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I

(Acts whose publication is obligatory)

**REGULATION (EC) No 82/97 OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL**

of 19 December 1996

**amending Regulation (EEC) No 2913/92 establishing a Community Customs
Code**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
THE EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Articles 28, 100a and 113
thereof,

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

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

Acting in accordance with the procedure laid down in
Article 189b of the Treaty ⁽³⁾,

(1) Whereas Council Regulation (EEC) No 2913/92 of
12 October 1992 establishing the Community
Customs Code ⁽⁴⁾ stipulates that the customs territory
of the Community does not include the Åland
islands, unless a declaration is made in accordance
with Article 227 (5) of the Treaty; whereas this Regu-
lation should be amended since such a declaration
has been made and the islands in question form an
integral part of the Republic of Finland;

(2) Whereas the Interim Agreement on trade and
customs union between the European Economic
Community and the Republic of San Marino of 27
November 1992 ⁽⁵⁾ defines the territories to which
that Agreement applies; whereas the territory of San
Marino cannot therefore be considered part of the
Community's customs territory;

(3) Whereas measures are needed to ensure that under
no circumstances goods obtained from non-Com-
munity goods placed under a suspensive arrangement
enter the Community economy without import
duties being paid, even if they have acquired
Community origin; whereas the definition of
Community goods must therefore be altered; whereas
such goods must be subject to the same suspensive
arrangement as the goods from which they have
been obtained;

(4) Whereas the Uruguay Round Agreement on agricul-
ture ⁽⁶⁾ will result in the abolition of agricultural
levies;

(5) Whereas the Uruguay Round Agreement on rules of
origin ⁽⁷⁾ requires the contracting parties to issue
assessments of the origin of goods to any person
showing just cause;

(6) Whereas a number of products are subject to import
duties expressed in ecus; whereas such duties
expressed in ecus must be converted more rapidly
into national currencies in order to prevent deflec-
tion of trade;

(7) Whereas, in other cases where customs legislation
expresses amounts in ecus, the conversion of such
amounts into national currencies needs to be made
more flexible;

⁽¹⁾ OJ No C 260, 5. 10. 1995, p. 8, and OJ No C 207, 18. 7.
1996, p. 7.

⁽²⁾ OJ No C 174, 17. 6. 1996, p. 14.

⁽³⁾ European Parliament opinion of 14 February 1996 (OJ No C
65, 4. 3. 1996, p. 68), Council common position of 28 May
1996 (OJ No 248, 26. 8. 1996, p. 1) and European Parliament
Decision of 23 October 1996 (OJ No C 347, 18. 11. 1996).
Council Decision of 26 November 1996.

⁽⁴⁾ OJ No L 302, 19. 10. 1992, p. 1. Regulation as amended by
the 1994 Act of Accession.

⁽⁵⁾ OJ No L 359, 9. 12. 1992, p. 14.

⁽⁶⁾ OJ No L 336, 23. 12. 1994, p. 22.

⁽⁷⁾ OJ No L 336, 23. 12. 1994, p. 144.

- (9) Whereas, by Council Decision 93/329/EEC of 15 March 1993 concerning the conclusion of the Convention on Temporary Admission and accepting its annexes⁽¹⁾, the Community accepted the Convention on Temporary Admission negotiated within the Customs Cooperation Council and concluded in Istanbul on 26 June 1990; whereas, therefore, the ATA carnet may also be used on the basis of that Convention;
- (10) Whereas, under the inward-processing procedure in the form of the drawback system, the possibility of drawback should in certain cases be extended to goods in the unaltered state; whereas, where import duties have been refunded under the drawback system, subsequent release for free circulation must nevertheless remain possible without special authorization, as is the case under the suspensive arrangement;
- (11) Whereas notice of the re-export of goods previously imported into the Community's customs territory does not seem necessary in all cases;
- (12) Whereas, where Community legislation provides for partial or total exemption from import or export duties, such partial or total exemption must be applicable in all cases, regardless of the circumstances in which the debt is incurred; whereas, in these circumstances, the application of the normal rate of duty does not seem to be an appropriate sanction in the event of a failure to comply with the customs procedure rules;
- (13) Whereas the cases in which the debtor's obligation to pay the duties is suspended should be defined more clearly;
- (14) Whereas a customs debt must be quashed whenever a customs declaration is invalidated; whereas such cases are not limited to those provided for in Article 66 of the Community Customs Code;
- (15) Whereas Article 3 (3) (b) of Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit⁽²⁾ has become redundant;
- (16) Whereas, in order to ensure that the Customs Code remains easy to use in practice, the Commission has stated its readiness to publish annual updates of the Code, together with its implementing provisions,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2913/92 is hereby amended as follows:

⁽¹⁾ OJ No L 130, 27. 5. 1993, p. 1.

⁽²⁾ OJ No L 262, 26. 9. 1990, p. 1.

1. in Article 3:

(a) paragraph 1 shall be amended as follows:

— the fifth indent shall be replaced by the following:

‘— the territory of the French Republic, except the overseas territories and Saint-Pierre and Miquelon and Mayotte,’

— the 13th indent shall be replaced by the following:

‘— the territory of the Republic of Finland,’

(b) paragraph 2 shall be replaced by the following:

‘2. Although situated outside the territory of the French Republic, the territory of the Principality of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (*Official Journal of the French Republic* of 27 September 1963, p. 8679) shall, by virtue of that Convention, also be considered to be part of the customs territory of the Community.’;

2. Article 4 shall be amended as follows:

(a) the final part of point 5 shall be replaced by the following:

‘...; this term covers, *inter alia*, binding information within the meaning of Article 12;’

(b) the first indent of point 7 shall be replaced by the following:

‘— wholly obtained in the customs territory of the Community under the conditions referred to in Article 23 and not incorporating goods imported from countries or territories not forming part of the customs territory of the Community. Goods obtained from goods placed under a suspensive arrangement shall not be deemed to have Community status in cases of special economic importance determined in accordance with the committee procedure,’;

(c) in the second indent of point 10, ‘agricultural levies and other’ shall be deleted;

(d) in the second indent of point 11, ‘agricultural levies and other’ shall be deleted;

3. Article 12 shall be replaced by the following:

‘Article 12

1. The customs authorities shall issue binding tariff information or binding origin information on written request, acting in accordance with the committee procedure.

2. Binding tariff information or binding origin information shall be binding on the customs authorities as against the holder of the information only in respect of the tariff classification or determination of the origin of goods.

Binding tariff information or binding origin information shall be binding on the customs authorities only in respect of goods on which customs formalities are completed after the date on which the information was supplied by them.

In matters of origin, the formalities in question shall be those relating to the application of Articles 22 and 27.

3.4. The holder of such information must be able to prove that:

- for tariff purposes: the goods declared correspond in every respect to those described in the information,
- for origin purposes: the goods concerned and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the information.

4. Binding information shall be valid for a period of six years in the case of tariffs and three years in the case of origin from the date of issue. By way of derogation from Article 8, it shall be annulled where it is based on inaccurate or incomplete information from the applicant.

5. Binding information shall cease to be valid:

(a) in the case of tariff information:

- (i) where a regulation is adopted and the information no longer conforms to the law laid down thereby;
- (ii) where it is no longer compatible with the interpretation of one of the nomenclatures referred to in Article 20 (6):

- at Community level, by reason of amendments to the explanatory notes to the combined nomenclature or by a judgment of the Court of Justice of the European Communities,
- at international level, by reason of a classification opinion or an amendment of the explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the World Customs Organization established in 1952

under the name 'the Customs Cooperation Council';

- (iii) where it is revoked or amended in accordance with Article 9, provided that the revocation or amendment is notified to the holder.

The date on which binding information ceases to be valid for the cases cited in (i) and (ii) shall be the date of publication of the said measures or, in the case of international measures, the date of the Commission communication in the 'C' series of the *Official Journal of the European Communities*,

(b) in the case of origin information:

- (i) where a regulation is adopted or an agreement is concluded by the Community and the information no longer conforms to the law thereby laid down;

(ii) where it is no longer compatible with:

- at Community level, the explanatory notes and opinions adopted for the purposes of interpreting the rules or with a judgment of the Court of Justice of the European Communities,
- at international level, the Agreement on Rules of Origin established in the World Trade Organization (WTO) or with the explanatory notes or an origin opinion adopted for the interpretation of that Agreement;

- (iii) where it is revoked or amended in accordance with Article 9, provided that the holder has been informed in advance.

The date on which binding information ceases to be valid for the cases referred to in (i) and (ii) shall be the date indicated when the abovementioned measures are published or, in the case of international measures, the date shown in the Commission communication in the 'C' series of the *Official Journal of the European Communities*.

6. The holder of binding information which ceases to be valid pursuant to paragraph 5 (a) (i) or (ii) or (b) (i) or (ii) may still use that information for a period of six months from the date of publication or notification, provided that he concluded binding contracts for the purchase or sale of the goods in question, on the basis of the binding information, before that measure was adopted. However, in the case of products for which an import, export or advance-fixing certificate is submitted when customs formalities are carried out, the period of six months is replaced by the period of validity of the certificate.

In the case of paragraph 5 (a) (i) and b (i), the Regulation or agreement may lay down a period within which the first subparagraph shall apply.

