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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 131/98
of 20 January 1998
establishing the standard import values for determining the entry price of
certain fruit and vegetables

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 21 January 1998.

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

Done at Brussels, 20 January 1998.

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 20 January 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(ECU/100 kg)</i>			<i>(ECU/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value	CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	204	50,1	0805 20 10	052	60,1
	212	94,1		204	64,1
	624	165,0		624	68,9
	999	103,1		999	64,4
0707 00 05	052	159,1	0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	71,3
	624	201,3		204	74,2
	999	180,2		464	136,3
0709 10 00	220	107,1	0805 30 10	624	87,3
	999	107,1		999	92,3
0709 90 70	052	136,4	0808 10 20, 0808 10 50, 0808 10 90	052	85,2
	204	126,2		400	73,1
	999	131,3		528	32,4
0805 10 10, 0805 10 30, 0805 10 50	052	39,9	0808 20 50	600	86,6
	204	40,1		999	69,3
	212	38,2		060	55,7
	220	47,3		400	89,9
	400	54,1		404	86,0
	448	27,6		720	109,0
	600	49,7		728	82,4
	624	55,6		800	100,7
	625	32,0		999	87,3
	999	42,7		052	139,4
				064	90,2
		388	103,8		
		400	104,0		
		999	109,3		

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

COMMISSION REGULATION (EC) No 132/98

of 20 January 1998

laying down detailed rules for the application of the reduction of the rate provided for in Council Regulation (EC) No 2345/97 as regards certain live bovine animals and amending Regulations (EC) No 1462/95 and (EC) No 1119/96

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 the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽³⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EC) No 2345/97 of 24 November 1997 providing for the reduction of the tariff rate applicable to imports under the WTO tariff quota for certain live bovine animals⁽⁴⁾, and in particular Article 2 thereof,

Whereas Commission Regulation (EC) No 1462/95 of 27 June 1995 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 1995 to 30 June 1996)⁽⁵⁾, as last amended by Regulation (EC) No 425/96⁽⁶⁾, provides for a reduction in the rate of customs duty applicable to imports in 1995/1996 of certain live animals originating in Poland, Hungary, the Czech Republic, Slovakia, Romania and Bulgaria to ECU 399 per tonne;

Whereas pursuant to Regulations (EC) No 3066/95 and (EC) No 1926/96 the Commission was authorised to reduce the rate of customs duty to ECU 399 per tonne for certain live animals from the abovementioned countries plus Estonia, Latvia and Lithuania, imported during the period 1 July 1996 to 30 June 1997 pursuant Commission Regulation (EC) No 1119/96 of 21 June 1996 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 1996 to 30 June 1997)⁽⁷⁾, as amended by Regulation (EC) No 29/97⁽⁸⁾; whereas the said reduction should be granted to the imports in question;

Whereas Regulation (EC) No 2345/97 lays down that any reduction of the import duty under the tariff quotas referred to in Regulations (EC) No 1462/95 and (EC) No 1119/96 is to be extended to all imports under the said quotas; whereas, therefore, customs duties overcharged on all imports during the period 1 July 1995 to 30 June 1997 under the said quotas should be refunded;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The first subparagraph of Article 1(2) of Regulation (EC) No 1462/95 is replaced by the following:

‘2. The import duty applicable to the quota referred to the quota referred to in paragraph 1 shall be ECU 399 per tonne plus 16 % *ad valorem*.

The application of this rate of duty shall be subject to fattening of the imported animals in the Member State of importation for a period of at least 120 days.’

2. In Article 1(2) of Regulation (EC) No 1119/96 the amount ‘ECU 582’ is replaced by ‘ECU 399’.

⁽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 326, 28. 11. 1997, p. 1.

⁽⁵⁾ OJ L 144, 28. 6. 1995, p. 6.

⁽⁶⁾ OJ L 60, 9. 3. 1996, p. 1.

⁽⁷⁾ OJ L 149, 22. 6. 1996, p. 4.

⁽⁸⁾ OJ L 6, 10. 1. 1997, p. 17.

Article 2

For imports effected on the basis of import licences issued during the period 1 July 1995 to 30 June 1997 pursuant to the Regulations referred to in Article 1, the difference between ECU 582 and ECU 399 shall be refunded at the request of operators on production of the declaration of release for free circulation of the import

concerned and the certificate issued pursuant to Article 880 of Regulation (EEC) No 2454/93 and, where appropriate, a certified copy of the import licence.

Article 3

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

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

Done at Brussels, 20 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 133/98

of 20 January 1998

derogating, for the 1997/98 wine year, from Regulation (EC) No 3112/93 laying down detailed rules for the application of the specific aid arrangements for the smaller Aegean islands in respect of vineyards and the private storage of liqueur wines

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

Having regard to Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products⁽¹⁾, as last amended by Commission Regulation (EC) No 2417/95⁽²⁾, and in particular Article 9(4) thereof, Whereas Article 9(2) of Regulation (EEC) No 2019/93 lays down that the aid per hectare for the continued cultivation of vines for the production of quality wines psr in traditional wine-growing zones is, with effect from the 1997/98 wine year, to be granted exclusively to producer groups or organisations initiating a measure to improve the quality of the wines produced in accordance with a programme approved by the competent authorities; whereas, for the 1997/98 wine year, the time limit laid down in Article 2 of Commission Regulation (EC) No 3112/93⁽³⁾, as last amended by Regulation (EC) No 2537/95⁽⁴⁾, for the lodging of the above aid application should be deferred from 1 May 1997 to 31 December 1997 in view of the difficulties encountered by producer

organisations in preparing and submitting the above programme of measures to improve the quality of the wines in question;

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

Notwithstanding Article 2(1) of Regulation (EC) No 3112/93, for the 1997/98 wine year the application for per-hectare aid may be lodged with the competent authority by producer groups or organisations no later than 31 December 1997.

Article 2

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

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

Done at Brussels, 20 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 184, 27. 7. 1993, p. 1.

⁽²⁾ OJ L 248, 14. 10. 1995, p. 39.

⁽³⁾ OJ L 278, 11. 11. 1993, p. 52.

⁽⁴⁾ OJ L 260, 31. 10. 1995, p. 10.

COMMISSION REGULATION (EC) No 134/98**of 20 January 1998****supplementing the Annex to Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92****(Text with EEA relevance)**

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

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1068/97 ⁽²⁾, and in particular Article 17(2) thereof,

Whereas, for certain names notified by the Member States pursuant to Article 17 of Regulation (EEC) No 2081/92, additional information was requested in order to ensure that they complied with Articles 2 and 4 of that Regulation; whereas that additional information shows that the names comply with the said Articles; whereas they should therefore be registered and added to the Annex to Commission Regulation (EC) No 1107/96 ⁽³⁾, as last amended by Regulation (EC) No 2325/97 ⁽⁴⁾;

Whereas, following the accession of three new Member States, the six-month period provided for in Article 17 of

Regulation (EEC) No 2081/92 is to begin on the date of their accession; whereas some of the names notified by those Member States comply with Articles 2 and 4 of that Regulation and should therefore be registered;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Regulatory Committee on Geographical Indications and Designations of Origin,

HAS ADOPTED THIS REGULATION:

Article 1

The names in the Annex to this Regulation are hereby added to the Annex to Regulation (EC) No 1107/96.

Article 2

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

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

Done at Brussels, 20 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 208, 24. 7. 1992, p. 1.

⁽²⁾ OJ L 156, 13. 6. 1997, p. 10.

⁽³⁾ OJ L 148, 21. 6. 1996, p. 1.

⁽⁴⁾ OJ L 322, 25. 11. 1997, p. 33.

ANNEX

PRODUCT INTENDED FOR HUMAN CONSUMPTION LISTED IN ANNEX II TO THE TREATY

Fresh meat (and offal)

GERMANY

- Diepholzer Moorschnucke (PDO)
- Lüneburger Heidschnucke (PDO)

ITALY

- Vitellone bianco dell'Appennino Centrale (PGI)

Meat-based products

ITALY

- Soppressata di Calabria (PDO)
- Capocollo di Calabria (PDO)
- Salsiccia di Calabria (PDO)
- Pancetta di Calabria (PDO)

Cheeses

UNITED KINGDOM

- Teviotdale cheese (PGI)

Oils and fats*Olive oil*

GREECE

- Σητεία Λασιθίου Κρήτης (Sitia-Lasithi-Crete) (PDO) ⁽¹⁾
- Αποκορώνας Χανίων Κρήτης (Apokoronas-Chania-Crete) (PDO) ⁽²⁾

Fruit, vegetables and cereals

ITALY

- Pera mantovana (PGI)
- Pera dell'Emilia Romagna (PGI)
- Pesca e nettarina di Romagna (PGI)

Table olives

- Nocellara del Belice (PDO)

GREECE

- Ροδάκινα Νάουσας (Rodakina de Naoussa) (PDO)
- Φασόλια γίγαντες ελέφαντες Κάτω Νευροκοπίου (Fassolia Gigantes Elefantes de Kato Nevrokopi) (PGI)
- Φασόλια κοινά μεσόσπερμα Κάτω Νευροκοπίου (Fassolia koina Mesosperma de Kato Nevrokopi) (PGI)

⁽¹⁾ Protection of the name 'Λασιθίου Κρήτης' (Lasithi-Crete) is not sought.

⁽²⁾ Protection of the name 'Χανίων Κρήτης' (Chania-Crete) is not sought.

COMMISSION REGULATION (EC) No 135/98
of 20 January 1998
fixing the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat⁽¹⁾, as last amended by Commission Regulation (EC) No 2916/95⁽²⁾, and in particular Article 8 (3) thereof,

Whereas Article 8 of Regulation (EEC) No 2777/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 2777/75 provides that from 1 July 1995 all exports for which refunds are requested, with the exception of exports of day-old chicks, shall be subject to the presentation of an export licence with advance fixing of the refund; whereas the specific implementing rules for these arrangements are laid down in Commission Regulation (EC) No 1372/95⁽³⁾, as last amended by Regulation (EC) No 2370/96⁽⁴⁾;

Whereas the present market situation in certain third countries and that regarding competition on particular third country markets make it necessary to fix a refund differentiated by destination for certain products in the poultrymeat sector;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁵⁾, as last amended by Regulation (EC) No 150/95⁽⁶⁾, are used to convert amounts expressed in third country currencies

and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁷⁾, as last amended by Regulation (EC) No 1482/96⁽⁸⁾;

Whereas it follows from applying these rules and criteria to the present situation on the market in poultrymeat that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time;

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of product codes for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2777/75 is granted, and the amount of that refund shall be as shown in the Annex hereto for exports to be carried out on the basis of the export licences referred to in Article 2 of Regulation (EC) No 1372/95 or on the basis of the 'ex-post' export licences referred to in Article 9 of the same Regulation.

Article 2

This Regulation shall enter into force on 21 January 1998.

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

Done at Brussels, 20 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 77.

⁽²⁾ OJ L 305, 19. 12. 1995, p. 49.

⁽³⁾ OJ L 133, 17. 6. 1995, p. 26.

⁽⁴⁾ OJ L 323, 13. 12. 1996, p. 12.

⁽⁵⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ L 188, 27. 7. 1996, p. 22.

