

Official Journal

of the European Communities

ISSN 0378-6978

L 272

Volume 40

4 October 1997

English edition

Legislation

Contents

I *Acts whose publication is obligatory*

- ★ **Council Regulation (EC) No 1931/97 of 22 September 1997 imposing a definitive anti-dumping duty on imports of unwrought, unalloyed zinc originating in Poland and Russia and definitively collecting the provisional duty imposed..... 1**
- ★ **Commission Regulation (EC) No 1932/97 of 3 October 1997 amending Regulation (EEC) No 2348/91 establishing a databank for the results of analyses of wine products by nuclear magnetic resonance of deuterium 10**
- ★ **Commission Regulation (EC) No 1933/97 of 3 October 1997 amending for the 12th time Regulation (EC) No 413/97 adopting exceptional support measures for the market in pigmeat in the Netherlands 12**
- ★ **Commission Regulation (EC) No 1934/97 of 3 October 1997 amending for the third time Regulation (EC) No 913/97 adopting exceptional support measures for the market in pigmeat in Spain 14**
- ★ **Commission Regulation (EC) No 1935/97 of 3 October 1997 amending for the fifth time Regulation (EC) No 581/97 adopting exceptional support measures for the market in pigmeat in Belgium 16**
- Commission Regulation (EC) No 1936/97 of 3 October 1997 on the issue of system B export licences in the fruit and vegetables sector 18
- Commission Regulation (EC) No 1937/97 of 3 October 1997 on the issuing of system B export licences for fruit and vegetables 19
- ★ **Commission Regulation (EC) No 1938/97 of 3 October 1997 amending Regulation (EC) No 2511/96 laying down, for 1997, certain detailed rules for the application of a tariff quota for live bovine animals weighing from 160 to 300 kilograms and originating in certain third countries 21**

★ Commission Regulation (EC) No 1939/97 of 3 October 1997 laying down, for the period 1 July 1997 to 30 June 1998, rules for the application of the tariff quotas for beef and veal provided for by Council Regulation (EC) No 3066/95 for the Republic of Poland, the Republic of Hungary, the Czech Republic, Slovakia, the Republic of Bulgaria and Romania and amending Regulations (EC) No 2512/96 and No 1441/97	23
★ Commission Regulation (EC) No 1940/97 of 3 October 1997 laying down detailed rules for a tariff quota for cows and heifers of specified mountain breeds originating in various third countries, other than for slaughter, in the period 1 July 1997 to 30 June 1998 and amending Regulation (EC) No 2514/96	28
Commission Regulation (EC) No 1941/97 of 3 October 1997 on the supply of milk products as food aid	36
Commission Regulation (EC) No 1942/97 of 3 October 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables	39
Commission Regulation (EC) No 1943/97 of 3 October 1997 amending representative prices and additional duties for the import of certain products in the sugar sector	41
Commission Regulation (EC) No 1944/97 of 3 October 1997 fixing, for September 1997, the specific agricultural conversion rate for the amount of the reimbursement of storage costs in the sugar sector	43

II Acts whose publication is not obligatory

Council

97/640/EC:

★ Council Decision of 22 September 1997 on the approval, on behalf of the Community, of the amendment to the Convention on the control of trans-boundary movements of hazardous wastes and their disposal (Basle Convention), as laid down in Decision III/1 of the Conference of the Parties	45
---	----

97/641/EC, Euratom:

★ Council Decision of 22 September 1997 appointing a member of the Economic and Social Committee	47
--	----

97/642/EC, Euratom:

★ Council Decision of 22 September 1997 appointing a member of the Economic and Social Committee	48
--	----

97/643/EC, Euratom:

★ Council Decision of 27 September 1997 appointing a member of the Economic and Social Committee	49
--	----

Commission

97/644/EC:

★ Commission Decision of 3 September 1997 accepting undertakings offered by two Polish exporters in connection with the anti-dumping proceeding concerning imports of unwrought, unalloyed zinc originating in Poland and Russia	50
--	----

Contents (continued)

97/645/ECSC:

- ★ **Commission Decision of 24 September 1997 relating to the mixed committee for the harmonization of working conditions in the steel industry** 52

97/646/EC:

- ★ **Commission Decision of 25 September 1997 concerning the appointment of new members and the renewal of the terms of office of the members of the committee of experts on the transit of electricity between grids set up under Decision 92/167/EEC** 54

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1931/97

of 22 September 1997

imposing a definitive anti-dumping duty on imports of unwrought, unalloyed zinc originating in Poland and Russia and definitively collecting the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, hereafter referred to as the 'basic Regulation', and in particular Articles 8, 9 and 23 thereof,

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

Whereas:

(3) Within the time limits set in the provisional duty Regulation, the Polish Government, the two co-operating Polish producers/exporters listed in the said Regulation, hereinafter referred to as 'the exporters', as well as two importers, have submitted comments in writing.

(4) All parties which so requested were granted an opportunity to be heard by the Commission services.

C. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

A. PROVISIONAL MEASURES

(1) By means of Commission Regulation (EC) No 593/97⁽²⁾, hereinafter referred to as 'the provisional duty Regulation', a provisional anti-dumping duty was imposed on imports of unwrought, unalloyed zinc falling within CN codes 7901 11 00, 7901 12 10 and 7901 12 30, originating in Poland and Russia.

B. SUBSEQUENT PROCEDURE

(2) All interested parties cooperating in the investigation, the complainant and the Polish and Russian authorities, received disclosure in writing concerning the essential facts and considerations on the basis of which provisional measures were imposed.

(5) The Polish Government, the cooperating Polish exporters and an importer of zinc originating in Russia raised the question whether their product and the products of the European producers could be considered one like product, given certain differences in physical characteristics and the fact that they fall within three different CN codes.

(6) As laid down in recitals 9 to 15 of the provisional duty Regulation all grades of unwrought, unalloyed zinc closely resemble each other. The grades are alike as far as their technical and physical characteristics (minimum content of zinc for all grades: 98,5 %) and their main uses (e.g. brass industry) are concerned. In addition, prices for all grades are based on the London Metal Exchange (LME) quotations for Special High Grade (SHG) zinc which indicates that they are considered as one like product by the market.

(7) The existence of limited differences in the zinc content (Special High Grade (SHG), High Grade (HG), Good Ordinary Brand (GOB)) and in the impurities (in particular cadmium), between zinc produced by Community producers and Polish

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

⁽²⁾ OJ L 89, 4. 4. 1997, p. 6.

zinc, which was invoked by the exporters, does not invalidate this finding, as both HG and GOB zinc — which are manufactured by the exporters — and SHG zinc manufactured by the Community industry, compete directly in the market segment where they are used (hot-dip galvanizing, production of brass, production of alloys other than casting alloys). It should also be noted that a sizeable proportion of the zinc produced by the Community industry is GOB zinc and therefore competes directly with Polish GOB and HG zinc as well as with SHG zinc produced by the Community industry.

- (8) The provisional findings laid down in recitals 9 to 15 of the provisional duty Regulation are therefore confirmed.

D. DUMPING

(a) POLAND

- (9) Whereas while the methodology used to calculate the dumping margins was not challenged in general, the Polish cooperating companies did raise some specific questions concerning cost of production, the ordinary course of trade test and adjustments.

(i) Normal value

(a) Cost of production

- (10) One Polish company requested some changes in the calculation of its production costs for the purpose of establishing normal value. The company claimed, in particular, that the costs and/or revenues relating to certain by-products were not excluded from the calculation of the production cost for zinc while this should allegedly have been done. This claim for correction could not be granted since the calculation of the production costs was based on the data provided by the company in the questionnaire response and duly verified during the on-the-spot verification. In addition and more generally, it should be noted that for the purpose of an anti-dumping proceeding the cost of production recorded in the company's ledgers will, normally, be the basis for the determinations in accordance with Article 2 (5) of the basic Regulation. Any proposals for a cost allocation methodology different from the one normally applied by the company concerned, has to be claimed within the time limits specified in the

notice of initiation, in order to allow for a proper verification on the spot. This was, however, not done by the company concerned.

- (11) The company furthermore claimed that the monthly cost of production figures were not representative since non-recurrent cost items were not spread out over the entire investigation period. In this respect, it should be noted that the Commission has based its calculation on data provided by the company. As the initial submissions of the company regarding its production costs did not reflect an appropriate allocation of (non-recurrent) costs, the company provided, at the request of the Commission, a revised version which was verified and used for the determinations. Consequently, there is no need to revise the calculations again.

- (12) Finally, this company alleged that in a high inflation environment it would be more appropriate to calculate an average cost of production per tonne for the whole investigation period and to adjust the average cost level by monthly inflation rates to arrive at monthly costs of production. This claim could not be granted as it was found to be possible within the accountancy system of the company to establish reasonably the actual cost of production incurred on a monthly basis. These monthly costs, which were based on the questionnaire response and the information verified during the on-the-spot verification, were consequently used in the determinations.

(b) Sales in the ordinary course of trade

- (13) One company raised some questions as regards the determination whether domestic sales were made in the ordinary course of trade. The company disputed, in particular, the exclusion of certain non-profitable transactions from the calculation of the normal values.
- (14) In this respect, it should be recalled that the Commission established for the provisional duty Regulation whether domestic sales transactions of the company are in the ordinary course of trade, in accordance with Article 2 (4) of the basic Regulation. Since the inflation rate of Poland was significant during the investigation period, calculations were carried out on a monthly basis in order to allow for a comparison of sales transactions and production costs at — as nearly as possible — the same time (see recitals 17 to 19 of the provisional duty Regulation).

(15) Whereas this approach was not contested in general, the company claimed that in a high inflation environment the monthly average production costs should not be compared with individual sales transactions, but with monthly average domestic selling prices. The company alleged that the approach applied by the Commission would almost automatically lead to a larger number of sales at the beginning of a period being at a loss which would lead to their unwarranted exclusion. This argument is contradicted by the findings of the investigation. An analysis carried out by the Commission showed that contrary to the allegation of the company no clear pattern of profitable sales transactions at the end of a month, or transactions at a loss at the beginning of the month, could be established.

(16) Furthermore, it was claimed that certain sales at a loss should not be excluded since the period for recovery of losses is at least six months, in accordance with Article 2 (4) of the basic Regulation. With regard to one exporter it was found, however, that during the whole investigation period (one year) more than 20 % of its sales were at a loss when comparing the monthly production costs with monthly sales transactions. Consequently, the exclusion of the sales at a loss is justified since the transactions were not in the ordinary course of trade. These sales at a loss were made in substantial quantities and a sufficient recovery from the losses as required by Article 2 (4) of the basic Regulation could not take place.

(17) For the other cooperating company, it was established that — on a yearly basis — less than 20 % of their sales during the investigation period were at a loss. It was, therefore, decided to include the sales at a loss in the calculation of the normal value which slightly reduced the normal value of this company.

(ii) Export price

(18) One of the Polish companies claimed that the total amount of its export turnover to the Community is higher than that applied by the Commission for its determination of the export prices. This argument was rejected as the calculation made by the company concerned was not based on the exchange rates attached to the questionnaire sent by the Commission.

(iii) Comparison between normal value and export price

(19) One company requested that their normal value should be established on the basis of domestic sales

to customers buying more than 2 000 tonnes per year since customers on the export market (EC) would also buy more than 2 000 tonnes. This claim could not be accepted since it was not claimed in the questionnaire response and no additional verification visits could be carried out after the imposition of the provisional duty. Therefore, it could not be established whether the company really applied a consistent quantity-related discount policy on the domestic market.

(20) Both Polish exporters repeated their requests made prior to the imposition of provisional duties for an adjustment for differences in the level of trade. In this regard it was, however, noted that no new arguments were presented to substantiate this claim. Therefore the findings, as laid down in recital 24 of the provisional duty Regulation, are confirmed.

