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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 994/97**of 3 June 1997****amending Regulation (EC) No 763/97 establishing a system for the surveillance of imports of fresh sour cherries originating in the Republics of Bosnia-Herzegovina, Croatia and the former Yugoslav Republic of Macedonia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 70/97 of 20 December 1996 concerning the arrangements applicable to imports into the Community of products originating in the Republics of Bosnia-Herzegovina, Croatia and the former Yugoslav Republic of Macedonia and to imports of wine from the Republic of Slovenia⁽¹⁾, as amended by Regulation (EC) No 825/97⁽²⁾, and in particular Article 10 thereof,

Whereas Regulation (EC) No 825/97 extends to the Federal Republic of Yugoslavia the arrangements applicable to imports originating in the Republics of Bosnia-Herzegovina, Croatia and the former Yugoslav Republic of Macedonia as defined in Regulation (EC) No 70/97;

Whereas, as regards fresh sour cherries, the detailed rules for the application of Regulation (EC) No 70/97 were adopted by Commission Regulation (EC) No 763/97⁽³⁾; whereas Regulation (EC) No 763/97 should be amended

so as to include the Federal Republic of Yugoslavia in the list of third countries referred to in that Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

In the title and in Article 1 of Regulation (EC) No 763/97, the words 'the Federal Republic of Yugoslavia' are inserted after the word 'Croatia'.

Article 2

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

It shall apply from 1 June 1997.

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

Done at Brussels, 3 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 16, 18. 1. 1997, p. 1.

⁽²⁾ OJ No L 119, 8. 5. 1997, p. 4.

⁽³⁾ OJ No L 112, 29. 4. 1997, p. 1.

COMMISSION REGULATION (EC) No 995/97
of 3 June 1997

laying down, for the period 1 July 1997 to 30 June 1998, detailed rules of application for the tariff quotas for beef provided for in Council Regulation (EC) No 1926/96 for Estonia, Latvia and Lithuania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1926/96 of 7 October 1996 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Agreements on free trade and trade-related matters with Estonia, Latvia and Lithuania, to take account of the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations⁽¹⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽²⁾, as last amended by Regulation (EC) No 2222/96⁽³⁾, and in particular Article 9 (2) thereof,

Whereas Regulation (EC) No 1926/96 provides for certain annual tariff quotas for products made from beef and veal; whereas imports under those quotas qualify for an 80 % reduction in the customs duties set out in the Common Customs Tariff (CCT); whereas detailed rules of application for these quotas, for the period 1 July 1997 to 30 June 1998, should be laid down;

Whereas to ensure orderly importation of the quantities laid down for the period 1 July 1997 to 30 June 1998, they should be staggered over the year 1997/98;

Whereas, while the provisions of the abovementioned Agreements intended to guarantee the origin of the product should be complied with, the administration of the arrangements should be based on import licences; whereas, to that end, detailed rules should be laid down on, in particular, the submission of applications and the information which must appear in applications and licences, notwithstanding certain provisions of Commission Regulation (EEC) No 3719/88 of 16 November 1988

laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁴⁾, as last amended by Regulation (EC) No 2350/96⁽⁵⁾, and Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80⁽⁶⁾, as last amended by Regulation (EC) No 266/97⁽⁷⁾; whereas provision should also be made for the licences to be issued after a period for consideration and, where necessary, the application of a single percentage reduction;

Whereas, in view of the risk of speculation inherent in these arrangements for beef and veal, clear conditions should be laid down as regards access by operators; whereas verification of the abovementioned conditions requires that applications be submitted in the Member State in which the importer is entered into the value-added tax register;

Whereas, in order to ensure proper administration of the arrangements, the security for import licences under the system should be set at ECU 12 per 100 kilograms;

Whereas experience has shown that importers do not always inform the competent authorities which have issued the import licences of the quantity and origin of the beef and veal imported under the quotas concerned; whereas that information is important for assessing the market situation; whereas a security relating to provision of that information should be provided for;

Whereas provision must be made for the Member States to forward information on the imports in question;

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

⁽¹⁾ OJ No L 254, 8. 10. 1996, p. 1.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽³⁾ OJ No L 296, 21. 11. 1996, p. 50.

⁽⁴⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽⁵⁾ OJ No L 320, 11. 12. 1996, p. 4.

⁽⁶⁾ OJ No L 143, 27. 6. 1995, p. 35.

⁽⁷⁾ OJ No L 45, 15. 2. 1997, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

1. During the period 1 July 1997 to 30 June 1998, the following may be imported in accordance with this Regulation under the tariff quotas opened by Regulation (EC) No 1926/96:

- 1 650 tonnes of fresh, refrigerated or frozen beef and veal falling within CN codes 0201 or 0202, originating in Lithuania, Latvia and Estonia. The serial number of the quota shall be 09.4561,
- 220 tonnes of products falling within CN code 1602 50 10, originating in Latvia. The serial number of the quota shall be 09.4562.

2. The rates of customs duty fixed in the CCT shall be reduced by 80 % for the quantities indicated in paragraph 1.

3. The quantities indicated in paragraph 1 may be imported as follows:

- 50 % in the period 1 July to 31 December 1997,
- 50 % in the period 1 January to 30 June 1998.

If, during the period 1 July 1997 to 30 June 1998, the quantities for which licence applications are submitted for the period specified in the first indent are less than those available, the balances shall be added to the quantities available for the following period.

Article 2

1. In order to qualify for the import quotas referred to in Article 1:

- (a) applicants for import licences must be natural or legal persons who, at the time applications are submitted, can prove to the satisfaction of the competent authorities of the Member State concerned that they have been active in trade in beef and veal with third countries during the last 12 months and are entered in a national VAT register;
- (b) licence applications must be submitted only in the Member State in which the applicant is registered;
- (c) for each of the groups of products referred to in the first and second indents of Article 1 (1):
 - licence applications must cover a minimum of 15 tonnes of product without exceeding the quantity available in the period concerned,

- applicants may submit only one application,
- where an applicant submits more than one application for a group, all his applications for that group shall be rejected;

(d) in section 8 of licence applications and licences, the following shall be entered:

- in the case of the first indent of Article 1 (1), the countries of origin,
- in the case of the second indent of Article 1 (1), the country of origin.

The licence shall carry with it an obligation to import from one or more of the countries indicated in it;

(e) in section 20 of licence applications and licences, at least one of the following shall be entered:

- Reglamento (CE) n° 995/97
- Forordning (EF) nr. 995/97
- Verordnung (EG) Nr. 995/97
- Κανονισμός (ΕΚ) αριθ. 995/97
- Regulation (EC) No 995/97
- Règlement (CE) n° 995/97
- Regolamento (CE) n. 995/97
- Verordening (EG) nr. 995/97
- Regulamento (CE) n° 995/97
- Asetus (EY) N:o 995/97
- Förordning (EG) nr 995/97.

2. Notwithstanding Article 5 of Regulation (EC) No 1445/95, more than one CN code relating to the group of products referred to in the first indent of Article 1 (1) may be entered in section 16 of licence applications and licences.