7. The classification or determination of origin in binding information may be applied, on the conditions laid down in paragraph 6, solely for the purpose of:

- determining import or export duties,
- calculating export refunds and any other amounts granted for imports or exports as part of the common agricultural policy,
- using import, export or advance-fixing certificates which are submitted when formalities are carried out for acceptance of the customs declaration concerning the goods in question, provided that such certificates were issued on the basis of the information concerned.

In addition, in exceptional cases where the smooth operation of the arrangements laid down under the common agricultural policy may be jeopardized, it may be decided to derogate from paragraph 6, in accordance with the procedure laid down in Article 38 of Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats^(*) and in the corresponding Articles in other regulations on the common organization of markets.

^(*) OJ No 172, 30. 9. 1966, p. 3025/66. Regulation as last amended by Regulation (EC) No 3290/94 (OJ No L 349, 31. 12. 1994, p. 105).;

4. Article 18 shall be replaced by the following:

'Article 18

1. The value of the ecu in national currencies to be applied for the purposes of determining the tariff classification of goods and import duties shall be fixed once a month. The rates to be used for this conversion shall be those published in the *Official Journal of the European Communities* on the penultimate working day of the month. Those rates shall apply throughout the following month.

However, where the rate applicable at the start of the month differs by more than 5 % from that published on the penultimate working day before the 15th of that same month, the latter rate shall apply from the 15th until the end of the month in question.

2. The value of the ecu in national currencies to be applied within the framework of customs legislation in cases other than those referred to in paragraph 1 shall be fixed once a year. The rates to be used for this conversion shall be those published in the *Official Journal of the European Communities* on the first working day of October, with effect from 1 January of the following year. If no rate is available for a particular national currency, the rate applicable to that currency shall be that obtaining on the last day for which a rate was published in the *Official Journal of the European Communities*.

3. The customs authorities may round up or down the sum resulting from the conversion into their national currency of an amount expressed in ecus for purposes other than determining the tariff classification of goods or import or export duties.

The rounded-off amount may not differ from the original amount by more than 5 %.

The customs authorities may retain unchanged the national-currency value of an amount expressed in ecus if, at the time of the annual adjustment provided for in paragraph 2, the conversion of that amount, prior to the abovementioned rounding-off, results in a variation of less than 5 % in the national-currency value or a reduction in that value.;

5. in the second indent of point (c) of Article 20 (3), 'agricultural levies and other' shall be deleted;

6. Article 31 (1) shall be amended as follows:

'of 1994' shall be added at the end of the first and second indents;

7. in Article 55, '43' shall be replaced by '42';

8. in point (a) of Article 83, 'in accordance with Article 66' shall be deleted;

9. the following Article shall be inserted:

'Article 87a

In the cases referred to in the second sentence of the first indent of Article 4 (7), any products or goods obtained from goods placed under a suspensive arrangement shall be considered as being placed under the same arrangement.;

10. in point (c) of Article 91 (2), '(ATA Convention)' shall be deleted;

11. Article 112 (3) shall be replaced by the following:

'3. Where import goods are released for free circulation in accordance with Article 76 (1) (c), the nature of the goods, the customs value and the quantity to be taken into account for the purposes of Article 214 shall be those applicable to the goods at the time when they were placed under the customs-warehousing procedure.

The first subparagraph shall apply provided that the rules of assessment relating to those goods were ascertained or accepted at the time when the goods were placed under the customs-warehousing procedure, unless the declarant requests their application at the time when the customs debt is incurred.

The first subparagraph shall apply without prejudice to a post-clearance examination within the meaning of Article 78.;

12. in the third indent of Article 124 (1), 'an agricultural levy or any other' shall be replaced by 'an';

13. Article 128 shall be amended as follows:

(a) paragraphs 1 and 2 shall be replaced by the following:

'1. The holder of the authorization may ask for the import duty to be repaid or remitted where he can establish to the satisfaction of the customs authorities that import goods released for free circulation under the drawback system in the form of compensating products or goods in the unaltered state have been either:

— exported, or

— placed, with a view to being subsequently re-exported, under the transit procedure, the customs-warehousing procedure, the temporary importation procedure or the inward-processing procedure (suspensive arrangement), or in a free zone or free warehouse,

provided that all conditions for use of the procedure have also been fulfilled.

2. For the purposes of being assigned a customs-approved treatment or use referred to in the second indent of paragraph 1, compensating products or goods in the unaltered state shall be considered to be non-Community goods.;

(b) paragraph 4 shall be replaced by the following:

'4. Without prejudice to point (b) of Article 122, where compensating products or goods in the unaltered state placed under a customs procedure or in a free zone or free warehouse in accordance with paragraph 1 are released for free circulation, the amount

of import duties repaid or remitted shall be considered to constitute the amount of the customs debt.;

14. in point (c) of Article 163 (2), '(ATA Convention)' shall be deleted;

15. the first sentence of Article 182 (3) shall be replaced by the following:

'3. Save in cases determined in accordance with the committee procedure, re-exportation or destruction shall be the subject of prior notification of the customs authorities.;

16. the following Article shall be inserted:

Article 212a

Where customs legislation provides for partial or total exemption from import or export duties pursuant to Articles 181 to 187, such partial or total exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 202 to 205, 210 or 211 where the behaviour of the declarant implies neither fraudulent dealing nor manifest negligence and he produces evidence that the other conditions for the application of relief or exemption have been satisfied.;

17. point (b) of the second subparagraph of Article 217 (1) shall be replaced by the following:

'(b) where the amount of duty legally due exceeds that determined on the basis of binding information.;

18. Article 222 (2) shall be replaced by the following:

'2. The cases and conditions in which the debtor's obligation to pay duty shall be suspended may also be provided for in accordance with the committee procedure:

— where an application for remission of duty is made in accordance with Article 236, 238 or 239, or

— where goods are seized with a view to subsequent confiscation in accordance with the second indent of point (c) or with point (d) of Article 233.;

19. in the first indent of point (c) of the first paragraph of Article 233, 'in accordance with Article 66' shall be deleted;

20. in the 26th indent of Article 251 (1), 'except for Article 3 (3) (b)' shall be deleted.

Article 2

This Regulation shall enter into force on 1 January 1997.

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

Done at Brussels, 19 December 1996.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

S. BARRETT

COMMISSION REGULATION (EC) No 83/97**of 20 January 1997****laying down to what extent applications for issue of export licences submitted during January 1997 for beef and veal products which may benefit from special import treatment in Canada may be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80⁽¹⁾, as last amended by Regulation (EC) No 2333/96⁽²⁾, and in particular Article 12 (a) (8) thereof,Whereas Regulation (EC) No 1445/95 lays down, in Article 12 (a), detailed rules for export licence applications for the products referred to in Article 1 of Commission Regulation (EC) No 2051/96⁽³⁾, laying down certain detailed rules for granting of assistance for the export of beef and veal which may benefit from a special import treatment in Canada, as amended by Regulation (EC) No 2333/96;

Whereas Regulation (EC) No 2051/96 fixed the quantities of meat which might be exported on special terms for the year 1997, whereas no applications were submitted for export licences for beef and veal,

HAS ADOPTED THIS REGULATION:

Article 1

No applications for export licences were lodged for the beef and veal referred to in Regulation (EC) No 2051/96 for the month of January 1997.

Article 2

Applications for licences in respect of the meat referred to in Article 1 may be entered in accordance with Article 12a of Regulation (EC) No 1445/95 during the first 10 days of the month of February 1997 the total quantity available being 5 000 tonnes.

Article 3

This Regulation shall enter into force on 21 January 1997.

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

Done at Brussels, 20 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission⁽¹⁾ OJ No L 143, 27. 6. 1995, p. 35.⁽²⁾ OJ No L 317, 6. 12. 1996, p. 13.⁽³⁾ OJ No L 274, 26. 10. 1996, p. 18.

COMMISSION REGULATION (EC) No 84/97

of 20 January 1997

fixing the standard fee per farm return for the 1997 accounting year of the farm
accountancy data network

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

Having regard to Council Regulation No 79/65/EEC of 15 June 1965 setting up a network for the collection of accountancy data on the incomes and business operating of agricultural holdings in the European Economic Community⁽¹⁾, as last amended by Regulation (EC) No 2801/95⁽²⁾, and in particular Article 9 (2) thereof,

Whereas Article 5 of Commission Regulation (EEC) No 1915/83 of 13 July 1983 on certain detailed implementation rules concerning the keeping of accounts for the purpose of determining the incomes of agricultural holdings⁽³⁾ provides that a standard fee shall be fixed to be paid by the Commission to the Member States for each farm return completed;

Whereas Commission Regulation (EC) No 1372/96⁽⁴⁾ fixes the standard fee for the 1996 accounting year at ECU 120 per farm return;

Whereas the trend in costs and its effects on the cost of completing the farm return justify a revision of the fee;

Whereas the Community Committee on the Farm Accountancy Data Network has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The standard fee paid by the Commission to Member States for each duly completed farm return is hereby fixed at ECU 122 for the 1997 accounting year.

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 for the 1997 accounting year.

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

Done at Brussels, 20 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No 109, 23. 6. 1965, p. 1859/65.

⁽²⁾ OJ No L 291, 6. 12. 1995, p. 3.

⁽³⁾ OJ No L 190, 14. 7. 1983, p. 25.

⁽⁴⁾ OJ No L 178, 17. 7. 1996, p. 4.

