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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1886/1999
of 1 September 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,

- (1) Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multi-lateral 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;

- (2) 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 2 September 1999.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

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 1 September 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
0709 90 70	052	69,2
	999	69,2
0805 30 10	388	66,7
	524	68,3
	528	70,8
	999	68,6
	052	75,8
0806 10 10	064	81,9
	400	218,9
	624	87,0
	999	115,9
	388	58,3
0808 10 20, 0808 10 50, 0808 10 90	400	51,0
	508	41,3
	512	66,6
	524	46,0
	528	45,5
	800	176,1
	804	72,0
	999	69,6
	052	83,8
	064	46,0
0808 20 50	388	71,9
	999	67,2
	052	98,6
0809 30 10, 0809 30 90	999	98,6
	052	44,7
0809 40 05	064	45,4
	066	46,6
	068	42,0
	093	17,4
	624	184,8
	999	63,5

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2645/98 (OJ L 335, 10.12.1998, p. 22). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1887/1999**of 1 September 1999****fixing the maximum export refund for white sugar for the 5th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1489/1999**

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 organisation of the markets in the sugar sector ⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98 ⁽²⁾, and in particular the second subparagraph of Article 17(5) (b) thereof,

- (1) Whereas Commission Regulation (EC) No 1489/1999 of 7 July 1999 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;
- (2) Whereas, pursuant to Article 9(1) of Regulation (EC) No 1489/1999 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

- (3) Whereas, following an examination of the tenders submitted in response to the 5th partial invitation to tender, the provisions set out in Article 1 should be adopted;

- (4) 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

For the 5th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1489/1999 the maximum amount of the export refund is fixed at 52,477 EUR/100 kg.

Article 2

This Regulation shall enter into force on 2 September 1999.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ L 177, 1.7.1981, p. 4.

⁽²⁾ OJ L 159, 3.6.1998, p. 38.

⁽³⁾ OJ L 172, 8.7.1999, p. 27.

COMMISSION REGULATION (EC) No 1888/1999**of 1 September 1999****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98 ⁽²⁾,

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

- (1) Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;
- (2) Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;
- (3) Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;
- (4) Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to

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

- (5) Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;
- (6) Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;
- (7) Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;
- (8) Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;
- (9) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 2 September 1999.

⁽¹⁾ OJ L 177, 1.7.1981, p. 4.

⁽²⁾ OJ L 159, 3.6.1998, p. 38.

⁽³⁾ OJ L 141, 24.6.1995, p. 12.

⁽⁴⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

Member of the Commission

ANNEX

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

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	6,19	0,28	—
1703 90 00 ⁽¹⁾	7,28	0,03	—

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

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

COMMISSION REGULATION (EC) No 1889/1999
of 1 September 1999
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 organisation of the markets in the sugar sector ⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98 ⁽²⁾, and in particular the second subparagraph of Article 19(4) thereof,

- (1) Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 1840/1999 ⁽³⁾, as amended by Regulation (EC) No 1875/1999 ⁽⁴⁾;
- (2) Whereas it follows from applying the detailed rules contained in Regulation (EC) No 1840/1999 to the information known to the Commission that the export

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 1840/1999 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 2 September 1999.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ L 177, 1.7.1981, p. 4.

⁽²⁾ OJ L 159, 3.6.1998, p. 38.

⁽³⁾ OJ L 225, 26.8.1999, p. 4.

⁽⁴⁾ OJ L 231, 1.9.1999, p. 11.

ANNEX

to the Commission Regulation of 1 September 1999 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— EUR/100 kg —
1701 11 90 9100	43,51 ⁽¹⁾
1701 11 90 9910	42,47 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	43,51 ⁽¹⁾
1701 12 90 9910	42,47 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— EUR/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4730
	— EUR/100 kg —
1701 99 10 9100	47,30
1701 99 10 9910	46,30
1701 99 10 9950	46,30
	— EUR/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4730

⁽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 1890/1999
of 31 August 1999
establishing unit values for the determination of the customs value of certain perishable goods

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 955/1999 of the European Parliament and of the Council ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 1662/1999 ⁽⁴⁾, and in particular Article 173 (1) thereof,

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

(2) Whereas the result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 3 September 1999.

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

Done at Brussels, 31 August 1999.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

⁽²⁾ OJ L 119, 7.5.1999, p. 1.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 162, 29.7.1999, p. 25.

ANNEX

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 51 0701 90 59	a) b) c)	16,20 96,32 140,83	222,92 106,27 653,51	31,68 12,76 10,67	120,42 31 367,57	5 290,11 35,70	2 695,45 3 247,81
1.30	Onions (other than seed) 0703 10 19	a) b) c)	44,24 263,04 384,58	608,76 290,20 1 784,64	86,53 34,84 29,15	328,86 85 660,58	14 446,57 97,49	7 360,92 8 869,32
1.40	Garlic 0703 20 00	a) b) c)	74,60 443,55 648,50	1 026,52 489,34 3 009,36	145,90 58,75 49,15	554,54 144 445,74	24 360,63 164,40	12 412,40 14 955,96
1.50	Leeks ex 0703 90 00	a) b) c)	26,05 154,89 226,45	358,46 170,88 1 050,85	50,95 20,52 17,16	193,64 50 439,83	8 506,63 57,41	4 334,36 5 222,56
1.60	Cauliflowers 0704 10 10 0704 10 05 0704 10 80	a) b) c)	55,28 328,68 480,55	760,67 362,61 2 229,99	108,12 43,54 36,42	410,92 107 037,01	18 051,68 121,82	9 197,82 11 082,64
1.70	Brussels sprouts 0704 20 00	a) b) c)	59,69 354,90 518,89	821,35 391,54 2 407,89	116,74 47,01 39,32	443,71 115 575,96	19 491,77 131,54	9 931,58 11 966,77
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	30,18 179,44 262,35	415,29 197,97 1 217,46	59,03 23,77 19,88	224,34 58 436,63	9 855,28 66,51	5 021,53 6 050,55
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> <i>L. convar. botrytis</i> (L.) Alef var. <i>italica</i> Plenck) ex 0704 90 90	a) b) c)	105,95 629,95 921,02	1 457,90 694,99 4 274,01	207,22 83,44 69,80	787,58 205 147,81	34 597,97 233,48	17 628,60 21 241,07
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	60,69 360,85 527,58	835,11 398,10 2 448,23	118,70 47,80 39,98	451,14 117 512,23	19 818,32 133,74	10 097,97 12 167,25
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 05 0705 11 80	a) b) c)	152,67 907,73 1 327,16	2 100,79 1 001,45 6 158,69	298,60 120,24 100,58	1 134,87 295 610,34	49 854,39 336,44	25 402,15 30 607,59
1.120	Endives ex 0705 29 00	a) b) c)	21,82 129,74 189,68	300,25 143,13 880,22	42,68 17,18 14,38	162,20 42 249,41	7 125,32 48,08	3 630,54 4 374,52
1.130	Carrots ex 0706 10 00	a) b) c)	37,08 220,47 322,34	510,23 243,23 1 495,80	72,52 29,20 24,43	275,63 71 796,89	12 108,47 81,71	6 169,59 7 433,87
1.140	Radishes ex 0706 90 90	a) b) c)	117,77 700,23 1 023,77	1 620,55 772,52 4 750,83	230,34 92,75 77,59	875,44 228 034,52	38 457,79 259,53	19 595,28 23 610,77
1.160	Peas (<i>Pisum sativum</i>) 0708 10 90 0708 10 20 0708 10 95	a) b) c)	238,15 1 415,98 2 070,24	3 277,02 1 562,16 9 606,95	465,78 187,56 156,89	1 770,29 461 122,70	77 767,88 524,81	39 624,83 47 744,79

