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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1065/1999
of 25 May 1999
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 1498/98 ⁽²⁾, and in particular Article 4 (1) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 May 1999.

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

Done at Brussels, 25 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 25 May 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	99,7
	068	72,3
	999	86,0
0707 00 05	052	83,2
	628	129,4
	999	106,3
0709 90 70	052	48,5
	999	48,5
0805 10 10, 0805 10 30, 0805 10 50	204	47,0
	600	53,1
	624	47,4
	999	49,2
0805 30 10	382	50,5
	388	52,5
	999	51,5
	388	78,7
0808 10 20, 0808 10 50, 0808 10 90	400	105,9
	508	74,6
	512	88,2
	524	80,9
	528	68,5
	804	105,9
	999	86,1
0809 20 95	052	121,7
	999	121,7

⁽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 1066/1999
of 25 May 1999

**opening a standing invitation to tender for the export of common wheat of
breadmaking quality held by the Belgian intervention agency**

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 organisation of the market in cereals⁽¹⁾ as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93⁽³⁾ as last amended by Regulation (EC) No 39/1999⁽⁴⁾ lays down the procedure and conditions for the disposal of cereals held by intervention agencies;
- (2) Whereas, given the current market situation, a standing invitation to tender should be opened for the export of 48 156 tonnes of common wheat of breadmaking quality held by the Belgian intervention agency;
- (3) Whereas special procedures must be laid down to ensure that the operations and their monitoring are properly effected; whereas, to that end, provision should be made for a security lodgement scheme which ensures that aims are met while avoiding excessive costs for the operators; whereas derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93;
- (4) Whereas, where removal of the common wheat of breadmaking quality is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency the Member State concerned must pay compensation;
- (5) Whereas this invitation to tender for the export of intervention stocks is unusual in that it will also operate at the end of the marketing year, i.e. in June 1999; whereas, therefore, in the case of tenders made between 3 and 30 June 1999, deliveries will be possible only from 1 July 1999; whereas provision must accordingly be made to derogate from the first paragraph of Article 16 of

Regulation (EEC) No 2131/93, which stipulates that payment must be made no later than one month after acceptance of the tender;

- (6) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Subject to the provisions of this Regulation the Belgian intervention agency issues a standing invitation to tender for the export of common wheat of breadmaking quality held by it in accordance with Regulation (EEC) No 2131/93.

Article 2

1. The invitation to tender shall cover a maximum of 48 156 tonnes of common wheat of breadmaking quality to be exported to all third countries. However, the customs export formalities for tenders submitted on or after 3 June 1999 may be completed only on or after 1 July 1999.

2. The regions in which the 48 156 tonnes of common wheat of breadmaking quality are stored are set out in Annex I.

Article 3

1. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender.

2. No export refund or tax or monthly increase shall be granted on exports carried out pursuant to this Regulation.

3. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

Article 4

1. The export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 126, 24.5.1996, p. 37.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

2. Between 3 and 30 June 1999, tenders submitted under this invitation to tender shall not be admissible unless they are accompanied by a written undertaking to export only on or after 1 July 1999. The tenders may not be accompanied by applications for export licences submitted under Article 44 of Commission Regulation (EEC) No 3719/88⁽¹⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders in respect of the first partial invitation to tender shall be 9 a.m. (Brussels time) on 27 May 1999.

2. The time limit for submission of tenders in respect of subsequent partial invitations to tender shall be 9 a.m. (Brussels time) each Thursday thereafter.

3. The last partial invitation to tender shall be 9 a.m. (Brussels time) on 30 September 1999.

4. Tenders shall be lodged with the Belgian intervention agency.

Article 5a

In the case of tenders submitted between 3 and 30 June 1999, the following conditions shall apply:

- notwithstanding the first paragraph of Article 16 of Regulation (EEC) No 2131/93, the cereals must be paid for by 31 July 1999, at the latest.
- notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that indicated in the tender:

Article 5b

In the case of licences applied for between 3 and 30 June 1999, without prejudice to Article 17(3) of Regulation (EEC) No 2131/93, the security referred to in the second indent of Article 17(2) of that Regulation shall be released only when proof is provided that the customs export formalities were completed on or after 1 July 1999.

Article 6

1. The intervention agency, the storer and the successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the successful tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

The analysis results shall be forwarded to the Commission in the event of a dispute.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage. Where the final result of sample analyses indicates a quality:

- (a) higher than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;

- (b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences having regard to those criteria do not exceed the following limits:

- two kilograms per hectolitre as regards specific weight, which must not, however, be less than 72 kg/hl,
- one percentage point as regards moisture content,
- 20 percentage points for the Hagberg falling index,
- half a percentage point as regards impurities as specified in points B.2 and B.4 of the Annex to Commission Regulation (EEC) No 689/92⁽²⁾ and
- half a percentage point as regards impurities as specified in point B.5 of the Annex to Regulation (EEC) No 689/92, the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

- (c) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:

- accept the lot as established, or
- refuse to take over the lot in question. The successful tenderer shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, if he requests the intervention agency to supply him with another lot of intervention common wheat of breadmaking quality of the quality laid down at no additional charge, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall notify the Commission immediately thereof in accordance with Annex II;

- (d) below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. He shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, he may request the intervention agency to supply him with another lot of intervention common wheat of breadmaking quality of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex II.

⁽¹⁾ OJ L 331, 2.12.1988, p. 1.

⁽²⁾ OJ L 74, 20.3.1992, p. 18.

2. However, if the common wheat of breadmaking quality is removed before the results of the analyses are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress of which he may avail himself against the storer.

3. If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of his request for a replacement, he shall be discharged of all his obligations and the securities shall be released once he has informed the Commission and the intervention agency forthwith in accordance with Annex II.

4. Except where the final results of analyses indicate a quality below the minimum characteristics laid down for intervention, the costs of taking the samples and conducting the analyses provided for in paragraph 1 but not of inter-bin transfers shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of up to one analysis per 500 tonnes. The costs of inter-bin transfers and any additional analyses requested by the successful tenderer shall be borne by him.

Article 7

By derogation from Article 12 of Commission Regulation (EEC) No 3002/92⁽¹⁾ the documents relating to the sale of wheat of breadmaking quality in accordance with this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where necessary, the T5 copy shall carry the entry:

- Trigo blando panificable de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 1066/1999
- Bageegnet blød hvede fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 1066/1999
- Interventions-Brotweichweizen ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 1066/1999
- Μαλακός αρτοποιήσιμος σίτος παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 1066/1999
- Intervention common wheat of breadmaking quality without application of refund or tax, Regulation (EC) No 1066/1999
- Blé tendre d'intervention panifiable ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 1066/1999

- Frumento tenero d'intervento panificabile senza applicazione di restituzione né di tassa, regolamento (CE) n. 1066/1999
- Zachte tarwe van bakkwaliteit uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 1066/1999
- Trigo mole panificável de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 1066/1999
- Interventioleipävehnä, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) n:o 1066/1999
- Interventionsvete, av brödkvalitet, utan tillämpning av bidrag eller avgift, förordning (EG) nr 1066/1999

Article 8

1. The security lodgement pursuant to Article 13(4) of Regulation (EEC) No 2131/93 must be released once the export licences have been issued to the successful tenderers.