Article 3

1. Licence applications may be submitted only:

- between 7 and 17 July 1997, and
- between 3 and 13 February 1998.

2. Member States shall notify the Commission, within five working days of the end of the period for the submission of applications, of applications received.

Notification shall comprise a list of applicants broken down by quantity applied for, nomenclature code and country of origin of the products.

All notifications, including notifications of nil applications, shall be made by telex or fax, drawn up, where applications have been received, in accordance with the model set out in the Annex.

3. The Commission shall decide as soon as possible the extent to which licence applications may be issued for each group of products referred to in each indent of Article 1 (1). Where the quantities for which licence applications have been submitted exceed the quantities available, the Commission shall fix a single percentage reduction for the groups of products referred to in each indent of Article 1 (1).

4. Subject to the Commission's decision to accept applications, licences shall be issued promptly.

5. Licences shall be valid throughout the Community.

Article 4

1. Without prejudice to this Regulation, Regulations (EEC) No 3719/88 and (EC) No 1445/95 shall apply.

2. Article 8 (4) of Regulation (EEC) No 3719/88 shall apply. However, the full import duty provided for in the CCT shall be charged on quantities in excess of those stated on import licences.

3. The second subparagraph of Article 14 (3) of Regulation (EEC) No 3719/88 shall not apply.

4. Notwithstanding Article 33 (3) (b) (ii) of Regulation (EC) No 3719/88, the maximum time allowed for providing proof of import with loss of only 15 % of the security shall be four months.

5. Notwithstanding Article 3 of Regulation (EC) No 1445/95, licences shall be valid until 30 June 1998.

Article 5

1. Not later than three weeks after importation of the products specified in this Regulation, the importer shall inform the competent authority which issued the import licence of the quantity and origin of the imported

products. That authority shall forward the information to the Commission at the beginning of each month.

2. Not later than four months after the end of each half of the year of import, the competent authority in question shall notify the Commission of the quantities of the products referred to in Article 1 for which import licences issued under this Regulation have been used during the previous half of the year of import.

Article 6

1. Upon submission of an import licence application, importers shall lodge a security to cover the import licence of ECU 12 per 100 kilograms net weight, notwithstanding Article 4 of Regulation (EC) No 1445/95, and a security to cover notification to the competent authority of the information referred to in Article 5 (1) of this Regulation of ECU 1 per 100 kilograms net weight.

2. The security relating to the notification shall be released if the information is forwarded to the competent authority within the period specified in Article 5 (1) for the quantity covered by that notification. Otherwise, the security shall be forfeit.

A decision to release the security shall be taken simultaneously with that to release the security to cover the licence.

Article 7

Products shall qualify for the rights referred to in Article 1 on presentation of an EUR 1 movement certificate issued by the exporting country in accordance with Protocol 3 annexed to the free-trade Agreements.

Article 8

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

It shall apply from 1 July 1997.

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

Done at Brussels, 3 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Fax: (32 2) 296 60 27

(Application of Regulation (EC) No 995/97)

COMMISSION OF THE EUROPEAN COMMUNITIES

DG VI/D/2 — BEEF AND VEAL

APPLICATIONS FOR IMPORT LICENCES AT REDUCED CCT DUTIES

Date: Period:

Member State:

| Country of origin | Order | Applicant (name and address) | Quantity (tonnes) | CN code number |
|-----------------------------|-------|------------------------------|-------------------|----------------|
| | | | | |
| Total quantity applied for: | | | | |

Member State: fax number:

telephone number:

COMMISSION REGULATION (EC) No 996/97

of 3 June 1997

on the opening and administration of an import tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations⁽¹⁾, and in particular Article 1 (1) thereof,

Whereas, pursuant to Schedule CXL, the Community agreed to open an annual tariff quota of 1 500 tonnes for frozen thin skirt of bovine animal falling within CN code 0206 29 91; whereas that quota should be opened on a multiannual basis for periods of 12 months commencing on 1 July and the detailed rules of application laid down;

Whereas Commission Regulation (EEC) No 3719/88⁽²⁾, as last amended by Regulation (EC) No 495/97⁽³⁾, lays down detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products; whereas Commission Regulation (EC) No 1445/95⁽⁴⁾, as last amended by Regulation (EC) No 266/97⁽⁵⁾, lays down detailed rules for implementing the arrangements for import licences for beef and veal;

Whereas, in order to ensure efficient administration of the import of meat originating in and coming from Argentina, that country is required to issue certificates of authenticity guaranteeing the origin of the products concerned; whereas the layout of those certificates and the procedures for using them must be specified;

Whereas certificates of authenticity must be issued by an authority in Argentina; whereas that authority must present all the necessary guarantees to ensure that the arrangements in question operate properly;

Whereas, in order to ensure efficient administration of the import of frozen thin skirt originating in and coming from Argentina, it should be laid down that, where appropriate, the issue of import licences should be subject to verification *inter alia* of the information given on certificates of authenticity;

Whereas, for other countries, the quota should be managed only on the basis of Community import

licences, with derogations in certain cases from the applicable rules;

Whereas experience has shown that importers do not always inform the competent authorities which have issued the import licences of the quantity and origin of the beef and veal imported under the quota concerned; whereas that information is important for assessing the market situation; whereas a security attached to compliance with that obligation should be provided for;

Whereas provision must be made for the Member States to forward information on the imports in question;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A Community tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91 is hereby opened on a multiannual basis for an annual volume of 1 500 tonnes for periods from 1 July to 30 June of the following year, hereinafter referred to as the 'year of import'.

The serial number of the quota shall be 09.4020.

2. The *ad valorem* customs duty on the quota referred to in paragraph 1 shall be 4 %.

3. The annual quota shall be allocated as follows:

- (a) 700 tonnes originating in and coming from Argentina;
- (b) 800 tonnes originating in and coming from other third countries.

4. Only whole thin skirt may be imported under the quota.

5. For the purposes of this Regulation, thin skirt which is frozen, with an internal temperature of not above -12°C when it enters the customs territory of the Community, shall be deemed to be 'frozen thin skirt'.

⁽¹⁾ OJ No L 146, 20. 6. 1996, p. 1.

⁽²⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽³⁾ OJ No L 77, 19. 3. 1997, p. 12.

⁽⁴⁾ OJ No L 143, 27. 6. 1995, p. 35.

⁽⁵⁾ OJ No L 45, 15. 2. 1997, p. 1.

Article 2

1. The import of the quantities of meat referred to in Article 1 (3) shall be subject to the presentation of an import licence.
2. The validity of import licences shall expire on 30 June following the date of issue.

Article 3

1. The certificate of authenticity to be issued by Argentina shall be made out in one original and at least one copy on a form corresponding to the specimen at Annex I.

The form shall measure approximately 210 × 297 millimetres. The paper shall weigh not less than 40 grams per square metre.