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	244,37 1 452,96 2 124,31	3 362,60 1 602,96 9 857,86	477,95 192,46 160,99	1 816,52 473 166,30	79 799,02 538,52	40 659,75 48 991,79
1.170.2	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	66,32 394,32 576,52	912,58 435,03 2 675,34	129,71 52,23 43,69	492,99 128 413,43	21 656,80 146,15	11 034,72 13 295,97
1.180	Broad beans ex 0708 90 00	a) b) c)	157,74 937,88 1 371,23	2 170,55 1 034,71 6 363,22	308,51 124,23 103,92	1 172,56 305 427,23	51 510,00 347,61	26 245,73 31 624,03
1.190	Globe artichokes 0709 10 00	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	427,39 2 541,15 3 715,30	5 881,01 2 803,49 17 240,87	835,90 336,60 281,56	3 177,00 827 542,44	139 564,20 941,84	71 111,71 85 684,00
1.200.2	— other ex 0709 20 00	a) b) c)	212,27 1 262,10 1 845,26	2 920,90 1 392,40 8 562,95	415,16 167,18 139,84	1 577,91 411 012,03	69 316,77 467,78	35 318,76 42 556,31
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	75,51 448,96 656,41	1 039,04 495,31 3 046,07	147,68 59,47 49,75	561,30 146 207,75	24 657,79 166,40	12 563,81 15 138,40
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	66,57 395,81 578,69	916,02 436,67 2 685,43	130,20 52,43 43,86	494,85 128 897,49	21 738,43 146,70	11 076,32 13 346,09
1.230	Chantarelles 0709 51 30	a) b) c)	641,18 3 812,28 5 573,78	8 822,83 4 205,87 25 865,14	1 254,04 504,97 422,41	4 766,21 1 241 497,60	209 377,33 1 412,97	106 683,38 128 545,05
1.240	Sweet peppers 0709 60 10	a) b) c)	87,26 518,82 758,55	1 200,72 572,39 3 520,06	170,67 68,72 57,49	648,65 168 958,92	28 494,75 192,30	14 518,84 17 494,06
1.250	Fennel 0709 90 50	a) b) c)	73,55 437,31 639,37	1 012,07 482,46 2 967,00	143,85 57,93 48,45	546,73 142 412,66	24 017,75 162,08	12 237,69 14 745,45
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	43,73 260,01 380,14	601,74 286,85 1 764,06	85,53 34,44 28,81	325,07 84 673,09	14 280,03 96,37	7 276,06 8 767,08
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	176,48 1 049,30 1 534,14	2 428,42 1 157,63 7 119,19	345,16 138,99 116,27	1 311,86 341 712,93	57 629,54 388,91	29 363,80 35 381,06
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	72,60 431,66 631,11	999,00 476,22 2 928,68	141,99 57,18 47,83	539,67 140 573,20	23 707,53 159,99	12 079,62 14 554,99

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.40	Avocados, fresh ex 0804 40 90 ex 0804 40 20 ex 0804 40 95	a) b) c)	162,48 966,06 1 412,44	2 235,77 1 065,80 6 554,43	317,78 127,96 107,04	1 207,80 314 605,15	53 057,84 358,06	27 034,40 32 574,32
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	105,85 629,36 920,15	1 456,53 694,33 4 269,98	207,02 83,36 69,73	786,84 204 954,18	34 565,32 233,26	17 611,96 21 221,02
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 10	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	a) b) c)	44,14 262,44 383,71	607,38 289,54 1 780,60	86,33 34,76 29,08	328,11 85 466,96	14 413,92 97,27	7 344,28 8 849,28
2.60.3	— Others 0805 10 50	a) b) c)	54,74 325,47 475,85	753,24 359,07 2 208,21	107,06 43,11 36,06	406,91 105 991,42	17 875,35 120,63	9 107,97 10 974,38
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:							
2.70.1	— Clementines 0805 20 10	a) b) c)	67,45 401,04 586,34	928,13 442,44 2 720,93	131,92 53,12 44,44	501,39 130 601,41	22 025,80 148,64	11 222,74 13 522,51
2.70.2	— Monreales and satsumas 0805 20 30	a) b) c)	32,43 192,82 281,91	446,25 212,73 1 308,22	63,43 25,54 21,36	241,07 62 793,24	10 590,02 71,47	5 395,90 6 501,63
2.70.3	— Mandarines and wilkings 0805 20 50	a) b) c)	56,42 335,46 490,46	776,36 370,09 2 275,98	110,35 44,43 37,17	419,40 109 244,35	18 423,95 124,33	9 387,50 11 311,19
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	a) b) c)	54,25 322,56 471,60	746,50 355,86 2 188,44	106,10 42,73 35,74	403,27 105 042,65	17 715,34 119,55	9 026,44 10 876,15
2.85	Limes (<i>Citrus aurantifolia</i>), fresh ex 0805 30 90	a) b) c)	148,00 879,97 1 286,56	2 036,52 970,82 5 970,31	289,46 116,56 97,50	1 100,16 286 567,96	48 329,40 326,15	24 625,13 29 671,34
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	26,17 155,60 227,50	360,11 171,66 1 055,70	51,18 20,61 17,24	194,53 50 672,19	8 545,81 57,67	4 354,32 5 246,61
2.90.2	— pink ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	42,93 255,25 373,19	590,73 281,60 1 731,79	83,96 33,81 28,28	319,12 83 124,07	14 018,79 94,61	7 142,95 8 606,69
2.100	Table grapes ex 0806 10 10	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.110	Water melons 0807 11 00	a) b) c)	21,62 128,55 187,94	297,50 141,82 872,15	42,29 17,03 14,24	160,71 41 862,16	7 060,01 47,64	3 597,27 4 334,42
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	a) b) c)	34,69 206,26 301,56	477,34 227,55 1 399,39	67,85 27,32 22,85	257,87 67 169,21	11 328,02 76,45	5 771,93 6 954,72
2.120.2	— other ex 0807 19 00	a) b) c)	39,14 232,72 340,24	538,58 256,74 1 578,90	76,55 30,83 25,79	290,95 75 785,61	12 781,17 86,25	6 512,35 7 846,87
2.140	Pears							
2.140.1	Pears — nashi (<i>Pyrus pyrifolia</i>) ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.140.2	Other ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.150	Apricots 0809 10 00	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.160	Cherries 0809 20 05 0809 20 95	a) b) c)	481,99 2 865,78 4 189,94	6 632,33 3 161,65 19 443,43	942,69 379,60 317,54	3 582,87 933 262,78	157 393,83 1 062,17	80 196,39 96 630,32
2.170	Peaches 0809 30 90	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.180	Nectarines ex 0809 30 10	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.190	Plums 0809 40 05	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.200	Strawberries 0810 10 10 0810 10 05 0810 10 80	a) b) c)	477,82 2 840,99 4 153,69	6 574,95 3 134,29 19 275,21	934,53 376,31 314,79	3 551,87 925 188,53	156 032,12 1 052,98	79 502,56 95 794,31
2.205	Raspberries 0810 20 10	a) b) c)	409,66 2 435,73 3 561,17	5 637,04 2 687,19 16 525,64	801,23 322,63 269,88	3 045,21 793 212,37	133 774,47 902,77	68 161,69 82 129,46
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a) b) c)	981,91 5 838,17 8 535,74	13 511,38 6 440,91 39 610,15	1 920,45 773,32 646,88	7 299,03 1 901 242,88	320 642,71 2 163,84	163 376,08 196 855,28
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 10 0810 50 20 0810 50 30	a) b) c)	131,24 780,32 1 140,87	1 805,90 860,88 5 294,21	256,68 103,36 86,46	975,57 254 116,07	42 856,42 289,21	21 836,50 26 311,26

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.230	Pomegranates ex 0810 90 85	a) b) c)	52,98 315,00 460,56	729,02 347,53 2 137,21	103,62 41,73 34,90	393,83 102 583,58	17 300,62 116,75	8 815,13 10 621,54
2.240	Khakis (including sharon fruit) ex 0810 90 85	a) b) c)	317,58 1 888,24 2 760,72	4 370,00 2 083,19 12 811,15	621,13 250,11 209,22	2 360,73 614 920,63	103 705,75 699,85	52 840,87 63 669,07
2.250	Lychees ex 0810 90 30	a) b) c)	176,04 1 046,69 1 530,32	2 422,36 1 154,75 7 101,44	344,30 138,64 115,98	1 308,59 340 860,97	57 485,86 387,94	29 290,59 35 292,85

COMMISSION REGULATION (EC) No 1891/1999
of 1 September 1999
altering the export refunds on rice and broken rice

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 organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

- (1) Whereas the export refunds on rice and broken rice were fixed by Commission Regulation (EC) No 1866/1999 ⁽³⁾;
- (2) Whereas it follows from applying the rules, criteria and other provisions contained in Regulation (EC) No 1866/1999 to the information at present available to the Commission, that the export refunds at present in force

should be altered as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 of Regulation (EC) No 3072/95, with the exception of those listed in paragraph 1 (c) of that Article, exported in the natural state and fixed in the Annex to Regulation (EC) No 1866/1999, are hereby altered as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 2 September 1999.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 228, 28.8.1999, p. 25.