2. Notwithstanding Article 17 of Regulation (EEC) No 2131/93, the obligation to export shall be covered by a security equal to the difference between the intervention price applying on the day of the award and the price awarded but not less than EUR 10 per tonne. Half of the security shall be lodged when the licence is issued and the balance shall be lodged before the cereals are removed.

Notwithstanding Article 15(2) of Regulation (EEC) No 3002/92:

- the part of the security lodged when the licence is issued must be released within 20 working days of the date on which the successful tenderer provides proof that the cereals removed have left the customs territory of the Community,
- the remainder must be released within 15 working days of the date on which the successful tenderer provides the proof referred to in Article 17(3) of Regulation (EEC) No 2131/93.

3. Except in duly substantiated exceptional cases, in particular the opening of an administrative enquiry, any release of the securities provided for in this Article after the time limits specified in this same Article shall confer an entitlement to compensation from the Member State amounting to EUR 0,015 per 10 tonnes for each day's delay.

This compensation shall not be charged to the EAGGF.

⁽¹⁾ OJ L 301, 17.10.1992, p. 17.

Article 9

Within two hours of the expiry of the time limit for the submission of tenders, the Belgian intervention agency shall notify the Commission of tenders received. Such notification shall be made using the model set out in Annex III and the telex or fax numbers set out in Annex IV.

Article 10

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

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

Done at Brussels, 25 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

<i>(tonnes)</i>	
Place of storage	Quantity
Silos de la Meuse, Liège	4 955
SMEG, Gent	16 159
Silos de Floreffe, Floreffe	16 029
Borlix, Zeebrugge	2 234
Escaut Silos, Tournai	1 038
Borlix, Brugge	7 741

ANNEX II

Communication of refusal of lots under the standing invitation to tender for the export of common wheat of breadmaking quality held by the Belgian intervention agency

(Article 6(1) of Regulation (EC) No 1066/1999)

— Name of successful tenderer:

— Date of award of contract:

— Date of refusal of lot by successful tenderer:

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			— Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not basic cereal of unimpaired quality — Other

*ANNEX III***Standing invitation to tender for the export of common wheat of breadmaking quality held
by the Belgian intervention agency**

(Regulation (EC) No 1066/1999)

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (EUR/tonne) (¹)	Price increases (+) or reductions (-) (EUR/tonne) p.m.	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

(¹) This price includes the increases or reductions relating to the lot to which the tender refers.

ANNEX IV

The only numbers to use to call Brussels are (DG VI-C-1):

— fax: 296 49 56,
295 25 15,
— telex: 22037 AGREC B,
22070 AGREC B (Greek characters).

COMMISSION REGULATION (EC) No 1067/1999
of 25 May 1999

**opening a standing invitation to tender for the export of common wheat of
breadmaking quality held by the Danish intervention agency**

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 organisation of the market in cereals⁽¹⁾ as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93⁽³⁾ as last amended by Regulation (EC) No 39/1999⁽⁴⁾ lays down the procedure and conditions for the disposal of cereals held by intervention agencies;
- (2) Whereas, given the current market situation, a standing invitation to tender should be opened for the export of 200 000 tonnes of common wheat of breadmaking quality held by the Danish intervention agency;
- (3) Whereas special procedures must be laid down to ensure that the operations and their monitoring are properly effected; whereas, to that end, provision should be made for a security lodgement scheme which ensures that aims are met while avoiding excessive costs for the operators; whereas derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93;
- (4) Whereas, where removal of the common wheat of breadmaking quality is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency the Member State concerned must pay compensation;
- (5) Whereas this invitation to tender for the export of intervention stocks is unusual in that it will also operate at the end of the marketing year, i.e. in June 1999; whereas, therefore, in the case of tenders made between 3 and 30 June 1999, deliveries will be possible only from 1 July 1999; whereas provision must accordingly be made to derogate from the first paragraph of Article 16 of

Regulation (EEC) No 2131/93, which stipulates that payment must be made no later than one month after acceptance of the tender;

- (6) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Subject to the provisions of this Regulation the Danish intervention agency issues a standing invitation to tender for the export of common wheat of breadmaking quality held by it in accordance with Regulation (EEC) No 2131/93.

Article 2

1. The invitation to tender shall cover a maximum of 200 000 tonnes of common wheat of breadmaking quality to be exported to all third countries. However, the customs export formalities for tenders submitted on or after 3 June 1999 may be completed only on or after 1 July 1999.

2. The regions in which the 200 000 tonnes of common wheat of breadmaking quality are stored are set out in Annex I.

Article 3

1. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender.

2. No export refund or tax or monthly increase shall be granted on exports carried out pursuant to this Regulation.

3. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

Article 4

1. The export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 126, 24.5.1996, p. 37.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

2. Between 3 and 30 June 1999, tenders submitted under this invitation to tender shall not be admissible unless they are accompanied by a written undertaking to export only on or after 1 July 1999. The tenders may not be accompanied by applications for export licences submitted under Article 44 of Commission Regulation (EEC) No 3719/88 ⁽¹⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders in respect of the first partial invitation to tender shall be 9 a.m. (Brussels time) on 27 May 1999.

2. The time limit for submission of tenders in respect of subsequent partial invitations to tender shall be 9 a.m. (Brussels time) each Thursday thereafter.

3. The last partial invitation to tender shall be 9 a.m. (Brussels time) on 30 September 1999.

4. Tenders shall be lodged with the Danish intervention agency.

Article 5a

In the case of tenders submitted between 3 and 30 June 1999, the following conditions shall apply:

- notwithstanding the first paragraph of Article 16 of Regulation (EEC) No 3131/93, the cereals must be paid for by 31 July 1999, at the latest.
- notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that indicated in the tender.

Article 5b

In the case of licences applied for between 3 and 30 June 1999, without prejudice to Article 17(3) of Regulation (EEC) No 2131/93, the security referred to in the second indent of Article 17(2) of that Regulation shall be released only when proof is provided that the customs export formalities were completed on or after 1 July 1999.

