

English edition

Legislation

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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 925/1999
of 29 April 1999**

on the registration and operation within the Community of certain types of civil subsonic jet aeroplanes which have been modified and recertificated as meeting the standards of volume I, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 84(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189c of the Treaty ⁽³⁾,

1993 ⁽⁴⁾ envisages further legislative measures aimed at reducing noise emissions from aeroplanes; whereas the said programme lays down the objective that no person should be exposed to noise levels which endanger health and quality of life;

(1) Whereas one of the key objectives of the common transport policy is sustainable mobility; whereas such a policy can be defined as a global approach which aims at ensuring both the effective functioning of the Community's transport systems and the protection of the environment; whereas it is appropriate to take technical measures which contribute to the achievement of sustainable mobility;

(2) Whereas the Commission communication on the future development of the common transport policy: a global framework to the construction of a Community framework for sustainable mobility explicitly refers to the introduction of a non-addition rule for the noisiest aeroplanes;

(3) Whereas the fifth action programme of 1992 on the environment, the general approach of which was endorsed by the Council and the representatives of the Governments of the Member States, meeting within the Council, in their resolution of 1 February

(4) Whereas the growth in air transport activities at Community airports is increasingly subject to environmental constraints; whereas the operation of less noisy aeroplanes at these airports can contribute to a better use of available airport capacity;

(5) Whereas older types of aeroplanes modified to improve their noise certification level have a noise performance which is significantly worse, mass for mass, than that of modern types of aeroplanes originally certificated to meet the standards of Volume I, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993); whereas such modifications prolong the life of an aeroplane that would normally have been retired; whereas such modifications tend to worsen the gaseous emissions performance and fuel burn of earlier technology aero engines; whereas aeroplanes may be re-engined to achieve a noise performance comparable to that of those originally certificated to meet Chapter 3 requirements;

(6) Whereas a rule which prohibits the addition of those older modified types of aeroplanes to Member States' registers as from 1 April 1999 can be considered as a protective measure aimed at preventing a deterioration of the noise situation around Community airports as well as improving the situation regarding fuel burn and gaseous emissions;

⁽¹⁾ OJ C 118, 17.4.1998, p. 20 and OJ C 329, 27.10.1998, p. 10.

⁽²⁾ OJ C 284, 14.9.1998, p. 1.

⁽³⁾ Opinion of the European Parliament of 16 September 1998 (OJ C 313, 12.10.1998, p. 94), Council common position of 16 November 1998 (OJ C 404, 23.12.1998, p. 1) and Decision of the European Parliament of 10 February 1999 (not yet published in the Official Journal).

⁽⁴⁾ OJ C 138, 17.5.1993, p. 1.

- (7) Whereas in a Community without internal frontiers it is appropriate to exclude from this non-addition rule aeroplanes entered in any Member State's register prior to 1 April 1999;
- (8) Whereas, in view of existing Community legislation on aeroplane noise, the present initiative needs to be taken at Community level by binding Community rules;
- (9) Whereas a non-addition rule, and a non-operation rule with an appropriate transition period, combines technical feasibility with environmental benefits without imposing an undue economic burden;
- (10) Whereas it is necessary to minimise possible distortions of competition by establishing equivalent requirements applicable to aeroplanes registered in third countries; whereas, since the Community has no competence over third-country registers, that objective can be achieved only by restricting the operation of non-complying aeroplanes registered as from 1 April 1999 in third countries; whereas the date for introducing such restrictions should take account of the final cut-off date for the operation of Chapter 2 aeroplanes as provided for in Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Volume I, Part II, Chapter 2 of Annex 16 to the Convention on International Civil Aviation, second edition 1998 ⁽¹⁾, as well as the extent of the non-addition provisions for Chapter 2 aeroplanes as laid down in Council Directive 89/629/EEC of 4 December 1989 on the limitation of noise emission from civil subsonic jet aeroplanes ⁽²⁾;
- (11) Whereas, in order to ensure equal treatment of aeroplanes regardless of their country of registration, non-complying aeroplanes in the registers of Member States should also be stopped from operating in accordance with the terms imposed on non-complying aeroplanes in the registers of third countries;
- (12) Whereas, given that the main objective of the measure is to limit noise at Community airports, aeroplanes may be exempted from the non-addition and non-operation rules when they are not operated in the Community territory; whereas, in order for these rules to produce their full environmental benefits, temporary exemptions may be possible only for operations of an exceptional nature;
- (13) Whereas the provisions of this Regulation shall not be implemented in the overseas departments referred to in Article 227(2) of the Treaty, in view of their geographical location;
- (14) Whereas it is necessary to gather information concerning the exemptions granted by the Member States;
- (15) Whereas arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries; whereas such arrangements have yet to come into operation,

HAS ADOPTED THIS REGULATION:

Article 1

Objective

The objective of this Regulation is to lay down rules to prevent deteriorations in the overall noise impact in the Community of recertificated civil subsonic jet aeroplanes while at the same time limiting other environmental damage.

Article 2

Definitions

For the purposes of this Regulation:

- (1) '*civil subsonic jet aeroplane*' shall mean a civil subsonic jet aeroplane with a maximum certificated take off mass of 34 000 kg or more, or with a certified maximum internal accommodation for the aeroplane type in question consisting of more than 19 passenger seats, excluding any seats for crew only, and powered by engines with a by-pass ratio of less than three;
- (2) '*recertificated civil subsonic jet aeroplane*' shall mean a civil subsonic jet aeroplane initially certificated to Chapter 2 or equivalent standards, or initially not noise-certificated which has been modified to meet Chapter 3 standards either directly through technical measures or indirectly through operational restrictions; civil subsonic jet aeroplanes which initially could only be dual-certificated to the standards of Chapter 3 by means of weight restrictions, have to be considered as recertificated aeroplanes; civil subsonic jet aeroplanes which have been modified to meet Chapter 3 standards by being completely re-engined with engines having a by-pass ratio of three or more are not to be considered as recertificated aeroplanes;

⁽¹⁾ OJ L 76, 23.3.1992, p. 21. Directive as amended by Directive 98/20/EC (OJ L 107, 7.4.1998, p. 4).

⁽²⁾ OJ L 363, 13.12.1989, p. 27.

- (3) 'Chapter 2' and 'Chapter 3' shall mean the noise standards as defined in Volume I, Part II, Chapter 2 and Chapter 3 respectively of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993);
- (4) 'operational restrictions' shall mean weight restrictions imposed on the aeroplane and/or operational limitations within the control of the pilot or the operator, such as reduced flap setting;
- (5) 'registration of an aeroplane' shall mean the formal act whereby the nationality of an aeroplane is established through its entry on the national register of a Member State or a third country;
- (6) 'the territory of the Community' shall mean the territory of the Community subject to the provisions of the Treaty.

Article 3

Non-complying aeroplanes

1. Recertificated civil subsonic jet aeroplanes shall not be registered in the national register of a Member state as from 1 April 1999.
2. paragraph 1 shall not affect civil subsonic jet aeroplanes which were already on the register of any Member State on 1 April 1999 and have been registered in the Community ever since.
3. Notwithstanding the provisions of Directive 92/14/EEC and in particular Article 2(2) thereof, as from 1 April 2002 recertificated civil subsonic jet aeroplanes registered in a third country shall not be allowed to operate at airports in the territory of the Community unless the operator of such aeroplanes can prove that they were on the register of that third country on 1 April 1999 and prior to that date have been operated, between 1 April 1995 and 1 April 1999, into the territory of the Community.
4. Recertificated civil subsonic jet aeroplanes which are on the registers of Member States may not be operated at airports in the territory of the Community as from 1 April 2002 unless they have been operated in that territory before 1 April 1999.

Article 4

Exemptions

1. Member States may grant temporary exemptions from Article 3 for civil subsonic jet aeroplanes whose operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption, such as for emergencies. On a transparent and non-discrimin-

atory basis, Member States may limit such exemptions to certain airports and/or certain specified periods of the day.

2. Member States may grant exemptions from Article 3 for civil subsonic jet aeroplanes which are exclusively operated outside the territory of the Community.
3. Member States may grant exemptions from Article 3 for civil subsonic jet aeroplanes leased to an operator which for that reason have been temporarily removed from the register of the Member State in which they were registered during the 6 months before 1 April 1999, provided that legal and economic ownership of the aircraft remains in the Member State.
4. Once a year Member States shall inform the Commission of exemptions granted under this Article.

Article 5

Overseas departments

This Regulation shall not apply to the overseas departments referred to in Article 227(2) of the Treaty, neither with regard to the provisions concerning the registration of recertificated civil subsonic jet aeroplanes in the national registers of Member States, or concerning the operation of such aeroplanes at airports located in the said departments.

Article 6

The airport of Gibraltar

1. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.
2. Application of the provisions of this Regulation to Gibraltar airport shall be suspended until the arrangements in the joint declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom shall inform the Council of that date.

Article 7

Entry into force

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 Luxembourg, 29 April 1999.

For the Council
The President
W. MÜLLER

COMMISSION REGULATION (EC) No 926/1999
of 3 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 4 May 1999.

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

Done at Brussels, 3 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 3 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	77,5
	999	77,5
0707 00 05	052	100,9
	999	100,9
0709 90 70	052	58,6
	999	58,6
0805 10 10, 0805 10 30, 0805 10 50	052	32,6
	204	38,3
	212	63,8
	600	61,9
	624	61,6
0808 10 20, 0808 10 50, 0808 10 90	999	51,6
	388	86,5
	400	89,4
	508	68,0
	512	67,5
	524	75,1
	528	71,4
	720	101,2
	804	102,0
999	82,6	

⁽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 927/1999
of 3 May 1999
fixing export refunds on fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 857/1999 ⁽²⁾, and in particular Article 35(11) thereof,

Whereas Commission Regulation (EC) No 2190/96 ⁽³⁾, as last amended by Regulation (EC) No 1287/98 ⁽⁴⁾, lays down detailed rules on export refunds on fruit and vegetables;

Whereas Article 35(1) of Regulation (EC) No 2200/96, provides that, to the extent necessary for economically significant quantities of the products listed in that Article to be exported, the difference between the international market prices for those products and their prices in the Community may be covered by export refunds;

Whereas Article 35(4) of Regulation (EC) No 2200/96 provides that refunds must be fixed in the light of the existing situation or the outlook for fruit and vegetable prices on the Community market and supplies available on the one hand, and prices on the international market on the other hand; whereas account must also be taken of the costs referred to in Article 35(4)(b) of that Regulation and of the economic aspect of the exports planned;

Whereas, pursuant to Article 35(1) of Regulation (EC) No 2200/96, refunds are to be set with due regard to the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas, in accordance with Article 35(5) of Regulation (EC) No 2200/96, prices on the Community market are to be established in the light of the most favourable prices from the export standpoint; whereas international trade prices are to be established in the light of the prices referred to in the second subparagraph of that paragraph;

Whereas the international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination;

Whereas tomatoes, lemons, oranges and apples of classes Extra, I and II of the common quality standards, shelled almonds, hazelnuts and walnuts in shell can currently be exported in economically significant quantities;

Whereas the application of the abovementioned rules to the present and forecast market situation, and in particular to fruit and vegetable prices in the Community and international trade, gives the refund rates set out in the Annex hereto;

Whereas, pursuant to Article 35(2) of Regulation (EC) No 2200/96, the resources available should be used as efficiently as possible while avoiding discrimination between traders; whereas, therefore, care should be taken not to disturb the trade flows previously induced by the refund arrangements; whereas, for those reasons and because of the seasonal nature of exports of fruit and vegetables, quotas should be fixed for each product;

Whereas Commission Regulation (EEC) No 3846/87 ⁽⁵⁾, as last amended by Regulation (EC) No 565/1999 ⁽⁶⁾, establishes an agricultural product nomenclature for export refunds;

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 108, 27.4.1999, p. 7.

⁽³⁾ OJ L 292, 15.11.1996, p. 12.

⁽⁴⁾ OJ L 178, 23.6.1998, p. 11.

⁽⁵⁾ OJ L 366, 24.12.1987, p. 1.

⁽⁶⁾ OJ L 70, 17.3.1999, p. 3.

Whereas Commission Regulation (EEC) No 3719/88 ⁽¹⁾, as last amended by Regulation (EC) No 168/1999 ⁽²⁾, lays down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products;

Whereas, owing to the market situation, in order to make the most efficient use of the resources available and given the structure of Community exports, the most appropriate method should be selected for export refunds on certain products and certain destinations and consequently refunds under the A1 and A2 licence arrangements referred to in Article 1 of Regulation (EC) No 2190/96 should not be fixed simultaneously for the export period in question;

Whereas the quantities laid down for the various products should be distributed in accordance with the different systems for the grant of the refund, taking account in particular of their perishability;

Whereas account should be taken of the definitive rates under the A2 system fixed for the preceding licence application period;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds on fruit and vegetables shall be as set out in the Annex hereto.
2. Quantities covered by licences issued for food aid as referred to in Article 14a of Regulation (EEC) No 3719/88 shall not count against the eligible quantities covered by the Annex.
3. Without prejudice to the application of Article 4(5) of Regulation (EC) No 2190/96, the term of validity of A1 and A2 licences shall be two months.

Article 2

This Regulation shall enter into force on 10 May 1999.

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

Done at Brussels, 3 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 331, 2.12.1988, p. 1.

⁽²⁾ OJ L 19, 26.1.1999, p. 4.

ANNEX

EXPORT REFUNDS ON FRUIT AND VEGETABLES

Product (full definitions of eligible products are given in the 'Fruit and vegetables' sector of Commission Regulation (EEC) No 3846/87 amended)	Product code	Destination or destination group (*)	System Application periods					
			A1 10.5 to 23.6.1999		A2 11 to 13.5.1999		B 17.5 to 30.6.1999	
			Refund rate (EUR/t net weight)	Scheduled quantity (t)	Indicative refund rate (EUR/t net weight)	Scheduled quantity (t)	Indicative refund rate (EUR/t net weight)	Scheduled quantity (t)
Tomatoes	0702 00 00 9100	F	20		20	12 183	20	14 976
Shelled almonds	0802 12 90 9000	F	50	456			50	373
Walnuts in shell	0802 21 00 9000	F	59	23			59	11
Shelled hazelnuts	0802 22 00 9000	F	114	1 161			114	589
Walnuts in shell	0802 31 00 9000	F	73	38				
Oranges	0805 10 10 9100 0805 10 30 9100 0805 10 50 9100	XYC	50		50	8 945	50	21 468
Lemons	0805 30 10 9100	F	35		35	13 476	35	7 941
Apples	0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	X	40		40	5 589	40	998
	0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	Y	40		40	2 623	40	2 133
	0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	Z	54				54	1 096
Peaches and nectarines	0809 30 10 9100 0809 30 90 9100	E	27		27	515	27	1 029

(*) The destination codes are defined as follows:

X: Norway, Iceland, Greenland, Faeroes, Poland, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Bosnia-Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Federal Republic of Yugoslavia (Serbia and Montenegro), Malta.