COMMISSION REGULATION (EC) No 85/97

of 20 January 1997

laying down detailed rules of application for the management in 1997 of a quota of preparations of a kind used in animal feeding falling within CN codes 2309 90 31 and 2309 90 41 originating in Bulgaria

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽¹⁾, as last amended by Regulation (EC) No 2490/96⁽²⁾, and in particular Article 8 thereof,

Whereas Regulation (EC) No 3066/95 provides, in conjunction with the Europe Agreement concluded with Bulgaria⁽³⁾, for the opening of a Community tariff quota for 1996 for preparations of a kind used in animal feeding falling within CN codes 2309 90 31 and 2309 90 41 originating in Bulgaria; whereas that Regulation has been extended until 31 December 1997; whereas a tariff quota must therefore be opened for 1997;

Whereas the customs duty applicable to imports within that quota is fixed at 20 % of the MFN rate in force;

Whereas the type of management concerned requires close collaboration between the Member States and the Commission, which must, in particular, be able to monitor the progress made in using up the tariff quota and inform the Member States thereof;

Whereas the licences for the import of the products in question within the aforementioned quota should be issued after a scrutiny period and with the fixing, where necessary, of a single percentage reduction in the quantities applied for;

Whereas, in particular, checks should be made to ensure that the products are of Bulgarian origin;

Whereas the information to be included in the applications and licences should be specified;

Whereas, with a view to the sound management of the scheme, provision should be made for the security relating to the import licences for the said scheme to be fixed at ECU 25 per tonne;

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

HAS ADOPTED THIS REGULATION:

Article 1

Products falling within CN codes 2309 90 31 and 2309 90 41 originating in Bulgaria and qualifying for a tariff quota 1997 at reduced rate of duty, pursuant to Regulation (EC) No 3066/95, may be imported into the Community in accordance with the provisions of this Regulation.

The rate of duty applicable and the quantities that may be imported are set out in the Annex hereto.

Article 2

To be accepted, applications for import licences must be accompanied by the original of the proof of origin, in the form of an EUR-1 certificate issued in Bulgaria in accordance with Protocol No 4 of the Europe Agreement for the products in question.

Article 3

1. Applications for import licences shall be lodged with the competent authorities in each of the Member States on the first working day of each week by 1 p.m., Brussels time. Licence applications must relate to a quantity equal to or greater than five tonnes of product and may not exceed 500 tonnes.

2. The Member States shall send the import licence applications to the Commission's departments by telex or fax, by 6 p.m., at the latest, Brussels time, on the day they are lodged.

3. By the Friday following the day on which the applications are lodged, the Commission's departments shall notify the Member States by telex or fax of the outcome of the licence applications.

4. Upon receipt of the notification by the Commission's departments, the Member States shall issue the import licences. The term of validity of licences shall be calculated from the date they are issued.

⁽¹⁾ OJ No L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ No L 338, 28. 12. 1996, p. 13.

⁽³⁾ OJ No L 358, 31. 12. 1994, p. 3.

5. The quantity released for free circulation may not be greater than that indicated in sections 17 and 18 of the import licence. To this end the figure '0' shall be entered in section 19 of the said licence.

Article 4

In the case of products to be imported qualifying for the import duty reduction provided for in Article 1, import licence applications and the licence shall include:

- (a) in section 8, the word 'Bulgaria'; the licence requires that importation take place from this country;
- (b) in section 24, one of the following indications:
 - Derecho de importación reducido en un 80 % [Anexo del Reglamento (CE) n° 85/97]
 - Importtold nedsat med 80 % (bilaget til forordning (EF) nr. 85/97)
 - Zollermäßigung um 80 % (Anhang der Verordnung (EG) Nr. 85/97)
 - Δασμός κατά την εισαγωγή μειωμένος κατά 80 % [Παράρτημα του κανονισμού (ΕΚ) αριθ. 85/97]
 - 80 % import duty reduction (Annex to Regulation (EC) No 85/97)

- Droit à l'importation réduit de 80 % [annexe du règlement (CE) n° 85/97]
- Dazio all'importazione ridotto dell'80 % [Allegato del regolamento (CE) n. 85/97]
- Met 80 % verlaagd invoerrecht (bijlage bij Verordening (EG) nr. 85/97)
- Direito de importação reduzido de 80 % [anexo do Regulamento (CE) n° 85/97]
- 80 prosenttia alennettu tuontitulli (Asetuksen (EY) N:o 85/97 liite)
- 80 % nedsatt importtull (Bilaga till förordning (EG) nr 85/97).

Article 5

The amount of the security for the import licences provided for in this Regulation shall be ECU 25 per tonne.

Article 6

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

It shall apply from 1 January 1997.

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

Done at Brussels, 20 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

The quantity imported from Bulgaria under the CN codes referred to in this Annex shall benefit from an 80 % reduction in import duty in 1997.

CN code	Description	Total quantity which may be imported in 1997
2309 90 31 2309 90 41	Preparations of a kind used in animal feeding	2 800 tonnes

COMMISSION REGULATION (EC) No 86/97**of 20 January 1997****on detailed rules for the application of Council Regulation (EC) No 3066/95 to the management of a quota for dog and cat food falling within CN code ex 2309 10 originating in Hungary**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations⁽¹⁾, as last amended by Regulation (EC) No 2490/96⁽²⁾, and in particular Article 8 thereof,

Whereas, as part of the Europe Agreement concluded between the Community and its Member States on the one hand and Hungary on the other, concessions have been granted to the latter concerning certain agricultural products;

Whereas, following the accession of Austria, Finland and Sweden, these concessions have been adjusted to take into account, in particular, the arrangements for trade in the agricultural sector that existed between Austria and Hungary; whereas, to this end, the abovementioned Regulation provides for the opening of an autonomous tariff quota for 1997 of dog and cat food packed for retail sale falling within CN code ex 2309 10 and originating in Hungary; whereas imports under this quota will benefit from an 80 % reduction in the applicable rates of MFN duty; whereas it is therefore necessary to apply the measures provided for in Article 2 of the said Regulation with effect from 1 January 1997;

Whereas it is necessary to lay down detailed rules for managing the quota; whereas this form of management requires close cooperation between the Member States and the Commission, which must be in a position to monitor how much of the quota has been used up and to inform the Member States accordingly;

Whereas it should be laid down that import licences for the products in question under the abovementioned quota should be issued after a period for consideration and where necessary by applying a single percentage reduction to the quantities applied for;

Whereas, in particular, care must be taken to ensure that the products in question are of Hungarian origin;

Whereas the items to be entered on the applications and licences should be laid down;

Whereas, in order to ensure efficient management of the arrangements provided for, the security for import licences under these arrangements should be fixed at ECU 25 per tonne;

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

HAS ADOPTED THIS REGULATION:

Article 1

The products covered by CN code ex 2309 10 listed in the Annex hereto, originating in Hungary and benefiting from the tariff quota opened for 1997 reducing applicable MFN duty to 20 % pursuant to Annex I to Council Regulation (EC) No 3066/95, may be imported into the Community in accordance with the provisions of this Regulation.

Article 2

To be eligible, the import licence application must be accompanied by the original attestation of origin in the form of an EUR 1 certificate issued or drawn up in Hungary.

Article 3

1. Applications for import licences shall be submitted to the competent authority in any Member State on the first working day of the week up to 1 p.m., Brussels time. The licence applications shall relate to a quantity of not less than five tonnes in product weight and not exceeding 1 000 tonnes.

2. The Member States shall forward the import licence applications to the Commission by telex or fax not later than 6 p.m., Brussels time, on the day of their submission.

3. Not later than the Friday following the day of submission of the applications, the Commission shall determine and indicate to the Member States by telex or fax what licence applications it has approved.

⁽¹⁾ OJ No L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ No L 338, 28. 12. 1996, p. 13.

4. Upon receipt of the Commission notification, the Member States shall issue the import licences. The duration of validity of a licence shall be calculated from the date of its issue.

5. The quantity released for free circulation shall not be greater than that indicated in boxes 17 and 18 of the import licence. The figure '0' shall be entered to this effect in box 19 of the licence.

Article 4

For products to be imported with the benefit of the reduction in customs duties provided for in Article 1 of this Regulation, the import licence application and the licence shall include:

(a) In box 8, the word 'Hungary'. The licence requires the product to be imported from that country.

(b) In box 24, one of the following entries:

- Derecho de aduana reducido un 80 % [Anexo del Reglamento (CE) n° 86/97]
- Nedsættelse af toldsatsen med 80 % (Bilag til forordning (EF) nr. 86/97)
- Ermäßigung des Zolls um 80 % (Anhang der Verordnung (EG) Nr. 86/97)

- Τελωνειακός δασμός μειωμένος κατά 80 % [Παράρτημα του κανονισμού (ΕΚ) αριθ. 86/97]
- 80 % customs duty reduction (Annex of Regulation (EC) No 86/97)
- Droit de douane réduit de 80 % [annexe du règlement (CE) n° 86/97]
- Dazio doganale ridotto dell'80 % [Allegato del regolamento (CE) n. 86/97]
- Met 80 % verlaagd douanerecht (bijlage bij Verordening (EG) nr. 86/97)
- Direito aduaneiro reduzido de 80 % [anexo do Regulamento (CE) n° 86/97]
- Tulli on alennettu 80 prosentilla (liite asetuksen (EY) N:o 86/97)
- Nedsättning av tullsats med 80 % (Bilagan till förordning (EG) nr 86/97).