(iv) Dumping margins

(21) Taking into consideration the changes in the normal value for one company as indicated above, the other findings for Poland as laid down in recitals 17 to 28 of the provisional duty Regulation are confirmed and the recalculated dumping margins, expressed as a percentage of the free-at-Community-frontier prices, are as follows:

- Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie: 14,4 %;
- Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno: 5,2 %.

The dumping margin applicable to non-cooperating producers/exporters remains unchanged at the level of 14,4 %.

(b) RUSSIA

(i) Normal value

(22) Since Russia is considered to be a non-market economy country for the purpose of anti-dumping proceedings (see Article 2 (7) of the basic Regulation which refers to Regulation (EC) No 519/94⁽¹⁾), its normal value was established by reference to the normal value found in an analogue country (in this proceeding Poland, see recital 29 of the provisional duty Regulation). As the normal value for this country was revised, the normal value used for the calculation relating to Russia was revised accordingly.

⁽¹⁾ OJ L 67, 10. 3. 1994, p. 89.

(ii) Export price

- (23) One importer of Russian zinc alleged that Eurostat statistics for Russia might be incorrect due to wrong origin declarations and requested that its export transactions should form the basis of the export prices. This claim could not be granted since the allegations were not sufficiently substantiated and could — at this stage of the proceeding — not be verified. The allegations would anyhow only invalidate a portion of Eurostat data.

(iii) Comparison between normal value and export price

- (24) This company further claimed that Polish and Russian zinc are not of the same quality and, therefore, an adjustment for physical differences should be made. In this respect, it was noted, however, that the normal value was established on the basis of the company producing the same quality as the majority of the Russian zinc producers. Consequently, an additional adjustment was not warranted.

(iv) Dumping margins

- (25) Taking into account the revised normal value established for the reference country and considering that the other findings for Russia as laid down in recitals 29 to 34 of the provisional duty Regulation are confirmed, the recalculated dumping margin, expressed as a percentage of the free-at-Community-frontier prices, amounts to:

Russia: 6,9 %.

wards be made at a loss. As stated in that recital, there are also high variable costs incurred (e.g. high energy consumption for start-up) if production is interrupted. It cannot therefore be accepted that the fact that, in the present case, the Community producers' capacity would have been almost fully used during the investigation period should lead to the conclusion that they were not suffering material injury.

- (27) One of the importers referred to at recital 3 above submitted that an increase of stocks of GOB could not have been caused by imports of HG zinc originating in Russia and objected to the cumulative assessment made for Poland and Russia arguing that Russia only produced HG zinc. These arguments disregard, however, that GOB and HG zinc compete with each other in the market segment of hot-dip galvanizing and brass manufacturing where they are used. Moreover, the conditions of competition between zinc originating in Poland and zinc originating in Russia are similar as neither HG zinc nor GOB zinc are traded at the LME and both grades, as well as slightly more expensive SHG zinc, can be used in this market segment.

- (28) The provisional findings pertaining to, in particular, consumption on the Community market, production, sales and profitability of the Community industry and employment in the Community industry, as laid down in recitals 37, 38, 40 to 45, and 50 to 60 of the provisional duty Regulation, are therefore confirmed.

(b) Price undercutting**E. INJURY****(a) General injury factors**

- (26) The comments made by the exporters in respect of the provisional findings regarding injury factors were limited to price undercutting. The Polish Government alleged, however, that there was little or no injury, arguing from the fact that Community producers were using almost full capacity. However, this argument does not invalidate the statement made in recital 51 of the provisional duty Regulation, i.e. that the investigation showed that, because of the special nature of the production process and the high fixed costs linked to the production of unalloyed, unwrought zinc, capacity must be as fully used as possible, even when this means that sales of the final products would after-

- (29) Further to the comments made by the exporters and one of the importers referred to at recital 3 above, the provisional findings concerning the Community producers' prices have been reconsidered. As regards the premium of 3 % on the LME price (recital 47 of the provisional duty Regulation), it was noted that the publications of the International Lead and Zinc Study Group confirm that during the investigation period zinc was being sold at a premium. The premium of 3 % or US \$ 30 on an average LME price of US \$ 1 000 per tonne paid during the investigation period, does not appear either excessive or unreasonable, taking into consideration, for instance, that loading costs at the LME warehouse (which are paid by the buyer but need not to be paid in case of direct sales outside the LME) amounted already to US \$ 15 per tonne.

- (30) This premium of 3 % reflects the facts that the price charged by Community producers in case of direct sales to industrial users is not identical to the LME price, but somewhat higher to cover selling costs and the costs of both currency and zinc hedging, and that buyers accept to pay a slightly higher price, e.g. if they are certain to obtain the specific brand of a given producer or if transport costs are lower than those from an LME-approved warehouse. The premium includes all costs associated with the marketing and technical service offered to the customer, which are incurred by the producer. For the buyer, direct sales have the advantage that the cost of the warrant, the cost of moving the metal from an LME warehouse to the truck and the broker's fee, which would have to be paid in case of sales through the LME, need not be paid.
- (31) In this respect, it is worth noting that the cost of hedging included in this premium could not have been inflated, as this cost included administrative costs, the payment of broker's fees and finance charges only while profits or losses arising out of hedging were separated out of the calculations in order to allow for a fair comparison.
- (32) The exporters and one of the importers referred to at recital 3 above objected to the Commission's assumption that the prices of the three grades of zinc were identical, claiming that the prices of HG and GOB zinc were lower than the price of SHG zinc which had been used for the calculation (as the LME price is a price for SHG zinc). According to the exporters, account should be taken of the difference in price between the three grades of zinc. As the prices published by the International Lead and Zinc Study Group show that, during the investigation period, there was indeed a very small differential between the prices of SHG, HG and GOB zinc, it is appropriate to take account of this difference in price. While HG zinc was found to have been sold at a rebate of maximum 0,3 % on the price of SHG zinc, the differential between GOB and SHG was just below 1 % of the price of SHG zinc.
- (33) One of the exporters claimed that allowance should be made for the fact that its GOB zinc has a much higher cadmium content than Community produced GOB zinc and proposed that the market value of this difference, assessed on the basis of the cost of refining, should be added to its export prices in order to carry out the undercutting calculation on a fair basis.
- (34) While the exporter concerned showed that Community producers' zinc did meet the CEN 1 179 standard and its (unrectified) GOB zinc did not, the documents submitted by this exporter did not enable the Commission services to make a precise assessment of the prices of non-Polish GOB zinc with the same cadmium content as the zinc exported by this exporter and sold in the Community market during the investigation period. The Community industry provided information on the costs of rectification (i.e. upgrading, by means of distillation, of GOB zinc not meeting the CEN 1 179 standard into both SHG and GOB zinc with a standard cadmium content) that could be allocated to the elimination of excessive cadmium, if this rectification took place immediately after the refining of zinc concentrates. However, the specific costs which should be allocated to the elimination of excessive cadmium in case of a rectification undertaken in another plant after completion of the process of refining zinc concentrates into unrectified GOB zinc (likely to be disproportionately high) could not be established precisely, as the exporter and the Community industry supplied contradictory information also relating to the question as to what extent it is, in this situation, economically realistic to carry out such a rectification with a view to removing excessive cadmium from unrectified GOB zinc.
- (35) Nevertheless, since the high cadmium content (and the health hazards resulting therefrom) prevents certain users from using the zinc without rectification, although the investigation showed this is not the case for all users, the price differential between high cadmium GOB zinc and GOB zinc meeting the CEN 1 179 standard had to be assessed. To this end, on the one hand, it should be noted that it is not possible to conclude that the average market value of zinc having a lower, 'standard' cadmium content would coincide with the price of the exporter's zinc increased by the refining costs (as it is unlikely that these refining costs could always be entirely reflected in the price and thus fully passed on to any customer). On the other hand, the information submitted by the exporter (which showed that there was a differential between the price of its GOB zinc and the LME price exceeding the differential of 1 % between the prices of GOB and SHG zinc published by the International Lead and Zinc Study Group) and the Community industry demonstrates that a reasonable average price differential between GOB zinc with a high cadmium content and GOB zinc with a cadmium content not exceeding the limit of the CEN standard could be established, which is the basis for an adjustment of the export price of the Polish exporter concerned.

- (36) In addition, the exporters claimed that a difference in level of trade should be taken into account as Polish export sales would have been made to traders only. As stated in recital 46 of the provisional duty Regulation, the undercutting calculation was made using the price in the Community market of zinc manufactured by Community producers, established taking into account the fact that considerable direct sales exist from zinc refiners to both industrial users and traders, which are not taking place through the LME. This means that both sales to industrial users and sales to traders were taken into account and that the calculated price charged by Community producers in the Community market, which was found to be somewhat higher than the LME price, constitutes an average price for both categories. It is therefore considered appropriate that the price undercutting calculation should be corrected on this point by adding a reasonable margin for the trader to the export prices used.

- (37) The exports also claimed that an adjustment should be made for transport costs within the Community and one of them submitted that the export prices of the exporters should have been compared to the LME price of the month prior to the month in which the transaction took place. For the purpose of the price undercutting calculation, a comparison was made between the ex-works prices of Community producers and the export price of Polish zinc (cleared through customs, at the Community frontier) during each of the months of the investigation period. Therefore, it does not appear appropriate to make any further adjustment.

(c) Conclusion on injury

- (38) Taking into account the small difference in price between the three grades of zinc, the difference in the level of trade, and, for one of the exporters, the higher cadmium content of GOB zinc originating in Poland, the price undercutting margins were recalculated as follows:

Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie: 14,0 %,

Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno: 6,6 %,

Other Polish producers/exporters: 14,0 %,

Russia: 5,2 %.

- (39) Apart from these modifications, the provisional findings laid down in recitals 37 to 60 of the provisional duty Regulation are confirmed.

F. CAUSATION

- (40) One of the importers referred to at recital 3 above made some comments on the Commission's findings essentially based on the assumption that HG and GOB zinc would not be competing with each other. As this assumption is incorrect, no sufficiently substantiated comments were made on the provisional findings concerning the causal link between dumping of zinc originating in Poland and Russia and injury to the Community producers referred to in recitals 61 to 70 of the provisional duty Regulation, which are herewith confirmed.

G. COMMUNITY INTEREST

- (41) No representations concerning Community interest were submitted by industrial users or their representative associations. The exporters pointed out, however, that stocks in LME warehouses had decreased since the end of the investigation period and that prices might go up shortly, as supply would fall short of demand.
- (42) In this regard it should be noted that a direct linkage exists between the price of zinc concentrates (i.e. the raw material used by zinc refiners) and the price of refined zinc. Therefore, any price increase of refined zinc at LME level automatically corresponds to an increase in the cost of raw material for Community producers. Accordingly, no remedial effect can be expected from an increase of the price of refined zinc at that level and no such price evolution can be such as to render measures unwarranted in the present case.
- (43) One of the importers referred to at recital 3 above argued that the interests of final consumers had not been properly assessed. In this regard, it should be noted that the Commission has found that the effect of measures on user industries should be minimal. It may therefore be assumed that no major price increases for final consumers will occur.
- (44) The same importer, which claimed that Russian smelters would produce zinc for it in accordance with a tolling agreement, also alleged that measures would be against the Community interest because some major Community producers had bought zinc originating in Russia. This allegation was however not sufficiently substantiated. In addition, it should be recalled in this respect that Article 4 (1) (a) does not provide for the automatic exclusion of producers which themselves import the dumped product.

- (45) The provisional findings regarding the Community interest assessment (recitals 71 to 75 of the provisional duty Regulation) are confirmed.

H. DEFINITIVE MEASURES

(a) Undertakings

- (46) Subsequent to the imposition of provisional anti-dumping duties and the submission of their comments on the Commission's provisional findings, the two cooperating Polish exporters offered an undertaking pursuant to Article 8 of the basic Regulation. By offering these undertakings, each of the exporters commits itself, *inter alia*, to respect minimum prices for the different grades of exported zinc, which prices are directly linked to the LME prices for SHG zinc, during a specified period of reference.
- (47) The undertakings should eliminate the injurious effects of dumping as envisaged by Article 8 (1) of the basic Regulation and can be monitored effectively. The Commission consulted the Advisory Committee on the acceptance of these undertakings and no objections were raised. The undertakings offered were subsequently accepted by Commission Decision 97/644/EC⁽¹⁾. The investigation should therefore be terminated in respect of these exporters.

