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## Legislation

### Contents

#### I Acts whose publication is obligatory

- Commission Regulation (EC) No 801/98 of 16 April 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables ..... 1
- \* Commission Regulation (EC) No 802/98 of 16 April 1998 initiating a 'new exporter' review of Council Regulation (EC) No 1950/97 imposing a definitive anti-dumping duty on imports of sacks and bags made of polyethylene or polypropylene originating, *inter alia*, in India, repealing the duty with regard to imports from four exporters in this country and making these imports subject to registration ..... 3
- \* Commission Regulation (EC) No 803/98 of 16 April 1998 laying down detailed rules for 1998 for the application of Council Regulation (EC) No 2275/96 introducing specific measures for live plants and floricultural products ..... 5
- Commission Regulation (EC) No 804/98 of 16 April 1998 temporarily suspending the issuing of export licences for certain milk products and determining what proportion of the amounts covered by pending applications for export licences may be allocated ..... 14
- Commission Regulation (EC) No 805/98 of 16 April 1998 fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex II to the Treaty ..... 16
- Commission Regulation (EC) No 806/98 of 16 April 1998 amending the import duties in the cereals sector ..... 20
- Commission Regulation (EC) No 807/98 of 16 April 1998 concerning tenders notified in response to the invitation to tender for the export of barley issued in Regulation (EC) No 1337/97 ..... 23



Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

Commission Regulation (EC) No 808/98 of 16 April 1998 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1339/97 .....	24
Commission Regulation (EC) No 809/98 of 16 April 1998 fixing the maximum export refund on oats in connection with the invitation to tender issued in Regulation (EC) No 1773/97 .....	25
Commission Regulation (EC) No 810/98 of 16 April 1998 fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2506/97 .....	26
Commission Regulation (EC) No 811/98 of 16 April 1998 fixing the export refunds on products processed from cereals and rice .....	27
Commission Regulation (EC) No 812/98 of 16 April 1998 fixing the export refunds on cereal-based compound feedingstuffs .....	29

---

II *Acts whose publication is not obligatory*

**Commission**

98/257/EC:

* <b>Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes <sup>(1)</sup></b> .....	31
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<sup>(1)</sup> Text with EEA relevance

## I

*(Acts whose publication is obligatory)*

**COMMISSION REGULATION (EC) No 801/98**  
**of 16 April 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<sup>(1)</sup>, as last amended by Regulation (EC) No 2375/96<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EC) No 150/95<sup>(4)</sup>, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 337, 24. 12. 1994, p. 66.

<sup>(2)</sup> OJ L 325, 14. 12. 1996, p. 5.

<sup>(3)</sup> OJ L 387, 31. 12. 1992, p. 1.

<sup>(4)</sup> OJ L 22, 31. 1. 1995, p. 1.

## ANNEX

to the Commission Regulation of 16 April 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	204	88,7
	212	108,7
	624	191,0
	999	129,5
0707 00 05	052	113,1
	999	113,1
0709 90 70	052	95,5
	999	95,5
0805 10 10, 0805 10 30, 0805 10 50	052	36,3
	204	35,1
	212	55,5
	400	57,1
	600	56,0
	624	48,2
	999	48,0
0805 30 10	388	59,5
	600	95,9
	999	77,7
0808 10 20, 0808 10 50, 0808 10 90	060	46,8
	388	88,4
	400	91,1
	404	110,8
	508	102,0
	512	81,9
	524	85,9
	528	80,6
	720	155,8
	804	108,8
	999	95,2
	0808 20 50	388
512		67,1
528		95,2
999		77,9

<sup>(1)</sup> 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 802/98**

of 16 April 1998

**initiating a 'new exporter' review of Council Regulation (EC) No 1950/97 imposing a definitive anti-dumping duty on imports of sacks and bags made of polyethylene or polypropylene originating, *inter alia*, in India, repealing the duty with regard to imports from four exporters in this country and making these imports subject to registration**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>, as amended by Regulation (EC) No 2331/96<sup>(2)</sup>, and in particular Article 11(4) thereof,

After consulting the Advisory Committee,

Whereas:

**A. REQUEST FOR A REVIEW**

(1) The Commission has received applications for a 'new exporter' review pursuant to Article 11(4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation'). The applications were lodged by Hyderabad Polymers Pvt. Ltd, Pithampur Poly Products Ltd, Sangam Cirkfab Pvt. Ltd, and Synthetic Fibres (Mysore) Pvt. Ltd, four exporters in India which claim they did not export the product concerned during the period of investigation on which the anti-dumping measures were based, i.e. the period 1 April 1994 to 31 March 1995 (hereinafter referred to as 'the original investigation period').

**B. PRODUCT**

(2) The product concerned is woven sacks and bags of a kind used for packaging of goods, not knitted or crocheted, obtained from a polyethylene or polypropylene strip or the like of woven fabrics weighing 120 gr/m<sup>2</sup> or less. The product described falls within CN codes 6305 32 81, 6305 33 91, ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90. These codes are given for information.

**C. EXISTING MEASURES**

(3) By Regulation (EC) No 1950/97<sup>(3)</sup> the Council imposed, *inter alia*, a definitive anti-dumping duty of 36,0 % on imports of the product concerned

originating in India, with the exception of several companies especially mentioned which are subject to a lesser duty.

**D. GROUNDS FOR THE REVIEW**

- (4) The applicants, Hyderabad Polymers Pvt. Ltd, Pithampur Poly Products Ltd, Sangam Cirkfab Pvt. Ltd, and Synthetic Fibres (Mysore) Pvt. Ltd, India, have shown that they are not related to any of the exporting producers in India which are subject to the afore-mentioned anti-dumping measures on the product concerned, and that they started exporting to the Community after the original investigation period.
- (5) Community producers known to be concerned have been informed of the above application and have been given an opportunity to comment.
- (6) In the light of the above, the Commission concludes that there is sufficient evidence to justify the initiation of a review pursuant to Article 11(4) of the Basic Regulation with a view to determining the applicants' individual margins of dumping and, should dumping be found, the level of duty to which their imports of the product concerned into the Community should be subject.

**E. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS**

- (7) Pursuant to Article 11(4) of the Basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned originating in India which are produced and sold for export to the Community by the applicants. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of that Regulation, in order to ensure that, should the review result in a determination of dumping in respect of the applicants, anti-dumping duties can be levied retroactively from the date of the initiation of this review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

<sup>(1)</sup> OJ L 56, 6. 3. 1996, p. 1.

<sup>(2)</sup> OJ L 317, 6. 12. 1996, p. 1.

<sup>(3)</sup> OJ L 276, 9. 10. 1997, p. 1.

**F. TIME LIMIT**

- (8) In the interest of sound administration, a period should be fixed within which interested parties, provided they can show that they are likely to be affected by the results of the investigation, may make their views known in writing and submit supporting evidence. A period should also be fixed within which interested parties may make a written request for a hearing and show that there are particular reasons why they should be heard.

