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Note to our Swedish and Finnish readers (see inside back cover)

⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 3116/94

of 12 December 1994

amending Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

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

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

Whereas Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops ⁽³⁾ provides for the payment to producers of durum wheat in traditional production zones of a supplement to the compensatory payment provided for in Title I of that Regulation in order to offset the additional loss of income to the producers in question as compared with producers of other cereals as a result of the setting of a single price for all cereals; whereas payment of the supplement is made only for areas sown to durum wheat in the traditional production zones;

Whereas, as a result of the alignment of the price for durum wheat on that for other cereals and the restriction to the zones in Annexes II and III to Regulation (EEC) No 1765/92 only of the supplement to the compensatory payment for areas sown to durum wheat, cultivation of this cereal outside those zones, especially in France, shows a disproportionate fall having regard to the objectives sought;

Whereas a certain level of production should thus be safeguarded in regions where production was well established outside the traditional production zones before the introduction of the reform;

Whereas aid should accordingly be introduced for areas sown to durum wheat outside the zones listed in Annexes II and III to Regulation (EEC) No 1765/92, the aid being

limited to an amount reflecting the loss of income due to the alignment of the price for durum wheat on that for other cereals;

Whereas, however, in order to avoid too high a rise in the areas sown to durum wheat, the areas eligible for additional support as compared with other cereals should be limited;

Whereas, moreover, in Spain, the national quota for the production of durum wheat should be adjusted in order to reflect better the true situation of producers during the reference period; whereas, for the sake of fairness, the Italian region of Umbria should also be regarded as a traditional durum-wheat production zone as regards a limited number of hectares which reflect the area traditionally sown to durum wheat;

Whereas in Portugal, during the reference period adopted for granting access to the supplementary compensatory payment for the production of durum wheat, producers of durum wheat and of other cereals were, under Council Regulation (EEC) No 3653/90 of 11 December 1990 introducing transitional measures governing the common organization of the market in cereals and rice in Portugal ⁽⁴⁾ granted degressive specific national aid altering the hierarchy of prices in that Member State; whereas, consequently, the durum wheat production potential has not been fully utilized; whereas it seems justified, therefore, to increase the durum wheat production quota allocated to Portugal; whereas, moreover, the specific situation obtaining in Portugal ought to be taken into account in allocating further access to the supplementary compensatory payment;

Whereas, in order to avoid the National Reference Areas, referred to in Article 5 (1) (f) and Annex V of Regulation (EEC) No 1765/92, being substantially exceeded, it is necessary to enable Member States to limit the areas for

⁽¹⁾ OJ No C 297, 25. 10. 1994, p. 20.

⁽²⁾ Opinion delivered on 30 November 1994 (not yet published in the Official Journal).

⁽³⁾ OJ No L 181, 1. 7. 1992, p. 12. Regulation as last amended by Regulation (EC) No 232/94 (OJ No L 30, 3. 2. 1994, p. 7).

⁽⁴⁾ OJ No L 362, 27. 12. 1990, p. 28. Regulation as last amended by Regulation (EEC) No 738/93 (OJ No L 77, 31. 3. 1993, p. 1).

which a producer may receive crop specific oilseed compensatory payments; whereas it should be possible for such limit to be differentiated between regions on the basis of objective criteria; whereas the sanctions referred to in Article 5 (1) (f) of Regulation (EEC) no 1765/92 shall nevertheless be applicable;

Whereas, in view of the particular structural situation of the new German *Länder*, oilseed production in Germany is threatening to develop in different ways in the various *Länder*; whereas, for the sake of fairness, provision should be made in Germany for penalties to vary according to the *Länder* in the event of any simultaneous overrun in the maximum guaranteed area and the national reference area; whereas the necessary measures should also be taken to prevent the application of this scheme from affecting the amount or the date of payment of the advance payment on oilseeds in other parts of the Community,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1765/92 is hereby amended as follows:

1. in the first indent of the second subparagraph of Article 4 (3), '550 000 hectares' shall be replaced by '570 000 hectares';
2. in the second indent of the second subparagraph of Article 4 (3), '30 000 hectares' shall be replaced by '35 000 hectares' and the following text added: 'Where access to the supplementary compensatory payment is not granted in accordance with the above criteria, it shall, in derogation from those criteria, be granted to Portuguese producers of arable crops in accordance with objective, duly justified criteria established by the national authorities.';
3. in Article 4 (4) the words 'In France' and 'departments' shall be replaced by 'In France and Italy' and 'departments and regions' respectively;
4. the following paragraph shall be added to Article 4:

'5. In France, in the departments where production of durum wheat is well established, other than those listed in Annexes II and III, aid of ECU 115/ha shall be paid in respect of not more than 50 000 ha.';
5. in Article 5 (1) (f), the following shall be inserted before the last sentence:

'However, in the case of Germany the appropriate additional reduction may be adjusted at its request, in whole or in part, according to the regional base area; where this option is exercised, Germany shall immediately send the Commission the data used to calculate the reductions to be applied.';
6. in Article 11 (2), the following shall be inserted after the first sentence:

'Where the provisions specifically applying to Germany laid down in the penultimate sentence of Article 5 (1) (f) are likely to affect the date of payment of the advance payment provided for in Article 11 (2) or the amount thereof, a date for payment and/or advance payment specific to Germany may be fixed.';
7. the following paragraph shall be added at the end of Article 11:

'7. Notwithstanding the provisions of this Article, Member States in which there is a significant risk of the National Reference Area set out in Annex V being substantially exceeded in the following marketing year may limit the area for which an individual producer may receive the oilseed compensatory payments referred to in Article 5. Such limit shall be calculated as a percentage of the arable land area, of either the Member State or the Regional Base Area, that is eligible for the compensatory payments provided for in this Regulation and shall be applied to the eligible arable area of the producer. This limit may be differentiated between Regional Base Areas on the basis of objective criteria. Member States shall announce such limit, at the latest, by 1 August of the marketing year prior to that in respect of which the compensatory payment is requested, or by an earlier date in the case of a Member State, or regions within a Member State, where plantings for the marketing year concerned take place prior to 1 August.';
8. in the fifth indent of Article 12 the words 'those determining the eligibility requirements for the durum wheat supplement' shall be replaced by the following:

'— those determining, for durum wheat, the eligibility requirements for the supplement to the compensatory payment provided for in Article 4 (3) and (4) and those for the aid provided for in Article 4 (5), and in particular the departments to be taken into consideration and the measures to be taken in the event of an overrun in the limit fixed for the payment of the aid.';

9. the following indent shall be added at the end of the first paragraph of Article 12:

— those relating to the application of Article 11 (7), in particular with respect to transitional measures which, where appropriate, may derogate from that paragraph in cases where limits were applied, under national provisions to individual producers with regard to sowings for the 1995/96 marketing year, before the date of sowing in the regions concerned.’;

10. the following shall be added to Annex III:

‘ITALY

— Umbria : 5 000 hectares’.

Article 2

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

It shall apply from the 1995/96 marketing year.

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

Done at Brussels, 12 December 1994.

For the Council

The President

J. BORCHERT

COUNCIL REGULATION (EC) No 3117/94
of 12 December 1994
amending Regulation (EEC) No 1907/90 on certain marketing standards for eggs

THE COUNCIL OF THE EUROPEAN UNION,

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⁾, and in particular Article 2 (2) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 1907/90 ⁽²⁾ lays down certain marketing standards for eggs;

Whereas the definition of the batch should be brought into line with the recent modification concerning the obligatory indication of the date of minimum durability for grade A eggs;

Whereas Regulation (EEC) No 1907/90 excludes direct sales of eggs from producers to consumers from its scope of application; whereas, in order to take account of the specific conditions of egg marketing in certain regions in Finland, sales from producers to retail outlets in those regions should also be excluded from its scope of application;

Whereas the length of the period during which grade A eggs may be sold as 'extra' or 'extra fresh' should be defined in relation to either the packing or laying date,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1907/90 is hereby amended as follows:

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 49. Regulation as last amended by Regulation (EEC) No 1574/93 (OJ No L 152, 24. 6. 1993, p. 1).

⁽²⁾ OJ No L 173, 6. 7. 1990, p. 5. Regulation as last amended by Regulation (EEC) No 2617/93 (OJ No L 240, 25. 9. 1993, p. 1).

1. In Article 1 point 10, the term 'packing or grading date' shall be replaced by the term 'date of minimum durability or packing date'.

2. Article 2 (3) shall be replaced by the following:

'3. This Regulation shall not apply to:

— eggs sold directly to the consumer for his own use, by the producer on his own farm, in a local public market with the exception of auction markets, or by door-to-door selling,

— eggs, excluding cracked eggs, sold to the local retailer by the producer in the specific regions of Finland referred to in Annex II,

provided that the eggs come from the producer's own production and are not packed in accordance with Articles 10, 11 and 12 and that use is not made of any of the quality and weight gradings laid down in this Regulation.'

3. Article 12 shall be replaced by the following:

'Article 12

The words "extra" or "extra fresh" may be used on small packs containing class A eggs provided with a band or label. These words shall be printed on the band or label, which shall be removed and destroyed not later than the seventh day after packing or the ninth day after laying'.

Article 2

This Regulation shall enter into force on 1 January 1995.

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

Done at Brussels, 12 December 1994.

For the Council

The President

J. BORCHERT

ANNEX

ANNEX II

Regions of Finland referred to in Article 2 (3)

The Provinces of:

- Lappi
- Oulu
- Pohjois-Karjala
- Kuopio
- Keski-Suomi
- Mikkeli
- Kymi
- Ahvenanmaa

The communes of Alajärvi, Lehtimäki, Lestijärvi, Perho, Soini, Töysä, Vimpeli and Ähtäri in the Province of Vaasa.

COMMISSION RECOMMENDATION No 3118/94/ECSC**of 19 December 1994****on prior Community surveillance of imports of certain iron and steel products covered by the ECSC Treaty originating in non-member countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 74 thereof,

Whereas by recommendation No 85/94/ECSC⁽¹⁾, the Commission made imports into the Community of certain iron and steel products covered by the Treaty establishing the European Coal and Steel Community subject to Community surveillance;

Whereas, in view of current conditions in the steel industry, such prior Community surveillance continues to be necessary to provide statistical information to permit rapid analysis of import trends;

Whereas the completion of the internal market requires that the formalities to be accomplished by Community importers be the same wherever the goods may be cleared;

Whereas the import documents issued for the purposes of Community surveillance must be valid throughout the Community, regardless of the Member State of issue;

Whereas the issue of import documents, while subject to standard conditions at Community level, is to be the responsibility of the national authorities,

by a Community importer of the completed application, regardless of the importer's place of establishment in the Community.

3. Paragraph 2 shall apply without prejudice to the applicability of Community quantitative limits or to decisions taken in the framework of an agreement or the management of a quota.

4. An import document or licence issued by one of the authorities listed in Annex II shall be valid throughout the Community.

5. The importer's application shall include the particulars provided for in Article 2 (1). Where the goods are to be put into free circulation in a Member State other than that which issued the import document or licence, the form provided for in Annex III must be used.

6. Without prejudice to possible changes in the import regulations in force or decisions taken in the framework of an agreement or the management of a quota:

— the period of validity of the import document or licence is hereby fixed at four months;

— unused or partly used import documents or licences may be renewed.

Article 2

MAKES THE FOLLOWING RECOMMENDATION:

Article 1

1. The release for free circulation in the Community of iron and steel products covered by the ECSC Treaty listed in Annex I, originating in non-member countries other than the countries which are parties to the Agreement on the European Economic Area (EEA), shall be subject to the issue of an import document.

2. The import document or licence (import authorization) shall be issued by the competent authority in the Member States, free of charge and for any quantities requested, upon receipt of the application and in any case within not more than 10 working days of the submission

1. The importer's application must state:

- (a) the consignor's name and address;
- (b) the full name and address of the importer (consignee);
- (c) the exact description of the goods and the combined nomenclature code(s);
- (d) the country of origin;
- (e) the country of consignment;
- (f) the net weight, by combined nomenclature heading;
- (g) the cif value at Community frontier by combined nomenclature heading;
- (h) whether the products concerned are seconds or of substandard quality⁽²⁾;
- (i) the proposed period and place(s) of customs clearance.

⁽¹⁾ OJ No L 17, 20. 1. 1994, p. 1.

⁽²⁾ Under the criteria given in OJ No C 180, 11. 7. 1991, p. 4.

2. The importer shall state whether his application is a repeat of a previous application concerning the same contract.

3. The importer shall certify that his application is accurate and shall submit a copy of the contract of sale or purchase, the *pro forma* invoice and/or, in cases where the goods are not directly purchased in the country of production, a certificate of production issued by the producing steel mill.

Article 3

Where agreed between the Community and any particular third country, an export licence issued by the authorities of that country shall also be required for the import into the Community of the ECSC products concerned. The list of countries covered by such agreements, together with the date of entry into force of the agreements, shall be published and updated in the form of annexes to this recommendation.

Article 4

1. Without prejudice to Article 1 (3), Article 2 (1) (g) shall not prevent release for free circulation in cases where the unit price for transaction exceeds that indicated in the import document.

2. Without prejudice to Article 1 (3), Article 2 (1) (f) shall not prevent release for free circulation where the quantity of products presented on import does not exceed that stipulated in the import document or licence by more than 5 % on aggregate.

3. Where the goods are to put into free circulation in a Member State other than the one in which the import document or licence was issued, the authority which issued the authorization shall send it directly, together

with the application referred to in Article 1 (5), to the licensing authority in the Member State of importation. The latter authority shall if necessary automatically endorse or confirm the authorization issued by the first authority, which shall then be forwarded immediately to customs at the intended place of importation.

4. Applications for import documents or licences and the licences themselves shall be confidential. They shall be restricted to the competent authorities and the applicant.

Article 5

1. Within the first ten days of each month, the Member States shall notify the Commission of the tonnage and values (calculated in ECU) for which import documents or licences were issued during the preceding month, giving the particulars entered in the importers' applications under Article 2 (1) (c) to (h).

2. The Member States shall give notification of any anomalies or cases of fraud which they discover and, where relevant, the basis on which they have refused to grant an import document or licence.

Article 6

This recommendation shall be applicable from 1 January 1995.

It shall apply until 31 December 1995.

Done at Brussels, 19 December 1994.