(b) Definitive Duty

- (48) A residual duty on imports of zinc originating in Poland should be imposed. This residual duty is deemed necessary in order to prevent non-cooperating parties from benefiting from their non-cooperation. Moreover, although in the present case the exporters have contested the figures concerning exports of zinc from Poland to the Community that were used by the Commission, they were not able to explain whether the discrepancy between these figures and their own exports represented indirect exports to the Community of their own products or exports of other zinc. The rate of duty should correspond to the injury margin, since that margin was found to be lower than the dumping margin.
- (49) Russian producers/exporters did not cooperate in the investigation. It was therefore argued that the rate of duty for Russia should be at least as high as the rate of duty found for the non cooperating

Polish companies. This claim could not be accepted as the rates of duty are normally calculated on the basis of data established for each of the respective countries. Consequently and since the findings for Russia were only revised in respect of the normal value established for the market economy reference country, it is necessary to impose a definitive anti-dumping duty on imports of zinc originating in Russia at the injury elimination level as the injury margin is lower than the revised dumping margin.

I. DEFINITIVE COLLECTION OF PROVISIONAL DUTY

- (50) One of the importers referred to at recital 3 above, a company established after the publication of the notice of initiation, requested that its uncleared stocks held in bonded warehouse on 5 April 1997 be exempt from the definitive collection of the provisional anti-dumping duty, arguing that, in the light of its specific circumstances, it would have been its legitimate expectation that no duties would be imposed. However, since the imposition of provisional anti-dumping duties took place further to a duly announced investigation, importers are, in principle, not entitled to an exemption on this point. The specific circumstances invoked by the importer are not such that an exception to this rule would be justified.
- (51) As the cooperating Polish producers/exporters undertook to respect the undertakings as from 20 June 1997, subject to their acceptance by the Commission, it is appropriate not to collect the provisional anti-dumping duties on zinc manufactured by these exporters which offered these undertakings, and released into free circulation on or after that date. As regards imports of zinc manufactured by these exporters, which took place before 20 June 1997, the provisional anti-dumping duties should, however, be collected at the rates that would have applied had the undertakings not been accepted (i.e. 5,2 % for Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno, and 14,0 % for Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie).
- (52) Regarding imports of zinc originating in Poland and manufactured by other producers than the two cooperating ones, and all imports of zinc originating in Russia, the provisional anti-dumping duties should be definitively be collected only up to the rate of the definitive anti-dumping duties, i.e. 14,0 and 5,2 %, respectively.

⁽¹⁾ See page 50 of this Official Journal.

J. FINAL PROVISIONS

- (53) The Community industry concerned has been informed of the main facts and considerations on the basis of which it was intended to recommend the imposition of definitive measures including the acceptance of undertakings and did not object.
- (54) The exporters have been informed of the main facts and considerations underlying the intended Commission proposal for definitive measures. They have not made any further comments.
- (55) In accordance with the Europe Agreement establishing an Association between the European Communities and their Member States, on the one part, and the Republic of Poland, on the other part⁽¹⁾, the Association Council and the Polish Government have been supplied with all relevant information and have been informed in advance of the outcome of the investigation laid down in this Regulation and the Commission Decision accepting the undertakings offered by the exporters. The Polish Government explicitly expressed its satisfaction with the solution found for the two cooperating Polish exporters.
- (56) In accordance with the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Russian Federation, of the other part⁽²⁾, the Russian government has been supplied with all relevant information and has been informed in advance of the outcome of the investigation laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of unalloyed, unwrought zinc falling within CN codes 7901 11 00, 7901 12 10 and 7901 12 30 originating in Poland and Russia.

2. For the product referred to in paragraph 1 originating in Poland, the rate of the anti-dumping duty applicable to the net, free-at-Community-frontier price,

before duty, shall be 14,0 % (Taric additional code 8900) except for imports manufactured and sold for export to the Community by:

— Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno (Taric additional code 8965), or

— Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie (Taric additional code 8093),

which shall be exempt from the duty, provided these imports are accompanied by a certificate EUR. 1 issued after 19 June 1997, in which the name and address of either company are filled in under the heading 'exporter' and the Community or one of its Member States is filled in as country of destination, and which is certified by the Polish authorities and issued in accordance with the provisions of the Europe Agreement with Poland.

3. For the product referred to in paragraph 1 originating in the Russian Federation, the rate of the anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be 5,2 %.

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

Article 2

1. The amounts secured by way of the provisional anti-dumping duty imposed pursuant to Regulation (EC) No 593/97 shall be definitively collected at the rate of the duties definitively imposed on imports of unwrought, unalloyed zinc originating in Poland and Russia, respectively. However, without prejudice to paragraph 2, the provisional anti-dumping duty imposed on imports originating in Poland manufactured and exported by Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno, shall be definitively collected at the rate of 5,2 %.

The amounts secured in excess of the definitive rate of anti-dumping duty shall be released.

2. Provided that it is demonstrated that zinc of Polish origin was manufactured by either Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie, or by Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno, and released into free circulation on or after 20 June 1997, the provisional duty shall not be definitively collected.

Article 3

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

⁽¹⁾ OJ L 348, 31. 12. 1993, p. 2.

⁽²⁾ OJ L 247, 13. 10. 1995, p. 1.

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

Done at Brussels, 22 September 1997.

For the Council

The President

F. BODEN

COMMISSION REGULATION (EC) No 1932/97

of 3 October 1997

amending Regulation (EEC) No 2348/91 establishing a databank for the results of analyses of wine products by nuclear magnetic resonance of deuterium

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 1417/97 ⁽²⁾, and in particular Article 79 (3) thereof,

Whereas Commission Regulation (EEC) No 2348/91 ⁽³⁾ establishes an analytical databank at the Joint Research Centre to permit comparison of the results obtained by that analysis method and the results obtained prior to that by the method applied to products of similar origin; whereas Commission Regulation (EEC) No 2676/90 of 17 September 1990 determining Community methods for the analysis of wine ⁽⁴⁾, as last amended by Regulation (EC) No 822/97 ⁽⁵⁾, describes a method of analysing the ¹⁸O/¹⁶O isotope ratio of the oxygen of the water in wine; whereas the results obtained with this method will permit, by means of comparison with authentic samples, useful information to be obtained for the purposes of verifying whether the products have been subject to the addition of water, or help to permit, in connection with the results of the analysis of the products' other isotope characteristics, verification of the origin indicated in their description; whereas those analysis results may also improve the interpretation of NMR measurements of deuterium in wine alcohol; whereas, therefore, the results of analysis of the ¹⁸O/¹⁶O isotope ratio carried out on authentic samples should be added to the databank;

Whereas it is necessary to provide that samples of fresh grapes originating on the territory of Austria be taken and made into wine and that samples of that wine be analysed; whereas experience has shown that the number of samples taken in Luxembourg and in the United Kingdom needs to be increased to improve representativeness;

Whereas, in order to guarantee the quality and comparability of analytical data, a system of recognized quality standards has to be applied to the laboratories entrusted by the Member States with the isotope analysis of samples for the databank;

Whereas experience gained since the databank came into being shows that the representativeness of the Com-

munity vineyards concerned has not yet been guaranteed; whereas, therefore, the date laid down in the fifth indent of Article 4 should be reconsidered;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2348/91 is hereby amended as follows:

1. in the title, 'by nuclear magnetic resonance of deuterium' is deleted and 'isotope' inserted before 'analyses';
2. in Article 1 the first sentence in the second paragraph is replaced by the following:

'This databank shall comprise the data obtained from the isotope analysis of the ethyl alcohol and water components of wine products in accordance with the methods described in the Annex to Regulation (EEC) No 2676/90';
3. in Article 2:
 - (a) in the third subparagraph of paragraph 1, 'by nuclear magnetic resonance' is deleted and 'isotope' inserted before 'analysis';
 - (b) in the fourth subparagraph of paragraph 1, '2' in the last two indents is replaced by '4', and the following indent is added:

'— 50 samples in Austria, starting with the 1997 harvest';
 - (c) in paragraph 3, 'method described in Chapter 8 of the Annex' is replaced by 'methods described in the Annex', and the following sentence is inserted after the first sentence, 'The designated laboratories must, before 1 November 1998, satisfy the general criteria for the operation of testing laboratories set out in European standard EN 45001 and, in particular, take part in a proficiency testing scheme for isotope analysis methods';

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ L 196, 24. 7. 1997, p. 10.

⁽³⁾ OJ L 214, 2. 8. 1991, p. 39.

⁽⁴⁾ OJ L 272, 3. 10. 1990, p. 1.

⁽⁵⁾ OJ L 117, 7. 5. 1997, p. 10.

4. in Article 3, 'analysis of wine products by nuclear magnetic resonance' is replaced by 'isotope analysis of wine products as referred to in Article 1';
5. in Article 4:
- the first indent is replaced by: 'an annual evaluation of the analytical data to be included in the JRC databank';
 - in the third indent, 'by nuclear magnetic resonance' is deleted and 'isotope' inserted before 'analysis';
 - in the fifth indent, the last sentence is deleted, and 'of all Community vineyards' is replaced by 'of the Community vineyards concerned', and, in the French version, 'des conditions' is replaced by 'les conditions';
6. in Article 5:
- paragraph 1 is replaced by the following:
'1. The information contained in the JRC databank shall be made available on request to the official laboratories of the Member States referred to in Article 2 (3) with effect from 30 June 1998, at the latest. Member States which have not designated a laboratory to conduct isotope analyses may designate a competent body entitled to hold information on samples taken on their territory. At the request of a Member State, the information in question may be provided, under the same conditions, via the liaison authority referred to in Article 4 (2) of Regulation (EEC) No 2048/89.';
 - the following paragraph 3 is added:
'3. The information shall concern only the relevant analytical data required to interpret an analysis of a sample having similar characteristics and origin. Any communication of information shall be accompanied by a reminder of the minimum requirements necessary for use of the databank.';
7. in the first paragraph of Article 6, 'analysis by nuclear magnetic resonance' is replaced by 'isotope analysis';
8. in Article 7, 'the date laid down in the fifth indent of Article 4' is replaced by '30 June 1998';
9. the Annex is amended as follows:
- in the title, 'by SNIF-NMR, in accordance with the experimental protocol set out in Chapter 8 of' is replaced by 'by an isotope method as described in';
 - in Part I.7, 'NMR' is deleted;
 - in Part II.4 of the French version only, 'Tetraméthylures' is replaced by 'Tetraméthylurée';
 - in Part II.5, the title is replaced by the following:
'Result of the deuterium isotope ratios in ethyl alcohol measured by NMR';
 - the following points are added to Part II:
'7. Result of the $^{18}\text{O}/^{16}\text{O}$ isotope ratio in wine
 $\delta^{18}\text{O}[\text{‰}] = \dots\dots\dots, \text{‰V.SMOW-SLAP}$
Number of determinations:
Standard deviation:
8. Equilibration parameters
Automatic equilibration yes/no
Equilibration temperature: °C
Sample volume: ml
Volume of equilibration flask: ml
Equilibration time: hours.'