ANNEX

to the Commission Regulation of 1 September 1999 amending the export refunds on rice and broken rice and suspending the issue of export licences

(EUR/t)			(EUR/t)		
Product code	Destination ⁽¹⁾	Amount of refunds	Product code	Destination ⁽¹⁾	Amount of refunds
1006 20 11 9000	01	70,00	1006 30 65 9900	01	88,00
1006 20 13 9000	01	70,00		04	—
1006 20 15 9000	01	70,00	1006 30 67 9100	05	94,00
1006 20 17 9000	—	—	1006 30 67 9900	—	—
1006 20 92 9000	01	70,00	1006 30 92 9100	01	88,00
1006 20 94 9000	01	70,00		02	94,00 ⁽²⁾
1006 20 96 9000	01	70,00		03	99,00 ⁽²⁾
1006 20 98 9000	—	—		04	—
1006 30 21 9000	01	70,00		05	94,00
1006 30 23 9000	01	70,00	1006 30 92 9900	01	88,00
1006 30 25 9000	01	70,00		04	—
1006 30 27 9000	—	—	1006 30 94 9100	01	88,00
1006 30 42 9000	01	70,00		02	94,00 ⁽²⁾
1006 30 44 9000	01	70,00		03	99,00 ⁽²⁾
1006 30 46 9000	01	70,00		04	—
1006 30 48 9000	—	—		05	94,00
1006 30 61 9100	01	88,00	1006 30 94 9900	01	88,00
	02	94,00 ⁽²⁾		04	—
	03	99,00 ⁽²⁾	1006 30 96 9100	01	88,00
	04	—		02	94,00 ⁽²⁾
	05	94,00		03	99,00 ⁽²⁾
1006 30 61 9900	01	88,00		04	—
	04	—		05	94,00
1006 30 63 9100	01	88,00	1006 30 96 9900	01	88,00
	02	94,00 ⁽²⁾		04	—
	03	99,00 ⁽²⁾	1006 30 98 9100	05	94,00
	04	—	1006 30 98 9900	—	—
	05	94,00	1006 40 00 9000	—	—
1006 30 63 9900	01	88,00			
	04	—			
1006 30 65 9100	01	88,00			
	02	94,00 ⁽²⁾			
	03	99,00 ⁽²⁾			
	04	—			
	05	94,00			

⁽¹⁾ The destinations are identified as follows:

01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia, refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 5 000 t of wholly milled rice equivalent,

02 Zones I, II, III, VI, excluding Turkey,

03 Zones IV, V, VII (c), Canada and Zone VIII excluding Suriname, Guyana and Madagascar,

04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,

05 Ceuta and Melilla, refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 1 000 t.

⁽²⁾ For rice of destinations 02 and 03, refunds fixed under the procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 in respect of a total quantity of 5 000 t.

NB: The zones are those defined in the Annex to amended Commission Regulation (EEC) No 2145/92.

COMMISSION REGULATION (EC) No 1892/1999
of 1 September 1999
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 organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽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 2831/98 ⁽⁴⁾, and in particular Article 4(1) thereof,

- (1) 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;
- (2) 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;
- (3) 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;
- (4) 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;
- (5) 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;
- (6) Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 2 September 1999.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 189, 30.7.1996, p. 71.

⁽⁴⁾ OJ L 351, 29.12.1998, p. 25.

ANNEX I

Import duties on rice and broken rice

(EUR/t)

CN code	Duties ⁽¹⁾				
	Third countries (except ACP and Bangladesh) ⁽²⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	76,44	111,06		173,10
1006 10 23	(7)	76,44	111,06		173,10
1006 10 25	(7)	76,44	111,06		173,10
1006 10 27	(7)	76,44	111,06		173,10
1006 10 92	(7)	76,44	111,06		173,10
1006 10 94	(7)	76,44	111,06		173,10
1006 10 96	(7)	76,44	111,06		173,10
1006 10 98	(7)	76,44	111,06		173,10
1006 20 11	168,39	54,60	79,86		126,29
1006 20 13	168,39	54,60	79,86		126,29
1006 20 15	168,39	54,60	79,86		126,29
1006 20 17	211,47	69,67	101,39	0,00	158,60
1006 20 92	168,39	54,60	79,86		126,29
1006 20 94	168,39	54,60	79,86		126,29
1006 20 96	168,39	54,60	79,86		126,29
1006 20 98	211,47	69,67	101,39	0,00	158,60
1006 30 21	372,05	117,82	171,12		279,04
1006 30 23	372,05	117,82	171,12		279,04
1006 30 25	372,05	117,82	171,12		279,04
1006 30 27	(7)	146,86	212,59		341,25
1006 30 42	372,05	117,82	171,12		279,04
1006 30 44	372,05	117,82	171,12		279,04
1006 30 46	372,05	117,82	171,12		279,04
1006 30 48	(7)	146,86	212,59		341,25
1006 30 61	372,05	117,82	171,12		279,04
1006 30 63	372,05	117,82	171,12		279,04
1006 30 65	372,05	117,82	171,12		279,04
1006 30 67	(7)	146,86	212,59		341,25
1006 30 92	372,05	117,82	171,12		279,04
1006 30 94	372,05	117,82	171,12		279,04
1006 30 96	372,05	117,82	171,12		279,04
1006 30 98	(7)	146,86	212,59		341,25
1006 40 00	(7)	45,38	(7)		105,00

⁽¹⁾ The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 1706/98 (OJ L 215, 1.8.1998, p. 12) and amended Commission Regulation (EC) No 2603/97 (OJ L 351, 23.12.1997, p. 22).

⁽²⁾ In accordance with Regulation (EC) No 1706/98, 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 EUR 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 (EUR/tonne)	(¹)	211,47	455,00	168,39	372,05	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	325,56	284,91	392,51	424,54	—
(b) fob price (EUR/tonne)	—	—	—	364,14	396,17	—
(c) Sea freight (EUR/tonne)	—	—	—	28,37	28,37	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 1893/1999
of 1 September 1999
amending 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 organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1253/1999⁽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 2519/98⁽⁴⁾, and in particular Article 2 (1) thereof,

(1) Whereas the import duties in the cereals sector are fixed by Commission Regulation (EC) No 1872/1999⁽⁵⁾;

(2) Whereas Article 2, (1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 1872/1999,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 1872/1999 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 2 September 1999.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 161, 29.6.1996, p. 125.

⁽⁴⁾ OJ L 315, 25.11.1998, p. 7.

⁽⁵⁾ OJ L 231, 1.9.1999, p. 3.