For the Commission

Leon BRITTAN

Member of the Commission

ANEXO I — BILAG I — ANHANG I — ΠΑΡΑΡΤΗΜΑ I — ANNEX I — ANNEXE I — ALLEGATO I — BIJLAGE I — ANEXO I

7201 10 11	7208 32 91	7210 70 39	7216 31 19	7222 10 81
7201 10 19	7208 32 99	7210 90 31	7216 31 91	7222 10 89
7201 10 30	7208 33 10	7210 90 33	7216 31 99	7222 30 10
7201 10 90	7208 33 91	7210 90 35	7216 32 11	7222 40 11
7201 20 00	7208 33 99	7210 90 39	7216 32 19	7222 40 19
7201 30 10	7208 34 10		7216 32 91	7222 40 30
7201 30 90	7208 34 90	7211 11 00	7216 32 99	
7201 40 00	7208 35 10	7211 12 10	7216 33 10	7224 10 00
	7208 35 90	7211 12 90	7216 33 90	7224 90 01
7202 11 20	7208 41 00	7211 19 10	7216 40 10	7224 90 05
7202 11 80	7208 42 10	7211 19 91	7216 40 90	7224 90 08
7202 99 11	7208 42 30	7211 19 99	7216 50 10	7224 90 15
	7208 42 51	7211 21 00	7216 50 91	7224 90 31
7203 90 00	7208 42 59	7211 22 10	7216 50 99	7224 90 39
	7208 42 91	7211 22 90	7216 90 10	
7204 50 10	7208 42 99	7211 29 10		7225 10 10
7204 50 90	7208 43 10	7211 29 91	7218 10 00	7225 10 91
	7208 43 91	7211 29 99	7218 90 11	7225 10 99
7206 10 00	7208 43 99	7211 30 10	7218 90 13	7225 20 20
7206 90 00	7208 44 10	7211 41 10	7218 90 15	7225 30 00
	7208 44 90	7211 41 91	7218 90 19	7225 40 10
7207 11 11	7208 45 10	7211 49 10	7218 90 50	7225 40 30
7207 11 14	7208 45 90	7211 90 11		7225 40 50
7207 11 16	7208 90 10		7219 11 10	7225 40 70
7207 12 10		7212 10 10	7219 11 90	7225 40 90
7207 19 11	7209 11 00	7212 10 91	7219 12 10	7225 50 10
7207 19 14	7209 12 10	7212 21 11	7219 12 90	7225 50 90
7207 19 16	7209 12 90	7212 29 11	7219 13 10	7225 90 10
7207 19 31	7209 13 10	7212 30 11	7219 13 90	
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7207 20 15	7209 14 10	7212 40 91	7219 14 90	7226 10 31
7207 20 17	7209 14 90	7212 50 31	7219 21 11	7226 10 39
7207 20 32	7209 21 00	7212 50 51	7219 21 19	7226 20 20
7207 20 51	7209 22 10	7212 60 11	7219 21 90	
7207 20 55	7209 22 90	7212 60 91	7219 22 10	7226 91 10
7207 20 57	7209 23 10		7219 22 90	7226 91 90
7207 20 71	7209 23 90	7213 10 00	7219 23 10	7226 92 10
	7209 24 10	7213 20 00	7219 23 90	7226 99 20
7208 11 00	7209 24 91	7213 31 20	7219 24 10	
7208 12 10	7209 24 99	7213 31 81	7219 24 90	7227 10 00
7208 12 91	7209 31 00	7213 31 89	7219 31 10	7227 20 00
7208 12 95	7209 32 10	7213 39 10	7219 31 90	7227 90 10
7208 12 98	7209 32 90	7213 39 90	7219 32 10	7227 90 30
7208 13 10	7209 33 10	7213 41 00	7219 32 90	7227 90 50
7208 13 91	7209 33 90	7213 49 00	7219 33 10	7227 90 70
7208 13 95	7209 34 10	7213 50 20	7219 33 90	
7208 13 98	7209 34 90	7213 50 81	7219 34 10	7228 10 10
7208 14 10	7209 41 00	7213 50 89	7219 34 90	7228 10 30
7208 14 91	7209 42 10		7219 35 10	7228 20 11
7208 14 99	7209 42 90	7214 20 00	7219 35 90	7228 20 19
7208 21 10	7209 43 10	7214 30 00	7219 90 11	7228 20 30
7208 21 90	7209 43 90	7214 40 10	7219 90 19	7228 30 20
7208 22 10	7209 44 10	7214 40 20		7228 30 41
7208 22 91	7209 44 90	7214 40 51	7220 11 00	7228 30 49
7208 22 95	7209 90 10	7214 40 59	7220 12 00	7228 30 61
7208 22 98		7214 40 80	7220 20 10	7228 30 69
7208 23 10	7210 11 10	7214 50 10	7220 90 11	7228 30 70
7208 23 91	7210 12 11	7214 50 31	7220 90 31	7228 30 89
7208 23 95	7210 12 19	7214 50 39		7228 60 10
7208 23 98	7210 20 10	7214 50 90	7221 00 10	7228 70 10
7208 24 10	7210 31 10	7214 60 00	7221 00 90	7228 70 31
7208 24 91	7210 39 10			7228 80 10
7208 24 99	7210 41 10	7215 90 10	7222 10 11	7228 80 90
7208 31 00	7210 49 10		7222 10 19	
7208 32 10	7210 50 10	7216 10 00	7222 10 21	7301 10 00
7208 32 30	7210 60 11	7216 21 00	7222 10 29	
7208 32 51	7210 60 19	7216 22 00	7222 10 31	
7208 32 59	7210 70 31	7216 31 11	7222 10 39	

ANNEX II

MEMBER STATES' LICENSING ADDRESSES

BELGIUM

Ministère des affaires économiques
Office central des contingents et licences
rue J. A. De Mot 24-26
B-1040 Bruxelles
Fax : 32-2/230 83 22

Ministerie van Economische Zaken
Centrale Dienst voor Contingenten en Vergunningen
J.-A. De Motstraat 24-26
B-1040 Brussel
Fax : 32-2/230 83 22

SPAIN

Ministerio de Comercio y Turismo
Dirección General de Comercio Exterior
Paseo de la Castellana 162
E-28046 Madrid
Fax : 34-1/563 18 23

GREECE

Υπουργείο Εθνικής Οικονομίας
Διεύθυνση Ρυθμιστικών Θεμάτων
Εξωτερικού Εμπορίου
Μητροπόλεως 1, Πλατεία Συντάγματος
GR-10557 Αθήνα
Fax : 30-1/323 43 93

UNITED KINGDOM

Department of Trade and Industry, North East,
Import Licensing Branch,
Queensway House, West Precinct,
UK-Billingham, Cleveland,
TS23 2NF;
Telefax : 44-642/53 35 57

IRELAND

Department of Trade and Industry,
Trade Regulation Branch,
Frederick Building, Setanta Centre,
South Frederick Street,
IRL-Dublin 2;
telefax : 353-1/679 57 10

AUSTRIA

Bundesministerium für wirtschaftliche
Angelegenheiten
Außenwirtschaftsadministration
Landstrasser Hauptstraße 55-57
A-1030 Wien
Fax : 43-1/715 83 47

DENMARK

Erhvervsfremme Styrelsen
Søndergade 25
DK-8600 Silkeborg
Fax : 45-87 20 40 77

GERMANY

Bundesamt für Wirtschaft, Dienst 01
Postfach 5171
D-65762 Eschborn 1
Fax : 49-6196/40 42 12

FRANCE

Ministère de l'industrie
Scribe
3-5, rue Barbet-de-Jouy
F-75353 Paris 07 SP
Fax : 33-1/43 19 43 69

THE NETHERLANDS

Centrale Dienst voor In- en Uitvoer
Postbus 30.003, Engelse Kamp 2
NL-9722 AX Groningen
Fax : 31-50/26 06 98

PORTUGAL

Direcção-Geral do Comércio Externo
Av. da República, 79
P-1000 Lisboa
Fax : 351-1/793 22 10

ITALY

Ministero per il Commercio estero
D.G. Import-export, Division V
Via Boston
I-00144 Roma
Fax : 39-6/59 93 26 36; 59 93 26 37

LUXEMBOURG

Ministère des affaires étrangères
Office des licences
BP 113
L-2011 Luxembourg
Téléfax : 352/46 61 38

FINLAND

National Board of Customs,
Annankatu 12 A,
FIN-00120 Helsinki;
Telefax : 358-0/614 27 64

SWEDEN

Swedish National Board of Trade,
Box 1209,
S-11182 Stockholm;
Telefax : 46-8/20 03 24.

EUROPEAN COMMUNITY

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1	Holder's copy	1. Consignee (name, full address, country, VAT number)	2. Issue number	
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	1		5. Declarant/representative as applicable (name and full address)	6. Country of origin (and geonomenclature code)
				7. Country of consignment (and geonomenclature code)
				8. Last day of validity
9. Description of goods		10. CN code		
		11. Quantity expressed in quota unit		
		12. Security/guarantee (as applicable)		
13. Further particulars				
14. Competent authority's endorsement				
Date :				
Signature : Stamp				

15. ATTRIBUTIONS			
Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof			
16. Net quantity (net mass or other unit of measure stating the unit)		19. Customs document (form and number) or extract No and date of attribution	20. Name, Member State, stamp and signature of the attributing authority
17. In figures	18. In words for the quantity attributed		
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EUROPEAN COMMUNITY		IMPORT LICENCE	
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COMMISSION REGULATION (EC) No 3119/94

of 19 December 1994

imposing a provisional anti-dumping duty on imports of ferro-silico-manganese
originating in Russia, Ukraine, Brazil and South Africa

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, as last amended by Regulation (EC) No 522/94⁽²⁾, and in particular Article 11 thereof,

After consultation within the Advisory Committee,

Whereas :

A. PROCEDURE

- (1) In August 1993, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports of ferro-silico-manganese originating in Russia, Ukraine, Georgia, Brazil and South Africa.

The proceeding was initiated as a result of a complaint lodged by Euroalliage — Liaison Committee of the Ferro-Alloy Industry — acting on behalf of allegedly all the Community producers of ferro-silico-manganese.

The complaint contained evidence of dumping of the product originating in the countries mentioned above, and of material injury resulting therefrom. This evidence was considered sufficient to justify opening a proceeding.

- (2) The Commission officially advised the producers, exporters and importers known to be concerned, the representatives of the exporting countries and the complainants, and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (3) Five Community producers replied to the Commission's questionnaire and made their views known in writing. These producers were found to account

for 66 % of the Community production of ferro-silico-manganese, and were therefore representative of the Community industry within the meaning of Article 4 (5) of Regulation (EEC) No 2423/88 (hereinafter referred to as 'the Basic Regulation').

- (4) A number of producers in Ukraine, Georgia, Brazil and South Africa, and three importers in the Community, one of which related to a South African producer, replied to the Commission's questionnaire and made their views known in writing.
- (5) As regards Russia, the complaint had pointed to the existence of ferro-silico-manganese of Russian origin, based on Eurostat statistical data, but did not identify producers of this product in Russia. The Commission sent questionnaires to potential producers of ferro-silico-manganese in this country, i.e. ferro-alloy producers, and to traders known to be concerned. No producer and only one trader replied to the questionnaire, arguing that there was no production of ferro-silico-manganese in Russia. Representatives of the Russian authorities also submitted that Russia had no production facilities for this product and should not therefore be included in the proceeding.

However, the Commission obtained evidence that significant quantities of ferro-silico-manganese of Russian origin were exported from Russia to the Community during the investigation period. Under these circumstances, and in order to avoid any potential discrimination or circumvention, Russia should not be excluded from the scope of the present investigation.

- (6) All parties who so requested were granted a hearing.
- (7) The Commission sought and verified the information it deemed to be necessary for the purpose of a preliminary determination of dumping and injury, and carried out investigations at the premises of the following :

(a) Complainant Community producers :

— Sadaci SA, Belgium,

— Dunkerque Electrometallurgie (DEM),
France,

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 66, 10. 3. 1994, p. 10.

⁽³⁾ OJ No C 210, 4. 8. 1993, p. 5.

- Fornileghe, SpA, Italy,
- Italghisa, SpA, Italy;

(b) Brazilian producers :

- Companhia Paulista de Ferro-Ligas, São Paulo,
- Sibra Electrosiderurgica Brasileira, Bahia;

(c) South African producers :

- Samancor Limited, Johannesburg,
- Highveld Steel and Vanadium Corporation Limited, Witbank;

(d) Related importers :

- Samancor International Limited, United Kingdom;

(e) Unrelated importers :

- Sirce SpA, Italy,
- Société Anonyme des Minerais, Luxembourg.

- (8) The investigation of dumping covered the period 1 April 1992 to 31 March 1993 (investigation period).

B. PRODUCT(9) *Description of the product concerned*

The product under investigation is ferro-silico-manganese, falling within CN code 7202 30 00.

Ferro-silico-manganese is an alloy composed mainly of manganese, silicon, carbon, phosphorus and sulphur. It is available in different qualities according, in particular, to the content of carbon in the alloy, and in various granular sizes. The investigation has shown that all qualities have the same application, i.e. as a deoxidizer or as an alloy element in steel production, and are generally interchangeable, although particular types of steel may require specific qualities.

For the purpose of this investigation, all qualities were regarded as a single product. However, given that prices tend to vary according to the qualities, price comparisons were based on the grade most commonly sold, i.e. a product with 65 % manganese minimum and approximately 17 % silicon, in granular sizes between 10 to 200 mm (standard ferro-silico-manganese).

(10) *Like product*

The Commission established that the product exported by Brazil and South Africa is similar in its

basic physical characteristics and in use both to the product intended for consumption in the said countries and to that produced by the Community industry. Accordingly, they were considered like products within the meaning of Article 2 (12) of the Basic Regulation.

Similarly, the Commission established, that the ferro-silico-manganese exported by Russia, Georgia and Ukraine is alike to that produced by the Community industry and, as regards Russia and Ukraine, to that produced and sold for consumption in Brazil, the country used as reference for such exports (see recital 12).

C. DUMPING

- (11) No dumping calculation was made with regard to imports from Georgia given the conclusion that imports from this country during the investigation period were *'de minimis'* (see recital 34).

Normal value(a) *Russia, Ukraine*

- (12) Since both Russia and Ukraine are non-market economy countries, normal value for these countries was determined in conformity with Article 2 (5) of the Basic Regulation, i.e. on the basis of information obtained from a market economy country in which the product is manufactured.

- (13) The complaint proposed Brazil as the reference country. The Commission considered that Brazil was an appropriate and not unreasonable choice for the following reasons :

- according to information available to the Commission, the ferro-silico-manganese produced in Brazil and in the countries concerned has similar physical characteristics and the same application,
- the conditions of access to raw materials in Brazil are generally comparable to those of the exporting countries concerned for which information is available, as in both cases the main raw materials used in the production of ferro-silico-manganese are claimed to be locally available,
- the sales of ferro-silico-manganese in Brazil appear to be subject to sufficient competition to allow for prices to be governed by market forces. Indeed, the Commission has received information on the existence of at least five producers in Brazil and imports from more than one source,

- the volumes of ferro-silico-manganese sold by the Brazilian producers in their domestic market during the investigation period were found to exceed the quantities exported to the Community by each of the countries concerned, and could therefore be considered representative.

The normal value for Russia and Ukraine was therefore determined on the basis of the normal value calculated for Brazil (see recital 14).

(b) *Brazil*

- (14) The two Brazilian producers which cooperated with the Commission were found to be related, i.e. one was a subsidiary of the other. It was accordingly considered appropriate to calculate one normal value and one dumping margin for the group. Normal value for Brazil was therefore established on the basis of an average of the data submitted by both producers, as explained hereinafter.
- (15) Domestic sales of ferro-silico-manganese in Brazil exceeded 5 % of the quantities imported into the Community and were therefore considered sufficiently representative in volume for constituting the basis for calculating the normal value.
- (16) However, in view of the significant price variations that are a result of the hyper-inflation in Brazil and in order that a comparison with the export price could be made as nearly as possible at the same time, normal value was determined on a monthly basis.
- (17) Almost all sales in Brazil were made to independent customers. The Commission examined whether these sales had been made in the ordinary course of trade by comparing, on a monthly basis, the weighted average price with the average unit cost of both producers.

For months in which the weighted average price exceeded the average unit cost, normal value was determined, in accordance with Article 2 (3) (a) of the Basic Regulation, on the basis of domestic sales, i.e. the weighted average price for the month.

In months where the weighted average domestic price did not permit recovery of all costs in the ordinary course of trade, normal value was based on a constructed value in conformity with Article 2 (3) (b) of the Basic Regulation, determined by adding manufacturing costs, a reasonable amount for

selling, administrative and other general expenses and a margin of profit.

- (18) In the absence of another valid criterion for the determination of the reasonable level of profit, the percentage taken was 5 % which, according to the information available to the Commission, constitutes the minimum necessary to maintain viability in this industry.

(c) *South Africa*

- (19) Both South African producers sold on their domestic market, at profitable prices considered to be charged in the ordinary course of trade, more than 5 % of the quantities exported to the Community. These sales were therefore considered to be sufficiently representative as a basis for calculating the normal value.
- (20) In its examination of whether the domestic sales of the South African producers had been made in the ordinary course of trade, the Commission excluded sales to related customers, where such sales existed. In the case of one South African producer, it excluded sales to a customer with whom this producer was found to have a compensatory arrangement and with regard to which the Commission was not satisfied that the prices involved were comparable to those involved in transactions between parties which had no such link. On the basis of the remaining sales, it established that the average domestic price of each producer was higher than the respective unit cost.
- (21) Normal value for both South African producers was therefore established on the basis of the weighted average domestic price for ferro-silico-manganese sold on the domestic market at prices in the ordinary course of trade, in accordance with Article 2 (3) (a) of the Basic Regulation.

Export price

(a) *Russia*

- (22) Given the absence of cooperation from Russian producers, the export prices were determined according to facts available in conformity with Article 7 (7) (b) of the Basic Regulation. In this context, the Commission considered that the best evidence available was the average monthly prices reported by Eurostat statistics for imports of ferro-silico-manganese of Russian origin during the investigation period.

(b) Ukraine

- (23) The information on export sales submitted by the cooperating Ukrainian producers was found not to be in usable form, in particular since it was not possible to establish, on the basis of the responses to the questionnaires, whether export sales had been made to the Community or other destinations. Furthermore, one importer in the Community related to an Ukrainian producer did not cooperate in the investigation, thus preventing access to information on costs and resale prices of this importer, which were necessary to construct the export price in conformity with Article 2 (8) (b) of the Basic Regulation.