Y: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, destinations referred to in Article 34 of Commission Regulation (EEC) No 3665/87, as amended.

Z: African countries and territories except South Africa, countries of the Arabian Peninsula (Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qaiwain, Ras al Khaimah, Fujairah), Kuwait, Yemen), Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador, Colombia.

C: Switzerland, Czech Republic, Slovakia and Japan.

E: All destinations except Switzerland.

F: All destinations.

COMMISSION REGULATION (EC) No 928/1999
of 3 May 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,

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 May 1999.

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

Done at Brussels, 3 May 1999.

For the Commission

Franz FISCHLER

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⁾ ⁽⁷⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	83,41	121,01		188,03
1006 10 23	(7)	83,41	121,01		188,03
1006 10 25	(7)	83,41	121,01		188,03
1006 10 27	(7)	83,41	121,01		188,03
1006 10 92	(7)	83,41	121,01		188,03
1006 10 94	(7)	83,41	121,01		188,03
1006 10 96	(7)	83,41	121,01		188,03
1006 10 98	(7)	83,41	121,01		188,03
1006 20 11	210,05	69,18	100,69		157,54
1006 20 13	210,05	69,18	100,69		157,54
1006 20 15	210,05	69,18	100,69		157,54
1006 20 17	228,31	75,57	109,82	0,00	171,23
1006 20 92	210,05	69,18	100,69		157,54
1006 20 94	210,05	69,18	100,69		157,54
1006 20 96	210,05	69,18	100,69		157,54
1006 20 98	228,31	75,57	109,82	0,00	171,23
1006 30 21	423,22	135,73	196,70		317,42
1006 30 23	423,22	135,73	196,70		317,42
1006 30 25	423,22	135,73	196,70		317,42
1006 30 27	(7)	160,51	232,09		370,50
1006 30 42	423,22	135,73	196,70		317,42
1006 30 44	423,22	135,73	196,70		317,42
1006 30 46	423,22	135,73	196,70		317,42
1006 30 48	(7)	160,51	232,09		370,50
1006 30 61	423,22	135,73	196,70		317,42
1006 30 63	423,22	135,73	196,70		317,42
1006 30 65	423,22	135,73	196,70		317,42
1006 30 67	(7)	160,51	232,09		370,50
1006 30 92	423,22	135,73	196,70		317,42
1006 30 94	423,22	135,73	196,70		317,42
1006 30 96	423,22	135,73	196,70		317,42
1006 30 98	(7)	160,51	232,09		370,50
1006 40 00	(7)	49,58	(7)		114,00

⁽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)	228,31	494,00	210,05	423,22	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	347,51	277,43	391,36	430,91	—
(b) fob price (EUR/tonne)	—	—	—	363,07	402,62	—
(c) Sea freight (EUR/tonne)	—	—	—	28,29	28,29	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 929/1999
of 29 April 1999

amending Regulation (EC) No 82/1999 imposing provisional anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway with regard to certain exporters, imposing provisional anti-dumping and countervailing duties on imports of such salmon with regard to certain exporters, amending Decision 97/634/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidies proceedings concerning imports of such salmon and amending Council Regulation (EC) No 772/1999 imposing definitive anti-dumping and countervailing duties on imports of such salmon

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 905/98⁽²⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽³⁾, and in particular Article 13 thereof,

After consulting the Advisory Committee,

Whereas:

(3) On 26 September 1997, the Commission adopted Decision 97/634/EC⁽⁶⁾, accepting undertakings offered in connection with the two abovementioned proceedings from the exporters mentioned in the Annex to the Decision and terminating the investigations in their respect.

(4) On the same day, the Council, by Regulations (EC) No 1890/97⁽⁷⁾ and (EC) No 1891/97⁽⁸⁾ imposed anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway. Imports of farmed Atlantic salmon exported by companies from which an undertaking had been accepted were exempted from that duty pursuant to Article 1(2) of that Regulation.

(5) The abovementioned Regulations set out the definitive findings and conclusions on all aspects of the investigations. The form of the duties having been reviewed, Regulations (EC) No 1890/97 and (EC) No 1891/97 were replaced by Regulation (EC) No 772/1999.

A. PREVIOUS PROCEDURE

(1) On 31 August 1996, the Commission announced, by two separate notices published in the *Official Journal of the European Communities*, the initiation of an anti-dumping proceeding⁽⁴⁾ as well as an anti-subsidy proceeding⁽⁵⁾ in respect of imports of farmed Atlantic salmon originating in Norway.

(2) The Commission sought and verified all information that it deemed necessary for the purpose of its definitive findings. As a result of this examination, it was established that definitive anti-dumping and countervailing measures should be adopted in order to eliminate the injurious effects of dumping and subsidisation. All interested parties were informed of the results of the investigation and were given the opportunity to comment thereon.

B. PROVISIONAL MEASURES IMPOSED BY COMMISSION REGULATION (EC) No 82/1999⁽⁹⁾

(6) The text of the undertakings provides that failure to submit a quarterly report of all sales transactions to the first unrelated customer in the Community within a prescribed time limit (except in case of *force majeure*), would be construed as a violation of the undertaking, as would non-compliance with the obligation to sell the different presentations of the product concerned (i.e. gutted, head-on, etc.) on the Community market at or above the minimum prices foreseen in the undertaking.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ L 288, 21.10.1997, p. 1.

⁽⁴⁾ OJ C 253, 31.8.1996, p. 18.

⁽⁵⁾ OJ C 253, 31.8.1996, p. 20.

⁽⁶⁾ OJ L 267, 30.9.1997, p. 81.

⁽⁷⁾ OJ L 267, 30.9.1997, p. 1, repealed by Council Regulation (EC) No 772/1999 (OJ L 101, 16.4.1999, p. 1).

⁽⁸⁾ OJ L 267, 30.9.1997, p. 19, repealed by Regulation (EC) No 772/1999.

⁽⁹⁾ OJ L 8, 14.1.1999, p. 8.

- (7) For the second quarter of 1998, 10 Norwegian companies either did not present a report within the prescribed time limit (or did not submit any report at all), and two Norwegian exporters appeared to have sold the product concerned to the Community market at a price which was below the price foreseen in their undertakings.
- (8) The Commission therefore had reason to believe that these 12 companies had breached the terms of their undertakings.
- (9) Consequently, the Commission, by Regulation (EC) No 82/1999, imposed provisional anti-dumping and countervailing duties on imports of farmed Atlantic Salmon falling within CN codes ex 0302 12 00, ex 0304 10 13, ex 0303 22 00 and ex 0304 20 13 originating in Norway and exported by the 12 companies listed in the Annex to that Regulation. By the same Regulation, the Commission deleted the companies concerned from the Annex to Decision 97/634/EC, which listed the companies from which undertakings were accepted.

C. PROCEDURE FOLLOWING IMPOSITION OF PROVISIONAL DUTIES

- (10) All 12 Norwegian companies subject to the provisional duties received disclosure in writing concerning the essential facts and considerations on the basis of which these provisional duties were imposed. They were also given an opportunity to submit comments and request a hearing.
- (11) Within the time limit set in the provisional duty Regulation, nine of the Norwegian companies concerned submitted comments in writing. In addition, comments were submitted by the Norwegian Seafood Association on behalf of two of the companies subject to the provisional measures. Following receipt of these written submissions, the Commission sought and examined all information it deemed necessary for the purpose of a definitive determination on the apparent violations.
- (12) Of the 12 companies subject to the provisional measures, five requested (and were granted) a hearing.
- (13) The oral and written comments submitted by the interested parties were considered and, where appropriate, taken into account in the definitive findings.

D. DEFINITIVE FINDINGS — REPEAL OF PROVISIONAL DUTIES FOR SIX COMPANIES

- (14) With regard to the 10 Norwegian exporters which either submitted their quarterly report to the Commission late, or did not submit a report at all, two companies, Kr Kleiven & Co. AS and Scanfood AS, claimed that they had sent their quarterly reports to the Commission by electronic mail within the due time period. However, it was found subsequently that this electronic mail contained an incorrect internal address for the Commission service dealing with the monitoring of anti-dumping undertakings, with the result that the reports did not reach the department concerned. The companies both claimed that they did not, as usually happens with undelivered electronic mail, receive a 'mail-fail' message from, in this case, the Commission's electronic mail-failure service.
- (15) Having examined the additional evidence put forward by the companies subsequent to the imposition of the provisional measures, the Commission is satisfied that the companies did indeed try to send their reports within the prescribed deadline. After also investigating the matter further with regard to the functioning of its own electronic mail-failure system, the Commission considers that, at the time of submission of their reports, Kr Kleiven & Co. AS and Scanfood AS might not, for temporary technical reasons, have received notification of non-receipt from its mail-server. Their claim that they were unaware that the reports had not been received by the competent Commission department is therefore accepted and, accordingly, definitive measures should not be imposed against these two companies.
- (16) Another company which failed to submit its quarterly report within the prescribed time limit, Nor-Fa Food AS, claimed in mitigation that, whilst preparing the report during the month following the end of the quarter in question, it encountered on two occasions serious technical problems with regard to special computer diskettes used by Norwegian companies for compiling the sales data for the reports. These problems led to the final preparation of the report being delayed and its eventual despatch to the Commission to be after the deadline for receipt in the Commission's offices.
- Subsequent to the imposition of provisional measures, Nor-Fa Food AS also provided evidence from the business consultancy firm which supplied the diskettes confirming that the company had indeed encountered problems initially with their use.
- (17) The company also argued that it was, at that time, a company newly admitted to the system of undertakings and that the quarterly report in question was the first one it had submitted to the Commission.

- (18) Having considered the matter further and after examination of the new arguments and evidence put forward, the Commission is now satisfied that the company had genuine difficulties in fulfilling its reporting obligations and that it had been confronted with circumstances which were beyond its control. Accordingly, definitive measures should not be imposed against Nor-Fa Food AS.
- (19) A fourth company whose report was received late, Norway Seafoods ASA, attempted to submit its report for the second quarter of 1998 by electronic mail, but its electronic message was not accepted by the Commission's mail server because of its size.
- (20) Following the imposition of provisional measures, the company argued that the Commission's mail server appears to have been faulty as the actual size of the message sent was nowhere near the maximum handling capacity of the mail server and its message should have been received satisfactorily.
- (21) As mentioned above with regard to Kr Kleiven & Co. AS and Scanfood AS, the Commission has checked the functioning of its own electronic mail-failure system at the time when the quarterly reports in question were due. It is considered that Norway Seafoods ASA could not have reasonably expected their report to be refused by the Commission's mail server which, at the time, may not have been fault-free. The claim of Norway Seafoods ASA that it was confronted with a situation over which it had no control is therefore accepted. Accordingly, definitive measures should not be imposed against this company.
- (22) Following the imposition of provisional measures, another company further elaborated on its claim that exceptional difficulties with regard to personnel caused its report to be sent late. The further clarifications and explanations provided by the company showed that it encountered difficulties which were unforeseeable. Consequently, definitive measures should not be imposed against this company.
- (23) One of the two companies against which provisional measures were imposed due to apparent violations of the minimum import price, SMP Marine Produkter AS, provided calculations which showed that the company had inadvertently deducted from a sales transaction a certain amount for customs duty which had in fact been paid by the customer in the Community (and was not therefore deductible as a direct selling expense). Without this erroneous deduction, the average sales

price for the quarter was higher and in conformity with the minimum import price. Accordingly, the provisional duties imposed against this company should be repealed.

E. DEFINITIVE FINDINGS — VIOLATION OF UNDERTAKINGS BY SIX COMPANIES

- (24) As concerns the five other companies which failed to respect their obligations to report on time, none of them have provided further satisfactory evidence subsequent to final disclosure that circumstances which were beyond their control had prevented them from submitting their quarterly reports within the due period.
- (25) Accordingly, definitive measures should be imposed against these five companies.
- (26) The other company against which provisional measures were imposed due to apparent violations of the minimum import price, Brødrene Remo, did not come forward with any explanations or evidence which would have put in question the provisional findings. It is therefore concluded that definitive measures should also be imposed against this company.
- (27) All the interested parties were informed of the essential facts and considerations on the basis of which it was intended to either repeal the provisional measures imposed against them and reinstate them on the list of companies from which undertakings are accepted, or confirm the withdrawal of the Commission's acceptance of their undertaking and to recommend the imposition of definitive anti-dumping and countervailing duties and the definitive collection of the amounts secured by way of provisional duties. The companies were also granted a period within which to make representations subsequent to this disclosure. Comments received were taken into account where appropriate.
- (28) In parallel to this Regulation, the Commission is submitting a proposal for a Council Regulation imposing definitive anti-dumping and countervailing duties on farmed Atlantic salmon originating in Norway and exported by the remaining seven companies which are subject to the provisional duty imposed by Regulation (EC) No 82/1999, namely A Ovreskotnes AS, Alsvag Fiskeprodukter A/S, Brødrene Remo AS, Hitramat & Delikatess AS, Seacom Nord AS and Stavanger Røkeri AS.

