

Whereas application of these quotas results in fixing refunds for the products in question at the levels given in the Annex to this Regulation;

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

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 214, 8. 9. 1995, p. 16.

⁽⁴⁾ OJ L 94, 9. 4. 1986, p. 9.

⁽⁵⁾ OJ L 150, 25. 6. 1996, p. 3.

HAS ADOPTED THIS REGULATION:

exported in the natural state, shall be set out in the Annex hereto.

Article 1

The export refunds on the products listed in Article 1 (1) (d), (f), (g) and (h) of Regulation (EEC) No 1785/81,

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 31 March 1998 fixing the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Amount of refund
	— ECU/100 kg dry matter —
1702 40 10 9100	42,30 ⁽²⁾
1702 60 10 9000	42,30 ⁽²⁾
1702 60 80 9100	80,37 ⁽⁴⁾
	— ECU/1 % sucrose × 100 kg —
1702 60 95 9000	0,4230 ⁽¹⁾
	— ECU/100 kg dry matter —
1702 90 30 9000	42,30 ⁽²⁾
	— ECU/1 % sucrose × 100 kg —
1702 90 60 9000	0,4230 ⁽¹⁾
1702 90 71 9000	0,4230 ⁽¹⁾
1702 90 99 9900	0,4230 ⁽¹⁾ ⁽³⁾
	— ECU/100 kg dry matter —
2106 90 30 9000	42,30 ⁽²⁾
	— ECU/1 % sucrose × 100 kg —
2106 90 59 9000	0,4230 ⁽¹⁾

⁽¹⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

⁽²⁾ Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

⁽³⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Regulation (EEC) No 3513/92 (OJ L 355, 5. 12. 1992, p. 12).

⁽⁴⁾ Applicable only to products defined under Article 6 of Regulation (EC) No 2135/95.

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

COMMISSION REGULATION (EC) No 716/98**of 31 March 1998****altering the corrective amount applicable to the refund on cereals**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96 ⁽²⁾, and in particular Article 13 (8) thereof,

Whereas the corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 565/98 ⁽³⁾;

Whereas, on the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered;

Whereas the corrective amount must be fixed according to the same procedure as the refund; whereas it may be altered in the period between fixings;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁴⁾, as last amended by Regulation (EC) No 150/95 ⁽⁵⁾, are used to

convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁶⁾, as last amended by Regulation (EC) No 1482/96 ⁽⁷⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 76, 13. 3. 1998, p. 14.

⁽⁴⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁶⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁷⁾ OJ L 188, 27. 7. 1996, p. 22.

ANNEX

to the Commission Regulation of 31 March 1998 altering the corrective amount applicable to the refund on cereals

(ECU / tonne)

Product code	Destination ⁽¹⁾	Current 4	1st period 5	2nd period 6	3rd period 7	4th period 8	5th period 9	6th period 10
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	01	0	0	−3,00	−5,00	−5,00	—	—
1002 00 00 9000	01	0	0	0	−5,00	−5,00	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	01	0	0	−15,00	−15,00	−15,00	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	01	0	0	0	0	0	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	01	0	0	0	0	0	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	01	0	0	0	−7,00	−7,00	—	—
1101 00 15 9130	01	0	0	0	−7,00	−7,00	—	—
1101 00 15 9150	01	0	0	0	−7,00	−7,00	—	—
1101 00 15 9170	01	0	0	0	−7,00	−7,00	—	—
1101 00 15 9180	01	0	0	0	−7,00	−7,00	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	01	0	0	0	−7,00	−7,00	—	—
1102 10 00 9700	—	—	—	—	—	—	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	—	—	—	—	—	—	—	—
1103 11 10 9400	—	—	—	—	—	—	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	01	0	0	0	0	0	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

⁽¹⁾ The destinations are identified as follows:
01 all third countries.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EC) No 717/98
of 31 March 1998
fixing the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2092/97⁽⁴⁾, and in particular Article 2 (1) thereof,

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

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

Whereas Regulation (EC) No 1249/96 lays down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available for the reference exchange referred to in Annex II to Regulation (EC) No 1249/96 during the two weeks preceding the next periodical fixing;

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

Whereas application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 161, 29. 6. 1996, p. 125.

⁽⁴⁾ OJ L 292, 25. 10. 1997, p. 10.

ANNEX I

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

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (ECU/tonne)
1001 10 00	Durum wheat ⁽¹⁾	0,00	0,00
1001 90 91	Common wheat seed	42,95	32,95
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	42,95	32,95
	medium quality	63,84	53,84
	low quality	76,54	66,54
1002 00 00	Rye	76,51	66,51
1003 00 10	Barley, seed	76,51	66,51
1003 00 90	Barley, other ⁽³⁾	76,51	66,51
1005 10 90	Maize seed other than hybrid	87,13	77,13
1005 90 00	Maize other than seed ⁽³⁾	87,13	77,13
1007 00 90	Grain sorghum other than hybrids for sowing	76,51	66,51

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2 (4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

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

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

⁽³⁾ The importer may benefit from a flat-rate reduction of ECU 14 or 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 17 March 1998 to 30 March 1998)

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

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	128,25	116,24	111,59	96,80	205,65 ⁽¹⁾	115,77 ⁽¹⁾
Gulf premium (ECU/tonne)	21,08	12,20	4,15	8,35	—	—
Great Lakes premium (ECU/tonne)	—	—	—	—	—	—

⁽¹⁾ Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 11,76 per tonne; Great Lakes — Rotterdam: ECU 24,21 per tonne.
3. Subsidy within the meaning of the third paragraph of Article 4 (2) of Regulation (EC) No 1249/96 : ECU 0,00 per tonne (HRW2)
: ECU 0,00 per tonne (SRW2).

COMMISSION REGULATION (EC) No 718/98
of 31 March 1998
altering the export refunds on white sugar and raw sugar exported in the natural state

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 610/98 ⁽³⁾, as amended by Regulation (EC) No 666/98 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 610/98 to the information known to the Commission that the export refunds at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to amended Regulation (EC) No 610/98 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 82, 19. 3. 1998, p. 5.

⁽⁴⁾ OJ L 93, 26. 3. 1998, p. 12.

ANNEX

to the Commission Regulation of 31 March 1998 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	38,91 ⁽¹⁾
1701 11 90 9910	36,51 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	38,91 ⁽¹⁾
1701 12 90 9910	36,51 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4230
	— ECU/100 kg —
1701 99 10 9100	42,30
1701 99 10 9910	42,30
1701 99 10 9950	42,30
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4230

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

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

COMMISSION REGULATION (EC) No 719/98
of 31 March 1998
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 705/98 ⁽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;

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 144, 28. 6. 1995, p. 22.

⁽⁴⁾ OJ L 98, 31. 3. 1998, p. 6.

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 ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾;

Whereas the level of refund for cheeses is calculated for products intended for direct consumption; whereas the 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 ⁽³⁾, as last amended by Regulation (EEC) No 222/88 ⁽⁴⁾, 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 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 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 91, 1. 4. 1984, p. 71.

⁽⁴⁾ OJ L 28, 1. 2. 1988, p. 1.

ANNEX

to the Commission Regulation of 31 March 1998 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 9000	970	2,327	0402 21 99 9400	+	112,58
	***	—	0402 21 99 9500	+	115,09
0401 10 90 9000	970	2,327	0402 21 99 9600	+	124,73
	***	—	0402 21 99 9700	+	130,38
0401 20 11 9100	970	2,327	0402 21 99 9900	+	136,76
	***	—	0402 29 15 9200	+	0,6800
0401 20 11 9500	970	3,597	0402 29 15 9300	+	0,9054
	***	—	0402 29 15 9500	+	0,9538
0401 20 19 9100	970	2,327	0402 29 15 9900	+	1,0262
	***	—	0402 29 19 9200	+	0,6800
0401 20 19 9500	970	3,597	0402 29 19 9300	+	0,9054
	***	—	0402 29 19 9500	+	0,9538
0401 20 91 9100	970	4,551	0402 29 19 9900	+	1,0262
	***	—	0402 29 91 9100	+	1,0334
0401 20 91 9500	+	—	0402 29 91 9500	+	1,1258
0401 20 99 9100	970	4,551	0402 29 99 9100	+	1,0334
	***	—	0402 29 99 9500	+	1,1258
0401 20 99 9500	+	—	0402 91 11 9110	+	—
0401 30 11 9100	+	6,803	0402 91 11 9120	+	—
0401 30 11 9400	+	10,50	0402 91 11 9310	+	13,30
0401 30 11 9700	+	15,77	0402 91 11 9350	+	16,29
0401 30 19 9100	+	6,803	0402 91 11 9370	+	19,81
0401 30 19 9400	+	10,50	0402 91 19 9110	+	—
0401 30 19 9700	+	15,77	0402 91 19 9120	+	—
0401 30 31 9100	+	38,32	0402 91 19 9310	+	13,30
0401 30 31 9400	+	59,85	0402 91 19 9350	+	16,29
0401 30 31 9700	+	66,00	0402 91 19 9370	+	19,81
0401 30 39 9100	+	38,32	0402 91 31 9100	+	8,991
0401 30 39 9400	+	59,85	0402 91 31 9300	+	23,42
0401 30 39 9700	+	66,00	0402 91 39 9100	+	8,991
0401 30 91 9100	+	75,22	0402 91 39 9300	+	23,42
0401 30 91 9400	+	110,55	0402 91 51 9000	+	10,50
0401 30 91 9700	+	129,01	0402 91 59 9000	+	10,50
0401 30 99 9100	+	75,22	0402 91 91 9000	+	75,22
0401 30 99 9400	+	110,55	0402 91 99 9000	+	75,22
0401 30 99 9700	+	129,01	0402 99 11 9110	+	—
0402 10 11 9000	+	68,00	0402 99 11 9130	+	—
0402 10 19 9000	+	68,00	0402 99 11 9150	+	0,1269
0402 10 91 9000	+	0,6800	0402 99 11 9310	+	0,2555
0402 10 99 9000	+	0,6800	0402 99 11 9330	+	0,3067
0402 21 11 9200	+	68,00	0402 99 11 9350	+	0,4077
0402 21 11 9300	+	90,54	0402 99 19 9110	+	—
0402 21 11 9500	+	95,38	0402 99 19 9130	+	—
0402 21 11 9900	+	102,60	0402 99 19 9150	+	0,1269
0402 21 17 9000	+	68,00	0402 99 19 9310	+	0,2555
0402 21 19 9300	+	90,54	0402 99 19 9330	+	0,3067
0402 21 19 9500	+	95,38	0402 99 19 9350	+	0,4077
0402 21 19 9900	+	102,60	0402 99 31 9110	+	0,0975
0402 21 91 9100	+	103,34	0402 99 31 9150	+	0,4245
0402 21 91 9200	+	104,05	0402 99 31 9300	+	0,3832
0402 21 91 9300	+	105,34	0402 99 31 9500	+	0,6600
0402 21 91 9400	+	112,58	0402 99 39 9110	+	0,0975
0402 21 91 9500	+	115,09	0402 99 39 9150	+	0,4245
0402 21 91 9600	+	124,73	0402 99 39 9300	+	0,3832
0402 21 91 9700	+	130,38			
0402 21 91 9900	+	136,76			
0402 21 99 9100	+	103,34			
0402 21 99 9200	+	104,05			
0402 21 99 9300	+	105,34			

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0402 99 39 9500	+	0,6600	0404 90 29 9160	+	130,38
0402 99 91 9000	+	0,7522	0404 90 29 9180	+	136,76
0402 99 99 9000	+	0,7522	0404 90 81 9100	+	0,6800
0403 10 11 9400	+	—	0404 90 81 9910	+	—
0403 10 11 9800	+	—	0404 90 81 9950	+	0,2555
0403 10 13 9800	+	—	0404 90 83 9110	+	0,6800
0403 10 19 9800	+	6,803	0404 90 83 9130	+	0,9054
0403 10 31 9400	+	—	0404 90 83 9150	+	0,9538
0403 10 31 9800	+	—	0404 90 83 9170	+	1,0262
0403 10 33 9800	+	—	0404 90 83 9911	+	—
0403 10 39 9800	+	0,0680	0404 90 83 9913	+	—
0403 90 11 9000	+	66,85	0404 90 83 9915	+	0,0680
0403 90 13 9200	+	66,85	0404 90 83 9917	+	0,1050
0403 90 13 9300	+	89,73	0404 90 83 9919	+	0,1577
0403 90 13 9500	+	94,53	0404 90 83 9931	+	0,2555
0403 90 13 9900	+	101,68	0404 90 83 9933	+	0,3067
0403 90 19 9000	+	102,44	0404 90 83 9935	+	0,4077
0403 90 31 9000	+	0,6685	0404 90 83 9937	+	0,4245
0403 90 33 9200	+	0,6685	0404 90 89 9130	+	1,0334
0403 90 33 9300	+	0,8973	0404 90 89 9150	+	1,1258
0403 90 33 9500	+	0,9453	0404 90 89 9930	+	0,4601
0403 90 33 9900	+	1,0168	0404 90 89 9950	+	0,6600
0403 90 39 9000	+	1,0244	0404 90 89 9990	+	0,7522
0403 90 51 9100	970	2,327	0405 10 11 9500	+	165,85
	***	—	0405 10 11 9700	+	170,00
0403 90 51 9300	+	—	0405 10 19 9500	+	165,85
0403 90 53 9000	+	—	0405 10 19 9700	+	170,00
0403 90 59 9110	+	6,803	0405 10 30 9100	+	165,85
0403 90 59 9140	+	10,50	0405 10 30 9300	+	170,00
0403 90 59 9170	+	15,77	0405 10 30 9500	+	165,85
0403 90 59 9310	+	38,32	0405 10 30 9700	+	170,00
0403 90 59 9340	+	59,85	0405 10 50 9100	+	165,85
0403 90 59 9370	+	66,00	0405 10 50 9300	+	170,00
0403 90 59 9510	+	75,22	0405 10 50 9500	+	165,85
0403 90 59 9540	+	110,55	0405 10 50 9700	+	170,00
0403 90 59 9570	+	129,01	0405 10 90 9000	+	176,22
0403 90 61 9100	+	—	0405 20 90 9500	+	155,49
0403 90 61 9300	+	—	0405 20 90 9700	+	161,71
0403 90 63 9000	+	—	0405 90 10 9000	+	216,00
0403 90 69 9000	+	0,0680	0405 90 90 9000	+	170,00
0404 90 21 9100	+	68,00	0406 10 20 9100	+	—
0404 90 21 9910	+	—	0406 10 20 9230	037	—
0404 90 21 9950	+	13,30		039	—
0404 90 23 9120	+	68,00		099	22,83
0404 90 23 9130	+	90,54		400	22,83
0404 90 23 9140	+	95,38		***	37,68
0404 90 23 9150	+	102,60	0406 10 20 9290	037	—
0404 90 23 9911	+	—		039	—
0404 90 23 9913	+	—		099	21,24
0404 90 23 9915	+	6,803		400	15,29
0404 90 23 9917	+	10,50		***	35,05
0404 90 23 9919	+	15,77	0406 10 20 9300	037	—
0404 90 23 9931	+	13,30		039	—
0404 90 23 9933	+	16,29		099	9,329
0404 90 23 9935	+	19,81		400	7,834
0404 90 23 9937	+	23,42		***	15,39
0404 90 23 9939	+	24,48			
0404 90 29 9110	+	103,34			
0404 90 29 9115	+	104,05			
0404 90 29 9120	+	105,34			
0404 90 29 9130	+	112,58			
0404 90 29 9135	+	115,09			
0404 90 29 9150	+	124,73			

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0406 10 20 9610	037	—	0406 20 90 9990	+	—
	039	—	0406 30 31 9710	037	—
	099	30,98		039	—
	400	30,98		099	9,54
	***	51,11		400	8,346
0406 10 20 9620	037	—		***	17,88
	039	—	0406 30 31 9730	037	—
	099	31,42		039	—
	400	31,42		099	13,99
	***	51,83		400	12,25
0406 10 20 9630	037	—		***	26,24
	039	—	0406 30 31 9910	037	—
	099	35,06		039	—
	400	35,06		099	9,54
	***	57,86		400	8,346
0406 10 20 9640	037	—		***	17,88
	039	—	0406 30 31 9930	037	—
	099	51,54		039	—
	400	48,35		099	13,99
	***	85,03		400	12,25
0406 10 20 9650	037	—		***	26,24
	039	—	0406 30 31 9950	037	—
	099	42,95		039	—
	400	25,44		099	20,36
	***	70,86		400	17,81
0406 10 20 9660	+	—		***	38,17
0406 10 20 9830	037	—	0406 30 39 9500	037	—
	039	—		039	—
	099	15,93		099	13,99
	400	13,38		400	12,25
	***	26,28		***	26,24
0406 10 20 9850	037	—	0406 30 39 9700	037	—
	039	—		039	—
	099	19,31		099	20,36
	400	16,22		400	17,81
	***	31,87		***	38,17
0406 10 20 9870	+	—	0406 30 39 9930	037	—
0406 10 20 9900	+	—		039	—
0406 20 90 9100	+	—		099	20,36
0406 20 90 9913	037	—		400	17,81
	039	—		***	38,17
	099	35,62	0406 30 39 9950	037	—
	400	31,59		039	—
	***	58,77		099	23,02
0406 20 90 9915	037	—		400	21,14
	039	—		***	43,16
	099	47,01	0406 30 90 9000	037	—
	400	42,12		039	—
	***	77,56		099	24,15
0406 20 90 9917	037	—		400	21,14
	039	—		***	45,28
	099	49,94	0406 40 50 9000	037	—
	400	44,75		039	—
	***	82,41		099	54,55
0406 20 90 9919	037	—		400	32,98
	039	—		***	90,00
	099	55,82			
	400	50,02			
	***	92,10			