- (24) The Commission, however, received and verified information on export sales of Ukrainian origin to two unrelated importers in the Community. These sales were found to account for 53 % of the total imports of ferro-silico-manganese of Ukrainian origin to the Community during the investigation period. Under these circumstances, it was considered appropriate to base the export prices both on the information submitted by these importers and, for the remaining sales, on the best evidence available which in this case was considered to be the monthly average prices reported by Eurostat for imports of Ukrainian origin during the investigation period. The use of these statistics is supported by the fact that they were generally in line with the prices reported by the importers and verified by the Commission.

The export prices were therefore determined partly on the basis of the prices actually paid or payable for the product sold for export to the Community and partly on facts available.

(c) Brazil

- (25) All exports sales to the Community during the investigation period were made directly to independent importers.

The export prices were therefore determined on the basis of the prices actually paid or payable for the product sold for export to the Community in conformity with Article 2 (8) (a) of the Basic Regulation.

(d) South Africa

- (26) Where sales to the Community were made directly to unrelated importers, the export prices were

determined on the basis of the prices actually paid or payable for the product sold for export to the Community, in conformity with Article 8 (8) (a) of the Basic Regulation.

Where exports were made to related importers in the Community, export prices were constructed in accordance with Article 2 (8) (b) of the Basic Regulation, on the basis of the resale prices to the first independent purchaser adjusted to take account of all costs between importation and resale and a profit margin of 3 %, which was provisionally considered to be reasonable on the basis of the information available to the Commission on the product sector concerned.

Comparison

- (27) The normal value was compared with the export prices, where possible on a transaction-by-transaction basis. For the purpose of a fair comparison adjustments were made in conformity with Article 2 (9) and (10) of the Basic Regulation, in respect of differences affecting price comparability, such as differences in selling expenses for which satisfactory evidence had been submitted.
- (28) In the case of exports from the Ukraine, an adjustment was made to take account of differences in physical characteristics (i.e. a high content in phosphorus and non-crushed formats) where the claim for the difference was substantiated.
- (29) Comparisons were made at the ex works stage for Brazil and South Africa, and at fob level for Russia and Ukraine, which was considered to be the first appropriate equivalent stage of comparison given that costs in non-market economy countries cannot be taken into account in determining prices on the basis of which the comparison between export prices and normal value is made.

Dumping margins

- (30) The comparison showed the existence of dumping, the dumping margins being equal to the amount by which the normal value established exceeded the price for export to the Community.
- (31) The weighted average dumping margins for the countries and companies concerned, expressed as a percentage of the CIF-Community frontier prices, customs duty unpaid, are the following :

— Russia :	57,4 %,
— Ukraine :	52,8 %,

— Brazil :

Group formed by Companhia Paulista de Ferro-Ligas and Sibra Electrosiderurgica Brasileira : 40,6 %,

— South Africa :

— Highveld Steel and Vanadium Corporation Limited : 45,3 %,

— Samancor Limited : 57,8 %.

- (32) For producers in Brazil and South Africa which neither replied to the Commission's questionnaire nor otherwise made themselves known, the dumping was determined on the basis of facts available in accordance with Article 7 (7) (b) of the Basic Regulation. In this context, it was considered that the best evidence available was the facts established during the investigation. Since there was no reason to believe that the non-cooperating companies would be dumping any less than the highest level found, the dumping for non-cooperators was determined at that level.

D. INJURY

Cumulation of the dumped imports

- (33) The Commission examined whether the effect of imports from the countries concerned on the Community industry should be analysed cumulatively on the basis of the following criteria : volume of imports during the investigation period, comparability of the products imported in terms of physical characteristics and interchangeability of end use and similarity of market behaviour.
- (34) As regards Georgia, the information available to the Commission showed that the volume of imports of ferro-silico-manganese originating in this country during the investigation period accounted for *de minimis* quantities (i.e. 0,9 % of Community consumption). In conformity with usual Commission practice and for the purpose of the provisional findings, these imports were considered not to be capable of contributing to the injury to the Community industry and were accordingly excluded from the injury assessment.
- (35) As regards imports originating in Russia, Ukraine, Brazil and South Africa, it was found that the products imported from each of these countries competed with each other and with the like product produced by the Community industry, that volumes imported from each country during the period under consideration were significant and

that price trends were similar. Under these circumstances, it was considered that imports from these countries should be analysed cumulatively.

Community consumption, volume and market share of the dumped imports

- (36) Community consumption of ferro-silico-manganese increased virtually continuously during the period under consideration. In total, it went from 415 263 tonnes in 1989 to 504 043 tonnes in the investigation period, representing an increase of 21,4 % over the period.
- (37) The total volume of imports of ferro-silico-manganese originating in Russia, Ukraine, Brazil and South Africa increased steadily and substantially from 64 358 tonnes in 1989 to 150 198 tonnes in the investigation period, i.e. an increase of 133,4 %.
- Based on evidence available to the Commission, i.e. Eurostat statistics, exports from Russia rose from some 66 tonnes in 1989 to approximately 16 871 tonnes in the investigation period. In the same period, exports from Ukraine went from approximately 198 tonnes to some 33 284 tonnes.
- Brazil increased its exports to the community from 11 239 tonnes in 1989 to 50 030 tonnes in the investigation period.
- As regards South Africa, exports fluctuated somewhat between 1989 and the investigation period. However, volumes were invariably significant and in only one year (1990) fell below 50 000 tonnes.

- (38) In terms of market shares based on total apparent consumption, the market penetration of the dumped imports rose significantly from 1989 until the investigation period, i.e. from 15,4 to 29,7 %. The market shares of the individual countries concerned during the investigation period were as follows : Russia 3,3 %, Ukraine 6,6 %, Brazil 9,9 % and South Africa 9,9 %.

Prices of the dumped imports

- (39) The Commission compared the prices of the Community industry with those of the exporters concerned in the Community market, during the investigation period. The prices considered were those to independent customers, adjusted where necessary to ex works Community industry level, in order to ensure comparison at the same level of trade.

- (40) The comparison showed price undercutting margins of up to 16,3 %. This price undercutting rate during the investigation period must be assessed together with the fact that the Community producers had been compelled to reduce their prices by more than 40 % during the previous four years as a result of the downward pressure exerted by all the exporters concerned.

Situation of the Community industry

(a) Production

- (41) Overall Community production of ferro-silico-manganese rose from 114 180 tonnes in 1989 to 118 332 tonnes in the investigation period, representing an increase of 3,6 %.

(b) Capacity, capacity utilization

- (42) As regards capacity, it should be noted that the production facilities of ferro-silico-manganese are designed to produce more than one product and do so as a function both of demand in the market and of minimizing costs. As a consequence, it was difficult to determine capacity levels for the product concerned. However, based on an estimate of the capacity normally attributed by the Community producers to the production of ferro-silico-manganese, installed capacity remained unchanged between 1989 and the investigation period and therefore the utilization rate rose slightly from 59,6 to 61,8 %.

(c) Sales volume of the Community industry

- (43) The volume of sales of the Community industry in the Community increased from 100 000 tonnes in 1989 to 115 432 tonnes in the investigation period. This increase, however, is considerably less than the 21,4 % increase in consumption during the period under consideration.

(d) Market share

- (44) The development of sales volume, compared to that of apparent Community consumption, shows that the market share held by the Community producers decreased from 24,1 in 1989 to 22,9 % in the investigation period.

(e) Stocks

- (45) No clear pattern could be determined as regards levels of stock of the Community producers between 1989 and the investigation period, except that stock increases and decreases for individual

producers coincided with respective rises and falls in production.

(f) Price evolution

- (46) The downward pressure on prices resulting from the dumped imports forced the Community industry to continuously reduce its prices between 1989 and the investigation period, in an attempt to keep its market share. Prices, on an indexed basis were as follows: 100 in 1989, 73 in 1990, 67 in 1991, 61 in 1992 and 60 in the investigation period.

(g) Profitability

- (47) A weighted average of the Community producers results, expressed as a percentage of turnover, showed a profit of 16,9 % in 1989 which turned into a loss of 14,9 % in 1990 followed by further and increasing losses of 26 % in 1991, 36,9 % in 1992 and 36,3 % in the investigation period.

(h) Employment

- (48) Employment in the ferro-silico-manganese sector fell by 14,7 % between 1989 and the investigation period.

Conclusion on injury

- (49) The examination of the facts on injury has shown that the Community industry has experienced a significant drop in market share at a time when Community consumption had risen by 21,4 %. The Community producers' financial results swung from satisfactory profits in 1989 to heavy losses of 36,3 % in the investigation period. Employment also showed a considerable decline.
- (50) In light of the significance of these negative economic factors the Commission concludes that the Community industry has suffered material injury within the meaning of Article 4 (1) of the Basic Regulation.

E. CAUSE OF INJURY

(a) Effect of the dumped imports

- (51) In its examination of whether the material injury suffered by the community industry had been caused by the effect of the dumped imports, the Commission found that the financial situation of the Community producers turned from satisfactorily positive to heavily negative during the same period of time, i.e. from 1989 to the investigation period, during which the volume of the dumped imports more than doubled.

Furthermore, price undercutting was widespread and practised by all the exporters concerned. Given the price sensitivity of the market for ferro-silico-manganese, this resulted in the Community producers having to adjust their prices to meet the downward trend exerted by all the exporters under investigation. As a consequence, the Community producers suffered a 40 % reduction in prices. Despite this, the Community industry was unable to increase its sales commensurate with the increase in demand and capacity utilization consequently remained at low levels. These factors resulted in a severe erosion of profits.

- (52) One South African producer claimed that exports from South Africa, having remained relatively stable between 1989 and the investigation period with a consequent declining trend in market share could not have contributed to the injury sustained by the Community industry. The Commission found however, that the significant volumes of dumped imports from South Africa maintained during this period, together with a continuous decrease in prices at levels that undercut the prices of the European producers, by up to 13,4 % during the investigation period, contributed to the price erosion and financial losses suffered by the Community industry.

(b) Other factors

- (53) The Commission examined whether the injury suffered by the Community industry could have been caused by factors other than the dumped imports. In particular, the Commission looked at the trend in consumption in the Community market and the evolution and impact of imports from non-member countries not included in this proceeding.
- (54) Community consumption of ferro-silico-manganese showed an increasing trend between 1989 and the investigation period (see recital 36). The injury suffered by the Community industry cannot therefore be attributed to the development of demand.
- (55) As regards imports from non-member countries not concerned by this proceeding, the Commission found that their market share, as a whole, fell from 47,5 % in 1989 to 36 % in the investigation period. Furthermore, with the exception of Norway, no exporting country held a market share in the Community of more than 2 % during the investigation period and the total market share of such countries declined from 6,1 % in 1989 to 5,2 % in the investigation period.

- (56) The Commission examined in particular the trend in volumes and prices of Norwegian product, which comprised the single largest volume of imported ferro-silico-manganese in the Community. In this context, it was found that Norway's market share had declined from 41,4 % in 1989 to 30,8 % in the investigation period. This appears to be the result of Norway's decision to continue to sell at prices which exceeded those of the Community producers. This pricing policy should be contrasted with that of the Community producers, which, in attempting to keep their market share, followed the downward pressure exerted by the exporters under investigation, at the cost of increasingly high losses in their sales of ferro-silico-manganese in the Community. Under these circumstances, exports from Norway could not be considered to be responsible for the precarious situation of the Community industry.

- (57) In light of the above, the Commission has concluded that although it could not be excluded that the above imports might have had a certain adverse effect on the Community industry, the dumped imports originating in Russia, Ukraine, Brazil and South Africa, because of their prices, their significant and increasing volumes and market share, and the resulting decrease in market share and continuing losses of the Community industry have, taken in isolation, caused material injury to this industry.

F. COMMUNITY INTEREST

(a) General considerations

- (58) The purpose of anti-dumping duties is, in general, to eliminate unfair commercial practices which cause injury to the Community industry. The solution adopted should allow the re-establishment of open and fair competition on the Community market which, in itself, is clearly in the interest of the Community.
- (59) In this context, it should be noted that although anti-dumping measures may have the effect of increasing the price levels of exports and thus influence their relative competitiveness, no adverse effect on the competitive situation on the Community market should be expected from the taking of measures. On the contrary, removing the unfair advantages gained by the dumping practices should prevent the further deterioration of the Community industry and of those exporters which do not resort to unfair pricing and thus guarantee the availability of a wide choice of suppliers.

(b) Interests involved

- (60) The investigation showed that the Community industry is in a precarious situation, particularly noticeable from the heavy and increasing losses suffered in the last four years and the decline in employment, as a result of the significant and rising quantity of dumped imports entering the Community. Unless a solution is found, it is to be foreseen that, given the level of losses incurred, one or several producers will be forced to stop production in the short term, leading, in a relatively short time, to the virtual disappearance of this industry in the Community.
- (61) The consumer industry, the steel producers, claimed that the imposition of anti-dumping measures would increase the costs of that industry which in itself is facing financial difficulties.
- (62) While recognizing that the interests of the steel industry should also be taken into consideration, the Commission notes that ferro-silico-manganese accounts for a small percentage of the production cost of steel (approximately 1 % of the cost of a tonne of steel). Under these circumstances, it is the Commission's view that the impact that anti-dumping measures would have on the costs of steel producers cannot be considered sufficient to justify its refraining from taking action against unfair imports.
- (63) Having carefully examined all the above aspects, the Commission considers, therefore, that it is in the Community interest to impose provisional anti-dumping measures on imports of ferro-silico-manganese originating in Russia, Ukraine, Brazil and South Africa.

G. DUTY

- (64) For the purpose of establishing the level of the provisional duty, the Commission took account of the level of dumping found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.
- (65) Since the injury resulted mostly from continuous reductions in prices and consequent financial losses, the removal of such injury required that the export prices be increased to an extent that would allow the Community industry to raise its prices to a profitable level.
- (66) In order to determine the necessary price increase, the Commission compared the average import prices free-at-Community frontier, adjusted, where

necessary to ex factory Community producer level, with the weighted average cost of production of the Community producers plus a profit of 5 % considered to be the minimum necessary to ensure the viability of this industry.

- (67) In the case of Brazil, since one company was a subsidiary of the other, it was considered appropriate to calculate one injury threshold for the group.
- (68) The comparison showed the following injury thresholds for each exporter/producer :
- | | |
|---|---------|
| — Russia : | 82,8 %, |
| — Ukraine : | 70,7 %, |
| — Brazil : | |
| Group formed by Companhia Paulista de Ferro-Ligas and Sibra Electrosiderurgica Brasileira : | 70,9 %, |
| — South Africa : | |
| — Highveld Steel and Vanadium Corporation Limited : | 57,4 %, |
| — Samancor Limited : | 55,6 %. |
- (69) Since in the case of the South African producer Samancor, the injury threshold found was lower than the respective dumping margin, the provisional duty to be imposed should correspond to the injury margin established, in conformity with Article 13 (3) of the Basic Regulation. In all other cases, the dumping margins found were lower than the corresponding injury thresholds and the duty to be imposed should therefore correspond to the dumping margins determined.

- (70) As regards Georgia, it is considered appropriate not to impose provisional measures on imports originating in this country given the preliminary conclusion that these imports could not have caused injury to the Community industry.

- (71) In the case of Brazilian and South African firms which failed to cooperate in the investigation or otherwise make themselves known, the duty should be established according to facts available in conformity with Article 7 (7) (b) of the Basic Regulation. In this respect, since there is no reason to believe that any duties lower than the highest duties considered necessary would be sufficient to remove the injury caused by these imports, and in order to avoid duty circumvention and not to reward non-cooperation, the Commission considers that the duty for non-cooperators should be the highest duty calculated for ferro-silico-manganese originating in Brazil and South Africa.

H. FINAL PROVISION

- (72) In the interests of sound administration, a period should be fixed within which the parties concerned may make their views known in writing and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of ferro-silico-manganese falling within CN code 7202 30 00 and originating in Russia, Ukraine, Brazil and South Africa.

2. The rate of the duty applicable to the net-free-at-Community-frontier price, not cleared through customs, shall be :

- 57,4 % for ferro-silico-manganese originating in Russia,
- 52,8 % for ferro-silico-manganese originating in Ukraine,
- 40,6 % for ferro-silico-manganese originating in Brazil,

— 55,6 % for ferro-silico-manganese originating in South Africa (Taric additional code 8818) with the exception of that produced by the company below, to which the following rate shall apply :

— 45,3 % Highveld Steel and Vanadium Corporation Limited, Witbank (Taric additional code 8819).

