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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC, ECSC, EURATOM) No 2762/98
of 17 December 1998**

adjusting with effect from 1 July 1998 the remuneration and pensions of officials and other servants of the European Communities and the weightings applied thereto

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities,

Having regard to the Protocol on the Privileges and Immunities of the European Communities, and in particular Article 13 thereof,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68⁽¹⁾, as last amended by Regulation (EC, ECSC, Euratom) No 2594/98⁽²⁾ and in particular Articles 63, 64, 65, 65a and 82 of the Staff Regulations, Annex XI to the Staff Regulations, and Article 20, first paragraph, and Article 64 of the Conditions of Employment,

Having regard to the proposal from the Commission,

Whereas a review of the remuneration of officials and other servants carried out on the basis of a report by the Commission has shown that the remuneration and pensions of officials and other servants of the Communities should be adjusted under the 1998 annual review;

Whereas, in accordance with Annex XI to the Staff Regulations, the annual adjustment in respect of 1999 will entail the establishment before 31 December 1999 of new weightings with retroactive effect from 1 July 1999;

Whereas these new weightings could lead to retroactive adjustments to remuneration and pensions (positive or negative) in respect of the period of 1999 for which payments have already been made on the basis of this Regulation;

Whereas provision should therefore be made for the payment of arrears in the event of an upward adjustment as a result of these weightings or for the recovery of sums overpaid in the event of a downward adjustment for the period between the effective date and the date of entry into force of the Council's decision on the annual adjustment in respect of 1999;

Whereas provision should be made for the effects of any such recovery to be spread over a period of not more than twelve months following the date of entry into force of the Council's decision on the annual adjustment in respect of 1999,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 1 July 1998:

(a) the table of basic monthly salaries in Article 66 of the Staff Regulations is replaced by the following:

⁽¹⁾ OJ L 56, 4. 3. 1968, p. 1.

⁽²⁾ OJ L 325, 3. 12. 1998, p. 1.

Grade	Step							
	1	2	3	4	5	6	7	8
A 1	442 120	465 606	489 092	512 578	536 064	559 550		
A 2	392 345	414 756	437 167	459 578	481 989	504 400		
A 3 / LA 3	324 933	344 536	364 139	383 742	403 345	422 948	442 551	462 154
A 4 / LA 4	272 978	288 279	303 580	318 881	334 182	349 483	364 784	380 085
A 5 / LA 5	225 057	238 390	251 723	265 056	278 389	291 722	305 055	318 388
A 6 / LA 6	194 491	205 103	215 715	226 327	236 939	247 551	258 163	268 775
A 7 / LA 7	167 418	175 748	184 078	192 408	200 738	209 068		
A 8 / LA 8	148 066	154 037						
B 1	194 491	205 103	215 715	226 327	236 939	247 551	258 163	268 775
B 2	168 512	176 412	184 312	192 212	200 112	208 012	215 912	223 812
B 3	141 346	147 915	154 484	161 053	167 622	174 191	180 760	187 329
B 4	122 252	127 949	133 646	139 343	145 040	150 737	156 434	162 131
B 5	109 277	113 887	118 497	123 107				
C 1	124 692	129 720	134 748	139 776	144 804	149 832	154 860	159 888
C 2	108 456	113 064	117 672	122 280	126 888	131 496	136 104	140 712
C 3	101 169	105 117	109 065	113 013	116 961	120 909	124 857	128 805
C 4	91 414	95 117	98 820	102 523	106 226	109 929	113 632	117 335
C 5	84 289	87 743	91 197	94 651				
D 1	95 259	99 424	103 589	107 754	111 919	116 084	120 249	124 414
D 2	86 858	90 557	94 256	97 955	101 654	105 353	109 052	112 751
D 3	80 842	84 302	87 762	91 222	94 682	98 142	101 602	105 062
D 4	76 223	79 349	82 475	85 601				

- (b) — in Article 1(1) of Annex VII to the Staff Regulations BEF 6 566 shall be replaced by BEF 6 691,
 — in Article 2(1) of Annex VII to the Staff Regulations BEF 8 456 shall be replaced by BEF 8 617,
 — in the second sentence of Article 69 of the Staff Regulations and in the second subparagraph of Article 4(1) of Annex VII thereto BEF 15 107 shall be replaced by BEF 15 394,
 — in the first paragraph of Article 3 of Annex VII to the Staff Regulations BEF 7 557 shall be replaced by BEF 7 701.

Article 2

With effect from 1 July 1998, the table of basic monthly salaries in Article 63 of the Conditions of Employment of Other Servants shall be replaced by the following:

Category	Group	Step			
		1	2	3	4
A	I	207 576	233 288	259 000	284 712
	II	150 655	165 335	180 015	194 695
	III	126 602	132 242	137 882	143 522
B	IV	121 618	133 524	145 430	157 336
	V	95 529	101 826	108 123	114 420
C	VI	90 855	96 204	101 553	106 902
	VII	81 318	84 085	86 852	89 619
D	VIII	73 499	77 828	82 157	86 486
	IX	70 782	71 768	72 754	73 740

Article 3

With effect from 1 July 1998 the fixed allowance referred to in Article 4a of Annex VII to the Staff Regulations shall be:

- BEF 4 016 per month for officials in Grade C4 or C5,
- BEF 6 157 per month for officials in Grade C1, C2 or C3.

Article 4

Pensions for which entitlement has accrued by 1 July 1998 shall be calculated from that date by reference to the table of basic monthly salaries laid down in Article 66 of the Staff Regulations, as amended by Article 1(a) of this Regulation.

Article 5

With effect from 1 July 1998, the date '1 July 1997' in the second paragraph of Article 63 of the Staff Regulations shall be replaced by '1 July 1998'.

Article 6

1. With effect from 16 May 1998, the weightings applicable to the remuneration of officials and other servants employed in the countries and places listed below shall be as follows:

United Kingdom: 153,6.

2. With effect from 1 July 1998, the weightings applicable to the remuneration of officials and other servants employed in the countries and places listed below shall be as follows:

Belgium		100,0
Denmark		129,3
Germany		108,2
except:	Bonn	102,2
	Karlsruhe	98,8
	Munich	109,0
Greece		84,3
Spain		91,0
France		120,0
Ireland		104,2
Italy		100,8
except:	Varese	94,7
Luxembourg		100,0
Netherlands		111,5
Austria		111,2
Portugal		84,9
Finland		116,6
Sweden		119,7
United Kingdom		157,5
except:	Culham	123,4

3. The weightings applicable to pensions shall be determined in accordance with Article 82(1) of the Staff Regulations. Articles 3 to 10 of Council Regulation (ECSC, EEC, Euratom) No 2175/88⁽¹⁾ shall remain in force.

⁽¹⁾ OJ L 191, 22. 7. 1988, p. 1.

4. In accordance with Annex XI to the Staff Regulations these weightings could be adjusted by a Council Regulation before 31 December 1999 establishing new weightings with effect from 1 July 1999. In this event the institutions shall make the corresponding positive or negative adjustment to the remuneration and pensions of the officials, former officials and other persons concerned with retroactive effect for the period between the effective date and the date of entry into force of the decision on the 1999 adjustment.

If this retroactive adjustment necessitates the recovery of sums overpaid, such recovery may be spread over a period of not more than twelve months from the date of entry into force of the decision on the 1999 annual adjustment.

Article 7

With effect from 1 July 1998, the table in Article 10(1) of Annex VII to the Staff Regulations shall be replaced by the following:

	Entitled to household allowance		Not entitled to household allowance	
	1st to 15th day	from 16th day	1st to 15th day	from 16th day
	BEF per calendar day			
A1-A3 and LA3	2 610	1 230	1 792	1 030
A4-A8; LA4 – LA8 and category B	2 533	1 147	1 719	897
Other grades	2 298	1 070	1 479	740

Article 8

With effect from 1 July 1998, the allowances for shiftwork laid down in Article 1 of Council Regulation (ECSC, EEC, Euratom) No 300/76⁽¹⁾ shall be BEF 11 640, BEF 17 569, BEF 19 210 and BEF 26 189.

Article 9

With effect from 1 July 1998, the amounts in Article 4 of Regulation (EEC, Euratom, ECSC) No 260/68⁽²⁾ shall be subject to a weighting of 4,165412.

Article 10

This Regulation shall enter into force on the day following that 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, 17 December 1998.

For the Council
The President
W. MOLTERER

⁽¹⁾ OJ L 38, 13. 2. 1976, p. 1. Regulation as supplemented by Regulation (Euratom, ECSC, EEC) No 1307/87 (OJ L 124, 13. 5. 1987, p. 6) and last amended by Regulation (EC, ECSC, Euratom) No 2461/98 (OJ L 307, 17. 11. 1998, p. 5).

⁽²⁾ OJ L 56, 4. 3. 1968, p. 8. Regulation as last amended by Regulation (EC, ECSC, Euratom) No 2459/98 (OJ L 307, 17. 11. 1998, p. 3).

**COUNCIL REGULATION (EC) No 2763/98
of 17 December 1998**

**fixing, for the 1999 fishing year, the Community producer price for tuna intended
for the industrial manufacture of products falling within CN code 1604**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products⁽¹⁾, and in particular Article 17(1) thereof,

Having regard to the proposal from the Commission,

Whereas Article 17(1) of Regulation (EEC) No 3759/92 provides that a Community producer price should be fixed for tuna (of the genus *Thunnus*), skipjack or stripe-bellied bonito (*Euthynnus (Katsuwonus) pelamis*) and other species of the genus *Euthynnus* intended for the industrial manufacture of products falling within CN code 1604;

Whereas, on the basis of the criteria laid down in the first and second indents of Article 9(2) and in Article 17(1) of the said Regulation, the price for the 1999 fishing year should be increased,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer price for the fishing year 1 January to 31 December 1999 for tuna (of the genus *Thunnus*), skipjack or stripe-bellied bonito (*Euthynnus (Katsuwonus) pelamis*) and other species of the genus *Euthynnus* for the industrial manufacture of products falling within CN code 1604 and the commercial category to which it relates shall be fixed as follows:

Species	Commercial specifications	Community producer price (in euro/tonne)
Yellowfin tuna (<i>Thunnus albacares</i>)	Whole, weighing more than 10 kg each	1 246

Article 2

This Regulation shall enter into force on 1 January 1999.

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

Done at Brussels, 17 December 1998.

For the Council
The President
W. MOLTERER

⁽¹⁾ OJ L 388, 31. 12. 1992, p. 1. Regulation as amended by Regulation (EC) No 3318/94 (OJ L 350, 31. 12. 1994, p. 15.)

**COUNCIL REGULATION (EC) No 2764/98
of 17 December 1998**

**fixing, for the 1999 fishing year, the guide prices for the fishery products listed in
Annex II to Regulation (EEC) No 3759/92**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products⁽¹⁾, and in particular Article 9(3) thereof,

Having regard to the proposal from the Commission,

Whereas Article 9(1) of Regulation (EEC) No 3759/92 provides for a guide price to be fixed annually for each of the products or groups of products listed in Annex II to that Regulation;

Whereas, according to the data available at present concerning prices for the products in question and the criteria laid down in Article 9(2) of that Regulation, these

prices should be increased, maintained or decreased according to the species for the 1999 fishing year,

HAS ADOPTED THIS REGULATION:

Article 1

The guide prices for the fishing year from 1 January to 31 December 1999 for the products listed in Annex II to Regulation (EEC) No 3759/92 and the commercial categories to which they relate shall be fixed as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 1999.

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

Done at Brussels, 17 December 1998.

For the Council
The President
W. MOLTERER

⁽¹⁾ OJ L 388, 31. 12. 1992, p. 1. Regulation as amended by Regulation (EEC) No 3318/94 (OJ L 350, 31. 12. 1994, p. 15).

ANNEX

(euro/tonne)

Group of products	Commercial specifications	Guide price
1. Sea-bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.)	Frozen, in lots or in original packages containing the same products	1 572
2. Squid of the species <i>Loligo patagonica</i>	Frozen, not cleaned, in original packages containing the same products	1 089
3. Squid (<i>Ommastrephes sagittatus</i>)	Frozen, not cleaned, in original packages containing the same products	961
4. <i>Illex argentinus</i>	Frozen, not cleaned, in original packages containing the same products	888
5. Cuttlefish of the species <i>Sepia officinalis</i> , <i>Rossia macrosoma</i> and <i>Sepiola rondeletti</i>	Frozen, in original packages containing the same products	1 987
6. Octopus (<i>Octopus</i> spp.)	Frozen, in original packages containing the same products	2 027
7. Lesser or Greenland halibut (<i>Reinhardtius hippoglossoides</i>)	Frozen, in original packages containing the same products	1 957
8. Whole hake of the genus <i>Merluccius</i> spp.	Frozen, in original packages containing the same products	1 290
9. Fillets of hake of the genus <i>Merluccius</i> spp.	Frozen, in original packages containing the same products	1 561
10. — Prawns of the species <i>Parapenaeus longirostris</i>	Frozen, in original packages containing the same products	4 038
— Other species of the family <i>Penaeidae</i>	Frozen, in original packages containing the same products	7 985

COUNCIL REGULATION (EC) No 2765/98
of 17 December 1998

fixing, for the 1999 fishing year, the guide prices for the fishery products listed in Annex I(A), (D) and (E) of Regulation (EEC) No 3759/92

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products⁽¹⁾, and in particular Article 9(3) thereof,

Having regard to the proposal from the Commission,

Whereas Article 9(1) of Regulation (EEC) No 3759/92 provides for a guide price to be fixed annually for each of the products or groups of products listed in Annex I(A), (D) and (E) to that Regulation;

Whereas, according to the data available at present concerning prices for the products in question and the criteria laid down in Article 9(2) of that Regulation, these

prices should be increased, maintained or decreased according to the species for the 1999 fishing year,

HAS ADOPTED THIS REGULATION:

Article 1

The guide prices for the fishing year from 1 January to 31 December 1999 for the products listed in Annex I(A), (D) and (E) to Regulation (EEC) No 3759/92 and the commercial categories to which they relate are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 1999.

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

Done at Brussels, 17 December 1998.

For the Council
The President
W. MOLTERER

⁽¹⁾ OJ L 388, 31. 12. 1992, p. 1. Regulation as amended by Regulation (EEC) No 3318/94 (OJ L 350, 31. 12. 1994, p. 15).

ANNEX

Species	Commercial specifications (1)			Guide price (euro/tonne)
	Freshness category	Size	Presentation	
1. Herrings of the species <i>Clupea harengus</i>	Extra, A	1	Whole fish	270
2. Sardines of the species <i>Sardina pilchardus</i>	Extra	3	Whole fish	531
3. Picked dogfish (<i>Squalus acanthias</i>)	Extra, A	2	Whole fish Gutted fish with head	} 1 047
4. Catshanks (<i>Scyliorbinus</i> spp.)	Extra, A	1	Whole fish Gutted fish with head	} 806
5. Redfish (<i>Sebastes</i> spp.)	A	2	Whole fish	1 143
6. Cod of the species <i>Gadus morhua</i>	A	2	Gutted fish with head	} 1 506
	A	3	Gutted fish with head	
7. Coalfish (<i>Pollachius virens</i>)	A	2	Gutted fish with head	} 770
	A	3	Gutted fish with head	
8. Haddock (<i>Melanogrammus aeglefinus</i>)	A	2	Gutted fish with head	} 1 026
	A	3	Gutted fish with head	
9. Whiting (<i>Merlangius merlangus</i>)	A	2	Gutted fish with head	} 893
	A	3	Gutted fish with head	
10. Ling (<i>Molva</i> spp.)	Extra, A	1, 2	Gutted fish with head	1 150
11. Mackerel of the species <i>Scomber scombrus</i>	Extra	1	Whole fish	} 294
	A	2	Whole fish	
12. Mackerel of the species <i>Scomber japonicus</i>	Extra	1	Whole fish	} 301
	A	2	Whole fish	
13. Anchovies (<i>Engraulis</i> spp.)	Extra	2	Whole fish	1 191
14. Plaice (<i>Pleuronectes platessa</i>)	A	2	Gutted fish with head	1. 1. 1999 to } 1 042
	A	3	Gutted fish with head	30. 4. 1999: }
				1. 5. 1999 to } 1 434
				31. 12. 1999: }
15. Hake of the species <i>Merluccius merluccius</i>	A	1	Gutted fish with head	3 659
16. Megrim (<i>Lepidorhombus</i> spp.)	Extra, A	1, 2	Whole fish, gutted fish with head	2 335
17. Ray's bream (<i>Brama</i> spp.)	Extra, A	1	Whole fish	1 800
18. Monkfish (<i>Lophius</i> spp.)	Extra, A	2, 3	Whole, or gutted with head	2 717
	Extra, A	2, 3	Without head	5 613

Species	Commercial specifications (*)			Guide price (euro/tonne)
	Freshness category	Size	Presentation	
19. Shrimps of the species <i>Crangon crangon</i>	A	1	Simply boiled in water	2 358
20. Edible crab (<i>Cancer pagurus</i>)	—	1	Whole	1 749
21. Norway lobster (<i>Nephrops norvegicus</i>)	E, A	1, 2	Whole	5 232
	E, A	2	Tails	4 345
22. Dab (<i>Limanda limanda</i>)	Extra, A	1	Gutted fish with head	932
23. Flounder (<i>Platichthys flesus</i>)	Extra, A	1	Gutted fish with head	558
24. Albacore or longfinned tuna (<i>Thunnus alalunga</i>)	Extra, A	1	Whole fish	2 145
		1	Gutted fish with head	2 452
25. Cuttlefish (<i>Sepia officinalis</i> and <i>Rossia macrosoma</i>)	Extra, A	1, 2	Whole	1 605
26. Sole (<i>Solea</i> spp.)	Extra, A	2, 3	Gutted fish with head	6 453
27. Deep-water prawns (<i>Pandalus borealis</i>)	A	1	Simply boiled in water	6 387
	A	1	Fresh or chilled	1 673

(*) The freshness categories, sizes and presentation are defined pursuant to Article 2 of Regulation (EEC) No 3759/92.

