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## Legislation

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## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 2513/97  
of 15 December 1997**

**extending the definitive anti-dumping duty imposed by Regulation (EC) No 1490/96 on polyester staple fibre originating in Belarus to imports of polyester filament tow from Belarus and levying the extended duty on the latter imports as registered under Commission Regulation (EC) No 693/97**

THE COUNCIL OF THE EUROPEAN UNION,

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<sup>(1)</sup>, and in particular Article 13 (3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

Synthetic Fibres (C.I.F.R.S) on behalf of Community producers whose output is considered to represent over 90 % of the total Community production of PSF.

- (2) The product concerned by the present investigation is PFT, falling under CN code 5501 20 00, used for conversion in the Community into PSF, falling under CN code 5503 20 00.
- (3) The Commission officially advised the authorities of Belarus about the initiation of the new investigation and sent questionnaires to the Community companies concerned mentioned in the complaint. No additional companies made themselves known within the prescribed time limit.
- (4) The new investigation covered the period 1 January 1996 to 31 March 1997 (hereafter 'the investigation period').
- (5) The Commission received complete replies from the following companies:

**A. PROCEDURE**

- (1) On 19 April 1997, by Regulation (EC) No 693/97<sup>(2)</sup>, the Commission initiated an investigation, pursuant to Article 13 of Regulation (EC) No 384/96, hereafter referred to as the 'Basic Regulation', concerning the alleged circumvention of the anti-dumping duties imposed by Council Regulation (EC) No 1490/96<sup>(3)</sup> on imports of polyester staple fibre, hereafter 'PSF', originating in Belarus, by imports of polyester filament tow, hereafter 'PFT', originating in that country which are subsequently converted into PSF in the Community and directed customs authorities, pursuant to Article 13 (3) of the Basic Regulation, to register imports of such PFT. The present investigation was initiated following a complaint lodged on 4 March 1997 by the International Committee of Rayon and

(a) *Germany*

- Barnet Europe W. Barnet GmbH & Co. KG,
- Rheinische Faser GmbH,
- Kemokomplex GmbH;

(b) *Italy*

- SALT & Co. Snc,
- TASFI Snc,
- SIMP Srl (formerly CO.FIS SpA).

The Commission requested and examined all information it deemed necessary and carried out verification visits at the premises of the companies located in Italy and of one company located in Germany (Barnet).

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ L 317, 6. 12. 1996, p. 1).

<sup>(2)</sup> OJ L 102, 19. 4. 1997, p. 14.

<sup>(3)</sup> OJ L 189, 30. 7. 1996, p. 13.

- (6) All companies mentioned above made their views known in writing and requested and were granted a hearing by the Commission.

## B. SCOPE OF THE INVESTIGATION

- (7) Article 13 (1), first sentence, of the Basic Regulation provides that, if certain conditions establishing circumvention are met, anti-dumping measures in force may be extended to imports of like products or parts thereof from a third country.

The scope of the present investigation is to examine whether anti-dumping measures on imports of PSF originating in Belarus are being circumvented by means of imports of PFT originating in that country which are used in conversion operations in the Community.

- (8) The importers and converters have argued that the present investigation could not be initiated under Article 13 of the Basic Regulation because an investigation under this provision would only be possible with regard to a 'third country', which would exclude the exporting country in respect of which the anti-dumping measures were imposed. This argument is rejected because the term 'third country', as used in Article 13 (1) of the Basic Regulation is, also in view of its legislative history, a broad term which simply refers to any country outside the Community as opposed to trade between two or more Member States of the Community.
- (9) It was considered that the alleged circumvention practice had to be assessed on the basis of the second sentence of Article 13 (1) of the Basic Regulation. The objective of the present investigation was in particular to examine whether the operation described above fulfilled all conditions set out in that provision, so that anti-dumping measures in force with respect to PSF could be extended to PFT pursuant to Article 13 (1), first sentence of the Basic Regulation.

In this respect, it should be noted that PFT and PSF share the same basic physical and chemical characteristics. Indeed, the only difference between PFT and PSF results from a simple cutting process. The imported PFT has therefore to be viewed as a product which has been slightly altered in order to avoid the anti-dumping measures currently applicable to PSF. Differences of this nature, which can be created or eliminated by minor alterations,

cannot put into question the fact that PSF and PFT are essentially the same product. Such differences are therefore not sufficient to avoid payment of anti-dumping duties on PFT. As far as the uses of PFT and PSF are concerned, the investigation has also shown that all PFT imported from Belarus was used for cutting into PSF rather than for worsted spinning to produce tops, the other recognized application of PFT. Worsted spinning is a considerably more complex process requiring special technology. Tops are sold in a small and relatively stable niche market commanding a price premium.

In any event, it should be borne in mind that, as in the case of parts destined for assembly, the imports of PFT ultimately end up as a product which is not only alike but identical to the imports subject to the original investigation, i.e. PSF. Thus, although the alteration process from PFT into PSF is not as such an assembly operation, it is of such a nature that it has to be considered as a practice which is carried out to avoid the measures in force.

It follows from the foregoing that PFT and PSF are alike within the meaning of Article 1 (4) of the Basic Regulation.

## C. RESULTS

### 1. Nature of the circumvention operation

- (10) The present investigation has established that all the PFT concerned is produced by a single company in Belarus and exported to the Community mainly via two channels. A first channel involves a German trader which purchases the PFT from the Belarus exporter and sells it, for the major part, to an Italian importer. The PFT thus imported is subsequently processed into PSF by Italian sub-contractors and thereafter sold by the Italian importer in the Community, mainly on the Italian market. A second channel involves a Swiss trader which sells the PFT it purchases from the Belarus exporter to a German importer. The German importer itself processes the PFT into PSF and sells the PSF in the Community, mainly on the German market.
- (11) The question as to whether Belarus can be considered as a 'third country' in terms of Article 13 (1) of the Basic Regulation has already been addressed in recital 8. The question of whether PSF and PFT can be considered to be like products has been addressed in recital 9.

## 2. Conditions of Article 13 (1), second sentence

### (a) *Circumvention*

— Change in the pattern of trade

- (12) Immediately following the imposition in March 1996 of a provisional anti-dumping duty of 43,5 % on PSF originating in Belarus by Commission Regulation (EC) No 394/96 <sup>(1)</sup>, imports of PSF from Belarus were almost entirely substituted by imports of PFT from that country. While in the period subsequent to the initiation of the original anti-dumping proceeding (August 1994) PFT imports from Belarus only represented at most 1 % of combined PFT-PSF imports from that country, the PFT-PSF mix changed radically and abruptly immediately following the imposition of provisional anti-dumping measures in March 1996: in the period April to June 1996, PSF accounted for only 3,02 % while PFT represented 96,98 %. This marked change in the pattern of trade continued and even increased throughout the entire 15-month investigation period as volumes of PFT were increasing rapidly and PSF imports were further phased out. At the end of the investigation period (period January-March 1997), PFT accounted for 99,27 % and PSF merely for 0,73 % of the PSF-PFT mix.

In addition, import levels of PFT from Belarus as such increased rapidly and reached significant levels. While imports of PFT from Belarus in 1995 amounted to merely 169 tonnes, such imports rose to 13 619 tonnes in the 12-month period following the imposition of the provisional anti-dumping measures on PSF from Belarus.

The companies involved have argued that no change in the pattern of trade occurred because PFT imports have not substituted for imports of PSF at the same import levels of PSF in 1994 and 1995. This argument is to be rejected. It is not required that the substitution is found to have attained the highest import levels which the substituted product ever reached in a particular segment in the benchmark period — i.e. since or just prior to the initiation of the original anti-dumping proceeding (August 1994) — provided, as was found to be the case in the present investigation, that there is a clear and consistent trend of substitution over an extended period. In this respect, it should be noted that a particularly long investigation period of 15 months was deliberately selected so as to increase its representativity.

— Insufficient due cause or economic justification

- (13) The abovementioned substitution of PSF by PFT following the imposition of a significant provisional anti-dumping duty (see recital 12) must reasonably be considered to have stemmed from the anti-dumping measures rather than from any other sufficient due cause or economic justification within the meaning of Article 13 (1), second sentence of the Basic Regulation.

If there were to exist a sufficient due cause or economic justification — other than the anti-dumping measures in force — for importing PFT and cutting it into PSF in the Community rather than directly importing PSF already cut in the exporting country, then it might be expected that at least some PFT would have been imported for conversion in the Community prior to the imposition of the provisional measures. However, as imports of PFT originating in Belarus prior to the imposition of the provisional measures were negligible, it must be concluded that the substitution of PSF by PFT and the strong increase of PFT imports stem from a practice lacking sufficient due cause or economic justification and were in fact primarily prompted by the imposition of anti-dumping measures.

This inference would be displaced if a new significant factor — other than the anti-dumping measures — arising around the time when the substitution took place, could be identified. Such is not the case and no interested party has put forward any such claim.

- (14) This conclusion is corroborated by the following findings. Importing PFT for conversion in the Community into PSF, as opposed to directly importing PSF already cut in a continuous, integrated operation — as is standard practice — in the exporting country, generates a number of extra costs in terms of packaging and labour which are not offset by any significant cost savings or price premiums but which are even compounded by the higher hourly labour cost in the Community, if compared with that in Taiwan, selected in the original investigation as analogue country to calculate normal value. In addition, exports of PFT were found to be targeting the Community since other export markets continued to be supplied with PSF by the Belarus exporter concerned, which shows a lack of economic justification because, if the practice were economically justified, it might reasonably be expected that it would also have occurred in other industrialized markets similar to the Community.

<sup>(1)</sup> OJ L 54, 5. 3. 1996, p. 10.

- (15) The importers and converters have argued that there is sufficient due cause or economic justification for the importation for conversion in the Community of PFT rather than direct importation of PSF already cut in the exporting country because this entails certain cost savings in terms of stock keeping and allows for greater flexibility to meet customer demand for various sizes and small orders of PSF.
- (16) This argument was rejected as such benefits were not quantified by the importers and even if such benefits do exist, they would appear not to outweigh the additional cost in terms of packaging and labour referred to above. In any event, such alleged benefits would also have existed prior to the imposition of the anti-dumping measures and, if significant, it could reasonably be expected that some operators in the Community or in other comparable markets would have availed themselves, at least to some extent, of this opportunity prior to the imposition of the anti-dumping measures. As this was found not to be the case (PFT imports from Belarus prior to the imposition of the provisional anti-dumping measures were statistically negligible), it must be concluded that the benefits claimed are, at most, of secondary importance only.
- (17) The converters and importers also submitted that it was economically justifiable for them to convert PFT imported from Belarus since the necessary cutting capacity did already exist in the Community so that no special, new investments were required (absence of 'opportunity cost'). It was also argued that the fact that PFT from sources other than Belarus was converted prior to the initiation of the anti-dumping investigation showed that importation of PFT from Belarus for conversion in the Community was also justifiable. This argument was rejected for the following reasons.

Except for a limited trial production during the first three months of 1996, the particular circumvention practice under investigation (importation of PFT from Belarus for conversion into PSF in the Community) only began after the imposition of the provisional anti-dumping measures in March 1996. It follows that it can reasonably be concluded that prior to the imposition of the anti-dumping measures it was not considered justifiable to use this cutting capacity to convert PFT imported from Belarus rather than directly importing PSF.

In addition, imports of PFT from countries other than Belarus have been small and even declining. It would also appear that such imports concern, to a large extent, PFT used to produce tops — which, as stated above (see recital 9) is a stable and small niche market requiring more complex processing and commanding a price premium — rather than PFT for cutting into PSF, which is a commodity product. In this respect, it should be noted that imports of PFT from other countries remained stable but were dwarfed in relative terms by the massive influx of PFT from Belarus which in itself accounted for 70 % of all PFT imports in 1996.

In any event, the argument is factually flawed since it was established during the verifications that at least one converter in Italy specifically invested in additional cutting equipment in order to meet growing supplies of PFT from Belarus. This contradicts the alleged absence of opportunity cost mentioned above.

*(b) Undermining of the remedial effects of the duty and evidence of dumping*

— Undermining

- (18) The Commission first determined whether the remedial effects of the duty are being undermined in terms of prices. To that end, a comparison was made between the average sales price in the Community of PSF cut from PFT originating in Belarus during the investigation period, and the 'undumped' export price to the Community of PSF originating from Belarus as established in the original investigation period.

The 'undumped' export price of PSF was calculated at a CIF Community border level on the basis of the export price as established in the initial investigation. To this price customs duties (5,5 %) and anti-dumping duties (43,5 %) were added to arrive at an 'undumped' level.

A weighted average price ex-converter was determined for PSF cut from PFT originating in Belarus. Adjustments to this price ('netting back') were made in order to ensure that a comparison was established at the same level (CIF Community border). To this aim, discounts, selling, general and administrative (SG&A) and intra-Community transport costs (not included in SG&A) were deducted. Subsequently, it was established to what extent the average price of PSF converted from PFT origin-

ating in Belarus has undercut the 'undumped' export price thus undermining the remedial effects of the duties.

The total undermining amounts were expressed as a percentage of the total CIF Community border value of imports of PSF at the 'undumped' price level. The comparison showed that the average sales price of PSF converted from PFT originating in Belarus has undercut the 'undumped' export price of PSF imported from Belarus by 19,45 %.

The Commission has also verified whether the remedial effects of the duty are being undermined in terms of quantities. As explained in detail above (see recital 12), PSF imports from Belarus were nearly totally substituted by imports of PFT from that country immediately after imposition of provisional anti-dumping duties on PSF from Belarus.

In the light of the foregoing, it must be concluded that the sales of PSF converted from PFT originating in Belarus have undermined the remedial effect of the anti-dumping duties both in terms of prices and quantities.

#### — Evidence of Dumping

- (19) In order to determine whether evidence of dumping could be found with respect to the PFT imported in the Community for conversion into PSF during the investigation period, the following methodology was followed.

Delivered duty unpaid purchase prices charged to the importers for PFT from Belarus were used as a point of departure. In order to increase the comparability of this price with the normal value established for PSF during the original anti-dumping investigation, the conversion cost in the Community established in the present investigation was added so as to effectively construct a PSF price. From this price, intra-Community freight/handling costs and credit costs were then deducted to calculate a CIF Community border price for PSF.

This CIF price was then netted back to FOB Belarus level by deducting freight and handling cost from Belarus to the Community border and by deducting the respective mark-up of intermediary trading houses. The difference between this FOB Belarus price and the FOB Taiwan normal value as established in the original anti-dumping investigation — Taiwan having been selected in the original investigation as analogue country to calculate normal value — was then expressed as a percentage of the CIF Community border price for PSF.

The aggregated, weighted average dumping margin thus established was found to be 12,31 %. It is therefore concluded that there is evidence of dumping in relation to the normal value previously established.

#### D. PROPOSED MEASURES

##### 1. Nature of the measures: extension of the duty

- (20) In view of the above findings and considerations, the anti-dumping duty in force with respect to PSF originating in Belarus should be extended to PFT originating in that country.

##### 2. Levy of the extended duty on imports entered under registration

- (21) The extended duty should be levied on the PFT which entered the Community under registration, as described in recital 1.

#### E. PROCEDURE

- (22) Interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to propose the extension of the definitive anti-dumping duty in force to the PFT concerned and have been given the opportunity to comment and their comments have been duly considered,

HAS ADOPTED THIS REGULATION:

##### *Article 1*

1. The definitive anti-dumping duty imposed by Regulation (EC) No 1490/96 on imports of polyester staple fibre falling within CN code 5503 20 00 originating in Belarus is hereby extended to imports of polyester filament tow falling within CN code 5501 20 00 originating in Belarus.

2. The duty extended by paragraph 1 of this Article shall also apply to imports of polyester filament tow originating in Belarus which have been registered in accordance with Article 2 of Commission Regulation (CE) No 693/97 and Article 13 (3) and 14 (5) of Regulation (CE) No 384/96.



*Article 2*

Customs authorities are hereby directed to discontinue registration of polyester filament tow originating in Belarus and falling within CN code 5501 20 00 pursuant to Article 2 of Commission Regulation (EC) No 693/97.

*Article 3*

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

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

Done at Brussels, 15 December 1997.

*For the Council*

*The President*

J.-C. JUNCKER

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## COMMISSION REGULATION (EC) No 2514/97

of 16 December 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 <sup>(1)</sup>, as last amended by Regulation (EC) No 2375/96 <sup>(2)</sup>, 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 <sup>(3)</sup>, as last amended by Regulation (EC) No 150/95 <sup>(4)</sup>, 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 17 December 1997.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 337, 24. 12. 1994, p. 66.

<sup>(2)</sup> OJ L 325, 14. 12. 1996, p. 5.

<sup>(3)</sup> OJ L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ L 22, 31. 1. 1995, p. 1.

## ANNEX

to the Commission Regulation of 16 December 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 45	204	75,9
	624	176,6
	999	126,3
0707 00 40	052	79,0
	624	134,7
	999	106,8
0709 10 40	220	178,1
	999	178,1
0709 90 79	052	104,3
	204	146,6
	999	125,5
0805 10 61, 0805 10 65, 0805 10 69	052	30,4
	204	51,1
	388	29,6
	448	28,6
	528	44,4
	999	36,8
0805 20 31	052	76,7
	204	53,8
	999	65,2
0805 20 33, 0805 20 35, 0805 20 37, 0805 20 39	052	41,2
	464	156,8
	999	99,0
0805 30 40	052	68,1
	400	60,0
	528	36,3
	600	94,3
	999	64,7
0808 10 92, 0808 10 94, 0808 10 98	060	48,8
	064	41,6
	400	87,0
	404	84,9
	512	39,2
	720	62,8
	804	84,0
	999	64,0
0808 20 67	064	93,3
	400	87,7
	999	90,5

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

**COMMISSION REGULATION (EC) No 2515/97**  
**of 16 December 1997**

**amending Regulation (EC) No 2118/97 determining the extent to which applications lodged in October 1997 for import licences for certain egg sector products and poultrymeat pursuant to Regulations (EC) No 1474/95 and (EC) No 1251/96 can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 1474/95<sup>(1)</sup> opening and providing for the administration of the tariff quotas in the egg sector and for egg albumin, as last amended by Regulation (EC) No 1514/97<sup>(2)</sup>, and in particular Article 5 (5) thereof,

Having regard to Commission Regulation (EC) No 1251/96 of 28 June 1996 opening and providing for the administration of tariff quotas in the poultrymeat sector and albumin<sup>(3)</sup>, as last amended by Regulation (EC) No 1514/97, and in particular Article 5 (5) thereof,

Whereas an error has been discovered in Annex II of Commission Regulation (EC) No 2118/97<sup>(4)</sup>; whereas the Regulation in question should therefore be corrected,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex II to Regulation (EC) No 2118/97 is replaced by the Annex to this Regulation.

*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, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 145, 29. 6. 1995, p. 19.

<sup>(2)</sup> OJ L 204, 31. 7. 1997, p. 16.

<sup>(3)</sup> OJ L 161, 29. 6. 1996, p. 136.

<sup>(4)</sup> OJ L 295, 29. 10. 1997, p. 16.

## ANNEX

## ANNEX II

<i>(tonnes)</i>	
Group No	Total quantity available for the period 1 January to 31 March 1998
E1	76 844,80
E2	1 615,75
E3	6 668,51
P1	1 860,00
P2	400,00
P3	88,00
P4	100,00'

## COMMISSION REGULATION (EC) No 2516/97

of 16 December 1997

fixing the export refunds on beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal<sup>(1)</sup>, as last amended by Regulation (EC) No 2321/97<sup>(2)</sup>, and in particular Article 13 thereof,

Whereas Article 13 of Regulation (EEC) No 805/68 provides that the difference between 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 Regulation (EEC) No 32/82<sup>(3)</sup>, as last amended by Regulation (EC) No 2326/97<sup>(4)</sup>, Regulation (EEC) No 1964/82<sup>(5)</sup>, as amended by Regulation (EEC) No 3169/87, and Regulation (EEC) No 2388/84<sup>(6)</sup>, as last amended by Regulation (EEC) No 3661/92<sup>(7)</sup>, lay down the conditions for granting special export refunds on certain cuts of beef and veal and certain preserved beef and veal products;

Whereas it follows from applying those rules and criteria to the foreseeable situation on the market in beef and veal that the refund should be as set out below;

Whereas, given the current market situation in the Community and the possibilities of disposal in certain third countries in particular, export refunds should be granted, on the one hand, on bovine animals intended for slaughter of a live weight greater than 220 kilograms and less than 300 kilograms, and, on the other on adult bovine animals of a live weight of at least 300 kilograms;

Whereas export refunds should be granted for certain destinations on some fresh or chilled meat listed in the Annex under CN code 0201, on some frozen meat listed

in the Annex under CN code 0202, on some meat or offal listed in the Annex under CN code 0206 and on some other prepared or preserved meat or offal listed in the Annex under CN code 1602 50 10;

Whereas, in view of the wide differences in products covered by CN codes 0201 20 90 700 and 0202 20 90 100 used for refund purposes, refunds should only be granted on cuts in which the weight of bone does not exceed one third;

Whereas, in the case of meat of bovine animals, boned or boneless, salted and dried, there are traditional trade flows to Switzerland; whereas, to allow this trade to continue, the refund should be set to cover the difference between prices on the Swiss market and export prices in the Member States; whereas there are possibilities for exporting such meat and also salted, smoked and dried meat to certain African, Near and Middle Eastern countries; whereas a refund should accordingly be set;

Whereas, in the case of certain other cuts and preserves of meat or offal shown in the Annex under CN codes 1602 50 31 to 1602 50 80, the Community share of international trade may be maintained by granting a refund corresponding to that at present available;

Whereas, in the case of other beef and veal products, a refund need not be fixed since the Community's share of world trade is not significant;

Whereas Commission Regulation (EEC) No 3846/87<sup>(8)</sup>, as last amended by Regulation (EC) No 2333/97<sup>(9)</sup>, establishes the agricultural product nomenclature for the purposes of export refunds; whereas, with a view to clarification, the destinations must be identified in a separate Annex;

Whereas, in order to simplify customs export formalities for operators, the refunds on all frozen cuts should be brought into line with those on fresh or chilled cuts other than those from adult male bovine animals;

<sup>(1)</sup> OJ L 148, 28. 6. 1968, p. 24.

<sup>(2)</sup> OJ L 322, 25. 11. 1997, p. 25.

<sup>(3)</sup> OJ L 4, 8. 1. 1982, p. 11.

<sup>(4)</sup> OJ L 323, 26. 11. 1997, p. 1.

<sup>(5)</sup> OJ L 212, 21. 7. 1982, p. 48.

<sup>(6)</sup> OJ L 221, 18. 8. 1984, p. 28.

<sup>(7)</sup> OJ L 370, 19. 12. 1992, p. 16.

<sup>(8)</sup> OJ L 366, 24. 12. 1987, p. 1.

<sup>(9)</sup> OJ L 323, 26. 11. 1997, p. 25.

Whereas experience has shown that in certain cases it is often difficult to determine the relevant quantities of beef, veal and other meat contained in prepared or preserved meat falling within CN code 1602 50; whereas exclusively beef and veal products should accordingly be set apart and a new heading should be created for mixtures of meats or offals; whereas checks on products other than mixtures of meat or offal should be stepped up by making the granting of refunds on these products conditional on manufacture under the arrangements provided for in Article 4 of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products <sup>(1)</sup>, as amended by Regulation (EEC) No 2026/83 <sup>(2)</sup>;

Whereas refunds on female animals should vary depending on their age in order to prevent abuses in the export of certain pure-bred breeding animals;

Whereas opportunities exist for the export to certain third countries of heifers other than those intended for slaughter, but to prevent any abuse control criteria should be laid down to ensure that these animals are not more than 36 months old;

Whereas, notwithstanding the subdivision of the combined nomenclature for prepared and preserved meat, other than uncooked, falling within CN code 1602 50, experience has shown that it is possible to delete from the refund nomenclature several products falling within CN code 1602 50 31 and to amend the list of products falling within CN code 1602 50 80;

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. The list of products on which export refunds as referred to in Article 13 of Regulation (EEC) No 805/68 are granted and the amount thereof shall be as set out in Annex I of this Regulation.
2. The destinations are identified in Annex II to this Regulation.

