

English edition

## Legislation

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## I

*(Acts whose publication is obligatory)*

**COMMISSION REGULATION (EEC) No 2738/93  
of 5 October 1993**

**closing an invitation to tender for the supply of cereals as food aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management<sup>(1)</sup>, as last amended by Regulation (EEC) No 1930/90<sup>(2)</sup>, and in particular Article 6 (1) (c) thereof,

Whereas, by Regulation (EEC) No 2590/93<sup>(3)</sup>, the Commission issued an invitation to tender for the supply of 61 678 tonnes of cereals as food aid; whereas the conditions of the supply, as regards lot E, should be reviewed and the invitation to tender for that lot should consequently be closed,

HAS ADOPTED THIS REGULATION:

*Article 1*

For lot E of Annex I to Regulation (EEC) No 2590/93 the invitation to tender is closed.

*Article 2*

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

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

Done at Brussels, 5 October 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 30. 12. 1986, p. 1.

<sup>(2)</sup> OJ No L 174, 7. 7. 1990, p. 6.

<sup>(3)</sup> OJ No L 238, 23. 9. 1993, p. 7.

## COMMISSION REGULATION (EEC) No 2739/93

of 4 October 1993

fixing definitively the aid for cotton applicable from 1 June to 31 August 1993  
for the 1993/94 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton, as amended by the Act of Accession of Spain and Portugal, and in particular Protocol 14 annexed thereto, and by Council Regulation (EEC) No 1553/93<sup>(1)</sup>,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton<sup>(2)</sup>, as last amended by Regulation (EEC) No 1554/93<sup>(3)</sup>, and in particular Article 5 (1) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas, in the absence of a regulation determining any reduction in the aid for the 1993/94 marketing year, under the maximum guaranteed quantity arrangements, the amounts of aid applicable from 1 June to 31 August 1993 have been calculated using a provisional reduction ;

Whereas Commission Regulation (EEC) No 2420/93<sup>(4)</sup> fixes the reduction in the aid for the 1993/94 marketing year ;

Whereas certain of these provisional aid amounts were fixed in line with the guide price proposed by the

Commission to the Council for the 1993/94 marketing year ; whereas those amounts, fixed subject to the provisions of the Council's decisions, had to be fixed in this way owing to the absence of the regulation fixing the guide price for the 1993/94 marketing year ; whereas the guide price was fixed by Council Regulation (EEC) No 1555/93<sup>(5)</sup> and reduced by Commission Regulation (EEC) No 2044/93<sup>(6)</sup> as a consequence of the monetary realignments ;

Whereas the aid amounts applying provisionally for cotton should accordingly be fixed definitively,

HAS ADOPTED THIS REGULATION :

*Article 1*

The aid amounts for unginned cotton given in Commission Regulations (EEC) No 1313/93<sup>(7)</sup>, (EEC) No 1456/93<sup>(8)</sup>, (EEC) No 1699/93<sup>(9)</sup>, (EEC) No 1748/93<sup>(10)</sup>, (EEC) No 1867/93<sup>(11)</sup>, (EEC) No 1984/93<sup>(12)</sup>, (EEC) No 2077/93<sup>(13)</sup>, (EEC) No 2120/93<sup>(14)</sup>, (EEC) No 2185/93<sup>(15)</sup>, (EEC) No 2243/93<sup>(16)</sup> and (EEC) No 2372/93<sup>(17)</sup> are hereby replaced by the amounts set out in the Annex hereto and shall apply as definitive amounts with effect from the date of entry into force of each Regulation.

*Article 2*

This Regulation shall enter into force on the third 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, 4 October 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 154, 25. 6. 1993, p. 21.

<sup>(2)</sup> OJ No L 211, 31. 7. 1981, p. 2.

<sup>(3)</sup> OJ No L 154, 25. 6. 1993, p. 23.

<sup>(4)</sup> OJ No L 222, 1. 9. 1993, p. 37.

<sup>(5)</sup> OJ No L 154, 25. 6. 1993, p. 24.

<sup>(6)</sup> OJ No L 185, 28. 7. 1993, p. 16.

<sup>(7)</sup> OJ No L 132, 29. 5. 1993, p. 68.

<sup>(8)</sup> OJ No L 142, 12. 6. 1993, p. 54.

<sup>(9)</sup> OJ No L 159, 1. 7. 1993, p. 51.

<sup>(10)</sup> OJ No L 161, 2. 7. 1993, p. 31.

<sup>(11)</sup> OJ No L 170, 13. 7. 1993, p. 26.

<sup>(12)</sup> OJ No L 180, 23. 7. 1993, p. 44.

<sup>(13)</sup> OJ No L 187, 29. 7. 1993, p. 50.

<sup>(14)</sup> OJ No L 191, 31. 7. 1993, p. 50.

<sup>(15)</sup> OJ No L 195, 4. 8. 1993, p. 40.

<sup>(16)</sup> OJ No L 200, 10. 8. 1993, p. 38.

<sup>(17)</sup> OJ No L 217, 27. 8. 1993, p. 34.