F. NEW VIOLATION CASES

- (29) As mentioned above, all exporters from which undertakings have been accepted are required to submit a quarterly sales report within a prescribed period to the Commission, and also to respect minimum prices for the various presentations of the product concerned. With regard to the third quarter of 1998, a Norwegian exporter, Atlantic Seafood A/S failed to comply with its obligation to present a report within the prescribed time limit. The company was informed of the consequences of late reporting and, in particular, that should the Commission have reasons to believe that its undertaking is being violated, a provisional anti-dumping and countervailing duty may be imposed pursuant to Article 8(10) of Regulation (EC) No 384/96 and Article 13(10) of Regulation (EC) No 2026/97, respectively.
- (30) The company was also invited to provide evidence of any *force majeure* which caused the late submission of its report. However, no conclusive evidence thereof has been provided.
- (31) Also, whilst monitoring the reports relating to the third quarter of 1998, it appeared that one exporter, Myre Sjømat AS, had made sales to the Community market below the minimum price foreseen in the undertaking.
- (32) In order to determine the veracity and accuracy of the information provided in the quarterly reports furnished by exporters, on-the-spot verification visits at the premises of selected companies are performed by the Commission on a regular basis. In this regard, a series of visits was made in November 1998 to exporters in Norway and importers in the Community. Visits were also made to Norwegian exporters in January 1999.
- (33) One of the companies visited in Norway, Brødrene Eilertsen AS, had submitted quarterly reports to the Commission which purported to show that it had made sales of the product covered by the undertaking to customers in the Community in accordance with the terms of the undertaking. The verification revealed, however, that the company had not bought and sold the products mentioned in its reports but had, instead, simply issued invoices to importers in the Community on behalf of another Norwegian company, which had not offered an undertaking to the Commission and for which it acted as an agent. Indeed, although Brødrene Eilertsen AS issued export invoices and reported these to the Commission as its own sales, payment for the goods was made directly to the other Norwegian company by the buyers in the Community.
- (34) Another Norwegian company visited, Arne Mathiesen AS, was found to have exported the product concerned exclusively to an unrelated importer in the Community. However, Arne Mathiesen AS sourced much of this salmon from a Norwegian supplier which was related to Mathiesen's sole customer in the Community. With regard to the exports sourced from this supplier, the investigation showed that Arne Mathiesen AS did not actually pay the supplier for the goods. As concerns 'resale' of these goods, whilst Arne Mathiesen AS issued the export invoices, payment for the goods thereon was made directly by the Community importer to its related supplier in Norway, and not to Arne Mathiesen AS. Instead of receiving the full invoiced amount, Arne Mathiesen received the difference between the supposed purchase invoice and the amount appearing on the export invoice.
- (35) Accordingly, neither Brødrene Eilertsen AS or Arne Mathiesen AS can be considered as exporters for the purposes of their undertakings as they do not exercise any control over the actual price of the goods. This also means that the price paid by the customer in the Community to the Norwegian supplier companies without an undertaking cannot be monitored at all by the Commission.
- (36) It is therefore provisionally concluded that Brødrene Eilertsen AS and Arne Mathiesen AS have made misleading declarations as to the identity of the exporter and the identity and nature of the sales reported, which constitutes a breach of their undertakings.

G. IMPOSITION OF PROVISIONAL MEASURES FOLLOWING APPARENT VIOLATION CASES

- (37) Having regard to all the above, there are reasons to believe that the undertakings accepted by the Commission from Atlantic Seafood AS, Myre Sjømat AS, Brødrene Eilertsen AS and Arne Mathiesen AS are being violated.
- (38) It is therefore considered imperative that, pending further investigation of these apparent violations, provisional duties be imposed against these companies.
- (39) In accordance with Article 8(10) of Regulation (EC) No 384/96 and Article 13(10) of Regulation (EC) No 2026/97, the rate of the anti-dumping and countervailing duty respectively must be established on the basis of the best information available.

- (40) In this regard, and in view of recital 107 of Regulation (EC) No 1890/97 and recital 149 of Regulation (EC) No 1891 /97 it is considered appropriate that the provisional anti-dumping and countervailing duty rates be set at the level and in the form imposed by Regulation (EC) No 772/1999.

H. FINAL CONSIDERATION CONCERNING IMPOSITION OF PROVISIONAL DUTIES

- (41) In the interest of sound administration, a period should be fixed in which interested parties may make known their views in writing and request a hearing.

I. NEW EXPORTER

- (42) Following the imposition of definitive anti-dumping and countervailing duties, several companies made themselves known to the Commission claiming to be new exporters and offered undertakings.
- (43) In this regard, one such company, Westmarine AS, demonstrated that it had not exported the product concerned to the Community during the investigation period which led to the current anti-dumping and countervailing duties. The company also showed that it was not related to any of the companies in Norway which are subject to the anti-dumping and countervailing duties. Finally, the company provided evidence that it had entered into an irrevocable contractual obligation to export a significant amount of the product concerned to the Community.
- (44) The undertaking offered is identical in its terms to those previously offered by other Norwegian companies exporting farmed Atlantic salmon originating in Norway and it is considered that acceptance of such an undertaking from this exporter will be sufficient to remove the effects of injurious dumping and subsidisation.
- (45) Since the exporter has agreed to provide the Commission with regular and detailed information on its exports to the Community, it is concluded that the undertaking can be monitored effectively by the Commission.
- (46) The undertaking offered by this company is therefore considered acceptable. The company has been informed of the essential facts and considerations upon which acceptance of the undertaking is based. The Advisory Committee was consulted and has

raised no objections. Pursuant to Article 2 of Regulation (EC) No 772/1999 therefore, the Annex to that Regulation should be amended to grant exemption from payment of anti-dumping and countervailing duties to this company.

J. CHANGE OF NAME

- (47) In addition, two other Norwegian exporters, Saga Lax Nord AS and Hydro Seafood Sales AS, advised the Commission that the names of the companies had been changed to Prima Nor AS and Hydro Seafood Norway AS respectively. The Commission has therefore verified and confirmed that there were no changes to their corporate structures which warranted a more detailed examination of the appropriateness of the companies maintaining their undertakings. Accordingly, the name of these companies should be amended in the Annex to Decision 97/634/EC.

K. AMENDMENT OF THE ANNEX TO DECISION 97/634/EC

- (48) The Annex to Decision 97/634/EC accepting undertakings in the context of the present anti-dumping and anti-subsidies proceedings should be amended to take account of the reinstatement of the undertakings given by Kr Kleiven & Co. AS, Misundfisk AS, Nor-Fa Food AS, Norway Seafoods ASA, Scanfood AS and SMP Marine Produkter AS, in respect of which the provisional duties should be repealed, the undertaking accepted from Westmarine AS and the changes of name to Prima Nor AS and Hydro Seafood Norway AS.
- (49) For the sake of clarity, an updated version of this Annex should be published, showing the exporters whose undertakings remain in force.

HAS ADOPTED THIS REGULATION:

Article 1

1. The provisional anti-dumping and countervailing duties imposed against the following companies by Regulation (EC) No 82/1999 in relation to farmed (other than wild) Atlantic salmon originating in Norway falling within CN codes ex 0302 12 00 (Taric code: 0302 12 00* 19), ex 0304 10 13 (Taric code: 0304 10 13*19), ex 0303 22 00 (Taric code: 0303 22 00*19) and ex 0304 20 13 (Taric code: 0304 20 13*19), are hereby repealed:

UT No	Company name	Taric additional code
80	Kr Kleiven & Co. AS	8182
98	Midsundfisk AS	8202
126	Norway Seafoods ASA	8314
153	Scanfood AS	8264
168	SMP Marine Produkter AS	8279
191	Nor-Fa Food AS	8102

2. The Annex to Regulation (EC) No 82/1999 is hereby replaced by Annex I to the present Regulation.

3. Any amounts secured by way of the provisional anti-dumping and countervailing duties imposed by Regulation (EC) No 82/1999 from Kr Kleiven & Co. AS, Misundfisk AS, Norway Seafoods ASA, Scanfood AS, SMP Marine Produkter AS and Nor-Fa Food AS shall be released.

Article 2

1. (a) Provisional countervailing and anti-dumping duties are hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (Taric code: 0302 12 00*19), ex 0304 10 13 (Taric code: 0304 10 13*19), ex 0303 22 00 (Taric code: 0303 22 00*19) and ex 0304 20 13 (Taric code: 0304 20 13*19) originating in Norway and exported by the companies listed in Annex II to the present Regulation.
 - (b) These duties shall not apply to wild Atlantic salmon (Taric codes: 0302 12 00*11, 0304 10 13*11, 0303 22 00*11 and 0304 20 13*11). For the purpose of this Regulation, wild salmon shall be that in respect of which the competent authorities of the Member States of landing are satisfied, by means of all customs and transport documents to be provided by interested parties, that it was caught at sea.
2. (a) The rate of the countervailing duty applicable to the net free-at-Community-frontier price, before duty, shall be 3,8 % (Taric code: 8900).
 - (b) The rate of the anti-dumping duty applicable to the net free-at-Community-frontier price, before duty, shall be EUR 0,32 per kilogram net product weight (Taric code: 8900). However, if the free-at-Community-frontier price, including the countervailing and anti-dumping duties, is less than the relevant minimum price set out in paragraph 3, the anti-dumping duty to be collected shall be the difference between that minimum price and the free-at-Community-frontier price, including the countervailing duty.

3. For the purpose of paragraph 2, the following minimum prices shall apply per kilogram net product weight:

Presentation of salmon	Minimum price Euro/kg net product weight	Taric code
Whole fish, fresh or chilled	2,925	0302 12 00*21
Gutted, head-on, fresh or chilled	3,25	0302 12 00*22
Gutted, headless, fresh or chilled	3,65	0302 12 00*23
Other, fresh or chilled, including 'steaks'	3,65	0302 12 00*29
Whole fish, frozen	2,925	0303 22 00*21
Gutted, head-on, frozen	3,25	0303 22 00*22
Gutted, headless, frozen	3,65	0303 22 00*23
Other, frozen, including 'steaks'	3,65	0303 22 00*29
Whole fish fillets, more than 300 gr each, fresh or chilled	5,19	0304 10 13*21
Other fish fillets or fillet portions, 300 gr or less each, fresh or chilled	6,55	0304 10 13*29
Whole fish fillets, more than 300 gr each, frozen	5,19	0304 20 13*21
Other fish fillets or fillet portions, weighing 300 gr or less each, frozen	6,55	0304 20 13*29

Article 3

The following company shall be added to the Annex to Regulation (EC) No 772/1999

UT No	Company name	Taric additional code
192	Westmarine AS	8625

Article 4

The Annex to Decision 97/634/EC is hereby replaced by Annex III hereto.

Article 5

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

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

Done at Brussels, 29 April 1999.

For the Commission

Leon BRITTAN

Vice-President

*ANNEX I***List of companies subject to provisional anti-dumping and countervailing duties**

No	Company	Taric additional code
1	A. Ovreskotnes A/S	8095
5	Alsvag Fiskeprodukter A/S	8098
30	Brødrene Remo A/S	8128
65	Hitramat & Delikatesse AS	8154
159	Seacom Nord AS	8270
171	Stavanger Røkeri AS	8282

*ANNEX II***List of companies on which provisional duties are imposed by Article 2**

UT No	Company	Taric additional code
14	Arne Mathiesen A/S	8112
24	Atlantic Seafood A/S	8122
28	Brødrene Eilertsen A/S	8126
99	Myre Sjømat AS	8203

ANNEX III

ANNEX TO DECISION 97/634/EC

List of the 110 companies from which undertakings are accepted, as updated on 5 May 1999

UT No	Company name	TARIC additional code
3	Agnefest Seafood	8325
7	Aqua Export A/S	8100
8	Aqua Partner A/S	8101
11	Arctic Group International	8109
13	Artic Superior A/S	8111
15	A/S Aalesundfisk	8113
16	A/S Austevoll Fiskeindustri	8114
17	A/S Keco	8115
20	A/S Refsnes Fiskeindustri	8118
21	A/S West Fish Ltd	8119
22	Astor A/S	8120
23	Atlantic King Stranda A/S	8121
26	Borkowski & Rosnes A/S	8124
27	Brødrene Aasjord A/S	8125
31	Christiansen Partner A/S	8129
32	Clipper Seafood A/S	8130
33	Coast Seafood A/S	8131
35	Dafjord Laks A/S	8133
36	Delfa Norge A/S	8134
39	Domstein Salmon A/S	8136
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen A/S	8139
43	Eurolaks AS	8140
44	Euronor AS	8141
46	Fiskeforsyningen AS	8143
47	Fjord Aqua Group AS	8144
48	Fjord Trading Ltd. AS	8145
50	Fossen AS	8147
51	Fresh Atlantic AS	8148
52	Fresh Marine Company AS	8149
53	Fryseriet AS	8150

UT No	Company name	TARIC additional code
58	Grieg Seafood AS	8300
60	Haafa fisk AS	8302
61	Hallvard Lerøy AS	8303
62	Herøy Filetfabrikk AS	8304
66	Hydro Seafood Norway AS	8159
67	Hydrotech-gruppen AS	8428
72	Inter Sea AS	8174
75	Janas AS	8177
76	Joh. H. Pettersen AS	8178
77	Johan J. Helland AS	8179
79	Karsten J. Ellingsen AS	8181
80	Kr Kleiven & Co. AS	8182
82	Labeyrie Norge AS	8184
83	Lafjord Group AS	8185
85	Leica Fiskeprodukter	8187
87	Lofoten Seafood Export AS	8188
92	Marine Seafood AS	8196
93	Marstein Seafood AS	8197
96	Memo Food AS	8200
98	Midsundfisk AS	8202
100	Naco Trading AS	8206
101	Namdal Salmon AS	8207
104	Nergård AS	8210
105	Nils Williksen AS	8211
107	Nisja Trading AS	8213
108	Nor-Food AS	8214
111	Nordic Group ASA	8217
112	Nordreisa Laks AS	8218
113	Norexport AS	8223
114	Norfi Produkter AS	8227
115	Norfood Group AS	8228
116	Norfra Eksport AS	8229
119	Norsk Akvakultur AS	8232
120	Norsk Sjømat AS	8233
121	Northern Seafood AS	8307
122	Nortrade AS	8308
123	Norway Royal Salmon Sales AS	8309
124	Norway Royal Salmon AS	8312
126	Norway Seafoods ASA	8314

UT No	Company name	TARIC additional code
128	Norwell AS	8316
130	Nova Sea AS	8235
134	Ok-Fish Kvalheim AS	8239
137	Pan Fish Sales AS	8242
140	Polar Seafood Norway AS	8247
141	Prilam Norvège AS	8248
142	Pundslett Fisk	8251
144	Rolf Olsen Seafood AS	8254
145	Ryfisk AS	8256
146	Rørvik Fisk- og fiskematforretning AS	8257
147	Saga Lax Norge AS	8258
148	Prima Nor AS	8259
151	Sangoltgruppa AS	8262
153	Scanfood AS	8264
154	Sea Eagle Group AS	8265
155	Sea Star International AS	8266
156	Sea-Bell AS	8267
157	Seaco AS	8268
158	Seacom AS	8269
160	Seafood Farmers of Norway Ltd AS	8271
161	Seanor AS	8272
162	Sekkingstad AS	8273
164	Sirena Norway AS	8275
165	Kinn Salmon AS	8276
167	SL Fjordgruppen AS	8278
168	SMP Marine Produkter AS	8279
172	Stjernelaks AS	8283
174	Stolt Sea Farm AS	8285
175	Storm Company AS	8286
176	Superior AS	8287
178	Terra Seafood AS	8289
180	Timar Seafood AS	8294
182	Torris Products Ltd. AS	8298
183	Troll Salmon AS	8317
187	Vie de France Norway AS	8321
188	Vikenco AS	8322
189	Wannebo International AS	8323
190	West Fish Norwegian Salmon AS	8324
191	Nor-Fa Food AS	8102
192	Westmarine AS	8625

COMMISSION REGULATION (EC) No 930/1999
of 3 May 1999
on the supply of split peas as food aid

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

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated split peas to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid⁽²⁾; whereas it is necessary to specify the time limits and conditions of supply to determine the resultant costs;

Whereas, in order to ensure that the supplies are carried out, provision should be made for tenderers to be able to mobilise either green split peas or yellow split peas,

HAS ADOPTED THIS REGULATION:

Article 1

Split peas shall be mobilised in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EC) No 2519/97, and under the conditions set out in the Annex.

