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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2331/94

of 29 September 1994

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

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

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

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

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

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

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

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

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

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 26 and 27 September 1994 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

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

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

⁽²⁾ OJ No L 285, 20. 11. 1993, p. 9.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 192, 11. 7. 1992, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 192, 11. 7. 1992, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 192, 11. 7. 1992, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

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

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

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

Article 2

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

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 3

This Regulation shall enter into force on 30 September 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Minimum import levies on olive oil ⁽¹⁾

(ECU/100 kg)

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

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

(²) For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

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

(³) For imports of oil falling within this CN code :

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

(⁴) For imports of oil falling within this CN code :

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

ANNEX II

Import levies on other olive oil sector products ⁽¹⁾

(ECU/100 kg)

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

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

COMMISSION REGULATION (EC) No 2332/94**of 29 September 1994****fixing the sluice-gate prices and levies for poultrymeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat⁽¹⁾, as last amended by Regulation (EEC) No 1574/93⁽²⁾, and in particular Articles 3 and 7 (1) thereof,

Whereas the sluice-gate prices and levies for the products specified in Article 1 (1) of Regulation (EEC) No 2777/75 must be fixed quarterly in advance in accordance with methods of calculation laid down in Council Regulation (EEC) No 2778/75 of 29 October 1975 laying down rules for calculating the levy and the sluice-gate price for poultrymeat⁽³⁾, as last amended by Regulation (EEC) No 3714/92⁽⁴⁾;

Whereas, since the sluice-gate prices and levies for poultrymeat were, by Commission Regulation (EC) No 1978/94⁽⁵⁾, as amended by Regulation (EC) No 2323/94⁽⁶⁾, last fixed for the period 1 August to 30 September 1994, they must be fixed anew for the period 1 October to 31 December 1994; whereas such prices and levies should in principle be calculated by reference to feed-grain prices for the period 1 April to 31 August 1994;

Whereas, when the sluice-gate prices applicable from 1 October, 1 January and 1 April are being fixed, trends in world market prices for feed grain are to be taken into account only if the price of the quantity of feed grain required varies by at least a specified minimum in relation to that used to calculate the sluice-gate price for the preceding quarter; whereas, by Regulation (EEC) No 2778/75, this minimum was set at 3 %;

Whereas the price of the quantity of feed grain required for the production of poultry other than fowls varies by more than 3 % from that used for the preceding quarter;

whereas this variation must accordingly be taken into account in fixing sluice-gate prices for the period 1 October to 31 December 1994;

Whereas, when the levies applicable from 1 October, 1 January and 1 April are being fixed, changes in world market prices for feed grain should be taken into account only if at the same time a new sluice-gate price is fixed;

Whereas, since a new sluice-gate price is to be fixed changes in world market prices for feed grain must be taken into account in fixing the levies;

Whereas, by Council Regulation (EEC) No 3834/90 of 20 December 1990 reducing for 1991 the levies on certain agricultural products originating in developing countries⁽⁷⁾, as last amended by Regulation (EC) No 3668/93⁽⁸⁾, and (EEC) No 715/90⁽⁹⁾, on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States), as last amended by Regulation (EC) No 235/94⁽¹⁰⁾, special import arrangements were introduced involving a reduction to 50 % in levies within the framework of fixed amounts or annual quotas, in particular for certain poultrymeat products;

Whereas Council Regulation (EEC) No 3833/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain agricultural products originating in developing countries⁽¹¹⁾, as last amended by Regulation (EC) No 3668/93, partially or totally suspends Common Tariff duties, in particular on certain poultrymeat products;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹²⁾, no levies shall apply on imports of products originating in the overseas countries and territories;

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 77.

⁽²⁾ OJ No L 152, 24. 6. 1993, p. 1.

⁽³⁾ OJ No L 282, 1. 11. 1975, p. 84.

⁽⁴⁾ OJ No L 378, 23. 12. 1992, p. 23.

⁽⁵⁾ OJ No L 198, 30. 7. 1994, p. 131.

⁽⁶⁾ OJ No L 253, 29. 9. 1994, p. 9.

⁽⁷⁾ OJ No L 370, 31. 12. 1990, p. 121.

⁽⁸⁾ OJ No L 338, 31. 12. 1993, p. 22.

⁽⁹⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽¹⁰⁾ OJ No L 30, 3. 2. 1994, p. 12.

⁽¹¹⁾ OJ No L 370, 31. 12. 1990, p. 86.

⁽¹²⁾ OJ No L 263, 19. 9. 1991, p. 1.

Whereas Council Regulations (EC) No 3491/93⁽¹⁾ and (EC) No 3492/93⁽²⁾, on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republics of Hungary and Poland, of the other part, and Council Regulation (EEC) No 520/92 of 27 February 1992 on certain rules for applying the Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Czech and Slovak Federal Republic, of the other part⁽³⁾, as amended by Regulation (EEC) No 2235/93⁽⁴⁾, and in particular Article 1 thereof introduce arrangements for reducing import levies on certain products; whereas Commission Regulation (EEC) No 2699/93⁽⁵⁾, as amended by Regulation (EC) No 3549/93⁽⁶⁾, lays down detailed rules for applying the arrangements provided for in these agreements as regards poultrymeat;

Whereas Council Regulations (EC) No 3641/93⁽⁷⁾ and (EC) No 3642/93⁽⁸⁾ lay down certain rules for applying the Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Bulgaria and Romania, of the other part; whereas Commission Regulation (EC) No 1559/94⁽⁹⁾ lays down detailed rules for applying the arrangements provided for in these Agreements as regards poultrymeat;

Whereas Council Regulation (EC) No 774/94⁽¹⁰⁾ has opened Community tariff quotas for certain agricultural

products and fixed the levies to be applied on imports of those products; whereas Commission Regulation (EC) No 1431/94⁽¹¹⁾ has established the detailed rules of the import regime for poultrymeat laid down in Regulation (EC) No 774/94;

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

1. The levies provided for in Article 3 of Regulation (EEC) No 2777/75 in respect of the products specified in Article 1 (1) of that Regulation and the sluice-gate prices provided for in Article 7 of that Regulation in respect of the like products shall be fixed in the Annex.

2. However, for products falling within CN codes 0207 31, 0207 39 90, 0207 50, 0210 90 71, 0210 90 79, 1501 00 90, 1602 31, 1602 39 19, 1602 39 30 and 1602 39 90, for which the rate of duty has been bound under GATT, the levies shall be limited to the amount resulting from that binding.

Article 2

This Regulation shall enter into force on 1 October 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 319, 21. 12. 1993, p. 1.

⁽²⁾ OJ No L 319, 21. 12. 1993, p. 4.

⁽³⁾ OJ No L 56, 29. 2. 1992, p. 9.

⁽⁴⁾ OJ No L 200, 10. 8. 1993, p. 5.

⁽⁵⁾ OJ No L 245, 1. 10. 1993, p. 88.

⁽⁶⁾ OJ No L 324, 24. 12. 1993, p. 8.

⁽⁷⁾ OJ No L 333, 31. 12. 1993, p. 16.

⁽⁸⁾ OJ No L 333, 31. 12. 1993, p. 17.

⁽⁹⁾ OJ No L 166, 1. 7. 1994, p. 62.

⁽¹⁰⁾ OJ No L 91, 8. 4. 1994, p. 1.

⁽¹¹⁾ OJ No L 156, 23. 6. 1994, p. 9.

ANNEX

to the Commission Regulation of 29 September 1994 fixing the sluice-gate prices and levies for poultrymeat ⁽¹⁾ ⁽²⁾

CN code	Sluice-gate price	Levy	Conventional rate of duty
	ECU/100 units	ECU/100 units	%
0105 11 11	22,35	4,77	—
0105 11 19	22,35	4,77	—
0105 11 91	22,35	4,77	—
0105 11 99	22,35	4,77	—
0105 19 10	99,09	16,32	—
0105 19 90	22,35	4,77	—
	ECU/100 kg	ECU/100 kg	
0105 91 00	77,78	18,81 ^(*)	—
0105 99 10	87,46	28,83	—
0105 99 20	113,26	29,46 ^(*)	—
0105 99 30	102,81	22,55 ^(*)	—
0105 99 50	119,04	30,78	—
0207 10 11	97,73	23,64 ^(*)	—
0207 10 15	111,12	26,87 ^(*)	—
0207 10 19	121,07	29,28 ^(*) ^(?)	—
0207 10 31	146,87	32,21 ^(*)	—
0207 10 39	161,00	35,30 ^(*)	—
0207 10 51	102,89	33,92 ^(*) ^(?)	—
0207 10 55	124,94	41,19 ^(*) ^(?)	—
0207 10 59	138,82	45,77 ^(?) ^(*) ^(?)	—
0207 10 71	161,80	42,09 ^(*) ^(?)	—
0207 10 79	152,71	44,32 ^(?) ^(*) ^(?)	—
0207 10 90	170,05	43,97	—
0207 21 10	111,12	26,87 ^(*) ^(?)	—
0207 21 90	121,07	29,28 ^(*) ^(?)	—
0207 22 10	146,87	32,21 ^(*)	—
0207 22 90	161,00	35,30 ^(*)	—
0207 23 11	124,94	41,19 ^(*) ^(?)	—
0207 23 19	138,82	45,77 ^(?) ^(*) ^(?)	—
0207 23 51	161,80	42,09 ^(*) ^(?)	—
0207 23 59	152,71	44,32 ^(?) ^(*) ^(?)	—
0207 23 90	170,05	43,97	—
0207 31 10	1 618,00	420,90	3 ^(?)
0207 31 90	1 618,00	420,90	3 ^(?)
0207 39 11	284,28	78,41 ^(*)	—
0207 39 13	133,18	32,21 ^(*)	—
0207 39 15	91,74	24,51 ^(*)	—
0207 39 17	63,51	16,97 ^(*)	—
0207 39 21	183,35	44,34 ^(*)	—
0207 39 23	172,24	41,65 ^(*)	—

CN code	Sluice-gate price	Levy	Conventional rate of duty
	ECU/100 kg	ECU/100 kg	%
0207 39 25	282,28	75,42	—
0207 39 27	63,51	16,97 (*)	—
0207 39 31	308,43	67,64 (*)	—
0207 39 33	177,10	38,83 (*)	—
0207 39 35	91,74	24,51 (*)	—
0207 39 37	63,51	16,97 (*)	—
0207 39 41	234,99	51,54 (*)	—
0207 39 43	110,15	24,16 (*)	—
0207 39 45	198,27	43,48 (*)	—
0207 39 47	282,28	75,42 (*)	—
0207 39 51	63,51	16,97 (*)	—
0207 39 53	320,69	93,07 (?) (*) (?)	—
0207 39 55	284,28	78,41 (?) (*) (?)	—
0207 39 57	152,70	50,35	—
0207 39 61	167,98	48,75 (?) (*) (?)	—
0207 39 63	187,06	48,37	—
0207 39 65	91,74	24,51 (?) (*) (?)	—
0207 39 67	63,51	16,97 (?) (*) (?)	—
0207 39 71	229,07	66,48 (?) (*) (?)	—
0207 39 73	183,35	44,34 (?) (*) (?)	—
0207 39 75	221,43	64,26 (?) (*) (?)	—
0207 39 77	172,24	41,65 (?) (*) (?)	—
0207 39 81	194,36	59,86 (?) (*) (?)	—
0207 39 83	282,28	75,42	—
0207 39 85	63,51	16,97 (*) (?)	—
0207 39 90	162,31	43,37	10
0207 41 10	284,28	78,41 (*) (?)	—
0207 41 11	133,18	32,21 (*)	—
0207 41 21	91,74	24,51 (*)	—
0207 41 31	63,51	16,97 (*)	—
0207 41 41	183,35	44,34 (*) (?)	—
0207 41 51	172,24	41,65 (*) (?)	—
0207 41 71	282,28	75,42 (*) (?) (?)	—
0207 41 90	63,51	16,97 (*) (?)	—
0207 42 10	308,43	67,64 (*) (?)	—
0207 42 11	177,10	38,83 (*) (?)	—
0207 42 21	91,74	24,51 (*)	—
0207 42 31	63,51	16,97 (*)	—
0207 42 41	234,99	51,54 (*)	—
0207 42 51	110,15	24,16 (*)	—
0207 42 59	198,27	43,48 (*)	—
0207 42 71	282,28	75,42 (*) (?)	—
0207 42 90	63,51	16,97	—
0207 43 11	320,69	93,07 (?) (*) (?)	—

CN code	Sluice-gate price	Levy	Conventional rate of duty
	ECU/100 kg	ECU/100 kg	%
0207 43 15	284,28	78,41 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 21	152,70	50,35	—
0207 43 23	167,98	48,75 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 25	187,06	48,37	—
0207 43 31	91,74	24,51 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 41	63,51	16,97 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 51	229,07	66,48 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 53	183,35	44,34 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 61	221,43	64,26 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 63	172,24	41,65 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 71	194,36	59,86 ⁽¹⁾ ⁽²⁾ ⁽³⁾	—
0207 43 81	282,28	75,42	—
0207 43 90	63,51	16,97 ⁽¹⁾ ⁽²⁾	—
0207 50 10	1 618,00	420,90	3 ⁽³⁾
0207 50 90	162,31	43,37	10
0209 00 90	141,14	37,71	—
0210 90 71	1 618,00	420,90	3
0210 90 79	162,31	43,37	10
1501 00 90	169,37	45,25	18
1602 31 11	293,74	64,42	17 ⁽⁶⁾
1602 31 19	310,51	82,96	17
1602 31 30	169,37	45,25	17
1602 31 90	98,80	26,40	17
1602 39 11	279,42	78,18	—
1602 39 19	310,51	82,96	17 ⁽⁶⁾
1602 39 30	169,37	45,25	17
1602 39 90	98,80	26,40	17

⁽¹⁾ The levy on products covered by CN codes 0207, 1602 31 and 1602 39 originating in the ACP countries and listed in Article 6 of Regulation (EEC) No 715/90 is reduced by 50 % within the limits of the quotas referred to in that Regulation.

⁽²⁾ The levy on such products originating in the developing countries and listed in the Annex to Regulation (EEC) No 3834/90 is reduced by 50 % within the limits of the fixed amounts referred to in that Annex.

⁽³⁾ Products imported under the Interim Agreements concluded between Hungary, Poland, the Czech Republic, the Slovak Republic, Romania and Bulgaria or originating in the developing countries and listed in Regulation (EEC) No 3833/90 are suspended and no levy is to be collected.

⁽⁴⁾ Products falling within this code, imported from Poland, Hungary, the Czech Republic and the Slovak Republic under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 2699/93 have been presented, are subject to the levies set out in the Annex to that Regulation.

⁽⁵⁾ Products falling within this code, imported from Bulgaria and Romania under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR. 1 certificates issued in accordance with Regulation (EC) No 1559/94 have been presented, are subject to the levies set out in the Annex to that Regulation.

⁽⁶⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

⁽⁷⁾ The levy on products falling within this code, imported under Council Regulation (EC) No 774/94 and Commission Regulation (EC) No 1431/94, is limited under the conditions laid down in this Regulation.

⁽⁸⁾ The duty of the Common Customs Tariff on products falling within this code, imported under Regulation (EC) No 1798/94, is limited under the conditions laid down in this Regulation.

COMMISSION REGULATION (EC) No 2333/94

of 29 September 1994

fixing the sluice-gate prices and levies for eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs⁽¹⁾, as last amended by Regulation (EEC) No 1574/93⁽²⁾, and in particular Articles 3 and 7 (1) thereof,

Whereas sluice-gate prices and levies for the products specified in Article 1 (1) of Regulation (EEC) No 2771/75 must be fixed quarterly in advance in accordance with the methods of calculation laid down in Council Regulation (EEC) No 2773/75 of 29 October 1975 laying down rules for calculating the levy and the sluice-gate price for eggs⁽³⁾, as last amended by Regulation (EEC) No 4155/87⁽⁴⁾;

Whereas, since sluice-gate prices and levies for eggs were, by Commission Regulation (EC) No 1979/94⁽⁵⁾, as amended by Regulation (EC) No 2324/94⁽⁶⁾, last fixed for the period 1 August to 30 September 1994, they must be fixed anew for the period 1 October to 31 December 1994; whereas such prices and levies should in principle be calculated by reference to feed-grain prices for the period 1 April to 31 August 1994;

Whereas, when the sluice-gate prices applicable from 1 October, 1 January and 1 April are being fixed, changes in world market prices for feed grain are to be taken into account only if the price of the quantity of feed grain required varies by at least a specified minimum in relation to that used to calculate the sluice-gate price for the preceding quarter; whereas, by Regulation (EEC) No 2773/75, the minimum was set at 3 %;

Whereas the price of the quantity of feed grain required varies by more than 3 % from that used for the preceding quarter; whereas this variation must accordingly be taken into account in fixing sluice-gate prices for the period 1 October to 31 December 1994;

Whereas, when the levies applicable from 1 October, 1 January and 1 April are being fixed, world market prices

for feed grain are to be taken into account only if at the same time a new sluice-gate price is fixed;

Whereas, since a new sluice-gate price has been fixed, changes in world market prices for feed grain must be taken into account in fixing the levies;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽⁷⁾, no levies shall apply on imports of products originating in the overseas countries and territories;

Whereas Council Regulations (EC) No 3491/93⁽⁸⁾ and (EC) No 3492/93⁽⁹⁾, on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republics of Hungary and Poland, of the other part, and Council Regulation (EEC) No 520/92 of 27 February 1992 on certain rules for applying the Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Czech and Slovak Federal Republic, of the other part⁽¹⁰⁾, as amended by Regulation (EEC) No 2235/93⁽¹¹⁾, and in particular Article 1 thereof, introduce arrangements for reducing import levies on certain products; whereas Commission Regulation (EEC) No 2699/93⁽¹²⁾, as last amended by Regulation (EC) No 3549/93⁽¹³⁾, lays down detailed rules for applying the arrangements provided for in these agreements as regards eggs;

Whereas Council Regulations (EC) No 3641/93⁽¹⁴⁾ and (EC) No 3642/93⁽¹⁵⁾ lay down certain rules for applying the Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Bulgaria and Romania, of the other part; whereas Commission Regulation (EC) No 1559/94⁽¹⁶⁾ lays down detailed rules for applying the arrangements provided for in these Agreements as regards eggs;

⁽¹⁾ OJ No L 263, 19. 9. 1991, p. 1.

⁽²⁾ OJ No L 319, 21. 12. 1993, p. 1.

⁽³⁾ OJ No L 319, 21. 12. 1993, p. 4.

⁽⁴⁾ OJ No L 56, 29. 2. 1992, p. 9.

⁽⁵⁾ OJ No L 200, 10. 8. 1993, p. 5.

⁽⁶⁾ OJ No L 245, 1. 10. 1993, p. 88.

⁽⁷⁾ OJ No L 324, 24. 12. 1993, p. 8.

⁽⁸⁾ OJ No L 333, 31. 12. 1993, p. 16.

⁽⁹⁾ OJ No L 333, 31. 12. 1993, p. 17.

⁽¹⁰⁾ OJ No L 166, 1. 7. 1994, p. 62.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 49.

⁽²⁾ OJ No L 152, 24. 6. 1993, p. 1.

⁽³⁾ OJ No L 282, 1. 11. 1975, p. 64.

⁽⁴⁾ OJ No L 392, 31. 12. 1987, p. 29.

⁽⁵⁾ OJ No L 198, 30. 7. 1994, p. 137.

⁽⁶⁾ OJ No L 253, 29. 9. 1994, p. 16.

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 levies provided for in Article 3 of Regulation (EEC) No 2771/75, in respect of the products specified in Article 1 (1) thereof and the sluice-gate prices provided for in Article 7 thereof shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 October 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 September 1994 fixing the sluice-gate prices and levies for eggs ⁽¹⁾

CN code	Sluice-gate price	Levy
	ECU/100 units	ECU/100 units
0407 00 11	51,49	10,31 ⁽¹⁾
0407 00 19	10,92	3,05 ⁽¹⁾
	ECU/100 kg	ECU/100 kg
0407 00 30	82,95	26,04 ⁽¹⁾
0408 11 80	403,57	121,87 ⁽¹⁾
0408 19 81	182,55	53,12 ⁽¹⁾
0408 19 89	194,51	56,77 ⁽¹⁾
0408 91 80	338,71	117,70 ⁽¹⁾ ⁽²⁾
0408 99 80	89,76	30,21 ⁽¹⁾ ⁽²⁾

⁽¹⁾ Products falling within this code, imported from Poland, Hungary, the Czech Republic and the Slovak Republic under the Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 2699/93 have been presented, are subject to the levies set out in the Annex to that Regulation.

⁽²⁾ Products falling within this code, imported from Romania and Bulgaria under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EC) No 374/94 have been presented, are subject to the levies set out in the Annex to that Regulation.

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

COMMISSION REGULATION (EC) No 2334/94

of 29 September 1994

fixing the sluice-gate prices and import duties for ovalbumin and lactalbumin

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

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽¹⁾, as amended by Regulation (EEC) No 4001/87 ⁽²⁾, and in particular Article 2 (2) and the second subparagraph of Article 5 (5) thereof,

Whereas the sluice-gate prices and import duties of the products specified in Article 1 of Regulation (EEC) No 2783/75 must be fixed quarterly in advance in accordance with the methods of calculation laid down in Commission Regulation (EEC) No 1679/90 of 28 June 1990 fixing sluice-gate prices and import duties for ovalbumin and lactalbumin ⁽³⁾;

Whereas, since sluice-gate prices and import duties for ovalbumin and lactalbumin were, by Commission Regulation (EC) No 1980/94 ⁽⁴⁾, as amended by Regulation (EC) No 2325/94 ⁽⁵⁾, last fixed for the period 1 August to 30 September 1994, they must be fixed anew for the period 1 October to 31 December 1994; whereas such prices and duties should be calculated by reference to the sluice-gate price and levy applicable to eggs in shell during the same period;

Whereas these have been fixed by Commission Regulation (EC) No 2333/94 of 29 September 1994 fixing the sluice-gate prices and levies for eggs ⁽⁶⁾;

Whereas the sluice-gate price and levy applicable to eggs in shell were modified by the said Regulation; whereas it

is therefore necessary likewise to modify the sluice-gate prices and import duties for ovalbumin and lactalbumin fixed by Regulation (EC) No 3588/93;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community ⁽⁷⁾, no levies shall apply on imports of products originating in the overseas countries and territories;

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 import duties provided for in Article 2 of Regulation (EEC) No 2783/75, in respect of the products specified in Article 1 thereof and the sluice-gate prices provided for in Article 5 thereof, in respect of the like products, shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 October 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 104.

⁽²⁾ OJ No L 377, 31. 12. 1987, p. 44.

⁽³⁾ OJ No L 157, 22. 6. 1990, p. 16.

⁽⁴⁾ OJ No L 198, 30. 7. 1994, p. 140.

⁽⁵⁾ OJ No L 253, 29. 9. 1994, p. 19.

⁽⁶⁾ See page 9 of this Official Journal.

⁽⁷⁾ OJ No L 263, 19. 9. 1991, p. 1.

ANNEX

to the Commission Regulation of 29 September 1994 fixing the sluice-gate prices and import duties for ovalbumin and lactalbumin ⁽¹⁾

CN code	Sluice-gate price	Import duty
	ECU/100 kg	ECU/100 kg
3502 10 91	387,91	105,72
3502 10 99	51,99	14,32
3502 90 51	387,91	105,72
3502 90 59	51,99	14,32

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

COMMISSION REGULATION (EC) No 2335/94
of 29 September 1994
on the issue of import licences for garlic originating in China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 3669/93 ⁽²⁾,

Having regard to Council Regulation (EC) No 1213/94 of 27 May 1994 concerning a protective measure applicable to imports of garlic from China ⁽³⁾, as amended by Regulation (EC) No 1992/94 ⁽⁴⁾, and in particular Article 1 (4) thereof,

Whereas Council Regulation (EEC) No 2707/72 ⁽⁵⁾ lays down the conditions for applying protective measures for fruit and vegetables;

Whereas pursuant to Commission Regulation (EEC) No 1859/93 ⁽⁶⁾, as amended by Regulation (EC) No 1662/94 ⁽⁷⁾, the release for free circulation in the Community of garlic imported from third countries is subject to presentation of an import licence;

Whereas Article 1 (2) of Commission Regulation (EC) No 1213/94, restricts the issue of import licences for garlic originating in China to a maximum monthly quantity in the case of applications lodged from 25 August 1994 to 24 May 1995;

Whereas, given the criteria laid down in Article 1 (3) of that Regulation and the import licences already issued, the quantity applied for at 26 September 1994 is in excess of the maximum monthly quantity for October 1994; whereas it is therefore necessary to determine to what extent import licences may be issued in response to these applications; whereas the issue of licences in response to these applications; whereas the issue of licences in response to applications lodged after 26 September 1994 and before 25 October 1994 should be refused,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences applied for under Article 1 of Regulation (EEC) No 1859/93 at 26 September 1994 for garlic falling within CN code 0703 20 00 originating in China shall be issued for 0,5806 % of the quantity applied for, having regard to the information available to the Commission on 28 September 1994.