#### *Article 2*

The grant of the refund for product code 0102 90 59 9000 of the nomenclature for export refunds and for exports to the third countries in zone 10 listed in Annex II to this Regulation shall be subject to presentation, when the customs formalities for export are completed, of the original and one copy of the veterinary certificate signed by an official veterinarian certifying that these are heifers of an age of not more than 36 months. The original of the certificate shall be returned to the exporter and the copy, certified as being in accordance with the regulations by the customs authorities, shall be attached to the application for payment of the refund.

#### *Article 3*

This Regulation shall enter into force on 17 December 1997.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 62, 7. 3. 1980, p. 5.

<sup>(2)</sup> OJ L 199, 22. 7. 1983, p. 12.

## ANNEX I

to the Council Regulation of 16 December 1997 fixing export refunds on beef

(ECU/100 kg)			(ECU/100 kg)		
Product code	Destination	Refund (?)	Product code	Destination	Refund (?)
		— Live weight —			— Net weight —
0102 10 10 9120	01	58,50	0201 20 20 9120	02	59,00
0102 10 10 9130	02	28,00		03	40,50
	03	19,50		04	20,50
	04	10,00	0201 20 30 9110 <sup>(1)</sup>	02	80,50
0102 10 30 9120	01	58,50		03	55,50
0102 10 30 9130	02	28,00		04	27,00
	03	19,50	0201 20 30 9120	02	42,50
	04	10,00		03	30,00
0102 10 90 9120	01	58,50		04	15,00
0102 90 41 9100	02	52,00	0201 20 50 9110 <sup>(1)</sup>	02	140,00
0102 90 51 9000	02	28,00		03	93,50
	03	19,50		04	46,50
	04	10,00	0201 20 50 9120	02	75,00
0102 90 59 9000	02	28,00		03	52,00
	03	19,50		04	25,50
	04	10,00	0201 20 50 9130 <sup>(1)</sup>	02	80,50
0102 90 61 9000	02	28,00		03	55,50
	03	19,50		04	27,00
	04	10,00	0201 20 50 9140	02	42,50
0102 90 69 9000	02	28,00		03	30,00
	03	19,50		04	15,00
	04	10,00	0201 20 90 9700	02	42,50
0102 90 71 9000	02	52,00		03	30,00
	03	34,00		04	15,00
	04	17,00	0201 30 00 9050	05 <sup>(4)</sup>	61,50
0102 90 79 9000	02	52,00		07 <sup>(4a)</sup>	61,50
	03	34,00	0201 30 00 9100 <sup>(2)</sup>	02	195,00
	04	17,00		03	134,00
		— Net weight —		04	67,00
0201 10 00 9110 <sup>(1)</sup>	02	80,50		06	172,00
	03	55,50	0201 30 00 9150 <sup>(6)</sup>	08	75,00
	04	27,00		09	69,00
0201 10 00 9120	02	42,50		03	58,00
	03	30,00		04	29,00
	04	15,00		06	67,00
0201 10 00 9130 <sup>(1)</sup>	02	110,50	0201 30 00 9190 <sup>(6)</sup>	02	59,00
	03	74,00		03	39,00
	04	37,50		04	19,50
0201 10 00 9140	02	59,00		06	47,50
	03	40,50			
	04	20,50			
0201 20 20 9110 <sup>(1)</sup>	02	110,50			
	03	74,00			
	04	37,50			



(ECU/100 kg)			(ECU/100 kg)		
Product code	Destination	Refund (?)	Product code	Destination	Refund (?)
		— Net weight —			— Net weight —
0202 10 00 9100	02	42,50	1602 50 10 9120	02	68,00 (8)
	03	30,00		03	54,50 (8)
	04	15,00		04	54,50 (8)
0202 10 00 9900	02	59,00	1602 50 10 9140	02	60,50 (8)
	03	40,50		03	48,00 (8)
	04	20,50		04	48,00 (8)
0202 20 10 9000	02	59,00	1602 50 10 9160	02	48,00 (8)
	03	40,50		03	39,00 (8)
	04	20,50		04	39,00 (8)
0202 20 30 9000	02	42,50	1602 50 10 9170	02	32,50 (8)
	03	30,00		03	25,50 (8)
	04	15,00		04	25,50 (8)
0202 20 50 9100	02	75,00	1602 50 10 9190	02	32,50
	03	52,00		03	25,50
	04	25,50		04	25,50
0202 20 50 9900	02	42,50	1602 50 10 9240	02	—
	03	30,00		03	—
	04	15,00		04	—
0202 20 90 9100	02	42,50	1602 50 10 9260	02	—
	03	30,00		03	—
	04	15,00		04	—
0202 30 90 9100	05 (4)	61,50	1602 50 10 9280	02	—
	07 (4a)	61,50		03	—
				04	—
0202 30 90 9400 (6)	08	75,00	1602 50 31 9125	01	92,50 (5)
	09	69,00	1602 50 31 9135	01	44,00 (8)
	03	58,00	1602 50 31 9195	01	21,50
	04	29,00	1602 50 31 9325	01	82,50 (5)
	06	67,00	1602 50 31 9335	01	39,00 (8)
0202 30 90 9500 (6)	02	59,00	1602 50 31 9395	01	21,50
	03	39,00	1602 50 39 9125	01	92,50 (5)
	04	19,50	1602 50 39 9135	01	44,00 (8)
	06	47,50	1602 50 39 9195	01	21,50
0206 10 95 9000	02	59,00	1602 50 39 9325	01	82,50 (5)
	03	39,00	1602 50 39 9335	01	39,00 (8)
	04	19,50	1602 50 39 9395	01	21,50
	06	47,50	1602 50 39 9425	01	44,00 (5)
0206 29 91 9000	02	59,00	1602 50 39 9435	01	25,50 (8)
	03	39,00	1602 50 39 9495	01	19,00
	04	19,50	1602 50 39 9505	01	19,00
	06	47,50	1602 50 39 9525	01	44,00 (5)
0210 20 90 9100	02	49,50	1602 50 39 9535	01	25,50 (8)
	04	29,50	1602 50 39 9595	01	19,00
0210 20 90 9300	02	61,00			
0210 20 90 9500 (3)	02	61,00			

(ECU/100 kg)			(ECU/100 kg)		
Product code	Destination	Refund (7)	Product code	Destination	Refund (7)
		— Net weight —			— Net weight —
1602 50 39 9615	01	19,00	1602 50 80 9495	01	19,00
1602 50 39 9625	01	9,00	1602 50 80 9505	01	19,00
1602 50 39 9705	01	—	1602 50 80 9515	01	9,00
1602 50 39 9805	01	—	1602 50 80 9535	01	25,50 (8)
1602 50 39 9905	01	—	1602 50 80 9595	01	19,00
1602 50 80 9135	01	39,00 (8)	1602 50 80 9615	01	19,00
1602 50 80 9195	01	19,00	1602 50 80 9625	01	9,00
1602 50 80 9335	01	35,00 (8)	1602 50 80 9705	01	—
1602 50 80 9395	01	19,00	1602 50 80 9805	01	—
1602 50 80 9435	01	25,50 (8)	1602 50 80 9905	01	—

(1) Entry under this subheading is subject to the submission of the certificate appearing in the Annex to amended Commission Regulation (EEC) No 32/82.

(2) Entry under this subheading is subject to compliance with the condition laid down in amended Commission Regulation (EEC) No 1964/82.

(3) The refund on beef in brine is granted on the net weight of the meat, after deduction of the weight of the brine.

(4) Carried out in accordance with amended Commission Regulation (EEC) No 2973/79 (OJ L 336, 29. 12. 1979, p. 44).

(4a) Carried out in accordance with amended Commission Regulation (EEC) No 2051/96 (OJ L 274, 26. 10. 1996, p. 18).

(5) OJ L 221, 19. 8. 1984, p. 28.

(6) The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210 of 1. 8. 1986, p. 39).

(7) Article 13 (10) of amended Regulation (EEC) No 805/68 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.

(8) The refund is granted only on products manufactured under the arrangement provided for in Article 4 of amended Commission Regulation (EEC) No 565/80.

(9) The grant of the refund is subject to compliance with the conditions referred to in Article 2 of this Regulation.

NB: The descriptions corresponding to the product codes and the footnotes are set out in Commission Regulation (EEC) No 3846/87 as amended.

## ANNEX II

Zone 01: all third countries

Zone 02: zones 08 and 09

Zone 03	Zone 05	Zone 09
022 Ceuta and Melilla	400 United States of America	224 Sudan
024 Iceland	Zone 06	228 Mauritania
028 Norway		232 Mali
041 Faroe Islands		236 Burkina Faso
043 Andorra	809 New Caledonia	240 Niger
044 Gibraltar	822 French Polynesia	244 Chad
045 Vatican City	Zone 07	247 Cape Verde
053 Estonia		248 Senegal
054 Latvia		252 Gambia
055 Lithuania	404 Canada	257 Guinea-Bissau
060 Poland	Zone 08	260 Guinea
061 Czech Republic		264 Sierra Leone
063 Slovakia		268 Liberia
064 Hungary	046 Malta	272 Côte d'Ivoire
066 Romania	052 Turkey	276 Ghana
068 Bulgaria	072 Ukraine	280 Togo
070 Albania	073 Belarus	284 Benin
091 Slovenia	074 Moldova	288 Nigeria
092 Croatia	075 Russia	302 Cameroon
093 Bosnia-Herzegovina	076 Georgia	306 Central African Republic
094 Serbia and Montenegro	077 Armenia	310 Equatorial Guinea
096 Former Yugoslav Republic of Macedonia	078 Azerbaijan	311 Sao Tome and Principe
109 The communes of Livigno and Campione d'Italia; the island of Helgoland	079 Kazakhstan	314 Gabon
406 Greenland	080 Turkmenistan	318 Congo
600 Cyprus	081 Uzbekistan	322 Democratic Republic of Congo
662 Pakistan	082 Tajikistan	324 Rwanda
669 Sri Lanka	083 Kirghistan	328 Burundi
676 Myanmar (Burma)	204 Morocco	329 St Helena and dependencies
680 Thailand	208 Algeria	330 Angola
690 Vietnam	212 Tunisia	334 Ethiopia
700 Indonesia	216 Libya	336 Eritrea
708 Philippines	220 Egypt	338 Djibouti
724 North Korea	604 Lebanon	342 Somalia
950 Stores and provisions (Destinations referred to in Article 34 of Commission Regulation (EEC) No 3665/87, as amended)	608 Syria	350 Uganda
Zone 04	612 Iraq	352 Tanzania
	616 Iran	355 Seychelles and dependencies
	624 Israel	357 British Indian Ocean Territory
	625 Gaza and Jericho	366 Mozambique
	628 Jordan	373 Mauritius
	632 Saudi Arabia	375 Comoros
	636 Kuwait	377 Mayotte
039 Switzerland	640 Bahrain	378 Zambia
	644 Qatar	386 Malawi
	647 United Arab Emirates	388 South Africa
	649 Oman	395 Lesotho
	653 Yemen	Zone 10
	720 China	
		740 Hong Kong SAR

NB: The countries are those defined by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19).

**COMMISSION REGULATION (EC) No 2517/97  
of 16 December 1997**

**amending Regulations (EEC) No 2312/92 and (EEC) No 1148/93 laying down  
detailed rules for implementing the specific measures for supplying the French  
overseas departments with breeding bovines and horses**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments<sup>(1)</sup>, as last amended by Regulation (EC) No 2598/95<sup>(2)</sup>, and in particular Article 4 (5) thereof,

Whereas, pursuant to Article 4 of Regulation (EEC) No 3763/91, it is necessary to determine the number of pure-bred breeding bovines and horses originating in the Community which are eligible for aid with a view to encouraging the development of those sectors in the French overseas departments (FOD);

Whereas the quantities of the forecast supply balance and the level of aid for those products are fixed by Commission Regulations (EEC) No 2312/92<sup>(3)</sup> and (EEC) No 1148/93<sup>(4)</sup>, as last amended by Regulation (EC) No 1266/97<sup>(5)</sup>; whereas the Annexes to those Regulations should therefore be amended;

Whereas the need might arise in the French overseas departments for additional supplies of pure-bred breeding bovines and horses in particular marketing years; whereas, therefore, the French authorities should be granted some leeway in their management of the scheme so they can issue aid certificates for animals intended for certain overseas departments in excess of the maximum quantities available to those departments, on condition that the overall maximum quantity available for all four overseas departments is complied with; whereas, in order to take proper account of such additional supply requirements for subsequent marketing years, the French authorities should inform the Commission of cases in which certificates have been issued using this discretionary power;

Whereas, pending a communication from the competent authorities updating the requirements of the French over-

seas departments, and so as not to interrupt application of the specific supply arrangements, the balance was drawn up for the period 1 July to 31 December 1997 by Regulation (EC) No 1272/97; whereas, as a result of the presentation by the French authorities of information on the needs of the French overseas departments, it has been possible to establish the balance for the entire 1997/98 marketing year; whereas the Annexes to Regulations (EC) No 2312/92 and (EC) No 1148/93 should therefore be replaced by the Annexes to this Regulation;

Whereas the supply arrangements are laid down for the period 1 July to 30 June; whereas the definitive supply balance for the 1997/98 marketing year should therefore apply from the start of that year, i.e. 1 July 1997;

Whereas application of the criteria for fixing the amount of Community aid to the current market situation in the sector in question and, in particular, to the exchange rates and prices for those products in the European part of the Community and on the world market, gives rise to aid for the supply of the FODs with pure-bred breeding animals at the levels fixed in the Annex hereto;

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*

Regulation (EC) No 2312/92 is amended as follows:

1. The following paragraph is inserted after Article 9 (1):

‘1a. However, the competent authority may, to meet special needs arising in the management of the aid, issue aid certificates for a number of animals exceeding the maximum quantity available for each overseas department, provided that the overall number of animals benefiting from the aid in all four departments is not exceeded.

France shall inform the Commission of the cases in which it has issued certificates in accordance with the first subparagraph.’;

2. Annex III is replaced by Annex I to this Regulation.

<sup>(1)</sup> OJ L 356, 24. 12. 1991, p. 1.

<sup>(2)</sup> OJ L 267, 9. 11. 1995, p. 1.

<sup>(3)</sup> OJ L 222, 7. 8. 1992, p. 32.

<sup>(4)</sup> OJ L 116, 12. 5. 1993, p. 15.

<sup>(5)</sup> OJ L 174, 2. 7. 1997, p. 27.

*Article 2*

Regulation (EC) No 1148/93 is amended as follows:

1. The following paragraph is inserted after Article 4 (1):

'1a. However, the competent authority may, to meet special needs arising in the management of the aid, issue aid certificates for a number of animals exceeding the maximum quantity available for each overseas department, provided that the overall number of animals benefiting from the aid in all four departments is not exceeded.

France shall inform the Commission of the cases in which it has issued certificates in accordance with the first subparagraph.'

2. the Annex is replaced by Annex II to this Regulation.

*Article 3*

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

Articles 1 (2) and 2 (2) shall apply from 1 July 1997.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX I

## ANNEX III

## PART 1

**Supply to Réunion of pure-bred breeding bovines originating in the Community for the period  
1 July 1997 to 30 June 1998**

(ECU/head)

CN code	Description	Number of animals to be supplied	Aid
0102 10 00	Pure-bred breeding bovines <sup>(1)</sup>	350	930

## PART 2

**Supply to French Guiana of pure-bred breeding bovines originating in the Community for the  
period 1 July 1997 to 30 June 1998**

(ECU/head)

CN code	Description	Number of animals to be supplied	Aid
0102 10 00	Pure-bred breeding bovines <sup>(1)</sup>	300	930

## PART 3

**Supply to Martinique of pure-bred breeding bovines originating in the Community for the period  
1 July 1997 to 30 June 1998**

(ECU/head)

CN code	Description	Number of animals to be supplied	Aid
0102 10 00	Pure-bred breeding bovines <sup>(1)</sup>	25	930

## PART 4

**Supply to Guadeloupe of pure-bred breeding bovines originating in the Community for the  
period 1 July 1997 to 30 June 1998**

(ECU/head)

CN code	Description	Number of animals to be supplied	Aid
0102 10 00	Pure-bred breeding bovines <sup>(1)</sup>	25	930

<sup>(1)</sup> Entry under this subheading is subject to the conditions laid down in the relevant Community provisions.

## ANNEX II

## ANNEX

## PART 1

**Supply to French Guiana of pure-bred breeding horses originating in the Community for the period 1 July 1997 to 30 June 1998**

<i>(ECU/head)</i>			
CN code	Description of the goods	Number of animals to be supplied	Aid
0101 11 00	Pure-bred breeding horses <sup>(1)</sup>	16	930

## PART 2

**Supply to Martinique of pure-bred breeding horses originating in the Community for the period 1 July 1997 to 30 June 1998**

<i>(ECU/head)</i>			
CN code	Description of the goods	Number of animals to be supplied	Aid
0101 11 00	Pure-bred breeding horses <sup>(1)</sup>	16	930

## PART 3

**Supply to Guadeloupe of pure-bred breeding horses originating in the Community for the period 1 July 1997 to 30 June 1998**

<i>(ECU/head)</i>			
CN code	Description of the goods	Number of animals to be supplied	Aid
0101 11 00	Pure-bred breeding horses <sup>(1)</sup>	8	930

<sup>(1)</sup> Entry under in this subheading is subject to the conditions laid down in Council Directive 90/427/EEC of 26 June 1990 on the zootechnical and genealogical conditions governing intra-Community trade in equidae (OJ L 224, 18. 8. 1990, p. 55).

## COMMISSION REGULATION (EC) No 2518/97

of 16 December 1997

amending Regulation (EEC) No 1913/92 laying down detailed rules for implementing the specific arrangements for supplying the Azores and Madeira with beef and veal sector products

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

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products<sup>(1)</sup>, as last amended by Regulation (EC) No 2348/96<sup>(2)</sup>, and in particular Article 10 thereof,

Whereas Regulation (EEC) No 1600/92 provides for the establishment for the beef and veal sector of the quantities of the specific supply balances for the Azores and Madeira regarding beef and veal and pure-bred breeding animals;

Whereas the quantities in the forecast supply balance for those products are fixed by Commission Regulation (EEC) No 1913/92<sup>(3)</sup>, as last amended by Regulation (EC) No 1265/97<sup>(4)</sup>;

Whereas, pending a communication from the competent authorities updating the requirements of Madeira, and so as not to interrupt application of the specific supply arrangements, the balance was drawn up for the period 1 July to 31 December 1997 by Regulation (EC) No 1265/97; whereas as a result of the presentation by the Portuguese authorities of information on the needs of Madeira, it was possible to establish the balance for the entire 1997/98 marketing year; whereas the Annexes to

Regulation (EEC) No 1913/92 should thus be replaced by the Annexes to this Regulation;

Whereas the supply arrangements are laid down for the period 1 July to 30 June; whereas the definitive supply balance for the 1997/98 marketing year should therefore apply from the start of that year, i.e. 1 July 1997;

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*

Regulation (EEC) No 1913/92 is hereby amended as follows:

1. Annex I is replaced by Annex I to this Regulation.
2. Annex III is replaced by Annex II to this Regulation.

*Article 2*

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

It shall apply from 1 July 1997.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 173, 27. 6. 1992, p. 1.

<sup>(2)</sup> OJ L 320, 11. 12. 1996, p. 1.

<sup>(3)</sup> OJ L 192, 11. 7. 1992, p. 35.

<sup>(4)</sup> OJ L 174, 2. 7. 1997, p. 24.



## ANNEX I

## ANNEX I

**Madeira: Forecast supply balance for beef and veal sector products from 1 July 1997 to 30 June 1998**

<i>(tonnes)</i>		
CN code	Description of goods	Quantity
0201	Meat of bovine animals, fresh or chilled	3 500
0202	Meat of bovine animals, frozen	2 500 <sup>1</sup>

## ANNEX II

## ANNEX III

## PART 1

**Azores: Supply of pure-bred breeding bovines originating in the Community from 1 July 1997 to 30 June 1998**

CN code	Description of goods	Number of animals to be supplied	Aid (ECU/head)
0102 10 00	Pure-bred breeding bovines <sup>(1)</sup>	1 150	560

## PART 2

**Madeira: Supply of pure-bred breeding bovines originating in the Community from 1 July 1997 to 30 June 1998**

CN code	Description of goods	Number of animals to be supplied	Aid (ECU/head)
0102 10 00	Pure-bred breeding bovines <sup>(1)</sup>	200	610

<sup>(1)</sup> Entry under this subheading is subject to the conditions laid down in the relevant Community provisions.

## COMMISSION REGULATION (EC) No 2519/97

of 16 December 1997

laying down general rules for the mobilization of products to be supplied under  
Council Regulation (EC) No 1292/96 as Community food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security<sup>(1)</sup>, and in particular Article 22 thereof,

Whereas in the light of experience it is appropriate to amend Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid<sup>(2)</sup>, as amended by Regulation (EEC) No 790/91<sup>(3)</sup>; whereas in the interests of clarity Regulation (EEC) No 2200/87 should be recast;

Whereas it is appropriate to reaffirm the importance of equal access for all to the supply operation; whereas an invitation to tender offers the same safeguards as a procedure for awarding contracts;

Whereas the mobilization of products from outside the Community should be placed within the framework of a Regulation; whereas in view of such inclusion, it is appropriate to indicate that, having regard to the specific obligations or even departures from normal commercial practices, no general reference is made to Incoterms;

Whereas it is appropriate to allow international and non-governmental organizations which are themselves the beneficiaries of such aid to procure on the Community market or from outside the Community the products to be supplied as aid;

Whereas it is appropriate to allow an undertaking or body to be authorized to carry out all or part of a food aid operation;

Whereas it should be possible for the direct agreement contract procedure to be used in particular and justified circumstances;

Whereas it is necessary to provide that products to be delivered free at destination may, in some cases, only be transported overland in view of the new countries receiving food aid, in particular those of the Caucasus and Central Asia;

Whereas it may be appropriate for products to be supplied ex works or free carrier for some food aid beneficiaries;

Whereas the mobilization procedures should be as flexible as possible in order to cover all the situations to which Community food aid operations have to respond;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Food Aid and Food Security Committee,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

## General provisions

## Article 1

1. Where a decision has been taken to mobilize products for the purposes of a Community operation under Regulation (EC) No 1292/96, the procedures laid down in this Regulation shall apply.
2. This Regulation shall apply to goods to be supplied:
  - ex works or free carrier, or
  - free at port of shipment, or
  - free at port of landing, or
  - free at destination.
3. Where the purchases are effected in the recipient countries themselves, the Commission may adopt special provisions, to be laid down in the tender notice provided for in Article 6, to take account of the customs of the countries and their operators.

## Article 2

1. Participation in the tender procedures provided for under this Regulation shall be open on equal terms to any natural or legal person, hereinafter called 'undertaking',
  - from the Community pursuant to Article 58 of the Treaty,

<sup>(1)</sup> OJ L 166, 5. 7. 1996, p. 1.

<sup>(2)</sup> OJ L 204, 25. 7. 1987, p. 1.

<sup>(3)</sup> OJ L 81, 28. 3. 1991, p. 108.

- from a Member State established in the case of an undertaking outside the Community, or a maritime company established outside the Community and controlled by nationals of a Member State if their vessels are registered in that Member State in accordance with its legislation,
- from a recipient country included in the list annexed to Regulation (EC) No 1292/96,
- from the country where the mobilization is carried out under the conditions set out in Articles 11 and 17 of Regulation (EC) No 1292/96.

2. The Commission may apply a temporary or permanent restriction on participation in the tender procedure by undertakings found to have committed a serious breach of any of their obligations in the execution of a food aid or other operation financed by the Community.

#### Article 3

1. The Commission may authorize international and non-governmental organizations which are beneficiaries of Community aid to purchase and mobilize the products for use as aid supplies themselves. In that case the Commission shall determine the rules and procedures which shall apply.

2. The Commission may entrust the mobilization of all or part of the products to be supplied as Community aid to an undertaking or body authorized for the purpose. In this case the Commission shall determine the rules and procedures which shall apply.

3. The Commission shall determine the rules and procedures provided for in paragraphs 1 and 2 in accordance with the provisions envisaged by Article 22 of Regulation (EC) No 1292/96 and pursuant to the provisions of this Regulation.

#### Article 4

1. Depending on the conditions laid down for a particular supply, the product to be supplied shall be purchased in the Community, the recipient country or a developing country listed in the Annex to Regulation (EC) No 1292/96, belonging if possible to the same geographical region, in accordance with the provisions of Article 11 of that Regulation.