Product code	Destination (°)	Amount of refund	Product code	Destination (°)	Amount of refund
0406 40 90 9000	037	—	0406 90 33 9951	037	—
	039	—		039	—
	099	56,01		099	36,20
	400	32,98		400	20,01
	***	92,42		***	59,72
0406 90 13 9000	037	—	0406 90 35 9190	037	28,95
	039	—		039	28,95
	099	60,16		099	61,40
	400	60,16		400	61,40
	***	99,26		***	101,30
0406 90 15 9100	037	—	0406 90 35 9990	037	—
	039	—		039	—
	099	62,17		099	54,68
	400	62,17		400	40,19
	***	102,58		***	90,22
0406 90 17 9100	037	—	0406 90 37 9000	037	—
	039	—		039	—
	099	62,17		099	60,16
	400	62,17		400	60,16
	***	102,58		***	99,26
0406 90 21 9900	037	—	0406 90 61 9000	037	40,61
	039	—		039	40,61
	099	61,63		099	65,82
	400	44,53		400	57,27
	***	101,68		***	108,59
0406 90 23 9900	037	—	0406 90 63 9100	037	37,12
	039	—		039	37,12
	099	36,51		099	63,89
	400	18,57		400	63,89
	***	75,31		***	105,42
0406 90 25 9900	037	—	0406 90 63 9900	037	29,52
	039	—		039	29,52
	099	36,98		099	48,93
	400	21,16		400	48,93
	***	76,25		***	80,75
0406 90 27 9900	037	—	0406 90 69 9100	+	—
	039	—	0406 90 69 9910	037	—
	099	33,48		039	—
	400	18,57		099	48,93
	***	69,06		400	48,93
0406 90 31 9119	037	—		***	80,75
	039	—	0406 90 73 9900	037	—
	099	38,17		039	—
	400	25,56		099	52,63
	***	62,99		400	52,63
0406 90 33 9119	037	—		***	86,83
	039	—	0406 90 75 9900	037	—
	099	38,17		039	—
	400	25,56		099	51,97
	***	62,99		400	22,27
0406 90 33 9919	037	—		***	85,75
	039	—	0406 90 76 9300	037	—
	099	34,36		039	—
	400	20,33		099	34,88
	***	56,69		400	20,12
				***	71,94

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0406 90 76 9400	037	—	0406 90 85 9999	+	—
	039	—	0406 90 86 9100	+	—
	099	40,07	0406 90 86 9200	037	—
	400	23,22		039	—
	***	82,65		099	29,74
0406 90 76 9500	037	—		400	27,65
	039	—		***	61,34
	099	38,60	0406 90 86 9300	037	—
	400	23,22		039	—
	***	79,62		099	30,78
0406 90 78 9100	037	—		400	30,30
	039	—		***	63,48
	099	32,73	0406 90 86 9400	037	—
	400	18,14		039	—
	***	67,50		099	34,58
0406 90 78 9300	037	—		400	34,28
	039	—		***	71,32
	099	40,07	0406 90 86 9900	037	—
	400	20,12		039	—
	***	82,65		099	43,80
0406 90 78 9500	037	—		400	40,24
	039	—		***	90,34
	099	40,07	0406 90 87 9100	+	—
	400	23,22	0406 90 87 9200	037	—
	***	82,65		039	—
0406 90 79 9900	037	—		099	24,78
	039	—		400	24,78
	099	30,31		***	51,11
	400	19,23	0406 90 87 9300	037	—
	***	62,51		039	—
0406 90 81 9900	037	—		099	28,27
	039	—		400	28,02
	099	53,71		***	58,31
	400	47,61	0406 90 87 9400	037	—
	***	88,63		039	—
0406 90 85 9910	037	28,95		099	30,66
	039	28,95		400	30,66
	099	59,27		***	63,25
	400	59,27	0406 90 87 9951	037	—
	***	97,79		039	—
0406 90 85 9991	037	—		099	42,19
	039	—		400	42,19
	099	54,68		***	87,04
	400	40,19	0406 90 87 9971	037	—
	***	90,22		039	—
0406 90 85 9995	037	—		099	42,07
	039	—		400	34,41
	099	51,97		***	86,78
	400	21,16	0406 90 87 9972	099	16,03
	***	85,75		400	13,67
				***	33,07

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0406 90 87 9973	037	—	2309 10 19 9100	+	—
	039	—	2309 10 19 9200	+	—
	099	37,66	2309 10 19 9300	+	—
	400	24,08	2309 10 19 9400	+	—
	***	77,68	2309 10 19 9500	+	—
0406 90 87 9974	037	—	2309 10 19 9600	+	—
	039	—	2309 10 19 9700	+	—
	099	42,07	2309 10 19 9800	+	—
	400	24,08	2309 10 70 9010	+	—
	***	86,78	2309 10 70 9100	+	13,85
0406 90 87 9979	037	—	2309 10 70 9200	+	18,47
	039	—	2309 10 70 9300	+	23,09
	099	36,51	2309 10 70 9500	+	27,70
	400	24,08	2309 10 70 9600	+	32,32
	***	75,31	2309 10 70 9700	+	36,94
0406 90 88 9100	+	—	2309 10 70 9800	+	40,63
0406 90 88 9105	037	—	2309 90 35 9010	+	—
	039	—	2309 90 35 9100	+	—
	099	52,46	2309 90 35 9200	+	—
	400	30,30	2309 90 35 9300	+	—
	***	86,56	2309 90 35 9400	+	—
0406 90 88 9300	037	—	2309 90 35 9500	+	—
	039	—	2309 90 35 9700	+	—
	099	31,84	2309 90 39 9010	+	—
	400	30,30	2309 90 39 9100	+	—
	***	52,55	2309 90 39 9200	+	—
2309 10 15 9010	+	—	2309 90 39 9300	+	—
2309 10 15 9100	+	—	2309 90 39 9400	+	—
2309 10 15 9200	+	—	2309 90 39 9500	+	—
2309 10 15 9300	+	—	2309 90 39 9600	+	—
2309 10 15 9400	+	—	2309 90 39 9700	+	—
2309 10 15 9500	+	—	2309 90 39 9800	+	—
2309 10 15 9700	+	—	2309 90 70 9010	+	—
2309 10 19 9010	+	—	2309 90 70 9100	+	13,85
			2309 90 70 9200	+	18,47
			2309 90 70 9300	+	23,09
			2309 90 70 9500	+	27,70
			2309 90 70 9600	+	32,32
			2309 90 70 9700	+	36,94
			2309 90 70 9800	+	40,63

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EC) No 895/97 (OJ L 128, 21.5.1997, p. 1).

However:

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

— '970' covers the exports referred to in Articles 34(1)(c) and 42(1)(a) and (b) of Commission Regulation (EEC) No 3665/87 (OJ L 351, 14.12.1987, p. 1).

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).

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.

COMMISSION REGULATION (EC) No 720/98**of 31 March 1998****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 2348/96⁽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 agricultural products to the Canary Islands;

Whereas Commission Regulation (EC) No 2993/94⁽⁵⁾, as last amended by Regulation (EC) No 2144/97⁽⁶⁾, fixed the amount of aid for milk products;

Whereas Commission Regulation (EC) No 707/98 of 30 March 1998 amending Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds⁽⁷⁾, adjusts the nomenclature for export refunds on

certain milk products; whereas Commission Regulation (EC) No 719/98 of 31 March 1998 fixing the export refunds on milk and milk products⁽⁸⁾, 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 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 Regulation (EC) No 2993/94 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 296, 17. 11. 1994, p. 23.

⁽⁴⁾ OJ L 304, 29. 11. 1994, p. 18.

⁽⁵⁾ OJ L 316, 9. 12. 1994, p. 11.

⁽⁶⁾ OJ L 297, 31. 10. 1997, p. 95.

⁽⁷⁾ OJ L 98, 31. 3. 1998, p. 11.

⁽⁸⁾ 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
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter:			
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 9000		2,327
0401 10 90	— — Other	0401 10 90 9000		2,327
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 9100		2,327
	— — — Of a fat content, by weight, exceeding 1,5 %	0401 20 11 9500		3,597
0401 20 19	— — — Other:			
	— — — Of a fat content, by weight, not exceeding 1,5 %	0401 20 19 9100		2,327
	— — — Of a fat content, by weight, exceeding 1,5 %	0401 20 19 9500		3,597
	— — 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 9100		4,551
	— — — Of a fat content, by weight, exceeding 4 %	0401 20 91 9500		5,302
0401 20 99	— — — Other:			
	— — — Of a fat content, by weight, not exceeding 4 %	0401 20 99 9100		4,551
	— — — Of a fat content, by weight, exceeding 4 %	0401 20 99 9500		5,302
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 9100		6,803
	— — — Exceeding 10 % but not exceeding 17 %	0401 30 11 9400		10,50
	— — — Exceeding 17 %	0401 30 11 9700		15,77
0401 30 19	— — — Other:			
	— — — Of a fat content, by weight:			
	— — — Not exceeding 10 %	0401 30 19 9100		6,803
	— — — Exceeding 10 % but not exceeding 17 %	0401 30 19 9400		10,50
	— — — Exceeding 17 %	0401 30 19 9700		15,77
	— — 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 9100		38,32
	— — — Exceeding 35 % but not exceeding 39 %	0401 30 31 9400		59,85
	— — — Exceeding 39 %	0401 30 31 9700		66,00

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

CN code	Description of goods	Product code	Notes	Amount of aid
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 9100 0401 30 39 9400 0401 30 39 9700		38,32 59,85 66,00
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 9100 0401 30 91 9400 0401 30 91 9700		75,22 110,55 129,01
0401 30 99	— — — Other: — Of a fat content, by weight: — Not exceeding 68 % — Exceeding 68 % but not exceeding 80 % — Exceeding 80 %	0401 30 99 9100 0401 30 99 9400 0401 30 99 9700		75,22 110,55 129,01
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 % (?): — — Not containing added sugar or other sweetening matter:			
0402 10 11	— — — In immediate packings of a net content not exceeding 2,5 kg	0402 10 11 9000	(¹³)	68,00
0402 10 19	— — — Other — — Other:	0402 10 19 9000	(¹³)	68,00
0402 10 91	— — — In immediate packings of a net content not exceeding 2,5 kg	0402 10 91 9000	(¹⁴)	0,6800
0402 10 99	— — — Other — In powder, granules or other solid forms, of a fat content, by weight, exceeding 1,5 % (?):	0402 10 99 9000	(¹⁴)	0,6800
0402 21	— — Not containing added sugar or other sweetening matter: — — — 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 9200 0402 21 11 9300 0402 21 11 9500 0402 21 11 9900	(¹³) (¹³) (¹³) (¹³)	68,00 90,54 95,38 102,60
0402 21 17	— — — — — Of a fat content, by weight, not exceeding 11 %	0402 21 17 9000	(¹³)	68,00
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 9300 0402 21 19 9500 0402 21 19 9900	(¹³) (¹³) (¹³)	90,54 95,38 102,60

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

CN code	Description of goods	Product code	Notes	Amount of aid
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 9100 0402 21 91 9200 0402 21 91 9300 0402 21 91 9400 0402 21 91 9500 0402 21 91 9600 0402 21 91 9700 0402 21 91 9900	(¹³) (¹³) (¹³) (¹³) (¹³) (¹³) (¹³) (¹³)	103,34 104,05 105,34 112,58 115,09 124,73 130,38 136,76
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 9100 0402 21 99 9200 0402 21 99 9300 0402 21 99 9400 0402 21 99 9500 0402 21 99 9600 0402 21 99 9700 0402 21 99 9900	(¹³) (¹³) (¹³) (¹³) (¹³) (¹³) (¹³) (¹³)	103,34 104,05 105,34 112,58 115,09 124,73 130,38 136,76
ex 0402 29	— — Other: — — — 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 9200 0402 29 15 9300 0402 29 15 9500 0402 29 15 9900	(¹⁴) (¹⁴) (¹⁴) (¹⁴)	0,6800 0,9054 0,9538 1,0262
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 9200 0402 29 19 9300 0402 29 19 9500 0402 29 19 9900	(¹⁴) (¹⁴) (¹⁴) (¹⁴)	0,6800 0,9054 0,9538 1,0262
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 9100 0402 29 91 9500	(¹⁴) (¹⁴)	1,0334 1,1258
0402 29 99	— — — Other: — Of a fat content, by weight: — Not exceeding 41 % — Exceeding 41 %	0402 29 99 9100 0402 29 99 9500	(¹⁴) (¹⁴)	1,0334 1,1258

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

CN code	Description of goods	Product code	Notes	Amount of aid
0402 91	— Other:			
	— — Not containing added sugar or other sweetening matter:			
	— — — 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 %	0402 91 11 9110	(13)	2,327
	— — — — — — — Exceeding 3 %	0402 91 11 9120	(13)	4,551
	— — — — — — Of 15 % or more and of a fat content, by weight:			
	— — — — — — — Not exceeding 3 %	0402 91 11 9310	(13)	13,30
	— — — — — — — Exceeding 3 % but not exceeding 7,4 %	0402 91 11 9350	(13)	16,29
	— — — — — — — Exceeding 7,4 %	0402 91 11 9370	(13)	19,81
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 %	0402 91 19 9110	(13)	2,327
	— — — — — — — Exceeding 3 %	0402 91 19 9120	(13)	4,551
	— — — — — — Of 15 % or more and of a fat content, by weight:			
	— — — — — — — Not exceeding 3 %	0402 91 19 9310	(13)	13,30
	— — — — — — — Exceeding 3 % but not exceeding 7,4 %	0402 91 19 9350	(13)	16,29
	— — — — — — — Exceeding 7,4 %	0402 91 19 9370	(13)	19,81
	— — — — — Of a fat content, by weight, exceeding 8 % but not exceeding 10 %:			
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 %	0402 91 31 9100	(13)	8,991
	— — — — — — — Of 15 % or more	0402 91 31 9300	(13)	23,42
0402 91 39	— — — — Other:			
	— — — — — Of a non-fat lactic dry matter content:			
	— — — — — — Of less than 15 %	0402 91 39 9100	(13)	8,991
	— — — — — — Of 15 % or more	0402 91 39 9300	(13)	23,42
	— — — — — Of a fat content, by weight, exceeding 10 % but not exceeding 45 %:			
0402 91 51	— — — — — In immediate packings of a net content not exceeding 2,5 kg	0402 91 51 9000	(13)	10,50
0402 91 59	— — — — Other	0402 91 59 9000	(13)	10,50
	— — — — — 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 9000	(13)	75,22
0402 91 99	— — — — Other	0402 91 99 9000	(13)	75,22

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

CN code	Description of goods	Product code	Notes	Amount of aid
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:			
	— Not exceeding 3 %	0402 99 11 9110	(14)	0,0233
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 11 9130	(14)	0,0456
	— Exceeding 6,9 %	0402 99 11 9150	(14)	0,1269
	— Of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight:			
	— Not exceeding 3 %	0402 99 11 9310	(14)	0,2555
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 11 9330	(14)	0,3067
	— Exceeding 6,9 %	0402 99 11 9350	(14)	0,4077
0402 99 19	— — — — Other:			
	— Of a non-fat lactic dry matter content of less than 15 % and of a fat content, by weight:			
	— Not exceeding 3 %	0402 99 19 9110	(14)	0,0233
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 19 9130	(14)	0,0456
	— Exceeding 6,9 %	0402 99 19 9150	(14)	0,1269
	— Of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight:			
	— Not exceeding 3 %	0402 99 19 9310	(14)	0,2555
	— Exceeding 3 % but not exceeding 6,9 %	0402 99 19 9330	(14)	0,3067
	— Exceeding 6,9 %	0402 99 19 9350	(14)	0,4077
	— — — 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 %	0402 99 31 9110	(14)	0,0975
	— Of a non-fat lactic dry matter content, by weight, of 15 % or more	0402 99 31 9150	(14)	0,4245
	— Of a fat content, by weight, exceeding 21 % but not exceeding 39 %	0402 99 31 9300	(14)	0,3832
	— Of a fat content, by weight, exceeding 39 %	0402 99 31 9500	(14)	0,6600
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 %	0402 99 39 9110	(14)	0,0975
	— Of a non-fat lactic dry matter content, by weight, of 15 % or more	0402 99 39 9150	(14)	0,4245
	— Of a fat content, by weight, exceeding 21 % but not exceeding 39 %	0402 99 39 9300	(14)	0,3832
	— Of a fat content, by weight, exceeding 39 %	0402 99 39 9500	(14)	0,6600