Article 2

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

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1933/97

of 3 October 1997

amending for the 12th time Regulation (EC) No 413/97 adopting exceptional support measures for the market in pigmeat in the Netherlands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas, because of the outbreak of classical swine fever in certain production regions in the Netherlands, exceptional support measures for the market in pigmeat in that Member State were adopted in Commission Regulation (EC) No 413/97 ⁽³⁾, as last amended by Regulation (EC) No 1688/97 ⁽⁴⁾;

Whereas the aid referred to in Article 4a of Regulation (EC) No 413/97 is to be converted at the agricultural conversion rate; whereas, pursuant to Article 6 of 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 ⁽⁵⁾, as last amended by Regulation (EC) No 150/95 ⁽⁶⁾, the operative event for this rate is the event whereby the economic objective of the operation is attained; whereas for the aid in question the operative event should be defined as the beginning of each month for which aid is granted;

Whereas, because of the continuing veterinary and trade restrictions adopted by the Dutch authorities, the number of very young piglets which may be delivered to the competent authorities should be increased, thereby permitting continuation of the exceptional measures in the weeks to come;

Whereas, as a result of the appearance of new cases of classical swine fever in the Netherlands, the Dutch au-

thorities have introduced new protection and surveillance zones; whereas the good veterinary and health situation has permitted cancellation of the protection and surveillance zones around Oirlo and Toldijke I; whereas these amendments should be incorporated in a new Annex replacing Annex II to Regulation (EC) No 413/97;

Whereas the rapid and effective application of exceptional market support measures is one of the best means of combating the spread of classical swine fever; whereas this Regulation should therefore apply from 18 September 1997;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

1. the following paragraph is added to Article 4a:
'6. The operative event for the agricultural conversion rate shall be the beginning of each month for which aid is granted.';
2. Annex I is replaced by Annex I hereto;
3. Annex II is replaced by Annex II hereto.

Article 2

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

It shall apply with effect from 18 September 1997.

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 62, 4. 3. 1997, p. 26.

⁽⁴⁾ OJ L 239, 30. 8. 1997, p. 1.

⁽⁵⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ L 22, 31. 1. 1995, p. 1.

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

Done at Brussels, 3 October 1997.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

ANNEX I

Maximum number of animals from 18 February 1997:

Fattening pigs	2 300 000 head
Piglets and young piglets	3 800 000 head
Very young piglets	2 700 000 head
Cull sows	25 000 head'

ANNEX II

ANNEX II

1. The protection and surveillance zones in the following areas:

- Venhorst,
- Best,
- Nederweert,
- Soerendonk,
- Diessen,
- Dalfsen I,
- Schoondijke.

2. The zone in which the transport of pigs is banned as defined in the Ministerial Decree of 14 April 1997 published in the *Staatscourant* of 15 April 1997, page 12.'

**COMMISSION REGULATION (EC) No 1934/97
of 3 October 1997**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas, because of the outbreak of classical swine fever in certain production regions in Spain, exceptional support measures for the market in pigmeat in that Member State were adopted in Commission Regulation (EC) No 913/97 ⁽³⁾, as last amended by Regulation (EC) No 1499/97 ⁽⁴⁾;

Whereas, because of the continuing veterinary and trade restrictions adopted by the Spanish authorities, cull sows should be included in the aid scheme pursuant to Regulation (EC) No 913/97 and the number of fattening pigs which may be delivered to the competent authorities increased, thereby permitting continuation of the exceptional measures in the weeks to come;

Whereas the list of eligible areas in Annex II to that Regulation should be amended to reflect the current veterinary situation;

Whereas the rapid and effective application of exceptional market support measures is one of the best means of combating the spread of classical swine fever; whereas this Regulation should therefore apply from 18 September 1997;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

1. in Article 1:

(a) the following paragraph 3 is inserted:

‘3. From 18 September 1997, producers may, on application, receive aid from the competent Spanish authorities when they deliver to them cull sows falling within CN code 0103 92 11 with an average weight, over each batch, of not less than 160 kg.’;

(b) the existing paragraph 3 becomes paragraph 4;

2. the following paragraph 5 is added to Article 4:

‘5. The aid referred to in Article 1 (3) shall be, at the farm gate, equal to the aid fixed in accordance with paragraph 1, less 30 %.

Aid shall be calculated on the basis of the recorded deadweight. However, if the animals are only weighed alive, a coefficient 0,78 shall be applied to the aid.’;

3. the following is added to Article 6:

‘the number and total weight of the cull sows delivered.’;

4. Annex I is replaced by Annex I hereto;

5. Annex II is replaced by Annex II hereto.

Article 2

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

It shall apply with effect from 18 September 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 131, 23. 5. 1997, p. 14.

⁽⁴⁾ OJ L 202, 30. 7. 1997, p. 42.

*ANNEX I**'ANNEX I*

Maximum total number of animals from 6 May 1997:

Fattening pigs	350 000 head
Piglets	110 000 head
Cull sows	8 000 head'

*ANNEX II**'ANNEX II*

In the province of Lerida, the protection and surveillance zones as defined in Annexes I and II to the Orders of the *Generalitat de Catalunya* dated 13 August 1997, published in the Official Journal of the *Generalitat* of 22 August 1997, page 10021, and 19 August 1997, published in the Official Journal of the *Generalitat* of 1 September 1997, page 10344.'

COMMISSION REGULATION (EC) No 1935/97
of 3 October 1997

**amending for the fifth time Regulation (EC) No 581/97 adopting exceptional
support measures for the market in pigmeat in Belgium**

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

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

Whereas, because of the outbreak of classical swine fever
in certain border regions of the Netherlands, exceptional
support measures for the market in pigmeat in Belgium
were adopted in Commission Regulation (EC) No
581/97 ⁽³⁾, as last amended by Regulation (EC) No
1497/97 ⁽⁴⁾;

Whereas, because of new cases of classical swine fever in
two border regions of the Netherlands, the Belgian veter-
inary authorities have introduced new surveillance zones
which should be included from 18 September in the
exceptional measures pursuant to Regulation (EC) No
581/97; whereas the good veterinary and health situation
has permitted cancellation of certain protection and

surveillance zones; whereas all these amendments should
be incorporated in a new Annex replacing Annex II to
Regulation (EC) No 581/97;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 581/97 is hereby
replaced by the Annex hereto.

Article 2

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

It shall apply with effect from 18 September 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 87, 2. 4. 1997, p. 11.

⁽⁴⁾ OJ L 202, 30. 7. 1997, p. 38.

*ANNEX**ANNEX II*

The protection and surveillance zones defined in Article 1 of the Ministerial Decree of 28 August 1997 published in the *Moniteur Belge* of 30 August 1997, page 22316 and the Ministerial Decree of 8 September 1997 published in the *Moniteur Belge* of 9 September 1997, page 23217.

COMMISSION REGULATION (EC) No 1936/97

of 3 October 1997

on the issue of system B export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EEC) No 1035/72 as regards export refunds on fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 610/97⁽²⁾, and in particular Article 5 (5) thereof,

Whereas Commission Regulation (EC) No 1744/97⁽³⁾ fixes the indicative quantities for system B export licences other than those sought in the context of food aid;

Whereas, in the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for apples for destination groups Z and D will shortly be exceeded; whereas this overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector;

Whereas, to avoid this situation, applications for system B licences for apples for destination groups Z and D exported after 3 October 1997 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B licences for apples for destination groups Z and D submitted pursuant to Article 1 of Regulation (EC) No 1744/97, export declarations for which are accepted after 3 October 1997 and before 19 November 1997, are hereby rejected.

Article 2

This Regulation shall enter into force on 4 October 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽²⁾ OJ L 93, 8. 4. 1997, p. 16.

⁽³⁾ OJ L 244, 6. 9. 1997, p. 12.

COMMISSION REGULATION (EC) No 1937/97
of 3 October 1997
on the issuing of system B export licences for 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 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EEC) No 1035/72 as regards export refunds on fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 610/97⁽²⁾, and in particular Article 5 (6) thereof,

Whereas Commission Regulation (EC) No 1120/97⁽³⁾ fixes the indicative quantities laid down for the issue of export licences other than those requested in the context of food aid;

Whereas, in the light of information now available to the Commission, the indicative quantities have been exceeded in the case of tomatoes, oranges, table grapes, apples for destination groups X, Z and D, and peaches and nectarines;

Whereas as a consequence, for system B licences applied for between 1 July and 16 September 1997, a rate of refund which is lower than the indicative rate should be

fixed for tomatoes, oranges, table grapes, apples for destination groups X, Z and D, and peaches and nectarines,

HAS ADOPTED THIS REGULATION:

Article 1

The percentages for the issuing of system B export licences, as referred to in Article 5 of Regulation (EC) No 2190/96, and applied for between 1 July and 16 September 1997, by which the quantities applied for and the rates of refund applicable must be multiplied, shall be as fixed in the Annex hereto.

The above subparagraph shall not apply to licences applied for in connection with food-aid operations as provided for in Article 10 (4) of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations.

Article 2

This Regulation shall enter into force on 4 October 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽²⁾ OJ L 93, 8. 4. 1997, p. 16.

⁽³⁾ OJ L 163, 20. 6. 1997, p. 12.

ANNEX

Percentages for the issuing of licences and rates of refund applicable to system B licences applied for between 1 July and 16 September 1997

Product	Destination or group of destinations	Percentage for the issuing of licences	Rate of refund (ECU/tonne net)
Tomatoes	F	100 %	18,5
Shelled almonds	F	100 %	75,0
Hazelnuts in shell	F	100 %	88,0
Shelled hazelnuts	F	100 %	171,0
Walnuts in shell	F	100 %	110,0
Oranges	XYC	100 %	28,5
Lemons	F	100 %	105,0
Table grapes	F	100 %	22,7
Apples	X	100 %	17,2
	Y	100 %	10,0
	ZD	100 %	19,9
Peaches and nectarines	E	100 %	23,6

COMMISSION REGULATION (EC) No 1938/97

of 3 October 1997

amending Regulation (EC) No 2511/96 laying down, for 1997, certain detailed rules for the application of a tariff quota for live bovine animals weighing from 160 to 300 kilograms and originating in certain third countries

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 1595/97⁽²⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 1926/96 of 7 October 1996 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the agreements on free trade and trade-related matters with Estonia, Latvia and Lithuania, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽³⁾, and in particular Article 5 thereof,

Whereas Regulation (EC) No 3066/95 provides in its Annexes for the opening, from 1 July 1997, of an annual tariff quota for 153 000 live bovine animals weighing from 80 to 300 kilograms and originating in Hungary, Poland, the Czech Republic, Slovakia, Romania, Bulgaria, Estonia, Latvia and Lithuania; whereas Commission Regulation (EC) No 2511/96 of 23 December 1996 laying down, for 1997, certain detailed rules for the application of a tariff quota for live bovine animals weighing from 160 to 300 kilograms and originating in certain third countries⁽⁴⁾ lays down detailed rules for the importation of the same number of animals originating in the same third countries but weighing from 160 to 300 kilograms; whereas, therefore, the lower weight limit should be adjusted for those animals for which an import licence

has not yet been issued pursuant to the said Regulation or for which a licence was issued on or after 1 July 1997 but has not yet been used;

Whereas Protocol 4 to the Europe Agreements and Protocol 3 to the Free Trade Agreements have been amended; whereas the new Protocols provide that the proof of origin of animals imported into the Community may be established by means of a declaration by the exporter, under certain conditions, or by presentation of an EUR.1 movement certificate; whereas, therefore, the provisions of Regulation (EC) No 2511/96 concerning the release for free circulation of imported animals should be amended accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2511/96 is hereby amended as follows:

1. in the title, '160' is replaced by '80';
2. Article 1 (1) is replaced by the following:

'1. Pursuant to the tariff quotas provided for in Regulations (EC) No 3066/95 and (EC) No 1926/96, 153 000 head of live bovine animals falling within CN code 0102 90 21, 0102 90 29, 0102 90 41 or 0102 90 49 and originating in the third countries listed in Annex II may be imported in 1997 in accordance with this Regulation.';

3. Article 7 is replaced by the following:

'Article 7

Live animals shall benefit from the duties referred to in Article 1 on presentation of either an EUR.1 movement certificate issued by the exporting country in accordance with Protocol 4 to the Europe Agreements and Protocol 3 to the Free Trade Agreements or a declaration by the exporter in accordance with the said Protocols.'

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 254, 8. 10. 1996, p. 1.

⁽⁴⁾ OJ L 345, 31. 12. 1996, p. 21.

