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Contents





(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

Contents (continued)



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II *Acts whose publication is not obligatory*

**Council**



**Commission**



(1) Text with EEA relevance

EN

I

*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EC) No 1404/96

## of 15 July 1996

## amending Regulation (EEC) No 1973/92 establishing a financial instrument for the environment (Life)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 130s(1) thereof,

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

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

Having regard to the opinion of the Committee of the Regions (3),

Acting in accordance with the procedure laid down in Article 189c of the Treaty (4),

Whereas the financial instrument for the environment, Life, is being implemented in phases; whereas the first phase ends on 31 December 1995;

Whereas the first paragraph of Article 14 of Regulation (EEC) No 1973/92 (5) provides that the Commission should make proposals for any adjustments to be made with a view to improvements to be brought forward for continuing the action beyond the first phase;

Whereas, given the positive contribution of Life to the attainment of the objectives of Community policy on the environment, a second phase for a period of four years ending on 31 December 1999 should be set in motion;

Whereas the experience gained with Life during the first phase has highlighted the need to concentrate efforts by specifying more clearly the areas of activity able to benefit from Community financial aid, to improve the management procedures and to define more clearly the selection and evaluation criteria for these activities;

Whereas the efficiency and transparency of the application procedures for Life and of the procedures for the information of the public and potential beneficiaries should be improved;

Whereas preparatory actions should concern the promotion of joint transnational action, cooperation and know-how transfer, between government bodies (local, regional or national) and/or non-government bodies and/or socio-economic factors;

Whereas the additional protocols to the Europe agreements between the European Communities and their Member States, of the one part, and certain central and eastern European countries, of the other part, provide for the participation of those countries in Community programmes, in particular in the field of the environment;

Whereas, given that the abovementioned central and eastern European countries should themselves meet the costs involved by their participation, the Community may decide, if appropriate for specific cases and in conformity with the rules applicable to the general budget of the European Communities and the relevant Association Agreements, on a supplement to the national contribution of the country concerned;

Whereas for third countries bordering on the Mediterranean and the Baltic Sea other than the central and eastern European countries which have signed Association Agreements with the European Community, there is a need to implement technical assistance activities and demonstration activities;

Whereas a financial reference amount within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, is included in this Regulation for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 1973/92 is hereby amended as follows:

(1) OJ No C 184, 18. 7. 1995, p. 12.
(2) OJ No C 18, 22. 2. 1996.
(3) OJ No C 100, 2. 4. 1996.
(4) Opinion of the European Parliament of 17 November 1995 (OJ No C 323, 4. 12. 1995), common position of the Council of 18 December 1995 (OJ No C 134, 6. 5. 1996, p. 1) and decision of the European Parliament of 5 June 1996 (OJ No C 181, 24. 6. 1996).
(5) OJ No L 206, 22. 7. 1992, p. 1.

1. Articles 1 and 2 shall be replaced by the following:

*'Article 1*

A financial instrument for the environment, hereinafter referred to as "Life", is hereby established.

The general objective of Life shall be to contribute to the development and, if appropriate, implementation, of Community environment policy and legislation.

*Article 2*

The areas of activity eligible for financial support from Life are:

1. in the Community:

(a) nature conservation actions:

actions as defined in Article 1 (a) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (*) needed to implement Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (**) and Directive 92/43/EEC and, in particular, the Natura 2000 European Network;

(b) other actions designed to implement Community environment policy and legislation:

(i) innovative and demonstration actions designed to promote sustainable development in industrial activities;

(ii) demonstration, promotion and technical assistance actions for local authorities in order to encourage the integration of environmental consideration in land use development and planning with a view to promoting a sustainable development;

(iii) preparatory actions designed to contribute to implementing Community environment policy and legislation, particularly:

— protection and rational management of coastal areas, of rivers which flow into coastal areas, their possible wetlands and the sustainable management of those areas and rivers,

— reduction of waste, in particular toxic and hazardous waste,

— protection of water resources and water management, including waste or contaminated water treatment,

— air pollution, acidification, tropospheric ozone;

2. in third countries bordering on the Mediterranean and the Baltic Sea other than the countries of central and eastern Europe which have signed Association Agreements with the European Community:

(a) technical assistance in the establishment of the administrative structures needed in the environmental sector and in the development of environmental policy and action programmes;

(b) conservation or restoration, from the point of view of nature protection, of significant habitats of threatened species of flora and fauna;

(c) demonstration actions to promote sustainable development;

3. accompanying measures needed to monitor, evaluate or promote the actions undertaken during the first stage and under points 1 and 2 and dissemination of information on the experience and the results obtained of such actions.

(*) OJ No L 206, 22. 7. 1992, p. 7.
(**) OJ No L 103, 25. 4. 1979, p. 1. Directive as last amended by Directive 94/24/EC (OJ No L 164, 30. 6. 1994, p. 9).'

2. Article 3 shall be deleted.

3. Articles 7 and 8 shall be replaced by the following:

*'Article 7*

1. Life shall be implemented in phases. The second phase shall start on 1 January 1996 and shall end on 31 December 1999.

The financial reference amount for the implementation of the second phase for the period 1996 to 1999 shall be ECU 450 million.

The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

2. For the subsequent periods of implementation of Life, the reference amount shall fall within the Community financial framework in force.

3. On the basis of a report to be forwarded by the Commission before 30 September 1997 the Council will, before 31 December 1997, examine the reference amount with a view possibly to revising it, in accordance with the procedures laid down in the Treaty, within the framework of the financial perspective and taking into account applications received.

*Article 8*

1. The amount of resources to be allocated to each of the areas of activity referred to in Article 2 shall be as follows:

(a) 46 % for actions undertaken under Article 2, point 1 (a);

(b) 46 % for actions undertaken under Article 2, point 1 (b), of which a maximum of 12 % may be allocated to actions undertaken under Article 2, point 1 (b) (iii);

(c) 5 % for actions undertaken under Article 2, point 2;

(d) 3 % for actions undertaken under Article 2, point 3.

2. The rate of Community financial support for the actions referred to in Article 2, point 1 and point 2 (b) and (c), shall be a maximum of 50 % of the eligible cost.

By way of exception, this rate shall be:

— a maximum 30 % of the cost for actions expected to generate significant income. In this case, beneficiaries' contribution to the financing shall be at least as much as the Community support,

— a maximum of 75 % of the cost of actions concerning in the European Union priority natural habitats or priority species as defined in Directive 92/43/EEC or the species of birds referred to in Directive 79/409/EEC which are in danger of extinction.

3. The rate of Community financial support for the technical assistance actions referred to in Article 2, point 2 (a), and for the accompanying measures referred to in Article 2, point 3, shall be a maximum of 100 % of the cost of these actions.'

4. Article 9 shall be replaced by the following:

*'Article 9*

1. Proposals for actions to be financed shall be submitted to the Commission by the Member States. Where actions involve more than one Member State, proposals shall be submitted by the Member State in which the coordinating authority or body is based.

Applications shall be submitted to the Commission before 31 January. The Commission shall decide on these applications before 31 July.

2. However, the Commission may ask any legal or natural persons established in the Community to submit applications for assistance in respect of measures of particular interest to the Community by means of a notice published in the *Official Journal of the European Communities.*

3. Applications from third countries shall be submitted to the Commission by the relevant national authorities.

4. A summary of the main items and of the content of the proposals received in the framework of expressions of interest and applications submitted by third countries shall be submitted to the Member States by the Commission. Upon request, it shall put the original documents at the Member States' disposal to be consulted.

5. Actions provided for in Article 2, point 1 (a) and their flanking measures shall be subject to the procedure set out in Article 21 of Directive 92/43/EEC; other Life actions shall be approved in accordance with the procedure provided for in Article 13 of this Regulation. The Commission shall inform the committees mentioned in Article 21 of Directive 92/43/EEC and Article 13 of this Regulation of the application of criteria and priorities defined in Article 9a.

The actions approved shall give rise:

— for actions to be undertaken in the Community, to an outline decision from the Commission addressed to the Member States concerning proposals which have been accepted and to individual decisions addressed to the beneficiaries concerning specific actions,

— for actions to be undertaken in third countries, to a contract or an agreement setting out the rights and obligations of the partners, as drawn up with the beneficiaries responsible for implementation of the said actions.

6. The amount of financial assistance, financial procedures and controls, as well as all the technical conditions necessary for giving the assistance shall be determined on the basis of the nature and form of the approved action and shall be laid down either in the Commission decision or in the contract or agreement concluded with the beneficiaries.'

5. The following Articles shall be inserted:

*'Article 9a*

1. The actions being proposed and referred to in Article 2 shall comply with the provisions of the Treaty and Community legislation and shall meet the following criteria:

(a) general criteria for actions in the European Community:

— the actions shall be of Community interest, making a significant contribution to the implementation of Community environment policy and legislation,

— they shall be carried out by technically and financially sound participants,

— they shall be feasible in terms of the technical proposals, management (timing, budget) and value for money,

— contribution to a multinational approach could be an additional criterion as far as this approach will be likely to have more effective results in terms of feasibility, logic and costs, in comparison with a national approach;

(b) particular criteria for actions in the Community:

(i) regarding nature conservation actions as defined in Article 2, point 1 (a), these shall be aimed at:

— the sites proposed by a Member State under Article 4 of Directive 92/43/EEC, or,

— sites classified pursuant to Article 4 of Directive 79/409/EEC, or

— species mentioned in Directive 92/43/EEC, Annexes II and IV, or in Directive 79/409/EEC, Annex I;

(ii) regarding industrial activity actions, these shall meet appropriate criteria from among the following:

— providing solutions with a view to solving a problem which arises very often in the Community, or is of great concern to some Member States,

— being technically innovative and representing progress,

— being example-setting and representing progress compared with the current situation,

— being capable of promoting widespread application of practices and technologies conducive to environmental protection,

— aiming at developing and transferring know-how which can be used in identical or similar situations,

— having a potential satisfactory cost-benefit ratio from an environmental point of view;

(iii) regarding actions in favour of local authorities, these shall meet appropriate criteria from among the following:

— providing solutions with a view to solving a problem which arises very often in the Community, or is of great concern to some Member States,

— proving the innovation of the envisaged actions by means of the methodology applied,

— being example-setting and representing progress compared with the current situation,

— promoting cooperation in the environment field;

(iv) regarding preparatory actions, these should be preparatory to actions of a more structural nature;

(c) criteria for actions to be implemented in third countries:

— presenting an interest with regard to the Community, notably its contribution to implementing regional and international guidelines and agreements,

— contributing to the realization of an approach favouring sustainable development on the international, national, or regional level,

— providing solutions to environmental problems which are widespread in the region and the relevant sector,

— increasing cooperation on cross-border, transnational, or regional level,

— ensuring feasibility with regard to technical proposals, management (timing, budget) and value for money,

— being carried out by technically and financially sound participants.

2. Applications under Article 2, point 1 (b) (i) and (ii) not meeting the relevant particular criteria set out in paragraph 1 (b) (ii) and (iii) shall not be taken into consideration for granting Life financial support.

*Article 9b*

As regards the requests related to actions referred to in Article 2, point 1 (b) (i), (ii) and (iii), the following costs shall be considered non-eligible:

— those created by the studies not specifically addressing the objective aimed at by the financed actions,

— those concerning investments in heavy infrastructure or investments of a non-innovative structural nature,

— those referring to research and technological development activities,

— activities already confirmed on an industrial scale.'