For the abovementioned products applications for import licences lodged after 26 September and before 25 October 1994 shall be refused.

Article 2

This Regulation shall enter into force on 30 September 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 338, 31. 12. 1993, p. 26.

⁽³⁾ OJ No L 133, 28. 5. 1994, p. 36.

⁽⁴⁾ OJ No L 200, 3. 8. 1994, p. 11.

⁽⁵⁾ OJ No L 291, 28. 12. 1972, p. 3.

⁽⁶⁾ OJ No L 170, 13. 7. 1993, p. 10.

⁽⁷⁾ OJ No L 176, 9. 7. 1994, p. 1.

COMMISSION REGULATION (EC) No 2336/94

of 28 September 1994

on the free supply to Georgia, Armenia and Azerbaijan of intervention wheat
pursuant to Council Regulation (EC) No 1999/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1999/94 of 27 July 1994 on actions for the free supply of agricultural products to the people of Georgia, Armenia, Azerbaijan, Kyrgyzstan and Tajikistan⁽¹⁾, and in particular Article 4 thereof,

Whereas Commission Regulation (EC) No 2065/94⁽²⁾ established the detailed rules applicable to the free supply of agricultural products held in intervention stocks to Georgia, Armenia, Azerbaijan, Kyrgyzstan and Tajikistan foreseen by Regulation (EC) No 1999/94; whereas, in addition, specific rules should be laid down for the supply of intervention wheat; whereas, taking account of budgetary resources and the proper management of intervention stocks, a tendering procedure should be organized for the supply of 50 000 tonnes of wheat held by the Danish intervention agency to Georgia, Armenia and Azerbaijan;

Whereas, in view of the present difficulties in these Republics and the specific problems of forwarding aid to these regions, it is appropriate to organize the supply of the abovementioned products as a single action, for which the invitation to tender shall determine a single award;

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. A tendering procedure is hereby initiated for the supply costs of 50 000 tonnes (net) of wheat as indicated in Annex I, in accordance with the provisions of Regulation (EC) No 2065/94, and in particular Articles 2 (1) and (2) thereof.

2. The supply costs shall include the take-over at the stores indicated in Annex II and transport by the appropriate means of transport to the places of destination and within the time limits indicated in Annex I.

1. In accordance with Article 4 of Regulation (EC) No 2065/94 the offers shall be presented to the following address:

Commission of the European Communities,
Division VI/G.2 (Office 10/05),
rue de la Loi 120,
B-1049 Brussels.

The closing date for the lodgement of tenders shall be 12 October 1994 at 17.00 (Brussels time).

2. The offer shall relate to the total of the quantities referred to in Article 1.

By derogation from Article 6 (1) (d) (1) of Regulation (EC) No 2065/94 the offer must specify the total amount in ecus required for the complete supply, and the amount in ecus per tonne required for each destination.

3. By derogation from the amount referred to in Article 6 (1) (f) of Regulation (EC) No 2065/94 the tendering security is fixed at ECU 20 tonne.

4. The security referred to in Article 12 (2) of Regulation (EC) No 2065/94 is fixed at ECU 140 per tonne, to be lodged in national currency.

5. The securities referred to in paragraphs 3 and 4 shall be drawn up in favour of the Commission of the European Communities.

Article 3

The take-over certificate referred to in Article 10 (1) (a) of Regulation (EC) No 2065/94 shall be established at the places and by the authorities referred to in Article III, on the basis of the model in Annex IV.

Article 4

For the payment provided for in Article 13 of Regulation (EC) No 2065/94, the intervention agency shall deliver a certificate certifying the total removal of the quantities for each destination, upon completion of that operation.

Article 5

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

⁽¹⁾ OJ No L 201, 4. 8. 1994, p. 1.

⁽²⁾ OJ No L 213, 18. 8. 1994, p. 3.

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

Done at Brussels, 28 September 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Lot: 20 000 tonnes of intervention wheat destined for Armenia.

Delivery stage: Airum via the ports of Poti or Batumi (goods not unloaded).

Final delivery date at the port: 20 November 1994.

20 000 tonnes of intervention wheat destined for Georgia.

Delivery stage: Poti or Batumi (goods not unloaded).

Final delivery date at the port: 4 December 1994.

10 000 tonnes of intervention wheat destined for Azerbaijan.

Delivery stage: Pbeiuk Kesik via the ports of Poti or Batumi (goods not unloaded).

Final delivery date at the port: 27 November 1994.

No quantity destined for Armenia or Azerbaijan may be stored in the ports of Poti or Batumi; the wheat must be unloaded directly on to the means of transport.

ANNEX II

<i>Places of storage</i>	<i>Quantity (tonnes)</i>
DLG Smakkerup Artebjergvej 2 DK-4400 Kalundborg	2 246,910
DLG Kattrup Gods, Planiager Kattrupvej DK-4450 Jyderup	3 706,890
Østsjællands Andel Lageret Parallelvej 31 DK-4300 Holbæk	4 046,920
DLG Horsens Afd. Fuglevangsvej 42 DK-8700 Horsens	3 017,580
Overgård Gods Anker 1 Overgaardsvej 28 DK-8970 Havndal	8 670,100
A/S KFK Hal C Birkegårdsvej DK-8361 Hasselager	8 312,320
DLG Skrivensgård Hvilshøjvej 222 DK-9700 Brønderslev	6 470,070
ØAG Dregårdsvej 1 DK-9330 Dronninglund	2 480,320
N. P. Andersen St. Sindholtvej 55 DK-9380 Vestbjerg	5 847,804
A/S KFK Vrejlev Kloster Vrejlevklostervej 805 DK-9760 Vrå	5 201,806

The characteristics of the lots shall be supplied to the successful tenderer by the Danish intervention agency.

Address of the intervention agency :

Landbrugsministeriet
EF-Direktoratet
Nyropsgade 26
DK-1602 København V
Tel. (45) 33 92 70 00,
Fax (45) 33 92 69 48.

ANNEX III

(a) Place of take-over in Georgia

1. Port of Poti or Batumi — goods not unloaded.

However, the take-over certificate may only be issued following unloading and quantitative and qualitative control of the goods.

2. Authority entitled to deliver the take-over certificate :

Gossudarstvenaya Corporatziya Chleboproductov
Ul. Didi Cheivani No 6
Tbilisi
Mr Anzar Burdjanadze
Tel. (788 32) 99 86 98
Fax (788 32) 99 67 40.

(b) Place of take-over in Armenia :

1. Airum — goods not unloaded.

The quantitative and qualitative controls will be carried out at the time of sealing the railwagons at Poti or Batumi. The take-over certificate will be issued on arrival at the abovementioned station after verification of the integrity of the seals and the number of wagons.

2. Authority entitled to deliver the take-over certificate :

Ministry of Food and Provision
375010 Yerevan
Dom Pravitelstva
Ploshchad Respubliki 1
Mr Stepanian, Deputy Minister
Tel. (788 52) 52 03 21

(c) Place of take-over in Azerbaijan :

1. Pbieuk-Kesik — goods not unloaded.

The quantitative and qualitative controls will be carried out at the time of sealing the railwagons at Poti or Batumi. The take-over certificate will be issued on arrival at the abovementioned station after verification of the integrity of the seals and the number of wagons.

2. Authority entitled to deliver the take-over certificate :

Azintrade
Baku, center
Dom Pravitelstva, Floor 1
Tel. (789 22) 93 19 80/93 97 13.

ANNEX IV

Take-over certificate

I, the undersigned
(name/first name/position)

acting on behalf of

certify that the following goods have been taken over :

Product :		
Packaging :		
Total quantity in tonnes (net): (gross):		
Number	of sacks (flour):	
	of cartons (butter) (meat) (¹):	
Place and date of take-over:		
Rail wagon numbers / name of boat / heavy goods vehicle registration numbers (¹):		
Numbers of seals on arrival:		
Name and address of transport company:		

Name / address of monitoring agency :

.....
.....

Name and signature of its on-the-spot representative :

.....
.....

Observations or remarks :

.....
.....
.....
.....

Signature and stamp

.....

.....
(¹) Delete as appropriate.

COMMISSION REGULATION (EC) No 2337/94

of 29 September 1994

amending Regulation (EC) No 1590/94 laying down detailed rules for the application in the pigmeat sector of the arrangements provided for in the Interim Agreement between the Community and Bulgaria and Romania and amending Regulation (EC) No 1809/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3641/93 of 20 December 1993 on certain procedures for applying the Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community of the one part, and the Republic of Bulgaria of the other part⁽¹⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3642/93 of 20 December 1993 on certain procedures for applying the Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community of the one part, and Romania of the other part⁽²⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat⁽³⁾, as last amended by Regulation (EEC) No 1249/89⁽⁴⁾, and in particular Article 22 thereof,

Whereas Agreements in the form of an exchange of letters between the Community of the one part and Bulgaria⁽⁵⁾ and Romania⁽⁶⁾ of the other part were signed on 30 June 1994, amending the Interim Agreements between the Community and Bulgaria⁽⁷⁾ and Romania⁽⁸⁾;

Whereas these Agreements in the form of an exchange of letters were necessary in order to make up for the delay in applying certain agricultural concessions provided for in the Interim Agreements in the case of Romania and for the delay in the entry into force of the Interim Agree-

ment with Bulgaria; whereas the measures provided for in the said Agreements apply from 1 July 1994;

Whereas Commission Regulation (EC) No 1590/94⁽⁹⁾ lays down detailed rules for the application of the Interim Agreements between the Community and Bulgaria and Romania;

Whereas it is therefore appropriate to increase the quantities laid down in Annex I to Regulation (EC) No 1590/94 and in Annex II to Commission Regulation (EC) No 1809/94⁽¹⁰⁾ determining the extent to which applications lodged in July 1994 for import licences for certain pigmeat products under the regime provided for by the Interim Agreements concluded by the Community with Bulgaria and Romania can be accepted;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1590/94 is hereby replaced by Annex I to this Regulation.

Article 2

Annex II to Regulation (EC) No 1809/94 is hereby replaced by Annex II to this Regulation.

Article 3

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

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 333, 31. 12. 1993, p. 16.

⁽²⁾ OJ No L 333, 31. 12. 1993, p. 17.

⁽³⁾ OJ No L 282, 1. 11. 1975, p. 1.

⁽⁴⁾ OJ No L 129, 11. 5. 1989, p. 12.

⁽⁵⁾ OJ No L 178, 12. 7. 1994, p. 71.

⁽⁶⁾ OJ No L 178, 12. 7. 1994, p. 76.

⁽⁷⁾ OJ No L 323, 23. 12. 1993, p. 2.

⁽⁸⁾ OJ No L 81, 2. 4. 1993, p. 2.

⁽⁹⁾ OJ No L 167, 1. 7. 1994, p. 16.

⁽¹⁰⁾ OJ No L 189, 23. 7. 1994, p. 53.

ANNEX I

ANNEX I

A. Products originating in Bulgaria

Levy reduction of 60 %

(tonnes)

Group No	CN code	1 July 1994 to 30 June 1995	1 July 1995 to 30 June 1996	1 July 1996 to 30 June 1997
14	0203 11 10 0203 29 55 (*)	210	220	230

(*) Excluding tenderloin presented alone.

B. Products originating in Romania

I. Levy reduction of 50 %

(tonnes)

Group No	CN code	1 July 1994 to 30 June 1995	1 July 1995 to 30 June 1996	1 July 1996 to 30 June 1997
15	1601 00 91 1601 00 99	910	960	1 020
16	1602 41 10 1602 42 10 1602 49 11 1602 49 13 1602 49 15 1602 49 19 1602 49 30 1602 49 50	1 514	1 604	1 694

II. Levy reduction of 60 %

(tonnes)

Group No	CN code	1 July 1994 to 30 June 1995	1 July 1995 to 30 June 1996	1 July 1996 to 30 June 1997
17	0203 11 10 0203 12 11 0203 12 19 0203 19 11 0203 19 13 0203 19 55 (*) 0203 19 59 0203 21 10 0203 22 11 0203 22 19 0203 29 11 0203 29 13 0203 29 15 0203 29 55 (*) 0203 29 59	12 640	13 450	14 270

(*) Excluding tenderloin presented alone.

*ANNEX II**ANNEX II*

Group No	Total quantity available for the period 1 October to 31 December 1994
14	105
15	455
16	757
17	6 320'

COMMISSION REGULATION (EC) No 2338/94**of 29 September 1994****setting the amount of the payment on account of the cost of disposal of certain
distillation products for 1995**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 1891/94 ⁽²⁾, and in particular Article 37 (2) thereof,

Whereas, as regards alcohol from distillation as referred to in Articles 35 and 36 of Regulation (EEC) No 822/87, the European Agricultural Guidance and Guarantee Fund (EAGGF) is to bear only the costs arising from its disposal; whereas the amount of the payment on account of the cost of disposal of the products must be fixed having regard to depreciation in a way similar to that by which alcohol from distillation as referred to in Article 39 of that Regulation is depreciated;

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

Article 1

The amount of the payment on account of the cost of disposal of the products of distillation pursuant to Articles 35 and 36 of Regulation (EEC) No 822/87 shall be determined by application of a coefficient to the value of purchases made by intervention agencies.

For the 1995 financial year this coefficient shall be 0,75.

Article 2

The expenditure amounts determined in this way shall be notified to the Commission under the declaration established pursuant to Commission Regulation (EEC) No 2776/88 ⁽³⁾.

Article 3

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

It shall be applicable from 1 October 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 42.

⁽³⁾ OJ No L 249, 8. 9. 1988, p. 9.

COMMISSION REGULATION (EC) No 2339/94**of 29 September 1994****suspending advance fixing of export refunds on certain cereal and rice products
exported in the form of goods not covered by Annex II to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1866/94 ⁽²⁾, and in particular the first subparagraph of Article 13 (7) thereof,

Having regard to Commission Regulation (EC) No 1222/94 of 31 May 1994 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 2296/94 ⁽⁴⁾, and in particular the second subparagraph of Article 5 (3) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽⁵⁾, as last amended by Regulation (EC) No 1869/94 ⁽⁶⁾, and in particular the second subparagraph 30 Article 17 (7) thereof,

Whereas the second subparagraph of Article 13 (7) of Regulation (EEC) No 1766/92, the second subparagraph of Article 5 (3) of Regulation (EC) No 1222/94 and the

second subparagraph of Article 17 (7) of Regulation (EEC) No 1418/76 make provision for advance fixing of the refund to be suspended for basic products exported in the form of certain goods;

Whereas the situation on certain markets may make it necessary for the refunds to be adjusted; whereas in order to prevent applications for advance fixing of refunds for speculative purposes, the abovementioned advance fixing should be suspended until this adjustment comes into force,

HAS ADOPTED THIS REGULATION:

Article 1

Advance fixing of export refunds on cereals and rice, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EEC) No 1418/76 respectively, is suspended until 30 September 1994 inclusive.

Article 2

This Regulation shall enter into force on 30 September 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 136, 31. 5. 1994, p. 5.

⁽⁴⁾ OJ No L 249, 24. 9. 1994, p. 9.

⁽⁵⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁶⁾ OJ No L 197, 30. 7. 1994, p. 7.

COMMISSION REGULATION (EC) No 2340/94

of 29 September 1994

fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1880/94 ⁽²⁾, and in particular Article 17 (4) thereof,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 876/68 of 28 June 1968 laying down general rules for granting export refunds on milk and milk products and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 776/94 ⁽⁴⁾, provides that when the refunds on the products listed in Article 1 of Regulation (EEC) No 804/68, exported in the natural state, are being fixed account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organization of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the need to avoid disturbances on the Community market, and
- the economic aspect of the proposed exports;

Whereas Article 3 (1) of Regulation (EEC) No 876/68 provides that when prices within the Community are being determined account should be taken of the ruling

prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

- (a) prices ruling on third country markets;
- (b) the most favourable prices in third countries of destination for third country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and
- (d) free-at-Community-frontier offer prices;

Whereas Article 4 of Regulation (EEC) No 876/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of Regulation (EEC) No 804/68 according to destination;

Whereas Article 5 (1) of Regulation (EEC) No 876/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; whereas the amount of the refund may, however, remain at the same level for more than four weeks;

Whereas, in accordance with Article 2 of Commission Regulation (EEC) No 1098/68 of 27 July 1968 on detailed rules for the application of export refunds on milk and milk products ⁽⁵⁾, as last amended by Regulation (EEC) No 2767/90 ⁽⁶⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components, one of which is intended to take account of the quantity of milk products and the other is intended to take account of the quantity of added sucrose; whereas, however, the latter component is applied only if the added sucrose was produced from sugar beet or cane harvested in the Community; whereas, for products falling within CN codes ex 0402 99 11, ex 0402 99 19, ex 0404 90 51, ex 0404 90 53, ex 0404 90 91 and ex 0404 90 93, with a fat content by weight not exceeding 9,5 % and a non-fatty milk content in the dry matter equal to or greater than 15 % by weight, the former abovementioned component is fixed for 100 kilograms of the whole product; whereas, for the other products containing added sugar falling within CN codes 0402 and 0404, that component is calculated by multiplying the basic amount by the milk products content of the product concerned; whereas that basic amount is equal to the refund to be fixed for one kilogram of milk products contained in the whole product;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 21.

⁽³⁾ OJ No L 155, 3. 7. 1968, p. 1.

⁽⁴⁾ OJ No L 91, 8. 4. 1994, p. 6.

⁽⁵⁾ OJ No L 184, 29. 7. 1968, p. 10.

⁽⁶⁾ OJ No L 267, 29. 9. 1990, p. 14.

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 133/94⁽²⁾;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽³⁾, as amended by Regulation (EC) No 3528/93⁽⁴⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁵⁾, as amended by Regulation (EC) No 547/94⁽⁶⁾;

Whereas the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 150 per 100 kilograms;

Whereas Austria will be a member of the European Union as from 1 January 1995; whereas experience shows that there is a risk of speculative exports to that country until the end of 1994, in particular as regards cheese; whereas the refunds on cheese exported to Austria should accordingly be discontinued;

Whereas Commission Regulation (EEC) No 896/84⁽⁷⁾, as last amended by Regulation (EEC) No 222/88⁽⁸⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of varying refunds according to the date of manufacture of the products;

Whereas for the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account;

Whereas it follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation;

Whereas Council Regulation (EEC) No 990/93⁽⁹⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in the Annex.
2. There shall be no refunds for exports to Zone E for products falling within CN codes 0401, 0402, 0403, 0404, 0405 and 2309.

Article 2

This Regulation shall enter into force on 30 September 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 22, 27. 1. 1994, p. 7.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁶⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽⁷⁾ OJ No L 91, 1. 4. 1984, p. 71.

⁽⁸⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽⁹⁾ OJ No L 102, 28. 4. 1993, p. 14.

ANNEX

to the Commission Regulation of 29 September 1994 fixing the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0401 10 10 000		5,18	0402 21 91 500		118,10
0401 10 90 000		5,18	0402 21 91 600		128,54
0401 20 11 100		5,18	0402 21 91 700		134,75
0401 20 11 500		8,00	0402 21 91 900		141,68
0401 20 19 100		5,18	0402 21 99 100		105,31
0401 20 19 500		8,00	0402 21 99 200		106,08
0401 20 91 100		10,65	0402 21 99 300		107,46
0401 20 91 500		12,41	0402 21 99 400		115,39
0401 20 99 100		10,65	0402 21 99 500		118,10
0401 20 99 500		12,41	0402 21 99 600		128,54
0401 30 11 100		15,94	0402 21 99 700		134,75
0401 30 11 400		24,58	0402 21 99 900		141,68
0401 30 11 700		36,93	0402 29 15 200		0,6000
0401 30 19 100		15,94	0402 29 15 300		0,9158
0401 30 19 400		24,58	0402 29 15 500		0,9682
0401 30 19 700		36,93	0402 29 15 900		1,0450
0401 30 31 100		43,98	0402 29 19 200		0,6000
0401 30 31 400		68,67	0402 29 19 300		0,9158
0401 30 31 700		75,72	0402 29 19 500		0,9682
0401 30 39 100		43,98	0402 29 19 900		1,0450
0401 30 39 400		68,67	0402 29 91 100		1,0531
0401 30 39 700		75,72	0402 29 91 500		1,1539
0401 30 91 100		86,30	0402 29 99 100		1,0531
0401 30 91 400		126,85	0402 29 99 500		1,1539
0401 30 91 700		148,02	0402 91 11 110		5,18
0401 30 99 100		86,30	0402 91 11 120		10,65
0401 30 99 400		126,85	0402 91 11 310		18,15
0401 30 99 700		148,02	0402 91 11 350		22,42
0402 10 11 000		60,00	0402 91 11 370		27,47
0402 10 19 000		60,00	0402 91 19 110		5,18
0402 10 91 000		0,6000	0402 91 19 120		10,65
0402 10 99 000		0,6000	0402 91 19 310		18,15
0402 21 11 200		60,00	0402 91 19 350		22,42
0402 21 11 300		91,58	0402 91 19 370		27,47
0402 21 11 500		96,82	0402 91 31 100		21,05
0402 21 11 900		104,50	0402 91 31 300		32,47
0402 21 17 000		60,00	0402 91 39 100		21,05
0402 21 19 300		91,58	0402 91 39 300		32,47
0402 21 19 500		96,82	0402 91 51 000		24,58
0402 21 19 900		104,50	0402 91 59 000		24,58
0402 21 91 100		105,31	0402 91 91 000		86,30
0402 21 91 200		106,08	0402 91 99 000		86,30
0402 21 91 300		107,46	0402 99 11 110		0,0518
0402 21 91 400		115,39	0402 99 11 130		0,1065

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0402 99 11 150		0,1769	0403 90 61 100		0,0518
0402 99 11 310		20,94	0403 90 61 300		0,0800
0402 99 11 330		25,30	0403 90 63 000		0,1065
0402 99 11 350		33,90	0403 90 69 000		0,1594
0402 99 19 110		0,0518	0404 90 11 100		60,00
0402 99 19 130		0,1065	0404 90 11 910		5,18
0402 99 19 150		0,1769	0404 90 11 950		18,15
0402 99 19 310		20,94	0404 90 13 120		60,00
0402 99 19 330		25,30	0404 90 13 130		91,58
0402 99 19 350		33,90	0404 90 13 140		96,82
0402 99 31 110		0,2282	0404 90 13 150		104,50
0402 99 31 150		35,31	0404 90 13 911		5,18
0402 99 31 300		0,4398	0404 90 13 913		10,65
0402 99 31 500		0,7572	0404 90 13 915		15,94
0402 99 39 110		0,2282	0404 90 13 917		24,58
0402 99 39 150		35,31	0404 90 13 919		36,93
0402 99 39 300		0,4398	0404 90 13 931		18,15
0402 99 39 500		0,7572	0404 90 13 933		22,42
0402 99 91 000		0,8630	0404 90 13 935		27,47
0402 99 99 000		0,8630	0404 90 13 937		32,47
0403 10 22 100		5,18	0404 90 13 939		33,95
0403 10 22 300		8,00	0404 90 19 110		105,31
0403 10 24 000		10,65	0404 90 19 115		106,08
0403 10 26 000		15,94	0404 90 19 120		107,46
0403 10 32 100		0,0518	0404 90 19 130		115,39
0403 10 32 300		0,0800	0404 90 19 135		118,10
0403 10 34 000		0,1065	0404 90 19 150		128,54
0403 10 36 000		0,1594	0404 90 19 160		134,75
0403 90 11 000		60,00	0404 90 19 180		141,68
0403 90 13 200		60,00	0404 90 31 100		60,00
0403 90 13 300		91,58	0404 90 31 910		5,18
0403 90 13 500		96,82	0404 90 31 950		18,15
0403 90 13 900		104,50	0404 90 33 120		60,00
0403 90 19 000		105,31	0404 90 33 130		91,58
0403 90 31 000		0,6000	0404 90 33 140		96,82
0403 90 33 200		0,6000	0404 90 33 150		104,50
0403 90 33 300		0,9158	0404 90 33 911		5,18
0403 90 33 500		0,9682	0404 90 33 913		10,65
0403 90 33 900		1,0450	0404 90 33 915		15,94
0403 90 39 000		1,0531	0404 90 33 917		24,58
0403 90 51 100		5,18	0404 90 33 919		36,93
0403 90 51 300		8,00	0404 90 33 931		18,15
0403 90 53 000		10,65	0404 90 33 933		22,42
0403 90 59 110		15,94	0404 90 33 935		27,47
0403 90 59 140		24,58	0404 90 33 937		32,47
0403 90 59 170		36,93	0404 90 33 939		33,95
0403 90 59 310		43,98	0404 90 39 110		105,31
0403 90 59 340		68,67	0404 90 39 115		106,08
0403 90 59 370		75,72	0404 90 39 120		107,46
0403 90 59 510		86,30	0404 90 39 130		115,39
0403 90 59 540		126,85			
0403 90 59 570		148,02			