2. In exceptional circumstances and in accordance with the procedures laid down in Article 11 (2) of Regulation (EC) No 1292/96, products may be purchased on the market of a country other than those referred to in paragraph (1).

3. Where products are mobilized in the Community, they may be purchased on the market from an intervention agency designated in the tender notice or be manufactured from goods purchased from such an agency. In the event of a purchase from an intervention agency, the purchase shall be effected on the basis of a fixed-price

sale in accordance with current Community agricultural rules.

4. Where products are mobilized outside the Community, the Commission may indicate the country of origin of the products to be supplied under a particular operation.

#### Article 5

The characteristics of the products to be mobilized and the requirements regarding packaging and marking shall be published in the C series of the *Official Journal of the European Communities*, without prejudice to any special provisions which may be adopted by the Commission, and indicated in the tender notice.

### CHAPTER II

#### Award procedures

#### Article 6

1. Supply contracts shall be awarded in one of the following ways:

- (a) open invitation to tender;
- (b) restricted invitation to tender;
- (c) direct agreement contract.

2. In the case of an open invitation to tender, a tender notice conforming to Annex I shall be published in the *Official Journal of the European Communities* no later than 15 days before the expiry of the period for the submission of the tenders.

3. In the case of a restricted invitation to tender, a tender notice shall be forwarded to at least three undertakings by letter or written telecommunication.

Where products are mobilized in the Community, the undertakings invited shall be selected from those who have participated in the invitations to tender referred to in paragraph 2.

Where products are mobilized outside the Community, the undertakings invited shall be those registered for this purpose with the Commission.

A restricted invitation to tender may be issued in the following cases:

- (a) where products are mobilized outside the Community;
- (b) where products are supplied under an allocation decision taken pursuant to Article 24 (1) (a) of Regulation (EC) No 1292/96;
- (c) where a supply operation is decided following the cancellation of a previous supply contract;
- (d) where a supply operation has become urgent following the allocation decision.

4. In the case of a direct agreement contract, only one undertaking shall be invited to tender.

A direct agreement contract may be undertaken where warranted by the particular conditions of a supply and, in particular, in the case of an experimental supply.

5. The invitation to tender may relate to the supply of a fixed quantity or a maximum quantity of products for a specific monetary amount.

6. One single invitation to tender may relate to the supply of more than one lot. A lot may be subdivided into part lots or cover more than one action number.

#### Article 7

1. Tenderers shall participate in the tendering procedure either by sending a written tender by registered post to the Commission department indicated in the tender notice or by lodging the written tender with that department against acknowledgment of receipt. Tenders must be placed in an envelope bearing the words 'food aid' and the reference number of the relevant invitation to tender. The envelope must be sealed and placed inside a second envelope bearing the address indicated in the tender notice.

Tenders may also be sent by written telecommunication to the numbers indicated in the tender notice. The fact that the numbers were engaged shall not be accepted as an excuse for failure to meet the deadline for submission of tenders.

Tenders must arrive or be lodged in their entirety before expiry of the deadline for submission of tenders laid down in the tender notice.

2. One single tender may be submitted for each lot. It shall be valid only if it relates to a complete lot. Where a lot is subdivided into part lots, the tender shall be established as an average thereof.

Where the invitation to tender relates to the supply of more than one lot, a separate tender shall be submitted per lot. The tenderer is not obliged to present a tender for all the lots.

Tenders shall conform to the model in Annex IIA and shall take account of the particulars given in Annex IIB.

3. Tenders must indicate:

- (a) the tenderer's name and address;
- (b) the reference numbers of the invitation to tender, lot and action;
- (c) the net weight of the lot or, pursuant to point (e), the specific monetary amount to which the tender relates;

(d) the proposed price in ecus per net metric tonne of product at which the tenderer undertakes to carry out the supply in accordance with the conditions laid down, except where paragraph (e) applies;

(e) where the invitation to tender is for a contract to supply a maximum quantity of a given product for a specific monetary amount, the net quantity of products offered.

The tender shall be deemed to take account both of the mobilization procedure referred to in Article 4 as laid down for the supply concerned, and of the refund or charge applicable on export and other compensatory amounts provided for in the rules governing trade in agricultural products.

The invitation to tender may provide that the tender must include these refunds or other amounts;

The provisions of the second and third subparagraphs shall apply *mutatis mutandis* where the provisions of point (e) are applied.

4. Without prejudice to paragraph 3, in the case of delivery ex works or free at destination overland only, the tender shall indicate a maximum of two loading addresses. In the case of delivery free carrier, the loading address shall be indicated in the tender notice; the Commission will only proceed to this stage of delivery in special circumstances duly motivated.

5. Without prejudice to paragraph 3, in the case of delivery free at port of landing or free at destination by sea, the tender shall indicate one single port of shipment. However, two ports may be indicated in the tender if the whole cargo cannot be loaded in the first port by virtue of that port's configuration and loading has to be completed on the same vessel in the second port.

6. Without prejudice to paragraph 3, in the case of delivery free at port of shipment, the tender shall indicate one single port accessible to ocean-going vessels where the supply can be undertaken under the conditions laid down. However, two ports may be indicated in the tender if the lot is subdivided into part lots with different destinations.

In the case of supplies involving no more than 3 000 tonnes net per lot for a single destination, the port of loading shall be selected, having regard to the possibility of a sea connection with the country of destination, with a maximum of one transshipment in a port outside the Community, by a liner or part cargo vessel during the shipment period laid down. In this case, the tender shall be valid only if it is accompanied by a confirmation from a shipping company or its agent of the existence of such a connection.

In the case of the supply of processed products, including rice, mobilized in the Community, the sea transport may include one transshipment in another European port of the Community under the conditions laid down above; that port must also be indicated in the tender. The transshipment costs shall be borne by the supplier.

In special circumstances the port of shipment may be specified in the tender notice.

7. Where point (d) of paragraph 3 applies, the tender shall be presented as follows:

- (a) in the case of delivery *ex works* or free carrier, the tenderer shall submit a single tender covering the full cost of loading and stowing the goods on the means of transport provided by the beneficiary;
- (b) in the case of delivery free at port of shipment, the tenderer shall submit a single tender covering all costs relating to the stage of delivery specified in the tender notice;
- (c) in the case of delivery free at port of landing, the tenderer shall simultaneously quote two amounts:
  - (i) the first for delivery at the stage specified. The tender shall show clearly and separately the costs relating to sea transport proper,
  - (ii) the second for the alternative stage of delivery free at port of shipment specified in the tender notice;
- (d) in the case of delivery free at destination by sea, the tenderer shall simultaneously quote two amounts:
  - (i) the first for delivery at the stage specified. The tender shall show clearly and separately the costs relating to both overseas land transport and sea transport proper,
  - (ii) the second for the alternative stage of delivery free at port of shipment specified in the tender notice;
- (e) in the case of delivery free at destination by land only, the tenderer shall simultaneously quote two amounts:
  - (i) the first for delivery at the stage specified. The tender shall show clearly and separately the costs relating to land transport proper,
  - (ii) the second for the alternative stage of delivery *ex works*.

8. Where point (e) of paragraph 3 applies, the tender notice shall specify the manner of presentation of the tender.

9. The tender shall be valid only if it is accompanied by evidence that the guarantee referred to in Article 8 has been lodged. The guarantee shall be provided under the conditions set out in paragraph 1 of the present Article. The mere reference to a guarantee lodged for the same lot in a previous tender shall be inadmissible.

10. A tender which is not submitted in accordance with the provisions of this Article or contains reservations or conditions other than those laid down for the invitation to tender shall not be valid.

11. No tender may be changed or withdrawn after it has been received, except in the case referred to in Article 9 (4).

#### Article 8

A tendering guarantee, expressed in ecus, shall be lodged for each complete lot. The amount of the guarantee shall be laid down in the tender notice. The period of validity shall be at least one month and shall be extended on request by the Commission. The guarantee must specifically state that it has been lodged in accordance with this Article and must include the particulars referred to in points (a) and (b) of Article 7 (3). A single document may include guarantees for more than one lot provided the individual amounts are specified by lot.

The guarantee shall be lodged in favour of the Commission in the form of a security from a credit establishment recognized by a Member State. Where products are mobilized outside the Community, the guarantee may be lodged by a credit establishment located outside the Community provided it is accepted by the Commission. The guarantee shall be irrevocable and capable of being called at first request. The guarantee may be released only on the initiative of the Commission. The conditions for its release or forfeiture are set out in Article 22. No acknowledgment of receipt shall be given.

In case of mobilization in the country which is itself the beneficiary of the food aid, the Commission may define in the tender notice other conditions for the guarantee taking account of the customs of the country.

#### Article 9

1. The award shall be made no later than three working days for purchases in the Community and four working days for purchases outside the Community from the expiry of the deadline for the submission of tenders to the tenderer who submitted the lowest tender respecting all the conditions of the invitation to tender, in particular the characteristics of the products to be mobilized, hereinafter referred to as 'the supplier'.

2. Where the lowest tender is presented simultaneously by a number of tenderers, the contract shall be awarded by the drawing of lots.

3. In the case of supply foreseen free at port of landing or free at destination, the contract may nevertheless be awarded for a supply to be carried out at the alternative stage of delivery free at port of shipment or *ex works* specified in the tender notice.

4. When the contract is awarded, both the supplier and the unsuccessful tenderers shall be duly notified by letter or written telecommunication within the period referred to in paragraph 1. If the supplier is notified after this period has expired, he shall have the right to withdraw his tender within the first working day following.

5. For each invitation to tender, two separate deadlines for the submission of tenders shall be indicated in the tender notice. If the contract has not been awarded on expiry of the first deadline, the Commission may postpone the award using the second deadline. Tenderers shall be informed by letter or written telecommunication within the period referred to in paragraph 1.

If necessary, new conditions of supply may be laid down for the second deadline.

6. The Commission may decide not to award the contract on the expiry of the first or of the second deadline, in particular where the tenders submitted are outside the range of normal market prices. The Commission shall not be required to give reasons for its decision. Tenderers shall be informed of the decision not to award the contract by written telecommunication, within the period referred to in paragraph 1.

7. Where the products are mobilized in the Community, the results of the invitations to tender shall be published in the C series of the *Official Journal of the European Communities*.

Where products are mobilized outside the Community, the results of main invitations to tender will be published periodically in the C series of the *Official Journal of the European Communities*.

### CHAPTER III

#### Obligations of the supplier and conditions of supply

##### Article 10

1. The supplier shall perform his obligations in accordance with the conditions laid down in the tender notice as well as his responsibilities under this Regulation, including those arising from his tender.

The supplier shall be deemed to be acquainted with all applicable general and special conditions and to have accepted them.

2. In order to ensure that he meets his obligations, the supplier shall lodge a delivery guarantee with the Commission within 10 working days of notification of the

award of the contract. That guarantee, expressed in ecus, shall represent 10 % of the amount of the tender per lot. The period of validity shall be at least one year and shall be extended on request of the Commission. It shall be lodged in accordance with the second and third paragraphs of Article 8. It must expressly state that it has been lodged in accordance with this Article and must include the particulars referred to in points (a) and (b) of Article 7 (3). It shall also indicate the country or organization receiving the aid.

3. Within 10 working days of notification of the award of the contract, the supplier shall inform in writing the enterprise referred to in Article 11 of:

- (a) the name and address of the manufacturer, packer or stockholder of the goods to be delivered, and the approximate date of manufacture or packaging.

Where the mobilization concerns a processed product, the supplier shall, at least three working days in advance, communicate the date when the manufacturing or the packaging process begins;

- (b) the name of his representative at the place of delivery.

4. The rights and obligations entailed by the award of the contract shall not be transferable.

##### Article 11

As soon as the contract has been awarded the Commission shall inform the supplier of the agency which will be responsible for carrying out the checks referred to in Article 16, issuing the certificate of conformity or the certificate of delivery, and generally coordinating all stages of the supply operation (hereinafter referred to as 'the monitor').

In the event of disagreement between the monitor and the supplier during the course of the supply the Commission shall take appropriate measures.

The Commission may designate different monitors for the various stages of the supply.

##### Article 12

1. The provisions of paragraphs 2 to 8 shall apply in the case of supply *ex works* or free carrier. The stage of delivery shall be laid down in the tender notice.

2. The supplier shall reach a written agreement with the beneficiary or his representative on the date for delivery of the goods to the loading address specified in his tender or the tender notice and send a copy to the monitor. The monitor shall provide any assistance which may be necessary in order for such agreement to be reached.

The goods may not be delivered in split consignments unless the beneficiary and the Commission so agree. In that case the Commission shall require the supplier to bear the additional checking costs.

3. The supplier shall notify the monitor and the Commission promptly in writing of the agreed date and place of delivery, or of the fact that agreement with the beneficiary has not been reached. Failure to reach agreement with the beneficiary must be notified at the latest ten days before the deadline set in the tender notice, so that the Commission can take appropriate steps.

4. The supply must be carried out by the deadline set in the tender notice. Where delivery is impossible before that deadline, the Commission, at the written request of the beneficiary, backed up by appropriate supporting evidence, may extend the deadline by up to 30 days in order to allow delivery to take place. The supplier shall be obliged to accept the extension.

Where the supply cannot take place by the extended deadline for reasons not attributable to the supplier, he may, at his request, be released from his obligations.

5. The supply shall be complete when all the goods have actually been loaded and stowed on the means of transport provided by the beneficiary.

6. The supplier shall bear all risks, including loss or deterioration, to which the goods may be subject until completion of the supply and recording of that fact by the monitor in the final certificate of conformity referred to in Article 16.

7. The supplier shall carry out the formalities relating to the export license and customs clearance, bearing the related costs and charges.

8. In the event of a discrepancy between the dates and quantities entered in the taking-over certificate referred to in Article 17 and the final certificate of conformity, the Commission may carry out further checks on the basis of which new documents may be issued.

### *Article 13*

1. The provisions of paragraphs 2 to 8 shall apply in the case of supply free at port of shipment. The stage of delivery shall be specified in the tender notice.

2. The supplier shall reach a written agreement with the beneficiary or his representative on the date for delivery of the goods at the port of shipment specified in his tender, and on the loading wharf and, where applicable, the loading rate, and send a copy to the monitor. The monitor shall provide any assistance which may be

necessary in order for such agreement to be reached. In the event of failure to reach an agreement the Commission shall take the appropriate measures on the basis of a report from the monitor.

At the supplier's written request, with the agreement of the beneficiary, the Commission may authorize the port of shipment to be changed provided any costs this entails are borne by the supplier.

The goods may not be delivered in split consignments unless the beneficiary and the Commission so agree. In that case, the Commission shall require the supplier to bear the additional checking costs.

3. The supplier shall notify the monitor and the Commission promptly in writing of the agreed date and place of delivery, or of the fact that agreement with the beneficiary has not been reached. Failure to reach agreement with the beneficiary must be notified at the latest 10 days before the deadline set in the tender notice, so that the Commission can take appropriate steps.

4. Where it has proved impossible to carry out the delivery by the deadline set in the tender notice because of the absence of a sea connection, the Commission shall take appropriate measures on the basis of a report from the monitor. Such measures may consist of automatic extension of the delivery period, permission to use another port, cancellation of the supply operation, or shipping of the goods on a vessel proposed by the supplier or the monitor, provided freight and loading charges are deemed to be acceptable. The supplier may bear the costs entailed if the confirmation referred to in Article 7 (6) proves to be incorrect.

5. Except in the circumstances described in paragraph 4, the delivery must be carried out by the deadline set in the tender notice. Where delivery is impossible by that deadline, the Commission, at the written request of the beneficiary, backed up by appropriate supporting evidence, may extend the deadline by up to 30 days in order to allow delivery to take place. The supplier shall be obliged to accept the extension.

Where the delivery cannot take place by the extended deadline, for reasons not attributable to the supplier, he may, at his request, be released from his obligations.

6. Where the loading operations are the responsibility of the supplier, he shall load the goods onto the vessel at the vessel's or the port installation's loading rate, as appropriate, in accordance with the custom of the port.

In the case of delivery FOB stowed, the supplier shall be responsible for all subsequent stowage and, in the case of bulk delivery, trimming operations.

7. The supply shall be complete when all the goods have actually been delivered at the stage specified in the tender notice.

8. Article 12 (6), (7) and (8) shall apply *mutatis mutandis*.

#### Article 14

1. The provisions of paragraphs 2 to 14 shall apply in the case of supply free at port of landing.

The stage of delivery shall be specified in the tender notice.

2. The supplier shall arrange transport at his own expense by the route most appropriate having regard to the deadline referred to in paragraph 14, from the port of shipment indicated in his tender to the port of destination specified in the tender notice.

However, at the supplier's written request, the Commission may permit another port of shipment to be used provided any costs this entails are borne by the supplier.

3. The supplier shall arrange for the goods to be carried by sea on board vessels which are given the highest rating by Community or international classification societies and which meet all health requirements for the transport of foodstuffs. For embarkations in the Community, the classification societies are to fulfil the rules and requirements set out in Council Directive 94/57/EC<sup>(1)</sup>.

The carriage of the goods by sea shall be carried out in conformity with the rules preventing the distortion of free and fair competition on a commercial basis laid down in Council Regulations (EEC) No 954/79<sup>(2)</sup>, (EEC) No 4055/86<sup>(3)</sup>, (EEC) No 4056/86<sup>(4)</sup>, (EEC) No 4057/86<sup>(5)</sup> and (EEC) No 4058/86<sup>(6)</sup> concerning Community maritime transport policy. The goods shall not be shipped by shipping companies whose practices have caused injury to Community shipowners or whose country of establishment has restricted freedom of access to cargoes for Member States' shipping companies or ships lawfully registered in a Member State, in particular during the validity of a Council Decision under Article 11 of Regulation (EEC) No 4057/86 or Article 4 (1) (b) of Regulation (EEC) No 4058/86.

The supplier shall certify to the monitor that the vessel used meets the abovementioned health requirements, and

shall provide him with copies of the classification certificates.

4. The supplier shall take out a maritime insurance policy or claim cover under a general policy. The insurance shall be for at least the tender amount and shall cover all risks associated with carriage and any other supply-related activity by the supplier up to the stage of delivery specified. It shall also cover all costs of sorting, withdrawal or destruction of damaged goods, repacking and analysis of goods where an average does not preclude their acceptance by the beneficiary.

The insurance policy shall take effect as soon as the goods insured leave the supplier's stores, and shall cease when the supply has been completed at the stage of delivery indicated in the tender notice and recording of that fact by the monitor in the final certificate of conformity.

The policy must also specify that cover has been granted in accordance with this Article.

5. The supplier shall, as soon as the information is available to him, notify the beneficiary and the monitor in writing of the name and flag of the vessel, the loading date, the expected date of arrival at the port of landing and of any incident occurring while the goods are in transit.

The supplier shall give the beneficiary and the monitor ten days', five days', three days' and 48 hours' advance confirmation, or instruct the ship's captain or the correspondent of the shipping company to give such confirmation, of the ship's expected date of arrival at the port of landing.

6. The goods may not be delivered in split consignments on more than one vessel, unless the Commission so agrees. In that case, the Commission shall require the supplier to bear the additional checking costs.

7. The supplier shall bear the cost of loading the goods onto the vessel at the port of shipment and the freight charges.

In the case of supply 'ex ship' (not unloaded), the supplier shall not have to bear the costs of unloading or of any demurrage at the port of landing provided he has not hindered the unloading. The tender notice may provide that the supplier must pay to the Commission despatch money. A copy of the statement of facts and a breakdown of laytime must be submitted with the request for payment.

In the case of supply 'ex quay' (unloaded), the supplier shall bear the costs of unloading at the port of landing, including the placing of the goods on the quay alongside the vessel and, where necessary, the lighterage charges, including hiring, towing and unloading of the lighters and any demurrage in respect of the vessel or the lighters.

<sup>(1)</sup> OJ L 319, 12. 12. 1994, p. 20.

<sup>(2)</sup> OJ L 121, 17. 5. 1979, p. 1.

<sup>(3)</sup> OJ L 378, 31. 12. 1986, p. 1.

<sup>(4)</sup> OJ L 378, 31. 12. 1986, p. 4.

<sup>(5)</sup> OJ L 378, 31. 12. 1986, p. 14.

<sup>(6)</sup> OJ L 378, 31. 12. 1986, p. 21.



In the case of supply at port warehouse, the supplier, in addition to the costs referred to in the third subparagraph, shall bear the costs of handling and transfer of the goods from the *ex quay* stage up to and including their stowage in the port warehouse.

In the case of goods delivered in containers, supply shall be at the container terminal or the port warehouse stage. In this case, the detention free period shall be at least 15 days and clearly indicated in the bill of lading. In the case of supply at port warehouse, the supplier shall bear the costs of destuffing and stowage in the warehouse. Where containers have been used at the supplier's own initiative, but this was not specified in the tender notice, any related costs shall be borne by the supplier.

The supplier shall in all cases pay wharfage and similar dues where port regulations charge these to the vessel.

8. The supplier shall carry out the formalities relating to the obtaining of the export license and customs clearance, bearing the related costs and charges. He shall not have to carry out the formalities relating to the obtaining of the import licence nor the customs import formalities, nor pay the related costs and charges.

9. As soon as the goods have been shipped the supplier shall send the beneficiary the following documents, with copies to the monitor:

- (a) a *pro forma* invoice indicating that the operation relates to a Community aid free of charge;
- (b) a copy of the provisional certificate of conformity referred to in Article 16;
- (c) any document necessary for the customs clearance and taking-over by the beneficiary;
- (d) any other document specified in the tender notice.

In the case of supply *ex ship*, he shall also send the following documents:

- (a) the original of the bill of lading for the port of destination, or an equivalent document enabling the goods to be cleared through customs and unloaded by the recipient;
- (b) where appropriate, the charter party, booking note or any equivalent document, indicating in particular the lay days;
- (c) for full cargos, a technical note indicating the salt-water draught on arrival and the corresponding tonnage per centimetre (TPC) as well as the stowage plan.

In the case of supply *ex quay* or at port warehouse, he shall also send the following documents:

- (a) a copy of the bill of lading and, where appropriate, a packing list for goods supplied by container;
- (b) a delivery note enabling the goods to be cleared through customs and collected by the recipient.

10. The bill of lading shall in every case indicate the carrier and be made out to order of the supplier's representative in the port of landing. However, at the beneficiary's written request the supplier must name the beneficiary or his representative as consignee, solely for the purposes of carrying out the customs import formalities.

Except in the case of supply *ex ship*, naming the beneficiary as consignee may not have the effect of making him liable to pay or prefinance all or part of the unloading costs. The names of the beneficiary and the monitor in the port of landing must in every case be entered in the 'notify' box.

11. Without prejudice to paragraph 14, the supply shall be complete when all the goods have actually:

- (a) been delivered in the ship's hold, in the case of supply *ex ship* in accordance with the second subparagraph of paragraph 7;
- (b) been placed on the wharf in the case of supply *ex quay* in accordance with the third subparagraph of paragraph 7;
- (c) been stowed in the port warehouse or stacked in the container terminal, in the case of delivery in accordance with the fourth and fifth subparagraphs of paragraph 7.

12. The supplier shall bear all risks, including loss or deterioration, to which the goods may be subject until completion of the supply and recording of that fact by the monitor in the final certificate of conformity at the stage of supply specified in paragraph 7.

13. In the event of a discrepancy between the dates and quantities entered in the taking-over certificate and the final certificate of conformity, the Commission may carry out further checks on the basis of which new documents may be issued.

14. All the goods must arrive at the port of landing by the deadline set in the tender notice. Where the tender notice specifies more than one port of landing with a single delivery deadline for the same lot, the goods must arrive at each port by that deadline.

Recording of the vessel by the authorities of the port of landing shall be taken as proof of the date of arrival in that port. Where proof in the form of such recording is not available, the date of arrival shall be established by means of an extract from the ship's log book, confirmed by the monitor.

The tender notice may, where appropriate, specify a date before which any delivery will be considered premature, giving rise to a penalty under subparagraph (c) of Article 22 (4).

15. Where delivery is impossible by the deadline set in the tender notice, the Commission, at the written request of the beneficiary, backed up by appropriate supporting evidence, may extend the deadline by up to 30 days in order to allow delivery to take place or cancel the contract. The supplier shall be obliged to accept the extension or cancellation.

Where, the delivery cannot take place by the extended deadline for reasons not attributable to the supplier, he may, at his request, be released from his obligations.

#### Article 15

1. The provisions of paragraphs 2 to 11 shall apply in the case of delivery free at destination either by sea and by land, or by land only.

