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### Contents

#### I Acts whose publication is obligatory

- \* **Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank** ..... 1
- \* **Council Regulation (EC) No 2532/98 of 23 November 1998 concerning the powers of the European Central Bank to impose sanctions** ..... 4
- \* **Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank** ..... 8
- Commission Regulation (EC) No 2534/98 of 26 November 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables 20
- \* **Commission Regulation (EC) No 2535/98 of 26 November 1998 amending Regulation (EEC) No 3046/92 with regard to information provided by the tax authorities** ..... 22
- \* **Commission Regulation (EC) No 2536/98 of 26 November 1998 amending Regulation (EEC) No 920/89 laying down quality standards for carrots, citrus fruit and dessert apples and pears** ..... 23
- Commission Regulation (EC) No 2537/98 of 26 November 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 ..... 25
- Commission Regulation (EC) No 2538/98 of 26 November 1998 amending the import duties in the cereals sector ..... 28
- Commission Regulation (EC) No 2539/98 of 26 November 1998 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 2004/98 ..... 31
- Commission Regulation (EC) No 2540/98 of 26 November 1998 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1079/98 ..... 32

Commission Regulation (EC) No 2541/98 of 26 November 1998 fixing the maximum export refund on oats in connection with the invitation to tender issued in Regulation (EC) No 2007/98 .....	33
Commission Regulation (EC) No 2542/98 of 26 November 1998 fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1564/98 .....	34
Commission Regulation (EC) No 2543/98 of 26 November 1998 concerning tenders notified in response to the invitation to tender for the export of barley issued in Regulation (EC) No 1078/98 .....	35
Commission Regulation (EC) No 2544/98 of 26 November 1998 fixing the export refunds on products processed from cereals and rice .....	36
Commission Regulation (EC) No 2545/98 of 26 November 1998 fixing production refunds on cereals and rice .....	38
Commission Regulation (EC) No 2546/98 of 26 November 1998 fixing the export refunds on rice and broken rice and suspending the issue of export certificates .....	39
Commission Regulation (EC) No 2547/98 of 26 November 1998 fixing the export refunds on cereals and on wheat or rye flour, groats and meal .....	41
* Commission Directive 98/87/EC of 13 November 1998 amending Council Directive 79/373/EEC on the marketing of compound feedingstuffs (1) .....	43
* Commission Directive 98/88/EC of 13 November 1998 establishing guidelines for the microscopic identification and estimation of constituents of animal origin for the official control of feedingstuffs (1) .....	45

II Acts whose publication is not obligatory

Commission

98/682/EC, Euratom:

* Commission Decision of 20 November 1998 appointing the members, chairmen and vice-chairmen of the expert groups to assist the Commission on the content and direction of the key actions in the field of research and technological development (1) (notified under document number C(1998) 3347) .....	51
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Corrigenda

* Corrigendum to Commission Regulation (EC) No 707/98 of 30 March 1998 amending Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds (OJ L 98 of 31. 3. 1998) .....	63
* Corrigendum to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125 of 27. 4. 1998) .....	63

## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 2531/98  
of 23 November 1998**

**concerning the application of minimum reserves by the European Central Bank**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Protocol (No 3) on the Statute of the European System of Central Banks and of the European Central Bank (the 'Statute') and in particular to Article 19.2 thereof,

Having regard to the recommendation of the European Central Bank (the 'ECB')<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Commission<sup>(3)</sup>,

Acting in accordance with the procedure laid down in Article 106(6) of the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in Article 42 of the Statute and under the conditions set out in Article 43.1 of the Statute and paragraph 8 of the Protocol (No 11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland,

- (1) Whereas Article 19.2, in conjunction with Article 43.1 of the Statute, paragraph 8 of Protocol No 11 and paragraph 2 of the Protocol (No 12) on certain provisions relating to Denmark, are not to confer any rights or impose any obligations on a non-participating Member State;
- (2) Whereas Article 19.2 of the Statute requires the Council to define, *inter alia*, the basis for minimum reserves and the maximum permissible ratios between those reserves and their basis;
- (3) Whereas Article 19.2 of the Statute also requires the Council to define the appropriate sanctions in cases of non-compliance with those requirements; whereas specific sanctions are set out herein; whereas this Regulation refers to Council Regulation (EC) No 2532/98 of 23 November 1998, concerning the powers of the European Central Bank to impose sanctions<sup>(4)</sup> for the principles and procedures relating to the imposition of sanctions and provides for a simplified procedure for the imposition of sanctions

in the event of certain kinds of infringements; whereas, in the event of a conflict between the provisions of the Regulation (EC) No 2532/98 and the provisions of this Regulation enabling the ECB to impose sanctions, the provisions of this Regulation should prevail;