**G. NON-COOPERATION**

- (9) It should be noted that in cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the relevant time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available,

HAS ADOPTED THIS REGULATION:

*Article 1*

A review of Regulation (EC) No 1950/97 is hereby initiated in order to determine if and to what extent imports of sacks and bags made of polyethylene or polypropylene falling within CN codes 6305 32 81, 6305 33 91, ex 3923 21 00 (3923 21 00\*10), ex 3923 29 10 (3923 29 10\*10) and ex 3923 29 90 (3923 29 90\*10), originating in India, produced and sold for export to the Community by Hyderabad Polymers Pvt. Ltd (TARIC additional code: 8106), Pithampur Poly Products Ltd (TARIC additional code: 8155), Sangam Cifab Pvt. Ltd (TARIC additional code: 8156) and Synthetic Fibres (Mysore) Pvt. Ltd, India (TARIC additional code: 8157), should be subject to the anti-dumping duty imposed by Regulation (EC) No 1950/97.

*Article 2*

The anti-dumping duty imposed by Regulation (EC) No 1950/97 is hereby repealed with regard to imports of the

product identified in Article 1 (TARIC additional code: 8900).

*Article 3*

The customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports identified in Article 1. Registration shall expire nine months following the date of entry into force of this Regulation.

*Article 4*

Interested parties, if their representations are to be taken into account during the investigation, must make themselves known, present their views in writing and submit information within 37 days from the date of transmission of this Regulation to the authorities of the exporting country. Interested parties may also apply to be heard by the Commission within the same time limit. The transmission of a copy of this Regulation to the authorities of the exporting country shall be deemed to have taken place on the third day following its publication in the *Official Journal of the European Communities*.

Any information relating to the matter and any request for a hearing should be sent to the following address:

European Commission,

Directorate-General for External Relations: Commercial Policy and Relations with North America, the Far East, Australia and New Zealand,

DM-24 8/38,

Rue de la Loi/Wetstraat 200,

B-1049 Brussels;

Fax: (322) 295 65 05,

Telex: COMEU B 21877.

*Article 5*

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

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

Done at Brussels, 16 April 1998.

*For the Commission*

Leon BRITTAN

*Vice-President*

**COMMISSION REGULATION (EC) No 803/98**  
**of 16 April 1998**

**laying down detailed rules for 1998 for the application of Council Regulation (EC) No 2275/96 introducing specific measures for live plants and floricultural products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2275/96 of 22 November 1996 introducing specific measures for live plants and floricultural products<sup>(1)</sup>, and in particular Article 5 thereof,

Whereas Regulation (EC) No 2275/96 provides for a Community financial contribution to measures to increase the consumption of Community live plants and floricultural products within the Community and abroad;

Whereas the principal measures eligible for a Community financial contribution should be defined;

Whereas such measures must form part of a coherent strategy and provide guarantees as to the achievement in the medium term of the planned objectives and as to the satisfaction of Community interests; whereas they must commit the main operators in the sector, be presented in a standard form and contain the information necessary for their assessment;

Whereas the procedure to be followed and the criteria to be applied for determining for 1998 the Member States in which the promotional measures are to be implemented and for allocating the overall amount available for the measures among them should be laid down;

Whereas the procedures for the submission of applications for assistance by the professional organisations and for the assessment and selection of the measures by the bodies authorized by the Member States should be laid down; whereas the procedures should allow the Commission to forward its observations to the Member States;

Whereas provision should be made for the possibility of a second round of financing;

Whereas the various provisions concerning fulfilment of the commitments made should be laid down in contracts concluded between the parties concerned and the competent national authorities on the basis of standard contracts supplied by the Commission;

Whereas, for 1997, the second allocation of funds was made on 13 October 1997; whereas, in view of this late date, the date for payment of the advance for the programmes in question should, exceptionally, be carried forward for the period concerned;

Whereas the constraints of budget management require a penalty to be applied where the deadline for presentation of payment applications is not complied with;

Whereas the Member States should check the implementation of the measures and the Commission should be kept informed of the results of the measures provided for in this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The measures to increase the consumption of live plants and floricultural products within the Community and abroad referred to in Article 1 of Regulation (EC) No 2275/96 shall be presented in the form of programmes.

2. 'Programme' means a coherent set of measures which are of sufficient scope to contribute to increasing the disposal of production and consumption, and, where appropriate, to that end, help target production and adapt it to market requirements.

3. Programmes shall be implemented over a period of one or more years from the signing of the annual contracts referred to in Article 7(2).

However, the duration of programmes shall not exceed three years from the signing of the contract entered into during the first year of application of this Regulation.

*Article 2*

1. Programmes may cover the following measures:

<sup>(1)</sup> OJ L 308, 29. 11. 1996, p. 7.

- (a) the organisation of generic promotional campaigns on radio and television, in the press and by means of posters;
- (b) the organisation of information at point of sale;
- (c) the organisation of and participation in fairs and other events;
- (d) the production of publications and audiovisual material;
- (e) the organisation of public relations campaigns for opinion-formers and the general public;
- (f) the preparation of teaching aids.

2. The programmes may be accompanied by the following additional measures:

- (a) market studies and consumer surveys;
- (b) the distribution to operators of the results of marketing research;
- (c) the development of new packaging and presentations.

3. Measures receiving other Community assistance or receiving other national or regional assistance shall not be eligible.

The use of funds raised from the compulsory charges on traders in live plants and floricultural products levied on products entirely obtained in the Member State concerned shall not be considered as national or regional assistance for the purposes of this Article.

However, for the years 1997, 1998 and 1999, measures receiving national or regional assistance not exceeding 20 % of the total budget may be eligible.

### Article 3

1. For 1998, the available Community financial contribution shall be distributed as follows:

Country	Allocation (ECU '000)	Allocation (%)
Netherlands	4 444,444	29,60
Germany	2 637,000	17,58
Italy	2 587,129	17,42
France	1 522,344	10,22
United Kingdom	867,907	6,22
Spain	693,694	4,62
Denmark	566,066	3,77
Belgium	503,497	3,36
Austria	250,500	1,67

Country	Allocation (ECU '000)	Allocation (%)
Sweden	195,205	1,33
Greece	185,277	1,25
Finland	133,234	0,89
Portugal	100,000	0,68
Ireland	100,000	0,68
Luxemburg	100,000	0,68
EUR 15	14 886,296	100,00

2. In the event that all or part of the amount allocated to a Member State for a given year is not used, that Member State may choose to allocate that amount to another selected project pending as a result of insufficient funding or to forego payment of the amount concerned. In that case, the available amount shall be redistributed pro rata among the Member States concerned by the Commission.

### Article 4

1. The programmes referred to in Article 1 shall be presented by representative groups of operators in one or more branches of activity in the live plant and floricultural products sector, such as producer organisations or their unions or traders' organisations or their associations.

2. A group submitting an application for assistance shall have sole responsibility for implementation of the measures for which financial assistance is granted. The group must have the legal capacity necessary to implement the measures and shall have its head office in the Community.

### Article 5

1. Applications for assistance shall be submitted to the competent body of the Member State in which the head office of the group is located by 15 May 1998.

In the event of a second round of financing, the Commission shall specify the closing date for submission of applications.

