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⁽¹⁾ Text with EEA relevance

I

*(Acts whose publication is obligatory)***COMMISSION REGULATION (EC) No 1647/94****of 7 July 1994****fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 3179/93⁽²⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 1900/92⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 1901/92⁽⁶⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86⁽⁸⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 1902/92⁽¹⁰⁾, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹¹⁾,

Whereas by Regulation (EEC) No 3131/78⁽¹²⁾, as amended by the Act of Accession of Greece, the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas, in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed, taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁴⁾, no levies shall apply on imports of products originating in the overseas countries and territories;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 4 and 5 July 1994 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within CN codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 285, 20. 11. 1993, p. 9.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 192, 11. 7. 1992, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 192, 11. 7. 1992, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 192, 11. 7. 1992, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

imported product, such amount to be fixed at a standard rate ; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

Article 2

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

HAS ADOPTED THIS REGULATION :

Article 1

The minimum levies on olive oil imports are fixed in Annex I.

Article 3

This Regulation shall enter into force on 8 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission
René STEICHEN
Member of the Commission

ANNEX I

Minimum import levies on olive oil (*)

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	79,00 (*)
1509 10 90	79,00 (*)
1509 90 00	92,00 (*)
1510 00 10	77,00 (*)
1510 00 90	122,00 (*)

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

(?) For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

- (a) Lebanon : ECU 0,60 per 100 kg ;
- (b) Tunisia : ECU 12,69 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (c) Turkey : ECU 22,36 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (d) Algeria and Morocco : ECU 24,78 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

(?) For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 3,86 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

(?) For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 7,25 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

ANNEX II

Import levies on other olive oil sector products (*)

(ECU/100 kg)

CN code	Non-member countries
0709 90 39	17,38
0711 20 90	17,38
1522 00 31	39,50
1522 00 39	63,20
2306 90 19	6,16

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

COMMISSION REGULATION (EC) No 1648/94
of 6 July 1994

**imposing a provisional anti-dumping duty on imports of furazolidone
originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Communities⁽¹⁾, as last amended by Regulation (EC) No 522/94⁽²⁾, and in particular Article 11 thereof,

After consultations within the Advisory Committee;

Whereas :

A. PROCEDURE

- (1) In November 1993 the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports of furazolidone originating in the People's Republic of China.

The proceeding was initiated as a result of a complaint lodged by Orphahell BV, a Community producer representing the total Community production of the product concerned.

The complaint contained evidence of dumping of the product originating in the People's Republic of China, and of material injury resulting therefrom; this evidence was considered sufficient to justify opening a proceeding.

- (2) The Commission officially advised the producers, exporters and importers known to be concerned, the representatives of the exporting country and the complainant, and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (3) One producer and a number of exporters in the People's Republic of China, two importers and the complainant Community producer made their views

known in writing. Representatives of the Chinese producer and exporters requested and were granted a hearing.

- (4) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out an investigation at the premises of the Community producer, Orphahell BV, Mijdrecht, Netherlands.
- (5) Since the People's Republic of China is a non-market economy country, normal value was established by reference to a market economy third country, namely India (as explained in recitals 11 and 12). Information was requested and received from an Indian producer and subsequently verified at its premises :
- Kemwell Private Ltd — Bangalore
- (6) The investigation of dumping covered the period from 1 October 1992 to 30 September 1993 (hereinafter referred to as 'the investigation period').

**B. PRODUCT UNDER CONSIDERATION, LIKE
PRODUCT AND COMMUNITY INDUSTRY**

I. Description of the product concerned

- (7) The product covered by the proceeding is furazolidone which is an antibiotic product, with the chemical name 3-(5-nitrofurfurlideneamino)-2-oxazolidone, falling within CN code 2934 90 40.
- (8) Furazolidone is used in medicated feedstuffs for the treatment of diseases in swine and poultry and can also be used for the treatment of cholera and other human or veterinary diseases.

There exists only one type of furazolidone. This product is not subject to significant differences in quality or use.

II. Like product

- (9) The Commission found that furazolidone produced by the Community industry and the Indian producer was comparable in its essential physical characteristics, application and use to that produced in the People's Republic of China and exported to the Community.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 66, 10. 3. 1994, p. 10.

⁽³⁾ OJ No C 302, 9. 11. 1993, p. 2.

Consequently, the Commission considered that furazolidone imported from China is a like product to that produced and sold by the Community industry, within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88 (hereinafter referred to as 'the Basic Regulation').

III. Community industry

- (10) The Commission found that during the investigation period, the Community producer on behalf of which the complaint was lodged, represented the total Community production of the like product. Accordingly, the Commission concludes that it constitutes the 'Community industry' within the meaning of Article 4 (5) of the Basic Regulation.

C. DUMPING

I. Analogue country

- (11) Since the People's Republic of China is a non-market economy country, normal value was determined on the basis of information obtained in a third country, having a market economy namely an analogue country, in accordance with Article 2 (5) of the Basic Regulation. For this purpose, the complainant had suggested India.
- (12) The Chinese producer and exporters objected to the choice of India, alleging that the market prices charged by the Indian producer for domestic sales were particularly high and, accordingly, were not suitable for the establishment of normal value. In addition, the exporter stated that the scale of production of the product concerned in India was small.

As an alternative, they proposed Hungary or Mexico which, they argued, were both countries manufacturing and exporting furazolidone on a large scale. The Commission, consequently, contacted producers in those countries in order to explore whether an alternative to the complainant's suggestion was advisable.

The Hungarian producer known to the Commission subsequently stated that it had ceased production of the product in 1990, while no reply was received from the known producer in Mexico which is also understood to have ceased production.

After examination of the Indian market for furazolidone, the Commission concluded that the use of India as an analogue country was an appropriate

and reasonable choice within the meaning of Article 2 (5) of the Basic Regulation or the following reasons:

- domestic prices in India are governed by normal market forces as there is a reasonable degree of competition existing on the Indian market between furazolidone produced locally and imported supplies;
- the volume produced in India was considered sufficiently representative, when compared to the volume exported to the Community from China, to allow an adequate calculation of normal value;
- there is, to a large extent, similarity between China and India in the production process used;
- finally, given the withdrawal from the market of the Hungarian and Mexican producers, India appears to be the only other worldwide producer of the product concerned.

Normal value was therefore established on the basis of information supplied by the sole Indian producer as to its domestic production of the like product.

II. Normal value

- (13) The investigation of the Indian company revealed that its domestic sales of the product were not profitable during the investigation period. Therefore, normal value was established for this company in accordance with Article 2 (5) (b) of the Basic Regulation, — that is to say, it was constructed on the basis of the material and manufacturing costs for the product concerned in the country of origin plus a reasonable amount for selling, administrative and other general expenses, and profit.

The amount for selling, general and administrative expenses was calculated by reference to the expenses incurred by the Indian producer concerned on sales in India within the same business sector as furazolidone. The amount of profit added (9 %) was that regarded as reasonable by the Indian producer concerned for sales in the same business sector in India.

III. Export price

- (14) As all export sales were made to independent customers in the Community, the export prices were determined on the basis of the actual prices paid or payable for the product sold for export to the Community, in accordance with Article 2 (8) (a) of the Basic Regulation.

IV. Comparison

- (15) Normal value was compared with the export price, transaction by transaction, at the same level of trade on an ex-works basis. For the purposes of a fair comparison, adjustments were made in accordance with Article 2 (9) and (10) of the Basic Regulation in respect of differences affecting price comparability, such as transport costs, insurance, payment terms and commission, for which satisfactory evidence was submitted.

V. Dumping margin

- (16) The comparison showed the existence of dumping, the dumping margin being equal to the amount by which the normal value, as established, exceeded the prices for export to the Community. The weighted average dumping margin expressed as a percentage of the free-at-Community-frontier price was 93 %.
- (17) One Chinese producer requested that an individual margin be calculated on the basis of its export prices, claiming that as a Sino-Japanese equity joint venture company, it received no assistance, subsidies or allocations from the Chinese Government and was free to negotiate and determine the level of its income independently of any decision by the State.
- (18) In this regard, it must be borne in mind that the Basic Regulation merely requires that anti-dumping regulations specify the country and the product on which the duty is imposed. Individual treatment is therefore not a requirement of the Basic Regulation and is appropriate only where this gives a more proportionate and effective remedy against injurious dumping than a single, country-wide duty. This is generally not the case for countries referred to in Article 2 (5) of the Basic Regulation (which includes the People's Republic of China).
- (19) The Commission has, in the past, noted that the grant of individual treatment to exporters in these countries sometimes caused inappropriate levels of duty to be imposed and gave rise to an opportunity for the State to circumvent anti-dumping measures by channelling exports through, or concentrating production in, the exporter with the lowest duty. The Commission has concluded, therefore, that departures from the general rule whereby a single anti-dumping duty is established for State-trading countries should be made only in the very exceptional circumstances where it was completely satisfied that the difficulties outlined above did not arise.
- (20) The Commission noted that, in this proceeding, the Chinese producer concerned had not provided

any evidence that would justify such exceptional treatment. For this reason, and those stated in recitals (16) and (17), the Commission considers that individual treatment is not justified in the present case.