COMMISSION REGULATION (EC) No 2766/98
of 21 December 1998
establishing the standard import values for determining the entry price of certain
fruit and vegetables

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 1498/98⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third

countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 22 December 1998.

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

Done at Brussels, 21 December 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 198, 15. 7. 1998, p. 4.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 21 December 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	101,0
	204	106,5
	220	242,0
	624	242,1
	999	172,9
0707 00 05	052	80,8
	999	80,8
0709 90 70	052	90,9
	204	94,4
	999	92,7
0805 10 10, 0805 10 30, 0805 10 50	052	39,1
	204	40,6
	999	39,8
0805 20 10	052	76,4
	204	64,9
	999	70,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	58,1
	464	294,2
	999	176,2
0805 30 10	052	59,2
	600	70,4
	999	64,8
	052	60,6
0808 10 20, 0808 10 50, 0808 10 90	060	16,5
	064	45,1
	400	64,2
	404	74,6
	728	85,7
	999	57,8
	064	59,2
	400	88,0
0808 20 50	720	63,0
	999	70,1

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2767/98
of 21 December 1998

amending Regulation (EC) No 2300/97 on detailed rules to implement Council Regulation (EC) No 1221/97 laying down general rules for the application of measures to improve the production and the marketing of honey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1221/97 of 25 June 1997 laying down general rules for the application of measures to improve the production and marketing of honey ⁽¹⁾, as amended by Regulation (EC) No 2070/98 ⁽²⁾, and in particular Article 5 thereof,

Whereas Commission Regulation (EC) No 2300/97 ⁽³⁾, as last amended by Regulation (EC) No 2633/98 ⁽⁴⁾, lays down provisions for the implementation of measures to improve the production and the marketing of honey;

Whereas, in order to allow a certain flexibility in the implementation of the programme, the financial limits notified for each measure may vary by certain percentage without, however, exceeding the overall ceiling for the annual programme; whereas, if use is made of the flexibility allowed in implementation of the programme, the Community financial contribution must not exceed the limit of 50 % of the expenditure actually borne by the Member State concerned;

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

Done at Brussels, 21 December 1998.

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

HAS ADOPTED THIS REGULATION:

Article 1

The following Article 4a is inserted in Regulation (EC) No 2300/97:

Article 4a

The financial limits for each measure may be increased or reduced by a maximum of 10 % provided that the overall ceiling for the annual programme is not exceeded and the Community contribution to financing of the programme referred to in Article 3 does not exceed 50 % of the expenditure borne by the Member State concerned.'

Article 2

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

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 1. 7. 1997, p. 1.

⁽²⁾ OJ L 265, 30. 9. 1998, p. 1.

⁽³⁾ OJ L 319, 21. 11. 1997, p. 4.

⁽⁴⁾ OJ L 333, 9. 12. 1998, p. 23.

COMMISSION REGULATION (EC) No 2768/98
of 21 December 1998
on the aid scheme for the private storage of olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1638/98⁽²⁾, and in particular Article 12a thereof,

Whereas Article 12a of Regulation No 136/66/EEC provides that in the event of serious disturbance on the market in certain regions of the Community an aid scheme for the private storage of olive oil may be implemented up to 31 October 2001; whereas the scheme must be based on contracts concluded with approved operators offering sufficient guarantees; whereas priority should be given to producer groups within the meaning of Council Regulation (EC) No 952/97⁽³⁾;

Whereas detailed rules governing the aid scheme for the private storage of olive oil should be laid down so that it can be implemented speedily if necessary; whereas in order that the scheme may have greater effect on the market at the level of producers and to make monitoring easier, the aid should be granted primarily for the bulk storage of virgin olive oil;

Whereas in order to reflect best the market situation, the amount of aid should be determined by a tendering procedure opened in accordance with certain rules and in respect of market sectors requiring it; whereas participants in the tendering procedure must be operators offering substantial guarantees;

Whereas the information that must appear in tenders and the conditions in which they are to be presented and examined must be specified; whereas, in particular, in order to be able to have an effect on the market situation, tenders must be submitted for a long storage period and in respect of a minimum quantity in relation to the situation in the sector; whereas performance of the tender must be guaranteed by lodging a security under the conditions laid down in Commission Regulation (EEC) No 2220/85⁽⁴⁾, as last amended by Regulation (EC) No 3403/93⁽⁵⁾, the amount and duration of which must be related to the likelihood of fluctuations in prices on the market and the number of days' storage conferring entitlement to the aid which have actually been completed;

Whereas successful tenders shall be those which do not exceed a maximum amount of aid per day of storage, to be determined in relation to the market in olive oil; whereas, however, the representativeness of tenders and compliance with the maximum quantities set under the procedure must be ensured for each category or region specified;

Whereas the main points to be included in the contract should be specified; whereas, in order to prevent shortcomings on the market, the Commission must be able to adjust the term of the contract in the light mainly of the harvest forecasts for the marketing year following that in which the contract was concluded;

Whereas in order to ensure that the scheme is properly administered, it is necessary to indicate the conditions in which an advance on aid may be granted, the checks on compliance with entitlement to the aid which are essential, certain procedures for calculating the aid and the information to be notified to the Commission by the Member States;

Whereas Commission Regulation (EEC) No 314/88⁽⁶⁾, as amended by Regulation (EEC) No 3788/89⁽⁷⁾, and Commission Regulation (EC) No 94/98⁽⁸⁾, as last amended by Regulation (EC) No 2367/98⁽⁹⁾, on private storage before 1 March 1998 must be repealed;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The competent bodies in producer Member States shall conclude contracts for the private storage of virgin olive oil in bulk on the conditions laid down in this Regulation.

2. In order to determine the aid to be granted for carrying out contracts for the private storage of virgin olive oil in bulk, the Commission may, up to 31 October 2001 acting in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC, open invitations to tender for a limited period. During a tendering procedure for a limited period, partial invitations to tender shall be opened.

⁽¹⁾ OJ L 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 32.

⁽³⁾ OJ L 142, 2. 6. 1997, p. 30.

⁽⁴⁾ OJ L 205, 3. 8. 1985, p. 5.

⁽⁵⁾ OJ L 310, 14. 12. 1993, p. 4.

⁽⁶⁾ OJ L 31, 3. 2. 1988, p. 16.

⁽⁷⁾ OJ L 367, 16. 12. 1989, p. 44.

⁽⁸⁾ OJ L 9, 15. 1. 1998, p. 25.

⁽⁹⁾ OJ L 293, 31. 10. 1998, p. 64.

Article 2

1. An invitation to tender for a limited period may be opened where:

- there are serious disturbances on the market in certain regions of the Community which may be reduced or resolved by measures for the private storage of virgin olive oil in bulk,
- and
- the average price recorded on the market during a period of not less than two weeks is less than:
 - ECU 177,88/100 kg for extra virgin olive oil, and/or
 - ECU 170,99/100 kg for fine virgin olive oil, and/or
 - ECU 166,40/100 kg for ordinary virgin olive oil, and/or
 - ECU 156,08/100 kg for lampante virgin olive oil having 1 degree of free acidity, this amount being reduced by ECU 3,67/100 kg for each additional degree of acidity.

2. Invitations to tender for a limited period shall specify the maximum quantity for the whole tendering procedure and may specify maximum quantities for each:

- category of virgin olive oil as referred to in the Annex to Regulation No 136/66/EEC,
- category of approved operators as referred to in Article 3(1),
- Community region or Member State.

Invitations to tender for a limited period may be opened for only certain of the categories or regions referred to in the first subparagraph so as to give priority to the operators referred to in Article 3(1)(a).

Invitations to tender for a limited period may be closed before the end of the period in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC.

Article 3

1. Operators approved to that end by the competent body in the Member State concerned may submit tenders in respect of partial invitations to tender. Approved operators may include the following:

- (a) a producers' group or an association of such groups, recognised in accordance with Regulation (EC) No 952/97, or
- (b) a producers' group or an association of such groups, recognised in accordance with Article 20c of Regulation No 136/66/EEC, or

(c) a mill approved in accordance with Article 13 of Council Regulation (EEC) No 2261/84⁽¹⁾ for more than two marketing years and which allows not less than 2 tonnes of oil to be extracted per eight-hour working day and which has obtained over the two preceding marketing years a total of at least 500 tonnes of virgin olive oil, or

(d) a packaging firm with a capacity, in the territory of a Member State, equal at least to 6 tonnes of oil put up per eight-hour working day, and which has put up over the two preceding marketing years a total of at least 500 tonnes of olive oil.

2. For the purposes of the approval referred to in paragraph 1, operators shall give an undertaking to:

- accept the sealing, by the competent body in the Member State, of the vats containing the olive oil covered by a storage contract,
- keep stock records of the oil and, where appropriate, the olives they are storing,
- undergo all checks provided for under this aid scheme for private storage contracts.

They shall make a declaration of the capacity of their storage facilities, provide a plan of those facilities and supply evidence of compliance with the conditions in paragraph 1.

3. Operators meeting the conditions in paragraphs 1 and 2 shall be approved and given an approval number within two months of the month in which the complete file containing the application for approval is submitted.

Without prejudice to Article 13(3), approval shall be refused or withdrawn forthwith from operators:

- who fail to meet the conditions for approval, or
- against whom proceedings have been instituted by the competent authorities for breach of the rules governing the scheme provided for in Regulation No 136/66/EEC, or
- who have been penalised for breach of the Regulation during the preceding 24 months.

Article 4

The deadlines for the submission of tenders in respect of partial tendering procedures shall be as follows:

- for November, January, February, March, April, May, June, July, September and October, from the fourth to the eighth day at midday and from the 18th to the 22nd at midday,

⁽¹⁾ OJ L 208, 3. 8. 1984, p. 3.

- for August, from the 18th to the 23rd at midday,
- for December, from the 9th to the 14th at midday.

The time of the deadline shall be local Belgian time. Where the day on which the deadline expires in a Member State is a holiday for the body responsible for receiving the tenders, the deadline shall expire at midday on the last preceding working day.

Article 5

1. Without prejudice to Article 11, tenders for a minimum quantity of 50 tonnes shall be made in respect of the amount of aid per day, for the private storage for 365 days in sealed vats and in accordance with the conditions laid down in this Regulation of virgin olive oil in bulk in one of the four categories listed in the Annex to Regulation No 136/66/EEC.

2. Approved operators shall take part in the partial tendering procedure either by submitting a written tender to the competent body in a Member State, against receipt of delivery, or by fax to that body.

Where an operator takes part in a partial tendering procedure for more than one category of oil or for vats located at different addresses, he shall submit a separate tender in each case.

A tender shall be valid only for a single partial tendering procedure. Once submitted, tenders may not be withdrawn or altered after the closing date for submission of tenders.

3. Tenders shall contain:

- (a) a reference to this Regulation and to the partial tendering procedure to which the tender refers;
- (b) the name and address of the tenderer;
- (c) the category of approved operator, referred to in Article 3(1), and the approval number;
- (d) the quantity and category of olive oil covered by the tender;
- (e) the exact address of the place at which the storage vats are located;
- (f) the amount of aid per day of private storage per tonne of olive oil, expressed in ecus to two decimal places;
- (g) the amount of the security to be established in accordance with Article 6 expressed in the currency of the Member State in which the tender is made.

4. To ensure that their validity is recognised, tenders must:

- be drawn up, together with the relevant documents, in the official language or one of the official languages of the Member State of the competent body which receives them,

- be submitted in accordance with this Regulation and contain all the particulars listed in paragraph 3,
- not contain conditions other than those provided for in this Regulation,
- be made by an operator approved by the Member State in which they are received, and concern storage vats located in that Member State,
- be accompanied, prior to the deadline for the submission of tenders, by proof that the tenderer has established the security specified in them.

Article 6

1. Tenderers shall establish a security of ECU 50 per tonne of olive oil covered by a tender.

2. Where tenders are unsuccessful, the security referred to in paragraph 1 shall be released forthwith following publication in the *Official Journal of the European Communities* of the maximum amount of the aid for the partial tendering procedure concerned.

3. Where tenders are successful, a security of ECU 200 per tonne of olive oil covered by the tender shall be established no later than the first day of performance of the contract as referred to in Article 9(3) second paragraph in addition to the security referred to in paragraph 1.

4. The primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85 for the release of the securities referred to in paragraphs 1 and 3 shall be the storage for six months provided for in the tender under the contract conditions laid down in this Regulation.

However, where the duration of the contract is reduced to less than six months pursuant to Article 11, the storage period referred to in the first subparagraph shall be the same as the period of performance of the contract.

Article 7

1. Tenders shall be examined by the competent body in the Member State concerned in the absence of members of the public. Subject to paragraph 2, persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

2. Valid tenders shall be notified to the Commission, classified in increasing order of amount, unnamed, by fax, not later than 48 hours following the expiry of the deadline for the submission of tenders. If the deadline expires on a Friday tenders shall be notified no later than midday the following Monday.

3. Particulars shall be given for each tender notified of the quantity, category of oil and amount referred to in Article 5(3)(d) and (f). In addition, where the procedure sets maximum quantities for each category of operators or region, the categories or regions concerned shall be indicated for each tender.

Article 8

1. In accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC and on the basis of the tenders received, a maximum amount of aid shall be set per day of private storage not later than the ninth working day following the expiry of each deadline set for the submission of tenders under partial tendering procedures.

2. The maximum amount of aid shall be set in the light of the situation and foreseeable developments on the market in olive oil, and the opportunities for contributing significantly to ensuring that the market is regulated by the measure concerned.

In addition, account shall be taken of quantities which are covered already by private storage contracts and of the quantities covered by the tenders received.

3. When the maximum amount is being set, and in accordance with the same procedure, all tenders in respect of a category of oil, a category of operator or a region for which a maximum quantity has been set under Article 2(2) may be rejected where, in the case of the category or region in question:

- the tenders are not representative, or
- the maximum amount set could result in an overrun of the maximum quantity concerned.

Article 9

1. The contract shall be awarded, without prejudice to Article 8(3), to the tenderer or tenderers whose tender has been notified in accordance with Article 7(2), and which corresponds to the maximum amount of aid per day of private storage, or less for the quantity shown in the tender.

The rights and obligations of the successful tenderer shall not be transferable.

2. The competent body in the Member State concerned shall notify all tenderers in writing of the outcome of their participation in the tendering procedure not later than the second working day following the date of publication of the maximum amount of the aid in the *Official Journal of the European Communities*.

3. The date of conclusion of the contract shall be that on which the notice of acceptance of the tender is dispatched to the tenderer.

The date of commencement of performance of the contract, subject to the lodging of the security referred to in Article 6(3), shall be that of the day following the conclusion of the contract, and the oil in question must be stored in the conditions provided for in the contract.

4. Within 30 days of the conclusion of the contract, the competent body in the Member State shall

- identify the vats containing the olive oil concerned,
- record the net weight of the oil,
- take a sample representative of the tender,
- seal each vat.

5. The sample taken shall be analysed as quickly as possible to ensure that the oil corresponds to the category for which the contract was awarded.