Applications shall contain all the information listed in the Annex and be accompanied by:

- (a) details of the situation with regard to the marketing and consumption of live plants and floricultural products in the regions concerned;
- (b) the anticipated results of the proposed measures and their capacity to achieve the general and specific objectives laid down in the programme.

2. The competent body shall verify the accuracy of the information given in applications and their compliance with Regulation (EC) No 2275/96 and this Regulation. Before 21 June 1998, the Member State concerned shall draw up, on the basis of the criteria referred to in Article 6, a provisional list of the measures selected to receive Community financial assistance within the limit of the amounts determined in accordance with Article 3. The financial assistance shall amount to 60 % of the actual eligible cost of the selected measures.

3. The Member State shall immediately forward the provisional list of selected measures with a copy of the relevant applications to the Commission. The Commission shall transmit to the Member States any observations it may have on the measures in question with a view to guaranteeing their legality and their coordination at Community level. From the 31st day following the date specified in paragraph 2, each Member State shall draw up a final list of selected measures and forward it to the Commission without delay.

#### Article 6

The list of selected measures shall be drawn up, in particular, on the basis of the coherence of the strategies presented, the merits of the proposed measures, the expected impact of their implementation, and the group's capacity to implement the measures and the guarantees presented as to the groups' efficiency and representative nature.

Member States shall give preference to measures to be implemented in the territories of several Member States.

#### Article 7

1. The competent bodies shall inform applicants as quickly as possible of the decision taken on their application for assistance.

2. Within one month following the drawing up of the list of selected measures pursuant to Article 5(3), the competent bodies shall conclude annual contracts with the applicants concerned. No contracts may be concluded after expiry of that time limit.

The competent bodies shall use standard contracts supplied by the Commission. Those contracts shall contain the general conditions which the contractor is considered to know and accept.

3. Contracts shall not take effect until contractors have lodged in favour of the competent body a security equal to 15 % of the Community financing in order to ensure correct implementation of the contract. If proof of lodging of the security does not reach the competent body within two weeks of conclusion of the contract, the contract shall no longer have legal effect.

The security shall be lodged in accordance with the conditions laid down in Title III of Commission Regulation (EEC) No 2220/85 (1).

The primary requirement within the meaning of Article 20 of that Regulation shall be the implementation, within the time limits laid down, of the measures referred to in the contract.

The security shall be released within the time limit and under the conditions laid down in Article 8 of this Regulation for payment of the balance.

4. The contracting competent body shall immediately send a copy of the contract to the Commission.

#### Article 8

1. After the contract has been signed, the contractor may submit to the competent body an application for an advance.

The advance may cover up to 30 % of the Community financing.

The competent body shall pay the advance not later than 15 October 1998.

However, if a second round of financing is decided after 1 September 1998, the advance may be paid at the latest within 30 days following signature of the contract. For 1997, within 30 days of the publication of this Regulation.

Payment of the advance shall be subject to the lodging in favour of the competent body of a security equal to 110 % of that advance in accordance with the conditions laid down in Title III of Regulation (EEC) No 2220/85.

2. Applications for payment shall be submitted before the end of the month following each quarter from the date of signature of the contract and shall be accompanied by supporting documents and an interim report on the implementation of the contract.

Except in cases of *force majeure*, where an application for payment with the relevant documentation is submitted late, the payment shall be reduced by 3 % for each month by which it is overdue.

However, the payments and the advance referred to in paragraph 1 may not in aggregate exceed 75 % of the total Community financial contribution.

3. Applications for payment of the balance shall be submitted before the end of the fourth month following completion of the measures covered by the contract. They shall be accompanied by:

- (a) appropriate supporting documents;
- (b) a summary of the work carried out;

(1) OJ L 205, 3. 8. 1985, p. 5.

- (c) an internal evaluation report on the results obtained, as ascertainable on the date of the report, and the use that can be made of them.

Except in cases of *force majeure*, where an application for payment of the balance with the relevant documentation is submitted late, the balance shall be reduced by 3 % for each month by which it is overdue.

4. Payment of the balance shall be subject to checking of the documents referred to in paragraph 3.

The balance shall be reduced in proportion to the failure to fulfil the primary requirement referred to in Article 7(3).

5. The security referred to in paragraph 1 shall be released provided that definitive entitlement to the amount advanced has been established when the balance is paid.

6. The competent body shall make the payments referred to in paragraphs 1 to 5 within three months of receipt of the application. It may, however, postpone the payments referred to in paragraphs 2 and 4 where additional checks are required.

7. The competent body shall forward the evaluation reports referred to in paragraph 3 to the Commission as soon as possible.

8. The overall amount for each Member State fixed for 1998 in accordance with Article 3 shall be converted into national currency at the agricultural conversion rate applicable on 15 April 1998.

#### Article 9

1. The competent bodies shall take the steps necessary to verify, in particular by means of technical, administrative and accounting checks on the contractor, any partners and subcontractors:

- (a) the accuracy of the information and supporting documents supplied;
- (b) fulfilment of all the obligations laid down in the contract.

They shall immediately inform the Commission of the results of their checks.

2. For the purposes of paragraph 1, where the contractor implements measures in a Member State other than that in which the contracting competent body is established, the competent body of the Member State concerned shall afford the latter all necessary assistance.

3. The competent body of the Member State concerned shall determine the most appropriate way of carrying out checks on measures implemented in third countries and shall notify the Commission thereof.

4. The Commission may at any time take part in the verifications and checks referred to in paragraphs 1, 2 and 3.

It may also carry out any additional checks it considers necessary.

#### Article 10

During the final year of a programme, an external evaluation of the planned and approved measures shall be carried out by an independent body selected by the Member State with the approval of the Commission.

The external evaluation shall comprise an evaluation of the results obtained in relation to the objectives laid down for the planned and approved measures and a cost/benefit analysis of each measure and the whole programme on the basis of performance indicators (output and input).

The evaluation shall be sent to the Commission immediately.

The competent body shall pay for the evaluation, which shall be financed on the same conditions as the promotional measures.

#### Article 11

1. Where undue payments are made, the beneficiary shall repay the amounts concerned plus interest calculated on the basis of the time elapsing between payment and repayment by the beneficiary.

The interest rate to be used shall be that applied by the European Monetary Institute to its operations in ecus applicable on the date of the undue payment, published in the 'C' series of the *Official Journal of the European Communities*, increased by three percentage points.

2. Amounts recovered and the relevant interest shall be paid to the paying agencies and departments and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund in proportion to the Community financial contribution.

#### Article 12

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

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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5.2. *Partners* (one form for each)

Name or company name:	
Legal status:	Type: ( <sup>1</sup> )
	OP <input type="checkbox"/> IT <input type="checkbox"/> D <input type="checkbox"/> AS <input type="checkbox"/> C <input type="checkbox"/> O <input type="checkbox"/>
Main activity:	
Role in the group:	
— Partner	<input type="checkbox"/>
— Prime contractor	<input type="checkbox"/>
Responsibility and contribution to implementation of the programme:	
Experience and references (field of activity):	
Contribution to financing of programme (in national currency):	
— First year	
— Second year	
— Third year	
Total:	
Right to use the results:	

(<sup>1</sup>) OP = Producers' organization.  
IT = Processing firm.  
AS = Association.