D. INJURY

I. Community consumption, volume and market share of the dumped imports

- (21) Community consumption of the product concerned was 790 tonnes in 1990, 868 tonnes in 1991, 857 tonnes in 1992 and 856 tonnes during the investigation period. The volume of the dumped imports from the People's Republic of China increased from 234 tonnes in 1990 to 338 tonnes in 1991, to 331 tonnes in 1992 and to 544 tonnes during the investigation period — by 132 % over the period. The Community market share of these imports was 29,6 % in 1990, 38,9 % in 1991, 38,6 % in 1992 and 63,6 % during the investigation period.

II. Prices of the dumped imports

- (22) Prices of the imported product during the investigation period were found to be significantly below the prices applied by the Community industry. Price undercutting was established by comparing Chinese export prices for sale to the first independent customer in the Community with weighted average prices of the Community industry at the same level of trade.

Adjustments were made, where appropriate, to ensure comparability in terms of transport costs and customs duty.

The average price undercutting margin found during the investigation period was 19 %.

III. Situation of the Community industry

(a) Production and capacity utilization

- (23) The volume of production of the product by the Community industry was, on an indexed basis, 100 in 1990, 107 in 1991, 84 in 1992 and 69 during the investigation period.

The capacity utilization rate of the industry fell from 81 % in 1990 to 71 % in 1991, to 54 % in 1992 and to 60 % during the investigation period.

(b) Sales and market share

- (24) The volume of sales in the Community by the Community industry was, on an indexed basis, 100 in 1990, 120 in 1991, 94 in 1992 and 90 during the investigation period — a decrease of 10 % between 1990 and the investigation period, during which time apparent consumption in the Community increased by more than 8 %. This development of sales volume, compared to that of apparent Community consumption, shows a market share held by the Community industry which decreased by almost 16 % between 1990 and the investigation period.

(c) Price depression

- (25) Because of the downward pressure on prices resulting from the dumped imports, the Community industry was forced to lower its prices by almost 19 % between 1990 and the investigation period in an attempt to maintain its capacity utilization and market share. Prices, on an indexed basis, were 100 in 1990, 132 in 1991, 106 in 1992 and 81 during the investigation period.

(d) Profitability

- (26) The profitability of the Community industry on sales of the product concerned on the Community market was completely eroded between 1990 and the investigation period. While profits were made in 1990 and 1991, significant losses were incurred in 1992 and during the investigation period.

IV. Conclusion

- (27) The preliminary examination of the facts on injury shows that the Community industry, despite reducing its prices in an attempt to compete with the dumped imports from the People's Republic of China, experienced a decrease in sales volume and market share. The combined effect of the decrease in prices and sales volume has resulted in substantial financial losses for that industry.
- (28) The Commission concludes, therefore, that the Community industry suffered material injury within the meaning of Article 4 (1) of the Basic Regulation.

E. CAUSATION

- (29) The Commission examined whether the injury suffered by the Community industry had been caused by the dumped imports and whether other

factors might have caused or contributed to that injury.

I. Effect of dumped imports

- (30) In its investigation, the Commission found that the increase in volume and market share of the dumped imports from the People's Republic of China coincided with the worsening situation of the Community industry. As a result of the low prices at which the imported product was sold on the Community market, the Community industry was forced to reduce its prices in a vain attempt to maintain its capacity utilization and market share. This price reduction led to a worsening of the financial situation of the Community industry. This situation corresponded closely in time with the substantial increase in the low-priced imports from the People's Republic of China.

II. Effect of other factors

- (31) The Commission examined whether the injury suffered by the Community industry could have been caused by factors other than the dumped imports. In particular, the Commission looked at the evolution and impact of imports from third countries not included in this proceeding and the trend of consumption in the Community market.
- (32) The volume of imports from third countries not included in the proceeding decreased by more than 92 % between 1990 and the investigation period, resulting in a market share for these imports of a mere 2,1 % during the investigation period. In the same period, apparent Community consumption of the product concerned increased by more than 8 %.

In the light of the above, the decrease in sales and market share of the Community industry cannot therefore be attributed to the changing trend of consumption on the market or to the effect of imports from other sources.

- (33) The Commission also examined the claim made by the Chinese exporters that decreases in the price of the product are essentially the consequence of the prohibition of most substances belonging to the nitrofurans group (which includes furazolidone) and the uncertainty about future applications of the product.

The Commission noted, however, that furazolidone is not one of the nitrofurans whose administration to food-producing animals is prohibited in the Community. In fact, Council Regulation (EEC) No 2377/90⁽¹⁾, as last amended by Regulation (EC) No 3426/93⁽²⁾, laid down a period within which further studies of furazolidone are to be carried out in order to allow the European Communities' Committee for Veterinary Medicinal Products to make a recommendation on its continued use in food-producing animals. Indeed, the fact that the Community industry is now prepared to invest heavily in these studies is an indication of its belief in the future of the product.

- (34) Accordingly, the Commission does not consider that the prohibition on the use of certain nitrofurans substances can explain the significant decrease in the price of furazolidone on the Community market. It should also be noted that these factors have not affected the demand for the product which has continued to grow in recent years.
- (35) The Commission has concluded, therefore, that the dumped imports originating in the People's Republic of China, because of their prices, their penetration of the Community market, the resulting loss of market share and dramatic deterioration in the financial situation of the Community industry, have caused material injury to that industry.

F. COMMUNITY INTEREST

- (36) In assessing the Community interest, the Commission took account of certain essential elements. One such element is that a key purpose of anti-dumping measures is to stop the distortion of competition arising from unfair commercial practices and thus re-establish open and fair competition on the Community market — this is fundamentally in the Community interest. Furthermore, failure to take provisional measures would aggravate the already precarious situation of the Community industry, especially noticeable in the total lack of profitability which threatens its viability.
- (37) The Community industry has indicated to the Commission that, aside from its own production, the only alternative source of supply of furazoli-

done in the Community now consists of imports from the People's Republic of China. This fact seems to be borne out by the level of imports into the Community from other countries, which was only 18 tonnes (2,1 % of the market) during the investigation period. Should the Community industry be forced to cease production, the market would be rendered entirely dependent on Chinese imports.

- (38) As to the interests of users of the product in the Community, the short-term price advantages gained from the dumped prices have to be seen against the background of the longer-term effects of not restoring fair competition. Indeed, to refrain from taking action would seriously threaten the viability of the Community industry, the disappearance of which would, in fact, reduce competition to a single source of supply, to the ultimate detriment of users.
- (39) The Commission considers, therefore, that it is in the Community interest to remove the effects of the injury suffered by the Community industry and to restore fair competition by the imposition of provisional anti-dumping measures on imports of the product originating in the People's Republic of China.

G. DUTY

- (40) For the purpose of establishing the level of the provisional duty, the Commission took account of the dumping margins recorded and of the amount of duty necessary to eliminate the injury sustained by the Community industry.
- (41) Since the injury consisted mainly of price depression, loss of market share and, in particular, financial losses, the removal of such injury requires that the industry be put in a position in which its prices could be increased to a profitable level without a loss of sales volume. In order to achieve this, the price of the imports originating in the People's Republic of China should be increased accordingly.

For calculating the necessary price increase, the Commission considered that prices of the dumped imports had to be compared with selling prices reflecting the cost of production of the Community industry plus a reasonable amount of profit.

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 1.

⁽²⁾ OJ No L 312, 15. 12. 1993, p. 15.

- (42) On this basis, the weighted average export prices were compared, for the investigation period, on a free-at-Community-frontier level increased by customs duty, with the cost of production of the Community producer concerned plus a margin of profit, provisionally set at 8 %. This profit margin was claimed by the complainant as the minimum required in this business sector and was, in effect, the margin achieved by the producer concerned before the impact of the dumped imports became significant.

This comparison shows an injury margin which, expressed on a weighted average basis as a percentage of the free-at-Community-frontier-price, was 70,6 %.