## ANNEX

## Aid for unginned cotton

*(ECU per 100 kg)*

Regulation (EEC) No	Amount of aid
1313/93	64,554
1456/93	65,075
1699/93	65,319
1748/93	64,339
1867/93	63,988
1984/93	63,099
2077/93	63,563
2120/93	63,485
2185/93	63,848
2243/93	64,286
2372/93	63,921

**COMMISSION REGULATION (EEC) No 2740/93  
of 4 October 1993**

**re-establishing the levying of customs duties on products falling within CN code 6911, originating in Sri Lanka, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3831/90 apply**

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

Having regard to Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries<sup>(1)</sup>, extended for 1993 by Regulation (EEC) No 3917/92<sup>(2)</sup>, and in particular Article 9 thereof,

Whereas, pursuant to Articles 1 and 6 of Regulation (EEC) No 3831/90, suspension of customs duties shall be accorded for 1993 to each of the countries or territories listed in Annex III other than those listed in column 4 of Annex I, within the framework of the preferential tariff ceilings fixed in column 6 of Annex I;

Whereas, as provided for in Article 7 of that Regulation, as soon as the individual ceilings in question are reached at Community level, the levying of customs duties on imports of the products in question originating in each of

the countries and territories concerned may at any time be re-established;

Whereas, in the case of products falling within CN code 6911, originating in Sri Lanka, the individual ceiling was fixed at ECU 882 000; whereas on 16 June 1993 imports of these products into the Community originating in Sri Lanka reached the ceiling in question after being charged thereagainst; whereas, it is appropriate to re-establish the levying of customs duties in respect of the products in question against Sri Lanka,

HAS ADOPTED THIS REGULATION:

*Article 1*

As from 9 October 1993, the levying of customs duties, suspended for 1993 pursuant to Council Regulation (EEC) No 3831/90, shall be re-established on imports into the Community of the following products, originating in Sri Lanka:

Order No	CN code	Description
10.0720	6911	Tableware, kitchenware, other household articles and toilet articles, of porcelain or china

*Article 2*

This Regulation shall enter into force on the third 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, 4 October 1993.

*For the Commission*

Christiane SCRIVENER

*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 31. 12. 1990, p. 1.

<sup>(2)</sup> OJ No L 396, 31. 12. 1992, p. 1.

## COMMISSION REGULATION (EEC) No 2741/93

of 4 October 1993

re-establishing the levying of customs duties on products falling within CN code 3503 00 10, originating in Pakistan, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3831/90 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries<sup>(1)</sup>, extended for 1993 by Regulation (EEC) No 3917/92<sup>(2)</sup>, and in particular Article 9 thereof,

Whereas, pursuant to Articles 1 and 6 of Regulation (EEC) No 3831/90, suspension of customs duties shall be accorded for 1993 to each of the countries or territories listed in Annex III other than those listed in column 4 of Annex I, within the framework of the preferential tariff ceilings fixed in column 6 of Annex I;

Whereas, as provided for in Article 7 of that Regulation, as soon as the individual ceilings in question are reached at Community level, the levying of customs duties on imports of the products in question originating in each of

the countries and territories concerned may at any time be re-established;

Whereas, in the case of products falling within CN code 3503 00 10, originating in Pakistan, the individual ceiling was fixed at ECU 772 000; whereas on 21 June 1993 imports of these products into the Community originating in Pakistan reached the ceiling in question after being charged thereagainst; whereas, it is appropriate to re-establish the levying of customs duties in respect of the products in question against Pakistan,

HAS ADOPTED THIS REGULATION:

*Article 1*

As from 9 October 1993, the levying of customs duties, suspended for 1993 pursuant to Council Regulation (EEC) No 3831/90, shall be re-established on imports into the Community of the following products, originating in Pakistan:

Order No	CN code	Description
10.0430	3503 00 10	Gelatin and derivatives thereof

*Article 2*

This Regulation shall enter into force on the third 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, 4 October 1993.

*For the Commission*

Christiane SCRIVENER

*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 31. 12. 1990, p. 1.

<sup>(2)</sup> OJ No L 396, 31. 12. 1992, p. 1.

**COMMISSION REGULATION (EEC) No 2742/93  
of 4 October 1993**

**re-establishing the levying of customs duties on products falling within CN code 9503, originating in China, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3831/90 apply**

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

Having regard to Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries <sup>(1)</sup>, extended for 1993 by Regulation (EEC) No 3917/92 <sup>(2)</sup>, and in particular Article 9 thereof,

Whereas, pursuant to Articles 1 and 6 of Regulation (EEC) No 3831/90, suspension of customs duties shall be accorded for 1993 to each of the countries or territories listed in Annex III other than those listed in column 4 of Annex I, within the framework of the preferential tariff ceilings fixed in column 6 of Annex I;

Whereas, as provided for in Article 7 of that Regulation, as soon as the individual ceilings in question are reached at Community level, the levying of customs duties on imports of the products in question originating in each of

the countries and territories concerned may at any time be re-established;

Whereas, in the case of products falling within CN code 9503, originating in China, the individual ceiling was fixed at ECU 26 626 000; whereas on 3 February 1993 imports of these products into the Community originating in China reached the ceiling in question after being charged thereagainst; whereas, it is appropriate to re-establish the levying of customs duties in respect of the products in question against China,

HAS ADOPTED THIS REGULATION:

*Article 1*

As from 9 October 1993, the levying of customs duties, suspended for 1993 pursuant to Council Regulation (EEC) No 3831/90, shall be re-established on imports into the Community of the following products, originating in China:

Order No	CN code	Description
10.1300	9503	Other toys, reduced size (scale) models and similar recreational models working or not, puzzles of all sorts

*Article 2*

This Regulation shall enter into force on the third 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, 4 October 1993.