C = Trader.  
D = Retailer.  
O = Other.

**6. Financing of the programme**6.1. Total cost of programme <sup>(1)</sup> <sup>(2)</sup>: ..... (ecu)

6.2. Community contribution requested: ..... (ecu)

(a) year 1: ..... (ecu)

(b) year 2: ..... (ecu)

(c) year 3: ..... (ecu)

6.3. Contribution of the group: ..... (ecu)

of which:

— own funds: .....

— loans: .....

— payments in kind: .....

— other contributions: .....

**7. General information:**Subcontractors: Yes  No 

If yes, specify which: .....

.....

Specify task(s): .....

.....

.....

Type of commitment: Contract <sup>(3)</sup>  Other <sup>(3)</sup> 

If other, specify which: .....

.....

**8. Declaration**

The undersigned declare(s):

(a) that he/they have the necessary funds to ensure full financing of the programme;

(b) that he/they are not receiving any other Community financial assistance or any other national or regional grant or subsidy equal to more than 20 % of the total budget.

.....

(Date)

(Signature) <sup>(4)</sup><sup>(1)</sup> Exclusive of VAT.<sup>(2)</sup> For the duration of implementation of the programme.<sup>(3)</sup> Attach copy.<sup>(4)</sup> Of the person authorized by the group or partners.

## II

## DESCRIPTION OF THE PROGRAMME

Programmes must contain at least the following:

1. A summary of the programme concerning the aspects referred to in points 3 to 6 (not more than two pages).
2. Reasons and objectives.
3. The proposed measures.
4. Strategy: targets, methods, the phases of implementation and the timetable.
5. Implementation of the measures: details of the technical, scientific, economic, financial, media, logistic aspects.
6. The anticipated results and advantages for the sector and the Community market.
7. The criteria for assessing progress and results on completion of the programme.
8. Outlook as regards use and dissemination of results.

## III

## BUDGET

The net budget for the measures, before tax, expressed in ecus, broken down and reasoned <sup>(1)</sup>, showing how the amount is to be allocated by category and by year.

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<sup>(1)</sup> On the basis of estimates, fees, etc. and, in the case of subcontracting, offers.

**COMMISSION REGULATION (EC) No 804/98  
of 16 April 1998**

**temporarily suspending the issuing of export licences for certain milk products  
and determining what proportion of the amounts covered by pending  
applications for export licences may be allocated**

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

Having regard to Council Regulation (EEC) No 804/68 of  
27 June 1968 on the common organisation of the market  
in milk and milk products <sup>(1)</sup>, as last amended by Regula-  
tion (EC) No 1587/96 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No  
1466/95 of 27 June 1995 laying down special detailed  
rules of application for export refunds on milk and milk  
products <sup>(3)</sup>, as last amended by Regulation (EC) No  
705/98 <sup>(4)</sup>, and in particular Article 8 (3) thereof,

Whereas the market in certain milk products is currently  
subject to uncertainty; whereas licence applications of a  
speculative nature should be avoided which may lead to  
distortions of competition between operators and poten-  
tially disrupt the continuity of exports of these products  
for the remainder of the period in question; whereas the  
issue of export licences for the products involved should  
be temporarily suspended, and licences for some of these  
products should not be issued in respect of applications  
pending;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The issue of export licences for milk products  
referred to in the Annex is hereby suspended for the  
period 17 to 1 May 1998, excluding licences for destina-  
tion '970'.
2. No licences shall be issued for milk products  
referred to in the Annex for which applications submitted  
on 15 April 1998 are still pending and against which  
licences would have been issued from 22 April 1998.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 148, 28. 6. 1968, p. 13.

<sup>(2)</sup> OJ L 206, 16. 8. 1996, p. 21.

<sup>(3)</sup> OJ L 144, 28. 6. 1995, p. 22.

<sup>(4)</sup> OJ L 98, 31. 3. 1998, p. 6.

## ANNEX

Product code	Product code	Product code	Product code
0401 10 10 9000	0402 21 99 9700	0402 99 39 9300	0404 90 23 9917
0401 10 90 9000	0402 21 99 9900	0402 99 39 9500	0404 90 23 9919
0401 20 11 9100	0402 29 15 9200	0402 99 91 9000	0404 90 23 9931
0401 20 11 9500	0402 29 15 9300	0402 99 99 9000	0404 90 23 9933
0401 20 19 9100	0402 29 15 9500	0403 10 11 9400	0404 90 23 9935
0401 20 19 9500	0402 29 15 9900	0403 10 11 9800	0404 90 23 9937
0401 20 91 9100	0402 29 19 9200	0403 10 13 9800	0404 90 23 9939
0401 20 91 9500	0402 29 19 9300	0403 10 19 9800	0404 90 29 9110
0401 20 99 9100	0402 29 19 9500	0403 10 31 9400	0404 90 29 9115
0401 20 99 9500	0402 29 19 9900	0403 10 31 9800	0404 90 29 9120
0401 30 11 9100	0402 29 91 9100	0403 10 33 9800	0404 90 29 9130
0401 30 11 9400	0402 29 91 9500	0403 10 39 9800	0404 90 29 9135
0401 30 11 9700	0402 29 99 9100	0403 90 11 9000	0404 90 29 9150
0401 30 19 9100	0402 29 99 9500	0403 90 13 9200	0404 90 29 9160
0401 30 19 9400	0402 91 11 9110	0403 90 13 9300	0404 90 29 9180
0401 30 19 9700	0402 91 11 9120	0403 90 13 9500	0404 90 81 9100
0401 30 31 9100	0402 91 11 9310	0403 90 13 9900	0404 90 81 9910
0401 30 31 9400	0402 91 11 9350	0403 90 19 9000	0404 90 81 9950
0401 30 31 9700	0402 91 11 9370	0403 90 31 9000	0404 90 83 9110
0401 30 39 9100	0402 91 19 9110	0403 90 33 9200	0404 90 83 9130
0401 30 39 9400	0402 91 19 9120	0403 90 33 9300	0404 90 83 9150
0401 30 39 9700	0402 91 19 9310	0403 90 33 9500	0404 90 83 9170
0401 30 91 9100	0402 91 19 9350	0403 90 33 9900	0404 90 83 9911
0401 30 91 9400	0402 91 19 9370	0403 90 39 9000	0404 90 83 9913
0401 30 91 9700	0402 91 31 9100	0403 90 51 9100	0404 90 83 9915
0401 30 99 9100	0402 91 31 9300	0403 90 51 9300	0404 90 83 9917
0401 30 99 9400	0402 91 39 9100	0403 90 53 9000	0404 90 83 9919
0401 30 99 9700	0402 91 39 9300	0403 90 59 9110	0404 90 83 9931
0402 21 11 9200	0402 91 51 9000	0403 90 59 9140	0404 90 83 9933
0402 21 11 9300	0402 91 59 9000	0403 90 59 9170	0404 90 83 9935
0402 21 11 9500	0402 91 91 9000	0403 90 59 9310	0404 90 83 9937
0402 21 11 9900	0402 91 99 9000	0403 90 59 9340	0404 90 89 9130
0402 21 17 9000	0402 99 11 9110	0403 90 59 9370	0404 90 89 9150
0402 21 19 9300	0402 99 11 9130	0403 90 59 9510	0404 90 89 9930
0402 21 19 9500	0402 99 11 9150	0403 90 59 9540	0404 90 89 9950
0402 21 19 9900	0402 99 11 9310	0403 90 59 9570	0404 90 89 9990
0402 21 91 9100	0402 99 11 9330	0403 90 61 9100	2309 10 70 9100
0402 21 91 9200	0402 99 11 9350	0403 90 61 9300	2309 10 70 9200
0402 21 91 9300	0402 99 19 9110	0403 90 63 9000	2309 10 70 9300
0402 21 91 9400	0402 99 19 9130	0403 90 69 9000	2309 10 70 9500
0402 21 91 9500	0402 99 19 9150	0404 90 21 9100	2309 10 70 9600
0402 21 91 9600	0402 99 19 9310	0404 90 21 9910	2309 10 70 9700
0402 21 91 9700	0402 99 19 9330	0404 90 21 9950	2309 10 70 9800
0402 21 91 9900	0402 99 19 9350	0404 90 23 9120	2309 90 70 9100
0402 21 99 9100	0402 99 31 9110	0404 90 23 9130	2309 90 70 9200
0402 21 99 9200	0402 99 31 9150	0404 90 23 9140	2309 90 70 9300
0402 21 99 9300	0402 99 31 9300	0404 90 23 9150	2309 90 70 9500
0402 21 99 9400	0402 99 31 9500	0404 90 23 9911	2309 90 70 9600
0402 21 99 9500	0402 99 39 9110	0404 90 23 9913	2309 90 70 9700
0402 21 99 9600	0402 99 39 9150	0404 90 23 9915	2309 90 70 9800