2. Forms shall be printed and completed in one of the official languages of the Community and also, if desired, in the official language of Argentina.
3. Each certificate of authenticity shall bear an individual serial number assigned by the issuing authority referred to at Annex II (hereinafter 'the issuing authority'). The copies shall bear the same serial number as the original.

Article 4

1. Certificates of authenticity shall be valid only if they are duly completed and endorsed, in accordance with the instructions given at Annex I, by the issuing authority.
2. A certificate of authenticity shall be deemed to have been duly endorsed if it specifies the date and place of issue and if it bears the stamp of the issuing authority and the signature of the person or persons empowered to sign it.

The stamp may be replaced on the original certificate of authenticity and its copies by a printed seal.

Article 5

1. Certificates of authenticity shall be valid for three months from the date of issue.

However, certificates may not be presented to the competent national authority after 30 June following the date of issue.

2. The original of the certificate of authenticity drawn up in accordance with Articles 3, 4 and 6 plus a copy thereof shall be presented to the competent national authority together with the application for the first import licence relating to the certificate of authenticity.

The original of the certificate of authenticity shall be kept by the competent national authority.

A certificate of authenticity may be used for the issuing of more than one import licence for a total quantity not exceeding that shown on the certificate. Where more than one licence is issued in respect of a certificate, the competent national authority shall endorse the certificate of authenticity to show the quantity attributed.

The competent national authorities may issue import licences only after they are satisfied that all the information on the certificate of authenticity corresponds to that received each week from the Commission on the subject. The import licences shall be issued immediately thereafter.

3. Notwithstanding the fourth subparagraph of paragraph 2, the competent national authorities may, in exceptional cases and on duly reasoned application, issue import licences on the basis of the relevant certificates of authenticity before the information from the Commission is received. In such cases, the security for the import licences referred to in Article 11 (1) shall be ECU 50 per 100 kg net weight. After receiving the information concerning the certificate, the Member States shall replace the security by that of ECU 12 per 100 kg net weight referred to in Article 11 (1).

Article 6

1. The issuing authority shall:
 - (a) be recognized as such by Argentina;
 - (b) undertake to check the particulars on certificates of authenticity;
 - (c) undertake to supply the Commission and the Member States, on request, with any information enabling the particulars on certificates of authenticity to be evaluated.
2. The Commission shall revise Annex II if an issuing authority ceases to be recognized or fails to fulfil one of the obligations incumbent on it or if a new issuing authority is designated.

Article 7

In order to qualify for the import arrangements referred to in Article 1 (3) (b):

- (a) applicants must be natural or legal persons who, at the time the application is submitted, have for at least 12 months been engaged in trade in beef and/or veal between Member States or with third countries and who are registered in a Member State for VAT purposes;
- (b) the licence application lodged by the applicant may relate to a maximum of 80 tonnes;
- (c) the country of origin shall be indicated in section 8 of licence applications and of the licences themselves;
- (d) section 20 of licence applications and of the licences themselves shall contain one of the following entries:

- Músculos del diafragma y delgados [Reglamento (CE) n° 996/97]
- Mellemgulv (forordning (EF) nr. 996/97)
- Saumfleisch (Verordnung (EG) Nr. 996/97)
- Διάφραγμα [κανονισμός (ΕΚ) αριθ. 996/97]
- Thin skirt (Regulation (EC) No 996/97)
- Hampe [règlement (CE) n° 996/97]
- Pezzi detti «hampes» [regolamento (CE) n. 996/97]
- Omloop (Verordening (EG) nr. 996/97)
- Diafragma [Reglamento (CE) n° 996/97]
- Kuveliha (asetus (EY) N:o 996/97)
- Mellangärde (förordning (EG) nr 996/97).

Article 8

1. The applications referred to in Article 7 shall be lodged, with the competent authorities in the Member State in which the applicant is registered, only during the first 10 days of each year of import. If an applicant lodges more than one application, none of the applications shall be considered.

2. Member States shall notify the Commission on the 10th working day following the end of the period for the lodging of applications of the total quantity covered by applications.

That notification shall cover the list of applicants and the countries of origin indicated. All notifications, including nil returns, shall be made before 4 p.m. on the stipulated day.

3. The Commission shall decide as rapidly as possible to what extent applications may be accepted. If the quantities for which licences are applied for exceed the quantities available, the Commission shall fix a single percentage reduction to be applied to the quantities applied for.

4. Following the Commission's decision on acceptance of applications, licences shall be issued as rapidly as possible.

Article 9

1. Without prejudice to the provisions of this Regulation, Regulations (EEC) No 3719/88 and (EC) No 1445/95 shall apply.

2. By way of derogation from Article 8 (4) of Regulation (EEC) No 3719/88, the full import duty provided for in the Common Customs Tariff shall be charged on quantities in excess of those stated on import licences.

3. The second subparagraph of Article 14 (3) of Regulation (EEC) No 3719/88 shall not apply.

4. By way of derogation from Article 33 (3) (b) (ii) of Regulation (EEC) No 3719/88, the maximum time allowed for providing proof of import with loss of only 15 % of the security shall be four months.

Article 10

1. Not later than three weeks after importation of the product specified in this Regulation, the importer shall notify to the competent national authority which issued the import licence the quantity and origin of the imported product. That authority shall forward the information to the Commission at the beginning of each month.

2. Not later than four months after the end of each half of the year of import, the competent national authority shall notify the Commission of the quantities of product referred to in Article 1 for which import licences have been used during the previous half of the year of import, such quantities being broken down by country of origin.

Article 11

1. On submission of an import licence application, importers shall lodge a security to cover the import licence of ECU 12 per 100 kilograms of product, notwithstanding Article 4 of Regulation (EC) No 1445/95, and a security to cover notification to the competent national authority of the information referred to in Article 10 (1) of this Regulation of ECU 1 per 100 kilograms of product.

2. The security relating to the notification shall be released if the information is forwarded to the competent national authority within the period specified in Article 10 (1) for the quantity covered by that notification. Otherwise, the security shall be forfeit.

A decision to release that security shall be taken simultaneously with that to release the security covering the licence.

Article 12

This Regulation shall enter into force on 1 July 1997.

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

Done at Brussels, 3 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

| | | | |
|---|---|--------------------|--|
| 1. Exporter (name and address) | 2. Certificate No | ORIGINAL | |
| 4. Consignee (name and address) | 3. Issuing authority | | |
| 6. Means of transport | 5. CERTIFICATE OF AUTHENTICITY BEEF AND VEAL Thin skirt | | |
| 7. Marks, numbers, number and kind of packages; description of goods | 8. Gross weight (kg) | 9. Net weight (kg) | |
| 10. Net weight (in words) | | | |
| 11. CERTIFICATION BY THE ISSUING AUTHORITY I hereby certify that the thin skirt described in this certificate complies with the specifications given in Article 1 (5) of Commission Regulation (EC) No 996/97 within the limit stipulated in Article 1 (3) (a) of that Regulation and that it originates in Argentina. <p align="center">Place: _____ Date: _____</p> <p align="center">Signature and stamp (or printed seal)</p> | | | |

To be completed by typewriter or in block capitals.