Tenders shall cover either green split peas or yellow split peas. Tenders shall be rejected unless they specify the type of peas to which they relate.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 3 May 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action No:** 138/98
2. **Beneficiary** ⁽²⁾: CICR, 19 avenue de la Paix, CH-1202 Genève tel. (41-22) 734 60 01; telex: 22269 CICR CH
3. **Beneficiary's representative:** Délégation CICR Kigali, avenue Kiyovu, quartier Rugunga, BP 735 Kigali, Rwanda (tel.: (250) 727 81; fax: 727 83)
4. **Country of destination:** Rwanda
5. **Product to be mobilised** ⁽⁷⁾: split peas
6. **Total quantity (tonnes net):** 1 000
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽⁷⁾: —
9. **Packaging** ⁽⁵⁾: see OJ C 267, 13.9.1996, p. 1 (4.0.A(1)(a), (2)(a) and B(4))
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (IV.A(3))
 - Language to be used for the markings: French
 - Supplementary markings: 'CICR'
11. **Method of mobilisation of the product:** the Community market
The product must originate from the Community
12. **Specified delivery stage:** free at destination ⁽⁸⁾
13. **Alternative delivery stage:** free at port of shipment
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** see point 3
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 8.8.1999
 - second deadline: 22.8.1999
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 14 — 27.6.1999
 - second deadline: 28.6 — 11.7.1999
19. **Deadline for the submission of tenders** (12 noon, Brussels time):
 - first deadline: 18.5.1999
 - second deadline: 1.6.1999
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn. Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussels telex 25670 AGREC B; fax (32 2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** —

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32 2) 295 14 65),
Torben Vestergaard (tel. (32 2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁵) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁶) Notwithstanding OJ C 114, point IV.A(3)(c) is replaced by the following: 'the words "European Community"' and point IV.A(3)(b) by the following: 'pois cassés'.
- (⁷) Tenders shall be rejected unless they specify the type of peas to which they relate.
- (⁸) Yellow or green peas (*Pisum sativum*) for human consumption of the most recent crop. The peas must not have been coloured artificially. The split peas must be steam-treated for at least two minutes or have been fumigated (⁹) and meet the following requirements:
— moisture: maximum 15 %.
— foreign matters: maximum 0,1 %,
— broken split peas: maximum 10 % (pea fragment's passing through a sieve of circular mesh of 5 mm diameter),
— percentage of discoloured seeds or of different colour: maximum 1,5 % (yellow peas), maximum 15 % (green peas),
— cooking time: maximum 45 minutes (after soaking for 12 hours), or maximum 60 minutes without soaking.
- (⁹) In addition to the provisions of Article 14(3) of Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quarterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC (OJ L 157, 7.7.1995, p. 1)).
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(⁹) The successful tender shall supply to the beneficiary or its representative, on delivery a fumigation certificate.

COMMISSION REGULATION (EC) No 931/1999
of 3 May 1999
on the supply of cereals as food aid

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

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾; whereas it is necessary to specify

the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 3 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action No:** 91/98
2. **Beneficiary** (?): WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma tel. (39 6) 65 13 29 88; fax 65 13 28 44/3; telex 626675 WFP I
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** Kenya
5. **Product to be mobilised:** common wheat flour
6. **Total quantity (tonnes net):** 5 000
7. **Number of lots:** 1
8. **Characteristics and quality of the product** (?)(?): see OJ C 114, 29.4.1991, p. 1 (II.B(1)(a))
9. **Packaging** (?): see OJ C 267, 13.9.1996, p. 1 (2.2.A(1)(d), (2)(d) and B(1))
10. **Labelling or marking** (?): see OJ C 114, 29.4.1991, p. 1 (II.B(3))
 - Language to be used for the markings: English
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** free at port of shipment — fob stowed
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 14.6 — 4.7.1999
 - second deadline: 28.6 — 11.7.1999
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders** (at 12 noon, Brussels time):
 - first deadline: 18.5.1999
 - second deadline: 1.6.1999
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** (?): Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussels telex 25670 AGREC B; fax (32 2) 296 70 03 / 296 70 04 (exclusively)
22. **Export refund** (?): refund applicable on 30.4.1999, fixed by Commission Regulation (EC) No 665/1999 (OJ L 83, 27.3.1999, p. 23)

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32 2) 295 14 65),
Torben Vestergaard (tel. (32 2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that indicated in point 22 of this Annex.
The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation. The photocopy of the export licence shall be sent as soon as the export declaration has been accepted (fax (32 2) 296 20 05).
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁶) Notwithstanding OJ C 114 of 29.4.1991, point II.B(3)(c) is replaced by the following: 'the words "European Community"'.
(⁷) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
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COMMISSION REGULATION (EC) No 932/1999

of 3 May 1999

fixing, for April 1999, the specific exchange rate for the amount of the reimbursement of storage costs 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 organisation of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1148/98 ⁽²⁾,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽³⁾,

Having regard to Commission Regulation (EEC) No 1713/93 of 30 June 1993 establishing special detailed rules for applying the agricultural conversion rate in the sugar sector ⁽⁴⁾, as last amended by Regulation (EC) No 624/1999 ⁽⁵⁾, and in particular Article 1(3) thereof,

Whereas Article 1(2) of Regulation (EEC) No 1713/93 provides that the amount of the reimbursement of storage costs referred to in Article 8 of Regulation (EEC) No 1785/81 is to be converted into national currency using a specific agricultural conversion rate equal to the average, calculated *pro rata temporis*, of the agricultural conversion rates applicable during the month of storage; whereas that specific rate must be fixed each month for the previous month; whereas, however, in the case of the reimbursable amounts applying from 1 January 1999, as a

result of the introduction of the agrimonetary arrangements for the euro from that date, the fixing of the conversion rate should be limited to the specific exchange rates prevailing between the euro and the national currencies of the Member States that have not adopted the single currency;

Whereas application of these provisions will lead to the fixing, for April 1999, of the specific exchange rate for the amount of the reimbursement of storage costs in the various national currencies as indicated in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The specific exchange rate to be used for converting the amount of the reimbursement of the storage costs referred to in Article 8 of Regulation (EEC) No 1785/81 into national currency for April 1999 shall be as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 May 1999.

It shall apply with effect from 1 April 1999.

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

Done at Brussels, 3 May 1999.

For the Commission

Franz FISCHLER

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 349, 24.12.1998, p. 1.

⁽⁴⁾ OJ L 159, 1.7.1993, p. 94.

⁽⁵⁾ OJ L 78, 24.3.1999, p. 9.

ANNEX

to the Commission Regulation of 3 May 1999 fixing, for April 1999, the exchange rate for the amount of the reimbursement of storage costs in the sugar sector

Specific exchange rate		
EUR 1 =	7,43267	Danish kroner
	325,439	Greek drachma
	8,90975	Swedish kroner
	0,665720	Pound sterling

COUNCIL DIRECTIVE 1999/29/EC

of 22 April 1999

on the undesirable substances and products in animal nutrition

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

(1) Whereas Council Directive 74/63/EEC of 17 December 1973 on the undesirable substances in animal nutrition ⁽³⁾ has been frequently and substantially amended; whereas for reasons of clarity and rationality the said Directive should be consolidated;

(2) Whereas livestock production occupies a very important place in the agriculture of the Community; whereas satisfactory results depend to a large extent on the use of appropriate good-quality feedingstuffs;

(3) Whereas the existence of rules concerning feedingstuffs is essential to an increase in agricultural productivity;

(4) Whereas feedingstuffs often contain undesirable substances or products which can endanger animal health or, because of their presence in livestock products, human health;

(5) Whereas it is impossible to exclude totally the presence of the substances and products in question; whereas it is important that their content in feedingstuffs should be reduced in order to prevent undesirable and harmful effects; whereas it is at present impossible to fix this content below the levels detectable by methods of analysis to be defined for the Community;

(6) Whereas undesirable substances and products may be present in feedingstuffs only in accordance with the conditions laid down in this Directive and may not be used in any other way for the purposes of animal feeding; whereas this Directive should therefore apply without prejudice to other Community provisions on feedingstuffs, and partic-

ularly the rules applicable to compound feedingstuffs;

(7) Whereas Member States should, however, retain the power to allow, under certain conditions, feedingstuffs having levels of undesirable substances and products higher than those provided for in Annex I;

(8) Whereas this Directive must apply to feed materials and feedingstuffs from the date of their introduction into the Community; whereas it should therefore be stipulated that the maximum levels of undesirable substances or products set apply in general from the date on which the feed materials and feedingstuffs are put into circulation, including all stages of marketing, and in particular from the date of their importation;

(9) Whereas it is advisable to establish the principle that raw materials used in animal nutrition must be sound, genuine and of merchantable quality; whereas, therefore, it is necessary to prohibit the use or putting into circulation of feed materials which, because they contain too high a level of undesirable substances or products, result in the maximum levels for compound feedingstuffs laid down in Annex I being exceeded;

(10) Whereas it is proper to limit the presence of certain undesirable substances or products in complementary feedingstuffs by fixing appropriate maximum levels;

(11) Whereas Member States should retain the power, if animal or human health is endangered, to reduce temporarily the fixed maximum permissible levels or to fix maximum levels for other substances or products or to prohibit the presence of such substances or products in feedingstuffs; whereas in order that a Member State should not abuse that power, possible amendments to Annexes I and II based on supporting documents should be decided on by emergency Community procedure;

(12) Whereas feedingstuffs satisfying the requirements of this Directive should not be subject, with regard to their level of undesirable substances and products, to restrictions on their entry into circulation other than those provided for in this Directive;

⁽¹⁾ Opinion delivered on 9 February 1999 (not yet published in the Official Journal).

⁽²⁾ OJ C 153, 28.5.1996, p. 49.

⁽³⁾ OJ L 38, 11.2.1974, p. 31. Directive as last amended by Commission Directive 98/60/EC (OJ L 209, 25.7.1998, p. 50).

- (13) Whereas, in order to ensure that the requirements laid down in respect of undesirable substances and products are satisfied during marketing of feedingsstuffs, Member States must make appropriate control arrangements;
- (14) Whereas, as part of the information system introduced by this Directive within the official control departments, Member States should also be informed by operators of cases where the provisions of this Directive are not complied with; whereas, in such cases, Member States are required to take all measures to enable the use in animal nutrition of undesirable substances and products to be excluded; whereas Member States are, where appropriate, obliged to ensure that consignments of feed materials or feedingsstuffs are destroyed, if this has been decided by its owner;
- (15) Whereas an appropriate Community procedure is essential to adjust the technical provisions laid down in Annexes I and II, to developments in scientific and technical knowledge;
- (16) Whereas, in order to facilitate implementation of the proposed measures, a procedure should be laid down to establish close cooperation between Member States and the Commission within the Standing Committee on Feedingsstuffs set up by Decision 70/372/EEC⁽¹⁾;
- (17) Whereas this Directive should not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex III, part B,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive deals with undesirable substances and products in animal nutrition.
2. This Directive shall apply without prejudice to the provisions on:
 - (a) additives in feedingsstuffs;
 - (b) the marketing of feedingsstuffs;
 - (c) the fixing of maximum permitted levels for pesticide residues on and in products intended for animal feeding, where these residues are not listed in Section B of Annex I;

⁽¹⁾ OJ L 170, 3.8.1970, p. 1.

- (d) micro-organisms in feedingsstuffs;
- (e) certain products used in animal nutrition;
- (f) feedingsstuffs for particular nutritional purposes.

Article 2

For the purposes of this Directive, the following definitions shall apply:

- (a) feedingsstuffs: products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the industrial processing thereof, and organic or inorganic substances, used singly or in mixtures, whether or not containing additives, for oral animal feeding;
- (b) feed materials: various products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the industrial processing thereof, and organic or inorganic substances, whether or not containing additives, which are intended for use in oral animal feeding, either directly as such or after processing, in the preparation of compound feedingsstuffs or as carriers of premixtures;
- (c) complete feedingsstuffs: mixtures of feedingsstuffs which, by reason of their composition, are sufficient for a daily ration;
- (d) complementary feedingsstuffs: mixtures of feedingsstuffs which have a high content of certain substances and which, by reason of their composition, are sufficient for a daily ration only if they are used in combination with other feedingsstuffs;
- (e) compound feedingsstuffs: mixtures of feed materials, whether or not containing additives, which are intended for oral animal feeding as complete or complementary feedingsstuffs;
- (f) daily ration: the average total quantity of feedingsstuffs, calculated on a moisture content of 12 %, required daily by an animal of a given species, age category and yield, to satisfy all its needs;
- (g) animals: animals belonging to species normally nourished and kept or consumed by man as well as animals living freely in the wild in cases where they are nourished with feedingsstuffs;
- (h) pet animals: animals belonging to species normally nourished and kept but not consumed by man, except animals bred for fur production.

Article 3

1. Member States shall prescribe that feed materials may only be put into circulation in the Community if they are sound, genuine and of merchantable quality.

2. In particular, and subject to the provisions in Part A of Annex II, feed materials cannot be considered as sound, genuine and of merchantable quality if the level of undesirable substances or products is so high as to make it impossible to respect the maximum levels fixed for compound feedingstuffs in Annex I.

Article 4

1. Member States shall prescribe that the substances and products listed in Annex I shall be tolerated in feedingstuffs only under the conditions therein set out.

2. Member States may authorise the maximum permitted levels provided for in Annex I in respect of feedingstuffs to be exceeded in the case of fodder which is produced and used in the same state on the same agricultural holding, where this is necessary for particular local reasons. The Member States concerned shall ensure that neither animal nor human health can suffer harm thereby.

Article 5

1. Member States shall prescribe that the feed materials listed in Annex II, part (A) may be put into circulation only if their content of the undesirable substance or product mentioned in column 1 of the said Annex does not exceed the maximum level laid down in column 3 of that Annex.