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

CN code	Description of goods	Product code	Notes	Amount of aid
	— — — Of a fat content, by weight, exceeding 45 %:			
0402 99 91	— — — — In immediate packings not exceeding 2,5 kg	0402 99 91 9000	(¹⁴)	0,7522
0402 99 99	— — — — Other	0402 99 99 9000	(¹⁴)	0,7522
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 9500		176,10
	— — — — — — Of 82 % or more	0405 10 11 9700		180,50
0405 10 19	— — — — Other:			
	— — — — — Of a fat content by weight:			
	— — — — — — Of 80 % or more but less than 82 %	0405 10 19 9500		176,10
	— — — — — — Of 82 % or more	0405 10 19 9700		180,50
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 9100		176,10
	— — — — — — Of 82 % or more	0405 10 30 9300		180,50
	— — — — Other:			
	— — — — — Of a fat content by weight:			
	— — — — — — Of 80 % or more but less than 82 %	0405 10 30 9500		176,10
	— — — — — — Of 82 % or more	0405 10 30 9700		180,50
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 9100		176,10
	— — — — — — Of 82 % or more	0405 10 50 9300		180,50
	— — — — Other:			
	— — — — — Of a fat content by weight:			
	— — — — — — Of 80 % or more but less than 82 %	0405 10 50 9500		176,10
	— — — — — — Of 82 % or more	0405 10 50 9700		180,50
0405 10 90	— — Other	0405 10 90 9000		187,10
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 9500		165,09
	— — — — Of 78 % or more	0405 20 90 9700		171,69
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 9000		228,00
0405 90 90	— — Other	0405 90 90 9000		180,50

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

CN code	Description of goods	Additional requirements for using the product code		Product code	Notes	Amount of aid
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)			
ex 0406	Cheese and curd (°):					
ex 0406 30	— Processed cheese, not grated or powdered (°):					
	— — Other:					
	— — — Of a fat content, by weight, not exceeding 36 % and of a fat content, by weight, in the dry matter:					
ex 0406 30 31	— — — — Not exceeding 48 %:					
	— — — — — Of a dry matter content, by weight:					
	— — — — — — Of 40 % or more but less than 43 %, and of a fat content, by weight, in the dry matter:					
	— — — — — — — Of less than 20 %	60		0406 30 31 9710	(°)	17,88
	— — — — — — — Of 20 % or more	60	20	0406 30 31 9730	(°)	26,24
	— — — — — — — Of 43 % or more and with a fat content, by weight, in the dry matter:					
	— — — — — — — Of less than 20 %	57		0406 30 31 9910	(°)	17,88
	— — — — — — — Of 20 % or more but less than 40 %	57	20	0406 30 31 9930	(°)	26,24
	— — — — — — — Of 40 % or more	57	40	0406 30 31 9950	(°)	38,17
ex 0406 30 39	— — — — Exceeding 48 %:					
	— — — — — Of a dry matter, content, by weight:					
	— — — — — — Of 40 % or more but less than 43 %	60	48	0406 30 39 9500	(°)	26,24
	— — — — — — Of 43 % or more but less than 46 %	57	48	0406 30 39 9700	(°)	38,17
	— — — — — — Of 46 % or more and with a fat content, by weight, in the dry matter:					
	— — — — — — — Of less than 55 %	54	48	0406 30 39 9930	(°)	38,17
	— — — — — — — Of 55 % or more	54	55	0406 30 39 9950	(°)	43,16
ex 0406 30 90	— — — Of a list content exceeding 36 %	54	79	0406 30 90 9000	(°)	45,28
ex 0406 90 23	— — — Edam	47	40	0406 90 23 9900	(°)	75,31
ex 0406 90 25	— — — Tilsit	47	45	0406 90 25 9900	(°)	76,25
ex 0406 90 27	— — — Butterkäse	52	45	0406 90 27 9900	(°)	69,06
ex 0406 90 76	— — — — — — Danbo, Fontal, Fontina, Fynbo, Havarti, Maribo, Samsøe:					
	— — — — — — — Of a fat content, by weight, in the dry matter of 45 % or more but less than 55 %:					
	— — — — — — — — Of a dry matter content, by weight, of 50 % or more but less than 56 %	50	45	0406 90 76 9300	(°)	71,94
	— — — — — — — — Of a dry matter content, by weight, of 56 % or more	46	55	0406 90 76 9400	(°)	82,65
	— — — — — — — — Of a fat content, by weight, in the dry matter of 55 % or more	46	55	0406 90 76 9500	(°)	79,62

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

CN code	Description of goods	Additional requirements for using the product code		Product code	Notes	Amount of aid
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)			
ex 0406 90 78	— — — — — Gouda:					
	— — — — — — Of a fat content, by weight, in the dry matter of less than 48 %	50	20	0406 90 78 9100	(⁵)	67,50
	— — — — — — Of a fat content by weight, in the dry matter of 48 % or more but less 55 %	45	48	0406 90 78 9300	(⁵)	82,65
	— — — — — — Other	45	55	0406 90 78 9500	(⁵)	82,65
ex 0406 90 79	— — — — — — Esrom, Italico, Kernhem, Saint-Nectaire, Saint-Paulin, Taleggio	56	40	0406 90 79 9900	(⁵)	62,51
ex 0406 90 81	— — — — — — Cantal, Cheshire, Wensleydale, Lancashire, Double Gloucester, Blarney, Colby, Monterey	44	45	0406 90 81 9900	(⁵)	88,63
ex 0406 90 86	— — — — — — Exceeding 47 % but not exceeding 52 %:					
	— — — — — — — cheeses produced from whey			0406 90 86 9100		—
	— — — — — — — Other, of a fat content, by weight, in the dry matter:					
	— — — — — — — Of less than 5 %	52		0406 90 86 9200	(⁵)	61,34
	— — — — — — — Of 5 % or more but less than 19 %	51	5	0406 90 86 9300	(⁵)	63,48
	— — — — — — — Of 19 % or more but less than 39 %	47	19	0406 90 86 9400	(⁵)	71,32
	— — — — — — — Of 39 % or more	40	39	0406 90 86 9900	(⁵)	90,34
ex 0406 90 87	— — — — — — Exceeding 52 % but not exceeding 62 %:					
	— — — — — — — cheeses produced from whey, except for Manouri			0406 90 87 9100		—
	— — — — — — — Other, of a fat content, by weight, in the dry matter:					
	— — — — — — — Of less than 5 %	60		0406 90 87 9200	(⁵)	51,11
	— — — — — — — Of 5 % or more but less than 19 %	55	5	0406 90 87 9300	(⁵)	58,31
	— — — — — — — Of 19 % or more but less than 40 %	53	19	0406 90 87 9400	(⁵)	63,25
	— — — — — — — Of 40 % or more:					
	— — — — — — — — Idiazabal, Manchego and Roncal manufactured exclusively from sheep's milk	45	45	0406 90 87 9951	(⁵)	87,04
	— — — — — — — — Maasdam	45	45	0406 90 87 9971	(⁵)	86,78
	— — — — — — — — Manouri	43	53	0406 90 87 9972	(⁵)	33,07
	— — — — — — — — Hushallsost	46	45	0406 90 87 9973	(⁵)	77,68
	— — — — — — — — Murukoloinen	41	50	0406 90 87 9974	(⁵)	86,78
	— — — — — — — — Other	47	40	0406 90 87 9979	(⁵)	75,31

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

CN code	Description of goods	Additional requirements for using the product code		Product code	Notes	Amount of aid
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)			
ex 0406 90 88	— — — — — Exceeding 62 % but not exceeding 72 %: — — — — — cheeses produced from whey — — — — — Other: — — — — — Other: — — — — — Of a fat content, by weight, in the dry matter: — — — — — Of 10 % or more but less than 19 %	60	10	0406 90 88 9100 0406 90 88 9300	(⁵)	— 52,55

(⁵) 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.

(⁶) Where the product contains non-lactic matter and/or casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products falling within CN code 3504, the part corresponding to the added non-lactic matter and/or casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products falling within CN code 3504 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 non-lactic matter and/or casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products falling within CN code 3504 have been added and, if so, the actual content by weight of added non-lactic matter and/or casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products falling within CN code 3504 per 100 kilograms of finished product.

(⁷) The aid on frozen condensed milk is the same as that on products falling within CN codes 0402 91 or 0402 99.

(¹³) Where the product contains non-lactic matter, the non-lactic matter is not to be taken into account for the purposes of calculating the aid.

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not non-lactic matter has been added and, where this is the case, the actual content by weight of the non-lactic matter added per 100 kilograms of finished product.

(¹⁴) Where the product contains non-lactic matter other than sucrose, the non-lactic matter other than sucrose is not to be taken into account for the purposes of calculating the aid.

The aid on 100 kilograms of product covered by this subheading is equal to the sum of the following components:

(a) the amount per kilogram shown, multiplied by the weight of the lactic matter per 100 kilograms of product;

(b) a component calculated in accordance with Article 12(3) of Commission Regulation (EC) No 1466/95 (OJ L 144, 28.6.1995, p. 22).

When completing customs formalities, the applicant must state on the declaration provided for that purpose the actual content by weight of sucrose and/or other non-lactic matter added per 100 kilograms of finished product.

COMMISSION REGULATION (EC) No 721/98**of 31 March 1998****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 2348/96⁽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 2438/97⁽⁶⁾, fixes the aid for milk products;

Whereas Commission Regulation (EC) No 707/98 of 30 March 1998, amending Regulation (EEC) No 3846/87

establishing an agricultural product nomenclature for export refunds⁽⁷⁾, adjusts the nomenclature for export refunds on certain milk products; whereas Commission Regulation (EC) No 719/98 of 31 March 1998 fixing the export refunds on milk and milk products⁽⁸⁾, 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 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

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

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 179, 1. 7. 1992, p. 6.

⁽⁴⁾ OJ L 238, 23. 9. 1993, p. 24.

⁽⁵⁾ OJ L 218, 1. 8. 1992, p. 75.

⁽⁶⁾ OJ L 339, 10. 12. 1997, p. 7.

⁽⁷⁾ OJ L 98, 31. 3. 1998, p. 11.

⁽⁸⁾ 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
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter:			
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 9000		2,327
0401 10 90	— — Other	0401 10 90 9000		2,327
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 9100		2,327
	— — — Of a fat content, by weight, exceeding 1,5 %	0401 20 11 9500		3,597
0401 20 19	— — — Other:			
	— — — Of a fat content, by weight, not exceeding 1,5 %	0401 20 19 9100		2,327
	— — — Of a fat content, by weight, exceeding 1,5 %	0401 20 19 9500		3,597
	— — 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 9100		4,551
	— — — Of a fat content, by weight, exceeding 4 %	0401 20 91 9500		5,302
0401 20 99	— — — Other:			
	— — — Of a fat content, by weight, not exceeding 4 %	0401 20 99 9100		4,551
	— — — Of a fat content, by weight, exceeding 4 %	0401 20 99 9500		5,302
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 9100		6,803
	— — — Exceeding 10 % but not exceeding 17 %	0401 30 11 9400		10,50
	— — — Exceeding 17 %	0401 30 11 9700		15,77
0401 30 19	— — — Other:			
	— — — Of a fat content, by weight:			
	— — — Not exceeding 10 %	0401 30 19 9100		6,803
	— — — Exceeding 10 % but not exceeding 17 %	0401 30 19 9400		10,50
	— — — Exceeding 17 %	0401 30 19 9700		15,77
	— — Exceeding 21 % but not exceeding 45 %:			

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

CN code	Description of goods	Product code	Notes	Amount of aid
0401 30 31	— — — In immediate packings of a net content not exceeding 2 litres: — Of a fat content, by weight: — Not exceeding 35 % — Exceeding 35 % but not exceeding 39 % — Exceeding 39 %	0401 30 31 9100 0401 30 31 9400 0401 30 31 9700		38,32 59,85 66,00
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 9100 0401 30 39 9400 0401 30 39 9700		38,32 59,85 66,00
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 9100 0401 30 91 9400 0401 30 91 9700		75,22 110,55 129,01
0401 30 99	— — — Other: — Of a fat content, by weight: — Not exceeding 68 % — Exceeding 68 % but not exceeding 80 % — Exceeding 80 %	0401 30 99 9100 0401 30 99 9400 0401 30 99 9700		75,22 110,55 129,01
ex 0402	Skimmed-milk powder of a fat content, by weight, not exceeding 1,5 %	0402 10 11 9000 0402 10 19 9000	(¹³)	68,00
ex 0402	Whole milk powder of a fat content, by weight, not exceeding 27 %	0402 21 11 9900 0402 21 19 9900	(¹³)	102,60
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 9200 0402 21 11 9300 0402 21 11 9500 0402 21 11 9900	(¹³) (¹³) (¹³) (¹³)	68,00 90,54 95,38 102,60
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 9300 0402 21 19 9500 0402 21 19 9900	(¹³) (¹³) (¹³)	90,54 95,38 102,60

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

CN code	Description of goods	Product code	Notes	Amount of aid
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 9500		176,10
	— — — — — — Of 82 % or more	0405 10 11 9700		180,50
0405 10 19	— — — — Other:			
	— — — — — Of a fat content by weight:			
	— — — — — — Of 80 % or more but less than 82 %	0405 10 19 9500		176,10
	— — — — — — Of 82 % or more	0405 10 19 9700		180,50
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 9100		176,10
	— — — — — — Of 82 % or more	0405 10 30 9300		180,50
	— — — — Other:			
	— — — — — Of a fat content by weight:			
	— — — — — — Of 80 % or more but less than 82 %	0405 10 30 9500		176,10
	— — — — — — Of 82 % or more	0405 10 30 9700		180,50
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 9100		176,10
	— — — — — — Of 82 % or more	0405 10 50 9300		180,50
	— — — — Other:			
	— — — — — Of a fat content by weight:			
	— — — — — — Of 80 % or more but less than 82 %	0405 10 50 9500		176,10
	— — — — — — Of 82 % or more	0405 10 50 9700		180,50
0405 10 90	— — Other	0405 10 90 9000		187,10
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 9500		165,09
	— — — — Of 78 % or more	0405 20 90 9700		171,69
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 9000		228,00
0405 90 90	— — Other	0405 90 90 9000		180,50

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

CN code	Description of goods	Additional requirements for using the product code		Product code	Notes	Amount of aid
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)			
ex 0406	Cheese and curd ⁽³⁾ :					
ex 0406 90 23	— — — Edam	47	40	0406 90 23 9900	⁽³⁾	75,31
ex 0406 90 25	— — — Tilsit	47	45	0406 90 25 9900	⁽³⁾	76,25
ex 0406 90 76	— — — — — — — — Danbo, Fontal, Fontina, Fynbo, Havarti, Maribo, Samsøe:					
	— — — — — — — — Of a fat content, by weight, in the dry matter of 45 % or more but less than 55 %:					
	— — — — — — — — Of a dry matter content, by weight, of 50 % or more but less than 56 %	50	45	0406 90 76 9300	⁽³⁾	71,94
	— — — — — — — — Of a dry matter content, by weight, of 56 % or more	44	45	0406 90 76 9400	⁽³⁾	82,65
	— — — — — — — — Of a fat content, by weight, in the dry matter of 55 % or more	46	55	0406 90 76 9500	⁽³⁾	79,62
ex 0406 90 78	— — — — — — — — Gouda:					
	— — — — — — — — Of a fat content, by weight, in the dry matter of less than 48 %	50	20	0406 90 78 9100	⁽³⁾	67,50
	— — — — — — — — Of a fat content by weight, in the dry matter of 48 % or more but less than 55 %	45	48	0406 90 78 9300	⁽³⁾	82,65
	— — — — — — — — Other	45	55	0406 90 78 9500	⁽³⁾	82,65
ex 0406 90 79	— — — — — — — — Esrom, Italico, Kernhem, Saint-Nectaire, Saint-Paulin, Taleggio	56	40	0406 90 79 9900	⁽³⁾	62,51
ex 0406 90 81	— — — — — — — — Cantal, Cheshire, Wensleydale, Lancashire, Double Gloucester, Blarney, Colby, Monterey	44	45	0406 90 81 9900	⁽³⁾	88,63
ex 0406 90 86	— — — — — — — — Exceeding 47 % but not exceeding 52 %:					
	— — — — — — — — cheeses produced from whey			0406 90 86 9100		—
	— — — — — — — — Other, of a fat content, by weight, in the dry matter:					
	— — — — — — — — Of less than 5 %	52		0406 90 86 9200	⁽³⁾	61,34
	— — — — — — — — Of 5 % or more but less than 19 %	51	5	0406 90 86 9300	⁽³⁾	63,48
	— — — — — — — — Of 19 % or more but less than 39 %	47	19	0406 90 86 9400	⁽³⁾	71,32
	— — — — — — — — Of 39 % or more	40	39	0406 90 86 9900	⁽³⁾	90,34
ex 0406 90 87	— — — — — — — — Exceeding 52 % but not exceeding 62 %:					
	— — — — — — — — cheeses produced from whey, except for Manouri			0406 90 87 9100		—
	— — — — — — — — Other, of a fat content, by weight, in the dry matter:					
	— — — — — — — — Of less than 5 %	60		0406 90 87 9200	⁽³⁾	51,11
	— — — — — — — — Of 5 % or more but less than 19 %	55	5	0406 90 87 9300	⁽³⁾	58,31
	— — — — — — — — Of 19 % or more but less than 40 %	53	19	0406 90 87 9400	⁽³⁾	63,25

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

CN code	Description of goods	Additional requirements for using the product code		Product code	Notes	Amount of aid
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)			
ex 0406 90 87 (cont'd.)	— — — — — Of 40 % or more:					
	— — — — — Idiazabal, Manchego and Roncal manufactured exclusively from sheep's milk	45	45	0406 90 87 9951	(³)	87,04
	— — — — — Maasdam	45	45	0406 90 87 9971	(³)	86,78
	— — — — — Manouri	43	53	0406 90 87 9972	(³)	33,07
	— — — — — Hushallsost	46	45	0406 90 87 9973	(³)	77,68
	— — — — — Murukoloinen	41	50	0406 90 87 9974	(³)	86,78
	— — — — — Other:	47	40	0406 90 87 9979	(³)	75,31
ex 0406 90 88	— — — — — Exceeding 62 % but not exceeding 72 %:					
	— — — — — cheeses produced from whey			0406 90 88 9100		—
	— — — — — Other:					
	— — — — — Other:					
	— — — — — Of a fat content, by weight, in the dry matter:					
	— — — — — Of 10 % or more but less than 19 %	60	10	0406 90 88 9300	(³)	52,55

(³) 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.