*ANNEX II***LIST OF AUTHORITIES IN ARGENTINA EMPOWERED TO ISSUE CERTIFICATES OF AUTHENTICITY**

SECRETARÍA DE AGRICULTURA, GANADERÍA Y PESCA

for thin skirt originating in Argentina as specified in Article 1 (3) (a).

COMMISSION REGULATION (EC) No 997/97

of 3 June 1997

amending Regulations (EC) No 1431/94, (EC) No 1474/95 and (EC) No 1251/96 laying down detailed rules for the application of certain tariff quotas for eggs and poultrymeat and prolonging the term of validity of certain licences in those sectors

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Articles 3 (2), 6 (1) and 15 thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat ⁽³⁾, as last amended by Commission Regulation (EC) No 2916/95 ⁽⁴⁾, and in particular Article 15 thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽⁵⁾, as last amended by Regulation (EC) No 2916/95, and in particular Articles 2 (1), 4 (1) and 10 thereof,

Having regard to Council Regulation (EC) No 774/94 of 29 March 1994 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues ⁽⁶⁾, as amended by Commission Regulation (EC) No 2198/95 ⁽⁷⁾, and in particular Article 7 thereof,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT Article XXIV.6 negotiations ⁽⁸⁾,

Whereas tariff quotas were granted for certain products in the eggs and poultrymeat sectors pursuant to Commission Regulation (EC) No 1431/94 of 22 June 1994 laying down detailed rules for the application in the poultrymeat sector of the import arrangements provided for in Council

Regulation No 774/94 ⁽⁹⁾ opening and providing for the administration of certain Community tariff quotas for poultrymeat and certain other agricultural products, as last amended by Regulation (EC) No 958/96 ⁽¹⁰⁾, pursuant to Commission Regulation (EC) No 1474/95 of 28 June 1995 opening and providing for the administration of the tariff quotas in the egg sector ⁽¹¹⁾, as last amended by Regulation (EC) No 1219/96 ⁽¹²⁾ and pursuant to Commission Regulation (EC) No 1251/96 of 28 June 1996 opening and providing for the administration of tariff quotas in the poultrymeat sector ⁽¹³⁾; whereas, in order to facilitate trade between the European Community and third countries, it must be possible to import eggs and poultrymeat without an obligation to import from the country of origin, which must nevertheless be mentioned for statistical reasons in section 8 of the import licence;

Whereas, these provisions should apply to import licences whose term of validity has not yet expired and which have not been used or have only been used in part;

Whereas, in order to allow operators to make use of the new provisions laid down in this Regulation before the date of expiry of licences, the validity of certain licences should be prolonged;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 (c) of Regulation (EC) No 1431/94 is hereby replaced by the following:

'(c) section 8 of licence applications and licences shall show the country of origin; licences shall carry with them an obligation to import from the country indicated except for groups 3 and 5'.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 49.

⁽²⁾ OJ No L 189, 30. 7. 1996, p. 99.

⁽³⁾ OJ No L 282, 1. 11. 1975, p. 77.

⁽⁴⁾ OJ No L 305, 19. 12. 1995, p. 49.

⁽⁵⁾ OJ No L 282, 1. 11. 1975, p. 104.

⁽⁶⁾ OJ No L 91, 8. 4. 1994, p. 1.

⁽⁷⁾ OJ No L 221, 19. 9. 1995, p. 3.

⁽⁸⁾ OJ No L 146, 20. 6. 1996, p. 1.

⁽⁹⁾ OJ No L 156, 23. 6. 1994, p. 9.

⁽¹⁰⁾ OJ No L 130, 31. 5. 1996, p. 6.

⁽¹¹⁾ OJ No L 145, 29. 6. 1995, p. 47.

⁽¹²⁾ OJ No L 161, 29. 6. 1996, p. 55.

⁽¹³⁾ OJ No L 161, 29. 6. 1996, p. 136.

Article 2

Article 4(c) of Regulation (EC) No 1474/95 is hereby replaced by the following:

'(c) section 8 of licence applications and licences shall show the country of origin'.

Article 3

Article 4(c) of Regulation (EC) No 1251/96 is hereby replaced by the following:

'(c) section 8 of licence applications and licences shall show the country of origin'.

Article 4

1. The validity of licences issued during the first quarter 1997 pursuant to Regulation (EC) No 1431/94 for groups 3 and 5 is prolonged until 31 July 1997.

2. The validity of licences issued during the first and second quarters 1997 pursuant to Regulation (EC) No 1251/96 is prolonged until 31 July 1997.

3. The validity of licences issued during the first quarter 1997 pursuant to Regulation (EC) No 1474/95 is prolonged until 31 July 1997.

Article 5

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

This Regulation shall apply to licences whose term of validity has not yet expired and which have not been used or have been used only in part.

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

Done at Brussels, 3 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 998/97

of 3 June 1997

adapting the Annexes to Council Regulation (EC) No 3281/94 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995 to 1998) in respect of certain industrial products originating in developing countries⁽¹⁾, as last amended by Commission Regulation (EC) No 2447/96⁽²⁾, and in particular Articles 15(3) and 19 thereof,

Whereas Article 15(3) of Regulation (EC) No 3281/94 lays down the procedure for enacting changes to Annex I or Annex II thereof made necessary by amendments to the combined nomenclature;

Whereas Commission Regulation (EC) No 480/97⁽³⁾ amends the combined nomenclature as annexed to Commission Regulation (EC) No 1734/96⁽⁴⁾ from 1 April 1997 onwards, in order to take account of the discussions in the framework of the WTO where it was concluded that certain products should be withdrawn from the duty-free treatment for pharmaceuticals; whereas the affected products have been excluded from the scheme of generalized tariff preferences solely on the basis of their

exemption from customs duties and it is therefore appropriate to reinclude them in the lists appearing in Annex I to Regulation (EC) No 3281/94 when the customs duties are reintroduced; whereas it is therefore appropriate to adapt that Annex accordingly with effect from 1 April 1997;

Whereas the provisions of this Regulation are in accordance with the opinion of the Generalized Preferences Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Council Regulation (EC) No 3281/94 shall be adapted as indicated in the Annex hereto.

Article 2

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

It shall apply from 1 April 1997.

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

Done at Brussels, 3 June 1997.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 348, 31. 12. 1994, p. 1.

⁽²⁾ OJ No L 333, 21. 12. 1996, p. 10.

⁽³⁾ OJ No L 75, 15. 3. 1997, p. 9.

⁽⁴⁾ OJ No L 238, 19. 9. 1996, p. 1.