ANNEX I

Import duties for the products covered by 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 (EUR/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	39,86	29,86
	medium quality ⁽¹⁾	49,86	39,86
1001 90 91	Common wheat seed	48,38	38,38
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	48,38	38,38
	medium quality	71,73	61,73
	low quality	91,70	81,70
1002 00 00	Rye	87,54	77,54
1003 00 10	Barley, seed	87,54	77,54
1003 00 90	Barley, other ⁽³⁾	87,54	77,54
1005 10 90	Maize seed other than hybrid	102,80	99,07
1005 90 00	Maize other than seed ⁽³⁾	102,80	99,07
1007 00 90	Grain sorghum other than hybrids for sowing	98,39	88,39

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, 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:

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

— EUR 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 EUR 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

(for 31 August 1999)

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

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	115,32	101,32	93,57	77,86	130,05 (**)	120,05 (**)	82,23 (**)
Gulf premium (EUR/t)	—	7,66	- 4,56	4,63	—	—	—
Great Lakes premium (EUR/t)	6,07	—	—	—	—	—	—

(*) A discount of EUR 10/t (Article 4(1) of Regulation (EC) No 1249/96).

(**) Fob Duluth.

2. Freight/cost: Gulf of Mexico — Rotterdam: 14,03 EUR/t; Great Lakes — Rotterdam: 24,83 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4 (2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 1894/1999
of 1 September 1999
amending 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 1253/1999 ⁽²⁾, and in particular Article 13(8) thereof,

- (1) Whereas the corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 1746/1999 ⁽³⁾, as last amended by Regulation (CE) No 1883/1999 ⁽⁴⁾;
- (2) 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;

- (3) 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,

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 2 September 1999.

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

Done at Brussels, 1 September 1999.

For the Commission

Neil KINNOCK

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 207, 6.8.1999, p. 9.

⁽⁴⁾ OJ L 231, 1.9.1999, p. 28.

ANNEX

**to the Commission Regulation of 1 September 1999 amending the corrective amount applicable to the refund
on cereals**

(EUR/t)

Product code	Destination ⁽¹⁾	Current 9	1st period 10	2nd period 11	3rd period 12	4th period 1	5th period 2	6th period 3
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	01	0	-1,00	-2,00	-3,00	-4,00	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	01	0	0	-3,50	-6,00	-8,00	—	—
1002 00 00 9000	01	0	0	0	0	0	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	03	0	-25,00	-25,00	-25,00	-25,00	—	—
	02	0	0	0	0	0	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	01	0	0	0	0	0	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	01	—	—	—	—	—	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	01	0	0	-4,80	-8,22	-10,96	—	—
1101 00 15 9130	01	0	0	-4,48	-7,68	-10,24	—	—
1101 00 15 9150	01	0	0	-4,13	-7,08	-9,44	—	—
1101 00 15 9170	01	0	0	-3,82	-6,54	-8,72	—	—
1101 00 15 9180	01	0	0	-3,57	-6,12	-8,16	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	01	0	0	0	0	0	—	—
1102 10 00 9700	—	—	—	—	—	—	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	01	0	-1,50	-3,00	-4,50	-6,00	—	—
1103 11 10 9400	01	0	-1,34	-2,68	-4,02	-5,36	—	—
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,
- 02 other third countries,
- 03 USA, Canada and Mexico.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30.7.1992, p. 20).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 April 1999

on the state aid granted by Germany to Dieselmotorenwerk Rostock GmbH

(notified under document number C(1999) 1121)

(Only the German version is authentic)

(Text with EEA relevance)

(1999/600/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)(1) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments on the aid,

Whereas:

I. PROCEDURE

By letter of 25 April 1996, Germany informed the Commission that the Bundesanstalt für vereinigungsbedingte Sonderaufgaben (BvS, the successor to the Treuhand privatisation agency) had granted DEM 20 million in rescue aid in form of a loan to Dieselmotorenwerk Vulkan GmbH (DMV).

By letter of 11 February 1997, the Commission informed Germany of its decision to initiate the procedure laid down in Article 93(2) of the EC Treaty in respect of this aid. In so doing, the Commission gave Germany formal notice to provide it with all the information needed for examining the aid within one month of being notified of the decision.

The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽¹⁾. The Commission invited interested parties to submit their comments on the aid.

Germany replied by letters of 30 April, 14 July and 10 and 12 September 1997, in which it also informed the Commission of additional aid granted and of a restructuring plan. Further particulars were provided at a meeting on 15 October 1997 between representatives of the Commission and the German authorities.

By letter of 17 December 1997, the Commission informed Germany of its decision to extend the procedure laid down in Article 93(2) of the EC Treaty to the aid measures taken in the meantime and of its continuing doubts as to the compatibility of the total amount of restructuring aid with the internal market.

The Commission decision to extend the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission again invited interested parties to submit their comments on the aid.

II. DETAILED DESCRIPTION

1. Dieselmotorenwerk Rostock GmbH (DMR), which was known as Dieselmotorenwerk Vulkan from 1995 until 31 July 1997, was divided until recently into four locations:

— the head office and the engine factory in Rostock-Warne-münde and in the city of Rostock, with a workforce of about 360; the main activity is the production, testing and repair of heavy two-stroke diesel engines for cargo vessels,

⁽¹⁾ OJ C 119, 17.4.1997, p. 8.

⁽²⁾ OJ C 169, 4.6.1998, p. 8.

- the erstwhile engine factory in Bremen-Vegesack, which produced ship engines until August 1997; it is now primarily a foundry and a facility for heavy steel construction which produces a number of basic components for the engines mounted in Warnemünde as well as foundry and steel products for other customers; its present workforce is about 155,
- Mecklenburger Metallguß GmbH (MMG) in Waren, a medium-sized company producing mainly fixed-pitch propellers for vessels, with a workforce of about 110; DMR sold MMG on 27 January 1999 to Walzengießerei Coswig GmbH and Herzberg & Partner GmbH,
- Wismarer Propeller and Maschinenbau GmbH (WPM) in Wismar, a medium-sized manufacturer of shafts and controllable-pitch propellers for vessels, with a workforce of about 50; this company was sold in October 1998 to Schottel-Werft Josef Becker GmbH & Co. KG and Schottel Antriebstechnik GmbH.

The scope of this decision is limited to the parent company DMR, with its factories in Rostock and Bremen. As WPM and MMG were sold during the state aid proceedings and as their restructuring entails separate restructuring aid, the Commission will take separate decisions on the rescue and restructuring aid for them.

2. The origins of DMR date back to 1947, when motor production began in Rostock in the former German Democratic Republic (GDR). After the unification of Germany, DMR was part of the Deutsche Maschinen und Schiffbau AG (DMS). DMR was first privatised in 1992 and sold to Bremer Vulkan Verbund AG (BVV) ⁽³⁾. By a contract dated 16 December 1994, DMR was merged with the engine manufacturing department of Bremer Vulkan Werft GmbH in Bremen to form the new company DMV.

After its first privatisation, DMR/DMV carried out an investment programme DEM 192,5 million primarily for the construction of a new engine plant in Rostock-Warnemünde which was commissioned in 1994-96. The investment cost exceeds the minimum amount specified in the privatisation agreement of 1992.

DMR underwent restructuring on several occasions after 1990, and the situation was exacerbated on account of the purchase of the loss-making engine factory in Bremen at its book value

⁽³⁾ The sales agreement (*Kauf- und Abtretungsvertrag*) of 11 August 1992 was concluded between the Treuhandanstalt and DMS, on the one hand, and BVV and Schichau Seebeckwerft AG, on the other. This privatisation was governed by the Treuhand regime of 1992 (Commission Decision of 8 December 1992). An individual notification to the Commission was not required under those rules since the size of DMR and the financial transactions involved were below the relevant thresholds.

of DEM 65 million. According to the auditor's report for 1995, DMV had been in severe economic difficulties since 1994. The company had to report for 1995 a loss of DEM 165 million, with its equity (capital and reserves) being reduced from DEM 178 million to DEM 12,9 million. The liquidity of the company was ensured primarily by loans of DEM 52,6 million ⁽⁴⁾ under BVV's cash concentration system and by a loan of DEM 25 million granted by BvS in 1994.

3. Towards the end of 1995 BVV, DMV's parent company, ran into severe financial difficulties. It had to apply for a debt composition procedure (*Vergleich*) on 21 February 1996 and went into receivership on 1 May 1996. BVV's cash concentration system was terminated at the end of 1995. At the end of March 1996 DMR faced a liquidity gap of some DEM 18 million, which threatened to rise to about DEM 30 million by end of April 1996. No commercial bank was prepared to provide fresh money to the company.