Article 5

The rate of the security for the import licences provided for in this Regulation shall be ECU 25 per tonne.

Article 6

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 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

The quantities imported under the CN code referred to in this Annex shall be subject to an 80 % reduction in the customs duty during 1997.

CN code	Description	Total quantity that may be imported from 1 January to 31 December 1997
ex 2309 10	Dog or cat food, put up for retail sale	10 875 tonnes

COMMISSION REGULATION (EC) No 87/97
of 20 January 1997

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas Commission Regulation (EEC) No 2958/93⁽³⁾, as last amended by Regulation (EC) No 1802/95⁽⁴⁾, lays down detailed rules for the application of Regulation (EEC) No 2019/93 as regards the specific arrangements for the supply of certain agricultural products and, pursuant to Article 3 of Regulation (EEC) No 2019/93, the level of aid granted for that supply; whereas, pursuant to Article 2 of Regulation (EEC) No 2019/93, the forecast supply balances for the supply of the smaller Aegean islands with dried fodder from the rest of the Community should be established for 1997; whereas this measure should enter into force forthwith;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of Article 2 of Regulation (EEC) No 2019/93, the forecast supply balances for dried fodder eligible for Community aid in 1997 shall be those set out in Annexes I and II hereto.

Article 2

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

Article 3

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

It shall apply from 1 January 1997.

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

Done at Brussels, 20 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 184, 27. 7. 1993, p. 1.

⁽²⁾ OJ No L 248, 14. 10. 1995, p. 39.

⁽³⁾ OJ No L 267, 28. 10. 1993, p. 4.

⁽⁴⁾ OJ No L 174, 26. 7. 1995, p. 27.

*ANNEX I***Forecast supply balance for the smaller islands belonging to group A***(in tonnes)*

Description	CN code	Quantity for 1997
Artificially dried, heat-dried and otherwise dried lucerne and fodder	1214 10 00 1214 90 91 1214 90 99	1 000

*ANNEX II***Forecast supply balance for the smaller islands belonging to group B***(in tonnes)*

Description	CN code	Quantity for 1997
Artificially dried, heat-dried and otherwise dried lucerne and fodder	1214 10 00 1214 90 91 1214 90 99	1 750

COMMISSION REGULATION (EC) No 88/97

of 20 January 1997

on the authorization of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as amended by Regulation (EC) No 2331/96 ⁽²⁾,

Having regard to Council Regulation (EC) No 71/97 of 14 January 1997 extending the definitive anti-dumping duty imposed by Regulation (EEC) No 2474/93 on bicycles originating in the People's Republic of China to imports of certain bicycle parts from the People's Republic of China, and levying the extended duty on such imports registered under Regulation (EC) No 703/96 ⁽³⁾, and in particular Article 3 thereof,

After consulting the Advisory Committee,

Whereas:

- (1) By Regulation (EC) No 71/97 (hereinafter 'the Reference Regulation'), the Council extended the anti-dumping duty imposed by Regulation (EEC) No 2474/93 ⁽⁴⁾ on imports of bicycles originating in the People's Republic of China to imports of certain bicycle parts from that country.
- (2) The Reference Regulation sets out certain principles and guidelines governing the exemption of certain imports of bicycle parts from the extended duty.
- (3) This Regulation should provide clear guidance to interested parties as to how the exemption system will be operated. It should, in particular, make clear provision as to how certain imports of essential bicycle parts may be exempted from the extended duty, and how authorization for such exemptions may be obtained.
- (4) In this regard, the exemption system should envisage three cases in which imports of essential bicycle parts may conditionally or definitively be exempted from the payment of the extended duty.

First, direct imports of essential bicycle parts should be exempted from the extended duty where they are declared for free circulation by, or on behalf of, an assembler which has been exempted by the Commission.

Secondly, imports of essential bicycle parts should also be exempted from the extended duty where they are admitted under end-use control and where they are finally delivered to an exempted assembler, or are declared for free circulation or delivered to a party in limited quantities. It is appropriate in this respect to apply the existing mechanism of end-use control provided for in Council Regulation (EEC) No 2913/92 ⁽⁵⁾ and in Commission Regulation (EEC) No 2454/93 ⁽⁶⁾, as last amended by Regulation (EC) No 12/97 ⁽⁷⁾ *mutatis mutandis*. Where less than 300 units per month of any type of essential bicycle parts are declared for free circulation by, or delivered to, a party, such imports of essential bicycle parts will be of limited economic significance, and will be unlikely to undermine the effect of the duty imposed by Regulation (EEC) No 2474/93. They should, therefore, be presumed not to constitute circumvention.

Thirdly, imports of essential bicycle parts should conditionally be exempted from the extended duty by suspension of the payment of the extended duty, where they are declared for free circulation by, or on behalf of, an assembler which is under examination by the Commission.

- (5) The Commission is charged with examining whether a party's assembly operations fall within the scope of Article 13 (2) of Regulation (EC) No 384/96 (hereinafter the 'basic Regulation'), and will exempt the party if justified. Only parties carrying out assembly operations may submit a request for exemption by the Commission.

Any Commission decision to exempt a party carrying out assembly operations constitutes an authorization within the meaning of Article 13 (4) of the basic Regulation.

⁽¹⁾ OJ No L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ No L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ No L 16, 18. 1. 1997, p. 55.

⁽⁴⁾ OJ No L 228, 9. 9. 1993, p. 1.

⁽⁵⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽⁶⁾ OJ No L 253, 11. 10. 1993, p. 1.

⁽⁷⁾ OJ No L 9, 13. 1. 1997, p. 1.

In this respect it is appropriate that, where imports of essential bicycle parts have been exempted from the extended duty by reference to an exempted assembler or to the *de minimis* clause, the exemption conditions should provide for the Commission to ensure that the parts are actually used in the exempted party's assembly operations and that the *de minimis* threshold is not abused.

- (6) The competent authorities of the Member States must check that those parts are either declared for free circulation by an exempted assembler or, through the operation of the end-use system, that they are finally delivered to an exempted assembler or fall under the *de minimis* clause.
- (7) As regards assemblers' requests for exemption by the Commission, clear provisions should be laid down regarding the admissibility of requests, the conduct of examinations, the taking of decisions, review and revocation of exemptions.

In the interest of sound administration, requests should provide *prima facie* evidence of the absence of circumvention, and should be duly substantiated if they are to be considered admissible by the Commission. In order to ensure an expeditious decision on the admissibility of duly substantiated requests, a period should be prescribed within which such decisions should normally be taken.

A period should be prescribed within which the Commission should normally decide on the merits of a request.

As regards review, the Commission may re-examine exempted assemblers to verify that the conditions of exemption are still fulfilled, in particular by random checks.

- (8) Other parties which cannot be exempted by the Commission because they do not carry out assembly operations may nonetheless also benefit from the exemption system where they declare the goods under end-use control and deliver essential bicycle parts to exempted parties or to other holders of an end-use authorization, or under the *de minimis* clause.

It is, however, necessary for the customers of those parties, if they are assemblers but are not yet exempted and if they use parts in quantities above the *de minimis* threshold, to obtain an exemption from the Commission.

- (9) In the case of parties which have submitted duly substantiated requests which are pending, the examination should be initiated immediately.

It is necessary to ensure that retroactive exemption is possible for parties with pending requests. Therefore, the payment of the extended duty should be suspended not only in respect of imports declared for free circulation after entry into force of the Reference Regulation but also in respect of imports subject to the duty arising under Article 2 (3) of the Reference Regulation.

- (10) Parties carrying out assembly operations which have already been found not to circumvent the anti-dumping duty imposed by Regulation (EEC) No 2474/93 should be exempted by this Regulation.

It is necessary to ensure that these parties are exempted retroactively.

- (11) Annexed to this Regulation is a list of parties in respect of which an examination is initiated and a list of parties which are exempted from the extended duty. Changes to the lists and consolidated updated lists will be published, from time to time and as necessary, in the C Series of the *Official Journal of the European Communities*.
- (12) Finally, the general rules applying to anti-dumping investigations, regarding in particular the conduct of investigations, verification visits, non-cooperation, confidentiality, and the procedural rights of the parties concerned, should apply to the procedures laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purpose of this Regulation:

- 'bicycle parts' means bicycle parts and accessories falling within CN codes 8714 91 10 to 8714 99 90,
- 'extended duty' means the anti-dumping duty imposed by Regulation (EEC) No 2474/93, as extended by Article 2 of Regulation (EC) No 71/97 (hereinafter 'the Reference Regulation'),
- 'essential bicycle parts' means the bicycle parts defined in Article 1 of the Reference Regulation,
- 'assembly operation' means an operation in which essential bicycle parts are brought in for the assembly or completion of bicycles,
- 'request' means any step taken by a party carrying out assembly operations with a view to obtaining authorization for exemption from the Commission pursuant to Article 3,

- 'party under examination' means a party carrying out assembly operations in respect of which an examination has been initiated pursuant to Article 4 (5) or Article 11 (1), and
- 'exempted party' means any party whose assembly operations have been found to fall outside the scope of Article 13 (2) of Regulation (EC) No 384/96 and which has been exempted pursuant to Article 7 or 12 of this Regulation.