Article 10

1. The contract drawn up in two copies shall contain at least the following:

- (a) the name and address of the competent body in the Member State;
- (b) the full postal address, and the approval number and category of the contractor, as referred to in Article 3(1);
- (c) the exact address of the place of storage;
- (d) the date of conclusion of the contract;
- (e) the date of commencement and of completion of performance of the contract, subject to Article 11;
- (f) a reference to this Regulation and to the partial tendering procedure concerned.

2. The contract shall contain a reference in respect of each batch covered by it to:

- the category and net weight of the virgin olive oil,
- the particulars of the vats containing the oil.

3. The contract shall require the contractor:

- (a) to keep in storage, for an agreed period, the agreed quantity of the product concerned, at his expense and risk;
- (b) to store oil of different categories in separate vats, specified in the contract and sealed by the competent body in the Member State; changes of vats must be authorised by that body, undertaken in its presence and have new seals affixed;
- (c) to allow the competent body in the Member State to verify at all times compliance with the requirements of the contract.

4. Without prejudice to Article 11, where the contractor terminates the contract while it is being performed, the securities referred to in Article 6 and, where appropriate, Article 12, shall be forfeit in their totality; in addition, the contractor shall lose the benefit of the aid for the whole of the period and for all the quantities provided for in the contract.

Article 11

1. The Commission, on the basis of developments on the market in olive oil and the outlook for the future, may decide in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC to shorten the duration of contracts which are being performed.

Changes to contracts may be adopted only during the period 1 September to 31 December, and may not take effect before the end of the month following that in which they are adopted.

2. Where a contract is changed pursuant to paragraph 1, the Commission shall set a percentage reduction to be applied to the numbers of days of performance provided for after a date specified for all contracts which are being performed on that date.

Article 12

1. Following the conclusion of the contract an advance corresponding to the aid provided for in respect of the period starting on the date of commencement of performance of the contract and ending on 31 August following may be paid on condition that a security is lodged for an amount equal to 120 % of the advance.

In the case of contracts that are being performed, from 1 January, a further advance may be paid for the period beginning on 1 September and ending on expiry of those contracts, under the terms specified in the first subparagraph.

2. The security referred to in paragraph 1 shall be released forthwith on payment of the balance of the aid in accordance with Article 14(3).

Article 13

1. Before final payment of the aid is made, the competent body in the Member State shall:

- collect and verify the proof of compliance with the conditions laid down in this Regulation,
- carry out the necessary checks to ensure that the olive oil in question has remained in storage during the whole of the storage period referred to in the contract,
- take all the measures necessary to ensure that checks are made on compliance with the requirements of the contract.

2. Checks on compliance shall include the physical inspection of the goods stored, together with scrutiny of the accounts.

The physical inspection shall cover in particular the compliance of the stocks covered by the contract with the categories of oil provided for in the contract, the presence of the seals and of the quantities provided for.

3. Where there is failure to comply with the requirements of the contract, the aid shall not be granted, and without prejudice to other penalties that may be applied, the approval of the operator shall be withdrawn. In addi-

tion, securities as referred to in Articles 6 and 12 shall be forfeit under the terms of Regulation (EEC) No 2220/85.

Article 14

1. The aid amount shall be calculated in relation to the net weight recorded in accordance with Article 9(4).

The rate to be applied when converting the amount of private storage aid into national currency shall be the agricultural conversion rate applicable on the date of commencement of performance of the contract.

2. The requirements relating to the quantities provided for in the tenders and contracts shall be regarded as met if they are in fact met in respect of 98 % of those quantities.

Where the analysis referred to in Article 9(5) does not suffice to confirm that the oil in the vat corresponds to the category for which the contract was awarded, the entire quantity covered by the tender shall be deemed not to be in conformity.

3. The aid, or where an advance has been granted under Article 12 the balance of the aid, shall be paid only when all the requirements of the contract have been met. Payment of the aid, or the balance of the aid, shall be made following a check on compliance with the requirements, within 60 days following expiry of the contract.

Article 15

1. The Member States concerned shall notify the Commission of the national measures taken to apply this Regulation and of the specimen contract.

2. The Member States shall notify the Commission of the quantities of olive oil for which an aid has been awarded and which, as appropriate, are not the subject of:

- a contract,
- compliance with or the performance in full of the contract.

The notices referred to in the first subparagraph shall specify the partial tendering procedure concerned and, as appropriate, the categories of oil, operators, or regions concerned. Notification shall take place at the earliest opportunity and not later than the 10th day of the month following the month concerned.

Article 16

Regulation (EEC) No 314/88 and Regulation (EC) No 94/98 are hereby repealed.

Article 17

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

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

Done at Brussels, 21 December 1998.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION DECISION No 2769/98/ECSC
of 21 December 1998

derogating from High Authority Recommendation No 1/64 concerning an increase in the protective duty on iron and steel products at the external frontiers of the Community (166th derogation)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular the third paragraph of Article 71 thereof,

Having regard to High Authority Recommendation No 1/64 of 15 January 1964 to the Governments of the Member States concerning an increase in the protective duty on iron and steel products at the external frontiers of the Community ⁽¹⁾, as last amended by Commission Recommendation 88/27/ECSC ⁽²⁾, and in particular Article 3 thereof,

Whereas certain iron and steel products indispensable to the manufacture of certain goods and having very special physical and chemical characteristics are not produced in the Community, or are produced in insufficient quantities; whereas for a number of years the insufficiency has been overcome by duty-free tariff quotas; whereas Community producers are still not in a position to comply with the present quality requirements put forward by the users; whereas duty-free tariff quotas at a level securing the supply of users is consequently required;

Whereas import of these products on preferential terms is unlikely to cause injury to iron and steel undertakings in the Community which produce directly competing products;

Whereas these tariff quotas are unlikely to jeopardise the objectives of Recommendation No 1/64, but will help to maintain existing trade flows between the Community and non-member countries;

Whereas these are special cases in the commercial policy field justifying the authorisation of derogations pursuant to Article 3 of Recommendation No 1/64;

Whereas it is necessary to make sure that the tariff quotas granted will have no other function than meeting the specific needs of certain transforming industries;

Whereas the Governments of the Member States have been consulted on the tariff quotas set out below;

Whereas Commission Regulation (EC) No 1427/97 of 23 July 1997 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾ fixes rules for managing tariff quotas to be used in chronological order of the dates of declarations,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States are hereby authorised to derogate from the obligations arising pursuant to Article 1 of High Authority Recommendation No 1/64 to the extent necessary to suspend at the levels indicated the customs duties on the products set out below, within the quantities of the tariff quotas set out below:

⁽¹⁾ OJ 8, 22. 1. 1964, p. 99/64.

⁽²⁾ OJ L 15, 20. 1. 1988, p. 13.

⁽³⁾ OJ L 196, 24. 7. 1997, p. 31.

Order No	CN code	TARIC code	Description	Quota (tonnes)	Quota duty (%)	End of quota period
09.2921	(a)		Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced) not clad, plated or coated:	200	0	31.12.1999
	ex 7209 16 90	10	Of a thickness exceeding 1 mm but less than 3 mm			
	ex 7209 17 90	10	Of a thickness of 0,5 mm or more but not exceeding 1 mm			
09.2922	(b)		Flat-rolled products of stainless steel, of a width of 600 mm or more not further worked than cold-rolled (cold-reduced):	500	0	31.12.1999
	ex 7219 32 10	11 12	Of a thickness of 3 mm or more but less than 4,75 mm containing by weight 2,5 % or more of nickel			
	ex 7219 33 10	11 12	Of a thickness exceeding 1 mm but less than 3 mm containing by weight 2,5 % or more of nickel			
	ex 7219 34 10	11 12	Of a thickness of 0,5 mm or more but not exceeding 1 mm, containing by weight 2,5 % or more of nickel			
09.2927	(c)		Flat-rolled products of stainless steel, of a width of 600 mm or more not further worked than cold-rolled (cold-reduced):	825	0	31.12.1999
	ex 7219 33 10	13	Of a thickness exceeding 1 mm but less than 3 mm containing by weight 2,5 % or more of nickel			
		14				
		15				
		16				
ex 7219 34 10	17	Of a thickness of 0,5 mm or more but not exceeding 1 mm, containing by weight 2,5 % or more of nickel				
	18					
	13					
		14				
		15				
		16				
		17				
		18				

2. The abovementioned products must, in addition, comply with the following physical specifications:

(a) Products falling within CN codes ex 7209 16 90 and ex 7209 17 90:

High carbon steel with a carbon content by weight of 0,64 to 0,70 % for the production of process or transport belts with a permissible operating temperature of 400 °C. Tensile strength 1 200 N/mm² (± 10 %). Other elements or properties following special technical specification (HM 1708).

(b) Products falling within CN codes ex 7219 32 10 11/12, ex 7219 33 10 11/12 and ex 7219 34 10 11/12:

Stainless steel 'Nicro' for the production of process or transport belts with a permissible operating temperature of 350 °C.

Type (i): tensile strength 1 050 N/mm² ($\pm 10\%$). Chemical composition: maximum carbon content 0,06 %; 13 % chromium content; 4 % nickel content.

Other elements or properties following special technical specification (HM 1708).

Type (ii): tensile strength 1 200 N/mm² ($\pm 15\%$). Chemical composition: maximum carbon content 0,15 %; 17 % chromium content; 7 % nickel content.

Other elements or properties following special technical specification (HM 1708).

- (c) Products falling within CN codes ex 7219 33 10 13/14/15/16/17/18 and ex 7219 34 10 13/14/15/16/17/18:

Stainless steel for the production of process or transport belts

Type (i): tensile strength 1 200 N/mm². Chemical composition: 0,1 % carbon content; 0,6 % silicon content; 1,4 % manganese content; 17,5 % chromium content; 7,5 % nickel content.

Other elements or properties following special technical specification (HM 1712).

Type (ii): tensile strength 1 200 N/mm². Chemical composition: 0,06 % carbon content; 0,6 % silicon content; 1,4 % manganese content; 18,5 % chromium content; 8,5 % nickel content.

Other elements or properties following special technical specification.

Type (iii): tensile strength 1 000 N/mm². Chemical composition: 0,05 % carbon content; 0,6 % silicon content; 1,7 % manganese content; 17,5 % chromium content; 12,5 % nickel content; 2,7 % molybdenum content.

Other elements or properties following special technical specification.

Type (iv): tensile strength 1 080 N/mm². Chemical composition: maximum carbon content 0,05 %; maximum silicon content 1 %; 13 % chromium content; 4 % nickel content; 0,3 % titanium content.

Other elements or properties following special technical specification (HM 1710).

Type (v): tensile strength 1 150 N/mm². Chemical composition: maximum carbon content 0,08 %; 1,5 % silicon content; 14 % chromium content; 7 % nickel content; 0,7 % copper content.

Other elements or properties following special technical specification (HM 1701).

Type (vi): tensile strength 1 200 N/mm². Chemical composition: 0,03 % carbon content; 0,6 % silicon content; 15,25 % chromium content; 4,9 % nickel content; 3,25 % copper content.

Other elements or properties following special technical specification.

Note: The composition of products (a), (b) and (c) (i) to (vi) may vary within the limits of the standards applicable to analysis.

Article 2

Member States are hereby authorised to derogate from the obligations arising pursuant to Article 1 of High Authority Recommendation No 1/64 to the extent necessary to suspend at the levels indicated the customs duties on the products set out below, within the quantities of the tariff quotas set out below:

Order No	CN code	TARIC code	Description	Quota (tonnes)	Quota duty (%)	End of quota period
09.2923	(a) ex 7227 90 95	15	<p>Special wire rod for the manufacture of oil-tempered valve spring wire with a diameter of 5 mm or more but not exceeding 15 mm, of other alloy steel containing by weight:</p> <p>0,5 % or more but not more than 0,8 % of carbon</p> <p>0,1 % or more but not more than 1,7 % of silicon</p> <p>0,5 % or more but not more than 0,8 % of manganese</p> <p>0,03 % or less of sulphur</p> <p>0,03 % or less of phosphorus</p> <p>0,4 % or more but not more than 0,8 % of chrome</p> <p>0,1 % or more but not more than 0,3 % of vanadium</p>	5 000	0	31.12.1999
09.2924	(b) ex 7227 90 95	25	<p>Special wire rod for the manufacture of oil-tempered valve spring wire with a diameter of 5,5 mm or more but not exceeding 10 mm, of other alloy steel containing by weight:</p> <p>0,63 % or more but not more than 0,72 % of carbon</p> <p>0,15 % or more but not more than 0,3 % of silicon</p> <p>0,5 % or more but not more than 0,9 % of manganese</p> <p>0,02 % or less of sulphur</p> <p>0,02 % or less of phosphorus</p> <p>0,4 % or more but not more than 0,6 % of chrome</p> <p>0,06 % or less of copper</p> <p>0,06 % or less of nickel</p> <p>0,1 % or more but not more than 0,2 % of vanadium</p>	500	0	31.12.1999

Article 3

The tariff quotas referred to in Articles 1 and 2 shall be managed by the Commission, in accordance with Articles 308a to 308c of Commission Regulation (EEC) No 2454/93 ⁽¹⁾. The Commission may take any appropriate administrative measures to ensure that they are managed efficiently.

Article 4

Each Member State shall ensure that importers of the products in question have equal and continuous access to the quotas for as long as the balance of the relevant quota volume so permits.

Article 5

The Member States and the Commission shall cooperate closely to ensure that this Decision is complied with.

Article 6

This Decision 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 until 31 December 1999.

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

Done at Brussels, 21 December 1998.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ L 253, 11. 10. 1993, p. 1.

COMMISSION REGULATION (EC) No 2770/98
of 21 December 1998
amending Regulation (EEC) No 3201/90 laying down detailed rules for the
description and presentation of wines and grape musts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 1627/98 ⁽²⁾, and in particular Article 72(5) thereof,

Whereas Council Regulation (EEC) No 2392/89 ⁽³⁾, as last amended by Regulation (EC) No 1427/96 ⁽⁴⁾, lays down general rules for the description and presentation of wines and grape musts;

Whereas Commission Regulation (EEC) No 3201/90 ⁽⁵⁾, as last amended by Regulation (EC) No 847/98 ⁽⁶⁾, lays down detailed rules for the description and presentation of wines and grape musts;

Whereas the terms 'Crianza', 'Reserva' and 'Gran Reserva' used to provide information on the ageing of Spanish wines and mentioned in the fourth indent of Article 17(2)(c)(i) of Regulation (EEC) No 3201/90 are recognised under Spanish law as additional traditional terms used to designate quality wines psr since 1979; whereas they should be listed in Article 3(3)(e) of that Regulation;

Whereas, in view of an application from Uruguay, provision should be made for wines originating in that country and produced exclusively from two varieties to be able to bear the name of those two varieties when they are marketed in the Community;

Whereas Italy and Portugal have requested that new synonyms traditionally used in those countries be added to

Annex III to Regulation (EEC) No 3201/90; whereas that request should be acceded to;

Whereas Chile, the United States, Hungary and Tunisia have requested that their lists of vine varieties and synonyms in Annex IV to Regulation (EEC) No 3201/90 be amended following amendments to legislation in those countries; whereas those requests should be acceded to;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3201/90 is hereby amended as follows:

1. the following terms are added to Article 3(3)(e):
 - 'Crianza',
 - 'Reserva',
 - 'Gran Reserva';
2. in Article 13(2)(a), 'Uruguay' is added after 'South Africa';
3. Annexes III and IV are amended in accordance with the Annex hereto.

Article 2

This Regulation shall enter into force on the seventh 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, 21 December 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 8.

⁽³⁾ OJ L 232, 9. 8. 1989, p. 13.

⁽⁴⁾ OJ L 184, 24. 7. 1996, p. 3.

⁽⁵⁾ OJ L 309, 8. 11. 1990, p. 1.

⁽⁶⁾ OJ L 120, 23. 4. 1998, p. 14.