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0404 90 39 150		118,10	0405 00 19 500		156,10
0404 90 51 100		0,6000	0405 00 19 700		160,00
0404 90 51 910		0,0518	0405 00 90 100		160,00
0404 90 51 950		20,94	0405 00 90 900		206,00
0404 90 53 110		0,6000	0406 10 20 100		—
0404 90 53 130		0,9158	0406 10 20 230	028	—
0404 90 53 150		0,9682		032	—
0404 90 53 170		1,0450		038	—
0404 90 53 911		0,0518		400	31,80
0404 90 53 913		0,1065		404	—
0404 90 53 915		0,1594		...	39,07
0404 90 53 917		0,2458	0406 10 20 290	028	—
0404 90 53 919		0,3693		032	—
0404 90 53 931		20,94		038	—
0404 90 53 933		25,30		400	31,80
0404 90 53 935		33,90		404	—
0404 90 53 937		35,31		...	39,07
0404 90 59 130		1,0531	0406 10 20 610	028	11,00
0404 90 59 150		1,1539		032	11,00
0404 90 59 930		0,5279		036	—
0404 90 59 950		0,7572		038	—
0404 90 59 990		0,8630		400	71,05
0404 90 91 100		0,6000		404	—
0404 90 91 910		0,0518		...	72,89
0404 90 91 950		20,94	0406 10 20 620	028	16,29
0404 90 93 110		0,6000		032	16,29
0404 90 93 130		0,9158		036	—
0404 90 93 150		0,9682		038	—
0404 90 93 170		1,0450		400	78,34
0404 90 93 911		0,0518		404	—
0404 90 93 913		0,1065		...	79,92
0404 90 93 915		0,1594	0406 10 20 630	028	19,55
0404 90 93 917		0,2458		032	19,55
0404 90 93 919		0,3693		036	—
0404 90 93 931		20,94		038	—
0404 90 93 933		25,30		400	89,03
0404 90 93 935		33,90		404	—
0404 90 93 937		35,31		...	90,24
0404 90 99 130		1,0531	0406 10 20 640	028	—
0404 90 99 150		1,1539		032	—
0404 90 99 930		0,5279		036	—
0404 90 99 950		0,7572		038	—
0404 90 99 990		0,8630		400	105,89
0405 00 11 200		120,98		404	—
0405 00 11 300		152,20		...	105,89
0405 00 11 500		156,10	0406 10 20 650	028	22,40
0405 00 11 700		160,00		032	22,40
0405 00 19 200		120,98		036	—
0405 00 19 300		152,20		038	—
				400	52,94
				404	—
				...	110,24

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 10 20 660		—	0406 30 10 200	028	—
0406 10 20 810	028	—		032	—
	032	—		036	—
	036	—		038	—
	038	—		400	35,44
	400	17,16		404	—
	404	—		...	39,65
	...	17,16	0406 30 10 250	028	—
0406 10 20 830	028	—		032	—
	032	—		036	—
	036	—		038	—
	038	—		400	35,44
	400	29,30		404	—
	404	—		...	39,65
	...	29,30	0406 30 10 300	028	—
0406 10 20 850	028	—		032	—
	032	—		036	—
	036	—		038	—
	038	—		400	52,04
	400	35,53		404	—
	404	—		...	58,18
	...	35,53	0406 30 10 350	028	—
0406 10 20 870		—		032	—
0406 10 20 900		—		036	—
0406 20 90 100		—		038	—
0406 20 90 913	028	—		400	35,44
	032	—		404	—
	038	—		...	39,65
	400	69,19	0406 30 10 400	028	—
	404	—		032	—
	...	69,19		036	—
0406 20 90 915	028	—		038	—
	032	—		400	52,04
	038	—		404	—
	400	92,25		...	58,18
	404	—	0406 30 10 450	028	—
	...	92,25		032	—
0406 20 90 917	028	—		036	—
	032	—		038	—
	038	—		400	75,77
	400	98,00		404	—
	404	—		...	84,66
	...	98,00	0406 30 10 500		—
0406 20 90 919	028	—	0406 30 10 550	028	—
	032	—		032	—
	038	—		036	—
	400	109,54		038	—
	404	—		400	35,44
	...	109,54		404	16,29
0406 20 90 990		—		...	39,65
0406 30 10 100		—	0406 30 10 600	028	—
0406 30 10 150	028	—		032	—
	032	—		036	—
	036	—		038	—
	038	—		400	52,04
	400	16,32		404	22,81
	404	—		...	58,18
	...	18,60			

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 30 10 650	028	—	0406 30 31 730	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	75,77		400	52,04
	404	—		404	—
	...	84,66		...	58,18
0406 30 10 700	028	—	0406 30 31 910	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	75,77		400	35,44
	404	—		404	—
	...	84,66		...	39,65
0406 30 10 750	028	—	0406 30 31 930	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	92,48		400	52,04
	404	—		404	—
	...	103,34		...	58,18
0406 30 10 800	028	—	0406 30 31 950	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	92,48		400	75,77
	404	—		404	—
	...	103,34		...	84,66
0406 30 31 100	028	—	0406 30 39 100	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	92,48		400	35,44
	404	—		404	16,29
	...	103,34		...	39,65
0406 30 31 300	028	—	0406 30 39 300	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	16,32		400	52,04
	404	—		404	22,81
	...	18,60		...	58,18
0406 30 31 500	028	—	0406 30 39 500	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	35,44		400	52,04
	404	—		404	22,81
	...	39,65		...	58,18
0406 30 31 710	028	—	0406 30 39 700	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	35,44		400	75,77
	404	—		404	—
	...	39,65		...	84,66
0406 30 31 930	028	—	0406 30 39 930	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	35,44		400	75,77
	404	—		404	—
	...	39,65		...	84,66

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 30 39 950	028	—	0406 90 21 900	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	92,48		400	105,89
	404	—		404	—
	...	103,34		...	123,56
0406 30 90 000	028	—	0406 90 23 900	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	92,48		400	52,94
	404	—		404	—
	...	103,34		...	110,24
0406 40 50 000	028	—	0406 90 25 900	028	—
	032	—		032	—
	038	—		036	—
	400	97,75		038	—
	404	—		400	52,94
	...	103,04		404	—
				...	110,24
0406 40 90 000	028	—	0406 90 27 900	028	—
	032	—		032	—
	038	—		036	—
	400	97,75		038	—
	404	—		400	45,72
	...	103,04		404	—
				...	93,42
0406 90 13 000	028	—	0406 90 31 119	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	105,89		400	50,89
	404	—		404	13,03
	...	129,78		...	73,27
0406 90 15 100	028	—	0406 90 31 151	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	105,89		400	47,57
	404	—		404	12,19
	...	129,78		...	68,29
0406 90 15 900		—	0406 90 31 159		—
0406 90 17 100	028	—		028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	105,89		400	50,89
	404	—		404	13,03
	...	129,78		...	73,27
0406 90 17 900		—			

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 90 33 151	028	—	0406 90 69 910	028	—
	032	—		032	—
	036	—		036	57,02
	038	—		038	—
	400	47,57		400	122,18
	404	12,19		404	65,16
	...	68,29		...	134,39
0406 90 33 919	028	—	0406 90 73 900	028	—
	032	—		032	—
	036	—		036	34,75
	038	—		038	—
	400	50,89		400	123,00
	404	13,03		404	97,75
	...	73,27		...	123,00
0406 90 33 951	028	—	0406 90 75 900	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	47,57		400	52,94
	404	12,19		404	—
	...	68,29		...	102,60
0406 90 35 190	028	—	0406 90 76 100	028	19,55
	032	—		032	19,55
	036	34,75		036	—
	400	129,13		038	—
	404	73,31		400	47,87
	...	129,13		404	—
				...	90,24
0406 90 35 990	028	—	0406 90 76 300	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	105,89		400	52,94
	404	—		404	—
	...	105,89		...	110,24
0406 90 61 000	028	—	0406 90 76 500	028	—
	032	—		032	—
	036	73,31		036	—
	400	150,68		038	—
	404	114,03		400	61,09
	...	150,68		404	—
				...	110,24
0406 90 63 100	028	—	0406 90 78 100	028	19,55
	032	—		032	19,55
	036	85,55		036	—
	038	—		038	—
	400	172,77		400	47,87
	404	130,32		404	—
	...	172,77		...	90,24
0406 90 63 900	028	—	0406 90 78 300	028	—
	032	—		032	—
	036	57,02		036	—
	038	—		038	—
	400	122,18		400	52,94
	404	65,16		404	—
	...	134,39		...	110,24
0406 90 69 100		—			

Product code	Destination (°)	Amount of refund (°)	Product code	Destination (°)	Amount of refund (°)
0406 90 78 500	028	—	0406 90 86 300	028	16,29
	032	—		032	16,29
	036	—		036	—
	038	—		038	—
	400	61,09		400	78,34
	404	—		404	—
	...	110,24		...	79,92
0406 90 79 900	028	—	0406 90 86 400	028	19,55
	032	—		032	19,55
	036	—		036	—
	038	—		038	—
	400	45,72		400	89,03
	404	—		404	—
	...	93,42		...	90,24
0406 90 81 900	028	—	0406 90 86 900	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	105,89		400	105,89
	404	—		404	—
	...	105,89		...	105,89
0406 90 85 910	028	—	0406 90 87 100	028	11,00
	032	—		032	11,00
	036	34,75		036	—
	038	—		038	—
	400	129,13		400	72,89
	404	73,31		404	—
	...	129,13		...	72,89
0406 90 85 991	028	—	0406 90 87 300	028	16,29
	032	—		032	16,29
	036	—		036	—
	038	—		038	—
	400	105,89		400	78,34
	404	—		404	—
	...	105,89		...	79,92
0406 90 85 995	028	22,40	0406 90 87 400	028	19,55
	032	22,40		032	19,55
	036	—		036	—
	038	—		038	—
	400	52,94		400	89,03
	404	—		404	—
	...	110,24		...	90,24
0406 90 85 999		—	0406 90 87 951	028	—
0406 90 86 100		—		032	—
0406 90 86 200	028	11,00		036	34,75
	032	11,00		038	—
	036	—		400	123,00
	038	—		404	73,31
	400	72,89		...	123,00
	404	—			
	...	72,89			

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 90 87 971	028	22,40	2309 10 19 010		—
	032	22,40	2309 10 19 100		—
	036	—	2309 10 19 200		0,22
	038	—	2309 10 19 300		0,29
	400	60,28	2309 10 19 400		0,37
	404	—	2309 10 19 500		0,45
	...	110,24	2309 10 19 600		0,52
0406 90 87 972	028	—	2309 10 19 700		0,55
	032	—	2309 10 19 800		0,59
	038	—	2309 10 70 010		—
	400	31,80	2309 10 70 100		17,10
	404	—	2309 10 70 200		22,80
	...	39,07	2309 10 70 300		28,50
			2309 10 70 500		34,20
0406 90 87 979	028	22,40	2309 10 70 600		39,90
	032	22,40	2309 10 70 700		45,60
	036	—	2309 10 70 800		50,16
	038	—	2309 90 35 010		—
	400	60,28	2309 90 35 100		—
	404	—	2309 90 35 200		0,22
	...	110,24	2309 90 35 300		0,29
0406 90 88 100		—	2309 90 35 400		0,37
0406 90 88 200	028	11,00	2309 90 35 500		0,45
	032	11,00	2309 90 35 700		0,52
	036	—	2309 90 39 010		—
	038	—	2309 90 39 100		—
	400	72,89	2309 90 39 200		0,22
	404	—	2309 90 39 300		0,29
	...	72,89	2309 90 39 400		0,37
0406 90 88 300	028	16,29	2309 90 39 500		0,45
	032	16,29	2309 90 39 600		0,52
	036	—	2309 90 39 700		0,55
	038	—	2309 90 39 800		0,59
	400	78,34	2309 90 70 010		—
	404	—	2309 90 70 100		17,10
	...	79,92	2309 90 70 200		22,80
2309 10 15 010		—	2309 90 70 300		28,50
2309 10 15 100		—	2309 90 70 500		34,20
2309 10 15 200		0,22	2309 90 70 600		39,90
2309 10 15 300		0,29	2309 90 70 700		45,60
2309 10 15 400		0,37	2309 90 70 800		50,16
2309 10 15 500		0,45			
2309 10 15 700		0,52			

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EC) No 3478/93 (OJ No L 317, 18. 12. 1993, p. 32).

For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by '—'.

Where no destination is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1 (2).

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

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1), as amended.

COMMISSION REGULATION (EC) No 2341/94

of 29 September 1994

fixing the 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 (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 3669/93⁽²⁾, and in particular Article 30 (4) thereof,

Whereas Article 30 of Regulation (EEC) No 1035/72 provides that, to the extent necessary to allow economically significant quantities to be exported, the difference between prices in international trade for the products referred to in that Article and prices for the products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2518/69 of 9 December 1969 laying down general rules for the granting of refunds on exports of fruit and vegetables and criteria for fixing their amounts⁽³⁾, as amended by Regulation (EEC) No 2455/72⁽⁴⁾, provides that when refunds are being fixed, account must be taken of the existing situation and future trends with regard to prices and availabilities of fruit and vegetables on the Community market on the one hand and prices in international trade on the other; whereas account must also be taken of the costs indicated in (b) of that Article and of the economic aspects of the proposed exports;

Whereas, pursuant to Article 3 of Regulation (EEC) No 2518/69, when prices on the Community market are being determined account must be taken of the prices which are most favourable from the exportation point of view; whereas, when prices in international trade are being determined, the quotations and prices referred to in paragraph 2 of that Article must be taken into account;

Whereas the situation with regard to international trade or the specific requirements of certain markets may make it necessary to vary the refund for a given product according to the destination of that product;

Whereas tomatoes, fresh lemons, fresh sweet oranges, apples, peaches and nectarines of the common quality standards 'Extra' Class, Class I and Class II, table grapes of the common quality standards 'Extra' Class and Class I,

almonds and hazelnuts, and unshelled walnuts may at present be exported in economically significant quantities;

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

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁶⁾, as amended by Regulation (EC) No 3528/93⁽⁷⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁸⁾, as last amended by Regulation (EC) No 547/94⁽⁹⁾;

Whereas it follows from applying these detailed rules to the present market situation and to its future trends, and in particular to quotations and prices for fruit and vegetables in the Community and in international trade that the refunds should be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

Export refunds in the fruit and vegetables sector shall be fixed at the amounts specified in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 15 October 1994.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 338, 31. 12. 1993, p. 26.

⁽³⁾ OJ No L 318, 18. 12. 1969, p. 17.

⁽⁴⁾ OJ No L 266, 25. 11. 1972, p. 7.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁶⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁸⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁹⁾ OJ No L 69, 12. 3. 1994, p. 1.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 September 1994 fixing the export refunds on fruit and vegetables

(ECU/100 kg net)			(ECU/100 kg net)		
Product code	Destination of refund (1)	Amounts of refunds (2)	Product code	Destination of refund (1)	Amounts of refunds (2)
0702 00 10 100	04	4,50	0805 10 49 200	01	11,00
0702 00 90 100	04	4,50	0805 30 10 100	04	13,50
0802 12 90 000	04	9,67	0806 10 11 200	04	4,84
0802 21 00 000	04	11,30	0806 10 15 200	04	4,84
0802 22 00 000	04	21,80	0806 10 19 200	04	4,84
0802 31 00 000	04	14,00	0808 10 31 910	02	8,00
0805 10 11 200	01	11,00	0808 10 33 910	02	8,00
0805 10 15 200	01	11,00	0808 10 39 910	02	8,00
0805 10 19 200	01	11,00	0808 10 51 910	02	8,00
0805 10 21 200	01	11,00	0808 10 53 910	02	8,00
0805 10 25 200	01	11,00	0808 10 59 910	02	8,00
0805 10 29 200	01	11,00	0808 10 81 910	02	8,00
0805 10 31 200	01	11,00	0808 10 83 910	02	8,00
0805 10 35 200	01	11,00	0808 10 89 910	02	8,00
0805 10 39 200	01	11,00	0809 30 10 100	03	—
0805 10 41 200	01	11,00	0809 30 90 100	03	—
0805 10 45 200	01	11,00			

(1) The destinations are as follows:

01 Austria, Switzerland, Finland, Sweden, Greenland, Norway, Iceland, Malta, Poland, the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Bosnia-Herzegovina, Croatia, Slovenia, the former Yugoslav Republic of Macedonia,

02 Sweden, Norway, Iceland, Austria, the Faroe Islands, Finland, Greenland, Malta, Syria, Poland, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Bosnia-Herzegovina, Croatia, Slovenia, the former Yugoslav Republic of Macedonia, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador, Colombia, the countries and territories of Africa other than South Africa, countries of the Arabian peninsula (Saudi Arabia, Bahrain, Qatar, Oman, the United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm, al Qaiwain, Fujairah and Ras al Khaimah), Kuwait, Yemen), Iran, Jordan, Hong Kong, Singapore, Malaysia, Indonesia, Thailand and Taiwan,

03 all destinations excluding Switzerland and Austria,

04 all destinations.

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

COMMISSION REGULATION (EC) No 2342/94
of 29 September 1994
fixing the import levies on milk and milk products

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1880/94 ⁽²⁾, and in particular Article 14 (8) thereof,

Whereas the import levies on milk and milk products were fixed by Commission Regulation (EC) No 1924/94 ⁽³⁾, as last amended by Regulation (EC) No 2234/94 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 1924/94 to the prices

known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 14 of Regulation (EEC) No 804/68 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 October 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 21.

⁽³⁾ OJ No L 198, 30. 7. 1994, p. 6.

⁽⁴⁾ OJ No L 240, 15. 9. 1994, p. 19.

ANNEX

to the Commission Regulation of 29 September 1994 fixing the import levies on milk and milk products

(ECU/100 kg net weight, unless otherwise indicated)

CN code	Note (°)	Import levy	CN code	Note (°)	Import levy
0401 10 10		16,94	0403 10 16	(¹)	2,0809/kg + 27,48
0401 10 90		15,73	0403 10 22		25,41
0401 20 11		23,00	0403 10 24		30,12
0401 20 19		21,79	0403 10 26		72,26
0401 20 91		27,71	0403 10 32	(¹)	0,1937/kg + 26,27
0401 20 99		26,50	0403 10 34	(¹)	0,2408/kg + 26,27
0401 30 11		69,85	0403 10 36	(¹)	0,6622/kg + 26,27
0401 30 19		68,64	0403 90 11		120,01
0401 30 31		133,35	0403 90 13		179,27
0401 30 39		132,14	0403 90 19		215,34
0401 30 91		222,76	0403 90 31	(¹)	1,1276/kg + 27,48
0401 30 99		221,55	0403 90 33	(¹)	1,7202/kg + 27,48
0402 10 11	(⁴)	120,01	0403 90 39	(¹)	2,0809/kg + 27,48
0402 10 19	(³) (⁴)	112,76	0403 90 51		25,41
0402 10 91	(¹) (⁴)	1,1276/kg + 27,48	0403 90 53		30,12
0402 10 99	(¹) (⁴)	1,1276/kg + 20,23	0403 90 59		72,26
0402 21 11	(⁴)	179,27	0403 90 61	(¹)	0,1937/kg + 26,27
0402 21 17	(⁴)	172,02	0403 90 63	(¹)	0,2408/kg + 26,27
0402 21 19	(³) (⁴)	172,02	0403 90 69	(¹)	0,6622/kg + 26,27
0402 21 91	(³) (⁴)	215,34	0404 10 02		28,08
0402 21 99	(³) (⁴)	208,09	0404 10 04		179,27
0402 29 11	(¹) (³) (⁴)	1,7202/kg + 27,48	0404 10 06		215,34
0402 29 15	(¹) (⁴)	1,7202/kg + 27,48	0404 10 12		120,01
0402 29 19	(¹) (⁴)	1,7202/kg + 20,23	0404 10 14		179,27
0402 29 91	(¹) (⁴)	2,0809/kg + 27,48	0404 10 16		215,34
0402 29 99	(¹) (⁴)	2,0809/kg + 20,23	0404 10 26	(¹)	0,2808/kg + 20,23
0402 91 11	(⁴)	36,72	0404 10 28	(¹)	1,7202/kg + 27,48
0402 91 19	(⁴)	36,72	0404 10 32	(¹)	2,0809/kg + 27,48
0402 91 31	(⁴)	45,90	0404 10 34	(¹)	1,1276/kg + 27,48
0402 91 39	(⁴)	45,90	0404 10 36	(¹)	1,7202/kg + 27,48
0402 91 51	(⁴)	133,35	0404 10 38	(¹)	2,0809/kg + 27,48
0402 91 59	(⁴)	132,14	0404 10 48	(²)	0,2808/kg
0402 91 91	(⁴)	222,76	0404 10 52	(²)	1,7202/kg + 6,04
0402 91 99	(⁴)	221,55	0404 10 54	(²)	2,0809/kg + 6,04
0402 99 11	(⁴)	53,74	0404 10 56	(²)	1,1276/kg + 6,04
0402 99 19	(⁴)	53,74	0404 10 58	(²)	1,7202/kg + 6,04
0402 99 31	(¹) (⁴)	1,2972/kg + 23,86	0404 10 62	(²)	2,0809/kg + 6,04
0402 99 39	(¹) (⁴)	1,2972/kg + 22,65	0404 10 72	(²)	0,2808/kg + 20,23
0402 99 91	(¹) (⁴)	2,1913/kg + 23,86	0404 10 74	(²)	1,7202/kg + 26,27
0402 99 99	(¹) (⁴)	2,1913/kg + 22,65	0404 10 76	(²)	2,0809/kg + 26,27
0403 10 02		120,01	0404 10 78	(²)	1,1276/kg + 26,27
0403 10 04		179,27	0404 10 82	(²)	1,7202/kg + 26,27
0403 10 06		215,34	0404 10 84	(²)	2,0809/kg + 26,27
0403 10 12	(¹)	1,1276/kg + 27,48	0404 90 11		120,01
0403 10 14	(¹)	1,7202/kg + 27,48	0404 90 13		179,27

CN code	Note (°)	Import levy	CN code	Note (°)	Import levy
0404 90 19		215,34	0406 90 31	(°) (°)	163,25
0404 90 31		120,01	0406 90 33	(°) (°)	163,25
0404 90 33		179,27	0406 90 35	(°) (°)	163,25
0404 90 39		215,34	0406 90 37	(°) (°)	163,25
0404 90 51	(°)	1,1276/kg + 27,48	0406 90 39	(°) (°)	163,25
0404 90 53	(°) (°)	1,7202/kg + 27,48	0406 90 50	(°) (°)	163,25
0404 90 59	(°)	2,0809/kg + 27,48	0406 90 61	(°) (°)	374,03
0404 90 91	(°)	1,1276/kg + 27,48	0406 90 63	(°) (°)	374,03
0404 90 93	(°) (°)	1,7202/kg + 27,48	0406 90 69	(°) (°)	374,03
0404 90 99	(°)	2,0809/kg + 27,48	0406 90 73	(°) (°)	163,25
0405 00 11	(°)	229,36	0406 90 75	(°) (°)	163,25
0405 00 19	(°)	229,36	0406 90 76	(°) (°)	163,25
0405 00 90		279,82	0406 90 78	(°) (°)	163,25
0406 10 20	(°) (°)	204,53	0406 90 79	(°) (°)	163,25
0406 10 80	(°) (°)	259,97	0406 90 81	(°) (°)	163,25
0406 20 10	(°) (°)	374,03	0406 90 82	(°) (°)	163,25
0406 20 90	(°) (°)	374,03	0406 90 84	(°) (°)	163,25
0406 30 10	(°) (°)	165,09	0406 90 85	(°) (°)	163,25
0406 30 31	(°) (°)	154,16	0406 90 86	(°) (°)	163,25
0406 30 39	(°) (°)	165,09	0406 90 87	(°) (°)	163,25
0406 30 90	(°) (°)	261,81	0406 90 88	(°) (°)	163,25
0406 40 10	(°) (°)	146,72	0406 90 93	(°) (°)	204,53
0406 40 50	(°) (°)	146,72	0406 90 99	(°) (°)	259,97
0406 40 90	(°) (°)	146,72	1702 10 10		63,32
0406 90 11	(°) (°)	210,16	1702 10 90		63,32
0406 90 13	(°) (°)	147,76	2106 90 51		63,32
0406 90 15	(°) (°)	147,76	2309 10 15		86,99
0406 90 17	(°) (°)	147,76	2309 10 19		112,92
0406 90 19	(°) (°)	374,03	2309 10 39		105,39
0406 90 21	(°) (°)	210,16	2309 10 59		85,99
0406 90 23	(°) (°)	163,25	2309 10 70		112,92
0406 90 25	(°) (°)	163,25	2309 90 35		86,99
0406 90 27	(°) (°)	163,25	2309 90 39		112,92
0406 90 29	(°) (°)	163,25	2309 90 49		105,39
			2309 90 59		85,99
			2309 90 70		112,92

(°) The levy on 100 kg of product falling within this code is equal to the sum of the following:

- (a) the amount per kilogram shown, multiplied by the weight of lactic matter contained in 100 kg of product; and
- (b) the other amount indicated.