Article 2

Exemption of imports from the extended duty

1. Imports of essential bicycle parts shall be exempt from the extended duty where:
 - they are declared for free circulation by, or on behalf of, an exempted party, or
 - they are declared for free circulation under the provisions on end-use control in Article 14.
2. Imports of essential bicycle parts shall be provisionally exempted from the payment of the extended duty where they are declared for free circulation by, or on behalf of, a party under examination.

Article 3

Request for exemption

1. Requests shall be made in writing in one of the official languages of the Community and must be signed by a person authorized to represent the applicant. The request must be sent to the following address:

European Commission,
 Directorate-General for External Economic Relations,
 Unit I/C-3,
 CORT 100 4/59,
 Rue de la Loi/Weststraat 200,
 B-1049 Brussels;
 Fax No: (32-2) 295 65 05.

2. Upon receipt of a request, the Commission shall immediately inform the applicant and the Member States.

Article 4

Admissibility of requests

1. A request shall be admissible where:
 - (a) it contains evidence that the applicant is using essential bicycle parts for the production or assembly of bicycles in quantities above the threshold set out in Article 14 (c) or that he has entered into a irrevocable contractual obligation to do so;

- (b) it provides *prima facie* evidence that the applicant's assembly operations fall outside the scope of Article 13 (2) of Regulation (EC) No 384/96; and
 - (c) the applicant has not, within the 12 months preceding the request, been refused authorization of exemption pursuant to Article 7 (3) or (4), or had an exemption revoked pursuant to Article 10.

2. A reasonable period may be prescribed for the submission of any additional information required for the determination of the admissibility of a request. Where such evidence is not forthcoming within the period specified, the request shall be considered inadmissible.

3. The admissibility of a request which is duly substantiated pursuant to paragraphs 1 and 2 shall normally be determined within 45 days of its receipt. The applicant shall first be given an opportunity to comment on the Commission's conclusions as to the admissibility of the request.

4. Where a request is held inadmissible, it shall, after consultation of the Advisory Committee, be rejected by a Decision.

5. Where a request is held admissible, an examination shall be initiated immediately and the applicant and the Member States shall be notified.

Article 5

Suspension of payment of the duties

1. As from the date of receipt of a request complying with the conditions set out in Article 3 (1) and pending a decision on its merits pursuant to Articles 6 and 7, payment of the customs debt in respect of the extended duty pursuant to Article 2 (1) of the Reference Regulation shall be suspended in respect of any imports of essential bicycle parts declared for free circulation by the party under examination.

2. The competent authorities of the Member States may make the suspension of payment of the extended duty subject to the provision of a security to guarantee payment of the extended duty in the event that the request is subsequently held inadmissible pursuant to Article 4 (4) or rejected pursuant to Article 7 (3) or (4).

Article 6

Examination of the request

1. In conducting its examination, the Commission may, where appropriate, request additional information from the applicant and/or carry out on-the-spot verifications. The examination will normally cover a period of not less than six months prior to the receipt of the request.

2. Any party under examination shall ensure that, at any time, essential bicycle parts which it declares for free circulation are either used in its assembly operations, destroyed, or re-exported. It shall keep records of the essential bicycle parts delivered to it — and of the use made of them. These records shall be retained for at least three years. The records and any necessary additional evidence and information shall be communicated to the Commission upon request.

3. The examination of the merits of a request shall normally be concluded within twelve months after notification pursuant to Article 4 (5).

4. Before a decision is adopted pursuant to Article 7, the applicant shall be informed of the Commission's conclusions on the merits of the request and shall be given an opportunity to comment thereon.

Article 7

Decision

1. Where the facts as finally ascertained show that the applicant's assembly operations do not fall within the scope of Article 13 (2) of Regulation (EC) No 384/96, the applicant's exemption from the extended duty shall be authorized, after consultation of the Advisory Committee.

2. The decision shall have retroactive effect as from the date of receipt of the request. The applicant's customs debt pursuant to Article 2 (1) of the Reference Regulation shall be considered void from that date.

3. Where the criteria for exemption are not fulfilled, the request shall, after consultation of the Advisory Committee, be rejected and the suspension of the payment of the extended duty referred to in Article 5 shall be lifted.

4. Any breach of obligations under Article 6 (2) or any false declaration relating to a decision may constitute a reason for rejecting the request.

Article 8

Obligations of exempted parties

1. An exempted party shall ensure that, at all times:

- (a) its assembly operations remain outside the scope of Article 13 (2) of Regulation (EC) No 384/96;
- (b) where it receives deliveries of essential bicycle parts which have been exempted from the extended duty pursuant to Article 2, those parts are either used in its assembly operations, destroyed, re-exported, or resold to another exempted party.

2. An exempted party shall keep records of the essential bicycle parts of which it receives deliveries and of the use made of them. It shall retain those records and appropriate supporting evidence for at least three years.

Those records shall be made available to the Commission on request.

Article 9

Review

1. The Commission may on its own initiative review the situation of an exempted party to verify that its assembly operations remain outside the scope of Article 13 (2) of Regulation (EEC) No 384/96.

2. A review shall consist of an examination covering a period which may be shorter than six months.

Article 10

Revocation of an exemption

An exemption shall be revoked, after the exempted party has been given an opportunity to comment, and after consultation of the Advisory Committee:

- where a review has shown that the exempted party's assembly operations fall within the scope of Article 13 (2) of Regulation (EC) No 384/96,
- in the event of breach of the party's obligations pursuant to Article 8 (2), or
- in the event of lack of cooperation after the adoption of the exemption decision.

Article 11

Pending requests

1. The requests of the parties listed in Annex I are admissible and examinations pursuant to Article 6 are hereby initiated.

2. The date of receipt within the meaning of Article 5 (1) of the requests referred to in paragraph 1 of this Article shall be deemed to be the date of entry into force of this Regulation.

3. Pending a decision on the merits of the requests of the parties listed in Annex I, the payment of the customs debt incurred for the extended duty pursuant to Article 2 of the Reference Regulation shall be suspended with effect from the date of the entry into force of that Regulation.

4. Decisions pursuant to Article 7 (2) in respect of the parties listed in Annex I shall have retroactive effect as from 20 April 1996. The applicant's customs debts in respect of the extended duty shall therefore be considered void from that date.

Article 12

Parties exempted by this Regulation

The parties listed in Annex II are hereby exempted from the extended duty with effect from 20 April 1996.

Article 13

Procedural provisions

The relevant provisions of Regulation (EC) No 384/96 concerning:

- the conduct of investigations (Article 6 (2), (3), (4) and (5)),
- verification visits (Article 16),
- non-cooperation (Article 18), and
- confidentiality (Article 19),

shall apply to examinations pursuant to this Regulation.

Article 14

Exemption subject to end-use control

Where imports of essential bicycle parts are declared for free circulation by a person other than an exempted party, as from the date of entry into force of the Reference Regulation, they shall be exempted from the application of the extended duty if declared in accordance with the Taric structure in Annex III and subject to the conditions laid down in Article 82 of Regulation (EEC) No 2913/92 and Articles 291 to 304 of Regulation (EEC) No 2454/93, which shall be applicable *mutatis mutandis*, where:

- (a) the essential bicycle parts are delivered to a party exempted pursuant to Articles 7 or 12; or
- (b) the essential bicycle parts are delivered to another holder of an authorization within the meaning of Article 291 of Regulation (EEC) No 2454/93; or
- (c) on a monthly basis, less than 300 units per type of essential bicycle parts are either declared for free circulation by a party or are delivered to it. The number of parts declared by or delivered to any party shall be calculated by reference to the number of parts declared by or delivered to all parties which are associated with or have compensatory arrangements with that party.

Article 15

Special provision for parties receiving *de minimis* deliveries

1. The Commission or the competent authorities of the Member States may decide, on their own initiative, to examine parties which declare essential bicycle parts for free circulation or receive deliveries pursuant to Article 14 (c).

2. Where the parties referred to in paragraph 1 are found to have declared for free circulation or received deliveries of quantities of essential bicycle parts above the threshold set out in Article 14 (c), or where they fail to co-operate with the examination, they shall no longer be presumed to fall outside the scope of Article 13 (2) of Regulation (EC) No 384/96. After the party concerned has been given an opportunity to comment, those findings shall be notified to the competent authorities of the Member States.

3. Where the parties referred to in paragraph 1 abused Article 14 (c) in order to circumvent the extended duty, the extended duty not levied on any essential bicycle parts declared for free circulation by those parties or delivered to them after the entry into force of this Regulation may be reclaimed.

Article 16

Exchange of information

1. The particulars of parties in respect of which an examination has been initiated pursuant to Article 4 or in respect of which a decision has been taken pursuant to Articles 7 or 10 shall be communicated to the competent authorities of the Member States.

2. A notice will be published, from time to time as appropriate, containing updated lists of parties under examination and exempted parties, which will also be communicated forthwith to any interested party upon demand.

3. The competent authorities of the Member States shall communicate to the Commission within one month after the end of each quarter summary information with regard to exempted parties in accordance with the format set out in Annex IV.

Article 17

Provisions on customs duties

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

Article 18

Entry into force

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

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

Done at Brussels, 20 January 1997.