(¹³) Where the product contains non-lactic matter, the non-lactic matter is not to be taken into account for the purposes of calculating the aid.

When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not non-lactic matter has been added and, where this is the case, the actual content by weight of the non-lactic matter added per 100 kilograms of finished product.'

COMMISSION REGULATION (EC) No 722/98
of 31 March 1998
fixing the import duties in the rice sector

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, as amended by Regulation (EC) No 192/98 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽³⁾, as last amended by Regulation (EC) No 1403/97 ⁽⁴⁾, and in particular Article 4 (1) thereof,

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 20, 27. 1. 1998, p. 16.

⁽³⁾ OJ L 189, 30. 7. 1996, p. 71.

⁽⁴⁾ OJ L 194, 23. 7. 1997, p. 2.

ANNEX I

to the Commission Regulation of 31 March 1998 fixing the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ⁽¹⁾			
	Third countries (except ACP and Bangladesh) ⁽²⁾ ⁽⁷⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	130,91		202,88
1006 10 23	(7)	130,91		202,88
1006 10 25	(7)	130,91		202,88
1006 10 27	(7)	130,91		202,88
1006 10 92	(7)	130,91		202,88
1006 10 94	(7)	130,91		202,88
1006 10 96	(7)	130,91		202,88
1006 10 98	(7)	130,91		202,88
1006 20 11	(7)	164,91		253,88
1006 20 13	(7)	164,91		253,88
1006 20 15	(7)	164,91		253,88
1006 20 17	254,15	122,74	4,15	190,61
1006 20 92	(7)	164,91		253,88
1006 20 94	(7)	164,91		253,88
1006 20 96	(7)	164,91		253,88
1006 20 98	254,15	122,74	4,15	190,61
1006 30 21	(7)	251,59		399,75
1006 30 23	(7)	251,59		399,75
1006 30 25	(7)	251,59		399,75
1006 30 27	(7)	251,59		399,75
1006 30 42	(7)	251,59		399,75
1006 30 44	(7)	251,59		399,75
1006 30 46	(7)	251,59		399,75
1006 30 48	(7)	251,59		399,75
1006 30 61	(7)	251,59		399,75
1006 30 63	(7)	251,59		399,75
1006 30 65	(7)	251,59		399,75
1006 30 67	(7)	251,59		399,75
1006 30 92	(7)	251,59		399,75
1006 30 94	(7)	251,59		399,75
1006 30 96	(7)	251,59		399,75
1006 30 98	(7)	251,59		399,75
1006 40 00	(7)	78,38		123,00

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

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

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

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

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

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

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

⁽⁸⁾ The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15. 11. 1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1. 2. 1997, p. 53).

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne)	(¹)	254,15	533,00	338,50	533,00	(¹)
2. Elements of calculation:						
(a) Arag cif price (ECU/tonne)	—	349,66	339,67	281,72	323,28	—
(b) fob price (ECU/tonne)	—	—	—	254,01	295,57	—
(c) Sea freight (ECU/tonne)	—	—	—	27,71	27,71	—
(d) Source	—	Operators	Operators	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 723/98**of 31 March 1998****fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex II to the Treaty**

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 (1) of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 (a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund; whereas Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 1909/97 ⁽⁴⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EEC) No 804/68;

Whereas, in accordance with the first subparagraph of Article 4 (1) of Regulation (EC) No 1222/94, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month;

Whereas Article 4 (3) of Regulation (EC) No 1222/94 provides that, when the rate of the refund is being fixed, account should be taken, where necessary, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organization of the market in the product in question to the basic products listed in Annex A to that Regulation or to assimilated products;

Whereas Article 11 (1) of Regulation (EEC) No 804/68 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions set out in Article 1 of Council Regulation (EEC) No 987/68 of 15 July 1968 laying down general rules for granting aid for skimmed milk processed into casein or caseinates ⁽⁵⁾, as last amended by Regulation (EEC) No 1435/90 ⁽⁶⁾;

Whereas Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽⁷⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods;

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

1. The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1222/94 and listed in Article 1 of Regulation (EEC) No 804/68, exported in the form of goods listed in the Annex to Regulation (EEC) No 804/68, are hereby fixed as shown in the Annex to this Regulation.

2. No rates of refund are fixed for any of the products referred to in the preceding paragraph which are not listed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 April 1998.

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 136, 31. 5. 1994, p. 5.

⁽⁴⁾ OJ L 268, 1. 10. 1997, p. 20.

⁽⁵⁾ OJ L 169, 18. 7. 1968, p. 6.

⁽⁶⁾ OJ L 138, 31. 5. 1990, p. 8.

⁽⁷⁾ OJ L 350, 20. 12. 1997, p. 3.

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

Done at Brussels, 31 March 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX

to the Commission Regulation of 31 March 1998 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex II to the Treaty

(ECU/100 kg)

CN code	Description	Rate of refund
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2): (a) On exportation of goods of CN code 3501 (b) On exportation of other goods	— 68,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3): (a) Where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EEC) No 2571/97 are exported (b) On exportation of other goods	64,59 102,60
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6): (a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EEC) No 2571/97 are exported (b) On exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat (c) On exportation of other goods	45,00 177,25 170,00

COMMISSION REGULATION (EC) No 724/98**of 31 March 1998****fixing the rates of refunds applicable to certain products from the sugar sector
exported in the form of goods not covered by Annex II to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾ and in particular Article 17 (5) (a) and (15),

Whereas Article 17 (1) and (2) of Regulation (EEC) No 1785/81 provides that the differences between the prices in international trade for the products listed in Article 1 (1) (a), (c), (d), (f), (g) and (h) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in the Annex to that Regulation; whereas Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty and the criteria for fixing the amount of such refunds ⁽³⁾ as last amended by Regulation (EC) No 1909/97 ⁽⁴⁾ specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EEC) No 1785/81;

Whereas, in accordance with Article 4 (1) of Regulation (EC) No 1222/94, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month;

Whereas Article 17 (3) of Regulation (EEC) No 1785/81 and Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lay down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing;

Whereas the refunds fixed under this Regulation may be fixed in advance; whereas the market situation over the next few months cannot be established at the moment;

Whereas the commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex II to the Treaty may be jeopardized by the fixing in advance of high refund rates; whereas it is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts; whereas the fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met;

Whereas Article 4 (5) (b) of Regulation (EC) No 1222/94 provides that in the absence of the proof referred to in Article 4 (5) (a) of that Regulation, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council Regulation (EEC) No 1010/86 ⁽⁵⁾, as last amended by Commission Regulation (EC) No 1126/96 ⁽⁶⁾, for the basic product in question, used during the assumed period of manufacture of the goods;

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

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1222/94 and listed in Article 1 (1) and (2) of Regulation (EEC) No 1785/81, exported in the form of goods listed in Annex I to Regulation (EEC) No 1785/81, are fixed as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 1998.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 136, 31. 5. 1994, p. 5.

⁽⁴⁾ OJ L 268, 1. 10. 1997, p. 20.

⁽⁵⁾ OJ L 94, 9. 4. 1986, p. 9.

⁽⁶⁾ OJ L 150, 25. 6. 1996, p. 3.

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

Done at Brussels, 31 March 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX

to the Commission Regulation of 31 March 1998 fixing the rates of the refunds applicable to certain products in the sugar sector exported in the form of goods not covered by Annex II to the Treaty

Product	Rate of refund in ECU/100 kg	
	In case of advance fixing of refunds	Other
White sugar:		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	7,31	7,31
— in all other cases	42,30	42,30
Raw sugar:		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	6,72	6,72
— in all other cases	38,91	38,91
Syrups of beet sugar or cane sugar, other than the syrups obtained by dissolving white or raw sugar in the solid state, containing, in the dry state, 85 % or more by weight of sucrose (including invert sugar expressed as sucrose):		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	$\frac{7,31^{(1)} \times S^{(1)}}{100}$	$\frac{7,31^{(1)} \times S^{(1)}}{100}$
— in all other cases	$\frac{42,30^{(1)} \times S^{(1)}}{100}$	$\frac{42,30^{(1)} \times S^{(1)}}{100}$
For syrups obtained by dissolving white or raw sugar in the solid state, whether or not the dissolving is followed by inversion:	the rate fixed above for 100 kg of white or raw sugar used for the dissolution	
Molasses	—	—
Isoglucose ⁽²⁾		
— pursuant to Article 4 (5) (b) of Regulation (EC) No 1222/94	7,31 ⁽³⁾	7,31 ⁽³⁾
— in all other cases	42,30 ⁽³⁾	42,30 ⁽³⁾

⁽¹⁾ 'S' represents in 100 kilograms of syrup:

- the sucrose content (including invert sugar expressed as sucrose) of the syrup in question, where the latter is not less than 98 % pure,
- the extractable sugar content of the syrup in question, where the latter is not less than 85 %, but less than 98 % pure.

⁽²⁾ Products obtained by isomerization of glucose, which have a content by weight in the dry state of at least 41 % fructose and of which the total content by weight in the dry state of polysaccharides and oligosaccharides, including the di- or trisaccharides content, does not exceed 8,5 %.

⁽³⁾ Amount of refund per 100 kilograms of dry matter.

⁽⁴⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5. 12. 1992, p. 12).

COMMISSION REGULATION (EC) No 725/98
of 31 March 1998
adjusting agrimonetary compensatory aid paid in Ireland

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

Having regard to Council Regulation (EC) No 724/97 of 22 April 1997 determining measures and compensation relating to appreciable revaluations that affect farm incomes⁽¹⁾, and in particular Article 7 thereof,

Whereas Commission Regulation (EC) No 806/97 of 2 May 1997 fixing the maximum amounts of compensatory aid relating to appreciable revaluations of the Irish pound, the pound sterling and the Italian lira occurring prior to 31 March 1997⁽²⁾, as amended by Regulation (EC) No 1219/97⁽³⁾, *inter alia* fixes the maximum aid for the appreciable revaluation of the Irish pound on 29 March 1997;

Whereas the second subparagraph of Article 4(4) of Regulation (EC) No 724/97 lays down that the second and third tranches of compensatory aid are to be reduced in proportion to the effect on incomes of the movement of agricultural conversion rates up until the beginning of the month preceding the first month of the relevant tranche;

Whereas the conversion rate for the Irish pound increased on several occasions between the date of its appreciable revaluation and the beginning of the month preceding

the first month of the second tranche; whereas, given the rate of exchange reached, the second tranche of aid for Ireland should be cancelled;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant Management Committees,

HAS ADOPTED THIS REGULATION:

Article 1

The second tranche of compensatory aid for Ireland provided for by Regulation (EC) No 806/97 for the appreciable revaluation of 29 March 1997 is hereby cancelled. Payment of the third tranche of the aid will be examined in the light of the effects of monetary movements up until the beginning of March 1999.

Article 2

This Regulation shall enter into force on the day following 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, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 108, 25. 4. 1997, p. 9.

⁽²⁾ OJ L 115, 3. 5. 1997, p. 16.

⁽³⁾ OJ L 170, 28. 6. 1997, p. 56.

COMMISSION REGULATION (EC) No 726/98**of 31 March 1998****amending Regulation (EC) No 2543/95 laying down special detailed rules for the application of the system of export licences for olive oil**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas Commission Regulation (EC) No 2543/95⁽³⁾, as amended by Regulation (EC) No 2126/96⁽⁴⁾, lays down special detailed rules for the application of the system of export licences for olive oil; whereas, with a view to improving the way the system works, specific detailed rules of application should be laid down for licences without advance fixing of the refund, in particular as regards the rate of the security and the timetable for the submission of application and the issuing of the licences; whereas experience has shown that the amount of the security and the periods for the submission of applications for licences and for their issue should be adjusted; whereas in order not to interfere with the normal pattern of exports without refunds the measures taken where there is a risk that the quantities for normal disposal will be exceeded should be restricted to exports licences giving entitlement to the payment of a refund; whereas, in order to monitor better the pattern of exports, the information to be supplied by the Member States should be specified;

Whereas the fourth indent of Article 5(1) of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁵⁾, as last amended by Regulation (EC) No 1404/97⁽⁶⁾, states that no licence shall be required for exports where the security would be ECU 5 or less; whereas the low level of that security for exports without refund means that a large number of exports could be made without a licence, which would weaken monitoring of the quantities

concerned; whereas, to avoid that risk, special conditions should apply to such cases;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2543/95 is amended as follows:

1. In Article 2(2), '11-digit' is replaced by '12-digit'.

2. In Article 2:

(1) paragraph 3 is replaced by:

'3. The security for export licences shall be:

- (a) ECU 10 per 100 kilograms net in the case of licences where the refund is fixed in advance;
- (b) ECU 1 per 100 kilograms net in other cases.'

(2) the following paragraph is added:

'4. Notwithstanding the fourth indent of Article 5(1) of Regulation (EEC) No 3719/88, the licence is not required when a quantity of 50 kilograms or less is exported.'

3. In Article 3:

(1) paragraph 1 is replaced by:

'1. Applications for export licences with advance fixing of the refund must be lodged with the competent authorities from Tuesday to Thursday of each week. Applications lodged on Friday and Monday shall be deemed to have been lodged on the following Tuesday.'

(2) the first subparagraph of paragraph 2 is replaced by:

'2. Export licences with advance fixing of the refund shall be issued on the first working day from the Tuesday of the week following the period referred to in paragraph 1, provided that none of the particular measures referred to in paragraph 3 have since been taken by the Commission.'

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ L 260, 31. 10. 1995, p. 33.

⁽⁴⁾ OJ L 284, 6. 11. 1996, p. 15.

⁽⁵⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽⁶⁾ OJ L 194, 23. 7. 1997, p. 5.

- (3) the last sentence of paragraph 3 is replaced by:
‘These measures relate to export licences with advance fixing of the refund and vary according to the product code in the nomenclature of agricultural products for export refunds.’;
- (4) in the last indent of Article 3(5), ‘Monday’ is replaced by ‘Tuesday’ and the following sentence is added:
‘Where the single percentage of acceptance less than 80 % concerns only licences conferring entitlement to a refund, the operator may request that a licence not giving entitlement to a refund be issued for the remaining quantity within the same time limit.’;
- (5) the following paragraph is added:
‘6. Applications for export licences without advance fixing of the refund shall be lodged with the competent authorities from Monday to Friday of each week. The licences shall be issued immediately.’
4. Article 5 is amended as follows:
- (1) in the introductory part of paragraph 1, ‘Thursday’ is replaced by ‘Friday’;
- (2) paragraph 1(a) is replaced by:
‘(a) applications for export licences with advance fixing of the refund lodged from Tuesday to Thursday in accordance with Article 3(1);’
- (3) in paragraph 1(b), ‘on the preceding Monday’ is replaced by ‘between the previous Friday and the Thursday of that week, listing licences with advance fixing of the refund and those without advance fixing of the refund separately’;
- (4) in paragraph 2, the part of the sentence preceding the indents is replaced by:
‘The notification of the applications referred to in paragraph 1(a) and, where Article 3(5) applies, the information referred to in paragraph 1(b) shall specify’;
- (5) ‘where appropriate,’ is added before ‘the rate’ in the third indent of paragraph 2;
- (6) the following subparagraph is added to paragraph 2:
‘This information shall be given separately where the licences are to be issued for food aid operations.’;
- (7) the following is added at the end of paragraph 3:
‘... , stating the marketing year during which the licence was issued.’
5. Parts B and D of the Annex are replaced by those in the Annex to this Regulation.