*For the Commission*  
Christiane SCRIVENER  
*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 31. 12. 1990, p. 1.

<sup>(2)</sup> OJ No L 396, 31. 12. 1992, p. 1.

**COMMISSION REGULATION (EEC) No 2743/93**  
**of 5 October 1993**  
**amending Regulation (EEC) No 1767/82 laying down detailed rules for applying**  
**specific import levies on certain milk products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1108/93 of 4 May 1993 laying down certain provisions for the application of the Bilateral Agreements on agriculture between the Community, of the one part, and Austria, Finland, Iceland, Norway and Sweden, of the other part<sup>(1)</sup>, and in particular Article 1 thereof,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products<sup>(2)</sup>, as last amended by Regulation (EEC) No 2071/92<sup>(3)</sup>, and in particular Article 14 (7) thereof,

Whereas the Community has signed with Finland a Bilateral Agreement on agriculture; whereas that Agreement includes, *inter alia*, an arrangement on reciprocal trade in cheese<sup>(4)</sup>;

Whereas the cheese mentioned in that Agreement must be accompanied by an IMA 1 certificate; whereas it is necessary to change the name of the agency issuing such

certificates in Finland following an administrative reorganization which took place with effect from 1 September 1993; whereas Commission Regulation (EEC) No 1767/82<sup>(5)</sup>, as last amended by Regulation (EEC) No 1941/93<sup>(6)</sup>, should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

In Annex IV to Regulation (EEC) No 1767/82, in the fourth column under the heading 'Finland', the name of the agency issuing the IMA 1 certificates is replaced by 'Eläinlääkintä — ja elintarvikelaitos'.

*Article 2*

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

It shall apply with effect from 1 September 1993.

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

Done at Brussels, 5 October 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 113, 7. 5. 1993, p. 1.

<sup>(2)</sup> OJ No L 148, 28. 6. 1968, p. 13.

<sup>(3)</sup> OJ No L 215, 30. 7. 1992, p. 64.

<sup>(4)</sup> OJ No L 109, 1. 5. 1993, p. 18.

<sup>(5)</sup> OJ No L 196, 5. 7. 1982, p. 1.

<sup>(6)</sup> OJ No L 176, 20. 7. 1993, p. 21.

**COMMISSION REGULATION (EEC) No 2744/93**  
**of 5 October 1993**  
**amending Regulation (EEC) No 2599/93 introducing a countervailing charge on**  
**apples originating in New Zealand**

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EEC) No 638/93 <sup>(2)</sup>, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 2599/93 <sup>(3)</sup>, as amended by Regulation (EEC) No 2662/93 <sup>(4)</sup>, introduced a countervailing charge on apples originating in New Zealand;

Whereas Article 26 (1) of Regulation (EEC) No 1035/72 laid down the conditions under which a charge intro-

duced in application of Article 25 of that Regulation is amended; whereas, if those conditions are taken into consideration, the countervailing charge on the import of apples originating in New Zealand must be altered,

HAS ADOPTED THIS REGULATION:

*Article 1*

In Article 1 of amended Regulation (EEC) No 2599/93, 'ECU 7,47' is hereby replaced by 'ECU 30,37'.

*Article 2*

This Regulation shall enter into force on 6 October 1993.

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

Done at Brussels, 5 October 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 69, 20. 3. 1993, p. 7.

<sup>(3)</sup> OJ No L 238, 23. 9. 1993, p. 29.

<sup>(4)</sup> OJ No L 244, 30. 9. 1993, p. 16.

**COMMISSION REGULATION (EEC) No 2745/93**  
**of 5 October 1993**

**fixing the import levies on cereals and on wheat or rye flour, groats and meal**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as amended by Regulation (EEC) No 2193/93 <sup>(2)</sup>, and in particular Articles 10 (5) and 11 (3) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2703/93 <sup>(4)</sup> and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 4

October 1993, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2703/93 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import levies to be charged on products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 6 October 1993.

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

Done at Brussels, 5 October 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ No L 196, 5. 8. 1993, p. 22.

<sup>(3)</sup> OJ No L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ No L 245, 1. 10. 1993, p. 108.

## ANNEX

to the Commission Regulation of 5 October 1993 fixing the import levies on cereals and on wheat or rye flour, groats and meal

<i>(ECU/tonne)</i>	
CN code	Third countries <sup>(*)</sup>
0709 90 60	95,59 <sup>(*)</sup> <sup>(*)</sup>
0712 90 19	95,59 <sup>(*)</sup> <sup>(*)</sup>
1001 10 00	68,48 <sup>(*)</sup> <sup>(*)</sup>
1001 90 91	87,38
1001 90 99	87,38 <sup>(*)</sup>
1002 00 00	112,96 <sup>(*)</sup>
1003 00 10	120,43
1003 00 20	120,43
1003 00 80	120,43 <sup>(*)</sup>
1004 00 00	89,19
1005 10 90	95,59 <sup>(*)</sup> <sup>(*)</sup>
1005 90 00	95,59 <sup>(*)</sup> <sup>(*)</sup>
1007 00 90	100,61 <sup>(*)</sup>
1008 10 00	21,48 <sup>(*)</sup>
1008 20 00	28,84 <sup>(*)</sup>
1008 30 00	27,43 <sup>(*)</sup>
1008 90 10	<sup>(*)</sup>
1008 90 90	27,43
1101 00 00	159,84 <sup>(*)</sup>
1102 10 00	195,66
1103 11 30	141,37
1103 11 50	141,37
1103 11 90	182,67
1107 10 11	166,41
1107 10 19	127,09
1107 10 91	225,24 <sup>(10)</sup>
1107 10 99	171,05 <sup>(*)</sup>
1107 20 00	197,54 <sup>(10)</sup>

<sup>(1)</sup> Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

<sup>(2)</sup> In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

<sup>(3)</sup> Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.