4. In order to rescue the DMR group and to ensure continuation of the restructuring, BvS and the *Land* of Mecklenburg-Western Pomerania provided the following aid by end of 1998:

1. a loan of DEM 30 million (DEM 20 million from BvS and DEM 10 million from the *Land* authorities), originally at an interest rate of 3 % above the discount rate, was disbursed on 2 April 1996, originally to fall due on 31 December 1998;
2. a loan of DEM 19,5 million (BvS, DEM 13 million; *Land* authorities, DEM 6,5 million), was disbursed in July 1996, on the same terms as at 1;
3. a credit line of DEM 25 million (again jointly financed by BvS and the *Land* authorities): first tranche of DEM 15 million disbursed in June 1997; second tranche not yet fully disbursed; maturity: 31 December 1999;
4. state guarantees for an amount of up to DEM 15 million, increased in September 1997 to a maximum of DEM 60 million. These guarantees are counter guarantees (*Avale*) for advance payments received as well as performance bonds and post-delivery guarantees to be provided by DMR in the context of contracts for ship engines; the guarantees were originally valid until privatisation or until 31 December 1999 at the latest;
5. a 100 % state guarantee ⁽⁵⁾ provided on 22 February 1996 by the *Land* authorities to secure a commercial bank loan of DEM 10 million;
6. a 100 % state guarantee provided by BvS and the *Land* authorities in the autumn of 1997 and running until 31 December 1998 to secure a credit line of DEM 10 million.

⁽⁴⁾ As at 31 December 1995. See Commission Decision 98/2405/EC of 22 July 1998 (not yet published in the Official Journal) on the misuse of restructuring aid for MTW-Schiffswerft and Volkswerft Stralsund, two companies formerly belonging to Bremer Vulkan Verbund, and on the unauthorised provision of an investment loan of DEM 112,4 million to MTW. Section II.5 of that decision contains a detailed description of the cash concentration system. As stated in Section IV of that decision, it is very likely that the main debtors, one of these being DMR, received some of the misused aid. However, since the funds were mixed, it has not been possible to obtain evidence in full.

⁽⁵⁾ This guarantee is fully secured by land charges (*Grundschulden*) amounting to DEM 35 million.

By letter of 10 September 1997, Germany informed the Commission that BvS and the *Land* authorities had waived payment of interest and redemption for the loans mentioned at points 1 to 3 and that these loans could be converted into subordinate shareholder loans if the need arose. According to the auditor's report for 1997 ⁽⁶⁾, loans for an amount of DEM 49,5 million had been declared subordinate in order that DMR need not go into receivership (*Gesamtvollstreckung*). By the same letter, Germany also announced that BvS had waived interest on the investment loan of DEM 25 million granted in 1994 and that this loan would be converted into equity. The original interest rate was 8,5 % per annum. The principal was to be repaid on 30 October 2000.

By letter of 21 December 1998, Germany notified the intention of BvS and the *Land* authorities to grant DEM 10 million in social aid to the 140 or so staff to be laid off in 1999. The detailed restructuring plan annexed to that letter also mentioned the need to prolong the state guarantees amounting to DEM 60 million until at least the end of 2001 ⁽⁷⁾.

5. Since 1996 DMR has taken a number of financial measures in favour of its subsidiaries WPM and MMG. As the present decision does not extend to WPM and MMG, the amounts involved have to be deducted. It is obvious from Germany's letters of 10 September 1997 and 14 December 1998 ⁽⁸⁾ as well as from the auditor's reports that at least the waiver of claims and the capital increases in cash in favour of WPM and MMG were refinanced with aid given to DMR. Therefore an amount of DEM 10,0 million has to be deducted from the aid specified in point 4 above, as this amount was not used for DMR proper but for its subsidiaries ⁽⁹⁾.

6. DMR's financial results for the period 1994-98 show sharp fluctuations reflecting the changes in its main activity (production and repair of ship engines), which contributes more than 80 % of turnover. The figures shown in the following table are, however, not fully comparable as there was a radical change in accounting practices between the business years 1994 and 1995. The positive annual result in 1997 is caused mainly by the debt waiver agreed at the time of the separation of DMR from BVV.

DMR/DMV: Turnover and financial results 1994-98

(million DEM)

Year	Turnover	Operating result	Annual result
1994	180,5	4,4	4,1
1995	181,4	- 165,2	- 165,2
1996	252,7	- 70,5	- 71,0
1997	210,7	- 26,3	30,1

⁽⁶⁾ Received by the Commission on 6 October 1998.

⁽⁷⁾ Arthur D. Little, Überarbeitete Geschäftsplanung 1999-2001 (Chapter 3.4).

⁽⁸⁾ Notification of the privatisation of WPM.

⁽⁹⁾ For information purposes:

(a) WPM

Liquidity aid: DEM 1,5 million

Supplies and services: DEM 0,6 million

User fees: DEM 0,2 million

(b) MMG

Increase in capital (physical assets, land): DEM 1,7 million

Increase in capital (capital contribution): DEM 6,00 million.

(million DEM)

Year	Turnover	Operating result	Annual result
1998 (p) ⁽¹⁾	194,1	12,7	4,2
1998 (e) ⁽²⁾	[...] ^(*)	n.a.	[...]
1999 (p)	[...]	n.a.	[...]
2000 (p)	[...]	n.a.	[...]
2001 (p)	[...]	n.a.	[...]

⁽¹⁾ Planned results according to the 1997 restructuring plan.

⁽²⁾ Estimated results according to the revised plan of December 1998 (DMR without WPM and MMG); the deterioration in 1998 was caused mainly by loss provisions for the planned redundancies in the following years.

^(*) Business secret.

7. The number of ship engines delivered was 19 in 1994, 17 in 1995, 29 in 1996, 18 in 1997 and 17 in 1998. DMR plans to produce [...] in 1999, [...] in 2000 and [...] in 2001.

In the period 1993-97 DMR was the largest supplier of large two-stroke diesel engines in the Community. In Germany it had a market share of between 53 % (1995) and 83 % (1996). For the period 2000/2001 DMR hopes to retain a market share in Germany of some 50 %.

8. The two-stroke diesel engines produced by DMR are used for cargo vessels. Normally tankers, bulk carriers and container vessels are equipped with two-stroke engines while most other types are equipped with four-stroke engines. The engines are produced under licence. On a worldwide basis, there are three licensors for such engines: MAN B & W AG (based in Germany), Wärtsilä NSD Oy AB (based in Finland) and Mitsubishi Heavy Industries (based in Japan). DMR has a licensing agreement with all three, but the Mitsubishi licence has not been exploited. The agreements cover Germany and eastern Europe except Poland and Croatia. Hence, the demand for engines from DMR depends basically on the contracts for cargo vessels awarded to German yards.

As long as DMR was linked to Bremer Vulkan, the company obtained almost all the engine contracts for new ships built at Bremer Vulkan yards, and the original business concept was based on the expectation that this would secure full capacity utilisation for DMR. On the other hand, DMR had hardly any access to orders from other yards as these were very reluctant to place orders with a competitor.

In 1995 the Bremer Vulkan yards⁽¹⁰⁾ had received a large number of orders for container vessels. Although some of these orders were later cancelled, this provided DMR with a very healthy order book extending in some cases until 1999. Nevertheless as regards new contracts, DMR's position has changed totally with the collapse of BVV. It is now forced to bid for contracts on the open market, often in direct competition with yards in eastern Asia licensed by Man B & W or Wärtsilä NSD. Apart from problems caused by its weak financial standing, DMR's position is difficult because it is almost the only engine builder linked neither to a licensor nor to a major shipyard.

The number of cargo vessels built in the Community is decreasing. The European market share is almost negligible for tankers and bulk carriers. The market for container vessels, the mainstay of German shipbuilding, has become very difficult as well, with a sharp decrease in new orders in 1996 and again in 1998. Most of the German yards are attempting to address this problem by producing different types of ship or offshore equipment, although this does not produce any orders for engines from DMR.