ANNEX

Regulation (EC) No 3281/94 is hereby amended as follows:

In Annex I Part 2:

- *for*: 'ex 2903 halogenated derivatives of hydrocarbons, except products of subheading 2903 22 00',
read: '2903 halogenated derivatives of hydrocarbons';
- *for*: 'ex 2922 oxygen-function amino-compounds, except products of subheadings 2922 42 90 and 2922 49 10',
read: '2922 oxygen-function amino-compounds';
- *insert*: '2930 90 20 thiodiglycol (INN) (2,2'-thiodiethanol);
- *for*: '3907 60 90',
read: '3907 60'.

In Annex I Part 4:

- *at ex Chapter 29, delete CN codes*: '2903 22 00,
2906 21 00,
2922 42 90, 2922 49 10,
2923 10 10,
2930 90 20'.
 - *at ex Chapter 39, delete CN code*: '3907 60 10'.
-

COMMISSION REGULATION (EC) No 999/97
of 3 June 1997

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 2375/96⁽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 Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 June 1997.

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

Done at Brussels, 3 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽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 3 June 1997 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 | 212 | 61,9 |
| | 999 | 61,9 |
| 0709 90 77 | 052 | 62,4 |
| | 999 | 62,4 |
| 0805 30 30 | 052 | 97,2 |
| | 388 | 69,7 |
| | 528 | 62,0 |
| | 999 | 76,3 |
| 0808 10 61, 0808 10 63, 0808 10 69 | 060 | 49,9 |
| | 388 | 85,8 |
| | 400 | 88,9 |
| | 404 | 113,8 |
| | 508 | 89,3 |
| | 512 | 63,8 |
| | 528 | 67,5 |
| | 804 | 99,4 |
| | 999 | 82,3 |
| | 0809 20 49 | 400 |
| 999 | | 249,3 |

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1000/97

of 3 June 1997

amending representative prices and additional duties for the import of certain products in the sugar sector

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 1127/96 ⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1195/96 ⁽⁵⁾, as last amended by Regulation (EC) No 964/97 ⁽⁶⁾;

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 June 1997.

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

Done at Brussels, 3 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ No L 150, 25. 6. 1996, p. 12.

⁽⁵⁾ OJ No L 161, 29. 6. 1996, p. 3.

⁽⁶⁾ OJ No L 139, 30. 5. 1997, p. 25.

ANNEX

to the Commission Regulation of 3 June 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

| CN code | Amount of representative prices per 100 kg net of product concerned | Amount of additional duty per 100 kg net of product concerned |
|---------------------------|---|---|
| 1701 11 10 ⁽¹⁾ | 24,77 | 3,91 |
| 1701 11 90 ⁽¹⁾ | 24,77 | 9,15 |
| 1701 12 10 ⁽¹⁾ | 24,77 | 3,72 |
| 1701 12 90 ⁽¹⁾ | 24,77 | 8,72 |
| 1701 91 00 ⁽²⁾ | 28,44 | 11,01 |
| 1701 99 10 ⁽²⁾ | 28,44 | 6,49 |
| 1701 99 90 ⁽²⁾ | 28,44 | 6,49 |
| 1702 90 99 ⁽³⁾ | 0,28 | 0,37 |

⁽¹⁾ For the standard quality as defined in Article 1 of amended Council Regulation (EEC) No 431/68 (OJ No L 89, 10. 4. 1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1).

⁽³⁾ By 1 % sucrose content.

**DIRECTIVE 97/7/EC OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

of 20 May 1997

on the protection of consumers in respect of distance contracts

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
THE EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 100a thereof,

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

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

Acting in accordance with the procedure laid down in
Article 189b of the Treaty ⁽³⁾, in the light of the joint text
approved by the Conciliation Committee on 27
November 1996,

- (1) Whereas, in connection with the attainment of the aims of the internal market, measures must be taken for the gradual consolidation of that market;
- (2) Whereas the free movement of goods and services affects not only the business sector but also private individuals; whereas it means that consumers should be able to have access to the goods and services of another Member State on the same terms as the population of that State;
- (3) Whereas, for consumers, cross-border distance selling could be one of the main tangible results of the completion of the internal market, as noted, *inter alia*, in the communication from the Commission to the Council entitled 'Towards a single market in distribution'; whereas it is essential to the smooth operation of the internal market for consumers to be able to have dealings with a business outside their country, even if it has a subsidiary in the consumer's country of residence;
- (4) Whereas the introduction of new technologies is increasing the number of ways for consumers to obtain information about offers anywhere in the Community and to place orders; whereas some

Member States have already taken different or diverging measures to protect consumers in respect of distance selling, which has had a detrimental effect on competition between businesses in the internal market; whereas it is therefore necessary to introduce at Community level a minimum set of common rules in this area;

- (5) Whereas paragraphs 18 and 19 of the Annex to the Council resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy ⁽⁴⁾ point to the need to protect the purchasers of goods or services from demands for payment for unsolicited goods and from high-pressure selling methods;
- (6) Whereas paragraph 33 of the communication from the Commission to the Council entitled 'A new impetus for consumer protection policy', which was approved by the Council resolution of 23 June 1986 ⁽⁵⁾, states that the Commission will submit proposals regarding the use of new information technologies enabling consumers to place orders with suppliers from their homes;
- (7) Whereas the Council resolution of 9 November 1989 on future priorities for relaunching consumer protection policy ⁽⁶⁾ calls upon the Commission to give priority to the areas referred to in the Annex to that resolution; whereas that Annex refers to new technologies involving teleshopping; whereas the Commission has responded to that resolution by adopting a three-year action plan for consumer protection policy in the European Economic Community (1990-1992); whereas that plan provides for the adoption of a Directive;
- (8) Whereas the languages used for distance contracts are a matter for the Member States;
- (9) Whereas contracts negotiated at a distance involve the use of one or more means of distance communication; whereas the various means of communication are used as part of an organized distance sales or service-provision scheme not involving the simultaneous presence of the supplier and the consumer;

⁽¹⁾ OJ No C 156, 23. 6. 1992, p. 14 and OJ No C 308, 15. 11. 1993, p. 18.

⁽²⁾ OJ No C 19, 25. 1. 1993, p. 111.

⁽³⁾ Opinion of the European Parliament of 26 May 1993 (OJ No C 176, 28. 6. 1993, p. 95), Council common position of 29 June 1995 (OJ No C 288, 30. 10. 1995, p. 1) and Decision of the European Parliament of 13 December 1995 (OJ No C 17, 22. 1. 1996, p. 51). Decision of the European Parliament of 16 January 1997 and Council Decision of 20 January 1997.

⁽⁴⁾ OJ No C 92, 25. 4. 1975, p. 1.

⁽⁵⁾ OJ No C 167, 5. 7. 1986, p. 1.