(°) The levy on 100 kg of product falling within this code is equal to:

- (a) the amount per kilogram shown, multiplied by the weight of the dry lactic matter contained in 100 kg of product plus, where appropriate,
- (b) the other amount indicated.

(°) Products falling within this code and imported from a third country

- for which an IMA 1 certificate, issued in accordance with Regulation (EEC) No 1767/82, is presented,
- for which an EUR 1 certificate, issued in accordance with amended Regulation (EEC) No 1316/93 for Sweden, amended Regulation (EEC) No 584/92 for Poland, the Czech and Slovak Republics and Hungary and Commission Regulation (EC) No 385/94 (OJ No L 50, 22. 2. 1994, p. 7) for Bulgaria and Romania, is presented,

shall be subject to the levies defined in the said Regulations, respectively.

(°) The levy applicable is limited under the conditions laid down in Regulation (EEC) No 715/90.

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

COMMISSION REGULATION (EC) No 2343/94
of 29 September 1994
fixing the export refunds on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1869/94 ⁽²⁾, and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,

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

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

Whereas export possibilities exist for a quantity of 4 000 tonnes of white rice to certain destinations; whereas the procedure laid down in Article 9 (4) of Commission Regulation (EEC) No 891/89 ⁽⁴⁾, as last amended by Regulation (EC) No 1755/94 ⁽⁵⁾, should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Commission Regulation (EEC) No 1361/76 ⁽⁶⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

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

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

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

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

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁷⁾, as amended by Regulation (EC) No 3528/93 ⁽⁸⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁹⁾, as amended by Regulation (EC) No 547/94 ⁽¹⁰⁾;

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

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

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

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 36.

⁽⁴⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 183, 19. 7. 1994, p. 7.

⁽⁶⁾ OJ No L 154, 15. 6. 1976, p. 11.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹¹⁾ OJ No L 102, 28. 4. 1993, p. 14.

ADOPTED THIS REGULATION:

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

Article 1

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

Article 2

This Regulation shall enter into force on 1 October 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 September 1994 fixing the export refunds on rice and broken rice

(ECU / tonne)			(ECU / tonne)		
Product code	Destination (1)	Amount of refunds (2)	Product code	Destination (1)	Amount of refunds (2)
1006 20 11 000	01	187,00	1006 30 63 900	01	234,00
	05	187,00		04	234,00
1006 20 13 000	01	187,00		05	234,00
	05	187,00	1006 30 65 100	01	234,00
1006 20 15 000	01	187,00		02	240,00
	05	187,00		03	245,00
1006 20 17 000	—	—		04	234,00
1006 20 92 000	01	187,00		05	234,00
	05	187,00	1006 30 65 900	01	234,00
1006 20 94 000	01	187,00		04	234,00
	05	187,00		05	234,00
1006 20 96 000	01	187,00	1006 30 67 100	—	—
	05	187,00	1006 30 67 900	—	—
1006 20 98 000	—	—	1006 30 92 100	01	234,00
1006 30 21 000	01	187,00		02	240,00
	05	187,00		03	245,00
1006 30 23 000	01	187,00		04	234,00
	05	187,00		05	234,00
1006 30 25 000	01	187,00	1006 30 92 900	01	234,00
	05	187,00		04	234,00
1006 30 27 000	—	—		05	234,00
1006 30 42 000	01	187,00	1006 30 94 100	01	234,00
	05	187,00		02	240,00
1006 30 44 000	01	187,00		03	245,00
	05	187,00		04	234,00
1006 30 46 000	01	187,00		05	234,00
	05	187,00	1006 30 94 900	01	234,00
1006 30 48 000	—	—		04	234,00
1006 30 61 100	01	234,00		05	234,00
	02	240,00	1006 30 96 100	01	234,00
	03	245,00		02	240,00
	04	234,00		03	245,00
	05	234,00		04	234,00
1006 30 61 900	01	234,00		05	234,00
	04	234,00	1006 30 96 900	01	234,00
	05	234,00		04	234,00
1006 30 63 100	01	234,00		05	234,00
	02	240,00	1006 30 98 100	—	—
	03	245,00	1006 30 98 900	—	—
	04	234,00	1006 40 00 000	—	—
	05	234,00			

(1) The destinations are identified as follows:

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

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

03 Zones IV, V, VII (c), Canada and Zone VIII excluding Surinam, Guyana and Madagascar,

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

05 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of 4 000 tonnes of white rice destined for Austria.

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

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

COMMISSION REGULATION (EC) No 2344/94

of 29 September 1994

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 last for the benefit of the Canary Islands⁽¹⁾, as last amended by Regulation (EEC) No 1974/93⁽²⁾, and in particular Article 2 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 (EEC) No 1695/92⁽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 Canary Islands; whereas Commission Regulation (EEC) No 1997/92 of 17 July 1992 laying down detailed rules for implementation of the specific arrangements for the supply of rice products to the Canary Islands 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, 29 September 1994.

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁷⁾, as amended by Regulation (EC) No 3528/93⁽⁸⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁹⁾, as amended by Regulation (EC) No 547/94⁽¹⁰⁾;

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 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 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 13.

⁽²⁾ OJ No L 180, 23. 7. 1993, p. 26.

⁽³⁾ OJ No L 179, 1. 7. 1992, p. 1.

⁽⁴⁾ OJ No L 238, 23. 9. 1993, p. 24.

⁽⁵⁾ OJ No L 199, 18. 7. 1992, p. 20.

⁽⁶⁾ OJ No L 178, 12. 7. 1994, p. 53.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

ANNEX

to the Commission Regulation of 29 September 1994 setting the amounts of aid for the supply of rice products from the Community to the Canary Islands

Product (CN code)	<i>(ECU/tonne)</i>	
	Amount of aid	
	Canary Islands	
Milled rice (1006 30)	248,00	
Broken rice (1006 40)	54,00	

COMMISSION REGULATION (EC) No 2345/94

of 29 September 1994

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 (EEC) No 1974/93 ⁽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, 29 September 1994.

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁷⁾, as amended by Regulation (EC) No 3528/93 ⁽⁸⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁹⁾, as amended by Regulation (EC) No 547/94 ⁽¹⁰⁾;

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 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 October 1994.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 1.⁽²⁾ OJ No L 180, 23. 7. 1993, p. 26.⁽³⁾ OJ No L 179, 1. 7. 1992, p. 6.⁽⁴⁾ OJ No L 238, 23. 9. 1993, p. 24.⁽⁵⁾ OJ No L 198, 17. 7. 1992, p. 37.⁽⁶⁾ OJ No L 178, 12. 7. 1994, p. 53.⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

ANNEX

to the Commission Regulation of 29 September 1994 setting the amounts of aid for the supply of rice products from the Community to the Azores and Madeira

(ECU/tonne)

Product (CN code)	Amount of aid	
	Destination	
	Azores	Madeira
Milled rice (1006 30)	248,00	248,00

COMMISSION REGULATION (EC) No 2346/94

of 29 September 1994

fixing the import levies on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 11 (3) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EC) No 1869/94⁽⁴⁾, and in particular Article 12 (4) thereof,

Whereas the rules to be applied in calculating the variable component of the import levy on products processed from cereals and rice are laid down in Article 11 (1) (A) of Regulation (EEC) No 1766/92 and Article 12 (1) (a) of Regulation (EEC) No 1418/76; whereas Article 2 of Commission Regulation (EEC) No 1620/93 of 25 June 1993 on the import and export system for products processed from cereals and rice⁽⁵⁾, provides that the incidence on the prime costs of these products of the levies applicable to their basic products should be calculated on the basis of the average of the levies applicable to these basic products for the first 25 days of the month preceding that of importation; whereas this average, adjusted on the basis of the threshold price valid for the basic products in question during the month of importation is calculated on the basis of the quantities of basic products considered to have been used in the manufacture of the processed product or the competing product which serves as a reference for processed products not containing cereals;

Whereas Commission Regulation (EEC) No 1579/74 of 24 June 1974 on the procedure for calculating the import levy on products processed from cereals and from rice and for the advance fixing of this levy for these products and for compound feedingstuffs manufactured from cereals⁽⁶⁾, as last amended by Regulation (EEC) No

1740/78⁽⁷⁾, provides that the levy thus determined, increased by the fixed component, is altered where the levy applicable to the basic product concerned differs by not less than ECU 3,02 per tonne from the average of the levies calculated as described above;

Whereas, in order that account may be taken of the interests of the African, Caribbean and Pacific States, the levy relating to them in respect of certain products processed from cereals must be reduced by the amount of the fixed component and, in respect of some of these products, by part of the variable component; whereas this reduction must be made in accordance with Article 14 of Council Regulation (EEC) No 715/90 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the ACP States⁽⁸⁾, as last amended by Regulation (EC) No 235/94⁽⁹⁾;

Whereas Article 3 (4) of Council Regulation (EEC) No 3763/91⁽¹⁰⁾, as amended by Regulation (EEC) No 3714/92⁽¹¹⁾, allows that within the limit of an annual quantity of 8 000 tonnes, the levy shall not be applied to imports into the French department of Réunion of wheat bran falling within CN code 2302 30 from the African, Caribbean and Pacific (ACP) States;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹²⁾ no levies shall apply on imports of products originating in the overseas countries and territories;

Whereas Council Regulation (EEC) No 3834/90 of 20 December 1990 reducing for 1991 the levies on certain agricultural products originating in developing countries⁽¹³⁾, as last amended by Regulation (EC) No 3668/93⁽¹⁴⁾, reduces by 50 % the levy or importation into the Community of products of CN code 1108 13 00, within the limit of a fixed amount of 5 000 tonnes a year;

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽⁵⁾ OJ No L 155, 26. 6. 1993, p. 29.

⁽⁶⁾ OJ No L 168, 25. 6. 1974, p. 7.

⁽⁷⁾ OJ No L 202, 26. 7. 1978, p. 8.

⁽⁸⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽⁹⁾ OJ No L 30, 3. 2. 1994, p. 12.

⁽¹⁰⁾ OJ No L 356, 24. 12. 1991, p. 1.

⁽¹¹⁾ OJ No L 378, 23. 12. 1992, p. 23.

⁽¹²⁾ OJ No L 263, 19. 9. 1991, p. 1.

⁽¹³⁾ OJ No L 370, 31. 12. 1990, p. 121.

⁽¹⁴⁾ OJ No L 338, 31. 12. 1993, p. 22.

Whereas Council Regulation (EC) No 774/94 of 29 March 1994 ⁽¹⁾ has opened Community tariff quotas for certain agricultural products and fixed the levies to be applied on imports of those products; whereas Commission Regulation (EC) No 1897/94 ⁽²⁾ has established the detailed rules of the import regime for cereals laid down in Regulation (EC) No 774/94;

Whereas Council Regulation (EEC) No 430/87 of 9 February 1987 concerning the import arrangements applicable to products falling within CN codes 0714 10 and 0714 90 originating in certain third countries ⁽³⁾, as last amended by Regulation (EEC) No 3909/92 ⁽⁴⁾, lay down the terms on which the import levy is limited to 6 % *ad valorem*;

Whereas Council Regulation (EEC) No 2730/75 of 29 October 1975 on glucose and lactose ⁽⁵⁾, as amended by Regulation (EEC) No 222/88 ⁽⁶⁾, stipulates that the treatment provided for glucose and glucose syrup falling within CN codes 1702 30 91, 1702 30 99 and 1702 40 90 by Regulation (EEC) No 1766/92 it is to be extended to glucose and glucose syrup falling within CN codes 1702 30 51 and 1702 30 59; whereas consequently the levy fixed for products falling within CN codes 1702 30 91, 1702 30 99 and 1702 40 90 also applies to products falling within CN codes 1702 30 51 and 1702 30 59; whereas, to ensure that the provision in question is properly applied, these products and the levy thereon should be explicitly mentioned in the list of levies;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁷⁾, as amended by Regulation (EC) No 3528/93 ⁽⁸⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁹⁾, as amended by Regulation (EC) No 547/94 ⁽¹⁰⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on the products listed in Article 1 (d) of Regulation (EEC) No 1766/92 and in Article 1 (1) (c) of Regulation (EEC) No 1418/76 and subject to Regulation (EEC) No 1620/93 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 October 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 91, 8. 4. 1994, p. 1.

⁽²⁾ OJ No L 194, 29. 7. 1994, p. 4.

⁽³⁾ OJ No L 43, 13. 2. 1987, p. 9.

⁽⁴⁾ OJ No L 394, 31. 12. 1992, p. 23.

⁽⁵⁾ OJ No L 281, 1. 11. 1975, p. 20.

⁽⁶⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

ANNEX

to the Commission Regulation of 29 September 1994 fixing the import levies on products
processed from cereals and rice

(ECU/tonne)			(ECU/tonne)		
CN code	Import levies (°)		CN code	Import levies (°)	
	ACP	Third countries (other than ACP)		ACP	Third countries (other than ACP)
0714 10 10 ⁽¹⁾	91,97	98,62	1104 23 90	94,59	97,61
0714 10 91	95,60 ⁽²⁾ ⁽⁶⁾	95,60	1104 29 11	88,82	91,84
0714 10 99	93,79	98,62	1104 29 15	140,39	143,41
0714 90 11	95,60 ⁽²⁾ ⁽⁶⁾	95,60	1104 29 19	152,56	155,58
0714 90 19	93,79 ⁽²⁾	98,62	1104 29 31	106,85	109,87
1102 20 10	166,93	172,97	1104 29 35	168,90	171,92
1102 20 90	94,59	97,61	1104 29 39	152,56	155,58
1102 30 00	124,97	127,99	1104 29 91	68,12	71,14
1102 90 10	172,08	178,12	1104 29 95	107,67	110,69
1102 90 30	168,05	174,09	1104 29 99	97,26	100,28
1102 90 90	97,26	100,28	1104 30 10	50,09	56,13
1103 12 00	168,05	174,09	1104 30 90	69,56	75,60
1103 13 10	166,93	172,97	1106 20 10	91,97 ⁽²⁾	98,62
1103 13 90	94,59	97,61	1106 20 90	145,68 ⁽²⁾	169,86
1103 14 00	124,97	127,99	1108 11 00	146,92	167,47
1103 19 10	190,01	196,05	1108 12 00	149,31	169,86
1103 19 30	172,08	178,12	1108 13 00	149,31	169,86 ⁽⁹⁾
1103 19 90	97,26	100,28	1108 14 00	74,65	169,86
1103 21 00	120,20	126,24	1108 19 10	179,21	210,04
1103 29 10	190,01	196,05	1108 19 90	74,65 ⁽²⁾	169,86
1103 29 20	172,08	178,12	1109 00 00	267,12	448,46
1103 29 30	168,05	174,09	1702 30 51	194,75	291,47
1103 29 40	166,93	172,97	1702 30 59	149,31	215,80
1103 29 50	124,97	127,99	1702 30 91	194,75	291,47
1103 29 90	97,26	100,28	1702 30 99	149,31	215,80
1104 11 10	97,51	100,53	1702 40 90	149,31	215,80
1104 11 90	191,20	197,24	1702 90 50	149,31	215,80
1104 12 10	95,23	98,25	1702 90 75	204,03	300,75
1104 12 90	186,72	192,76	1702 90 79	141,89	208,38
1104 19 10	120,20	126,24	2106 90 55	149,31	215,80
1104 19 30	190,01	196,05	2302 10 10	35,72	41,72
1104 19 50	166,93	172,97	2302 10 90	76,54	82,54
1104 19 91	212,22	218,26	2302 20 10	35,72	41,72
1104 19 99	171,63	177,67	2302 20 90	76,54	82,54
1104 21 10	152,96	155,98	2302 30 10	35,72 ⁽⁸⁾	41,72
1104 21 30	152,96	155,98	2302 30 90	76,54 ⁽⁸⁾	82,54
1104 21 50	239,00	245,04	2302 40 10	35,72	41,72
1104 21 90	97,51	100,53	2302 40 90	76,54	82,54
1104 22 10 10 ⁽³⁾	95,23	98,25	2303 10 11	185,48	366,82
1104 22 10 90 ⁽⁴⁾	168,05	171,07			
1104 22 30	168,05	171,07			
1104 22 50	149,38	152,40			
1104 22 90	95,23	98,25			
1104 23 10	148,38	151,40			
1104 23 30	148,38	151,40			

-
- (¹) 6 % *ad valorem*, subject to certain conditions.
- (²) In accordance with Regulation (EEC) No 715/90 the levy shall not be charged on the following products originating in the African, Caribbean and Pacific States :
- products falling within CN code ex 0714 10 91,
 - products falling within CN code 0714 90 11 and arrow-root falling within CN code 0714 90 19,
 - flours and meal of arrow-root falling within CN code 1106 20,
 - arrow-root starch falling within CN code 1108 19 90.
- (³) Taric code : clipped oats.
- (⁴) Taric code : CN code 1104 22 10, other than 'clipped oats'.
- (⁵) Pursuant to Regulation (EEC) No 3834/90, the levy on importation into the Community of products of CN code 1108 13 00 is reduced under the conditions provided for in this Regulation.
- (⁶) In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments originating in the African, Caribbean and Pacific States.
- (⁷) No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.
- (⁸) Under the terms of Regulation (EEC) No 3763/91 the levy does not apply to wheat bran originating in the African, Caribbean and Pacific States (ACP) and directly imported into the French department of Réunion.
- (⁹) For imported products falling within these codes, the levy applicable is restricted within the conditions provided for in Council Regulation (EC) No 774/94.
-

COMMISSION REGULATION (EC) No 2347/94

of 29 September 1994

fixing the import levies on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1866/94 ⁽²⁾, and in particular Articles 10 (5) and 11 (3) thereof,Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾,Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EC) No 1937/94 ⁽⁵⁾ and subsequent amending Regulations ;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 28

September 1994, as regards floating currencies, should be used to calculate the levies ;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 1937/94 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The import levies to be charged on products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 September 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.⁽⁵⁾ OJ No L 198, 30. 7. 1994, p. 36.

ANNEX

to the Commission Regulation of 29 September 1994 fixing the import levies on cereals
and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Third countries ^(*)
0709 90 60	113,26 ⁽²⁾ ⁽³⁾
0712 90 19	113,26 ⁽²⁾ ⁽³⁾
1001 10 00	17,65 ⁽¹⁾ ⁽²⁾ ⁽¹¹⁾
1001 90 91	60,39
1001 90 99	60,39 ⁽²⁾ ⁽¹¹⁾
1002 00 00	104,78 ⁽⁶⁾
1003 00 10	91,75
1003 00 90	91,75 ⁽²⁾
1004 00 00	91,89
1005 10 90	113,26 ⁽²⁾ ⁽³⁾
1005 90 00	113,26 ⁽²⁾ ⁽³⁾
1007 00 90	117,82 ⁽⁴⁾
1008 10 00	30,04 ⁽²⁾
1008 20 00	38,01 ⁽⁴⁾ ⁽²⁾
1008 30 00	0 ⁽²⁾
1008 90 10	(7)
1008 90 90	0
1101 00 00	123,36 ⁽²⁾
1102 10 00	185,03
1103 11 10	62,21
1103 11 90	144,96
1107 10 11	118,37
1107 10 19	91,20
1107 10 91	174,20 ⁽¹⁰⁾
1107 10 99	132,91 ⁽²⁾
1107 20 00	153,09 ⁽¹⁰⁾

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

⁽²⁾ In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

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

⁽⁴⁾ Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

⁽⁶⁾ The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10), as last amended by Regulation (EEC) No 1902/92 (OJ No L 192, 11. 7. 1992, p. 3), and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22), as amended by Regulation (EEC) No 560/91 (OJ No L 62, 8. 3. 1991, p. 26).

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

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

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

⁽¹⁰⁾ In accordance with Council Regulation (EEC) No 1180/77 this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

⁽¹¹⁾ The levy for the products falling within this code in accordance with Regulation (EC) No 774/94 is restricted under the conditions of this Regulation.

COMMISSION REGULATION (EC) No 2348/94**of 29 September 1994****fixing the export refunds on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular the third subparagraph of Article 13 (2) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EC) No 1869/94⁽⁴⁾, and in particular the fourth subparagraph of Article 17 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 and Article 17 of Regulation (EEC) No 1418/76 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 1431/76⁽⁵⁾ laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds, provide that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other; whereas the same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market;

Whereas Article 4 of Council Regulation (EEC) No 1620/93⁽⁶⁾ on the import and export system for products processed from cereals and from rice defines the specific

criteria to be taken into account when the refund on these products is being calculated;

Whereas the refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product;

Whereas there is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products; whereas, for certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time;

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

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁷⁾, as amended by Regulation (EC) No 3528/93⁽⁸⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁹⁾, as amended by Regulation (EC) No 547/94⁽¹⁰⁾;

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

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

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽⁵⁾ OJ No L 166, 25. 6. 1976, p. 36.

⁽⁶⁾ OJ No L 155, 26. 6. 1993, p. 29.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹¹⁾ OJ No L 102, 28. 4. 1993, p. 14.

Whereas certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted;

Whereas, pursuant to the abovementioned provisions, the refunds should be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1766/92 and in Article 1 (1) (c) of Regulation (EEC) No 1418/76 and subject to Regulation (EEC) No 1620/93 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 30 September 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 29 September 1994 fixing the export refunds on products processed from cereals and rice

(ECU/tonne)		(ECU/tonne)	
Product code	Refund (1)	Product code	Refund (1)
1102 20 10 200 (2)	68,29	1104 23 10 300	56,10
1102 20 10 400 (2)	58,54	1104 29 11 000	24,12
1102 20 90 200 (2)	58,54	1104 29 91 000	23,65
1102 90 10 100	69,89	1104 29 95 000	23,65
1102 90 10 900	47,52	1104 30 10 000	5,91
1102 90 30 100	94,37	1104 30 90 000	12,20
1103 12 00 100	94,37	1107 10 11 000	42,10
1103 13 10 100 (2)	87,80	1107 10 91 000	82,93
1103 13 10 300 (2)	68,29	1108 11 00 200	47,30
1103 13 10 500 (2)	58,54	1108 11 00 300	47,30
1103 13 90 100 (2)	58,54	1108 12 00 200	78,05
1103 19 10 000	51,67	1108 12 00 300	78,05
1103 19 30 100	72,21	1108 13 00 200	78,05
1103 21 00 000	24,12	1108 13 00 300	78,05
1103 29 20 000	47,52	1108 19 10 200	82,08
1104 11 90 100	69,89	1108 19 10 300	82,08
1104 12 90 100	104,86	1109 00 00 100	0,00
1104 12 90 300	83,89	1702 30 51 000 (3)	101,95
1104 19 10 000	24,12	1702 30 59 000 (3)	78,05
1104 19 50 110	78,05	1702 30 91 000	101,95
1104 19 50 130	63,41	1702 30 99 000	78,05
1104 21 10 100	69,89	1702 40 90 000	78,05
1104 21 30 100	69,89	1702 90 50 100	101,95
1104 21 50 100	93,18	1702 90 50 900	78,05
1104 21 50 300	74,54	1702 90 75 000	106,83
1104 22 10 100	83,89	1702 90 79 000	74,15
1104 22 30 100	89,13	2106 90 55 000	78,05
1104 23 10 100	73,17		

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

(2) No refund shall be granted on products given a heat treatment resulting in pregelatinization of the starch.

(3) Refunds are granted in accordance with Regulation (EEC) No 2730/75.

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1), amended.