<sup>(4)</sup> Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

<sup>(5)</sup> Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

<sup>(6)</sup> The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10), as last amended by Regulation (EEC) No 1902/92 (OJ No L 192, 11. 7. 1992, p. 3), and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22), as amended by Regulation (EEC) No 560/91 (OJ No L 62, 8. 3. 1991, p. 26).

<sup>(7)</sup> The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

<sup>(8)</sup> No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

<sup>(9)</sup> Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

<sup>(10)</sup> In accordance with Council Regulation (EEC) No 1180/77 this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

**COMMISSION REGULATION (EEC) No 2746/93****of 5 October 1993****fixing the premiums to be added to the import levies on cereals, flour and malt**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals <sup>(1)</sup>, as amended by Regulation (EEC) No 2193/93 <sup>(2)</sup>, and in particular Article 12 (4) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy <sup>(3)</sup>,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1681/93 <sup>(4)</sup> and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 4

October 1993, as regards floating currencies, should be used to calculate the levies;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The premiums to be added to the levies fixed in advance for the import in respect of the products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 6 October 1993.

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

Done at Brussels, 5 October 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*

<sup>(1)</sup> OJ No L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ No L 196, 5. 8. 1993, p. 22.

<sup>(3)</sup> OJ No L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ No L 159, 1. 7. 1993, p. 11.

## ANNEX

to the Commission Regulation of 5 October 1993 fixing the premiums to be added to the import levies on cereals, flour and malt

## A. Cereals and flour

(ECU/tonne)

CN code	Current	1st period	2nd period	3rd period
	10	11	12	1
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 00	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 20	0	0	0	0
1003 00 80	0	0	0	0
1004 00 00	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0
1102 10 00	0	0	0	0
1103 11 30	0	0	0	0
1103 11 50	0	0	0	0
1103 11 90	0	0	0	0

## B. Malt

(ECU/tonne)

CN code	Current	1st period	2nd period	3rd period	4th period
	10	11	12	1	2
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

## COMMISSION REGULATION (EEC) No 2747/93

of 5 October 1993

on the opening of a standing invitation to tender for the results on the internal market of 40 000 tonnes of bread-making wheat held by the German intervention agency

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Commission Regulation (EEC) No 2193/93<sup>(2)</sup>, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 2131/93<sup>(3)</sup> lays down the procedures and conditions governing the offer for sale of cereals held by intervention agencies;

Whereas, in the present market situation, a standing invitation to tender should be opened for the resale on the internal market of 40 000 tonnes of bread-making wheat held by the German intervention agency;

Whereas the market situation for bread-making wheat is characterized by a severely diminished 1993 harvest and, consequently, by abnormally high prices by comparison with the support prices; whereas no account should be taken therefore of the market price in the appraisal of tenders, and a minimum price should be fixed in excess of the intervention price;

Whereas, given the lengthy storage period for certain lots re-offered for sale on the market, potential buyers should be afforded a degree of security as regards quality;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The German intervention agency shall, pursuant to the terms specified in Regulation (EEC) No 2131/93, initiate a standing invitation to tender for the resale on the internal market of 40 000 tonnes of bread-making wheat held by it.

*Article 2*

1. The deadline for the submission of tenders for the first partial invitation to tender shall be 12 October 1993.
2. The deadline for the submission of tenders for the final partial invitation to tender shall be 21 December 1993.
3. The tenders shall be deposited with the German intervention agency

Bundesanstalt für landwirtschaftliche Marktordnung (BALM),  
Adickesallee 40,  
D-60322 Frankfurt am Main,  
(telex 41 17 27; fax (069) 156 47 91).

*Article 3*

When the successful tenderer removes the cereals from intervention, the intervention agency shall, for cross-checking purposes, take a sample using the same method as that laid down in Commission Regulation (EEC) No 689/92<sup>(4)</sup>.

If the analysis shows a sizeable difference between the quality of the cereals removed and the quality as described in the notice of invitation to tender, referred to in Article 3 of Regulation (EEC) No 2131/93, the successful tenderer may refuse the goods.

A difference of more than one percentage point in respect of one of the impurities referred to in the Annex to Regulation (EEC) No 689/92, with the exception of broken grains or mottled grains, shall be considered a sizeable difference.

The successful tenderer may also refuse the goods if they do not correspond to the criteria set out in sections A, C, E, F and G of the Annex to Regulation (EEC) No 689/92.

In the event of dispute, the intervention agency shall submit the sample in question for inspection and the costs incurred shall be borne by the losing party.

*Article 4*

Notwithstanding Article 5 (1) of Regulation (EEC) No 2131/92, the highest bid exceeding the minimum price of ECU 130 per tonne shall be accepted. The minimum price shall be raised by monthly increases, to be applied to the intervention price as laid down in Council Regulation (EEC) No 1542/93<sup>(5)</sup>.

*Article 5*

The German intervention agency shall notify the Commission, by no later than the Tuesday of the week following the expiry of the deadline for the submission of tenders, of the quantity and the average prices of the different lots sold.