ANNEX

to the Commission Regulation of 20 January 1998 fixing the export refunds on poultrymeat

Product code	Destination of refund ⁽¹⁾	Amount of refund	Product code	Destination of refund ⁽¹⁾	Amount of refund
		ECU/100 units			ECU/100 kg
0105 11 11 9000	01	1,40	0207 12 90 9190	02	28,00
0105 11 19 9000	01	1,40		03	13,00
0105 11 91 9000	01	1,40		04	5,50
0105 11 99 9000	01	1,40	0207 14 20 9900	03	8,50
0105 12 00 9000	01	3,30		06	7,00
0105 19 20 9000	01	3,30	0207 14 60 9900	03	8,50
		ECU/100 kg		06	7,00
0207 12 10 9900	02	28,00	0207 14 70 9190	03	8,50
	03	13,00		06	7,00
	04	5,50	0207 14 70 9290	03	8,50
				06	7,00

(¹) The destinations are as follows:

- 01 All destinations except the United States of America,
- 02 Angola, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, the United Arab Emirates, Jordan, Yemen, Lebanon and Iran,
- 03 Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Lithuania, Estonia and Latvia,
- 04 All destinations except the United States of America, Bulgaria, Poland, Hungary, Romania, Slovakia, the Czech Republic, Switzerland and those of 02 and 03 above,
- 06 All destinations except the United States of America, Bulgaria, Poland, Hungary, Romania, Slovakia, the Czech Republic, Switzerland and those of 03 above.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 136/98

of 20 January 1998

fixing representative prices and additional import duties in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

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

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1516/96 ⁽²⁾, and in particular Article 5 (4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat ⁽³⁾, as last amended by Commission Regulation (EC) No 2916/95 ⁽⁴⁾, and in particular Article 5 (4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽⁵⁾, as last amended by Commission Regulation (EC) No 2916/95, and in particular Article 3 (4) thereof,

Whereas Commission Regulation (EC) No 1484/95 ⁽⁶⁾, as last amended by Regulation (EC) No 2442/97 ⁽⁷⁾, fixes detailed rules for implementing the system of additional import duties and fixes additional import duties in the poultrymeat and egg sectors and for egg albumin;

Whereas it results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices and additional duties for imports of certain products should be amended taking into account variations of prices according to origin; whereas, therefore, representative prices and corresponding additional duties should be published;

Whereas it is necessary to apply this amendment as soon as possible, given the situation on the market;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to amended Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 1998.

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

Done at Brussels, 20 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 49.

⁽²⁾ OJ L 189, 30. 7. 1996, p. 99.

⁽³⁾ OJ L 282, 1. 11. 1975, p. 77.

⁽⁴⁾ OJ L 305, 19. 12. 1995, p. 49.

⁽⁵⁾ OJ L 282, 1. 11. 1975, p. 104.

⁽⁶⁾ OJ L 145, 29. 6. 1995, p. 47.

⁽⁷⁾ OJ L 339, 10. 12. 1997, p. 14.

ANNEX

ANNEX I

CN code	Description	Representative price ECU/100 kg	Additional duty ECU/100 kg	Origin (¹)
0207 14 10	Boneless cuts of fowls of the species <i>gallus domesticus</i> , frozen	216,6	25	01
		224,2	23	02
		203,5	29	03
		259,2	12	04
		239,6	18	05
0207 27 10	Boneless cuts of turkey, frozen	166,1	46	04
1602 32 11	Preparations uncooked of the species <i>gallus domesticus</i>	221,6	20	01
		245,5	12	02
		217,9	21	03
1602 39 21	Preparations uncooked other than turkeys and of the species <i>gallus domesticus</i>	221,6	20	01

(¹) Origin of imports:

- 01 China
- 02 Brazil
- 03 Thailand
- 04 Chile
- 05 Argentina.

COMMISSION REGULATION (EC) No 137/98
of 20 January 1998
fixing the agricultural conversion rates

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

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽¹⁾, as last amended by Regulation (EC) No 150/95 ⁽²⁾, and in particular Article 3 (1) thereof,

Whereas the agricultural conversion rates were fixed by Commission Regulation (EC) No 41/98 ⁽³⁾;

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

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

Whereas, as a consequence of the exchange rates recorded from 11 to 20 January 1998, it is necessary to fix a new agricultural conversion rate for the Portuguese escudo;

Whereas Article 15 (2) of Regulation (EEC) No 1068/93 provides that an agricultural conversion rate fixed in

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

HAS ADOPTED THIS REGULATION:

Article 1

The agricultural conversion rates are fixed in Annex I hereto.

Article 2

In the case referred to in Article 15 (2) of Regulation (EEC) No 1068/93, the agricultural conversion rate fixed in advance shall be replaced by the ecu rate for the currency concerned, shown in Annex II:

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

Article 3

Regulation (EC) No 41/98 is hereby repealed.

Article 4

This Regulation shall enter into force on 21 January 1998.

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

Done at Brussels, 20 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽³⁾ OJ L 5, 9. 1. 1998, p. 18.

⁽⁴⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁵⁾ OJ L 188, 27. 7. 1996, p. 22.

ANNEX I

Agricultural conversion rates

ECU 1 =	40,9321	Belgian and Luxembourg francs
	7,54917	Danish kroner
	1,98243	German marks
	312,011	Greek drachmas
	201,690	Portuguese escudos
	6,68769	French francs
	6,02811	Finnish marks
	2,23273	Dutch guilders
	0,785663	Irish punt
	1 973,93	Italian lire
	13,9485	Austrian schillings
	167,153	Spanish pesetas
	8,68510	Swedish kroner
	0,695735	Pound sterling

ANNEX II

Agricultural conversion rates fixed in advance and adjusted

Table A			Table B		
ECU 1 =	39,3578	Belgian and Luxembourg francs	ECU 1 =	42,6376	Belgian and Luxembourg francs
	7,25882	Danish kroner		7,86372	Danish kroner
	1,90618	German marks		2,06503	German marks
	300,011	Greek drachmas		325,011	Greek drachmas
	193,933	Portuguese escudos		210,094	Portuguese escudos
	6,43047	French francs		6,96634	French francs
	5,79626	Finnish marks		6,27928	Finnish marks
	2,14686	Dutch guilders		2,32576	Dutch guilders
	0,755445	Irish punt		0,818399	Irish punt
	1 898,01	Italian lire		2 056,18	Italian lire
	13,4120	Austrian schillings		14,5297	Austrian schillings
	160,724	Spanish pesetas		174,118	Spanish pesetas
	8,35106	Swedish kroner		9,04698	Swedish kroner
	0,668976	Pound sterling		0,724724	Pound sterling

DIRECTIVE 97/67/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 December 1997

on common rules for the development of the internal market of Community postal services and the improvement of quality of service

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 57 (2), 66 and 100a thereof,

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

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

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Having regard to the resolution of the European Parliament of 22 January 1993 concerning the green paper on the development of the single market for postal services ⁽⁴⁾,

Having regard to the Council resolution of 7 February 1994 on the development of Community postal services ⁽⁵⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty, in the light of the joint text approved by the Conciliation Committee on 7 November 1997 ⁽⁶⁾,

(1) Whereas measures should be adopted with the aim of establishing the internal market in accordance with Article 7a of the Treaty; whereas this market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

(2) Whereas the establishment of the internal market in the postal sector is of proven importance for the economic and social cohesion of the Community,

in that postal services are an essential instrument of communication and trade;

(3) Whereas on 11 June 1992 the Commission presented a Green Paper on the development of the single market for postal services and, on 2 June 1993, a Communication on the guidelines for the development of Community postal services;

(4) Whereas the Commission has conducted wide-ranging public consultation on those aspects of postal services that are of interest to the Community and the interested parties in the postal sector have communicated their observations to the Commission;

(5) Whereas the current extent of the universal postal service and the conditions governing its provision vary significantly from one Member State to another; whereas, in particular, performance in terms of quality of services is very unequal amongst Member States;

(6) Whereas cross-border postal links do not always meet the expectations of users and European citizens, and performance, in terms of quality of service with regard to Community cross-border postal services, is at the moment unsatisfactory;

(7) Whereas the disparities observed in the postal sector have considerable implications for those sectors of activity which rely especially on postal services and effectively impede the progress towards internal Community cohesion, in that the regions deprived of postal services of sufficiently high quality find themselves at a disadvantage as regards both their letter service and the distribution of goods;

(8) Whereas measures seeking to ensure the gradual and controlled liberalisation of the market and to secure a proper balance in the application thereof are necessary in order to guarantee, throughout the Community, and subject to the obligations and rights of the universal service providers, the free provision of services in the postal sector itself;

(9) Whereas action at Community level to ensure greater harmonisation of the conditions governing the postal sector is therefore necessary and steps must consequently be taken to establish common rules;

⁽¹⁾ OJ C 322, 2. 12. 1995, p. 22, and OJ C 300, 10. 10. 1996, p. 22.

⁽²⁾ OJ C 174, 17. 6. 1996, p. 41.

⁽³⁾ OJ C 337, 11. 11. 1996, p. 28.

⁽⁴⁾ OJ C 42, 15. 2. 1993, p. 240.

⁽⁵⁾ OJ C 48, 16. 2. 1994, p. 3.

⁽⁶⁾ Opinion of the European Parliament of 9 May 1996 (OJ C 152, 27. 5. 1996, p. 20), Council Common Position of 29 April 1997 (OJ C 188, 19. 6. 1997, p. 9) and Decision of the European Parliament of 16 September 1997 (OJ C 304, 6. 10. 1997, p. 34); Decision of the European Parliament of 19 November 1997 and Decision of the Council of 1 December 1997.

- (10) Whereas, in accordance with the principle of subsidiarity, a set of general principles should be adopted at Community level, whilst the choice of the exact procedures should be a matter for the Member States, which should be free to choose the system best adapted to their own circumstances;
- (11) Whereas it is essential to guarantee at Community level a universal postal service encompassing a minimum range of services of specified quality to be provided in all Member States at an affordable price for the benefit of all users, irrespective of their geographical location in the Community;
- (12) Whereas the aim of the universal services is to offer all users easy access to the postal network through the provision, in particular, of a sufficient number of access points and by ensuring satisfactory conditions with regard to the frequency of collections and deliveries; whereas the provision of the universal service must meet the fundamental need to ensure continuity of operation, whilst at the same time remaining adaptable to the needs of users as well as guaranteeing them fair and non-discriminatory treatment;
- (13) Whereas universal service must cover national services as well as cross-border services;
- (14) Whereas users of the universal service must be given adequate information on the range of services offered, the conditions governing their supply and use, the quality of the services provided, and the tariffs;
- (15) Whereas the provisions of this Directive relating to universal service provision are without prejudice to the right of universal service operators to negotiate contracts with customers individually;
- (16) Whereas the maintenance of a range of those services that may be reserved, in compliance with the rules of the Treaty and without prejudice to the application of the rules on competition, appears justified on the grounds of ensuring the operation of the universal service under financially balanced conditions; whereas the process of liberalisation should not curtail the continuing supply of certain free services for blind and partially sighted persons introduced by the Member States;
- (17) Whereas items of correspondence weighing 350 grammes and over represent less than 2 % of letter volume and less than 3 % of the receipts of the public operators; whereas the criteria of price (five times the basic tariff) will better permit the distinction between the reserved service and the express service, which is liberalised;
- (18) Whereas, in view of the fact that the essential difference between express mail and universal postal services lies in the value added (whatever form it takes) provided by express services and perceived by customers, the most effective way of determining the extra value perceived is to consider the extra price that customers are prepared to pay, without prejudice, however, to the price limit of the reserved area which must be respected;
- (19) Whereas it is reasonable to allow, on an interim basis, for direct mail and cross-border mail to continue to be capable of reservation within the price and weight limits provided; whereas, as a further step towards the completion of the internal market of postal services, a decision on the further gradual controlled liberalisation of the postal market, in particular with a view to the liberalisation of cross-border and direct mail as well as on a further review of the price and weight limits, should be taken by the European Parliament and the Council not later than 1 January 2000, on a proposal from the Commission following a review of the sector;
- (20) Whereas, for reasons of public order and public security, Member States may have a legitimate interest in conferring on one or more entities designated by them the right to site on the public highway letter-boxes intended for the reception of postal items; whereas, for the same reasons, they are entitled to appoint the entity or entities responsible for issuing postage stamps identifying the country of origin and those responsible for providing the registered mail service used in the course of judicial or administrative procedures in accordance with their national legislation; whereas they may also indicate membership of the European Union by integrating the 12-star symbol;
- (21) Whereas new services (services quite distinct from conventional services) and document exchange do not form part of the universal service and consequently there is no justification for their being reserved to the universal service providers; whereas this applies equally to self-provision (provision of postal services by the natural or legal person who is the originator of the mail, or collection and routing of these items by a third party acting solely on behalf of that person), which does not fall within the category of services;