**COMMISSION REGULATION (EC) No 805/98**

of 16 April 1998

**fixing the rates of the refunds applicable to certain cereal and rice-products  
exported in the form of goods not covered by Annex II to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 923/96<sup>(2)</sup>, and in particular Article 13 (3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice<sup>(3)</sup>, as amended by Regulation (EC) No 192/98<sup>(4)</sup>, and in particular Article 13 (3) thereof,

Whereas Article 13 (1) of Regulation (EEC) No 1766/92 and Article 13 (1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund;

Whereas Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds<sup>(5)</sup>, as last amended by Regulation (EC) No 1909/97<sup>(6)</sup>, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate;

Whereas, in accordance with the first subparagraph of Article 4 (1) of Regulation (EC) No 1222/94, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month;

Whereas, now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC<sup>(7)</sup>, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination;

Whereas Article 4 (5) (b) of Regulation (EC) No 1222/94 provides that, in the absence of the proof referred to in Article 4 (5) (a) of that Regulation, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Commission Regulation (EEC) No 1722/93<sup>(8)</sup>, as last amended by Regulation (EC) No 1516/95<sup>(9)</sup>, for the basic product in question, used during the assumed period of manufacture of the goods;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1222/94 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1 (1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to amended Regulation (EC) No 3072/95 respectively, are hereby fixed as shown in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 329, 30. 12. 1995, p. 18.

<sup>(4)</sup> OJ L 20, 27. 1. 1998, p. 16.

<sup>(5)</sup> OJ L 136, 31. 5. 1994, p. 5.

<sup>(6)</sup> OJ L 268, 1. 10. 1997, p. 20.

<sup>(7)</sup> OJ L 275, 29. 9. 1987, p. 36.

<sup>(8)</sup> OJ L 159, 1. 7. 1993, p. 112.

<sup>(9)</sup> OJ L 147, 30. 6. 1995, p. 49.

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

Done at Brussels, 16 April 1998.

*For the Commission*  
Martin BANGEMANN  
*Member of the Commission*

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## ANNEX

to the Commission Regulation of 16 April 1998 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description of products (1)	Rate of refund per 100 kg of basic product
1001 10 00	Durum wheat: — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — in other cases	— —
1001 90 99	Common wheat and meslin: — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — in other cases: — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases	1,119 1,221 1,721
1002 00 00	Rye	3,983
1003 00 90	Barley	2,920
1004 00 00	Oats	2,218
1005 90 00	Maize (corn) used in the form of: — starch: — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases — glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 (3): — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases — other (including unprocessed) Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — in other cases	1,676 2,301 1,531 2,156 2,301 1,676 2,301
1006 20	Husked rice: — round grain — medium grain — long grain	3,178 2,829 2,829
ex 1006 30	Wholly-milled rice: — round grain — medium grain — long grain	4,100 4,100 4,100
1006 40 00	Broken rice used in the form of: — starch of CN code 1108 19 10: — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases — other (including unprocessed)	1,542 2,200 2,200

CN code	Description of products <sup>(1)</sup>	Rate of refund per 100 kg of basic product
1007 00 90	Sorghum	2,920
1101 00	Wheat or meslin flour: — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	1,376
	— in other cases	2,117
1102 10 00	Rye flour	4,750
1103 11 10	Groats and durum wheat meal: — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—
	— in other cases	—
1103 11 90	Common wheat groats and spelt: — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	1,376
	— in other cases	2,117

<sup>(1)</sup> As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E of amended Commission Regulation (EC) No 1222/94 shall be applied (OJ L 136, 31. 5. 1994, p. 5).

<sup>(2)</sup> The goods concerned are listed in Annex I of amended Regulation (EEC) No 1722/93 (OJ L 159, 1. 7. 1993, p. 112).

<sup>(3)</sup> For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

**COMMISSION REGULATION (EC) No 806/98**  
**of 16 April 1998**  
**amending the import duties in the cereals sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 923/96<sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector<sup>(3)</sup>, as last amended by Regulation (EC) No 2092/97<sup>(4)</sup>, and in particular Article 2 (1) thereof,

Whereas the import duties in the cereals sector are fixed by Commission Regulation (EC) No 798/98<sup>(5)</sup>;

Whereas Article 2 (1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by ECU 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 798/98,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (EC) No 798/98 are hereby replaced by Annexes I and II to this Regulation.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 161, 29. 6. 1996, p. 125.

<sup>(4)</sup> OJ L 292, 25. 10. 1997, p. 10.

<sup>(5)</sup> OJ L 114, 16. 4. 1998, p. 25.

## ANNEX I

## Import duties for the products listed in Article 10 (2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne)	Import duty by air or by sea from other ports <sup>(2)</sup> (ECU/tonne)
1001 10 00	Durum wheat <sup>(1)</sup>	0,00	0,00
1001 90 91	Common wheat seed	45,13	35,13
1001 90 99	Common high quality wheat other than for sowing <sup>(3)</sup>	45,13	35,13
	medium quality	68,65	58,65
	low quality	80,75	70,75
1002 00 00	Rye	90,79	80,79
1003 00 10	Barley, seed	90,79	80,79
1003 00 90	Barley, other <sup>(3)</sup>	90,79	80,79
1005 10 90	Maize seed other than hybrid	91,95	81,95
1005 90 00	Maize other than seed <sup>(3)</sup>	91,95	81,95
1007 00 90	Grain sorghum other than hybrids for sowing	90,79	80,79

<sup>(1)</sup> In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

<sup>(2)</sup> For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2 (4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

<sup>(3)</sup> The importer may benefit from a flat-rate reduction of ECU 14 or 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1249/96 are met.