⁽⁶⁾ OJ No C 294, 22. 11. 1989, p. 1.

whereas the constant development of those means of communication does not allow an exhaustive list to be compiled but does require principles to be defined which are valid even for those which are not as yet in widespread use;

- (10) Whereas the same transaction comprising successive operations or a series of separate operations over a period of time may give rise to different legal descriptions depending on the law of the Member States; whereas the provisions of this Directive cannot be applied differently according to the law of the Member States, subject to their recourse to Article 14; whereas, to that end, there is therefore reason to consider that there must at least be compliance with the provisions of this Directive at the time of the first of a series of successive operations or the first of a series of separate operations over a period of time which may be considered as forming a whole, whether that operation or series of operations are the subject of a single contract or successive, separate contracts;
- (11) Whereas the use of means of distance communication must not lead to a reduction in the information provided to the consumer; whereas the information that is required to be sent to the consumer should therefore be determined, whatever the means of communication used; whereas the information supplied must also comply with the other relevant Community rules, in particular those in Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising⁽¹⁾; whereas, if exceptions are made to the obligation to provide information, it is up to the consumer, on a discretionary basis, to request certain basic information such as the identity of the supplier, the main characteristics of the goods or services and their price;
- (12) Whereas in the case of communication by telephone it is appropriate that the consumer receive enough information at the beginning of the conversation to decide whether or not to continue;
- (13) Whereas information disseminated by certain electronic technologies is often ephemeral in nature insofar as it is not received on a permanent medium; whereas the consumer must therefore receive written notice in good time of the information necessary for proper performance of the contract;
- (14) Whereas the consumer is not able actually to see the product or ascertain the nature of the service provided before concluding the contract; whereas provision should be made, unless otherwise specified in this Directive, for a right of withdrawal from the contract; whereas, if this right is to be more than formal, the costs, if any, borne by the consumer when exercising the right of withdrawal must be limited to the direct costs for returning the goods; whereas this right of withdrawal shall be without prejudice to the consumer's rights under national laws, with particular regard to the receipt of damaged products and services or of products and services not corresponding to the description given in the offer of such products or services; whereas it is for the Member States to determine the other conditions and arrangements following exercise of the right of withdrawal;
- (15) Whereas it is also necessary to prescribe a time limit for performance of the contract if this is not specified at the time of ordering;
- (16) Whereas the promotional technique involving the dispatch of a product or the provision of a service to the consumer in return for payment without a prior request from, or the explicit agreement of, the consumer cannot be permitted, unless a substitute product or service is involved;
- (17) Whereas the principles set out in Articles 8 and 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 apply; whereas the consumer's right to privacy, particularly as regards freedom from certain particularly intrusive means of communication, should be recognized; whereas specific limits on the use of such means should therefore be stipulated; whereas Member States should take appropriate measures to protect effectively those consumers, who do not wish to be contacted through certain means of communication, against such contacts, without prejudice to the particular safeguards available to the consumer under Community legislation concerning the protection of personal data and privacy;
- (18) Whereas it is important for the minimum binding rules contained in this Directive to be supplemented where appropriate by voluntary arrangements among the traders concerned, in line with Commission recommendation 92/295/EEC of 7 April 1992 on codes of practice for the protection of consumers in respect of contracts negotiated at a distance⁽²⁾;
- (19) Whereas in the interest of optimum consumer protection it is important for consumers to be satisfactorily informed of the provisions of this Directive and of codes of practice that may exist in this field;

⁽¹⁾ OJ No L 250, 19. 9. 1984, p. 17.

⁽²⁾ OJ No L 156, 10. 6. 1992, p. 21.

- (20) Whereas non-compliance with this Directive may harm not only consumers but also competitors; whereas provisions may therefore be laid down enabling public bodies or their representatives, or consumer organizations which, under national legislation, have a legitimate interest in consumer protection, or professional organizations which have a legitimate interest in taking action, to monitor the application thereof;
- (21) Whereas it is important, with a view to consumer protection, to address the question of cross-border complaints as soon as this is feasible; whereas the Commission published on 14 February 1996 a plan of action on consumer access to justice and the settlement of consumer disputes in the internal market; whereas that plan of action includes specific initiatives to promote out-of-court procedures; whereas objective criteria (Annex II) are suggested to ensure the reliability of those procedures and provision is made for the use of standardized claims forms (Annex III);
- (22) Whereas in the use of new technologies the consumer is not in control of the means of communication used; whereas it is therefore necessary to provide that the burden of proof may be on the supplier;
- (23) Whereas there is a risk that, in certain cases, the consumer may be deprived of protection under this Directive through the designation of the law of a non-member country as the law applicable to the contract; whereas provisions should therefore be included in this Directive to avert that risk;
- (24) Whereas a Member State may ban, in the general interest, the marketing on its territory of certain goods and services through distance contracts; whereas that ban must comply with Community rules; whereas there is already provision for such bans, notably with regard to medicinal products, under Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities⁽¹⁾ and Council Directive 92/28/EEC of 31 March 1992 on the advertising of medicinal products for human use⁽²⁾,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Object

The object of this Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning distance contracts between consumers and suppliers.

⁽¹⁾ OJ No L 298, 17. 10. 1989, p. 23.

⁽²⁾ OJ No L 113, 30. 4. 1992, p. 13.

Article 2

Definitions

For the purposes of this Directive:

- (1) 'distance contract' means any contract concerning goods or services concluded between a supplier and a consumer under an organized distance sales or service-provision scheme run by the supplier, who, for the purpose of the contract, makes exclusive use of one or more means of distance communication up to and including the moment at which the contract is concluded;
- (2) 'consumer' means any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business or profession;
- (3) 'supplier' means any natural or legal person who, in contracts covered by this Directive, is acting in his commercial or professional capacity;
- (4) 'means of distance communication' means any means which, without the simultaneous physical presence of the supplier and the consumer, may be used for the conclusion of a contract between those parties. An indicative list of the means covered by this Directive is contained in Annex I;
- (5) 'operator of a means of communication' means any public or private natural or legal person whose trade, business or profession involves making one or more means of distance communication available to suppliers.

Article 3

Exemptions

1. This Directive shall not apply to contracts:
 - relating to financial services, a non-exhaustive list of which is given in Annex II,
 - concluded by means of automatic vending machines or automated commercial premises,
 - concluded with telecommunications operators through the use of public payphones,
 - concluded for the construction and sale of immovable property or relating to other immovable property rights, except for rental,
 - concluded at an auction.
2. Articles 4, 5, 6 and 7 (1) shall not apply:
 - to contracts for the supply of foodstuffs, beverages or other goods intended for everyday consumption supplied to the home of the consumer, to his residence or to his workplace by regular roundsmen,

— to contracts for the provision of accommodation, transport, catering or leisure services, where the supplier undertakes, when the contract is concluded, to provide these services on a specific date or within a specific period; exceptionally, in the case of outdoor leisure events, the supplier can reserve the right not to apply Article 7 (2) in specific circumstances.

Article 4

Prior information

1. In good time prior to the conclusion of any distance contract, the consumer shall be provided with the following information:

- (a) the identity of the supplier and, in the case of contracts requiring payment in advance, his address;
- (b) the main characteristics of the goods or services;
- (c) the price of the goods or services including all taxes;
- (d) delivery costs, where appropriate;
- (e) the arrangements for payment, delivery or performance;
- (f) the existence of a right of withdrawal, except in the cases referred to in Article 6 (3);
- (g) the cost of using the means of distance communication, where it is calculated other than at the basic rate;
- (h) the period for which the offer or the price remains valid;
- (i) where appropriate, the minimum duration of the contract in the case of contracts for the supply of products or services to be performed permanently or recurrently.