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

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) of Regulation (EEC) No 2423/88, the parties concerned may make known their views and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 19 December 1994.

For the Commission

Leon BRITTAN

Member of the Commission

COMMISSION REGULATION (EC) No 3120/94

of 19 December 1994

re-establishing the levying of customs duties and ending the charges against tariff ceilings opened in 1994, on certain textile products originating in Mexico, Malaysia, Lithuania, China and Brazil, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3832/90 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3832/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of textile products originating in developing countries⁽¹⁾, extended for 1994 by Regulation (EC) No 3668/93⁽²⁾, and in particular Article 12 thereof,

Whereas Article 10 of Regulation (EEC) No 3832/90 provides that preferential tariff treatment shall be accorded from 1 July to 31 December 1994 for each category of products subjected in Annexes I and II thereto to individual ceilings within the limits of the quantities specified in column 8 of its Annex I and column 7 of Annex II, in respect of certain or each of the countries or territories of origin referred to in column 5 of the same Annexes;

Whereas Article 11 of the abovementioned Regulation provides that the levying of customs duties may be re-established at any time in respect of imports of the products in question once the relevant individual ceilings have been reached at Community level;

Whereas as provided for in the third paragraph of Article 12 of the abovementioned Regulation, the Commission may, after the preferential period, take measures to stop quantities being charged against any particular tariff limit if these limits were exceeded particularly as a result of regularizations of imports actually made during the preferential tariff period;

Whereas, in respect of products of the order Nos and origins indicated in the table below, the relevant ceilings were fixed at the levels indicated in that table; whereas that ceiling was reached on the date indicated below, by charges of the imports into the Community of the products in question;

Order No	Origin	Period	Ceiling	Date
40.0320	Mexico	1.1 — 30. 6. 1994	45 tonnes	5. 4. 1994
		1.7 — 31. 12. 1994	45 tonnes	14. 9. 1994
40.0350	Malaysia	1.1 — 30. 6. 1994	132 tonnes	19. 4. 1994
		1.7 — 31. 12. 1994	132 tonnes	21. 9. 1994
40.0480	Malaysia	1.1 — 30. 6. 1994	30 tonnes	10. 2. 1994
		1.7 — 31. 12. 1994	30 tonnes	27. 7. 1994
40.0500	Lithuania	1.1 — 30. 6. 1994	30 tonnes	7. 3. 1994
		1.7 — 31. 12. 1994	30 tonnes	1. 9. 1994
40.0560	China	1.1 — 30. 6. 1994	5,5 tonnes	23. 4. 1994
		1.7 — 31. 12. 1994	5,5 tonnes	9. 8. 1994
40.0660	Brazil	1.1 — 30. 6. 1994	11,5 tonnes	8. 2. 1994
		1.7 — 31. 12. 1994	11,5 tonnes	1. 8. 1994
40.1000	China	1.1 — 30. 6. 1994	13,5 tonnes	18. 3. 1994
		1.7 — 31. 12. 1994	13,5 tonnes	18. 8. 1994

Whereas it is appropriate to re-establish the levying of customs duties and to take measures to stop quantities being charged against the said ceilings for the products in question,

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 39.

⁽²⁾ OJ No L 338, 31. 12. 1993, p. 22.

HAS ADOPTED THIS REGULATION :

Article 1

1. The levying of customs duties, suspended from 1 July to 31 December 1994, pursuant to Regulation (EEC) No 3832/90, shall be re-established on imports into the Community of the products indicated in the table below :

2. No further quantities shall be charged against the tariff ceilings opened from 1 January to 30 June 1994 by Regulation (EEC) No 3832/90, relating to the products indicated in the table below :

Order No	Category (Unit)	CN code	Description	Origin
40.0320	32	5801 10 00	Woven fabrics of synthetic filament yarn obtained from strip or the like of polyethylene or polypropylene, less than 3 m wide : sacks and bags, of a kind used for the packing of goods, not knitted or crocheted, obtained from strip or the like	Mexico
		5801 21 00		
		5801 22 00		
		5801 23 00		
		5801 24 00		
		5801 25 00		
		5801 26 00		
		5801 31 00		
		5801 32 00		
		5801 33 00		
		5801 34 00		
		5801 35 00		
		5801 36 00		
		5802 20 00		
		5802 30 00		
40.0350	35	5407 10 00	Woven fabrics of synthetic fibres (continuous), other than those for types of category 114	Malaysia
		5407 20 90		
		5407 30 00		
		5407 41 00		
		5407 42 10		
		5407 42 90		
		5407 43 00		
		5407 44 10		
		5407 44 90		
		5407 51 00		
		5407 52 00		
		5407 53 10		
		5407 53 90		
		5407 54 00		
		5407 60 10		
		5407 60 30		
		5407 60 51		
		5407 60 59		
		5407 60 90		
		5407 71 00		
		5407 72 00		
		5407 73 10		
		5407 73 91		
		5407 73 99		
		5407 74 00		
		5407 81 00		
		5407 82 00		
		5407 83 10		
		5407 83 90		
		5407 84 00		
		5407 91 00		
		5407 92 00		
		5407 93 10		
		5407 93 90		
		5407 94 00		
		ex 5811 00 00		
		ex 5905 00 70		

Order No	Category (Unit)	CN code	Description	Origin
40.0480	48	5107 10 10	Yarn of combed sheep's or lambs' wool (worsted yarn) or of combed fine animal hair, not put up for retail sale	Malaysia
		5107 10 90		
		5107 20 10		
		5107 20 30		
		5107 20 51		
		5107 20 59		
		5107 20 91		
		5107 20 99		
		5108 20 10		
		5108 20 90		
40.0500	50	5111 11 00	Woven fabrics of sheep's or lambs' wool or of fine animal hair	Lithuania
		5111 19 10		
		5111 19 90		
		5111 20 00		
		5111 30 10		
		5111 30 30		
		5111 30 90		
		5111 90 10		
		5111 90 91		
		5111 90 93		
		5111 90 99		
		5112 11 00		
		5112 19 10		
		5112 19 90		
		5112 20 00		
		5112 30 10		
		5112 30 30		
		5112 30 90		
		5112 90 10		
		5112 90 91		
		5112 90 93		
		5112 90 99		
40.0560	56	5508 10 90	Yarn of staple synthetic fibres (including waste), put up for retail sale	China
		5511 10 00		
		5511 20 00		
40.0660	66	6301 10 00	Travelling rugs and blankets, other than knitted or crocheted, of wool, of cotton or of man-made fibres	Brazil
		6301 20 91		
		6301 20 99		
		6301 30 90		
		ex 6301 40 90		
40.1000	100	ex 6301 90 90	Textile fabrics impregnated, coated, covered or laminated with preparations of cellulose derivatives or of other artificial plastic materials	China
		5903 10 10		
		5903 10 90		
		5903 20 10		
		5903 20 90		
		5903 90 10		
		5903 90 91		
		5903 90 99		

Article 2

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

It shall apply from 24 December 1994.

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

Done at Brussels, 19 December 1994.

For the Commission

Christiane SCRIVENER

Member of the Commission

COMMISSION REGULATION (EC) No 3121/94
of 19 December 1994

re-establishing the levying of customs duties on certain textile products originating in Pakistan, Iran, India and China, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3832/90 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3832/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of textile products originating in developing countries ⁽¹⁾, extended for 1994 by Regulation (EC) No 3668/93 ⁽²⁾, and in particular Article 12 thereof,

Whereas Article 10 of Regulation (EEC) No 3832/90 provides that preferential tariff treatment shall be accorded from 1 July to 31 December 1994 for each category of products subjected in Annexes I and II thereto to individual ceilings within the limits of the quantities specified in column 8 of its Annex I and column 7 of Annex II, in respect of certain or each of the countries or territories of origin referred to in column 5 of the same Annexes ;

Whereas Article 11 of the abovementioned Regulation provides that the levying of customs duties may be re-established at any time in respect of imports of the products in question once the relevant individual ceilings have been reached at Community level ;

Whereas, in respect of products of the order Nos and origins indicated in the table below, the relevant ceilings were fixed at the levels indicated in that table ; whereas that ceiling was reached on the date indicated below, by charges of the imports into the Community of the products in question ;

Order No	Origin	Ceiling	Date
40.0350	Pakistan	132 tonnes	14. 9. 1994
40.0580	Iran	141,5 tonnes	27. 7. 1994
40.0580	India	1 837,5 tonnes	1. 8. 1994
40.0580	China	28,5 tonnes	27. 7. 1994
42.1360	India	60,5 tonnes	12. 9. 1994

Whereas it is appropriate to re-establish the levying of customs duties for the products in question,

HAS ADOPTED THIS REGULATION :

Article 1

The levying of customs duties, suspended from 1 July to 31 December 1994, pursuant to Regulation (EEC) No 3832/90, shall be re-established on imports into the Community of the products indicated in the table below :

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 39.

⁽²⁾ OJ No L 338, 31. 12. 1993, p. 22.

Order No	Category (Unit)	CN code	Description	Origin
40.0350	35	5407 10 00	Woven fabrics of synthetic fibres (continuous), other than those for tyres of category 114	Pakistan
		5407 20 90		
		5407 30 00		
		5407 41 00		
		5407 42 10		
		5407 42 90		
		5407 43 00		
		5407 44 10		
		5407 44 90		
		5407 51 00		
		5407 52 00		
		5407 53 10		
		5407 53 90		
		5407 54 00		
		5407 60 10		
		5407 60 30		
		5407 60 51		
		5407 60 59		
		5407 60 90		
		5407 71 00		
		5407 72 00		
		5407 73 10		
		5407 73 91		
		5407 73 99		
		5407 74 00		
		5407 81 00		
		5407 82 00		
		5407 83 10		
		5407 83 90		
		5407 84 00		
		5407 91 00		
		5407 92 00		
		5407 93 10		
		5407 93 90		
		5407 94 00		
		ex 5811 00 00		
		ex 5905 00 70		
40.0580	58	5701 10 10	Carpets, carpeting and rugs, knotted (made up or not)	Iran India China
		5701 10 91		
		5701 10 93		
		5701 10 99		
		5701 90 10		
		5701 90 90		
42.1360	136	5007 10 00	Woven fabrics of silk	India
		5007 20 11		
		5007 20 19		
		5007 20 21		
		5007 20 31		
		5007 20 39		
		5007 20 41		
		5007 20 51		
		5007 20 59		
		5007 20 61		
		5007 20 69		
		5007 20 71		
		5007 90 10		
		5007 90 30		
		5007 90 50		
		5007 90 90		
		5803 90 10		
		ex 5905 00 90		
		ex 5911 20 00		

Article 2

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

It shall apply from 24 December 1994.

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

Done at Brussels, 19 December 1994.

For the Commission

Christiane SCRIVENER

Member of the Commission

COMMISSION REGULATION (EC) No 3122/94**of 20 December 1994****laying down criteria for risk analysis as regards agricultural products receiving refunds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts ⁽¹⁾, as amended by Regulation (EC) No 163/94 ⁽²⁾, and in particular Article 6 thereof,

Whereas the second subparagraph of Article 3 (2) of the said Regulation lays down that the rate of 5 % per product sector may be replaced by a rate of 5 % covering all sectors in so far as the Member State applies a system for selecting products to be physically checked based on a risk analysis provided a minimum rate of 2 % is respected; whereas the scrutiny rate may justifiably be reduced in the case of non-Annex II products;

Whereas the selection criteria should be defined in accordance with the procedure referred to in Article 6 of Regulation (EEC) No 386/90;

Whereas the criteria must be adopted before 1 January 1995 since the new version of Article 3 (2) of Regulation (EEC) No 386/90 provides for the use of risk analysis from that date;

Whereas the Commission's strategic anti-fraud programme has stressed greater use of risk analysis, with particular emphasis on the exploitation of data bases; whereas that programme stresses cooperation between the Commission and the Member States while providing for such cooperation to be carried out with the utmost discretion;

Whereas these measures are necessary and appropriate and should be applied uniformly;

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

HAS ADOPTED THIS REGULATION:

Article 1

The aim of risk analysis shall be to enable the targeting of physical checks on those products, individuals and legal

entities and sectors presenting the greatest risk. It shall therefore identify the risks involved and assess the level of those risks in order to permit the selection of goods to be physically checked.

Where, pursuant to the second subparagraph of Article 3 (2) of Regulation (EEC) No 386/90, the Member States use risk analysis, they may notably rely on a certain number of the following criteria to select the export declarations relating to products to be physically checked:

1. as regards the products:

- their origin,
- their nature,
- their characteristics in terms of the refund nomenclature,
- their value,
- their customs status,
- the risk of tariff slippage,
- the rate of refund in terms of technical characteristics and the presentation of the goods (fat, water, meat, ash content, packaging, etc.),
- their becoming newly eligible for refunds,
- the quantity,
- analyses of previous samples,
- binding tariff information (BTI);

2. as regards trade:

- its frequency,
- the appearance of unusual trade and/or the development of new trade,
- diversions of trade;

3. as regards the refund nomenclature:

- the rate of refund,
- the nomenclatures in respect of which most export refunds are paid,
- the risks of slippages of refund rates in terms of technical characteristics and the presentation of the goods (fat, water, meat, ash content, packaging, etc.);

⁽¹⁾ OJ No L 42, 16. 2. 1990, p. 6.

⁽²⁾ OJ No L 24, 29. 1. 1994, p. 2.

4. as regards the exporters :

- their reputation and trustworthiness,
- their financial position,
- the appearance of new exporters,
- exports without any immediately apparent economic justification,
- previous disputes, in particular cases of fraud ;

5. as regards irregularities :

- detected or suspected in certain product sectors ;

6. as regards the customs arrangements used :

- the normal declaration procedure,
- the simplified declaration procedure,
- acceptance of the import declaration in application of Articles 790 and 791 of Commission Regulation (EEC) No 2454/93 ⁽¹⁾ ;

7. as regards the arrangements for granting export refunds :

- prefinancing (for processed or unprocessed products),
- direct exports,
- victualling.

Article 2

Where the criteria referred to Article 1 are applied, the competent authorities shall ensure respect for professional secrecy and shall guarantee the confidentiality of any personal data which they hold or become aware of, in any form whatsoever. They shall in particular ensure that such data enjoys the protection granted to similar data under their national legislation and the corresponding provisions of Community law.

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

Done at Brussels, 20 December 1994.

Such data may not be used for any purpose other than those provided for by this Regulation.

Article 3

1. The Member States and the Commission shall jointly assess the reliability and relevance of these criteria on the basis of experience acquired in order to make — in case of need — any necessary adjustments to the system and selection parameters to make physical checks more effective and improve targeting.

2. The Member States shall notify the Commission of :

- the measures taken, including instructions to national departments, to apply a selection system on the basis of risk analysis, in the light of the criteria referred to in paragraph 1,
- individual cases which could be of interest to the other Member States.

3. The Member States shall ensure that a central body coordinates information on risk analysis.

Article 4

Where a Member State applies a selection system based on risk analysis, the percentage of physical checks carried out on non-Annex II products shall not be taken into account for the purposes of calculating the overall rate of 5 % for all sectors. In this case, a minimum rate of 2 % shall apply to all non-Annex II products.

Article 5

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

It shall apply from 1 January 1995 for export declarations accepted from that date.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 253, 11. 10. 1993, p. 1.

COMMISSION REGULATION (EC) No 3123/94

of 20 December 1994

laying down detailed rules for the application of import arrangements provided for in Council Regulation (EC) No 3074/94 for frozen thin skirt of bovine animals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3074/94 of 12 December 1994 opening a Community tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91 (first half of 1995)⁽¹⁾, and in particular Article 2 thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽²⁾, as last amended by Regulation (EC) No 1884/94⁽³⁾, and in particular Article 15 (2) thereof,

Whereas Commission Regulation (EEC) No 3719/88⁽⁴⁾, as last amended by Regulation (EC) No 2746/94⁽⁵⁾, lays down detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products; whereas Commission Regulation (EEC) No 2377/80⁽⁶⁾, as last amended by Regulation (EC) No 1084/94⁽⁷⁾, lays down detailed rules for implementing the arrangements for import licences for beef and veal;

Whereas detailed rules for the application of the arrangements laid down in Regulation (EC) No 3074/94 should be adopted;

Whereas it has proved necessary to take account of trade in this product for the purposes of allocating that quota; whereas trade has been recorded with Argentina on the one hand and with other third countries on the other hand; whereas a quota should accordingly be fixed on that basis for Argentina and another for other third countries;

Whereas Argentina must issue certificates of authenticity guaranteeing the origin of these products; whereas the form and layout of these certificates and the procedures for using them must be specified;

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

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

licences, with derogations in certain particular respects from the applicable provisions;

Whereas the limiting of the abovementioned scheme to the first half year entails a reduction in the period for importation; whereas as a transitional measure the latter period should therefore be extended by one month;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The tariff quota for frozen thin skirt provided for in Article 1 of Regulation (EC) No 3074/94 shall be allocated as follows:

- (a) 350 tonnes originating in and coming from Argentina;
- (b) 400 tonnes originating in and coming from other third countries.