- (43) Since the margin of dumping recorded was greater than the corresponding increase in export prices necessary to remove the injury as calculated above, the provisional duty to be imposed should, therefore, correspond to the injury margin established.

H. FINAL PROVISION

- (44) In the interests of sound administration, a period should be fixed in which the parties concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of furazolidone falling within CN code 2934 90 40 and originating in the People's Republic of China.
2. The rate of anti-dumping duty applicable to the net free-at-Community-frontier price before duty shall be as follows : 70,6 %
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.
4. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and ask to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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, 6 July 1994.

For the Commission

Leon BRITTAN

Member of the Commission

COMMISSION REGULATION (EC) No 1649/94
of 7 July 1994

amending Regulation (EC) No 210/94 laying down the determination and the administration of the variable component for certain goods originating in Bulgaria resulting from the processing of agricultural products referred to in the Annexes of Council Regulation (EC) No 3448/93

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

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 ⁽¹⁾, laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products, and in particular the second paragraph of Article 7,

Whereas the Interim Agreement on trade and trade related matters concluded between the Community and Bulgaria foresees that reduced variable components, within tariff quotas, shall apply to imports into the Community of certain goods resulting from the processing of agricultural products originating in Bulgaria; whereas measures implementing this Interim Agreement have been established by Commission Regulation (EC) No 210/94 ⁽²⁾, laying down the determination and the administration of the variable component for certain goods originating in Bulgaria resulting from the processing of agricultural products referred to in the Annexes of Regulation (EC) No 3448/93;

Whereas, following the amendment to the Interim Agreement and to the Europe Agreement concluded by way of an exchange of letters between the Community and Bulgaria and approved by Council Decision of 27 June 1994 ⁽³⁾, it has been agreed to transfer some quotas granted to Bulgaria for the year 1993 and unused by it;

whereas this possibility is granted on an exceptional basis to compensate for the late entry into force of the Interim Agreement; whereas these quotas shall be transferred on the basis of three equal parts and added to the quotas granted for the years 1994, 1995 and 1996 for goods mentioned in Annex II of Protocol 3 of the Interim Agreement; that, therefore, Regulation (EC) No 210/94 must be amended;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex II,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex of Regulation (EC) No 210/94 is replaced by the attached Annex.

Article 2

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

It is applicable as from 1 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission
Martin BANGEMANN
Member of the Commission

⁽¹⁾ OJ No L 318, 20. 12. 1993, p. 18.

⁽²⁾ OJ No L 27, 1. 2. 1994, p. 34.

⁽³⁾ Not yet published in the Official Journal.

ANNEX

<i>(tonnes)</i>		
Order No	CN code	Quota volume
09.5461	1704 10	144
09.5463	1806 20 10 1806 31 1806 32 1806 90	430
09.5465	1901 10	15
09.5467	1901 90 90	72
09.5469	1902 19 00	287
09.5471	1904 10	215
09.5473	1905 30 1905 90	502
09.5475	2101 10 99	144
09.5477	2102 10 31 2102 10 39	72
09.5479	2105	72
09.5481	2106 10 90 2106 90 99	430
09.5483	2202 90 91 2202 90 95 2202 90 99	15

COMMISSION REGULATION (EC) No 1650/94
of 7 July 1994

amending Regulation (EC) No 319/94 laying down the determination and the administration of the variable component for certain goods originating in Romania resulting from the processing of agricultural products referred to in the Annexes of Council Regulation (EC) No 3448/93

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

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993, laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products⁽¹⁾, and in particular the second paragraph of Article 7,

Whereas the Interim Agreement on trade and trade related matters concluded between the Community and Romania foresees that reduced agricultural components, within tariff quotas, shall apply to imports into the Community of certain goods resulting from the processing of agricultural products originating in Romania; whereas measures implementing this Interim Agreement have been established by Commission Regulation (EC) No 319/94⁽²⁾, laying down the determination and the administration of the variable component for certain goods originating in Romania resulting from the processing of agricultural products referred to in the Annexes of Regulation (EC) No 3448/93;

Whereas, following the amendment to the Interim Agreement and to the Europe Agreement concluded by way of an exchange of letters between the Community and Romania and approved by Council Decision of 27 June 1994⁽³⁾, it has been agreed to transfer some quotas granted to Romania for the year 1993 and unused by it,

whereas this possibility is granted on an exceptional basis to compensate for the late entry into force of some application measures; whereas these quotas shall be transferred on the basis of three equal parts and added to the quotas granted for the years 1994, 1995 and 1996 for goods mentioned in Annex B of Protocol 3 of the Interim Agreement; that, therefore, Regulation (EC) No 319/94 must be amended;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex II,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III of Regulation (EC) No 319/94 is replaced by the attached Annex.

Article 2

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

It is applicable as from 1 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission
Martin BANGEMANN
Member of the Commission

⁽¹⁾ OJ No L 318, 20. 12. 1993, p. 18.

⁽²⁾ OJ No L 41, 12. 2. 1994, p. 21.

⁽³⁾ Not yet published in the Official Journal.

ANNEX

(tonnes)

Order No	CN code	Quota volume	Preference
09.5431	1704 ⁽¹⁾	1720	MOBR
09.5433	1806 ⁽¹⁾	932	MOBR
09.5435	ex 1902	409	MOBR
09.5437	1904	258	MOBR
09.5439	1905	1219	MOBR
09.5441	2101 30	144	MOBR
	2101 30 19		
	2101 30 99		
09.5443	2105	101	MOBR
09.5445	ex 2106 ⁽¹⁾	860	MOBR
09.5447	2202	15	MOBR
	2202 90 91		
	2202 90 95		
	2202 90 99		

⁽¹⁾ Other than goods of CN codes 1704 90 51, 1704 90 99, 1806 20 70, 1806 20 80, 1806 20 95, 1806 90 90 and 2106 90 99 containing 70 % or more by weight of sucrose (including invert sugar expressed as sucrose).

COMMISSION REGULATION (EC) No 1651/94
of 7 July 1994

amending Regulation (EC) No 1222/94 laying down common implementing rules for the system of granting export refunds on certain agricultural products exported in the form of goods not listed in Annex II to the Treaty, and the criteria for fixing the amount of such refunds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products⁽¹⁾ and in particular Article 8 (3) thereof,

Whereas milk and milk products assimilated to milk powder meeting the description of the pilot product for Group 3 (PG 3) shown in Annex I to Council Regulation (EEC) No 2915/79 of 18 December 1979 determining the groups of products and the special provisions for calculating levies on milk and milk products⁽²⁾, as last amended by Regulation (EC) No 3423/93⁽³⁾, should reflect not only the prescribed levels of fat content on a dry matter basis but also the appropriate levels of non-fat dry matter; whereas to ensure this the operator should have the possibility to claim refunds for both the fat dry matter and the non-fat dry matter;

Whereas pursuant to Commission Regulation (EC) No 1222/94 of 30 May 1994, laying down common implementing rules for the system of granting export refunds on certain agricultural products exported in the form of goods not listed in Annex II to the Treaty, and the criteria for fixing the amount of such refunds⁽⁴⁾ milk and milk products exported in the form of non-Annex II goods qualify for export refunds calculated on the basis of their fat content up to a maximum of 40 % fat content; whereas when being exported as products falling under Annex II to the Treaty the same products may only attract export refunds on a basis of a much lower fat content; whereas to be coherent refunds paid for milk and milk products assimilated to PG 3 should not exceed the amount which can be obtained for milk and milk products with a fat content of 26 %;

Whereas for D-glucitol (sorbitol) falling within CN codes 2905 44 19 and 3823 60 19 the quantities of maize shown in Annex C for the calculation of the refund amount is

not justified by the relationship of the quantities of maize actually used by the industry; therefore, it is advisable to adjust these quantities;

Whereas operators who have fixed the refund rates in advance prior to the application of this Regulation may not be able to use the full quantity of whole milk powder for which they have obtained a prefixation certificate; whereas the securities constituted which relate to these unused quantities should not be forfeit;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for horizontal questions concerning trade in processed agricultural products not listed in Annex II,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1222/94 is amended as follows:

1. The following paragraph 3 is added to Article 1:

'3. However, if the party so requests, in agreement with the competent authority, the milk products referred to in 2 (d) shall be assimilated to:

- (i) milk powder meeting the description of the pilot product for Group 2 shown in Annex I to Regulation (EEC) No 2915/79 for the non-fat part of the dry matter content of the relevant product, and
- (ii) butter meeting the description of the pilot product for Group 6 shown in Annex I to Regulation (EEC) No 2915/79 for the milk fat part of the relevant product.'