COMMISSION REGULATION (EC) No 2349/94

of 29 September 1994

fixing the export refunds on cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular the third subparagraph of Article 13 (4) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Commission Regulation (EEC) No 1913/69 of 29 September 1969 on the granting and the advance fixing of the export refund on cereal-based compound feedingstuffs⁽³⁾, as last amended by Regulation (EC) No 1707/94⁽⁴⁾, provides that calculation of the export refund must take account of, in particular, the averages of the refunds granted and the levies calculated on the most commonly used basic cereals, adjusted on the basis of the threshold price in force during the current month;

Whereas that calculation must also take account of the cereal products content; whereas in the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products; whereas a refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff;

Whereas furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export;

Whereas, however, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as the Community and world markets, allowing more accurate accounts to be taken of the commercial conditions under which such products are exported;

Whereas under the terms of Article 4 of Commission Regulation (EEC) No 1619/93⁽⁵⁾, the refund may be varied on the basis of the destination;

Whereas the representative market areas defined in Article I of Council Regulation (EEC) No 3813/92⁽⁶⁾, as amended by Regulation (EC) No 3528/93⁽⁷⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁸⁾, as amended by Regulation (EC) No 547/94⁽⁹⁾;

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

Whereas Council Regulation (EEC) No 930/93⁽¹⁰⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas, pursuant to the abovementioned provisions, the refunds should be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EEC) No 1619/93 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 30 September 1994.

⁽¹⁾ OJ No L 155, 26. 6. 1993, p. 24.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽³⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁴⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁵⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽⁶⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 246, 30. 9. 1969, p. 11.

⁽⁴⁾ OJ No L 180, 14. 7. 1994, p. 19.

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

Done at Brussels, 29 September 1994.

For the Commission
René STEICHEN
Member of the Commission

ANNEX

to the Commission Regulation of 29 September 1994 fixing the export refunds on cereal-based compound feedingstuffs

Product code benefitting from export refund⁽¹⁾:

2309 10 11 000, 2309 10 13 000, 2309 10 31 000,
2309 10 33 000, 2309 10 51 000, 2309 10 53 000,
2309 90 31 000, 2309 90 33 000, 2309 90 41 000,
2309 90 43 000, 2309 90 51 000, 2309 90 53 000.

<i>(ECU/tonne)</i>	
Cereal products ⁽²⁾	Amount of refund ⁽³⁾
Maize and maize products : CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10.	48,78
Cereal products ⁽²⁾ excluding maize and maize products	35,12

⁽¹⁾ The product codes are defined in Sector 5 of the Annex to Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p 1), amended.

⁽²⁾ For the purposes of the refund only the starch coming from cereal products is taken into account.

Cereal products means the products falling within subheadings 0709 90 60 and 0712 90 19, Chapter 10, and headings Nos 1101, 1102, 1103 and 1104 (excluding subheading 1104 30) and the cereals content of the products falling within subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature. The cereals content in products under subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature is considered to be equal to the weight of this final product.

No refund is paid for cereals where the origin of the starch cannot be clearly established by analysis.

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

COMMISSION REGULATION (EC) No 2350/94

of 29 September 1994

amending Regulation (EC) No 3190/93 fixing the uniform reduction coefficient for determining the quantities of bananas to be allocated to each operator in categories A and B in the context of the 1994 tariff quota

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February on the common organization of the market in bananas ⁽¹⁾, as amended by Commission Regulation (EC) No 3518/93 ⁽²⁾, and in particular Article 20 thereof,

Whereas Commission Regulation (EC) No 3190/93 ⁽³⁾, as amended by Regulation (EC) No 1258/94 ⁽⁴⁾, fixes for each category of operator, in order to respect the 2 000 000-tonne tariff quota initially opened for 1994, the uniform reduction coefficient to be applied to each operator's reference quantity to determine the quantity to be allocated to the latter for 1994, pursuant to Article 6 of Commission Regulation (EEC) No 1442/93 ⁽⁵⁾, as last amended by Regulation (EC) No 1299/94 ⁽⁶⁾;

Whereas the tariff quota for 1994 amounts to 2 118 000 tonnes; whereas the coefficients laid down in Regulation (EC) No 3190/93 should be adjusted accordingly;

Whereas provision should be made for the immediate application of this Regulation so that the operators can qualify thereunder as soon as possible;

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

HAS ADOPTED THIS REGULATION:

Article 1

The coefficients set out in the first and second indents of Article 1 of Regulation (EC) No 3190/93 are hereby replaced by the following:

- for category A operators: 0,538769,
- for category B operators: 0,455599.

Article 2

The Member States shall notify operators registered with their competent authorities individually and as soon as possible of their reference quantities as adjusted by the coefficients laid down in Article 1.

Article 3

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

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 47, 25. 2. 1993, p. 1.

⁽²⁾ OJ No L 320, 22. 12. 1993, p. 15.

⁽³⁾ OJ No L 285, 20. 11. 1993, p. 28.

⁽⁴⁾ OJ No L 137, 1. 6. 1994, p. 53.

⁽⁵⁾ OJ No L 142, 12. 6. 1993, p. 6.

⁽⁶⁾ OJ No L 141, 4. 6. 1994, p. 38.

COMMISSION REGULATION (EC) No 2351/94
of 29 September 1994

amending Regulation (EEC) No 2985/93 fixing the uniform coefficient of reduction for the determination of the quantity of bananas to be allocated to each category C operator within the tariff quota for 1994

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

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas ⁽¹⁾, as amended by Commission Regulation (EC) No 3518/93 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 1442/93 of 10 June 1993 laying down detailed rules for the application of the arrangements for importing bananas into the Community ⁽³⁾, as last amended by Regulation (EC) No 1299/94 ⁽⁴⁾, and in particular Article 4 (4) thereof,

Whereas Commission Regulation (EEC) No 2985/93 ⁽⁵⁾ fixes the uniform coefficient of reduction to be applied to the quantities applied for by category C operators in respect of a tariff quota of 2 000 000 tonnes, whereas the definitive tariff quota for 1994 amounts to 2 118 000

tonnes; whereas that uniform coefficient of reduction should be adjusted accordingly;

Whereas provision should be made for the immediate application of this Regulation so that the operators may benefit thereunder as soon as possible,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 2985/93, '0,000341372' is hereby replaced by '0,000361512'.

Article 2

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

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 47, 25. 2. 1993, p. 1.

⁽²⁾ OJ No L 320, 22. 12. 1993, p. 15.

⁽³⁾ OJ No L 142, 12. 6. 1993, p. 6.

⁽⁴⁾ OJ No L 141, 4. 6. 1994, p. 38.

⁽⁵⁾ OJ No L 268, 29. 10. 1993, p. 37.

COMMISSION REGULATION (EC) No 2352/94

of 29 September 1994

increasing the tariff quota for 1994 and laying down an additional period during the fourth quarter for submitting applications for import licences for bananas in respect of that year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas ⁽¹⁾, as amended by Commission Regulation (EC) No 3518/93 ⁽²⁾, and in particular Articles 18 (1) and 20 thereof,

Whereas Commission Regulation (EEC) No 1442/93 ⁽³⁾, as last amended by Regulation (EC) No 1299/94 ⁽⁴⁾, lays down detailed rules for the application of the arrangements for importing bananas into the Community;

Whereas Article 18 of Regulation (EEC) No 404/93 provides for an increase in the annual tariff quota of 2 000 000 tonnes (net weight) in line with the demand for bananas in the Community as determined by a forecast supply balance; whereas latter shows the need for an increase in the tariff quota for 1994;

Whereas that increase in the tariff quota for 1994 calls for a new period to be set for the submission of applications and the issuing of import licences for bananas during the fourth quarter; whereas operators should also be given the possibility, during that period, of submitting licence applications for the reallocation of quantities covered by licences which have not been used;

Whereas, in the case of operators in categories A, B and C, additional import licence applications to be submitted in respect of the tariff quota in October 1994 cannot cover a quantity greater than the difference between the annual quantity allocated to the operator as revised following the adjustment in the corrective coefficients in accordance with Commission Regulations (EC) No 2350/94 ⁽⁵⁾ and (EC) No 2351/94 ⁽⁶⁾ and the sum of the quantities covered by licences issued for 1994;

Whereas this Regulation should enter into force immediately in order to permit additional licence applications to be submitted in respect of 1994;

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

Article 1

The tariff quota for imports of third-country bananas and non-traditional ACP bananas provided for in Articles 18 and 19 of Regulation (EEC) No 404/93 shall be 2 118 000 tonnes for 1994.

Article 2

1. During the fourth quarter of 1994, import licence applications in respect of the tariff quota shall be submitted by operators to the competent authorities of the Member State in which they submitted their registration applications as provided for in Article 4 of Regulation (EEC) No 1442/93 during the period 10 to 14 October 1994.

2. During the same period, the operators may also submit licence applications under the tariff quota in respect of 1994 for the re-allocation of quantities covered by licences not used, in accordance with Article 10 (3) of Regulation (EEC) No 1442/93.

The Member States shall notify the Commission by 20 October 1994 of the quantities covered by licence applications and, separately, of the quantities covered by applications for the re-allocation of unused quantities.

3. Import licences shall be issued by 31 October 1994 at the latest.

4. Import licences and re-allocation licences shall expire on 9 January 1995.

Article 3

Pursuant to this Regulation, individual operators' import licence applications cannot cover a quantity greater than the difference between the quantity definitively allocated to each operator in respect of 1994 pursuant to Article 6 of Regulation (EEC) No 1442/93 and the sum of the quantities covered by import licences issued previously for 1994. Import licence applications shall be accompanied by a copy of the import licence(s) issued to the operator in respect of the quarters in question.

Article 4

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

⁽¹⁾ OJ No L 47, 25. 2. 1993, p. 1.

⁽²⁾ OJ No L 320, 22. 12. 1993, p. 15.

⁽³⁾ OJ No L 142, 12. 6. 1993, p. 6.

⁽⁴⁾ OJ No L 141, 4. 6. 1994, p. 38.

⁽⁵⁾ See page 59 of this Official Journal.

⁽⁶⁾ See page 60 of this Official Journal.

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

Done at Brussels, 29 September 1994.

For the Commission
René STEICHEN
Member of the Commission

COMMISSION REGULATION (EC) No 2353/94
of 29 September 1994
fixing production refunds on cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992, on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Article 7(3) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EC) No 1869/94⁽⁴⁾, and in particular Article 9(3) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors⁽⁵⁾, as amended by Regulation (EC) No 1586/94⁽⁶⁾, and in particular Article 3 thereof,

Whereas Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund; whereas the basis for the calculation is established in Article 3 of the said Regulation; whereas the refund thus calculated must be fixed once a month and may be altered if the price of maize or wheat changes significantly;

Whereas the production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable;

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

HAS ADOPTED THIS REGULATION:

Article 1

The production refunds payable on cereals and rice in accordance with Regulation (EEC) No 1722/93 shall be ECU 62,00 per tonne.

Article 2

This Regulation shall enter into force on 30 September 1994.

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

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽⁵⁾ OJ No L 159, 1. 7. 1993, p. 112.

⁽⁶⁾ OJ No L 167, 1. 7. 1994, p. 5.

COUNCIL DIRECTIVE 94/45/EC

of 22 September 1994

on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Agreement on social policy annexed to Protocol 14 on social policy annexed to the Treaty establishing the European Community, and in particular Article 2 (2) thereof,

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

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

Acting in accordance with the procedure referred to in Article 189c of the Treaty ⁽³⁾,

Whereas, on the basis of the Protocol on Social Policy annexed to the Treaty establishing the European Community, the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Portuguese Republic (hereinafter referred to as 'the Member States'), desirous of implementing the Social Charter of 1989, have adopted an Agreement on Social Policy;

Whereas Article 2 (2) of the said Agreement authorizes the Council to adopt minimum requirements by means of directives;

Whereas, pursuant to Article 1 of the Agreement, one particular objective of the Community and the Member States is to promote dialogue between management and labour;

Whereas point 17 of the Community Charter of Fundamental Social Rights of Workers provides, *inter alia*, that information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in different Member States; whereas the Charter states that 'this shall apply especially in companies or groups of companies having establishments or companies in two or more Member States';

Whereas the Council, despite the existence of a broad consensus among the majority of Member States, was unable to act on the proposal for a Council Directive on the establishment of a European Works Council in Community-scale undertakings or groups of undertakings for the purposes of informing and consulting employees ⁽⁴⁾, as amended on 3 December 1991 ⁽⁵⁾;

Whereas the Commission, pursuant to Article 3 (2) of the Agreement on Social Policy, has consulted management and labour at Community level on the possible direction of Community action on the information and consultation of workers in Community-scale undertakings and Community-scale groups of undertakings;

Whereas the Commission, considering after this consultation that Community action was advisable, has again consulted management and labour on the content of the planned proposal, pursuant to Article 3 (3) of the said Agreement, and management and labour have presented their opinions to the Commission;

Whereas, following this second phase of consultation, management and labour have not informed the Commission of their wish to initiate the process which might lead to the conclusion of an agreement, as provided for in Article 4 of the Agreement;

Whereas the functioning of the internal market involves a process of concentrations of undertakings, cross-border mergers, take-overs, joint ventures and, consequently, a transnationalization of undertakings and groups of undertakings; whereas, if economic activities are to develop in a harmonious fashion, undertakings and groups of undertakings operating in two or more Member States must inform and consult the representatives of those of their employees that are affected by their decisions;

Whereas procedures for informing and consulting employees as embodied in legislation or practice in the Member States are often not geared to the transnational structure of the entity which takes the decisions affecting those employees; whereas this may lead to the unequal treatment of employees affected by decisions within one and the same undertaking or group of undertakings;

⁽¹⁾ OJ No C 135, 18. 5. 1994, p. 8 and OJ No C 199, 21. 7. 1994, p. 10.

⁽²⁾ Opinion delivered on 1 June 1994 (not yet published in the Official Journal).

⁽³⁾ Opinion of the European Parliament of 4 May 1994 (OJ No C 205, 25. 7. 1994) and Council common position of 18 July 1994 (OJ No C 244, 31. 8. 1994, p. 37).

⁽⁴⁾ OJ No C 39, 15. 2. 1991, p. 10.

⁽⁵⁾ OJ No C 336, 31. 12. 1991, p. 11.

Whereas appropriate provisions must be adopted to ensure that the employees of Community-scale undertakings are properly informed and consulted when decisions which affect them are taken in a Member State other than that in which they are employed ;

Whereas, in order to guarantee that the employees of undertakings or groups of undertakings operating in two or more Member States are properly informed and consulted, it is necessary to set up European Works Councils or to create other suitable procedures for the transnational information and consultation of employees ;

Whereas it is accordingly necessary to have a definition of the concept of controlling undertaking relating solely to this Directive and not prejudging definitions of the concepts of group or control which might be adopted in texts to be drafted in the future ;

Whereas the mechanisms for informing and consulting employees in such undertakings or groups must encompass all of the establishments or, as the case may be, the group's undertakings located within the Member States, regardless of whether the undertaking or the group's controlling undertaking has its central management inside or outside the territory of the Member States ;

Whereas, in accordance with the principle of autonomy of the parties, it is for the representatives of employees and the management of the undertaking or the group's controlling undertaking to determine by agreement the nature, composition, the function, mode of operation, procedures and financial resources of European Works Councils or other information and consultation procedures so as to suit their own particular circumstances ;

Whereas, in accordance with the principle of subsidiarity, it is for the Member States to determine who the employees' representatives are and in particular to provide, if they consider appropriate, for a balanced representation of different categories of employees ;

Whereas, however, provision should be made for certain subsidiary requirements to apply should the parties so decide or in the event of the central management refusing to initiate negotiations or in the absence of agreement subsequent to such negotiations ;

Whereas, moreover, employees' representatives may decide not to seek the setting-up of a European Works Council or the parties concerned may decide on other procedures for the transnational information and consultation of employees ;

Whereas, without prejudice to the possibility of the parties deciding otherwise, the European Works Council set up in the absence of agreement between the parties must, in order to fulfil the objective of this Directive, be kept informed and consulted on the activities of the undertaking or group of undertakings so that it may assess the possible impact on employees' interests in at least two different Member States ; whereas, to that end, the undertaking or controlling undertaking must be required to communicate to the employees' appointed representatives general information concerning the interests of employees and information relating more specifically to those aspects of the activities of the undertaking or group of undertakings which affect employees' interests ; whereas the European Works Council must be able to deliver an opinion at the end of that meeting ;

Whereas certain decisions having a significant effect on the interests of employees must be the subject of information and consultation of the employees' appointed representatives as soon as possible ;

Whereas provision should be made for the employees' representatives acting within the framework of the Directive to enjoy, when exercising their functions, the same protection and guarantees similar to those provided to employees' representatives by the legislation and/or practice of the country of employment ; whereas they must not be subject to any discrimination as a result of the lawful exercise of their activities and must enjoy adequate protection as regards dismissal and other sanctions ;

Whereas the information and consultation provisions laid down in this Directive must be implemented in the case of an undertaking or a group's controlling undertaking which has its central management outside the territory of the Member States by its representative agent, to be designated if necessary, in one of the Member States or, in the absence of such an agent, by the establishment or controlled undertaking employing the greatest number of employees in the Member States ;

Whereas special treatment should be accorded to Community-scale undertakings and groups of undertakings in which there exists, at the time when this Directive is brought into effect, an agreement, covering the entire workforce, providing for the transnational information and consultation of employees ;

Whereas the Member States must take appropriate measures in the event of failure to comply with the obligations laid down in this Directive,

HAS ADOPTED THIS DIRECTIVE :

SECTION I

GENERAL

Article 1

Objective

1. The purpose of this Directive is to improve the right to information and to consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.

2. To that end, a European Works Council or a procedure for informing and consulting employees shall be established in every Community-scale undertaking and every Community-scale group of undertakings, where requested in the manner laid down in Article 5 (1), with the purpose of informing and consulting employees under the terms, in the manner and with the effects laid down in this Directive.

3. Notwithstanding paragraph 2, where a Community-scale group of undertakings within the meaning of Article 2 (1) (c) comprises one or more undertakings or groups of undertakings which are Community-scale undertakings or Community-scale groups of undertakings within the meaning of Article 2 (1) (a) or (c), a European Works Council shall be established at the level of the group unless the agreements referred to in Article 6 provide otherwise.

4. Unless a wider scope is provided for in the agreements referred to in Article 6, the powers and competence of European Works Councils and the scope of information and consultation procedures established to achieve the purpose specified in paragraph 1 shall, in the case of a Community-scale undertaking, cover all the establishments located within the Member States and, in the case of a Community-scale group of undertakings, all group undertakings located within the Member States.

5. Member States may provide that this Directive shall not apply to merchant navy crews.

Article 2

Definitions

1. For the purposes of this Directive :

(a) 'Community-scale undertaking' means any undertaking with at least 1 000 employees within the

Member States and at least 150 employees in each of at least two Member States ;

(b) 'group of undertakings' means a controlling undertaking and its controlled undertakings ;

(c) 'Community-scale group of undertakings' means a group of undertakings with the following characteristics :

— at least 1 000 employees within the Member States,
— at least two group undertakings in different Member States, and

— at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State ;

(d) 'employees' representatives' means the employees' representatives provided for by national law and/or practice ;

(e) 'central management' means the central management of the Community-scale undertaking or, in the case of a Community-scale group of undertakings, of the controlling undertaking ;

(f) 'consultation' means the exchange of views and establishment of dialogue between employees' representatives and central management or any more appropriate level of management ;

(g) 'European Works Council' means the council established in accordance with Article 1 (2) or the provisions of the Annex, with the purpose of informing and consulting employees ;

(h) 'special negotiating body' means the body established in accordance with Article 5 (2) to negotiate with the central management regarding the establishment of a European Works Council or a procedure for informing and consulting employees in accordance with Article 1 (2).

2. For the purposes of this Directive, the prescribed thresholds for the size of the workforce shall be based on the average number of employees, including part-time employees, employed during the previous two years calculated according to national legislation and/or practice.

Article 3

Definition of 'controlling undertaking'

1. For the purposes of this Directive, 'controlling undertaking' means an undertaking which can exercise a dominant influence over another undertaking ('the controlled undertaking') by virtue, for example, of ownership, financial participation or the rules which govern it.

2. The ability to exercise a dominant influence shall be presumed, without prejudice to proof to the contrary, when, in relation to another undertaking directly or indirectly :

- (a) holds a majority of that undertaking's subscribed capital ; or
- (b) controls a majority of the votes attached to that undertaking's issued share capital ; or
- (c) can appoint more than half of the members of that undertaking's administrative, management or supervisory body.

3. For the purposes of paragraph 2, a controlling undertaking's rights as regards voting and appointment shall include the rights of any other controlled undertaking and those of any person or body acting in his or its own name but on behalf of the controlling undertaking or of any other controlled undertaking.

4. Notwithstanding paragraphs 1 and 2, an undertaking shall not be deemed to be a 'controlling undertaking' with respect to another undertaking in which it has holdings where the former undertaking is a company referred to in Article 3 (5) (a) or (c) of Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings ⁽¹⁾.

5. A dominant influence shall not be presumed to be exercised solely by virtue of the fact that an office holder is exercising his functions, according to the law of a Member State relating to liquidation, winding up, insolvency, cessation of payments, compositions or analogous proceedings.

6. The law applicable in order to determine whether an undertaking is a 'controlling undertaking' shall be the law of the Member State which governs that undertaking.

Where the law governing that undertaking is not that of a Member State, the law applicable shall be the law of the Member State within whose territory the representative of the undertaking or, in the absence of such a representative, the central management of the group undertaking which employs the greatest number of employees is situated.

7. Where, in the case of a conflict of laws in the application of paragraph 2, two or more undertakings from a group satisfy one or more of the criteria laid down in that paragraph, the undertaking which satisfies the criterion laid down in point (c) thereof shall be regarded as the controlling undertaking, without prejudice to proof that another undertaking is able to exercise a dominant influence.

SECTION II

ESTABLISHMENT OF A EUROPEAN WORKS COUNCIL OR AN EMPLOYEE INFORMATION AND CONSULTATION PROCEDURE

Article 4

Responsibility for the establishment of a European Works Council or an employee information and consultation procedure

1. The central management shall be responsible for creating the conditions and means necessary for the setting up of a European Works Council or an information and consultation procedure, as provided for in Article 1 (2), in a Community-scale undertaking and a Community-scale group of undertakings.

2. Where the central management is not situated in a Member State, the central management's representative agent in a Member State, to be designated if necessary, shall take on the responsibility referred to in paragraph 1.

In the absence of such a representative, the management of the establishment or group undertaking employing the greatest number of employees in any one Member State shall take on the responsibility referred to in paragraph 1.

3. For the purposes of this Directive, the representative or representatives or, in the absence of any such representatives, the management referred to in the second subparagraph of paragraph 2, shall be regarded as the central management.

Article 5

Special negotiating body

1. In order to achieve the objective in Article 1 (1), the central management shall initiate negotiations for the establishment of a European Works Council or an information and consultation procedure on its own initiative or at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States.

2. For this purpose, a special negotiating body shall be established in accordance with the following guidelines :

- (a) The Member States shall determine the method to be used for the election or appointment of the members of the special negotiating body who are to be elected or appointed in their territories.

Member States shall provide that employees in undertakings and/or establishments in which there are no employees' representatives through no fault of their own, have the right to elect or appoint members of the special negotiating body.

⁽¹⁾ OJ No L 395, 30. 12. 1989, p. 1.

The second subparagraph shall be without prejudice to national legislation and/or practice laying down thresholds for the establishment of employee representation bodies.

(b) The special negotiating body shall have a minimum of three and a maximum of 17 members.

(c) In these elections or appointments, it must be ensured:

— firstly, that each Member State in which the Community-scale undertaking has one or more establishments or in which the Community-scale group of undertakings has the controlling undertaking or one or more controlled undertakings is represented by one member,

— secondly, that there are supplementary members in proportion to the number of employees working in the establishments, the controlling undertaking or the controlled undertakings as laid down by the legislation of the Member State within the territory of which the central management is situated.

(d) The central management and local management shall be informed of the composition of the special negotiating body.

3. The special negotiating body shall have the task of determining, with the central management, by written agreement, the scope, composition, functions, and term of office of the European Works Council(s) or the arrangements for implementing a procedure for the information and consultation of employees.

4. With a view to the conclusion of an agreement in accordance with Article 6, the central management shall convene a meeting with the special negotiating body. It shall inform the local managements accordingly.

For the purpose of the negotiations, the special negotiating body may be assisted by experts of its choice.

5. The special negotiating body may decide, by at least two-thirds of the votes, not to open negotiations in accordance with paragraph 4, or to terminate the negotiations already opened.

Such a decision shall stop the procedure to conclude the agreement referred to in Article 6. Where such a decision has been taken, the provisions in the Annex shall not apply.

A new request to convene the special negotiating body may be made at the earliest two years after the abovementioned

decision unless the parties concerned lay down a shorter period.

6. Any expenses relating to the negotiations referred to in paragraphs 3 and 4 shall be borne by the central management so as to enable the special negotiating body to carry out its task in an appropriate manner.

In compliance with this principle, Member States may lay down budgetary rules regarding the operation of the special negotiating body. They may in particular limit the funding to cover one expert only.

Article 6

Content of the agreement

1. The central management and the special negotiating body must negotiate in a spirit of cooperation with a view to reaching an agreement on the detailed arrangements for implementing the information and consultation of employees provided for in Article 1 (1).