Article 6

1. The intervention agency, the storer and the successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the successful tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

The analysis results shall be forwarded to the Commission in the event of a dispute.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days

if the samples are taken on removal from storage. Where the final result of sample analyses indicates a quality:

- (a) higher than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;
- (b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences having regard to those criteria do not exceed the following limits:
 - two kilograms per hectolitre as regards specific weight, which must not, however, be less than 72 kg/hl,
 - one percentage point as regards moisture content,
 - 20 percentage points for the Hagberg falling index,
 - half a percentage point as regards impurities as specified in points B.2 and B.4 of the Annex to Commission Regulation (EEC) No 689/92 ⁽²⁾ and
 - half a percentage point as regards impurities as specified in point B.5 of the Annex to Regulation (EEC) No 689/92, the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

- (c) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:
 - accept the lot as established, or
 - refuse to take over the lot in question. The successful tenderer shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, if he requests the intervention agency to supply him with another lot of intervention common wheat of breadmaking quality of the quality laid down at no additional charge, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall notify the Commission immediately thereof in accordance with Annex II;
- (d) below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. He shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, he may request the intervention agency to supply him with

⁽¹⁾ OJ L 331, 2.12.1988, p. 1.

⁽²⁾ OJ L 74, 20.3.1992, p. 18.

another lot of intervention common wheat of breadmaking quality of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex II.

2. However, if the common wheat of breadmaking quality is removed before the results of the analyses are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress of which he may avail himself against the storer.

3. If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of his request for a replacement, he shall be discharged of all his obligations and the securities shall be released once he has informed the Commission and the intervention agency forthwith in accordance with Annex II.

4. Except where the final results of analyses indicate a quality below the minimum characteristics laid down for intervention, the costs of taking the samples and conducting the analyses provided for in paragraph 1 but not of inter-bin transfers shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of up to one analysis per 500 tonnes. The costs of inter-bin transfers and any additional analyses requested by the successful tenderer shall be borne by him.

Article 7

By derogation from Article 12 of Commission Regulation (EEC) No 3002/92⁽¹⁾ the documents relating to the sale of wheat of breadmaking quality in accordance with this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where necessary, the T5 copy shall carry the entry:

- Trigo blando panificable de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 1067/1999
- Bageegnet blød hvede fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 1067/1999
- Interventions-Brotweichweizen ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 1067/1999
- Μαλακός αρτοποιήσιμος σίτος παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 1067/1999
- Intervention common wheat of breadmaking quality without application of refund or tax, Regulation (EC) No 1067/1999
- Blé tendre d'intervention panifiable ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 1067/1999
- Frumento tenero d'intervento panificabile senza applicazione di restituzione né di tassa, regolamento (CE) n. 1067/1999
- Zachte tarwe van bakkwaliteit uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 1067/1999
- Trigo mole panificável de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 1067/1999
- Interventioleipävehnä, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) n:o 1067/1999
- Interventionsvete, av brödkvalitet, utan tillämpning av bidrag eller avgift, förordning (EG) nr 1067/1999

Article 8

1. The security lodged pursuant to Article 13(4) of Regulation (EEC) No 2131/93 must be released once the export licences have been issued to the successful tenderers.

2. Notwithstanding Article 17 of Regulation (EEC) No 2131/93, the obligation to export shall be covered by a security equal to the difference between the intervention price applying on the day of the award and the price awarded but not less than EUR 10 per tonne. Half of the security shall be lodged when the licence is issued and the balance shall be lodged before the cereals are removed.

Notwithstanding Article 15(2) of Regulation (EEC) No 3002/92:

- the part of the security lodged when the licence is issued must be released within 20 working days of the date on which the successful tenderer provides proof that the cereals removed have left the customs territory of the Community,
- the remainder must be released within 15 working days of the date on which the successful tenderer provides the proof referred to in Article 17(3) of Regulation (EEC) No 2131/93.

3. Except in duly substantiated exceptional cases, in particular the opening of an administrative enquiry, any release of the securities provided for in this Article after the time limits specified in this same Article shall confer an entitlement to compensation from the Member State amounting to EUR 0,015 per 10 tonnes for each day's delay.

This compensation shall not be charged to the EAGGF.

⁽¹⁾ OJ L 301, 17.10.1992, p. 17.

Article 9

Within two hours of the expiry of the time limit for the submission of tenders, the Danish intervention agency shall notify the Commission of tenders received. Such notification shall be made using the model set out in Annex III and the telex or fax numbers set out in Annex IV.

Article 10

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

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

Done at Brussels, 25 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

<i>(tonnes)</i>	
Place of storage	Quantity
Jylland	88 900
Fyn	10 000
Sjælland	101 100

ANNEX II

Communication of refusal of lots under the standing invitation to tender for the export of common wheat of breadmaking quality held by the Danish intervention agency

(Article 6(1) of Regulation (EC) No 1067/1999)

— Name of successful tenderer:

— Date of award of contract:

— Date of refusal of lot by successful tenderer:

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			— Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not basic cereal of unimpaired quality — Other

*ANNEX III***Standing invitation to tender for the export of common wheat of breadmaking quality held
by the Danish intervention agency**

(Regulation (EC) No 1067/1999)

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (EUR/tonne) (¹)	Price increases (+) or reductions (-) (EUR/tonne) p.m.	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

(¹) This price includes the increases or reductions relating to the lot to which the tender refers.

ANNEX IV

The only numbers to use to call Brussels are (DG VI-C-1):

— fax: 296 49 56,
295 25 15,
— telex: 22037 AGREC B,
22070 AGREC B (Greek characters).

COMMISSION REGULATION (EC) No 1068/1999
of 25 May 1999
prohibiting fishing for saithe by vessels flying the flag of Spain

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

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 2846/98 ⁽²⁾, and in particular Article 21(3) thereof,

- (1) Whereas Council Regulation (EC) No 48/1999 of 18 December 1998 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1999 and certain conditions under which they may be fished ⁽³⁾, lays down the saithe quotas for 1999;
- (2) Whereas, in order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;
- (3) Whereas, according to the information communicated to the Commission, catches of saithe in the waters of ICES divisions Vb (EC zone), VI, XII and XIV by vessels flying the flag of Spain or registered in Spain have reached the quota allocated for 1999;

whereas Spain has prohibited fishing for this stock as from 12 May 1999; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of saithe in the waters of ICES divisions CIEM Vb (EC zone), VI, XII and XIV by vessels flying the flag of Spain or registered in Spain are hereby deemed to have exhausted the quota allocated to Spain for 1999.

Fishing for saithe in the waters of ICES divisions Vb (EC zone), VI, XII and XIV by vessels flying the flag of Spain or registered in Spain is hereby prohibited, as are the retention on board, transshipment and landing of fish from this stock caught by the above vessels after the date of entry into force of this Regulation.

Article 2

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

It shall apply from 12 May 1999.

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

Done at Brussels, 25 May 1999.