Article 2

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

It shall apply from 18 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

— Part B — Weekly notification

(a) Licences with advance fixing of the refund:

Category	Total quantities issued by categories between the previous Friday and the Thursday of that week ⁽¹⁾	Rate of refund (ECU/100 kg)

⁽¹⁾ Where Article 3(5) applies, state the date on which the application for a licence was lodged and the percentage applied.

(b) Licences without advance fixing of the refund:

Category	Total quantities issued by categories between the previous Friday and the Thursday of that week

— Part D — Monthly notification

Category	Unused quantities	Marketing year during which the licence was issued	Refund fixed in advance	Total amount of refunds fixed in advance

COMMISSION REGULATION (EC) No 727/98**of 31 March 1998****suspending certain concessions provided for in Regulations (EC) No 1898/97 and (EC) No 1899/97 laying down rules of application in the pigmeat sector and in the poultrymeat and egg sectors respectively for the arrangements covered by Council Regulation (EC) No 3066/95**

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

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round of Multilateral Trade Negotiations⁽¹⁾, as last amended by Regulation (EC) No 1595/97⁽²⁾, and in particular Article 8 thereof,

Whereas Council Regulation (EC) No 703/98⁽³⁾, suspending certain concessions set out in Regulation (EC) No 3066/95 suspends certain concessions regarding certain pigmeat products and certain poultrymeat products; whereas provisions should accordingly be made for derogations from the detailed rules of application laid down in Commission Regulations (EC) No 1898/97⁽⁴⁾, as

amended by Regulation (EC) No 618/98⁽⁵⁾, and (EC) No 1899/97⁽⁶⁾;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

The lodging of applications for licences at reduced customs duty pursuant to Regulation (EC) No 1898/97 and for the groups 19, 20, 21, 22, 23 and 24 pursuant to Regulation (EC) No 1899/97 for products from the Czech Republic shall be suspended from 1 April 1998.

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 98, 31. 3. 1998, p. 1.

⁽⁴⁾ OJ L 267, 30. 9. 1997, p. 58.

⁽⁵⁾ OJ L 82, 19. 3. 1998, p. 35.

⁽⁶⁾ OJ L 267, 30. 9. 1997, p. 67.

COMMISSION REGULATION (EC) No 728/98**of 31 March 1998****fixing the production refund for white sugar used in the chemical industry**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular Article 9 (6) thereof,

Whereas pursuant to Article 9 (3) of Regulation (EEC) No 1785/81 it may be decided to grant production refunds on the products listed in Article 1 (1) (a) and (f) and on the syrups listed in Article 1 (1) (d) thereof which are in one of the situations referred to in Article 9 (2) of the Treaty and which are used in the manufacture of certain products of the chemical industry;

Whereas Council Regulation (EEC) No 1010/86 of 25 March 1986 laying down general rules for the production refund on certain sugar products used in the chemical industry ⁽³⁾, as last amended by Commission Regulation (EC) No 1126/96 ⁽⁴⁾, establishes the framework within which the production refunds may be determined and lists the chemical products of which the manufacture makes it possible to grant a production refund for the basic products used in their manufacture; whereas Articles 5, 6 and 7 of Regulation (EEC) No 1010/86 provide that the production refund granted for raw sugar, sucrose syrups and unprocessed isoglucose shall be derived from the refund fixed for white sugar according to a method of calculation peculiar to each of these basic products;

Whereas Commission Regulation (EEC) No 1729/78 of 24 July 1978 laying down detailed rules of application in respect of the production refund for sugar used in the

chemical industry ⁽⁵⁾, as last amended by Regulation (EC) No 1730/97 ⁽⁶⁾, specifies the method to be used for establishing the production refund; whereas Article 1 of Regulation (EEC) No 1729/78 provides that the production refund for white sugar shall be fixed at three-monthly intervals for the periods beginning 1 July, 1 October, 1 January and 1 April; whereas the application of the abovementioned method entails fixing the production refund as stated in Article 1 for the period referred to therein;

Whereas the amendment of the definition of white sugar and raw sugar referred to in Article 1 (2) (a) and (b) of Regulation (EEC) No 1785/81 has the consequence that flavoured sugars or sugars containing added colouring agents or other substances are no longer considered as falling within these definitions but are to be considered as 'other sugars'; whereas Article 1 of Regulation (EEC) No 1010/86 provides for these sugars to be eligible as basic products to the production refund; whereas a method of calculation based on their sucrose content should be laid down for establishing the production refund applicable to these products;

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

HAS ADOPTED THIS REGULATION:

Article 1

The production refund per 100 kilograms of white sugar referred to in Article 4 of Regulation (EEC) No 1010/86 is hereby fixed at ECU 34,988 for the quarter 1 April to 30 June 1998.

Article 2

This Regulation shall enter into force on 1 April 1998.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 94, 9. 4. 1986, p. 9.

⁽⁴⁾ OJ L 150, 25. 6. 1996, p. 3.

⁽⁵⁾ OJ L 201, 25. 7. 1978, p. 26.

⁽⁶⁾ OJ L 243, 5. 9. 1997, p. 5.

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

Done at Brussels, 31 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 729/98**of 31 March 1998****amending Commission Regulation (EC) No 2577/97 concerning imports of certain textile products originating in the Russian Federation**

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

Having regard to Council Regulation (EC) No 517/94 of 7 March 1994 on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Community import rules⁽¹⁾, as last amended by Commission Regulation (EC) No 1457/97⁽²⁾, and in particular Article 12(2) in conjunction with Article 25(5) thereof,

Whereas the Agreement in the form of an Exchange of Letters between the European Community and the Russian Federation on trade in textile products initialled on 19 December 1995 expired on 31 December 1996 and whereas, pending the completion of negotiations directed towards the initialling of a new agreement with the Russian Federation, Commission Regulations (EC) No 2446/96⁽³⁾, (EC) No 562/97⁽⁴⁾, (EC) No 1025/97⁽⁵⁾ and (EC) No 2577/97⁽⁶⁾ were adopted in order to safeguard the economic interests of the Community in the further conduct of trade in textile products with that country;

Whereas a new textile agreement with the Russian Federation has been initialled on 28 March 1998; whereas this agreement provides for the elimination of any quantitative restriction in trade of textile products between the Parties as of 1 May 1998;

Whereas the measures introduced by Regulation (EC) No 2577/97 are applicable until 31 March 1998;

Whereas it is therefore necessary, given the sensitivity of the textiles and clothing sector, to maintain the present import regime for an additional period of one month starting on 1 April 1998 and to establish quantitative limits proportionately to the former limits;

Whereas the proposed measures are in accordance with the opinion of the Committee set up by Regulation (EC) No 517/94,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2577/97 is amended as follows:

1. In Article 7 the date '31 March 1998' shall be replaced by '30 April 1998'.
2. Annexes I and II shall be replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 April 1998.

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

Done at Brussels, 31 March 1998.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ L 67, 10. 3. 1994, p. 1.

⁽²⁾ OJ L 199, 26. 7. 1997, p. 6.

⁽³⁾ OJ L 333, 21. 12. 1996, p. 7.

⁽⁴⁾ OJ L 85, 27. 3. 1997, p. 38.

⁽⁵⁾ OJ L 150, 7. 6. 1997, p. 20.

⁽⁶⁾ OJ L 350, 20. 12. 1997, p. 60.

ANNEX

ANNEX I

Community quantitative limits referred to in Article 1(1) applicable from 1 January 1998 to
30 April 1998

Category (*)	Unit	Quantity
1	tonnes	1 804
2	tonnes	5 344
2a	tonnes	411
3	tonnes	701
4	1 000 pieces	1 003
5	1 000 pieces	637
6	1 000 pieces	1 117
7	1 000 pieces	315
8	1 000 pieces	959
9	tonnes	653
20	tonnes	947
22	tonnes	513
39	tonnes	335
12	1 000 pairs	1 572
13	1 000 pieces	2 063
15	1 000 pieces	395
16	1 000 pieces	287
21	1 000 pieces	474
24	1 000 pieces	488
29	1 000 pieces	219
83	tonnes	163
33	tonnes	184
37	tonnes	634
50	tonnes	197
74	1 000 pieces	211
90	tonnes	339
115	tonnes	170
117	tonnes	607
118	tonnes	358

(*) The full description of products falling within these categories is set out in Annex I to Regulation (EC) No 517/94.

*ANNEX II***OUTWARD PROCESSING TRAFFIC**

Community quantitative limits referred to in Article 1(2) applicable from 1 January 1998 to
30 April 1998

Category (*)	Unit	Quantity
4	1 000 pieces	347
5	1 000 pieces	796
6	1 000 pieces	2 202
7	1 000 pieces	1 406
8	1 000 pieces	1 274
12	1 000 pairs	1 698
13	1 000 pieces	501
15	1 000 pieces	1 332
16	1 000 pieces	487
21	1 000 pieces	1 931
24	1 000 pieces	982
29	1 000 pieces	1 530
83	tonnes	175
74	1 000 pieces	351

(*) The full description of products falling within these categories is set out in Annex I of Regulation (EC) No 517/94.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 January 1998

relating to a proceeding pursuant to Article 65 of the ECSC Treaty

(Case IV/35.814 — Alloy surcharge)

(Only the Dutch, French, German, Italian, Spanish and Swedish texts are authentic)

(Text with EEA relevance)

(98/247/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 65 thereof,

Having regard to the information obtained by the Commission and the checks made pursuant to Article 47 of the Treaty,

Having regard to the written comments submitted pursuant to Article 36 of the Treaty and noting that the parties formally waived their right to present oral comments,

Whereas:

formula or method used to calculate the amounts applied, the circumstances and the date on which the formula was first used, as well as any subsequent amendments or applications.

On the basis of the information obtained and, in particular, copies of circulars sent by the producers to their customers which announced a modification of the bases used to calculate the alloy surcharge, the Commission sent a statement of objections on 19 December 1995 to 19 undertakings.

Having examined the file, the undertakings replied to the objections at the beginning of 1996.

I. THE FACTS

A. Procedure

- (1) Following reports in the specialised press and unofficial complaints from several consumers, the Commission initiated an investigation into the application by European stainless steel producers of a general price increase known as an 'alloy surcharge'.

On 16 March 1995, under Article 47 of the ECSC Treaty, the Commission asked a number of producers for data concerning the price changes, the

- (2) The replies prompted the Commission to undertake further investigations. Checks under Article 47 of the ECSC Treaty were carried out at Acerinox, ALZ, Avesta Sheffield, Krupp, Thyssen, Outokumpu and Usinor Sacilor. Requests for information were sent to Acerinox, Acciai Speciali Terni, ALZ, Böhler, Olarra, Outokumpu and Usinor Sacilor.

The undertakings to which this Decision is addressed submitted their comments on the new statement of objections which the Commission sent to them on 24 April 1997 and which cancels and replaces that of 19 December 1995. In their replies, they formally waived their right to put forward their views at a hearing.

B. The products

- (3) Stainless steel is a type of special steel whose main property is resistance to corrosion. This resistance is achieved by the use of different alloying materials (chrome, nickel, molybdenum) in the production process. Under CEN standard EN 10020:5.2222.1, steel containing at least 10,5 % chrome and no more than 1,2 % carbon may be classed as stainless steel. There are three main types of stainless steel, depending on the composition of alloying material:

- austenitic steel, whose basic grade contains 18 % chrome and 8 % nickel,
- ferritic steel, which may contain up to 30 % chrome,
- martensitic steel, which contains up to 14 % chrome.

Each of these types has different uses.

- (4) Stainless steel is used in the form of flat products (plates or coils; hot-rolled or cold-rolled) and long products (bars, wire rod, sections; hot-rolled or finished). Most of these products are ECSC products within the meaning of Article 81 of the Treaty.

- (5) Flat products account for 82 % of sales of stainless steel flat products. Flat products continuously manufactured in the form of coil (hot-rolled wide or narrow strip) account for 93 % of flat products, the rest consisting in thick individually rolled sheet (reversing-mill plate). About 70 % of hot-rolled wide strip is then cold rolled to reduce thickness and give it special properties.

The market for stainless steel flat products is highly concentrated. There are only six undertakings or groups in the Community which produce hot wide strip and cold-rolled plate. Five of the undertakings also produce reversing-mill plate.

In the Krupp/Thyssen/Riva/Falck/Tadfin/AST case⁽¹⁾, the Commission noted that, according to the forecasts of stainless steel producers, there was a large amount of excess capacity which would persist over the next few years.

- (6) This Decision is addressed to the undertakings manufacturing flat products, and is restricted to ECSC products, namely hot-rolled flat products and cold-rolled flat products at least 500 mm wide.

C. The geographic market

- (7) Unlike carbon steel, for which the market is regarded as mature, the market for stainless steel products is still expanding. Since 1950 production of all quantities of steel has grown by 2,4 % annually, whereas production of stainless steel has grown by 5,8 % annually. During the same period the main producing and consuming regions have changed; North America gave way to Western Europe (EC plus EFTA) and then to Japan from the mid-1960s onwards. Today, the growth area is located in the newly industrialised countries, where the annual rate of growth is of the order of 16 %. A number of European producers have decided to follow this trend by investing in the areas that are net importers (America and south-east Asia).

Exports by European firms outside Western Europe account for some 25 % of their total sales. By contrast, imports of stainless steel into Western Europe account for less than 5 % of consumption there.

- (8) The relevant geographic market is Western Europe. There are no customs duties or legal or technical barriers to imports between the EFTA countries and the Community and, although producers have a large share of their respective domestic markets, trade between Member States is considerable. On the other hand, imports from third countries are relatively low. In the abovementioned AST decision, imports of cold-rolled products were estimated at 3 % of total consumption⁽²⁾.

D. The parties

- (9) The companies Acerinox SA, ALZ NV, Acciai Speciali Terni SpA, Avesta Sheffield AB, Krupp Thyssen Nirosta GmbH and Usinor SA account for almost 90 % of European output of stainless steel flat products in the form of coils (hot wide strip and cold sheet) and a very large proportion of the output of stainless steel long products. All in all, they account for over 80 % of European production of finished stainless steel products.

1. Acerinox SA

- (10) Acerinox SA ('Acerinox') is a listed company incorporated under Spanish law. Set up in 1970, the firm has modern plant and is known for its low costs and profitability. It controls the Spanish producer of stainless long products Roldán SA and a US producer of stainless flat products.

2. *ALZ NV*

- (11) ALZ is a company incorporated under Belgian law that belongs to the Arbed group. Like Acerinox, ALZ was set up in the 1970s and manufactures stainless steel flat products.

3. *AST SpA*

- (12) Acciai Speciali Terni SpA ('AST') was set up on 1 January 1994, when ILVA's steel-making activities were split up into three undertakings with a view to subsequent sale. AST's main activity is the production of stainless steel flat products, electrical sheet and welded tubes, the last-named being produced by a subsidiary. On 24 December 1994 the Commission authorised the joint acquisition of AST by Fried. Krupp AG Hoesch-Krupp, Thyssen Stahl AG, AFL Falck, Tadfina SpA and FIRE. Finanziaria SpA (Riva group).

In December 1995 Krupp increased its share in AST from 50 % to 75 % by purchasing the shares held by Falck and Riva.

4. *Avesta Sheffield AB*

- (13) Avesta Sheffield AB ('Avesta') is controlled by British Steel. Avesta came into being as a result of a merger in 1992 between the British and Swedish stainless steel divisions. British Steel also controls the stainless long products manufacturers Fagersta Stainless AB (in Sweden) and British Steel Engineering Steels Holdings Limited (formerly United Engineering Steel) and a US manufacturer of stainless steel flat products.

5. *Krupp Thyssen Nirosta GmbH*

- (14) Krupp Thyssen Nirosta GmbH was created on 1 January 1995 following the merger of the stainless steel divisions of Thyssen Stahl AG and Fried. Krupp AG Hoesch Krupp which make products resistant to acids and high temperatures⁽³⁾. It has agreed to assume full liability in the present case for events preceding its creation in regard to both Thyssen Stahl AG and Krupp Hoesch AG. This Decision is not, therefore, addressed to either of those undertakings.