2. Without prejudice to the autonomy of the parties, the agreement referred to in paragraph 1 between the central management and the special negotiating body shall determine:

(a) the undertakings of the Community-scale group of undertakings or the establishments of the Community-scale undertaking which are covered by the agreement;

(b) the composition of the European Works Council, the number of members, the allocation of seats and the term of office;

(c) the functions and the procedure for information and consultation of the European Works Council;

(d) the venue, frequency and duration of meetings of the European Works Council;

(e) the financial and material resources to be allocated to the European Works Council;

(f) the duration of the agreement and the procedure for its renegotiation.

3. The central management and the special negotiating body may decide, in writing, to establish one or more information and consultation procedures instead of a European Works Council.

The agreement must stipulate by what method the employees' representatives shall have the right to meet to discuss the information conveyed to them.

This information shall relate in particular to transnational questions which significantly affect workers' interests.

4. The agreements referred to in paragraphs 2 and 3 shall not, unless provision is made otherwise therein, be subject to the subsidiary requirements of the Annex.

5. For the purposes of concluding the agreements referred to in paragraphs 2 and 3, the special negotiating body shall act by a majority of its members.

Article 7

Subsidiary requirements

1. In order to achieve the objective in Article 1 (1), the subsidiary requirements laid down by the legislation of the Member State in which the central management is situated shall apply:

- where the central management and the special negotiating body so decide, or
- where the central management refuses to commence negotiations within six months of the request referred to in Article 5 (1), or
- where, after three years from the date of this request, they are unable to conclude an agreement as laid down in Article 6 and the special negotiating body has not taken the decision provided for in Article 5 (5).

2. The subsidiary requirements referred to in paragraph 1 as adopted in the legislation of the Member States must satisfy the provisions set out in the Annex.

SECTION III

MISCELLANEOUS PROVISIONS

Article 8

Confidential information

1. Member States shall provide that members of special negotiating bodies or of European Works Councils and any experts who assist them are not authorized to reveal any information which has expressly been provided to them in confidence.

The same shall apply to employees' representatives in the framework of an information and consultation procedure.

This obligation shall continue to apply, wherever the persons referred to in the first and second subparagraphs are, even after the expiry of their terms of office.

2. Each Member State shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory is not obliged to transmit information when its nature is such that, according to objective criteria, it would seriously harm the functioning of the undertakings concerned or would be prejudicial to them.

A Member State may make such dispensation subject to prior administrative or judicial authorization.

3. Each Member State may lay down particular provisions for the central management of undertakings in its territory which pursue directly and essentially the aim of ideological guidance with respect to information and the expression of opinions, on condition that, at the date of adoption of this Directive such particular provisions already exist in the national legislation.

Article 9

Operation of European Works Council and information and consultation procedure for workers

The central management and the European Works Council shall work in a spirit of cooperation with due regard to their reciprocal rights and obligations.

The same shall apply to cooperation between the central management and employees' representatives in the framework of an information and consultation procedure for workers.

Article 10

Protection of employees' representatives

Members of special negotiating bodies, members of European Works Councils and employees' representatives exercising their functions under the procedure referred to in Article 6 (3) shall, in the exercise of their functions, enjoy the same protection and guarantees provided for employees' representatives by the national legislation and/or practice in force in their country of employment.

This shall apply in particular to attendance at meetings of special negotiating bodies or European Works Councils or any other meetings within the framework of the agreement referred to in Article 6 (3), and the payment of wages for members who are on the staff of the Community-scale undertaking or the Community-scale group of undertakings for the period of absence necessary for the performance of their duties.

Article 11

Compliance with this Directive

1. Each Member State shall ensure that the management of establishments of a Community-scale undertaking and the management of undertakings which form part of a Community-scale group of undertakings which are situated within its territory and their employees' representatives or, as the case may be, employees abide by the obligations laid down by this Directive, regardless of whether or not the central management is situated within its territory.

2. Member States shall ensure that the information on the number of employees referred to in Article 2 (1) (a) and (c) is made available by undertakings at the request of the parties concerned by the application of this Directive.

3. Member States shall provide for appropriate measures in the event of failure to comply with this Directive; in particular, they shall ensure that adequate administrative or judicial procedures are available to enable the obligations deriving from this Directive to be enforced.

4. Where Member States apply Article 8, they shall make provision for administrative or judicial appeal procedures which the employees' representatives may initiate when the central management requires confidentiality or does not give information in accordance with that Article.

Such procedures may include procedures designed to protect the confidentiality of the information in question.

Article 12

Link between this Directive and other provisions

1. This Directive shall apply without prejudice to measures taken pursuant to Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies⁽¹⁾, and to Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses⁽²⁾.

2. This Directive shall be without prejudice to employees' existing rights to information and consultation under national law.

Article 13

Agreements in force

1. Without prejudice to paragraph 2, the obligations arising from this Directive shall not apply to Community-scale undertakings or Community-scale groups of undertakings in which, on the date laid down in Article 14 (1) for the implementation of this Directive or the date of its transposition in the Member State in question, where this is earlier than the abovementioned date, there is already an agreement, covering the entire workforce,

providing for the transnational information and consultation of employees.

2. When the agreements referred to in paragraph 1 expire, the parties to those agreements may decide jointly to renew them.

Where this is not the case, the provisions of this Directive shall apply.

Article 14

Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 22 September 1996 or shall ensure by that date at the latest that management and labour introduce the required provisions by way of agreement, the Member States being obliged to take all necessary steps enabling them at all times to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof.

2. 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.

Article 15

Review by the Commission

Not later than 22 September 1999, the Commission shall, in consultation with the Member States and with management and labour at European level, review its operation and, in particular examine whether the workforce size thresholds are appropriate with a view to proposing suitable amendments to the Council, where necessary.

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 22 September 1994.

For the Council

The President

N. BLUM

⁽¹⁾ OJ No L 48, 22. 2. 1975, p. 29. Regulation as last amended by Directive 92/56/EEC (OJ No L 245, 26. 8. 1992, p. 3).

⁽²⁾ OJ No L 61, 5. 3. 1977, p. 26.

ANNEX

SUBSIDIARY REQUIREMENTS

referred to in Article 7 of the Directive

1. In order to achieve the objective in Article 1 (1) of the Directive and in the cases provided for in Article 7 (1) of the Directive, the establishment, composition and competence of a European Works Council shall be governed by the following rules :

- (a) The competence of the European Works Council shall be limited to information and consultation on the matters which concern the Community-scale undertaking or Community-scale group of undertakings as a whole or at least two of its establishments or group undertakings situated in different Member States.

In the case of undertakings or groups of undertakings referred to in Article 4 (2), the competence of the European Works Council shall be limited to those matters concerning all their establishments or group undertakings situated within the Member States or concerning at least two of their establishments or group undertakings situated in different Member States.

- (b) The European Works Council shall be composed of employees of the Community-scale undertaking or Community-scale group of undertakings elected or appointed from their number by the employees' representatives or, in the absence thereof, by the entire body of employees.

The election or appointment of members of the European Works Council shall be carried out in accordance with national legislation and/or practice.

- (c) The European Works Council shall have a minimum of three members and a maximum of 30.

Where its size so warrants, it shall elect a select committee from among its members, comprising at most three members.

It shall adopt its own rules of procedure.

- (d) In the election or appointment of members of the European Works Council, it must be ensured :

- firstly, that each Member State in which the Community-scale undertaking has one or more establishments or in which the Community-scale group of undertakings has the controlling undertaking or one or more controlled undertakings is represented by one member,
- secondly, that there are supplementary members in proportion to the number of employees working in the establishments, the controlling undertaking or the controlled undertakings as laid down by the legislation of the Member State within the territory of which the central management is situated.

- (e) The central management and any other more appropriate level of management shall be informed of the composition of the European Works Council.

- (f) Four years after the European Works Council is established it shall examine whether to open negotiations for the conclusion of the agreement referred to in Article 6 of the Directive or to continue to apply the subsidiary requirements adopted in accordance with this Annex.

Articles 6 and 7 of the Directive shall apply, *mutatis mutandis*, if a decision has been taken to negotiate an agreement according to Article 6 of the Directive, in which case 'special negotiating body' shall be replaced by 'European Works Council'.

2. The European Works Council shall have the right to meet with the central management once a year, to be informed and consulted, on the basis of a report drawn up by the central management, on the progress of the business of the Community-scale undertaking or Community-scale group of undertakings and its prospects. The local managements shall be informed accordingly.

The meeting shall relate in particular to the structure, economic and financial situation, the probable development of the business and of production and sales, the situation and probable trend of employment, investments, and substantial changes concerning organization, introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, and collective redundancies.

3. Where there are exceptional circumstances affecting the employees' interests to a considerable extent, particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the select committee or, where no such committee exists, the European Works Council shall have the right to be informed. It shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale undertaking or group of undertakings having its own powers of decision, so as to be informed and consulted on measures significantly affecting employees' interests.

Those members of the European Works Council who have been elected or appointed by the establishments and/or undertakings which are directly concerned by the measures in question shall also have the right to participate in the meeting organized with the select committee.

This information and consultation meeting shall take place as soon as possible on the basis of a report drawn up by the central management or any other appropriate level of management of the Community-scale undertaking or group of undertakings, on which an opinion may be delivered at the end of the meeting or within a reasonable time.

This meeting shall not affect the prerogatives of the central management.

4. The Member States may lay down rules on the chairing of information and consultation meetings.

Before any meeting with the central management, the European Works Council or the select committee, where necessary enlarged in accordance with the second paragraph of point 3, shall be entitled to meet without the management concerned being present.

5. Without prejudice to Article 8 of the Directive, the members of the European Works Council shall inform the representatives of the employees of the establishments or of the undertakings of a Community-scale group of undertakings or, in the absence of representatives, the workforce as a whole, of the content and outcome of the information and consultation procedure carried out in accordance with this Annex.
6. The European Works Council or the select committee may be assisted by experts of its choice, in so far as this is necessary for it to carry out its tasks.
7. The operating expenses of the European Works Council shall be borne by the central management.

The central management concerned shall provide the members of the European Works Council with such financial and material resources as enable them to perform their duties in an appropriate manner.

In particular, the cost of organizing meetings and arranging for interpretation facilities and the accommodation and travelling expenses of members of the European Works Council and its select committee shall be met by the central management unless otherwise agreed.

In compliance with these principles, the Member States may lay down budgetary rules regarding the operation of the European Works Council. They may in particular limit funding to cover one expert only.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 July 1994

concerning the notified capital increase of Air France

(Only the French text is authentic)

(Text with EEA relevance)

(94/653/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having regard to the Agreement establishing the European Economic Area, and in particular point (a) of Article 62 (1) thereof and Protocol 27 thereto,

Having, in accordance with Article 93 of the Treaty, given notice to the parties concerned to submit their comments and having regard to those comments,

Whereas :

I

By letter of 18 March 1994, registered with the Commission on 22 March 1994, the French authorities notified the Commission, pursuant to Article 93 (3) of the Treaty, of their plan to inject capital of FF 20 billion into Compagnie Nationale Air France. The French authorities enclosed with the notification a restructuring plan called 'Projet pour l'Entreprise' (hereinafter referred to as 'the Plan'). On 12 April 1994 Directorate-General VII (Transport) of the Commission held a meeting in Brussels with representatives of Air France and the French Government. During this meeting the French officials provided the Commission with additional information and a letter in reply to the Commission's letter of 28 March 1994.

The aid was registered as notified aid with the Commission Secretariat-General and was attributed the number N 258/94.

The Commission decided to open the Article 93 (2) procedure with regard to this aid and informed the French authorities of its decision by letter of 30 May 1994. This letter was published in the *Official Journal of the European Communities*⁽¹⁾ and third parties were invited to comment within one month from its publication.

The French authorities replied to the Commission's letter by a letter of 14 June 1994, and by subsequent letters. Further information and comments were then submitted in writing and during several meetings held in Brussels between the Directorate-General VII (Transport) of the Commission and representatives of Air France and the French Government.

The United Kingdom, the Netherlands, Ireland, Norway, Sweden and a large number of private parties, and in particular European airlines, among which British Airways, TAT, AOM, British Midland and the ACE ('Association des compagnies aériennes de la CE'), submitted comments on the case. The comments were duly transmitted to the French authorities, who replied to them by letter submitted to relevant services of the Commission.

II

The Air France group, as it is known today, was set up on 12 January 1990, when Air France took over UTA and thus acquired indirect control of Air Inter, the air carrier

⁽¹⁾ OJ No C 152, 3. 6. 1994, p. 2.

operating the majority of the French domestic routes, of whose capital Air France already held 36,5 %. Air France and UTA merged on 29 December 1992 and the new company was called 'Compagnie nationale Air France' (hereinafter referred to as 'CNAF'). As a consequence of the merger, CNAF now directly holds 75,84 % of Air Inter's capital. Whilst the Air France group carries out air transport operations and hotel, leisure travel, catering, maintenance and pilot training activities, air transport is by far its main business activity (the turnover of the air transport sector represented in 1992 79,5 % of the total turnover of the group).

Together with British Airways and Lufthansa, the Air France group is one of the three biggest European air carriers. As of 31 December 1993 the group's turnover was FF 55,156 billion (by way of comparison, in 1992 the Air France group's turnover was FF 57,013 billion, i.e. ECU 8,664 billion, that of British Airways was ECU 7,323 billion and that of Lufthansa was ECU 8,909 billion) and it employed about 64 000 people (as of 31 December 1993 Air France alone employed 39 956 people: 30 606 ground personnel, 2 925 technical flying staff and 6 425 commercial flying staff).

Since the beginning of the 1990s the Air France group has been pursuing a strategy of enlargement aimed at safeguarding its influence on the domestic market, preparing itself for the future liberalization of the Community aviation market as well as for competition on other international routes. Besides the acquisition of UTA, and indirectly of Air Inter, CNAF took, in April 1992, a 37,5 % shareholding in the capital of the Belgian carrier Sabena and in March 1992 it acquired a 20 % shareholding in the Czech airline CSA; the latter participation has however recently been dissolved. On the international side the Air France group began a policy of modernization and expansion of its fleet. The acquisition of new aircraft was financed through borrowings, on which financial charges negatively affected the group's final result. This posted a first loss of FF 717,2 million in 1990. To face this situation and adapt its financial structure and costs to the new economic environment which was characterized by a severe recession following the Gulf crisis, increased competition in particular on the north Atlantic, as well as the liberalization process within the Community, the Air France group launched a strategic plan (known as CAP '93) in September 1991.

This plan provided for a reduction of some 3 500 jobs during the period 1991 to 1993 and an initial recapitalization of the airline amounting to FF 5,8 billion to be realized in three tranches (capital increase and two bond issues). The Commission assessed these capital injections under the State aid rules of the Treaty in its two decisions of November 1991 and July 1992 (Case Nos N 653/91

and N 291/91). In these decisions the Commission took note of the Air France group's financial problems and the deterioration of the airline's structure between 1988 and 1991. However, the Commission considered at that time that the airline was facing a temporary crisis and that, despite some short-term problems, the long-term prospects and the overall structure of the Air France group appeared relatively good. The financial injections were, therefore, considered to be normal financial transactions and not State aid. In October 1992, having taken note of a further deterioration of the company's financial structure and operating performance, the Air France group's board of directors adopted a second restructuring plan (the 'Plan de retour à l'équilibre'), hereinafter referred to as 'the PRE1'). The PRE1 aimed to increase the Air France group's cash flow by FF 3 billion each year through the adoption of a number of measures to reduce operating costs (including a further planned reduction of 1 500 jobs). During the first months of 1993 the PRE1 showed its insufficiency to redress the situation of the Air France group, which continued to make losses and to lose market share. The PRE1 was then abandoned and in September 1993 the Air France group's board of directors launched a third restructuring plan (hereinafter referred to as 'the PRE2') providing for 4 000 job cuts and suppression of a certain number of routes. The PRE2 aimed at improving cash flow by FF 3,4 billion in 1994 and FF 5,1 billion from 1995 on. The PRE2 was rejected by the unions who went on strike at the end of October 1993. The new board of directors of the Air France group withdrew the PRE2 and drew up the Plan, after sending the staff a questionnaire asking them for their ideas.

The Air France group is at present facing a very serious financial and economic crisis. After a FF 3,2 billion loss in 1992, it made its fourth consecutive annual loss amounting to FF 8,4 billion in 1993 (the net loss for CNAF alone was FF 6,7 billion, according to the accounts published on 17 June 1994). In the last three years the group's situation has constantly deteriorated and reached its nadir in 1993 when the group made an operating loss of FF 3,3 billion, after an operating profit of FF 213 million and an operating loss of FF 1,5 billion in 1991 and 1992 respectively. In 1993 CNAF's operating losses (FF 3,6 billion) increased by 295 % over the 1992 operating losses (FF 918 million). The airline's cash flow has steadily deteriorated while net financial charges have recorded a substantial increase. The group's recent financial performance has been worse than that of its major competitors.

The group's accumulated losses, which result from poor operating margins and the heavy financial charges, have eroded the equity of the group. The group's debt position in 1992, even after the recapitalization carried out pursuant to the restructuring plan, was still unsatisfactory.

The group's gearing ratio (total debt/equity ratio, provisions excluded) was, in 1992, slightly worse than that of its major competitors who had not embarked on similar recapitalization programmes.

The gap between the Air France group and its competitors has increased because of the bad result of 1993 which severely affected its own capital.

Besides the substantial financial charges, the bad results of the group are due mainly to its poor productivity and high operating costs.

As a consequence of the restructuring efforts, and particularly the staff reduction (in total, staff was reduced by some 4 000 people in 1991 to 1993), the group has improved its productivity ratios in 1993: the available seat kilometre/employee ratio was 1 590 for the airline and 1 617 for the group as a whole. However, the group is still over-staffed and appears to be in need of a major reduction in personnel to achieve the productivity levels of its competitors, who have already started major cost-reduction programmes (e.g. Lufthansa).

Another factor which affects the group's operating performance is its fleet mix. The fleet consists of too many different types of aircraft (CNAF operates 24 different types or versions) and this contributes to the airline's high operating costs (e.g. high maintenance costs caused by the large number of different spare parts and different qualifications of the flying and ground personnel). As of 31 December 1993 the group's fleet consisted of 208 airplanes (CNAF's operating fleet consisted of 145 airplanes), of an average age of 8,6 years. The number of chapter II aircraft (47) is rather limited. The young age of the fleet is mainly due to the investment and modernization efforts carried out pursuant to the CAP '93 restructuring plan.

The Plan was drawn up by Air France on the basis of a paper drafted by Lazard Frères et Cie (hereinafter referred to as 'the consultants'). The consultants assessed the financial coherence of the assumptions of the scenario 1994 to 1996. On the basis of the data (forecast revenues and costs) provided by CNAF for the restructuring period, the consultants also fixed the amount of recapitalization needed to redress CNAF's financial structure and profitability.

The aim of the Plan is 'to make Air France a real company'. This target should be attained during the period between 1 January 1994 and 31 December 1996. At the end of 1996 CNAF's financial balance and profitability should be restored. The Plan provides for an increase of 30 % in Air France's productivity during the restructuring period. The Plan relates solely to CNAF and

leaves aside all the implications of the restructuring measures for the group. Moreover, according to the notification, the capital injection will benefit only CNAF and not the other companies of the group.

In particular the Plan focuses on the following topics:

A. Reduction in costs and financial expenses

1. Decrease in investments

The number of new planes to be delivered during the restructuring period is adjusted from 22 to 17; the corresponding fleet investment is, at FF 11,5 billion, some 21 % lower than originally planned. It is planned to sell 34 old aircraft (currently in storage). The total fleet will, therefore, be reduced from 166 planes in early 1994 to 149 at the end of 1996. The operating fleet itself (145 airplanes as of 31 December 1993) will be increased by just one plane; the number of seats offered will be slightly reduced.

2. Reduction of operating costs and adoption of measures to increase productivity.

CNAF intends to reduce its operating purchases (fuel excluded), which amounted to FF 13 billion in 1993, by FF 2 billion during the restructuring period.

Personnel will be reduced by nearly 5 000 people (3 700 ground staff and 1 300 flying staff) through voluntary redundancies (from 39 956 at the end of 1993, to 35 000 at the end of 1996). Wages will be frozen during the restructuring period, but this measure could be re-examined if inflation is higher than the levels assumed (2,2 % in 1994, 2,5 % in 1995, 2,9 % in 1996) or in case of positive financial results. Promotions will be blocked in 1994 and, for the next two years, will depend on the situation of the undertaking. The company expects annual savings of FF 3 billion from these measures. Moreover, the company will adopt measures aimed at a better utilization of work time (reorganization of the company into independent profit centres, see below; and decentralization of the decision-making process) and will increase work time up to the legal maximum level. The increase in productivity expected from the implementation of these measures is some 12 %.

3. Decrease in financial charges

As a consequence of the timing and the amount of the capital increase, financial expenses will be greatly reduced (from FF 3,2 billion in 1993 to FF 1,8 billion in 1996).

B. *Different conception of the product and better utilization of means*

1. Marketing initiatives

In order to adapt to the needs of consumers, who have become more price sensitive, CNAF will simplify its services making them more flexible. In particular, CNAF will offer new products (Euroconcept and Première Club) on the short and long-haul flights respectively.

2. Fleet, programme and yield management

CNAF will rationalize its fleet by reducing the types of aircraft (six types or versions will be removed from the operating fleet).

CNAF will make its programme more stable; only one type of aircraft will be needed on each long-haul route and the fleets attributed to each regional profit centre (see below) will become more homogeneous; the routes retained in the network will have to achieve a certain minimum frequency; multi-stop flights will be reduced. These measures will bring about a reduction in operating costs together with an increase in the average daily utilization of the fleet and staff.

CNAF will simplify its network. CNAF forecasts a relatively weak growth in its European network. CNAF will increase frequencies on the profitable routes, develop long-haul routes (in particular east Europe where CNAF will pursue a policy of operating a minimum number of daily flights), abandon marginal routes and focus on the routes where growth prospectives are good.

The company will use a performance yield management system to increase revenues and load factors and thus increase its profits.

C. *Reorganization of the company*

CNAF will be restructured into 11 operating centres which will be responsible for their own financial results. The air transport activity will be reorganized into six operating centres as of autumn 1994: one centre will be set up for cargo and five centres with different geographical competence for passenger traffic: Europe and medium-haul destinations, Africa and Near East, North and South America, Asia-Pacific Ocean, Caribbean-Indian Ocean. Each centre will have its own assets, and be in charge of its own production and commercial and management activities. The other centres will be entrusted with activities accessory to air transport: sales, maintenance (two

centres), computer and telecommunications, the airports of Paris (Charles de Gaulle and Orly). The financial transactions between the centres will be carried out on the basis of internal prices which will be negotiated once a year.

D. *Participation of employees*

CNAF will distribute free shares to its employees who will be able to increase their shareholding by way of compensation for a voluntary reduction in wages.

The implementation of the plan will be financed through the increase in capital and selling non-core assets. CNAF expects to realize some FF 7 billion from these sell-offs. Regarding the tangible assets, CNAF will dispose mainly of some of its airplanes; the reduction of the fleet by 17 airplanes will be carried out through acquisitions, sell-offs and expiry of operating lease contracts. Selling-off of aircraft will generate FF 4,1 billion in revenue. Besides the airplanes, CNAF will, *inter alia*, sell-off spare parts (FF 1,2 billion), a building (FF 0,4 billion), as well as the hotel group Meridien.

The French Government notified the Commission of its intention to increase, as the majority shareholder of the airline, CNAF's share capital by FF 20 billion. According to the French authorities:

- the capital increase will be carried out in three tranches: FF 10 billion in 1994, FF 5 billion in 1995 and FF 5 billion in 1996. The first increase in capital will be subscribed after the adoption of the Plan, following an agreement between the unions and the company. The payment of the other two tranches will be subject to effective implementation of the restructuring measures,
- the capital increase will benefit CNAF alone and not the other companies of the group,
- this capital injection will be the last aimed at redressing the airline's situation. The capital injection will be carried out in view of the possible future opening of the capital of CNAF (which is on the list of French undertakings to be privatized) to private investors,
- in case the Commission considers that the capital injection constitutes aid pursuant to Article 92(1) of the Treaty, the aid might benefit from the derogation provided for pursuant to Article 92(3)(c) of the Treaty as aid to facilitate the development of certain economic activities. The French Government maintains that the aid is linked to the Plan, which is aimed at redressing the economic and financial balance of the airline within the restructuring period. The aid does not affect trading conditions to an extent

contrary to the common interest. The amount and timing of the recapitalization have been decided by the French Government on the basis of the consultants' conclusions. The recapitalization will reduce the airline's debts to restore its financial balance. The aid will not increase CNAF's capacity to the detriment of its competitors. During the restructuring period the operating fleet will increase by just one airplane and the total number of seats available will slightly decrease. The 8,3 % increase in capacity (measured in available seats kilometre) over the restructuring period will stem from a better utilization of the fleet. Supply on medium-haul routes, which include the Community market, will increase by only 2,8 % and the main increase in supply will concern long-haul traffic (10,2 %). Taking into account the forecast increase in traffic (around 5,5 % p.a. worldwide and 5 % p.a. in Europe) CNAF's market share will decrease. On the other hand, the dissolution of CNAF would have effects contrary to the common interest because it would weaken competition in the European air transport market and the position of the European civil aviation industry relative to the American and Asian ones. CNAF's dissolution would also have catastrophic effects on employment in a period when the European Union is severely affected by unemployment.