2. The fifth indent of Article 3 (1) (a) is replaced by the following indents:

- 3,85 kg of the pilot product of Group 3 per 1 % by weight of milk fat contained in one of the milk products assimilated to that pilot product in accordance with Article 1 (2) (d) with a milk fat content in the dry matter by weight of not more than 26 % shall correspond to 100 kg of the milk product in question,

⁽¹⁾ OJ No L 318, 20. 12. 1993, p. 18.

⁽²⁾ OJ No L 329, 24. 12. 1979, p. 1.

⁽³⁾ OJ No L 312, 15. 12. 1993, p. 8.

⁽⁴⁾ OJ No L 136, 31. 5. 1994, p. 5.

— 100 kg of the pilot product of Group 3 shall correspond to 100 kg of dry matter contained in the milk product assimilated to that pilot product in accordance with Article 1 (2) (d) with a milk fat content in the dry matter by weight of more than 26 %.

3. In Annex C, relating to D-glucitol (sorbitol) falling within CN codes 2905 44 11 and 3823 60 11, in column 5 (maize), the reference to the footnote '(7)' is replaced by the figure '169', in column 9 (sugar), the references to footnotes '(7)' and '(8)' are deleted; relating to CN codes 2905 44 19 and 3823 60 19, in column 5 (maize), the reference to footnote '(7)' is replaced by the figure '148', in column 9 (sugar), the reference to footnote '(7)' is replaced by the figure '71'; relating to CN codes 2905 44 91, 2905 44 99, 3823 60 91 and 3823 60 99 in column 5 (maize) the reference to footnote '(7)' is replaced by the figure '242', in column 9 (sugar), the reference to footnote '(7)' is replaced by the figure '102'; footnote '(7)' is deleted;

in footnote (8) the words 'footnote (7)' are replaced by 'columns 5 and 9'.

Article 2

At the request of the interested party the security constituted for prefixation relating to the quantities of PG 3 which are not exported as a result of the amendment introduced by this Regulation to Article 3 (1) of Regulation (EC) No 1222/94 shall be released.

Article 3

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

The provisions of paragraph 1 and 2 of Article 1 as well as of Article 2 shall apply from 1 September 1994.

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

Done at Brussels, 7 July 1994.

For the Commission

Martin BANGEMANN

Member of the Commission

COMMISSION REGULATION (EC) No 1652/94
of 7 July 1994

amending Regulation (EC) No 1312/94 fixing for the 1994 marketing year the maximum levels of withdrawal prices for tomatoes grown under glass

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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⁽¹⁾, as last amended by Regulation (EC) No 3669/93⁽²⁾, and in particular the last subparagraph of Article 18 (1) thereof,

Having regard to Commission Regulation (EEC) No 3824/92 of 28 December 1992 laying down the prices and amounts fixed in ecus to be amended as a result of the monetary realignments⁽³⁾, as last amended by Regulation (EEC) No 1663/93⁽⁴⁾, and in particular Article 2 thereof,

Whereas, as a result of a material error, Commission Regulation (EC) No 1312/94⁽⁵⁾ fixed for the 1994 marketing year the maximum level of withdrawal prices for tomatoes grown under glass, whilst Council Regulation (EC) No 1234/94⁽⁶⁾ fixed the basic price and the buying-in price of tomatoes only for June 1994; whereas the application of Regulation (EC) No 1312/94 should therefore be limited to the latter 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

Article 1 of Regulation (EC) No 1312/94 is replaced by the following:

'Article 1

For June 1994, producers' organizations or associations thereof may fix withdrawal prices, not exceeding the following maxima, in ecus per 100 kilograms, for tomatoes grown under glass:

- June (11 to 20): 29,89
- (21 to 30): 27,47'

Article 2

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

It shall apply from 11 June 1994.

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

Done at Brussels, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 338, 31. 12. 1993, p. 26.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 29.

⁽⁴⁾ OJ No L 158, 30. 6. 1993, p. 18.

⁽⁵⁾ OJ No L 142, 7. 6. 1994, p. 19.

⁽⁶⁾ OJ No L 136, 31. 5. 1994, p. 73.

COMMISSION REGULATION (EC) No 1653/94.

of 7 July 1994

amending Regulation (EEC) No 2839/93 on the special sale of intervention butter for export to the Republics of the former Soviet Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 230/94 ⁽²⁾, and in particular Article 6 (7) thereof,Whereas Commission Regulation (EEC) No 2839/93 ⁽³⁾, as last amended by Regulation (EC) No 1342/94 ⁽⁴⁾, provides for butter in public storage to be made available to operators and the opening of invitations to tender in order, in particular, to fix the minimum price for that butter intended to be exported in the unaltered state to the Republics created after the dissolution of the Soviet Union; whereas Article 1 of that Regulation lays down that the butter sold must have been placed in stock by the intervention agency before 1 July 1991;

Whereas, given developments in butter stocks and the quantities available these sales should be extended to butter which entered into storage before 1 January 1992;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 (1) of Regulation (EEC) No 2839/93 the date '1 July 1991' is replaced by '1 January 1992'.

*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, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.⁽²⁾ OJ No L 30, 3. 2. 1994, p. 1.⁽³⁾ OJ No L 260, 19. 10. 1993, p. 8.⁽⁴⁾ OJ No L 146, 11. 6. 1994, p. 4.

COMMISSION REGULATION (EC) No 1654/94

of 7 July 1994

amending Regulation (EEC) No 1609/88 as regards the latest date by which butter must have been taken into storage in order to be sold under Regulations (EEC) No 3143/85 and (EEC) No 570/88

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by Regulation (EC) No 230/94⁽²⁾, and in particular Article 6 (7) thereof,

Having regard to Council Regulation (EEC) No 985/68 of 15 July 1968 laying down general rules for intervention on the market in butter and cream⁽³⁾, as last amended by Regulation (EEC) No 2045/91⁽⁴⁾, and in particular Article 7a thereof,

Whereas, pursuant to Article 1 of Commission Regulation (EEC) No 3143/85 of 11 November 1985 on the sale at reduced prices of intervention butter intended for direct consumption in the form of concentrated butter⁽⁵⁾, as last amended by Regulation (EC) No 796/94⁽⁶⁾, the butter put up for sale must have been taken into storage before a date to be determined; whereas the same applies to butter sold under the arrangements laid down in Commission Regulation (EEC) No 570/88 of 16 February 1988 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other food stuffs⁽⁷⁾, as last amended by Regulation (EC) No 3049/93⁽⁸⁾;

Whereas, in view of butter stocks and quantities available, the dates in Article 1 of Commission Regulation (EEC)

No 1609/88⁽⁹⁾ of 9 June 1988 setting the latest time of entry into storage for butter sold under Regulations (EEC) No 3143/85 and (EEC) No 570/88, as last amended by Regulation (EC) No 1295/94⁽¹⁰⁾, should be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 1609/88, the first and second subparagraphs are hereby replaced by the following:

'The butter referred to in Article 1 (1) of Regulation (EEC) No 3143/85 must have been taken into storage before 1 January 1992.

The butter referred to in Article 1 of Regulation (EEC) No 570/88 must have been taken into storage before 1 January 1992'.

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, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 30, 3. 2. 1994, p. 1.

⁽³⁾ OJ No L 169, 18. 7. 1968, p. 1.

⁽⁴⁾ OJ No L 187, 13. 7. 1991, p. 1.

⁽⁵⁾ OJ No L 298, 12. 11. 1985, p. 9.

⁽⁶⁾ OJ No L 92, 9. 4. 1994, p. 19.

⁽⁷⁾ OJ No L 55, 1. 3. 1988, p. 31.

⁽⁸⁾ OJ No L 273, 5. 11. 1993, p. 7.

⁽⁹⁾ OJ No L 143, 10. 6. 1988, p. 23.

⁽¹⁰⁾ OJ No L 141, 4. 6. 1994, p. 25.

COMMISSION REGULATION (EC) No 1655/94
of 7 July 1994
amending Regulation (EEC) No 3378/91 laying down detailed rules for the sale of
butter from intervention stocks for export

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 230/94 ⁽²⁾, and in particular Article 6 ⁽⁷⁾ thereof,

Whereas Commission Regulation (EEC) No 3378/91 ⁽³⁾, as last amended by Regulation (EC) No 1296/94 ⁽⁴⁾, provides for quantities of butter in public storage to be made available to operators and invitations to tender to be organized in order, *inter alia*, to determine the minimum selling prices for butter intended for export either in the unaltered state or after processing; whereas Article 1 of the said Regulation stipulates that butter placed on sale must have entered into storage before 1 July 1991;

Whereas, in view of the development of butter stocks and of the quantities available, sales should be extended to butter entering into storage before 1 January 1992;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 (1) of Regulation (EEC) No 3378/91, the date '1 July 1991' is hereby replaced by '1 January 1992'.