ANNEX

I. Annex III to Regulation (EEC) No 3201/90 is amended as follows:

1. under point 5 'ITALY', the names of the following vine varieties and synonyms are added:

Name of the vine variety used in the classification of vine varieties for the administrative unit concerned	Accepted synonyms — in general
'Primitivo N Calabrese N	Zinfandel N Nero d'Avola N'

2. under point 7 'PORTUGAL', the name of the following synonym is added:

Name of the vine variety used in the classification of vine varieties for the administrative unit concerned	Accepted synonyms — in general
'Pinot tinto	Pinot noir'

II. Annex IV to Regulation (EEC) No 3201/90 is amended as follows:

1. under point 7 'CHILE', the names of the following vine varieties are added:

List of varieties accepted in the Community	Accepted synonyms
7. CHILE 'Marsanne Rousanne Carmenère Nebbiolo Verdot'	

2. under point 10 'UNITED STATES', (a) Varieties of '*vitis vinifera*', the names of the following varieties and synonyms are added:

List of varieties accepted in the Community	Accepted synonyms
10. UNITED STATES: (a) Varieties of ' <i>vitis vinifera</i> 'Petit Verdot Syrah	Shiraz'

3. point 11 'HUNGARY' is replaced by the following:

List of varieties accepted in the Community	Accepted synonyms
'11. HUNGARY Bianca Bibor kadarka Blauburger Bouvier	

List of varieties accepted in the Community	Accepted synonyms
Budai	
Cabernet franc	
Cabernet sauvignon	
Cardinal	
Chardonnay	Chardonnay blanc, Kereklevelü
Chasselas	Gutedel, Gyöngyszőlő
Cirfandli	Zierfandler, Roter Zierfandler
Cserszegi fűszeres	
Csillám	
Csaba gyöngye	Perle von Csaba
Csomorika	
Duna gyöngye	
Ezerfürtü	
Ezerjő	Tausendgut
Furmint	Királyfurmint, Nemes furmint
Hárslevelü	Lindenblättriger
Gamay noir	
Gohér	
Hárslevelü	
Irsai Olivér	
Izsáki	
Jubileum 75	
Kadarka	Fűszeres kadarka, Nemes kadarka
Kármin	
Kékfrankos	Blaufränkisch, Nagyburgundi
Blauer Portugieser	Portugieser
Kerner	
Kéknyelü	Blaustengler
Királyleányka	Königstochter, Königliche, Mädchentraube
Kövérzölő	
Kövidinka	Steinschiller
Korai piros veltelini	Frühroter Veltliner
Leányka	Mädchentraube
Merlot	
Mézes	Weisser Honigler
Mornen noir	
Nektár	
Néró	
Olasz rizling	Welschriesling
Oremus	Zéta
Ottonel muskotály	Muscat Ottonel, Muscat, Muscateller
Fehér burgundi	Weissburgunder
Pinot noir	Kisburgundi kék, Spätburgunder, Pinot nero
Piros veltelini	Roter Veltliner
Pozsonyi	
Rajnai rizling	Rheinriesling, Riesling, Weisser Riesling

List of varieties accepted in the Community	Accepted synonyms
Müller Thurgau	
Rubintos	
Sárga muskotály	Gelber Muscateller, Muscat blanc, Yellow Muscat
Szürkebarát	Pinot gris, Pinot grigio, Graumönch, Ruländer Grauburgunder
Turán	
Tramini	Piros tramini, Füszeres tramini, Gewürztraminer, Roter Traminer, Traminer aromatico
Viktória gyöngye	
Zala gyöngye	Perle von Zala
Zefir	
Zengő	
Zenit	
Zeusz	
Zöld szilváni	Sylvaner, Grüner Sylvaner
Zöld veltelini	Grüner Veltliner'
Zweigelt	

4. point 19 'TUNISIA' is replaced by the following:

List of varieties accepted in the Community	Accepted synonyms
'19. TUNISIA	
Alicante Bouschet	
Beldi	
Cabernet franc	
Cabernet sauvignon	
Carignan	
Catarato	
Chardonnay	
Cinsault	
Clairette pointue	
Grenache	
Merlot	
Merseguera	
Monique	
Morastel	
Mourvèdre	
Pedro ximenes	
Pignatello	
Pinot noir	
Rezzegui	
Sangiovese	
Syrah	
Ugni blanc'	

**COMMISSION REGULATION (EC) No 2771/98
of 21 December 1998**

**opening and providing for the administration of a Community tariff quota for
1999 for products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99
originating in Thailand**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas during the World Trade Organization of multi-lateral trade negotiations, the Community undertook to open a tariff quota restricted to 21 million tonnes of products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand per four-year period, with customs duty reduced to 6 %; whereas this quota must be opened and administered by the Commission;

Whereas it is necessary to keep an administration system which ensures that only products originating in Thailand may be imported under the quota; whereas, therefore, the issue of an import licence should continue to be subject to the presentation of an export certificate issued by the Thai authorities, a specimen of which has been notified to the Commission;

Whereas since imports to the Community market of the products concerned have traditionally been administered on the basis of a calendar year this system should be kept; whereas it is therefore necessary to open a quota for 1999;

Whereas the import of products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 is subject to the presentation of an import licence for which the common detailed rules of application are laid down in Commission Regulation (EEC) No 3719/88 ⁽²⁾, as last amended by Regulation (EC) No 1044/98 ⁽³⁾; whereas Commission Regulation (EC) No 1162/95 ⁽⁴⁾, as last amended by Regulation (EC) No 444/98 ⁽⁵⁾, lays down the special detailed rules for the application of the system of licences for cereals and rice;

Whereas experience has shown that, taking into account that the Community concession provides for an overall quantity for four years with an annual maximum of 5 500 000 tonnes, it is advisable to maintain measures which, under certain conditions, either facilitate the

release for free circulation of quantities of products exceeding those given in the import licences, or allow the difference between the figure given in the import licences and the smaller figure actually imported to be carried forward;

Whereas, in order to ensure the correct application of the agreement, it is necessary to establish a system of strict and systematic controls that take account of the information given on the Thai export certificates and the Thai authorities' procedures for issuing export certificates;

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

1. An import tariff quota for 5 500 000 tonnes of products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand is hereby opened for the period 1 January to 31 December 1999. The customs duty applicable is hereby fixed at 6 % *ad valorem*. The serial number of the quota shall be 09.4008.
2. The abovementioned products shall benefit from the arrangements provided for in this Regulation if imported under cover of import licences:
 - (a) which are issued subject to the submission of a certificate for export to the European Community issued by the Department of Foreign Trade, Ministry of Commerce, Government of Thailand, hereinafter referred to as an 'export certificate', which meets the requirements laid down in Title I;
 - (b) which meet the requirements laid down in Title II.

TITLE I

Export certificates

Article 2

1. There shall be one original and at least one copy of the export certificate, to be made out on a form of which a specimen is given in the Annex.

⁽¹⁾ OJ L 146, 20. 6. 1996, p. 1.

⁽²⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽³⁾ OJ L 149, 20. 5. 1998, p. 11.

⁽⁴⁾ OJ L 117, 24. 5. 1995, p. 2.

⁽⁵⁾ OJ L 56, 26. 2. 1998, p. 12.

The size of the form shall be approximately 210 × 297 millimetres. The original shall be made out on white paper having a printed yellow guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

2. The forms shall be printed and completed in English.
3. The original and the copies shall be completed in typescript or in handwriting. In the latter case, they must be completed in ink and in block capitals.
4. Each export certificate shall bear a pre-printed serial number; in the upper section it shall also bear a certificate number. The copies shall bear the same numbers as the original.

Article 3

1. Export certificates issued from 1 January to 31 December 1999 shall be valid for 120 days from the date of issue. The date of issue of the certificate shall be counted as part of the period of validity of the certificate.

For the certificate to be valid, the sections thereof must be duly completed and it must be authenticated, as stipulated in the instructions indicated thereon. The shipped weight must be written out in full and also given in figures.

2. The export certificate shall be duly authenticated when it indicates the date of issue and bears the stamp of the issuing body and the signature of the person or persons authorised to sign it.

TITLE II

Import licences

Article 4

1. Application for an import licence for products falling within CN codes 0714 10 10, 0714 10 91 and 0714 10 99 originating in Thailand shall be submitted to the competent authorities in the Member States accompanied by the original of the export certificate. The original of the said export certificate shall be retained by the body which issues the import licence. However, where the application for an import licence relates to only a part of the quantity indicated on the export certificate, the issuing body shall indicate on the original the quantity for which the original was used and, after affixing its stamp, shall return the original to the party concerned.

Only the quantity indicated under 'shipped weight' on the export certificate shall be taken into consideration for the issue of the import licence.

2. Where it is found that the quantities actually unloaded in a given consignment are greater than the total figuring on the import licence or licences issued for this consignment the competent authorities who issued

the import licence or licences concerned shall, at the request of the importer, communicate to the Commission by telex, case by case and as soon as possible, the number or numbers of the Thai export certificates, the number or numbers of the import licences, the excess quantity concerned and the name of the cargo vessel.

The Commission shall make contact with the Thai authorities so that new export certificates may be drawn up. Pending their being drawn up, the excess quantities may not be released for free circulation under the conditions laid down in this Regulation as long as new import licences for the quantities in question cannot be presented. New import licences shall be issued under the conditions laid down in Article 7.

3. However, by way of derogation from paragraph 2, where it is found that the quantities actually unloaded in the case of a given delivery do not exceed by more than 2 % the quantities covered by the import licence or licences presented, the competent authorities of the Member State of release for free circulation shall, at the importer's request, authorise the release for free circulation of the surplus quantities in return for payment of a customs duty with a ceiling of 6 % *ad valorem* and the lodging by the importer of a security of an amount equal to the difference between the duty laid down in the Common Customs Tariff and the duty paid.

When the Commission receives the information referred to in the first subparagraph of paragraph 2, it shall contact the Thai authorities so that new export certificates may be drawn up.

The security shall be released on presentation to the competent authorities of the Member State of release for free circulation of an additional import licence for the quantities concerned. Application for that licence does not entail obligation to lodge the security for a licence referred to in Article 14(2) of Regulation (EEC) No 3719/88 or Article 5 of this Regulation. The licence shall be issued under the conditions laid down in Article 7 and upon presentation of one or more new export certificates issued by the Thai authorities. The additional import licence shall contain in box 20 one of the following entries:

- Certificado complementario, apartado 3 del artículo 4 del Reglamento (CE) n° 2771/98
- Supplerende licens, forordning (EF) nr. 2771/98, artikel 4, stk. 3
- Zusätzliche Lizenz — Artikel 4 Absatz 3 der Verordnung (EG) Nr. 2771/98
- Συμπληρωματικό πιστοποιητικό — Άρθρο 4 παράγραφος 3 του κανονισμού (ΕΚ) αριθ. 2771/98
- Licence for additional quantity, Article 4 (3) of Regulation (EC) No 2771/98
- Certificat complémentaire, règlement (CE) n° 2771/98 article 4 paragraphe 3

- Titolo complementare, regolamento (CE) n. 2771/98 articolo 4, paragrafo 3
- Aanvullend certificaat — artikel 4, lid 3, van Verordening (EG) nr. 2771/98
- Certificado complementar, n.º 3 do artigo 4.º do Regulamento (CE) n.º 2771/98
- Lisätodistus, asetus (EY) N:o 2771/98, 4 artiklan 3 kohta
- Kompletterande licens, artikel 4.3 i förordning (EG) nr 2771/98.

Except in cases of *force majeure*, the security shall be retained for quantities for which an additional import licence is not presented within a period of four months from the date of acceptance of the declaration of release for free circulation referred to in the first subparagraph. It shall be retained in particular for quantities for which the additional import licence has not been issued pursuant to Article 7(1).

After the competent authority has entered the quantity on the additional import licence and authenticated the entry, and the security provided for in the first subparagraph is released, the licence shall be sent to the issuing body as quickly as possible.

4. Applications for licences may be submitted in all Member States and licences issued are valid throughout the Community.

The provisions of the fourth indent of Article 5(1) of Regulation (EEC) No 3719/88 shall not apply to imports carried out pursuant to this Regulation.

Article 5

By way of derogation from Article 10 of Regulation (EC) No 1162/95, the security relating to the import licences provided for in this Title shall be ECU 5 per tonne.

Article 6

1. Applications for an import licence and the licence itself shall be marked 'Thailand' in box 8.

2. The licence shall bear the following indications in one of the language versions given below:

(a) in box 24:

- Derechos de aduana limitados al 6 % ad valorem [Reglamento (CE) n.º 2771/98]
- Toldsatsen begrænses til 6 % af værdien (Forordning (EF) nr. 2771/98)
- Beschränkung des Zolls auf 6 % des Zollwerts (Verordnung (EG) Nr. 2771/98)
- Τελωνειακός δασμός κατ' ανώτατο όριο 6 % κατ' αξία [Κανονισμός (ΕΚ) αριθ. 2771/98]
- Customs duties limited to 6 % ad valorem (Regulation (EC) No 2771/98)
- Droits de douane limités à 6 % ad valorem [règlement (CE) n.º 2771/98]
- Dazi doganali limitati al 6 % ad valorem [regolamento (CE) n. 2771/98]

- Douanerechten beperkt tot 6 % ad valorem (Verordening (EG) nr. 2771/98)
- Direitos aduaneiros limitados a 6 % ad valorem (Regulamento (CE) n.º 2771/98)
- Arvotulli rajoitettu 6 prosenttiin (asetus (EY) N:o 2771/98)
- Tullsatsen begränsad till 6 % av värdet (Förordning (EG) nr 2771/98);

(b) in box 20:

- Nombre del barco (indicar el nombre del barco que figura en el certificado de exportación tailandés)
- Skibets navn (skibsnavn, der er anført i det thailandske eksportcertifikat)
- Name des Schiffes (Angabe des in der thailändischen Ausfuhrbescheinigung eingetragenen Schiffsnamens)
- Ονομασία του πλοίου (σημειώστε την ονομασία του πλοίου που αναγράφεται στο ταϊλανδικό πιστοποιητικό εξαγωγής)
- Name of the cargo vessel (state the name of the vessel given on the Thai export certificate)
- Nom du bateau (indiquer le nom du bateau figurant sur le certificat d'exportation thaïlandais)
- Nome della nave (indicare il nome della nave che figura sul titolo di esportazione thailandese)
- Naam van het schip (zoals aangegeven in het Thaise uitvoercertificaat)
- Nome do navio (indicar o nome do navio que consta do certificado de exportação tailandês)
- Laivan nimi (nimi, joka on thaimaalaisessa vientitodistuksessa)
- Fartygets namn (namnet på det fartyg som anges i den thailändska exportlicensen),
- Número y fecha del certificado de exportación tailandés
- Det thailandske eksportcertifikats nummer og dato
- Nummer und Datum der thailändischen Ausfuhrbescheinigung
- Αριθμός και ημερομηνία του ταϊλανδικού πιστοποιητικού εξαγωγής
- Serial number and date of the Thai export certificate
- Numéro et date du certificat d'exportation thaïlandais
- Numero e data del titolo di esportazione thailandese
- Nummer en datum van het Thaise uitvoercertificaat
- Número e data do certificado de exportação tailandês
- Thaimaalaisen vientitodistuksen numero ja päivämäärä
- Den thailändska exportlicensens nummer och datum.

3. A licence shall be accepted in support of a declaration of release for free circulation only if, notably in the light of a copy of the bill of lading presented by the party concerned, it is shown that the products for which release for free circulation is requested have been transported to the Community by the vessel referred to in the import licence.

4. Subject to application of Article 4(3) and notwithstanding Article 8(4) of Regulation (EEC) No 3719/88, the quantity released for free circulation may not exceed that shown in boxes 17 and 18 of the import licence. The figure '0' shall be entered to that effect in box 19 of the said licence.

Article 7

1. The import licence shall be issued on the fifth working day following the day on which the application was lodged, after the Commission has informed the competent authorities of the Member State by telex or fax that the conditions laid down in this Regulation have been fulfilled.

In the event of non-observance of the conditions governing the issue of the licence, the Commission may, where necessary, and following consultation with the Thai authorities, adopt appropriate measures.

2. At the request of the party concerned, and following communication of the Commission's agreement by telex or fax, the import licence may be issued within a shorter period.

Article 8

By way of derogation from Article 6 of Regulation (EC) No 1162/95, the last day of the period of validity of the

import licence shall correspond to the last day of the period of validity of the export certificate plus 30 days.

Article 9

1. The Member States shall communicate to the Commission each day by telex or fax the following information concerning each application for a licence:

- the quantity for which each import licence is requested, with the indication, where appropriate, 'additional import licence',
- the name of the applicant for the import licence,
- the number of the export certificate submitted, as indicated in the upper section of the certificate,
- the date of issue of the export certificate,
- the total quantity for which the export certificate was issued,
- the name of the exporter indicated on the export certificate.

2. At the end of the first half of 2000, at the latest, the authorities responsible for issuing import licences shall communicate to the Commission by telex or fax a complete list of quantities not taken up, indicated on the back of the import licences, the name of the cargo vessel and the numbers of the export certificates in question.