- (4) Whereas Article 19.1 of the Statute provides that the Governing Council of the ECB may establish regulations concerning the calculation and determination of the required minimum reserves;
- (5) Whereas, in order to be effective as an instrument for the performance of money market management and monetary control functions, the system for the imposition of minimum reserves needs to be structured so that the ECB has the ability and flexibility to impose reserve requirements within the context of, and dependent upon, changing economic and financial conditions among participating Member States; whereas in this respect the ECB must have the flexibility to react to new payment technologies such as the development of electronic money; whereas the ECB may impose minimum reserves on liabilities resulting from off-balance-sheet items, in particular those that are either individually or in combination with other on-balance-sheet or off-balance-sheet items, comparable with liabilities recorded on the balance sheet, in order to limit the possibilities of circumvention;
- (6) Whereas the ECB, in establishing detailed regulations for the imposition of minimum reserves, including determining the actual reserve ratios, any remuneration of reserves, any exemptions from minimum reserves or any modifications to such requirements applicable to any specific group or groups of institutions, is bound to act in pursuance of the objectives of the European System of Central Banks (the 'ESCB') as set out in Article 105(1) of the Treaty and as reflected in Article 2 of the Statute; whereas this implies, *inter alia*, the principle of not inducing significant undesirable delocation or disintermediation; whereas the

<sup>(1)</sup> OJ C 246, 6. 8. 1998, p. 6.

<sup>(2)</sup> OJ C 328, 26. 10. 1998.

<sup>(3)</sup> Opinion delivered on 8 October 1998 (not yet published in the Official Journal).

<sup>(4)</sup> See page 4 of this Official Journal.

imposition of such minimum reserves may constitute an element of the definition and implementation of the monetary policy of the Community, being one of the basic tasks of the ESCB as specified in the first indent of Article 105(2) of the Treaty and as reflected in the first indent of Article 3.1 of the Statute;

- (7) Whereas the sanctions provided in the event of non-compliance with the obligations set out in this Regulation are without prejudice to the possibility of the ESCB establishing appropriate enforcement provisions in its relations with counterparties, including the partial or total exclusion of an institution from monetary policy operations in the case of serious infringements of the minimum reserve requirements;
- (8) Whereas the ESCB and the ECB have been entrusted with the task of preparing the monetary policy instruments to allow for their full operation in the third stage of Economic and Monetary Union (hereinafter referred to as 'Stage Three'); whereas an essential element of preparation is the adoption, ahead of Stage Three, of ECB regulations requiring institutions to hold minimum reserves as from 1 January 1999; whereas it is desirable to inform market participants during 1998 of the detailed provisions which the ECB may deem necessary to adopt for the implementation of the minimum reserves system; whereas it is therefore necessary to provide the ECB from the date of entry into force of this Regulation with a regulatory power;
- (9) Whereas the provisions of this Regulation can only be effectively applied in their entirety if participating Member States adopt the necessary measures with a view to ensuring that their authorities have the powers to assist and collaborate fully with the ECB in carrying out the collection and verification of information as required by this Regulation, in accordance with Article 5 of the Treaty,

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Definitions**

For the purposes of this Regulation:

1. 'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty;
2. 'national central bank' shall mean the central bank of a participating Member State;
3. 'institution' shall mean any entity in a participating Member State which, under the terms of Article 19.1 of the Statute, the ECB may require to hold minimum reserves;
4. 'reserve ratio' shall mean such percentage of the basis for minimum reserves as the ECB may specify in accordance with Article 19.1 of the Statute;
5. 'sanctions' shall mean fines, periodic penalty payments, penalty interest and non-interest-bearing deposits.

### *Article 2*

#### **Right to exempt institutions**

The ECB may, on a non-discriminatory basis, exempt institutions from minimum reserves in accordance with criteria established by the ECB.