2. The supplier shall arrange transport at his own expense by the route most appropriate having regard to the deadline referred to in paragraph 9, from the port of shipment or loading quay indicated in his tender to the final place of destination specified in the tender notice.

However, at the supplier's written request the Commission may authorize the port of shipment or the loading quay to be changed, provided any costs this entails are borne by the supplier.

The supplier shall bear all the costs until the goods are made available at the warehouse of destination.

In the case of goods delivered in containers, the supplier shall bear all the costs of rental, carriage and delivery to the warehouse of the containers and their return empty. Except where containers have been used on the supplier's own initiative, but this was not specified in the tender notice, the supplier shall not bear the costs of detention charges beyond a 15-day period running from the date the goods are made available at the warehouse.

3. The provisions of Article 14 (3), (4), (6) and (8) shall apply *mutatis mutandis*.

4. The tender notice may specify a port of landing or transit point for the supply.

5. Without prejudice to paragraph 9, the supply shall be complete when all the goods have actually been made available at the warehouse of destination. The supplier shall not be responsible for the unloading of the means of transport.

6. The supplier shall bear all risks, including loss or deterioration, to which the goods may be subject until completion of supply at the stage defined in paragraph 2 and recording of that fact by the monitor in the final certificate of conformity.

7. In the event of a discrepancy between the dates and quantities entered in the taking-over certificate and the final certificate of conformity, the Commission may carry out further checks on the basis of which new documents may be issued.

8. The supplier shall notify the beneficiary and the monitor promptly in writing of the means of transport used, the loading dates, the expected date of arrival at destination, and any incident occurring while the goods are in transit.

The supplier shall give the beneficiary and the monitor five days' advance confirmation by the swiftest means of the expected date of arrival at destination.

9. All the goods must arrive at the place of destination by the deadline set in the tender notice. Where the tender notice specifies more than one place of destination with a single delivery deadline for the same lot, the goods must arrive at each place by the deadline. The tender notice may, where appropriate, specify a date before which any delivery will be considered premature, giving rise to a penalty under subparagraph (c) of Article 22 (4).

10. Article 14 (15) shall apply.

11. As soon as the goods are loaded, the supplier shall send the beneficiary with copy to the monitor:

- (a) in the case of transport by sea, a copy of the bill of lading, indicating the carrier;
- (b) a delivery note enabling the recipient to clear the goods through customs;
- (c) a copy of the provisional certificate of conformity;
- (d) a *pro forma* invoice indicating that the operation relates to a Community aid free of charge;
- (e) the packing list in case of supply in containers;

- (f) the waybill, in case of transport by land;
- (g) any document necessary for the customs clearance and taking-over by the beneficiary;
- (h) any other document specified in the tender notice.

#### *Article 16*

1. The monitor shall check the quality, quantity, packing and marking of the goods to be delivered in respect of each supply.

The final check shall be carried out at the delivery stage specified. In the case of delivery free at port of landing or free at destination, a provisional check shall also be carried out when the goods are loaded or at the factory.

2. The check shall be carried out at a time and under conditions which make it possible to obtain all the results of analyses required and, where appropriate, the results of a second inspection, before the goods are made available, or before the commencement of loading. However, in special circumstances, particularly where there is a risk of product substitution taking place in the course of supply after the said checks, the monitor may, after authorization by the Commission, make additional checks of the same kind during the loading operations. Any financial costs arising from the discovery of non-conformity during these latter checks, in particular any demurrage costs, shall be borne by the supplier.

3. When the final check is complete, the monitor shall issue the supplier with a final certificate of conformity specifying in particular the date of completion of the supply and the net quantity supplied; such certificate shall be subject to reservations if necessary.

4. Where the monitor establishes a non-conformity, he must notify the supplier and the Commission in writing as soon as possible. This shall be known as the 'notice of reservation'. If the supplier wishes to dispute the findings with the monitor and the Commission, he must do so within two working days of dispatch of this notice.

5. When the provisional check is complete, the monitor shall issue the supplier a provisional certificate of conformity subject to reservation if necessary. The monitor shall state whether the reservation is such as to render the goods unacceptable at the delivery stage. In the light of any reservations, the Commission may decide not to pay the advance referred to in Article 18 (4).

6. The supplier shall bear the financial consequences, including dead freight costs and demurrage, in the event of qualitative shortcomings or late presentation of the goods for checking.

7. The monitor shall issue written invitations to the representatives of the supplier and of the beneficiary to be present at the checking operations, in particular the taking of samples to be used for analyses. The taking of samples shall be carried out in accordance with professional practice.

When sampling is undertaken, the monitor shall take two additional samples which he shall keep under seal at the Commission's disposal for the purpose of any second check or in the event of objections being raised by the beneficiary or supplier.

The cost of the goods taken as samples shall be borne by the supplier.

8. If the supplier or the beneficiary objects to the findings of a provisional or final check carried out in accordance with paragraph 2, the monitor, after authorization of the Commission, shall arrange for a second inspection involving, according to the nature of the objection, a second sampling, second analysis, a reweighing or rechecking of the packaging.

The second inspection shall be carried out by an agency or laboratory designated by agreement between the supplier, the beneficiary and the monitor. If it proves impossible for agreement to be reached on this point within two working days of the notification of the objection, the Commission shall automatically appoint an agency or laboratory for the purpose.

9. If the final certificate of conformity is not issued after the first checks or second inspection have been carried out, the supplier shall be obliged to replace the goods.

10. The costs relating to the checks referred to in paragraph 2 shall be borne by the Commission.

The cost of checking the replacement or additional goods referred to in paragraph 9 and Article 17 (1) shall be borne by the supplier.

The costs of the second inspection referred to in paragraph 8 shall be borne by the losing party.

11. In the event of disruptions which severely impede a supply of goods free at port of landing or free at destination for reasons which are not attributable to the supplier, the Commission may decide that the monitor shall issue a final certificate of conformity before the supply has been carried out, on the basis of an appropriate check on the quantity and quality of the goods.

12. The supplier may ask the monitor to issue a provisional or final certificate of conformity in respect of part of the consignment.

However, no more than three part-certificates may be issued in respect of a single lot. A part-certificate may not be issued in respect of less than 2 500 tonnes net of unprocessed cereals and 100 tonnes net of other goods, except where it relates to the balance of a given lot. In all these cases, the Commission shall require the supplier to bear the additional checking costs. However, the last-mentioned provision shall not apply in the case of a lot divided in sublots each having a different destination.

#### Article 17

1. For goods supplied in bulk, there shall be a tolerance of 3 % by weight below the quantity requested. For goods supplied in packings, there shall be a tolerance of 1 %. The quantities taken by the monitor as samples shall be additional to the tolerances.

Where the tolerances are exceeded, the Commission may require the supplier to make an additional delivery on the same financial terms as the initial delivery within a second deadline specified by the Commission. Article 22 (4), (5) and (7) shall apply, as appropriate.

2. The taking-over certificate or the delivery certificate shall establish the net quantity actually delivered.

3. A taking-over certificate containing the particulars set out in Annex III shall be issued by the beneficiary to the supplier without delay after the goods have been supplied at the stage of delivery specified and the supplier has provided the beneficiary with the original of the final certificate of conformity and certificate of origin, the *pro forma* invoice establishing the value of the goods and their transfer to the beneficiary free of charge and, where appropriate, the documents referred to in Articles 14 and 15.

The monitor shall offer every assistance for the obtaining of the said certificate.

4. Where the beneficiary fails to issue a taking-over certificate within 15 days of receipt of the documents referred to in paragraph 3, the monitor shall, at the supplier's written and justified request, with the agreement of the Commission, issue to the supplier within five working days a delivery certificate containing the particulars set out in Annex III.

### CHAPTER IV

#### Terms of payment and release of guarantees

#### Article 18

1. The sum to be paid to the supplier shall not exceed the amount of the tender plus any costs provided for in

Article 19, less any reduction provided for in paragraph 3, sums forfeit as provided for in Article 22 (8), additional costs relating to checking mentioned in Articles 12 to 16 or costs resulting from the measures mentioned in Article 13 (4).

Where the invitation to the tender is for the supply of a maximum quantity of a given product, the sum to be paid shall not exceed the sum indicated in the tender notice, without prejudice to the application of such reductions, forfeitures or costs mentioned above or to payment of the costs provided for in Article 19.

2. Payment shall be made in respect of the net quantity shown in the taking-over certificate or the delivery certificate. However, in the event of discrepancy between the taking-over certificate and the final certificate of conformity, the latter shall take precedence, and shall be the basis for the payment.

3. Where the quality, the packaging or the marking of the goods is found at the delivery stage not to correspond to the specifications, without being such as to have prevented the taking over of the goods or issue of a certificate of delivery, the Commission, in calculating the sum to be paid, may apply reductions. Where reductions are imposed on a supplier, Article 2 (2) may apply.

4. In the case of delivery free at port of landing or free at destination, and at the supplier's request, advance payment of up to 90 % of the tender amount may be made as follows:

- (a) either in proportion to partial quantities whose conformity has been acknowledged and for which the monitor has issued a provisional certificate of conformity;
- (b) or for the full amount of goods for which a provisional certificate of conformity has been issued by the monitor.

Irrespective of the number of partial advance payments made for the lot in question, the Commission shall make only one balance payment per lot, save in exceptional circumstances acknowledged by the Commission.

5. The sum to be paid shall be payable at the supplier's request submitted in duplicate:

A request for payment of the full tender amount or balance thereof shall be accompanied by the following documents:

- (a) an invoice for the sum claimed;
- (b) the original of the taking-over certificate or the delivery certificate;
- (c) a copy of the final certificate of conformity.

A request for payment of an advance shall be accompanied by the following documents:

- (a) an invoice for the sum claimed;
- (b) a copy of the provisional certificate of conformity;
- (c) a copy of the bill of lading, charter party or waybill;
- (d) a copy of the insurance certificate.

No advance may exceed 90 % of the amount of the tender. The advance shall only be paid on submission of a guarantee in respect of the advance lodged in favour of the Commission for an amount equal to the amount of the advance plus 10 %. This guarantee shall be lodged in accordance with the second and third paragraphs of Article 8. The period of validity of the guarantee shall be at least one year and shall be extended on request by the Commission.

Each copy must be certified as conforming to the original and must be signed by the supplier.

6. All requests for payment of the full tender amount or balance thereof shall be presented to the Commission within three months of the date of issue of the taking-over certificate or certificate of delivery. Except in cases of *force majeure*, presentation of requests after this deadline shall result in 10 % of the payment being withheld.

7. All payments shall be made within 60 days of the receipt by the Commission of the complete request for payment presented in accordance with paragraph 5.

Payments made later than the specified period, for reasons not attributable to additional inspections or investigations, shall attract post-maturity interest at the monthly rate applied by the European Monetary Institute, as published in the C series of the *Official Journal of the European Communities*. The interest rate applicable shall be that for the month in which the day following expiry of the deadline referred to in the first subparagraph falls. Where payment is more than a month late, the interest rate applicable shall be an average weighted by the number of days on which each such rate prevailed.

#### Article 19

1. The supplier shall bear all the costs incurred in respect of the delivery of the goods at the stage specified. However, the Commission may repay to the supplier, at

his written request, certain additional costs which it shall assess on the basis of appropriate supporting documents, provided a taking-over certificate or delivery certificate has been issued without reservations relating to the nature of the costs claimed.

2. Excluding any administrative costs, such additional costs shall be warehousing, insurance and financing costs actually paid by the supplier:

- (a) in the event of an extension of the delivery period at the recipient's request;
- (b) in the event of a delay exceeding 30 days between the date of delivery and the issue of the taking-over certificate or delivery certificate, or the issue of the final certificate of conformity, where this is later.

3. Accepted warehousing and insurance costs shall be paid in ecus, the sum expressed in the currency of expenditure being converted at the rate applied by the Commission.

Costs shall not be accepted if they exceed:

- 1 ecu per tonne of bulk goods and 2 ecus per tonne of processed goods per week in the case of warehousing costs;
- 0,75 % a year of the value of the goods in the case of insurance costs.

Financing costs shall be calculated as follows:

$$\frac{A \times n \times i}{360}$$

where A = the sum remaining due under Article 18 on the date of the event occasioning the payment of financing costs

n = the number of days of extension which have elapsed in the case of an extension referred to in point (a) of paragraph 2, or the number of days of delay referred to in point (b) of paragraph 2

i = the interest rate referred to in Article 18 (7).

4. In exceptional cases the Commission may repay to the supplier, at his written request, certain unforeseeable expenses provided they are not due to an inherent defect of the goods, inadequate or inappropriate packaging, a delay in completion of the supply attributable to the supplier, port congestion or the action of a subcontractor.

5. Where the supplier has been released from his obligations under Article 12 (4), Article 13 (5), Article 14 (15), Article 15 (10) or the second paragraph of Article 20, the Commission shall, at his written request, indemnify him.

Excluding any administrative costs, such indemnity shall cover warehousing, insurance and financing costs assessed in accordance with paragraphs 2 and 3 of this Article, together with agreed compensation, which shall in no case exceed 3 % of the tender amount.

6. Requests for payment of additional costs and unforeseeable expenses, shall be separate from requests for payment in respect of the supply and shall be submitted in duplicate by the deadline laid down in Article 18 (6). After this deadline, 10 % of the payment shall be withheld.

#### Article 20

Where the Commission, after a contract has been awarded, designates a loading address, a port of shipment, port of landing or place of final destination other than those originally specified or a different delivery stage, the supplier shall deliver the goods to the new loading address, the new port or final destination or at the new delivery stage. The Commission shall reach agreement with the supplier on any reduction or increase in the costs originally determined.

However, the supplier may, on submission of a duly reasoned request, be released from his obligations.

#### Article 21

Except in cases of *force majeure*, if for reasons attributable not to the beneficiary but to the supplier the goods have not been supplied within 30 days of the delivery deadline specified, the supplier shall bear all the financial consequences of total or partial failure to supply the goods. Such financial consequences may include in particular costs incurred by the beneficiary as a direct result of the failure to implement the supply, such as demurrage, dead freight for shipping or overland transport, rental of warehouse or storage areas and related insurance costs.

In the circumstances referred to in the first paragraph, the Commission shall in addition record the failure to implement the supply and shall take appropriate measures.

#### Article 22

1. The guarantees lodged pursuant to Article 8, Article 10 (2) and Article 18 (5) shall either be released or be forfeit, as appropriate, in accordance with the provisions laid down in paragraphs 2 to 8.

2. The tender guarantee shall be released:

(a) by a letter or written telecommunication by the Commission where the tender is invalid or has not been accepted or where no contract has been awarded;

(b) where the tenderer, designated as the supplier, has lodged the delivery guarantee or has withdrawn his tender in accordance with Article 9 (4).

The guarantee shall be forfeit if the supplier fails to provide the delivery guarantee within 10 working days following the award of the contract and also if the tenderer withdraws his tender in accordance with Article 7 (11).

3. The delivery guarantee shall be released in full by a letter or written telecommunication by the Commission when the supplier:

(a) has presented the advance guarantee provided for in the third subparagraph of Article 18 (5);

(b) has carried out the supply in compliance with all his obligations;

(c) has been released from his obligations pursuant to Article 12 (4), Article 13 (5), Article 14 (15), Article 15 (10) and the second paragraph of Article 20;

(d) has not carried out the supply for reasons of *force majeure* recognized by the Commission.

4. Except in cases of *force majeure*, the delivery guarantee shall be partially forfeit on a cumulative basis in the following cases, without prejudice to paragraph 8:

(a) 10 % of the value of the quantities not delivered, without prejudice to the tolerances referred to in Article 17 (1),

(b) 20 % of the total cost of sea transport as specified in the tender where the vessel chartered by the supplier does not meet the conditions laid down in Article 14 (3);

(c) 0,2 % of the value of the quantities supplied after the deadline, per day of delay or, where appropriate, and only if this is specified in the tender notice, 0,1 % per day where they are delivered prematurely.

The amounts shall not be forfeit in accordance with points (a) and (c) if the failures found are not attributable to the supplier.

5. The guarantee in respect of the advance shall be released in full in the same way as the delivery guarantee in the cases provided for in points (b) and (c) of paragraph 3 of this Article;

It shall be partially forfeit, *mutatis mutandis*, pursuant to paragraph 4.

6. The delivery guarantee or guarantee in respect of the advance shall be forfeit in full if the Commission establishes that the supply has not been undertaken pursuant to Article 21.

7. The delivery guarantee or guarantee in respect of the advance shall be released in proportion to the quantities for which right to payment of the balance has been established. It shall be forfeit for the other quantities.

8. The Commission shall deduct the amount of the guarantees to be forfeit in accordance with paragraphs 4, 5 and 6 from the final amount to be paid. The delivery guarantee or guarantee in respect of the advance shall then be released simultaneously in full.

## CHAPTER V

### Final provisions

#### Article 23

It shall be for the Commission to decide whether the supplier's failure to supply the goods or to fulfil one of his obligations may be due to *force majeure*.

Costs resulting from a case of *force majeure* recognized by the Commission shall be borne by the Commission.

#### Article 24

The Court of Justice of the European Communities shall be competent to resolve any dispute resulting from the

implementation or the non-implementation or from the interpretation of the rules governing supply operations carried out in accordance with this Regulation.

#### Article 25

For any matters not governed by this Regulation, Belgian law shall apply.

#### Article 26

Regulation (EEC) No 2200/87 is hereby repealed.

It shall, however, continue to apply to supply operations under tender notices published before the entry into force of this Regulation.

References to the repealed Regulation shall be construed as references to this Regulation.

#### Article 27

This Regulation shall enter into force on the twentieth day following the date 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, 16 December 1997.

*For the Commission*

João DE DEUS PINHEIRO

*Member of the Commission*

## ANNEX I

## TENDER NOTICE

1. Action No (if appropriate several numbers per lot)
  2. Beneficiary (country or organization)
  3. Beneficiary's representative
  4. Country of destination
  5. Product to be mobilized
  6. Total quantity (net tonnage)
  7. Number of lots (if appropriate the quantity per lot and/or part lot)
  8. Characteristics and quality of the product (as published under Article 5)
  9. Packaging (as published under Article 5)
  10. Labelling or marking (as published under Article 5)
    - language to be used for the markings
    - supplementary markings
  11. Method of mobilization (Community market or intervention stock and in the case of intervention, agency holding the stock and the fixed selling price or market outside the Community)
  12. Specified delivery stage
  13. Alternative delivery stage (under Article 9 (3))
  14. (a) Port of shipment (see Article 7 (4) and (6))
    - (b) Loading address
  15. Port of landing
  16. Place of destination (address of warehouse in the case of delivery free at destination)
    - port or warehouse of transit
    - overland transport route (see Article 15 (4))
  17. Period or deadline of supply at the stage specified
    - first deadline
    - second deadline (see Article 9 (5))
  18. Period or deadline at the alternative stage
    - first deadline
    - second deadline (see Article 9 (5))
  19. Deadline for the submission of tenders, at 12 noon (Brussels time)
    - first deadline
    - second deadline (see Article 9 (5))
  20. Amount of the tendering guarantee
  21. Address for presentation of tenders and tendering guarantees
  22. Export refund
-



## ANNEX IIA

## SPECIMEN TENDER

## TENDER

pursuant to Article 7 of Regulation (EC) No 2519/97

1. Tenderer
  - name (full name of undertaking or company)
  - address
  - registered in ..... under No .....
  - telephone, fax or telex No
  - contact person
2. Invitation to tender No ..... lot .....
3. Action No .....
4. Product (if appropriate give exact CN code) .....
5. Quantity <sup>(1)</sup> .....
6. (a) Tender for the specified delivery stage
  - of which cost of overland transport <sup>(2)</sup>
  - of which cost of transport by sea <sup>(3)</sup>

(b) Tender for the alternative delivery stage <sup>(4)</sup>
7. Port of shipment <sup>(5)</sup> or loading address <sup>(6)</sup>
8. Credit establishment where the tendering guarantee is lodged

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<sup>(1)</sup> The net weight of the entire lot or, where appropriate, the specific monetary amount.

<sup>(2)</sup> Overseas land transport or total overland transport in the case of free at destination by sea or by land only respectively.

<sup>(3)</sup> In case of delivery free at port of landing or free at destination by sea and land.

<sup>(4)</sup> In case of delivery stage free at port of landing or destination.

<sup>(5)</sup> If appropriate, the tender must be expressly accompanied by a document from a shipping company (see Article 7 (6)).

<sup>(6)</sup> In case of delivery free at destination the indication of a loading address implies that the tender has been submitted in accordance with Article 7 (5).

*ANNEX II.B***COSTS TO BE INCLUDED IN THE TENDER**

This list is only indicative

**A. Delivery ex works or free carrier**

1. Price of goods and packaging
2. Cost of loading and stowage in the means of transport provided by the beneficiary
3. In case of delivery free carrier, transport costs up to the transport terminal indicated in the tender notice
4. Costs relating to customs export formalities

**B. Delivery free at port of shipment**

1. Same costs as under A.1 and A.4
2. Loading and transport costs up to the place of delivery and, eventually, unloading costs
3. In case of delivery in containers, loading and transport costs up to container terminal, 'stack' position
4. In the case of cereals the costs shall include, where appropriate, the cost of placing in silos, ensilage, release from silage, loading, stowage and trimming (FOB stowed or FOB stowed and trimmed)
5. Cost of weighing, checking and analysis undertaken on the initiative of the supplier (other than those under Article 16)

**C. Delivery free at port of landing**

1. Same costs as under B
2. Port liner terms charges, including the cost relating to activities by the forwarding agent and, where appropriate, costs of loading, stowage and trimming
3. Sea freight
4. Insurance
5. Costs of unloading covered by Article 14 (7) in the case of delivery to the landed stage

**D. Delivery free at destination by sea**

1. Same costs as under C, including costs of unloading listed under C.5
2. Customs transit costs
3. Cost of transfer to means of transport for forwarding to the final destination
4. Overland transport costs to final destination
5. Insurance
6. Cost of placing the goods at the entrance of the warehouse at destination. In case of delivery by container, the costs listed in Article 15 (2)

**E. Delivery free at destination by land**

Same costs as listed under D excluding the costs of transport by sea

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## ANNEX III

## TAKING-OVER CERTIFICATE

CERTIFICATE OF DELIVERY <sup>(1)</sup>

pursuant to Article 17 (3) and (4) of Regulation (EC) No 2519/97

Action No ..... Supplier .....

The undersigned .....  
(name, forename, capacity, address)

acting in the name and on behalf of the beneficiary (or on behalf of the Commission, as the case may be),  
hereby certifies:

## A. TAKING-OVER

that delivery has been taken of the goods listed below

Product: .....

Tonnage or net weight accepted: .....

Place and date of taking-over: .....

Date of delivery: .....

## B. REFUSAL TO TAKE DELIVERY

that acceptance of delivery of the goods listed below, which are found to be damaged, has been refused.

Product: .....

Tonnage or net weight refused: .....

## C. ADDITIONAL COMMENTS OR RESERVATIONS

Done at ..... on .....

(Signature)

Stamp

<sup>(1)</sup> Delete as appropriate.

**COMMISSION REGULATION (EC) No 2520/97**  
**of 15 December 1997**  
**adapting Council Regulation (EC) No 2200/96 as regards the combined**  
**nomenclature codes for tomatoes and table grapes**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 234/79 of 5 February 1979 on the procedure for adjusting the Common Customs Tariff nomenclature used for agricultural products<sup>(1)</sup>, as last amended by Regulation (EC) No 3290/94<sup>(2)</sup>, and in particular Article 2 (1) thereof,

Whereas Commission Regulation (EC) No 2086/97 of 4 November 1997 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>(3)</sup> amends the combined nomenclature, in particular as regards tomatoes and table grapes;

Whereas the table in Article 1 (2) of Council Regulation (EC) No 2200/96 of 18 October 1996 on the common organization of the market in fruit and vegetables<sup>(4)</sup> should be adapted;

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

*Article 1*

The table in Article 1 (2) of Regulation (EC) No 2200/96 is hereby amended as follows:

- |                 |  |                              |
|-----------------|--|------------------------------|
| (a) '0702 00    |  | Tomatoes, fresh or chilled'  |
| is replaced by: |  |                              |
| '0702 00 00     |  | Tomatoes, fresh or chilled'; |
|                 |  |                              |
| (b) '0806 10 21 |  | Fresh table grapes'          |
| 0806 10 29      |  |                              |
| 0806 10 30      |  |                              |
| 0806 10 40      |  |                              |
| 0806 10 50      |  |                              |
| 0806 10 61      |  |                              |
| 0806 10 69      |  |                              |
| is replaced by: |  |                              |
| '0806 10 10     |  | Fresh table grapes'.         |

*Article 2*

This Regulation shall enter into force on 1 January 1998.