## ANNEX II

## Factors for calculating duties

(for 15 April 1998)

## 1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	125,62	110,88	104,63	91,45	199,29 (?)	92,51 (!)
Gulf premium (ECU/tonne)	21,48	12,70	6,84	8,83	—	—
Great Lakes premium (ECU/tonne)	—	—	—	—	—	—

(!) Fob Duluth.

(?) Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 11,81 per tonne; Great Lakes — Rotterdam: ECU 20,74 per tonne.

3. Subsidy within the meaning of the third paragraph of Article 4 (2) of Regulation (EC) No 1249/96: ECU 0,00 per tonne (HRW2)  
: ECU 0,00 per tonne (SRW2).

**COMMISSION REGULATION (EC) No 807/98**  
**of 16 April 1998**  
**concerning tenders notified in response to the invitation to tender for the export**  
**of barley issued in Regulation (EC) No 1337/97**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 923/96 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 2052/97 <sup>(4)</sup>, and in particular Article 7 thereof,

Whereas an invitation to tender for the refund and or the tax for the export of barley to all third countries was opened pursuant to Commission Regulation (EC) No 1337/97 <sup>(5)</sup>;

Whereas Article 7 of Regulation (EC) No 1501/95, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC)

No 1766/92 and on the basis of the tenders notified, to make no award;

Whereas on the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund or a minimum tax should not be fixed;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

No action shall be taken on the tenders notified from 10 to 16 April 1998 in response to the invitation to tender for the refund or the tax for the export of barley issued in Regulation (EC) No 1337/97.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 147, 30. 6. 1995, p. 7.

<sup>(4)</sup> OJ L 287, 21. 10. 1997, p. 14.

<sup>(5)</sup> OJ L 184, 12. 7. 1997, p. 1.

**COMMISSION REGULATION (EC) No 808/98**  
**of 16 April 1998**

**fixing the maximum export refund on common wheat in connection with the  
invitation to tender issued in Regulation (EC) No 1339/97**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 923/96 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 2052/97 <sup>(4)</sup>, and in particular Article 7 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of common wheat to all third countries was opened pursuant to Commission Regulation (EC) No 1339/97 <sup>(5)</sup>, as amended by Regulation (EC) No 507/98 <sup>(6)</sup>;

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No

1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For tenders notified from 10 to 16 April 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1339/97, the maximum refund on exportation of common wheat shall be ECU 18,99 per tonne.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 147, 30. 6. 1995, p. 7.

<sup>(4)</sup> OJ L 287, 21. 10. 1997, p. 14.

<sup>(5)</sup> OJ L 184, 12. 7. 1997, p. 7.

<sup>(6)</sup> OJ L 63, 4. 3. 1998, p. 20.

**COMMISSION REGULATION (EC) No 809/98**  
of 16 April 1998

**fixing the maximum export refund on oats in connection with the invitation to  
tender issued in Regulation (EC) No 1773/97**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>, as last amended by Regulation (EC) No 923/96 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals <sup>(3)</sup>, as last amended by Regulation (EC) No 2052/97 <sup>(4)</sup>,

Having regard to Commission Regulation (EC) No 1773/97 of 12 September 1997 on a special intervention measure for cereals in Finland and Sweden <sup>(5)</sup>, as last amended by Regulation (EC) No 661/98 <sup>(6)</sup>, and in particular Article 8 thereof,

Whereas an invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 1773/97;

Whereas Article 8 of Regulation (EC) No 1773/97 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid

down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For tenders notified from 10 to 16 April 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1773/97, the maximum refund on exportation of oats shall be ECU 37,95 per tonne.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 147, 30. 6. 1995, p. 7.

<sup>(4)</sup> OJ L 287, 21. 10. 1997, p. 14.

<sup>(5)</sup> OJ L 250, 13. 9. 1997, p. 1.

<sup>(6)</sup> OJ L 90, 25. 3. 1998, p. 38.

**COMMISSION REGULATION (EC) No 810/98**  
**of 16 April 1998**

**fixing the maximum reduction in the duty on maize imported in connection  
with the invitation to tender issued in Regulation (EC) No 2506/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 923/96<sup>(2)</sup>, and in particular Article 12(1) thereof,

Whereas an invitation to tender for the maximum reduction in the duty on maize imported into Portugal was opened pursuant to Commission Regulation (EC) No 2506/97<sup>(3)</sup>;

Whereas, pursuant to Article 5 of Commission Regulation (EC) No 1839/95<sup>(4)</sup>, as amended by Regulation (EC) No 1963/95<sup>(5)</sup>, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty; whereas in fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account; whereas a contract is awarded to

any tenderer whose tender is equal to or less than the maximum reduction in the duty;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For tenders notified from 10 to 16 April 1998, pursuant to the invitation to tender issued in Regulation (EC) No 2506/97, the maximum reduction in the duty on maize imported shall be ECU 50,98 per tonne and be valid for a total maximum quantity of 55 000 tonnes.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 345, 16. 12. 1997, p. 28.

<sup>(4)</sup> OJ L 177, 28. 7. 1995, p. 4.

<sup>(5)</sup> OJ L 189, 10. 8. 1995, p. 22.

## COMMISSION REGULATION (EC) No 811/98

of 16 April 1998

## fixing the export refunds on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 923/96<sup>(2)</sup>, and in particular Article 13 (3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice<sup>(3)</sup>, as amended by Regulation (EC) No 192/98<sup>(4)</sup>, and in particular Article 13 (3) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

Whereas Article 13 of Regulation (EC) No 3072/95 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other; whereas the same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market;

Whereas Article 4 of Commission Regulation (EC) No 1518/95<sup>(5)</sup>, as amended by Regulation (EC) No 2993/95<sup>(6)</sup>, on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated;

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1766/92 and in Article 1 (1) (c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 329, 30. 12. 1995, p. 18.

<sup>(4)</sup> OJ L 20, 27. 1. 1998, p. 16.

<sup>(5)</sup> OJ L 147, 30. 6. 1995, p. 55.