For the Commission

Emma BONINO

Member of the Commission

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 358, 31.12.1998, p. 5.

⁽³⁾ OJ L 13, 18.1.1999, p. 1.

COMMISSION REGULATION (EC) No 1069/1999
of 25 May 1999
adapting to scientific and technical progress Council Regulation (EEC)
No 3922/91
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

among others those relative to approach and landing with one engine inoperative;

Having regard to the Treaty establishing the European Community,

(6) Whereas JAR E — 'Engines' has been amended to introduce updated requirements resulting from FAA/JAA harmonisation and to improve consistency with JAR-21 and other JARs;

Having regard to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation ⁽¹⁾ as last amended by Commission Regulation No 2176/96 ⁽²⁾, and in particular Article 11 thereof,

(7) Whereas JAR P — 'Propellers' has been amended to make it consistent with JAR-21;

(8) Whereas JAR APU — 'Auxiliary Power Unit' has been amended to make it consistent with JAR-21;

(1) Whereas Regulation (EEC) No 3922/91 provides that the Commission shall make the amendments necessitated by scientific and technical progress to the common technical requirements and administrative procedures listed in Annex II thereto and whereas such amendments, particularly to improve safety requirements, are now appropriate;

(9) Whereas JAR TSO — 'Technical Standard Orders' has been amended to revise existing TSOs and to introduce new TSOs (e.g. cockpit voice recorders);

(10) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Aviation Safety Regulations Committee ⁽³⁾,

(2) Whereas JAR 1 — 'Definitions' has been amended to introduce further definitions related to commercial air transportation;

HAS ADOPTED THIS REGULATION:

(3) Whereas JAR 22 — 'Sailplanes and powered sailplanes' has been amended to introduce the concept of self sustaining powered sailplanes and to update its various sub-parts;

Article 1

(4) Whereas JAR 25 — 'Large aeroplanes' has been modified to incorporate agreed changes to the equivalent American code (FAR 25) and to introduce updated requirements resulting from JAA/FAA harmonisation activities and to improve APU and autopilot requirements;

Annex II to Council Regulation (EEC) No 3922/91 is replaced by the Annex to this Regulation.

Article 2

(5) Whereas JAR AWO — 'All Weather Operations' has been updated to introduce requirements,

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ L 373, 31.12.1991, p. 4.
⁽²⁾ OJ L 291, 14.11.1996, p. 15.

⁽³⁾ Aviation Safety Regulations Committee, written consultation of 4 February 1999.

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

Done at Brussels, 25 May 1999.

For the Commission

Neil KINNOCK

Member of the Commission

ANNEX

ANNEX II

Lists of codes in force containing the common technical requirements and administrative procedures referred to in Article 3

1. General and procedures

JAR 1 Definitions and Abbreviations up to and including change 5, 15 July 1996 and amendment 1/97/1, 12 December 1997

2. Type certification of products and parts

JAR 22 Sailplanes and powered sailplanes up to and including change 5, 28 October 1995

JAR 25 Large aeroplanes up to and including amendment 25/96/1, 19 April 1996

JAR AWO All Weather Operations up to and including change 2, 1 August 1996

JAR E Engines up to and including amendments E/96/1, 8 August 1996 and E/97/1, 30 December 1997

JAR P Propellers up to and including amendment P/96/1, 8 August 1996

JAR APU Auxiliary Power Units up to and including amendment APU/96/1, 8 August 1996

JAR TSO Technical Standard Orders up to and including change 3, 28 April 1998

JAR VLA Very Light Aeroplanes up to and including amendment VLA/92/1

JAR 145 Approved maintenance organisations as at 1 January 1992'

COMMISSION REGULATION (EC) No 1070/1999
of 25 May 1999

amending the Annex to Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92

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

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1068/97 ⁽²⁾, and in particular Article 17(2) thereof,

- (1) Whereas the name Φέτα (Feta) notified by the Greek Government pursuant to Article 17 of Regulation (EEC) No 2081/92 was registered as a protected designation of origin by Commission Regulation (EC) No 1107/96 ⁽³⁾, as last amended by Regulation (EC) No 590/1999 ⁽⁴⁾;
- (2) Whereas, as a result of the Court of Judgement ruling of 16 March 1999, this Regulation has been annulled in so far as it registers Φέτα (Feta) as a protected designation of origin; whereas, as a result, the name in question is deleted from the 'Register of protected designations of origin and geographical indications' and the Annex thereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. The name Φέτα (Feta) is deleted from the 'Register of protected designations of origin and geographical indications'.
2. In the Annex to Regulation (EC) No 1107/96 under the headings 'Cheeses' and 'Greece' in Part A, 'Products listed in Annex II to the EC Treaty, intended for human consumption', the name 'Φέτα (Feta) (PDO)' is deleted.
3. In accordance with Article 17(3) of Regulation (EEC) No 2081/92, the name Φέτα (Feta) remains protected at national level until such time as a decision is taken in this regard.

Article 2

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

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

Done at Brussels, 25 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 208, 24.7.1992, p. 1.

⁽²⁾ OJ L 156, 13.6.1997, p. 10.

⁽³⁾ OJ L 148, 21.6.1996, p. 1.

⁽⁴⁾ OJ L 74, 19.3.1999, p. 8.

COMMISSION REGULATION (EC) No 1071/1999
of 25 May 1999
on the issue of system B export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EEC) No 1035/72 as regards export refunds on fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 1287/98⁽²⁾, and in particular Article 5(5) thereof,

Whereas Commission Regulation (EC) No 927/1999⁽³⁾ fixes the indicative quantities for system B export licences other than those sought in the context of food aid;

Whereas, in the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for apples for destination zone X will shortly be exceeded; whereas this overrun will prejudice the proper working of

the export refund scheme in the fruit and vegetables sector;

Whereas, to avoid this situation, applications for system B licences for apples for destination zone X exported after 25 May 1999 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for apples for destination zone X submitted pursuant to Article 1 of Regulation (EC) No 927/1999, export declarations for which are accepted after 25 May and before 1 July 1999, are hereby rejected.

Article 2

This Regulation shall enter into force on 26 May 1999.

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

Done at Brussels, 25 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15.11.1996, p. 12.

⁽²⁾ OJ L 178, 23.6.1998, p. 11.

⁽³⁾ OJ L 115, 4.5.1999, p. 7.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 1 July 1998

on aid granted by Germany to Chemieanlagenbau Staßfurt

(notified under document number C(1998) 2050)

(Only the German text is authentic)

(Text with EEA relevance)

(1999/339/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given notice to the parties concerned to submit their comments, in accordance with that Article,

Whereas:

I

By letter of 9 December 1996, registered by the Commission on 10 December 1996, the German Government informed the Commission pursuant to Article 93(3) of the Treaty that it proposed to grant aid to Chemieanlagenbau Staßfurt AG ('CAS'). The Commission entered the measure on the register of State aid measures under the number N 897/96. By letter of 15 January 1997 the Commission sought additional information, which was supplied by letter of 21 February 1997, registered on 24 February 1997.