III

The Commission opened the Article 93(2) procedure because it had some doubts on the following points:

1. that the aid and the Plan concentrate exclusively on CNAF, while economic reality requires a restructuring plan to take into account the economic situation and prospects of the whole group. The Commission had to investigate the impact of the aid and the Plan on the results of CNAF and of the group as a whole to verify whether the Plan is sufficient to restore viability;
2. that the Plan and its sectoral implementation, including the social measures, would be carried out effectively;
3. that the aid does not adversely affect trading conditions on the routes upon which the airlines belonging to the Air France group compete with other European airlines;
4. that the aid is not disproportionate to the needs of the restructuring and does not lead to overcapitalization. In this respect, the Commission needed to analyse and

assess the nature (equity or debts) of some bonds issued by the group (TSDI, ORA and TSIP);

5. that the aid is the last in favour of the group and is not used to acquire additional shareholdings in other Community air carriers;
6. that the French Government will refrain from interfering in the group's management for other than commercial reasons.

IV

With regard to the comments submitted by the third parties it is worth mentioning that none of them contested the aid character of the planned capital injection in favour of the Air France group. Most of the parties share the Commission's doubts regarding the application of Article 92(3)(c) of the Treaty and Article 61(3)(c) of the EEA Agreement to the aid in question. The main issues raised by the third parties may be summarized as follows:

- the aid is in favour of the group and not only CNAF, which could re-distribute the aid to its subsidiaries. A possible separation of CNAF, from Air Inter and Air Charter, would be artificial because a coordinated commercial strategy would still be possible for all the companies of the group,
- the French authorities did not provide sufficient information on the Plan, in particular regarding the future network,
- the Plan is not sufficient to restore viability within three years given the proposed reduction in costs (in particular with regard to personnel), and in investments, against the background of the continued restructuring efforts by Air France's competitors. In any case, the group would not be allowed to restructure because of the constant interference of the French Government in the management of the company,
- the aid is disproportionate to the needs of the restructuring and will lead to overcapitalization of the group, which will receive a very strong advantage over its competitors. In addition, the group does not need such a large amount of aid as it could finance its restructuring itself through selling-off non-core assets (e.g. Meridien and Servair) or reducing its investment in other companies (e.g. Sabena), postponing fleet investment, or withdrawing from routes which are not profitable,

- the conditions to grant an exemption pursuant to Article 92 (3) (c) are not satisfied because the assessment of the compatibility of the aid with the common market must be made from the standpoint of the Community. The Commission has to take into account the development of a sector as a whole and not only the development of the recipient of the aid,
 - the aid will seriously distort competition and affect trading conditions to an extent contrary to the common interest by transferring the Air France group's difficulties to its competitors. The French Government should not grant any privileged treatment to the Air France Group and should refrain from discriminating against the Air France group's competitors in particular, regarding multidesignation, and access to airport facilities (e.g. access to Orly West). The Air France group should refrain from increasing capacity or fixing its tariffs below its costs and on some routes within Europe, which are characterized by intense competition, and on certain non-European routes (e.g. French West Indies) the Air France group's capacity should be limited and the Air France group should not be price leader. Finally, the French domestic market should be opened up to competition, in particular following the two Commission Decisions of 27 April 1994 concerning access to the Paris-Orly airport,
 - should the Commission consider the aid to be compatible with the common market, the Air France group must be prevented from acquiring shareholdings in any other air carriers and the aid must be the last in favour of the group,
 - the Commission should define the 'commercial reasons' which may justify government interference in management,
 - strict monitoring is required and the payment of the subsequent tranches of State aid should be subject to the achievement of specific targets.
1. The French authorities undertake to ensure that the entire amount of aid will benefit Air France alone. In order to prevent any transfer of aid to Air Inter, a holding company will be set up by 31 December 1994 which will hold a majority shareholding in Air France and Air Inter. The Government also undertakes to ensure that no financial transfers will be made between the companies in the group, either before or after the actual setting up of the holding company, which do not form part of normal commercial relationships. Accordingly, all transfers of goods and services between the companies will be carried out at market prices (e.g. maintenance, airport backup facilities, computerized reservation systems and other computer services, establishment of the schedule, representation in other countries, etc.); in no case will Air France apply preferential tariffs in favour of Air Inter.
 2. The French Government confirms its intention to privatize Air France. The privatization process will begin once the company's economic and financial recovery has been achieved, in accordance with the Plan. The decision on the actual transfer of Air France from the public to the private sector will be taken, having regard also to the situation on the financial markets, in such a way that this sale of shares is not to the detriment of public assets.
 3. The French Government informs the Commission that as a result of the work carried out since 11 April 1994 to establish detailed rules for implementing the Plan for the company and the outcome of negotiations held with organizations representing employees (ground and flying personnel), it is possible to implement all the measures contained in the restructuring plan.

It should be noted in particular that the framework agreement signed on 31 March 1994 by six unions and approved by a seventh on 6 April 1994 was also endorsed on 9 June 1994 by the three professional organizations representing technical navigation staff.

V

The French authorities' submissions in reply to the Commission's letter informing them of the opening of the Article 93 (2) procedure relate principally to the Plan and the proposed recapitalization of CNAF. Moreover, by letter of 14 July 1994 the French Government provided the following clarifications and gave the following commitments :

The commitments given by the French authorities in that letter relate to Air France and 'by Air France we mean CNAF and any company of whose capital it holds more than 50 % with the exception of Air Inter'.

In these circumstances, the French Government confirms that Air France will continue the process of implementing in full the Plan as communicated to the European Commission on 18 March 1994, in particular as regards the following productivity targets expressed by the equivalent revenue passenger kilometre/employee ratio for the duration of the restructuring plan :

- 1994: 1 556 200 equivalent revenue passenger kilometre/employee,
- 1995: 1 725 500 equivalent revenue passenger kilometre/employee,
- 1996: 1 829 200 equivalent revenue passenger kilometre/employee.

The French authorities also undertake :

4. to adopt the normal behaviour of a shareholder *vis-à-vis* Air France, to allow the company to be managed solely in accordance with commercial principles and to abstain from intervening in its management for reasons other than those connected with its status as a shareholder ;
 5. not to grant to Air France, for the duration of the restructuring plan, either any new appropriation or any other form of aid (without prejudice to Article 4 of Regulation (EEC) No 2408/92 as regards possible compensation for public service obligations) ;
 6. to ensure that, during the implementation of the Plan, the aid is used exclusively by Air France for the purposes of restructuring the company and not acquire new holdings in other air carriers ;
 7. to make payment of the second and third tranches of the capital increase dependent on the actual implementation of the Plan and achievement of the planned results (particularly as regards profits and cost-effectiveness ratios expressed in equivalent revenue passenger kilometre/employee) ;
 8. to submit to the Commission a report on the progress of the restructuring plan and the economic and financial position of Air France. These reports will be submitted at least eight weeks before the release of the second and third tranches of aid in 1995 and 1996 ;
 9. to accept that the Commission, if it considers it necessary, may have the proper implementation of the Plan and the fulfilment of the conditions laid down for the approval of aid verified, in the light of, *inter alia*, the business environment and market trends, by independent consultants chosen by the Commission in consultation with the French Government ;
 10. not to increase, during the period covered by the Plan, the number of aircraft in the CNAF operating fleet beyond 146 ;
 11. not to increase, during the period covered by the Plan, the supply of CNAF beyond the level reached in 1993, for the following routes :
 - from Paris to all destinations in the European Economic Area (7 045 million available seat kilometre),
 - from provincial airports to all destinations in the European Economic Area (1 413,4 million available seat kilometre).

This supply could be increased by 2,7 % each year, unless the growth rate of each of the corresponding markets is lower. However, if the annual growth rate of these markets exceeds 5 %, supply may be increased beyond 2,7 %, by the amount of increase above 5 % ;
 12. to ensure that Air France does not, during the period covered by the Plan, apply tariffs below those of its competitors for an equivalent supply on the routes that it operates within the European Economic Area ;
 13. not to grant preferential treatment to Air France in the matter of traffic rights ;
 14. to ensure that Air France does not operate, during the period covered by the Plan, more scheduled routes between France and the other countries in the European Economic Area than it did in 1993 (89 routes) ;
 15. to limit, during the period covered by the Plan, the supply of Air Charter to its 1993 level (3 047 seats and 17 aircraft), with a possible annual increase corresponding to the market growth rate ;
 16. to guarantee that any transfer of goods or services from Air France to Air Charter reflects market prices ;
 17. to ensure that Air France disposes of its shareholding in the Meridien hotel group by the end of the year on the best possible financial, commercial and legal terms.
- Moreover, by letter of 18 July 1994 the French Government gave the following two further commitments :
18. the French Government, in cooperation with Aéroports de Paris, will proceed, as soon as possible, with its modification of the traffic distribution rules for the Paris airport system in accordance with the Commission Decision of 27 April 1994 on the opening of the Orly-London link ;

19. the French Government will ensure that the work required to adapt the two Orly terminals carried out by Aéroports de Paris, and a possible saturation of one or other of these terminals, do not affect competitive conditions to the detriment of the airlines operating there.

VI

Article 92 (1) of the Treaty and Article 61 (1) of the EEA Agreement provide that any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States and the Contracting Parties, incompatible with the common market and the Agreement.

The Treaty and the EEA Agreement establish the principle of neutrality with regard to the system of property ownership existing in the Member States (Article 222 of the Treaty and 125 of the EEA Agreement) and the principle of equality between public and private undertakings. As a consequence of these principles, the Commission's action may not prejudice or advantage public entities when they inject capital into undertakings. However, the Commission must investigate financial injections into companies to prevent Member States from infringing the State aid rules of the Treaty.

In order to determine whether State aid is involved, the Commission will base its assessment upon the 'market economy investor principle'. According to this principle, no State aid is involved where fresh capital is contributed in circumstances that would be acceptable to a private investor operating under normal market economy conditions⁽¹⁾.

The Commission is of the opinion that in the case of the acquisition of shareholdings in public companies State aid is involved 'where the financial position of a company, and particularly the structure and volume of its debts, is such that a normal return (in dividends or capital gains) cannot be expected within a reasonable time from the capital invested'⁽²⁾. As regards the market economy investor principle the Court of Justice has stressed that the behaviour of a private investor, with which the intervention of the public investor has to be compared, must at least be that of a private holding company or of a private group which follows a structural, global or sectoral

policy and which is guided by profitability prospects in the longer term⁽³⁾. In the case of loss-making companies, such a long-term investor would base his decision on a coherent restructuring plan. The Commission has asked the French authorities for information about the expected return on investment. The French authorities maintain that the decision to increase CNAF's capital injection reflects a rational strategy of the majority shareholder. From a financial perspective, the increase in capital is a better option than the liquidation of CNAF. The French authorities, taking into account the burdensome social liabilities, the substantial loans and the low liquidation value of the company's assets, maintain that the cost of the winding up of the company would be approximately FF 30 billion which is higher than the FF 20 billion capital injection.

The French authorities have not provided any information on the basic data or on the method used to calculate the amount of FF 30 billion. Nor have they provided any information showing that the liquidation value of the company (that is the immediate realizable value of the assets minus all relevant legal obligations) is really negative or even at minus FF 30 billion. In that context one has to note that under normal commercial conditions no shareholder is obliged to pay more, in case of the liquidation of a public limited company, than the capital subscribed to. In any case, the Commission considers that, in the light of the huge amount of CNAF's debts, negative cash flows and continuous substantial losses, and in the light of the characteristics of the industry, namely a low margin return, a rational private investor could not expect, even in the long term, an adequate return on the investment under examination. It is extremely unlikely that CNAF, which, according to the consultants' financial projections, will achieve the first positive net result (FF 400 million) in 1996, could generate adequate profits to sufficiently remunerate the Government's financial efforts.

The Commission is therefore of the opinion that the notified capital injection into CNAF constitutes State aid.

Taking into account the large European network of CNAF and the intense competition existing on most of CNAF's routes, the aid distorts competition within the EEA. Given the international character of the civil aviation industry the aid affects trade between the EEA countries.

In the light of the foregoing, the Commission considers that the planned capital injection into Air France constitutes aid pursuant to Article 92 (1) of the Treaty and Article 61 (1) of the Agreement.

In the light of the present structure of the Air France group, the capital increase of the parent company (CNAF) should be considered as aid in favour of the whole group. However, following the information provided by the French authorities on the future structure of the group

⁽¹⁾ See Commission communication to the Member States concerning public authorities holdings in company capital of 17 September 1984, *Bulletin of the European Communities* No 9-1984 and the Judgment of the Court of Justice in Joined Cases 296 and 318/82, *The Netherlands and Leeuwarder Papierwarenfabriek BV v. Commission*, [1985] ECR, p. 809, paragraph 17 at p. 823.

⁽²⁾ Communication to the Member States concerning public authorities holdings in company capital, in *Bulletin EC* No 9-1984.

⁽³⁾ See Case C-305/89, *Italy v. Commission*, [1991] ECR I, p. 1603, paragraph 24 at p. 1641.

and the commitments given to avoid any spill-over effects in favour of Air Inter (commitment No 1), the Commission considers that the beneficiary of the aid is CNAF and its subsidiaries, including Air Charter (see point 4 below).

The Commission cannot consider the aid to CNAF as compatible with the common market pursuant to Article 92 (2) of the Treaty or Article 61 (2) of the EEA Agreement, since the aid does not correspond to any of the cases provided for under those provisions.

Article 92 (3) of the Treaty and Article 61 (3) of the EEA Agreement list aid which may be considered compatible with the common market.

Article 92 (3) (a) and (c) of the Treaty and Article 61 (3) (a) and (c) of the EEA Agreement provide for exceptions in respect of aid to promote or facilitate the development of certain regions. The aid to CNAF does not seem to qualify for the exemptions laid down in Article 92 (3) (a) or (c), in so far as it relates to regional aid, nor have the French authorities put forward any such regional arguments in support of the proposed aid.

As for Article 92 (3) (b) of the Treaty and Article 61 (3) (b) of the Agreement, it should be noted that the aid in question is not intended to promote the execution of an important project of common European interest nor to remedy a serious disturbance in the French economy. Moreover, the French authorities have not invoked this provision.

With regard to the exception pursuant to Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the EEA Agreement for 'aid to facilitate the development of certain economic activities', the Commission may consider some restructuring aid as compatible with the common market if it meets a number of conditions⁽¹⁾.

These conditions must be seen in the context of the two principles set out in Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the EEA Agreement: the aid must be required for developing the activity from the standpoint of the Community and the aid may not adversely affect trading conditions to an extent contrary to the common interest⁽²⁾.

These criteria have been interpreted in a sectoral (aviation) context in Memorandum No 2 which stipulates that the Commission may, in certain cases, decide in accordance with Article 92 that aid may be granted to individual

airlines which have serious financial difficulties, provided certain conditions are met:

- (a) the aid must form part of a programme, to be approved by the Commission, to restore the airline's health, so that it can, within a reasonably short period, be expected to operate viably without further aid;
- (b) the aid in question must not transfer the difficulties from that Member State to the rest of the Community;
- (c) any such aid must be structural so that it is transparent and can be verified.

The Commission verified whether the conditions laid down in Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the Agreement are satisfied, to assess whether the aid is compatible with the common market.

1. The Commission verified the present situation of the civil aviation industry.

In the first half of 1994, the civil aviation industry appears to have virtually recovered from the economic crisis started with the Gulf war in the second half of 1990. Passenger traffic increased by 14 and 9 % in 1992 and 1993 respectively (source AEA). This strong growth trend had been confirmed by the results recorded in the first months of 1994 (January to May), when passenger traffic grew by 9,1, 9,9, 14,1, 5,9, and 6,1 % each month, over the corresponding period last year. Even if growth in passenger traffic in April and May was below the strong growth recorded in the first three months of 1994, one of the areas where growth was maintained was Europe (in May intra-European traffic increased by 8,8 % over the corresponding period in 1993). Despite these positive results some of the European airlines are still loss-making.

One of the main causes of these losses resides in the worldwide economic recession, which has amplified the effects of the Gulf crisis and has had tremendous effects in the air transport sector, which is particularly sensitive to changes in the general level of economic activity. Many passengers travelling in business class, which is traditionally a high-yield sector of activity, are seeking lower tariffs and this contributes to the poor financial results of the airlines. Another factor which has negatively affected the results of the companies is the fact that investments in aircraft made at the end of the 1980s were on the basis of optimistic commercial programmes. The delivery of these aeroplanes has caused overcapacity because the substantial increase in supply has not been off-set by a corresponding increase in demand. For many airlines load factors are still not sufficient to achieve commercially viable operation and thus to fill the aeroplanes they are obliged to offer promotional fares even in the winter season.

⁽¹⁾ Eighth report on competition policy, point 176.

⁽²⁾ See the Judgment of the Court of Justice of 17 September 1980 in Case 730/79 — *Philip Morris v. Commission*, [1980] ECR, p. 2671.

However the prospects for the European aviation industry are quite positive in the medium term (1994 to 1997). (The forecast annual increase in traffic is around 6 %, see IATA annual report for 1993.) Over-capacity would appear to be, in the light of these forecasts, a phenomenon of temporary duration that might be overcome by 1995. (See Commission communication: The way forward for civil aviation in Europe, COM(94) 218 final, p. 7). This is confirmed by the steady increase in load factors during the first months of 1994 (in April and May 1994 load factors were 65,2 % and 65,7 % respectively).

In the light of the above, the Commission considers that the European air transport market is not affected by a structural over-capacity crisis and the state of the aviation industry does not require general capacity cut-backs.

2. The Commission assessed the viability of the Plan.

The aid under scrutiny is aimed at financing the implementation of the Plan and restructuring the finances of CNAF. In opening the Article 93 (2) procedure, the Commission considered that, taking into consideration the present structure of the Air France group, one of the Plan's weaknesses is that it concentrates exclusively on CNAF leaving aside the economic situation and the prospects of the whole group, or at least the main subsidiaries. To this end, the Commission needed more information on the strategies and the plans for the main subsidiaries.

In the course of the procedure the French authorities have informed the Commission that before 31 December 1994 they will set up a holding company which will own a majority shareholding in CNAF (including its subsidiaries) on the one hand and Air Inter on the other hand⁽¹⁾. Moreover, all the transfers between the two companies will be on market conditions. The Commission underlines that this reorganization must not involve any transfer of State resources as a counterpart for the transfer of Air Inter shares from CNAF to the holding company.

In addition, the French authorities have clarified that Air France will shortly dispose of its major subsidiaries (e.g. the hotel chain Meridien) in order to contribute to the financing of the restructuring plan and to focus on the core air transport activity. Following specific observations on this issue, the Commission welcomes the commitment from the French authorities that Air

France will sell its shareholding in Meridien before 31 December 1994 on the financial, commercial and legal conditions most favourable for Air France (commitment No 17). The fact that the French Government has decided that Air France will sell Meridien at the highest possible value minimizes the need for the State to recapitalize Air France.

In this context, the Commission is satisfied that after the planned sales no other non-core assets remain to be disposed of which could raise significant sums of money.

As regards the funds needed for fleet investment, the Commission takes note of the postponement of aircraft orders. Moreover, orders have already been reduced by 21 % and efforts have been taken to further adjust the orders. Consequently, the average fleet age will increase till the end of the period of restructuring from about 7,9 to about 9,3 years. A further delay of fleet investment would mean a further deterioration of this figure which could harm Air France's competitiveness and endanger the viability of the restructuring.

The information provided by the French authorities meets the concerns expressed by the Commission in opening the procedure. The future structure of Air France and the clarifications on the disposal of the major non-core assets shows the cohesiveness of the Plan. This justifies the future strategy of the company which will be targeted to resolve the airline's problems.

As regards the feasibility of the Plan, the Commission's assessment is as follows. The Plan sets out a number of measures that represent genuine efforts toward the restructuring of the airline.

The Commission recognizes, in particular, the great efforts undertaken by the management of Air France for the development of a viable programme, particularly in the social field. Wages will be frozen during the period of restructuring and promotions will be blocked in 1994 and might be blocked in 1995 and 1996, depending on the situation of Air France. Work time will be better utilized and increased up to the legal maximum level. Air France will distribute free shares to employees who will be able to increase their shareholding as compensation for a reduction in wages. The personnel concerned has approved the programme through a referendum. Following the information provided by the French authorities on the approval of the Plan by the unions, the Commission is now convinced that the social measures provided for in the Plan can be fully adopted and the overall restructuring plan successfully implemented.

⁽¹⁾ Hereinafter, CNAF and its subsidiaries are referred to as 'Air France'.

The strong points of the Plan are certainly the planned restructuring of the airline (profit centres, streamlining of the hierarchical structure) in an effort to fully rationalize the functioning of the company.

As regards productivity, the improvements envisaged by the Plan will lead Air France to a position of 'good average' compared to other European airlines. The Commission bases its analysis on a comparison of the efficiency indicator equivalent revenue passenger kilometre/employee. Equivalent revenue passenger kilometre is a composite figure representing revenue passenger kilometre and revenue tonne kilometre (converted to be comparable with passenger revenue yield, on the basis of one tonne kilometre is equivalent to 3,5 passenger kilometre). This comprehensive indicator represents the total level of demand for an airline's services in terms of both passengers and cargo, in particular if the freight sector is so important as in the case of Air France. It also reflects any improvement of Air France's weak points as regards low load factor and insufficiently dense network. (The latter would not be the case if the efficiency target was based on the offer, expressed in available seat kilometre.)

Air France productivity will improve by 33,3 % over the restructuring period (from 1,372 million in 1993 to 1,829 million in 1996). The ratio achieved by Air France in 1996 will be higher than the estimated average ratio achieved by the seven other largest European airlines (Lufthansa, British Airways, KLM, Alitalia, Iberia, SAS, and Swissair which will on average achieve 1,807 million). This is even more remarkable since their average (1,547 million) was in 1993 higher than the figure achieved by Air France (1,372 million).

The Commission considers that a successful implementation of the Plan is capable of restoring the economic and financial viability of Air France, which is the largest French air carrier and one of the three largest European ones. In this respect it is worth recalling that Air France has already started to successfully implement the Plan. At the end of May 1994, Air France made a gross operating profit which is FF 10 million higher than the figure forecast, even though the yields were still rather low.

The Commission notes with satisfaction the commitment given by the French Government that Air France will be run in accordance with commercial principles (commitment No 4). This implies that the French Government will, as majority shareholder of Air France, adopt a behaviour in the best commercial interest of Air France and will not follow a policy of interference in the management of the company for reasons other than those stemming from its role of shareholder.

It stems from the abovementioned commitment that the French Government has to treat Air France as a

normal undertaking, in particular with regard to the granting of traffic rights or the occupation of airport surfaces. (See commitment No 13.)

A genuine restructuring of Air France will contribute to the development of the European air transport industry by improving its competitiveness in the aviation sector and is, therefore, in the common interest⁽¹⁾.

3. The Commission verified whether the aid is proportionate to the needs of the restructuring.

In the present case the French Government notified the Commission of its intention to inject FF 20 billion to be paid in three tranches (10 billion in 1994, 5 billion in 1995 and 1996) in Air France.

In deciding to open the Article 93 (2) procedure, the Commission considered that there might be a risk that the aid could lead to overcapitalization of the airline. In the case of Air France, gearing ratios are strongly influenced by the classification of a number of bonds issued by the company in the 1991 to 1993 period. Air France's gearing ratios vary considerably according to whether these bonds are, from an accounting point of view, classified as equity or debt.

Air France has issued the following financial instruments over the past five years:

1. ORA ('obligations remboursables en actions')

— December 1991: FF 1 250 000 000,
— April 1993: FF 749 996 536.

The interest payment is composed of a fixed element and a variable element linked to the profits of the company. The holders have the right to demand the conversion of their bonds into shares from 1 June 1993. The conversion into shares on a one-to-one basis will take place at the latest on 1 January 2000.

2. TSDI ('titres subordonnés à durée indéterminée reconconditionnés')

— June 1989: FF 2 500 000 000,
— May 1992: FF 2 600 000 000.