6. Article 10 (1) shall be replaced by the following:

'1. In order to ensure the success of the actions carried out by those receiving Community financial assistance, the Commission shall take the necessary measures to:

— verify that actions financed by the Community have been carried out properly, and in accordance with the provisions of this Regulation,

— prevent and take action against irregularities,

— recover sums improperly received owing to abuse or negligence.'

7. Article 11 (1) shall be replaced by the following:

'1. The Commission may reduce, suspend or recover the amount of financial assistance granted for an action if it finds irregularities including non-compliance with the provisions of this Regulation or if it transpires that, without Commission approval having being sought, the action has been subjected to a major change which conflicts with the nature or implementing conditions of the action.'

8. Article 12 (1) shall be replaced by the following:

'1. The Commission shall ensure effective monitoring of the implementation of Community-financed actions, including monitoring of compliance with the provisions of this Regulation. The monitoring shall take place on the basis of reports drawn up using the procedures agreed by the Commission and the beneficiary and shall also involve sample checks.'

9. The following Article shall be inserted:

*'Article 13a*

The Life instrument shall be open to the associated central and eastern Europe countries (CEECs) in accordance with the conditions referred to in the additional protocols to the Association Agreements concerning participation in Community programmes (to be concluded or concluded) with those countries, on the basis of additional credits.'

10. Article 14 shall be replaced by the following:

*'Article 14*

No later than 31 December 1998, the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Regulation and on the use of appropriations and shall make proposals for any adjustment to be made with a view to continuing the action beyond the second phase.

The Council, in accordance with the Treaty, shall decide on the implementation of the third phase as from 1 January 2000.'

*Article 2*

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

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

Done at Brussels, 15 July 1996.

*For the Council*

*The President*

D. SPRING

# COMMISSION REGULATION (EC) No 1405/96

## of 19 July 1996

## amending Regulation (EC) No 1362/96 on the supply of milk products as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management [1], as last amended by Regulation (EC) No 1292/96 [2], and in particular Article 6 (1) (c) thereof,

Whereas Commission Regulation (EC) No 1362/96 [3] issued an invitation to tender for the supply, as food aid, of 1 215 tonnes of milk powder; whereas some of the conditions specified in the Annex to that Regulation should be altered,

HAS ADOPTED THIS REGULATION:

*Article 1*

Notes (6) and (9) of the Annex to Regulation (EC) No 1362/96 are replaced by the following:

'(6) The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents:

— health certificate,

— veterinary certificate issued by an official entity stating that the product was processed with pasteurized milk, coming from healthy animals, processed under excellent sanitary conditions which are supervised by qualified technical personnel and that the area of production of raw milk had not registered foot-and-mouth disease nor any other notifiable infectious/contagious disease during the 12 months prior to the processing,

— Lots A and B: the veterinary certificate must state the temperature and duration of the ultra high temperature treatment (UHT: 120 °C/60″ or 140 °C/25″), the temperature and duration in the spray-drying tower and the expiry date for consumption.

(9) Placed in 20-foot containers. The free holding period for containers must be at least 15 days.'

*Article 2*

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

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

Done at Brussels, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

[1] OJ No L 370, 30. 12. 1986, p. 1.
[2] OJ No L 166, 5. 7. 1996, p. 1.
[3] OJ No L 175, 13. 7. 1996, p. 19.

# COMMISSION REGULATION (EC) No 1406/96

## of 19 July 1996

## introducing or increasing, for 1996, Community quantitative limits on re-importation into the European Community of certain textile products originating in the People's Republic of China after outward processing operations in that country

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries [1], as last amended by Commission Regulation (EC) No 941/96 [2], and in particular Articles 2 and 3 (3) of Annex VII thereto, in conjunction with Article 17 thereof,

Whereas Article 2 of Annex VII to Regulation (EEC) No 3030/93 lays down the conditions under which quantitative limits on re-importation into the European Community of certain textile products after outward processing operations in certain third countries may be established;

Whereas Article 2 of Annex VII to Regulation (EEC) No 3030/93 stipulates that quantitative limits on re-imports may be established for textile products which are subject to the quantitative limits laid down in Article 2 of that Regulation;

Whereas a request has been put to the European Community by certain Member States concerning the introduction for 1996 of quantitative limits on re-importation into the European Community of certain textile products (categories 159 and 161) originating in the People's Republic of China after outward processing operations in that country; whereas direct imports of textile products falling within categories 159 and 161 are subject to the quantitative limits laid down in Article 2 of Regulation (EEC) No 3030/93;

Whereas Article 3 (3) of Annex VII to Regulation (EEC) No 3030/93 stipulates that such quantitative limits already in force may be adjusted should the need arise;

Whereas the quantitative limit in force applicable to the re-import into the European Community of textile products of category 13 originating in the People's Republic of China after outward processing operations in that country has proved insufficient to meet applications for prior authorization submitted by Community firms; whereas direct imports of textile products falling within category 13 are subject to the quantitative limits laid down in Article 2 of Regulation (EEC) No 3030/93;

Whereas it has been deemed appropriate to establish, for 1996, the quantitative limits specified in Annex I to this Regulation on the re-importation into the European Community of certain textile products (categories 159 and 161) originating in the People's Republic of China after outward processing operations in that country;

Whereas it has been deemed appropriate to make available, for 1996, re-importation opportunities over and above the quantitative limit in force applicable to the re-import into the European Community of textile products of category 13 originating in the People's Republic of China after outward processing operations in that country;

Whereas the provisions on economic outward processing traffic contained in Community legislation should apply to the re-importation of products for which quantitative limits have been established or increased under this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Re-importation into the European Community of textile products of category 159 and 161, specified in Annex I to this Regulation, originating in the People's Republic of China after outward processing operations in that country shall be subject, for 1996, to the quantitative limits set out in that Annex to be administered in accordance with the provisions of the relevant Community Regulations on economic outward processing.

2. The additional quantities listed in Annex II to this Regulation may be re-imported into the Community, for 1996, over and above the quantitative limit specified in the Annex to Protocol E of the Agreement between the European Community and the People's Republic of China on trade in textile products [3] applicable to the re-importation into the Community of textile products of category 13 originating in the People's Republic of China after outward processing operations in that country. Such additional quantities shall be administered in accordance with the provisions of the relevant Community regulations on economic outward processing.

*Article 2*

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

[1] OJ No L 275, 8. 11. 1993, p. 1.
[2] OJ No L 128, 29. 5. 1996, p. 15.
[3] OJ No L 81, 30. 3. 1996, p. 318.

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

Done at Brussels, 19 July 1996.

*For the Commission*
Leon BRITTAN
*Vice-President*

*ANNEX I*

## QUANTITATIVE LIMITS REFERRED TO IN ARTICLE 1 (1)

| Category | CN code | Description | Third country | Unit | 1996 quantitative limits |
|---|---|---|---|---|---|
| 159 | 6204 49 10<br>6206 10 00 | Dresses, blouses and shirt-blouses, not knitted or crocheted, of silk or silk waste | China | tonnes | 8 |
| | 6214 10 00 | Shawls, scarves, mufflers, mantillas, veils and the like, not knitted or crocheted, of silk or silk waste | | | |
| | 6215 10 00 | Ties, bow ties and cravats of silk or silk waste | | | |
| 161 | 6201 19 00<br>6201 99 00 | Garments, not knitted or crocheted, other than those of categories 1 to 123 and category 159 | China | tonnes | 15 |
| | 6202 19 00<br>6202 99 00 | | | | |
| | 6203 19 90<br>6203 29 90<br>6203 39 90<br>6203 49 90 | | | | |
| | 6204 19 90<br>6204 29 90<br>6204 39 90<br>6204 49 90<br>6204 59 90<br>6204 69 90 | | | | |
| | 6205 90 10<br>6205 90 90 | | | | |
| | 6206 90 10<br>6206 90 90 | | | | |
| | ex 6211 20 00<br>6211 39 00<br>6211 49 00 | | | | |

*ANNEX II*

## ADDITIONAL QUANTITIES REFERRED TO IN ARTICLE 1 (2)

| Category | CN code | Description | Third country | Unit | 1996 additional quantities |
|---|---|---|---|---|---|
| 13 | 6107 11 00<br>6107 12 00<br>6107 19 00 | Men's or boys' underpants and briefs, women's or girls' knickers and briefs, knitted or crocheted, of wool, cotton or man-made fibres | China | 1 000 pieces | 250 |
| | 6108 21 00<br>6108 22 00<br>6108 29 00 | | | | |

# COMMISSION REGULATION (EC) No 1407/96

## of 19 July 1996

## fixing for the 1996/97 marketing year the minimum price to be paid to producers for peaches and the amount of production aid for peaches in syrup and/or natural fruit juice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables [1], as last amended by Commission Regulation (EC) No 2314/95 [2], and in particular Articles 4 (4) and 5 (5) thereof,

Whereas Council Regulation (EEC) No 1206/90 [3], as amended by Regulation (EEC) No 2202/90 [4], lays down general rules for the system of production aid for processed fruit and vegetables;

Whereas, pursuant to Article 4 (1) of Regulation (EEC) No 426/86, the minimum price to be paid to producers is to be determined on the basis of, firstly, the minimum price applying during the previous marketing year, secondly, the movement of basic prices in the fruit and vegetables sector, and thirdly, the need to ensure the normal marketing of fresh products for the various uses, including supply of the processing industry;

Whereas Article 5 of Regulation (EEC) No 426/86 lays down the criteria for fixing the amount of production aid; whereas account must, in particular, be taken of the aid fixed for the previous marketing year adjusted to take account of changes in the minimum price to be paid to producers and the difference between the cost of the raw material in the Community and in the major competing third countries;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 1996/97 marketing year:

(a) the minimum price referred to in Article 4 of Regulation (EEC) No 426/86 to be paid to producers for peaches,

and

(b) the production aid referred to in Article 5 of the same Regulation for peaches in syrup and/or natural fruit juice,

shall be as set out in the Annex.

*Article 2*

Where processing takes place outside the Member State in which the produce was grown, such Member State shall furnish proof to the Member State paying the production aid that the minimum price payable to the producer has been paid.

*Article 3*

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, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 49, 27. 2. 1986, p. 1.
[2] OJ No L 233, 30. 9. 1995, p. 69.
[3] OJ No L 119, 11. 5. 1990, p. 74.
[4] OJ No L 201, 31. 7. 1990, p. 4.