<sup>(6)</sup> OJ L 312, 23. 12. 1995, p. 25.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

*ANNEX*

to the Commission Regulation of 16 April 1998 fixing the export refunds on products processed from cereals and rice

<i>(ECU/tonne)</i>		<i>(ECU/tonne)</i>	
Product code	Refund	Product code	Refund
1102 20 10 9200 <sup>(1)</sup>	32,21	1104 23 10 9100	34,52
1102 20 10 9400 <sup>(1)</sup>	27,61	1104 23 10 9300	26,46
1102 20 90 9200 <sup>(1)</sup>	27,61	1104 29 11 9000	17,55
1102 90 10 9100	43,80	1104 29 51 9000	17,21
1102 90 10 9900	29,78	1104 29 55 9000	17,21
1102 90 30 9100	39,92	1104 30 10 9000	4,30
1103 12 00 9100	39,92	1104 30 90 9000	5,75
1103 13 10 9100 <sup>(1)</sup>	41,42	1107 10 11 9000	30,63
1103 13 10 9300 <sup>(1)</sup>	32,21	1107 10 91 9000	51,98
1103 13 10 9500 <sup>(1)</sup>	27,61	1108 11 00 9200	34,42
1103 13 90 9100 <sup>(1)</sup>	27,61	1108 11 00 9300	34,42
1103 19 10 9000	39,83	1108 12 00 9200	36,82
1103 19 30 9100	45,26	1108 12 00 9300	36,82
1103 21 00 9000	17,55	1108 13 00 9200	36,82
1103 29 20 9000	29,78	1108 13 00 9300	36,82
1104 11 90 9100	43,80	1108 19 10 9200	33,44
1104 12 90 9100	44,36	1108 19 10 9300	33,44
1104 12 90 9300	35,49	1109 00 00 9100	0,00
1104 19 10 9000	17,55	1702 30 51 9000 <sup>(2)</sup>	45,06
1104 19 50 9110	36,82	1702 30 59 9000 <sup>(2)</sup>	34,50
1104 19 50 9130	29,91	1702 30 91 9000	45,06
1104 21 10 9100	43,80	1702 30 99 9000	34,50
1104 21 30 9100	43,80	1702 40 90 9000	34,50
1104 21 50 9100	58,40	1702 90 50 9100	45,06
1104 21 50 9300	46,72	1702 90 50 9900	34,50
1104 22 20 9100	35,49	1702 90 75 9000	47,22
1104 22 30 9100	37,71	1702 90 79 9000	32,77
		2106 90 55 9000	34,50

<sup>(1)</sup> No refund shall be granted on products given a heat treatment resulting in pregelatinization of the starch.

<sup>(2)</sup> Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1. 11. 1975, p. 20), amended.

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

**COMMISSION REGULATION (EC) No 812/98**  
**of 16 April 1998**  
**fixing the export refunds on cereal-based compound feedingstuffs**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Commission Regulation (EC) No 923/96<sup>(2)</sup>, and in particular Article 13 (3) thereof,

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

Whereas Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice<sup>(3)</sup> in Article 2 lays down general rules for fixing the amount of such refunds;

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

the quantity of cereal products present in the compound feedingstuff;

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

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

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

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 17 April 1998.

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

Done at Brussels, 16 April 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 181, 1. 7. 1992, p. 21.

<sup>(2)</sup> OJ L 126, 24. 5. 1996, p. 37.

<sup>(3)</sup> OJ L 147, 30. 6. 1995, p. 51.

## ANNEX

## to the Commission Regulation of 16 April 1998 fixing the export refunds on cereal-based compound feedingstuffs

Product code benefitting from export refund <sup>(1)</sup>:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,  
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,  
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,  
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000.

(ECU/tonne)

Cereal products <sup>(2)</sup>	Amount of refund <sup>(2)</sup>
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	23,01
Cereal products <sup>(2)</sup> excluding maize and maize products	23,21

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

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

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

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

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION RECOMMENDATION

of 30 March 1998

on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes (\*)

(Text with EEA relevance)

(98/257/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community and in particular Article 155 thereof,

Whereas the Council, in its conclusions approved by the Consumer Affairs Council of 25 November 1996, emphasised the need to boost consumer confidence in the functioning of the internal market and consumers' scope for taking full advantage of the possibilities offered by the internal market, including the possibility for consumers to settle disputes in an efficient and appropriate manner through out-of-court or other comparable procedures;

Whereas the European Parliament, in its resolution of 14 November 1996 (1), stressed the need for such procedures to meet minimum criteria guaranteeing the impartiality of the body, the efficiency of the procedure and the publicising and transparency of proceedings and called on the Commission to draft proposals on this matter;

Whereas most consumer disputes, by their nature, are characterised by a disproportion between the economic value at stake and the cost of its judicial settlement;

whereas the difficulties that court procedures may involve may, notably in the case of cross-border conflicts, discourage consumers from exercising their rights in practice;

Whereas the 'Green Paper on the access of consumers to justice and the settlement of consumer disputes in the single market' (2) was the subject of wide-ranging consultations whose results have confirmed the urgent need for Community action with a view to improving the current situation;

Whereas the experience gained by several Member States shows that alternative mechanisms for the out-of-court settlement of consumer disputes — provided certain essential principles are respected — have had good results, both for consumers and firms, by reducing the cost of settling consumer disputes and the duration of the procedure;

Whereas the adoption of such principles at European level would facilitate the implementation of out-of-court procedures for settling consumer disputes; whereas, in the case of cross-border conflicts, this would enhance mutual confidence between existing out-of-court bodies in the different Member States and strengthen consumer confidence in the existing national procedures; whereas these criteria will make it easier for parties providing out-of-court settlement services established in one Member State to offer their services in other Member States;

(\*) A communication on the out-of-court settlement of consumer disputes was adopted by the Commission on 30 March 1998. This communication, which includes this recommendation and the European consumer complaint form, is available on the Internet (<http://europa.eu.int/comm/dg24>).

(1) European Parliament resolution on the Commission communication 'Action plan on consumer access to justice and the settlement of consumer disputes in the internal market' of 14 November 1996 (OJ C 362, 2. 12. 1996, p. 275).

(2) COM(93) 576 final of 16 November 1993.

Whereas one of the conclusions of the Green Paper concerned the adoption of a Commission recommendation with a view to improving the functioning of the ombudsman systems responsible for handling consumer disputes;

Whereas the need for such a recommendation was stressed during the consultations on the Green Paper and was confirmed during the consultation on the 'Action Plan' communication<sup>(1)</sup> by a very large majority of the parties concerned;

Whereas this recommendation must be limited to procedures which, no matter what they are called, lead to the settling of a dispute through the active intervention of a third party, who proposes or imposes a solution; whereas, therefore, it does not concern procedures that merely involve an attempt to bring the parties together to convince them to find a solution by common consent;

Whereas the decisions taken by out-of-court bodies may be binding on the parties, may be mere recommendations or may constitute settlement proposals which have to be accepted by the parties; whereas for the purposes of this recommendation these various cases are covered by the term 'decision';

Whereas the decision-making body's impartiality and objectivity are essential for safeguarding the protection of consumer rights and for strengthening consumer confidence in alternative mechanisms for resolving consumer disputes;

Whereas a body can only be impartial if, in exercising its functions, it is not subject to pressures that might sway its decision; whereas, therefore, its independence must be guaranteed without this implying the need for guarantees that are as strict as those designed to ensure the independence of judges in the judicial system;

Whereas, when the decision is taken by an individual, the decision-maker's impartiality can only be assured if he can demonstrate that he possesses the necessary independence and qualifications and works in an environment which allows him to decide on an autonomous basis; whereas this requires the person to be granted a mandate of sufficient duration, in the course of which he cannot be relieved of his duties without just cause;

Whereas, when the decision is taken by a group, equal participation of representatives of consumers and profes-

sionals is an appropriate way of ensuring this independence;