For the Commission

Leon BRITTAN

Vice-President

ANNEX I

PARTIES UNDER EXAMINATION

(Taric additional code: 8962)

Name	City	Country
Dangre Cycles	F-59770 Marly	France
Derby Cyclewerke GmbH	D-49661 Cloppenburg	Germany
Engelbert Meyer GmbH	D-49692 Sevelten	Germany
Fa. Alfred Fischer	D-76229 Karlsruhe	Germany
Falter Fahrzeug-Werke GmbH & Co KG	D-33609 Bielefeld	Germany
Kynast AG	D-Quakenbrück	Germany
Monark Crescent	S-432 82 Varberg	Sweden
Muddy Fox	Middlesex UB6 7RH	United Kingdom
Quantum Cycles	F-59770 Marly	France
Pantherwerke	D-37537 Bad Wildungen	Germany
PRO-FIT Sportartikel	D-74076 Heilbronn	Germany
Prophete GmbH	D-33378 Rheda-Wiedenbrück	Germany
Tekno Cycles	F-93102 Montreuil Cedex	France
TNT Cycles	E-17180 Vilablareix (Girona)	Spain
Winora — TME Bike Company	D-97405 Schweinfurt	Germany

Note: Interested parties are advised that after receipt of future requests pursuant to Article 3 (1) or following decisions on pending examinations pursuant to Article 7, new and updated lists of 'parties having submitted a request pursuant to Article 3 (1) or under examination pursuant to Article 11' will be published, from time to time as necessary, in the C Series of the *Official Journal of the European Communities*, or will be obtainable from the address mentioned in Article 3 of this Regulation.

ANNEX II

EXEMPTED PARTIES
(Taric additional code: 8963)

Name	City	Country	Date of effect
Batavus	NL-8440 AM Heerenveen	The Netherlands	20. 4. 1996
BH Bicicletas de Alava	E-01080 Vitoria	Spain	20. 4. 1996
Cycles Mercier — France-Loire	F-42162 Andrézieux — Boutheon Cedex	France	20. 4. 1996
Cycleurope International/Peugeot	F-10100 Romilly-sur-Seine	France	20. 4. 1996
Dawes Cycles	UK-Birmingham B11 2DG	United Kingdom	20. 4. 1996
Hercules	D-90441 Nürnberg	Germany	20. 4. 1996
MICMO/Gitane	F-44270 Machecoul	France	20. 4. 1996
Moore Large & Co.	UK-Derby DE24 9GI	United Kingdom	20. 4. 1996
Promiles	F-59650 Villeneuve d'Ascq	France	20. 4. 1996
Raleigh	UK-Nottingham NG7 2DD	United Kingdom	20. 4. 1996
Tandem Group	UK-York YO1 4YU	United Kingdom	20. 4. 1996

Note: Interested parties are advised that following future exemption decisions pursuant to Article 7 or revocations of exemption pursuant to Article 10, new and updated lists of 'parties exempted pursuant to Articles 7 or 12' will be published, from time to time as necessary, in the C Series of the *Official Journal of the European Communities*, or will be obtainable from the address mentioned in Article 3 of this Regulation.

ANNEX III

TARIC STRUCTURE

8714 91 10	— — — Frames:
	— — — — Painted, anodized, polished and/or lacquered:
8714 91 10 11	— — — — — Originating in or consigned from China: ⁽¹⁾
	— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
	— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 91 10 19	— — — — — Other ⁽²⁾ ⁽³⁾
8714 91 10 90	— — — — — Other

8714 91 30	— — — Front forks:
	— — — — Painted, anodized, polished and/or lacquered:
8714 91 30 11	— — — — — Originating in or consigned from China: ⁽¹⁾
	— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
	— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 91 30 19	— — — — — Other ⁽²⁾ ⁽³⁾
8714 91 30 90	— — — — — Other

8714 93 90	— — — Free-wheel sprocket-wheels:
8714 93 90 10	— — — — — Originating in or consigned from China: ⁽¹⁾
	— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
	— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 93 90 90	— — — — — Other ⁽²⁾ ⁽³⁾
8714 94 30	— — — Other brakes:
8714 94 30 10	— — — — — Originating in or consigned from China: ⁽¹⁾
	— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
	— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 94 30 90	— — — — — Other ⁽²⁾ ⁽³⁾
8714 94 90	— — — Parts:
	— — — — Brake levers:
8714 94 90 11	— — — — — Originating in or consigned from China: ⁽¹⁾
	— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
	— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 94 90 19	— — — — — Other ⁽²⁾ ⁽³⁾
8714 94 90 90	— — — — — Other

8714 96 30	— — —	Crank-gear:
8714 96 30 10	— — — —	Originating in or consigned from China: ⁽¹⁾
		— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
		— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 96 30 90	— — — —	Other ⁽²⁾ ⁽³⁾
8714 99 10	— — —	Handlebars:
8714 99 10 10	— — — —	Originating in or consigned from China: ⁽¹⁾
		— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
		— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 99 10 90	— — — —	Other ⁽²⁾ ⁽³⁾
8714 99 50	— — —	Deraileur gears:
8714 99 50 10	— — — —	Originating in or consigned from China: ⁽¹⁾
		— in quantities below 300 units per month or to be transferred to a party in quantities below 300 units per month, or
		— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 99 50 90	— — — —	Other ⁽²⁾ ⁽³⁾
8714 99 90	— — —	Other, parts:
	— — — —	Complete wheels with or without tubes, tyres and sprockets:
8714 99 90 11	— — — — —	Originating in or consigned from China: ⁽¹⁾
		— in quantities below 300 units per month or to be transferred in quantities below 300 units to a party per month, or
		— to be transferred to another holder of an end-use authorization or to exempted parties ⁽²⁾
8714 99 90 19	— — — — —	Other ⁽²⁾ ⁽³⁾
8714 99 90 90	— — — —	Other

⁽¹⁾ The rules for end-use control (Articles 291 to 304 of Regulation No 2454/93) shall apply *mutatis mutandis*.

⁽²⁾ The exempted parties whose assembly operations do not constitute circumvention since they fall outside the scope of Article 13 (2) of Regulation (EC) No 384/96 are the following (see Annex II)

⁽³⁾ The companies under examination concerning the criteria of Article 13 (2) of Regulation (EC) No 384/96, for which the anti-dumping duty is suspended pending a Commission decision and from which a security may be requested by the competent authorities of the Member States, are the following: (see Annex I).

ANNEX IV

Information format

**END-USE CONTROL CONCERNING BICYCLE PARTS FROM CHINA
IMPLEMENTATION OF REGULATION (EC) No 88/97 ⁽¹⁾**

(Information pursuant to Article 16 of the above Regulation)

(to be submitted within one month after the end of the quarter in question)

Member State: Year:
Quarter:

A. SUMMARY

- Number of end-use authorizations granted:
- Number of end-use authorizations expired:
- Number of end-use authorizations revoked ⁽²⁾:

Volume ⁽³⁾ of bicycle frames ⁽⁴⁾:

- entered under end-use control:
- entered under additional Taric code 8962:
- entered under additional Taric code 8963:

B. PRINCIPAL HOLDERS OF END-USE AUTHORIZATIONS

No	Name	Address	Country	Date of end-use authorization	Volume ⁽²⁾ of bicycle frames ⁽³⁾ entered
1.					
2.					
...					

C. DISCHARGE AND COMPLEMENTARY INFORMATION

No	Discharge of the procedure by	Complementary information	Volume ⁽²⁾ of bicycle frames ⁽³⁾
1.	Delivery to exempted parties		
2.		Assignment to an end-use other than prescribed	

D. REVOCATION OF END-USE AUTHORIZATIONS

No	Name	Address	Country	Date of revocation	Reasons
1.					
2.					
...					

⁽¹⁾ OJ No L 17, 21. 1. 1997, p. 17.

⁽²⁾ See Section D of this information sheet.

⁽³⁾ Supplementary units.

⁽⁴⁾ CN Code ex 8714 91 10.

COMMISSION REGULATION (EC) No 89/97

of 20 January 1997

amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 82/97 ⁽²⁾, and in particular Article 249 thereof,

Whereas the verification of the net mass indicated in declarations of entry for free circulation of bananas poses problems of methodology and of uniform application; whereas it is therefore appropriate to specify the methods for determining and checking the net mass of bananas;

Whereas the measures provided for by this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EEC) No 2454/93 ⁽³⁾ is amended as follows:

1. The following article is inserted:

'Article 290a

Examination of bananas falling within CN code 0803 00 19 for the purposes of checking the net mass on importation shall involve a minimum of 10 % of declarations per year and per customs office.

Examination of bananas shall be carried out at the time of release for free circulation, in accordance with the rules laid down in Annex 38b.'

2. The following Annex 38b is inserted:

'Annex 38b

1. For the purposes of the application of Article 290a, the customs authorities of the customs office at which the declaration for free circulation of fresh bananas is lodged shall determine the net mass,

based on a sample of units of packaging for each type of packaging and for each place of origin.

2. The units of packaging weighed should constitute a representative sample of the declaration. It shall involve at least the quantities indicated below:

Number of units of packaging declared (by type of packing and by origin)	Number of units of packaging to be examined
— up to 400	5
— from 401 to 700	7
— from 701 to 1 000	10
— from 1 001 to 2 000	13
— more than 2 000	15

Where a whole cargo load is covered by a single declaration, the customs office may, unless fraud is suspected, base the calculation of the net mass on a minimum sample of 15 units of packaging (of the same type of packaging and from the same place of origin).