*ANNEX*

**Minimum price to be paid to producers**

| Product | ECU/100 kg net, ex producer |
|---|---|
| Peaches intended for the manufacture of peaches in syrup and/or natural fruit juice | 27,301 |

**Production aid**

| Product | ECU/100 kg net |
|---|---|
| Peaches in syrup and/or natural fruit juice | 8,663 |

# COMMISSION REGULATION (EC) No 1408/96

## of 19 July 1996

## on the sale at a price fixed in advance of unprocessed dried figs from the 1995 harvest to distillation industries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) no 1206/90 of 7 May 1990 laying down general rules for the system of production aid for processed fruit and vegetables [1], as amended by Regulation (EEC) No 2202/90 [2], and in particular Article 6 (2) thereof,

Having regard to Commission Regulation (EEC) No 1707/85 of 21 June 1985 on the sale of unprocessed dried figs by storage agencies for the manufacture of alcohol [3], and in particular Article 5 thereof,

Whereas Article 6 (2) of Commission Regulation (EEC) No 626/85 of 12 March 1985 on the purchasing, selling and storage of unprocessed dried grapes and figs by storage agencies [4], as last amended by Regulation (EC) No 1363/95 [5], provides that products intended for specific uses shall be sold at prices fixed in advance or determined by an invitation to tender;

Whereas the aforementioned Regulation (EEC) No 1707/85 provides that unprocessed dried figs may be sold at a price fixed in advance to distillation industries;

Whereas the Greek storage agency is holding roughly 400 tonnes of unprocessed dried figs from the 1995 harvest; whereas the products should be offered to the distillation industries;

Whereas the selling price should be fixed in such a way that disturbance of the Community market in alcohol and spirituous beverages is avoided;

Whereas the amount of the processing security provided for in Article 2 (2) of Regulation (EEC) No 1707/85 should be fixed, taking into consideration the difference between the normal market price for dried figs and the selling price fixed by this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The Greek storage agency shall undertake the sale of unprocessed dried figs from the 1995 harvest to the distillation industries in accordance with the provisions of Regulations (EEC) No 626/85 and (EEC) No 1707/85 at a price fixed at ECU 4 per 100 kilograms net.

2. The processing security referred to in Article 2 (2) of Regulation (EEC) No 1707/85 is fixed at ECU 15 per 100 kilograms net.

*Article 2*

1. Purchase applications shall be submitted to the Greek storage agency Sykiki, at the head office of Idagep, Acharnon Street 241, Athens, Greece, for products held by that agency.

2. Information on the quantities and places where the products are stored may be obtained from the Greek storage agency Sykiki, Kritis Street 13, Kalamata, Greece.

*Article 3*

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, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 119, 11. 5. 1990, p. 74.
[2] OJ No L 201, 31. 7. 1990, p. 4.
[3] OJ No L 163, 22. 6. 1985, p. 38.
[4] OJ No L 72, 13. 3. 1985, p. 7.
[5] OJ No L 132, 16. 6. 1995, p. 8.

# COMMISSION REGULATION (EC) No 1409/96

## of 19 July 1996

## amending Regulation (EEC) No 1442/93 laying down detailed rules for the application of the arrangements for importing bananas into the Community, as regards eligibility criteria for category C operators and certain dates relevant to the administration of Community tariff quotas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas [1], as last amended by Regulation (EC) No 3290/94 [2], and in particular Article 20 thereof,

Whereas Article 3 (5) of Commission Regulation (EEC) No 1442/93 [3], as last amended by Regulation (EC) No 875/96 [4], lays down the criteria which operators must meet to be registered in category C and to obtain annual importing rights under the tariff quota; whereas experience of applying the arrangements over several years shows that better management of tariff quota allocation to operators in category C could be achieved by reinforcing eligibility criteria and specifying the checks required of the national authorities; whereas in the first place, a longer minimum period of activity should be required before an operator may apply for an annual allocation, and the use of dummy operators should be prevented; whereas in the second place, it should be stressed that the eligibility of the application for registration of the operator and the allocation of an annual quantity should, where there is any doubt about fulfilment of the criteria, be subject to the provision of satisfactory evidence by the operator;

Whereas the consequences of failing to comply with certain obligations pursuant to this Regulation should be made explicit, and in particular the implications of the prohibition on a single operator lodging more than one application;

Whereas Article 6 of Regulation (EEC) No 1442/93 lays down the date by which national authorities must notify each of the operators in categories A and B of the quantity allocated under the tariff quota for a given year; whereas to enable national authorities to carry out checks and inspections under the best conditions, and to facilitate communication with the Commission, a later date should be fixed for notifying quantities allocated to operators;

Whereas the Management Committee for Bananas has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 1442/93 is hereby amended as follows:

1. Article 3 (5) is amended as follows:

   (a) in the first subparagraph, 'for at least one year at the date of submission of their applications for annual allocation' is replaced by 'for at least two years at the date of submission of their applications for annual allocation';

   (b) the third subparagraph is replaced by the following:

   'Each operator may lodge only one application for an annual allocation, in the Member State of his choice. Failure to comply with this obligation shall render ineligible all applications for allocations that have been lodged, and invalidate any registration already granted.';

   (c) the following fourth subparagraph is added:

   'Member States shall verify compliance with this paragraph. In particular, they shall ensure that each operator concerned is actively engaged in business on his own account, as an autonomous economic unit in terms of management, staff and operation. Where there are grounds for suspecting that these specific provisions are not met, the application for an annual allocation shall be accepted only subject to the operator's providing appropriate evidence of compliance considered satisfactory by the national authority.';

2. in Article 6, the second subparagraph is replaced by the following:

   'The Member States shall determine the quantities for each operator in categories A and/or B registered with them and shall notify the latter thereof individually at the latest by 1 November'.

*Article 2*

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

[1] OJ No L 47, 25. 2. 1993, p. 1.
[2] OJ No L 349, 31. 12. 1994, p. 105.
[3] OJ No L 142, 12. 6. 1993, p. 6.
[4] OJ No L 118, 15. 5. 1996, p. 14.

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

Done at Brussels, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

# COMMISSION REGULATION (EC) No 1410/96

## of 19 July 1996

## concerning the partial withdrawal of Regulation (EC) No 3053/95 amending Annexes I, II, III, V, VI, VII, VIII, IX and XI to Council Regulation (EEC) No 3030/93 on common rules for imports of certain textile products from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries [1], as last amended by Commission Regulation (EC) No 941/96 [2], and in particular Article 19 in conjunction with Article 17 thereof,

Whereas the fifth and sixth indents of Article 1 of Commission Regulation (EC) No 3053/95 [3] respectively amended and repealed Annexes VI and VIa to Regulation (EEC) No 3030/93; whereas this amendment was adopted at a time when, by virtue of Article 19 of Regulation (EEC) No 3030/93, the Commission was not yet entitled to do so, the Council not yet having decided to conclude or apply provisionally the market access arrangements negotiated by the Commission with India and Pakistan; whereas Regulation (EC) No 3053/95 therefore contains a procedural defect that warrants at least its withdrawal or partial annulment; whereas according to the case-law of the Court, notably as established in its judgment of 20 June 1991 in Case C-248/89 *Cargill v. Commission* ECR I, p. 2987, the withdrawal of an unlawful act is admissible only if it takes place within a reasonable period and sufficient account is taken of the legitimate expectations engendered by its adoption; whereas the application of these principles requires that the rights engendered among its intended beneficiaries, and in particular those involved in the textiles trade (by Regulation (EC) No 3053/95) in the period from 1 January 1995 and the date of entry into force of this Regulation be honoured; whereas it must nevertheless be underlined that this withdrawal is not to be seen as undermining or derogating from Article 20 of Regulation (EEC) No 3030/93, which provides that the said Regulation and its Annexes 'shall not constitute in any way a derogation from the provisions either of the bilateral agreements, protocols or arrangements on textile trade which the Community has concluded with the third countries listed in Annex II or of the ATC with regard to the WTO Members listed in Annex XI and which, in all cases of conflict, shall prevail';

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Regulation (EC) No 3053/95 shall be repealed with retroactive effect from 1 January 1995 inasmuch as the fifth and sixth indents of Article 1 thereof amend and/or repeal Annexes VI and VIa to Regulation (EEC) No 3030/93.

2. The partial withdrawal of Regulation (EC) No 3053/95 referred to in paragraph 1 shall not affect the rights that its adoption may have engendered among its intended beneficiaries in the period from 1 January 1995 and the date of entry into force of this Regulation.

*Article 2*

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

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

Done at Brussels, 19 July 1996.

*For the Commission*

Leon BRITTAN

*Vice-President*

[1] OJ No L 275, 8. 11. 1993, p. 1.
[2] OJ No L 128, 29. 5. 1996, p. 15.
[3] OJ No L 323, 30. 12. 1995, p. 1.

# COMMISSION REGULATION (EC) No 1411/96

## of 19 July 1996

## specifying the extent to which applications lodged in June 1996 for import rights in respect of young male bovine animals for fattening may be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1119/96 of 21 June 1996 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 1996 to 30 June 1997) [1], and in particular Article 4 (4) thereof,

Whereas Article 1 (1) of Regulation (EC) No 1119/96 lays down the number of young male bovine animals which may be imported on special terms during 1996/97; whereas applications for import rights result in the issuing of licences in accordance with the provisions of this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

All applications for import rights made in Member States other than Italy and Greece pursuant to Article 4 (3) of Regulation (EC) No 1119/96 are hereby met to the extent of 0,637 % of the quantity requested.

*Article 2*

This Regulation shall enter into force on 20 July 1996.

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

Done at Brussels, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 149, 22. 6. 1996, p. 4.

# COMMISSION REGULATION (EC) No 1412/96
## of 19 July 1996
## 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 (EC) No 3072/95 (2), and in particular the second subparagraph of Article 14 (3) thereof,

Whereas Article 14 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 14 (4) of Regulation (EEC) No 1418/76, 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 10 000 tonnes of rice to certain destinations; whereas the procedure laid down in Article 7 (4) of Commission Regulation (EC) No 1162/95 (3), as last amended by Regulation (EC) No 1029/96 (4) should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Commission Regulation (EEC) No 1361/76 (5) 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 14 (5) of Regulation (EEC) No 1418/76 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 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 (6), as amended by Regulation (EC) No 1380/95 (7), 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 and in Council Regulation (EC) No 462/96 (8); 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,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 of Regulation (EEC) No 1418/76 with the exception of those listed in paragraph 1 (c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 20 July 1996.

(1) OJ No L 166, 25. 6. 1976, p. 1.
(2) OJ No L 329, 30. 12. 1995, p. 18.
(3) OJ No L 117, 24. 5. 1995, p. 2.
(4) OJ No L 137, 8. 6. 1996, p. 1.
(5) OJ No L 154, 15. 6. 1976, p. 11.
(6) OJ No L 102, 28. 4. 1993, p. 14.
(7) OJ No L 138, 21. 6. 1995, p. 1.
(8) OJ No L 65, 15. 3. 1996, p. 1.

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

Done at Brussels, 19 July 1996.