Article 2

For unused import licences issued from 1 July 1997 pursuant to Regulation (EC) No 2511/96, Member States must, at the request of the importer and on presentation of the original import licence, amend the details given on the licence in accordance with Article 1 of this Regulation.

Article 3

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

It shall apply with effect from 1 July 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1939/97

of 3 October 1997

laying down, for the period 1 July 1997 to 30 June 1998, rules for the application of the tariff quotas for beef and veal provided for by Council Regulation (EC) No 3066/95 for the Republic of Poland, the Republic of Hungary, the Czech Republic, Slovakia, the Republic of Bulgaria and Romania and amending Regulations (EC) No 2512/96 and No 1441/97

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 1595/97⁽²⁾, and in particular Article 8 thereof,

Whereas Regulation (EC) No 3066/95 provides for the opening of reduced-tariff quotas for beef and veal for the period 1 July 1997 to 30 June 1998;

Whereas, pursuant to the rules laid down in Commission Regulation (EC) No 2512/96 of 23 December 1996 laying down for 1997 rules of application for the tariff quotas for beef and veal provided for by Council Regulation (EC) No 3066/95 for the Republic of Poland, the Republic of Hungary, the Czech Republic, Slovakia, the Republic of Bulgaria and Romania⁽³⁾, Commission Regulations (EC) No 149/97⁽⁴⁾, (EC) No 721/97⁽⁵⁾ and (EC) No 1441/97⁽⁶⁾ determine the percentages of quantities which may be allowed in respect of import licence applications lodged in January, April and July 1997; whereas certain quantities have therefore already been awarded for importation in 1997; whereas, pursuant to Regulation (EC) No 3066/95, those quantities must be fully booked under the quantities allocated for 1997 in the Annexes to that Regulation; whereas the quotas laid down in the Annexes to Regulation (EC) No 3066/95 should therefore be adjusted for the period 1 July 1997 to 30 June 1998 and detailed implementing rules should be laid down for those quantities;

Whereas Protocol 4 to the Europe Agreements has been amended; whereas the new protocol provides that proof of origin of products imported into the Community may be established by means of a declaration by the exporter, under certain conditions, or by presentation of an EUR.1 movement certificate; whereas, therefore, the new provisions on release for free circulation of imported products should be included in this Regulation and the relevant provisions of Regulation (EC) No 2512/96 should be adjusted;

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

Whereas, in order to ensure orderly importation of the quantities laid down for the period 1 July 1997 to 30 June 1998, they should be staggered over the year;

Whereas the arrangements should be managed using import licences; whereas to that end rules should be laid down on the submission of applications and the information to be given on applications and licences, where appropriate notwithstanding Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for certain agricultural products⁽⁷⁾, as last amended by Regulation (EC) No 1404/97⁽⁸⁾, and Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80⁽⁹⁾, as last amended by Regulation (EC) No 1572/97⁽¹⁰⁾; whereas, moreover, it should be stipulated that licences are to be issued following a reflection period and, where necessary, after application of a uniform percentage reduction;

Whereas, in order to ensure efficient management of the arrangements, a security against import licences of ECU 12 per 100 kilograms should be required; whereas, given

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 345, 31. 12. 1996, p. 26.

⁽⁴⁾ OJ L 25, 28. 1. 1997, p. 22.

⁽⁵⁾ OJ L 106, 24. 4. 1997, p. 20.

⁽⁶⁾ OJ L 196, 24. 7. 1997, p. 69.

⁽⁷⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽⁸⁾ OJ L 194, 23. 7. 1997, p. 5.

⁽⁹⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽¹⁰⁾ OJ L 211, 5. 8. 1997, p. 5.

the risk of speculation inherent in the arrangements, detailed conditions for access to the quotas should be laid down;

Whereas experience has shown that importers do not always inform the authorities which have issued the import licences of the quantity and origin of the beef and veal imported under the quotas concerned; whereas that information is important for assessing the market situation; whereas a security relating to provision of that information should be provided for;

Whereas this Regulation partially replaces Regulations (EC) No 2512/96 and (EC) No 1441/97; whereas those two Regulations should therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 July 1997 to 30 June 1998, the following quantities of fresh, chilled or frozen beef and veal falling within CN codes 0201 and 0202 may be imported under the tariff quotas opened by Regulation (EC) No 3066/95:

- 12 827,6 tonnes originating in Poland, which may be converted into not more than 5 994,2 tonnes of processed products falling within CN code 1602 50 31 or 1602 50 39 originating in Poland; this quota shall bear order number 09.4824,
- 8 732 tonnes originating in Hungary; this quota shall bear order number 09.4707,
- 3 495 tonnes originating in the Czech Republic; this quota shall bear order number 09.4603,
- 2 020 tonnes originating in Slovakia; this quota shall bear order number 09.4603,
- 310 tonnes originating in Bulgaria; this quota shall bear order number 09.4651,
- 2 043,6 tonnes originating in Romania; this quota shall bear order number 09.4753.

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

3. Importation of the quantities referred to in paragraph 1 shall be staggered over the quota period as follows:

- 34 % between 1 October and 31 December 1997,
- 33 % between 1 January and 31 March 1998,
- 33 % between 1 April and 30 June 1998.

4. If, during the quota period, the quantities for which licence applications are submitted for the first or second period specified in paragraph 3 are less than the quantities available, the remaining quantities shall be added to the quantities available for the following period.

Article 2

1. In order to benefit from the import quotas:

(a) applicants for import licences must be natural or legal persons who, when submitting their application, must prove to the satisfaction of the competent authorities of the Member State concerned that they have traded in beef and veal with third countries at least once during the previous 12 months; they must be entered on a national VAT register.

(b) Licence applications may be presented only in the Member State in which the applicant is registered.

(c) Licence applications for each group of products referred to in Article 1 (1) shall relate to a minimum quantity of 15 tonnes of product without exceeding the quantity available.

'Group of products' means products originating in only one of the countries referred to in Article 1 (1); a group of products may only cover either products falling within CN codes 0201 and 0202 or products falling within CN codes 1602 50 31 and 1602 50 39.

(d) Box 8 of licence applications and licences shall show the country of origin; licences shall carry with them an obligation to import from the country indicated;

(e) Box 20 of licence applications and licences shall show at least one of the following:

- Reglamento (CE) n° 1939/97
- Forordning (EF) nr. 1939/97
- Verordnung (EG) Nr. 1939/97
- Κανονισμός (ΕΚ) αριθ. 1939/97
- Regulation (EC) No 1939/97
- Règlement (CE) n° 1939/97
- Regolamento (CE) n. 1939/97
- Verordening (EG) nr. 1939/97
- Regulamento (CE) n° 1939/97
- Asetus (EY) N:o 1939/97
- Förordning (EG) nr 1939/97.

2. Notwithstanding Article 5 of Regulation (EC) No 1445/95, box 16 of licence applications and licences shall show one or more of the CN codes for one of the groups of products referred to in Article 1 (1).

Article 3

1. Licence applications may be submitted only:

- from 6 to 15 October 1997,
- from 2 to 10 January 1998,
- from 1 to 10 April 1998.

2. If an applicant presents more than one application per group of products as referred to in Article 1 (1), all applications from that applicant relating to products in the same group shall be rejected.

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

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

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

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

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

Article 4

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

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

3. Import licences issued pursuant to this Regulation shall be valid for 90 days from their date of issue. However, no licences shall be valid after 30 June 1998.

4. Licences shall be valid throughout the Community.

Article 5

Products shall benefit from the duties referred to in Article 1 on presentation of either an EUR.1 movement certificate issued by the exporting country in accordance

with Protocol 4 to the Europe Agreement or a declaration by the exporter in accordance with the said Protocol.

Article 6

Not later than three weeks after importation of the products specified in this Regulation, the importer shall inform the competent authority which issued the import licence of the quantity and origin of the products. That authority shall forward the information to the Commission at the beginning of each month.

Article 7

1. Upon submission of an import licence application, importers shall lodge a security to cover the import licence of ECU 12 per 100 kilograms of product, notwithstanding Article 4 of Regulation (EC) No 1445/95, and a security to cover notification of the information referred to in Article 6 of this Regulation of ECU 1 per 100 kilograms of product.

2. The security relating to the notification shall be released if the information is forwarded to the competent authority within the period specified in Article 6 for the quantity covered by that notification. If no notification is made, the security shall be forfeit.

A decision to release this security shall be taken simultaneously with the decision to release the security covering the import licence.

Article 8

Regulation (EC) No 2512/96 is hereby amended as follows:

1. the fourth indent of Article 1 (3) and the fourth indent of Article 3 (1) are deleted;

2. Article 5 is replaced by the following:

Article 5

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

Article 9

Article 1 (2) of Regulation (EC) No 1441/97 is deleted.

Article 10

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

It shall apply with effect from 1 July 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

EC fax No: (32 2) 296 60 27

Application of Regulation (EC) No 1939/97

COMMISSION OF THE EUROPEAN COMMUNITIES

DG VI/D/2 — BEEF AND VEAL SECTOR

IMPORT LICENCE APPLICATION

Date: Period:

Member State:

[illegible]

Member State: Fax No:

Tel.:

COMMISSION REGULATION (EC) No 1940/97
of 3 October 1997

laying down detailed rules for a tariff quota for cows and heifers of specified mountain breeds originating in various third countries, other than for slaughter, in the period 1 July 1997 to 30 June 1998 and amending Regulation (EC) No 2514/96

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 1595/97⁽²⁾, and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 1926/96 of 7 October 1996 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the agreements on free trade and trade-related matters with Estonia, Latvia and Lithuania, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽³⁾, and in particular Article 5 thereof,

Whereas Regulation (EC) No 3066/95 provides for the opening, for the period 1 July 1997 to 30 June 1998, of a tariff quota of 7 000 cows and heifers of specified mountain breeds originating in Hungary, Poland, the Czech Republic, Slovakia, Bulgaria, Romania, Lithuania, Latvia and Estonia at a customs duty of 6 % *ad valorem*;

Whereas, pursuant to the rules laid down in Commission Regulation (EC) No 2514/96 of 23 December 1996 laying down for 1997 detailed rules for the application of a tariff quota for cows and heifers other than for slaughter of certain mountain breeds originating in certain third countries⁽⁴⁾, Commission Regulation (EC) No 247/97⁽⁵⁾ lays down to what extent applications for the right to import lodged pursuant to Regulation (EC) No 2514/96 may be accepted; whereas, consequently, rights to import have

already been allocated out of the total number of animals available with a view to their importation in 1997; whereas, pursuant to Regulation (EC) No 3066/95, that number must be fully counted against the number of animals specified, for 1997, in the Annexes to the said Regulation; whereas the quota set out in the Annexes to Regulation (EC) No 3066/95 for the period 1 July 1997 to 30 June 1998 should consequently be adjusted and the detailed rules relating to those quantities should be laid down;

Whereas experience has shown that limiting imports may lead to speculative import licence applications; whereas, in order to ensure that the planned measures function properly, the greater part of the quantities available should be allocated to 'traditional' importers of cows and heifers of specified mountain breeds; whereas, in order to avoid forcing trade relations in this product group into an excessively rigid mould, a second tranche should be made available to traders who are able to show that they are engaged in genuine trade of some scale with third countries; whereas, in this connection and in order to ensure efficient management, the trader concerned must be required to have imported at least 15 head in 1996; whereas a batch of 15 animals in principle constitutes a normal load; whereas experience shows that the sale or purchase of a single batch is a minimum requirement for a transaction to be considered genuine and viable; whereas verification of these criteria requires all applications from the same trader to be submitted in the same Member State;

Whereas, for purposes of checking that these criteria are met, applications should be submitted in the Member State where the importer is listed in the VAT register;

Whereas in order to prevent speculation, traders no longer engaged in trade in beef and veal at 1 July 1997 should be denied access to the quota;

Whereas provision should be made for the system to be administered by means of import licences; whereas to that end detailed rules for the submission of applications and the information which should appear in applications and licences should be laid down, if necessary by way of derogation from certain provisions of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 254, 8. 10. 1996, p. 1.