According to the Commission's information, aid had already been granted to CAS without awaiting the response of the Commission. The case was accordingly

transferred to the list of aid measures not notified, where it was registered under number NN 24/97.

The Commission doubted whether the measure qualified as restructuring aid compatible with the common market, and on 2 April 1997 it decided to initiate proceedings under Article 93(2) of the Treaty. Germany was informed of the decision and the grounds for it by letter of 15 April 1997, the contents of which were published in the *Official Journal of the European Communities* ⁽¹⁾. Interested parties were invited to submit their observations within one month.

Germany replied to the Commission's letter of 15 April 1997 by letter of 13 May 1997, registered on 16 May 1997.

Following publication of the notice in the *Official Journal of the European Communities* on 26 June 1997, the Commission received observations from a number of interested parties: there was a letter from a trade association, dated 23 July 1997, registered on 29 July 1997, and a letter from a European interest group, dated 25 July 1997, registered on 29 July 1997. Further observations arrived after the one-month deadline had expired: from the office of the permanent representative of a Member State, dated 28 July 1997, registered on 31 July 1997, and from a competitor, dated 29 July 1997, registered on 31 July 1997.

⁽¹⁾ OJ C 196, 26.6.1997, p. 13.

Copies of these letters were sent to the German authorities for comment on 21 August 1997. They replied by letter of 16 September 1997, registered on the same date.

By letter of 17 September 1997, registered on the same date, Germany informed the Commission pursuant to Article 93(3) of the EC Treaty that following the privatisation of the company, which had taken place on 2 July 1997, they were making changes to the aid package for CAS. By letter of 12 March 1998, the Commission sought additional information, which was supplied by letter of 16 April 1998, registered on the same date. Germany supplied further information by letter of 14 May 1998, registered on 18 May 1998.

II

CAS has its registered office in Saxony-Anhalt; in 1997 it had a workforce of 210, a turnover of DEM 20 356 000, and fixed assets of DEM 48 589 000.

The origins of the company go back to 1863. In 1951 it was renamed VEB Maschinen- und Apparatebau Staßfurt, and later VEB Chemieanlagenbau Staßfurt. In 1990 it became Chemieanlagenbau Staßfurt AG. Its shares were held by the Treuhandanstalt privatisation agency until 1993, and thereafter by H.W. Urban GmbH & Co. Management KG Berlin, which was itself owned by the Treuhandanstalt and then its successor agency, the Bundesanstalt für vereinigungsbedingte Sonderaufgaben, and which acted for both agencies, taking over the management of CAS in July 1992. In April 1996 CAS became the property of Beteiligungs-Management Gesellschaft Berlin mbH ('BMGB'), which was entrusted with the task of privatising it. The same year BMGB instructed West Merchant Bank to identify potential private investors. Sale was by open invitation to tender. BMGB selected the most favourable and credible offer.

On 2 July 1997 CAS was sold to the private investor BVT Industrie-Beteiligungsgesellschaft mbH ('BVT') at a price of DEM 500 000. The German authorities made a loss of DEM 28 994 000 on the privatisation; if the company had been wound up, their loss would have been DEM 36 968 000. BVT took over certain of CAS's liabilities to third parties. BVT forms part of the BVT group, which has its seat in Munich and invests in the energy and environmental sector in Germany⁽²⁾.

⁽²⁾ The BVT group also has an 80 % stake in Sodawerk Staßfurt AG, with an option on the remaining 20 %. Sodawerk Staßfurt manufactures soda ash, sodium and related substances. Its share of the German market in these products is about 20 %, and its share of the European market is about 8 %.

CAS operates in two industries, that of plant and machinery construction and that of iron casting. It sells 61,7 % of its output within Germany, 10,5 % within the rest of the common market, and 27,8 % in other countries.

On the plant and machinery side, CAS builds, supplies and installs plant for the manufacture of light ash, dense ash and potash. Its rotating drums are used for many purposes, for example in the fertiliser industry, waste recycling, non-metallic minerals and the timber industry.

On the iron foundry side, CAS makes iron castings for its own use and for outsiders. These include alloy and non-alloy grey cast iron and spheroidal graphite cast iron; the grey iron castings may weigh between 10 kilograms and 40 tonnes, and the spheroidal graphite castings between 10 kilograms and 16 tonnes. These are small runs of items made to order.

Iron foundries fall under Annex I to the ECSC Treaty. They are outside the scope of the 1988 framework for certain steel sectors not covered by the ECSC Treaty⁽³⁾. They can accordingly be treated like any other industry within the scope of the EC Treaty.

III

The original notification, in December 1996, related to DEM 44 000 000 in aid for BMBG, in two forms. There was to be a cash injection of DEM 27 300 000, and DEM 16 700 000 in guarantees. In the course of the privatisation, in July 1997, minor changes were made to this package of aid by BMBG, bringing the total down to DEM 42 388 000. Both the original and the amended aid packages were intended to ensure the survival of CAS and to promote its further restructuring, and to carry out reorganisation measures drawn up by management consultants towards the end of 1995, which have for the most part been implemented according to plan.

The aid measures as amended in connection with the privatisation are as follows:

⁽³⁾ OJ C 320, 13.12.1988, p. 3.

Measure	DEM
Redundancy payments in the event of a reduction from 180 to 150 employees	450 000
Waiver of claim to repayment of sums paid out for specific purposes (payments for social plan funding in 1994 and 1995)	12 002 000
Waiver of claim to repayment in respect of consultancy services provided by BMGB	892 000
Assumption of liability for debt, including interest	10 044 000
Grants in respect of estimated losses for 1997 to 1999	19 000 000
Total	42 388 000

Apart from these measures, BMBG also waived a claim for repayment of a shareholder loan of DEM 73 156 000 provided by the Treuhandanstalt, and of a sum of DEM 4 480 000 granted to clear up inherited environmental problems on the site. The waiver of the shareholder loan does not amount to additional aid, because the loans and guarantees provided by the Treuhandanstalt were intended for firms in particular difficulty, and it was accepted at the time they were granted that those firms might not be able to repay them. In cases of that kind it was safe to assume that the potential aid intensity was 100 %. This assumption proved correct in CAS's case; to waive the repayment of so risky a loan cannot be regarded as fresh aid. When it initiated the Article 93(2) proceedings, the Commission accepted that the aid granted by the Treuhandanstalt was in accordance with the relevant guidelines⁽⁴⁾. The financing of inherited environmental liabilities (Altlasten) is not considered to be State aid within the meaning of Article 92(1) of the EC Treaty⁽⁵⁾.