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, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 30, 3. 2. 1994, p. 1.

⁽³⁾ OJ No L 319, 21. 11. 1991, p. 40.

⁽⁴⁾ OJ No L 141, 4. 6. 1994, p. 26.

COMMISSION REGULATION (EC) No 1656/94

of 7 July 1994

opening invitations to tender for the fixing of aid for the private storage of carcasses and half-carcasses of lamb

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EC) No 1096/94⁽²⁾, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 3446/90 of 27 November 1990 laying down detailed rules for granting private storage aid for sheepmeat and goatmeat⁽³⁾, as last amended by Regulation (EC) No 3533/93⁽⁴⁾, provides in particular for detailed rules on the invitation to tender;

Whereas Commission Regulation (EEC) No 3447/90 of 28 November 1990 on special conditions for the granting of private storage aid for sheepmeat and goatmeat⁽⁵⁾, as last amended by Regulation (EEC) No 1258/91⁽⁶⁾, provides in particular the minimum quantities in respect of which a tender may be submitted;

Whereas the application of Article 7 (3) of Regulation (EEC) No 3013/89 results in the opening of invitations to tender for private storage aid;

Whereas that Article provides for the application of these measures on the basis of the situation of each quotation

zone; whereas it is appropriate consequently to open tenders separately for each of the zones where the conditions are fulfilled,

HAS ADOPTED THIS REGULATION:

Article 1

Invitations to tender are opened in France, Northern Ireland, Denmark, the United Kingdom, Ireland, the Netherlands and Spain for aid to private storage for carcasses and half-carcasses of lamb.

Subject to the provisions of Regulation (EEC) No 3447/90 tenders may be submitted to the intervention agencies of the Member States concerned.

Article 2

Tenders must be submitted not later than 2 p.m. on 15 July 1994 to the relevant intervention agency.

Article 3

This Regulation shall enter into force on 8 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 121, 12. 5. 1994, p. 9.

⁽³⁾ OJ No L 333, 30. 11. 1990, p. 39.

⁽⁴⁾ OJ No L 321, 23. 12. 1993, p. 9.

⁽⁵⁾ OJ No L 333, 30. 11. 1990, p. 46.

⁽⁶⁾ OJ No L 120, 15. 5. 1991, p. 15.

COMMISSION REGULATION (EC) No 1657/94

of 7 July 1994

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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as amended by Commission Regulation (EEC) No 2193/93 ⁽²⁾, and in particular Article 10 (5) and Article 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 ⁽³⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EC) No 1561/94 ⁽⁵⁾ 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 6 July 1994, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 1561/94 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 8 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 166, 1. 7. 1994, p. 74.

ANNEX

to the Commission Regulation of 7 July 1994 fixing the import levies on cereals and on wheat or rye flour, groats and meal

<i>(ECU/tonne)</i>	
CN code	Third countries ⁽¹⁾
0709 90 60	110,04 ⁽²⁾ ⁽³⁾
0712 90 19	110,04 ⁽²⁾ ⁽³⁾
1001 10 00	40,41 ⁽¹⁾ ⁽⁵⁾
1001 90 91	78,67
1001 90 99	78,67 ⁽⁸⁾
1002 00 00	101,58 ⁽⁶⁾
1003 00 10	101,30
1003 00 90	101,30 ⁽⁸⁾
1004 00 00	90,18
1005 10 90	110,04 ⁽²⁾ ⁽³⁾
1005 90 00	110,04 ⁽²⁾ ⁽³⁾
1007 00 90	115,06 ⁽⁴⁾
1008 10 00	17,84 ⁽⁸⁾
1008 20 00	32,53 ⁽⁴⁾ ⁽⁹⁾
1008 30 00	0 ⁽⁵⁾
1008 90 10	(7)
1008 90 90	0
1101 00 00	148,25 ⁽⁸⁾
1102 10 00	180,32
1103 11 10	99,62
1103 11 90	169,54
1107 10 11	150,91
1107 10 19	115,51
1107 10 91	191,19 ⁽¹⁰⁾
1107 10 99	145,61 ⁽⁸⁾
1107 20 00	167,90 ⁽¹⁰⁾

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

⁽²⁾ 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.

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

⁽⁴⁾ 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.

⁽⁵⁾ 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.

⁽⁶⁾ 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).

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

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

⁽⁹⁾ Products falling within this code, imported from Poland or Hungary under the Agreements concluded between those countries and the Community and under the Interim Agreement between the Czech Republic, the Slovak Republic, Bulgaria and Romania and the Community and in respect of which EUR.1 certificates issued in accordance with Regulation (EC) No 121/94 or (EC) No 335/94 have been presented, are subject to the levies set out in the Annex to that Regulation.

⁽¹⁰⁾ 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 (EC) No 1658/94

of 7 July 1994

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 Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as amended by Commission Regulation (EEC) No 2193/93 ⁽²⁾, 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 ⁽³⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EC) No 1562/94 ⁽⁵⁾ 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 6 July 1994, 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 8 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 196, 5. 8. 1993, p. 22.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 166, 1. 7. 1994, p. 77.

ANNEX

to the Commission Regulation of 7 July 1994 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
	7	8	9	10
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 00	0	0	0	6,88
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 90	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 10	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
	7	8	9	10	11
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 (EC) No 1659/94
of 7 July 1994
fixing the export refunds on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 1544/93 ⁽²⁾, and in particular the first sentence of the fourth subparagraph of Article 17 ⁽²⁾ thereof,

Whereas Article 17 of Regulation (EEC) No 1418/76 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 1431/76 of 21 June 1976 laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds ⁽³⁾, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market;

Whereas export possibilities exist for a quantity of 45 000 tonnes of white rice to certain destinations; whereas the procedure laid down in Article 9 ⁽⁴⁾ of Commission Regulation (EEC) No 891/89 ⁽⁵⁾, as last amended by Regulation (EC) No 3579/93 ⁽⁶⁾, should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Commission Regulation (EEC) No 1361/76 ⁽⁷⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

Whereas Article 3 of Regulation (EEC) No 1431/76 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;

Whereas the refund must be fixed at least once a month; whereas it may be altered in the intervening period;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁸⁾, as amended by Regulation (EC) No 3528/93 ⁽⁹⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽¹⁰⁾, as amended by Regulation (EC) No 547/94 ⁽¹¹⁾;

Whereas it follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto;

Whereas Council Regulation (EEC) No 990/93 ⁽¹¹⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 154, 25. 6. 1993, p. 5.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 36.

⁽⁴⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 326, 28. 12. 1993, p. 15.

⁽⁶⁾ OJ No L 154, 15. 6. 1976, p. 11.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹¹⁾ OJ No L 102, 28. 4. 1993, p. 14.

ADOPTED THIS REGULATION :

listed in paragraph 1 (c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 1

Article 2

The export refunds on the products listed in Article 1 of Regulation (EEC) No 1418/76 with the exception of those

This Regulation shall enter into force on 8 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

to the Commission Regulation of 7 July 1994 fixing the export refunds on rice and broken rice

(ECU/tonne)			(ECU/tonne)		
Product code	Destination (1)	Amount of refunds (2)	Product code	Destination (1)	Amount of refunds (2)
1006 20 11 000	01	206,00	1006 30 65 900	01	258,00
1006 20 13 000	01	206,00		04	258,00
1006 20 15 000	01	206,00	1006 30 67 100	—	—
1006 20 17 000	—	—	1006 30 67 900	—	—
1006 20 92 000	01	206,00	1006 30 92 100	01	258,00
1006 20 94 000	01	206,00		02	264,00
1006 20 96 000	01	206,00		03	269,00
1006 20 98 000	—	—		04	258,00
1006 30 21 000	01	206,00	1006 30 92 900	01	258,00
1006 30 23 000	01	206,00		04	258,00
1006 30 25 000	01	206,00		05	274,00
1006 30 27 000	—	—		06	289,00
1006 30 42 000	01	206,00	1006 30 94 100	01	258,00
1006 30 44 000	01	206,00		02	264,00
1006 30 46 000	01	206,00		03	269,00
1006 30 48 000	—	—		04	258,00
1006 30 61 100	01	258,00	1006 30 94 900	01	258,00
	02	264,00		04	258,00
	03	269,00		05	274,00
	04	258,00		06	289,00
1006 30 61 900	01	258,00	1006 30 96 100	01	258,00
	04	258,00		02	264,00
1006 30 63 100	01	258,00		03	269,00
	02	264,00		04	258,00
	03	269,00	1006 30 96 900	01	258,00
	04	258,00		04	258,00
1006 30 63 900	01	258,00		05	274,00
	04	258,00		06	289,00
1006 30 65 100	01	258,00	1006 30 98 100	—	—
	02	264,00	1006 30 98 900	—	—
	03	269,00	1006 40 00 000	—	—
	04	258,00			

(1) The destinations are identified as follows :

- 01 Austria, Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia,
- 02 Zones I, II, III, VI, Ceuta and Melilla,
- 03 Zones IV, V, VII (c), Canada and Zone VIII excluding Surinam, Guyana and Madagascar,
- 04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,
- 05 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of 35 000 tonnes of white rice destined for Zones I, II (c), IV, V, VI, VII and VIII, excluding Guyana, Surinam and Madagascar,
- 06 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of 10 000 tonnes of white rice destined for Zones II (a), II (b), II (d) and III.