*For the Commission*
Franz FISCHLER
*Member of the Commission*

*ANNEX*

**to the Commission Regulation of 19 July 1996 fixing the export refunds on rice and broken rice**

*(ECU / tonne)*

| Product code | Destination (1) | Amount of refunds (2) |
|---|---|---|
| 1006 20 11 000 | 01 | 243,00 |
| 1006 20 13 000 | 01 | 243,00 |
| 1006 20 15 000 | 01 | 243,00 |
| 1006 20 17 000 | — | — |
| 1006 20 92 000 | 01 | 243,00 |
| 1006 20 94 000 | 01 | 243,00 |
| 1006 20 96 000 | 01 | 243,00 |
| 1006 20 98 000 | — | — |
| 1006 30 21 000 | 01 | 243,00 |
| 1006 30 23 000 | 01 | 243,00 |
| 1006 30 25 000 | 01 | 243,00 |
| 1006 30 27 000 | — | — |
| 1006 30 42 000 | 01 | 243,00 |
| 1006 30 44 000 | 01 | 243,00 |
| 1006 30 46 000 | 01 | 243,00 |
| 1006 30 48 000 | — | — |
| 1006 30 61 100 | 01 | 304,00 |
| | 02 | 310,00 |
| | 03 | 315,00 |
| | 04 | 304,00 |
| 1006 30 61 900 | 01 | 304,00 |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 |
| 1006 30 63 100 | 01 | 304,00 |
| | 02 | 310,00 |
| | 03 | 315,00 |
| | 04 | 304,00 |
| 1006 30 63 900 | 01 | 304,00 |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 |
| 1006 30 65 100 | 01 | 304,00 |
| | 02 | 310,00 |
| | 03 | 315,00 |
| | 04 | 304,00 |
| 1006 30 65 900 | 01 | 304,00 |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 |
| 1006 30 67 100 | 01 | 304,00 (3) |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 (3) |
| 1006 30 67 900 | 01 | 304,00 (3) |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 (3) |
| 1006 30 92 100 | 01 | 304,00 |
| | 02 | 310,00 |
| | 03 | 315,00 |
| | 04 | 304,00 |
| 1006 30 92 900 | 01 | 304,00 |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 |
| 1006 30 94 100 | 01 | 304,00 |
| | 02 | 310,00 |
| | 03 | 315,00 |
| | 04 | 304,00 |
| 1006 30 94 900 | 01 | 304,00 |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 |
| 1006 30 96 100 | 01 | 304,00 |
| | 02 | 310,00 |
| | 03 | 315,00 |
| | 04 | 304,00 |
| 1006 30 96 900 | 01 | 304,00 |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 |
| 1006 30 98 100 | 01 | 304,00 (3) |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 (3) |
| 1006 30 98 900 | 01 | 304,00 (3) |
| | 02 | 310,00 (3) |
| | 03 | 315,00 (3) |
| | 04 | 304,00 (3) |
| 1006 40 00 000 | — | — |

(1) The destinations are identified as follows:
01 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.

(2) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 and Regulation (EC) No 462/96 are observed.

(3) Refund fixed pursuant to the procedure laid down in Article 7 (4) of amended Regulation (EC) No 1162/95 in respect of a quantity of 10 000 tonnes of rice.

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

# COMMISSION REGULATION (EC) No 1413/96

## of 19 July 1996

## amending the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals [1], as last amended by Commission Regulation (EC) No 923/96 [2],

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector [3], and in particular Article 2 (1) thereof,

Whereas the import duties in the cereals sector are fixed by Commission Regulation (EC) No 1366/96 [4], as last amended by Regulation (EC) No 1400/96 [5];

Whereas Article 2 (1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by ECU 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 1366/96,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to amended Regulation (EC) No 1366/96 are hereby replaced by Annexes I and II to this Regulation.

*Article 2*

This Regulation shall enter into force on 20 July 1996.

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

Done at Brussels, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 126, 24. 5. 1996, p. 37.
[3] OJ No L 161, 29. 6. 1996, p. 125.
[4] OJ No L 177, 16. 7. 1996, p. 9.
[5] OJ No L 180, 19. 7. 1996, p. 11.

*ANNEX I*

**Import duties for the products listed in Article 10 (2) of Regulation (EEC) No 1766/92**

| CN code | Description | Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne) | Import duty by sea from other ports (2) (ECU/tonne) |
|---|---|---|---|
| 1001 10 00 | Durum wheat (1) | 0,00 | 0,00 |
| 1001 90 91 | Common wheat seed | 2,63 | 0,00 |
| 1001 90 99 | Common high quality wheat other than for sowing (3) | 2,63 | 0,00 |
| | medium quality | 18,82 | 8,82 |
| | low quality | 39,38 | 29,38 |
| 1002 00 00 | Rye | 46,09 | 36,09 |
| 1003 00 10 | Barley, seed | 46,09 | 36,09 |
| 1003 00 90 | Barley, other (3) | 46,09 | 36,09 |
| 1005 10 90 | Maize seed other than hybrid | 40,27 | 30,27 |
| 1005 90 00 | Maize other than seed (3) | 40,27 | 30,27 |
| 1007 00 90 | Grain sorghum other than hybrids for sowing | 60,20 | 50,20 |

(1) In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

(2) For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2 (4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

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

— ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

(3) The importer may benefit from a flat-rate reduction of ECU 14 or 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1249/96 are met.

*ANNEX II*

Factors for calculating duties (period from 15. 7. 1996 to 18. 7. 1996):

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

| Exchange quotations | Minneapolis | Kansas City | Chicago | Chicago | Minneapolis | Minneapolis |
|---|---|---|---|---|---|---|
| Product (% proteins at 12 % humidity) | HRS2. 14 % | HRW2. 11,5 % | SRW2 | YC3 | HAD2 | US barley 2 |
| Quotation (ECU/tonne) | 152,31 | 151,42 | 141,67 | 122,33 | 179,15 (1) | 130,76 (1) |
| Gulf premium (ECU/tonne) | — | 15,24 | 3,63 | 37,02 | — | — |
| Great lake premium (ECU/tonne) | 21,80 | — | — | — | — | — |

(1) Fob Duluth.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 9,24 per tonne; Great Lakes — Rotterdam: ECU 17,89 per tonne.

3. Subsidy (third paragraph of Article 4 (2) of Regulation (EC) No 1249/96: ECU 0,00 per tonne).

# COMMISSION REGULATION (EC) No 1414/96

## of 19 July 1996

## determining to what extent applications for import rights for calves not exceeding 80 kilograms lodged pursuant to Regulation (EC) No 1110/96 can be met

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1110/96 of 20 June 1996 introducing management measures for imports of certain bovine animals for the second half of 1996 [1], and in particular Article 5 (1) thereof,

Whereas Article 2 (3) of Regulation (EC) No 1110/96 provides for the quantities reserved to customary importers to be assigned in proportion to their imports during 1993, 1994 and 1995;

Whereas allocation of the quantities available to operators covered by point (b) in Article 2 (2) is to be made in proportion to the quantities applied for; whereas since the quantities applied for exceed those available, a fixed percentage reduction should be set,

HAS ADOPTED THIS REGULATION:

*Article 1*

Every application for an import right for live animals of the bovine species not exceeding 80 kilograms shall be granted to the following extent:

(a) for importers covered by (a) in Article 2 (2) of Regulation (EC) No 1110/96, 5,3755 % of the quantity imported in 1993, 1994 and 1995;

(b) for importers covered by (b) in Article 2 (2) of Regulation (EC) No 1110/96, 0,1552 % of the quantity applied for.

*Article 2*

This Regulation shall enter into force on 20 July 1996.

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

Done at Brussels, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

[1] OJ No L 148, 21. 6. 1996, p. 15.

# COMMISSION REGULATION (EC) No 1415/96

of 19 July 1996

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], as last amended by Regulation (EC) No 2933/95 [2], and in particular Article 4 (1) 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 last amended by Regulation (EC) No 150/95 [4], and in particular Article 3 (3) thereof,

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

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 20 July 1996.

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

Done at Brussels, 19 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 337, 24. 12. 1994, p. 66.
[2] OJ No L 307, 20. 12. 1995, p. 21.
[3] OJ No L 387, 31. 12. 1992, p. 1.
[4] OJ No L 22, 31. 1. 1995, p. 1.

*ANNEX*

**to the Commission Regulation of 19 July 1996 establishing the standard import values for determining the entry price of certain fruit and vegetables**

*(ECU/100 kg)*

| CN code | Third country code (1) | Standard import value |
|---|---|---|
| 0702 00 35 | 052 | 73,4 |
| | 060 | 80,2 |
| | 064 | 70,8 |
| | 066 | 60,3 |
| | 068 | 80,3 |
| | 204 | 86,8 |
| | 208 | 44,0 |
| | 212 | 97,5 |
| | 624 | 95,8 |
| | 999 | 76,6 |
| ex 0707 00 25 | 052 | 62,4 |
| | 053 | 156,2 |
| | 060 | 61,0 |
| | 066 | 53,8 |
| | 068 | 69,1 |
| | 204 | 144,3 |
| | 624 | 87,1 |
| | 999 | 90,6 |
| 0709 90 77 | 052 | 54,3 |
| | 204 | 77,5 |
| | 412 | 54,2 |
| | 624 | 151,9 |
| | 999 | 84,5 |
| 0805 30 30 | 052 | 128,7 |
| | 204 | 88,8 |
| | 220 | 74,0 |
| | 388 | 70,4 |
| | 400 | 68,2 |
| | 512 | 54,8 |
| | 520 | 66,5 |
| | 524 | 68,4 |
| | 528 | 66,9 |
| | 600 | 96,5 |
| | 624 | 48,9 |
| | 999 | 75,6 |
| 0808 10 71, 0808 10 73, 0808 10 79 | 039 | 120,3 |
| | 052 | 64,0 |
| | 064 | 78,6 |
| | 284 | 72,1 |
| | 388 | 98,3 |
| | 400 | 71,1 |
| | 404 | 63,6 |
| | 416 | 72,7 |
| | 508 | 113,5 |
| | 512 | 87,6 |
| | 524 | 100,3 |
| | 528 | 95,7 |
| | 624 | 86,5 |
| | 728 | 107,3 |
| | 800 | 78,0 |
| | 804 | 94,3 |
| | 999 | 87,7 |
| 0808 20 51 | 039 | 104,1 |
| | 052 | 138,2 |
| | 064 | 72,5 |
| | 388 | 96,8 |
| | 400 | 70,4 |
| | 512 | 80,5 |
| | 528 | 132,9 |
| | 624 | 79,0 |
| | 728 | 115,4 |
| | 800 | 89,7 |
| | 804 | 73,0 |
| | 999 | 95,7 |
| 0809 10 40 | 052 | 144,4 |
| | 061 | 51,3 |
| | 064 | 75,5 |
| | 091 | 57,0 |
| | 400 | 338,0 |
| | 999 | 133,2 |
| 0809 20 59 | 052 | 185,5 |
| | 061 | 182,0 |
| | 064 | 137,1 |
| | 066 | 73,7 |
| | 068 | 91,0 |
| | 400 | 178,2 |
| | 600 | 94,9 |
| | 616 | 171,8 |
| | 624 | 63,7 |
| | 676 | 166,2 |
| | 999 | 134,4 |
| 0809 30 31, 0809 30 39 | 052 | 63,1 |
| | 220 | 121,8 |
| | 624 | 106,8 |
| | 999 | 97,2 |
| 0809 40 30 | 052 | 78,8 |
| | 064 | 80,4 |
| | 066 | 84,9 |
| | 068 | 61,2 |
| | 400 | 143,5 |
| | 624 | 179,0 |
| | 676 | 68,6 |
| | 999 | 99,5 |

(1) Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 16). Code '999' stands for 'of other origin'.

II

*(Acts whose publication is not obligatory)*

# COUNCIL

## COUNCIL DECISION

**of 15 July 1996**

**appointing the President of the Community Plant Variety Office**

(96/436/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights [1], and in particular Article 43 (1) and (2) thereof,

Having regard to the candidates proposed by the Commission on 27 April 1995, after obtaining the opinion of the administrative council of the Community Plant Variety Office,

HAS DECIDED AS FOLLOWS:

*Sole Article*

Mr Bart Kiewiet, born on 7 January 1947, is hereby appointed president of the Community Plant Variety Office for a period of five years.