The prices of engines in German mark terms were under heavy pressure in 1994/95 and again in 1998. DMR's consultant expects the price level to remain at the present low level until the end of 2001 (final year of the investigation period). The main competition now comes from Korea, where a few large engine factories have come on stream in recent years. European manufacturers, and in particular DMR's new plant, do though enjoy advantages when it comes to servicing European yards on account of their closeness to customers, which bears fruit in the mounting and testing period. The financial results of most players on this market were unsatisfactory in 1998. Profits come less from the sale of new engines than from the delivery of spare parts and repair works. There is fierce competition between the licensors and, despite the licensing agreements, fierce competition as well between engine manufacturers, although this is felt mostly outside the Community.

9. Following the collapse of the BVV group in February 1996, BvS and the *Land* authorities entered into negotiations with the administrator of BVV with a view to its separation from the group. These negotiations were held up because of parallel negotiations on an early sale of DMR to one of the licensors (MAN B & W) which broke up in September 1996. By an agreement of 28 April 1997, the shares were transferred at a symbolic price from BVV's intermediate holding company Vulkan Industrie Holding GmbH in Konkurs (VIH) to BvS (51 %) and to the *Land* of Mecklenburg-Western Pomerania (49 %). At the same time it was agreed, subject to approval from the European Commission, that VIH would waive repayment of about DEM 54,8 million of claims against DMV

related to the cash concentration system that operated until the beginning of 1996⁽¹¹⁾.

According to the auditor's report for 1996, bankruptcy of DMR in that year was avoided only by making VIH's claims subordinate and by the informal declaration by BvS and the *Land* authorities that they would acquire DMR.

10. BvS and the *Land* authorities acquired DMR with the firm intention of reprivatizing it as soon as possible. Back in 1996 they had concluded an agreement with Goldman, Sachs & Co. OHG to assist them in the search for potential buyers. The sale proved, however, to be extremely difficult. First, owing to the high degree of concentration in this industry, the number of potential buyers is very small. Second, it was necessary to begin by renegotiating the licensing agreements. The previous agreements had been concluded with DMV when still a subsidiary of BVV and their transfer to DMR needed the approval of the licensors. Third, a sale of DMR was hardly possible as long as the fate of its main customers, the former BVV yards, was unresolved. Volkswerft GmbH and MTW-Schiffswerft GmbH were reprivatized only in early 1998.

Discussions with potential investors started in early 1998. Until now no tangible results have been achieved. According to Germany's letter of 30 September 1998, negotiations on a privatisation are taking place with H. Cegielski-Poznan SA (HCP), a Polish engine builder. However, HCP is itself in the process of being privatised and restructured. All the other plans mentioned, such as discussions with two consortia of medium-sized mechanical engineering firms who would use DMR's facilities mainly for the manufacture of other products, remain rather vague. It must therefore be concluded that the prospects for a privatisation of DMR in its present form are remote. Germany expects that privatisation will not be possible without additional aid in the form of a debt waiver and in respect of the costs of further redundancies.

11. DMR's attempt to draw up a restructuring plan with assistance of the management consultant Arthur D. Little (ADL) was considerably delayed by the privatisation negotiations in 1996, which finally collapsed. The plan, which has been partly implemented since the autumn of 1996 and was finalised by ADL in July 1997, was based mainly on the assumptions of an annual production of 15 to 18 engines per year and stable (1997) prices in German mark terms. The plan contains 56 different measures for achieving a sharp reduction in production costs and the generation of operating profits from 1997 onwards. DMR managed to implement virtually all of these measures, except the planned reduction in wages. It was therefore able to reduce operating losses in its ship-engine-related activities from DEM 31,7 million (1996) to DEM 22,1 million (1997) and it would have achieved an operating profit of DEM 9,4 million in 1998 if special depreciation and loss provisions for the coming years had not proved necessary.

⁽¹⁰⁾ The main yards were: Bremer Vulkan Werft, Schichau Seebeckwerft, Flender Werft, MTW-Schiffswerft and Volkswerft.

⁽¹¹⁾ See footnote 4. More than 99 % of the shares of VIH had been held by BVV, which exercised full financial and operational control over the group. VIH's and BVV's bankruptcy procedures are being overseen by the same administrator.

The Asian crisis and in particular the developments in the Korean maritime industry caused at the beginning of 1998 a sharp drop in the prices for ship engines, and German yards won very few orders for cargo vessels equipped with two-stroke engines. Consequently, DMR too was awarded very few orders in 1998. The owners of DMR thus asked ADL to review the July 1997 restructuring plan. The latest revised plan dates from 21 December 1998. ADL expects the market to remain very difficult until 2001, with low prices and depressed demand. Production is to be reduced to only [...] engines in 1999, [...] in 2000 and [...] in 2001, this being regarded as the bare minimum from a commercial point of view. Apart from another 140 to 150 redundancies, the plan foresees temporary closures in 1999, a wage freeze until the end of 2000 and some diversification of production. The business plan is explicitly geared towards overcoming the present crisis, minimising losses in 1999/2000 and breaking even in 2001. It does not discuss the DMR's prospects in the medium and long term.

12. The Commission had opened and extended the proceedings primarily because it had doubts whether:

- (a) the commercial viability of DMR could be restored by means of the planned restructuring;
- (b) the very high level of aid granted was limited to the amount absolutely necessary and whether the abnormally low financing costs would cause distortive effects on competition on the markets for ship engines and foundry products.

III. COMMENTS FROM INTERESTED PARTIES

The Commission received comments on the opening of proceedings from one Member State, which in its letter of 16 May 1997 supported the Commission's position. By letter of 6 June 1997, the Commission forwarded these comments to Germany, which was given the opportunity to react. No such reaction was forthcoming.

The Commission received no comments from interested parties on the extension of the proceedings.

IV. COMMENTS FROM GERMANY

The comments received from Germany prior to the Commission's decision to extend the proceedings are quoted and discussed in that decision⁽¹²⁾. By letter dated 20 February 1998, Germany provided detailed information on DMR's production programme, the progress of the restructuring

programme and its financing, and the status of the negotiations with potential investors.

At a meeting on 1 July 1998 in DMR's head office, the restructuring programme was discussed by the German Government, the *Land* Government of Mecklenburg-Western Pomerania, BvS, DMR and the Commission. It was concluded that the business plan set out in the 1997 restructuring programme no longer reflected market conditions, which had dramatically changed since the end of 1997. It was agreed that the business plan should be extensively revised.

By letter of 30 September 1998, Germany submitted a revised provisional plan⁽¹³⁾ based on an annual production of 10 engines. In its reply of 30 November 1998, the Commission expressed strong doubts as to the viability of the plan, which could not, in its view, restore a sound financial structure and would necessitate open-ended financial support from the State.

By letter of 21 December 1998, received by the Commission on 30 December 1998, Germany gave details of further changes to the business plan to cope with the continuing deterioration on the market. DMR's board had decided on these changes at its meeting on 7 December 1998. In its reply of 26 January 1999, the Commission informed Germany of its position regarding the latest changes. While it accepted that the revised plan was more realistic, it pointed out that the plan more closely resembled a temporary rescue plan than a genuine restructuring plan. The basic problem, namely that DMR would need further state aid and that there were no realistic prospects for a successful privatisation, remained.

V. ASSESSMENT OF THE AID MEASURES

1. The loans totalling DEM 74,5 million and the subsequent waiver of interest on them granted by BvS and the *Land* authorities since April 1996 constitute state aid. The state guarantees amounting to DEM 80 million also rank as state aid. In their report for 1995, the auditors explicitly state that the continued operation of DMR (then DMV) was possible only if the State provided the necessary loans and/or guarantees⁽¹⁴⁾. Consequently, DMR was not able to receive loans from commercial financial institutions.

A further loan of DEM 25 million granted on 6 July 1994 by BvS on market terms was converted into state aid in June 1997. At the time, BvS waived interest payments on this loan and announced that it would be converted into equity if this proved necessary⁽¹⁵⁾.