Part of the value of the loan is placed with a third party ('trust') carrying a zero coupon, which at the end of 15 years will have the same value as the nominal amount of the outstanding loans. The lenders agree, at the end of the 15-year period, to sell the TSDI to the trust. Payment of interest on the TSDI, ceases at the end of 15 years.

⁽¹⁾ See the Commission's action programme: 'The way forward for civil aviation in Europe' COM(94) 218.

3. TSIP-BSA ('titres subordonnés à intérêts progressifs assortis de bons de souscription d'actions')

— April 1993 FF 749 355 800.

Each security has a coupon attached which can be converted into shares at the option of the lender at any time until 1 January 2000. As from 1 January 2000, Air France can repay the loans. The rate of interest payable on the loans is progressive, and acts as an incentive to repay the loans after the year 2000. Air France can suspend the payment of interest where the group makes a consolidated loss higher than 30 % of own and quasi-own capital. In these circumstances, the interest is postponed and earns interest in its own right.

With regard to the possible overcapitalization of Air France and the financial nature of the bonds issued by Air France, the Commission examined two reports by Lazard Frères and one report by Cabinet Constantin. The reports of Lazard Frères, which analyse the impact of the aid on the financial ratios of Air France, stress the necessity to take into account not only capital structure ratios ('ratio de structure financière'), but also capacity to service debts ('ratio de couverture des frais financières') and return on investment ('ratio de rentabilité des fonds propres'). The ratios on capital structure show that in 1996 Air France's position will be more than satisfactory in comparison with the more efficient airlines in the industry such as British Airways. The picture is less positive when the return on investment and capacity to service debts ratios are measured; in this respect Air France is worse off than British Airways.

The report of Cabinet Constantin concerns the financial nature and ranking of the ORA, TSDI and TSPI-BSA issued by Air France. According to these consultants, one of the fundamental conditions to be fulfilled to classify a bond as equity is the absence of an obligation to pay interest in case of insufficient profits. None of the securities issued by Air France fulfils this condition before its maturity. Moreover, the TSDI have been 'reconditionnés' (i.e. Air France will repay the TSDI in the 15th year following the issue with a zero coupon bond acquired with part of the money raised with the TSDI. In the 15th year the value of the zero coupon bond will be equal to the value of the whole TSDI issue). From an accounting perspective, the TSDI are depreciated on an annual basis and will disappear from Air France's financial statements at the end of the 15-year period. The TSDI must, therefore, be considered as a loan redeemable in 15 years. On the other hand, the TSPI-BSA (provided that market conditions enable the owner to exercise the BSA) and the ORA will be equity in due course.

With regard to the distinguishing features of equity and loans, there are a number of fundamental differences on the rights attached to equity as opposed to

loan capital. Holders of equity capital may share in the residual profits of the company after all expenses (including interest on loan capital) have been met. They also have the right to a share in the residual assets of the company in the event of its liquidation, after all other creditors have been satisfied. They also have voting rights in the decisions affecting the management of the company.

Holders of loan capital have a predetermined rate of return on their loans (which may be linked in some way to the profitability of the company). They have the right to be paid interest whether or not the company generates sufficient profits. Finally, they have the right to be repaid in priority to holders of equity capital in the event of the liquidation of the company.

The criteria which determine the classification of loan capital are to be found in Article 248-8h of the French Decree of 23 March 1967, which sets out the principles for the presentation of capital instruments in consolidated accounts. It states that 'capital raised as a result of a bond issue which provides neither for the reimbursement at the lender's initiative nor for the obligatory payment of interest in the absence or the insufficiency of profits, can be entered in the consolidated balance sheet under the heading own funds'. Therefore, in accordance with the second element of this Article, an instrument that does have the right to interest payment in the absence of profits, should not be considered as own funds (equity capital).

Furthermore, Article 9 of Council Directive 78/660/EEC on the presentation of company accounts, requires that convertible loan instruments should be shown separately in the balance sheet from the equity of the company. The convertible loans must be shown separately under the heading 'Creditors', subheading 1 — 'Debenture loans'.

In the light of the above, the classification of all Air France's capital issues not as equity but as debts would appear superficially justified. However, whilst the application of strict accounting criteria for the classification of capital instruments is necessary for transparency in the presentation of information in the annual accounts of undertakings, it does not fully reflect the ambiguous financial nature of the instruments themselves.

The abovementioned Article 248-8h of the French Decree defines the criteria which prevent certain capital instruments being classified as own equity, but does not examine their possible treatment as quasi-equity ('autres fonds propres'). This intermediate form of capital is provided for in Article 13 of the French Decree of 29 November 1983. However, in order to

limit the risk that this classification of capital instruments causes confusion with the term equity, the Comité Professionnel de Doctrine Comptable is proposing that it should be replaced by the classification 'other debts of a specific nature' (autres dettes à caractéristiques particulières) or 'non repayable instruments' (titres non remboursables et assimilés).

Nevertheless, the convertible nature of both the ORA and the TSIP-BSA could support the proposition that these instruments should be considered as quasi-equity, since there is an implicit understanding that the lender will convert his loan into equity at some future date. In the case of the ORA, there is an obligation on the lender to convert on a one-for-one basis. For the TSIP-BSA, the lender has accepted a lower rate of interest on his loan in the expectation that the coupon giving the right to purchase Air France group shares at a specified rate will provide a compensating reward.

If the lender did not intend taking advantage of the conversion possibility, he would not have considered lending at the lower rate.

It is clear that the subscribers to the ORA issue were aware that in the course of time their loans would be converted into equity, and that there is no provision for the repayment of the loan in any other form. Therefore, for the purpose of calculating the financial ratios, and in particular, the gearing ratio (equity/loans), it is more appropriate to classify the ORA as quasi-equity. However, as regards the TSIP-BSA, the lender is under no obligation to convert, and therefore the intention to convert is less clear. In such circumstances, if one was obliged to classify this type of financial instrument in one category or another, it would appear more appropriate to classify the TSIP-BSA as debt.

As regards the TSDI, there is no conversion possibility, therefore there is no doubt that the instrument is loan capital.

It must be recalled that in November 1993 the Commission opened the Article 93 (2) procedure with regard to the subscription by CDC-P to the ORA and TSIP-BSA issued by Air France in April 1993 (OJ No C 334, 9. 12. 1993). The Commission has decided today that this operation, which was not lawfully notified to the Commission, is aid in favour of Air France. The aid is illegal and incompatible with the common market and with the EEA Agreement and, thus, must be repaid.

Therefore, on the basis that :

— the capital injection made by CDC-P of FF 748 million ORA and FF 749 million in TSIP-BSA is

repaid, and thus the corresponding amounts are substituted by conventional debts,

— the remaining ORA of FF 1,250 billion are deemed to be quasi-own capital,

the structure of the Air France group balance sheet by the end of 1996 is as follows :

Own capital

17,4 + 1,25 ORA = FF 18,65 billion

Debt

22,1 - 1,25 ORA = FF 20,85 billion

Gearing ratio (debt/equity) = 1,12

This ratio appears to be above average for the civil aviation industry, where 1,5 is considered to be an acceptable debt-equity ratio (see *Accounting policies, disclosure and financial trends in the international airline industry*, a survey by KPMG in association with IATA, page 26, August 1992).

In principle, Air France might have, besides the aid, three possibilities to improve its financial standing through its own efforts: improvement of efficiency which leads to increased cash flows, postponement of aircraft orders and the sale of assets. As mentioned above, the Commission acknowledges the effort undertaken to improve labour productivity which will lead Air France to a sufficient level of efficiency at the end of the restructuring period. Second, aircraft orders have already been delayed; further postponement would take the average fleet age beyond 10 years, a level which is too high for an airline aiming at regaining its competitive strength.

As regards the sale of assets, there are only a limited number of assets whose sale could bring in significant amounts of money, such as Meridien, Sabena, Air Inter. The latter two are important core assets for Air France's aviation business. The sale of the remaining assets is already part of the Plan. Other assets are generally small and/or loss-making; their sale would not lead to a significant reduction of the amount of the aid. Therefore, the amount of aid does not appear to be excessive in relation to what is necessary to make good Air France's financial position and put it back on a sound financial footing. In this context, it must be recalled that the civil aviation industry is low margin and capital intensive. Under these circumstances, a gearing ratio of 1,12 does not appear over-prudent. This is further demonstrated by the fact that Air France in 1996 will obtain an interest cover ratio (gross operating profit before depreciation and leases/interest + operating leases) of 2,44, which is very close to 2,42 which was the ratio achieved on average by its competitors in 1993 (SAS, American Airlines, Swissair, Lufthansa, British Airways, KLM and Finnair). As a consequence of the recapitalization, Air France will have an adequate financial structure to service debt with a margin of safety and to borrow on a stand-alone basis without Government support.

On the basis of the above, the Commission is satisfied that the aid to Air France is both necessary and proportionate to enable the company to accomplish successfully its restructuring plan and return to viability. However, given the fact that the aid will be paid in three tranches the Commission intends to monitor carefully, on an annual basis, the fulfilment of the Plan, in particular in the light of the development of Air France's financial situation following, *inter alia*, the sale of assets, and may if necessary, adapt the amounts to be paid to ensure that the level of the aid is still proportionate to the objectives of the Plan.

4. The Commission verified that the aid does not affect trade to an extent contrary to the common interest.

In opening the procedure the Commission stated that it had to examine the effects of the aid on the competitive situation of Air France on the international and domestic routes upon which it competes with other European carriers. The Commission thought that given the present structure of the group, aid to Air France could have spill-over effects for the benefit of its subsidiaries (in particular Air Inter and Air Charter).

As stated above, the French Government gave the commitment (commitment No 1) that Air France will be the only beneficiary of the aid and to this end it will set up a holding company which will control both Air Inter and Air France. Every financial transaction, or transfer of goods and services between the two subsidiaries shall, both before and after the establishment of the holding company, take place under market conditions and no preferential tariffs will be applied in favour of Air Inter.

The Commission considers that this commitment limits concern on the issue of possible seepage effects of the aid in that it virtually prevents Air France from using aid to cross-subsidize Air Inter's activities.

In the light of the information on the future structure of the holding company and the corresponding commitment from the French authorities, the Commission has limited the analysis of the effects of the aid on trade to Air France, which is the actual beneficiary of the aid. In verifying that aid does not adversely affect trading conditions to an extent contrary to the common interest, the Commission has to make sure that aid is not used to undercut prices and thus dump excessive capacity, and in any case that capacity is not increased to an extent higher than market growth.

In the course of the Article 93 (2) procedure, the French Government gave the commitments that:

- CNAF will not increase its operating fleet beyond 146 aircraft (commitment No 10),
- that CNAF will not increase its supply on all routes between Paris and all destinations within the European Economic Area, other than France, and on all routes between French provincial airports and all destinations within the European Economic Area beyond its supply in 1993. Air France will only be allowed to increase its annual supply in proportion to the actual increase in traffic, but always to a lesser extent than market growth (commitment No 11),
- that Air France will not be price-leader on its routes within the European Economic Area (commitment No 12). The Commission is of the opinion that this commitment (that is that Air France will not propose any tariffs which are lower than those of its competitors for an equivalent product within the European Economic Area) will not allow Air France to behave within the European Economic Area in a manner which is normally associated with price-leadership. That means that Air France will, during the period of the restructuring, be limited in its commercial strategy and will not be able to introduce lower tariffs than generally offered by its competitors. In that context, the 'equivalent offer' by Air France's competitors has to be interpreted widely with regard to the nature of the individual product, its conditions and restrictions, etc.,
- that Air France will not operate a number of scheduled routes between France and the other countries in the European Economic Area higher than that operated in 1993 (commitment No 14),
- that Air Charter will not increase its supply beyond the level attained in 1993, plus an annual increase proportionate to the growth of the market (commitment No 15),
- that all transfers of goods and services between CNAF and Air Charter reflect market prices (commitment No 16).

The Commission considers that these commitments involve severe limitations on capacity, supply, and pricing freedom for Air France, which are necessary to prevent the aid's being used to transfer the airline's difficulties to its competitors. The commitments will prevent Air France from pursuing an aggressive price policy on all the routes operated by the French carrier within the European Economic Area. In this respect, it

should be noted that during the first four months of 1994 Air France has, according to the Plan, reduced its supply in the European market (Air France's supply has decreased by 6,4 % over the corresponding period in 1993, while that of European airlines has increased on average by 3,8 %; by way of example, that of British Airways and KLM has increased by 5,7 % and 7,3 % respectively).

By limiting Air France's supply even below market growth its market within the European Economic Area will decrease, to the benefit of its competitors. This will prevent the aid from affecting trade to an extent contrary to the common interest.

The above conclusions are also valid for the charter activity carried out by Air France. The commitments given by the French Government with regard to Air Charter will have the effect of preventing CNAF from cross-subsidizing the non-scheduled services provided by its subsidiary Air Charter through transfer price practices. In any case, the commitment not to increase Air Charter's supply beyond market growth will offset the distortive effects of the aid on competition in the European charter market.

For the purpose of the analysis of the effects of the aid in the European Economic Area, the Commission must take into account the present situation of increased liberalization in the air transport sector, following the adoption of the third package⁽¹⁾.

The Commission considers that the removal of constraints protecting Air France from competition represents an appropriate compensatory justification for the granting of the aid, which serves the common interest pursuant to Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the EEA Agreement⁽²⁾.

The Commission has to verify that the negative effects of State aid are not reinforced through the use of exclusive rights or privileged treatment in favour of the beneficiary of the aid. In this respect, several problems have to be addressed:

- (a) on 27 April 1994, the Commission adopted a decision which declared the present traffic distribution rules for the Paris airport system to be incompatible with the third aviation package⁽³⁾. The exclusion of most Community carriers from the airport

of Orly, which resulted from those traffic distribution rules, ensured a competitive advantage in favour of Air France. These rules on traffic distribution must be modified before the winter season 1994/95 in order to dismantle this competitive advantage in favour of Air France which strengthens the anti-competitive effects of the aid to the detriment of the common interest. In this context the Commission welcomes the commitment from the French authorities to modify traffic distribution rules for the Paris airport system in accordance with the Commission's decision of 27 April 1994 in order to make these rules non-discriminatory, objective, and consistent (commitment No 18);

- (b) the Orly airport of Paris consists of two air terminals: Orly South, which is reserved for international flights, and Orly West, which is reserved for domestic traffic. Orly West is more modern and better equipped for French domestic traffic than Orly South.

In May 1994, the French Government decided to modify the rules on traffic distribution between the two air terminals. It decided to reserve Orly West exclusively for the Air France group as of 1 November 1995, and transfer the other airlines, which are already operating at Orly West to Orly South. This involves works to adapt part of Orly West to international traffic and part of Orly South to domestic traffic. This privileged treatment reserved to Air France represents a competitive advantage for the airline over its competitors and a serious detriment for the latter's customers. The Commission is concerned that the transfer will take place before Orly South is sufficiently adapted for the new traffic. Moreover, the possibilities of expansion of Orly South are much more limited than those at Orly West (present passenger capacity of Orly South and Orly West is 10 million and 20 million respectively, and traffic in these two terminals in 1993 was 9,5 million and 15,1 million respectively). The French authorities therefore, should re-examine the distribution of airlines between the two terminals sufficiently in time before Orly South is effectively saturated.

This concern is met by the commitment from the French Government to make sure that the works necessary to adapt the two air terminals of the Paris Orly airport as well as the possible saturation of Orly South, do not affect competitive conditions to the detriment of the airlines operating at Orly. It is the Commission's understanding that this commitment will in particular imply that any air carrier operating at Orly South, as well as any EEA airline which intends to start services to Orly in conformity with the modified traffic distribution rules for the Paris airport system, will not be disadvantaged in its development, in particular in there is still spare capacity available at Orly West.

⁽¹⁾ Council Regulations (EEC) No 2407/92, (EEC) No 2408/92 and (EEC) No 2409/92, (OJ No L 240, 24. 8. 1992, pp. 1, 8 and 15 respectively).

⁽²⁾ See the Commission's decision in Case C-15/94, TAP, not yet published.

⁽³⁾ See Commission Decision 94/290/EC, (Case VII/AMA/11/93 — TAT — Paris (Orly)-London), (OJ No L 127, 19. 5. 1994, p. 22).

- (c) Most of the parties intervening in the procedure have raised the issue of the reinforcement of the anti-competitive effects of the aid, in view of the fact that the French domestic market remains closed to competition in particular in the Orly-Toulouse/Orly-Marseille routes.

In this respect, the Commission must point out that on 27 April 1994, it decided⁽¹⁾ that France must authorize Community carriers to exercise traffic rights on the routes from Paris (Orly) to Toulouse and Marseille at the latest by 27 October 1994. Although this decision has been challenged by the French Government before the Court of Justice, such application has nevertheless no delaying effects pursuant to the Treaty. This implies that France is obliged to comply with the decision by 27 October 1994 and must therefore grant traffic rights to any interested Community carrier on the basis of Regulation (EEC) No 2408/92. Should the routes not be opened by that date, any interested party may invoke the direct effects of Community law before the appropriate national authorities in order to exercise the right to fly these routes. In view of the principle of supremacy of Community law, any national rules opposing the exercise of such fundamental freedoms cannot be applied. Every authority in a Member State, including administrative bodies, is bound by these fundamental principles of Community law, whose respect is also entrusted to the Commission as guardian of the treaties.

Finally, the commitments from the French authorities that :

- the French Government will not interfere in the management of Air France for other than commercial reasons (commitment No 4),
- the aid is the last favour of Air France (commitment No 5) and that will not be used to acquire additional shareholdings in other air carriers (commitment No 6),

meet the remaining concerns expressed by the Commission in opening the Article 93 (2) procedure.

The Commission is of the opinion that the above considerations adequately meet the legitimate concerns of interested parties on this important issue.

In the light of the above, the aid to be granted by the French authorities to Air France in the form of a capital increase amounting to FF 20 billion may benefit from exemption pursuant to Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the EEA Agreement,

provided certain commitments are respected and a number of conditions are satisfied,

HAS ADOPTED THIS DECISION :

Article 1

The aid to be granted in the period 1994 to 1996 in favour of Air France, in the form of a FF 20 billion capital increase to be paid in three tranches, and aimed at its restructuring in accordance with the Plan is compatible with the common market and the EEA Agreement by virtue of Article 92 (3) (c) of the Treaty and Article 61 (3) (c) of the Agreement, provided that the French Government comply with the following commitments :

1. the entire amount of aid shall benefit Air France alone. Air France means the Compagnie Nationale Air France, as well as any company of whose capital it holds more than 50 %, with the exception of Air Inter. In order to prevent any transfer of aid to Air Inter, a holding company will be set up by 31 December 1994 which will have a majority shareholding in Air France and Air Inter. No financial transfer which does not form part of normal commercial relationships shall be made between the companies in the group, either before or after the actual setting up of the holding company. Accordingly, all transfers of goods and services between the companies shall be carried out at market prices ; in no case may Air France apply preferential tariffs in favour of Air Inter ;
2. the process of privatizing Air France shall begin once the company's economic and financial recovery has been achieved, in accordance with the Plan, having regard also to the situation on the financial markets ;
3. Air France shall continue the process of implementing in full the Plan as communicated to the Commission on 18 March 1994, in particular as regards the following productivity targets expressed by the indicator equivalent revenue passenger kilometre/employee for the duration of the restructuring plan :
 - 1994 : 1 556 200 equivalent revenue passenger kilometre/employee,
 - 1995 : 1 725 500 equivalent revenue passenger kilometre/employee,
 - 1996 : 1 829 200 equivalent revenue passenger kilometre/employee ;
4. they shall adopt the normal behaviour of a shareholder *vis-à-vis* Air France, allowing the company to be managed in accordance with commercial principles alone and abstaining from intervention in its management for reasons other than those connected with its status as a shareholder ;

⁽¹⁾ OJ No L 127, 19. 5. 1994, p. 22.

5. they will not grant to Air France, in accordance with Community law, any new appropriation or any other form of aid;
 6. they will ensure that, for the duration of the Plan, the aid is used exclusively by Air France for the purposes of restructuring the company and not to acquire new holdings in other air carriers;
 7. they will ensure that, during the period covered by the Plan, Compagnie Nationale Air France does not increase the number of aircraft in its operating fleet beyond 146;
 8. they will not increase, during the period covered by the plan, the supply of Compagnie Nationale Air France beyond the level reached in 1993 for the following routes :
 - between Paris and all destinations in the European Economic Area (7 045 million available seat kilometre),
 - between provincial airports and all destinations in the European Economic Area (1 413,4 million available seat kilometre).
- The supply could be increased by 2,7 % each year, unless the growth rate of each of the corresponding markets is lower.
- However, if the annual growth rate of these markets exceeds 5 %, supply could be increased beyond 2,7 % by the amount of increase above 5 %;
9. they will ensure that Air France does not, during the period covered by the Plan, apply tariffs below those of its competitors for an equivalent supply on the routes that it operates within the European Economic Area;
 10. they will not grant preferential treatment to Air France in the matter of traffic rights;
 11. they will ensure that Air France does not operate, during the period covered by the Plan, more scheduled routes between France and the other countries in the European Economic Area than it did in 1993 (89);
 12. they will limit, during the period covered by the Plan, the supply of Air Charter to its 1993 level (3 047 seats and 17 aircraft), with a possible annual increase corresponding to the market growth rate;
 13. they will guarantee that any transfer of goods or services from Air France to Air Charter reflects market prices;
 14. they will ensure that Air France disposes of its shareholding in the Meridien hotel group by the end of

the year on the best possible financial, commercial and legal terms;

15. with the cooperation of Aéroports de Paris, they will, as soon as possible, modify the traffic distribution rules for the Paris airport system in accordance with the Commission decision of 27 April 1994 on the opening of the Orly-London link;
16. they will ensure that the work required to adapt the two terminals at Orly carried out by Aéroports de Paris, and a possible saturation of one or other of those terminals, do not affect competitive conditions to the detriment of the companies operating there.

Article 2

In order to ensure that the amount of aid remains compatible with the common market, the payment of the second and third tranches of the capital increase shall be subject to fulfilment of the above commitments and to the actual implementation of the Plan and achievement of the planned results (particularly as regards the profits and cost-effectiveness ratio as expressed in equivalent revenue passenger kilometre/employee, as well as the sale of shares).

The French Government shall submit to the Commission a report on the progress of the restructuring programme and on the economic and financial situation of Air France. These reports shall be submitted at least eight weeks before the release of the second and third tranches of aid in 1995 and 1996.

The Commission shall have the proper implementation of the Plan and the fulfilment of the conditions laid down for the approval of aid verified, in the light of, *inter alia*, the business environment and market trends, by independent consultants chosen by the Commission in consultation with the French Government.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 27 July 1994.

For the Commission

Hans VAN DEN BROEK

Member of the Commission

COMMISSION DECISION

of 29 September 1994

**adopting the forecast supply balance for banana production, consumption,
imports and exports for the Community for 1994**

(94/654/EC)

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

Having regard to Council Regulation (EEC) No 404/93 of
13 February 1993 on the common organization of the
market in bananas ⁽¹⁾, as amended by Commission Regu-
lation (EC) No 3518/93 ⁽²⁾, and in particular Article 20
thereof,

Whereas Article 16 of Regulation (EEC) No 404/93
provides for a forecast supply balance to be drawn up
each year on the basis of a number of market parameters ;
whereas the main purpose of the supply balance is to
establish the outlook for Community production and
consumption and the forecasts for imports of traditional
ACP bananas, and hence the supply requirements for the
Community market and the requisite tariff quota ;

Whereas the supply balance should be reviewed as soon
as possible in accordance with Article 16 (3) of Regulation
(EEC) No 404/93 to take account of the impact on
production in Martinique, Guadeloupe and certain ACP
States, of tropical storm Debbie, which struck the region
on 10 September 1994 ; whereas, however, the review can
only take place on the basis of a final assessment of the
situation, which is not yet applicable ;

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

HAS ADOPTED THIS DECISION :

Article 1

The forecast supply balance for banana production,
consumption, imports and exports for the Community for
1994 shall be as shown in the Annex hereto.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 29 September 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 47, 25. 2. 1993, p. 1.

⁽²⁾ OJ No L 320, 22. 12. 1993, p. 15.

ANNEX**PROVISIONAL BALANCE SHEET FOR BANANAS 1994***(quantities in tonnes to nearest 1 000)*

EC Production	643 000
Imports Traditional ACP	666 000
Tariff quota	2 118 000
Gross consumption	3 427 000
Exports	26 000
Net consumption	3 401 000

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1617/94 of 4 July 1994 amending Regulation (EEC) No 3652/81 laying down detailed rules for implementing the systems of advance fixing certificates for refunds in the poultrymeat and eggs sector

(Official Journal of the European Communities No L 170 of 5 July 1994)

Page 12, Article 1:

for: '... section 13, ...',

read: '... section 7, ...'.