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

Article 2

1. Granting of the reduced Common Customs Tariff duty of 4 % and total suspension of the import levy on meat originating in and consigned from Argentina shall be subject to the presentation of a certificate of authenticity when it is released for free circulation.

2. Certificates of authenticity shall be made out in one original and not less than one copy of a form corresponding to the specimen in Annex I.

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

3. Forms shall be printed and completed in one of the official languages of the Community and also, if desired, in the official language of Argentina.

⁽¹⁾ OJ No L 325, 17. 12. 1994, p. 5.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽³⁾ OJ No L 197, 30. 7. 1994, p. 27.

⁽⁴⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽⁵⁾ OJ No L 290, 11. 11. 1994, p. 6.

⁽⁶⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁷⁾ OJ No L 120, 11. 5. 1994, p. 30.

4. Each certificate of authenticity shall bear an individual serial number assigned by the issuing authority referred to in Article 3. The copies shall bear the same serial number as the original.

Article 3

1. Certificates of authenticity shall be valid only if they are duly completed and endorsed, in accordance with the instructions in Annex I, by an issuing authority listed in Annex II.

2. A certificate of authenticity shall be deemed to have been duly endorsed if it specifies the date and place of issue and if it bears the stamp of the issuing authority and the signature of the persons empowered to sign it.

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

Article 4

1. The issuing authorities listed in Annex II shall:

- (a) be recognized as competent by Argentina;
- (b) undertake to check the particulars on certificates of authenticity;
- (c) undertake to supply the Commission and the Member States, on request, with any information enabling the particulars on certificates of authenticity to be evaluated.

2. The Commission shall revise the list if an issuing authority ceases to be recognized or fails to fulfil one of the obligations incumbent on it or if a new issuing authority is designated.

Article 5

1. Certificates of authenticity shall be valid for three months from the date of issue. However, certificates may not be presented after 31 July of the year of issue.

2. The original certificate of authenticity and one copy shall be presented to the customs authorities when the product covered by the certificate is released for free circulation.

3. A copy of the endorsed certificate of authenticity shall be forwarded by the customs authorities of the Member State in which the product is released for free circulation to the authorities designated by that Member State for the purposes of the notification provided for in Article 7 (1).

Article 6

1. For products originating in and consigned from countries other than Argentina the import levy shall be totally suspended and the Common Customs Tariff duty applicable shall be 4 %.

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

- (a) applicants must be natural or legal persons who, at the time the application is submitted, have for at least 12 months been engaged in the trade in beef and/or veal between Member States or with third countries and whose names are entered in the official register of a Member State;
- (b) the licence application lodged by the applicant must relate to a quantity corresponding to not less than five tonnes of meat by weight of product and to not more than the quantity available under the arrangements in question;
- (c) the country of origin shall be indicated in Section 8 of licence applications and of the licences themselves;
- (d) Section 20 of licence applications and of the licences themselves shall contain one of the following endorsements:

- Músculos del diafragma y delgados [Reglamento (CEE) n° 3123/94]
- Mellemgulv [forordning (EØF) nr. 3123/94]
- Saumfleisch [Verordnung (EWG) Nr. 3123/94]
- Διάφραγμα [κανονισμός (ΕΟΚ) αριθ. 3123/94]
- Thin skirt [Regulation (EEC) No 3123/94]
- Hampe [règlement (CEE) n° 3123/94]
- Pezzi detti « hampes » [regolamento (CEE) n. 3123/94]
- Omloop [Verordening (EEG) nr. 3123/94]
- Diafragma [Reglamento (CEE) n° 3123/94].

3. By derogation from Article 8 (4) of Regulation (EEC) No 3719/88, the levy fixed in accordance with Article 12 of Regulation (EEC) No 805/68 and the Common Customs Tariff duty of 20 % shall be charged on all quantities exceeding those indicated in the import licence.

Section 24 of licences shall contain one of the following endorsements:

- Exacción reguladora suspendida para ... kg (cantidad para la cual se ha expedido el certificado)
- Importafgift suspenderet for ... kg (den mængde, som licensen er udstedt for)
- Aussetzung der Abschöpfung für ... kg (Menge, für die die Lizenz erteilt wurde)
- Η εισφορά έχει ανασταλεί για ... kg (ποσότητα για την οποία εκδόθηκε το πιστοποιητικό)
- Levy suspended for ... kg (quantity for which the licence or certificate was issued)
- Prélèvement suspendu pour ... kg (quantité pour laquelle le certificat a été délivré)
- Prelievo sospeso per ... kg (quantità per la quale è stato rilasciato il titolo)
- Heffing geschorst voor ... kg (hoeveelheid waarvoor het certificaat is afgegeven)
- Direito nivelador suspenso para ... kg (quantidade para a qual o certificado foi emitido).

Article 7

1. The Member States shall notify the Commission, in respect of each period of 10 days, not later than 15 days after that period, of the quantities of products referred to in Article 1 that have been released for free circulation, broken down by their country of origin and CN code.

The information notified shall also include the year of issue of the certificate of authenticity.

2. For the purposes of this Regulation, the period of 10 days means the period :

- from the first to the 10th of the month,
- from the 11th to the 20th of the month,
- from the 21st to the last day of the month.

Article 8

1. The applications referred to in Article 6 may be lodged with the competent authorities up to 20 January 1995 in the Member State in which the applicant is registered. If an applicant lodges more than one application, none of the applications shall be considered.

2. Member States shall notify the Commission on 10 February 1995 of the total quantity covered by applications. That notifications shall cover the list of applicants

and the countries of origin indicated. All notifications including nil returns, shall be made by telex and shall be sent before 4 p.m. on the stipulated day.

3. The Commission shall decide with due speed to what extent applications may be accepted. If the quantities for which licences are applied for exceed the quantities available, the Commission shall reduce the amounts applied for by a fixed percentage.

4. Following the Commission's decision on acceptance of applications, licences shall be issued with due speed.

Article 9

1. Without prejudice to the provisions of this Regulation, the provisions of Regulations (EEC) No 2377/80 and (EEC) No 3719/88 shall apply.

2. However, for the purposes of this Regulation :

- (a) the security for import licences shall be ECU 10 per 100 kilograms net weight ;
- (b) securities as referred to under (a) shall be lodged when the import licences are issued ;
- (c) the term of validity of licences shall be 31 July 1995.

Article 10

This Regulation shall enter into force on 1 January 1995.

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

Done at Brussels, 20 December 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

1 Exporter (name and address)	2 Certificate No	ORIGINAL	
4 Consignee (name and address)	3 Issuing authority		
	5 CERTIFICATE OF AUTHENTICITY BEEF AND VEAL Thin skirt		
6 Means of transport			
7 Marks, numbers, number and kind of packages ; description of goods		8 Gross weight (kg)	9 Net weight (kg)
10 Net weight (in words)			
11 CERTIFICATION BY THE ISSUING AUTHORITY I hereby certify that the thin skirt described in this certificate complies with the specifications given in Article 1(2) of Commission Regulation (EC) No 3123/94 within the limit stipulated in Article 1(1)(a) of that Regulation and that it originates in Argentina. <div>Place :Date :</div> Signature and stamp (or printed seal)			

To be completed by typewriter or in block capitals.

ANNEX II

**LIST OF AUTHORITIES IN EXPORTING COUNTRIES EMPOWERED TO ISSUE
CERTIFICATES OF AUTHENTICITY**

SECRETARIA DE AGRICULTURA, GANADERIA Y PESCA

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

COMMISSION REGULATION (EC) No 3124/94**of 20 December 1994****laying down specific rules for the transfer of the rights to the supplement to the compensatory payment for the production of durum wheat in Portugal**

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

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops ⁽¹⁾, as last amended by Regulation (EC) No 3116/94 ⁽²⁾, and in particular Article 12 thereof,

Whereas Article 4 (3) of Regulation (EEC) No 1765/92 provides for the grant of supplements to the compensatory payments for the production of durum wheat in Portugal, up to a ceiling of 35 000 ha ;

Whereas Council Regulation (EEC) No 3653/90 of 11 December 1990 introducing transitional measures governing the organization of the market in cereals and rice in Portugal ⁽³⁾, as last amended by Regulation (EEC) No 738/93 ⁽⁴⁾, introduces a specific degressive aid scheme for Portuguese producers of common wheat and other cereals ; whereas the existence in Portugal of such an aid scheme may cause some Portuguese producers of durum wheat to make insufficient use of their rights, with the result that the ceiling of 35 000 ha granted to Portugal is not fully exploited ; whereas, under the circumstances, the rules governing the transfer of entitlement to the supplement to the compensatory payment for durum wheat as provided for by Commission Regulation (EEC) No

2780/92 of 24 September 1992 on the conditions for the grant of compensatory payments under the support system for producers of certain arable crops ⁽⁵⁾, as last amended by Regulation (EC) No 2246/94 ⁽⁶⁾, should be temporarily relaxed ;

Whereas the Joint Management Committee for Cereals, Oils and Fats and Dried Fodder has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

Article 6 (3) of Regulation (EEC) No 2780/92 shall not apply to Portugal for the marketing years 1995/96 and 1996/97.

Portugal shall take the additional measures necessary to apply this Article. These measures shall be notified to the Commission by 31 March 1995 at the latest.

Article 2

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

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

Done at Brussels, 20 December 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 12.

⁽²⁾ See page 1 of this Official Journal.

⁽³⁾ OJ No L 362, 21. 12. 1990, p. 28.

⁽⁴⁾ OJ No L 77, 31. 3. 1993, p. 1.

⁽⁵⁾ OJ No L 281, 25. 9. 1992, p. 5.

⁽⁶⁾ OJ No L 242, 17. 9. 1994, p. 1.

COMMISSION REGULATION (EC) No 3125/94

of 20 December 1994

amending Regulation (EEC) No 1722/93 laying down detailed rules for the application of Council Regulations (EEC) No 1766/92 and (EEC) No 1418/76 concerning production refunds in the cereals and rice sectors respectively

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

1418/76 of 21 June 1976 on the common organization of the market in rice ⁽⁴⁾, as last amended by Regulation (EC) No 1869/94 ⁽⁵⁾,

Having regard to the Treaty establishing the European Community,

Whereas Commission Regulation (EEC) No 1722/93 ⁽⁶⁾, as amended by Regulation (EC) No 1586/94 ⁽⁷⁾, the validity of which extends beyond 1 January 1995, must be adjusted so as to permit the payment of production refunds for barley and oat starch in Finland and Sweden ;

Having regard to the Act of Accession of Norway, Austria, Sweden and Finland ⁽¹⁾, and in particular Article 169 (2), thereof,

Whereas, pursuant to Article 2 (3) of the Accession Treaty ⁽⁸⁾, the institutions of the European Communities may adopt before accession the measures referred to in Article 169 of the Act, which measures shall enter into force only subject to and on the date of entry into force of the Treaty,

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

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 1722/93 is hereby amended as follows :

1. the following subparagraph is added to Article 1 (1) :

'For Finland and Sweden, a refund may also be granted for the use of barley and oat starch limited to a total quantity of 50 000 tonnes in Finland and 10 000 tonnes in Sweden.'

2. in Article 3 :

(a) paragraphs 2 and 3 are replaced by the following :

'2. The refund per tonne of maize, wheat, potato, rice or broken rice starch shall be calculated, *inter alia*, on the basis of the difference between :

(i) the intervention price for cereals for the month in question taking account of the differences in the market prices for maize ;

and

(ii) the average of the cif prices used to calculate the import levy for maize during the first 25 days of the month preceding the month of application, multiplied by a coefficient of 1,60.

3. The refund per tonne of barley and oat starch shall be calculated on the basis, *inter alia*, of the difference between :

(i) the intervention price for cereals for the month in question taking account of the differences in the market prices for barley ;

and

⁽⁴⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁵⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽⁶⁾ OJ No L 159, 1. 7. 1993, p. 112.

⁽⁷⁾ OJ No L 167, 1. 7. 1994, p. 5.

⁽⁸⁾ OJ No C 241, 29. 8. 1994, p. 9.

⁽¹⁾ OJ No C 241, 29. 8. 1994, p. 21.

⁽²⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽³⁾ OJ No L 197, 30. 7. 1994, p. 1.

(ii) the average of the cif prices used to calculate the import levy for barley during the first 25 days of the month preceding the month of application, multiplied by a coefficient of 2,7.

4. In the event of significant fluctuations in the market prices for maize and/or wheat and/or barley in the Community or on the world market during the period defined in paragraph 1, the refund calculated in accordance with paragraphs 2 and 3 may be altered to take account of such fluctuations.';

(b) paragraphs 4, 5 and 6 become 5, 6 and 7 respectively;

3. in Annex II:

(a) Chapter A is replaced by the following:

'A. BASIC STARCHES ⁽¹⁾ ⁽⁴⁾

ex 1108	Starches : inulin :	
	— Starches :	
1108 11 00	— — Wheat starch	1,00
1108 12 00	— — Maize (corn) starch	1,00
1108 13 00	— — Potato starch	1,00
ex 1108 19	— — Other starches :	
1108 19 10	— — — Rice starch	1,00
1108 19 90	— — — Other : barley and oat starch	1,00'

(b) footnote 1 is replaced by the following:

⁽¹⁾ The coefficient shown applies to starch with a dry matter content at a least 87 % in the case of maize, rice and wheat starches, and at least 80 % in the case of potato starch.

The production refund payable for basic starch of a lower dry matter content than that shown is to be adjusted using the following formula:

1. maize, rice, wheat, barley and oat starch:

$$\frac{\text{Actual \% dry matter}}{87} \times \text{production refund}$$

2. Potato starch:

$$\frac{\text{Actual \% dry matter}}{80} \times \text{production refund}$$

The dry matter content of starch is determined by the method laid down in the Annex to Commission Regulation (EEC) No 1908/84 (OJ No L 178, 5. 7. 1984, p. 22). Where the production refund is paid for starch falling within CN code 1108, the purity of starch in the dry matter must be at least 97 %.

When determining the degree of purity of starch, the method to be used in that set out in Annex III to this Regulation.'

Article 2

This Regulation shall enter into force on the date of and subject to the entry into force of the Treaty of Accession of Norway, Austria, Finland and Sweden.

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

Done at Brussels, 20 December 1994.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 3126/94**of 20 December 1994****fixing the aid for supplying the Canary Islands with vegetable oils (excluding olive oil) under the arrangements provided for in Articles 2 and 3 of Council Regulation (EEC) No 1601/92**

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 concerning specific measures for the Canary Islands with regard to certain agricultural products⁽¹⁾, as amended by Commission Regulation (EEC) No 1974/93⁽²⁾, and in particular Article 3 (4) thereof,

Whereas Commission Regulation (EC) No 2883/94 of 28 November 1994 establishing a forecast balance for the supply to the Canary Islands of agricultural products covered by the specific measures provided for in Articles 2, 3, 4 and 5 of Council Regulation (EEC) No 1601/92⁽³⁾ fixes in Annex VIII thereto for the period 1 July 1994 to 30 June 1995 the quantities of vegetable oils (excluding olive oil) eligible under the supply arrangements for either an exemption of import duties or a grant of aid for products originating in the rest of the Community;

Whereas the amounts of the above aid for supplying the archipelago should be fixed; whereas this aid should be fixed with account taken in particular of the costs of supply from the world market and the conditions that result from the archipelago's geographical situation;

Whereas new common detailed rules for implementing the specific supply measures for the Canary Islands have been laid down by Commission Regulation (EC) No 2790/94⁽⁴⁾, as amended by Regulation (EC) No 2883/94, particularly as regards the issue and length of validity of the aid certificates, payment of the aid and inspection and monitoring of the commercial operations; whereas these provisions replace the detailed rules laid down by

Commission Regulation (EEC) No 1695/92⁽⁵⁾, as last amended by Regulation (EEC) No 2596/93⁽⁶⁾, and apply in the various market sectors from 1 December 1994;

Whereas, to avoid misunderstandings, Commission Regulation (EEC) No 2258/92⁽⁷⁾, as last amended by Regulation (EC) No 2445/94⁽⁸⁾, should accordingly be repealed from that same date;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the purpose of applying Article 3 (2) of Regulation (EEC) No 1601/92, aid for the supply to the Canary Islands of vegetable oils (excluding olive oil) falling within CN codes 1507 to 1516 (with the exception of 1509 and 1510), originating on the Community market shall be fixed at ECU 25 per tonne of product, in the context of the supply balance established by Regulation (EC) No 2883/94.