⁽⁴⁾ OJ L 345, 31. 12. 1996, p. 39.

⁽⁵⁾ OJ L 41, 12. 2. 1997, p. 2.

of import and export licences and advance fixing certificates for agricultural products⁽¹⁾, as last amended by Regulation (EC) No 1404/97⁽²⁾, and Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80⁽³⁾, as last amended by Regulation (EC) No 1572/97⁽⁴⁾; whereas, moreover, provision should be made for the licences to be issued after a period of consideration and subject where necessary to a uniform percentage reduction;

Whereas experience has shown that importers do not always inform the competent authorities which have issued their import licences about the number and origin of animals imported as part of a quota; whereas this information is important for assessing the market situation; whereas a security against communication of that information should be provided for;

Whereas Article 82 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽⁵⁾, as last amended by Regulation (EC) No

82/97⁽⁶⁾, provides for customs supervision of goods released for free circulation at a reduced rate on account of their end-use; whereas the animals imported should be monitored to ensure they are not slaughtered during a certain period; whereas a security should be required to ensure compliance with the requirement for the animals not to be slaughtered;

Whereas Protocol 4 to the Europe Agreements and Protocol 3 to the Free Trade Agreements have been amended; whereas the new Protocols provide that proof of origin of products imported into the Community may be established by means of a declaration by the exporter, on certain conditions, or by presentation of an EUR.1 movement certificate; whereas, therefore, the new provisions on release for free circulation of imported products should be included in this Regulation and the relevant provisions of Regulation (EC) No 2514/96 should be adjusted;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period 1 July 1997 to 30 June 1998, the following tariff quota is hereby opened for animals originating in the third countries listed in Annex I:

Order No	CN code ⁽¹⁾	Description	Quota volume (head)	Customs duty
09.4563	ex 0102 90 05 ex 0102 90 29 ex 0102 90 49 ex 0102 90 59 ex 0102 90 69	Cows and heifers other than for slaughter of the following mountain breeds: grey, brown, yellow and mottled Simmental breed and Pinzgau breed	4 500	6 % <i>ad valorem</i>

⁽¹⁾ For Taric codes: see Annex II

2. For the purposes of this Regulation, the animals referred to in paragraph 1 shall be deemed to be not for slaughter where they are not slaughtered within four months of the date of acceptance of the declaration of release for free circulation.

Derogations may, however, be granted in duly proven cases of *force majeure*.

Article 2

1. The quota referred to in Article 1 (1) shall be divided into two parts of 80 %, i.e. 3 600 head, and 20 %, i.e. 900 head, respectively.

(a) The first part, equal to 80 %, shall be allocated among:

— importers in the Community as constituted on 31 December 1994 who can furnish proof of having imported animals covered by the import quotas governed by the Regulations listed in Annex III in the period 1 July 1993 to 30 June 1996, and

— importers in the new Member States who can furnish proof of having imported, into the Member State where they are established, animals falling within the CN codes referred to in Annex II and CN code 0102 90 79 during the period 1 July 1993 to 31 December 1994 from countries which were for them third countries on 31

⁽¹⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽²⁾ OJ L 194, 23. 7. 1997, p. 5.

⁽³⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽⁴⁾ OJ L 211, 5. 8. 1997, p. 5.

⁽⁵⁾ OJ L 302, 19. 10. 1992, p. 1.

⁽⁶⁾ OJ L 17, 21. 1. 1997, p. 1.

December 1994, or animals covered by import quotas governed by the Regulations listed in point (b) of Annex III during the period 1 January 1995 to 30 June 1996.

- (b) The second part, equal to 20 %, shall be allocated among importers who can furnish proof of having imported from third countries during 1996 at least 15 live bovine animals falling within CN code 0102.

Importers must be registered for VAT purposes in a Member State.

2. The first part of the quota shall be allocated among importers on the basis of their applications for import rights in proportion to their imports of animals within the meaning of paragraph 1 (a) during the period 1 July 1993 to 30 June 1996.

3. The second part of the quota shall be allocated among importers as referred to in paragraph 1 (b) on the basis of their applications for import rights in proportion to the quantities applied for.

Import right applications must relate to:

- at least 15 head, and
- no more than 50 head.

Where licence applications relate to larger quantities, they shall only be given consideration subject to those ceilings.

4. Proof of import shall be provided exclusively by means of the customs document of release for free circulation duly stamped by the customs authorities.

Member States may accept copies of the above documents, duly certified by the issuing authority, if applicants can prove to the satisfaction of the competent authority that they were not able to obtain the original document.

Article 3

1. Importers who on 1 July 1997 were no longer engaged in any activity in the beef and veal sector shall not qualify for an allocation pursuant to Article 2 (1) (a).

2. Any company formed by the merger of companies each having rights pursuant to Article 2 (2) shall benefit from the same rights as the companies from which it has been formed.

Article 4

1. Applications for rights to import may be submitted only in the Member State in which the applicant is registered in the national VAT register.

2. Only one application may be lodged by each applicant and applications shall relate to one part of the quota only.

Where an applicant lodges more than one application, all applications from that person shall be inadmissible.

3. For the purposes of Article 2 (1) (a), importers shall present the applications for the right to import to the competent authorities together with the proof referred to in Article 2 (4) by 10 October 1997 at the latest.

After verification of the documents presented, Member States shall forward to the Commission, by 21 October 1997 at the latest, the list of importers who meet the acceptance conditions, showing in particular their names and addresses and the number of eligible animals imported during the period referred to in Article 2 (2).

4. For the purposes of Article 2 (1) (b), applications for rights to import must be lodged by importers by 10 October 1997 at the latest, together with the proof referred to in Article 2 (4).

After verification of the documents presented, Member States shall forward to the Commission, by 21 October at the latest, the list of applicants and the quantities requested.

5. All notifications, including notifications of nil applications, shall be made by telex or fax, drawn up on the basis of the specimens in Annexes IV and V in the case where applications have indeed been lodged.

Article 5

1. The Commission shall decide to what extent applications may be accepted.

2. As regards applications referred to in Article 4 (4), if the quantities in respect of which applications are made exceed the quantities available, the Commission shall reduce the quantities applied for by a fixed percentage.

If the reduction referred to in the preceding subparagraph results in a quantity of less than 15 head per application, the allocation shall be made by drawing lots, by batches of 15 head, by the Member States concerned. If the remaining quantity is less than 15 head, that quantity shall constitute a single batch.

Article 6

1. Imports of the quantities allocated shall be subject to presentation of an import licence.

2. Licence applications may be lodged only with the competent authorities in the Member State where the applicant is registered in the VAT register.

3. Upon notification of allocation from the Commission, import licences shall be issued at the earliest opportunity at the request and in the name of importers who have obtained rights to import.

4. Import licences shall be valid for 90 days from their date of issue. However, they shall expire on 30 June 1998 at the latest.

5. Licences issued shall be valid throughout the Community.

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

However, Article 8 (4) and the second subparagraph of Article 14 (3) of Regulation (EEC) No 3719/88 shall not apply.

Article 7

1. Checks to ensure that the animals imported are not slaughtered in the four months following their release into free circulation shall be conducted in accordance with Article 82 of Regulation (EEC) No 2913/92.

2. Without prejudice to Regulation (EEC) No 2913/92, importers shall lodge a security of ECU 1 193 per tonne with the competent customs authorities to ensure compliance with the obligation not to slaughter the animals.

Such securities shall be released immediately where proof is furnished to the customs authorities concerned to the effect that the animals:

- (a) have not been slaughtered within four months of the date of their release for free circulation; or
- (b) have been slaughtered within that time for reasons of *force majeure* or for health reasons or have died as a result of disease or an accident.

Article 8

Licence applications and licences shall contain the following entries:

- (a) in box 8, the name of one or more of the countries listed in Annex I; licences shall carry an obligation to import from one or more of the countries indicated;
- (b) in box 16, the CN codes set out in Annex II;
- (c) in box 20, one of the following:
 - Razas de montaña [Reglamento (CE) n° 1940/97]
 - Bjergracer (förordning (EF) nr. 1940/97)
 - Höhenrassen (Verordnung (EG) Nr. 1940/97)
 - Ορεισίβιες φυλές [Κανονισμός (ΕΚ) αριθ. 1940/97]
 - Mountain breeds (Regulation (EC) No 1940/97)
 - Races de montagne [règlement (CE) n° 1940/97]
 - Razze di montagna [regolamento (CE) n. 1940/97]
 - Bergrassen (Verordening (EG) nr. 1940/97)
 - Raças de montanha [Regulamento (CE) n° 1940/97]

— Vuoristorotuja [Asetus (EY) N:o 1940/97]

— Bergraser (förordning (EG) nr 1940/97).

Article 9

No later than three weeks after the importation of the animals specified in this Regulation, the importer shall inform the competent authority which issued the import licence about the number and origin of the animals imported. That authority shall communicate the information in question to the Commission at the beginning of each month.

Article 10

1. When submitting their licence application, importers shall lodge a security in respect of the import licence of ECU 25 per head, by way of derogation from Article 4 of Regulation (EC) No 1445/95, and a security of ECU 2 per head against communication of the information referred to in Article 9 of this Regulation.

2. The security relating to the communication shall be released if the information is communicated to the competent authority within the period specified in Article 9 for animals covered by that communication. If no communication is made, the security shall be forfeited.

A decision to release this security shall be taken simultaneously with the decision to release the security covering the import licence.

Article 11

The imported animals shall qualify for the duties referred to in Article 1 on presentation of an EUR.1 movement certificate issued by the exporting country in accordance with Protocol 4 annexed to the Europe Agreements and Protocol 3 annexed to the Free Trade Agreements or a declaration by the exporter in accordance with the said Protocols.

Article 12

Article 11 of Regulation (EC) No 2514/96 is replaced by the following:

'Article 11

Animals imported shall qualify for the duties referred to in Article 1 on presentation of either an EUR.1 movement certificate issued by the exporting country in accordance with Protocol 4 to the Europe Agreements and Protocol 3 to the Free Trade Agreements or a declaration by the exporter in accordance with the said Protocols.'

Article 13

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

It shall apply with effect from 1 July 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

*ANNEX I***List of third countries**

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

*ANNEX II***Taric codes**

CN codes	Taric codes
ex 0102 90 05	0102 90 05*20 *40
ex 0102 90 29	0102 90 29*20 *40
ex 0102 90 49	0102 90 49*20 *40
ex 0102 90 59	0102 90 59*11 *19 *31 *39
ex 0102 90 69	0102 90 69*10 *30

*ANNEX III***Regulations referred to in Article 2 (1)**

- (a) Council Regulations: (EEC) No 1918/93 (OJ L 174, 17. 7. 1993, p. 3)
(EEC) No 1919/93 (OJ L 174, 17. 7. 1993, p. 10)
- (b) Council Regulation: (EC) No 1800/94 (OJ L 184, 23. 7. 1994, p. 20)
- Commission Regulations: (EC) No 1485/95 (OJ L 145, 29. 6. 1995, p. 52)
(EC) No 2483/95 (OJ L 256, 26. 10. 1995, p. 13)
(EC) No 207/96 (OJ L 27, 3. 2. 1996, p. 9)

ANNEX IV

EC Fax No (32 2) 296 60 27/(32 2) 295 36 13

Application of Article 4 (3) of Regulation (EC) No 1940/97

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

IMPORT RIGHTS APPLICATION

Date: Period:

Member State:

Order number	Applicant (name and address)	Quantity (head) imported from 1 July 1993 to 30 June 1996
Total		

Member State: Fax No:

Tel.:

ANNEX V

EC Fax No (32 2) 296 60 27/(32 2) 295 36 13

Application of Article 4 (4) of Regulation (EC) No 1940/97

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

IMPORT RIGHTS APPLICATION

Date: Period:

Member State:

[illegible]

Member State: Fax No:

Tel.:

COMMISSION REGULATION (EC) No 1941/97
of 3 October 1997
on the supply of milk products as food aid

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

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽¹⁾, and in particular Article 24 (1) (b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated milk powder to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽²⁾, as amended by Regulation (EEC) No 790/91⁽³⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs;

Whereas, for a given lot, given the large number of destinations of the supplies, provision should be made for

the possibility for tenderers to indicate two ports of loading, where necessary not belonging to the same port area,

HAS ADOPTED THIS REGULATION:

Article 1

Milk products shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

For lot A, notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5. 7. 1996, p. 1.