*Article 6*

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

<sup>(1)</sup> OJ No L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ No L 196, 5. 8. 1993, p. 22.

<sup>(3)</sup> OJ No L 191, 31. 7. 1993, p. 76.

<sup>(4)</sup> OJ No L 74, 20. 3. 1992, p. 18.

<sup>(5)</sup> OJ No L 154, 25. 6. 1993, p. 3.

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

Done at Brussels, 5 October 1993.

*For the Commission*

René STEICHEN

*Member of the Commission*

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## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DIRECTIVE 93/83/EEC

of 27 September 1993

on the coordination of certain rules concerning copyright and rights related to  
copyright applicable to satellite broadcasting and cable retransmission

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 57 (2) and 66 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

- (1) Whereas the objectives of the Community as laid down in the Treaty include establishing an ever closer union among the peoples of Europe, fostering closer relations between the States belonging to the Community and ensuring the economic and social progress of the Community countries by common action to eliminate the barriers which divide Europe;
- (2) Whereas, to that end, the Treaty provides for the establishment of a common market and an area without internal frontiers; whereas measures to achieve this include the abolition of obstacles to the free movement of services and the institution of a system ensuring that competition in the common market is not distorted; whereas, to that end, the Council may adopt directives for the coordination of the provisions laid down by law, regulation or

administrative action in Member States concerning the taking up and pursuit of activities as self-employed persons;

- (3) Whereas broadcasts transmitted across frontiers within the Community, in particular by satellite and cable, are one of the most important ways of pursuing these Community objectives, which are at the same time political, economic, social, cultural and legal;
- (4) Whereas the Council has already adopted Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities <sup>(4)</sup>, which makes provision for the promotion of the distribution and production of European television programmes and for advertising and sponsorship, the protection of minors and the right of reply;
- (5) Whereas, however, the achievement of these objectives in respect of cross-border satellite broadcasting and the cable retransmission of programmes from other Member States is currently still obstructed by a series of differences between national rules of copyright and some degree of legal uncertainty; whereas this means that holders of rights are exposed to the threat of seeing their works exploited without payment of remuneration or that the individual holders of exclusive rights in various Member States block the exploitation of their rights; whereas the legal uncertainty in particular constitutes a direct obstacle in the free circulation of programmes within the Community;

<sup>(1)</sup> OJ No C 255, 1. 10. 1991, p. 3 and  
OJ No C 25, 28. 1. 1993, p. 43.

<sup>(2)</sup> OJ No C 305, 23. 11. 1992, p. 129 and  
OJ No C 255, 20. 9. 1993.

<sup>(3)</sup> OJ No C 98, 21. 4. 1992, p. 44.

<sup>(4)</sup> OJ No L 298, 17. 10. 1989, p. 23.

- (6) Whereas a distinction is currently drawn for copyright purposes between communication to the public by direct satellite and communication to the public by communications satellite; whereas, since individual reception is possible and affordable nowadays with both types of satellite, there is no longer any justification for this differing legal treatment;
- (7) Whereas the free broadcasting of programmes is further impeded by the current legal uncertainty over whether broadcasting by a satellite whose signals can be received directly affects the rights in the country of transmission only or in all countries of reception together; whereas, since communications satellites and direct satellites are treated alike for copyright purposes, this legal uncertainty now affects almost all programmes broadcast in the Community by satellite;
- (8) Whereas, furthermore, legal certainty, which is a prerequisite for the free movement of broadcasts within the Community, is missing where programmes transmitted across frontiers are fed into and retransmitted through cable networks;
- (9) Whereas the development of the acquisition of rights on a contractual basis by authorization is already making a vigorous contribution to the creation of the desired European audiovisual area; whereas the continuation of such contractual agreements should be ensured and their smooth application in practice should be promoted wherever possible;
- (10) Whereas at present cable operators in particular cannot be sure that they have actually acquired all the programme rights covered by such an agreement;
- (11) Whereas, lastly, parties in different Member States are not all similarly bound by obligations which prevent them from refusing without valid reason to negotiate on the acquisition of the rights necessary for cable distribution or allowing such negotiations to fail;
- (12) Whereas the legal framework for the creation of a single audiovisual area laid down in Directive 89/552/EEC must, therefore, be supplemented with reference to copyright;
- (13) Whereas, therefore, an end should be put to the differences of treatment of the transmission of programmes by communications satellite which exist in the Member States, so that the vital distinction throughout the Community becomes whether works and other protected subject matter are communicated to the public; whereas this will also ensure equal treatment of the suppliers of cross-border broadcasts, regardless of whether they use a direct broadcasting satellite or a communications satellite;
- (14) Whereas the legal uncertainty regarding the rights to be acquired which impedes cross-border satellite broadcasting should be overcome by defining the notion of communication to the public by satellite at a Community level; whereas this definition should at the same time specify where the act of communication takes place; whereas such a definition is necessary to avoid the cumulative application of several national laws to one single act of broadcasting; whereas communication to the public by satellite occurs only when, and in the Member State where, the programme-carrying signals are introduced under the control and responsibility of the broadcasting organization into an uninterrupted chain of communication leading to the satellite and down towards the earth; whereas normal technical procedures relating to the programme-carrying signals should not be considered as interruptions to the chain of broadcasting;
- (15) Whereas the acquisition on a contractual basis of exclusive broadcasting rights should comply with any legislation on copyright and rights related to copyright in the Member State in which communication to the public by satellite occurs;
- (16) Whereas the principle of contractual freedom on which this Directive is based will make it possible to continue limiting the exploitation of these rights, especially as far as certain technical means of transmission or certain language versions are concerned;
- (17) Whereas, in arriving at the amount of the payment to be made for the rights acquired, the parties should take account of all aspects of the broadcast, such as the actual audience, the potential audience and the language version;
- (18) Whereas the application of the country-of-origin principle contained in this Directive could pose a problem with regard to existing contracts; whereas this Directive should provide for a period of five years for existing contracts to be adapted, where necessary, in the light of the Directive; whereas the said country-of-origin principle should not, therefore, apply to existing contracts which expire before