TITLE III

Final provisions

Article 10

This Regulation shall enter into force on 1 January 1999.

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

Done at Brussels, 21 December 1998.

For the Commission
Franz FISCHLER
Member of the Commission



ORIGINAL

SERIAL No

DEPARTMENT OF FOREIGN TRADE

MINISTRY OF COMMERCE
GOVERNMENT OF THAILAND

EXPORT CERTIFICATE SUBJECT TO REGULATION (EC) No 2771/98

SPECIAL FORM FOR PRODUCTS FALLING WITHIN CN CODES 0714 10 10, 0714 10 91, 0714 10 99

EXPORT CERTIFICATE No	
EXPORT PERMIT No	

1. EXPORTER (NAME, ADDRESS AND COUNTRY)		2. FIRST CONSIGNEE (NAME, ADDRESS AND COUNTRY)	
NAME		NAME	
ADDRESS		ADDRESS	
COUNTRY		COUNTRY	
3. SHIPPED PER		4. COUNTRY/COUNTRIES OF DESTINATION IN EC	
5. TYPE OF MANIOC PRODUCTS	6. WEIGHT (TONNES)	7. PACKING	
<input type="checkbox"/> CN CODE 0714 10 10 <input type="checkbox"/> CN CODE 0714 10 91 <input type="checkbox"/> CN CODE 0714 10 99	SHIPPED WEIGHT	<input type="checkbox"/> IN BULK <input type="checkbox"/> BAGS <input type="checkbox"/> OTHERS	
	ESTIMATED NET WEIGHT		

WE HEREBY CERTIFY THAT THE ABOVEMENTIONED PRODUCTS ARE PRODUCED IN AND ARE EXPORTED FROM THAILAND

DEPARTMENT OF FOREIGN TRADE

DATE

.....
NAME AND SIGNATURE OF AUTHORIZED OFFICIAL AND STAMP

THIS CERTIFICATE IS VALID FOR 120 DAYS FROM THE DATE OF ISSUE

FOR USE BY EC AUTHORITIES:

COMMISSION REGULATION (EC) No 2772/98
of 21 December 1998

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 1999

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⁽¹⁾, as last amended by Regulation (EC) No 2598/95⁽²⁾, 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 for the year 1999;

Whereas Commission Regulation (EEC) No 388/92⁽³⁾, as last amended by Regulation (EC) No 2621/98⁽⁴⁾, 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 Commission Regulation (EEC) No 131/92⁽⁵⁾ for the cereals sector, as last amended by Regulation (EC) No 1736/96⁽⁶⁾, 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 1999;

Whereas Article 2 of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro⁽⁷⁾ provides that as from 1 January 1999, all references to the ecu in legal instruments are to be replaced by references to the euro at the rate of EUR 1 to ECU 1; whereas, for the sake of clarity, the denomination 'euro' should be used in this Regulation since it is to apply from 1 January 1999;

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 EUR 20 per tonne.

Article 3

Article 1(2) and Articles 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 1999.

⁽¹⁾ OJ L 356, 24. 12. 1991, p. 1.

⁽²⁾ OJ L 267, 9. 11. 1995, p. 1.

⁽³⁾ OJ L 43, 19. 2. 1992, p. 16.

⁽⁴⁾ OJ L 329, 5. 12. 1998, p. 14.

⁽⁵⁾ OJ L 15, 22. 1. 1992, p. 13.

⁽⁶⁾ OJ L 225, 6. 9. 1996, p. 3.

⁽⁷⁾ OJ L 162, 19. 6. 1997, p. 1.

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

Done at Brussels, 21 December 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

Supply balance for French Guiana of certain products used in feedingstuffs

(tonnes)

CN code	Quantity for 1999
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 2773/98
of 21 December 1998
setting the amounts of aid for the supply of rice products from the Community
to the Canary Islands

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

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 introducing specific measures in respect of certain agricultural products for the benefit of the Canary Islands ⁽¹⁾, as last amended by Regulation (EC) No 2348/96 ⁽²⁾, and in particular Article 3 thereof,

Whereas, pursuant to Article 3 of Regulation (EEC) No 1601/92, the requirements of the Canary Islands for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EC) No 2790/94 ⁽³⁾, as last amended by Regulation (EC) No 825/98 ⁽⁴⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Canary Islands;

Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products

in the European part of the Community and on the world market, the aid for supply to the Canary Islands should be set at the amounts given in the Annex;

Whereas Article 2 of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro ⁽⁵⁾ provides that, as from 1 January 1999, all references to the ecu in legal instruments are to be replaced by references to the euro at the rate of EUR 1 to ECU 1; whereas, for the sake of clarity, the denomination 'euro' should be used in this Regulation since it is to apply from 1 January 1999;

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 of Regulation (EEC) No 1601/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Canary Islands shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 1999.

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

Done at Brussels, 21 December 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 296, 17. 11. 1994, p. 23.

⁽⁴⁾ OJ L 117, 21. 4. 1998, p. 5.

⁽⁵⁾ OJ L 162, 19. 6. 1997, p. 1.

ANNEX

to the Commission Regulation of 21 December 1998 setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

(EUR/tonne)

Product (CN code)	Amount of aid
Milled rice (1006 30)	128,00
Broken rice (1006 40)	28,00

COMMISSION REGULATION (EC) No 2774/98
of 21 December 1998
setting the amounts of aid for the supply of rice products from the Community
to the Azores and Madeira

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 introducing specific measures in respect of certain agricultural products for the benefit of the Azores and Madeira ⁽¹⁾, as last amended by Regulation (EC) No 2348/96 ⁽²⁾, and in particular Article 10 thereof,

Whereas, pursuant to Article 10 of Regulation (EEC) No 1600/92, the requirements of the Azores and Madeira for rice are to be covered in terms of quantity, price and quality by the mobilization, on disposal terms equivalent to exemption from the levy, of Community rice, which involves the grant of an aid for supplies of Community origin; whereas this aid is to be fixed with particular reference to the costs of the various sources of supply and in particular is to be based on the prices applied to exports to third countries;

Whereas Commission Regulation (EEC) No 1696/92 ⁽³⁾, as last amended by Regulation (EEC) No 2596/93 ⁽⁴⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products, including rice, to the Azores and Madeira; whereas Commission Regulation (EEC) No 1983/92 of 16 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice products to the Azores and Madeira and establishing the forecast supply balance for these products ⁽⁵⁾, as last amended by Regulation (EC) No 1683/94 ⁽⁶⁾, lays down detailed rules which complement or derogate from the provisions of the aforementioned Regulation;

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

Done at Brussels, 21 December 1998.

Whereas, as a result of the application of these detailed rules to the current market situation in the rice sector, and in particular to the rates of prices for these products in the European part of the Community and on the world market the aid for supply to the Azores and Madeira should be set at the amounts given in the Annex;

Whereas Article 2 of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro ⁽⁷⁾ provides that, as from 1 January 1999, all references to the ecu in legal instruments are to be replaced by references to the euro at the rate of EUR 1 to ECU 1; whereas, for the sake of clarity, the denomination 'euro' should be used in this Regulation since it is to apply from 1 January 1999;

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 10 of Regulation (EEC) No 1600/92, the amount of aid for the supply of rice of Community origin under the specific arrangements for the supply of the Azores and Madeira shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 179, 1. 7. 1992, p. 6.

⁽⁴⁾ OJ L 238, 23. 9. 1993, p. 24.

⁽⁵⁾ OJ L 198, 17. 7. 1992, p. 37.

⁽⁶⁾ OJ L 178, 12. 7. 1994, p. 53.

⁽⁷⁾ OJ L 162, 19. 6. 1997, p. 1.

ANNEX

to the Commission Regulation of 21 December 1998 setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira

(EUR/tonne)

Product (CN code)	Amount of aid	
	Destination	
	Azores	Madeira
Milled rice (1006 30)	128,00	128,00

COMMISSION REGULATION (EC) No 2775/98

of 21 December 1998

fixing the production refund for white sugar used in the chemical industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1148/98⁽²⁾, and in particular Article 9 (6) thereof,

Whereas pursuant to Article 9 (3) of Regulation (EEC) No 1785/81 it may be decided to grant production refunds on the products listed in Article 1 (1) (a) and (f) and on the syrups listed in Article 1 (1) (d) thereof which are in one of the situations referred to in Article 9 (2) of the Treaty and which are used in the manufacture of certain products of the chemical industry;

Whereas Council Regulation (EEC) No 1010/86 of 25 March 1986 laying down general rules for the production refund on certain sugar products used in the chemical industry⁽³⁾, as last amended by Commission Regulation (EC) No 1126/96⁽⁴⁾, establishes the framework within which the production refunds may be determined and lists the chemical products of which the manufacture makes it possible to grant a production refund for the basic products used in their manufacture; whereas Articles 5, 6 and 7 of Regulation (EEC) No 1010/86 provide that the production refund granted for raw sugar, sucrose syrups and unprocessed isoglucose shall be derived from the refund fixed for white sugar according to a method of calculation peculiar to each of these basic products;

Whereas Commission Regulation (EEC) No 1729/78 of 24 July 1978 laying down detailed rules of application in respect of the production refund for sugar used in the chemical industry⁽⁵⁾, as last amended by Regulation (EC) No 1730/97⁽⁶⁾, specifies the method to be used for establishing the production refund; whereas Article 1 of Regulation (EEC) No 1729/78 provides that the production refund for white sugar shall be fixed at three-monthly intervals for the periods beginning 1 July, 1 October, 1 January and 1 April; whereas the application of the

abovementioned method entails fixing the production refund as stated in Article 1 for the period referred to therein;

Whereas the amendment of the definition of white sugar and raw sugar referred to in Article 1 (2) (a) and (b) of Regulation (EEC) No 1785/81 has the consequence that flavoured sugars or sugars containing added colouring agents or other substances are no longer considered as falling within these definitions but are to be considered as 'other sugars'; whereas Article 1 of Regulation (EEC) No 1010/86 provides for these sugars to be eligible as basic products to the production refund; whereas a method of calculation based on their sucrose content should be laid down for establishing the production refund applicable to these products;

Whereas Article 2 of Council Regulation (EEC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro⁽⁷⁾ provides that, as from 1 January 1999, all references to the ecu in legal instruments are to be replaced by references to the euro at the rate of EUR 1 to ECU 1; whereas, for the sake of clarity, the denomination 'euro' should be used in this Regulation since it is to apply from 1 January 1999;

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

HAS ADOPTED THIS REGULATION:

Article 1

The production refund per 100 kilograms of white sugar referred to in Article 4 of Regulation (EEC) No 1010/86 is hereby fixed at EUR 44,164 for the quarter 1 January to 31 March 1999.

Article 2

This Regulation shall enter into force on 1 January 1999.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 94, 9. 4. 1986, p. 9.

⁽⁴⁾ OJ L 150, 25. 6. 1996, p. 3.

⁽⁵⁾ OJ L 201, 25. 7. 1978, p. 26.

⁽⁶⁾ OJ L 243, 5. 9. 1997, p. 5.

⁽⁷⁾ OJ L 162, 19. 6. 1997, p. 1.

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

Done at Brussels, 21 December 1998.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 2776/98
of 21 December 1998
fixing export refunds on fruit and vegetables

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 organisation of the market in fruit and vegetables⁽¹⁾, as amended by Commission Regulation (EC) No 2520/97⁽²⁾, and in particular Article 35(11) thereof,

Whereas Commission Regulation (EC) No 2190/96⁽³⁾, as last amended by Regulation (EC) No 1287/98⁽⁴⁾, lays down detailed rules on export refunds on fruit and vegetables;

Whereas Article 35(1) of Regulation (EC) No 2200/96, provides that, to the extent necessary for economically significant quantities of the products listed in that Article to be exported, the difference between the international market prices for those products and their prices in the Community may be covered by export refunds;

Whereas Article 35(4) of Regulation (EC) No 2200/96 provides that refunds must be fixed in the light of the existing situation or the outlook for fruit and vegetable prices on the Community market and supplies available on the one hand, and prices on the international market on the other hand; whereas account must also be taken of the costs referred to in Article 35(4)(b) of that Regulation and of the economic aspect of the exports planned;

Whereas, pursuant to Article 35(1) of Regulation (EC) No 2200/96, refunds are to be set with due regard to the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas, in accordance with Article 35(5) of Regulation (EC) No 2200/96, prices on the Community market are to be established in the light of the most favourable prices

from the export standpoint; whereas international trade prices are to be established in the light of the prices referred to in the second subparagraph of that paragraph;

Whereas the international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination;

Whereas tomatoes, lemons, oranges and apples of classes Extra, I and II of the common quality standards, shelled almonds, hazelnuts and walnuts in shell can currently be exported in economically significant quantities;

Whereas the application of the abovementioned rules to the present and forecast market situation, and in particular to fruit and vegetable prices in the Community and international trade, gives the refund rates set out in the Annex hereto;

Whereas, pursuant to Article 35(2) of Regulation (EC) No 2200/96, the resources available should be used as efficiently as possible while avoiding discrimination between traders; whereas, therefore, care should be taken not to disturb the trade flows previously induced by the refund arrangements; whereas, for those reasons and because of the seasonal nature of exports of fruit and vegetables, quotas should be fixed for each product;

Whereas Commission Regulation (EEC) No 3846/87⁽⁵⁾, as last amended by Regulation (EC) No 2580/98⁽⁶⁾, establishes an agricultural product nomenclature for export refunds;

Whereas Commission Regulation (EEC) No 3719/88⁽⁷⁾, as last amended by Regulation (EC) No 1044/98⁽⁸⁾, lays down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products;

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 1.

⁽²⁾ OJ L 346, 17. 12. 1997, p. 41.

⁽³⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽⁴⁾ OJ L 178, 23. 6. 1998, p. 11.

⁽⁵⁾ OJ L 366, 24. 12. 1987, p. 1.

⁽⁶⁾ OJ L 322, 1. 12. 1998, p. 31.

⁽⁷⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽⁸⁾ OJ L 149, 20. 5. 1998, p. 11.

Whereas, owing to the market situation, in order to make the most efficient use of the resources available and given the structure of Community exports, the most appropriate method should be selected for export refunds on certain products and certain destinations and consequently refunds under the A1 and A2 licence arrangements referred to in Article 1 of Regulation (EC) No 2190/96 should not be fixed simultaneously for the export period in question;

Whereas the quantities laid down for the various products should be distributed in accordance with the different systems for the grant of the refund, taking account in particular of their perishability;

Whereas account should be taken of the definitive rates under the A2 system fixed for the preceding licence application period;

Whereas Article 2 of Council Regulation (EEC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro⁽¹⁾ provides that, as from 1 January 1999, all references to the ecu in legal instruments are to be replaced by references to the euro at the rate of EUR 1 to ECU 1; whereas, for the sake of clarity,

the denomination 'euro' should be used in this Regulation since it is to apply from 8 January 1999;

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

1. The export refunds on fruit and vegetables shall be as set out in the Annex hereto.
2. Quantities covered by licences issued for food aid as referred to in Article 14a of Regulation (EEC) No 3719/88 shall not count against the eligible quantities covered by paragraph 1.
3. Without prejudice to the application of Article 4(5) of Regulation (EC) No 2190/96, the term of validity of A1 and A2 licences shall be two months.

Article 2

This Regulation shall enter into force on 8 January 1999.

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

Done at Brussels, 21 December 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 162, 19. 6. 1997, p. 1.

ANNEX

EXPORT REFUNDS ON FRUIT AND VEGETABLES

Product (full definitions of eligible products are given in the 'Fruit and vegetables' sector of Commission Regulation (EEC) No 3846/87 amended)	Product code	Destination or destination group (*)	System Application periods					
			A1 8. 1 to 9. 3. 1999		A2 11 to 13. 1. 1999		B 15. 1 to 16. 3. 1999	
			Refund rate (EUR/tonnes net weight)	Scheduled quantity (tonnes)	Indicative refund rate (EUR/tonnes net weight)	Scheduled quantity (tonnes)	Indicative refund rate (EUR/tonnes net weight)	Scheduled quantity (tonnes)
Tomatoes	0702 00 00 9100	F	20		20	2 815	20	4 432
Shelled almonds	0802 12 90 9000	F	50	285			50	237
Hazelnuts in shell	0802 21 00 9000	F	59	12			59	0
Shelled hazelnuts	0802 22 00 9000	F	114	1 107			114	1 428
Walnuts in shell	0802 31 00 9000	F	73	36				
Oranges	0805 10 10 9100 0805 10 30 9100 0805 10 50 9100	XYC	50		50	49 635	50	103 514
Lemons	0805 30 10 9100	F	35		35	18 539	35	17 548
Apples	0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	XY	40		40	8 387	40	7 370
	0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	ZD	54	3 050			54	3 136

(*) The destination codes are defined as follows:

- X: Norway, Iceland, Greenland, Faeroes, Poland, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Bosnia-Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Federal Republic of Yugoslavia (Serbia and Montenegro), Malta.
- Y: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, destinations referred to in Article 34 of Commission Regulation (EEC) No 3665/87, as amended.
- Z: African countries and territories except South Africa, countries of the Arabian Peninsula (Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qaiwain, Ras al Khaimah, Fujairah), Kuwait, Yemen), Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador, Colombia.
- C: Switzerland, Czech Republic, Slovakia.
- D: Hong Kong SAR, Singapore, Malaysia, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Uruguay, Paraguay, Argentina, Mexico, Costa Rica.
- E: All destinations except Switzerland.
- F: All destinations.