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

Done at Brussels, 15 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 34, 9. 2. 1979, p. 2.

<sup>(2)</sup> OJ L 349, 31. 12. 1994, p. 105.

<sup>(3)</sup> OJ L 312, 14. 11. 1997, p. 1.

<sup>(4)</sup> OJ L 297, 21. 11. 1996, p. 1.

## COMMISSION REGULATION (EC) No 2521/97

of 15 December 1997

amending Regulation (EEC) No 388/92 laying down detailed rules for implementation of the specific arrangements for the supply of cereal products to the French overseas departments (FOD) and establishing a forecast supply balance

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

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments<sup>(1)</sup>, as last amended by Regulation (EC) No 2598/95<sup>(2)</sup>, and in particular Article 2 (6) thereof,

Whereas the quantities of products eligible for the specific supply arrangements are determined by means of periodic forecast balances which may be revised according to the essential requirements of the market taking into account local production and traditional trade flows;

Whereas, pursuant to Article 2 of Regulation (EEC) No 3763/91, the forecast supply balance of cereal products to the FOD for 1997 was established by Commission Regulation (EEC) No 388/92<sup>(3)</sup>, as last amended by Regulation (EC) No 2414/96<sup>(4)</sup>; whereas this forecast supply balance

for 1998 should be drawn up; whereas, subsequently, Regulation (EEC) No 388/92 should be amended;

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 Annex to Regulation (EEC) No 388/92 is replaced by the Annex to this Regulation.

*Article 2*

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

It shall apply from 1 January 1998.

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

Done at Brussels, 15 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 356, 24. 12. 1991, p. 1.

<sup>(2)</sup> OJ L 267, 9. 11. 1995, p. 1.

<sup>(3)</sup> OJ L 43, 19. 2. 1992, p. 16.

<sup>(4)</sup> OJ L 329, 19. 12. 1996, p. 23.

## ANNEX

## ANNEX

## Cereals supply balance for the french overseas departments (1998)

(tonnes)

Cereals originating in third countries (ACP/developing countries) or EC	Common wheat	Durum wheat	Barley	Maize	Durum wheat meal and groats	Malt
Guadeloupe	60 000	—	—	16 000	—	100
Martinique	1 500	—	—	20 000	1 000	500
French Guiana	200	—	300	1 500	—	—
Réunion	25 000	—	15 000	100 000	—	2 600
Total	86 700	—	15 300	137 500	1 000	3 200
Total	243 700'					

**COMMISSION REGULATION (EC) No 2522/97**  
**of 16 December 1997**  
**amending Regulation (EEC) No 778/83 laying down quality standards for**  
**tomatoes**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables <sup>(1)</sup>, and in particular Article 2 (2) thereof,

Whereas Commission Regulation (EC) No 2448/95 of 10 October 1995 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff <sup>(2)</sup> lays down new CN codes; whereas the description of tomatoes as defined in Commission Regulation (EEC) No 778/83 of 30 March 1983 laying down quality standards for tomatoes <sup>(3)</sup>, as last amended by Regulation (EC) No 888/97 <sup>(4)</sup>, should therefore be updated;

Whereas Commission Regulation (EC) No 918/94 of 26 April 1994 derogating from Regulation (EEC) No 778/83 laying down quality standards for tomatoes, as regards tomatoes attached to the stalk (trusses of tomatoes) <sup>(5)</sup>, as last amended by Regulation (EC) No 2250/96 <sup>(6)</sup>, lays down provisions permitting trusses of tomatoes in the 'Extra' Class and Class I to be marketed for a limited trial period; whereas trade in such tomatoes has become economically important; whereas, for the sake of simplification, those provisions should be incorporated definitively in Regulation (EEC) No 778/83; whereas, furthermore, in order to take account of existing practice and of the standards recommended by the United Nations Economic Commission for Europe Working Party on Standardization of Perishable Produce and Quality Development, the marketing of such tomatoes in Class II should be authorized; whereas Regulation (EC) No 918/94 should therefore be repealed;

Whereas, in order to facilitate trade in tomatoes, the Community standards should be supplemented as regards sizing and marking in accordance with the international standard recommended by the United Nations Economic Commission for Europe;

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*

Regulation (EEC) No 778/83 is hereby amended as follows:

1. the first paragraph of Article 1 is replaced by the following:

'The marketing standards for tomatoes falling within CN code 0702 00 00 shall be as set out in the Annex.'

2. the Annex is amended as follows:

(a) in Part I (Definition of produce), the following sentence is added:

'Tomatoes, including trusses of tomatoes, may be classified as one of three commercial types, according to shape and presentation';

(b) in point A of Part II (Provisions concerning quality), the following paragraph is inserted between the first and second paragraphs:

'In the case of tomatoes attached to the stalk (trusses of tomatoes), the stalks must be fresh, healthy, clean and without leaves or any visible foreign matter';

(c) in Part III (Provisions concerning sizing):

— the second sentence is replaced by the following:

'The following provisions do not apply to "cherry" or "cocktail" tomatoes.'

— the following is added to point B (Sizing scale):

'This sizing scale does not apply to "Cherry" tomatoes or to "cherry" tomatoes attached to the stalk (trusses of "cherry" tomatoes).';

(d) in Part VI (Provisions concerning marking), the first indent is replaced by the following:

— "tomatoes" or "trusses of tomatoes" and commercial type, if the contents are not visible from the outside; these details must always be provided for "cherry" tomatoes and for trusses of "cherry" tomatoes.'

*Article 2*

Regulation (EC) No 918/94 is hereby repealed.

<sup>(1)</sup> OJ L 297, 21. 11. 1996, p. 1.

<sup>(2)</sup> OJ L 259, 30. 10. 1995, p. 1.

<sup>(3)</sup> OJ L 86, 31. 3. 1983, p. 14.

<sup>(4)</sup> OJ L 126, 17. 5. 1997, p. 11.

<sup>(5)</sup> OJ L 106, 27. 4. 1994, p. 5.

<sup>(6)</sup> OJ L 302, 26. 11. 1996, p. 16.

*Article 3*

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 January 1998.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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**COMMISSION REGULATION (EC) No 2523/97**  
**of 16 December 1997**

**amending Regulation (EEC) No 1014/90 laying down detailed implementing rules on the definition, description and presentation of spirit drinks**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks<sup>(1)</sup>, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 1 (4) (i) (1) (b) and Article 15 thereof,

Whereas Commission Regulation (EC) No 2482/95 of 25 October 1995 laying down certain transitional measures for Austria for spirit drinks<sup>(2)</sup>, as last amended by Regulation (EC) No 158/97<sup>(3)</sup>, permits certain fruit spirits prepared from certain berries with a maximum methyl alcohol content of 1 500 g per hectolitre of alcohol at 100 % vol. to be prepared and marketed in Austria until 31 December 1997 pending an assessment of the possibilities of reducing that methanol content;

Whereas new lower limits for the methyl alcohol content of certain spirits produced in Austria should be introduced at this stage in view of the results of Austrian studies on the possibility of reducing the methanol content of the fruit spirits concerned; whereas it is also necessary to monitor the impact of the development of different aspects relating to the maximum methanol content of those fruit spirits because such limits must also be applied to the same fruit spirits produced in other Member States; whereas examination of the possibilities for reducing the methanol content of those fruit spirits should be continued, taking account of the development of techniques while bearing in mind the traditional characteristics of those products;

Whereas transitional provisions must be laid down to permit the marketing of such fruit spirits prepared in Austria prior to the date of entry into force of the lower limit on the methyl alcohol content;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Implementation Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

*Article 1*

The following paragraphs 4 and 5 are hereby added to Article 6 of Regulation (EEC) No 1014/90:

'4. Pursuant to Article 1 (4) (i) (1) (b) of Regulation (EEC) No 1576/89, the maximum methyl alcohol content of fruit spirits prepared from redcurrants and blackcurrants (*Ribes* species), service berries (*Sorbus aucuparia*) and elderberries (*Sambucus nigra*) shall be 1 350 g per hectolitre of alcohol at 100 % vol. and the maximum methyl alcohol content of fruit spirits prepared from raspberries (*Rubus idaeus* L.) and blackberries (*Rubus fruticosus* L.) shall be 1 200 g per hectolitre of alcohol at 100 % vol.

5. The fruit spirits referred to in paragraph 4, prepared in Austria and held at 31 December 1997 for sale to the final user in accordance with the provisions on methanol content in force at that date in Austria may be put on the market and exported until stocks are exhausted.'

*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 January 1998.

<sup>(1)</sup> OJ L 160, 12. 6. 1989, p. 1.

<sup>(2)</sup> OJ L 256, 26. 10. 1995, p. 12.

<sup>(3)</sup> OJ L 27, 30. 1. 1997, p. 8.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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**COMMISSION REGULATION (EC) No 2524/97**  
**of 16 December 1997**

**laying down, for the first half of 1998, certain detailed rules for the application of  
a tariff quota for live bovine animals weighing from 80 to 300 kilograms and  
originating in certain third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

1997/98 marketing year, that is 1 January to 30 June 1998;

Having regard to the Treaty establishing the European Community,

Whereas, with a view to adjusting the security covering import licences under that quota to current levels, the amount thereof should be set at ECU 5 per head;

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 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 Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations<sup>(1)</sup>, as last amended by Regulation (EC) No 1595/97<sup>(2)</sup>, and in particular Article 8 thereof,

Whereas the competent authorities delivering import licences do not always know the origin of the animals imported under the quota in question; whereas that information is important for statistical reasons; whereas importers should accordingly be required to indicate the country of origin alongside the quantities attributed on the back of the import licences;

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<sup>(3)</sup>, and in particular Article 5 thereof,

Whereas Protocol 4 to the Europe Agreements and Protocol 3 to the free-trade Agreements have been amended; whereas the Protocols as amended provide that proof of origin of products imported into the Community may be established by means of a declaration by the exporter, on certain conditions, or by presentation of an EUR.1 movement certificate; whereas the new provisions on release for free circulation of imported products should accordingly be incorporated into this Regulation;

Whereas, if such criteria are to be checked, applications must be presented in the Member State where the importer is entered in a VAT register;

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

Whereas the Annexes to Regulations (EC) No 3066/95 and (EC) No 1926/96 provide, from 1 July 1997, for an annual tariff quota of 153 000 live bovine animals weighing from 80 to 300 kilograms and originating in Hungary, Poland, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia and Lithuania; whereas Commission Regulation (EC) No 2511/96 of 23 December 1996 laying down, for 1997, certain detailed rules for the application of a tariff quota for live bovine animals weighing from 160 to 300 kilograms and originating in certain third countries<sup>(4)</sup>, as amended by Regulation (EC) No 1938/97<sup>(5)</sup>, lays down detailed rules covering imports of that number of animals originating in those third countries and weighing from 80 to 300 kilograms; whereas similar detailed rules should be laid down in respect of 76 500 live animals corresponding to the remainder of the

HAS ADOPTED THIS REGULATION:

*Article 1*

1. Under the tariff quotas provided for in Regulations (EC) No 3066/95 and (EC) No 1926/96, 76 500 head of live bovine animals falling within CN code 0102 90 21, 0102 90 29, 0102 90 41 or 0102 90 49 and originating in the third countries listed in Annex II hereto may be imported in the period 1 January to 30 June 1998 in accordance with this Regulation.

The tariff quota's order No shall be 09.4537.

2. The *ad valorem* and specific customs duties on those animals as fixed in the Common Customs Tariff (CCT) shall be reduced by 80 %.

<sup>(1)</sup> OJ L 328, 30. 12. 1995, p. 31.

<sup>(2)</sup> OJ L 216, 8. 8. 1997, p. 1.

<sup>(3)</sup> OJ L 254, 8. 10. 1996, p. 1.

<sup>(4)</sup> OJ L 345, 1. 2. 1996, p. 21.

<sup>(5)</sup> OJ L 272, 4. 10. 1997, p. 21.

*Article 2*

1. Applicants in respect of the quota provided for in Article 1 must be natural or legal persons, they must prove, to the satisfaction of the competent authorities of the Member State concerned when submitting their applications, that since 1 January 1997 they have imported and/or exported at least 50 animals falling within CN code 0102 90, and they must be listed in a national VAT register.

2. Proof of import and export shall be furnished exclusively by means of the customs document of release for free circulation or the export document, duly endorsed by the customs authorities.

The Member States may accept copies of the documents referred to above, duly certified by the issuing authority, where the applicant can prove, to the satisfaction of the competent authority, that it is impossible for him to obtain the originals.

*Article 3*

1. Applications for import rights may be submitted only in the Member State where the applicant is registered in accordance with Article 2 (1).

2. Applications for import rights:

— must cover at least 50 animals,

and

— may not cover more than 10 % of the quantity available.

Where applications exceed that quantity, they shall be deemed to cover that quantity only.

3. Applications for import rights may be lodged until 19 December 1997 only.

4. Applicants may lodge no more than one application each. Where the same applicant lodges more than one application, all applications from that applicant shall be inadmissible.

5. By 7 January 1998 at the latest, the Member States shall notify the Commission of applications lodged. Such notification shall comprise a list of applicants and of quantities applied for.

All notifications, including notifications of 'nil' applications, shall be forwarded by telex or fax; where notifications cover applications actually submitted, the model in Annex I shall be used.

*Article 4*

1. The Commission shall decide what percentage of quantities covered by applications may be imported.

2. If the quantities covered by applications as referred to in Article 3 exceed those available, the Commission shall fix a single percentage reduction to be applied to the quantities applied for.

Where the application of the reduction provided for in the first subparagraph gives a figure of less than 50 head per application, the quantity available shall be awarded by the Member States concerned by drawing lots for import rights covering 50 head each. Where the remainder is less than 50 head, a single import right shall be awarded for that quantity.

*Article 5*

1. The quantities awarded shall be imported subject to presentation of one or more import licences.

2. Licence applications may be lodged only in the Member State where the application for the import right is submitted.

3. Licence applications and licences shall show the following:

(a) in Section 8, one or more of the countries listed in Annex II; licences shall carry with them an obligation to import from one or more of the countries shown;

(b) in Section 20, the order No 09.4537 and at least one of the following:

Reglamento (CE) n° 2524/97

Forordning (EF) nr. 2524/97

Verordnung (EG) Nr. 2524/97

Κανονισμός (ΕΚ) αριθ. 2524/97

Regulation (EC) No 2524/97

Règlement (CE) n° 2524/97

Regolamento (CE) n. 2524/97

Verordening (EG) nr. 2524/97

Regulamento (CE) n° 2524/97

Asetus (EY) N:o 2524/97

Förordning (EG) nr 2524/97

4. Import licences issued in accordance with this Regulation shall be valid for 90 days from their date of issue within the meaning of Article 21 (2) of Regulation (EEC) No 3719/88. However, no licence shall be valid after 30 June 1998.

5. Licences issued shall be valid throughout the Community.

6. Article 8 (4) of Regulation (EEC) No 3719/88 shall not apply. To that end, the figure '0' (zero) shall be entered in Section 19 of licences.

7. Notwithstanding Article 4 of Regulation (EC) No 1445/95, importers shall lodge a security of ECU 5 per head when submitting their import licences applications.

*Article 6*

The duties referred to in Article 1 shall apply to live animals on presentation of either an EUR.1 movement certificate issued by the exporting country in accordance with Protocol 4 to the Europe Agreements and Protocol 3 to the free-trade Agreements or a declaration by the exporter in accordance with the said Protocols.

*Article 7*

1. Animals imported under the arrangements referred to in Article 1 shall be identified individually either by:

— an indelible tattoo,  
or

— an officially issued ear-tag or an ear-tag officially approved by the Member State, at least one ear of each animal being so tagged.

2. Such tattoos or ear-tags shall be so designed as to enable the date of release for free circulation and the

identity of the importers to be established by reference to a record made at the time animals are so released.

*Article 8*

Each time a quantity is attributed on an import licence or extract thereof, in accordance with Articles 22 and 23 of Regulation (EEC) No 3719/88, the country of origin must be shown in column 31 of the licence. That information shall be verified and endorsed by the competent customs office.

*Article 9*

Regulations (EEC) No 3719/88 and (EC) No 1445/95 shall apply, save as otherwise provided herein.

*Article 10*

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, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX I

EC Fax No (32 2) 296 60 27

Application of Regulation (EC) No 2524/97

**Ordre No 09.4537**

COMMISSION OF THE EUROPEAN COMMUNITIES    DG VI/D/2 — BEEF AND VEAL SECTOR

## APPLICATION FOR IMPORT RIGHTS

Date: ..... Period: .....

Member State: .....

Applicant's No ('I)	Applicant (name and address)	Quantity (head)
Total		

Member State: ..... Fax No: .....

Tel.: .....

(<sup>1</sup>) Continuous numbering.

*ANNEX II*

- Hungary
  - Poland
  - Czech Republic
  - Slovakia
  - Romania
  - Bulgaria
  - Lithuania
  - Latvia
  - Estonia
-

## COMMISSION REGULATION (EC) No 2525/97

of 15 December 1997

establishing the forecast supply balance and Community aid for the supply to French Guiana of products falling within CN codes 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 used in feedingstuffs for 1998

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments<sup>(1)</sup>, as last amended by Regulation (EC) No 2598/95<sup>(2)</sup>, and in particular Article 3 (5) thereof,

Whereas Article 3 (1) of Regulation (EEC) No 3763/91 introduces an exemption scheme for duties on imports into French Guiana and aid for the supply by the rest of the Community of certain cereal products used in feedingstuffs;

Whereas the supply balance for these products for the department of Guiana should be drawn up on the basis of feedingstuffs requirements based on the notifications sent by the competent authorities and for the year 1998;

Whereas Commission Regulation (EEC) No 388/92<sup>(3)</sup>, as last amended by Regulation (EC) No 2414/96<sup>(4)</sup>, lays down detailed rules for the implementation of the specific arrangements for the supply of cereal products to the French overseas departments; whereas those provisions, which supplement, for the cereals sector, Commission Regulation (EEC) No 131/92<sup>(5)</sup>, as last amended by Regulation (EEC) No 1736/96<sup>(6)</sup>, apply to cereals used in feedingstuffs as referred to in this Regulation;

Whereas, in accordance with Regulation (EEC) No 3763/91, the amount of the aid for the supply of Community products must be determined in such a way that users are supplied on terms equivalent to exemption from levies on imports from the world market; whereas fixing the aid at an amount equal to the export refund plus a

fixed component to take account of conditions for deliveries of small quantities will satisfy this aim;

Whereas this Regulation should apply from 1 January 1998;

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*

Pursuant to Article 3 (1) and (2) of Regulation (EEC) No 3763/91, the forecast supply balance quantities of products falling within CN codes 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 used in feedingstuffs eligible for exemption from import duties or for Community aid shall be as specified in the Annex.

*Article 2*

The amount of the aid for the supply of feedingstuffs referred to in Article 1 and manufactured from cereals processed in the rest of the Community shall be equal to the export refunds for those products, plus ECU 20 per tonne.

*Article 3*

Articles 1 (2) and 2 to 7 of Regulation (EEC) No 388/92 shall apply to the supply to French Guiana of the products referred to in Article 1 of this Regulation.

*Article 4*

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

It shall apply from 1 January 1998.

<sup>(1)</sup> OJ L 356, 24. 12. 1991, p. 1.

<sup>(2)</sup> OJ L 267, 9. 11. 1995, p. 1.

<sup>(3)</sup> OJ L 43, 19. 2. 1992, p. 16.

<sup>(4)</sup> OJ L 329, 19. 12. 1996, p. 23.

<sup>(5)</sup> OJ L 15, 22. 1. 1992, p. 13.

<sup>(6)</sup> OJ L 225, 6. 9. 1996, p. 3.



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

Done at Brussels, 15 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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ANNEX

**Supply balance for French Guiana of certain products used in feedingstuffs**

(tonnes)	
CN code	Quantity for 1998
2309 90 31 2309 90 41 2309 90 51	6 225
2309 90 33 2309 90 43 2309 90 53	300
Total	6 525

## COMMISSION REGULATION (EC) No 2526/97

of 16 December 1997

laying down rates of compensatory interest applicable during the first half of 1998 to customs debts incurred in relation to compensating products or goods in the unaltered state (inward processing relief arrangements and temporary importation)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(1)</sup>,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code <sup>(2)</sup>, as last amended by Regulation (EC) No 1427/97 <sup>(3)</sup>, and in particular Article 589 (4) (a) and Article 709 thereof;

Whereas Article 589 (4) (a) of Regulation (EEC) No 2454/93 provides that the Commission shall publish rates of compensatory interest applicable to customs debts incurred in relation to compensating products or goods in the unaltered state, in order to make up for the unjustified financial advantage arising from the postponement of the date on which the customs debt is incurred in the case of non-exportation out of the customs territory of the Community; whereas the rates of compensatory interest for the first half of 1998 must be established in accordance with the rules laid down in that Regulation,

*Article 1*

The annual rates of compensatory interest referred to Articles 589 (4) (a) and 709 (3) (a) of Regulation (EEC) No 2454/93 applicable for the period from 1 January until 30 June 1998 are the following:

— Belgium	3,25 %
— Denmark	3,57 %
— Germany	3,16 %
— Greece	11,41 %
— Spain	5,63 %
— France	3,39 %
— Ireland	5,94 %
— Italy	7,04 %
— Luxembourg	3,25 %
— Netherlands	3,13 %
— Austria	3,37 %
— Portugal	6,52 %
— Finland	3,07 %
— Sweden	4,32 %
— United Kingdom	6,37 %

*Article 2*

This Regulation shall enter into force on 1 January 1998.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Mario MONTI

*Member of the Commission*

<sup>(1)</sup> OJ L 302, 19. 10. 1992, p. 1.

<sup>(2)</sup> OJ L 253, 11. 10. 1993, p. 1.

<sup>(3)</sup> OJ L 196, 24. 7. 1997, p. 31.

## COMMISSION REGULATION (EC) No 2527/97

of 15 December 1997

laying down for 1998 detailed rules for the application of the tariff quota for beef and veal provided for in the Interim Agreement between the Community and the Republic of Slovenia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 410/97 of 24 February 1997 on certain procedures for applying the Interim Agreement on Trade and Trade-Related Measures between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part<sup>(1)</sup>, and in particular Article 1 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<sup>(2)</sup>, as last amended by Regulation (EC) No 2321/97<sup>(3)</sup>, and in particular Article 9 (2) thereof,

Whereas an Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part<sup>(4)</sup>, hereinafter referred to as the 'Agreement', was signed in Brussels on 11 November 1996; whereas pending the entry into force of the Europe Agreement, the Council and Commission decided that the Agreement would apply provisionally in the Community from 1 January 1997;

Whereas the Agreement provides for the opening of a reduced-tariff quota for beef and veal for 1998; whereas detailed rules for the application of that quota should therefore be laid down;

Whereas, in order to ensure orderly importation of the quantities laid down, they should be staggered;

Whereas the arrangements should be managed using import licences; whereas to that end rules should be laid down on the submission of applications and the information to be given on applications and licences, where appropriate by way of derogation from 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<sup>(5)</sup>, as last amended by Regulation (EC) No 1404/97<sup>(6)</sup>, 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<sup>(7)</sup>, as last amended by Regulation (EC) No 2284/97<sup>(8)</sup>; whereas, moreover, it should be stipulated that licences are to be issued following a reflection period and, where necessary, after application of a uniform percentage reduction;

Whereas, in order to ensure efficient management of the arrangements, a security against import licences of ECU 12 per 100 kilograms should be required; whereas, given the risk of speculation inherent in the arrangements in the beef and veal sector, detailed conditions for access to the quotas should be laid down;

Whereas, in order for these criteria to be verified, applications must be submitted in the Member State where the applicant is registered for VAT purposes;

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. From 1 January to 31 December 1998, the following quantities may be imported under the quota opened by the Interim Agreement with Slovenia: 7 700 tonnes of chilled or frozen beef and veal falling within CN codes ex 0201 10 00 (carcasses), 0201 20 20, 0201 20 30, 0201 20 50 and 0201 30 originating in Slovenia.

This quota shall bear the order No 09.4082.