Article 2

Regulation (EEC) No 2258/92 is hereby repealed.

Article 3

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

It shall apply with effect from 1 December 1994.

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

Done at Brussels, 20 December 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 304, 29. 11. 1994, p. 18.

⁽⁴⁾ OJ No L 296, 17. 11. 1994, p. 23.

⁽⁵⁾ OJ No L 179, 1. 7. 1992, p. 1.

⁽⁶⁾ OJ No L 238, 23. 9. 1993, p. 24.

⁽⁷⁾ OJ No L 219, 4. 8. 1992, p. 46.

⁽⁸⁾ OJ No L 261, 11. 10. 1994, p. 5.

COMMISSION REGULATION (EC) No 3127/94
of 20 December 1994
amending Regulation (EC) No 2967/85 laying down detailed rules for the
application of the Community scale for grading pig carcasses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3220/84 of 13 November 1984 determining the Community scale for grading pig carcasses ⁽¹⁾, as last amended by Regulation (EC) No 3513/93 ⁽²⁾, and in particular Article 5 (1) thereof,

Whereas Regulation (EEC) No 3220/84 introduced the use of partial dissection of pig carcasses as a means to obtain the total weight of the red striated muscles; whereas it is necessary to lay down in Commission Regulation (EEC) No 2967/85 ⁽³⁾, the details of the new assessment method in particular the number of carcasses to be dissected and the new dissection method; whereas the use of partial dissection leads to a new specification of the maximum tolerance for statistical error in assessment;

Whereas it is appropriate to improve the procedure for authorization of new grading methods by introducing a two-step protocol and by enumerating the different elements which it should contain;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2967/85 is hereby amended as follows:

1. Article 3 is replaced by the following:

Article 3

1. The method for assessing the lean meat content of carcasses authorized as a grading method within the meaning of Article 2 (3) of Regulation (EEC) No

3220/84 is based on a representative sample of the national or regional pigmeat production concerned by the assessment method, consisting of at least 50 carcasses whose lean meat content has been ascertained in accordance with the dissection method laid down in Annex I, combined with a nationally established quick method of carcass assessment using double regression or other statistically proven procedure, and such that the resulting precision is at least equal to that obtained using standard regression techniques on 120 carcasses using the method in Annex I.

2. Authorization of the grading methods shall, moreover, be subjected to the root mean square deviation of the errors, measured about zero, being less than 2,5.

3. Member States shall inform the Commission, by way of a protocol, of the grading methods they wish to have authorized for application in their territory, describing the dissection trial and indicating the principles on which these methods are based and the equations used for assessing the percentage of lean meat. The protocol should have two parts and should include the elements provided for in Annex II. Part one of the protocol is presented to the Commission prior to the start of the dissection trial.

Application of grading methods in the territory of a Member State shall be authorized in accordance with the procedure provided for in Article 24 of Regulation (EEC) No 2759/75 on the basis of the protocol.

4. The application of grading methods must correspond in all particulars to the description given in the Community Decision authorizing them.';

2. The Annex to the present Regulation is added as Annex I and II to Regulation (EEC) No 2967/85.

Article 2

⁽¹⁾ OJ No L 301, 20. 11. 1984, p. 1.

⁽²⁾ OJ No L 320, 22. 12. 1993, p. 5.

⁽³⁾ OJ No L 285, 25. 10. 1985, p. 39.

This Regulation shall enter into force on 1 January 1995.

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

Done at Brussels, 20 December 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

ANNEX I

1. The prediction of the lean meat percentage is based on the dissection of the four major cuts. The dissection is executed in accordance with the reference method.
2. The reference lean meat percentage is calculated as follows :

$$y = 1,3 \times 100 \times \frac{\text{weight of tender loin} + \text{weight of lean (fascia included) in shoulder, loin, ham and belly}}{\text{weight of tender loin} + \text{weight of dissected cuts} + \text{weight of remaining cuts}}$$

The weight of the lean in those four cuts will be calculated by subtracting the total of the non-lean elements of the four cuts from the total weight of the cuts before dissection.

ANNEX II

1. Part one of the protocol should give a detailed description of the dissection trial and include in particular :
 - the trial period and time schedule for the whole authorization procedure,
 - the number and location of the abattoirs,
 - the description of the pig population concerned by the assessment method,
 - a presentation of the statistical methods used in relation to the sampling method chosen,
 - the description of the national quick method,
 - the exact presentation of the carcasses to be used.
2. Part two of the protocol should give a detailed description of the results of the dissection trial and include in particular :
 - a presentation of the statistical methods used in relation to the sampling method chosen,
 - the equation which will be introduced or amended,
 - a numerical and a graphic description of the results,
 - a description of the new apparatus,
 - the weight limit of the pigs for which the new method may be used and any other limitation in relation to the practical use of the method.

COMMISSION REGULATION (EC) No 3128/94**of 20 December 1994****amending Regulation (EC) No 3254/93 as regards the specific supply arrangements for certain fruits and vegetables for the benefit of the smaller Aegean islands for 1995**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products⁽¹⁾, as last amended by Commission Regulation (EC) No 822/94⁽²⁾, and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 2958/93⁽³⁾ lays down common detailed rules for the application of the arrangements for supplying the smaller Aegean islands with certain agricultural products and determines, pursuant to Article 3 (2) of Regulation (EEC) No 2019/93, the amount of the aid for such supply according to the island-group which includes the island in which the product is disposed of; whereas, pursuant to Article 2 of Regulation (EEC) No 2019/93, the forecast supply balances for the smaller Aegean islands for fruit and vegetables from the rest of the Community should be established for 1995;

Whereas, in order to attain the objective of the supply arrangements pursuant to Regulation (EEC) No 2019/93 and, in particular, to reduce the smaller Aegean islands' natural handicaps without hampering the development potential of local products, it should be made possible for certain fruits and vegetables originating in a smaller island to be covered by the supply arrangements in question, on condition that such basic products are in surplus relative to that island's specific requirements;

Whereas the amount of the flat-rate aid to be granted for the supply to the smaller islands of the products in question from other smaller islands should be fixed;

Whereas Commission Regulation (EC) No 3254/93⁽⁴⁾, as last amended by Regulation (EC) No 2747/94⁽⁵⁾, should therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 3254/93 is hereby amended as follows:

1. Article 1 is replaced by the following:

Article 1

For the purpose of Article 2 of Regulation (EEC) No 2019/93, the quantities in the forecast supply balance for fruit and vegetables which are to benefit from Community aid are indicated in Annexes I and II to this Regulation.';

2. Article 2 is replaced by the following:

Article 2

The aid fixed in the first indent of Article 1 (1) of Regulation (EEC) No 2958/93 shall also be granted in respect of:

- mandarins harvested on the island of Khios, up to a maximum quantity of 1 000 tonnes per year,
- seed potatoes falling within CN code 0701 10 00 and potatoes for human consumption falling within CN codes 0701 90 51, 0701 90 59 and 0701 90 90 harvested on the island of Naxos up to a maximum quantity of 4 000 tonnes per year,
- tomatoes harvested on the island of Syros, up to maximum quantity of 2 000 tonnes per year,
- courgettes harvested on the island of Syros up to a maximum quantity of 300 tonnes per year,

which are dispatched to either of the groups of islands set out in Annexes I and II to that Regulation under the forecast supply balance.

This provision shall apply on condition that the above-mentioned products:

- are surplus relative to the requirements of the island in which they originate,
- are covered by a certificate of origin.

To these ends, the application for the aid certificate and the aid certificate provided for in Article 1 (3) of Regulation (EEC) No 2958/93 shall bear in box 24 the words "product originating in the island" followed by the name of the smaller island in which the product originates.';

3. Annexes I and II are replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 January 1995.

⁽¹⁾ OJ No L 184, 27. 7. 1993, p. 1.

⁽²⁾ OJ No L 95, 14. 4. 1994, p. 1.

⁽³⁾ OJ No L 267, 28. 10. 1993, p. 4.

⁽⁴⁾ OJ No L 293, 27. 11. 1993, p. 34.

⁽⁵⁾ OJ No L 290, 11. 11. 1994, p. 8.

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

Done at Brussels, 20 December 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

ANNEX I

Forecast supply balance for 1995 for the smaller Aegean islands belonging to Group A⁽¹⁾

(tonnes)

Description	CN code	Quantity
Potatoes	0701 10 00 0701 90 51 0701 90 59 0701 90 90	3 000
Vegetables	0702 to 0709 (*)	1 000
Citrus fruit, fresh	ex 0805	2 000
Grapes	0806 10	
Apples	0808 10 31 to 0808 10 89	
Pears	0808 20 31 to 0808 20 39	
Apricots, cherries, peaches, plums and sloes, fresh	0809	
Strawberries	0810 10	
Melons, water melons	0807 10	
Figs, fresh	0804 20 10	
Kiwi fruit	0810 90 10	

(*) Not including vegetables falling within CN codes 0709 60 91, 0709 60 95, 0709 60 99 (with the exception of edible peppers), 0709 90 31, 0709 90 39 and 0709 90 60.

(1) The smaller islands belonging to Group A are defined in Annex I to Regulation (EEC) No 2958/93.

ANNEX II

Forecast supply balance for 1995 for the smaller Aegean islands belonging to Group B ⁽¹⁾

(tonnes)

Description	CN code	Quantity
Potatoes	0701 10 00 0701 90 51 0701 90 59 0701 90 90	10 000
Vegetables	0702 to 0709 ^(*)	5 300
Citrus fruit, fresh	ex 0805	7 518
Grapes	0806 10	
Apples	0808 10 31 to 0808 10 89	
Pears	0808 20 31 to 0808 20 39	
Apricots, cherries, peaches, plums and sloes, fresh	0809	
Strawberries	0810 10	
Melons, water melons	0807 10	
Figs, fresh	0804 20 10	
Kiwi fruit	0810 90 10	

^(*) Not including vegetables falling within CN codes 0709 60 91, 0709 60 95, 0709 60 99 (with the exception of edible peppers), 0709 90 31, 0709 90 39 and 0709 90 60.

⁽¹⁾ The smaller islands belonging to Group B are defined in Annex II to the Regulation (EEC) No 2958/93.

COMMISSION REGULATION (EC) No 3129/94**of 20 December 1994****amending Regulation (EEC) No 2273/93 determining the intervention centres for cereals following the accession of Austria, Finland and Sweden**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Norway, Austria, Finland and Sweden ⁽¹⁾, and in particular Article 169 (2) thereof,

Whereas Commission Regulation (EEC) No 2273/93 ⁽²⁾, as amended by Regulation (EC) No 2202/94 ⁽³⁾, which remains valid beyond 1 January 1995, must be brought into line with the provisions of the Act of Accession;

Whereas, pursuant to Article 2 (3) of the Treaty of Accession ⁽⁴⁾, the institutions of the European Union may adopt before accession the measures referred to in Article 169 of

the Act of Accession, which will enter into force subject to and on the date of entry into force of the Treaty of Accession,

HAS ADOPTED THIS REGULATION :

Article 1

The Annex to Regulation (EEC) No 2273/93 is supplemented by the intervention centres listed in the Annex to this Regulation and the indications relating thereto.

Article 2

This Regulation shall enter into force on the date of and subject to the entry into force of the Treaty of Accession of Norway, Austria, Finland and Sweden.

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

Done at Brussels, 20 December 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No C 241, 29. 8. 1994, p. 21.

⁽²⁾ OJ No L 207, 18. 8. 1993, p. 1.

⁽³⁾ OJ No L 236, 10. 9. 1994, p. 11.

⁽⁴⁾ OJ No C 241, 29. 8. 1994, p. 9.

ANNEX

1	2	3	4	5	6	7
ÖSTERREICH						
Absdorf	+	-	+	-	-	-
Aschach	+	-	+	-	-	-
Dobermannsdorf	+	-	+	-	-	-
Ebreichsdorf	+	-	+	-	-	-
Enns	+	-	+	-	-	-
Fürstenfeld	-	-	-	-	+	-
Geinberg	-	-	+	-	-	-
Hollabrunn	+	-	+	+	-	-
Horn	+	-	+	-	-	-
Klagenfurt	-	-	-	-	+	-
Korneuburg	+	-	+	-	-	-
Krems	+	-	+	-	+	-
Laa/Thaya	+	-	+	-	-	-
Lannach/Graz	-	-	+	-	+	-
Linz	+	+	+	-	+	-
Mattersburg	+	-	+	-	-	-
Mistelbach	+	-	+	-	-	-
Oberpullendorf	+	-	-	-	-	-
Parndorf	+	+	+	-	-	-
Pöchlarn	+	-	-	-	-	-
St. Andrä	+	-	+	-	-	-
St. Pölten	+	-	-	-	-	-
Untersiebenbrunn	+	+	+	+	-	-
Waidhofen/Th.	+	+	-	-	-	-
Weitersfeld	+	+	+	-	-	-
Wien-Albern	+	-	+	-	+	-
Zwettl	-	+	-	-	-	-
SUOMI						
Helsinki	+	+	+	-	-	-
Joensuu	-	+	+	-	-	-
Kokemäki	+	+	+	-	-	-
Koria	+	+	+	-	-	-
Koskenkorva	-	+	+	-	-	-
Kotka	+	+	+	-	-	-
Kuopio	-	+	+	-	-	-
Lahti	+	+	+	-	-	-
Loimaa	+	+	+	-	-	-
Loviisa	+	+	+	-	-	-
Mustio	+	+	+	-	-	-
Naantali	+	+	+	-	-	-

1	2	3	4	5	6	7
Nokia	+	+	+	-	-	-
Oulu	-	+	+	-	-	-
Peltosalmi	-	+	+	-	-	-
Perniö	+	+	+	-	-	-
Pieksämäki	-	+	+	-	-	-
Rauma	+	+	+	-	-	-
Seinäjoki	-	+	+	-	-	-
Turenki	+	+	+	-	-	-
Vainikkala	+	+	+	-	-	-
Vaasa	-	+	+	-	-	-
Ylivieska	-	+	+	-	-	-
SVERIGE						
Helsingborg	+	+	+	-	-	-
Norrköping-Djurön	+	+	+	-	-	-
Stockholm	+	+	+	-	-	-
Uddevalla	+	+	+	-	-	-

COMMISSION REGULATION (EC) No 3130/94
of 20 December 1994
fixing the sluice-gate prices and levies for pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat⁽¹⁾, as last amended by Regulation (EEC) No 1249/89⁽²⁾, and in particular Articles 8 and 12 (1) thereof,

Whereas sluice-gate prices and levies for the products specified in Article 1 (1) of Regulation (EEC) No 2759/75, must be fixed in advance for each quarter in accordance with the methods of calculation laid down in Commission Regulation (EEC) No 1611/90 of 15 June 1990 fixing the sluice-gate prices and levies on pigmeat⁽³⁾;

Whereas, since sluice-gate prices and levies for pigmeat were last fixed by Commission Regulation (EC) No 2256/94⁽⁴⁾, for the period 1 October to 31 December 1994, they must be fixed anew for the period 1 January to 31 March 1995; whereas such prices and levies should in principle be fixed by reference to feed grain prices for the period 1 July to 30 November 1994;

Whereas, when the sluice-gate price applicable from 1 October, 1 January and 1 April is being fixed, trends in world market prices for feed grain are to be taken into account only if the value of the quantity of feed grain required varies by at least a specified minimum in relation to that used in calculating the sluice-gate price for the preceding quarter; whereas this minimum was fixed by Council Regulation (EEC) No 2766/75⁽⁵⁾, as last amended by Regulation (EEC) No 3906/87⁽⁶⁾, at 3 %;

Whereas the value of the quantity of feed grain varies by more than 3 % from that used for the preceding quarter;

whereas, therefore, trends in world market prices for feed grain must be taken into account when fixing sluice-gate prices for the period 1 January to 31 March 1995;

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

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

Whereas, in the case of pigmeat products, in respect of which the rate of duty has been bound within GATT, the levies should be limited to the amounts resulting from that binding;

Whereas, by Council Regulation (EEC) No 715/90 of 5 March 1990 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)⁽⁷⁾, as last amended by Regulation (EC) No 2484/94⁽⁸⁾, 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 pigmeat 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⁽⁹⁾, no levies shall apply on imports of products originating in the overseas countries and territories;

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 129, 11. 5. 1989, p. 12.