2. The information referred to in paragraph 1, the commercial purpose of which must be made clear, shall be provided in a clear and comprehensible manner in any way appropriate to the means of distance communication used, with due regard, in particular, to the principles of good faith in commercial transactions, and the principles governing the protection of those who are unable, pursuant to the legislation of the Member States, to give their consent, such as minors.

3. Moreover, in the case of telephone communications, the identity of the supplier and the commercial purpose of the call shall be made explicitly clear at the beginning of any conversation with the consumer.

Article 5

Written confirmation of information

1. The consumer must receive written confirmation or confirmation in another durable medium available and accessible to him of the information referred to in Article

4 (1) (a) to (f), in good time during the performance of the contract, and at the latest at the time of delivery where goods not for delivery to third parties are concerned, unless the information has already been given to the consumer prior to conclusion of the contract in writing or on another durable medium available and accessible to him.

In any event the following must be provided:

- written information on the conditions and procedures for exercising the right of withdrawal, within the meaning of Article 6, including the cases referred to in the first indent of Article 6 (3),
- the geographical address of the place of business of the supplier to which the consumer may address any complaints,
- information on after-sales services and guarantees which exist,
- the conclusion for cancelling the contract, where it is of unspecified duration or a duration exceeding one year.

2. Paragraph 1 shall not apply to services which are performed through the use of a means of distance communication, where they are supplied on only one occasion and are invoiced by the operator of the means of distance communication. Nevertheless, the consumer must in all cases be able to obtain the geographical address of the place of business of the supplier to which he may address any complaints.

Article 6

Right of withdrawal

1. For any distance contract the consumer shall have a period of at least seven working days in which to withdraw from the contract without penalty and without giving any reason. The only charge that may be made to the consumer because of the exercise of his right of withdrawal is the direct cost of returning the goods.

The period for exercise of this right shall begin:

- in the case of goods, from the day of receipt by the consumer where the obligations laid down in Article 5 have been fulfilled,
- in the case of services, from the day of conclusion of the contract or from the day on which the obligations laid down in Article 5 were fulfilled if they are fulfilled after conclusion of the contract, provided that this period does not exceed the three-month period referred to in the following subparagraph.

If the supplier has failed to fulfil the obligations laid down in Article 5, the period shall be three months. The period shall begin:

- in the case of goods, from the day of receipt by the consumer,
- in the case of services, from the day of conclusion of the contract.

If the information referred to in Article 5 is supplied within this three-month period, the seven working day period referred to in the first subparagraph shall begin as from that moment.

2. Where the right of withdrawal has been exercised by the consumer pursuant to this Article, the supplier shall be obliged to reimburse the sums paid by the consumer free of charge. The only charge that may be made to the consumer because of the exercise of his right of withdrawal is the direct cost of returning the goods. Such reimbursement must be carried out as soon as possible and in any case within 30 days.

3. Unless the parties have agreed otherwise, the consumer may not exercise the right of withdrawal provided for in paragraph 1 in respect of contracts:

- for the provision of services if performance has begun, with the consumer's agreement, before the end of the seven working day period referred to in paragraph 1,
- for the supply of goods or services the price of which is dependent on fluctuations in the financial market which cannot be controlled by the supplier,
- for the supply of goods made to the consumer's specifications or clearly personalized or which, by reason of their nature, cannot be returned or are liable to deteriorate or expire rapidly,
- for the supply of audio or video recordings or computer software which were unsealed by the consumer,
- for the supply of newspapers, periodicals and magazines,
- for gaming and lottery services.

4. The Member States shall make provision in their legislation to ensure that:

- if the price of goods or services is fully or partly covered by credit granted by the supplier, or
- if that price is fully or partly covered by credit granted to the consumer by a third party on the basis of an agreement between the third party and the supplier,

the credit agreement shall be cancelled, without any penalty, if the consumer exercises his right to withdraw from the contract in accordance with paragraph 1.

Member States shall determine the detailed rules for cancellation of the credit agreement.

Article 7

Performance

1. Unless the parties have agreed otherwise, the supplier must execute the order within a maximum of 30 days from the day following that on which the consumer forwarded his order to the supplier.

2. Where a supplier fails to perform his side of the contract on the grounds that the goods or services ordered are unavailable, the consumer must be informed of this situation and must be able to obtain a refund of any sums he has paid as soon as possible and in any case within 30 days.

3. Nevertheless, Member States may lay down that the supplier may provide the consumer with goods or services of equivalent quality and price provided that this possibility was provided for prior to the conclusion of the contract or in the contract. The consumer shall be informed of this possibility in a clear and comprehensible manner. The cost of returning the goods following exercise of the right of withdrawal shall, in this case, be borne by the supplier, and the consumer must be informed of this. In such cases the supply of goods or services may not be deemed to constitute inertia selling within the meaning of Article 9.

Article 8

Payment by card

Member States shall ensure that appropriate measures exist to allow a consumer:

- to request cancellation of a payment where fraudulent use has been made of his payment card in connection with distance contracts covered by this Directive,
- in the event of fraudulent use, to be recredited with the sums paid or have them returned.

Article 9

Inertia selling

Member States shall take the measures necessary to:

- prohibit the supply of goods or services to a consumer without their being ordered by the consumer beforehand, where such supply involves a demand for payment,
- exempt the consumer from the provision of any consideration in cases of unsolicited supply, the absence of a response not constituting consent.

*Article 10***Restrictions on the use of certain means of distance communication**

1. Use by a supplier of the following means requires the prior consent of the consumer:

- automated calling system without human intervention (automatic calling machine),
- facsimile machine (fax).

2. Member States shall ensure that means of distance communication, other than those referred to in paragraph 1, which allow individual communications may be used only where there is no clear objection from the consumer.

*Article 11***Judicial or administrative redress**

1. Member States shall ensure that adequate and effective means exist to ensure compliance with this Directive in the interests of consumers.

2. The means referred to in paragraph 1 shall include provisions whereby one or more of the following bodies, as determined by national law, may take action under national law before the courts or before the competent administrative bodies to ensure that the national provisions for the implementation of this Directive are applied:

- (a) public bodies or their representatives;
 - (b) consumer organizations having a legitimate interest in protecting consumers;
 - (c) professional organizations having a legitimate interest in acting.
3. (a) Member States may stipulate that the burden of proof concerning the existence of prior information, written confirmation, compliance with time-limits or consumer consent can be placed on the supplier.
- (b) Member States shall take the measures needed to ensure that suppliers and operators of means of communication, where they are able to do so, cease practices which do not comply with measures adopted pursuant to this Directive.

4. Member States may provide for voluntary supervision by self-regulatory bodies of compliance with the provisions of this Directive and recourse to such bodies for the settlement of disputes to be added to the means which Member States must provide to ensure compliance with the provisions of this Directive.