6. *Usinor SA*

- (15) Ugine SA ('Ugine') was, at the time of the events in question, a subsidiary of the Usinor Sacilor group responsible for the production and sale of stainless steel. On 11 December 1995 Ugine SA became a

division of Usinor Sacilor and thus lost its legal personality. Usinor Sacilor altered its trading name in June 1997 and is now known as Usinor SA. Usinor SA is the largest steel producer in Europe and one of the leading producers in the world. It also controls J & L Special Steels, a leading American producer of stainless cold-rolled sheet and holds a stake in the leading Thai producer of stainless cold-rolled sheet.

E. Background: the alloy surcharge and its calculation

- (16) The alloy surcharge is a price supplement which is calculated on the basis of the prices of alloys and is added to the basic price for stainless steel.

- (17) The cost of the alloys used by stainless steel producers (nickel, chromium and molybdenum) forms a very large proportion of the total production costs. The prices for these alloys are extremely volatile, which explains the desire of producers to offset the price fluctuations without recourse to frequent alterations in the basic price. The application of the alloy surcharge has a purely financial basis.

- (18) Producers calculate the amount of the alloy surcharge to be applied in a given month (M) in the different Communities currencies as follows:

They calculate the average price of nickel, ferro-chromium and molybdenum in the two months preceding the month before the month of calculation — in other words, M-2 and M-3.

They compare the values thus obtained with the reference values since February 1994, namely:

—ECU 3 750/tonne for nickel,

—ECU 5 532/tonne for molybdenum,

—ECU 777/tonne for ferro-chromium.

If the difference between the average prices and the reference values is positive, a price supplement is added to the basic price for the month M. If it is negative, no increase is applied: there is no negative alloy surcharge. Such a situation occurred between 1991 and 1993, when alloy prices fell below the trigger values and producers applied a zero alloy surcharge.

The amounts in excess of the trigger values are multiplied by the percentage of each alloy in the quality of steel concerned (for example, for quality AISI 304, there would be 9 % nickel and 18 % chromium and for quality AISI 316, 12 % nickel, 18 % chromium and 2,5 % molybdenum).

- (19) Calculation methods have varied, depending on the period and the producer. In the course of the inspections carried out under Article 47 of the ECSC Treaty in 1996 and in certain letters to the Commission, the producers stated that they had all been using the method described in the statement of objections of 19 December 1995 (with the exception of the trigger values) since 1988 ⁽⁴⁾. In its Decision 90/417/ECSC ⁽⁵⁾, the Commission objected to an agreement and concerted practices between European producers of stainless cold-rolled flat products which related in particular to prices. The agreement was in force between at least May 1986 and October 1988. The decision was not contested. All the parties in question in the present proceedings were at the time members of the 'Sendzimir club' referred to in Decision 90/417/ECSC.

F. The behaviour of the undertakings in December 1993 and January 1994

- (20) The prices for alloys and stainless steel fell sharply in 1993. When nickel prices started to rise in September 1993, producers' profits were considerably reduced. To remedy this, the producers of stainless flat products, with the exception of Outokumpu, agreed to hold a meeting in Madrid. Following that meeting, a number of contacts took place between the producers.

1. Meeting held in Madrid on 16 December 1993

(a) Participants

- (21) The meeting (hotel reservations and suchlike) was organized by Acerinox ⁽⁶⁾, which denies, however, having been the instigator. The meeting was attended by:

— Acerinox:	Mr Riestra
— ALZ:	Mr R.
— AST:	Mr Ronchi and Mr Moio
— Avesta Sheffield:	Mr T. and Mr W.
— Krupp Hoesch Stahl AG:	Mr Plömacher and Mr Hufen
— Thyssen:	Mr Peek
— Ugine:	Mr Laquay and Mr Lepage.

(b) Purpose

- (22) According to the statements of the undertakings, the purpose of the meeting was to allow producers

to exchange views on the possible reintroduction of an alloy surcharge as the most appropriate means of increasing prices and compensating for higher nickel prices.

Acerinox stated:

'Se celebró una reunión en Madrid con fecha 15 de diciembre de 1993, que había sido acordada entre las partes para hablar (...) de la problemática situación del mercado de las materias primas del acero inoxidable y las fuertes oscilaciones de los precios de las mismas.' ⁽⁷⁾.

In its statement, Avesta specifies that:

'The meeting involved an exchange of views on the difficulties caused by the various price developments described above and on the possible reintroduction of an alloy surcharge to address these difficulties.' ⁽⁸⁾.

According to Krupp and Thyssen:

'Dort sind die allgemein schlechte wirtschaftliche Lage sowie mögliche Auswege erörtert worden.' ⁽⁹⁾.

Ugine stated ⁽¹⁰⁾:

'Une réunion a eu lieu à Madrid à l'hôtel (...) le 16 décembre 1993 qui a permis de procéder à un échange de vues entre les producteurs d'acier inoxydable.'

In its statement, AST even specifies ⁽¹¹⁾ that it is in order to find a solution to the crisis that the undertakings met in Madrid:

'In questo contesto, e al fine di trovare una via d'uscita dalla situazione di crisi, ebbe luogo un incontro tra i principali produttori di acciaio europei.'

(c) Selecting the calculation method and reference values

- (23) Mr Laquay, a representative of Ugine, explained with the aid of a flip chart how the alloy surcharge had been applied in the past ⁽¹²⁾. According to Krupp and Thyssen:

'Herr Laquay hat als Spezialist für LZ-Berechnungen unter Zuhilfenahme eines Flip-Charts spontan und exemplarisch am Beispiel der von seinem Unternehmen in Frankreich geforderten Preise errechnet, welche zusätzlichen Erlöse bei entsprechender Umstellung des Stoppreises im französischen Markt erzielbar wären' ⁽¹³⁾.

- (24) All the participants at the meeting said it was necessary to use the method adopted in 1991, and alter the reference values.

Acerinox stated:

‘En la misma se planteó, ante las circunstancias ya conocidas de la volatilidad del mercado de las materias primas en el que Acerinox SA no tiene intervención alguna, la necesidad de aplicar el extra de aleación a los clientes con arreglo a una fórmula tradicional ya conocida y aplicada con los valores más adecuados para paliar la cada vez más especulativa situación de la LME’⁽¹⁴⁾.

AST stated:

‘Nel corso di quell’incontro furono discusse le iniziative che ciascuno dei partecipanti intendeva prendere al riguardo, che aveva elaborato in precedenza in totale autonomia (almeno per quanto riguarda AST). Dall’incontro emerge una naturale convergenza sull’adozione, come livello minimo della formula, del prezzo del nichel del settembre 1993’⁽¹⁵⁾.

Avesta states that:

‘The participants exchanged similar views on the use of the alloy surcharge calculation mechanism previously applied. In the course of the exchange, the ASAB representatives put to the meeting their views on using the previously adopted calculation mechanism with new trigger values’⁽¹⁶⁾.

In their statement, Krupp and Thyssen gave the following explanation:

‘Unter den gegebenen Umständen lag daher die einzige Möglichkeit, der Entwicklung zu begegnen, in dem Versuch, den wegen des früheren Absinkens des Preises der Legierungsmetalle unter den bisherigen Stopppreis ausgesetzten LZ wieder zu aktivieren.(...) Im Rahmen des Treffens hat dann Herr Plömacher bekundet, daß Krupp künftig als Stopppreis die niedrige Septemhernotierung für Ni zugrunde legen werde’⁽¹⁷⁾.

Ugine stated:

‘Au cours de la réunion, certains participants dont Ugine ont fait connaître leur intention, assortie ou non de réserves, de reprendre l’application de la formule d’extra assortie d’un nouveau seuil de déclenchement (le point bas du cours du nickel en septembre) à dater du 1^{er} février 1994’⁽¹⁸⁾.

- (25) The customers were already familiar with the mechanism. The September 1993 alloy prices (the lowest historical prices for nickel) were chosen as the new trigger thresholds. In its statement, Avesta states that calculations were carried out during the meeting using the September/October alloy prices and an approximate rate of exchange for that period:

‘Calculations were made at the meeting on the basis of new trigger values reflecting alloy prices in September/October 1993 (i.e. using the basis of

calculation of the previously adopted surcharge) and an approximate rate of exchange for that period’⁽¹⁹⁾.

(d) Date of application

- (26) With regard to the date of application of the new alloy surcharge, most of the participants were in favour of applying it as soon as possible: 1 February 1994 was considered to be the most realistic date for first application. In its statement, Avesta specifies:

‘At the meeting, the participants also discussed an implementation date. 1 February was considered to be the earliest feasible date for introduction of the surcharge’⁽²⁰⁾.

Acerinox also states that:

‘La mayoría de los presentes eran partidarios de aplicar el extra de aleación lo más pronto posible’⁽²¹⁾.

- (27) Acerinox stated that it did not intend to apply the surcharge in Spain, as demand on the Spanish market was depressed:

‘Acerinox indicó su intención de no aplicar el extra en España por considerar que no iba a ser positivo para el aumento de la demanda y para la industria española que estaba sumida en una profunda crisis’⁽²²⁾.

(e) Fax of 20 December 1993

- (28) The fax⁽²³⁾ sent by Ugine on 20 December 1993 to producers participating in the meeting and to Outokumpu reflects the conclusions of the meeting. Drafted in English, the fax details the calculation of the alloy surcharge including the trigger values, the ECU/USD exchange rate (USD 1,179/ECU for nickel, USD 1,182/ECU for chromium and USD 1,171/ECU for molybdenum), the reference months and standard alloy contents.

According to Avesta’s statement:

‘On 20 December 1993, ASAB received a fax from Mr Laquay of Ugine setting out details relating to the alloy surcharge calculation including trigger points, an ECU/USD exchange rate calculation, the monthly basis (i.e. M-2 and M-3) and standard alloy contents. This document reflected the exchange of views between producers’⁽²⁴⁾.

Ugine admits to sending the document in its statement:

‘À la suite de cette réunion, Ugine a communiqué aux participants par télécopies les 20 décembre 1993 et 11 janvier 1994 les bases et les résultats des

calculs fondés sur la formule qu'elle entendait adopter sur le marché national français ou européen en cas de non alignement' ⁽²⁵⁾.

In its reply to the statement of objections of 23 April 1997 Ugine refers to the fax as containing the conclusions of the Madrid meeting ⁽²⁶⁾.

AST could not rule out having either received or taken account of it in its decision:

'La mancanza di conoscenza diretta dei dettagli non permette però di escludere in maniera categorica che vi sia stato qualche scambio di informazione. (...) Dato l'apparente tenore di tali messaggi non si può per il vero neppure escludere che AST ne sia stata influenzata nella determinazione dei valori utilizzati nella formula' ⁽²⁷⁾.

2. *Sequels to the Madrid meeting*

(29) In accordance with Article 60(2)(a) of the Treaty and pursuant to Decision 37/54/ECSC ⁽²⁸⁾, as last amended by Decision 2515/86/ECSC ⁽²⁹⁾, stainless steel producers must make public their price lists and conditions of sale. They fulfil that obligation by addressing them to the Commission and any other interested party at least two working days before applying them. Each time the price lists are amended, they must be made public and notified to the Commission. This is the legal background to the facts set out below which the Commission has identified as having taken place between the Madrid meeting and the publication of the alloy surcharges by the undertakings concerned.

(30) On 20 December 1993 Avesta Sheffield warned its distribution subsidiaries of the probable introduction of an alloy surcharge ⁽³⁰⁾.

On 22 December 1993 ALZ warned its sales subsidiaries of the reintroduction of the alloy surcharge ⁽³¹⁾.

(31) On 6 January 1994 Ugine recalculated the figure using the same reference values, but with another, single ECU/USD exchange rate for all three alloys: ECU 1,17506/USD. This centesimal difference is minimal and its effect on the amount of the alloy surcharge is negligible (cf. point 37).

On 10 January 1994 Avesta Sheffield carried out detailed calculations to establish the alloy surcharges. It used the ECU/USD exchange rate used at the Madrid meeting ⁽³²⁾.

(32) On 11 January 1994 Ugine sent all its competitors a fax ⁽³³⁾ containing the alloy surcharges it was going to apply on the French market from 1

February with details of the calculation in ECU/tonne, a conversion table of the main European currencies and the comment that it would apply it only to austenitic steel.

In their statements, all the undertakings mention the fax:

'On 11 January 1994, Mr Laquay of Ugine sent a fax to Mr W. setting out Ugine's internal calculation of the alloy surcharge to be applied by it from 1 February 1994' ⁽³⁴⁾.

(33) Up to 13 January 1994, contacts had taken place at least between Avesta and most of its competitors concerning the latter's position on the alloy surcharge. Annexes 2 and 6 to Avesta's statement point to the existence of some of these contacts.

Annex 2 is a fax dated 14 January 1994 from S. to W. The following extracts are relevant:

'ALZ through their Swedish representative called me this morning saying that he had been instructed from his mill to start applying alloy extras as from the 1 of February and that he should get the exact alloy surcharge details from us. (...) Outokumpu through S. also called me today and asked what we intend to do. I said that most likely we are going to apply the surcharge in the same way as announced by Ugine for the French market. (...) He said they want to do the same in both Sweden and Finland and suggested that we contact him on Monday' ⁽³⁵⁾.

Annex 6 is a fax dated 14 January 1994 and signed by W. It takes note of the positions of some of Avesta's competitors, as follows:

'Ugine have announced surcharges effective 1 February 94 of 430 GBP 4,36, 304 GBP 47,55, 316 GBP 74,03. Acerinox have announced that surcharges will be applied from 1.4.94 (yes April!). Outokumpu are thought to be following this line but no confirmation yet. Thyssen expect to announce something next Monday. Krupp — we have no current information. Ilva have announced a base price change effective from February but applicable to stockists and not end-users. ALZ are still considering their position' ⁽³⁶⁾.

(34) On 13 January ALZ informed its competitors by telex of the amounts of the surcharges it was going to publish ⁽³⁷⁾. It informed the Commission of its price list only on 24 January 1994.

(35) On the same day, AST sent Outokumpu a fax repeating the contents of the fax which it had received from Ugine on 20 December 1993 and the calculations carried out by Ugine on 6 January ⁽³⁸⁾.

- (36) On 17 January 1994 Ugine, AST and Krupp informed the Commission of the alloy surcharge they would be applying from 1 February.

On the same day, Avesta decided it would formally reintroduce the alloy surcharge and informed its distributors, giving them precise instructions on the application procedures ⁽³⁹⁾.

On 19 January 1994, Thyssen notified the Commission of the alloy surcharges it would be applying from 1 February 1994.

G. Application of the alloy surcharge

- (37) On the basis of Article 60 of the ECSC Treaty, all the undertakings (with the exception of Acerinox) informed the Commission of the surcharges they intended to apply and the date of application: 1 February 1994. Acerinox, which informed the Commission of the new surcharges only in May 1994, nevertheless applied the amounts in certain Member States as early as February. The method used being identical, any differences in the final amounts are minor and are due to rounding-up or the exchange rate used.

- (38) The practical aspects of applying the surcharge are described in an Avesta memo of 17 January 1994. The following points are worth noting:

'We will follow the rules set by the home producer in any given producer market, including applying the surcharge they declare.

In each non-producer market a lead will be taken by one of the mills — W. will advise those markets concerned.

The surcharge will not be imposed outside of the 17 European markets. We will need to secure appropriate price increases as soon as possible.' ⁽⁴⁰⁾.

- (39) The practical aspects of applying the surcharge may be illustrated by three facts:

The amounts of the surcharge applied by the producers on a given market are identical, irrespective of the amount that would have been obtained by converting the amount published in the tariffs.

In the United Kingdom, all the producers endeavoured to apply the alloy surcharge retroactively, following Avesta's lead.

For flat products, in the countries without a domestic producer, the undertakings aligned their prices on the price list of a single producer.

- (40) In its statement, Avesta specifies:

'In the national markets in which ASAB was neither the domestic producer nor, in markets with no domestic producer, the leading supplier, typically, but not uniformly, ASAB would align on the domestic producer or leading supplier as was traditional in the stainless steel industry generally. The German producer had, for example, traditionally been regarded as the leading supplier in Austria and ALZ the leading supplier in the Netherlands, whilst the Nordic producers had been regarded as leading suppliers in Denmark and Norway and the British producer in Ireland' ⁽⁴¹⁾.

- (41) The producers finally sent letters to their customers announcing the amendment of the thresholds. The Commission has copies of some of the letters. The following extracts are relevant to the present proceedings:

On 28 January 1994 Ugine Savoie UK Ltd informs its customers that the alloy surcharge is being reapplied, as follows:

'It has therefore been decided at a European level to reactivate the surcharge system to take into account the increase in alloy costs since September 1993, and this surcharge will be applied generally from 1st February 1994' ⁽⁴²⁾.