The net mass shall be determined as follows:

- opening at least one unit of packaging, then calculating the mass of the packaging,
- the mass of the packaging shall be accepted for all packaging of the same type and shall be deducted from the mass of all the units of packaging weighed,
- the average mass per unit of packaging of bananas thus established, based on the mass of the sample checked, shall be accepted as the basis for determining the net mass of the bananas covered by the declaration.'

Article 2

Before 1 January 1998, the Commission shall re-examine the examination rate established in Article 1.

Article 3

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

It shall apply from 1 February 1997.

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽²⁾ See page 1 of this Official Journal.

⁽³⁾ OJ No L 253, 11. 10. 1993, p. 1.

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

Done at Brussels, 20 January 1997.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION REGULATION (EC) No 90/97
of 20 January 1997
establishing the standard import values for determining the entry price of
certain fruit and vegetables

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 2375/96⁽²⁾, and in particular Article 4 (1) thereof,

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 21 January 1997.

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

Done at Brussels, 20 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 20 January 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 15	052	41,9
	204	51,8
	212	113,8
	404	37,5
	624	198,7
	999	88,7
0707 00 10	053	192,1
	624	130,5
	999	161,3
0709 10 10	220	132,6
	999	132,6
0709 90 71	052	122,2
	053	197,1
	204	146,3
	999	155,2
0805 10 01, 0805 10 05, 0805 10 09	052	39,4
	204	45,4
	212	47,8
	220	35,1
	448	28,1
	600	68,4
	624	74,0
	999	48,3
0805 20 11	052	57,4
	204	67,6
	624	55,0
	999	60,0
0805 20 13, 0805 20 15, 0805 20 17, 0805 20 19	052	64,3
	464	89,9
	624	75,9
	662	48,8
	999	69,7
0805 30 20	052	78,3
	528	70,6
	600	82,7
	999	77,2
0808 10 51, 0808 10 53, 0808 10 59	052	79,7
	060	51,4
	064	56,0
	400	90,6
	404	83,7
	720	78,1
	728	103,6
	999	77,6
	052	132,8
0808 20 31	064	67,0
	400	107,6
	624	71,5
	999	94,7

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

COMMISSION REGULATION (EC) No 91/97
of 20 January 1997
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 150/95 ⁽²⁾, and in particular Article 3 (1) thereof,

Whereas the agricultural conversion rates were fixed by Commission Regulation (EC) No 39/97 ⁽³⁾;

Whereas Article 4 of Regulation (EEC) No 3813/92 provides that, subject to confirmation periods being triggered, the agricultural conversion rate for a currency is to be adjusted where the monetary gap between it and the representative market rate exceeds certain levels;

Whereas the representative market rates are determined on the basis of basic reference periods or, where applicable, confirmation periods, established in accordance with Article 2 of Commission Regulation (EEC) No 1068/93 of 30 April 1993 on detailed rules for determining and applying the agricultural conversion rates ⁽⁴⁾, as last amended by Regulation (EC) No 1482/96 ⁽⁵⁾; whereas paragraph 2 of that Article provides that, in cases where the absolute value of the difference between the monetary gaps in two Member States, calculated from the average of the ecu rates for three consecutive quotation days, exceeds six points, the representative market rates are to be adjusted on the basis of the three quotation days in question;

Whereas, as a consequence of the exchange rates recorded from 11 to 20 January 1997, it is necessary to fix a new agricultural conversion rate for the Belgian franc, the

German mark, the Dutch guilder, the Austrian schilling and the pound sterling;

Whereas Article 15 (2) of Regulation (EEC) No 1068/93 provides that an agricultural conversion rate fixed in advance is to 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 amount 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,
- Table B, where the latter rate is lower than the rate fixed in advance.

Article 3

Regulation (EC) No 39/97 is hereby repealed.

Article 4

This Regulation shall enter into force on 21 January 1997.

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

Done at Brussels, 20 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽³⁾ OJ No L 8, 11. 1. 1997, p. 10.

⁽⁴⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁵⁾ OJ No L 188, 27. 7. 1996, p. 22.

ANNEX I

Agricultural conversion rates

ECU 1 =	40,2147	Belgian and Luxembourg francs
	7,49997	Danish kroner
	1,95076	German marks
	311,761	Greek drachmas
	198,202	Portuguese escudos
	6,61023	French francs
	6,02811	Finnish marks
	2,19067	Dutch guilders
	0,778173	Irish punt
	1 973,93	Italian lire
	13,7246	Austrian schillings
	165,198	Spanish pesetas
	8,64446	Swedish kroner
	0,768177	Pound sterling

ANNEX II

Agricultural conversion rates fixed in advance and adjusted

Table A			Table B		
ECU 1 =	38,6680	Belgian and Luxembourg francs	ECU 1 =	41,8903	Belgian and Luxembourg francs
	7,21151	Danish kroner		7,81247	Danish kroner
	1,87573	German marks		2,03204	German marks
	299,770	Greek drachmas		324,751	Greek drachmas
	190,579	Portuguese escudos		206,460	Portuguese escudos
	6,35599	French francs		6,88566	French francs
	5,79626	Finnish marks		6,27928	Finnish marks
	2,10641	Dutch guilders		2,28195	Dutch guilders
	0,748243	Irish punt		0,810597	Irish punt
	1 898,01	Italian lire		2 056,18	Italian lire
	13,1967	Austrian schillings		14,2965	Austrian schillings
	158,844	Spanish pesetas		172,081	Spanish pesetas
	8,31198	Swedish kroner		9,00465	Swedish kroner
	0,738632	Pound sterling		0,800184	Pound sterling

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 December 1996

establishing health conditions and a public health certificate for the importation from third countries of meat products obtained from poultrymeat, farmed game meat, wild game meat and rabbit meat

(Text with EEA relevance)

(97/41/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC ⁽¹⁾, as last amended by Commission Decision 96/405/EC ⁽²⁾, and in particular Article 10 thereof,

Whereas specific conditions must be established for the importation into the Community of meat products obtained from poultrymeat, farmed game meat, wild game meat and rabbit meat; whereas these products must conform to the conditions laid down in Annex II, Chapter 1 of Directive 92/118/EEC;

Whereas a form of public health certificate must be established, to be signed by an official veterinarian, to certify that the products fulfil the requirements laid down in this Decision;

Whereas, in addition, where it is possible to recognise conditions offering equivalent guarantees, a third country may submit a proposal for such recognition to the Commission for appropriate consideration;

Whereas the conditions and certificate established by this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

This Decision lays down the public health conditions for the importation of meat products obtained from poultrymeat, farmed game meat, wild game meat and rabbit meat.

Article 2

The importation of meat products obtained from poultrymeat, farmed game meat, wild game meat and rabbit meat is subject to the condition that they comply with the requirements laid down in Annex II, Chapter 1 of Directive 92/118/EEC.

Article 3

1. Each consignment of meat products obtained from poultrymeat, farmed game meat, wild game meat and rabbit meat shall be accompanied by an original, numbered public health certificate, completed, signed and dated, composed of a single sheet and conforming to the model laid down in the Annex.

2. The certificate shall be drawn up in at least one of the official languages of the Member State of introduction into the Community.

⁽¹⁾ OJ No L 62, 15. 3. 1993, p. 49.

⁽²⁾ OJ No L 165, 4. 7. 1996, p. 40.

Article 4

This Decision shall apply from 1 January 1997.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 18 December 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

PUBLIC HEALTH CERTIFICATE

for meat products obtained from poultrymeat, farmed game meat, wild game meat and rabbit meat ⁽¹⁾

No

Exporting country

Ministry

Department

Reference ⁽²⁾

I. Identification of products:

Products prepared with meat from: (animal species)

Nature of products:

Number of individual items or packages:

Storage and transport temperature:

Net weight:

II. Origin of products

Address(es) and approval number(s) of approved production establishment(s):

.....

If necessary:

Address(es) and approval number(s) of approved cold store(s):

.....

III. Destination of products:

The meat products are to be sent

from (place of dispatch):

to (country of destination):

by the following means of transport ⁽³⁾:

Name and address of consignor:

.....

Name and address of consignee:

.....

⁽¹⁾ Within the meaning of Annex II, Chapter I of Directive 92/118/EEC.

⁽²⁾ Optional.

⁽³⁾ Indicate the number or registration number (railway wagons and lorries), the flight number (aircraft) or the name (ship). This information must be updated in the event of transhipment.

IV. Health attestation

I, the undersigned, certify that I have read and understood Annex II, Chapter 1 of Directive 92/118/EEC, including the specific provisions in that Chapter applying to the products described above, and that the products described above meet the requirements laid down in that Chapter.

Done at (place), on (date)

.....
(Stamp and signature of official veterinarian) (1)

.....
(Name in capital letters)

(1) Stamp and signature in a different colour from that in the certificate.