- 1 January 2000 ; whereas if by that date parties still have an interest in the contract, the same parties should be entitled to renegotiate the conditions of the contract ;
- (19) Whereas existing international co-production agreements must be interpreted in the light of the economic purpose and scope envisaged by the parties upon signature ; whereas in the past international co-production agreements have often not expressly and specifically addressed communication to the public by satellite within the meaning of this Directive a particular form of exploitation ; whereas the underlying philosophy of many existing international co-production agreements is that the rights in the co-production are exercised separately and independently by each co-producer, by dividing the exploitation rights between them along territorial lines ; whereas, as a general rule, in the situation where a communication to the public by satellite authorized by one co-producer would prejudice the value of the exploitation rights of another co-producer, the interpretation of such an existing agreement would normally suggest that the latter co-producer would have to give his consent to the authorization, by the former co-producer, of the communication to the public by satellite ; whereas the language exclusivity of the latter co-producer will be prejudiced where the language version or versions of the communication to the public, including where the version is dubbed or subtitled, coincide(s) with the language or the languages widely understood in the territory allotted by the agreement to the latter co-producer ; whereas the notion of exclusivity should be understood in a wider sense where the communication to the public by satellite concerns a work which consists merely of images and contains no dialogue or subtitles ; whereas a clear rule is necessary in cases where the international co-production agreement does not expressly regulate the division of rights in the specific case of communication to the public by satellite within the meaning of this Directive ;
- (20) Whereas communications to the public by satellite from non-member countries will under certain conditions be deemed to occur within a Member State of the Community ;
- (21) Whereas it is necessary to ensure that protection for authors, performers, producers of phonograms and broadcasting organizations is accorded in all Member States and that this protection is not subject to a statutory licence system ; whereas only in this way is it possible to ensure that any difference in the level of protection within the common market will not create distortions of competition ;
- (22) Whereas the advent of new technologies is likely to have an impact on both the quality and the quantity of the exploitation of works and other subject matter ;
- (23) Whereas in the light of these developments the level of protection granted pursuant to this Directive to all rightholders in the areas covered by this Directive should remain under consideration ;
- (24) Whereas the harmonization of legislation envisaged in this Directive entails the harmonization of the provisions ensuring a high level of protection of authors, performers, phonogram producers and broadcasting organizations ; whereas this harmonization should not allow a broadcasting organization to take advantage of differences in levels of protection by relocating activities, to the detriment of audiovisual productions ;
- (25) Whereas the protection provided for rights related to copyright should be aligned on that contained in Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property<sup>(1)</sup> for the purposes of communication to the public by satellite ; whereas, in particular, this will ensure that performers and phonogram producers are guaranteed an appropriate remuneration for the communication to the public by satellite of their performances or phonograms ;
- (26) Whereas the provisions of Article 4 do not prevent Member States from extending the presumption set out in Article 2 (5) of Directive 92/100/EEC to the exclusive rights referred to in Article 4 ; whereas, furthermore, the provisions of Article 4 do not prevent Member States from providing for a rebuttable presumption of the authorization of exploitation in respect of the exclusive rights of performers referred to in that Article, in so far as such presumption is compatible with the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations ;
- (27) Whereas the cable retransmission of programmes from other Member States is an act subject to copyright and, as the case may be, rights related to copyright ; whereas the cable operator must, therefore, obtain the authorization from every holder of rights in each part of the programme retransmitted ; whereas, pursuant to this Directive, the authorizations should be granted contractually unless a temporary exception is provided for in the case of existing legal licence schemes ;

<sup>(1)</sup> OJ No L 346, 27. 11. 1992, p. 61.