On 31 January 1994 Thyssen Fine Steels Ltd writes to its customers:

'For this reason, we have no choice but to implement alloy surcharges on all stainless flat products in line with all other manufacturers. As in the previous surcharge situation, a clear basis for surcharge has been agreed to account for the changes in relationship between prices and costs' ⁽⁴³⁾.

II. LEGAL ASSESSMENT

A. Article 65(1)

1. Background

- (42) Article 65(1) of the ECSC Treaty prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices tending directly or indirectly to prevent, restrict or distort normal competition within the common market, and in particular those tending to fix prices.

2. *The agreement*

(43) Article 65 of the ECSC Treaty is infringed if the parties reach a consensus on a plan which limits or is likely to limit their commercial freedom by determining the lines of their mutual action or abstention from action in the market. No contractual sanctions or enforcement procedures are required. Nor is it necessary for such a consensus to be made in writing.

(44) In the present case, the Madrid meeting had a single aim: to secure an across-the-board increase in stainless steel prices to offset the rise in the price of alloys. A discussion took place of the different methods used in the past to calculate the alloy surcharge and, following the meeting, all the undertakings took identical action. They applied to their sales in Europe, except in Spain and Portugal, from 1 February 1994, an alloy surcharge based on the method last used in 1991, taking the September 1993 prices as reference values. A consensus had therefore been reached. That consensus was confirmed in the fax from Ugine of 20 December 1993, with the result that the consensus must be defined as an agreement. The content of the circulars referred to above (point 41) confirms the definition.

(45) In any event, if the definition of the consensus as an agreement is disputed, the reintroduction by the stainless steel producers of the alloy surcharge by deliberately identical methods as to value and date is at the very least and without any doubt a concerted practice. In creating the concept of 'concerted practice', the authors of the Treaty intended to forestall the possibility of undertakings evading the prohibition on concerted practices by colluding in an anti-competitive manner falling short of an agreement by, for example, informing each other in advance of the attitude each intends to adopt, so that each could regulate its commercial conduct in the knowledge that its competitors would behave in the same way.

Thus, in its judgment in the ICI case of 13 July 1972⁽⁴⁴⁾, the Court held that

'Article 85 [of the EEC Treaty] draws a distinction between the concept of "concerted practices" and that of "agreements between undertakings" or of "decisions by associations of undertakings"; the object is to bring within the prohibition of that Article a form of coordination between undertakings which, without having reached the stage where an agreement properly so-called has been

concluded, knowingly substitutes practical co-operation between them for the risks of competition'.

(46) In any event, the question whether the conduct of the undertakings in this case is to be described as an agreement or as a concerted practice has no bearing on the conclusion that such conduct is contrary to Article 65 of the ECSC Treaty.

As the Court stated in its opinion delivered on 13 December 1961 at the request of the High Authority and the Council of Ministers concerning the interpretation of Article 65 of the ECSC Treaty⁽⁴⁵⁾, that Article, which contains the provisions giving effect to the prohibition in Article 4b of the Treaty, 'states in paragraph 1 the scope of the prohibition by forbidding in general terms all agreements'. The prohibition in Article 4, according to the Court, 'is clearly intended to prevent undertakings from acquiring by means of restrictive practices a position which enables them to have or exploit markets.' The prohibition is 'of strict application and distinguishes the system established by the Treaty.'

3. *Purpose, effect and duration of the agreement*

(a) Purpose and effect of the agreement

(47) The purpose of the agreement is the use by all undertakings, as from the same date, of lower and identical alloy reference values in the surcharge calculation method used previously, in order to raise prices. Since the 'surcharges' or supplements form part of the final price of the products in question, the purpose of the agreement is to fix part of the price. Article 65(1) specifically states that agreements and concerted practices tending directly or indirectly to fix prices restrict competition.

(48) The agreement appreciably restricts competition. The undertakings concerned by this Decision account for almost 90 % of stainless steel flat products. The impact on the market of a concerted increase in prices between them is thus necessarily considerable.

Furthermore, the alloy surcharge is a major component of the final price. The price increase resulting from the alloy surcharge depends partly on the amount of alloy used in the steel and partly on fluctuations in alloy prices. It may account for as much as 25 % of the total price.

- (49) As the purpose of the agreement is to restrict competition, it is not necessary to demonstrate that the market has actually been affected. It must be pointed out, however, that the change in the reference values for the alloy surcharge was followed by a virtual doubling of stainless steel prices between January 1994 and March 1995. While such a sharp increase cannot be explained solely by the change in the trigger values for the alloy surcharge in February 1994, it did greatly contribute to it through the mechanical price increase that it caused. In addition, one of the components of the price for stainless steel has been fixed at exactly the same level by all the producers since February 1994.

(b) Duration of the information

- (50) It is clear from the documents on file that, whilst the principle of an alloy surcharge is not new and has been generally applied, the use of an identical calculation method by all the Community producers for their sales in Western Europe dates back approximately to 1988. There is reason to believe, therefore, that the agreement dates back to the same period and that the concerted modification of the reference values in 1994 is only a development thereof.

Nevertheless, the factual elements on which this conclusion is based are not sufficiently well-founded. It must therefore be concluded that the concerted action began at the Madrid meeting in December 1993 and has been pursued to date by all the undertakings with the exception of Avesta Sheffield, which announced in November 1996 that it had decided to use another calculation method.

4. *Arguments of the parties*

- (51) None of the addressees of the statement of objections has contested the facts as described by the Commission.
- (52) Avesta and Usinor do not dispute the legal assessment contained in the statement of objections and simply state that the infringement has ended with the adoption of a new calculation method (Avesta) or that it was an insulated measure (Usinor).
- (53) Krupp, AST and ALZ, on the other hand, whilst acknowledging the facts, challenge the Commission's perception of them. They claim that the Madrid meeting was simply an exchange of views and that the amended alloy surcharge reference

values do not stem from an agreement or a concerted practice. This interpretation must be rejected for the reasons given above.

- (54) Lastly, Acerinox states that it informed its competitors at the Madrid meeting that it would not apply the surcharge on the Spanish market; according to Acerinox, this proves that it did not take part in any agreement. The fact that Acerinox took that position is explained by the particular characteristics of the Spanish market, where stainless steel consumption is lower than in other Member States. Acerinox, however, applied the surcharge outside Spain from February 1994, thus conforming to the decision taken at the Madrid meeting which it organised in full knowledge of the facts.

In addition, all the undertakings argue that there are 'extenuating circumstances'.

- (a) All the undertakings concerned argue that recourse to the calculation method is a long-established practice

- (55) It is necessary to distinguish between long-standing use of a calculation method which allows fluctuations in alloy prices to be reflected in product prices and the adoption of a uniform calculation method.

The surcharge calculation includes values which may be compared to recommendations within the meaning of the 1968 Commission notice concerning agreements, decisions and concerted practices in the field of cooperation between enterprises⁽⁴⁶⁾. The method clearly constitutes a restriction of competition

- (56) It seems that the general application of the method in force in 1994 dates back to 1988 (with the exception of the trigger values). In its abovementioned Decision 90/417/ECSC of 18 July 1990, the Commission found against an agreement and concerted practices between parties which related in particular to prices. The agreement had been in force at least between May 1986 and October 1988. The decision was not contested. The Commission does not, however, have sufficient evidence that the adoption of an identical calculation method was the result of concerted action as such. That is why the original adoption of the method is not the subject of this Decision. However, the circumstances in which the surcharge trigger value was recently amended points to the existence, at least in the present case, of collusion in the setting of the value and the date of implementation.

(b) Some producers ⁽⁴⁷⁾ claim that customers are in favour of the surcharge method

- (57) The fact that customers accept a practice that is contrary to the competition rules does not make it lawful. What is more, it was precisely owing to complaints from certain customers that the Commission undertook its investigations.

Indeed, the documents obtained in the course of the proceedings are evidence of the difficulties the producers encountered when they endeavoured to have the surcharge accepted by their customers.

(c) Some undertakings ⁽⁴⁸⁾ minimise the effect of the practice objected to

- (58) The undertakings claim on the one hand that the alloy surcharge was applied only to a small proportion of transactions and, on the other, that many customers benefited from fixed prices. They state that the increase in stainless steel prices in 1994 was not due to the amendment of the surcharge trigger threshold but to the ratio of supply to demand.

- (59) These arguments must be rejected. In view of the fact that the concerted action was aimed at revising reference values in order to increase prices, it constitutes an infringement of Article 65 irrespective of its effect on the market. In addition, the application of dissimilar conditions to comparable transactions constitutes an infringement of Article 60 of the ECSC Treaty, and undertakings are not entitled to rely on a possible infringement in order to attempt to conceal or deny the existence of an established infringement. Finally, the alloy surcharge can, depending on the qualities and products concerned, account for up to 25 % of the final price.

(d) Several undertakings ⁽⁴⁹⁾ pleaded the principle of legitimate expectation

- (60) According to those firms, the Commission could have deduced from the price lists sent to it under Article 60 that there was a single method of calculation. The fact that it did not initiate proceedings under Article 65 created a legitimate expectation on the part of the firms that the use of a common method was lawful.

- (61) The undertakings simply notified the Commission of the amounts of the alloy surcharges they were applying, in the different currencies. The calculation method itself was never sent to the Commission, nor were the data on its implementation.

(e) Certain undertakings ⁽⁵⁰⁾ alleged that the Commission encouraged them to adopt a common method

- (62) Commission policy concerning calculation models was determined in the late 1960s.

The 1968 notice on cooperation between undertakings provides that agreements having as their sole object the joint preparation of calculation models do not restrict competition. However, calculation models containing specified rates of calculation must be regarded as recommendations that may lead to restraints of competition.

- (63) In its Decision 80/257/ECSC ⁽⁵¹⁾, the Commission specified how calculation models could amount to recommendations:

'They encourage the user companies to work from the figures contained in the model, or at least to keep close to them, when calculating their costs and thus indirectly when setting their selling prices. To this extent it is immaterial whether the cost components are expressed in straight figures or in the form of percentage surcharges. Either way, what may once have been offered as a service to explain to companies the various ways of achieving cost-related price formation has become a means of exerting a real, powerful influence on their pricing policy.'

The undertakings must therefore have been aware of the Commission's position on the adoption of a single method of calculation for the alloy surcharge.

(f) Several undertakings invoke the principle of market transparency laid down in Article 60 of the ECSC Treaty

- (64) Usinor states in its replies to the two statements of objections that the price control system known to industrial economists as the 'basing point system' provides specifically for an element of concerted action, and Thyssen Stahl AG claims that the transparency requirements of Article 60 of the Treaty require the suppliers to provide general information on their intended prices.

- (65) It is true that Article 60 of the Treaty stipulates that 'the price lists and conditions of sale applied by undertakings within the common market must be made public', but the prices and conditions must be adopted independently by each firm. They may not in any event be communicated to the parties concerned before the Commission is informed. The obligation to make the prices public does not

justify holding a meeting having the object or effect of either influencing the conduct on the market of an actual or potential competitor or of disclosing to such a competitor the course of conduct which they themselves have decided to adopt or contemplate adopting on the market.

- (66) Usinor also states that the harmonisation of the alloy surcharge is a result of the ECSC system of price controls. None of the provisions of the Treaty or secondary legislation, however, call for the application of any surcharge and even less for its standardization. The decision to add a surcharge to a price list and the fixing of the amount is a matter for each individual firm. Article 60 does not allow undertakings to concert and fix prices between themselves.

(g) Some undertakings dispute the Commission's finding that the infringement was continuous

- (67) Usinor states in its reply to the statement of objections of 23 April 1997 that the increase in one cost-component is a single, temporary occurrence, that contacts between the producers did not continue after January 1994 and that therefore the infringement cannot be described as being continuous.

- (68) Avesta points out that it announced the introduction of a new method in November 1996.

- (69) Thyssen Stahl AG claims that the infringement ended no later than July 1994, when nickel reached the earlier reference values. AST considers that the infringement was an isolated measure and that it ended in June 1994.

- (70) Only Avesta's argument can be accepted, as the introduction of its new system had the effect of ending the application of the contested measure. The infringement consisted in a concerted revision of the reference values for the alloy surcharge, values which have not subsequently been reamended independently by the undertakings concerned. The fact that nickel reached its former reference values in July 1994 is irrelevant, as the surcharge applied by the undertakings was necessarily higher than if the reference values had not been altered.

5. Conclusion with regard to Article 65(1)

- (71) In the 'beams' case, the Commission concluded⁽⁵²⁾ that since extras form part of the ultimate price to be paid for the products in the European Community the agreements to harmonise extras were agreements to fix prices contrary to Article 65(1).
- (72) In the present case, therefore, the Commission considers that the stainless steel producers referred to in this Decision increased prices in a concerted manner from 1 February 1994. The facts described above constitute an infringement of Article 65 of the Treaty.

B. Fines

1. Applicability of Article 65(5)

- (73) Pursuant to Article 65(5) the Commission may impose fines or periodic penalty payments on any undertaking which has entered into an agreement which is automatically void, or has enforced or attempted to enforce an agreement or decision which is automatically void, or has engaged in practices prohibited by paragraph 1 of that Article.

The Commission may impose fines or periodic penalty payments not exceeding twice the turnover on the products which were the subject of the agreement, decision or practice prohibited by Article 65(1); if, however, the purpose of the agreement, decision or practice is to restrict production, technical development or investment, this maximum may be raised to 10 % of the annual turnover of the undertakings in question in the case of fines, and 20 % of the daily turnover in the case of periodic penalty payments.

2. Gravity of the infringement

- (74) An agreement or concerted practice aimed at a uniform increase of a cost component constitutes a serious infringement of Community law. The undertakings justify the decision on the grounds of the critical economic situation into which the combined effect of the rise in the price of alloys and fall in the price of stainless steel had plunged them. The Commission does not dispute the right of each undertaking to adopt, independently, measures to deal with the situation; it cannot, however, accept concerted action by virtually all the producers of stainless flat products as to the content of such measures.

(75) In view of the blatant nature of the infringement, symbolic fines would not be appropriate. However, taking account of the economic and legal elements referred to above and the relative gravity of the infringement, the Commission does not consider that the infringement that is the subject of this Decision merits very substantial fines.

(76) For these reasons the amount of the fine imposed to reflect the gravity of the infringement is set at ECU 4 million.

(77) All the undertakings referred to in this Decision are large. It is not necessary, therefore, to vary the amounts of the fines on that score.

3. Duration of the infringement

(78) The Commission considers (in spite of the views it sets out in paragraph 50) that the concerted action began with the meeting in Madrid in December 1993 and has been pursued since then by all the undertakings concerned, with the exception of Avesta Sheffield, which announced in November 1996 that it intended to use another calculation method, and Thyssen Stahl AG, which withdrew from the stainless flat products sector on 1 January 1995.

(79) The amount imposed to take account of the gravity of the infringement should therefore be increased by ECU 1,6 million in the case of Acerinox, ALZ, AST, Krupp Hoesch Stahl and Usinor. Increases of ECU 0,4 million and ECU 1,2 million respectively are applied to Thyssen and Avesta.

(80) The basic amounts are therefore set at ECU 5,6 million for Acerinox, ALZ, AST, Krupp and Usinor, at ECU 5,2 million for Avesta and at ECU 4,4 million for Thyssen.

4. Aggravating or extenuating circumstances

(81) The Commission considers that Usinor played a major part in the concerted action: it was Usinor that did the calculations at the Madrid meeting and sent the conclusions of the meeting and the definitive calculation of the alloy surcharge to the producers after the meeting⁽⁵³⁾. This justifies an increase of 25 % in the basic amount for Usinor on the grounds of aggravating circumstances.

(82) The Commission also recognises that while Acerinox organised the Madrid meeting and applied the surcharge in Denmark from February

onwards, it made the surcharge public only in May 1994⁽⁵⁴⁾, with a view to applying it on its principal market (Spain) in June.

(83) On the other hand, the economic situation in the sector at the end of 1993 was particularly critical. The price of nickel was rising rapidly, while the price of stainless steel was very low. It should be noted that this particular situation applies only to the very beginning of the concerted action.

(84) These factors justify a reduction in the basic amount of 30 % for Acerinox and 10 % for all the other undertakings on the grounds of attenuating circumstances.

5. Applicability of the Commission notice on the non-imposition or reduction of fines in cartel cases⁽⁵⁵⁾

(85) In their replies to the statement of objections of 19 December 1995, the undertakings concerned by this Decision did not deny the existence of a single method for the calculation of the alloy surcharge by the various European producers.

(86) The investigations carried out between July 1995 and December 1996 were aimed at determining any contacts between the undertakings prior to the modification of the surcharge reference values in 1994.

(87) Some of the undertakings categorically denied that any communication had taken place at all. In a statement made during the inspection on 25 September 1996, Acerinox said:

‘No recibieron información’.⁽⁵⁶⁾

(88) Following the inspection on 8 October 1996, Krupp and Thyssen stated in a letter dated 23 October 1996 that they had notified their decision only after 17 January 1994 (the same date on which they notified the surcharge to the Commission) and had received information from their competitors only after the latter had notified their price lists to the Commission⁽⁵⁷⁾.