COMMISSION REGULATION (EC) No 2777/98
of 21 December 1998
amending representative prices and additional duties for the import of certain
products in the sugar sector

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses⁽³⁾, as last amended by Regulation (EC) No 624/98⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1379/98⁽⁵⁾, as last amended by Regulation (EC) No 2593/98⁽⁶⁾;

Whereas Article 2 of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro⁽⁷⁾ provides that, as from 1

January 1999, all references to the ecu in legal instruments are to be replaced by references to the euro at the rate of EUR 1 to ECU 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 22 December 1998.

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

Done at Brussels, 21 December 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ L 85, 20. 3. 1998, p. 5.

⁽⁵⁾ OJ L 187, 1. 7. 1998, p. 6.

⁽⁶⁾ OJ L 324, 2. 12. 1998, p. 27.

⁽⁷⁾ OJ L 162, 19. 6. 1997, p. 1.

ANNEX

to the Commission Regulation of 21 December 1998 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	16,23	8,28
1701 11 90 ⁽¹⁾	16,23	14,59
1701 12 10 ⁽¹⁾	16,23	8,05
1701 12 90 ⁽¹⁾	16,23	14,07
1701 91 00 ⁽²⁾	20,48	16,07
1701 99 10 ⁽²⁾	20,48	10,62
1701 99 90 ⁽²⁾	20,48	10,62
1702 90 99 ⁽³⁾	0,20	0,44

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

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

⁽³⁾ By 1 % sucrose content.

COUNCIL DIRECTIVE 98/92/EC

of 14 December 1998

amending Directive 70/524/EEC concerning additives in feedingstuffs and Directive 95/69/EC laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Article 1

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

Directive 70/524/EEC shall be amended as follows:

Having regard to the opinion of the European Parliament ⁽²⁾,

Article 6(2) shall be replaced by the following:

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

‘2. Before 1 April 1999, the Council, acting by a qualified majority on a proposal from the Commission, shall adopt rules for the calculation of the level of the fee referred to in paragraph 1.’

Whereas Article 14 of Council Directive 95/69/EC ⁽⁴⁾ states that the Council is to adopt the amounts of the fees to be charged for the approval of establishments and their intermediaries;

Article 2

Directive 95/69/EC shall be amended as follows:

Article 14 shall be replaced by the following:

Whereas Article 6 of Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽⁵⁾ states that a fee may be charged by the Member State acting as rapporteur for the examination of dossiers relating to Community authorisation of additives for feedingstuffs; whereas the Council is to fix the amount of that fee;

Article 14

The Council, acting by a qualified majority on a proposal from the Commission, shall, before 1 April 1999, adopt rules for calculating the level of the fee to be charged for the approval of establishments and their intermediaries.’

Whereas an examination of the funding of the services concerned in individual Member States has revealed that the fixing of the amount of the fees at Community level would be a disproportionately far-reaching intervention in the existing systems for levying fees operated by the Member States; whereas, in addition, the costs incurred by the Member States in providing such services vary very greatly, particularly because of the wide differences in labour costs;

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 March 1999. They shall forthwith inform the Commission thereof.

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

Whereas, to avoid distortion of competition, provision should nevertheless be made that the Council has to decide on harmonised rules for the calculation of the level of the fees;

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

Whereas the relevant provisions in Directives 70/524/EEC and 95/69/EC should be amended accordingly,

Article 4

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

⁽¹⁾ OJ C 155, 20. 5. 1998, p. 29.

⁽²⁾ OJ C 292, 21. 9. 1998.

⁽³⁾ OJ C 284, 14. 9. 1998, p. 91.

⁽⁴⁾ OJ L 332, 30. 12. 1995, p. 15.

⁽⁵⁾ OJ L 270, 14. 12. 1970, p. 1. Directive as last amended by Directive 98/19/EC (OJ L 96, 28. 3. 1998, p. 39).

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 14 December 1998.

For the Council
The President
W. MOLTERER

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 December 1998

concerning a Community system of fees in the animal feed sector

(98/728/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs, and in particular Article 6(2) thereof⁽¹⁾,

Having regard to Council Directive 95/69/EC of 22 December 1995 laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector and amending Directives 70/524/EEC, 74/63/EEC, 79/373/EEC and 82/471/EEC, and in particular Article 14 thereof⁽²⁾,

Having regard to the proposal from the Commission⁽³⁾,

Whereas provision should be made at Community level for fees to be levied for certain services in all Member States;

Whereas fees shall be charged only for examining dossiers of specified additives; whereas the relevant groups of additives should be listed;

Whereas the fees to be levied should cover solely the actual wage, social welfare and administrative costs of the body carrying out the services; whereas it is appropriate to lay down an exhaustive list of costs to be taken into account for the calculation of the said fees;

Whereas Member States should be given the opportunity to fix flat-rate sums for fees so as not to have to supply evidence of the costs actually incurred in each individual case;

Whereas Member States should enable the Commission, by providing the necessary information, to amend the Annexes when it sees fit; whereas such amendments should be made using the procedure laid down by this Decision in order to establish close cooperation between Member States and the Commission within the Standing Committee on Feedingstuffs,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall ensure that a fee is levied for the costs incurred by the Member State acting as rapporteur in accordance with Articles 4 and 6(1) of Directive 70/524/EEC for the examination of the dossiers for additives listed in Annex A to this Decision.

2. Member States shall ensure that a fee is levied for the costs incurred in approving certain establishments and intermediaries in accordance with Article 5 of Directive 95/69/EC.

3. In the calculation of the fees mentioned in paragraphs 1 and 2, only the costs specified in Annex B shall be taken into account.

⁽¹⁾ OJ L 270, 14. 12. 1970, p. 1. Directive as last amended by Directive 98/92/EC (see page 49 of this Official Journal).

⁽²⁾ OJ L 332, 30. 12. 1995, p. 15. Directive as last amended by Directive 98/92/EC (see page 49 of this Official Journal).

⁽³⁾ OJ C 155, 20. 5. 1998, p. 29.

Article 2

The Annexes may be amended according to the procedure set out in Article 5.

Article 3

The direct or indirect refund by Member States of the fees within the meaning of this Decision shall be prohibited.

However, the application of flat-rate amounts by a Member State in the evaluation of individual cases shall not be regarded as an indirect refund.

Article 4

1. Member States shall draw up reports setting out the implementation of the rules of this Decision, specifying:

- the level of fees or flat-rate amounts charged in each case pursuant to Article 1(1) or (2);
- the method for calculating the fees in relating to the factors listed in Annex B.

Member States shall transmit their reports to the Commission by 14 December 2000 at the latest.

2. On the basis of the reports required under paragraph 1, the Commission shall submit to the Council by 14 December 2002 at the latest an overall summary report on the implementation of this Decision and, if applicable, proposals for further harmonisation of the systems of fees in the animal feed sector.

Article 5

1. Where the procedure laid down in this Article is to be followed, the Commission shall be assisted by the Standing Committee for Feedingstuffs, hereinafter referred to as 'the Committee'.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according

to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

3. (a) The Commission shall adopt the intended measures when they are in accordance with the Committee's opinion.
- (b) When the intended measures are not in accordance with the opinion of the Committee, or in the absence of any opinion, the Commission shall forthwith submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date on which the matter was referred to it, the Council has not adopted any measures, the Commission shall adopt the proposed measures and apply them immediately, save where the Council decides against the said measures by a simple majority.

Article 6

This Decision shall apply from 30 June 2000.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 14 December 1998.

For the Council

The President

W. MOLTERER

ANNEX A

Dossiers of additives subject to authorisation linked to the person responsible for putting them into circulation according to Directive 70/524/EEC.

ANNEX B

Exclusive list of the costs to be taken into account when calculating the fees according to Article 1(1) and (2):

Staff costs

- salaries including allowances where applicable, superannuation (pension) costs, staff insurance contributions.

Administrative costs

- accommodation including rent, heat, light and water, furniture, maintenance, insurance, interest, amortisation;
- general overheads including office equipment, stationary, postage, printing, telecommunications, training, subscription to periodicals;
- travel and associated costs.

Technical costs

- associated technical costs (e.g. laboratory costs, sampling);
 - consultancy fees.
-

COUNCIL DECISION

of 14 December 1998

amending Decision 97/256/EC so as to extend the Community guarantee granted to the European Investment Bank to cover loans for projects in Bosnia and Herzegovina

(98/729/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

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

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas it is necessary to increase efforts to ensure a stable political environment in Bosnia and Herzegovina; whereas, within the regional approach defined by the Council, it is desirable to consider an exceptional action aimed at rebuilding infrastructure in Bosnia and Herzegovina; whereas, in order to finance this action, it is appropriate to call on the European Investment Bank, hereinafter referred to as 'the EIB'; whereas the Council has invited the Commission to present a proposal concerning the extension to EIB lending in Bosnia and Herzegovina of the arrangements laid down by Council Decision 97/256/EC of 14 April 1997 granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe countries, Mediterranean countries, Latin American and Asian countries, South Africa and the Former Yugoslav Republic of Macedonia) ⁽³⁾;

Whereas the involvement of the EIB in Bosnia and Herzegovina should be consistent with the policy of the Community in this country; whereas the EIB should operate within the framework of the reconstruction programme agreed at the various donors' conferences and should finance projects which are of interest to the Community and to Bosnia and Herzegovina;

Whereas the loans granted by the EIB, from its own resources under conditions laid down by it in accordance with its Statute, would need to be combined with a grant element from the Community budget for the EIB to

intervene effectively; whereas this grant should take the form of interest-rate subsidies; whereas, in addition, bank loans could also be combined with outright grants as project co-financing; whereas it is appropriate that the subsidy rate should be the same as that already granted under the protocols on financial cooperation to other ex-Yugoslav republics;

Whereas Council Regulation (EC) No 1628/96 of 25 July 1996 relating to aid for Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia ⁽⁴⁾, provides for aid measures; whereas Article 8 of that Regulation states that operations referred to in it may cover expenditure relating to interest-rate subsidies for loans granted by the EIB; whereas the procedures of that Regulation for the financing decisions relating to operations covered by it should apply to these new arrangements;

Whereas the provision of interest-rate subsidies is of an exceptional nature and should not set a precedent for Community financial assistance to Bosnia and Herzegovina;

Whereas the capacity of Bosnia and Herzegovina to service its external financial obligations should be secured by the implementation of macroeconomic reform programmes supported by the international financial institutions;

Whereas EIB lending should be conditional upon the discharge of all due and outstanding financial obligations of all public entities in Bosnia and Herzegovina towards the EIB and the Community and upon the acceptance by Bosnia and Herzegovina of responsibility by way of guarantee for such of those obligations as are not yet due;

Whereas Decision 97/256/EC should therefore be amended accordingly;

⁽¹⁾ OJ C 192, 19. 6. 1998, p. 12.

⁽²⁾ OJ C 341, 9. 11. 1998.

⁽³⁾ OJ L 102, 19. 4. 1997, p. 33. Decision as amended by Decision 98/348/EC (OJ L 155, 29. 5. 1998, p. 53).

⁽⁴⁾ OJ L 204, 14. 8. 1996, p. 1. Regulation as last amended by Regulation (EC) No 851/98 (OJ L 122, 24. 4. 1998, p. 1).

Whereas, the Treaty does not provide, for the adoption of this Decision, powers other than those set out in Article 235,

ECU 150 million
— Bosnia and Herzegovina:
ECU 100 million.

HAS DECIDED AS FOLLOWS:

Article 1

Decision 97/256/EC is hereby amended as follows:

1. In the title, '... Asian countries, South Africa and the Former Yugoslav Republic of Macedonia' shall be replaced by '... Asian countries, South Africa, the Former Yugoslav Republic of Macedonia and Bosnia and Herzegovina'.

2. The following recital shall be inserted after recital No 9:

'(9a) Whereas the Community guarantee to the EIB against losses under loans for projects in Bosnia and Herzegovina is an exceptional and special action and does not constitute a precedent for any future guarantees;'

3. In Article 1

(a) paragraph 1 shall be replaced by the following:

'1. The Community shall grant the European Investment Bank a global guarantee in respect of all payments not received by it but due in respect of credits opened, in accordance with its usual criteria for investment projects carried out in the Central and Eastern Europe countries, in the Mediterranean countries, in the Latin American and Asian countries, in the Republic of South Africa, in the Former Yugoslav Republic of Macedonia and in Bosnia and Herzegovina.

This guarantee shall be restricted to 70 % of the aggregate amount of the credits opened, plus all related sums. The overall ceiling of the credits opened shall be equivalent to ECU 7 355 million, broken down as follows:

— Central and Eastern Europe countries:

ECU 3 520 million

— Mediterranean countries:

ECU 2 310 million

— Latin American and Asian countries:

ECU 900 million

— Republic of South Africa:

ECU 375 million

— Former Yugoslav Republic of Macedonia:

That ceiling shall cover a period of three years beginning on 31 January 1997 for Central and Eastern Europe, Mediterranean and Latin American and Asian countries, on 1 July 1997 for the Republic of South Africa, and on 1 January 1998 for the Former Yugoslav Republic of Macedonia. For Bosnia and Herzegovina it shall cover a period of two years beginning on the date of publication of this Decision. If, on the expiry of each of these periods, the loans granted by the EIB have not attained the overall amounts referred to above, the relevant period shall be automatically extended by six months.'

(b) the following seventh indent shall be added to paragraph 2:

'— Bosnia and Herzegovina.'

4. The following Article shall be inserted:

Article 1a

1. This Article shall apply to EIB lending in Bosnia and Herzegovina.

2. The Community guarantee shall be conditional upon clearance in full by Bosnia and Herzegovina of its outstanding financial obligations towards the EIB and the Community and upon the acceptance by Bosnia and Herzegovina of responsibility by way of guarantee for such of those obligations as are not yet due.

3. EIB lending in Bosnia and Herzegovina shall be consistent with the policy of the Community in this country. The EIB shall operate within the framework of the reconstruction programme agreed at the various donors' conferences and shall finance projects of mutual interest in general infrastructure, including transport, energy and the environment, with the focus on the water, waste-water and sanitation projects designed to speed up the reconstruction process.

4. The Commission shall ensure appropriate coordination and consistency between operations undertaken pursuant to this Decision and those undertaken pursuant to Regulation (EC) No 1628/96 (*).

5. Grants from the Community budget for projects in Bosnia and Herzegovina under this Decision shall take the form of interest-rate subsidies for loans granted by the EIB. The subsidy rate shall be 2 %.

Financial decisions relating to this Decision shall be adopted in accordance with the procedures laid down in the Regulation (EC) No 1628/96.

6. Article 1(3) shall not apply to EIB lending in Bosnia and Herzegovina.

7. The Commission and the EIB shall cooperate whenever appropriate with all international financial institutions active in fields similar to its own in Bosnia and Herzegovina.

(*) OJ L 204, 14.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 851/98 (OJ L 122, 24.4.1998, p. 1).

5. The following paragraph shall be added to Article 2:

'The Commission shall submit to the European Parliament and the Council, at the latest by the end of 1999, a report on the implementation of this Decision,

including an assessment of its impact. This report shall in particular take into account the evolution of the economic and financial situation in Bosnia and Herzegovina and the commitment level of EIB loans and shall make appropriate recommendations. To this end, the EIB shall transmit to the Commission the appropriate information.'

Article 2

This Decision shall take effect on the day of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 14 December 1998.