His term of office shall run from the date on which he takes up his duties, which date shall be agreed between the president and the administrative council of the Office.

Done at Brussels, 15 July 1996.

*For the Council*

*The President*

D. SPRING

[1] OJ No L 227, 1. 9. 1994, p. 1. Regulation as amended by Regulation (EC) No 2506/95 (OJ No L 258, 28. 10. 1995, p. 3).

# COMMISSION

## COMMISSION DECISION

**of 18 July 1996**

**terminating the anti-dumping proceeding concerning imports of PET video film originating in the Republic of Korea**

(96/437/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 23 thereof,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community [2], as last amended by Regulation (EC) No 1251/95 [3], and in particular Articles 5 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

### I. PROCEDURE

(1) In February 1995, the Commission received a complaint from three companies, Hoechst-Diafoil GmbH, Rhône-Poulenc Films and Teijin-DuPont Films, concerning imports of PET video film originating in the Republic of Korea. The three complainants allegedly represented 100 % of total PET video film output in the Community. The complaint contained evidence of dumping and material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [4], the initiation of an antidumping proceeding concerning imports into the Community of PET video film originating in the Republic of Korea.

(2) The Commission officially advised the exporters and importers known to be concerned; the representatives of the exporting country and the complainants and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

### II. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

(3) The complaining Community producers formally withdrew their complaint concerning imports of PET video film originating in the Republic of Korea. The Commission considered that a termination of the proceeding would not be against the interest of the Community.

(4) Consequently, the anti-dumping proceeding concerning imports of PET video film originating in the Republic of Korea should be terminated without adoption of protective measures.

(5) The Advisory Committee has been consulted and has raised no objection.

(6) Interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to terminate the proceeding and have been given the opportunity to comment,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The anti-dumping proceeding concerning imports of PET video film originating in the Republic of Korea is hereby terminated.

Done at Brussels, 18 July 1996.

*For the Commission*

Leon BRITTAN

*Vice-President*

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[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 349, 31. 12. 1994, p. 1.
[3] OJ No L 122, 2. 6. 1995, p. 1.
[4] OJ No C 147, 14. 6. 1995, p. 4.

# COMMISSION DECISION

## of 5 June 1996

## relating to a proceeding pursuant to Article 85 of the EC Treaty

## (IV/34.983 — Fenex)

**(Only the Dutch text is authentic)**

(96/438/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 Austria, Finland and Sweden, and in particular Article 15 (2) thereof,

Having given the undertakings concerned the opportunity of being heard on the matters to which the Commission has taken objection, in accordance with the provisions of Article 19 (1) of Regulation No 17 and Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17 [2],

Having consulted the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas:

### Subject of the proceeding

The Commission Decision relates to a decision of an association of undertakings regarding recommended forwarding charges in the Netherlands circulated by Nederlandse Organisatie voor Expeditie en Logistiek (Fenex) between 10 January 1989 and 1 July 1993. This proceeding was initiated by the Commission on it own initiative. On 26 May 1995 the representatives of Fenex notified the Commission of the decision of an association of undertakings which is at issue.

### I. THE FACTS

#### A. The association concerned

(1) The association of undertakings concerned is Fenex, an association under Dutch law. Until 22 June 1991, Fenex was a federation of Dutch forwarding organizations comprising four members:

— Vereniging van Nederlandse Expediteurs (VNE), Nijmegen,

— Vereniging van Expediteurs (VVE), Rotterdam,

— Vakgroep Expediteursbedrijven der Scheepvaartvereniging Noord (SVN), Amsterdam,

— Nederlandse Vereniging van Luchtvaartexpediteurs (NVVC).

(2) Since 22 June 1991, Fenex has been an association created through the merger of the former federation, the VNE and the VVE. The association is open directly to forwarding companies. It had some 400 members in 1989 and 294 members in 1995. According to Fenex, there were 2 812 forwarding companies in the Netherlands in April 1995.

(3) Fenex's representatives have stressed that the association comprises a large number of small firms.

However, the Commission notes that the association also comprises large firms, some of which are market leaders, including:

— Calberson BV,

— Compagnie française de navigation rhénane,

— Danzas International,

— Müller & Co.,

— Nedlloyd Road Cargo services,

— DHL International,

— Dutch Air BV,

— MSAS Nedlloyd Air Cargo.

(4) Fenex's objective is to represent generally the joint interests of its members. In particular, it provides them with information and advice.

(5) Fenex comprises a board of directors whose members were until 22 June 1991 representatives of the affiliated associations and since that date have been representatives of the affiliated firms.

(6) Until 1 July 1993, Fenex had a 'tariffs committee' which was responsible for drawing up opinions for the board of directors or carrying out preparatory work for it. On 1 July 1993, the tariffs committee was replaced by an 'economic affairs committee'.

[1] OJ No 13, 21. 2. 1962, p. 204/62.
[2] OJ No L 127, 20. 8. 1963, p. 2268/63.

### B. Forwarding activities in the Netherlands

(7) Forwarding agents are independent firms whose activities were originally confined to finding, on behalf of their principals, the best means of forwarding goods taking account in particular of their nature, how quickly the forwarding needed to be carried out, the destination and the price.

(8) The function of the forwarding agent has evolved over time to become that of a provider of logistical services, with his activities extending beyond the mere arrangement of transport.

The activities which a forwarding agent may carry out for his principal include:

— the organization and proper arrangement of the transport operation and any transhipment within Europe and elsewhere,

— the receiving of overseas cargo arriving for a purchaser in the Netherlands or in Europe,

— the handling of the customs documents relating to the goods,

— the packaging or repackaging of the goods,

— the insuring of the goods,

— the grouping of the goods,

— the inspection of the goods,

— stocking and distribution,

— compliance with the instructions of the letter of credit,

— arrangement of the transport of dangerous substances,

— the provision of information to the principal or to third parties,

— the carrying out of 'just-in-time' deliveries.

(9) As part of his functions, the forwarding agent may make use of several successive means of transport in carrying out the contract entered into with his client, but he does not in most cases carry out transport activities himself.

(10) The forwarding agent generally has a specialized staff that knows the best rates for the various means of transport and a network of agents abroad that allow him to give his clients the assurance that their consignments will be dealt with and distributed under optimum conditions.

(11) The forwarding agent's clients may range from small firms wishing to send occasional consignments to large firms regularly sending consignments to all parts of the world.

### C. Drawing up and circulation of recommended tariffs

(12) From the beginning of the century and up to 31 July 1993, Fenex drew up and distributed to its members documents setting out forwarding charges or tariffs (Expeditie Tarieven).

(13) These forwarding charges or tariffs were, until 1992, set out in two brochures entitled 'forwarding tariffs'. One brochure related to forwarding services in sea ports and the other to forwarding services at land frontiers. In 1993, a single brochure combining the two sectors and setting out an overall tariff was drawn up and circulated.

(14) The tariffs relate to the following activities:

— in the case of services provided in sea ports, the tariffs are broken down under five headings:

1. customs declaration;
2. other customs formalities;
3. general forwarding formalities;
4. handling costs;
5. pallet tariffs,

— in the case of services provided at land frontiers, the tariffs are broken down under three headings:

1. customs declaration;
2. other customs formalities;
3. general forwarding formalities,

— in 1993, the single brochure combining the two different sectors gave the following breakdown:

1. customs declaration;
2. other customs formalities;
3. general forwarding formalities;
4. handling costs;
5. pallett tariffs.

(15) For each service, the tariffs are given in guilders, or, in the case of some services, in percentages, with a minimum tariff specified in guilders.

(16) Fenex's tariff scale as applicable up to 30 June 1993 was drawn up and updated annually by the Fenex tariffs committee which, interpreting the annual macroeconomic data compiled by amongst others, two government bodies, the 'Centraal Plan Bureau' and the 'Centraal Bureau voor de Statistiek', related the data to the activites to be supplied for the forwarding agents.

(17) The tariffs committee then delivered to the Fenex board of directors an opinion on the increases and other possible changes to be applied over the next year in respect of the activities in question.

(18) Fenex's board of directors then decided, on the basis of the Tariffs Committee's opinion, on the tariff increases to be recommended and notified to its members.

(19) The lists were distributed annually by Fenex to its members in the form of annexes to a circular.

Until 22 June 1991, Fenex circulated its recommended tariffs through the intermediary of the affiliated associations, and, after that date, it did so directly to its affiliated firms.

(20) The tariffs recommended by Fenex showed the following trends from 1989:

— from 1989 to 1990, the increases recommended by Fenex were of the order of 5 % for customs formalities and 3 % for the other types of service,

— from 1990 to 1991, the recommended increases were of the order of 5 % for all the activities listed,

— from 1991 to 1992, the recommended tariff increases relating to customs formalities at land frontiers were of the order of 10 %, in line with the double increase recommended by Fenex to its members in this sector,

— the increase for other land-frontier activities was 5 %. Fenex had also announced, and passed on in the lists sent to forwarding agents, increases of 9 %, then 16,5 %, in respect of certain forwarding formalities, such as bills of landing and consignment notes. Similar increases were recommended for the same activities in sea ports,

— lastly, the tariffs for other activities in sea ports were increased by 5 %,

— from 1992 to 1993, there was a general increase of 4,5 % compared with the previous year in the tariffs recommended in respect of land-frontier posts and sea ports. However, certain items relating to general forwarding formalities underwent increases ranging from 6 to 25 %.

(21) The relationship between, on the one hand, the trend in the tariff increases recommended by Fenex and, on the other, the trend in the consumer price index and in the price index for transport and communications in the Netherlands, expressed in percentage terms, is as follows:

**Fenex tariff increases**

*(in %)*

| Services | 1990 | 1991 | 1992 | 1993 |
|---|---|---|---|---|
| Customs declaration | + 5 | + 5 | + 10 | + 4,5 |
| Other customs formalities | + 5 | + 5 | + 10 | + 4,5 |
| General forwarding formalities | + 3 | + 5 | + 5 | + 4,5 |
| Handling costs | 3 | + 5 | + 5 | + 4,5 |
| Pallet tariff | + 3 | + 5 | + 5 | + 4,5 |

**Dutch consumer price index**

*(in %)*

| 1990 | 1991 | 1992 | 1993 |
|---|---|---|---|
| + 2,4 | + 3,9 | + 3,1 | + 2,6 |

*Source:* Eurostat.

**Price index for transport and communications in the Netherlands**

*(in %)*

| 1990 | 1991 | 1992 | 1993 |
|---|---|---|---|
| + 2,8 | + 3,6 | + 3,7 | + 2,8 |

*Source:* Eurostat.

## II. LEGAL ASSESSMENT

### A. Procedural regulation applicable

(22) During the administrative proceedings, Fenex's representatives argued that Regulation No 17 was not applicable in this instance, but that Council Regulation (EEC) No 1017/68 of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway [1], as last amended by the Act of Accession of Austria, Finland and Sweden, was alone applicable since forwarding agents are providers of services ancillary to transport, as referred to in the last sentence of Article 1 of Regulation (EEC) No 1017/68.