(89) Ugine refused, during the inspection on 17 July 1996, to inform the Commission whether it had notified its competitors of its plans with regard to a surcharge⁽⁵⁸⁾.

(90) Other undertakings partially confirmed information already in the possession of the Commission. In reply to a request for information, ALZ stated:

'ALZ herinnert zich niet in de periode van 1 augustus 1993 tot 1 februari 1994 inlichtingen ontvangen te hebben van andere producenten van roestvrij staal met betrekking tot de wijziging van de drempelwaarden van de legeringstoelag. (...) ALZ heeft vervolgens, rond 15 januari, aan de andere marktdeelnemers, d.w.z. cliënten, producenten en agenten, meegedeeld dat het voornemens was een legeringstoelag bekend te maken voor leveringen vanaf 1 februari 1994' ⁽⁵⁹⁾.

(91) AST stated in a letter of 31 October 1996:

'L'AST precisa comunque di avere sentito dire che è stato rinvenuto dalla Commissione il testo di un documento che l'AST avrebbe a sua volta successivamente ritrasmeso alla Outokumpu' ⁽⁶⁰⁾.

(92) In December 1996 and January 1997, following Commission inspections at the offices of six of the addressees of this Decision, as well as Outokumpu and Edlstahl Witten Krefeld, the legal representatives of ALZ, AST, Avesta, Krupp-Thyssen and Usinor Sacilor and the representatives of Acerinox informed the Commission of their desire to cooperate in the current proceedings. Statements acknowledging the facts were sent to the Commission by those undertakings on 17 December 1996 (Acerinox, ALZ, Avesta, Krupp and Thyssen, Usinor Sacilor) and on 10 January 1997 (AST).

(93) The cooperation must be assessed in the light of the criteria laid down in the abovementioned Commission notice on the non-imposition or reduction of fines in cartel cases.

(94) None of the undertakings qualifies for the conditions set out in the notice under Section B 'Non-imposition of a fine or a very substantial reduction in its amount' as none of them reported the agreement to the Commission before it started its investigations or, indeed, before it sent the statement of objections on 19 December 1995.

(95) Nor do any of the undertakings qualify for the conditions set out in Section C 'Substantial reduction in a fine'. Only Avesta ended the infringement on 1 November 1996, but it was not the first to supply decisive evidence of the existence of the agreement. Such evidence was supplied in particular by Outokumpu at the inspection on 17 October 1996.

(96) All the undertakings may benefit to varying degrees from the provisions of Section D 'Significant reduction in a fine'.

(97) Only Usinor and Avesta acknowledged the existence of the concerted action. In addition, Avesta undertook, at the inspection on 18 October 1996, to examine its files carefully in order to trace any possible contacts. Some documentary evidence of such contacts was sent to the Commission on 31 October 1996. Avesta is the only undertaking to have put an end to the infringement by radically changing its method of calculating the alloy surcharge, thereby taking a major commercial risk. Usinor was the first to inform the Commission of the Madrid meeting.

(98) The statements and the replies to the objections submitted by Krupp-Thyssen-Nirosta GmbH, Thyssen Stahl AG, AST SpA and ALZ NV do not contribute anything new and dispute the existence of concerted action.

(99) Acerinox for its part acknowledges in its reply of 24 April 1997 to the statement of objections that concerted action was taken, but denied its involvement.

(100) Thus, although certain undertakings (Usinor and Avesta) cooperated extensively, the Commission must also bear in mind that they did so extremely late. The cooperation shown by the other undertakings (Krupp, Thyssen, AST, ALZ and Acerinox) was more limited: the firms did not provide any documentary evidence or facts not already in the possession of the Commission and did not acknowledge the infringement.

(101) This justifies a reduction of 10 % in the amount of the fine for all the undertakings except Avesta and Usinor, to which a reduction of 40 % is applied.

6. Particular case of Krupp Thyssen Nirosta GmbH

(102) By letter dated 23 July 1997, Krupp Thyssen Nirosta GmbH stated that it was assuming liability for the acts of Thyssen Stahl AG and Krupp Hoesch Stahl AG since 1993. The enacting part of this Decision takes that into account.

C. Non-applicability of Article 65(2)

(103) Under Article 65(2), the Commission authorises specialisation agreements; or joint-buying or joint-selling agreements; or agreements strictly analogous in nature and effect provided that they meet certain conditions. On the supposition that there was a formal agreement, no request for authorisation

within the meaning of Article 65 of the ECSC Treaty was made. In any event, such an agreement is not such as to belong to the categories that might qualify for authorisation. On the contrary, the Commission takes the view that such an agreement constitutes an agreement to fix or determine prices within the meaning of Article 65(1) of the ECSC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Acerinox SA, ALZ NV, Acciai Speciali Terni SpA, Avesta Sheffield AB, Krupp Hoesch Stahl AG (Krupp Thyssen Nirosta GmbH as from 1 January 1995), Thyssen Stahl AG (Krupp Thyssen Nirosta GmbH as from 1 January 1995) and Ugine SA infringed Article 65(1) of the ECSC Treaty, in the case of Avesta Sheffield from December 1993 to November 1996 and, in the case of the other undertakings, up to the date of this Decision, namely by modifying and by applying in a concerted fashion the

reference values used to calculate the alloy surcharge, such practice having both the object and the effect of restricting and distorting competition within the common market.

Article 2

The following fines are hereby imposed in respect of the infringements described in Article 1:

— Acerinox SA:	ECU 3 530 000
— ALZ NV:	ECU 4 540 000
— Acciai Speciali Terni SpA:	ECU 4 540 000
— Avesta Sheffield AB:	ECU 2 810 000
— Krupp Thyssen Nirosta GmbH:	ECU 8 100 000
— Usinor SA:	ECU 3 860 000

Article 3

The fines referred to in Article 2 shall be paid to the Commission of the European Communities within three months of the date of notification of this Decision to the following account numbers.

Address	Account number for	
	National currency	ECU
Germany Dresdner Bank AG (BLZ 300 800 00) Düsseldorf	2 114 628	2 114 628 00
Belgium Société Générale de Banque SA 3, Montagne du Parc B-1000 Bruxelles	210-0000107-62	210-0000107-62
Spain Banco Español de Crédito Calle Mesena, 80 E-28033 Madrid	137.003-270	394.002-278
France Société Générale Agence Centrale F-75428 Paris Cedex 09	30003-03010-00067030000/22	30003-03010-00077001001/73
Italy Banca Commerciale Italiana I-20121 Milan	961794/02/09	961794/49/56
Sweden Nordbanken H68 S-105 71 Stockholm	3959 77 084 85	3968 77 4 76 76

Upon expiry of that period, interest shall automatically be payable on the fines at the rate charged by the European Monetary Institute for transactions in ecus on the first working day of the month in which this Decision is adopted, plus 3,5 percentage points, namely 7,75 %.

Article 4

Acerinox SA, ALZ NV, Acciai Speciali Terni SpA, Krupp Thyssen Nirosta GmbH and Usinor SA shall immediately put an end to the infringements referred to in Article 1 and shall inform the Commission within three months of being notified of this Decision of the measures they have taken to that end.

The undertakings referred to in Article 1 shall refrain from repeating the acts or conduct specified in the said Article and from adopting any measure having an equivalent effect.

Article 5

This Decision is addressed to:

1. Acerinox SA, Santiago de Compostela 100, E-28035 Madrid;

2. ALZ NV, Industrierrein Genk-Zuid Rechteroever, B-3600 Genk;
3. Acciai Speciali Terni SpA, Viale B. Brin 218, I-05100 Terni;
4. Avesta Sheffield AB, Vasagatan 8-10 P.O. Box 16377, S-10327 Stockholm;
5. Krupp Thyssen Nirosta GmbH, Alleestraße 165, D-44793 Bochum;
6. Usinor SA, La Défense 7, 13 Cours Valmy, F-92800 Puteaux.

This Decision is enforceable pursuant to Article 92 of the Treaty.

Done at Brussels, 21 January 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

NOTES

(¹) Commission Decision 95/421/EC of 21 December 1994 declaring a concentration to be compatible with the common market (Case IV/M.484 — Krupp/Thyssen/Riva/Falck/Tadfin/AST) (OJ L 251, 19.10.1995, p. 18).

(²) See footnote 1.

(³) Commission Decision of 26 July 1994 authorising Fried. Krupp AG Hoesch-Krupp and Thyssen Stahl AG to set up a joint venture for the production of flat special stainless steel products that are resistant to acids and high temperatures.

(⁴) See for example the statement by Acerinox dated 17 December 1996: 'La fórmula en su estado actual viene aplicándose desde el año 1988.' ('The current formula has been applied since 1988.') or the statement by AST of 10 January 1997: '(...) la Ilva SpA (che comprendeva la allora Divisione Acciai Speciali che, dopo la scissione del 1994 è divenuta la AST) applicava l'extra di lega già nel 1988'. '(...) Ilva SpA (which then included the "special steels" division which, after the split in 1994, became AST) was already applying the alloy surcharge in 1988'.

(⁵) Commission Decision 90/417/ECSC of 18 July 1990 relating to a proceeding under Article 65 of the ECSC Treaty concerning an agreement and concerted practices engaged in by European producers of cold-rolled stainless steel flat products (OJ L 220, 15.8.1990, p. 28).

(⁶) Statement by Acerinox (see note 4): 'Acerinox SA conforme lo muestran los hechos que posteriormente acontecieron, no promovió dicha reunión, aunque si, una vez decidida por las partes su convocatoria en Madrid, a petición de los asistentes,

reservó un establecimiento para que la misma pudiera tener lugar.' ('As subsequent events proved, Acerinox SA was not the initiator of this meeting even if, after the participants decided to meet in Madrid, and at their request, it booked a venue for that purpose').

(⁷) 'A meeting was held in Madrid on 15 December 1993. The decision to hold the meeting was taken by the parties in order to discuss (...) the critical situation in the market for the raw materials used in the production of stainless steel and the extreme volatility of the prices of these raw materials.'

(⁸) Original version.

(⁹) 'The discussion concerned the generally poor situation as well as possible solutions.'

(¹⁰) 'A meeting took place on 16 December 1993 at the Hotel [...] in Madrid which allowed stainless steel producers to hold an exchange of views.'

(¹¹) 'In this context, and in order to find a solution to this crisis, a meeting was held between the leading European steel producers.'

(¹²) Acerinox statement: 'El Sr Laquay expuso cómo se había aplicado históricamente el extra de aleación'. ('Mr Laquay explained how the alloy surcharge had been applied in the past').

(¹³) 'Mr Laquay, as a specialist in calculating the alloy surcharge, calculated, with the aid of a flip chart and taking as example the prices applied by his undertaking in France, the additional turnover that could be achieved by appropriately altering the trigger threshold on the French market'.

(¹⁴) 'At the meeting, the participants also examined whether it was necessary, in view of the instability of raw material prices, a market in which Acerinox has no influence, to apply the alloy surcharge to customers using the tried and tested method by means of the most appropriate reference values so as to counter the increasingly speculative nature of transactions on the London Metals Exchange.'

(¹⁵) 'At the meeting, participants discussed the initiatives they intended to take in this area, and those they had taken quite independently before (at least as regards AST). There was a natural convergence of views on the adoption, as a minimum level in the context of this formula, of the September 1993 nickel price.'

(¹⁶) Original version.

(¹⁷) 'Under the circumstances, the only possible solution to halt the trend is to try to reintroduce the alloy surcharge, which had been suspended owing to the fall in prices for alloys below the trigger level applied till then (...). At the meeting, Mr Plömacher then stated that Krupp would in future take the low September posted price for nickel as the trigger threshold.'

(¹⁸) 'During the meeting, certain participants, including Ugine, expressed their intention, with or without reservations, to reapply the alloy surcharge together with a new trigger threshold (the lowest nickel price in September) as from 1 February 1994.'

(¹⁹) Original version.

(²⁰) Original version.

(²¹) 'A majority of those present was in favour of applying the surcharge as soon as possible.'

(²²) 'Acerinox said it did not plan to apply the surcharge in Spain because it considered the measure would not help to increase demand and would not have a positive effect on Spanish industry which was in the depths of a severe crisis.'

(²³) Fax obtained at Outokumpu's offices during the inspection on 17 October 1996.

(²⁴) Original version.

(²⁵) 'Following the meeting, Ugine notified participants by fax on 20 December 1993 and 11 January 1994 of the calculation

bases and results based on the method it intended to use on the French domestic or European markets in the event of non-alignment'.

(²⁶) 'Outokumpu a été informée par télécopie des conclusions de la réunion de Madrid de 20.12.1993' ('Outokumpu was informed by fax of the conclusions of the Madrid meeting on 20.12.1993').

(²⁷) 'The lack of direct knowledge of the details does not however make it possible to deny categorically that there were exchanges of information. (...) In view of the apparent content of these messages, it is likewise impossible to state that they did not influence AST in determining the values used in the method.'

(²⁸) OJ 18 of the ECSC, 1.8.1954, p. 470.

(²⁹) OJ L 221, 7.8.1986, p. 14.

(³⁰) Avesta statement — Attachment 1: 'Alloy surcharges are likely to be introduced on CR and CPP products from 1 February. The details may not be available until early January 1994 when I will let you know.'

(³¹) Reply given by ALZ to the request for information.

(³²) Avesta statement: 'On 10 January 1994, ASAB produced a full internal surcharge calculation for application in February. This internal calculation used the same trigger values as contained in Mr Laquay's fax of 20 December 1993.'

(³³) Document obtained from the offices of Outokumpu.

(³⁴) Original text, from the Avesta statement.

(³⁵) Original text.

(³⁶) Original text.

(³⁷) Document taken from the offices of Outokumpu.

(³⁸) Document taken from the offices of Outokumpu.

(³⁹) Avesta statement.

- (⁴⁰) Original text.
- (⁴¹) Original text.
- (⁴²) Original text.
- (⁴³) Original text.
- (⁴⁴) Judgment of 13 July 1972, Case 48/69 ICI v. Commission of the European Communities [1972] ECR 619.
- (⁴⁵) Opinion 1-61 of 13 December 1961 of the Court of Justice [1961] ECR 505.
- (⁴⁶) OJ C 75, 29.7.1968, p. 3.
- (⁴⁷) ALZ, Avesta, AST, Krupp, Thyssen.
- (⁴⁸) ALZ, AST, Krupp, Thyssen.
- (⁴⁹) ALZ, AST, Avesta, Krupp, Thyssen, Usinor Sacilor.
- (⁵⁰) AST, Krupp, Thyssen.
- (⁵¹) Commission Decision 80/257/ECSC of 8 February 1980 relating to a proceeding under Article 65 of the ECSC Treaty in respect of a price-fixing system for the sale of rolled steel products ex stock by stockholders on the German market (OJ L 62, 7.3.1980, p. 28, at paragraph 25).
- (⁵²) Commission Decision 94/215/ECSC of 16 February 1994 relating to a proceeding pursuant to Article 65 of the ECSC Treaty concerning agreements and concerted practices engaged in by European producers of beams (OJ L 116, 6.5.1994, p. 1, at paragraph 249).
- (⁵³) See paragraphs 23, 28 and 32.
- (⁵⁴) See paragraphs 21, 27, 33 and 37.
- (⁵⁵) OJ C 207, 18.7.1996, p. 4.
- (⁵⁶) 'We did not receive any information'.
- (⁵⁷) Inspection minutes — Krupp.
- (⁵⁸) Inspection minutes — Ugine.
- (⁵⁹) 'ALZ does not recall having received from other stainless steel producers, between 1 August 1993 and 1 February 1994, information concerning the amendment of the alloy surcharge trigger values. (...) ALZ subsequently, towards 15 January, informed the other market operators, i.e. its customers, producers and agents, that it intended to announce the application of a new alloy surcharge from 1 February 1994.'
- (⁶⁰) 'AST would point out, however, that it had heard that the Commission had discovered a document which AST in turn allegedly sent to Outokumpu'.
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CORRIGENDA

Corrigendum to Commission Regulation (EC) No 2510/97 of 15 December 1997 concerning the classification of certain goods in the Combined Nomenclature*(Official Journal of the European Communities L 345 of 16 December 1997)*

On page 46, in the Annex, under column (2),

for: '1104 29 19',

read: '1104 29 11'.

Corrigendum to Commission Regulation (EC) No 293/98 of 4 February 1998 determining the operative events applicable to products in the fruit and vegetables sector, to processed fruit and vegetable products and partly to live plants and floricultural products and to certain products listed in Annex II to the EC Treaty, and repealing Regulation (EEC) No 1445/93*(Official Journal of the European Communities L 30 of 5 February 1998)*

On page 24, in the first line of Article 17:

for: '... the conversion rate ...',

read: '... the agricultural conversion rate ...'.