(2) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

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

COMMISSION REGULATION (EC) No 1660/94

of 7 July 1994

fixing the corrective amount applicable to the refund on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 1544/93 ⁽²⁾, and in particular the second subparagraph of Article 17 (4) thereof,

Whereas the first subparagraph of Article 17 (4) of Regulation (EEC) No 1418/76 provides that the export refund applicable to rice and broken rice on the day on which application for an export licence is made, adjusted for the threshold price which will be in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the licence ;

Whereas export possibilities exist for a quantity of 45 000 tonnes of white rice to certain destinations ; whereas the procedure laid down in Article 9 (4) of Commission Regulation (EEC) No 891/89 ⁽³⁾, as last amended by Regulation (EC) No 3579/93 ⁽⁴⁾, should be used ; whereas account should be taken of this when the refunds are fixed ;

Whereas Commission Regulation No 474/67/EEC ⁽⁵⁾, as amended by Regulation (EEC) No 1397/68 ⁽⁶⁾, lays down detailed rules for the advance fixing of the export refund on rice and broken rice ;

Whereas that Regulation provides that the refund applicable on the day on which application for an export licence is made must, when it is fixed in advance, be reduced by an amount no greater than the difference between the cif forward delivery price and the cif price, where the former exceeds the latter by more than ECU 0,30 per tonne ; whereas on the other hand, the refund must be increased by an amount no greater than the difference between the cif price and the cif forward delivery price, where the former exceeds the latter by more than ECU 0,30 per tonne ;

Whereas the cif price is that determined in accordance with Article 16 of Regulation (EEC) No 1418/76 ; whereas

the cif forward delivery price is that determined in accordance with Article 3 (2) of Council Regulation (EEC) No 1428/76 ⁽⁷⁾, based in respect of each month for which the export licence is valid, on the cif price calculated on the basis of offers for shipment during the month of exportation ;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁸⁾, as amended by Regulation (EC) No 3528/93 ⁽⁹⁾ are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies ; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽¹⁰⁾, as amended by Regulation (EC) No 547/94 ⁽¹¹⁾ ;

Whereas it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto ;

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 corrective amount referred to in Article 17 (4) of Regulation (EEC) No 1418/76 which is applicable to the export refunds fixed in advance in respect of rice and broken rice shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 July 1994.

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 154, 25. 6. 1993, p. 5.

⁽³⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁴⁾ OJ No L 326, 28. 12. 1993, p. 15.

⁽⁵⁾ OJ No 204, 24. 8. 1967, p. 20.

⁽⁶⁾ OJ No L 222, 10. 9. 1968, p. 6.

⁽⁷⁾ OJ No L 166, 25. 6. 1976, p. 30.

⁽⁸⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁹⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽¹⁰⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹¹⁾ OJ No L 69, 12. 3. 1994, p. 1.

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

Done at Brussels, 7 July 1994.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

to the Commission Regulation of 7 July 1994 fixing the corrective amount applicable to the refund on rice and broken rice

(ECU/tonne)

Product code	Destination (1)	Current 7	1st period 8	2nd period 9	3rd period 10
1006 20 11 000	01	0	0	0	0
1006 20 13 000	01	0	0	0	0
1006 20 15 000	01	0	0	0	0
1006 20 17 000	—	—	—	—	—
1006 20 92 000	01	0	0	0	0
1006 20 94 000	01	0	0	0	0
1006 20 96 000	01	0	0	0	0
1006 20 98 000	—	—	—	—	—
1006 30 21 000	01	0	0	0	0
1006 30 23 000	01	0	0	0	0
1006 30 25 000	01	0	0	0	0
1006 30 27 000	—	—	—	—	—
1006 30 42 000	01	0	0	0	0
1006 30 44 000	01	0	0	0	0
1006 30 46 000	01	0	0	0	0
1006 30 48 000	—	—	—	—	—
1006 30 61 100	01	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 61 900	01	0	0	0	0
	04	0	0	0	0
1006 30 63 100	01	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 63 900	01	0	0	0	0
	04	0	0	0	0
1006 30 65 100	01	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 65 900	01	0	0	0	0
	04	0	0	0	0
1006 30 67 100	—	—	—	—	—
1006 30 67 900	—	—	—	—	—

(ECU/tonne)

Product code	Destination (1)	Current 7	1st period 8	2nd period 9	3rd period 10
1006 30 92 100	01	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 92 900	01	0	0	0	0
	04	0	0	0	0
	05	0	0	33,30	0
	06	0	0	33,30	0
1006 30 94 100	01	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 94 900	01	0	0	0	0
	04	0	0	0	0
	05	0	0	37,40	0
	06	0	0	37,40	0
1006 30 96 100	01	0	0	0	0
	02	0	0	0	0
	03	0	0	0	0
	04	0	0	0	0
1006 30 96 900	01	0	0	0	0
	04	0	0	0	0
	05	0	0	37,40	0
	06	0	0	37,40	0
1006 30 98 100	—	—	—	—	
1006 30 98 900	—	—	—	—	
1006 40 00 000	—	—	—	—	

(1) The destinations are identified as follows :

01 Austria, Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia,

02 Zones I, II, III, VI, Ceuta and Melilla,

03 Zones IV, V, VII (c), Canada and zone VIII, except Surinam, Guyana and Madagascar,

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

05 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of 35 000 tonnes of white rice destined for Zones I, II (c), IV, V, VI, VII and VIII, excluding Guyana, Surinam and Madagascar,

06 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of 10 000 tonnes of white rice destined for Zones II (a), II (b), II (d) and III.

(2) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

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

COMMISSION REGULATION (EC) No 1661/94
of 7 July 1994
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 133/94 ⁽²⁾, and in particular Article 16 (8) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾, and in particular Article 5 thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EC) No 1573/94 ⁽⁵⁾, as last amended by Regulation (EC) No 1643/94 ⁽⁶⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EC) No 1573/94 to the information known to the Commission that the levies

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

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 6 July 1994, as regards floating currencies, should be used to calculate the levies,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 July 1994.

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

Done at Brussels, 7 July 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 22, 27. 1. 1994, p. 7.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 166, 1. 7. 1994, p. 99.

⁽⁶⁾ OJ No L 172, 7. 7. 1994, p. 15.

ANNEX

to the Commission Regulation of 7 July 1994 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy (°)
1701 11 10	33,88 (1)
1701 11 90	33,88 (1)
1701 12 10	33,88 (1)
1701 12 90	33,88 (1)
1701 91 00	40,22
1701 99 10	40,22
1701 99 90	40,22 (2)

(1) The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42), as last amended by Regulation (EEC) No 1428/78 (OJ No L 171, 28. 6. 1978, p. 34).

(2) In accordance with Article 16 (2) of Regulation (EEC) No 1785/81 this amount is also applicable to sugar obtained from white and raw sugar containing added substances other than flavouring or colouring matter.