Whereas, in order to ensure that the persons concerned receive the information they need, the transparency of the procedure and of the activities of the bodies responsible for resolving the disputes must be guaranteed; whereas the absence of transparency may adversely affect the rights of the parties and cause misgivings as to out-of-court procedures for resolving consumer disputes;

Whereas certain interests of the parties can only be safeguarded if the procedure allows them to express their viewpoints before the competent body and to acquaint themselves with the facts presented by the opposing party and, where applicable, the experts' statements; whereas this does not necessarily necessitate oral hearings of the parties;

Whereas out-of-court procedures are designed to facilitate consumer access to justice; whereas, therefore, if they are to be effective, they must remedy certain problems associated with court procedures, such as high fees, long delays and cumbersome procedures;

Whereas, in order to enhance the effectiveness and equity of the procedure, the competent body must play an active role which allows it to take into consideration any element useful in resolving the dispute; whereas this active role is all the more important when, in the framework of out-of-court procedures, the parties in many cases do not have the benefit of legal advice;

Whereas the out-of-court bodies may decide not only on the basis of legal rules but also in equity and on the basis of codes of conduct; whereas, however, this flexibility as regards the grounds for their decisions should not lead to a reduction in the level of consumer protection by comparison with the protection consumers would enjoy, under Community law, through the application of the law by the courts;

Whereas the parties are entitled to be informed of the decisions handed down and of grounds for these decisions; whereas the grounds for decisions are a prerequisite for transparency and the parties' confidence in the operation of out-of-court procedures;

Whereas in accordance with Article 6 of the European Human Rights Convention, access to the courts is a fundamental right that knows no exceptions; whereas since Community law guarantees free movement of goods and services in the common market, it is a corollary of those freedoms that operators, including consumers, must be able, in order to resolve any disputes arising from their

<sup>(1)</sup> Action Plan on consumer access to justice and the settlement of consumer disputes in the internal market, COM(96) 13 final of 14 February 1996.

economic activities, to bring actions in the courts of a Member State in the same way as nationals of that State; whereas out-of-court procedures cannot be designed to replace court procedures; whereas, therefore, use of the out-of-court alternative may not deprive consumers of their right to bring the matter before the courts unless they expressly agree to do so, in full awareness of the facts and only after the dispute has materialised;

Whereas in some cases, and independently of the subject and value of the dispute, the parties and in particular the consumer, as the party who is regarded as economically weaker and less experienced in legal matters than the other party to the contract, may require the legal advice of a third party to defend and protect their rights more effectively;

Whereas, in order to ensure a level of transparency and dissemination of information on out-of-court procedures in line with the principles set out in the recommendation and to facilitate networking, the Commission intends to create a database of the out-of-court bodies responsible for resolving consumer disputes that offer these safeguards; whereas the database will contain particulars communicated to the Commission by the Member States that wish to participate in this initiative; whereas, to ensure standardised information and to simplify the transmission of these data, a standard information form will be made available to the Member States;

Whereas, finally, the establishment of minimum principles governing the creation and operation of out-of-court procedures for resolving consumer disputes seems, in these circumstances, necessary at Community level to support and supplement, in an essential area, the initiatives taken by the Member States in order to realise, in accordance with Article 129a of the Treaty, a high level of consumer protection; whereas it does not go beyond what is necessary to ensure the smooth operation of out-of-court procedures; whereas it is therefore consistent with the principle of subsidiarity,

RECOMMENDS that all existing bodies and bodies to be created with responsibility for the out-of-court settlement of consumer disputes respect the following principles:

## I

### Principle of independence

The independence of the decision-making body is ensured in order to guarantee the impartiality of its actions.

When the decision is taken by an individual, this independence is in particular guaranteed by the following measures:

- the person appointed possesses the abilities, experience and competence, particularly in the field of law, required to carry out his function,
- the person appointed is granted a period of office of sufficient duration to ensure the independence of his action and shall not be liable to be relieved of his duties without just cause,
- if the person concerned is appointed or remunerated by a professional association or an enterprise, he must not, during the three years prior to assuming his present function, have worked for this professional association or for one of its members or for the enterprise concerned.

When the decision is taken by a collegiate body, the independence of the body responsible for taking the decision must be ensured by giving equal representation to consumers and professionals or by complying with the criteria set out above.

## II

### Principle of transparency

Appropriate measures are taken to ensure the transparency of the procedure. These include:

1. provision of the following information, in writing or any other suitable form, to any persons requesting it:
  - a precise description of the types of dispute which may be referred to the body concerned, as well as any existing restrictions in regard to territorial coverage and the value of the dispute,
  - the rules governing the referral of the matter to the body, including any preliminary requirements that the consumer may have to meet, as well as other procedural rules, notably those concerning the written or oral nature of the procedure, attendance in person and the languages of the procedure,
  - the possible cost of the procedure for the parties, including rules on the award of costs at the end of the procedure,
  - the type of rules serving as the basis for the body's decisions (legal provisions, considerations of equity, codes of conduct, etc.),
  - the decision-making arrangements within the body,
  - the legal force of the decision taken, whereby it shall be stated clearly whether it is binding on the professional or on both parties. If the decision is binding, the penalties to be imposed in the event of non-compliance shall be stated, as shall the means of obtaining redress available to the losing party.
2. Publication by the competent body of an annual report setting out the decisions taken, enabling the results obtained to be assessed and the nature of the disputes referred to it to be identified.

## III

**Adversarial principle**

The procedure to be followed allows all the parties concerned to present their viewpoint before the competent body and to hear the arguments and facts put forward by the other party, and any experts' statements.

## IV

**Principle of effectiveness**

The effectiveness of the procedure is ensured through measures guaranteeing:

- that the consumer has access to the procedure without being obliged to use a legal representative,
- that the procedure is free of charges or of moderate costs,
- that only short periods elapse between the referral of a matter and the decision,
- that the competent body is given an active role, thus enabling it to take into consideration any factors conducive to a settlement of the dispute.

## V

**Principle of legality**

The decision taken by the body may not result in the consumer being deprived of the protection afforded by the mandatory provisions of the law of the State in whose territory the body is established. In the case of cross-border disputes, the decision taken by the body may not result in the consumer being deprived of the protection afforded by the mandatory provisions applying under the law of the Member State in which he is normally resident in the instances provided for under Article 5 of the Rome

Convention of 19 June 1980 on the law applicable to contractual obligations.

All decisions are communicated to the parties concerned as soon as possible, in writing or any other suitable form, stating the grounds on which they are based.

## VI

**Principle of liberty**

The decision taken by the body concerned may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

The consumer's recourse to the out-of-court procedure may not be the result of a commitment prior to the materialisation of the dispute, where such commitment has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute.

## VII

**Principle of representation**

The procedure does not deprive the parties of the right to be represented or assisted by a third party at all stages of the procedure.

THIS RECOMMENDATION is addressed to the bodies responsible for the out-of-court settlement of consumer disputes, to any natural or legal person responsible for the creation or operation of such bodies, as well as to the Member States, to the extent that they are involved.

Done at Brussels, 30 March 1998.

*For the Commission*

Emma BONINO

*Member of the Commission*