For the Council

The President

W. MOLTERER

COMMISSION

COMMISSION DECISION

of 8 December 1998

concerning applications submitted by Rubycon UK for the refund of anti-dumping duties collected on imports of certain large electrolytic aluminium capacitors originating in Japan

(notified under document number C(1998) 3542)

(Only the English text is authentic)

(98/730/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 905/98⁽²⁾, and in particular Article 11(8) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) Council Regulation (EEC) No 3482/92⁽³⁾ imposed a definitive anti-dumping duty on imports of large electrolytic aluminium capacitors with a CV product (capacitance multiplied by rated voltage) between 18 000 and 310 000 micro-coulombs at a voltage of 160 V or more, and with a diameter of 19mm or more and a length of 20 mm or more (hereinafter referred to as LAECs) originating in Japan. The rate of definitive duty applicable to imports of the product manufactured by Rubycon Corporation, Ina Nagano (hereinafter referred to as Rubycon Japan) was set at 30,1 %. This was the level of duty in force in respect of the imports for which a refund is claimed.
- (2) On 28 August 1996 Rubycon Japan submitted a request for an interim review (hereinafter referred to as the review) which was initiated on 17

December 1996 by a notice published in the *Official Journal of the European Communities*⁽⁴⁾. The Commission sought and verified all the information it considered necessary and made verification visits to the premises of Rubycon Japan and of its subsidiary in the United Kingdom, Rubycon UK within the framework of the review which covered the period from 1 October 1995 to 30 September 1996. The review was concluded by Council Regulation (EC) No 2593/97⁽⁵⁾ which determined that the dumping margin of Rubycon Japan for the product concerned during the investigation period was 4,2 % and reduced the anti-dumping duty accordingly.

- (3) On 28 August 1996 and 3 February 1997 Rubycon Japan's subsidiary in the United Kingdom (hereinafter referred to as the applicant) submitted applications for the refund of GBP [...] ⁽⁶⁾ (57 transactions in total). The refund claim corresponds to anti-dumping duties paid on imports of LAECs originating in Japan released for free circulation in the United Kingdom in the period from 26 February 1996 to 3 December 1996. The goods for which a refund is claimed were invoiced by Rubycon Japan between 19 January 1996 and 25 October 1996.
- (4) The applicant received disclosure of the essential facts and considerations on the basis of which it was intended to adopt this Decision. The applicant made no comment.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽³⁾ OJ L 353, 3. 12. 1992, p. 1.

⁽⁴⁾ OJ C 381, 17. 12. 1996, p. 7.

⁽⁵⁾ OJ L 351, 23. 12. 1997, p. 6.

⁽⁶⁾ Business secret.

- (5) Since the merits of the refund applications which are within the scope of this Decision as defined in recital 7 are dependent in their entirety on the findings of the review, the applications should be considered to be duly substantiated by evidence within the meaning of the fourth subparagraph of Article 11(8) of Regulation (EC) No 384/96 (hereinafter referred to as the Basic Regulation) from the date on which the findings of the review were published in the *Official Journal of the European Communities*, that is 23 December 1997.

B. ARGUMENTS OF THE APPLICANT

- (6) The applicant claims that the dumping margin in respect of the LAECs released into free circulation in the Community during the period from 26 February 1996 to 3 December 1996 for which anti-dumping duties were paid was significantly lower than the applicable duty rate of 30,1 %.

C. SCOPE OF THIS DECISION

- (7) The applications in respect of 52 transactions on which anti-dumping duties of GBP [...] were paid relate to invoices issued within the investigation period set for that review (that is from 1 October 1995 to 30 September 1996). Since these transactions fall within the investigation period of the review, the merits of the refund applications should be established on the basis of the results of the review investigation in accordance with the fourth subparagraph of Article 11(8) of the Basic Regulation.
- (8) This Decision does not concern itself with the applications in respect of the remaining five transactions totalling GBP [...] of anti-dumping duties. These will be dealt with by another Decision following the conclusions of a separate review, not yet concluded, which was initiated on 3 December 1997 by a notice published in the *Official Journal of the European Communities*⁽¹⁾ further to a request from the Federation for Appropriate Remedial Anti-Dumping (FARAD).

D. ADMISSIBILITY

- (9) The applications are inadmissible in respect of two import transactions totalling GBP [...] of anti-dumping duties because the time-limit of six months prescribed by the Basic Regulation

between the determination of duties to be levied and the submission of the applications for refund was not respected with regard to those two transactions.

- (10) The applications in respect of the other transactions should be considered as admissible since they were introduced in conformity with the relevant provisions of the Basic Regulation, in particular in respect of time limits.

E. MERITS OF THE APPLICATIONS

- (11) The Commission considers that the information and findings of the review, whose investigation covered the period from 1 October 1995 to 30 September 1996, should be used in this instance in accordance with the fourth subparagraph of Article 11(8) of the Basic Regulation, to determine whether and to what extent a refund is justified for the import transactions which were invoiced by Rubycon Japan between 1 October 1995 and 30 September 1996 (see recital 7).

- (12) As mentioned above, the review determined that the dumping margin for the product concerned exported by Rubycon Japan in the period of investigation was 4,2 %. As a result of the comparison with the duty applied, an amount of GBP [...] is refundable to the applicant and the application should be rejected in so far as concerns the remaining GBP [...].

HAS ADOPTED THIS DECISION:

Article 1

1. The refund applications submitted by Rubycon UK for the period from 26 February 1996 to 3 December 1996 are granted in respect of GBP [...].

2. The refund applications are rejected in respect of GBP [...].

Article 2

The amount set in Article 1(1) shall be refunded by the United Kingdom.

⁽¹⁾ OJ C 365, 3. 12. 1997, p. 5.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland and Rubycon UK, Aqua House, The Runway, South Ruislip, Middlesex HA4 6SE, United Kingdom.

Done at Brussels, 8 December 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 11 December 1998

under the provisions of Council Regulation (EC) No 3286/94 concerning section 110(5) of the Copyright Act of the United States of America

(notified under document number C(1998) 4033)

(98/731/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's right under international trade rules, in particular those established under the auspices of the World Trade Organisation⁽¹⁾, as amended by Regulation (EC) No 356/95⁽²⁾, and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 21 April 1997 the Commission received a complaint pursuant to Article 4 of Council Regulation (EC) No 3286/94 (hereafter 'the Regulation'). The complaint was lodged by the Irish Music Rights Organisation (IMRO) with the unanimous support of the Groupement européen des sociétés d'auteurs et compositeurs (GESAC).
- (2) The complainant alleged that Section 110(5) of the 1976 Copyright Act of the United States of America is inconsistent with several provisions of the Agreement establishing the World Trade Organisation (hereafter 'the WTO Agreement') and its annexes. On that basis the complainant asked the Commission to take the necessary actions to convince the United States of America to repeal this measure.
- (3) The complaint contained sufficient *prima facie* evidence to justify the initiation of a Community examination procedure pursuant to Article 8 of the

Regulation. Consequently, such procedure was initiated on 11 June 1997⁽³⁾.

- (4) Following the initiation of the examination procedure the Commission conducted an in-depth legal and factual investigation into Section 110(5) of the US Copyright Act as well as into the amendments to the statute as discussed in US Congress at the time of the investigation and enacted meanwhile. Based on the findings of this investigation the Commission reached the conclusions which are indicated below.

B. FINDINGS REGARDING THE EXISTENCE OF AN OBSTACLE TO TRADE

- (5) Although under the US Copyright Act the right holder of a musical work has the exclusive right 'to perform the copyrighted work publicly', Section 110(5) of the US Copyright Act exempts certain public performances from protection. Before the recent addition of a new subparagraph widening the scope of the exemption (see further under item D) it read as follows: 'Notwithstanding the provisions of Section 106, the following are not infringements of copyright: (...) communication or transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless (a) a direct charge is made to see or hear the transmission or (b) the transmission thus received is further retransmitted to the public'. The exemption covers the use of a radio or television set 'of a type commonly found in private homes' in a shop, a bar, a restaurant or any other place frequented by the public. As a result of its vague and ambiguous statutory language, Section 110(5) has given rise to a very broad interpretation of what is commonly referred to as the 'homestyle exemption'. For example, it has been held that the exemption can also apply to companies operating large chains of stores throughout the country and using the playing of music in stores as part of their commercial policy⁽⁴⁾.

⁽³⁾ OJ C 177, 11. 6. 1997, p. 5.

⁽⁴⁾ See *BMI v. Edison Bros Stores Inc.* United States Court of Appeals for the Eighth Circuit, No 91-2115 and *BMI v. Claire's Boutiques* United States Court of Appeals for the Seventh Circuit, No 91-1232.

⁽¹⁾ OJ L 349, 31. 12. 1994, p. 71.

⁽²⁾ OJ L 41, 23. 2. 1995, p. 3.

- (6) Under Article 9(1) of the WTO Agreement on Trade-Related Intellectual Property Rights (hereafter 'TRIPs'), members must comply with Articles 1 to 21 of the Berne Convention for the Protection of Literary and Artistic Works (hereafter the 'Berne Convention'). Article 11 *bis*(1) of the Berne Convention, as revised by the Paris Act of 1971, grants the right holders of literary and artistic works (which include musical works) the exclusive right of authorising not only the broadcasting and other wireless communication of their works, but also the public communication of a broadcast of their works by loudspeaker or analogous instrument. By permitting qualifying locations to use music without being licensed by the right holders and without payment of royalties, the US exemption deprives right holders of the protection to which they are entitled under Article 11 *bis*(1)(iii) when broadcasts of their works are publicly communicated by loudspeakers or analogous instruments and under Article 11(1)(ii) when direct cable transmissions of their works are publicly communicated by such instruments. Article 11 *bis*(1)(iii) or Article 11(1)(ii) clearly cover situations where broadcast music or music transmitted by cable is further transmitted to the public by a radio or a television apparatus (such as under the homestyle exemption) or any other means since it addresses the issue of public communication of broadcast works and not the technical specifications of the means used for that purpose.
- (7) Article 11 *bis*(2) of the Berne Convention provides that, while countries may place conditions on the exercise of the exclusive rights set out in Article 11 *bis*(1), such conditions may not be prejudicial to the right holders' right to obtain equitable remuneration. Section 110(5) of the US Copyright Act is prejudicial to the right holders' right to obtain such remuneration, as it deprives them of all remuneration in respect of the use of their works in situations covered by the homestyle exemption.
- (8) The Commission also reviewed the homestyle exemption from the point of view of 'minor reservations', a category of exceptions which might be considered to apply on the exercise of the exclusive rights under the Berne Convention, but concluded that, even where 'minor reservations' were applicable to the exclusive rights set out in Article 11 *bis*(1)(iii) and (1)(ii), it would still remain that the homestyle exemption is clearly not a minor reservation. The exemption is widely applied on a commercial basis through the US and the economic losses incurred by Community right-holders are important, ranging between 13 to 24 % of the US performing rights organisations' annual distributions to Community collecting societies representing composers and arrangers of music, lyricists and publishers.
- (9) Since Article 9(1) of TRIPs imposes a mandatory obligation on WTO members to comply with Articles 1 to 21 of the Berne Convention, a WTO member is in breach of its obligations under the TRIPs Agreement where it fails to comply with the Berne Convention. Therefore, since Section 110(5) of the US Copyright Act contravenes Article 11 *bis*(1), *bis*(2) and (1) of the Berne Convention, Section 110(5) of the US Copyright Act is in breach of Article 9(1) of TRIPs. Also, the Commission holds the opinion that Article 13 of TRIPs cannot be invoked by the United States to justify the homestyle exemption, as this provision limits the scope of existing exemptions under the Berne Convention to special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder. It does not allow additional exemptions to the rights protected under the Berne Convention.
- (10) Under these circumstances the Commission considers that the complainant's allegations are well-founded and that Section 110(5) of the US Copyright Act constitutes an obstacle to trade within the meaning of Article 2(1) of the Regulation, that is 'a practice adopted or maintained by a third country in respect of which international trade rules establish a right of action'.
- (11) The Commission none the less considers that reference to the above legal bases does not rule out recourse to any other pertinent provision of the WTO Agreement and of the Agreements annexed to it, which could be of use in procedures before the WTO.

C. FINDINGS REGARDING ADVERSE TRADE EFFECTS

- (12) Section 110(5) of the US Copyright Act curtails Community right holders in the full and normal exercise of their exclusive rights under the Berne Convention and the TRIPs Agreement. The right

holders are deprived of the possibility to license the performing right of their work (either directly or through collecting societies) and of the possibility to obtain remuneration for the communication of their works to the public.

- (13) The most direct effect of Section 110(5) is that it deprives right holders of their remuneration for certain communications to the public. Estimations made by the Commission reveal that the direct loss of licensing income to Community right holders for performing rights in music (i.e. composers and arrangers of music, lyricists and music publishers) resulting from the application of Section 110(5) amounts to between USD 3,8 and 6,8 million a year. These amounts represent 13 to 24 % of the US performing rights organisations' annual distributions to Community collecting societies representing these three categories of right holders. This shows that the losses caused by the homestyle exemption to the Community right holders are important.
- (14) The homestyle exemption also entails indirect losses to the Community right holders as it acts as a disincentive to the US performing right organisations to effectively and efficiently license bars, shops, restaurants and others in markets where no exemption exists and leads to a reduction of the efficiency of US organisations when trying to license such venues. The result of the very existence of Section 110(5) is that even those venues which clearly do not qualify for the exemption are not always properly licensed.
- (15) Further indirect losses are also caused by the fact that the homestyle exemption has acted as a catalyst for negative public and private attitudes towards licensing of non-dramatical musical works in the US. Powerful lobbies of music users have systematically (and successfully) resisted efforts by the collecting societies to effectively license and to collect reasonable fees for the communication of music to the public.
- (16) As a result of Section 110(5), the prospective revenue a right holder can expect from the licensing of his work in the US is less than it should be. This reduced prospective income may

have a negative impact on the stimulus to export music to the US.

- (17) Under these circumstances the Commission considers that the complainant's allegations are well-founded and that Section 110(5) of the US Copyright Act is causing adverse trade effects within the meaning of Article 2(4) of the Regulation.

D. RECENT AMENDMENTS TO SECTION 110(5) OF THE US COPYRIGHT ACT

- (18) While the Commission was investigating the homestyle exemption, US Congress was examining a bill amending Section 110(5) of the US Copyright Act in view of widening its scope.
- (19) On 6 and 7 October 1998, the bill, entitled 'Fairness in Music Licensing Act', was adopted by, respectively, the US House of Representatives and the US Senate. The bill consists of adding a new subparagraph B to Section 110(5) of the US Copyright Act which provides for a further exception to the rightholders' exclusive right to authorise public communication of their works, while the homestyle exemption remains unchanged under subparagraph A. The new subparagraph B now applies to a much wider range of beneficiaries, namely eating, drinking and other commercial establishments provided that they fulfil a certain number of conditions, mainly with regard to the surface of the establishment and the number of loudspeakers used. It covers the use of any type of audiovisual device, and is thus not limited to the use of a 'homestyle' apparatus only.
- (20) The bill was signed by the President of the United States on 27 October 1998, to enter into force 90 days after enactment. Since this means that, from a legal point of view, the bill is now part of the US legal order, although its entry into effect has been delayed for 90 days, it can already be the object of a dispute settlement procedure under WTO.
- (21) From a legal point of view, the new paragraph B of Section 110(5) also deprives right holders to the protection they are entitled under Articles 11 *bis* (1)(iii) and 11(1)(ii) of the Berne Convention when broadcasts of their works or cable transmissions of their works are communicated to the

public. Therefore, the Commission's analysis of the 1976 version of Section 110(5) of the US Copyright Act (now under subparagraph A of the section) fully applies to the new version of the Statute, which is thus equally in breach of the Berne Convention and the TRIPs Agreement.

- (22) As far as the adverse trade effects are concerned, it is clear that they will be seriously amplified by the widening of the Statute's scope in terms of beneficiaries and type of audiovisual devices used to perform music in public establishments. Whereas the Commission estimated that the 1976 homestyle exemption applied to between 20 and 35 % of US business establishments categorised as small business by US Government and employing fewer than 20 persons, and to between 6 and 12 % of US business of the same category employing more than 20 persons, the US collecting societies estimate that, only where eating and drinking business is concerned, the new Bill would already exempt 70 % of all US bars and restaurants, as they fall below the surface thresholds under the new Section 110(5)B.

E. COMMUNITY INTEREST

- (23) Ensuring that WTO partners fully comply with their obligations is of the utmost importance for the Community which has committed itself to the same obligations. Therefore, the Community should immediately challenge Section 110(5) of the US Copyright Act.