(23) The Commission considers that the question in this case is not to define whether forwarding agents are providers of services ancillary to transport within the meaning of the said Article 1 or not, but to examine the activities to which the decision by the association of undertakings relates.

(24) Pursuant to Article 1 of Regulation (EEC) No 1017/68 agreements, decisions by associations of undertakings or concerted practices are covered by that Regulation only if the anti-competitive practices in question have as their object or effect:

— the fixing of transport rates and conditions,

— the limitation or control of the supply of transport,

— the sharing of transport markets,

— the application of technical improvements or technical cooperation,

— the joint financing or acquisition of transport equipment or supplies where such operations are directly related to the provision of transport services and are necessary for the joint operation of services by a grouping of undertakings within the meaning of Article 4.

(25) The scope of application of Regulation (EEC) No 1017/68, like that of Council Regulation No 141 of 26 November 1962 exempting transport from the application of Council Regulation No 17 [2], as last amended by the Act of Accession of Denmark, Ireland and the United Kingdom, is clearly based solely on the substance of the activities concerned. Regulation (EEC) No 1017/68 covers conduct by undertakings or associations of undertakings that relates to the activities referred to in Article 1 thereof, regardless of the nature of the undertakings concerned.

(26) The scope of application of that Regulation is thus not in any way restricted to agreements concluded by land transport undertakings or by providers of services ancillary to transport. Conversely, not all agreements concluded by such undertakings necessarily fall within the scope of application of Regulation (EEC) No 1017/68.

(27) The Commission does not dispute the fact that, in certain circumstances, forwarding agents may perform a direct role as providers of transport services. However, in the case in point, it is clear that the recommended prices circulated by Fenex relate to the activities specified in recital 14, none of which falls within the scope of Regulation (EEC) No 1017/68.

(28) At all events, during the administrative proceedings, Fenex's representatives stressed that forwarding agents were fundamentally independent of transport undertakings (minutes of the hearing, page 28). A forwarding agent cannot therefore be deemed to be an ancillary forming an integral part of a transport undertaking, but an autonomous provider of services some of whose activities may fall within the transport sector, but others of which do not fall within that sector.

(29) The Commission does not exclude the hypothesis that an agreement between forwarding agents may fall within the scope of application of a procedural regulation relating to transport or may be covered by several procedural regulations where several activities are involved.

(30) In the case in point, however, having regard to the activities to which the decision taken by the association in question relates, the Commission considers that only Regulation No 17 is applicable.

### B. The concept of association of undertakings

(31) Until 22 June 1991, Fenex was a federation of Dutch forwarding organizations. Since that date, Fenex has been an association directly comprising forwarding companies, and its object is still to represent the joint interests of its members. Whatever the terminology used, Fenex is an association of undertakings within the meaning of Article 85 of the Treaty.

[1] OJ No L 175, 23. 7. 1968, p. 1.
[2] OJ No 124, 28. 11. 1962, p. 2751/62.

### C. The concept of decision by an association of undertakings

(32) During the proceeding, Fenex's representatives argued that the tariffs had merely the force of a recommendation which did not restrict the freedom of forwarding agents to set their tariffs. According to Fenex, such a recommendation does not constitute a decision by an association of undertakings within the meaning of Article 85 of the Treaty.

(33) It should be noted firstly that the drawing up and circulation of tariffs by Fenex is not an occasional activity, but one which on the contrary has been carried out since the beginning of the century.

(34) The tariffs are drawn up and updated annually by the specialized Fenex body, the tariffs committee, which presents an opinion to the board of directors, comprising representatives of the forwarding firms affiliated to Fenex.

(35) The tariffs are then adopted by the board of directors and were, until 22 June 1991, sent to the firms through the intermediary of the affiliated associations, and have, since that date, been sent to them direct.

(36) Account should also be taken of the fact that, although they are presented as non-compulsory recommendations, the tariffs are accompanied by circulars drafted in more mandatory terms.

(37) The Fenex circular of 24 November 1989 setting out the new scale of charges applying as from 1 January 1990 stipulates in this respect:

'The Board of Directors of the Federation of Dutch Forwarding Agents (Fenex), acting in accordance with the opinion of the Fenex Tariffs Committee, has decided as follows:

...

The tariff increases for the year [...] will be ... %. This is the result of the trend of costs with which the branch of industry is confronted.'

This formula is used each year by Fenex in its circulars.

(38) In the circular sent by Fenex to its members at the end of 1990 and stipulating the tariff increase for 1991, it is stated:

'In view of the result arrived at, members are urgently recommended to pass on the abovementioned tariff increase [5 %] in full to consignors.'

(39) Similarly, in a circular sent at the end of 1991 and relating to the increases to be applied at land frontiers in 1992, it is stated:

'Fenex recommends that an additional tariff increase of 5 % be applied for the carrying-out of customs formalities at land frontiers.'

(40) Lastly, it is common ground that it was in the forwarding agents' common interest to coordinate their conduct within Fenex by setting the tariffs for the services in question, which constitute elements of competition between the forwarding agents.

(41) On the basis of the above, the drawing-up and circulation of the tariffs recommended by Fenex must be interpreted as the faithful reflection of the association's resolve to coordinate the conduct of its members on the relevant market.

(42) In accordance with the case-law of the Court of Justice [1], these recommended tariffs constitute decisions by an association of undertakings within the meaning of Article 85 (1).

### D. The relevant market

(a) *Relevant service market*

(43) This case concerns the services provided by forwarding agents acting in accordance with the instructions received from consignors. Such services consist mainly in arranging transport, principally by sea and land, by other undertakings on behalf of the principal and in carrying out, or having carried out, activities such as the receiving, storage, management, customs clearance and handling of goods.

(b) *Relevant geographic market*

(44) The relevant geographic market is the area in which the services defined above are marketed, i.e. essentially the territory of the Netherlands, where the members of Fenex are established. Consignors in that area will use forwarding agents established in the same area, where the conditions of competition are similar for all operators. At the relevant time, the market share of Fenex's members was about 11 %.

### E. Restrictions of competition

(45) During the administrative proceedings, Fenex's representatives stated that the tariffs did not restrict competition since they were merely recommended and left forwarding agents entirely free to set their own tariffs. In addition, Fenex represented only a small part of the forwarding business in the Netherlands. Lastly, the tariffs had not had any effect since only one forwarding agent had acknowledged having complied with them.

[1] See in particular the judgment of 27 January 1987 in Case 45/85, *Verband der Sachversicherer* v. *Commission*, [1987] ECR, p. 405, paragraphs 26 to 32.

(46) On the subject of recommended tariffs, the Court of Justice has ruled that 'if a system of imposed selling prices is clearly in conflict with that provision [Article 85], the system of "target prices" is equally so. It cannot in fact be supposed that the clauses of the agreement concerning the determination of "target prices" are meaningless. In fact the fixing of a price, even one which merely constitutes a target, affects competition because it enables all the participants to predict with a reasonable degree of certainty what the pricing policy pursued by their competitors will be' [1].

(47) In its judgment of 27 January 1987 relating to the insurance industry [2], the Court took account of three factors in concluding that a tariff recommendation was anticompetitive:

— the common interest of the members of the association in putting the market on a viable footing by means of an increase in premiums,

— the nature of the recommendation, which, although described as non-binding, laid down in mandatory terms a collective increase in premiums,

— the statutes of the association, which empowered it to coordinate the activities of its members.

(48) In the case at issue, it should be noted that Fenex has for very many years regularly and consistently engaged in the horizontal practice of drawing up and circulating recommended tariffs.

(49) The association's member companies clearly had a common interest in drawing up and circulating such tariffs, which enabled each of them to predict with a reasonable degree of certainty what the pricing policy of the other companies would be.

(50) The fact that the recommended tariffs relate to only part of the services provided by the forwarding agents is immaterial in this respect.

(51) It is common ground that, in the forwarding industry, as the relevant undertakings have acknowledged, profit margins are generally very small and that consequently any anti-competitive practice, even if restricted to part of the total price, affects competition.

(52) Similarly, it was acknowledged by a Fenex representative at the hearing (minutes at page 28) that competition exists between forwarding agents in respect of the services they provide, quite apart from transport services.

(53) Fenex's members thus had a clear interest in coordinating their conduct as regards the tariffs for the services which are the subject of this proceeding and in respect of which they are in competition.

(54) Fenex's desire to coordinate its members' conduct on tariffs is apparent from a circular issued on 17 February 1993 which states as follows:

'the Tariffs Committee wishes to make it clear that the tariff is a minimum tariff and that in general Fenex's tariffs constitute a guideline on the basis of which each member can set its individual forwarding charges.'

(55) Similarly, at the Fenex general assembly held on 24 November 1992, the chairman of the association stated in reply to a question from a member on the usefulness of the Fenex tariffs as follows: 'although they are actually free to determine their tariffs, the members seem clearly to need guidance ... the value of the annual adjustment of tariffs lies in the fact that the firms can apply such adjustment more or less in full to the tariffs which they themselves apply.'

(56) Account must also be taken of the fact that the tariff recommendations circulated by Fenex are accompanied by circulars expressing the associations' firm desire that its recommendations should be put into effect.

(57) Reference should be made in this respect to the circulars referred to in recitals 37, 38 and 39.

(58) The drawing up and circulation of recommended tariffs was, moreover, an activity for which Fenex was clearly empowered. The procedure for drawing up the tariffs described in recitals 16 to 19 shows that it was an important and habitual activity of the association. This activity is also specified in the association's presentational booklet which states that in order to prepare policy and advise the governing body, the association has a number of working groups dealing with specific subjects such as legal affairs, quality, insurance and tariffs.

[1] Judgment of 27 October 1972 in Case 8/72, *Cementhandelaren* v. *Commission* [1972] ECR, p. 977.
[2] Case 45/85, *Verband der Sachversicherer* v. *Commission*, [1987], p. 405.

(59) During the proceeding, Fenex's representatives stated that the association's intention was not to affect the proper functioning of the market, but to provide assistance to its members. Such assistance was necessary because of the limited size of some undertakings, which did not have sufficient resources for drawing up their selling prices.

(60) While it is normal practice for a trade organization to provide management assistance to its members, it must not exercise any direct or indirect influence on competition, notably in the form of tariffs applicable to all undertakings regardless of their own cost price structure.

(61) The circulation of recommended tariffs by a trade organization is liable to prompt the relevant undertakings to align their tariffs, irrespective of their cost prices. Such a method dissuades undertakings whose cost prices are lower from lowering their prices and thus creates an artificial advantage for undertakings which have the least control over their production costs [1].

(62) Such a risk is not, however, inherent in the circulation of information that would help the firms to calculate their own cost price structures so as to enable them to establish their selling prices independently.

(63) In the case in point, it is common ground that Fenex did not circulate to its members information that would enable them to determine their selling prices on the basis of their own costs, but that the documents circulated relate to selling prices.

(64) Furthermore, account must be taken of the fact that, in the case of certain services, Fenex's recommended prices are explicitly represented as minimum prices.

(65) During the proceeding, Fenex's representatives stressed that the association had only a limited number of members and that consequently the impact of the relevant practice was very limited.

(66) It should be pointed out in this respect that, according to the case-law of the Court of Justice, 'an agreement may escape the prohibition in Article 85 (1) when it affects the market only to an insignificant extent, having regard to the weak position which those concerned have in the market in the products in question' [2].