2. Where the content of the undesirable substance or product listed in column 1 of Annex II, part (A) exceeds the level laid down in column 3 of Annex I in respect of feed materials, the feed materials listed in column 2 of Annex II, part (A) may, without prejudice to paragraph 1, be put into circulation only if:

(a) it is intended for use by establishments which meet the conditions of Council Directive 95/69/EC of 22 December 1995 laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector⁽¹⁾,

and

(b) it is accompanied by a document stating:

— that the feed materials are intended for manufacturers of compound feedingstuffs who fulfil the conditions laid down in paragraph (a),

— that the feed materials may not be fed unprocessed to livestock,

— the amount of the undesirable substance or product contained in the feed material.

3. Member States shall prescribe that paragraph 2(a) and (b) shall also apply to the feed materials and undesirable substances or products listed in Annex II, part (B) the maximum level of which is not restricted in Annex II, part (A), if the level of the undesirable substance or product present in the feed materials exceeds that laid down in column 3 of Annex I for the corresponding feed materials.

Article 6

Member States may restrict the application of Article 5(2)(a) to those manufacturers of compound feedingstuffs who use the materials in question for the production and the putting into circulation of compound feedingstuffs.

Article 7

Member States shall prescribe that a consignment of a feed material detailed in part A of Annex II with a content of an undesirable substance or product higher than the maximum level fixed in column 3 of the above-mentioned Annex must not be mixed with other consignments of feed materials or with consignments of feedingstuffs.

Article 8

Member States shall prescribe that in so far as there are no special provisions for complementary feedingstuffs, these may not, allowing for the dilutions prescribed for their use, contain levels of the substances and products listed in Annex I in excess of those fixed for complete feedingstuffs.

Article 9

1. Where a Member State, as a result of new information or of a reassessment of existing information made since the provisions in question were adopted, has detailed grounds for establishing that a maximum content fixed in Annex I or II or a substance or product not listed therein constitutes a danger to animal or human health or the environment, that Member State may provisionally reduce that content, fix a maximum content or prohibit the presence of that substance or product in feedingstuffs or feed materials. It shall immediately inform the other Member States and the Commission thereof, giving reasons for its decision.

⁽¹⁾ OJ L 332, 30.12.1995, p. 15. Directive as amended by Directive 98/92/EC (OJ L 346, 22.12.1998, p. 49).

2. In accordance with the procedure laid down in Article 14, an immediate decision shall be made as to whether the Annexes should be modified. So long as no decision has been made by either the Council or the Commission the Member State may maintain the measures it has implemented.

Article 10

In accordance with the procedure laid down in Article 13 and in the light of developments in scientific and technical knowledge:

- (a) the amendments to be made to the Annexes shall be adopted;
- (b) a consolidated version of the Annexes shall be drawn up periodically incorporating the successive amendments made pursuant to (a);
- (c) criteria for the acceptability of feed materials which have undergone certain decontamination processes may be defined.

Article 11

Member States shall ensure that feedingstuffs and feed materials which conform to this Directive are not subject to any other restrictions on their circulation as regards the presence of undesirable substances and products.

Article 12

1. Member States shall take all necessary measures to ensure that feedingstuffs and feed materials are officially controlled, at least by random sampling, to verify whether the conditions laid down in this Directive are satisfied.

2. Member States shall inform the other Member States and the Commission of the name of the departments appointed to carry out this control.

3. Member States shall prescribe that where an operator (importer, producer, etc.) or a person who, by virtue of his professional activities, possesses, or has possessed, or has had direct contact with a consignment of feed materials or of feedingstuffs and has knowledge to the effect that:

- the consignment of feed materials is unsuitable for any use in animal feedingstuffs because of contamination by an undesirable substance or product listed in Annexes I and II, and therefore does not meet the provisions of Article 3(1) and consequently constitutes a serious risk for animal and public health,
- the consignment of feedingstuffs does not meet the provisions of Annex I, and therefore constitutes a serious risk for animal and public health,

such a person or operator shall immediately inform the official authorities even if the destruction of the consignment is envisaged.

After verifying the information received, Member States shall ensure that, in the case of a contaminated consignment, the measures necessary are taken to ensure that the consignment is not used in animal nutrition.

Member States shall ensure that the final destination of the contaminated consignment, including possible destruction, cannot have harmful effects on public or animal health or on the environment.

4. If a consignment of feed materials or a consignment of feedingstuffs is likely to be sent to a Member State after it has been judged not to comply with the provisions of this Directive on account of an excessive content of undesirable substances or products in another Member State, the latter Member State shall immediately give the other Member States and the Commission any useful information concerning that consignment.

Article 13

1. Where the procedure laid down in this Article is to be followed, matters shall be referred without delay by the Chairman, either on his own initiative or at the request of a Member State, to the Standing Committee on Feedingstuffs, hereinafter called the 'Committee'.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the measures and implement them forthwith where they are in accordance with the opinion of the Committee. Where they are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall adopt the measures by a qualified majority.

If the Council has not adopted any measures within three months of the proposal being submitted to it, the Commission shall adopt the proposed measures and implement them forthwith, except where the Council has voted by a simple majority against such measures.

Article 14

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Committee without delay by the Chairman, either on his own initiative or at the request of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion within two days. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the measures and implement them forthwith where they are in accordance with the opinion of the Committee. Where they are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall adopt the measures by a qualified majority.

If the Council has not adopted any measures within 15 days of the proposal being submitted to it, the Commission shall adopt the proposed measures and implement them forthwith, except where the Council has voted by a simple majority against such measures.

Article 15

1. The Member States shall apply at least the provisions of this Directive to feedingstuffs intended for export to third countries.
2. Paragraph 1 does not affect the right of Member States to allow the re-exportation to the exporting third

country of consignments of feedingstuffs which do not fulfil the requirements of this Directives.

Article 16

1. The Directives listed in Annex III, part A, are hereby repealed, without prejudice to the obligations of the Member States concerning the deadlines for transposition of those Directives, as set out in Annex III, part B.

2. References to the repealed Directives shall be construed as references to this Directive and should be read in accordance with the correlation table in Annex IV.

Article 17

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

Article 18

This Directive is addressed to the Member States.

Done at Luxembourg, 22 April 1999.

For the Council
The President
W. MÜLLER

ANNEX I

(Article 3(2), Article 4, Article 5(2) and (3), Article 8, Article 12(3))

Substances, products	Feedingstuffs	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
A. Substances (ions or elements)		
1. Arsenic	Feed materials with the exception of: — meal made from grass, from dried lucerne and from dried clover, and dried sugar beet pulp and dried molasses sugar beet pulp — phosphates and feedingstuffs obtained from the processing of fish or other marine animals Complete feedingstuffs with the exception of: — complete feedingstuffs for fish Complementary feedingstuffs with the exception of: — mineral feedingstuffs	2 4 10 2 4 4 12
2. Lead	Feed materials with the exception of: — green fodder — phosphates — yeasts Complete feedingstuffs Complementary feedingstuffs with the exception of: — mineral feedingstuffs	10 40 30 5 5 10 30
3. Fluorine	Feed materials with the exception of: — feedingstuffs of animal origin — phosphates Complete feedingstuffs with the exception of: — complete feedingstuffs for cattle, sheep and goats — in milk — other — complete feedingstuffs for pigs — complete feedingstuffs for poultry — complete feedingstuffs for chicks Mineral mixtures for cattle, sheep and goats Other complementary feedingstuffs	150 500 2 000 150 30 50 100 350 250 2 000 ⁽¹⁾ 125 ⁽²⁾
4. Mercury	Feed materials with the exception of: — feedingstuffs produced by the processing of fish or other marine animals Complete feedingstuffs with the exception of: — complete feedingstuffs for dogs and cats Complementary feedingstuffs except: — complementary feedingstuffs for dogs and cats	0,1 0,5 0,1 0,4 0,2

Substances, products	Feedingstuffs	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
5. Nitrites	Fish meal Complete feedingstuffs excluding: — feedingstuffs intended for pets except birds and aquarium fish	60 (expressed as sodium nitrite) 15 (expressed as sodium nitrite)
6. Cadmium	Feed materials of vegetable origin Feed materials of animal origin except: — feedingstuffs for pets Phosphates Complete feedingstuffs for cattle, sheep and goats except: — complete feedingstuffs for calves, lambs and kids Other complete feedingstuffs except: — feedingstuffs for pets Mineral feedingstuffs Other complementary feedingstuffs for cattle, sheep and goats	1 2 10 ⁽³⁾ 1 0,5 5 ⁽⁴⁾ 0,5
B. Products		
1. Aflatoxin B ₁	Feed materials with the exception of: — groundnut, copra, palm-kernel, cotton seed, babassu, maize and products derived from the processing thereof Complete feedingstuffs for cattle, sheep and goats with the exception of: — dairy cattle — calves and lambs Complete feedingstuffs for pigs and poultry (except young animals) Other complete feedingstuffs Complementary feedingstuffs for cattle, sheep and goats (except complementary feedingstuffs for dairy animals, calves and lambs) Complementary feedingstuffs for pigs and poultry (except young animals) Other complementary feedingstuffs	0,05 0,02 0,05 0,005 0,01 0,02 0,01 0,05 0,03 0,005
2. Hydrocyanic acid	Feed materials with the exception of: — linseed — linseed cakes — manioc products and almond cakes Complete feedingstuffs with the exception of: — complete feedingstuffs for chicks	50 250 350 100 50 10

Substances, products	Feedingstuffs	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
3. Free gossypol	Feed materials with the exception of: — cotton-seed cakes Complete feedingstuffs with the exception of: — complete feedingstuffs for cattle, sheep and goats — complete feedingstuffs for poultry (except laying hens) and calves — complete feedingstuffs for rabbits and pigs (except piglets)	20 1 200 20 500 100 60
4. Theobromine	Complete feedingstuffs with the exception of: — complete feedingstuffs for adult cattle	300 700
5. Volatile mustard oil	Feed materials with the exception of: — rape-seed cakes Complete feedingstuffs with the exception of: — complete feedingstuffs for cattle, sheep and goats (except young animals) — complete feedingstuffs for pigs (except piglets) and poultry	100 4 000 (expressed as allyl isothiocyanate) 150 (expressed as allyl isothiocyanate) 1 000 (expressed as allyl isothiocyanate) 500 (expressed as allyl isothiocyanate)
6. Vinyl thiooxazolidone (Vinyloxazolidine thione)	Complete feedingstuffs for poultry with the exception of: — complete feedingstuffs for laying hens	1 000 500
7. Rye ergot (<i>Claviceps purpurea</i>)	All feedingstuffs containing unground cereals	1 000
8. Weed seeds and unground and uncrushed fruits containing alkaloids, glucosides or other toxic substances separately or in combination including (a) <i>Lolium temulentum</i> L., (b) <i>Lolium remotum</i> Schrank, (c) <i>Datura stramonium</i> L.	All feedingstuffs	3 000 1 000 1 000 1 000
9. Castor oil plant — <i>Ricinus communis</i> L.	All feedingstuffs	10 (expressed in terms of castor-oil plant husks)
10. <i>Crotalaria</i> spp.	All feedingstuffs	100
11. Aldrin } 12. Dieldrin } singly or combined expressed as dieldrin	} All feedingstuffs with the exception of: } — fats	} 0,01 } 0,2
13. Camphechlor (toxaphene)	All feedingstuffs	0,1
14. Chlordane (sum of cis- and trans-isomers and of oxychlordane, expressed as chlordane)	All feedingstuffs with the exception of: — fats	0,02 0,05
15. DDT (sum of DDT-, TDE- and DDE-isomers, expressed as DDT)	All feedingstuffs with the exception of: — fats	0,05 0,5

Substances, products	Feedingstuffs	Maximum content in mg/kg (ppm) relative to a feedingstuff with a moisture content of 12 %
(1)	(2)	(3)
16. Endosulfan (sum of alpha- and beta-isomers and of endosulfansulphate expressed as endosulfan)	All feedingstuffs with the exception of: — maize — oilseeds — complete feedingstuffs for fish	0,1 0,2 0,5 0,005
17. Endrin (sum of endrin and of delta-ketoidrin, expressed as endrin)	All feedingstuffs with the exception of: — fats	0,01 0,05
18. Heptachlor (sum of heptachlor and of heptachlorepoxyde, expressed as heptachlor)	All feedingstuffs with the exception of: — fats	0,01 0,2
19. Hexachlorobenzene (HCB)	All feedingstuffs with the exception of: — fats	0,01 0,2
20. Hexachlorocyclo-hexane (HCH)		
20.1. alpha-isomers	All feedingstuffs with the exception of: — fats	0,02 0,2
20.2. beta-isomers	Compound feedingstuffs with the exception of: — feedingstuffs for dairy cattle Feed materials with the exception of: — fats	0,01 0,005 0,01 0,1
20.3. gamma-isomers	All feedingstuffs with the exception of: — fats	0,2 2,0
21. Dioxin (sum of PCDD and PCDF), expressed in international toxic equivalents	Citrus pulp	500 pg I-TEQ/kg (upper bound detection limit) ⁽⁵⁾
C. Botanical impurities:		
1. Apricots — <i>Prunus armeniaca</i> L.	All feedingstuffs	Seeds and fruit of the plant species listed opposite as well as their processed derivatives may only be present in feedingstuffs in trace amounts not quantitatively determinable
2. Bitter almond — <i>Prunus dulcis</i> (Mill.) D.A. Webb var. <i>amara</i> (DC.) Focke (= <i>Prunus amygdalus</i> Batsch var. <i>amara</i> (DC.) Focke)		
3. Unhusked beech mast — <i>Fagus silvatica</i> L.		
4. Camelina — <i>Camelina sativa</i> (L.) Crantz		
5. <i>Mowrah</i> , <i>Bassia</i> , <i>Madhuca</i> — <i>Madhuca longifolia</i> (L.) Macbr. (= <i>Bassia longifolia</i> L. = <i>Illipe malabrorum</i> Engl.) <i>Madhuca indica</i> Gmelin (= <i>Bassia latifolia</i> Roxb.) = <i>Illipe latifolia</i> (Roscb.) F. Mueller		
6. Purghera — <i>Jatropha curcas</i> L.		
7. Croton — <i>Croton tiglium</i> L.		
8. Indian mustard — <i>Brassica juncea</i> (L.) Czern. and Coss. ssp. <i>integrifolia</i> (West.) Thell.		
9. Sareptian mustard — <i>Brassica juncea</i> (L.) Czern. and Coss. ssp. <i>juncea</i>		
10. Chinese mustard — <i>Brassica juncea</i> (L.) Czern. and Coss. ssp. <i>juncea</i> var. <i>lutea</i> Batalin		
11. Black mustard — <i>Brassica nigra</i> (L.) Koch		
12. Ethiopian mustard — <i>Brassica carinata</i> A. Braun		

- (¹) Member States may also prescribe a maximum fluorine content of 1,25 % of the phosphate content.
- (²) Fluorine content per 1 % phosphorus.
- (³) Member States may also prescribe a maximum cadmium content of 0,5 mg per 1 % phosphorus.
- (⁴) Member States may also prescribe a maximum cadmium content of 0,75 mg per 1 % phosphorus.
- (⁵) Upper bound concentrations are calculated assuming that all values of the different congeners less than the limit of detection are equal to the limit of detection.
-

ANNEX II

PART A

(Article 3(2), Article 5, Article 7)

Substances, products	Feed materials	Maximum content in mg/kg (ppm) relative to feed materials with a moisture content of 12 %
(1)	(2)	(3)
1. Aflatoxin B ₁	Groundnut, copra, palm-kernel, cotton seed, babassu, maize and products derived from the processing thereof	0,2
2. Cadmium	Phosphates	10 ⁽¹⁾
3. Arsenic	Phosphates	20
4. Dioxin (sum of PCDD and PCDF), expressed in international toxic equivalents	Citrus pulp	500 pg I-TEQ/kg (upper bound detection limit) ⁽²⁾

⁽¹⁾ Member States may also prescribe a maximum cadmium content of 0,5 mg per 1 % phosphorus.