- (22) Whereas Member States should be able to regulate, by appropriate authorization procedures, on their territory, the provision of postal services which are not reserved to the universal service providers; whereas those procedures must be transparent, non-discriminatory, proportionate and based on objective criteria;
- (23) Whereas the Member States should have the option of making the grant of licences subject to universal service obligations or contributions to a compensation fund intended to compensate the universal service provider for the provision of services representing an unfair financial burden; whereas Member States should be able to include in the authorisations an obligation that the authorised activities must not infringe the exclusive or special rights granted to the universal service providers for the reserved services; whereas an identification system for direct mail may be introduced for the purposes of supervision where direct mail is liberalised;
- (24) Whereas measures necessary for the harmonisation of authorisation procedures laid down by the Member States governing the commercial provision to the public of non-reserved services will have to be adopted;
- (25) Whereas, should this prove necessary, measures shall be adopted to ensure the transparency and non-discriminatory nature of conditions governing access to the public postal network in Member States;
- (26) Whereas, in order to ensure sound management of the universal service and to avoid distortions of competition, the tariffs applied to the universal service should be objective, transparent, non-discriminatory and geared to costs;
- (27) Whereas the remuneration for the provision of the intra-Community cross-border mail service, without prejudice to the minimum set of obligations derived from Universal Postal Union acts, should be geared to cover the costs of delivery incurred by the universal service provider in the country of destination; whereas this remuneration should also provide an incentive to improve or maintain the quality of the cross-border service through the use of quality-of-service targets; whereas this would justify suitable systems providing for an appropriate coverage of costs and related specifically to the quality of service achieved;
- (28) Whereas separate accounts for the different reserved services and non-reserved services are necessary in order to introduce transparency into the actual costs of the various services and in order to ensure that cross-subsidies from the reserved sector to the non-reserved sector do not adversely affect the competitive conditions in the latter;
- (29) Whereas, in order to ensure the application of the principles set out in the previous three recitals, universal service providers should implement, within a reasonable time limit, cost accounting systems, which can be independently verified, by which costs can be allocated to services as accurately as possible on the basis of transparent procedures; whereas such requirements can be fulfilled, for example, by implementation of the principle of fully distributed costing; whereas such cost accounting systems may not be required in circumstances where genuine conditions of open competition exist;
- (30) Whereas consideration should be given to the interests of users, who are entitled to services of a high quality; whereas, therefore, every effort must be made to improve and enhance the quality of services provided at Community level; whereas such improvements in quality require Member States to lay down standards, to be attained or surpassed by the universal service providers, in respect of the services forming part of the universal service;
- (31) Whereas the quality of service expected by users constitutes an essential aspect of the services provided; whereas the evaluation standards for this quality of service and the levels of quality achieved must be published in the interests of users; whereas it is necessary to have available harmonised quality-of-service standards and a common methodology for measurement in order to be able to evaluate the convergence of the quality of service throughout the Community;
- (32) Whereas national quality standards consistent with Community standards must be determined by Member States; whereas, in the case of intra-Community cross-border services requiring the combined efforts of at least two universal service providers from two different Member States, quality standards must be defined at Community level;
- (33) Whereas compliance with these standards must be independently verified at regular intervals and on a harmonised basis; whereas users must have the right to be informed of the results of this verification and Member States should ensure that corrective action is taken where those results demonstrate that the standards are not being met;

- (34) Whereas Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts⁽¹⁾ applies to postal operators;
- (35) Whereas the need for improvement of quality of service means that disputes have to be settled quickly and efficiently; whereas, in addition to the forms of legal redress available under national and Community law, a procedure dealing with complaints should be provided, which should be transparent, simple and inexpensive and should enable all relevant parties to participate;
- (36) Whereas progress in the interconnection of postal networks and the interests of users require that technical standardisation be encouraged; whereas technical standardisation is indispensable for the promotion of interoperability between national networks and for an efficient Community universal service;
- (37) Whereas guidelines on European harmonisation provide for specialised technical standardisation activities to be entrusted to the European Committee for Standardisation;
- (38) Whereas a committee should be established to assist the Commission with the implementation of this Directive, particularly in relation to the future work on the development of measures relating to the quality of Community cross-border service and technical standardisation;
- (39) Whereas, in order to ensure the proper functioning of the universal service and to ensure undistorted competition in the non-reserved sector, it is important to separate the functions of the regulator, on the one hand, and the operator, on the other; whereas no postal operator may be both judge and interested party; whereas it is for the Member State to define the statute of one or more national regulatory authorities, which may be chosen from public authorities or independent entities appointed for that purpose;
- (40) Whereas the effects of the harmonised conditions on the functioning of the internal market in postal services will need to be the subject of an assessment; whereas, therefore, the Commission will present a report to the European Parliament and the Council on the application of this Directive, including the appropriate information on developments in the sector, particularly concerning economic, social, employment and technological aspects, as well as on quality of service, three years following the date of its entry into force, and in any event no later than 31 December 2000;
- (41) Whereas this Directive does not affect the application of the rules of the Treaty, and in particular its rules on competition and the freedom to provide services;
- (42) Whereas nothing shall prevent Member States from maintaining in force or introducing measures for the postal sector which are more liberal than those provided for by this Directive, nor, should this Directive lapse, from maintaining in force measures which they have introduced in order to implement it, provided in each case that such measures are compatible with the Treaty;
- (43) Whereas it is appropriate that this Directive should apply until 31 December 2004 unless otherwise decided by the European Parliament and the Council on the basis of a proposal from the Commission;
- (44) Whereas this Directive does not apply to any activity which falls outside the scope of Community law, such as those provided for by Titles V and VI of the Treaty on European Union, and in any case to activities concerning public security, defence, State security (including the economic well-being of the State when the activities relate to State security matters) and the activities of the State in areas of criminal law;
- (45) Whereas this Directive does not, in the case of undertakings which are not established in the Community, prevent the adoption of measures in accordance with both Community law and existing international obligations designed to ensure that nationals of the Member States enjoy similar treatment in third countries; whereas Community undertakings should benefit in third countries from treatment and effective access that is comparable to the treatment and access to the market which is conferred on nationals of the countries concerned within the Community context,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

Objective and scope

Article 1

This Directive establishes common rules concerning:

- the provision of a universal postal service within the Community,
- the criteria defining the services which may be reserved for universal service providers and the conditions governing the provision of non-reserved services,

⁽¹⁾ OJ L 95, 21. 4. 1993, p. 29.

- tariff principles and transparency of accounts for universal service provision,
- the setting of quality standards for universal service provision and the setting-up of a system to ensure compliance with those standards,
- the harmonisation of technical standards,
- the creation of independent national regulatory authorities.

Article 2

For the purposes of this Directive, the following definitions shall apply:

1. *postal services*: services involving the clearance, sorting, transport and delivery of postal items;
2. *public postal network*: the system of organisation and resources of all kinds used by the universal service provider(s) for the purposes in particular of:
 - the clearance of postal items covered by a universal service obligation from access points throughout the territory,
 - the routing and handling of those items from the postal network access point to the distribution centre,
 - distribution to the addresses shown on items;
3. *access points*: physical facilities, including letter boxes provided for the public either on the public highway or at the premises of the universal service provider, where postal items may be deposited with the public postal network by customers;
4. *clearance*: the operation of collecting postal items deposited at access points;
5. *distribution*: the process from sorting at the distribution centre to delivery of postal items to their addressees;
6. *postal item*: an item addressed in the final form in which it is to be carried by the universal service provider. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value;
7. *item of correspondence*: a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. Books, catalogues, newspapers and periodicals shall not be regarded as items of correspondence;
8. *direct mail*: a communication consisting solely of advertising, marketing or publicity material and comprising an identical message, except for the addressee's name, address and identifying number as well as other modifications which do not alter the nature of the message, which is sent to a significant number of addressees, to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. The national regulatory authority shall interpret the term 'significant number of addressees' within each Member State and shall publish an appropriate definition. Bills, invoices, financial statements and other non-identical messages shall not be regarded as direct mail. A communication combining direct mail with other items within the same wrapping shall not be regarded as direct mail. Direct mail shall include cross-border as well as domestic direct mail;
9. *registered item*: a service providing a flat-rate guarantee against risks of loss, theft or damage and supplying the sender, where appropriate upon request, with proof of the handing in of the postal item and/or of its delivery to the addressee;
10. *insured item*: a service insuring the postal item up to the value declared by the sender in the event of loss, theft or damage;
11. *cross-border mail*: mail from or to another Member State or from or to a third country;
12. *document exchange*: provision of means, including the supply of ad hoc premises as well as transportation by a third party, allowing self-delivery by mutual exchange of postal items between users subscribing to this service;
13. *universal service provider*: the public or private entity providing a universal postal service or parts thereof within a Member State, the identity of which has been notified to the Commission in accordance with Article 4;
14. *authorisations*: means any permission setting out rights and obligations specific to the postal sector and allowing undertakings to provide postal services and, where applicable, to establish and/or operate postal networks for the provision of such services, in the form of a 'general authorisation' or 'individual licence' as defined below:
 - 'general authorisation' means an authorisation, regardless of whether it is regulated by a 'class licence' or under general law and regardless of whether such regulation requires registration or declaration procedures, which does not require the undertaking concerned to obtain an explicit decision by the national regulatory authority before exercising the rights stemming from the authorisation,

— 'individual licence' means an authorisation which is granted by a national regulatory authority and which gives an undertaking specific rights, or which subjects that undertaking's operations to specific obligations supplementing the general authorisation where applicable, where the undertaking is not entitled to exercise the rights concerned until it has received the decision by the national regulatory authority;

15. *terminal dues*: the remuneration of universal service providers for the distribution of incoming cross-border mail comprising postal items from another Member State or from a third country;
16. *sender*: a natural or legal person responsible for originating postal items;
17. *users*: any natural or legal person benefiting from universal service provision as a sender or an addressee;
18. *national regulatory authority*: the body or bodies, in each Member State, to which the Member State entrusts, *inter alia*, the regulatory functions falling within the scope of this Directive;
19. *essential requirements*: general non-economic reasons which can induce a Member State to impose conditions on the supply of postal services. These reasons are the confidentiality of correspondence, security of the network as regards the transport of dangerous goods and, where justified, data protection, environmental protection and regional planning.

Data protection may include personal data protection, the confidentiality of information transmitted or stored and protection of privacy.

CHAPTER 2

Universal service

Article 3

1. Member States shall ensure that users enjoy the right to a universal service involving the permanent provision of a postal service of specified quality at all points in their territory at affordable prices for all users.
2. To this end, Member States shall take steps to ensure that the density of the points of contact and of the access points takes account of the needs of users.
3. They shall take steps to ensure that the universal service provider(s) guarantee(s) every working day and not less than five days a week, save in circumstances or geographical conditions deemed exceptional by the national regulatory authorities, as a minimum:

— one clearance,

— one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations.

Any exception or derogation granted by a national regulatory authority in accordance with this paragraph must be communicated to the Commission and to all national regulatory authorities.

4. Each Member State shall adopt the measures necessary to ensure that the universal service includes the following minimum facilities:

— the clearance, sorting, transport and distribution of postal items up to two kilograms,

— the clearance, sorting, transport and distribution of postal packages up to 10 kilograms,

— services for registered items and insured items.

5. The national regulatory authorities may increase the weight limit of universal service coverage for postal packages to any weight not exceeding 20 kilograms and may lay down special arrangements for the door-to-door delivery of such packages.

Notwithstanding the weight limit of universal service coverage for postal packages established by a given Member State, Member States shall ensure that postal packages received from other Member States and weighing up to 20 kilograms are delivered within their territories.