(67) Although Fenex comprises a large number of small firms, its membership also includes large firms that provide services worldwide and may act as market leaders.

(68) Similarly, some firms which are members of Fenex are subsidiaries of firms established in other Member States, or themselves have subsidiaries in other Member States, which provide the same services on the same tariff terms.

(69) Account should also be taken of the fact that some Fenex members are active in sea, air or land transport and that in those sectors some of them are market leaders. The circulation of tariff recommendations to undertakings of such size inevitably has a knock-on effect on other undertakings in the sector.

(70) Consequently, having regard to the case-law of the Court of Justice, the Commission considers that the object of the horizontal practice in question is to affect the market significantly and that it falls within the scope of Article 85 (1).

(71) As regards the anti-competitive effects, it should be pointed out that, as the Court of Justice has consistently held, it is unnecessary to consider the actual effects of an agreement or decision by an association of undertakings if it is apparent that it has the object of preventing, restricting or distorting competition [3].

(72) In the case in point, of the 23 Fenex members questioned by the Commission, only one acknowledged having applied the tariffs recommended by Fenex.

(73) However, the circulation of tariffs recommended by Fenex over a period of more than 20 years cannot fail to have had a knock-on effect on two levels:

— first, on the members of Fenex who, even if they did not apply to the letter the tariffs recommended, were inevitably influenced by them in their business activities,

— second, on firms which are not members of Fenex, but which are aware of the tariff increases advocated by Fenex and published in the trade press. Such information has enabled firms which are not members of Fenex 'to predict with a reasonable degree of certainty what the pricing policy pursued by their competitors will be' [4].

[1] See 'Conseil de la Concurrence' Decision No 93.D.30 of 7 July 1993 on the competitive situation regarding the provision of town planning services. *Annual Report 1993*, Paris.

[2] Judgment of 10 July 1980 in Case 30/78, Distillers Company v. Commission, [1980] ECR, p. 2229.

[3] See in particular, Case 45/85 cited at footnote 2, p. 33.

[4] See footnote 1, p. 33.

(74) All in all, the Commission considers that the drawing up and circulation of the tariffs recommended by Fenex until 1 July 1993 had an anti-competitive purpose within the meaning of Article 85 (1) of the Treaty.

### F. Effect on trade between Member States

(75) The tariffs in question concern the services which Dutch forwarding agents provide for Dutch clients and for clients from other Member States.

(76) The Court of Justice clarified the concept of a significant effect on trade between Member States in a judgment delivered on 25 October 1983 in which it stated that an undertaking possessing roughly 5 % of the market concerned is an undertaking of sufficient importance for its behaviour to be, in principle, capable of affecting trade [1].

(77) Furthermore, the services in question relate to goods coming from or going to not only the Netherlands, but other Member States as well.

(78) The recommended tariffs circulated by Fenex are thus liable to affect trade between Member States within the meaning of Article 85 of the Treaty.

### G. Article 85 (3) of the Treaty

(79) It should be emphasized first that the decision by the association of undertakings in question relates to the selling prices of the undertakings. Anti-competitive practices relating to prices are one of the most serious forms of restrictions of competition under Community law. Such restrictions of competition can therefore qualify for exemption from the ban on restrictive agreements only in quite exceptional circumstances.

(80) In the case in point, the Commission takes the view that it is not evident that the drawing up and circulation of recommended tariffs by Fenex is likely to contribute to economic progress within the meaning of Article 85 (3) and that consumers can derive a fair share of the benefit.

(81) On the contrary, it may be considered that the practice in question is liable to promote the maintenance of an artificially high level of tariffs on the market, at the expense of consumers.

(82) Nor is it evident that the decision by the association of undertakings in question is indispensable to the attainment of the claimed objective, which is to help Fenex members calculate their tariffs in negotiations with consignors.

(83) It should be noted in this respect that, since 1994, Fenex has circulated to its members an outline for calculating the trend in costs, and this allows the abovementioned objective of providing assistance to members to be achieved by very different means.

(84) Consequently, the Commission takes the view that the conditions are not met for granting an exemption pursuant to the provisions of Article 85 (3) of the Treaty.

### H. Article 15 (2) of Regulation No 17

(85) Pursuant to Article 15 (2), the Commission may impose on undertakings or associations of undertakings fines of from ECU 1 000 to ECU 1 million, or a sum in excess thereof but not exceeding 10 % of the turnover in the preceding business year of each of the undertakings participating in the infringement where, either intentionally or negligently, they infringe Article 85 or 86 of the Treaty, with regard being had to the gravity and duration of the infringement in fixing the amount of the fine.

(86) During the proceeding, Fenex's representatives stated that the association had established the recommended tariffs through inexperience and that any conflict with the competition rules that had arisen was unintentional.

(87) Furthermore, during the hearing, Fenex's representatives stated that the circulation of the recommended tariffs over many years had been a matter of negligence.

(88) It should be pointed out first that, pursuant to the provisions of Article 15 (2), the fact that an infringement has been committed negligently is not sufficient to protect the undertakings from the imposition of a fine.

(89) However, the following factors should also be taken into consideration:

— Fenex voluntarily stopped circulating the recommended tariffs so as to comply with Dutch and Community competition law. Furthermore, Fenex notified at once the new cost structure tables circulated from 1994 on so as to ensure their lawfulness under Community law,

— while the practice in question was applied for more than 20 years, the infringement has been at an end since 1 July 1993.

[1] Case 107/82, AEG v. Commission, [1983] ECR, p. 3151, paragraph 58.

(90) The Commission considers that a fine should be imposed on Fenex in view of the abovementioned factors, taking as the duration of the infringement the period 10 January 1989 to 1 July 1993, this being the period not covered by prescription.

HAS ADOPTED THIS DECISION:

*Article 1*

The association 'Nederlandse Organisatie voor Expeditie en Logistiek' (Fenex) infringed Article 85 of the EC Treaty by drawing up and circulating recommended forwarding tariffs from 10 January 1989 to 1 July 1993. The request for exemption lodged by Fenex on 26 May 1995 in respect of the recommended tariffs is rejected.

*Article 2*

A fine of ECU 1 000 is hereby imposed on Fenex in respect of the infringement referred to in Article 1.

*Article 3*

The fine referred to in Article 2 shall be paid, in ecus, within three months of the date of notification of this Decision to the European Commission's account No 310-0933000-43, Banque Bruxelles-Lambert, Agence Européenne, 5 Rond-Point Schuman, B-1040 Brussels,

On expiry of that period, interest shall automatically be payable on the amount of the fine at the rate charged by the European Monetary Institute on its ecu operations on the first working day of the month in which this Decision was adopted, plus 3,5 percentage points, i.e. 7,75 %.

*Article 4*

This Decision is addressed to:

Nederlandse Organisatie voor Expeditie en Logistiek
Adriaan Volker Huis
Oostmaaslaan 71
NL-3063 An Rotterdam.

This Decision is enforceable pursuant to Article 192 of the EC Treaty.

Done at Brussels, 5 June 1996.

*For the Commission*

Karel VAN MIERT

*Member of the Commission*

# COMMISSION DECISION

## of 18 July 1996

## on a Community financial contribution to measures to control foot-and-mouth disease in the Former Yugoslav Republic of Macedonia

**(Text with EEA relevance)**

(96/439/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field [1], as last amended by Decision 94/370/EC [2], and in particular Article 13 thereof,

Whereas foot-and-mouth disease has broken out in the Former Yugoslav Republic of Macedonia; whereas the outbreaks are a direct threat to the Community and in particular to Greece;

Whereas by Decision 96/368/EC [3] Community financial assistance was granted for action to control foot-and-mouth disease in Albania; whereas the Former Yugoslav Republic of Macedonia authorities should be given financial assistance to control the disease;

Whereas the vaccine required to protect the animals concerned should be made available to the Former Yugoslav Republic of Macedonia authorities;

Whereas the Community should cover part of the costs of vaccination;

Whereas the action covered by this Decision is to be implemented in cooperation with the FAO European Commission for the Control of Foot-and-Mouth Disease; whereas the costs of carrying out vaccination will in the first instance be covered by Fund No 911100/MTF/INT/003/EEC;

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. The Commission, in cooperation with the FAO European Commission for the Control of Foot-and-Mouth Disease, shall take the necessary steps to make available to the authorities of the Former Yugoslav Republic of Macedonia:

— 250 000 doses of vaccine to protect bovine animals against the virus identified in the Former Yugoslav Republic of Macedonia.

2. The Community shall cover the total cost of the action specified in paragraph 1 (up to a maximum of ECU 80 000).

*Article 2*

1. The Community shall cover 50 % of the cost of vaccination measures effected by the Former Yugoslav Republic of Macedonia authorities under the surveillance of the FAO European Commission for the Control of Foot-and-Mouth Disease and the Community.

2. The measures indicated in paragraph 1 shall include purchase and supply of:

— necessary vaccination material (syringes, material for the cold chain, protective clothing, etc.),

— disinfectants,

— marks for animals.

3. The Commission shall reimburse Fund No 911100/MTF/INT/003/EEC for expenditure incurred in carrying out the vaccination measures indicated in paragraph 1 (up to a maximum of ECU 10 000).

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 18 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 224, 18. 8. 1990, p. 19.
[2] OJ No L 168, 2. 7. 1994, p. 31.
[3] OJ No L 145, 19. 6. 1996, p. 19.

# COMMISSION DECISION

## of 18 July 1996

## concerning certain protection measures with regard to foot-and-mouth disease in Greece

**(Text with EEA relevance)**

(96/440/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (1), as last amended by Directive 92/118/EEC (2), and in particular Article 10 thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market (3), as last amended by Directive 92/118/EEC, and in particular Article 9 thereof,

Whereas on 5 July 1996 three outbreaks of foot-and-mouth disease have been declared in Greece;

Whereas the foot-and-mouth disease situation in Greece is liable to endanger the herds of other Member States in view of the trade in live biungulate animals and certain of their products;

Whereas Greece has taken measures in accordance with Council Directive 85/511/EEC of 18 November 1985 introducing Community measures controlling foot-and-mouth disease (4), as last amended by Commission Decision 92/380/EEC (5), and furthermore has introduced further measures within the affected areas;

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. Greece shall not send live animals of the bovine, ovine, caprine and porcine species and other biungulates from or through those parts of its territory listed in the Annex to other Member States.

2. The health certificates provided for in Council Directive 64/432/EEC (6) accompanying live bovine and porcine animals consigned from Greece and Council Directive 91/68/EEC (7) accompanying live ovine and caprine animals consigned from Greece shall bear the following words:

'Animals conforming to Commission Decision 96/440/EC of 18 July 1996 on certain protective measures with regards to foot-and-mouth disease in Greece'.

3. Greece shall ensure that health certificates for biungulates, other than those covered by the certificates mentioned in paragraph 2, shall bear the following words:

'Live biungulates confirming to Commission Decision 96/440/EC of 18 July 1996 on certain protection measures with regard to foot-and-mouth disease in Greece'.

*Article 2*

1. Greece shall not send fresh meat of the bovine, ovine, caprine and porcine species and other biungulates coming from those parts of its territory listed in the Annex or obtained from animals originating in those parts of Greece to other Member States.