When it initiated the proceedings the Commission expressed concern at what appeared to be the grant of further guarantees to CAS in 1996; Germany has given assurances that there were no such guarantees.

Germany has stated that out of the aid covered by this Decision a sum of DEM 5 957 000 was paid out prior to approval by the Commission.

IV

At the outset of the proceedings the Commission accepted that other aid paid by the Treuhandanstalt in the past had also been granted in accordance with the State aid rules in force at the time⁽⁶⁾. This consisted of DEM 93 300 000 in 1994 and DEM 44 000 000 in 1995. But the Commission expressed doubt regarding what appeared to be the unnotified waiver of a claim to repayment of a shareholder loan of DEM 20 000 000. This question has since been clarified by the German authorities. The DEM 93 300 000 granted in aid in 1994 consisted essentially of loans and guarantees. Out of this sum CAS did not make use of DEM 20 000 000, and took up only DEM 73 156 000. This was the figure referred to in the German Government's letter of 17 September 1997 providing details of the privatisation and the amount of the shareholder loan.

After the publication of the letter from the Commission to Germany initiating the proceedings, several interested parties submitted observations. The Committee of European Foundry Associations argued that there was excess capacity in the industry, and consequently that CAS, which was an iron foundry, should not be given any State aid. The Association did not submit any specific data for the industry. A firm competing with CAS alleged that it had lost contracts to CAS because of predatory pricing. It did not supply any specific information either. A national trade association supported the allegations made by the competitor, in a brief letter which did not give details. The office of the permanent representative of a Member State submitted that CAS was considerably less efficient than the competitor already referred to, and consequently ought not to receive any State aid. This letter did supply some arguments, but it represented CAS as an iron foundry only, whereas in both relative and absolute terms iron casting is only a minor part of its business.

These letters were passed on to Germany for comment. It replied by letter of 16 September 1997, arguing that the aid given to CAS was the indispensable minimum needed to carry out the restructuring, and that CAS consequently had no excess finance available to be able to act in a way that distorted the market. CAS had not misused funds for anti-competitive conduct. The privatisation would not

⁽⁴⁾ For aid before 31 December 1994, see the Commission Decisions on Treuhandanstalt operations in Cases NN 108/91 and E 15/92. For aid in 1995, see also the Commission Decision on Treuhandanstalt operations in Case N 768/94.

⁽⁵⁾ See Case NN 108/91.

⁽⁶⁾ See footnote 4.

increase capacity in the iron casting industry. The question of excess capacity is addressed in Section VII, which concludes that CAS has carried out a permanent reduction in casting capacity in line with the 1995 restructuring plan. As part of the restructuring to be carried out under the plan, capacity has also been reduced on the plant and machinery side.

V

When it initiated the proceedings the Commission explained why it was that the EC Treaty and in particular Article 92(1) applied in this case. Although the aid package has since been amended, the same considerations apply. As the Commission commented in the notice announcing the proceedings, the aid package can be declared compatible with the common market only under the exemption in Article 92(3)(c). The conditions in which aid may qualify for exemption under this provision have been clarified in the Community guidelines on State aid for rescuing and restructuring firms in difficulty ('the guidelines')⁽⁷⁾.

The notification has accordingly to be considered in the light of paragraph 3.2 of the guidelines, which deals with aid for restructuring. The aid must restore the long-term viability of the recipient firm within a reasonable time. It must not result in any unacceptable distortion of competition. If there is excess capacity in the relevant market, the recipient will generally be expected to reduce capacity. The costs and benefits of the restructuring operation must be in reasonable proportion. The restructuring plan must be implemented in full, and the Commission must be kept informed of progress.

When it initiated the proceedings the Commission explained which aspects of the aid and of the restructuring plan gave rise to doubt and which aspects did not.

The Commission expressed doubts whether the conditions laid down in the guidelines were met. Its objections were of three kinds. First, at the time of the original notification it was questionable whether a private investor could be found for CAS, and it was to be expected, therefore, that further aid might have to be granted, or that the restructuring plan might not be implemented in full. This also made it difficult to assess the costs and benefits of the restructuring operation. The second uncertainty arose out of the then state of the iron casting market. If there was overcapacity, CAS would have to be required to dismantle capacity irreversibly. Lastly, there were points where the information supplied by Germany was unclear and suggested that CAS might have received more aid than had been notified.

VI

The guidelines state that the restructuring must restore the long-term viability of the firm within a reasonable time. When it initiated the proceedings the Commission drew attention to several difficulties in applying this test to the restructuring of CAS. First, there was no information to show what practical restructuring measures had to be taken, and which had already been carried out. Secondly, there were no forecasts of results after 1998, so that it could be supposed that the company's losses would continue. Thirdly, there were no expressions of interest on the part of private investors, so that there was no guarantee that aid would need to be granted only once, since a privatisation was a typical case where a final State-aided restructuring operation might be called for. The suspicion also persisted that loans to CAS amounting to about DEM 20 million had been covertly written off.

The original notification submitted by the German authorities in December 1996 described the restructuring plan drawn up at the end of 1995 only in very general terms; the German authorities have since provided detailed information on the individual measures envisaged in the plan and on progress with their implementation. The restructuring plan is based on an assessment of CAS carried out by management consultants in mid-1995, with the object of finding a suitable private investor. Their report drew attention to a number of problems: the loss of markets in central and eastern Europe, an industrial site that was overlarge, the lack of effective management structures, uncertainty as to which were the most profitable aspects of the supply of plant to potash and soda ash manufacturers, and poor supervision of financing and prices.

On the basis of this assessment a number of short- and medium-term measures were programmed in the restructuring plan drawn up at the end of 1995, and were implemented between the end of 1995 and 1996. These included the following:

- (a) Proper costing methods were introduced for the selection of contracts and the monitoring of their performance, in order to prevent a repetition of a case where a contract concluded in 1995 resulted in a loss of DEM 15 000 000.
- (b) New costing and monitoring mechanisms have made it possible to ascertain and focus on CAS's core skills and to apply them to new products. Identifying its most profitable activities has enabled CAS to concentrate on the production of key components and the sale of its know-how, rather than relying on building and installing entire plants. An example is the production of columns for distillation, absorption and carbonisation. With the application and marketing of rotating drums in the environmental sector, CAS's

⁽⁷⁾ OJ C 368, 23.12.1994, p. 12.

core skills are being applied to new markets. The company is investigating uses for its high-performance filters outside the production of soda ash. On the foundry side, new product lines are being developed in collaboration with potential customers, including for example parts for wind-power generators or coke-oven jets.