COMMISSION DECISION**of 9 January 1997****on a request from France for a derogation under Article 14 of Council Directive 92/51/EEC****(Only the French text is authentic)****(Text with EEA relevance)****(97/42/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC⁽¹⁾, and in particular Article 14 thereof,

After receiving, on 19 June 1996, a request from France for a derogation under Article 14 of Directive 92/51/EEC with regard to the supervision of certain sporting activities,

After consulting, on 8 July 1996, the national coordinators for Directive 92/51/EEC,

After sending a letter seeking further information from France on 12 September 1996,

After receiving a reply to that letter on 17 October 1996,

Whereas:

I. GENERAL FRAMEWORK

1. Directive 92/51/EEC introduced a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC⁽²⁾ (which had introduced a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at the last three years' duration). Directive 92/51/EEC deals with diplomas of a different level to those covered by Directive 89/48/EEC.
2. Directive 92/51/EEC is based on the principle of mutual trust. This means that where, in a host Member State, the taking up or pursuit of a profession is subject to possession of a diploma, certificate or attestation of competence, the competent authority may not, on the grounds of inadequate qualifications, refuse to authorize a national of a Member State to take up or pursue that profession under the same conditions as those which apply to its own nationals, if the applicant has, in another Member State, been awarded the

diploma required there in order to take up or pursue the same profession.

3. However, in certain cases provided for by Directive 92/51/EEC, this rule does not prevent the host Member State from requiring the applicant to undergo an adaptation period or take an aptitude test, the conditions of which are laid down in Articles 4, 5 and 7 of Directive 92/51/EEC. Should the host Member State make use of this possibility, it must allow the applicant to choose between an adaptation period and an aptitude test.

II. ARTICLE 14 OF DIRECTIVE 92/51/EEC

Article 14 of Directive 92/51/EEC states the following:

'1. If, pursuant to the second sentence of the second subparagraph of Article 4 (1) (b), the third subparagraph of Article 5, or the second sentence of the second subparagraph of Article 7 (a), a Member State proposes not to grant applicants the right to choose between an adaptation period and an aptitude test, it shall immediately communicate to the Commission the corresponding draft provision. It shall at the same time notify the Commission of the grounds which make the enactment of such a provision necessary.

The Commission shall immediately notify the other Member States of any draft which it has received; it may also consult the coordinating group referred to in Article 13 (2) on the draft.

2. Without prejudice to the possibility for the Commission and the other Member States to make comments on the draft, the Member State may adopt the provision only if the Commission has not taken a decision to the contrary within three months.

3. At the request of a Member State or the Commission, Member States shall communicate to them, without delay, the definitive text of any provision arising from the application of this Article.'

III. THE FRENCH REQUEST

1. By memorandum dated 17 June 1996, which the Commission received on 19 June 1996, France requested a derogation under Article 14 of Directive 92/51/EEC with regard to the supervision of certain sporting activities. The French authorities submitted a

⁽¹⁾ OJ No L 209, 24. 7. 1992, p. 25.

⁽²⁾ OJ No L 19, 24. 1. 1989, p. 16.

draft decree and detailed arguments together with the memorandum, which concerns the profession of sports trainer and calls for the possibility of derogating from the principle of free choice for applicants in the case of certain sports professions.

2. The request is concerned solely with the question of establishment. The question of the Supply of services by sports trainers is now governed by a separate set of rules in France (provision laid down by Decree No 96-1011 of 25 November 1996 on the practice of the profession of sports trainer by nationals of a Member State of the European Union or another State belonging to the European Economic Area).
3. The draft decree submitted by France provides for the introduction of a recognition procedure which respects the right of migrants to choose between an adaptation period and an aptitude test. However, in the case of the five professions listed in an annex to the draft decree, provision is made for the Minister for Sports to impose an aptitude test. According to the draft submitted to the Commission, the aptitude test could be imposed for the following five professions: ski instructors, high-altitude mountain guides, diving instructors, parachuting instructors and potholing instructors.
4. The French authorities specified that this request, which was formulated under Article 14, does not call into question the principle of mutual trust but is designed instead to uphold it in the case of activities where common objectives, such as safety, are at stake.
5. The French authorities take the view that this request is justified by the dangerous nature of the activities concerned, and that an aptitude test is the most appropriate compensation measure in such cases. In their view, allowing applicants to choose between two types of compensation measure does not provide all the necessary safeguards, and technical shortfalls that are incompatible with the pursuit of the profession could be concealed as a result.
6. The French authorities also regard the aptitude test as the most effective way of ensuring that applicants have the requisite technical skills for the activity in question and that they are capable of managing and organizing assistance.
7. Lastly, the French authorities point out that the dangers associated with the five activities in question are aggravated by inherently unpredictable environmental factors.

IV. DISCUSSION BY THE COORDINATING GROUP

Pursuant to Article 14 of Directive 92/51/EEC, the French request for a derogation was submitted to the other Member States and transmitted to all coordinators of the general system for the recognition of diplomas. In

addition, as also provided for in Article 14, it was discussed at the meeting of the coordinating group held on 8 July 1996. The French delegation presented its request and answered the questions raised by the Commission and the other delegations.

V. THE REQUEST FOR FURTHER INFORMATION

After its own initial examination of the French request, and following the meeting of the coordinating group held on 8 July, the Commission took the view that there were five further questions which it ought to put to France. It did so in a letter dated 12 September. France provided a full answer in a memorandum dated 14 October, which reached the Commission on 17 October.

VI. GENERAL CONSIDERATIONS

1. The free movement of persons is one of the fundamental freedoms guaranteed by the Treaty. The Court of Justice has consistently held that it prevents not just overt discrimination on grounds of nationality, but also measures which in practice produce the same result even though they apply to nationals of the country and other Community nationals without distinction. National measures liable to hinder or make less attractive the exercise of fundamental freedoms guaranteed by the Treaty may nevertheless be allowed, provided that they fulfil four conditions: they must be applied in a non-discriminatory manner; they must be justified by imperative requirements in the general interest; they must be suitable for securing the attainment of the objective which they pursue; and they must not go beyond what is necessary to attain it. Freedom of establishment is a fundamental freedom, and the French request has accordingly to be examined in the light of these four conditions.
2. The French request states that the only activities concerned are those which raise considerations of general interest, such as the maintenance of safety. They draw attention to the special features of the five professions involved: an unpredictable environment, real danger, surroundings, which are not marked off or signposted, the need for a knowledge of the organization of rescue services, etc. The Commission accepts that the five occupations are particularly dangerous and that safety may here be invoked as an imperative requirement in the general interest. It also accepts that, where a migrant's training has covered matters substantially different from those covered by the diploma required in France, making the aptitude test compulsory may be a measure likely to achieve the objective in view, namely the maintenance of safety. The Commission likewise accepts that in these five occupations an aptitude test may provide a better way than an adaptation period to establish how the applicant will react in real situations, while ensuring that the applicant has the necessary technical mastery of the job and the capacity to organize and manage

rescue operations. The measure would seem to be in proportion to the objective. Lastly, there is nothing in the French request to suggest any discrimination: the French state certificates in the five professions concerned are awarded following selective tests in which the examiners establish the candidate's technical knowledge, teaching ability and ability to ensure safety and to organize assistance.

There are thus grounds for accepting the principle that there should be no free choice between an adaptation period and an aptitude test in this case. The conditions outlined above, however, must be fully respected when the measures proposed by the French authorities are applied in practice.

3. However, as the freedom of establishment is a fundamental freedom the Commission judges it advisable to give its agreement for a limited time only: a trial period will allow any practical difficulties which may arise as a result of the derogation to be evaluated with certainty.

The Commission will accordingly agree to the French request for a limited period ending on 31 July 1999.

4. The period allowed should enable the French authorities to evaluate whether the measures proposed in the request for a derogation are in fact those best suited to the purpose. It should also allow all the interested parties to observe any practical difficulties and to report them to the Commission.
5. At the end of this period France must produce a report evaluating the application of the derogation under Article 14. The report must provide the Commission with all the necessary figures and assessments regarding the aptitude tests. At that time, the Commission will also consider the observations of interested Member States, trade unions, trade agencies, ski schools, associations and any other interested parties. The French evaluation report and the observations of interested parties are to reach the Commission before 30 April 1999. If France then wishes the derogation to continue, it should attach a request to that effect to its report.
6. If at the end of the trial period the Commission proposes to refuse the French request, it will take a negative decision under Article 14 of Directive 92/51/EEC within three months of the request and by 31 July 1999 at the latest. If the Commission does not take a negative decision within that time, the derogation will be renewed automatically, without any time-limit, in accordance with the same Article 14,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 4 (1) (b) of Directive 92/51/EEC, France is hereby authorized for a limited period ending on 31 July 1999 to require applicants who are seeking to have a sports instructor's or trainer's diploma recognized for the purpose of establishing themselves in France and whose training displays substantial differences from that required in France to undergo an aptitude test. This derogation is authorized only in respect of the five following professions: ski instructor, high-altitude mountain guide, diving instructor, parachuting instructor and potholing instructor.

Article 2

France shall send the Commission a report evaluating the application of this Article 14 derogation before 30 April 1999.

Article 3

Member States who so desire and any other interested parties are hereby asked to submit their observations to the Commission by 30 April 1999.

Article 4

If France wishes the derogation authorized in Article 1 to be confirmed without any time-limit beyond 31 July 1999, it shall submit a fresh request to the Commission under Article 14 of Directive 92/51/EEC before 30 April 1999. The Commission shall take a decision in accordance with Article 14 of the Directive within three months of the French request.

Article 5

This Decision shall enter into force upon notification.

Article 6

This Decision is addressed to the French Republic.

Done at Brussels, 9 January 1997.

For the Commission

Mario MONTI

Member of the Commission