⁽²⁾ OJ L 204, 25. 7. 1987, p. 1.

⁽³⁾ OJ L 81, 28. 3. 1991, p. 108.

ANNEX

LOT A

1. **Operation No** (1): 24/97 (A1); 25/97 (A2); 26/97 (A3); 27/97 (A4)
2. **Programme**: 1997
3. **Recipient** (2): WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma (tel.: (39 6) 65 13 29 88; fax: 65 13 28 44/3; telex: 62 66 75 WFP I)
4. **Representative of the recipient**: to be designated by the recipient
5. **Place or country of destination**: A1: Zambia; A2: Bolivia; A3: Guatemala; A4: Malawi
6. **Product to be mobilized**: vitaminized skimmed-milk powder
7. **Characteristics and quality of the goods** (3) (4): see OJ C 114, 29. 4. 1991, p. 1 (I.B(1))
8. **Total quantity (tonnes)**: 1 000
9. **Number of lots**: one in four parts (A1: 37 tonnes; A2: 254 tonnes; A3: 669 tonnes; A4: 40 tonnes)
10. **Packaging and marking** (5): see OJ C 267, 13. 9. 1996, p. 1 (6.3.A and B(2))
see OJ C 114, 29. 4. 1991, p. 1 (I.B(3))
Language to be used for the marking: A1 + A4: English; A2 + A3: Spanish
11. **Method of mobilization**: The manufacture of the skimmed-milk powder, and the incorporation of vitamins, must be carried out after the award of the tender
12. **Stage of supply**: free at port of shipment (7)
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 17. 11 — 7. 12. 1997
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **Date of expiry of the period allowed for submission of tenders**: 20. 10. 1997 (12 noon (Brussels time))
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 3. 11. 1997 (12 noon (Brussels time))
 - (b) period for making the goods available at the port of shipment: 1 — 21. 12. 1997
 - (c) deadline for the supply: —
22. **Amount of tendering security**: ECU 20 per tonne
23. **Amount of delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** (1):
Bureau de l'aide alimentaire, Attn Mr T. Vestergaard,
Bâtiment Loi 130, bureau 7/46
Rue de la Loi/Wetstraat 200, B-1049 Brussels
telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively)
25. **Refund payable on application by the successful tenderer** (4): refund applicable on 26. 9. 1997, fixed by Commission Regulation (EC) No 1678/97 (OJ L 238, 29. 8. 1997, p. 3)

Notes:

- (¹) The operation number should be mentioned in all correspondence.
 - (²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.
 - (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
 - (⁴) Commission Regulation (EEC) No 2330/87 (OJ L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ L 214, 25. 7. 1989, p. 10), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 25 of this Annex.

The amount of the refund shall be converted into national currency by applying the agricultural conversion rate applicable on the day of completion of the customs export formalities. The provisions of Articles 13 to 17 of Commission Regulation (EEC) No 1068/93 (OJ L 108, 1. 5. 1993, p. 106), as last amended by Regulation (EC) No 1482/96 (OJ L 188, 27. 7. 1996, p. 22), shall not apply to this amount.
 - (⁵) The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents:
 - health certificate.
 - (⁶) Notwithstanding OJ C 114, point I. B (3) (c) is replaced by the following: 'the words "European Community"'.
 - (⁷) Notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.
-

COMMISSION REGULATION (EC) No 1942/97**of 3 October 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 Commis-

sion 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 4 October 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 3 October 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 40	052	92,8
	999	92,8
0709 90 79	052	74,3
	999	74,3
0805 30 30	388	51,6
	524	54,7
	528	56,7
	999	54,3
0806 10 40	052	101,4
	064	59,9
	400	193,7
	999	118,3
0808 10 92, 0808 10 94, 0808 10 98	060	47,4
	064	43,8
	091	48,2
	388	78,7
	400	56,4
	404	81,2
	528	59,8
	800	127,6
	999	67,9
0808 20 57	052	99,7
	064	84,9
	400	77,2
	999	87,3

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

COMMISSION REGULATION (EC) No 1943/97

of 3 October 1997

amending representative prices and additional duties for the import of certain products in the sugar sector

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses⁽³⁾, as last amended by Regulation (EC) No 1143/97⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1222/97⁽⁵⁾, as last amended by Regulation (EC) No 1920/97⁽⁶⁾;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 October 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ L 165, 24. 6. 1997, p. 11.

⁽⁵⁾ OJ L 173, 1. 7. 1997, p. 3.

⁽⁶⁾ OJ L 270, 2. 10. 1997, p. 17.

ANNEX

to the Commission Regulation of 3 October 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	25,18	3,73
1701 11 90 ⁽¹⁾	25,18	8,94
1701 12 10 ⁽¹⁾	25,18	3,60
1701 12 90 ⁽¹⁾	25,18	8,51
1701 91 00 ⁽²⁾	26,66	11,90
1701 99 10 ⁽²⁾	26,66	7,38
1701 99 90 ⁽²⁾	26,66	7,38
1702 90 99 ⁽³⁾	0,27	0,38

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

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

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 1944/97
of 3 October 1997

**fixing, for September 1997, the specific agricultural conversion rate for the
amount of the reimbursement of storage costs in the sugar sector**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾,

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⁾,

Having regard to Commission Regulation (EEC) No 1713/93 of 30 July 1993 establishing special detailed rules for applying the agricultural conversion rate in the sugar sector ⁽⁵⁾, as last amended by Regulation (EC) No 59/97 ⁽⁶⁾, and in particular Article 1 (3) thereof,

Whereas Article 1 (2) of Regulation (EEC) No 1713/93 provides that the amount of the reimbursement of storage costs referred to in Article 8 of Regulation (EEC) No 1785/81 is to be converted into national currency using a specific agricultural conversion rate equal to the average, calculated *pro rata temporis*, of the agricultural

conversion rates applicable during the month of storage; whereas that specific rate must be fixed each month for the previous month;

Whereas application of these provisions will lead to the fixing, for September 1997, of the specific agricultural conversion rate for the amount of the reimbursement of storage costs in the various national currencies as indicated in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The specific agricultural conversion rate to be used to convert the amount of the reimbursement of storage costs referred to in Article 8 of Regulation (EEC) No 1785/81 into each of the national currencies for September 1997 shall be as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 October 1997.

It shall apply with effect from 1 September 1997.

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

Done at Brussels, 3 October 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁵⁾ OJ L 159, 1. 7. 1993, p. 94.

⁽⁶⁾ OJ L 14, 17. 1. 1997, p. 25.

ANNEX

to the Commission Regulation of 3 October 1997 fixing, for September 1997, the specific agricultural conversion rate for the amount of the reimbursement of storage costs in the sugar sector

Agricultural conversion rates		
ECU 1 =	40,9321	Belgian and Luxembourg francs
	7,54917	Danish kroner
	1,98243	German marks
	312,011	Greek drachmas
	167,153	Spanish pesetas
	6,68769	French francs
	0,759189	Irish punt
	1 973,93	Italian lire
	2,23273	Dutch guilders
	13,9485	Austrian schillings
	200,321	Portuguese escudos
	6,02811	Finnish marks
	8,88562	Swedish kroner
	0,695735	Pound sterling

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 September 1997

on the approval, on behalf of the Community, of the amendment to the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basle Convention), as laid down in Decision III/1 of the Conference of the Parties

(97/640/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s (1), in conjunction with Article 228 (2), first sentence, and (3), first subparagraph thereof,

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

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

Whereas, by Decision 93/98/EEC ⁽³⁾, the Community approved the Convention on the control of transboundary movements of hazardous wastes and their disposal, commonly known as the Basel Convention, and became a full Party to the Convention on 7 May 1994;

Whereas, by virtue of a Council Decision of 22 June 1995, the Commission participated on behalf of the Community, in consultation with the representatives of the Member States, in the negotiation in the context of the third meeting of the Conference of the Parties to the Basel Convention, with a view to amending the Convention in accordance with Decision II/12 of the Conference of the Parties; whereas pursuant to that Decision exports of hazardous wastes destined for final disposal from OECD to non-OECD countries were to be prohibited

immediately and exports of hazardous waste destined for recovery operations were to be phased out until 31 December 1997 and prohibited as of that date;

Whereas, as a result of those negotiations, on 22 September 1995 the Conference of the Parties adopted Decision III/1, inserting a new preambular paragraph 7 *bis*, a new Article 4A and a new Annex VII into the Convention; whereas Decision III/1 aims to immediately prohibit exports of hazardous wastes destined for final disposal from Parties listed in Annex VII to States not so listed and to phase out until 31 December 1997 and prohibit as of that date exports of hazardous wastes destined for recovery operations from Parties listed in Annex VII to States not so listed;

Whereas Community legislation on shipments of waste has been amended accordingly by Council Regulation (EC) No 120/97 of 20 January 1997 amending Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community ⁽⁴⁾;

Whereas, pursuant to Article 17 of the Convention, the amendment of the Basel Convention is open for ratification, approval, formal confirmation or acceptance; whereas the amendment will enter into force between Parties having accepted it on the 90th day after the receipt by the Depositary of the instruments of ratification, approval, formal confirmation or acceptance by at least three quarters of the Parties who accepted the amendment,

⁽¹⁾ OJ C 197, 27. 6. 1997, p. 12.

⁽²⁾ Opinion delivered on 16 September 1997 (not yet published in the Official Journal).

⁽³⁾ OJ L 39, 16. 2. 1993, p. 1.

⁽⁴⁾ OJ L 22, 24. 1. 1997, p. 14.

HAS DECIDED AS FOLLOWS:

Article 1

The amendment of the Convention on the control of transboundary movements of hazardous wastes and their disposal, as laid down in Decision III/1 adopted by the Conference of the Parties on 22 September 1995, is hereby approved on behalf of the Community.

The text of the amendment is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person(s) empowered to deposit, on behalf

of the Community, the instrument of approval with the Secretary-General of the United Nations, as provided for by Article 17 of the Convention.

Article 3

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 22 September 1997.

For the Council

The President

F. BODEN

ANNEX

**AMENDMENT TO THE BASLE CONVENTION ON THE CONTROL OF TRANSBOUNDARY
MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL**

New preambular paragraph 7bis

Recognizing that transboundary movements of hazardous wastes, especially to developing countries, have a high risk of not constituting an environmentally sound management of hazardous wastes as required by this Convention.

New Article 4A

1. Each Party listed in Annex VII shall prohibit all transboundary movements of hazardous wastes which are destined for operations according to Annex IV A, to States not listed in Annex VII.
2. Each Party listed in Annex VII shall phase out by 31 December 1997, and prohibit as of that date, all transboundary movements of hazardous wastes pursuant to Article 1 (1) (a) of the Convention which are destined for operations according to Annex IV B to States not listed in Annex VII. Such transboundary movement shall not be prohibited unless the wastes in question are characterized as hazardous within the meaning of the Convention.

New Annex VII

Parties and other States which are members of the OECD, EC and Liechtenstein.

COUNCIL DECISION
of 22 September 1997
appointing a member of the Economic and Social Committee

(97/641/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 167 thereof,

Having regard to Council Decision 94/660/EC, Euratom of 26 September 1994 appointing the members of the Economic and Social Committee for the period up to 20 September 1998 ⁽¹⁾,

Whereas a seat as a member of that Committee has fallen vacant following the resignation of Mr Jens-Peter Petersen of which the Council was notified on 15 May 1997;

Having regard to the nominations submitted by the German Government on 16 June 1997,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Rainer Franz is hereby appointed a member of the Economic and Social Committee in place of Mr Jens-Peter Petersen for the remainder of the latter's term of office, which runs until 20 September 1998.