- (c) Land that is not needed has been sold: CAS's site now covers only one-third of its previous area. Alongside the sell-off of land, the design centre in Halle has been sold to a private firm for DEM 400 000. The German authorities state that there was no aid involved. Concentration of operations in a smaller

area has also reduced internal transport costs. The rearrangement of the site has also led to an irreversible reduction in the capacity of the foundry, which is described below.

- (d) At the beginning of 1990 CAS had about 3 000 employees. By 1997 this figure had fallen to 210, in line with the plan. The gradual reduction in the workforce has entailed costs of DEM 87 000 000.

In response to the Commission's criticisms regarding a lack of information as to future performance, especially after 1998, the German authorities have now supplied projections up to the year 2000.

	1997	1998	1999	2000
Turnover	31 515 000	39 200 000	43 120 000	47 432 000
Other revenue	2 072 000	3 972 000	500 000	500 000
Total revenue	33 587 000	43 172 000	43 620 000	47 932 000
Expenditure on materials	22 475 000	26 180 000	23 613 000	22 135 000
Expenditure on staff	17 340 000	16 100 000	13 500 000	13 500 000
Operating profit or loss	- 16 953 000	- 9 908 000	- 4 338 000	1 305 000

According to the projected profit-and-loss accounts, CAS can expect an operating profit of DEM 1 305 000 in the year 2000. It should make pre-tax profits of DEM 221 000 in 1999 and DEM 1 202 000 in 2000. These figures do indicate a return to viability.

The sale of CAS to BVT, in July 1997, dispelled the Commission's doubts about compliance with the 'one time last time' principle. A private investor has taken over the firm, and the suspicion that further funding might be needed for restructuring on the occasion of a future privatisation has proved groundless.

The Commission's doubts regarding additional aid which might not have been notified have been discussed in Section III.

The aid measures which were notified, and which were amended in connection with the privatisation, give rise to no further doubts here, for the following reasons. The restructuring measures have for the most part been implemented in accordance with the 1995 plan; CAS's results are on the whole developing as anticipated; no major restructuring measures are planned in connection with the privatisation, apart from the effort to open up new

markets; and privatisation has enabled cost savings to be made, as plant and facilities have been used jointly with the new parent company.

Under the circumstances, the Commission concludes that the German authorities have satisfactorily allayed all the doubts considered in this Section.

VII

A second condition in the guidelines is that the aid must not lead to undue distortion of competition. Especially in industries where there is excess capacity, a firm receiving restructuring aid will as a rule be expected to dismantle capacity so as to protect competitors. CAS operates in two industries, namely plant and machinery and, to a lesser extent, iron casting.

In its letter to the German authorities of 17 April 1997, announcing the initiation of proceedings pursuant to Article 93(2) of the Treaty, the Commission expressed particular concern at evidence existing at the time of the assessment of overcapacity in the iron-casting industry in the relevant period.

Germany states that during the restructuring of CAS's plant and machinery business in 1995 and 1996, CAS reduced capacity from 230 000 machine-hours a year in 1995 to 66 000 machine-hours in 1996. This was achieved by discontinuing several product lines, including small machines and stainless steel products produced using carbide technology, and the filter operation. The workforce actively engaged here fell from 175 in 1995 to 70 in 1996. The permanent team working in labour-intensive plant building was also reduced from 40 in 1995 to 20 in 1996. In line with the restructuring plan drawn up at the end of 1995, the overall staffing of the plant and machinery operation (including distribution, quality control and administration) was reduced from over 370 in 1995 to around 150 in 1997.

The share of iron casting in CAS's total turnover was put at no more than 15 % in 1997, at DEM 5 million out of DEM 31 515 000. The total output of the iron foundry will remain static, so that in relative terms its share of total sales will fall to about one tenth by 2000. Of the roughly 210 employees at CAS, less than 60 are employed in the iron foundry.

As regards the capacity of the iron casting industry, covering the production of alloy and non-alloy grey iron and spheroidal graphite iron castings, the most recent available information suggests that there was in fact no structural overcapacity in the relevant period, i.e. between the end of 1995 and the end of 1996, and that there has been none since. There had indeed been excess capacity in this area for many years. Between 1989 and 1996 some 300 European iron foundries were closed, 100 of them in the new German *Länder* alone⁽⁸⁾. Over the same period about 50 000 jobs were lost in this labour-intensive industry. The wave of redundancies has now come to an end⁽⁹⁾. The problem of overcapacity is also reflected in the decline in production from 9 628 000 tonnes in 1990 to 8 007 000 tonnes in 1993; this was reversed in 1994, when it reached 8 873 000 tonnes⁽¹⁰⁾. Structural overcapacity continued to exist until the beginning of 1994,

when among other things far-reaching measures to restructure capacities and employment which had been taken in the preceding years began to have their effect⁽¹¹⁾.

The German authorities have now provided details of the irreversible reduction in capacity made by CAS in the period referred to, as required by the guidelines in order to protect competitors against undue distortion of competition. CAS reduced its foundry capacity from 4 500 tonnes a year in 1995 to 3 500 in 1996. This is an irreversible reduction in capacity, for the following reasons.

The cooling area of the works has been cut back; this reduces overall capacity, because the cooling section is a bottleneck in the firm's production cycle. After casting, the castings must cool before they can be sold or processed further. Cooling normally takes place in sandpits. In CAS's case these sandpits were located in a large shed, in order to keep the sand dry and to maintain an even temperature. As part of the restructuring of the site a wall has been built dividing this cooling shed into two. In the part of the shed no longer used for cooling, the floor has been concreted over. This area is now used for storing moulds, which are an important element in the production process. The area available for production has been reduced from 3 900 m² to 2 300 m².

The reduction is permanent, because to return this area to its old use would require considerable rebuilding work and conversion, and an interruption in the production process, and would also cause difficulties with the storage of the casting moulds.

CAS is located in an area which qualifies for aid pursuant to Article 93(2)(a) of the Treaty⁽¹²⁾. Under the guidelines the Commission may accept a smaller reduction in capacity in such areas than it would require of firms in regions not covered by that provision.

The Commission accordingly concludes, first, that CAS was not required to dismantle capacity in its foundry in order to avoid undue distortion of competition, and, second, that a permanent reduction in capacity was nonetheless carried out under the terms of the 1995 restructuring plan. The Commission notes that there was also a reduction in the capacity of the plant and machinery operation. The conditions laid down in the guidelines in respect of capacity and capacity reductions are consequently met.

⁽⁸⁾ Source: Committee of European Foundry Associations, annual reports.

⁽⁹⁾ Source: *Panorama of European Industry 1997*.

⁽¹⁰⁾ Source: Committee of European Foundry Associations, annual reports.

⁽¹¹⁾ Source: *Panorama of European Industry 1997*.

⁽¹²⁾ See State aid measure No N 464/93.