The intended grant of DEM 10 million to finance the voluntary payments under the 'social plan' for employees to be made redundant in 1999 represents new state aid as these payments result from a specific agreement with the workforce and the trade union. This aid was not covered by the extension of proceedings as it was notified only on 21 December 1998.

⁽¹³⁾ In the interests of a comprehensive presentation of the restructuring programmes, the detailed contents of the letters of 30 September and 21 December 1998 are discussed in Section II of this Decision.

⁽¹⁴⁾ C & L Treuarbeit Deutsche Revision AG, Bericht No 18 10 0147, Dieselmotorenwerk Vulkan GmbH Rostock, Prüfung des Jahresabschlusses zum 31.12.1995 (paragraph 125).

⁽¹⁵⁾ See Section II.4.

⁽¹²⁾ See footnote 2.

2. Under the agreement of 28 April 1997 on the takeover of DMR (then DMV) by BvS and the *Land* of Mecklenburg-Western Pomerania, VIH would dispose of DMV at a zero price and waive its claims of DM 54,8 million (including accrued interest) on DMV. These claims result from the cash concentration system practised in the Bremer Vulkan group until early 1996. The market value of VIH's claims was certainly very much lower than the nominal value of DEM 54,8 million and was probably even close to zero as the loans would have ranked as equity in a bankruptcy procedure. VIH and its administrator could therefore hardly expect any income to accrue from their claims if they had retained ownership of DMR. Any other private buyer of DMR would also have required that the seller VIH waive its claims on DMR as the company clearly had a negative value. BvS and the *Land* authorities behaved therefore in this respect as a private investor. The Commission can therefore accept this measure as being in conformity with the private investor principle. It does not constitute state aid.

3. The above aid is to be assessed under Article 92 of the Treaty and in the light of the criteria set out in the Community guidelines on state aid for rescuing and restructuring firms in difficulty ('the guidelines')⁽¹⁶⁾. Except for the DEM 10 million grant notified on 21 December 1998, all the aid has to be regarded as non-notified aid since all the measures were implemented before the Commission was able to take a position on them. Germany failed to respect its notification obligations under Article 93(3) of the Treaty.

4. The guidelines distinguish between rescue and restructuring aid. In the present case this distinction is difficult to apply because DMR was already being restructured when the Bremer Vulkan group collapsed at the beginning of 1996. Until the autumn of 1996 there were good reasons to believe that DMR could be sold to one of the licence holders and, consequently, the preparation of a new restructuring plan and the separation of DMR from VIH were deferred. The basic elements of the restructuring plan were agreed on 11 February 1997⁽¹⁷⁾. On that basis BvS and the *Land* authorities took over the shares of DMR by means of an agreement dated 28 April 1997 and the Commission was informed of the agreed restructuring plan by Germany by letter of 10 September 1997. As the measures taken immediately after the takeover by the new owners for a financial restructuring of DMR were clearly intended to cover a longer period, it is considered appropriate to consider the aid granted prior to the agreement of 28 April 1997 as rescue aid

and all subsequent aid as restructuring aid within the meaning of the guidelines.

5. According to the guidelines, rescue aid must:

- (i) *consist of liquidity help in the form of loan guarantees or loans bearing normal commercial interest rates*

State aid was provided in this form during the rescue period. The loans from BvS carried an interest rate that was three percentage points higher than the discount rate; this can be regarded as a market rate given the originally very short maturity of the loans. The credit line secured by the state guarantee also carried a market interest rate. The counter guarantees of originally DEM 15 million (comprising for the most part *Avale*) secures business activities on commercial terms as well; most of them back bank guarantees required to secure advance payments received for ship engines under construction;

- (ii) *be restricted to the amount needed to keep a firm in business*

Germany provided evidence that the funds were limited to the minimum and disbursed only when the payment obligations became due. With the exception of very minor amounts, the loans and guarantees served to finance DMR's day-to-day business since the company, as a part of the bankrupt Bremer Vulkan group, had lost all its working capital in the group and had virtually no access to commercial financing. Its clients were mainly the shipyards of the former Bremer Vulkan group, which were financially strained and also had to undergo financial restructuring;

- (iii) *be paid only for the time needed (generally not exceeding six months) to devise the necessary and feasible recovery plan*

As explained above, the Commission can accept in this particular case the delays in drawing up a feasible restructuring plan, primarily because the intended sale of the enterprise failed at the last minute in September 1996 owing to a commercial decision taken by the administrator of BVV⁽¹⁸⁾ but also because of the extreme complexity caused by the disintegration of the Bremer Vulkan group;

- (iv) *be warranted on the grounds of serious social difficulties and have no undue adverse effects on the industrial situation in other Member States*

The main part of DMR is located in Rostock, a smaller part in Bremerhaven. Both regions are classified as assisted areas and suffer from very high unemployment. In addition, both were particularly affected by the collapse of Bremer Vulkan as this group was one of their main industrial employers. The rescue aid is therefore justified on social grounds.

⁽¹⁶⁾ OJ C 368, 23.12.1994, p. 12.

⁽¹⁷⁾ KPMG Deutsche Treuhand Gesellschaft, Prüfungsbericht zum Jahresabschluss 1996.

⁽¹⁸⁾ The administrator decided not to sell VIH's shares in Neue Sulzer Diesel together with the DMR shares since, in this way, a higher price could be obtained.

The analysis of the impact of the aid on the industry in other Member States can concentrate on the German market for ship engines as DMR's activities did not extend beyond this market at the time ⁽¹⁹⁾. As described in Section II.8, market access for engine producers is limited by the licensing agreements, which usually delineate the territory for the producer's activities. However, these agreements do not grant a territorial monopoly. In practice, each engine is put up for tender by the relevant shipyard in consultation with the shipowner, and there is fierce competition for the larger engine contracts worldwide. DMR and other Community engine builders have to compete primarily against 'trade engines' (*Handelsmotoren*) produced under licence by east Asian, primarily Korean, manufacturers. The prices are therefore more or less set by these leaders on the world market and the competitiveness of European manufacturers for standard types of engine depends a great deal on the exchange rate and the capacity utilisation in Asia. Producing a ship diesel engine takes about one year, the full process from contract negotiations until delivery two years. In the relevant rescue period (1996 to spring 1997), DMR received no new orders but lived on the backlog of orders placed during the container ship boom at the end of 1995. In view of this specific situation, it can be assumed that the rescue aid had no adverse effect on European competitors.

Although the rescue aid was not notified and was therefore granted illegally, the Commission has been able to declare it compatible with the common market given the specific circumstances described above. The financial measures were taken to ensure the short-term survival of DMR and, in view of their characteristics, they satisfy the criteria laid down in the guidelines.

6. The restructuring aid replaced the rescue aid, since all the measures were prolonged on more favourable terms, and comprised ⁽²⁰⁾:

- the waiver of interest and the suspension of repayment of the loans granted during the rescue period and under the previous privatisation plan of 1994,
- the provision of fresh loans and the increase in the ceiling for counter guarantees from DEM 15 million to DEM 60 million.

7. The suspension of interest and redemption of the principal on the loans described in detail in Section II.4 and totalling DEM 74,5 million and the announcement that these loans might be given subordinate status are to be regarded as constituting conversion from loans into grants with an aid intensity of 100 %. By letter of 10 September 1997, Germany had informed the Commission that these loans from BvS and the

Land authorities had become subordinate and could be converted into a participating interest.

The credit line of DEM 25 million created and partly disbursed in June 1997 has also been given subordinate status. By letter of 20 February 1998, Germany stated that a repayment as from 1 January 1999 can be made only in so far as the enterprise was not overindebted. This measure too is to be considered as a grant to the extent of the amount disbursed, with an aid intensity of 100 %, since DMR is overindebted. According to the auditor's reports for 1996 and 1997, the equity is negative.

The total cash aid amounts therefore to DEM 99,5 million, of which DEM 10 million needs to be deducted as it was used for the subsidiaries WPM and MMG.