⁽²⁾ Upper bound concentrations are calculated assuming that all values of different congeners less than the limit of detection are equal to the limit of detection.

PART B

(Article 5(3))

Substances, products	Feed materials
(1)	(2)
A. Substances (ions or elements)	
1. Arsenic	All feed materials with the exception of: — phosphates
2. Lead	All feed materials
3. Fluorine	All feed materials
4. Mercury	All feed materials
5. Nitrites	Fish meal
6. Cadmium	All feed materials of vegetable origin All feed materials of animal origin with the exception of: — feed materials for pets
B. Products	
1. Aflatoxin B ₁	All feed materials with the exception of: — groundnut, copra, palm-kernel, cotton seed, babassu, maize and products derived from the processing thereof
2. Hydrocyanid acid	All feed materials
3. Free gossypol	All feed materials
4. Volatile mustard oil	All feed materials
5. Rye ergot (<i>Claviceps purpurea</i>)	Unground cereals

Substances, products	Feed materials
(1)	(2)
6. Weed seeds and unground and uncrushed fruits containing alkaloids, glucosides or other toxic substances separately or in combination including (a) <i>Lolium temulentum</i> L., (b) <i>Lolium remotum</i> Schrank, (c) <i>Datura stramonium</i> L.,	All feed materials
7. Castor oil plant — <i>Rizinus communis</i> L.	All feed materials
8. <i>Crotalaria</i> ssp.	All feed materials
9. Aldrin } singly or combined 10. Dieldrin } expressed as dieldrin	} All feed materials
11. Camphechlor (toxaphene)	All feed materials
12. Chlordane (sum of cis- and trans-isomers and oxychlordane, expressed as chlordane)	All feed materials
13. DDT (sum of DDT-, TDE- and DDE-isomers, expressed as DDT)	All feed materials
14. Endosulfan (sum of alpha- and beta-isomers and endosulfan sulphate expressed as endosulfan)	All feed materials
15. Endrin (sum of endrin and of delta-ketoendrin, expressed as endrin)	All feed materials
16. Heptachlor (sum of heptachlor and of heptachlor-epoxide, expressed as heptachlor)	All feed materials
17. Hexachlorobenzene (HCB)	All feed materials
18. Hexachlorocyclohexane (HCH)	
18.1. alpha-isomer	All feed materials
18.2. beta-isomer	All feed materials
18.3. gamma-isomer	All feed materials
C. Botanical impurities	
1. Apricots — <i>Prunus armeniaca</i> L.	All feed materials
2. Bitter almond — <i>Prunus dulcis</i> (Mill.) D.A. Webb var. <i>amara</i> (DC.) Focke (= <i>Prunus amygdalus</i> Batsch var. <i>amara</i> (DC.) Focke)	All feed materials
3. Unhusked beech mast — <i>Fagus silvatica</i> (L.)	All feed materials
4. Camelina — <i>Camelina sativa</i> (L.) Crantz	All feed materials

Substances, products	Feed materials
(1)	(2)
5. <i>Mourab</i> , <i>Bassia</i> , <i>Madbuca</i> — <i>Madbuca longifolia</i> (L.) Macbr. (= <i>Bassia longifolia</i> L. = <i>Illipe malabrorum</i> Engl.) <i>Madbuca indica</i> Gmelin (= <i>Bassia latifolia</i> (Roscb.) = <i>Illipe latifolia</i> (Roscb.) F. Mueller)	All feed materials
6. Purghera — <i>Jatropha curcas</i> L.	All feed materials
7. Croton — <i>Croton tiglium</i> L.	All feed materials
8. Indian mustard — <i>Brassica juncea</i> (L.) Czern. et Coss. ssp. <i>integrifolia</i> (West.) Thell.	All feed materials
9. Sareptian mustard — <i>Brassica juncea</i> (L.) Czern. and Coss. ssp. <i>juncea</i>	All feed materials
10. Chinese mustard — <i>Brassica juncea</i> (L.) Czern. and Coss. ssp. <i>juncea</i> var. <i>lutea</i> Batalin	All feed materials
11. Blach mustard — <i>Brassica nigra</i> (L.) Koch	All feed materials
12. Ethiopian mustard — <i>Brassica carinata</i> A. Braun	All feed materials

ANNEX III

PART A

Repealed Directives
(referred to by Article 16)

Council Directive 74/63/EEC and its successive amendments	
Commission Directive 76/14/EEC	
Commission Directive 76/934/EEC	
Council Directive 80/502/EEC	
Commission Directive 83/381/EEC	
Commission Directive 86/299/EEC	
Council Directive 86/354/EEC	only Article 1
Commission Directive 87/238/EEC	
Commission Directive 91/126/EEC	
Council Directive 91/132/EEC	
Council Directive 92/63/EEC	
Council Directive 92/88/EEC	
Council Directive 93/74/EEC	
Commission Directive 94/16/EC	only concerning references made to the provisions of Directive 74/63/EEC in Article 11(1)
Council Directive 95/69/EC	only Article 18
Commission Directive 96/6/EC	
Council Directive 96/25/EC	only Article 14(2)
Commission Directive 97/8/EC	
Commission Directive 98/60/EC	

PART B

Deadlines for transposition into national law
(referred to by Article 16)

Directive	Deadline for transposition
Directive 74/63/EEC (OJ L 38, 11.2.1974, p. 31)	1 January 1976
Directive 76/14/EEC (OJ L 4, 9.1.1976, p. 24)	1 April 1976
Directive 76/934/EEC (OJ L 364, 31.12.1976, p. 20)	1 March 1977
Directive 80/502/EEC (OJ L 124, 20.5.1980, p. 17)	1 July 1981
Directive 83/381/EEC (OJ L 222, 13.8.1983, p. 31)	31 December 1983
Directive 86/299/EEC (OJ L 189, 11.7.1986, p. 40)	31 December 1987
Directive 86/354/EEC (OJ L 212, 2.8.1986, p. 27)	3 December 1988
Directive 87/238/EEC (OJ L 110, 25.4.1987, p. 25)	3 December 1988
Directive 91/126/EEC (OJ L 60, 7.3.1991, p. 16)	30 November 1991
Directive 91/132/EEC (OJ L 66, 13.3.1991, p. 16)	1 August 1991
Directive 92/63/EEC (OJ L 221, 6.8.1992, p. 49)	31 March 1993
Directive 92/88/EEC (OJ L 321, 6.11.1992, p. 24)	31 December 1993
Directive 93/74/EEC (OJ L 237, 22.9.1993, p. 23)	30 June 1995
Directive 94/16/EC (OJ L 104, 23.4.1994, p. 32)	1 March 1995
Directive 95/69/EC (OJ L 332, 30.12.1995, p. 15)	1 April 1998
Directive 96/6/EC (OJ L 49, 28.2.1996, p. 29)	31 July 1996
Directive 96/25/EC (OJ L 125, 23.5.1996, p. 35)	30 June 1998
Directive 97/8/EC (OJ L 48, 19.2.1997, p. 22)	30 June 1998
Directive 98/60/EC (OJ L 209, 25.7.1998, p. 50)	31 July 1998

ANNEX IV

CORRELATION TABLE

Directive 74/63/EEC	This Directive
Article 1	Article 1
Article 2(a)	Article 2(a)
Article 2(b)	Article 2(b)
Article 2(d)	Article 2(c)
Article 2(e)	Article 2(d)
Article 2(h)	Article 2(e)
Article 2(i)	—
Article 2(c)	Article 2(f)
Article 2(f)	Article 2(g)
Article 2(g)	Article 2(h)
Article 2a	Article 3
Article 3	Article 4
Article 3a	Article 5
Article 3b	Article 6
Article 3c	Article 7
Article 4	Article 8
Article 5	Article 9
Article 6	Article 10
Article 6a	—
Article 7	Article 11
Article 8(1)	Article 12(1)
Article 8(2)	Article 12(2)
Article 8(2a)	Article 12(3)
Article 8(3)	Article 12(4)
Article 9	Article 13
Article 10	Article 14
Article 11	Article 15
—	Article 16
—	Article 17
—	Article 18
Annex I	Annex I
Annex II	Annex II
—	Annex III
—	Annex IV

II

(Acts whose publication is not obligatory)

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 1 December 1998

on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics

(ECB/1998/17)

(1999/294/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute') and in particular to Articles 5.1, 12.1 and 14.3 thereof,

- (1) Whereas, for the fulfilment of its tasks, the European System of Central Banks (ESCB) needs to compile comprehensive and reliable monthly, quarterly and annual balance of payments statistics and annual international investment position statistics showing the main items affecting monetary conditions and exchange markets in the participating Member States, when the latter are seen as one economic territory;
- (2) Whereas the Statute requires the European Central Bank (ECB), assisted by the national central banks (NCBs), to collect either from the competent national authorities or directly from economic agents the statistical information necessary in order for it to undertake the tasks of the ESCB; whereas Article 5.2 of the Statute stipulates that the NCBs shall carry out, to the extent possible, the tasks described in Article 5.1 of the Statute;
- (3) Whereas, as stipulated in recital 12 of the Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank, in the early years of the single currency area cost-effectiveness may require the ECB's statistical reporting requirements

to be satisfied through transitional procedures due to existing constraints on the collection systems; whereas this may imply in particular that, in the case of the financial account of the balance of payments, data on cross-border positions or transactions of the participating Member States seen as one economic territory may be compiled using all positions or transactions between residents of a participating Member State and residents of other countries;

- (4) Whereas the present data on positions and transactions in the assets and/or liabilities of residents of participating Member States *vis-à-vis* residents of other participating Member States will continue to be reported after the start of Stage III of Economic and Monetary Union in accordance with national requirements or established practices; whereas this information is necessary, in the early years of the single currency area, for the fulfilment of the ECB's statistical requirements; whereas this does not create an additional reporting burden on the reporting population;
- (5) Whereas in some Member States, according to established national practices, the actual reporting population does not report to the NCB but to another competent national statistical authority; whereas, in order to meet the statistical requirements of the ECB, the NCBs of these Member States and the other competent national statistical authorities shall cooperate with each other as laid down in the recommendation of the European

Central Bank of 1 December 1998 on the statistical reporting requirements of the European Central Bank in the field of balance of payments and international investment position statistics (ECB/1998/NP21);

- (6) Whereas the transmission from the NCBs to the ECB of confidential statistical information shall take place to the extent and in the detail necessary for the exercise of the tasks of the ESCB; whereas the confidentiality regime is laid down in Article 8 of Council Regulation (EC) No 2533/98;
- (7) Whereas, in accordance with Articles 12.1 and 14.3 of the Statute, ECB guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this guideline:

- ‘participating Member State’ shall mean a Member State which has adopted the single currency in accordance with the Treaty,
- ‘resident’ and ‘residing’ shall mean having a centre of economic interest in the economic territory of a country, as described in Annex A to the Council Regulation (EC) No 2533/98,
- ‘cross-border transaction’ shall mean any transaction that creates or redeems, in full or in part, claims or debts or any transaction that implies the transfer of a right over an object between residents of participating Member States seen as one economic territory and residents of non-participating Member States and/or residents of third countries. ‘Cross-border positions’ shall mean the stock of financial claims on and financial liabilities to residents of non-participating Member States and/or residents of third countries. Cross-border positions also encompass land, other real property and other immovable assets physically located outside the economic territory of the participating Member States and owned by residents of participating Member States and/or located inside the economic territory of the participating Member States and owned by residents of non-participating Member States and/or residents of third countries; and monetary gold and special drawing rights (SDRs) owned by residents of participating Member States. However, until 31 December 2005, to the extent necessary for the compilation of the direct and portfolio investment accounts and the investment income account within balance of payments and international investment position statistics covering the economic territory of the participating Member States, the terms ‘cross-border positions’ and ‘cross-border transactions’ also comprise positions and transactions in the assets and/or liabilities of residents of participating Member States *vis-à-vis* residents of other participating Member States,
- ‘balance of payments’ shall mean the statistical statement that reports with the appropriate breakdown cross-border transactions during the monthly, quarterly or annual calendar period under review,
- ‘international investment position’ shall mean the annual balance sheet of the stock of cross-border financial assets and liabilities at a reference date.

Article 2

Statistical obligations of the NCBs

1. The NCBs shall make available to the ECB the cross-border positions and the cross-border transactions necessary to enable the ECB to compile the aggregated balance of payments and international investment position of the economic territory of the participating Member States.
2. The required statistical information shall be made available to the ECB as laid down in Annexes I, II and III to this guideline, which conform to current international standards, notably the fifth edition of the International Monetary Fund (IMF) *Balance of Payments Manual* (BPM5).
3. The required statistical information shall be made available on the balance of payments for monthly, quarterly and annual calendar periods and on the international investment position as at the end of the calendar year under review.

Article 3

Timeliness

1. Key items in the monthly balance of payments of the economic territory of the participating Member States shall be made available to the ECB by the close of business on the 30th working day following the end of the month to which the data relate.
2. The quarterly detailed breakdown for the balance of payments of the economic territory of the participating Member States shall be made available to the ECB within three months of the end of the quarter to which the data relate.
3. The annual data of an aggregated balance of payments of the economic territory of the participating Member States shall be made available within three months of the end of the year to which the data relate with the same breakdowns as for the quarterly data.
4. The data on the international investment position shall be made available to the ECB within nine months of the year-end date to which the data relate.