2. The prohibitions provided for in paragraph 1 shall not apply to:

(a) fresh meat obtained before 1 June 1996 provided that the meat is clearly identified, and transported and stored separately from meat which is not destined for intra-Community trade;

(b) fresh meat obtained from cutting plants under the following conditions:

— only fresh meat as described in subparagraph (a) or fresh meat obtained from animals reared and slaughtered outside the area listed in the Annex will be processed in this establishment,

(1) OJ No L 224, 18. 8. 1990, p. 29.
(2) OJ No L 62, 15. 3. 1993, p. 49.
(3) OJ No L 395, 30. 12. 1989, p. 13.
(4) OJ No L 315, 26. 11. 1985, p. 11.
(5) OJ No L 198, 17. 7. 1992, p. 54.
(6) OJ No 121, 29. 7. 1964, p. 1977/64.
(7) OJ No L 46, 19. 2. 1991, p. 19.

— all such fresh meat must bear the health mark in accordance with Chapter XI of Annex I to Council Directive 64/433/EEC (1) on animal health problems affecting intra-Community trade in fresh meat,

— the plant will be operated under strict veterinary control,

— the fresh meat must be clearly identified, and transported and stored separately from meat which is not destined for intra-Community trade,

— the control of the compliance with the above listed conditions shall be carried out by the competent veterinary authority under the supervision of the central veterinary authorities who will communicate to the other Member States and the Commission a list of those establishments which they have approved in application of these provisions.

3. Meat consigned from Greece shall be accompanied by a certificate from an official veterinarian. The certificate shall bear the following words:

'Meat conforming to Commission Decision 96/440/EC of 18 July 1996 concerning certain protection measures with regard to foot-and-mouth disease in Greece'.

*Article 3*

1. Greece shall not send meat products of animals of the bovine, ovine, caprine and porcine species and other biungulates coming from those parts of Greece listed in the Annex or prepared using meat obtained from animals originating in those parts of Greece to other Member States.

2. The restrictions described in paragraph 1 shall not apply to meat products which have undergone one of the treatments laid down in Article 4 (1) of Council Directive 80/215/EEC (2), or to meat products as defined in Council Directive 77/99/EEC (3) on animal health problems affecting intra-Community trade in meat products which have been subjected during preparation uniformly throughout the substance to a pH value of less than 6.

3. The prohibitions described in paragraph 1 shall not apply to:

(a) meat products prepared before 1 June 1996 provided that the meat products are clearly identified, and transported and stored separately from meat products which are not destined for intra-Community trade;

(b) meat products prepared in establishments under the following conditions:

— all fresh meat used in the establishment must conform to the conditions of Article 2 (2),

— all meat products used in the final product will conform to the conditions of paragraph (a) or be made from fresh meat obtained from animals reared and slaughtered outside the area listed in the Annex,

— all meat products must bear the health mark in accordance with Chapter VI of Annex A to Directive 77/99/EEC,

— the establishment will be operated under strict veterinary control,

— the meat products must be clearly identified and transported and stored separately from meat and meat products which are not destined for intra-Community trade,

— the control of the compliance with the above listed conditions shall be carried out by the competent veterinary authority under the supervision of the central veterinary authorities who will communicate to other Member States and the Commission a list of those establishments which they have approved in application of these provisions;

(c) meat products prepared in the parts of the territory which are not subject to restrictions using meat obtained before 1 June 1996 from parts of the territory which became the subject of restrictions provided that the meat and meat products are clearly identified and transported and stored separately from meat and meat products which are not destined for intra-Community trade.

4. Meat products consigned from Greece shall be accompanied by a certificate from an official veterinarian. The certificate shall bear the following words:

'Meat products conforming to Commission Decision 96/440/EC of 18 July 1996 concerning certain protection measures with regard to foot-and-mouth disease in Greece'.

(1) OJ No 121, 29. 7. 1964, p. 2012/64. Directive updated by Directive 91/497/EEC (OJ No L 268, 24. 9. 1991, p. 69) and last amended by Directive 92/45/EEC (OJ No L 268, 14. 9. 1992, p. 35).
(2) OJ No L 47, 21. 2. 1980, p. 4.
(3) OJ No L 26, 31. 1. 1977, p. 85. Directive updated by Directive 92/5/EEC (OJ No L 57, 2. 3. 1992, p. 1) and last amended by Directive 92/45/EEC (OJ No L 268, 14. 9. 1992, p. 35).

*Article 4*

1. Greece shall not send milk from those parts of its territory listed in the Annex to other Member States.

2. The prohibitions described in paragraph 1 shall not apply to milk which has been subjected to:

(a) an initial pasteurization in accordance with the norms defined in Council Directive 92/46/EEC [1] followed by a second heat treatment by high temperature pasteurization, UHT, sterilization or by a drying process which includes a heat treatment with an equivalent effect to one of the above;

or

(b) an initial pasteurization in accordance with the norms defined in Directive 92/46/EEC, combined with the treatment by which the pH is lowered below 6 and held there for at least one hour.

3. The prohibitions described in paragraph 1 shall not apply to milk prepared in establishments under the following conditions:

— all milk used in the establishment must either conform to the conditions of paragraph 2 or be obtained from animals outside the area listed in the Annex,

— the establishment will be operated under strict veterinary control,

— the milk must be clearly identified and transported and stored separately from milk and milk products which are not destined for intra-Community trade,

— the control of the compliance with the above listed conditions shall be carried out by the competent veterinary authority under the supervision of the central veterinary authorities who will communicate to other Member States and the Commission a list of those establishments which they have approved in application of these provisions.

4. Milk consigned from Greece shall be accompanied by a certificate from an official veterinarian. The certificate shall bear the following words:

'Milk conforming to Commission Decision 96/440/EC of 18 July 1996 concerning certain protection measures with regard to foot-and-mouth disease in Greece'.

*Article 5*

1. Greece shall not send milk products from those parts of its territory listed in the Annex to other Member States.

2. Prohibitions described in paragraph 1 shall not apply to:

(a) milk products produced before 1 June 1996;

(b) milk products subjected to heat treatment at a temperature of at least 71,7 °C for 15 seconds or an equivalent treatment;

(c) milk products prepared from milk which has been subjected to the provisions described in Article 4 (2) or (3).

3. The prohibitions described in paragraph 1 shall not apply to:

(a) milk products prepared in establishments under the following conditions:

— all milk used in the establishment will either conform to the conditions of Article 4 (2) or be obtained from animals outside the area listed in the Annex,

— all milk products used in the final product will either conform to the conditions of paragraph 2 or be made from milk obtained from animals outside the area listed in the Annex,

— the establishment will be operated under strict veterinary control,

— the milk products must be clearly identified and transported and stored separately from milk and milk products which are not destined for intra-Community trade,

— the control of the compliance with the above listed conditions shall be carried out by the competent veterinary authority under the supervision of the central veterinary authorities who will communicate to other Member States and the Commission a list of those establishments which they have approved in application of these provisions;

(b) milk products prepared in the parts of the territory which are not subject to restrictions using milk obtained before 1 June 1996 from parts of the territory which become the subject of restrictions provided that the milk products are clearly identified and transported and stored separately from milk products which are not destined for intra-Community trade.

4. Milk products consigned from Greece shall be accompanied by a certificate from an official veterinarian. The certificate shall bear the following words:

'Milk products conforming to Commission Decision 96/440/EC of 18 July 1996 concerning certain protection measures with regard to foot-and-mouth disease in Greece.'

[1] OJ No L 268, 14. 9. 1992, p. 1.

*Article 6*

1. Greece shall not send semen and embryos of the bovine, ovine, caprine and porcine species and other biungulates from those parts of its territory listed in the Annex to other Member States.

2. This prohibition shall not apply to frozen bovine semen and bovine embryos produced before 1 June 1996.

3. The health certificate provided for in Council Directive 88/407/EEC [1] and accompanying frozen bovine semen consigned from Greece shall bear the following words:

'Frozen bovine semen conforming to Commission Decision 96/440/EC of 18 July 1996 on certain protective measures with regard to foot-and-mouth disease in Greece'.

4. The health certificate provided for in Council Directive 89/556/EEC [2] and accompanying bovine embryos consigned from Greece shall bear the following words:

'Bovine embryos conforming to Commission Decision 96/440/EC of 18 July 1996 on certain protective measures with regard to foot-and-mouth disease in Greece'.

*Article 7*

1. Greece shall not send hides and skins of bovine, ovine, caprine and porcine species and other biungulates from those parts of its territory listed in the Annex to other Member States.

2. This prohibition shall not apply to hides and skins which were produced before 1 June 1996 or which conform to the requirements of paragraph 1 (A) indents 2 to 5 or paragraph 1 (B), indents 3 and 4 of Chapter 3 of Annex 1 to Directive 92/118/EEC.

Care must be taken to separate effectively treated hides from untreated hides.

3. Greece shall ensure that health certificates for hides and skins to be sent to other Member States shall be accompanied by a certificate which bears the following words:

'Hides and skins conforming to Commission Decision 96/440/EC of 18 July 1996 on certain protective measures with regard to foot-and-mouth disease in Greece'.

*Article 8*

Greece shall ensure that vehicles which have been used for the transport of live animals are cleaned and disinfected after each operation, and shall furnish proof of such disinfection.

*Article 9*

1. Greece shall not send animal products of the bovine, ovine, caprine and porcine species and other biungulates not mentioned in Articles 2, 3, 4, 5, 6 and 7 from those parts of its territory listed in the Annex to other Member States.

2. The prohibitions mentioned in paragraph 1 shall not apply to:

(a) animal products referred to in paragraph 1 which have been subjected to:

— heat treatment in a hermetically sealed container with a Fo value of 3,00 or more, or

— heat treatment in which the centre temperature is raised to at least 70 °C;

(b) unprocessed sheep wool and ruminant hair which is securely enclosed in packaging and dry.

3. Greece shall ensure that health certificates for animal products mentioned in paragraph 2 to be sent to other Member States shall be accompanied by a certificate which bears the following words:

'Animal products conforming to Commission Decision 96/440/EC of 18 July 1996 on certain protective measures with regards to foot-and-mouth disease in Greece'.

*Article 10*

Member States shall amend the measures which they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

*Article 11*

This Decision shall be re-examined before 1 August 1996.

*Article 12*

This Decision is addressed to the Member States.

Done at Brussels, 18 July 1996.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

[1] OJ No L 194, 22. 7. 1988, p. 10.
[2] OJ No L 302, 19. 10. 1989, p. 1.

*ANNEX*

Evros
Rodopi
Xanthi
Kavala
Drama
Serres
Chalkidiki
Thessaloniki
Kilkis
Pella
Imarthia
Pieria
Kozani
Florina
Kastoria
Grevena
Ioannina
Thesprotia
Kerkira
Lefkada
Preveza
Arta
Trikala
Karditsa
Evritania
Larissa
Magnissia
Fthiothida
Viotia
Attiki (Athens and Pireaus)
Evia
Lesvos
Chios
Samos
Dodekanissa
Kiklades
Argolida
Korinthia
Achaia
Fokida
Aetoloakarnania
Kefallinia
Zakynthos
Ilia
Arkadia
Messinia
Lakonia
Chania
Rethimno
Iraklio
Lassithi