- (28) Whereas, in order to ensure that the smooth operation of contractual arrangements is not called into question by the intervention of outsiders holding rights in individual parts of the programme, provision should be made, through the obligation to have recourse to a collecting society, for the exclusive collective exercise of the authorization right to the extent that this is required by the special features of cable retransmission; whereas the authorization right as such remains intact and only the exercise of this right is regulated to some extent, so that the right to authorize a cable retransmission can still be assigned; whereas this Directive does not affect the exercise of moral rights;
- (29) Whereas the exemption provided for in Article 10 should not limit the choice of holders of rights to transfer their rights to a collecting society and thereby have a direct share in the remuneration paid by the cable distributor for cable retransmission;
- (30) Whereas contractual arrangements regarding the authorization of cable retransmission should be promoted by additional measures; whereas a party seeking the conclusion of a general contract should, for its part, be obliged to submit collective proposals for an agreement; whereas, furthermore, any party shall be entitled, at any moment, to call upon the assistance of impartial mediators whose task is to assist negotiations and who may submit proposals; whereas any such proposals and any opposition thereto should be served on the parties concerned in accordance with the applicable rules concerning the service of legal documents, in particular as set out in existing international conventions; whereas, finally, it is necessary to ensure that the negotiations are not blocked without valid justification or that individual holders are not prevented without valid justification from taking part in the negotiations; whereas none of these measures for the promotion of the acquisition of rights calls into question the contractual nature of the acquisition of cable retransmission rights;
- (31) Whereas for a transitional period Member States should be allowed to retain existing bodies with jurisdiction in their territory over cases where the right to retransmit a programme by cable to the public has been unreasonably refused or offered on unreasonable terms by a broadcasting organization; whereas it is understood that the right of parties concerned to be heard by the body should be guaranteed and that the existence of the body should not prevent the parties concerned from having normal access to the courts;
- (32) Whereas, however, Community rules are not needed to deal with all of those matters, the effects of which perhaps with some commercially insignificant exceptions, are felt only inside the borders of a single Member State;
- (33) Whereas minimum rules should be laid down in order to establish and guarantee free and uninterrupted cross-border broadcasting by satellite and simultaneous, unaltered cable retransmission of programmes broadcast from other Member States, on an essentially contractual basis;
- (34) Whereas this Directive should not prejudice further harmonization in the field of copyright and rights related to copyright and the collective administration of such rights; whereas the possibility for Member States to regulate the activities of collecting societies should not prejudice the freedom of contractual negotiation of the rights provided for in this Directive, on the understanding that such negotiation takes place within the framework of general or specific national rules with regard to competition law or the prevention of abuse of monopolies;
- (35) Whereas it should, therefore, be for the Member States to supplement the general provisions needed to achieve the objectives of this Directive by taking legislative and administrative measures in their domestic law, provided that these do not run counter to the objectives of this Directive and are compatible with Community law;
- (36) Whereas this Directive does not affect the applicability of the competition rules in Articles 85 and 86 of the Treaty,

HAS ADOPTED THIS DIRECTIVE :

#### CHAPTER I

#### DEFINITIONS

##### *Article 1*

#### Definitions

1. For the purpose of this Directive, 'satellite' means any satellite operating on frequency bands which, under telecommunications law, are reserved for the broadcast of signals for reception by the public or which are reserved

for closed, point-to-point communication. In the latter case, however, the circumstances in which individual reception of the signals takes place must be comparable to those which apply in the first case.

2. (a) For the purpose of this Directive, 'communication to the public by satellite' means the act of introducing, under the control and responsibility of the broadcasting organization, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(b) The act of communication to the public by satellite occurs solely in the Member State where, under the control and responsibility of the broadcasting organization, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(c) If the programme-carrying signals are encrypted, then there is communication to the public by satellite on condition that the means for decrypting the broadcast are provided to the public by the broadcasting organization or with its consent.

(d) Where an act of communication to the public by satellite occurs in a non-Community State which does not provide the level of protection provided for under Chapter II,

(i) if the programme-carrying signals are transmitted to the satellite from an uplink situation situated in a Member State, that act of communication to the public by satellite shall be deemed to have occurred in that Member State and the rights provided for under Chapter II shall be exercisable against the person operating the uplink station; or

(ii) if there is no use of an uplink station situated in a Member State but a broadcasting organization established in a Member State has commissioned the act of communication to the public by satellite, that act shall be deemed to have occurred in the Member State in which the broadcasting organization has its principal establishment in the Community and the rights provided for under Chapter II shall be exercisable against the broadcasting organization.

3. For the purposes of this Directive, 'cable retransmission' means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public.

4. For the purposes of this Directive 'collecting society' means any organization which manages or administers copyright or rights related to copyright as its sole purpose or as one of its main purposes.

5. For the purposes of this Directive, the principal director of a cinematographic or audiovisual work shall be considered as its author or one of its authors. Member States may provide for others to be considered as its co-authors.

## CHAPTER II

### BROADCASTING OF PROGRAMMES BY SATELLITE

#### Article 2

##### Broadcasting right

Member States shall provide an exclusive right for the author to authorize the communication to the public by satellite of copyright works, subject to the provisions set out in this chapter.

#### Article 3

##### Acquisition of broadcasting rights

1. Member States shall ensure that the authorization referred to in Article 2 may be acquired only by agreement.

2. A Member State may provide that a collective agreement between a collecting society and a broadcasting organization concerning a given category of works may be extended to rightholders of the same category who are not represented by the collecting society, provided that:

- the communication to the public by satellite simulcasts a terrestrial broadcast by the same broadcaster, and
- the unrepresented rightholder shall, at any time, have the possibility of excluding the extension of the collective agreement to his works and of exercising his rights either individually or collectively.

3. Paragraph 2 shall not apply to cinematographic works, including works created by a process analogous to cinematography.

4. Where the law of a Member State provides for the extension of a collective agreement in accordance with the provisions of paragraph 2, that Member State shall inform the Commission which broadcasting organizations are entitled to avail themselves of that law. The Commission shall publish this information in the *Official Journal of the European Communities* (C series).

*Article 4***Rights of performers, phonogram producers and broadcasting organizations**

1. For the purposes of communication to the public by satellite, the rights of performers, phonogram producers and broadcasting organizations shall be protected in accordance with the provisions of Articles 6, 7, 8 and 10 of Directive 92/100/EEC.
2. For the purposes of paragraph 1, 'broadcasting by wireless means' in Directive 92/100/EEC shall be understood as including communication to the public by satellite.
3. With regard to the exercise of the rights referred to in paragraph 1, Articles 2 (7) and 12 of Directive 92/100/EEC shall apply.