F. CONCLUSIONS AND MEASURES TO BE TAKEN

- (24) Meetings have been held and letters have been exchanged with the relevant US authorities to discuss this matter further and aimed at finding an

amicable solution to the problems concerning the licensing of music works but the US authorities have not forwarded any proposals in view of such a solution.

- (25) In these circumstances, it appears that the interests of the Community call for initiation of WTO dispute settlement proceedings,

HAS DECIDED AS FOLLOWS:

Article 1

1. Section 110(5) of the Copyright Act of the United States of America appears to be inconsistent with the obligations of that country under the Marrakesh Agreement Establishing the World Trade Organisation and constitutes an 'obstacle to trade' within the meaning of Article 2(1) of Regulation (EC) No 3286/94.

2. The Community, will commence action against the United States of America under the Understanding on the Rules and Procedures for the Settlement of Disputes and other relevant WTO provisions with a view to securing removal of the obstacle to trade.

Article 2

This Decision shall apply from the date of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 11 December 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION**of 15 December 1998****concerning the conclusion of an Agreement between the European Atomic Energy Community (Euratom) and Canada for cooperation in the area of nuclear research***(notified under document number C(1998) 4244)**(98/732/Euratom)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the approval of the Council,

Whereas the Agreement between the European Atomic Energy Community (Euratom) and Canada for cooperation in the area of nuclear research should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Atomic Energy Community (Euratom) and Canada for cooperation in the area of nuclear research is hereby approved on behalf of the European Atomic Energy Community.

The text of the Agreement is attached to this Decision ⁽¹⁾.

Article 2

The President of the Commission shall give, as regards the Community, the notification provided for in Article 12 of the Agreement.

Article 3

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

Done at Brussels, 15 December 1998.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ See page 65 of this Official Journal.

AGREEMENT

between Canada and the European Atomic Energy Community for cooperation in the area of nuclear research

THE GOVERNMENT OF CANADA,

of the one part, hereinafter referred to as 'Canada', and

THE EUROPEAN ATOMIC ENERGY COMMUNITY,

hereinafter referred to as 'the Community', of the other part,

hereinafter referred to as 'the Parties',

Considering the importance of science and technology for their economic and social development;

Recognising that Canada and the Community are pursuing research and technological programmes of common interest in a number of areas of nuclear research and that mutual benefits may be derived if the Parties facilitate further cooperation;

Recognising that the Agreement on scientific and technological cooperation between Canada and the European Community entered into force on 26 February 1996;

Noting that there has been active cooperation and information exchange in a number of scientific or technological areas under the Canada-European Communities framework Agreement for commercial and economic cooperation signed in 1976;

Noting that there has also been active cooperation and information exchange in the area of the peaceful uses of nuclear energy under the Agreement between the Government of Canada and Euratom for cooperation in the peaceful uses of atomic energy signed in 1959, as amended, hereinafter referred to as the 'Canada/Euratom Agreement of 1959';

Reaffirming their commitment to mutual cooperation in nuclear research and development as provided for in the Canada/Euratom Agreement of 1959;

Having regard to the Declaration on European Community-Canada relations adopted on November 22, 1990 as well as the Joint Political Declaration on Canada-EU relations and Joint Canada-EU action plan of 17 December 1996;

Recalling that Canada and the Member States of the Community are parties to the Treaty on the Non-proliferation of Nuclear Weapons and members of the International Atomic Energy Agency;

Desiring to strengthen cooperation in the peaceful, non-explosive, non-military uses of nuclear research and encourage the application of the results of such cooperation to their economic and social benefit,

HAVE AGREED AS FOLLOWS:

Article 1

Purpose

The purpose of this Agreement is to encourage and facilitate cooperation, in fields of common interest in the peaceful, non-explosive, non-military uses of nuclear energy where the Parties are supporting research and development activities to advance science and/or technology relevant to those fields of interest.

Article 2

Definitions

For the purposes of this Agreement:

- (a) 'cooperative activity' means any activity carried on under this Agreement, and includes joint research;
- (b) 'information' means scientific or technical data, results or methods of research and development stemming from the joint research, and any other information deemed necessary by the participants engaged in cooperative activity, including, where necessary, the Parties themselves;
- (c) 'intellectual property' shall have the meaning defined in Article 2 of the Convention establishing the World Intellectual Property organisation, done at Stockholm, 14 July 1967;
- (d) 'joint research' means research that is financially supported by either or both Parties and that involves collaboration by participants from both Canada and the Community. All research carried out pursuant to this Agreement shall be joint research;
- (e) 'participant' means any person, legal entity, university, research institute or any other body and undertaking participating in a cooperative activity, including the Parties themselves.

*Article 3***Principles**

Cooperation shall be conducted subject to applicable laws and regulations and on the basis of the following principles:

- (a) mutual benefit;
- (b) reciprocal opportunities for access to each other's programmes and activities relevant to the purpose of this Agreement;
- (c) non-discrimination;
- (d) timely exchange of information which may affect the actions of participants in cooperative activities;
- (e) effective protection of intellectual property and equitable sharing of intellectual property rights;
- (f) balanced realisation of economic and social benefits by Canada and the Community in view of the contributions made to cooperative activities by the respective participants and/or Parties.

*Article 4***Areas of cooperation**

Cooperation may be pursued in the following areas of research and development:

1. nuclear safeguards;
2. radioactive waste management, including disposal;
3. decommissioning of nuclear facilities;
4. radiation protection;
5. nuclear reactor safety;
6. controlled nuclear fusion.

*Article 5***Modalities of cooperation**

(a) Cooperation may include but is not limited to the following activities:

1. participation of persons and legal entities, including the Parties themselves, universities, research institutions, and other bodies or undertakings, in each other's research projects or in agreed multilateral projects, in accordance with the rules governing such projects, subject to the consent if required, of the third parties involved;
2. specific bilateral cooperative research projects established by the Parties themselves, possibly on the basis of an implementing arrangement;

3. shared use of research facilities;
4. exchange and provision of information and data;
5. exchange of reference materials, samples, fuels, equipment and instrumentation;
6. visits and exchanges of scientists, engineers or other appropriate personnel for the purposes of participating in meetings, seminars, symposia, workshops and other research activities relevant to cooperation under this Agreement;
7. exchange of information on practices, laws, regulations and programmes relevant to cooperation under the Agreement;
8. such other activities as may be mutually determined by the Joint Science and Technology Cooperation Committee in accordance with the applicable policies and programmes of the Parties.

(b) Except as otherwise agreed by the Parties, joint research projects shall proceed under this Agreement only after the participants in a project have concluded a joint technology management plan, as indicated in the Annex to this Agreement.

*Article 6***Joint Science and Technology Cooperation Committee (JSTCC)**

(a) This Agreement shall be administered by the Joint Science and Technology Cooperation Committee composed of representatives of each Party.

(b) The functions of the JSTCC shall be to:

1. promote and review the activities envisaged under the Agreement;
2. authorise activities falling under Article 5(a)(8) as being cooperation to which this Agreement applies;
3. advise the Parties on ways to enhance cooperation consistent with the principles set out in this Agreement;
4. provide a report annually to the Parties on the level, status and effectiveness of cooperation undertaken under this Agreement;
5. review the efficient and effective functioning of the Agreement, and address any disputes between the Parties concerning the interpretation of this Agreement;
6. maintain a list of contact persons for a given area of research.

(c) The JSTCC shall meet approximately once a year, meetings being held alternatively in Canada and the Community. Other meetings may be held as mutually agreed.

(d) Decisions of the JSTCC shall be reached by consensus. Minutes, comprising a record of the decisions and principal points discussed, shall be taken at each meeting. These minutes shall be agreed by those persons selected from each side to jointly chair the meetings. The JSTCC annual report shall be made available to the Joint Cooperation Committee established under the 1976 EC-Canada framework Agreement for commercial and economic cooperation and appropriate authorities of each party.

Article 7

Funding

(a) Cooperative activities shall be subject to the availability of funds and to the applicable laws and regulations, policies and programmes of Canada and the Community.

(b) Costs incurred by participants in cooperative activities subject to this Agreement shall not require any transfer of funds from one Party to the other.

Article 8

Entry of personnel and equipment

Each Party shall take all reasonable steps and use its best efforts, within applicable laws and regulations, to facilitate entry to and exit from its territory of personnel, material and equipment of the participant(s) engaged in or used in cooperative activities under this Agreement.

Article 9

Dissemination and utilisation of information

The dissemination and utilisation of information, and the management, allocation and exercise of intellectual property rights, resulting from joint research under this Agreement, shall be subject to laws and regulations applicable on each side and to the principles set out in the Annex, which forms an integral part of this Agreement.

Article 10

Other Agreements and transitional provisions

(a) This Agreement shall supersede and replace those provisions of the Canada-European Communities framework agreement for commercial and economic cooperation governing existing science and technology collaboration.

(b) This Agreement shall complement the provisions of the Canada/Euratom Agreement of 1959.

(c) Subject to paragraph 10(a), this Agreement is without prejudice to other existing Agreements or arrangements between the Parties or any Agreement or arrangement between the Parties and third parties.

(d) The activities covered by existing sectoral cooperation agreements and memoranda of understanding between the Parties shall continue to fall under the scope of these agreements or memoranda.

(e) On termination of existing sectoral cooperation agreements and memoranda of understanding between the Parties, as provided for in these agreements and memoranda, the Parties will review the situation with a view to including the activities covered by such agreements and memoranda within this Agreement.

Article 11

Territorial application

This Agreement shall apply, on the one hand, to the territory of Canada, and, on the other hand, to the territories in which the Treaty establishing the European Atomic Energy Community is applied and under the conditions laid down in that Treaty.

Article 12

Entry into force and termination

(a) This Agreement shall enter into force on the date on which the Parties have notified each other in writing that their legal requirements for entry into force of this Agreement have been fulfilled.

(b) This Agreement may be amended by agreement of the Parties. Amendments shall enter into force on the date on which the Parties have notified each other in writing that their legal requirements have been fulfilled.

(c) This Agreement may be terminated at any time by either Party on 12 months' written notice. The expiration or termination of the Agreement shall not affect the validity or duration of any arrangements made under it, or any specific rights and obligations that have accrued in compliance with the Annex.

Article 13

This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each of those texts being equally authentic.

In witness whereof the undersigned have signed this Agreement.

Done at Ottawa, 17 December 1998.

*For the Government of
Canada*

*For the European Atomic
Energy Community*

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*ANNEX***ANNEX ON THE DISSEMINATION AND UTILISATION OF INFORMATION AND MANAGEMENT, ALLOCATION AND EXERCISE OF INTELLECTUAL PROPERTY RIGHTS****I. Ownership, allocation and exercise of rights**

1. Participants performing joint research shall develop joint technology management plans (JTMPs) which shall contain, as a minimum, principles in respect of the ownership and use, including publication, of information and intellectual property (IP) to be created in the course of the joint research ⁽¹⁾. The JTMPs may be reviewed by the Parties and shall be approved by the responsible funding agency or department of the party involved in financing the research, before the conclusion of any specific research and development cooperation contracts to which they refer. The JTMPs shall be developed taking into account the aims of the joint research, the relative contributions of the participants, the advantages and disadvantages of licensing by territory or for fields of use, requirements imposed by applicable laws, the need for dispute settlement procedures and other factors deemed appropriate by the participants. The rights and obligations concerning the research and information generated by visiting researchers in respect of IP shall also be addressed in the JTMPs.
2. Information or IP created in the course of joint research and not addressed in a JTMP shall be allocated according to the principles set out in point I.1 according to the principles set out in that JTMP. In case of disagreement which cannot be resolved by the agreed dispute resolution procedure, such unallocated information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results, and each participant to whom this provision applies shall have the right to use such information or IP for his/her own commercial exploitation with no geographical limitation.
3. In accordance with applicable laws and regulations, each Party shall ensure that the other Party and its participants may have the rights to IP allocated to them in accordance with the principles set out in Section I of this Annex.
4. While maintaining the conditions of competition in areas affected by the Agreement, each Party shall endeavour to ensure that rights acquired pursuant to the Agreement, and arrangements made under it, are exercised in such a way as to encourage in particular:
 - (i) the dissemination and use of information created, disclosed, or otherwise made available, under the Agreement;
 - (ii) the adoption and implementation of international standards.

II. Copyright works

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the Agreement on Trade Related Aspects of Intellectual Property Rights administered by the World Trade Organisation.

III. Scientific literary works

Without prejudice to Section IV, unless otherwise agreed in the JTMP, any publication of results of the joint research shall be made jointly by the participants. In addition to the foregoing general rule, the following procedure shall apply:

1. in the case of publication by a Party or public bodies of that Party, of scientific and technical journals, articles, reports, books, including video and software arising from joint research pursuant to the Agreement, the other Party shall be entitled, with written permission from the publisher, to a worldwide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt and publicly distribute such works;
2. the parties shall endeavour to disseminate literary works of a scientific character arising from joint research pursuant to the Agreement and published by independent publishers as widely as possible;

⁽¹⁾ The indicative features of such JTMPs are set out in the Appendix.

3. all copies of a copyright work to be publicly distributed and prepared under this provision shall indicate the names of the author(s) of the work unless an author or authors expressly declines or decline to be named. Copies shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

IV. Undisclosed information

A. *Documentary undisclosed information*

1. Participants shall identify at the earliest possible moment, and preferably in the JTMP, the information that it wishes to remain undisclosed in relation to this Agreement, taking into account, among other things, the following criteria:
 - secrecy of the information in the sense that the information is not, as a body or in the precise configuration or assembly of its components, generally known among or readily accessible by lawful means to experts in the field,
 - the actual or potential commercial value of the information by virtue of its secrecy,
 - previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.
2. Participants shall not normally be required to provide undisclosed information to the Parties. Should the Parties become aware of such information, they shall respect the privileged nature thereof, and it shall not be further disclosed by, within, or between the Parties, without the written consent of the participant(s) to whom the information belongs. These limitations shall automatically terminate when such information is disclosed by the owner, without restriction, to experts in the field.
3. Each Party shall ensure that undisclosed information, communicated between them under the Agreement, and its ensuing privileged nature is readily recognisable as such by the other Party, for example, by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.
4. Undisclosed information communicated under the Agreement, and received from the other Party, may be disseminated by the receiving Party to persons within or employed by the receiving Party and other concerned departments or agencies of the receiving Party authorised for the specific purposes of the joint research under way, provided that any undisclosed information so disseminated shall be pursuant to a written agreement of confidentiality and shall be readily recognisable as such, as set out above.
5. With the prior written consent of the Party providing undisclosed information under the Agreement, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in paragraph 4. The Party shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party will grant such approval to the extent permitted by its domestic policies, regulations and laws.

B. *Non-documentary undisclosed information*

Non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings arranged under the Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the Parties or their participants according to the principles specified in Section IV.A, provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware in advance and in written form of the confidential character of the information to be communicated.

C. *Control*

Each Party shall make its best efforts to ensure that undisclosed information received by it under the Agreement shall be controlled as provided therein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of paragraphs A and B, it shall immediately inform the Party likely to be affected by the dissemination. The Parties involved shall thereafter consult to define an appropriate course of action.

*Appendix***Indicative features of a joint technology management plan (JTMP)**

The JTMP is a specific contract to be concluded between the participants in joint research defining their respective rights and obligations. With respect to intellectual property rights, the JTMP will normally address, *inter alia*: ownership, protection, user rights for research and development purposes, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlement procedures. The JTMP may also address foreground and background information, the rules governing disclosure of undisclosed information, licensing and deliverables.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1620/98 of 24 July 1998 determining the extent to which applications for import licences submitted in July 1998 for certain products in the milk and milk products sector under the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria and Romania, in the Agreements on free trade between the Community and the Baltic States and in the Interim Agreement between the Community and the Republic of Slovenia may be accepted

(Official Journal of the European Communities L 209 of 25 July 1998)

On page 39, in the Annex, under the Czech Republic:

for: '0402 21 99',

read: '0402 21 91';

and under the Slovak Republic:

for: '0402 21 99',

read: '0402 21 91'.

Corrigendum to Commission Regulation (EC) No 2689/98 of 11 December 1998 determining the quantity available for the first half of 1999 for certain products in the milk and milk products sector under the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria and Romania, in the Agreements on free trade between the Community and the Baltic States

(Official Journal of the European Communities L 337 of 12 December 1998)

On page 28, in the Annex, under the Czech Republic:

for: '0402 21 99',

read: '0402 21 91';

and under the Slovak Republic:

for: '0402 21 99',

read: '0402 21 91'.