The counter guarantees of DEM 60 million provided by BvS and the *Land* authorities cover in essence the completion and post-delivery risks associated with DMR's contracts. Given the nature of the activities, a total loss is very unlikely since, even in case of bankruptcy, most contracts will be settled. In consideration of the deficiencies to be normally expected in such situations, the Commission estimated an aid intensity of 20 %, corresponding to an aid equivalent of DEM 12 million.

The guarantee of DEM 10 million provided by the *Land* authorities to secure a bank loan of originally the same amount has been reduced to DEM 6,85 million in view of the repayments made by DMR according to Germany's letter of 20 February 1998. The aid intensity is 100 % of the outstanding amount. The same applies to the guarantee of DEM 10 million granted by BvS to secure short-term bridging loans.

8. The total aid equivalent of the restructuring aid provided in the form of loans converted into grants and in the form of guarantees is therefore put at DEM 118,35 million, equivalent to some EUR 60,5 million. (On account of the conversion the rescue aid has no aid element as the aid intensity cannot logically exceed 100 %.) This figure can be reduced by the amounts not disbursed by the date of this decision under the credit lines provided. An additional amount of DEM 10 million is provided for to finance redundancy costs under the social plan in 1999.

9. The aid has to be assessed in the light of the following criteria for restructuring aid laid down in the guidelines:

(i) *restoration of viability*

At the time the procedure was extended, the Commission had doubts about DMR's capability to cover all its costs and in particular its financing costs. Developments in 1998 and the latest revision of the restructuring plan as communicated in Germany's letter of 21 December 1998 (and described in Section II of this decision) show that DMR is not financially viable. The company has suffered extremely high losses since 1995 which have led to its overindebtedness.

⁽¹⁹⁾ As stated above, the decision does not extend to the subsidiaries.
⁽²⁰⁾ For a detailed description of the measures, see Sections II.4 and II.9.

Additional losses are expected in 1999 and 2000, and in 2001 the company will be unable to pay interest on its shareholder loans. The company remains dependent at least on the operating aid being extended into the distant future. Germany stated that a privatisation without additional state aid appeared impossible. The prospects for a recovery on the market for two-stroke ship diesel engines in the Community are bleak in the medium term. Since, therefore, no return to viability can be expected in the foreseeable future, this condition of the guidelines is not met;

(ii) *avoidance of undue distortions of competition through the aid*

Although competition on the market for ship diesel engines is limited on account of the market structure described in Section II.8, the permanent financing of DMR by means of state aid must be regarded as a distortion of competition primarily because the orders in hand do not cover costs. Adverse effects on European competitors, which are mostly in a difficult situation as well, cannot be excluded, particularly as most of the remaining engine producers in Europe have lower capacity and were not able to modernise. The reduction in DMR's capacity that is planned in view of the present emergency situation cannot be regarded as irreversible within the meaning of the guidelines. Since installed plant capacity remains unchanged, DMR could return to its original capacity at short notice by re-employing the necessary personnel;

(iii) *aid in proportion to the restructuring costs and benefits*

The aid has been limited to the minimum necessary for the company's continued operation. The recipient has not been able to make a significant contribution to the restructuring costs and it cannot be expected that DMR can be sold at a positive price. The benefits consist essentially in the (temporary) maintenance of employment in two regions suffering from severe unemployment. Nevertheless, the guidelines recall that 'it does not help a region to prop up artificially companies which, for structural or other reasons, are ultimately doomed to failure'. In line with its position on aid to meet the social costs of restructuring measures, in particular in regions with a low standard of living and with severe underemployment as described in the guidelines ⁽²¹⁾ and in the guidelines on national regional aid ⁽²²⁾, the Commission can, however, accept the intended payment of DEM 10 million in social aid in 1999.

Accordingly, the Commission has concluded that the restructuring aid already granted and the intended prolongation of the measures are not in line with the guidelines and not compatible

with the common market. The intended payment of DEM 10 million in social aid in 1999 can be regarded as being compatible with the common market.

VI. CONCLUSIONS

The Commission finds that Germany has unlawfully implemented a series of measures for rescuing and restructuring DMR in breach of Article 93(3) of the Treaty. However, the loans and guarantees provided before April 1997 for the rescue of the company and the takeover of DMR by BvS and the *Land* of Mecklenburg-Western Pomerania can be regarded as being compatible with the common market in view of the particular difficulties caused by the collapse of the Bremer Vulkan group in 1996. However, the subsequent waiver of interest and the suspension of repayments on loans amounting to DEM 89,5 million, as well as the continuing provision of state guarantees for a nominal amount of DEM 80 million, cannot be regarded as being compatible with the common market since the measures in question do not satisfy the criteria laid down in the guidelines. These measures must therefore, be terminated and the aid recovered. The intended payment of DEM 10 million in social aid, in 1999, can be regarded as being compatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The financial measures which Germany implemented between February 1996 and April 1997 for the rescue of Dieselmotorenwerk Rostock GmbH (at the time Dieselmotorenwerk Vulkan GmbH), including the provisions on the transfer of ownership of this enterprise contained in the agreement of 28 April 1997, are compatible with the common market within the meaning of Article 92(3)(c) of the EC Treaty.

Article 2

The state aid of up to DEM 118,35 million which Germany has granted for the restructuring of Dieselmotorenwerk Rostock GmbH since May 1997 is incompatible with the common market.

Article 3

The state aid of DEM 10 million which Germany intends to grant for social measures linked to the redundancies at Dieselmotorenwerk Rostock GmbH is compatible with the common market within the meaning of Article 92(3)(a) of the EC Treaty.

⁽²¹⁾ See footnote 18 (point 3.2.5).

⁽²²⁾ OJ C 74, 10.3.1998, p. 9 (point 4.15).

Article 4

1. Germany shall take the necessary measures to recover from the recipient the aid referred to in Article 2 and unlawfully made available to it.
2. Recovery shall be effected in accordance with the procedures of national law. The sums to be recovered shall bear interest from the date on which they were made available to the recipient until their actual recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant equivalent of regional aid.

Article 5

Germany shall inform the Commission, within two months following notification of this Decision, of the measures taken to comply with it.

Article 6

This decision is addressed to the Federal Republic of Germany.

Done at Brussels, 21 April 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION
of 1 September 1999
amending Decision 1999/551/EC as regards the review of the protective measures with regard to
contamination by dioxins

(notified under document number C(1999) 2880)

(Text with EEA relevance)

(1999/601/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 92/118/EEC ⁽²⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animal and products with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC, and in particular Article 10(4) thereof,

Whereas:

- (1) Article 2 of Commission Decision 1999/551/EC of 6 August 1999 amending Decision 1999/449/EC on protective measures with regards to contamination by dioxins on certain products of animal origin intended for human or animal consumption ⁽⁴⁾ provides that Decision 1999/551/EC must be reviewed before 31 August 1999, notably on the basis of information to be submitted by the Belgian authorities. The Belgian authorities have informed the Commission that the relevant

information is currently being prepared and is not yet available. It is, therefore, appropriate to set a new date for the review of Decision 1999/551/EC.

- (2) The measures provided for in this Decision are in accordance with the opinion of the Standing veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

In the first paragraph of Article 2 of Decision 1999/551/EC, 'before 31 August 1999' is replaced by 'as soon as possible and in any case not later than 30 September 1999'.

Article 2

This Decision is addressed to the Member State.

Done at Brussels, 1 September 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 224, 18.8.1990, p. 20.

⁽⁴⁾ OJ L 209, 7.8.1999, p. 42.

CORRIGENDA**Corrigendum to Commission Decision 1999/476/EC of 10 June 1999 establishing the ecological criteria for the award of the Community eco-label to laundry detergents**

(Official Journal of the European Communities L 187 of 20 July 1999)

On page 56, under the section 'Soluble inorganics (SI)', in the second line, third column:

for: 'Score = $4,66 - SI/5$,'

read: 'Score = $4,66 - SI/15$ '.