VIII

The aid must be limited to the minimum needed to enable restructuring to be undertaken, and must be related to the costs and benefits of restructuring. There must not be excess funds remaining which the firm could use to follow aggressive, market-distorting policies. The investor is expected to make a contribution to the financing of the restructuring from his own resources.

When it initiated the proceedings, however, the Commission felt it was questionable whether a meaningful cost-benefit analysis could be carried out at that stage, for two reasons. First, there was a lack of information on the prospect of restoring the firm's viability within a reasonable time⁽¹³⁾. As has already been said, the missing information has since been supplied.

The second reason was the suspicion that additional aid might have been granted, in the form of guarantees, but not notified. This might have happened either because the restructuring costs were greater than those which had been stated by the German authorities, or because excess State aid had been provided. As has been explained, this suspicion has now been allayed⁽¹⁴⁾.

At the time the proceedings were initiated there was no private investor in view, and the Commission accordingly presumed that CAS would not be in a position to make an appropriate contribution of its own. Now that CAS has been taken over the position has changed.

The total cost of restructuring CAS comes to DEM 1 58 422 000; this includes DEM 77 636 000 already exempted under the Treuhandanstalt scheme. Of the remaining DEM 80 786 000, the private investor has provided DEM 38 898 000. This includes the assumption of liability for the repayment of loans of DEM 2 076 000, the provision of DEM 26 300 000 in guarantees, a capital injection of DEM 8 000 000, and a payment of DEM 1 520 000 towards making good inherited problems.

Including the purchase price of DEM 500 000, the private investor's contribution amounts to DEM 38 898 000; the remaining DEM 42 388 000 has been met out of State resources. The investor's total contribution thus covers about 25 % of the cost of restructuring, and

breaks down into a payment of DEM 1 520 000 towards making good environmental damage on the site, the assumption of liability for the repayment of loans of DEM 2 076 000, the provision of a back-to-back guarantee of DEM 26 300 000, and a capital injection of DEM 8 000 000. This is a fair contribution on the part of the investor.

The Commission concludes that this condition in the guidelines is now met.

IX

A further condition in the guidelines is that the restructuring plan must be implemented in full. When the proceedings were initiated there was no investor in prospect, and Germany consequently could not rule out the possibility that changes might have to be made to the restructuring plan in order to reach agreement with an investor. Now that the privatisation has taken place and the 1995 restructuring plan has largely been implemented, this question is no longer pertinent.

Germany has given assurances that the private investor has complied with the 1995 restructuring plan and will complete the parts still remaining. It has also confirmed that the investor is required to submit regular reports on the implementation of the restructuring plan and the future development of CAS.

The Commission is therefore satisfied that this condition in the guidelines is also met.

X

When it initiated the proceedings the Commission raised no other doubts regarding the applicability of the guidelines in CAS's case. It must also be observed that CAS is located in an area covered by Article 93(2)(a) of the EC Treaty. In the circumstances, and after considering the fresh information submitted to it, the Commission is satisfied that all the conditions for the applicability of the guidelines are now met.

The Commission nevertheless notes that the German authorities paid out a sum of DEM 5 957 000 in breach of their duty pursuant to Article 93(3) of the EC Treaty,

⁽¹³⁾ See Section V.

⁽¹⁴⁾ See Section III.

HAS ADOPTED THIS DECISION:

Article 1

The following new aid measures taken by Beteiligungs-Management Gesellschaft Berlin mbH to assist Chemieanlagenbau Staßfurt AG are compatible with the common market:

Measure	DEM
Redundancy payments in the event of a reduction from 180 to 150 employees	450 000
Waiver of claim to repayment of sums paid out for specific purposes (payments for social plan funding in 1994 and 1995)	12 002 000
Waiver of claim to repayment in respect of consultancy services provided by BMGB	892 000
Assumption of liability for debt, including interest	10 044 000
Grants in respect of estimated losses for 1997 to 1999	19 000 000
Total	42 388 000

Article 2

Germany must submit annual reports on the implementation of the restructuring measures in accordance with the Community guidelines on State aid for rescuing and restructuring firms in difficulty.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 1 July 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 6 May 1999

Commission Decision authorising the Member States to permit temporarily the marketing of seed of certain species not satisfying the requirements of Council Directive 69/208/EEC*(notified under document number C(1999) 1281)*

(1999/340/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants ⁽¹⁾ as amended by Directive 98/96/EC ⁽²⁾, and in particular Article 16 thereof,

Having regard to the request submitted by Austria,

- (1) Whereas in Austria the production of seed of very early varieties of soya bean (*Glycine max* (L.) Merrill.) which satisfies the requirements of Directive 62/208/EEC in relation to minimum germination capacity is insufficient and is therefore not adequate to meet that country's needs;
- (2) Whereas it is not possible to cover this demand satisfactorily with seed from other Member States, or from third countries, satisfying all the requirements laid down in the said Directive;
- (3) Whereas Austria should therefore be authorised to permit for a period expiring on 30 June 1999 the marketing of seed of very early varieties of soya bean subject to less stringent requirements;
- (4) Whereas, moreover, other Member States which are able to supply Austria with such seed not satisfying the requirements of the Directive should be authorised to permit the marketing of such seed;
- (5) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

Austria is authorised to permit, for a period expiring on 30 June 1999, for the species and on the terms set out in the Annex hereto, the marketing in its territory of seed of varieties of soya bean (*Glycine max* (L.) Merrill.) which

does not satisfy the requirements laid down in Directive 69/208/EEC with regard to the minimum germination capacity, provided that the following requirements are satisfied:

- (a) the germination capacity is at least that laid down in the Annex hereto;
- (b) the official label shall state the germination ascertained in the report on official seed testing.

Article 2

1. The Member States other than the applicant Member State are also authorised to permit, on the terms set out in Article 1 and for the purposes intended by the applicant Member State, the marketing in their territories of the seed authorised to be marketed under this Decision.

2. For the purpose of the application of paragraph 1, the Member States concerned shall assist each other administratively. The applicant Member State shall be notified by other Member States of their intention to permit the marketing of such seed before any authorisation may be granted. The applicant Member State may object only if the entire amount set out in this Decision has already been allocated.

Article 3

Member States shall immediately notify the Commission and the other Member States of the various quantities of seed labelled and permitted to be marketed in their territory pursuant to this Decision.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 6 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 169, 10.7.1969, p. 3.

⁽²⁾ OJ L 25, 1.2.1999, p. 27.

ANNEX

Species	Type of variety	Maximum quantity (tonnes)	Minimum germination (% of pure seed)
AUSTRIA			
<i>Glycine max</i> (L.) Merrill	Dolores, Dorena, Donova, Domina, Merlin, Nebraska, Pronto, Major	350	65