⁽³⁾ OJ No L 152, 16. 6. 1990, p. 18.

⁽⁴⁾ OJ No L 245, 20. 9. 1994, p. 2.

⁽⁵⁾ OJ No L 282, 1. 11. 1975, p. 25.

⁽⁶⁾ OJ No L 370, 30. 12. 1987, p. 11.

⁽⁷⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽⁸⁾ OJ No L 265, 15. 10. 1994, p. 3.

⁽⁹⁾ 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 2698/93 ⁽⁵⁾, as last amended by Regulation (EC) No 2676/94 ⁽⁶⁾, lays down detailed rules for applying the arrangements provided for in these agreements as regards pigmeat;

Whereas Council Regulations (EC) No 3641/93 ⁽⁷⁾ and (EC) No 3642/93 ⁽⁸⁾ 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 Republic of Bulgaria and Romania, of the other part; whereas Commission Regulation (EC) No 1590/94 ⁽⁹⁾, as amended by Regulation (EC) No 2337/94 ⁽¹⁰⁾, lays down detailed rules for applying the arrangements provided for in these agreements as regards pigmeat;

Whereas Council Regulation (EC) No 774/94 ⁽¹¹⁾ has opened Community tariff quotas for certain agricultural

products and fixed the levies to be applied on imports of those products; whereas Regulation (EC) No 1432/94 ⁽¹²⁾ has established the detailed rules of the import regime for pigmeat 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 Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

1. During the period 1 January to 31 March 1995, the sluice-gate prices and levies provided for in Articles 12 and 8 respectively of Regulation (EEC) No 2759/75 for the products referred to in Article 1 (1) thereof shall be as set out in the Annex hereto.

2. Nevertheless, in the case of products falling within CN codes 0206 30 21, 0206 30 31, 0206 41 91, 0206 49 91, 1501 00 11, 1601 00 10, 1602 10 00, 1602 20 90 or 1602 90 10, in respect of which the rate of duty has been bound conforming to the general Agreement on Tariffs and Trade (GATT), the levy shall not exceed the amount resulting from that binding.

Article 2

This Regulation shall enter into force on 1 January 1995.

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

Done at Brussels, 20 December 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. 80.

⁽⁶⁾ OJ No L 285, 4. 11. 1994, p. 7.

⁽⁷⁾ OJ No L 333, 31. 12. 1993, p. 16.

⁽⁸⁾ OJ No L 333, 31. 12. 1993, p. 17.

⁽⁹⁾ OJ No L 167, 1. 7. 1994, p. 16.

⁽¹⁰⁾ OJ No L 254, 30. 9. 1994, p. 19.

⁽¹¹⁾ OJ No L 91, 8. 4. 1994, p. 1.

⁽¹²⁾ OJ No L 156, 23. 6. 1994, p. 14.

ANNEX

to the Commission Regulation of 20 December 1994 fixing the sluice-gate prices and levies
on pigmeat

CN code	Sluice-gate price (ECU/100 kg)	Amount of levies (ECU/100 kg) ⁽²⁾	Conventional rate of duty bound within GATT (%)
0103 91 10	67,03	38,09	—
0103 92 11	57,00	32,39	—
0103 92 19	67,03	38,09 ⁽³⁾	—
0203 11 10	87,16	49,53 ⁽³⁾ ⁽⁴⁾	—
0203 12 11	126,38	71,82 ⁽³⁾ ⁽⁴⁾	—
0203 12 19	97,62	55,48 ⁽³⁾ ⁽⁴⁾	—
0203 19 11	97,62	55,48 ⁽³⁾ ⁽⁴⁾	—
0203 19 13	141,20	80,24 ⁽³⁾ ⁽⁴⁾ ⁽⁵⁾	—
0203 19 15	75,83	43,09 ⁽³⁾ ⁽⁴⁾	—
0203 19 55	141,20	80,24 ⁽³⁾ ⁽⁴⁾	—
0203 19 59	141,20	80,24 ⁽³⁾ ⁽⁴⁾	—
0203 21 10	87,16	49,53 ⁽³⁾ ⁽⁴⁾	—
0203 22 11	126,38	71,82 ⁽³⁾ ⁽⁴⁾	—
0203 22 19	97,62	55,48 ⁽³⁾ ⁽⁴⁾	—
0203 29 11	97,62	55,48 ⁽³⁾ ⁽⁴⁾	—
0203 29 13	141,20	80,24 ⁽³⁾ ⁽⁴⁾	—
0203 29 15	75,83	43,09 ⁽³⁾ ⁽⁴⁾ ⁽⁵⁾	—
0203 29 55	141,20	80,24 ⁽³⁾ ⁽⁴⁾	—
0203 29 59	141,20	80,24 ⁽³⁾ ⁽⁴⁾	—
0206 30 21	105,46	59,93	7
0206 30 31	76,70	43,59	4
0206 41 91	105,46	59,93	7
0206 49 91	76,70	43,59	4
0209 00 11	34,86	19,81	—
0209 00 19	38,35	21,79	—
0209 00 30	20,92	11,89	—
0210 11 11	126,38	71,82 ⁽³⁾	—
0210 11 19	97,62	55,48 ⁽³⁾	—
0210 11 31	245,79	139,68 ⁽³⁾	—
0210 11 39	193,50	109,96 ⁽³⁾	—
0210 12 11	75,83	43,09 ⁽³⁾	—
0210 12 19	126,38	71,82 ⁽³⁾	—
0210 19 10	111,57	63,40 ⁽³⁾	—
0210 19 20	122,02	69,35 ⁽³⁾	—
0210 19 30	97,62	55,48 ⁽³⁾	—
0210 19 40	141,20	80,24 ⁽³⁾	—
0210 19 51	141,20	80,24 ⁽³⁾	—
0210 19 59	141,20	80,24 ⁽³⁾	—
0210 19 60	193,50	109,96 ⁽³⁾	—
0210 19 70	243,18	138,20 ⁽³⁾	—
0210 19 81	245,79	139,68 ⁽³⁾	—
0210 19 89	245,79	139,68 ⁽³⁾	—
0210 90 31	105,46	59,93	—
0210 90 39	76,70	43,59	—
1501 00 11	27,89	15,85	3
1501 00 19	27,89	15,85	—
1601 00 10	122,02	107,18 ⁽¹⁾	24

CN code	Sluice-gate price (ECU/100 kg)	Amount of levies (ECU/100 kg) ⁽²⁾	Conventional rate of duty bound within GATT (%)
1601 00 91	204,83	158,71 ⁽¹⁾ ⁽³⁾ ⁽⁴⁾	—
1601 00 99	139,46	102,84 ⁽¹⁾ ⁽³⁾ ⁽⁴⁾	—
1602 10 00	97,62	59,61	26
1602 20 90	113,31	94,25	25
1602 41 10	213,54	165,51 ⁽³⁾ ⁽⁴⁾	—
1602 42 10	178,68	129,40 ⁽³⁾ ⁽⁴⁾	—
1602 49 11	213,54	169,45 ⁽³⁾ ⁽⁴⁾	—
1602 49 13	178,68	126,14 ⁽³⁾ ⁽⁴⁾	—
1602 49 15	178,68	122,11 ⁽³⁾ ⁽⁴⁾	—
1602 49 19	117,67	86,11 ⁽³⁾ ⁽⁴⁾	—
1602 49 30	97,62	72,97 ⁽³⁾ ⁽⁴⁾	—
1602 49 50	58,40	61,07 ⁽³⁾ ⁽⁴⁾	—
1602 90 10	113,31	85,66	26
1602 90 51	117,67	83,15	—
1902 20 30	58,40	52,59	—

⁽¹⁾ The levy on products originating in the ACP/OCT and listed in Article 8 of amended Regulation (EEC) No 715/90 reduced by 50 % within the limits of the quotas referred to in that Regulation.

⁽²⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

⁽³⁾ For products imported from Poland, Hungary and the Czech and Slovak Republics, the levy applicable is restricted within the conditions provided for in amended Regulation (EEC) No 2698/93.

⁽⁴⁾ For products imported from Bulgaria and Romania, the levy applicable is restricted within the conditions provided for in amended Regulation (EC) No 1590/94.

⁽⁵⁾ For these imported products, the levy applicable is restricted within the conditions provided for in Council Regulation (EC) No 774/94.

NB: The CN codes and the footnotes are defined in amended Commission Regulation (EEC) No 2658/87.

COMMISSION REGULATION (EC) No 3131/94
of 20 December 1994
fixing the agricultural conversion rates

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

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 ⁽¹⁾, as last amended by Regulation (EC) No 3528/93 ⁽²⁾, and in particular Article 3 (1) thereof,

Whereas the agricultural conversion rates were fixed by Commission Regulation (EC) No 2927/94 ⁽³⁾;

Whereas Article 4 of Regulation (EEC) No 3813/92 provides that the agricultural conversion rate for a floating currency is to be adjusted where the monetary gap between it and the representative market rate exceeds certain levels; whereas, notwithstanding that Article 4, Article 4a of that Regulation applies until 31 December 1994;

Whereas the representative market rates are determined on the basis of reference periods established in accordance with Commission Regulation (EEC) No 1068/93 of 30 April 1993 on detailed rules for determining and applying the agricultural conversion rates ⁽⁴⁾, as amended by Regulation (EC) No 547/94 ⁽⁵⁾;

Whereas, as a consequence of the exchange rates recorded during the reference period 11 to 20 December 1994, it is necessary on the one hand to fix the limits referred to in paragraphs 1 and 3 of Article 4a of Regulation (EEC) No 3813/92 at + 3,761 and - 1,239 and on the other hand to fix a new agricultural conversion rate for the Italian lira;

Whereas Article 15 (3) of Regulation (EEC) No 1068/93 provides that an agricultural conversion rate fixed in advance shall be adjusted if the gap between that rate and the agricultural conversion rate in force at the time of the

operative event applicable for the currency concerned exceeds four points; whereas, in that event, the agricultural conversion rate fixed in advance is brought more closely into line with the rate in force, up to the level of a gap of four points with that rate; whereas the rate which replaces the agricultural conversion rate fixed in advance should be specified,

HAS ADOPTED THIS REGULATION:

Article 1

The agricultural conversion rates are fixed in Annex I hereto.

Article 2

In the case referred to in Article 15 (3) of Regulation (EEC) No 1068/93, the agricultural conversion rate fixed in advance shall be replaced by the ecu rate for the currency concerned, shown in Annex II:

- Table A, where the latter rate is higher than the rate fixed in advance,
- or
- Table B, where the latter rate is lower than the rate fixed in advance.

Article 3

Regulation (EC) No 2927/94 is hereby repealed.

Article 4

This Regulation shall enter into force on 21 December 1994.

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

Done at Brussels, 20 December 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽³⁾ OJ No L 307, 1. 12. 1994, p. 57.

⁽⁴⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁵⁾ OJ No L 69, 12. 3. 1994, p. 1.

*ANNEX I***Agricultural conversion rates**

ECU 1 =	49,3070	Belgian and Luxembourg francs
	9,34812	Danish kroner
	2,35418	German marks
	352,829	Greek drachmas
	192,319	Spanish pesetas
	7,98191	French francs
	0,976426	Irish punt
	2 383,42	Italian lire
	2,65256	Dutch guilders
	239,331	Portuguese escudos
	0,953575	Pound sterling

*ANNEX II***Agricultural conversion rates fixed in advance and adjusted**

Table A			Table B		
ECU 1 =	47,4106	Belgian and Luxembourg francs	ECU 1 =	51,3615	Belgian and Luxembourg francs
	8,98858	Danish kroner		9,73763	Danish kroner
	2,26363	German marks		2,45227	German marks
	339,259	Greek drachmas		367,530	Greek drachmas
	184,922	Spanish pesetas		200,332	Spanish pesetas
	7,67491	French francs		8,31449	French francs
	0,938871	Irish punt		1,01711	Irish punt
	2 291,75	Italian lire		2 482,73	Italian lire
	2,55054	Dutch guilders		2,76308	Dutch guilders
	230,126	Portuguese escudos		249,303	Portuguese escudos
	0,916899	Pound sterling		0,993307	Pound sterling

COMMISSION REGULATION (EC) No 3132/94
of 20 December 1994
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 133/94 ⁽²⁾, and in particular Article 16 (8) 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⁾, and in particular Article 5 thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EC) No 1957/94 ⁽⁵⁾, as last amended by Regulation (EC) No 3110/94 ⁽⁶⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EC) No 1957/94 to the information known to the Commission that the levies

at present in force should be altered to the amounts set out in the Annex hereto;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 19 December 1994, as regards floating currencies, should be used to calculate the levies,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 December 1994.

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

Done at Brussels, 20 December 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 198, 30. 7. 1994, p. 88.

⁽⁶⁾ OJ No L 328, 20. 12. 1994, p. 48.

ANNEX

to the Commission Regulation of 20 December 1994 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy ⁽¹⁾
1701 11 10	29,09 ⁽¹⁾
1701 11 90	29,09 ⁽¹⁾
1701 12 10	29,09 ⁽¹⁾
1701 12 90	29,09 ⁽¹⁾
1701 91 00	34,77
1701 99 10	34,77
1701 99 90	34,77 ⁽²⁾

⁽¹⁾ The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42), as last amended by Regulation (EEC) No 1428/78 (OJ No L 171, 28. 6. 1978, p. 34).

⁽²⁾ In accordance with Article 16 (2) of Regulation (EEC) No 1785/81 this amount is also applicable to sugar obtained from white and raw sugar containing added substances other than flavouring or colouring matter.

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

COMMISSION REGULATION (EC) No 3133/94**of 20 December 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 3035/94⁽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 19

December 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 3035/94 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 21 December 1994.

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

Done at Brussels, 20 December 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 321, 14. 12. 1994, p. 28.

ANNEX

to the Commission Regulation of 20 December 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	85,85 ⁽²⁾ ⁽³⁾
0712 90 19	85,85 ⁽²⁾ ⁽³⁾
1001 10 00	2,52 ⁽¹⁾ ⁽³⁾ ⁽¹¹⁾
1001 90 91	54,25
1001 90 99	54,25 ⁽³⁾ ⁽¹¹⁾
1002 00 00	107,59 ⁽⁴⁾
1003 00 10	83,59
1003 00 90	83,59 ⁽³⁾
1004 00 00	91,42
1005 10 90	85,85 ⁽²⁾ ⁽³⁾
1005 90 00	85,85 ⁽²⁾ ⁽³⁾
1007 00 90	86,25 ⁽⁴⁾
1008 10 00	31,41 ⁽³⁾
1008 20 00	32,62 ⁽⁴⁾ ⁽³⁾
1008 30 00	0 ⁽³⁾
1008 90 10	⁽³⁾
1008 90 90	0
1101 00 00	113,88 ⁽³⁾
1102 10 00	187,90
1103 11 10	38,31
1103 11 90	135,95
1107 10 11	107,45
1107 10 19	83,03
1107 10 91	159,67 ⁽¹⁰⁾
1107 10 99	122,05 ⁽³⁾
1107 20 00	140,44 ⁽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 amended 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 3134/94**of 20 December 1994****fixing the premiums to be added to the import levies on cereals, flour and malt**

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 12 (4) 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 premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EC) No 1938/94⁽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 19

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

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums to be added to the levies fixed in advance for the import in respect of the 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 21 December 1994.

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

Done at Brussels, 20 December 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. 39.