6. The minimum and maximum dimensions for the postal items in question shall be those laid down in the Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union.

7. The universal service as defined in this Article shall cover both national and cross-border services.

Article 4

Each Member State shall ensure that the provision of the universal service is guaranteed and shall notify the Commission of the steps it has taken to fulfil this obligation and, in particular, the identity of its universal service provider(s). Each Member State shall determine in accordance with Community law the obligations and rights assigned to the universal service provider(s) and shall publish them.

Article 5

1. Each Member State shall take steps to ensure that universal service provision meets the following requirements:

— it shall offer a service guaranteeing compliance with the essential requirements,

- it shall offer an identical service to users under comparable conditions,
- it shall be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations,
- it shall not be interrupted or stopped except in cases of force majeure,
- it shall evolve in response to the technical, economic and social environment and to the needs of users.

2. The provisions of paragraph 1 shall not preclude measures which the Member States take in accordance with requirements relating to public interest recognized by the Treaty, in particular Articles 36 and 56 thereof, concerning, *inter alia*, public morality, public security, including criminal investigations, and public policy.

Article 6

Member States shall take steps to ensure that users are regularly given sufficiently detailed and up-to-date information by the universal service provider(s) regarding the particular features of the universal services offered, with special reference to the general conditions of access to these services as well as to prices and quality standard levels. This information shall be published in an appropriate manner.

Member States shall notify the Commission, within 12 months of the date of entry into force of this Directive, how the information to be published in accordance with the first subparagraph is being made available. Any subsequent modifications shall be notified to the Commission at the earliest opportunity.

CHAPTER 3

Harmonization of the services which may be reserved

Article 7

1. To the extent necessary to ensure the maintenance of universal service, the services which may be reserved by each Member State for the universal service provider(s) shall be the clearance, sorting, transport and delivery of items of domestic correspondence, whether by accelerated delivery or not, the price of which is less than five times the public tariff for an item of correspondence in the first weight step of the fastest standard category where such category exists, provided that they weigh less than 350 grams. In the case of the free postal service for blind and partially sighted persons, exceptions to the weight and price restrictions may be permitted.

2. To the extent necessary to ensure the maintenance of universal service, cross-border mail and direct mail may

continue to be reserved within the price and weight limits laid down in paragraph 1.

3. As a further step towards the completion of the internal market of postal services, the European Parliament and the Council shall decide not later than 1 January 2000 and without prejudice to the competence of the Commission, on the further gradual and controlled liberalisation of the postal market, in particular with a view to the liberalisation of cross-border and direct mail, as well as on a further review of the price and weight limits, with effect from 1 January 2003, taking into account the developments, in particular economic, social and technological developments, that have occurred by that date, and also taking into account the financial equilibrium of the universal service provider(s), with a view to further pursuing the goals of this Directive.

Such decisions shall be based upon a proposal from the Commission to be tabled before the end of 1998, following a review of the sector. Upon request by the Commission, Member States shall provide all the information necessary for completion of the review.

4. Document exchange may not be reserved.

Article 8

The provisions of Article 7 shall be without prejudice to Member States' right to organise the siting of letter boxes on the public highway, the issue of postage stamps and the registered mail service used in the course of judicial or administrative procedures in accordance with their national legislation.

CHAPTER 4

Conditions governing the provision of non-reserved services and access to the network

Article 9

1. For non-reserved services which are outside the scope of the universal service as defined in Article 3, Member States may introduce general authorisations to the extent necessary in order to guarantee compliance with the essential requirements.

2. For non-reserved services which are within the scope of the universal service as defined in Article 3, Member States may introduce authorisation procedures, including individual licences, to the extent necessary in order to guarantee compliance with the essential requirements and to safeguard the universal service.

The granting of authorisations may:

- where appropriate, be made subject to universal service obligations,
- if necessary, impose requirements concerning the quality, availability and performance of the relevant services,

— be made subject to the obligation not to infringe the exclusive or special rights granted to the universal service provider(s) for the reserved postal services under Article 7(1) and (2).

3. The procedures described in paragraphs 1 and 2 shall be transparent, non-discriminatory, proportionate and based on objective criteria. Member States must ensure that the reasons for refusing an authorisation in whole or in part are communicated to the applicant and must establish an appeal procedure.

4. In order to ensure that the universal service is safeguarded, where a Member State determines that the universal service obligations, as provided for by this Directive, represent an unfair financial burden for the universal service provider, it may establish a compensation fund administered for this purpose by a body independent of the beneficiary or beneficiaries. In this case, it may make the granting of authorisation subject to an obligation to make a financial contribution to that fund. The Member State must ensure that the principles of transparency, non-discrimination and proportionality are respected in establishing the compensation fund and when fixing the level of the financial contributions. Only those services set out in Article 3 may be financed in this way.

5. Member States may provide for an identification system for direct mail, allowing the supervision of such services where they are liberalised.

Article 10

1. The European Parliament and the Council, acting on a proposal from the Commission and on the basis of Articles 57(2), 66 and 100a of the Treaty, shall adopt the measures necessary for the harmonisation of the procedures referred to in Article 9 governing the commercial provision to the public of non-reserved postal services.

2. The harmonisation measures referred to in paragraph 1 shall concern, in particular, the criteria to be observed and the procedures to be followed by the postal operator, the manner of publication of those criteria and procedures, as well as the appeal procedures to be followed.

Article 11

The European Parliament and the Council, acting on a proposal from the Commission and on the basis of Articles 57(2), 66 and 100a of the Treaty, shall adopt such harmonisation measures as are necessary to ensure that users and the universal service provider(s) have access to

the public postal network under conditions which are transparent and non-discriminatory.

CHAPTER 5

Tariff principles and transparency of accounts

Article 12

Member States shall take steps to ensure that the tariffs for each of the services forming part of the provision of the universal service comply with the following principles:

- prices must be affordable and must be such that all users have access to the services provided,
- prices must be geared to costs; Member States may decide that a uniform tariff should be applied throughout their national territory,
- the application of a uniform tariff does not exclude the right of the universal service provider(s) to conclude individual agreements on prices with customers,
- tariffs must be transparent and non-discriminatory.

Article 13

1. In order to ensure the cross-border provision of the universal service, Member States shall encourage their universal service providers to arrange that in their agreements on terminal dues for intra-Community cross-border mail, the following principles are respected:

- terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail,
- levels of remuneration shall be related to the quality of service achieved,
- terminal dues shall be transparent and non-discriminatory.

2. The implementation of these principles may include transitional arrangements designed to avoid undue disruption on postal markets or unfavourable implications for economic operators provided there is agreement between the operators of origin and receipt; such arrangements shall, however, be restricted to the minimum required to achieve these objectives.

Article 14

1. Member States shall take the measures necessary to ensure, within two years of the date of entry into force of this Directive, that the accounting of the universal service providers is conducted in accordance with the provisions of this Article.

2. The universal service providers shall keep separate accounts within their internal accounting systems at least for each of the services within the reserved sector on the one hand and for the non-reserved services on the other. The accounts for the non-reserved services should clearly distinguish between services which are part of the universal service and services which are not. Such internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting principles.

3. The accounting systems referred to in paragraph 2 shall, without prejudice to paragraph 4, allocate costs to each of the reserved and to the non-reserved services respectively in the following manner:

- (a) costs which can be directly assigned to a particular service shall be so assigned;
- (b) common costs, that is costs which cannot be directly assigned to a particular service, shall be allocated as follows:
 - (i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;
 - (ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;
 - (iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the reserved services and, on the other hand, to the other services.

4. Other cost accounting systems may be applied only if they are compatible with paragraph 2 and have been approved by the national regulatory authority. The Commission shall be informed prior to their application.

5. National regulatory authorities shall ensure that compliance with one of the cost accounting systems described in paragraphs 3 or 4 is verified by a competent body which is independent of the universal service provider. Member States shall ensure that a statement concerning compliance is published periodically.

6. The national regulatory authority shall keep available, to an adequate level of detail, information on the cost accounting systems applied by a universal service provider, and shall submit such information to the Commission on request.

7. On request, detailed accounting information arising from these systems shall be made available in confidence to the national regulatory authority and to the Commission.

8. Where a given Member State has not reserved any of the services reservable under Article 7 and as not established a compensation fund for universal service provision, as permitted under Article 9(4), and where the national regulatory authority is satisfied that none of the designated universal service providers in that Member State is in receipt of State subvention, hidden or otherwise, the national regulatory authority may decide not to apply the requirements of paragraphs 2, 3, 4, 5, 6 and 7 of this Article. The national regulatory authority shall inform the Commission of all such decisions.

Article 15

The financial accounts of all universal service providers shall be drawn up, submitted to audit by an independent auditor and published in accordance with the relevant Community and national legislation to commercial undertakings.

CHAPTER 6

Quality of services

Article 16

Member States shall ensure that quality-of-service standards are set and published in relation to universal service in order to guarantee a postal service of good quality.

Quality standards shall focus, in particular, on routing times and on the regularity and reliability of services.

These standards shall be set by:

- the Member States in the case of national services,
- the European Parliament and the Council in the case of intra-Community cross-border services (see Annex). Future adjustment of these standards to technical progress or market developments shall be made in accordance with the procedure laid down in Article 21.

Independent performance monitoring shall be carried out at least once a year by external bodies having no links with the universal service providers under standardised conditions to be specified in accordance with the procedure laid down in Article 21 and shall be the subject of reports published at least once a year.

Article 17

Member States shall lay down quality standards for national mail and shall ensure that they are compatible with those laid down for intra-Community cross-border services.

Member States shall notify their quality standards for national services to the Commission, who will publish them in the same manner as the standards for intra-Community cross-border services referred to in Article 18.

National regulatory authorities shall ensure that independent performance monitoring is carried out in accordance with the fourth subparagraph of Article 16, that the results are justified, and that corrective action is taken where necessary.

Article 18

1. In accordance with Article 16, quality standards for intra-Community cross-border services are laid down in the Annex.

2. Where exceptional situations relating to infrastructure or geography so require, the national regulatory authorities may determine exemptions from the quality standards provided for in the Annex. Where national regulatory authorities determine exemptions in this manner, they shall notify the Commission forthwith. The Commission shall submit an annual report of the notifications received during the previous 12 months to the Committee established under Article 21 for its information.

3. The Commission shall publish in the *Official Journal of the European Communities* any adjustments made to the quality standards for intra-Community cross-border services and shall take steps to ensure the regular independent monitoring and the publication of performance levels certifying compliance with these standards and the progress accomplished. National regulatory authorities shall ensure that corrective action is taken where necessary.

Article 19

Member States shall ensure that transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards.

Member States shall adopt measures to ensure that those procedures enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and/or compensation.

Without prejudice to other possibilities of appeal under national and Community legislation, Member States shall ensure that users, acting individually or, where permitted by national law, jointly with organisations representing the interests of users and/or consumers, may bring before

the competent national authority cases where users' complaints to the universal service provider have not been satisfactorily resolved.

In accordance with Article 16, Member States shall ensure that the universal service providers publish, together with the annual report on the monitoring of their performance, information on the number of complaints and the manner in which they have been dealt with.

CHAPTER 7

Harmonisation of technical standards*Article 20*

The harmonisation of technical standards shall be continued, taking into account in particular the interests of users.

The European Committee for Standardisation shall be entrusted with drawing up technical standards applicable in the postal sector on the basis of remits to it pursuant to the principles set out in Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹⁾.

This work shall take account of the harmonisation measures adopted at international level and in particular those decided upon within the Universal Postal Union.

The standards applicable shall be published in the *Official Journal of the European Communities* once a year.

Member States shall ensure that universal service providers refer to the standards published in the *Official Journal* where necessary in the interests of users and in particular when they supply the information referred to in Article 6.

The Committee provided for in Article 21 shall be kept informed of the discussions within the European Committee for Standardisation and the progress achieved in this area by that body.