5. The national collection of these data shall be organised with a view to meeting these deadlines.

Article 4

Transmission standard

1. The required statistical information shall be made available to the ECB in a form which meets the requirements as laid down in Annex IV to this guideline.

2. The NCBs shall use the facility provided by the ESCB, which relies upon the telecommunications network ('ESCB-Net'), for the electronic transmission of the balance of payments and international investment position statistical information required by the ECB. The statistical message format developed for this electronic exchange of statistical information is the 'Gesmes/CB' format. This requirement does not prevent the use of some other means of transmitting statistical information to the ECB as an agreed fall-back solution.

Article 5

Quality of the statistical information

1. Without prejudice to the ECB's monitoring tasks as laid down in Annex V to this guideline, the NCBs shall

monitor the quality and reliability of statistical information made available to the ECB.

2. This process may include the transmission of revisions made by the NCBs, first, in order to include the latest assessment of the statistical information, thereby improving the quality, and, second, to ensure as far as possible consistency between the corresponding balance of payments items for each of the different frequencies.

Article 6

Final provisions

1. This guideline is addressed to the national central banks of participating Member States.

2. This guideline shall be effective as of 1 January 1999.

3. This guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 1 December 1998.

*On behalf of the Governing Council of
the ECB*

Willem F. DUISENBERG

ANNEX I

STATISTICAL REQUIREMENTS OF THE EUROPEAN CENTRAL BANK

1. Balance of payments and international investment position statistics

The ECB requires balance of payments statistics at three different frequencies: monthly, quarterly and annually in respect of the corresponding reference calendar periods.

1.1. *Monthly balance of payments statistics — key items*

Objective

The objective is a monthly balance of payments of the economic territory of the participating Member States showing the main items affecting monetary conditions and exchange markets.

Requirements

It is essential that the data are suitable for use in the calculation of the balance of payments of the economic territory of the participating Member States.

For the purposes of monetary policy and foreign exchange operations, the ECB's requirement for monthly balance of payments statistics is confined to broad categories of transactions or 'key items' (see Annex II, Table 1). The short deadline for the provision of the monthly key items, their highly aggregated nature and their use for monetary policy purposes and foreign exchange operations allow some departure from international guidelines, where unavoidable. Recording on a full accruals' or transactions' basis is not required. In agreement with the ECB, national central banks (NCBs) of the participating Member States may provide data on the current and financial account on a settlement basis. Where necessary to meet the deadline, estimates or preliminary data will be accepted.

The requirement for each broad category of transaction is assets and liabilities (or credits and debits for current account items). This requires NCBs of the participating Member States, within external transactions, to distinguish between transactions with residents of other participating Member States and transactions outside the economic territory of the participating Member States, and each NCBs of the Member State shall do so consistently. NCBs in the participating Member States are required to implement this change when participation of further Member States is decided.

In order to permit a meaningful aggregation for the economic territory of the participating Member States on a monthly basis in the area of portfolio investment and direct investment, a split is required between transactions in securities and other financial flows issued by residents of participating Member States and securities and other financial flows issued by residents of all other countries. For the purpose of making this distinction, it is necessary to identify separately whether or not the issuer of the security is a resident of a participating Member State. The net transactions in portfolio and direct investment assets of the economic territory of the participating Member States are compiled by aggregating reported net transactions in securities issued by non-residents. Net transactions in portfolio and direct investment liabilities of the economic territory of the participating Member States are compiled by aggregating reported net transactions in securities issued by residents of the economic territory of the participating Member States.

1.2. *Quarterly and annual balance of payments*

Objective

The objective of the quarterly and annual balance of payments of the economic territory of the participating Member States is to provide more detailed information to permit further analysis of external transactions. These statistics will notably contribute to the financial account in preparation and to the joint publication of EU/MU balance of payments in cooperation with the Commission of the European Communities (Eurostat).

Requirements

Quarterly and annual balance of payments statistics required by the ECB conform to the greatest extent possible to the standards set in the BPM5 (see Article 2(2) of this guideline). The breakdown of quarterly and annual balance of payments statistics required by the ECB is presented in Annex II, Table 2. Special European harmonised concepts and definitions of the capital and financial account are set out in Annex III to this guideline.

The breakdown of the quarterly/annual current account is similar to the requirement for the monthly figures. Only key items are required for goods, services and transfer payments. For income, a detailed breakdown is needed.

For the financial account, the requirements of the IMF standard components of the BPM5 are followed with the following adjustments:

- for direct investment only a split between inward and outward investment is needed,
- the other investment item is simplified. This simplification includes the removal of a distinction between loans and deposits on each side of the balance sheet, the removal of the maturity breakdown and a change in the presentation of the breakdown (i.e. sector as first priority). This sectoral breakdown is compatible but not identical with the BPM5 where instruments have priority.

Member States are expected to distinguish in their quarterly and annual balance of payments statistics between transactions with other participating countries and all other external transactions. As for the monthly data, a split between transactions in securities and other financial flows issued by residents of participating Member States and securities and other financial flows issued by residents of all other countries is required for quarterly and annual data in the areas of portfolio and direct investment.

For the balance of payments of the economic territory of the participating Member States, accrued investment income data are required on a quarterly basis. In line with the System of National Accounts, the BPM5 recommends that interest should be recorded on an accruals' basis. This recommendation affects the current account (investment income) as well as the financial account. Recording on an accruals' basis requires some national central banks in the participating Member States to develop new calculation and estimation methods.

2. International investment position statistics

Objective

The objective is an annual statement of the external assets and liabilities of the economic territory of the participating Member States as a whole, for monetary policy and exchange market analysis. The ECB requires international investment position statistics in respect of end-of-calendar-year stocks level. This statistical information may also assist in the compilation of balance of payments flows.

Requirements

The international investment position data required by the ECB conform to the greatest extent possible to the standards set in the BPM5. The ECB compiles the international investment position for the economic territory of the participating Member States as a whole. The breakdown of the international investment position for the economic territory of the participating Member States is presented in Annex II, Table 3.

The ECB may require items of particular significance for the conduct of monetary policy, specifically those items within the other investment account which are currently provided to the Bank for International Settlements (BIS) for its statistics on international banking, on a quarterly basis.

The international investment position shows financial stocks at the end of the reference period, valued at end-period prices. As such, part of the change in the value of stocks during the reference period will be due to the financial transactions that have taken place and been recorded in the balance of payments. Likewise, part of the changes in positions at the beginning and at the end of a given period will be caused by changes in the prices of the financial assets and liabilities shown. In the event that stocks are denominated in currencies other than the unit of account used for the international investment position, changes in the exchange rates *vis-à-vis* other currencies will also affect the values of those stocks. Finally, any other change in stocks which is not due to the aforementioned factors will be considered as other adjustments.

A proper reconciliation between the financial flows and stocks of the economic territory of the participating Member States would require these changes in value owing to price, exchange rate changes and other adjustments to be reflected separately. However, for practical reasons, at the start of Stage III of Economic and Monetary Union, these changes will be shown together as a lump sum under a single heading and the international investment position will be compiled on a net basis relying on aggregate national data. In addition, specific rules may be applied for the valuation of equity capital in direct investment, notably in the case of unquoted shares.

Coverage of the international investment position is as close as possible to that for quarterly/annual balance of payments flows. The concepts, definitions and breakdowns are in line with those used for quarterly/annual balance of payments flows. However, for the direct investment account a further breakdown into equity and other capital is requested. Stocks compiled for the economic territory of the participating Member States' international investment position are requested to be compatible with other statistics such as money and banking statistics and financial accounts, which are also compiled by the ECB, and national accounts. These stocks encompass direct investment position data compiled by the Commission of the European Communities (Eurostat).

ANNEX II

REQUIRED BREAKDOWNS

Table 1

Monthly key items for the balance of payments of the economic territory of the participating Member States

(Credits and debits in current and capital account, assets and liabilities in financial account separately)

I. Current account (credits and debits)

- Goods
- Services
- Income
- Current transfers

II. Capital account**III. Financial account (assets and liabilities)**

- Direct investment
 - abroad
 - in the reporting economy
- Portfolio investment
 - equity securities
 - debt securities
 - of which: — bonds and notes
 - money market instruments
- Other investment
 - MFIs (excluding Central Banks)
 - of which: — long-term
 - short-term
 - general government
 - monetary authorities
 - other sectors
- Financial derivatives (net)
- Reserve assets

Errors and omissions (adjustments resulting from imbalances)

Table 2

Quarterly and annual balance of payments of the economic territory of the participating Member States

(Credits and debits in current and capital account, assets and liabilities in financial account separately)

I. Current account (credits and debits)

- Goods
- Services

Income

- Compensation of employees
- Investment income
 - direct investment
 - income on equity
 - income on debt (interest)
 - portfolio investment
 - income on equity (dividend)
 - income on debt (interest)
 - bonds and notes
 - money market instruments
 - other investment
- Current transfers

II. Capital account (credits and debits)

(No further breakdown requested)

III. Financial account (assets and liabilities)

- Direct investment
 - direct investment abroad
 - direct investment in the reporting economy
- Portfolio investment
 - Assets
 - equity securities
 - monetary authorities
 - general government
 - MFIs (excluding central banks)
 - other sectors
 - debt securities
 - bonds and notes
 - monetary authorities
 - general government
 - MFIs (excluding central banks)
 - other sectors
 - money market instruments
 - monetary authorities
 - general government
 - MFIs (excluding central banks)
 - other sectors
 - Liabilities
 - equity securities
 - MFIs (excluding central banks)
 - other sectors

- debt securities
 - bonds and notes
 - monetary authorities
 - general government
 - MFIs (excluding central banks)
 - other sectors
 - money market instruments
 - monetary authorities
 - general government
 - MFIs (excluding central banks)
 - other sectors

Other investment

Assets

- monetary authorities
 - loans/currency and deposits
 - other assets
- general government
 - trade credits
 - loans/currency and deposits
 - other assets
- MFIs (excluding central banks)
 - loans/currency and deposits
 - other assets
- other sectors
 - trade credits
 - loans/currency and deposits
 - other assets

Liabilities

- monetary authorities
 - loans/currency and deposits
 - other liabilities
- general government
 - trade credits
 - loans
 - other liabilities
- MFIs (excluding central banks)
 - loans/currency and deposits
 - other liabilities
- other sectors
 - trade credits
 - loans
 - other liabilities

Financial derivatives (net)
— monetary authorities
— general government
— MFIs (excluding central banks)
— other sectors
Reserve assets
monetary gold
special drawing rights
reserve position in the International Monetary Fund
foreign exchange
currency and deposits
with monetary authorities
with MFIs (excluding central banks)
Securities
equity
bonds and notes
money market instruments and financial derivatives ⁽¹⁾
Other claims
Errors and omissions (adjustments resulting from imbalances)

Table 3

Annual international investment position of the economic territory of the participating Member States

1. Direct investment

- 1.1. Abroad
 - 1.1.1. Equity capital and reinvested earnings
 - 1.1.2. Other capital
- 1.2. In reporting economy
 - 1.2.1. Equity capital and reinvested earnings
 - 1.2.2. Other capital

2. Portfolio investment

- 2.1. Assets
 - 2.1.1. Equity securities
 - (i) Monetary authorities
 - (ii) General government
 - (iii) MFIs (excluding central banks)
 - (iv) Other sectors

⁽¹⁾ The possibility to report on financial derivatives in a separate item within reserve assets is discussed at the IMF level and within the ECB Statistics Committee.

2.1.2. Debt securities**2.1.2.1. Bonds and notes**

- (i) Monetary authorities
- (ii) General government
- (iii) MFIs (excluding central banks)
- (iv) Other sectors

2.1.2.2. Money market instruments

- (i) Monetary authorities
- (ii) General government
- (iii) MFIs (excluding central banks)
- (iv) Other sectors

2.2. Liabilities**2.2.1. Equity securities**

- (iii) MFIs (excluding central banks)
- (iv) Other sectors

2.2.2. Debt securities**2.2.2.1. Bonds and notes**

- (i) Monetary authorities
- (ii) General government
- (iii) MFIs (excluding central banks)
- (iv) Other sectors

2.2.2.2. Money market instruments

- (i) Monetary authorities
- (ii) General government
- (iii) MFIs (excluding central banks)
- (iv) Other sectors

3. Other investment**3.1. Assets****3.1.1. Monetary authorities**

- 3.1.1.1. Loans/currency and deposits
- 3.1.1.2. Other assets

3.1.2. General government

- 3.1.2.1. Trade credits
- 3.1.2.2. Loans/currency and deposits
- 3.1.2.3. Other assets

3.1.3. MFIs (excluding central banks)

- 3.1.3.1. Loans/currency and deposits
- 3.1.3.2. Other assets

3.1.4. Other sectors

- 3.1.4.1. Trade credits
- 3.1.4.2. Loans/currency and deposits
- 3.1.4.3. Other assets

3.2. Liabilities

3.2.1. Monetary authorities

3.2.1.1. Loans/currency and deposits

3.2.1.2. Other liabilities

3.2.2. General government

3.2.2.1. Trade credits

3.2.2.2. Loans

3.2.2.3. Other liabilities

3.2.3. MFIs (excluding central banks)

3.2.3.1. Loans/currency and deposits

3.2.3.2. Other liabilities

3.2.4. Other sectors

3.2.4.1. Trade credits

3.2.4.2. Loans

3.2.4.3. Other liabilities

4. Financial derivatives

4.1. Assets

4.1.1. Monetary authorities

4.1.2. General government

4.1.3. MFIs (excluding central banks)

4.1.4. Other sectors

4.2. Liabilities

4.2.1. Monetary authorities

4.2.2. General government

4.2.3. MFIs (excluding central banks)

4.2.4. Other sectors

5. Reserve assets

5.1. Monetary gold

5.2. Special drawing rights

5.3. Reserve position in the International Monetary Fund

5.4. Foreign exchange

5.4.1. Currency and deposits

5.4.1.1. With monetary authorities

5.4.1.2. With MFIs (excluding central banks)

5.4.2. Securities

5.4.2.1. Equities

5.4.2.2. Bonds and notes

5.4.2.3. Money market instruments and financial derivatives⁽¹⁾

5.5. Other claims

⁽¹⁾ The possibility to report on financial derivatives in a separate item within reserve assets is discussed at the IMF level and within the ECB Statistics Committee.