2. For the meat referred to in paragraph 1, the *ad valorem* and specific customs duties set in the Common Customs Tariff shall be reduced by 80 %.

<sup>(1)</sup> OJ L 62, 4. 3. 1997, p. 5.

<sup>(2)</sup> OJ L 148, 28. 6. 1968, p. 24.

<sup>(3)</sup> OJ L 322, 25. 11. 1997, p. 25.

<sup>(4)</sup> OJ L 344, 31. 12. 1996, p. 3.

<sup>(5)</sup> OJ L 331, 2. 12. 1988, p. 1.

<sup>(6)</sup> OJ L 194, 23. 7. 1997, p. 5.

<sup>(7)</sup> OJ L 143, 27. 6. 1995, p. 35.

<sup>(8)</sup> OJ L 314, 18. 11. 1997, p. 17.

3. The quantity referred to in paragraph 1 shall be staggered over the year as follows:

- 3 850 tonnes between 1 January and 30 June 1998,
- 3 850 tonnes between 1 July and 31 December 1998.

4. If, during 1998, the quantity for which licence applications are submitted for the first period specified in paragraph 3 is less than the quantity available, the remaining quantity shall be added to the quantity available for the following period.

#### Article 2

1. In order to benefit from the import arrangements:

- (a) applicants for import licences must be natural or legal persons who, when submitting their application, must prove to the satisfaction of the competent authorities of the Member State concerned that they have traded in beef and veal with third countries at least once in the previous 12 months; they must be entered on a national VAT register,
- (b) licence applications may be presented only in the Member State in which the applicant is registered,
- (c) licence applications shall relate to a minimum quantity of 15 tonnes of product without exceeding the quantity available,
- (d) the licence application and the licence shall show in box 8 the country of origin; the licence shall carry with it an obligation to import from the country indicated,
- (e) the licence application and the licence shall show the order No 09.4082 and at least one of the following in box 20:

- Reglamento (CE) n° 2527/97
- Forordning (EF) nr. 2527/97
- Verordnung (EG) Nr. 2527/97
- Κανονισμός (ΕΚ) αριθ. 2527/97
- Regulation (EC) No 2527/97
- Règlement (CE) n° 2527/97
- Regolamento (CE) n. 2527/97
- Verordening (EG) nr. 2527/97
- Regulamento (CE) n° 2527/97
- Asetuksen (EY) N:o 2527/97
- Förordning (EG) nr 2527/97.

2. Article 5 of Regulation (EC) No 1445/95 notwithstanding, the licence application and the licence shall

show in box 16 one or more of the CN codes referred to in Article 1 (1).

#### Article 3

1. Licence applications may be submitted only:

- from 12 to 21 January 1998 for the quantity referred to in the first indent of Article 1 (3),
- from 1 to 10 July 1998 for the quantity referred to in the second indent of Article 1 (3).

2. If an applicant presents more than one application, all applications shall be rejected.

3. Member States shall notify the Commission, by the fifth working day following the end of the period for submitting applications, of applications presented for the quantity indicated in Article 1 (1). Notification shall comprise a list of applicants showing the quantities applied for.

All notifications, including nil notifications, shall be made by telex or fax, notification being made, where applications have been received, in accordance with the model given in the Annex hereto.

4. The Commission shall decide to what extent licence applications can be met.

If the quantity for which licences have been applied for exceeds that available, the Commission shall set a uniform percentage reduction in the quantities applied for.

5. Provided the Commission accepts an application, the licence shall be issued as soon as possible.

#### Article 4

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

2. Article 8 (4) of Regulation (EEC) No 3719/88 notwithstanding, the full Common Customs Tariff duty applicable on the day of release for free circulation shall be charged on all quantities exceeding those indicated on the export licence.

3. Article 3 of Regulation (EC) No 1445/95 notwithstanding, import licences issued pursuant to this Regulation shall be valid for 180 days from their date of issue. However, no licences shall be valid after 31 December 1998.

4. Licences shall be valid throughout the Community.

*Article 5*

Products shall benefit from the duties referred to in Article 1 on presentation of a EUR.1 movement certificate issued by the exporting country in accordance with Protocol 4 to the Interim Agreement or a declaration by the exporter in accordance with the said Protocol.

*Article 6*

Article 4 of Regulation (EC) No 1445/97 notwithstanding, upon submission of an import licence application, impor-

ters shall establish a security to cover the import licence of ECU 12 per 100 kilograms.

*Article 7*

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 January 1998.

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

Done at Brussels, 15 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX

Fax No: (32 2) 296 60 27

Application of Regulation (EC) No 2527/97

Order No 09.4082

COMMISSION OF THE EUROPEAN COMMUNITIES

DG VI/D/2 — BEEF AND VEAL SECTOR

## IMPORT LICENCE APPLICATION

Date: ..... Period: .....

Member State: .....

Applicant's No (1)	Applicant (name and address)	Quantity (tonnes)
Total		

Member State: ..... Fax No: .....

Tel.: .....

(<sup>1</sup>) Continuous numbering.

## COMMISSION REGULATION (EC) No 2528/97

of 16 December 1997

**authorizing the conclusion of long-term private storage contracts for table wine, grape must, concentrated grape must and rectified concentrated grape must in respect of the 1997/98 wine year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

*Article 1*

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine <sup>(1)</sup>, as last amended by Regulation (EC) No 2087/97 <sup>(2)</sup>, and in particular Articles 32 (5) and 83 thereof,

During the period 16 December 1997 to 15 February 1998 long-term private storage contracts may be concluded, in accordance with the provisions of Regulation (EEC) No 1059/83, for:

- table wines, provided that the conditions of Article 6 (3) of that Regulation are met, and
- grape must, concentrated grape must and rectified concentrated grape must.

Whereas the forward estimate drawn up for the 1997/98 wine year indicates that the quantities of table wine available at the beginning of the wine year exceed by more than four months' supply those normally used up over the year; whereas the conditions for authorization of long-term storage contracts specified in Article 32 (4) of Regulation (EEC) No 822/87 are therefore met;

*Article 2*

The minimum quality conditions that must be met by table wines which may be covered by a storage contract shall be as set out in the Annex hereto.

Whereas the abovementioned forward estimate indicates the existence of surpluses of all types of table wine and of table wines which stand in close economic relationship to those types of table wine; whereas it is necessary by the same token to open this possibility for grape must, concentrated grape must and rectified concentrated grape must;

By derogation to Article 6 (3) of Regulation (EEC) No 1059/83, table wines produced in Portugal must have a reduced sugar level not greater than 4 grams per litre.

*Article 3*

Whereas the market for must and concentrated must for grape juice production is expanding and to promote uses of vine products other than winemaking permission should be granted for must and concentrated grape must placed under a storage contract covered by Commission Regulation (EEC) No 1059/83 <sup>(3)</sup>, as last amended by Regulation (EC) No 1262/96 <sup>(4)</sup>, that is intended for grape juice production to be sold from the fifth month of the contract onwards on simple notification by the producer to the intervention agency; whereas to promote export of these products this same possibility should apply;

Producers who, within the limits laid down in the first subparagraph of Article 5 (1) of Regulation (EEC) No 1059/83, wish to conclude a long-term storage contract for a table wine shall, when submitting applications for conclusion of a contract, advise the intervention agency of the total quantity of table wine they have produced during the current wine year.

For this purpose producers shall submit a copy of the production declaration(s) drawn up pursuant to Article 3 of Commission Regulation (EEC) No 1294/96 <sup>(5)</sup>.

*Article 4*

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

1. For the 1997/98 wine year, producers who have not applied for an advance pursuant to Article 14 (2) of

<sup>(1)</sup> OJ L 84, 27. 3. 1987, p. 1.

<sup>(2)</sup> OJ L 292, 25. 10. 1997, p. 1.

<sup>(3)</sup> OJ L 116, 30. 4. 1983, p. 77.

<sup>(4)</sup> OJ L 163, 2. 7. 1996, p. 18.

<sup>(5)</sup> OJ L 166, 5. 7. 1996, p. 14.

Regulation (EEC) No 1059/83 may, from the first day of the fifth month of storage onwards, sell the grape must or concentrated grape must in question for exportation or for production of grape juice.

2. In such cases producers shall inform the intervention agency in accordance with the terms of Article 1a of Regulation (EEC) No 1059/83.

The intervention agency shall check that the must or concentrated grape must is turned into grape juice or exported.

*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 be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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*ANNEX***MINIMUM QUALITY CONDITIONS FOR TABLE WINES****I. White wines**

- |  |                                |
|--|--------------------------------|
| (a) minimum actual alcoholic strength: | 10,5 % vol;                    |
| (b) maximum volatile acidity:          | 9 milli-equivalents per litre; |
| (c) maximum sulphur dioxide content:   | 155 milligrams per litre.      |

**II. Red wines**

- |  |                                 |
|--|---------------------------------|
| (a) minimum actual alcoholic strength: | 10,5 % vol;                     |
| (b) maximum volatile acidity:          | 11 milli-equivalents per litre; |
| (c) maximum sulphur dioxide content:   | 115 milligrams per litre.       |

Rosé wines must comply with the conditions laid down above for red wines except as regards their sulphur dioxide content to which the same maximums as those fixed for white wines apply.

Conditions (a) and (c) do not apply to table wines of types R III, A II and A III.

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## COMMISSION REGULATION (EC) No 2529/97

of 16 December 1997

## imposing provisional anti-dumping and countervailing duties on certain imports of farmed Atlantic salmon originating in Norway

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<sup>(1)</sup>, as amended by Regulation (EC) No 2331/96<sup>(2)</sup>, and in particular Article 8 (10) thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidized imports from countries not members of the European Community<sup>(3)</sup>, and in particular Article 13 (10) thereof,

After consulting the Advisory Committee,

Whereas:

ECU 0,32 per kilo on imports of farmed Atlantic salmon originating in Norway. Imports of farmed Atlantic salmon exported by companies from which an undertaking had been accepted were exempted from that duty pursuant to Article 1 (2) of the Regulation.

- (5) On the same day, the Council, by Regulation (EC) No 1891/97<sup>(4)</sup>, also imposed a countervailing duty of 3,8 % on imports of farmed Atlantic salmon originating in Norway. Imports of farmed Atlantic salmon exported by companies from which an undertaking had been accepted were exempted from that duty pursuant to Article 1 (2) of the Regulation.
- (6) The abovementioned Regulations set out the definitive findings and conclusions on all aspects of the investigations.

## A. PROCEDURE

- (1) On 31 August 1996, the Commission announced, by two separate notices published in the *Official Journal of the European Communities*, the initiation of an anti-dumping proceeding<sup>(5)</sup> as well as an anti-subsidy proceeding<sup>(6)</sup> in respect of imports of farmed Atlantic salmon originating in Norway.
- (2) The Commission sought and verified all information that it deemed necessary for the purpose of its definitive findings. As a result of this examination, it was established that definitive anti-dumping and countervailing measures should be taken in order to eliminate the injurious effects of dumping and subsidization. All interested parties were informed of the results of the investigation and were given the opportunity to comment on them.
- (3) On 26 September 1997, the Commission adopted Decision 97/634/EC<sup>(7)</sup>, accepting undertakings offered in connection with the two abovementioned proceedings from the exporters mentioned in the Annex to the Decision and terminated the investigations in their respect.
- (4) On the same day, the Council, by Regulation (EC) No 1890/97<sup>(8)</sup>, imposed an anti-dumping duty of

## B. APPARENT FAILURE TO COMPLY WITH THE UNDERTAKING

- (7) Pursuant to the undertakings referred to above, the Norwegian exporters have offered, *inter alia*, not to sell, on a quarterly basis and as an average of all export transactions, for each presentation, the product under investigation to their first unrelated customer in the Community below a certain minimum price.
- (8) In order to ensure the effective implementation and monitoring of the undertakings, the exporters concerned have undertaken to report to the Commission, on a quarterly basis, all their sales of farmed Atlantic salmon to unrelated customers in the Community.

The text of the undertakings specifically provides that failure to comply with the reporting obligations and, in particular, failure to submit the quarterly report within the prescribed time limit except in case of *force majeure*, would be construed as a violation of the undertaking. The first reports were to be sent by 31 October 1997.

- (9) It appears from the reports referred to above that a number of Norwegian exporters have made sales on the Community market below the minimum price stipulated by the undertaking.

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1.

<sup>(2)</sup> OJ L 317, 6. 12. 1996, p. 1.

<sup>(3)</sup> OJ L 288, 21. 10. 1997, p. 1.

<sup>(4)</sup> OJ C 253, 31. 8. 1996, p. 18.

<sup>(5)</sup> OJ C 253, 31. 8. 1996, p. 20.

<sup>(6)</sup> OJ L 267, 30. 9. 1997, p. 81.

<sup>(7)</sup> OJ L 267, 30. 9. 1997, p. 1.

<sup>(8)</sup> OJ L 267, 30. 9. 1997, p. 19.

- (10) Certain other Norwegian exporters have failed to comply with their obligation to present a report within the prescribed time limit or have not submitted any report at all.

These exporters were informed of the consequences of late reporting and in particular that, should the Commission have reasons to believe that an undertaking is being violated, a provisional anti-dumping duty and a provisional countervailing duty may be imposed pursuant to Article 8 (10) of Regulation (EC) No 384/96 and Article 13 (10) of Regulation (EC) No 2026/97 respectively.

These exporters were also invited to provide, where appropriate, evidence of any *force majeure* justifying such late reporting, but have so far failed to provide conclusive evidence of such *force majeure*.

#### C. PROVISIONAL MEASURES

- (11) Under these circumstances, there are reasons to believe that the undertakings accepted by the Commission from the Norwegian exporters mentioned in the Annex to this Regulation are being violated.
- (12) In view of the difficult economic situation facing the Community industry, and in view of the fact that farmed Atlantic salmon is a product with a seasonal character, the bulk of sales of which are concentrated around Christmas, it is considered imperative that, pending the definitive establishment of the facts, provisional duties be imposed.

#### D. RATE OF DUTY

- (13) In accordance with Article 8 (10) of Regulation (EC) No 384/96, the rate of the anti-dumping duty must be established on the basis of the best information available. Under the present circumstances and taking into account that no dumping margin had been individually determined for the exporters concerned, it is considered appropriate that the rate of the provisional duty be set at the level of the definitive duty determined by the Council in Regulation (EC) No 1890/97.
- (14) In accordance with Article 13 (10) of Regulation (EC) No 2026/97, the rate of the countervailing duty must be established on the basis of the best information available. Under the present circumstances it is considered appropriate that the rate of the provisional duty be set at the level of the de-

finitive duty determined by the Council in Regulation (EC) No 1891/97,

#### E. FINAL PROVISIONS

- (15) In the interest of sound administration, a period should be fixed in which interested parties may make known their views in writing and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation, are based on the exporters' quarterly reports or absence thereof and are therefore provisional, and may have to be reconsidered for the purpose of any definitive duties which the Commission may propose,

HAS ADOPTED THIS REGULATION:

##### Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (Taric code: 0302 12 00 \* 19), ex 0304 10 13 (Taric code: 0304 10 13 \* 19), ex 0303 22 00 (Taric code: 0303 22 00 \* 19) and ex 0304 20 13 (Taric code: 0304 20 13 \* 19) originating in Norway and exported by the companies listed in the Annex to this Regulation.
2. The rate of duty applicable is ECU 0,32/kg net product weight.

##### Article 2

1. A provisional countervailing duty is hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (Taric code: 0302 12 00 \* 19), ex 0304 10 13 (Taric code: 0304 10 13 \* 19), ex 0303 22 00 (Taric code: 0303 22 00 \* 19) and ex 0304 20 13 (Taric code: 0304 20 13 \* 19) originating in Norway and exported by the companies listed in the Annex to this Regulation.
2. The rate of duty applicable to the net free-at-Community price, before duty, shall be 3,8 %.

##### Article 3

1. The duties referred to in Article 1 and 2 shall not apply to wild Atlantic salmon (Taric codes 0302 12 00 \* 11, 0304 10 13 \* 11, 0303 22 00 \* 11, 0304 20 13 \* 11). For the purpose of the present Regulation, wild Atlantic salmon shall be that in respect of which the competent authorities of the Member State of landing are satisfied, by means of all customs and transport documents to be provided by interested parties, that it was caught at sea.

2. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

*Article 4*

Pursuant to Article 20 (1) of Regulation (EC) No 384/96 and Article 30 (1) of Regulation (EC) No 2026/97, the parties concerned may make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

*Article 5*

Decision 97/634/EC is hereby amended by the deletion from the Annex of the companies listed in the Annex to this Regulation.

*Article 6*

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities* and shall apply for a period of four months.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Leon BRITTAN

*Vice-President*

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## ANNEX

	Company	Taric code
6	Altafjord Oppdrett A/S	8099
9	Aqua Supply A/S	8107
10	Aquatrade A/S	8108
18	A/S More Codfish Company	8116
34	Compania do Bacalhau Lda A/S	8132
38	DNHS Fishing Company A/S	8399
47	Fjord Aqua Group A/S	8144
52	Fresh Marine Company A/S	8149
56	Gje-vi A/S	8153
57	Gjendemsjø Fisk A/S	8299
63	Herøy Lakseopdrett A/S	8305
73	J. Meinert A/S	8175
74	Jan og Einar Martinussen A/S	8176
76	Joh. H. Pettersen A/S	8178
78	Karl Strom Andersen Eft A/S	8180
91	Marinco A/S	8191
94	Master Seafood A/S	8198
102	Nature Sea-lect Ltd	8208
103	Neptun Stavanger A/S	8209
110	Nordhav A/S	8216
120	Norsk Sjømat A/S	8233
127	Norwegian Salmon A/S	8315
132	Ocean Superior Products A/S	8237
135	Omega Sea A/S	8240
139	Polar Gigante A/S	8246
161	Seanor A/S	8272
170	Starfish	8281
184	Uniprawns A/S	8318
185	Vareberg's Røykeri	8319

## COMMISSION REGULATION (EC) No 2530/97

of 16 December 1997

amending for the sixth time Regulation (EC) No 913/97 adopting exceptional support measures for the market in pigmeat in Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat <sup>(1)</sup>, as last amended by Regulation (EC) No 3290/94 <sup>(2)</sup>, and in particular Article 20 thereof,

Whereas because of the outbreak of classical swine fever in certain production regions in Spain, exceptional support measures for the market in pigmeat in that Member State were adopted by Commission Regulation (EC) No 913/97 <sup>(3)</sup>, as last amended by Regulation (EC) No 2332/97 <sup>(4)</sup>;

Whereas it is appropriate to increase the minimum weight of eligible piglets from 8 to 10 kilograms and to simplify the calculation of the aid for piglets by using the weekly prices of the markets of Lerida and Segovia;

Whereas, in view of the continuing veterinary and trade restrictions introduced by the Spanish authorities, the number of fattening pigs which may be delivered to the competent authorities should be increased, thereby permitting the continuation of the exceptional measures in the weeks to come;

Whereas the list of eligible areas in Annex II to Regulation (EC) No 913/97 should be amended to reflect the current veterinary situation;

Whereas the rapid application of exceptional market support measures is one of the means of combating the spread of classical swine fever; whereas Article 1 point 4 of this Regulation should accordingly apply from 2 December 1997 in order to avoid any interruption in the support measures for fattening pigs, for which the number currently laid down was attained on 1 December 1997, and the other provisions from the date of publication of this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 913/97 is hereby amended as follows:

1. in Article 1 (2), '8 kilograms' is replaced by '10 kilograms';
2. Article 4 (4) is replaced by the following text:

'4. The aid provided for in Article 1 (2), at farm gate, for piglets weighing 10 kilograms or more but less than 16 kilograms on average per batch is calculated on the basis of the price per kilogram for "piglets of Lerida" of the category 15 kilograms, recorded on the market "Mercolerida" during the week preceeding the delivery of piglets to the competent authorities.

The aid provided for in Article 1 (2), at farm gate, for piglets weighing 16 kilograms and more but less than 22 kilograms on average per batch is calculated on the basis of the price per kilogram for piglets of the category 20 kilograms "Selecta" recorded on the market of Segovia during the week preceeding the delivery of the piglets to the competent authorities.'

3. the following text is added to Article 6:

'— aids for piglets provided for in Article 4 (4).';

4. Annex I is replaced by Annex I hereto;
5. Annex II is replaced by Annex II hereto.

*Article 2*

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

However, Article 1 point 4 shall apply with effect from 2 December 1997.

<sup>(1)</sup> OJ L 282, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ L 349, 31. 12. 1994, p. 105.

<sup>(3)</sup> OJ L 131, 23. 5. 1997, p. 14.

<sup>(4)</sup> OJ L 323, 26. 11. 1997, p. 23.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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*ANNEX I**'ANNEX I*

Maximum total number of animals from 6 May 1997:

Fattening pigs	480 000 head
Piglets	110 000 head
Cull sows	8 000 head'

*ANNEX II**'ANNEX II*

In the province of Lerida, the protection and surveillance zones as defined in Annexes I and II to the Order of the *Generalitat de Catalunya* dated 25 November 1997, published in the Official Journal of the *Generalitat* of 2 December 1997, page 14002.'

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## COMMISSION REGULATION (EC) No 2531/97

of 16 December 1997

amending for the 14th time Regulation (EC) No 413/97 adopting exceptional support measures for the market in pigmeat in the Netherlands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat <sup>(1)</sup>, as last amended by Regulation (EC) No 3290/94 <sup>(2)</sup>, and in particular Article 20 thereof,

Whereas exceptional support measures for the market in pigmeat in the Netherlands were adopted by Commission Regulation (EC) No 413/97 <sup>(3)</sup>, as last amended by Regulation (EC) No 2391/97 <sup>(4)</sup>, on account of the outbreak of classical swine fever in certain production regions in that country;

Whereas, in view of the continuing veterinary and trade restrictions introduced by the Dutch authorities, the number of fattening pigs which may be delivered to the competent authorities should be increased, thereby permitting the continuation of the exceptional measures in the weeks to come;

Whereas heavy pigs, slaughtered at present in the zones in which the commercial restrictions have been recently lifted, receive a reduced market price; whereas it is therefore justified to introduce a ceiling for the aid for fattening pigs weighing more than 140 kilograms, eligible for the aid provided for by Regulation (EC) No 413/97, in order to ensure an equal treatment of heavy pigs put on the market freely and heavy pigs under the said aid;

Whereas the rapid application of exceptional market support measures is one of the means of combating the spread of classical swine fever; whereas it is therefore justified to apply the provisions of this Regulation as from the date of its publication;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 413/97 is hereby amended as follows:

1. the following paragraph 6 is added to Article 4:

'6. For fattening pigs weighing more than 140 kilograms on average, the aid can not be higher than the aid fixed pursuant to paragraph 1 for fattening pigs weighing 140 kilograms on average.'

2. Annex I is replaced by the Annex hereto.

*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, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 282, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ L 349, 31. 12. 1994, p. 105.

<sup>(3)</sup> OJ L 62, 4. 3. 1997, p. 26.

<sup>(4)</sup> OJ L 330, 2. 12. 1997, p. 13.

*ANNEX**'ANNEX I*

Maximum number of animals from 18 February 1997:

Fattening pigs	2 570 000 head
Piglets and young piglets	3 800 000 head
Very young piglets	2 700 000 head
Cull sows	25 000 head'

## COMMISSION REGULATION (EC) No 2532/97

of 16 December 1997

concerning the transfer to Costa Rica, within the tariff quota for the import of bananas into the Community, of part of Nicaragua's country quota for 1998

(Text with EEA relevance)

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 <sup>(1)</sup>, as last amended by Regulation (EC) No 3290/94 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 478/95 of 1 March 1995 on additional rules for the application of Council Regulation (EEC) No 404/93 as regards the tariff quota arrangements for imports of bananas into the Community and amending Regulation (EEC) No 1442/93 <sup>(3)</sup>, as amended by Regulation (EC) No 702/95 <sup>(4)</sup>, and in particular the second subparagraph of Article 2 (2) thereof,

Whereas Regulation (EC) No 478/95 establishes the detailed rules for the application of the Framework Agreement on Bananas concluded as part of the Uruguay Round of multilateral trade negotiations; whereas Article 1 of Regulation (EC) No 478/95 divides the tariff quota into specific shares allocated to the countries or groups of countries referred to in Annex I of the same Regulation; whereas in the event that a country listed in Annex I, Table 1, is not able to export all or some of the quantity allocated to it, Article 2 (2) provides for the reallocation of that quantity;

Whereas Nicaragua has informed the Commission that it will be unable to export part of its banana quota to the Community in 1998; whereas Nicaragua and Costa Rica have jointly requested that that quantity allocated to Nicaragua be reallocated to Costa Rica; whereas that reallocation should be effected with a view to its use during the second period for the lodging of licence applications in the first quarter of 1998,

HAS ADOPTED THIS REGULATION:

*Article 1*

In application of the second subparagraph of Article 2 (2) of Regulation (EC) No 478/95, the shares of the tariff quota allocated to Costa Rica and Nicaragua are hereby changed for the first quarter of 1998 as follows:

Costa Rica: 26,4 %

Nicaragua: 0 %.