CHAPTER 8

The committee*Article 21*

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by a representative of the Commission. The committee shall establish its own rules of procedure.

⁽¹⁾ OJ L 109, 26. 4. 1983, p. 8. Directive as last amended by Commission Decision 96/139/EC (OJ L 32, 10. 2. 1996, p. 31).

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken.

The Council shall act by a qualified majority.

If, upon the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

CHAPTER 9

The national regulatory authority

Article 22

Each Member State shall designate one or more national regulatory authorities for the postal sector that are legally separate from and operationally independent of the postal operators.

Member States shall inform the Commission which national regulatory authorities they have designated to carry out the tasks arising from this Directive.

The national regulatory authorities shall have as a particular task ensuring compliance with the obligations arising from this Directive. They may also be charged with ensuring compliance with competition rules in the postal sector.

CHAPTER 10

Final provisions

Article 23

Without prejudice to Article 7(3), three years after the date of entry into force of this Directive, and in any event no later than 31 December 2000, the Commission shall

submit a report to the European Parliament and the Council on the application of this Directive, including the appropriate information about developments in the sector, particularly concerning economic, social, employment and technological aspects, as well as about quality of service.

The report shall be accompanied where appropriate by proposals to the European Parliament and the Council.

Article 24

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 12 months after the date of its entry into force. They shall forthwith inform the Commission thereof.

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

Article 25

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Article 26

1. This Directive shall not prevent any Member State from maintaining or introducing measures which are more liberal than those provided for by this Directive. Such measures must be compatible with the Treaty.

2. Should this Directive lapse, the measures taken by the Member States to implement it may be maintained, to the extent that they are compatible with the Treaty.

Article 27

The provisions of this Directive, with the exception of Article 26, shall apply until 31 December 2004 unless otherwise decided in accordance with Article 7(3).

Article 28

This Directive is addressed to the Member States.

Done at Brussels, 15 December 1997.

For the European Parliament

The President

J. M. GIL-ROBLES

For the Council

The President

J.-C. JUNCKER

ANNEX

Quality standards for intra-Community cross-border mail

The quality standards for intra-Community cross-border mail in each country are to be established in relation to the time limit for routing measured from end to end^(*) for postal items of the fastest standard category according to the formula $D + n$, where D represents the date of deposit^(**) and n the number of working days which elapse between that date and that delivery to the addressee.

Quality standards for intra-Community cross-border mail	
Time limit	Objective
D + 3	85 % of items
D + 5	97 % of items

The standards must be achieved not only for the entirety of intra-Community traffic but also for each of the bilateral flows between two Member States.

(^{*}) End-to-end routing is measured from the access point to the network to the point of delivery to the addressee.

(^{**}) The date of deposit to be taken into account shall be the same day as that on which the item is deposited, provided that deposit occurs before the last collection time notified from the access point to the network in question. When deposit takes place after this time limit, the date of deposit to be taken into consideration will be that of the following day of collection.

COMMISSION DIRECTIVE 98/1/EC

of 8 January 1998

amending certain Annexes to Council Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 97/14/EC⁽²⁾, and in particular Article 13, second paragraph, third and fourth indents, thereof,

Whereas measures should be taken to protect the Community against *Diabrotica barberi* Smith & Lawrence, *Diabrotica undecimpunctata howardi* Barber, *Diabrotica undecimpunctata undecimpunctata* Mannerheim and *Diabrotica virgifera* Le Conte, harmful organisms which have not hitherto been known to occur in the Community;

Whereas measures should be taken against the introduction into and spread within the Community of *Meloidogyne chitwoodi* Golden et al. (all populations) and *M. fallax* Karssen and Tomato yellow leaf curl virus;

Whereas the provisions on protective measures against *Enarmonia prunivora* Walsh and *Ditylenchus dipsaci* (Kühn) Filipjev, organisms listed in the Annexes to the said Directive, should be improved, and in particular the list of host plants should be extended;

Whereas it is no longer appropriate to maintain the current provisions on protective measures against Tomato spotted wilt virus;

Whereas certain measures against *Gymnosporangium asiaticum* Miyabe ex Yamada, in particular in respect of plants of *Photinia* Ldl., should be modified because it has been determined that the said organism is only present in some third countries;

Whereas improved measures should be taken to protect the Community against the introduction of harmful organisms affecting hybrids of *Solanum* L., other than those intended for planting, and aquarium plants;

Whereas certain provisions concerning organisms affecting naturally or artificially dwarfed plants for planting, other than seeds, originating in non-European countries should be improved;

Whereas certain provisions concerning organisms affecting isolated bark of *Castanea* Mill. should be amended and, in particular, adapted to the present distribution of organisms such as non-European *Pissodes* spp. and *Scolytidae* spp.;

Whereas certain provisions concerning *Monilinia fructicola* (Winter) Honey, should be amended because it has been determined that only *Prunus* fruits from non-European countries should be subjected to phytosanitary control in the high-risk period from 15 February to 30 September;

Whereas since it has been determined that the risk of spreading *Xanthomonas campestris* pv. *pruni* by intra-Community trade in *P. laurocerasus* L. and *P. lusitanica* L., is minimal, the relevant measures should be modified;

Whereas since it has become apparent that there is no risk of transmitting *Bemisia tabaci* Genn with seeds, tubers and corms of *Begonia* L., the relevant measures should be modified;

Whereas certain measures against *Clavibacter michiganensis* spp. *insidiosus* Davis et al. should be modified in order to take account of the area of origin of the seeds and the presence of the disease in that area;

Whereas in order to take into account the phytosanitary risk involved with the import of parts of certain plants, other than fruits and seeds, certain measures should be modified;

Whereas these amendments are in accordance with the requests of the Member States concerned;

Whereas, therefore, the relevant Annexes to Directive 77/93/EEC should be amended accordingly;

⁽¹⁾ OJ L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ L 87, 2. 4. 1997, p. 17.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I to V to Directive 77/93/EEC are hereby amended as indicated in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 May 1998. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 8 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

1. In Annex I, Part A, Section I(a), the following points are inserted after point 10:

- '10.1. *Diabrotica barberi* Smith bLawrence
 10.2. *Diabrotica undecimpunctata howardi* Barber
 10.3. *Diabrotica undecimpunctata undecimpunctata* Mannerheim
 10.4. *Diabrotica virgifera* Le Conte.'

2. In Annex I, Part A, Section I(a), the following point is inserted after point 11:

- '11.1. *Hirschmanniella* spp., other than *Hirschmanniella gracilis* (de Man) Luc bGoodey.'

3. In Annex I, Part A, Section II(a), the following points are inserted after point 6:

- '6.1. *Meloidogyne chitwoodi* Golden et al. (all populations)
 6.2. *Meloidogyne fallax* Karssen.'

4. In Annex I, Part A, Section II(a), the following point is inserted after point 8:

- '8.1. *Rhizoecus hibisci* Kawai bTakagi.'

5. In Annex II, Part A, Section I(a), point 12, the text in the right-hand column is replaced by the following:

'Plants of *Crataegus* L., *Malus* Mill., *Photinia* Ldl., *Prunus* L. and *Rosa* L., intended for planting, other than seeds, and fruit of *Malus* Mill. and *Prunus* L., originating in non-European countries.'

6. In Annex II, Part A, Section II(d), point 15, the right-hand column, the following words are added:

'other than seeds'.

7. In Annex II, Part A, Section II(d), the following point is added:

'16. Tomato yellow leaf curl virus	Plants of <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw., intended for planting, other than seeds'.
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8. In Annex III, Part A, point 9 is replaced by the following:

'9. Plants of <i>Chaenomeles</i> Lindl., <i>Cydonia</i> Mill., <i>Crateagus</i> L., <i>Malus</i> Mill., <i>Prunus</i> L., <i>Pyrus</i> L. and <i>Rosa</i> L., intended for planting, other than dormant plants free from leaves, flowers and fruit	Non-European countries
9.1 Plants of <i>Photinia</i> Ldl., intended for planting, other than dormant plants free from leaves, flowers and fruit	USA, China, Japan, the Republic of Korea and Korea Democratic People's Republic'

9. In Annex III, Part A, point 12, the text in the left-hand column is replaced by the following:

'Tubers of species of *Solanum* L. and their hybrids, other than those specified in points 10 and 11'.

10. In Annex IV, Part A, Section I, point 16, the text in the left-hand column is replaced by the following:

‘From 15 February to 30 September, fruits of *Prunus* L., originating in non-European countries’.

11. In Annex IV, Part A, Section I, point 25.4, right-hand column, the following is added:

‘and

(cc) either, the tubers originate in areas in which *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen are known not to occur; or

(dd) in areas where *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen are known to occur,

— either the tubers originate from a place of production which has been found free from *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen based on an annual survey of host crops by visual inspection of host plants at appropriate times and by visual inspection both externally and by cutting of tubers after harvest from potato crops grown at the place of production, or

— the tubers after harvest have been randomly sampled and, either checked for the presence of symptoms after an appropriate method to induce symptoms, or laboratory tested, as well as inspected visually both externally and by cutting the tubers, at appropriate times and in all cases at the time of closing of the packages or containers before marketing according to the provisions on closing in Council Directive 66/403/EEC (*), and no symptoms of *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen have been found.

(*) OJ 125, 11. 7. 1966, p. 2320/66.’

12. In Annex IV, Part A, Section I, point 43 is replaced by the following:

‘43. Naturally or artificially dwarfed plants intended for planting other than seeds, originating in non-European countries

Without prejudice to the provisions applicable to the plants listed in Annex III (A) (1), (2), (3), (9), (13), (15), (16), (17), (18), Annex III (B) (1), and Annex IV (A) (I) (8.1), (8.2), (9.1), (9.2), (10), (11.1), (11.2), (12), (13.1), (13.2), (14), (15), (17), (18), (19.1), (19.2), (20), (22.1), (22.2), (23.1), (23.2), (24), (25.5), (25.6), (26), (27.1), (27.2), (28), (32.1), (32.2), (33), (34), (36), (37), (38.1), (38.2), (39), (40), (42), where appropriate, official statement that:

(a) the plants, including those collected directly from natural habitats, shall have been grown, held and trained for at least two consecutive years prior to dispatch in officially registered nurseries, which are subject to an officially supervised control regime,

(b) the plants on the nurseries referred to in (a) shall:

(aa) at least during the period referred to in (a):

— be potted, in pots which are placed on shelves at least 50 cm above ground,

— have been subjected to appropriate treatments to ensure freedom from non-European rusts; the active ingredient, concentration and date of application of these treatments shall be mentioned on the phytosanitary certificate provided for in Article 7 of this Directive under the rubric “disinfestation and/or disinfection treatment”.