*Article 5***Relation between copyright and related rights**

Protection of copyright-related rights under this Directive shall leave intact and shall in no way affect the protection of copyright.

*Article 6***Minimum protection**

1. Member States may provide for more far-reaching protection for holders of rights related to copyright than that required by Article 8 of Directive 92/100/EEC.
2. In applying paragraph 1 Member States shall observe the definitions contained in Article 1 (1) and (2).

*Article 7***Transitional provisions**

1. With regard to the application in time of the rights referred to in Article 4 (1) of this Directive, Article 13 (1), (2), (6) and (7) of Directive 92/100/EEC shall apply. Article 13 (4) and (5) of Directive 92/100/EEC shall apply *mutatis mutandis*.
2. Agreements concerning the exploitation of works and other protected subject matter which are in force on the date mentioned in Article 14 (1) shall be subject to the provisions of Articles 1 (2), 2 and 3 as from 1 January 2000 if they expire after that date.
3. When an international co-production agreement concluded before the date mentioned in Article 14 (1) between a co-producer from a Member State and one or more co-producers from other Member States or third countries expressly provides for a system of division of

exploitation rights between the co-producers by geographical areas for all means of communication to the public, without distinguishing the arrangement applicable to communication to the public by satellite from the provisions applicable to the other means of communication, and where communication to the public by satellite of the co-production would prejudice the exclusivity, in particular the language exclusivity, of one of the co-producers or his assignees in a given territory, the authorization by one of the co-producers or his assignees for a communication to the public by satellite shall require the prior consent of the holder of that exclusivity, whether co-producer or assignee.

## CHAPTER III

## CABLE RETRANSMISSION

*Article 8***Cable retransmission right**

1. Member States shall ensure that when programmes from other Member States are retransmitted by cable in their territory the applicable copyright and related rights are observed and that such retransmission takes place on the basis of individual or collective contractual agreements between copyright owners, holders of related rights and cable operators.
2. Notwithstanding paragraph 1, Member States may retain until 31 December 1997 such statutory licence systems which are in operation or expressly provided for by national law on 31 July 1991.

*Article 9***Exercise of the cable retransmission right**

1. Member States shall ensure that the right of copyright owners and holders or related rights to grant or refuse authorization to a cable operator for a cable retransmission may be exercised only through a collecting society.
2. Where a rightholder has not transferred the management of his rights to a collecting society, the collecting society which manages rights of the same category shall be deemed to be mandated to manage his rights. Where more than one collecting society manages rights of that category, the rightholder shall be free to choose which of those collecting societies is deemed to be mandated to manage his rights. A rightholder referred to in this paragraph shall have the same rights and obligations resulting from the agreement between the cable operator and the collecting society which is deemed to be mandated to manage his rights as the rightholders who have mandated that collecting society and he shall be able to claim those

rights within a period, to be fixed by the Member State concerned, which shall not be shorter than three years from the date of the cable retransmission which includes his work or other protected subject matter.

3. A Member State may provide that, when a right-holder authorizes the initial transmission within its territory of a work or other protected subject matter, he shall be deemed to have agreed not to exercise his cable retransmission rights on an individual basis but to exercise them in accordance with the provisions of this Directive.

#### *Article 10*

#### **Exercise of the cable retransmission right by broadcasting organizations**

Member States shall ensure that Article 9 does not apply to the rights exercised by a broadcasting organization in respect of its own transmission, irrespective of whether the rights concerned are its own or have been transferred to it by other copyright owners and/or holders of related rights.

#### *Article 11*

#### **Mediators**

1. Where no agreement is concluded regarding authorization of the cable retransmission of a broadcast. Member States shall ensure that either party may call upon the assistance of one or more mediators.

2. The task of the mediators shall be to provide assistance with negotiation. They may also submit proposals to the parties.

3. It shall be assumed that all the parties accept a proposal as referred to in paragraph 2 if none of them expresses its opposition within a period of three months. Notice of the proposal and of any opposition thereto shall be served on the parties concerned in accordance with the applicable rules concerning the service of legal documents.

4. The mediators shall be so selected that their independence and impartiality are beyond reasonable doubt.

#### *Article 12*

#### **Prevention of the abuse of negotiating positions**

1. Member States shall ensure by means of civil or administrative law, as appropriate, that the parties enter and conduct negotiations regarding authorization for cable retransmission in good faith and do not prevent or hinder negotiation without valid justification.

2. A Member State which, on the date mentioned in Article 14 (1), has a body with jurisdiction in its territory over cases where the right to retransmit a programme by cable to the public in that Member State has been unreasonably refused or offered on unreasonable terms by a broadcasting organization may retain that body.

3. Paragraph 2 shall apply for a transitional period of eight years from the date mentioned in Article 14 (1).

### CHAPTER IV

#### GENERAL PROVISIONS

#### *Article 13*

#### **Collective administration of rights**

This Directive shall be without prejudice to the regulation of the activities of collecting societies by the Member States.

#### *Article 14*

#### **Final provisions**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1995. They shall immediately inform the Commission thereof.

When Member States adopt these measures, the latter shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

3. Not later than 1 January 2000, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the audio and audiovisual sector.

#### *Article 15*

This Directive is addressed to the Member States.

Done at Brussels, 27 September 1993.

*For the Council*

*The President*

R. URBAIN