*Article 12***Binding nature**

1. The consumer may not waive the rights conferred on him by the transposition of this Directive into national law.

2. Member States shall take the measures needed to ensure that the consumer does not lose the protection granted by this Directive by virtue of the choice of the law of a non-member country as the law applicable to the contract if the latter has close connection with the territory of one or more Member States.

*Article 13***Community rules**

1. The provisions of this Directive shall apply insofar as there are no particular provisions in rules of Community law governing certain types of distance contracts in their entirety.

2. Where specific Community rules contain provisions governing only certain aspects of the supply of goods or provision of services, those provisions, rather than the provisions of this Directive, shall apply to these specific aspects of the distance contracts.

*Article 14***Minimal clause**

Member States may introduce or maintain, in the area covered by this Directive, more stringent provisions compatible with the Treaty, to ensure a higher level of consumer protection. Such provisions shall, where appropriate, include a ban, in the general interest, on the marketing of certain goods or services, particularly medicinal products, within their territory by means of distance contracts, with due regard for the Treaty.

*Article 15***Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than three years after it enters into force. They shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, these shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The procedure for such reference shall be laid down by Member States.

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

4. No later than four years after the entry into force of this Directive the Commission shall submit a report to the European Parliament and the Council on the implementation of this Directive, accompanied if appropriate by a proposal for the revision thereof.

Article 16

Consumer information

Member States shall take appropriate measures to inform the consumer of the national law transposing this Directive and shall encourage, where appropriate, professional organizations to inform consumers of their codes of practice.

Article 17

Complaints systems

The Commission shall study the feasibility of establishing effective means to deal with consumers' complaints in

respect of distance selling. Within two years after the entry into force of this Directive the Commission shall submit a report to the European Parliament and the Council on the results of the studies, accompanied if appropriate by proposals.

Article 18

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

Article 19

This Directive is addressed to the Member States.

Done at Brussels, 20 May 1997.

For the European Parliament

The President

J.M. GIL-ROBLES

For the Council

The President

J. VAN AARTSEN

*ANNEX I***Means of communication covered by Article 2 (4)**

- Unaddressed printed matter
 - Addressed printed matter
 - Standard letter
 - Press advertising with order form
 - Catalogue
 - Telephone with human intervention
 - Telephone without human intervention (automatic calling machine, audiotext)
 - Radio
 - Videophone (telephone with screen)
 - Videotex (microcomputer and television screen) with keyboard or touch screen
 - Electronic mail
 - Facsimile machine (fax)
 - Television (teleshopping).
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ANNEX II

Financial services within the meaning of Article 3 (1)

- Investment services
- Insurance and reinsurance operations
- Banking services
- Operations relating to dealings in futures or options.

Such services include in particular:

- investment services referred to in the Annex to Directive 93/22/EEC⁽¹⁾; services of collective investment undertakings,
- services covered by the activities subject to mutual recognition referred to in the Annex to Directive 89/646/EEC⁽²⁾;
- operations covered by the insurance and reinsurance activities referred to in:
 - Article 1 of Directive 73/239/EEC⁽³⁾,
 - the Annex to Directive 79/267/EEC⁽⁴⁾,
 - Directive 64/225/EEC⁽⁵⁾,
 - Directives 92/49/EEC⁽⁶⁾ and 92/96/EEC⁽⁷⁾.

⁽¹⁾ OJ No L 141, 11. 6. 1993, p. 27.

⁽²⁾ OJ No L 386, 30. 12. 1989, p. 1. Directive as amended by Directive 92/30/EEC (OJ No L 110, 28. 4. 1992, p. 52).

⁽³⁾ OJ No L 228, 16. 8. 1973, p. 3. Directive as last amended by Directive 92/49/EEC (OJ No L 228, 11. 8. 1992, p. 1).

⁽⁴⁾ OJ No L 63, 13. 3. 1979, p. 1. Directive as last amended by Directive 90/619/EEC (OJ No L 330, 29. 11. 1990, p. 50).

⁽⁵⁾ OJ No 56, 4. 4. 1964, p. 878/64. Directive as amended by the 1973 Act of Accession.

⁽⁶⁾ OJ No L 228, 11. 8. 1992, p. 1.

⁽⁷⁾ OJ No L 360, 9. 12. 1992, p. 1.

Statement by the Council and the Parliament re Article 6 (1)

The Council and the Parliament note that the Commission will examine the possibility and desirability of harmonizing the method of calculating the cooling-off period under existing consumer-protection legislation, notably Directive 85/577/EEC of 20 December 1985 on the protection of consumers in respect of contracts negotiated away from commercial establishments ('door-to-door sales')⁽¹⁾.

Statement by the Commission re Article 3 (1), first indent

The Commission recognizes the importance of protecting consumers in respect of distance contracts concerning financial services and has published a Green Paper entitled 'Financial services: meeting consumers' expectations'. In the light of reactions to the Green Paper the Commission will examine ways of incorporating consumer protection into the policy on financial services and the possible legislative implications and, if need be, will submit appropriate proposals.

⁽¹⁾ OJ No L 372, 31. 12. 1985, p. 31.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 27 May 1997

appointing a member of the Economic and Social Committee

(97/337/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 167 thereof,

Having regard to Council Decision 94/660/EC, Euratom of 26 September 1994 appointing the members of the Economic and Social Committee for the period from 21 September 1994 to 20 September 1998 ⁽¹⁾,

Whereas a seat as a member of that Committee has fallen vacant following the resignation of Mr Ramón Merce Juste of which the Council was notified on 2 October 1996;

Having regard to the nominations submitted by the Spanish Government on 21 March 1997,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr José María Espuny Moyano is hereby appointed a member of the Economic and Social Committee in place of Mr Ramón Merce Juste for the remainder of the latter's term of office, which runs until 20 September 1998.

Done at Brussels, 27 May 1997.

For the Council

The President

W. SORGDRAGER

⁽¹⁾ OJ No L 257, 5. 10. 1994, p. 20.

COUNCIL DECISION
of 27 May 1997
appointing a member of the Economic and Social Committee

(97/338/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 167 thereof,

Having regard to Council Decision 94/660/EC, Euratom of 26 September 1994 appointing the members of the Economic and Social Committee for the period from 21 September 1994 to 20 September 1998⁽¹⁾,

Whereas a seat as a member of that Committee has fallen vacant following the resignation of Mr José Fernando Rodríguez de Azero of which the Council was notified on 16 July 1996;

Having regard to the nominations submitted by the Spanish Government on 21 March 1997,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Gabriel García Alonso is hereby appointed a member of the Economic and Social Committee in place of Mr José Fernando Rodríguez de Azero for the remainder of the latter's term of office, which runs until 20 September 1998.

Done at Brussels, 27 May 1997.

For the Council

The President

W. SORGDRAGER

⁽¹⁾ OJ No L 257, 5. 10. 1994, p. 20.