- have been officially inspected at least six times a year at appropriate intervals for the presence of harmful organisms of concern, which are those in the Annexes to the Directive. These inspections, which shall also be carried out on plants in the immediate vicinity of the nurseries referred to in (a), shall be carried out at least by visual examination of each row in the field or nursery and by visual examination of all parts of the plant above the growing medium, using a random sample of at least 300 plants from a given genus where the number of plants of that genus is not more than 3 000 plants, or 10 % of the plants if there are more than 3 000 plants from that genus,
- have been found free, in these inspections, from the relevant harmful organisms of concern as specified in the previous indent. Infested plants shall be removed. The remaining plants, where appropriate, shall be effectively treated, and in addition shall be held for an appropriate period and inspected to ensure freedom from such harmful organisms of concern,
- have been planted in either an unused artificial growing medium or in a natural growing medium, which has been treated by fumigation or by appropriate heat treatment and has been examined afterwards and found free of any harmful organisms,
- have been kept under conditions which ensure that the growing medium has been maintained free from harmful organisms and within two weeks prior to dispatch, have been:
 - shaken and washed with clean water to remove the original growing medium and kept bare rooted, or
 - shaken and washed with clean water to remove the original growing medium and replanted in growing medium which meets the conditions laid down in (aa) fifth indent, or
 - subjected to appropriate treatments to ensure that the growing medium is free from harmful organisms; the active ingredient, concentration and date of application of these treatments shall be mentioned on the phytosanitary certificate provided for in Article 7 of this Directive under the rubric “disfestation and/or disinfection treatment”,

	(bb) be packed in closed containers which have been officially sealed and bear the registration number of the registered nursery; this number shall also be indicated under the rubric "additional declaration" on the phytosanitary certificate, provided for in Article 7 of this Directive, enabling the consignments to be identified;
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13. In Annex IV, Part A, Section I, the following point is inserted after point 45:

<p>'45.1 Plants of <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw. intended for planting, other than seeds, originating in countries where Tomato yellow leaf curl virus is known to occur</p> <p>(a) Where <i>Bemisia tabaci</i> Genn. is not known to occur</p> <p>(b) Where <i>Bemisia tabaci</i> Genn. is known to occur</p>	<p>Without prejudice to the requirements applicable to plants listed in Annex III (A) (13) and Annex IV (A) (I) (25.5), (25.6) and (25.7) where appropriate</p> <p>Official statement that no symptoms of Tomato yellow leaf curl virus have been observed on the plants</p> <p>Official statement that:</p> <p>(a) no symptoms of Tomato yellow leaf curl virus have been observed on the plants, and</p> <p>(aa) the plants originate in areas known to be free from <i>Bemisia tabaci</i> Genn.; or</p> <p>(bb) the place of production has been found free from <i>Bemisia tabaci</i> Genn. on official inspections carried out at least monthly during the three months prior to export;</p> <p>or</p> <p>(b) no symptoms of Tomato yellow leaf curl virus have been observed on the place of production and the place of production has been subjected to an appropriate treatment and monitoring regime to ensure freedom from <i>Bemisia tabaci</i> Genn.'</p>
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14. In Annex IV, Part A, Section I, point 46, right-hand column 'and (45.1)' is inserted after '(45)'.

15. In Annex IV, Part A, Section II, point 19.1, right-hand column, the following is added:

'and

- (e) either, the tubers originate in areas in which *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen are known not to occur; or in areas where *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen are known to occur,
- either the tubers originate from a place of production which has been found free from *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen based on an annual survey of host crops by visual inspection of host plants at appropriate times and by visual inspection both externally and by cutting of tubers after harvest from potato crops grown at the place of production, or

- the tubers after harvest have been randomly sampled and, either checked for the presence of symptoms after an appropriate method to induce symptoms or laboratory tested, as well as inspected visually both externally and by cutting the tubers, at appropriate times and in all cases at the time of closing of the packages or containers before marketing according to the provisions on closing in Council Directive 66/403/EEC, and no symptoms of *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen have been found.’

16. In Annex IV, Part A, Section II, the following point is inserted after point 27:

<p>‘27.1 Plants of <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw., intended for planting, other than seeds</p>	<p>Without prejudice to the requirements applicable to the plants, where appropriate, listed in Annex IV (A) (II) (19.6) and (24), official statement that:</p> <p>(a) the plants originate in areas known to be free from Tomato yellow leaf curl virus,</p> <p>or</p> <p>(b) no symptoms of Tomato yellow leaf curl virus have been observed on the plants, and</p> <p>(aa) the plants originate in areas known to be free from <i>Bemisia tabaci</i> Genn.;</p> <p>or</p> <p>(bb) the place of production has been found free from <i>Bemisia tabaci</i> Genn. on official inspections carried out at least monthly during the three months prior to export;</p> <p>or</p> <p>(c) no symptoms of Tomato yellow leaf curl virus have been observed on the place of production and the place of production has been subjected to an appropriate treatment and monitoring regime to ensure freedom from <i>Bemisia tabaci</i> Genn.’</p>
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17. In Annex IV, Part A, Section II, point 29.2, right-hand column, the word ‘or’ is inserted between (a) and (b).

18. In Annex IV, Part B, point 24, the text in the left-hand column is replaced by the following:

‘Plants of *Begonia* L., intended for planting other than seeds, tubers and corms, and plants of *Euphorbia pulcherrima* Willd., intended for planting, other than seeds, other than those for which there shall be evidence by their packaging or their flower (or bract) development or by other means that they are intended for sale to final consumers not involved in professional plant production.’

19. In Annex V, Part A(I), point 1.1, the word ‘*Prunus* L.’ is replaced by ‘*Prunus* L., other than *Prunus laurocerasus* L. and *Prunus lusitanica* L.’.

20. In Annex V, Part A(I), point 2.1, the words ‘*Prunus laurocerasus* L., *Prunus lusitanica* L.’ are inserted between ‘*Populus* L.’ and ‘*Pseudotsuga* Carr.’.

21. In Annex V, Part A(II), point 2.1 is replaced by the following:

‘Plants of *Begonia* L., intended for planting other than seeds, tubers and corms, and plants of *Euphorbia pulcherrima* Willd., intended for planting, other than seeds’.

22. In Annex V, Part B(I), point 1, the words ‘or aquarium plants’ are deleted.

23. In Annex V, Part B(I), point 1, the words ‘*Allium ascalonicum* L.’ are inserted after ‘*Zea mais* L.’.

24. In Annex V, Part B(I), point 2 is replaced by the following:

‘2. Parts of plants, other than fruits and seeds, of

- *Castanea* Mill., *Dendranthema* (DC) Des. Moul., *Dianthus* L., *Pelargonium* l’Herit ex Ait, *Phoenix* spp., *Populus* L., *Quercus* L.,
- conifers (Coniferales),
- *Acer saccharum* Marsh., originating in North American countries,
- *Prunus* L., originating in non-European countries.’

25. In Annex V, Part B(I), point 5, second indent, the words ‘*Castanea* Mill.’ are deleted.

COMMISSION DIRECTIVE 98/2/EC
of 8 January 1998
amending Annex IV to Council Directive 77/93/EEC on protective measures
against the introduction into the Community of organisms harmful to plants or
plant products and against their spread within the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 97/14/EC⁽²⁾, and in particular Article 13, second subparagraph, fourth indent thereof,

Whereas some provisions for protective measures aimed at protection against the introduction, on citrus fruit, of *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus), which are not present in the Community or in certain Citrus growing zones thereof, should be modified, to have a better protection for the Community against these harmful organisms which are already listed in Council Directive 77/93/EEC;

Whereas therefore the relevant Annex to Directive 77/93/EEC should be amended accordingly;

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/93/EEC is hereby amended as indicated in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 May 1998. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this directive or shall be accompanied by such reference on the occasion of their official publication. The procedure for such a reference shall be adopted by the Member States.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 8 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ L 87, 2. 4. 1997, p. 17.

ANNEX

In Annex IV, part A, section I, the points 16.1, 16.2 and 16.3 are replaced by the following:

<p>16.1 Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., and their hybrids, originating in third countries</p>	<p>The fruits shall be free from peduncles and leaves and the packaging shall bear an appropriate origin mark.</p>
<p>16.2 Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., and their hybrids, originating in third countries</p>	<p>Without prejudice to the provisions applicable to the fruits in Annex IV(A)(I)(16.1), (16.3), (16.3a) and (16.4), official statement that:</p> <p>(a) the fruits originate in a country recognised as being free from <i>Xanthomonas campestris</i> (all strains pathogenic to Citrus), in accordance with the procedure laid down in Article 16a, or</p> <p>(b) the fruits originate in an area recognised as being free from <i>Xanthomonas campestris</i> (all strains pathogenic to Citrus) in accordance with the procedure laid down in Article 16a, and mentioned on the certificates referred to in Articles 7 or 8 of this Directive, or</p> <p>(c) either,</p> <ul style="list-style-type: none"> — in accordance with an official control and examination regime, no symptoms of <i>Xanthomonas campestris</i> (all strains pathogenic to Citrus) have been observed in the field of production and in its immediate vicinity since the beginning of the last cycle of vegetation, and none of the fruits harvested in the field of production has shown symptoms of <i>Xanthomonas campestris</i> (all strains pathogenic to Citrus), and the fruits have been subjected to treatment such as sodium orthophenylphenate, mentioned on the certificates referred to in Articles 7 or 8 of this Directive, and the fruits have been packed at premises or dispatching centres registered for this purpose, or, — any certification system, recognised as equivalent to the above provisions in accordance with the procedure laid down in Article 16a, has been complied with.
<p>16.3 Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., and their hybrids, originating in third countries</p>	<p>Without prejudice to the provisions applicable to the fruits in Annex IV(A)(I)(16.1), (16.2), (16.3a) and (16.4), official statement that:</p> <p>(a) the fruits originate in a country recognised as being free from <i>Cercospora angolensis</i> Carv. & Mendes, in accordance with the procedure laid down in Article 16a, or</p>

<p>16.3 (a) Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., and their hybrids, other than fruits of <i>Citrus aurantium</i> L., originating in third countries</p>	<p>(b) the fruits originate in an area recognised as being free from <i>Cercospora angolensis</i> Carv. & Mendes, in accordance with the procedure laid down in Article 16a, and mentioned on the certificates referred to in Articles 7 or 8 of this Directive, or</p> <p>(c) no symptoms of <i>Cercospora angolensis</i> Carv. & Mendes have been observed in the field of production and in its immediate vicinity since the beginning of the last cycle of vegetation, and none of the fruits harvested in the field of production has shown, in appropriate official examination, symptoms of this organism.</p> <p>Without prejudice to the provisions applicable to the fruits in Annex IV(A)(I)(16.1), (16.2), (16.3) and (16.4), official statement that:</p> <p>(a) the fruits originate in a country recognised as being free from <i>Guignardia citricarpa</i> Kiely (all strains pathogenic to Citrus), in accordance with the procedure laid down in Article 16a, or</p> <p>(b) the fruits originate in an area recognised as being free from <i>Guignardia citricarpa</i> Kiely (all strains pathogenic to Citrus), in accordance with the procedure laid down in Article 16a, and mentioned on the certificates referred to in Articles 7 or 8 of this Directive, or</p> <p>(c) no symptoms of <i>Guignardia citricarpa</i> Kiely (all strains pathogenic to Citrus) have been observed in the field of production and in its immediate vicinity since the beginning of the last cycle of vegetation, and none of the fruits harvested in the field of production has shown, in appropriate official examination, symptoms of this organism, or</p> <p>(d) the fruits originate in a field of production subjected to appropriate treatments against <i>Guignardia citricarpa</i> Kiely (all strains pathogenic to Citrus), and none of the fruits harvested in the field of production has shown, in appropriate official examination, symptoms of this organism.'</p>
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II

(Acts whose publication is not obligatory)

COUNCIL

DECISION No 2/97 OF THE ASSOCIATION COUNCIL

between the European Communities and their Member States, of the one part,
and the Republic of Bulgaria, of the other part

of 7 October 1997

adopting the implementing rules for the application of the competition provisions referred to in Article 64(1)(i), (1)(ii) and (2) of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria of the other part, and in Article 9(1)(i), (1)(ii) and (2) of Protocol 2 on ECSC products to that Agreement

(98/82/EC, ECSC)

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, and in particular Article 64(3) thereof,

Having regard to Protocol 2 on ECSC products to that Europe Agreement, and in particular Article 9(3) thereof,

Whereas Article 64(3) of the Europe Agreement lays down that the Association Council shall, within three years of the entry into force of the Agreement, adopt by decision the necessary rules for the implementation of paragraphs 1 and 2 of that Article;

Whereas Article 9(3) of Protocol 2 to the Europe Agreement lays down that the Association Council shall, within three years of the entry into force of the Agreement, adopt by decision the necessary rules for the implementation of paragraphs 1 and 2 of that Article,

HAS DECIDED AS FOLLOWS:

Sole Article

The implementing rules for the application of the competition provisions referred to in Article 64 (1)(i), (1)(ii) and (2) of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, and in Article 9(1)(i), (1)(ii) and (2) of Protocol 2 on ECSC products to that Agreement, as set out in the Annex to this Decision, are hereby adopted.