(3) No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 3 June 1994

on the criteria to be applied to establishments manufacturing meat products
without having an industrial structure or an industrial production capacity

(Text with EEA relevance)

(94/383/EC)

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

Having regard to Council Directive 77/99/EEC of 21
December 1976 on health problems affecting the produc-
tion and marketing of meat products and certain other
products of animal origin ⁽¹⁾, as last amended by Directive
92/118/EEC ⁽²⁾, and in particular Article 9 (5) thereof,

Whereas it is necessary to lay down criteria for the classi-
fication of establishments in order to ensure a uniform
implementation of Directive 77/99/EEC;

Whereas Member States have communicated to the
Commission the criteria which they have adopted to
assess whether an establishment or a category of establish-
ments has no industrial structure or production capacity;

Whereas the derogations referred to in Article 9 (1) and
(2) of Directive 77/99/EEC concern only the structure of
the establishments and not the hygienic requirements laid
down in the said Directive;

Whereas the measures provided for in this Decision are in
accordance with the opinion of the Standing Veterinary
Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. For the purpose of granting the derogations referred
to in Article 9 (1) and (2) of Directive 77/99/EEC,

Member States shall fix a maximum production limit for
each establishment.

When fixing that limit, they shall take particular account
of the following parameters: the establishment's structure
and layout, the flow of the products, and the storage capa-
city for raw materials and end products.

2. The granting of the derogations referred to in para-
graph 1 is subject to observance by each establishment of
the production limit laid down in pursuance of paragraph
1.

3. In no case shall the production limit laid down in
paragraph 1 exceed a quantity of 7,5 tonnes of finished
product per week, or one tonne per week in the case of
foie gras production.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 3 June 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 85. Updated by Directive 92/5/
EEC (OJ No L 57, 2. 3. 1992, p. 1).

⁽²⁾ OJ No L 62, 15. 3. 1993, p. 49).

COMMISSION DECISION

of 6 June 1994

amending Decision 88/330/EEC relating to a proceeding pursuant to Article 85 of the EEC Treaty

(IV/32.075 — Bayer/BP Chemicals)

(Only the English and German texts are authentic)

(94/384/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 6 and 8 thereof,

Having regard to a request submitted to the Commission in 1991 by Bayer AG (hereinafter referred to as 'Bayer'), BP Chemicals International Ltd ('BPCL') and Erdöl-chemie ('EC'), seeking an amendment to Commission Decision 88/330/EEC⁽²⁾ ('the Decision'),

Having regard to the publication⁽³⁾ pursuant to Article 19 (3) of Regulation No 17 of a summary of relevant changes which have occurred since the Decision, in which the Commission had granted an exemption pursuant to Article 85 (3) in favour of the agreements between the abovementioned parties in the polyethylene sector, for a period ending on 2 October 1998, subject *inter alia* to the condition that Bayer, BPCL and EC close down, by the end of 1991, the older of the two low density polyethylene (LDPE) units currently run by EC, unless the Commission stated that postponement was objectively justified, with respect to the requirements of Article 85 (3) and the purpose of the Decision by the situation in the polyethylene sector,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

- (1) On 1 March 1988 a set of agreements between Bayer, BPCL and EC entered into force concerning the polyethylene sector, under which *inter alia* technical cooperation between BPCL and EC was

established, and BPCL was appointed as distributor for EC's production.

- (2) Since the Decision was adopted the following changes have occurred :

- (a) the product manufactured at PE1 has changed considerably, namely by the replacement of general-purpose products with specific auto-clave grades ;
- (b) BPCL shut down its 30-year old plant in Grangemouth in November 1989 (100 kilotonnes per year) ;
- (c) with the advent of more open access to east European markets, EC has decided to change the geographical mix of its LDPE products to take full advantage of the backlog demand on those markets.

- (3) Before the end of 1991, the parties requested the Commission to amend point 2 of Article 2 of the Decision, under which the exemption was subject to the condition that Bayer, BPCL and EC close down the older of EC's two LDPE units (PE1) by the end of 1991, unless the Commission were to state that the situation in the polyethylene sector objectively justified postponement in accordance with the requirements of Article 85 (3) and the purpose of the Decision. The parties requested that the closure of PE1 be postponed until the end of 1994.

- (4) Following the publication pursuant to Article 19 (3) of Regulation No 17 of the above facts, in which the Commission announced its intention to authorize the postponement of the PE1 closure date until the end of 1994, interested third parties, namely competitors in the polyethylene sector, sent their observations to the Commission, stating that in their opinion there were no grounds for postponing the closure of the older of EC's LDPE facilities.

These third parties said, in particular, that :

- (a) there is already enormous surplus production capacity of LDPE in Europe ;
- (b) demand for LDPE is not likely to increase in Europe for some time ;

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No L 150, 16. 6. 1988, p. 35.

⁽³⁾ OJ No C 44, 19. 2. 1992, p. 11.

- (c) east European markets are adequately served by local production capacities;
- (d) substitutes for the LDPE produced at the older of EC's facilities can be provided by any other linear low density polyethylene (LLDPE) and LDPE;
- (e) the closure of the LDPE plant in Grangemouth does not compensate for the continued operation of the older LDPE unit, because it has been replaced by an LLDPE plant of similar size, whose products are competing for the same markets.

II. LEGAL ASSESSMENT

A. Article 85 (1)

- (5) For the same reasons as those stated in the Decision the agreements between Bayer, BPCL and EC are still considered to fall within the scope of Article 85 (1).

B. Article 85 (3)

- (6) On the basis of the information at its disposal, the Commission has come to the conclusion, again for the same reasons as those stated in the Decision, that the advantages of the agreements, notably the contribution to improving the production and distribution of goods and to promoting technical and economic progress, while allowing customers a fair share of the resulting benefit, still constitute a sufficient basis for the application of Article 85 (3).

C. Article 8 of Regulation No 17

- (7) Point 2 of Article 2 of the Decision established that the exemption was subject to the plant closure condition already mentioned.
- (8) This conditions was attached to the Decision, pursuant to Article 8 (1) of Regulation No 17, on the basis of 1988 perceptions of future demand trends. This is confirmed by the option, mentioned by the Decision itself and based on Article 8 (3) (a) of Regulation No 17, of amending the Decision where there had been a change in any of the facts which were basic to the making of the Decision, and in particular a change in the situation of the polyethylene sector justifying postponement of the implementation of the abovementioned condition.
- (9) The Commission considers that the facts that can justify postponing the closing-down of PE1 may be related to future trends in polyethylene demand, not only in general terms, but also with regard to

all the specific objective elements characterizing the relationship between polyethylene demand and its supply by Bayer, BPCL and EC (their LDPE capacity production).

- (10) While, from a general point of view, there are no clear indications of a structural increase in LDPE demand, and while there is therefore no sufficient basis, in that regard, on which to authorize the postponement of the closure, nonetheless various important changes have occurred since the Decision was adopted, to the relationship between the demand for polyethylene and its supply by the parties. Those particular relevant changes have altered the facts which were basic to the making of the Decision.
- (11) At the time when the Decision was adopted, the old LDPE plant of BPCL in Grangemouth was active. It is now shut down. Changing the product manufactured at PE1, by replacing general-purpose polyethylene with specific autoclave grades, has required substantial investment and has introduced more advanced technologies offering consumers products more suited to their requirements, thereby allowing the PE1 plant entry into the LDPE market growth sector. EC, by changing the geographical mix of its LDPE products, is able to take full advantage of the backlog demand on the east European markets.
- (12) In view of the new market situation explained above, the Commission finds that there is objective justification, with respect to the requirements of Article 85 (3) and the purpose of the Decision, for postponement of the closure of the older of EC's two LDPE plants.
- (13) As far as third-party observations are concerned, it has to be admitted that some of these views (the presence of considerable surplus LDPE production capacity in Europe and the improbability of any increase in LDPE demand in Europe for some time) are to some extent shared by the Commission, which has serious reservations regarding the Bayer, BPCL and EC claim that there are clear indications of a structural increase in LDPE demand.
- (14) As far, as east European markets are concerned, even though they were, until some time ago, well served by local production capacity (as is claimed by third parties), this was due to the extremely low per capita consumption of LDPE and LLDPE film: around three kilograms in the ex-USSR (while in western Europe it is around 10 kilograms per capita). In east European countries the consumption pattern is beginning to evolve, though not yet reaching levels similar to those of western Europe, and is fuelling an increase in demand which

cannot be met by indigenous producers. This is opening new markets for EC producers.