ANNEX

to the Commission Regulation of 20 December 1994 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 12	1st period 1	2nd period 2	3rd period 3
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 00	0	0	0	0
1001 90 91	0	13,46	12,09	12,09
1001 90 99	0	13,46	12,09	12,09
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 00	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	18,85	16,94	16,94
1102 10 00	0	0	0	0
1103 11 10	0	0	0	0
1103 11 90	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4
1107 10 11	0	23,96	21,52	21,52	21,52
1107 10 19	0	17,90	16,08	16,08	16,08
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION DIRECTIVE 94/61/EC

of 15 December 1994

extending the period of provisional recognition of certain protected zones
provided for in Article 1 of Directive 92/76/EEC

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Directive 94/13/EC⁽²⁾, and in particular the first subparagraph of Article 2 (1) (h) thereof,

Having regard to Commission Directive 92/76/EEC of 6 October 1992 recognizing protected zones exposed to particular plant health risks in the Community⁽³⁾, as amended by Directive 93/106/EC⁽⁴⁾, and in particular Article 2 thereof,

Whereas under Commission Directive 92/76/EEC certain zones in the Community were recognized as 'protected zones' in respect of certain harmful organisms for a period expiring on 31 December 1994;

Whereas such recognition was provisional until the results of appropriate surveys monitored by Commission experts confirmed that one or more of the harmful organisms in respect of which the zones were recognized as protected zones were not endemic or established in those zones;

Whereas the said surveys have not yet been completed; whereas it is, therefore, appropriate to extend the provisional recognition for a further period to enable the said surveys to be completed;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DIRECTIVE :

Article 1

The date of 31 December 1994 referred to in Article 1 of Directive 92/76/EEC is hereby replaced by 1 July 1995.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 February 1995. They shall immediately inform the Commission thereof.

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

2. Member States shall immediately communicate to the Commission all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 3

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

Done at Brussels, 15 December 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 92, 9. 4. 1994, p. 27.

⁽³⁾ OJ No L 305, 21. 10. 1992, p. 12.

⁽⁴⁾ OJ No L 298, 3. 12. 1993, p. 34.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 November 1994

amending Decision 85/593/Euratom on the reorganization of the Joint Research Centre (JRC)

(94/809/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 8 and 131 second subparagraph thereof,

Whereas pursuant to Commission Decision 85/593/Euratom of 20 November 1985 on the reorganization of the Joint Research Centre (JRC)⁽¹⁾, as last amended by Decision 93/95/Euratom⁽²⁾, the Joint Research Centre (JRC) is given a structure which is appropriate for the tasks assigned to it;

Whereas the Commission decides on the terms of reference of the Board of Governors of the JRC, in particular as regards the specific research programmes implemented by the JRC;

Whereas Scientific and Industrial Advisory Group should be set up to advise the Board of Governors and the Director-General of the JRC on developments in science and technology;

Whereas Decision 85/593/Euratom should be amended accordingly,

HAS DECIDED AS FOLLOWS:

Sole Article

Decision 85/593/Euratom is hereby amended as follows:

1. the following indent is added at Article 2:

— the Scientific and Industrial Advisory Group';

2. Article 4 is replaced by the following text:

Article 4

1. A Board of Governors of the JRC is hereby set up. It shall consist of the following members:

- (a) a high-level representative from each Member State, to be appointed by the Commission on the basis of nominations by the authorities of the State in question;
- (b) a chairman elected by the representatives of the Member States referred to in point (a).

All members shall be appointed for a renewable three-year term.

2. The Board of Governors shall assist the Director-General and deliver opinions for submission to the Commission on questions relating to:

- the role of the JRC within the Community research and development strategy,
- the scientific and financial management of the JRC and the performance of the tasks entrusted to it.

As regards matters delegated to the Director-General by the Commission and in line with all matters which concern in particular the Board of Governors, the Director-General shall call for the opinion of the Board of Governors on his proposals before they are applied.

⁽¹⁾ OJ No L 373, 31. 12. 1985, p. 6.

⁽²⁾ OJ No L 37, 13. 2. 1993, p. 44.

The prior opinion of the Board of Governors is necessary for any question submitted for a Commission decision.

The Board of Governors shall deal in particular with :

- (i) the proposals for specific programmes to be implemented by the JRC and proposals for other new tasks to be assigned to the JRC ;
- (ii) the preparation of multiannual strategic planning covering all JRC activities, and each year, not later than 31 December, the corresponding annual work plan indicating the objectives of each work programme for the following year and including a summary description of the programme with key dates, scientific references and estimated expenditure ;
- (iii) the follow-up for specific JRC RTD programmes, including :
 - their implementation, paying particular attention to their consistency with needs of the Community,
 - the coherence of their development with the specific indirect action programmes under the framework programmes ; to this end, the Board of Governors will organize once a year exchanges of views with the relevant programme committees,
 - any amendments thereto ;
- (iv) relations with other Commission departments and with third parties on the customer/contractor principle ;
- (v) the strategy for the JRC's competitive activities and monitoring thereof ;
- (vi) the formulation of proposals for the JRC annual budget and the monitoring of its implementation ;
- (vii) — the organization of the JRC,
 - its financial management,
 - major investments,
 - implementation of its research activities,
 - evaluation of the latter by "visiting groups" composed of independent experts and the follow up of their recommendations ;
- (viii) staff policy, with special emphasis on :
 - the formulation of proposals concerning JRC staff policy,
 - staff mobility and exchanges of scientific and technical staff with public and private bodies in the Member States ;
- (ix) the appointment, the prolongation or termination of the functions of high-level JRC staff.

3. The Board of Governors shall issue opinions on the basis of majority required by Article 118 (2) of the

EAEC Treaty, the votes being weighted in accordance therewith. The chairman shall not vote.

The Commission shall take the utmost account of the opinions issued by the Board of Governors. In the absence of the assent of the Board of Governors to a proposal by the Director-General, the matter shall be referred to the Commission, which shall decide the matter. The Board of Governors shall be informed of the Commission's decision. The Council shall be informed without delay if the decision is not in keeping with the opinion of the Board of Governors. It shall also be informed of the reasons for the decision.

If the Commission does not accept an opinion issued by the Board of Governors on matters requiring a decision by the Commission, implementation of measures relating to such matters shall be postponed for one month ; during this month the matters in question shall be referred back to the Board of Governors and a new opinion shall be requested. On receipt of this opinion or at the end of the month in question, the Commission shall take a final decision and shall inform the Board of Governors thereof. If it is unable to accept the opinion of the Board of Governors, the Commission shall inform the Council of its decision and of the reasons for the decision without delay. The Commission shall keep the Board of Governors informed of its decisions relating to the JRC in respect of any matter on which the Board of Governors has issued an opinion.

The Board of Governors may, through the Commission, submit opinions to the Council and European Parliament on all matters relating to the JRC.

4. The Board of Governors shall submit its observations on the annual management report drawn up by the Director-General. These observations, together with the annual management report as approved by the Commission, shall be sent to the Council and to the European Parliament.

The Board of Governors shall advise the Director-General with regard to the organization of the evaluation of the tasks performed by the JRC, in connection both with the scientific and technical results and with the administrative and financial management of the Centre ; it shall also provide advice about the selection of independent experts called upon to participate in this evaluation. The Board of Governors shall submit its own comments on the results of these evaluations.

5. The Board of Governors shall meet at least four times a year.

The Board of Governors shall draw up its rules of procedure, including rules concerning the organization of its work.

The JRC shall provide the secretariat for the Board of Governors and shall make available to it any information it may require. For the performance of its function, the Board of Governors may call upon advice of the Scientific and Industrial Advisory Group and other which it judges to be necessary ;

3. the following Article 5 is added :

'Article 5

A Scientific and Industrial Advisory Group is hereby set up.

The Scientific and Industrial Advisory Group shall be composed of 10 high-level representatives of the scientific and industrial community.

The members of the Scientific and Industrial Advisory Group shall be appointed by the Commission on a personal basis.

The Scientific and Industrial Advisory Group shall give the Board of Governors its opinion on the annual work programmes. It shall also be consulted by the Direc-

tor-General and the Board of Governors on all questions relevant to the JRC concerning the scientific and technological choices connected with the development of Community policies, particularly to take account of the latest knowledge and technological developments.';

4. Articles 5, 6, 7, 8, 9 and 10 become respectively Articles 6, 7, 8, 9, 10 and 11.

Done at Brussels, 16 November 1994.

For the Commission

Antonio RUBERTI

Member of the Commission

COMMISSION DECISION

of 12 December 1994

on the terms of reference of hearing officers in competition procedures before the Commission

(Text with EEA relevance)

(94/810/ECSC, EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Community,

Whereas the treaties establishing the Communities and the rules implementing those treaties in relation to competition matters provide for the right of the parties concerned and of third parties to be heard before a final decision affecting their interests is taken;

Whereas the Commission must ensure that that right is guaranteed in its competition proceedings;

Whereas it is appropriate to entrust the organization and conduct of the administrative procedures designed to protect the right to be heard to an independent person experienced in competition matters, in the interest of contributing to the objectivity, transparency and efficiency of the Commission's competition proceedings;

Whereas the Commission created the post of Hearing Officer for these purposes in 1982 and laid down his terms of reference;

Whereas it is necessary to adapt and consolidate those terms of reference in the light of subsequent developments in Community law,

HAS DECIDED AS FOLLOWS:

Article 1

1. The hearings provided for in the provisions implementing Articles 65 and 66 of the ECSC Treaty, Articles 85 and 86 of the EC Treaty and Council Regulation (EEC) No 4064/89⁽¹⁾ shall be organized and conducted by the Hearing Officer in accordance with Articles 2 to 10 of this Decision.

2. The implementing provisions referred to in paragraph 1 are:

(a) Article 36(1) of the ECSC Treaty;

(b) Regulation No 99/63/EEC of the Commission of 25 July 1963 on the hearings provided for in Article 19(1) and (2) of Council Regulation No 17⁽²⁾;

(c) Regulation (EEC) No 1630/69 of the Commission of 8 August 1969 on the hearings provided for in Article 26(1) and (2) of Council Regulation (EEC) No 1017/68 of 19 July 1968⁽³⁾;

(d) Commission Regulation (EEC) No 4260/88 of 16 December 1988 on the communications, complaints and applications and the hearings provided for in Council Regulation (EEC) No 4056/86 laying down detailed rules for the application of Articles 58 and 86 of the treaty to maritime transport⁽⁴⁾;

(e) Commission Regulation (EEC) No 4261/88 of 16 December 1988 on the complaints, applications and hearings provided for in Council Regulation (EEC) No 3975/87 laying down the procedure for the application of the rules on competition to undertakings in the air transport sector⁽⁵⁾;

(f) Commission Regulation (EEC) No 2367/90 of 25 July 1990, on the notifications, time limits and hearings provided for in Council Regulation (EEC) No 4064/89 on the control of concentrations between undertakings⁽⁶⁾.

3. Administratively the Hearing Officer shall belong to the Directorate-General for Competition. To ensure the independence of the Hearing Officer in the performance of his duties, he has the right of direct access, as defined in Article 9, to the Member of the Commission with special responsibility for competition.

4. Where the Hearing Officer is unable to act, the Director-General, where appropriate after consultation of the Hearing Officer, shall designate another official, who

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

⁽³⁾ OJ No L 209, 21. 8. 1969, p. 11.

⁽⁴⁾ OJ No L 376, 31. 12. 1988, p. 1.

⁽⁵⁾ OJ No L 376, 31. 12. 1988, p. 10.

⁽⁶⁾ OJ No L 219, 14. 8. 1990, p. 5.

⁽¹⁾ OJ No L 395, 30. 12. 1989, p. 1 (corrected version OJ No L 257, 21. 9. 1990, p. 13).

is least in the grade A3 and is not involved in the case in question, to carry out the duties described herein.

Article 2

1. The Hearing Officer shall ensure that the hearing is properly conducted and thus contribute to the objectivity of the hearing itself and of any decision taken subsequently. The Hearing Officer shall seek to ensure in particular that in the preparation of draft Commission decisions in competition cases due account is taken of all the relevant facts, whether favourable or unfavourable to the parties concerned.

2. In performing his duties the Hearing Officer shall see to it that the rights of the defence are respected, while taking account of the need for effective application of the competition rules in accordance with the regulations in force and the principles laid down by the Court of First Instance and the Court of Justice.

Article 3

1. Decisions as to whether third parties, be they natural or legal persons, are to be heard shall be taken after consulting the Director responsible for investigating the case which is the subject of the procedure.

2. Applications to be heard on the part of third parties shall be submitted in writing, together with a written statement explaining the applicant's interest in the outcome of the procedure.

3. Where it is found that an applicant has not shown a sufficient interest to be heard, he shall be informed in writing of the reasons for such finding. A time limit shall be fixed within which he may submit any further written comments.

Article 4

1. Decisions whether persons are to be heard orally shall be taken after consulting the Director responsible for investigating the case which is the subject of the procedure.

2. Applications to be heard orally shall be made in the applicant's written comments on letters which the Commission has addressed to him and shall contain a reasoned statement of the applicant's interest in an oral hearing.

3. The letters referred to in paragraph 2 are those :

- communicating a statement of objections,
- inviting the written comments of a natural or legal person having shown sufficient interest to be heard as a third party,
- informing a complainant that in the Commission's view there are insufficient grounds for finding an

infringement and inviting him to submit any further written comments,

- informing a natural or legal person that in the Commission's view that person has not shown sufficient interest to be heard as a third party.

4. Where it is found that the applicant has not shown a sufficient interest to be heard orally, he shall be informed in writing of the reasons for such finding. A time limit shall be fixed within which he may submit any further written comments.

Article 5

1. Where a person, an undertaking or an association of persons or undertakings who or which has received one or more of the letters listed in Article 4 (3) has reason to believe that the Commission has in its possession documents which have not been disclosed to it and that those documents are necessary for the proper exercise of the right to be heard, he or it may draw attention to the matter by a reasoned request.

2. The reasoned decision on any such request shall be communicated to the person, undertaking or association that made the request and to any other person, undertaking or association concerned by the procedure.

3. Where it is intended to disclose information which may constitute a business secret of an undertaking, it shall be informed in writing of this intention and the reasons for it. A time limit shall be fixed within which the undertaking concerned may submit any written comments.

4. Where the undertaking concerned objects to the disclosure of the information but it is found that the information is not protected and may therefore be disclosed, that finding shall be stated in a reasoned decision which shall be notified to the undertaking concerned. The decision shall specify the date after which the information will be disclosed. This date shall not be less than one week from the date of notification.

5. Where an undertaking or association of undertakings considers that the time limit imposed for its reply to a letter referred to in Article 4 (3) is too short, it may, within the original time limit, draw attention to the matter by a reasoned request. The applicant shall be informed in writing whether the request has been granted.

Article 6

1. Where appropriate in view of the need to ensure that the hearing is properly prepared and particularly that questions of fact are clarified as far as possible, the Hearing Officer may, after consulting the Director responsible for investigating the case, supply in advance to the firms concerned a list of the questions on which he or she wishes them to explain their point of view.

2. For this purpose, after consulting the Director responsible for investigating the case which is the subject of the hearing, the Hearing Officer may hold a meeting with the parties concerned and, where appropriate, the Commission staff, in order to prepare for the hearing itself.

3. For the same purpose the Hearing Officer may ask for prior written notification of the essential contents of the intended statement of persons whom the undertakings concerned have proposed for hearing.

Article 7

1. After consulting the Director responsible for investigating the case, the Hearing Officer shall determine the date, the duration and the place of the hearing, and, where a postponement is requested, the Hearing Officer shall decide whether or not to allow it.

2. The Hearing Officer shall be fully responsible for the conduct of the hearing.

3. In this regard, the Hearing Officer shall decide whether fresh documents should be admitted during the hearing, what persons should be heard on behalf of a party and whether the persons concerned should be heard separately or in the presence of other persons attending the hearing.

4. The Hearing Officer shall ensure that the essential content of the statement made by each person heard shall be recorded in minutes which, where appropriate, shall be read and approved by that person.

Article 8

The Hearing Officer shall report to the Director-General for Competition on the hearing and the conclusions he draws from it. The Hearing Officer may make observations on the further progress of the proceedings. Such observations may relate among other things to the need

for further information, the withdrawal of certain objections, or the formulation of further objections.

Article 9

In performing the duties defined in Article 2, the Hearing Officer may, if he deems it appropriate, refer his observations direct to the Member of the Commission with special responsibility for competition.

Article 10

Where appropriate, the Member of the Commission with special responsibility for competition may decide, at the Hearing Officer's request, to attach the Hearing Officer's final report to the draft decision submitted to the Commission, in order to ensure that when it reaches a decision on an individual case it is fully apprised of all relevant information.

Article 11

This Decision revokes and replaces the Commission Decisions of 8 September 1982 and 23 November 1990 on the implementation of hearings in connection with procedures for the application of Articles 65 and 66 of the ECSC Treaty and Articles 85 and 86 of the EC Treaty.

Article 12

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

Done at Brussels, 12 December 1994.

For the Commission

Karel VAN MIERT

Member of the Commission