Done at Brussels, 7 October 1997.

For the Association Council

The President

J. POOS

ANNEX

Implementing rules for the application of the competition provisions referred to in Article 64(1)(i), (1)(ii) and (2) of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, and in Article 9(1)(i), (1)(ii) and (2) of Protocol 2 on ECSC products to that Agreement

*Article 1***General principle**

Cases relating to agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition as well as to abuses of a dominant position in the territories of the Community or of Bulgaria as a whole or in a substantial part thereof, which may affect trade between the Community and Bulgaria, shall be settled according to the principles contained in Article 64(1) and (2) of the Europe Agreement.

For this purpose, these cases are dealt with by the Commission (DG IV) on the Community side and the Committee for the Protection of Competition (CPC) on the Bulgarian side.

The competences of the Commission and the CPC to deal with these cases shall flow from the existing rules of the respective legislation of the Community and Bulgaria, including where these rules are applied to undertakings located outside the respective territory.

Both authorities shall settle the cases in accordance with their own substantive rules, and having regard to the provisions set out below. The relevant substantive rules of the authorities are the competition rules of the Treaty establishing the European Community as well as the Treaty establishing the European Coal and Steel Community, including the competition-related secondary legislation, for the Commission, and the Bulgarian Act on the Protection of Economic Competition for the CPC.

ECONOMIC ACTIVITIES PURSUANT TO THE EC TREATY*Article 2***Competence of both competition authorities**

Cases pursuant to Article 64 of the Europe Agreement which may affect both the Community and the Bulgarian market and which may fall under the competence of both competition authorities shall be dealt with by the Commission and the CPC, according to the rules within the meaning of this Article.

2.1. Notification

2.1.1. The competition authorities shall notify to each other those cases they are dealing with, which, according to the general principle laid down in Article 1, appear also to fall under the competence of the other authority.

2.1.2. This situation may arise in particular in cases concerning activities that:

- involve anticompetitive activities carried out in the other authority's territory,
- are relevant to enforcement activities of the other competition authority,
- involve remedies that would require or prohibit conduct in the other authority's territory.

2.1.3. Notification pursuant to this Article shall include sufficient information to permit an initial evaluation by the recipient party of any effects on its interests. Copies of the notifications shall be submitted on a regular basis to the Association Council pursuant to the Europe Agreement.

2.1.4. Notification shall be made in advance, as soon as possible and at the latest at the stage of an investigation still far enough in advance of the adoption of a settlement or decision, so as to facilitate comments or consultations and to enable the proceeding authority to take into account the other authority's views, as well as to take such remedial action it may find feasible under its own laws, in order to deal with the case in question.

2.2. Consultation and comity

Whenever the Commission or the CPC consider that anti-competitive activities carried out on the territory of the other authority are substantially affecting important interests of the respective Party, it may request consultation with the other authority, or it may request that the other Party's competition authority initiate any appropriate procedures with a view to taking remedial action under its legislation on anticompetitive activities. This is without prejudice to any action under the requesting Party's competition law and does not hamper the full freedom of ultimate decision of the authority so addressed.

2.3. Finding of an understanding

The competition authority so addressed shall give full and sympathetic consideration to such views and factual materials as may be provided by the requesting authority and, in particular, to the nature of the anticompetitive activities in question, the enterprises involved and the alleged harmful effects on the important interests of the requesting Party.

Without prejudice to any of their rights or obligations, the competition authorities involved in consultations within the meaning of this Article shall endeavour to find a mutually acceptable solution in the light of the respective important interests involved.

*Article 3***Competence of one competition authority only**

- 3.1. Cases falling under the exclusive competence of one competition authority, in accordance with the principle laid down in Article 1, and which may affect important interests of the other Party, shall be handled having regard to the provisions set out in Article 2, and taking account of the principles set out below.
- 3.2. In particular, whenever one of the competition authorities undertakes an investigation or proceeding in a case which is found to affect important interests of the other Party, the proceeding authority shall notify this case to the other authority, without formal request by the latter.

*Article 4***Request for information**

Whenever the competition authority of a Party becomes aware of the fact that a case, falling also or only under the competence of the other authority, appears to affect important interests of the first Party, it may request information about this case from the proceeding authority.

The proceeding authority shall give sufficient information to the extent possible and at a stage of its proceedings far enough in advance of the adoption of a decision or settlement to enable the requesting authority's views to be taken into account.

*Article 5***Secrecy and confidentiality of information**

- 5.1. Having regard to Article 64(7) of the Europe Agreement, neither competition authority is required to provide information to the other authority if disclosure of that information to the requesting authority is prohibited by the law of the authority possessing the information, or would be incompatible with important interests of the Party whose authority is in possession of the information.
- 5.2. Each authority agrees to maintain, to the fullest extent possible, the confidentiality of any information provided to it in confidence by the other authority.

*Article 6***Block exemptions**

In the application of Article 64 of the Europe Agreement as provided for in Articles 2 and 3 of these implementing rules, the competition authorities shall ensure that the principles contained in the block exemption regulations in force in the Community are applied in full. The CPC shall be informed of any procedure related to the adoption, abolition or modification of block exemptions by the Community.

Where such block exemption regulations encounter serious objections on the Bulgarian side, and having regard to the approximation of legislation as provided for in the Europe Agreement, consultations shall take place in the Association Council,

in accordance with the provisions contained in Article 9 of these implementing rules.

The same principles shall apply regarding other significant changes in the Community or Bulgarian competition policies.

*Article 7***Merger control**

With regard to mergers which fall within Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings⁽¹⁾ and have significant impact on the Bulgarian economy, the CPC shall be entitled to express its view in the course of the procedure taking into account the time limits as provided for in the abovementioned Regulation. The Commission shall give due consideration to that view.

*Article 8***Activities of minor importance**

- 8.1. Anticompetitive activities whose effects on trade between the Parties or on competition are negligible do not fall within Article 64(1) of the Europe Agreement and therefore are not to be treated within Articles 2 to 6 of these implementing rules.
- 8.2. Negligible effects within the meaning of paragraph 8(1) are generally presumed to exist when:
- the aggregate annual turnover of the participating undertakings does not exceed ECU 200 million, and
 - the goods or services which are the subject of the Agreement together with the participating undertakings' other goods or services which are considered by users to be equivalent in view of their characteristics, price and intended use, do not represent more than 5 % of the total market for such goods or services in the area of the common market affected by the Agreement and the Bulgarian market affected by the Agreement, respectively.

*Article 9***Association Council**

- 9.1. Whenever the procedures provided for in Articles 2 and 3 do not lead to a mutually acceptable solution, as well as in other cases explicitly mentioned in these implementing rules, an exchange of views shall take place in the Association Council at the request of one Party within three months following the request.
- 9.2. Following this exchange of views, or after expiry of the period referred to in paragraph 9.1, the Association Council may take appropriate recommendations for the settlement of these cases, without prejudice to Article 64(6) of the Europe Agreement in these recommendations, the Association Council may take into account any failure of the requested authority to give its point of view to the requesting authority within the period referred to in paragraph 9.1.

⁽¹⁾ OJ L 395, 30. 12. 1989, p. 1. Regulation as last amended by Regulation (EEC) No 2367/90 (OJ L 219, 14. 8. 1990, p. 5).

- 9.3. These procedures in the Association Council are without prejudice to any action under the respective competition laws in force in the territory of the Parties.

Article 10

Negative conflict of competence

When both the Commission and the CPC consider that neither of them is competent to handle a case on the basis of their respective legislation, an exchange of views shall take place on request in the Association Council. The Community and Bulgaria shall endeavour to find a mutually acceptable solution in the light of the respective important interests involved with the support of the Association Council, which may make appropriate recommendations, without prejudice to Article 64(6) of the Europe Agreement, and the rights of individual Member States of the European Communities on the basis of their competition rules.

ECONOMIC ACTIVITIES PURSUANT TO THE ECSC TREATY

Article 11

Treaty establishing the European Coal and Steel Community (ECSC)

The provisions contained in Articles 1 to 6 and 8 to 10 shall also apply with respect to the coal and steel sector as referred to in Protocol 2 to the Europe Agreement.

Article 12

Administrative assistance (languages)

The Commission and the CPC shall provide for practical arrangements for mutual assistance or any other appropriate solution concerning in particular the question of translations.

COMMISSION

COMMISSION DECISION

of 8 January 1998

recognising certain third countries and certain areas of third countries as being free of *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus)

(98/83/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 97/14/EC⁽²⁾, and in particular Annex IV, Part A, Section I, points 16.2, 16.3 and 16.3(a) thereof,

Whereas Annex IV, Part A, Section I, points 16.2, 16.3 and 16.3(a) contain a reference to fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., and their hybrids, originating in third countries where *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes or *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) are known to occur;

Whereas these provisions should be reinforced; whereas one way of doing so is to determine the third countries which are recognised as being free of *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) and to determine the areas free of those harmful organisms in the third countries where they are known to occur;

Considering the information provided by the European and Mediterranean Plant Protection Organisation and the 'Centre for Agriculture and Bioscience International';

Whereas this Decision is without prejudice to any subsequent discovery that one or more of the respective harmful organisms occur in the third countries or areas of third countries concerned;

Whereas the Commission will ensure that the third countries concerned provide all the technical information necessary for monitoring the situation;

Whereas the measure provided for in this Decision is in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

It is hereby declared that the following third countries are recognized as being free of all strains of *Xanthomonas campestris* pathogenic to Citrus:

- all citrus-growing countries in the Euro-Mediterranean region, including Europe, Algeria, Cyprus, Egypt, Israel, Libya, Malta, Morocco, Tunisia and Turkey,
- in Africa: South Africa, Gambia, Ghana, Guinea, Kenya, Sudan, Swaziland and Zimbabwe,
- in Central and South America and the Caribbean: the Bahamas, Belize, Chile, Colombia, Costa Rica, Cuba, Ecuador, Honduras, Jamaica, Mexico, Nicaragua, Peru, the Dominican Republic, Saint Lucia, El Salvador, Surinam and Venezuela.

Article 2

It is hereby declared that the following areas are recognized as being free of all strains of *Xanthomonas campestris* pathogenic to Citrus:

- in Argentina: Catamarca, Jujuy, Salta and Tucumán,
- in Australia: New South Wales, Queensland, South Australia and Victoria,
- in Brazil: São Paulo, with the exception of Presidente Prudente,

⁽¹⁾ OJ L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ L 87, 2. 4. 1997, p. 17.

- in the United States: Arizona, California, Florida (with the exception of Dade County and Manatee County), Guam, Hawaii, Louisiana, Northern Mariana Islands, Puerto Rico, American Samoa, Texas and the United States Virgin Islands,
- all areas of Uruguay, with the exception of the Departments Salto, Rivera and Paysandu — north of River Chapicuy.

Article 3

It is hereby declared that the following third countries are recognized as being free of *Cercospora angolensis* Carv. et Mendes:

- all citrus-growing third countries in North, Central and South America, the Caribbean, Asia (with the exception of Yemen), Europe and Oceania,
- all citrus-growing third countries in Africa, with the exception of Angola, Cameroon, Central African Republic, Democratic Republic of Congo, Gabon, Guinea, Kenya, Mozambique, Nigeria, Uganda, Zambia and Zimbabwe.

Article 4

It is hereby declared that the following third countries are recognized as being free of all strains of *Guignardia citricarpa* Kiely pathogenic to Citrus:

- all citrus-growing third countries in North, Central and South America, the Caribbean and Europe,

- all citrus-growing third countries in Asia, with the exception of Bhutan, China, Indonesia, Philippines and Taiwan,
- all citrus-growing third countries in Africa, with the exception of South Africa, Kenya, Mozambique, Zambia and Zimbabwe,
- all citrus-growing third countries in Oceania, with the exception of Australia, New Zealand and Vanuatu.