- (15) The facts which were basic to the making of the Decision not only related to the general situation in the polyethylene sector but also to the parties' LDPE production capacity, and these particular facts have considerably changed.
- (16) In that connection the two relevant third-party observations (possibility of replacing the LDPE produced at PE1 with any other LDPE/LLDPE and the absence of a relationship between the closure of the LDPE plant in Grangemouth and the retention of PE1) are based on the same implicit assumption, not shared by the Commission: that the existence of a sole combined LDPE/LLDPE market means that LDPE capacity is completely replaceable by LLDPE. In fact, third parties claim that the autoclave grades now being produced at PE1 are capable of substitution by an abundance of high-density polyethylene (HDPE) and LLDPE grades for the same application.
- (17) On the contrary, it can be stated that there are some sub-sectors of the combined LLDPE/LDPE market requiring the use of LDPE for technical reasons. Some of these sub-sectors are of a value-adding nature which has developed significantly since the Decision was adopted. PE1 has been converted specifically to the production of products suitable for those sub-sectors.
- (18) It has to be pointed out that, according to a Commission inspection (made after receiving third-party observations), after BPCL had assumed responsibility for marketing EC's polyethylene in March 1988, marketing policy was aimed primarily at satisfying the needs of the western European market with an improved product range. This policy was successful, with less general-purpose homopolymers and more specific grades such as coatings being produced and made available for Europe.
- (19) On the basis of this marketing strategy it has been possible for BPCL and EC to examine the potential and to devise a strategy for upgrading the product mix and improving the performance of EC's LDPE operations with a view to meeting the growth in demand for speciality applications of polyethylene in Europe.
- (20) The main elements of his strategy are:
- (a) replacement of general-purpose products by specific autoclave grades;
 - (b) replacement of general-purpose products by performance products generating added value.
- Consequently, through selective investment PE1 has been enhanced for the speciality jobs.
- (21) The closure of BPCL's LDPE plant at Grangemouth in 1989 has to be considered in this context. By shutting down the Grangemouth plant it was possible to remove supplies of key tubular resins from the market and, in response to customer demand, to develop a new grade at EC to satisfy customer requirements. The demise of the LDPE plant at Grangemouth increased the percentage of polyethylene production at PE1 allocated to specialized applications.
- There is therefore an important factual relationship between closing the LDPE plant at Grangemouth and keeping open the PE1 plant.
- (22) The third-party observations contest this relationship because, even though the LDPE Grangemouth plant was closed, it was replaced by an LLDPE plant of similar size, of which the products compete for the same markets as PE1. This view is not shared by the Commission.
- (23) In fact of the new LLDPE plant is better suited to producing injection moulded product groups while PE1 is well suited to the production of EVA (Ethylene Vinyl Acetate) copolymers and extrusion coatings.
- (24) On the basis of the abovementioned considerations, the Commission finds that, as there have been relevant changes in the facts which were basic to the making of the Decision, notably in the specific objective elements characterizing the relationship between polyethylene demand and its supply by Bayer, BPCL and EC (production capacity), postponement of the closure of PE1 is justified.

In 1989, it became obvious that the marketing policy resulted in production of more added-value products and/or more sales in added-value segments. This was confirmed in 1990. Also, in 1989, segments within the market were either growing or being protected from penetration by LLDPE. BPCL's planning department officially confirmed this in June 1989.

- (25) As far as the duration of the postponement is concerned, the Commission considers a maximum of three years from 1 January 1992 to 31 December 1994 to be appropriate, for the following reasons :
- (a) there is no tangible evidence likely to give a reliable indication of the situation in the polyethylene sector after 1994 ;
 - (b) taking a position now about the post-1994 situation of a market which is rapidly changing would have the effect of jeopardizing the condition imposed in the Decision, depriving the Commission of both the ability and the obligation to verify the implementation of that condition ;
 - (c) the observations of third parties concerning the general situation in the polyethylene market reflect the Commission's reservations about the Bayer, BPCL and EC claim that there are clear indications of a structural increase in LDPE demand ; it appears therefore inappropriate and unjustified to authorize a lengthy period of postponement for the PE1 closure.
- (26) The additional condition was attached to the Decision that Bayer, BPCL and EC should fully implement within the first six months of 1991 the construction and the start-up of a new LLDPE plant. The Commission notes that this condition was satisfied by the construction of the new LLDPE plant (120 kilotonnes per year) by mid-1991 at Cologne (Germany).
- (27) Moreover, Article 3 of the Decision made the exemption subject of the following three obligations :
1. Bayer, BPCL and EC shall each submit a report on an individual basis to the Commission during the period of the exemption. Each report shall deal with all the activities concerning the products in question and give details on the implementation of the operations provided for in Article 2 and of the progress achieved. It shall state, in particular, the production and sales by the parties or by subsidiaries or companies they control, in the common market as a whole and in each Member State : the amount of output consumed internally by each of the parties giving the name and business of the producer and consumer, and full particulars of each company's total output of the products concerned in the Community and in third countries. The report shall also state all variations as to the production capacity of Bayer, BPCL and EC in the polyethylene sector and give details of all changes in the production and distribution of the products in question.
- Until 2 January 1992 each party shall send a report to the Commission every six months, within two weeks of the end of the period to which it refers. However, the first report shall cover the period from 3 October 1987 to 2 January 1989. Starting from 3 January 1992, if the exemption is still in force, the reports shall be sent to the Commission every two years, within four weeks before the end of the period to which they refer. A final report shall cover the period from 3 January to 2 October 1998.
2. Bayer, BPCL and EC shall each inform the Commission individually in advance of any initiative or further operation in which they or their subsidiaries or associated companies will take part with reference to the products referred to by this Decision or other products of the upstream and/or downstream markets.
 3. Bayer, BPCL and EC shall individually inform the Commission in advance of any renewals or extensions in the scope or nature of, or amendments or additions to, the agreements referred to in Article 1.'
- (28) All these reporting requirements have been fulfilled until now.
- However, they have to be slightly changed so as to take into account the current situation. In particular, the first obligation (a periodic report) has to be modified taking into account :
- (a) that, as the above analysis concerning polyethylene clearly shows, it is important to distinguish between LDPE, LLDPE and HDPE ;
 - (b) that, again as stated above, the polyethylene sector is changing rapidly, not only in general terms, but also with particular regard to Bayer, BPCL and EC.
- (29) It is therefore no longer appropriate that the periodic reports deal with a single polyethylene sector ; they have to split the polyethylene data into data concerning LDPE, LLDPE and HDPE respectively.

- (30) It is also no longer appropriate that the periodicity of the reports should be every two years. As from 3 January 1994, they should be annual and should be sent to the Commission within three weeks of the end of the period to which they refer.
- (31) Considering that the changes justifying the adoption of this Decision began to take place at the end of 1991, this Decision should take effect from the beginning of 1992,

HAS ADOPTED THIS DECISION :

Article 1

Decision 88/330/EEC is amended as follows :

1. Point 2 of Article 2 is replaced by the following :
'2. That Bayer, BPCL and EC close down by the end of 1994, the older of the two LDPE units currently run by EC.'
2. The second subparagraph of point 1 of Article 3 is replaced by the following :
'Until 2 January 1992, each party shall send a report to the Commission every six months, within two weeks of the end of the period to which it refers. However, the first shall cover the period from 3 October 1987 to 2 January 1989 and a single report shall cover the period from 3 January 1992 to 2 January 1994, to be sent to the Commission within four weeks of the end of the period to which it refers. As from 3 January, if the exemption is still in force, the reports shall split

the data concerning LDPE, LLDPE and HDPE respectively and shall be sent to the Commission every year, within three weeks of the end of the period to which they refer. A final report, splitting the data concerning LDPE, LLDPE and HDPE respectively, shall cover the period from 3 January to 2 October 1998.'

Article 2

This Decision shall apply with effect from 1 January 1992.

Article 3

This Decision is addressed to :

- Bayer AG,
Bayerwerk,
D-51368 Leverkusen,
- BP Chemicals International Ltd,
Britannic House,
1 Finsbury Circus,
GB-London EC2M 7BA,
- Erdölchemie GmbH,
Köln-Worringen,
Postfach 75-02-12,
D-50754 Köln.

Done at Brussels, 6 June 1994.

For the Commission

Karel VAN MIERT

Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1431/94 of 22 June 1994 laying down detailed rules for the application in the poultrymeat sector of the import arrangements provided for in Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for poultrymeat and certain other agricultural products

(Official Journal of the European Communities No L 156 of 23 June 1994)

On page 10 in the third subparagraph of Article 4 (4):

for: 'Exporters...'

read: 'Traders...'

Corrigendum to Commission Regulation (EC) No 1432/94 of 22 June 1994 laying down detailed rules for the application in the pigmeat sector of the import arrangements provided for in Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for pigmeat and certain other agricultural products

(Official Journal of the European Communities No L 156 of 23 June 1994)

On page 15 in the third subparagraph of Article 4 (4):

for: 'The exporter...'

read: 'The trader...'