*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, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 47, 25. 2. 1993, p. 1.  
<sup>(2)</sup> OJ L 349, 31. 12. 1994, p. 105.  
<sup>(3)</sup> OJ L 49, 4. 3. 1995, p. 13.  
<sup>(4)</sup> OJ L 71, 31. 3. 1995, p. 84.

**COMMISSION REGULATION (EC) No 2533/97**  
**of 16 December 1997**

**laying down detailed rules for the application of the specific measures for the  
smaller Aegean islands with regard to the specific arrangements for the supply  
of dried fodder**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 2417/95<sup>(2)</sup>, and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 2958/93<sup>(3)</sup>, as last amended by Regulation (EC) No 1802/95<sup>(4)</sup>, lays down detailed rules for the application of Regulation (EEC) No 2019/93 as regards the specific arrangements for the supply of certain agricultural products and, pursuant to Article 3 of Regulation (EEC) No 2019/93, the level of aid granted for that supply; whereas, pursuant to Article 2 of Regulation (EEC) No 2019/93, the forecast supply balances for the supply of the smaller Aegean islands with dried fodder from the rest of the Community should be established for 1998; whereas this measure should enter into force forthwith;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Joint Committee of the relevant management committees,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the purposes of Article 2 of Regulation (EEC) No 2019/93, the forecast supply balances for dried fodder eligible for Community aid in 1998 shall be those set out in Annexes I and II hereto.

*Article 2*

The validity of the aid certificates referred to in Article 1 (3) of Regulation (EEC) No 2958/93 shall expire on the final day of the second month following the month of issue.

*Article 3*

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

It shall apply from 1 January 1998.

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

Done at Brussels, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 184, 27. 7. 1993, p. 1.

<sup>(2)</sup> OJ L 248, 14. 10. 1995, p. 39.

<sup>(3)</sup> OJ L 267, 28. 10. 1993, p. 4.

<sup>(4)</sup> OJ L 174, 26. 7. 1995, p. 27.

*ANNEX I***Forecast supply balance for the smaller islands belonging to group A**

<i>(tonnes)</i>		
Description	CN code	Quantity for 1998
Artificially dried, heat-dried and otherwise dried lucerne and fodder	1214 10 00 1214 90 91 1214 90 99	1 000

*ANNEX II***Forecast supply balance for the smaller islands belonging to group B**

<i>(tonnes)</i>		
Description	CN code	Quantity for 1998
Artificially dried, heat-dried and otherwise dried lucerne and fodder	1214 10 00 1214 90 91 1214 90 99	3 000

## COMMISSION REGULATION (EC) No 2534/97

of 16 December 1997

on the issuing of import licences for bananas under the tariff quota for the first quarter of 1998 and on the submission of new applications

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas Commission Regulation (EEC) No 1442/93<sup>(3)</sup>, as last amended by Regulation (EC) No 1409/96<sup>(4)</sup>, lays down detailed rules for the application of the arrangements for importing bananas into the Community; whereas Commission Regulation (EC) No 478/95<sup>(5)</sup>, as amended by Regulation (EC) No 702/95<sup>(6)</sup>, lays down additional rules for the application of the tariff quota arrangements laid down in Articles 18 and 19 of Regulation (EEC) No 404/93;

Whereas Article 9 (3) of Regulation (EEC) No 1442/93 lays down that, where, in the case of a given quarter and a given origin, for a country or group of countries referred to in Annex I to Regulation (EC) No 478/95, the quantities covered by import licence applications from one or more of the categories of operators appreciably exceed the indicative quantity fixed, a reduction percentage to be applied to applications shall be set; whereas, however, that provision does not apply to category C licence applications nor to category A and B applications relating to a quantity of 150 tonnes or less, provided that the total quantity covered by the category A and B applications does not exceed, for a given origin, 15 % of the total of the quantities applied for;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 1442/93, the indicative quantities for import under the

tariff quota are laid down for the first quarter of 1998 in Commission Regulation (EC) No 2318/97<sup>(7)</sup>;

Whereas in the case of the quantities covered by licence applications that are either less than or not significantly more than the indicative quantities fixed for the quarter in question, licences are issued for the quantities applied for; whereas, however, for certain origins, the quantities applied for considerably exceed the indicative quantities or the percentages set out in the Annex to Regulation (EC) No 478/95; whereas, therefore, a reduction percentage should be set to be applied under the aforementioned conditions to licence applications for the origin or origins involved and category of licence in question;

Whereas, the maximum quantity for which licence applications may still be submitted should be set taking account of the indicative quantities fixed by Regulation (EC) No 2318/97 and the applications accepted at the end of the application period running from 1 to 7 December 1997;

Whereas this Regulation should apply immediately to permit licences to be issued as quickly as possible;

Whereas the Management Committee for Bananas has not issued an opinion within the time limit laid down by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

Import licences shall be issued under the tariff quota for the import of bananas, provided for in Articles 18 and 19 of Regulation (EEC) No 404/93, for the first quarter of 1998:

1. for the quantity indicated in the licence application:

- (a) multiplied, in the case of the origin 'Costa Rica', by the reduction coefficient of 0,6628 for category B licence applications, excluding applications relating to a quantity of 150 tonnes or less;

<sup>(1)</sup> OJ L 47, 25. 2. 1993, p. 1.

<sup>(2)</sup> OJ L 349, 31. 12. 1994, p. 105.

<sup>(3)</sup> OJ L 142, 12. 6. 1993, p. 6.

<sup>(4)</sup> OJ L 181, 20. 7. 1996, p. 13.

<sup>(5)</sup> OJ L 49, 4. 3. 1995, p. 13.

<sup>(6)</sup> OJ L 71, 31. 3. 1995, p. 84.

<sup>(7)</sup> OJ L 321, 22. 11. 1997, p. 26.

- (b) multiplied, in the case of the origin 'Others', by the reduction coefficient of 0,5239 for categories A and B licence applications, excluding applications relating to a quantity of 150 tonnes or less;
  - (c) multiplied, in the case of the origin 'Colombia', by the reduction coefficient of 0,7936 for category B licence applications, excluding applications relating to a quantity of 150 tonnes or less;
2. for the quantity indicated in the licence application, in the case of an origin other than those referred to in point 1 above;

3. for the quantity indicated in the application, in the case of category C licences.

*Article 2*

The quantities for which licence applications may still be lodged in respect of the first quarter of 1998 are laid down in the Annex hereto.

*Article 3*

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, 16 December 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX

	(tonnes)
	Quantities available for new requests
COLOMBIA	
— Category A	86 378,568
COSTA RICA	
— Category A	84 731,867
— Category B	6 732,000
VENEZUELA	12 311,415
DOMINICAN REPUBLIC	14 617,582
BELIZE	5 100,000
CAMEROON	2 550,000
CÔTE D'IVOIRE	1 625,846
Other ACP	1 623,609



## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DECISION

of 27 November 1997

with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement')

(97/836/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Articles 100a and 113 thereof, in conjunction with Article 228 (2), first sentence, Article 228 (3) second subparagraph, and Article 228 (4) thereof,

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

Having regard to the assent of the European Parliament <sup>(2)</sup>,

- (1) Whereas, in its Decision of 23 October 1990, the Council authorized the Commission to take part in the negotiations concerning the revision of the United Nations Economic Commission for Europe (ECE) Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts, done at Geneva on 20 March 1958;
- (2) Whereas the 1958 Agreement has been revised;
- (3) Whereas, as a result of the aforementioned negotiations, the Community has the option of becoming a Contracting Party to the Revised Agreement in its

capacity as a regional economic integration organization to which its Member States have transferred powers in the area covered by the Agreement;

- (4) Whereas accession to the Revised Agreement constitutes an aim of common trade policy in accordance with Article 113 of the Treaty to remove technical barriers to trade in motor vehicles between the Contracting Parties; whereas involvement by the Community will add weight to the harmonization activities conducted pursuant to that Agreement and will thus permit easier access to third-country markets; whereas that involvement must result in the establishment of consistency between the instruments referred to as 'Regulations', adopted under the Revised Agreement, and Community legislation in this area;
- (5) Whereas the approval of motor vehicles and technical harmonization are conducted on the basis of Directives concerning vehicle systems, components and separate technical units pursuant to Article 100a of the Treaty, which concerns the establishment and functioning of the internal market; whereas, since 1 January 1996 in respect of category M<sub>1</sub> vehicles, the harmonization is total and mandatory within the meaning of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers <sup>(3)</sup> and the separate Directives on this category of vehicle;

<sup>(1)</sup> OJ C 69, 7. 3. 1996, p. 4.

<sup>(2)</sup> Assent delivered on 21 November 1997 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 42, 23. 2. 1970, p. 1. Directive as last amended by Directive 96/27/EC (OJ L 169, 8. 7. 1996, p. 1).

- (6) Whereas accession to the Revised Agreement by the Community requires amendments to instruments adopted in accordance with the procedure provided for in Article 189b of the Treaty; whereas the assent of the European Parliament is therefore required;
- (7) Whereas the instruments referred to as 'Regulations' adopted within the bodies pursuant to the Revised Agreement will bind the Community on expiry of a six-month period following their notification if the Community has not made known its opposition to them; whereas it should therefore be stipulated that the Community vote concerning such instruments should be preceded by a decision adopted in accordance with the same procedure as that applying to the accession to the Revised Agreement, if those instruments do not simply constitute adaptation to technical progress;
- (8) Whereas, however, assuming that the adoption of a regulation of this type merely constitutes an adaptation to technical progress, the Community vote may be decided on in accordance with the procedure used for technical adaptations to Directives on vehicle type-approval;
- (9) Whereas it is appropriate to establish practical arrangements with regard to the involvement of the Community and the Member States in the Revised Agreement;
- (10) Whereas the Revised Agreement provides for a simplified procedure for its amendment; whereas a form of decision-making at Community level should be instituted which takes account of the constraints of that procedure;
- (11) Whereas, as required by the Revised Agreement, any new Contracting Party has the option, when lodging its instruments of accession, of declaring concomitantly that it intends not to be bound by certain UN/ECE Regulations of which it must give details; whereas the Community wishes to make use of that provision in order to accede immediately to the list of Regulations considered to be essential to the proper functioning of the vehicle approval system, as defined earlier in Directives 70/156/EEC, 74/150/EEC <sup>(1)</sup> and 92/61/EC <sup>(2)</sup>, and, in view of their importance as regards the approval of vehicles at Community level and, likewise, at international level, to examine the scope for subsequently acceding to other Regulations on a case-by-case basis;
- (12) Whereas that accession does not prejudice the option of ceasing to apply the UN/ECE Regulations set out in the list accepted by the Community, as provided for in Article 1 (6) of the Revised Agreement; whereas such ceasing to apply will in particular concern cases where the Community adopts more stringent limit values for pollutant and noise emissions and the corresponding UN/ECE Regulations are not amended accordingly;
- (13) Whereas, where the Community accedes not to all of the UN/ECE Regulations, but to a defined list of such Regulations considered essential to the proper functioning of the vehicle approval procedure, those Member States subscribing to such Regulations to which the Community does not accede should be permitted to continue to manage and develop those Regulations;
- (14) Whereas, in pursuance of Article 234 of the Treaty, Member States should ensure that there is currently no incompatibility between the UN/ECE Regulations signed earlier, but to which the Community is not acceding, and the corresponding current Community legislation;
- (15) Whereas the subscription to UN/ECE Regulations by Member States should not be incompatible with the provisions of Directives 70/156/EEC, 74/150/EEC and 92/61/EEC, and should take account of the procedures of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations <sup>(3)</sup>;
- (16) Whereas, under Community rules, it is up to the Member States to implement the obligations deriving from Articles 2, 4 and 5 of the Revised Agreement,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

The Community shall accede to the United Nations Economic Commission for Europe Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions, hereinafter referred to as the 'Revised Agreement'.

The text of the Revised Agreement is set out as Annex I to this Decision.

#### *Article 2*

The President of the Council shall be authorized to designate the person empowered to lodge the instrument of accession as required by Article 6 (3) of the Revised Agreement and to make the notification contained in Annex IV to this Decision.

<sup>(1)</sup> OJ L 84, 24. 3. 1974, p. 10. Directive as last amended by the 1994 Act of Accession.

<sup>(2)</sup> OJ L 225, 10. 8. 1992, p. 72. Directive as last amended by the 1994 Act of Accession.

<sup>(3)</sup> OJ L 109, 26. 4. 1983, p. 8. Directive as last amended by Commission Decision 96/139/EC (OJ L 32, 10. 2. 1996, p. 31).

*Article 3*

1. Pursuant to Article 1 (5) of the Revised Agreement, the Community shall state that its accession will be restricted to implementation of the UN/ECE Regulations listed in Annex II to this Decision.

2. Pursuant to Article 1 (6) of the Revised Agreement, the Community may, in accordance with the procedure laid down in the second indent of Article 4 (2) of this Decision, decide to cease to apply a UN/ECE Regulation that it has previously accepted.

3. Pursuant to Article 1 (7) of the Revised Agreement, the Community may, in accordance with the procedure laid down in the second indent of Article 4 (2) of this Decision, decide to apply one, some or all of the UN/ECE Regulations to which it has not acceded at the time of its accession to the Revised Agreement.

*Article 4*

1. The practical arrangements with regard to the involvement of the Community and the Member States with regard to the work of the UN/ECE are set out in Annex III.

The contribution of the Community with regard to the priorities of the work programme of the UN/ECE shall be established in conformity with the procedure set out in Annex III, point 1.

2. The Community shall vote in favour of adopting any draft UN/ECE Regulation or a draft amendment to a Regulation

- where, if an existing Regulation to which it has acceded is being adapted to technical progress, the draft has been approved in accordance with the procedure set out in Article 13 of Directive 70/156/EEC,
- in all other instances, where on a proposal from the Commission and on receiving the assent of the European Parliament, the Council has approved the draft by a qualified majority.

3. Where a UN/ECE Regulation or an amendment to a UN/ECE Regulation is adopted without the Community having voted in favour, the Community shall express an objection in accordance with the second subparagraph of Article 1 (2) of the Revised Agreement.

4. On the assumption that the Community votes in favour of a UN/ECE Regulation or amendment to a

UN/ECE Regulation, the decision shall also state whether that Regulation shall become part of the EC whole vehicle type-approval system and replace existing law within the Community.

5. The UN/ECE Regulations and amendments to UN/ECE Regulations binding on the Community shall be published in the official languages of the Communities in the *Official Journal of the European Communities* before entering into force.

*Article 5*

1. The proposed amendments to the Revised Agreement submitted to the Contracting Parties on behalf of the Community shall be adopted by the Council acting on a qualified majority, on a proposal from the Commission and having received the opinion of the European Parliament.

2. The decision whether to raise an objection, or otherwise, to the proposed amendments to the Revised Agreement put forward by other Contracting Parties shall be taken in accordance with the procedure followed in order to accede to that Agreement. Where that procedure has not been completed a week before expiry of the deadline provided for in Article 13 (2) of the Revised Agreement the Commission will state an objection to the amendment, on behalf of the Community, before that deadline expires.

*Article 6*

Those Member States which will subscribe, or have subscribed, to UN/ECE Regulations to which the Community is not bound may continue to manage and develop those Regulations by adopting amendments reflecting technical progress while ensuring:

- that subscription to these Regulations is not incompatible with the provisions of Directives 70/156/EEC, 74/150/EEC and 92/61/EEC, and
- that the procedures of Directive 83/189/EEC are observed.

Done at Brussels, 27 November 1997.

*For the Council*

*The President*

G. WOHLFART

## ANNEX I

ECONOMIC COMMISSION FOR EUROPE  
INLAND TRANSPORT COMMITTEE

## AGREEMENT

**concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions (\*)**

*Revision 2*

*(Including the amendments which entered into force on 16 October 1995)*



UNITED NATIONS

(\*) Former title of the Agreement:

Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts, done at Geneva on 20 March 1958.

## AGREEMENT

concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions

## PREAMBLE

THE CONTRACTING PARTIES,

HAVING DECIDED to amend the Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts, done at Geneva on 20 March 1958, and

DESIRING to define uniform technical prescriptions that it will suffice for certain wheeled vehicles, equipment and parts to fulfil in order to be used in their countries,

DESIRING to adopt these prescriptions whenever possible in their countries, and,

DESIRING to facilitate the use in their countries of the vehicles, equipment and parts, where approved according to these prescriptions by the competent authorities of another Contracting Party,

HAVE AGREED AS FOLLOWS:

*Article 1*

1. The Contracting Parties shall establish through an Administrative Committee made up of all the Contracting Parties in conformity with the rules of procedure set out in Appendix 1 and on the basis of the following articles and paragraphs, Regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles. Where necessary the technical requirements will include alternatives and when possible they will be performance-oriented and include test methods. Conditions for granting type-approvals and their reciprocal recognition will be included for use by Contracting Parties who choose to implement Regulations through type-approval.

For the purposes of this Agreement:

- the term '*wheeled vehicles, equipment and parts*' shall include any wheeled vehicles, equipment and parts whose characteristics have a bearing on road safety, protection of the environment and energy saving;
- the term '*type-approval pursuant to a Regulation*' indicates an administrative procedure by which the competent authorities of the Contracting Party declare, after carrying out the required verifications, that a vehicle, equipment or parts submitted by the manufacturer conform to the requirements of the given Regulation. Afterwards the manufacturer certifies that each vehicle, equipment or parts put on the

market were produced to be identical with the approved product.

For the application of the Regulations there could be various administrative procedures alternative to type-approval. The only alternative procedure generally known and applied in certain Member States of the Economic Commission for Europe is the self-certification by which the manufacturer certifies, without any preliminary administrative control, that each product put on the market conforms to the given Regulation; the competent administrative authorities may verify by random sampling on the market that the self-certified products comply with the requirements of the given Regulation.

2. The Administrative Committee shall be composed of all the Contracting Parties in accordance with the rules of procedure set out in Appendix 1. A Regulation, after having been established in accordance with the procedure indicated in Appendix 1, shall be communicated by the Administrative Committee to the Secretary-General of the United Nations, hereinafter called the 'Secretary-General'. As soon as possible thereafter the Secretary-General shall give notification of this Regulation to the Contracting Parties.

The Regulation will be considered as adopted unless, within a period of six months from its notification by the Secretary-General, more than one third of the Contracting Parties at the time of notification have informed the Secretary-General of their disagreement with the Regulation.

The Regulation shall cover the following:

- (a) wheeled vehicles, equipment or parts concerned;
- (b) technical requirements, which if necessary may include alternatives;
- (c) test methods by which any performance requirements are to be demonstrated;
- (d) conditions for granting type-approval and their reciprocal recognition including any approval markings and conditions for ensuring conformity of production;
- (e) the date(s) on which the Regulation enters into force.

The Regulation may, if needed, include references to the laboratories accredited by the competent authorities where acceptance tests of the types of wheeled vehicles, equipment or parts submitted for approval must be carried out.

3. When a Regulation has been adopted, the Secretary-General shall so notify as soon as possible all the Contracting Parties, specifying which Contracting Parties have objected and in respect of which the Regulation shall not enter into force.

4. The adopted Regulation shall enter into force on the date(s) specified therein as a Regulation annexed to this Agreement for all Contracting Parties which did not notify their disagreement.

5. When depositing its instrument of accession, any new Contracting Party may declare that it is not bound by certain Regulations then annexed to this Agreement, or that it is not bound by any of them. If, at that time, the procedure laid down in paragraphs 2, 3 and 4 of this Article is in progress for a draft or adopted Regulation, the Secretary-General shall communicate such draft or adopted Regulation to the new Contracting Party and it shall enter into force as a Regulation for the new Contracting Party only under the conditions specified in paragraph 4 of this Article. The Secretary-General shall notify all the Contracting Parties of the date of such entry into force. The Secretary-General shall also communicate to them all declarations concerning the non-application of certain Regulations that any Contracting Party may make in accordance with the terms of this paragraph.

6. Any Contracting Party applying a Regulation may at any time notify the Secretary-General, subject to one year's notice, that its administration intends to cease applying it. Such notification shall be communicated by the Secretary-General to the other Contracting Parties.

Approvals granted shall remain valid until their withdrawal.

If a Contracting Party ceases to issue approvals pursuant to a Regulation it shall:

- maintain proper supervision on conformity of production of products for which it previously granted type-approval;
- take the necessary steps set out in Articles 4 when advised of non-conformity by a Contracting Party that continues to apply the Regulation;
- continue to notify the competent authorities of other Contracting Parties of withdrawal of approvals as set out in Article 5;
- continue to grant extensions to existing approvals.

7. Any Contracting Party not applying a Regulation may at any time notify the Secretary-General that it intends henceforth to apply it, and the Regulation will then enter into force for this Party on the 60th day after this notification. The Secretary-General shall notify all the Contracting Parties of every entry into force of a Regulation for a new Contracting Party effected in accordance with the terms of this paragraph.

8. The Contracting Parties for which a Regulation is in force shall hereinafter be referred to as '*the Contracting Parties applying a Regulation*'.

## Article 2

Each Contracting Party applying Regulations largely through type-approval shall grant the type-approvals and approval markings described in any Regulation for the types of wheeled vehicles, equipment or parts covered by the Regulation, provided that it has the technical competence and is satisfied with the arrangements for ensuring conformity of the product with the approved type as set out in Appendix 2. Each Contracting Party applying a Regulation through type-approval shall refuse the type-approvals and approved markings covered by the Regulation if the abovementioned conditions are not complied with.

## Article 3

Wheeled vehicles, equipment or parts for which type-approvals have been issued by a Contracting Party in accordance with Article 2 of this Agreement and manufactured either in the territory of a Contracting Party applying the Regulation concerned, or in such other country as is designated by the Contracting Party which has duly approved the types of wheeled vehicles, equipment or parts concerned shall be held to be in conformity with the legislation of all the Contracting Parties applying the said Regulation through type-approval.

*Article 4*

Should the competent authorities of a Contracting Party applying a Regulation through type-approval find that certain wheeled vehicles, equipment or parts bearing approval markings issued under the said Regulation by one of the Contracting Parties, do not conform to the approved types, they shall advise the competent authorities of the Contracting Party which issued the approval. That Contracting Party shall take the necessary steps to bring the products of those manufacturers into conformity with the approved types and shall advise the other Contracting Parties applying the Regulation through type-approval of the steps it has taken, which may include, if necessary, the withdrawal of approval. Where there might be a threat to road safety or to the environment, the Contracting Party which issued the approval and after receiving the information about the non-conformity to the approved type(s) shall inform thereof all other Contracting Parties about the situation. Contracting Parties may prohibit the sale and use of such wheeled vehicles, equipment or parts in their territory.

*Article 5*

The competent authorities of each Contracting Party applying Regulations through type-approval shall send monthly, to the competent authorities of the other Contracting Parties, a list of the wheeled vehicle, equipment or parts, approvals of which it has refused to grant or has withdrawn during that month; in addition, on receiving a request from the competent authority of another Contracting Party applying a Regulation through type-approval, it shall send forthwith to that competent authority a copy of all relevant information on which it based its decision to grant, refuse to grant, or to withdraw an approval of a wheeled vehicle, equipment or parts to that Regulation.

*Article 6*

1. Countries members of the Economic Commission for Europe, countries admitted to the Commission in a consultative capacity in accordance with paragraph 8 of the Commission's terms of reference, and regional economic integration organizations set up by countries members of the Economic Commission for Europe to which their Member States have transferred powers in the fields covered by this Agreement, including the power to make binding decisions on their Member States, may become Contracting Parties to this Agreement.

For the determination of the number of votes referred to in Article 1 (2) and in Article 12 (2), regional economic integration organizations vote with the number of votes of their Member States being members of the Economic Commission for Europe.