Article 5

It is hereby declared that the following areas are recognized as being free of all strains of *Guignardia citricarpa* Kiely pathogenic to Citrus:

- in South Africa: Western Cape,
- in Australia: South Australia, Western Australia and Northern Territory,
- in China: all areas with the exception of Sichuan, Yunnan, Guangdong, Fujian and Zhejiang.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 8 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 16 January 1998

on protective measures with regard to fishery products from, or originating in Uganda, Kenya, Tanzania and Mozambique and repealing Decision 97/878/EC

(Text with EEA relevance)

(98/84/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽¹⁾, as last amended by Directive 96/43/EC⁽²⁾, and in particular Article 19(6) thereof,

This Decision shall apply to fresh, frozen and processed fishery products from, or originating in Uganda, Kenya, Tanzania and Mozambique.

It shall not apply to fishery products which are caught, frozen and packed in their final packaging at sea and exported directly to Community territory.

Whereas, following the outbreak of cholera in a number of African countries, the Commission, in accordance with Article 19(1) of Directive 90/675/EEC, adopted on its own initiative the decisions necessary to protect public health;

Article 2

The Member States shall prohibit the entry into their territory of fresh fishery products from, or originating in Uganda, Kenya, Tanzania and Mozambique.

Whereas the provisions concerned subject consignments of frozen or processed fishery products from, or originating in Uganda, Kenya, Tanzania and Mozambique to sampling to ensure that they are healthy;

Article 3

The Member States shall, on the basis of sampling plans and using suitable detection methods, subject all consignments of frozen or processed fishery products from or originating in Uganda, Kenya, Tanzania and Mozambique, with the exception of sterilised products, to a microbiological examination to verify that they present no threat to public health. The examination shall be carried out, in particular, to detect the presence of salmonellae and, in the case of frozen products, *Vibrio cholerae* and *Vibrio parabaemolyticus* (in the case of sea products).

Whereas such checks must be capable of detecting, in particular, the presence of salmonellae and vibrios (*Vibrio cholerae* and *Vibrio parabaemolyticus*);

Whereas, because of time required to carry out microbiological analyses, the import into Community territory of fresh fishery products from, or originating in the countries concerned should be prohibited;

Article 4

Member States shall only allow the entry into their territory and the consignment to another Member State of the fishery products in question where the results of the examinations are favourable.

Whereas a derogation should be provided for fishery products which are caught, frozen and packed in their final packaging at sea and landed directly on Community territory;

Whereas the provisions of this Decision should be reviewed shortly in the light of the development of the epidemic;

Article 5

Where checks carried out on import by the authorities of a Member State confirm the presence of pathogenic agents covered by this Decision, they shall immediately inform the Commission and the other Member States, without prejudice to the measures to be taken with regard to the contaminated consignment.

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

⁽¹⁾ OJ L 373, 31. 12. 1990, p. 1.

⁽²⁾ OJ L 162, 1. 7. 1996, p. 1.

Article 6

All costs incurred in applying this Decision shall be chargeable to the consignor, the consignee or their agents.

Article 7

Commission Decision 97/878/EC⁽¹⁾ is hereby repealed.

Article 8

The Member States shall adjust the measures they apply to trade to comply with this Decision. They shall immediately inform the Commission of the adjustments made.

Article 9

This Decision shall be reviewed before 31 January 1998.

Article 10

This Decision is addressed to the Member States.

Done at Brussels, 16 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 356, 31. 12. 1997, p. 64.

COMMISSION DECISION

of 16 January 1998

concerning certain protective measures with regard to live birds coming from,
or originating in Hong Kong and China

(Text with EEA relevance)

(98/85/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, as last amended by Directive 96/43/EC ⁽²⁾, and in particular Article 18(7) thereof,

Whereas epidemiological findings in Hong Kong have shown a likely connection, with regard to the infection with the influenza A H₅N₁ virus, between poultry and men;

Whereas the geographical origin of the virus seems to be uncertain as well as the way of its transmission from live birds to the human population or its spreading among the human population;

Whereas it is necessary to take the necessary precautions for preventing the introduction of the influenza A H₅N₁ virus into the Community through live birds;

Whereas imports of live poultry from Hong Kong and China are not allowed by Community legislation;

Whereas other birds can be imported pursuant to the conditions laid down in Article 7(A) of Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC ⁽³⁾, as last amended by Commission Decision 95/176/EC ⁽⁴⁾;

Whereas these measures are considered not to be sufficient to prevent influenza A viruses via trade in birds entering quarantine stations situated on the territory of the Community;

Whereas therefore birds other than those referred to in Council Directive 90/539/EEC on animal health conditions governing intra-Community trade in and imports from third countries of poultry and hatching eggs ⁽⁵⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, originating in or coming from Hong Kong and China must not be introduced into the Community;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The introduction into the territory of the Community of live birds other than those referred to in Directive 90/539/EEC, coming from or originating in Hong Kong and China is suspended.

Article 2

This Decision will be reviewed before 31 March 1998.

Article 3

Member States shall alter the measures they apply to trade in order to bring them into line with this Decision. They shall immediately inform the Commission thereof.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 16 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 268, 24. 9. 1991, p. 56.

⁽²⁾ OJ L 162, 1. 7. 1996, p. 1.

⁽³⁾ OJ L 268, 14. 9. 1992, p. 54.

⁽⁴⁾ OJ L 117, 24. 5. 1995, p. 23.

⁽⁵⁾ OJ L 303, 31. 10. 1990, p. 6.

CORRIGENDA

Corrigendum to the technical requirements of Regulation No 48 of the United Nations' Economic Commission for Europe referred to in Article 3 and in Annex II, item 2.1 of Commission Directive 97/30/EC adapting to technical progress Council Directive 76/758/EEC relating to the installation of lighting and light-signalling devices on motor vehicles and their trailers

(Official Journal of the European Communities L 203 of 30 July 1997)

On page 11, the following paragraph 6.2.6.2.3. shall be inserted between paragraphs 6.2.6.2.2. and 6.2.6.3.:

'6.2.6.2.3. In the event of a failure of devices described in paragraphs 6.2.6.2.1. and 6.2.6.2.2., the dipped beam shall not assume a position in which the dip is less than it was at the time when the failure of the device occurred.'

On page 12, paragraph 6.2.6.3.2. shall be replaced by the following text:

'6.2.6.3.2. The measurement of the variation of dipped-beam inclination as a function of load must be carried out in accordance with the test procedure set out in Annex 6.'

Corrigendum to the technical requirements of Regulation No 3 of the United Nations' Economic Commission for Europe referred to in Article 3 and in Annex II, item 2.1 of Commission Directive 97/29/EC adapting to technical progress Council Directive 76/757/EEC relating to retro-reflectors for motor vehicles and their trailers

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On page 51 in the column heading of the table in Annex 12, second column:

for: 'Number of paragraph of the Regulation',

read: 'Paragraph No';

in the first line of the table:

for: '6.',

read: '6(*)';

and the following footnote shall be added at the bottom of the page:

'(*) of the Regulation.'

On page 52 in the column heading of the table in Annex 12, second column:

for: 'Number of paragraph of the Regulation',

read: 'Paragraph No'.

On page 54 in the column heading of the table in Annex 15, second column:

for: 'Number of paragraph of the Regulation',

read: 'Paragraph No';

in the first line of the table:

for: '6.',

read: '6(*)';

and the following footnote shall be added at the bottom of the page:

'(*) of the Regulation.'

Corrigendum to the technical requirements of Regulation No 7 of the United Nations' Economic Commission for Europe referred to in Article 3 and in Annex II, item 2.1 of Commission Directive 97/30/EC adapting to technical progress Council Directive 76/758/EEC relating to the end-outline marker lamps, front position (side) lamps, rear position (side) lamps, stop lamps, daytime running lamps and side marker lamps for motor vehicles and their trailers

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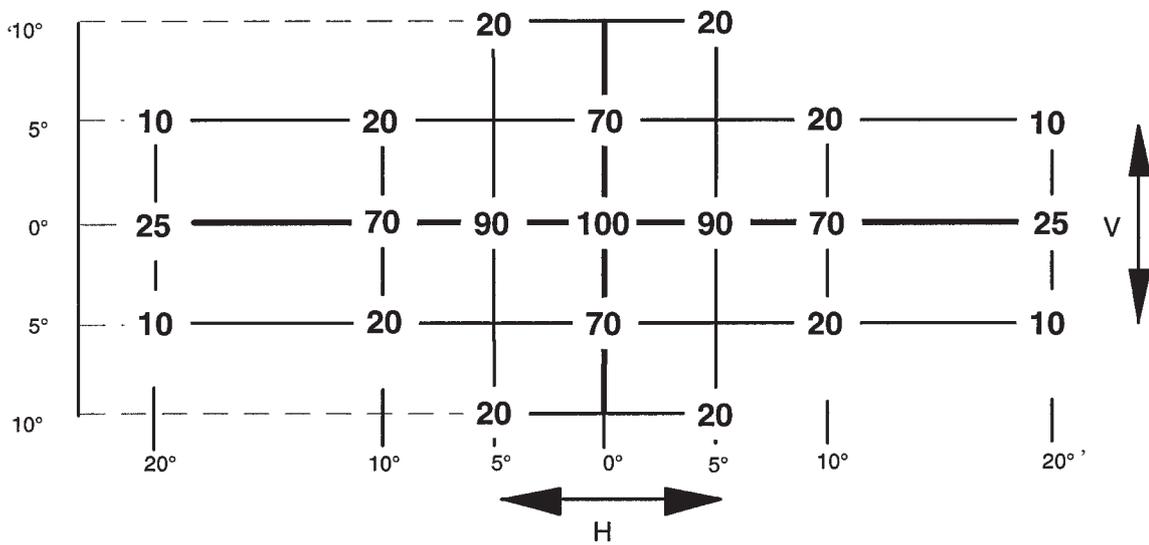
On page 56, in the table against paragraph 6.1.4.1:

for: '40 | 100 (?) | 70 (?) | 140 (?)',
 read: '60 | 185 (?) | 130 (?) | 260 (?)'.

Corrigendum to the technical requirements of Regulation No 87 of the United Nations' Economic Commission for Europe referred to in Article 3 and in Annex III, item 2.1 of Commission Directive 97/30/EC adapting to technical progress Council Directive 76/758/EEC relating to the end-outline marker lamps, front position (side) lamps, rear position (side) lamps, stop lamps, daytime running lamps and side marker lamps for motor vehicles and their trailers

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The table on page 65, Annex 3, paragraph 3, shall be replaced by the following table:



Corrigendum to the technical requirements of Regulation No 91 of the United Nations' Economic Commission for Europe referred to in Article 3 and in Annex IV, item 2 of Commission Directive 97/30/EC adapting to technical progress Council Directive 76/758/EEC relating to the end-outline marker lamps, front position (side) lamps, rear position (side) lamps, stop lamps, daytime running lamps and side marker lamps for motor vehicles and their trailers

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On page 71, in Annex 4, paragraph 1.1.:

for: '... by appropriate marking.'

read: '... by appropriate masking.'

Corrigendum to the technical requirements of Regulation No 4 of the United Nations' Economic Commission for Europe referred to in Article 3 and in Annex II, item 2.1 of Commission Directive 97/31/EC adapting to technical progress Council Directive 76/760/EEC relating to the rear registration plate lamps for motor vehicles and their trailers

(Official Journal of the European Communities L 203 of 30 July 1997)

On page 74, in paragraph 5.1., first line:

for: '... specifications of paragraph 9.'

read: '... specifications referred to in paragraph 9 below (?).';

and the following footnote shall be added at the bottom of the page:

(?) These specifications are such as to ensure good visibility if the angle of inclination of the registration plate does not exceed 30° on either side of the vertical.'

On page 76, in Annex 3, second line of the note:

for: '... indicated by the maker of manufacturer.'

read: '... indicated by the maker or manufacturer.'