ANNEX III

CONCEPTS AND DEFINITIONS TO BE USED IN THE BALANCE OF PAYMENTS AND INTERNATIONAL INVESTMENT POSITION STATISTICS TO BE REPORTED TO THE EUROPEAN CENTRAL BANK

In order to construct meaningful aggregated balance of payments statistics for the economic territory of the participating Member States, concepts and definitions have been defined in the field of balance of payments statistics (capital and financial accounts) and international investment position. These requirements are based on the so-called Implementation Package (July 1996) and additional documents endorsed by the Governing Council of the ECB in September 1998. Current international standards, such as the IMF *Balance of Payments Manual* (BPM5), have been used as reference in formulating these concepts and definitions. The most important harmonisation proposals are listed below. Further guidance is available in the corresponding reports to which reference codes are provided in brackets. These useful references do not form part of the legal text.

1. Concepts and definitions of investment income and items in the financial account**1.1. Investment income (ST/SC/BP/INCO9801)****Definition**

Investment income incorporates income derived from a resident entity's ownership of a foreign financial asset and, symmetrically, income derived from a non-resident entity's ownership of a domestic financial asset.

Coverage

Investment income includes receipts and payments on direct investment, portfolio investment and other investment income and receipts on reserve assets. For monthly key items the ECB will require only a total of income (comprising investment income and compensation of employees). The quarterly and annual balance of payments requirements are almost identical to IMF standard components as defined in the BPM5. The main difference is that the ECB will not require a breakdown of direct investment income on equity into distributed and undistributed profits.

Time of recording

Interest income is recorded on an accruals' basis (this is not required for the monthly data). Dividends are recorded as of the date on which they become payable.

1.2. Capital account (STA/WGS/BOP/CAPITAL96)**Definition**

The new definition of the capital account covers capital transfers and the acquisition/disposal of non-produced non-financial assets. Current transfers are to be recorded in the current account.

Coverage

The standard components of the new capital account consist of a sectoral breakdown into the items general government and other sectors, with a further breakdown thereafter. The ECB will compile only a lump-sum capital account, within which no breakdown is required. The separation between current and capital transfers is important and generally depends, in practice, upon the use of the transfer by the recipient country.

1.3. Direct investment (STA/WGS/BOP/DI95)**Definition**

According to international standards (IMF/OECD), (direct or, where available, indirect) ownership of 10 % or more of the equity of an enterprise constitutes a direct investment relationship. Member States using 20 % or another criterion adopt 10 % in significant cases.

Coverage

Special purpose entities (SPEs) are considered as regular direct investors and/or direct investment enterprises. Those NCBS of the participating Member States which are not in a position to follow this recommendation provide data on SPEs separately.

In order to avoid discrepancies and in line with both the recommendations of the IMF and Eurostat/OECD guidelines, direct investment relationships are recorded using the 'directional' principle. In order to achieve consistency in the compilation of reinvested earnings, the calculation method and the time of recording are agreed.

Inter-company financial transactions, including trade credits, are regarded as direct investment capital.

1.4. *Portfolio investment (STA/WGS/BOP/PORT95)*

Definition

The following criteria are used to judge whether a financial instrument should be considered as a security; one criterion alone may not be decisive:

- (a) guidelines drawn from the BPM5 and from the System of National Accounts (1993);
- (b) provision of an ISIN code;
- (c) accounting rules and banking regulations;
- (d) market practice (derived from reports by the International Securities Market Association).

Coverage

Investments in equity securities, debt securities and money market instruments are included, with the exception of transactions in these instruments which fall into the category of either direct investment or reserve assets.

Time of recording

The recording of transactions in financial items takes place when both creditor and debtor enter the claim and liability, respectively, in their books (in accordance with the BPM5). Recommendations for methods of recording the balance of payments on a full accruals' basis have been agreed (STA/WGS/BOP/ACC9711). For the balance of payments of the economic territory of the participating Member States, accrued investment income is required only on a quarterly and/or annual basis. Recording on a full accruals' basis is not a requirement for the monthly key items balance of payments.

1.5. *Other investment (STA/WG/BOP/OTH95)*

Definition

Other investment is defined as a residual category that includes all financial transactions not covered in direct investment, portfolio investment, or reserve assets accounts.

Coverage

Other investment covers trade credits, loans/currency and deposits and other assets/other liabilities (in accordance with the BPM5). The sectoral coverage/breakdown comprises monetary authorities, general government, banks and other sectors. The monetary authorities sector is defined as including 'central bank institutional units and operations attributed to the central bank but sometimes carried out by other government institutions, i.e. issues of currency, maintenance of reserves' (IMF definition). With this exception, 'banks' will coincide with the sub-sector monetary financial institutions.

Time of recording

The principles of 'transfer of ownership', 'time of settlement' and 'time of payment' all conform with the IMF recommendations.

In order to achieve consistent aggregate data for the economic territory of the participating Member States, no distinction is made between loans and deposits within each sector and no maturity breakdown is used. A sectoral presentation of the breakdown, compatible with the IMF standard components, is used in quarterly and annual data. Member States may add detail in national statistics.

For the monthly key items, a split between short-term and long-term flows in the banking sector is required.

Repurchase agreements and bond lending (February 1996)

The accounting practice of banks is the guiding principle for the balance of payments treatment of repurchase agreements, sell/buy-back transactions and bond lending, rather than the 'transfer of ownership' criterion. Where there is no accepted international accounting standard, a common practice which would meet statistical needs is adopted in agreement with the ECB.

This recommendation leads to the recording of genuine repurchase agreements, sell/buy-back transactions and bond lending as collateralised loans.

1.6. *Financial derivatives (April 1997, October 1997, April 1998: STA/WG/BOP/SG59802)*

Definition

Financial derivatives are financial instruments that are linked to a specific financial instrument, indicator or commodity, and through which specific financial risks can be traded in financial markets in their own right. Transactions in financial derivatives are treated as separate transactions rather than as integral parts of the value of underlying transactions to which they may be linked.

Coverage

Transactions and positions in options, futures, swaps, forward foreign exchange contracts, credit derivatives and embedded derivatives are recorded in the balance of payments and international investment position.

Initial margin payments are regarded as changes in deposits and should be recorded, if identifiable, in the other investment account. The treatment of variation margin payments depends on the form of the variation margin: options-style variation margins are regarded, in principle, as changes in deposits and should be recorded, if identifiable, under the item other investment. Futures-style variation margin payments are regarded, in principle, as transactions in derivatives and should be recorded in the financial derivatives account.

In the case of options, the full premium (i.e. the purchase/sale price of the options and the implied service charge) should be recorded in the financial account.

The net stream of settlement flows associated with interest rate derivatives should be recorded as financial derivatives.

Embedded derivatives should be recorded together with the underlying financial instrument and should not be recorded and valued separately in balance of payments statistics and the international investment position.

The classification of specific instruments of credit derivatives should be decided upon on a case-by-case basis.

The valuation of financial derivatives should be conducted on a marked-to-market basis.

Time of recording

The recording of transactions in financial items takes place when both creditor and debtor enter the claim and liability, respectively, in their books (in accordance with the BPM5). Owing to practical problems involved in separating the asset and liability flows in a meaningful way for some derivative instruments, all financial derivatives transactions in the balance of payments of the economic territory of the participating Member States are being recorded on a net basis for the time being. Financial derivative asset and liability positions in the international investment position are recorded on a gross basis.

1.7. *Reserve assets*

In accordance with the BPM5, reserve assets consist of those external assets issued by non-residents that are readily available to and controlled by monetary authorities for direct financing of payments imbalances, for indirectly regulating the magnitude of such imbalances through intervention in exchange markets to affect the currency exchange rate, and/or for other purposes.

The reserve assets of the ESCB consist of the ECB's reserve assets and the reserve assets held by NCBs of the participating Member States. The ECB will be provided by the NCBs with foreign reserve assets other than Member States' currencies, IMF reserve positions and special drawing rights, up to an amount equivalent to EUR 50 000 million (adjusted downwards by deducting the shares in the ECB's capital subscription key of those EU central banks which will not participate in the euro area from the outset).

As a result, the composition of reserve assets for Economic and Monetary Union has been agreed: MU reserve assets are the ECB's and NCBs' financial claims denominated in foreign currency on non-residents of the economic territory of the participating Member States, provided that they meet the liquidity and marketability criteria required by the aforementioned BPM5 definition plus gold, SDRs and the reserve positions in the IMF of the participating NCBs.

The pooling of reserve assets will be conducted in the form of outright transfers of ownership.

2. Implementation methods for geographical allocation (STA/WGS/BOP/GEO96)

Difficulties in the compilation of geographically broken-down balance of payments and international investment position statistics are resolved by means of a step-by-step approach. This approach involves three steps towards meeting data requirements which are progressively more demanding.

2.1. *Direct investment*

Step 1

Compilation method at the MU level: addition of national total net direct investment transactions/positions.

(Implemented in 1998).

Step 2

Compilation method at the MU level: addition of net transactions/positions in claims issued by or on non-residents of the economic territory of the participating Member States for direct investment abroad. Addition of net transactions/positions in total national net direct investment in the reporting economy and transactions/positions in securities issued by residents for direct investment in the reporting economy. No geographical breakdown into extra-Monetary Union transactions is required.

Data requirements at the NCBs' level: transactions/positions in direct investment abroad broken down into transactions/positions in MU investments (securities and other financial instruments issued by residents of participating Member States) and non-MU investment. To achieve this, it is necessary to identify the issuer (debtor) of the security or other financial instrument in order to establish whether the issuer is a resident of the participating Member States or a non-resident. For the item direct investment in the reporting economy only the national total net transactions/positions are required. A figure for net transactions/positions in direct investment in the reporting economy originating from other participating Member States is requested as a memorandum item.

Deadline for implementation: the beginning of Stage III of Economic and Monetary Union, i.e. 1 January 1999, for direct investment flows. (To be agreed for direct investment stocks).

Step 3

Compilation method at the MU level and data requirements at the national central banks' Member State level: similar to Step 2 with the addition of a geographical breakdown within extra-MU transactions/positions. This is only necessary for quarterly and annual statistics.

(Deadline for implementation: to be agreed).

2.2. *Portfolio investment*

Step 1

Compilation method at the MU level: addition of national total net portfolio investment transactions/positions. No split into assets and liabilities is required.

(Implemented in 1998).

Step 2

Compilation method at the MU level: addition of net transactions/positions in securities issued by non-residents for portfolio investment assets. Addition of net transactions/positions in total national net liabilities and transactions/positions in securities issued by residents of the participating Member States for portfolio investment liabilities. No geographical breakdown into extra-Monetary Union transactions is required.

Data requirements at the NCBs' level: transactions/positions in portfolio investment assets broken down into transactions/positions in MU securities (issued by residents of participating Member States) and non-MU securities. To achieve this it is necessary to identify the issuer (debtor) of the security in order to

establish whether the issuer is a resident of one of the participating Member States or a non-resident. For transactions/positions in portfolio investment liabilities, only national total net figures are required.

Precondition: full harmonisation of breakdowns, coverage, definitions, valuation and timing principles for portfolio investment flows (as outlined above).

Deadline for implementation: the beginning of Stage III of Economic and Monetary Union, i.e. 1 January 1999, for portfolio investment flows. (To be agreed for portfolio investment stocks).

Step 3

Compilation method at the MU level and data requirements at the national central banks' Member State level: Similar to Step 2 with the addition of a geographical breakdown within extra-MU transactions/positions. This is only necessary for quarterly and annual statistics.

Precondition: full harmonisation of breakdowns, coverage, definitions, valuation and timing principles for portfolio investment flows.

(Deadline for implementation: to be agreed).

2.3. *Other investment*

Step 1

Compilation method at the MU level: addition of national total net other investment transactions/positions.

(Implemented in 1998).

Step 2

Compilation method at the MU level: addition of net transactions/positions in other investment with non-residents for other investment assets and liabilities.

Data requirements at the national central banks' level: MU/non-MU split distinguishing transactions between residents of the participating Member States and transactions with residents of other countries (non-Monetary Union).

Deadline for implementation: the beginning of Stage III of Economic and Monetary Union, i.e. 1 January 1999, for other investment flows. (To be agreed for other investment stocks).

Step 3

Compilation method at the MU level and data requirements at the Member State level: similar to Step 2 with the addition of a geographical breakdown within extra-MU transactions/positions. This is only necessary for quarterly and annual statistics.

(Deadline for implementation: to be agreed).

2.4. *Financial derivatives*

Steps 1 and 2

Compilation method at the MU level: Addition of national total net transactions/positions in financial derivatives.

(Implemented in 1998).

Step 3

A geographical breakdown within extra-MU transactions/positions in financial derivatives. This is only necessary for quarterly and annual statistics.

(Deadline for implementation: to be agreed).

*ANNEX IV***TRANSMISSION OF THE DATA TO THE EUROPEAN CENTRAL BANK**

The exchange of the statistical information needed by the ECB relies upon the facility provided by the ESCB-Net. All exchanges of data within the ESCB use the same conceptual data model.

National central banks shall observe the recommendations listed below in order to ensure that data transmission functions satisfactorily, in particular with regard to the following items:

- completeness: national central banks shall report all balance of payments series keys. To report no series keys or non-listed series keys would be considered as incomplete reporting. Should an observation be missing, the omission shall be recorded using the corresponding observation status flag. In addition, when revisions are made to only a sub-set within the balance of payments, the validation rules should be applied to the whole balance of payments,
- sign convention: national central banks should apply the agreed sign convention in all data which are to be reported to the ECB. The IMF standard sign convention was adopted. Under this sign convention, credits and debits must be reported using the same sign in the current and capital account and in the financial account (credits are to be marked with a plus sign, debits with a minus sign),
- accounting identities of the data: the complete validation rules which were distributed and which are available on request must be implemented by the national central banks before the data are transmitted to the ECB.

*ANNEX V***MONITORING OF STATISTICAL COMPILATION METHODS**

The ECB will monitor the compilation methods used for the reporting on the balance of payments and international investment position statistics, as well as the concepts and definitions applied on a regular basis by the Member States participating in the euro area. The monitoring will be carried out in connection with updating and maintaining of the document entitled 'European Union Balance of Payments (Capital and financial account) Statistical Methods' (BOP Book), and by the six-monthly review procedure.

The BOP Book contains information on the structure of balance of payments statistical data for all EU countries. There are detailed descriptions of data compilation methods and of the concepts and definitions applied, as well as information on departures from the agreed definitions for the balance of payments and international investment position statistics in the Member States.

The BOP Book will be updated on annual basis in close cooperation with the Member States.

The six-monthly review forms part of the process of updating the BOP Book. The six-monthly review procedure is based on reports to be endorsed by the Governing Council of the ECB covering the statistical treatment of the investment income account and the financial account in the balance of payments and international investment position statistics and forms a basis for the ECB to assess the quality of the data provided to the ECB for the balance of payments statistics.