2. Countries Members of the United Nations as may participate in certain activities of the Economic Commission for Europe in accordance with paragraph 11 of the Commission's terms of reference and regional economic integration organizations of such countries to which their Member States have transferred powers in the fields covered by this Agreement including power to make binding decisions on their Member States may become Contracting Parties to this Agreement.

For the determination of the number of votes referred to in Article 1 (2) and in Article 12 (2), regional economic integration organizations vote with the number of votes of their Member States being members of the United Nations.

3. Accession to the amended Agreement by new Contracting Parties which are not Parties to the 1958 Agreement shall be effected by the deposit of an instrument with the Secretary-General, after the entry into force of the amended Agreement.

*Article 7*

1. The amended Agreement shall be deemed to enter into force nine months after the date of its transmission by the Secretary-General to all the Contracting Parties to the 1958 Agreement.

2. The amended Agreement shall be deemed not to enter into force if any objection from the Contracting Parties to the 1958 Agreement is expressed within a period of six months following the date of its transmission to them by the Secretary-General.

3. For any new Contracting Party acceding to this amended Agreement, this amended Agreement shall enter into force on the 60th day after the deposit of the instrument of accession.

*Article 8*

1. Any Contracting Party may denounce this Agreement by notifying the Secretary-General.

2. Denunciation shall take effect 12 months after the date of receipt by the Secretary-General of such notification.

*Article 9*

1. Any new Contracting Party as defined in Article 6 of this Agreement may, at the time of accession or at any time thereafter, declare by notification addressed to the Secretary-General that this Agreement shall extend to all or any of the territories for whose international relations it is responsible. The Agreement shall extend to the territory or territories named in the notification as from the 60th day after its receipt by the Secretary-General.

2. Any new Contracting Party as defined in Article 6 of this Agreement which has made a declaration in accordance with paragraph 1 of this Article extending this Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory, in accordance with the provisions of Article 8.

*Article 10*

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Agreement shall, so far as possible, be settled by negotiation between them.

2. Any dispute which is not settled by negotiation shall be submitted to arbitration if any one of the Contracting Parties in dispute so requests and shall be referred accordingly to one or more arbitrators selected by agreement between the Parties in dispute. If within three months from the date of the request for arbitration the Parties in dispute are unable to agree on the selection of an arbitrator or arbitrators, any of those Parties may request the Secretary-General to nominate a single arbitrator to whom the dispute shall be referred for decision.

3. The decision of the arbitrator or arbitrators appointed in accordance with paragraph 2 of this Article shall be binding on the Contracting Parties in dispute.

*Article 11*

1. Each new Contracting Party may, at the time of acceding to this Agreement, declare that it does not consider itself bound by Article 10 of the Agreement. Other Contracting Parties shall not be bound by Article 10 in respect of any new Contracting Party which has entered such a reservation.

2. Any Contracting Party having entered a reservation as provided for in paragraph 1 of this Article may at any time withdraw such reservation by notifying the Secretary-General.

3. No other reservation to this Agreement or to the Regulations annexed thereto shall be permitted; but any Contracting Party may, in accordance with the terms of Article 1, declare that it does not propose to apply certain of the Regulations or that it does not propose to apply any of them.

*Article 12*

The Regulations annexed to this Agreement may be amended in accordance with the following procedure.

1. Amendments to Regulations shall be established by the Administrative Committee as described in Article 1 (2) and in accordance with the procedure indicated in Appendix 1. Where necessary an amendment may include the existing requirements as an alternative. Contracting Parties shall specify which alternatives within the Regulations they will apply. Contracting Parties applying alternative(s) within a Regulation shall not be obliged to accept approvals to preceding alternative(s) within the same Regulation. Contracting Parties applying only the most recent amendments shall not be obliged to accept approvals to preceding amendments or to unamended Regulations. Contracting Parties applying an earlier series of amendments or the unamended Regulation shall accept approvals granted to a later amendment series. An amendment to the Regulation, after having been established, shall be communicated by the Administrative Committee to the Secretary-General. As soon as possible thereafter the Secretary-General shall give notification of this amendment to the Contracting Parties applying the Regulation.

2. An amendment to a Regulation will be considered to be adopted unless, within a period of six months from its notification by the Secretary-General, more than one third of the Contracting Parties applying the Regulation at the time of notification have informed the Secretary-General of their disagreement with the amendment. If, after this period, the Secretary-General has not received declarations of disagreement of more than one third of the Contracting Parties applying the Regulation, the Secretary-General shall as soon as possible declare the amendment as adopted and binding on those Contracting Parties applying the Regulation who did not declare themselves opposed to it. When a Regulation is amended and at least one fifth of the Contracting Parties applying the unamended Regulation subsequently declare that they wish to continue to apply the unamended Regulation, the unamended Regulation will be regarded as an



alternative to the amended Regulation and will be incorporated formally as such into the Regulation with effect from the date of adoption of the amendment or its entry into force. In this case the obligations of the Contracting Parties applying the Regulation shall be the same as set out in paragraph 1.

3. Should a new Contracting Party accede to this Agreement between the time of the notification of the amendment to a Regulation by the Secretary-General and its entry into force, the Regulation in question shall not enter into force for that Contracting Party until two months after it has formally accepted the amendment or two months after the lapse of a period of six months since the communication to that Party by the Secretary-General of the proposed amendment.

#### *Article 13*

The text of the Agreement itself and of its Appendices may be amended in accordance with the following procedure.

1. Any Contracting Party may propose one or more amendments to this Agreement and its Appendices. The text of any proposed amendment to the Agreement and its Appendices shall be transmitted to the Secretary-General, who shall transmit it to all Contracting Parties and inform all other countries referred to in Article 6 (1) thereof.
2. Any proposed amendment circulated in accordance with paragraph 1 of this Article shall be deemed to be accepted if no Contracting Party expresses an objection within a period of six months following the date of circulation of the proposed amendment by the Secretary-General.
3. The Secretary-General shall, as soon as possible, notify all Contracting Parties whether an objection to the proposed amendment has been expressed. If an objection to the proposed amendment has been expressed, the amendment shall be deemed not to have been accepted, and shall be of no effect whatever. If no such

objection has been expressed, the amendment shall enter into force for all Contracting Parties three months after the expiry of the period of six months referred to in paragraph 2 of this Article.

#### *Article 14*

In addition to the notifications provided for in Articles 1, 12 and 13 of this Agreement, the Secretary-General shall notify the Contracting Parties of:

- (a) accessions in accordance with Article 6;
- (b) the dates of entry into force of this Agreement in accordance with Article 7;
- (c) denunciations in accordance with Article 8;
- (d) notifications received in accordance with Article 9;
- (e) declarations and notifications received in accordance with paragraphs 1 and 2 of Article 11;
- (f) the entry into force of any amendment in accordance with Article 12 (1) and (2);
- (g) the entry into force of any amendment in accordance with Article 13 (3).

#### *Article 15*

1. If at the date the above provisions come into effect the procedures envisaged in Article 1 (3) and (4) of the unamended Agreement are under way for adopting a new Regulation, the said new Regulation shall enter into force under the provisions of paragraph 5 of the said Article.
2. If at the date the above provisions come into effect, the procedures envisaged in Article 12 (1) of the unamended Agreement are under way for the adoption of an amendment to a Regulation, the said amendment shall enter into force under the provisions of the said Article.
3. If all Contracting Parties to the Agreement agree, any Regulation adopted under the terms of the unamended Agreement may be treated as though it were a Regulation adopted under the terms of the above provisions.

*Appendix 1***COMPOSITION AND RULES OF PROCEDURE OF THE ADMINISTRATIVE COMMITTEE***Article 1*

The members of the Administrative Committee shall be composed of all the Contracting Parties to the amended Agreement.

*Article 2*

The Executive Secretary of the United Nations Economic Commission for Europe shall provide the Committee with secretariat services.

*Article 3*

The Committee shall, at its first session each year, elect a chairman and vice-chairman.

*Article 4*

The Secretary-General of the United Nations shall convene the Committee under the auspices of the Economic Commission for Europe whenever a new Regulation or an amendment to a Regulation is required to be established.

*Article 5*

Proposed new Regulations shall be put to the vote. Each country, Contracting Party to the Agreement shall have one vote. A quorum consisting of not less than half of the Contracting Parties is required for the purposes of taking decisions. For the determination of the quorum regional economic integration organizations, being Contracting Parties to the Agreement, vote with the number of votes of their Member States. The representative of a regional economic integration organization may deliver the votes of its constituent sovereign countries. New draft Regulations shall be established by a two-thirds majority of those present and voting.

*Article 6*

Proposed amendments to Regulations shall be put to the vote. Each country, Contracting Party to the Agreement applying the Regulation shall have one vote. A quorum of not less than half of the Contracting Parties applying the Regulation is required for the purposes of taking decisions. For the determination of the quorum, regional economic integration organizations, being Contracting Parties to the Agreement, vote with the number of votes of their Member States. The representative of a regional economic integration organization may deliver the votes of those of its constituent sovereign countries which apply the Regulation. Draft amendments to Regulations shall be established by a two-thirds majority of those present and voting.

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*Appendix 2***CONFORMITY OF PRODUCTION PROCEDURES****1. INITIAL ASSESSMENT**

- 1.1. The approval authority of a Contracting Party must verify, before granting type-approval, the existence of satisfactory arrangements and procedures for ensuring effective control so that vehicles, equipment or parts when in production conform to the approved type.
- 1.2. The requirement in paragraph 1.1 must be verified to the satisfaction of the authority granting type-approval but may also be verified, on behalf and at the request of the authority granting type-approval, by the approval authority of another Contracting Party. In that case, the latter approval authority prepares a statement of compliance outlining the areas and production facilities it has covered as relevant to the product(s) to be type-approved.
- 1.3. The approval authority must also accept the manufacturer's registration to Harmonized Standard ISO 9002 (the scope of which covers the product(s) to be approved) or an equivalent accreditation standard as satisfying the requirements of paragraph 1.1. The manufacturer must provide details of the registration and undertake to inform the approval authority of any revisions to its validity or scope.
- 1.4. On receiving an application from the authority of another Contracting Party the approval authority shall send forthwith the statement of compliance mentioned in the last sentence of paragraph 1.2 or advise that it is not in a position to provide such a statement.

**2. CONFORMITY OF PRODUCTION**

- 2.1. Every vehicle, equipment or part approved pursuant to Regulation annexed to this Agreement must be so manufactured as to conform to the type approved by meeting the requirements of this Appendix and of the said Regulation.
- 2.2. The approval authority of a Contracting Party granting a type-approval pursuant to a Regulation annexed to this Agreement must verify the existence of adequate arrangements and documented control plans, to be agreed with the manufacturer for each approval, to carry out at specified intervals those tests or associated checks necessary to verify continued conformity with the approved type, including, specifically, where applicable, tests specified in the said Regulation.
- 2.3. The holder of the approval must in particular:
  - 2.3.1. ensure the existence of procedures for effective control of the conformity of products (vehicles, equipment or parts) to the type-approval;
  - 2.3.2. have access to the testing equipment necessary for checking the conformity to each approved type;
  - 2.3.3. ensure that test results' data are recorded and that annexed documents remain available for a period to be determined in agreement with the approval authority. This period must not exceed 10 years;
  - 2.3.4. analyse results of each type of test, in order to verify and ensure the stability of the product characteristics, making allowance for variation of an industrial production;
  - 2.3.5. ensure that for each type of product, at least the checks prescribed in this Appendix and the tests prescribed in the applicable Regulations are carried out;
  - 2.3.6. ensure that any set of samples or test pieces giving evidence of non-conformity in the type of test in question gives rise to a further sampling and test. All the necessary steps must be taken to restore conformity of the corresponding production.

- 2.4. The authority which has granted type-approval may at any time verify the conformity control methods applied in each production facility. The normal frequency of these verifications must be consistent with the arrangements (if any) accepted pursuant to paragraph 1.2 or 1.3 of this Appendix and be such as to ensure that the relevant controls are reviewed over a period consistent with the climate of trust established by the approval authority.
- 2.4.1. At every inspection, the test records and production records must be available to the visiting inspector.
- 2.4.2. Where the nature of the test is appropriate, the inspector may select samples at random to be tested in the manufacturer's laboratory (or by the Technical Service where the Regulation annexed to this Agreement so provides). The minimum number of samples may be determined according to the results of the manufacturer's own verification.
- 2.4.3. Where the level of control appears unsatisfactory, or when it seems necessary to verify the validity of the tests carried out in application of paragraph 2.4.2, the inspector must select samples to be sent to the Technical Service which conducts the type-approval tests.
- 2.4.4. The approval authority may carry out any check or test prescribed in this Appendix or in the applicable Regulation annexed to this Agreement.
- 2.4.5. In cases where unsatisfactory results are found during an inspection, the approval authority must ensure that all necessary steps are taken to restore conformity of production as rapidly as possible.
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## ANNEX II

1. At the date of its accession to the Revised Agreement with regard to wheeled vehicles, equipment and parts, the European Community intends to restrict its accession to the recognition and approvals of the UN/ECE Regulations set out in the following list, with the series of amendments as indicated, as they are in force at the date of accession.

UN/ECE Regulation No	Series of amendments	Subject
1	01	Headlamps (including R <sub>2</sub> and/or HS <sub>1</sub> lamps)
3	02	Retro-reflecting devices
4	—	Rear registration-plate lamp
5	02	Headlamps (Sealed Beam)
6	01	Direction indicators
7	02	End-outline marker/front-side/rear-side/stop lamps
8	04	Headlamps (H <sub>1</sub> , H <sub>2</sub> , H <sub>3</sub> , HB <sub>3</sub> , HB <sub>4</sub> , H <sub>7</sub> , H <sub>8</sub> and/or HIR <sub>1</sub> )
10	02	Radio interference suppression
11	02	Door latches and hinges
12	03	Behaviour of steering device under impact
13	09	Braking
14	04	Seat-belt anchorages
16	04	Seat belts
17	06	Seat strength
18	02	Anti-theft
19	02	Front fog lamps
20	02	Headlamps (H <sub>4</sub> )
21	01	Interior fittings
22	04	Protective helmets and visors
23	—	Reversing lamps
24	03	Diesel smoke
25	04	Head restraints
26	02	Exterior projections
27	03	Advance warning triangles
28	—	Audible warning devices
30	02	Tyres (motor vehicles and their trailers)
31	02	Headlamps (halogen sealed beam)
34	01	Fire risks
37	03	Filament lamps for use in approved lamp units
38	—	Rear fog lamps
39	—	Speedometer
43	—	Safety glazing
44	03	Child restraint system
45	01	Headlamp cleaners
46	01	Rear-view mirrors
48	01	Installation of lighting and light-signalling devices
49	02	Diesel emission
50	—	Front/rear position/stop-lamps, direction indicator, rear registration-plate lamp (moped/motorcycle)

UN/ECE Regulation No	Series of amendments	Subject
51	02	Sound levels
53	—	Installation of lighting and light-signalling devices (motorcycles)
54	—	Tyres (commercial vehicles and their trailers)
56	—	Headlamps (mopeds)
57	01	Headlamps (motorcycles)
58	01	Rear protective device
59	—	Replacement silencing systems
60	—	Driver operated controls (moped/motorcycles)
62	—	Anti-theft (moped/motorcycles)
64	—	Tyres (temporary use spare wheels/tyres)
66	—	Strength of superstructure (buses)
69	01	Rear marking plates for slow moving vehicles
70	01	Rear marking plates for heavy and long vehicles
71	—	Field of vision, agricultural tractors
72	—	Headlamps (HS <sub>1</sub> lamps) (motorcycles)
73	—	Lateral protection
74	—	Installation of lighting and light-signalling devices (mopeds)
75	—	Tyres (motorcycles/mopeds)
77	—	Parking lamps
78	02	Braking (category L)
79	01	Steering equipment
80	01	Strength of seats (buses)
81	—	Rear-view mirrors (motorcycles/mopeds)
82	—	Headlamps (HS <sub>2</sub> ) (moped)
83	03	Emissions
85	—	Engine power
86	—	Installation of lighting and light-signalling devices, agricultural tractors
87	—	Daytime running lamps
89	—	Speed limitation devices
90	01	Replacement brake lining assemblies
91	—	Side marker lamps
93	—	Front underrun protective devices
96	—	Diesel emission (agricultural tractors)
97	—	Alarm systems
98	—	Headlamps with gas-discharge light sources
99	—	Gas-discharge light sources
100	—	Electric vehicle safety
101	—	CO <sub>2</sub> emission/fuel consumption
102	—	Close coupling devices
103	—	Replacement catalysts

The technical requirements of the UN/ECE Regulation listed above shall become alternatives to the technical annexes to the relevant separate EC Directives where the latter possess the same scope and where for the listed Regulations separate EC Directives exist.

However, the additional Directive provisions, such as those concerning fitting requirements or the approval procedure, remain in force.

Where it is clear that UN/ECE Regulations differ from the relevant Directives, the Community may decide to extricate itself from its reciprocal-recognition obligation in this area by withdrawing from the UN/ECE Regulation(s) concerned, in line with Article 1 (6) of the Revised Agreement and Article 3 of this Decision.

2. The listed UN/ECE Regulations, for which at the date of accession no corresponding separate EC Directives exist, shall become alternatives in accordance with paragraph 1 at the moment where these separate EC Directives become applicable.
  3. UN/ECE Regulation 22 shall not, in accordance with the rules of the Treaty, apply to the United Kingdom before 1 July 2000 or, if earlier, until such time as the Community accedes to an amended UN/ECE Regulation on protective helmets and visors which provides for the same or higher standards for such helmets and visors as are applicable in the United Kingdom on the date of adoption of this Decision.
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## ANNEX III

**PRACTICAL ARRANGEMENTS WITH REGARD TO THE INVOLVEMENT OF THE COMMUNITY AND THE MEMBER STATES IN THE REVISED AGREEMENT**

The European Community and the Member States shall be involved as Contracting Parties to the Revised Agreement in accordance with the following rules.

1. *Negotiations and preparatory work with regard to the UN/ECE work programme and to work preceding the adoption of Regulations or amendments to existing Regulations to which the Community accedes*

The contribution of the Community with regard to the priorities of the work programme shall be established as appropriate in accordance with the procedure laid down in Article 228 (1) of the Treaty.

Representatives of the Commission and Member States shall participate in the preparatory work of expert groups with the objective of facilitating the adoption of a proposal for a new UN/ECE Regulation or amending an existing UN/ECE Regulation. In the course of this preparatory work, Member State experts may advance technical opinions and may participate fully in the technical discussions only on the basis of their technical expertise without binding their national authorities or the Community.

Following this preparatory phase, the Commission shall represent the Community in the Administrative Committee as set up by Article 1 of the Revised Agreement as spokesman for the Community, in conformity with Article 113 of the Treaty. The Community's definitive position on the adoption of a new UN/ECE Regulation or the amendment of an existing UN/ECE Regulation shall be decided in accordance with Article 4 (2) of this Decision.

At all stages of this procedure, the Commission shall inform the European Parliament, particularly with regard to the drawing up of the work programme and to the direction and results of preparatory work. The Commission shall in addition forward draft UN/ECE Regulations and amendments to the Parliament in good time.

2. *Adoption of the UN/ECE Regulations and of amendments to such existing Regulations*

The Commission shall exercise the right to vote for the Community within the bodies set up pursuant to the Revised Agreement. The Member States shall not vote except in cases where it has been decided that the Community is not, or will not be, bound by a UN/ECE Regulation.

The Community institutions shall undertake to speed up their procedures as far as possible in order not to delay the vote within the ECE unnecessarily. For this purpose the Commission shall submit its proposal, as required by Article 4 (2) of the Decision as soon as all of the essential components of the draft UN/ECE Regulation have been supplied.

3. *Amendments to the Revised Agreement*

Only the Community may put forward amendments to the Revised Agreement.

The Member States shall align their position with that expressed by the Community with regard to the amendments tabled by other Contracting Parties in accordance with Article 13 of the Revised Agreement.

4. Should a Member State become involved in a dispute settlement procedure within the meaning of Article 10 of the Revised Agreement, the position of the Member State on points of interpretation of the Agreement in this procedure shall be coordinated with the Commission after consultation with the other Member States.



*ANNEX IV***NOTIFICATION TO BE MADE IN ACCORDANCE WITH ARTICLE 2 OF THE DECISION**

The European Community declares that it is not bound by Article 10 of the Revised Agreement and that Articles 2, 4 and 5 thereof will in all cases be implemented by its individual Member States. The European Community declares that UN/ECE Regulation 22 shall not apply to the United Kingdom.

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# COMMISSION

## COMMISSION DECISION

of 9 December 1997

amending Decision 83/247/EEC setting up a committee on Community policy  
regarding forestry and forestry-based industries

(97/837/EC)

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

Whereas, in the light of the economic evolution of forestry and forestry-based industries in the Community and the need to ensure the representation of its various branches in the committee, it is appropriate to amend Commission Decision 83/247/EEC<sup>(1)</sup>,

HAS DECIDED AS FOLLOWS:

### *Sole Article*

Decision 83/247/EEC is hereby amended as follows:

1. Articles 1, 2, and 3 are replaced by the following:

#### *Article 1*

An advisory committee on Community policy regarding forestry and forestry-based industries, hereinafter referred to as "the committee", is hereby set up under the auspices of the Commission. The committee shall consist of representatives of the European organizations of forest-based industries.

#### *Article 2*

The committee shall, at the request of the Commission, or on its own initiative, give advice to the Commission on the industrial aspects of Community policies affecting forest-based industries and forestry, and also on the market and other economic considerations affecting forest products in the Community or the demand therefore.

#### *Article 3*

The committee shall comprise 23 members:

- five members representing the forestry sector,
- six members representing the mechanical wood industry,
- six members representing the pulp, paper and board manufacturing and converting industries,

— six members representing the printing and the publishing industries<sup>2</sup>;

2. Articles 5 and 6 are replaced by the following:

#### *Article 5*

The term of office of committee members shall be two years, and shall be renewable subject to the approval of the Commission. On expiry of the two-year period, committee members shall remain in office until they have been replaced or until their term of office has been renewed.

A member's term of office shall be terminated before expiry of the two-year period in the event of his resignation or death.

He shall be replaced for the remainder of his term of office in accordance with the provisions of Article 4.

Members shall not be remunerated for their services.

#### *Article 6*

The list of the members of the committee shall be published by the Commission for information purposes in the *Official Journal of the European Communities*<sup>3</sup>;

3. Article 10 is replaced by the following:

#### *Article 10*

1. The committee and the working parties shall be convened by the chairman. The committee shall meet at the headquarters of the Commission.

2. Representatives of the Commission departments concerned shall take part in meetings of the committee and of the working parties.<sup>4</sup>

Done at Brussels, 9 December 1997.

*For the Commission*

Martin BANGEMANN

*Member of the Commission*

<sup>(1)</sup> OJ L 137, 26. 5. 1983, p. 31.

## ANNEX

## COMMITTEE ON COMMUNITY POLICY REGARDING FORESTRY AND FOREST-BASED INDUSTRIES

<b>1. Forestry sector</b>	<b>5 members</b>
Publicly-owned forests	1
CEPF — Confédération européenne des producteurs forestiers	1
USSE — Union de Silvicultores del Sur de Europa	1
UEF — Union of European Foresters	1
FECOF — Fédération européenne des communes forestières	1
<b>2. Mechanical wood industry</b>	<b>6 members</b>
CEI-Bois — Confédération européenne des industries du bois	1
OES — Organisation européenne des scieries	1
FESYP — Fédération européenne des syndicats de fabricants de panneaux de particules	1
FEROPA — Fédération européenne des fabricants de panneaux de fibres	1
FEIC — Fédération européenne des industries du contreplaqué	1
Euro MDF — European Association of Medium Density Fibreboard	1
<b>3. Pulp, paper and board manufacturers and converting</b>	<b>6 members</b>
CEPI — Confederation of European Paper Industries	1
EPIS — European Pulp Industry Sector	1
CEPI Cartonboard/Procarton	1
ETS — European Tissue Symposium	1
EDANA — European Disposables and Non-wovens Association	1
CITPA — Confédération internationale des transformateurs de papier et carton en Europe	1
<b>4. Printing and publishing</b>	<b>6 members</b>
INTERGRAF — Confédération internationale de l'industrie graphique et des industries annexes	1
FAEP — Fédération des associations d'éditeurs de périodiques de la CEE	1
ENPA — European Newspaper Publishers Association	1
EADP — European Association of Directory Publishers	1
EPC — European Publishers Council	1
FEP — Federation of European Publishers	1
<b>Total</b>	<b>23</b>