Done at Brussels, 22 September 1997.

For the Council

The President

F. BODEN

⁽¹⁾ OJ L 257, 5. 10. 1994, p. 20.

COUNCIL DECISION
of 22 September 1997
appointing a member of the Economic and Social Committee

(97/642/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 194 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 166 thereof,

Having regard to Council Decision 94/660/EC, Euratom of 26 September 1994 appointing the members of the Economic and Social Committee for the period up to 20 September 1998 ⁽¹⁾,

Whereas a seat as a member of that Committee has fallen vacant following the death of Mr José Luis Mayayo Bello, of which the Council was notified on 28 January 1997;

Having regard to the nominations submitted by the Spanish Government,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr D. Pedro Barato Triguero is hereby appointed a member of the Economic and Social Committee in place of Mr José Luis Mayayo Bello for the remainder of the latter's term of office, which runs until 20 September 1998.

Done at Brussels, 22 September 1997.

For the Council

The President

F. BODEN

⁽¹⁾ OJ L 257, 5. 10. 1994, p. 20.

COUNCIL DECISION
of 27 September 1997
appointing a member of the Economic and Social Committee

(97/643/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 194 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 165 thereof,

Having regard to Council Decision 94/660/EC, Euratom of 26 September 1994 appointing the members of the Economic and Social Committee for the period up to 20 September 1998 ⁽¹⁾,

Whereas a seat as a member of that Committee has fallen vacant following the resignation of Mr Leopold Maurer of which the Council was notified on 21 April 1997;

Having regard to the nominations submitted by the Austrian Government,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Michael Reiterer is hereby appointed a member of the Economic and Social Committee in place of Mr Leopold Maurer for the remainder of the latter's term of office, which runs until 20 September 1998.

Done at Brussels, 27 September 1997.

For the Council

The President

F. BODEN

⁽¹⁾ OJ L 257, 5. 10. 1994, p. 20.

COMMISSION

COMMISSION DECISION

of 3 September 1997

accepting undertakings offered by two Polish exporters in connection with the anti-dumping proceeding concerning imports of unwrought, unalloyed zinc originating in Poland and Russia

(97/644/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Articles 8 and 23 thereof,

After consulting the Advisory Committee,

Whereas:

- (1) by Regulation (EC) No 593/97⁽³⁾ the Commission imposed a provisional anti-dumping duty on imports of unwrought, unalloyed zinc originating in Poland and Russia for a period of six months;
- (2) having been informed of the main facts and considerations on the basis of which the Commission had imposed provisional measures, the two Polish exporters which had co-operated in the investigation made several comments on these findings. In the course of the subsequent examination, it was established that definitive anti-dumping measures in respect of imports originating in both countries concerned should be taken in order to eliminate the injurious effects of dumping. The findings and conclusions on all aspects of the investigations are set out in Council Regulation (EC) No 1931/97⁽⁴⁾;
- (3) on 19 June 1997, the two Polish exporters referred to above, offered undertakings with regard to their prices for export to the Community;

(4) by these undertakings, the Polish exporters offered, *inter alia*, to set their export prices at levels sufficient to eliminate the injurious dumping as established in the investigation;

(5) the undertakings contain, in addition, extensive and detailed commitments as regards monitoring and the companies have undertaken not to enter into direct or indirect compensatory arrangements with their customers;

(6) under these circumstances, the undertakings offered by these two Polish exporters are considered acceptable and the investigation should, therefore, be terminated with respect to the exporters concerned;

(7) the two Polish exporters were informed of the essential facts and considerations on the basis of which the imposition of definitive anti-dumping measures was recommended and had the opportunity to comment on all aspects of the investigation. Accordingly, should an undertaking be withdrawn or should the Commission have reasons to believe that an undertaking is being violated, a provisional duty could be imposed pursuant to Article 7 and Article 8(10) of Regulation (EC) No 384/96 and, should the conditions of Article 8(9) of the said Regulation be met, a definitive anti-dumping duty will be imposed;

(8) when the Advisory Committee was consulted on the acceptance of the undertakings offered some objections were raised. Therefore, in accordance with Article 8(5) of Regulation (EC) No 384/96, the Commission sent a report to the Council on the result of the consultations and a proposal for the acceptance of the undertakings. As the Council has not decided otherwise within one month, the present Decision should stand adopted;

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ L 89, 4. 4. 1997, p. 6.

⁽⁴⁾ See page 1 of this Official Journal.

- (9) having been informed of the main facts and considerations on the basis of which the Commission intended to accept the undertakings, the Community industry concerned did not object,

within CN codes 7901 11 00, 7901 12 10 and 7901 12 30 originating in Russia and Poland, are hereby accepted.

This acceptance shall take effect on the date of entry into force of Regulation (EC) No 1931/97.

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered by:

- (a) Kombinat Gorniczco-Hutniczy Boleslaw, Bukowno, Poland, and
(b) Huta Cynku 'Miasteczko Slaskie', Miasteczko Slaskie, Poland,

in connection with the anti-dumping proceeding concerning imports of unalloyed, unwrought zinc falling

Article 2

The investigations in connection with the anti-dumping proceeding referred to in Article 1 are hereby terminated with regard to both companies mentioned in that Article.

Done at Brussels, 3 September 1997.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 24 September 1997

relating to the mixed committee for the harmonization of working conditions in the steel industry

(97/645/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

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

Whereas a mixed committee for the harmonization of working conditions in the steel industry was created by the high authority pursuant to a resolution of the consultative committee of 20 December 1954;

Whereas it is appropriate that comprehensive rules for its activities should be formally set out;

Whereas representatives of employers and workers in the steel industry have been consulted on the following provisions and have expressed their agreement to them,

HAS DECIDED AS FOLLOWS:

Article 1

1. The mixed committee for the harmonization of working conditions in the steel industry (the mixed committee) shall assist the Commission of the European Communities (the Commission) in formulating and implementing Community social policy as provided for in the Treaty establishing the European Coal and Steel Community, in order to promote harmonized improved working conditions and an improved standard of living for the workers in the steel industry.

2. The mixed committee shall constitute a forum for discussion, for the exchange of information and for consultations between representatives of employers and workers in the industry.

3. The mixed committee may carry out the studies required for the fulfilment of its mission, organize, as appropriate, conferences or seminars on social problems, draw up reports and formulate opinions and recommendations either at the request of the Commission or on its own initiative. On requesting the opinion of the mixed committee, the Commission may fix a time limit for this opinion to be given.

The conclusions of the mixed committee shall be communicated to the Commission.

If an opinion is not unanimous, the mixed committee shall report the differing views to the Commission.

1. The mixed committee shall be made up of representatives of employers and workers in the steel industry. Members shall be appointed by the Commission on the basis of proposals from employers' and workers' associations which are established at Community level, as follows:

- for each Member State in which steel is produced: one employers' representative and one workers' representative; this shall be increased to two employers' representatives and two workers' representatives for Member States whose workforce in the ECSC steel sector exceeds 20 000 (¹),
- for employers' and workers' associations which are established at Community level: one representative of employers' associations and one representative of workers' associations.

The Commission shall ensure that the membership of the mixed committee is representative of all aspects of the steel industry.

2. Members of the mixed committee shall hold office for a term of two years; appointments shall be renewable. Members whose term of office has expired shall remain in office until they have been replaced or their term of office has been renewed.

3. Should a member of the mixed committee be unable to attend a particular meeting then, in respect of that meeting, he may nominate a replacement from the organization or association which he represents.

4. In the event of the death or resignation of a member of the mixed committee before the expiry of his two-year term, the organization or association which he represented may propose a replacement to serve as a member of the committee for the unexpired part of the term.

5. The list of members of the mixed committee shall be published by the Commission in the *Official Journal of the European Communities* for information.

Article 3

1. The chairmanship of the mixed committee shall be held for periods of one year alternately by a representative of the workers' group and by a representative of the employers' group, appointed by the group concerned.

(¹) The number of workers by Member State will be taken from the Eurostat ECSC statistics 2-31, corresponding to the last month of the previous year.

2. A vice-chairman, who may not belong to the same group as the chairman, shall be appointed in the same manner.

3. A chairman or vice-chairman whose term of office has expired shall remain in office until he has been replaced.

4. Should the chairman or vice-chairman cease to hold office before expiry of his term, he shall be replaced for the remainder of the term in accordance with the provisions of paragraphs 1 and 2.

5. Should both the chairman and the vice-chairman be unable to attend a particular meeting then, in respect of that meeting, the chair shall be taken by a member of the mixed committee designated by the group to which the chairman belongs.

Article 4

The mixed committee shall meet at the Commission's headquarters at least twice each year. Meetings shall be convened by its chairman.

Article 5

The Commission shall provide secretarial services for the mixed committee and shall ensure that the cost of its activities does not exceed the credits allocated annually for this purpose.

Article 6

1. The mixed committee may, with the agreement of the Commission, invite representatives of the Governments of the Member States to participate in the work of the mixed committee in an advisory capacity or as observers.

2. The mixed committee may set up working groups and may invite experts to assist it in specific tasks.

Article 7

The members of the mixed committee and those persons who are invited to its meetings shall be bound not to disclose the information made available to them during these meetings, if the Commission or the mixed committee considers such information to be of a confidential nature.

Article 8

This Decision shall take effect on 1 October 1997.

Done at Brussels, 24 September 1997.

For the Commission

Pádraig FLYNN

Member of the Commission

COMMISSION DECISION

of 25 September 1997

concerning the appointment of new members and the renewal of the terms of office of the members of the committee of experts on the transit of electricity between grids set up under Decision 92/167/EEC

(97/646/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Decision 92/167/EEC of 4 March 1992 setting up a committee of experts on the transit of electricity between grids under the aegis of the Commission ⁽¹⁾, last amended by Decision 97/559/EC ⁽²⁾, and in particular Article 4 (2),

Whereas several members have resigned and the term of office of other members expired; new appointments are necessary to take place within the committee following consultation of the circles involved concerning the representatives of the high voltage grids and the Eurelectric representative;

Whereas the term of office of its members may be renewed for one further period,

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be appointed to the position of new members of the committee of experts on the transit of electricity between grids:

— as representatives of the high-voltage grids:

For Ireland:

Mrs Ann Scully, Commercial Manager, Grid Department, ESB, to replace the outgoing Mr MacDyer

For Italy:

Mr Luigi Vergelli, Commercial Director, Transmission Division, ENEL, to replace the outgoing Mr Gatta

For Portugal:

Mr João Nascimento Baptista, Chairman, REN (Rede Eléctrica Nacional), to replace the outgoing Mr Moreira

For Greece:

Mr Raphael Maiopoulos, Assistant General Manager (Transmission), PPC, to replace the outgoing Mr Papastefanou

For Finland:

Mr Juha Kekkonen, Executive Vice-President, Corporate Planning, Business Development, Communication Finnish Power Grid Limited (Fingrid), to replace the outgoing Mr Lindroos,

— as the Eurelectric representative:

Mr Allen Lima, Executive Director of the REN, future Chairman of the UCPTE, to replace the outgoing Mr Paz-Goday.

Article 2

The following terms of office shall be renewed for a further four years:

— those of independent experts Mr Carter, Mr Declercq and Mr Schmitt,

— those of the high-voltage-grid representatives:

Mr Jacob, for France

Mr Lowen, for the United Kingdom

Mr Maas, for the Netherlands

Mr Novalès, for Spain

Mr Ring-Nielsen, for Denmark

Mr Waha, for Belgium.

Article 3

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

Done at Brussels, 25 September 1997.

For the Commission

Christos PAPOUTSIS

Member of the Commission

⁽¹⁾ OJ L 74, 20. 3. 1992, p. 43.

⁽²⁾ OJ L 230, 21. 8. 1997, p. 18.