### *Article 3*

#### **Basis for minimum reserves**

1. The basis for minimum reserves which the ECB may require institutions to hold according to Article 19.1 of the Statute shall include, subject to the provisions specified in paragraphs 2 and 3 of this Article:

- (i) liabilities of the institution resulting from the acceptance of funds, together with
- (ii) liabilities resulting from off-balance-sheet items, but excluding
- (iii) fully or partly liabilities which are owed to any other institution according to modalities which shall be specified by the ECB, and
- (iv) liabilities which are owed to the ECB or to a national central bank.

2. For liabilities in the form of negotiable debt instruments, the ECB may specify, as an alternative to the provision in paragraph 1 (iii), that liabilities which are owed by one institution to another shall be fully or partly deducted from the basis for minimum reserves of the institution to which they are owed.

3. The ECB may, on a non-discriminatory basis, allow the deduction of specific types of assets from categories of liabilities forming part of the basis for minimum reserves.

### *Article 4*

#### **Reserve ratios**

1. Reserve ratios, which the ECB may specify according to Article 19.1 of the Statute, shall not exceed 10 % of any relevant liabilities forming part of the basis for minimum reserves but may be 0 %.

2. Subject to paragraph 1, the ECB may, on a non-discriminatory basis, specify differing reserve ratios for specific categories of liabilities forming part of the basis for minimum reserves.

*Article 5***Regulatory power**

For the purpose of Articles 2, 3 and 4, the ECB shall adopt, where appropriate, regulations or decisions.

*Article 6***Right to collect and verify information**

1. The ECB shall have the right to collect from institutions the information necessary for the application of minimum reserves. Such information shall be confidential.

2. The ECB shall have the right to verify the accuracy and quality of the information which institutions provide to demonstrate compliance with the minimum reserve requirements. The ECB shall notify the institution of its decision to verify data or to effect their compulsory collection.

3. The right to verify data shall include the right to:

- (a) require the submission of documents;
- (b) examine the books and records of the institutions;
- (c) take copies or extracts from such books and records; and
- (d) obtain written or oral explanations.

When an institution obstructs the collection and/or verification of information, the participating Member State in which the relevant premises are located shall afford the necessary assistance, including ensuring access to the premises of the institution, so that the abovementioned rights can be exercised.

4. The ECB may delegate to the national central banks the execution of the rights to which paragraphs 1 to 3 refer. In accordance with the first indent of Article 34.1 of the Statute, the ECB shall be empowered to specify further in a regulation the conditions under which the right to verify may be exercised.

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

Done at Brussels, 23 November 1998.

*Article 7***Sanctions in cases of non-compliance**

1. Where an institution fails to hold all or part of the minimum reserves imposed in accordance with this Regulation and ECB regulations or decisions associated herewith, the ECB may impose either of the following sanctions:

- (a) a payment of up to 5 percentage points above the ESCB's marginal lending rate or twice the ESCB's marginal lending rate, in both cases applied to the amount of the minimum reserves which the relevant institution fails to provide;
- (b) the requirement for the relevant institution to establish a non-interest-bearing deposit with the ECB or the national central banks up to 3 times the amount of the minimum reserves which the relevant institution fails to provide. The maturity of the deposit shall not exceed the period during which the institution fails to hold the minimum reserves.

2. Whenever a sanction is imposed in accordance with paragraph 1, the principles and procedures set out in Regulation (EC) No 2532/98 shall apply. However, Article 2(1) and (3) and Article 3(1), (2), (3) and (4) of that Regulation shall not be applicable, and the periods referred to in Article 3(6), (7) and (8) thereof shall be reduced to fifteen days.

3. Where an institution fails to comply with the obligations deriving from this Regulation or ECB regulations or decisions associated therewith, other than those set out in paragraph 1, sanctions in cases of such failure and the limits and conditions relating to the imposition of such sanctions shall be those set out in Regulation (EC) No 2532/98.

*Article 8***Final provisions**

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

Article 5 shall apply from the date of entry into force of this Regulation. The remaining Articles shall apply from 1 January 1999.

*For the Council*  
*The President*  
R. EDLINGER

**COUNCIL REGULATION (EC) No 2532/98**  
**of 23 November 1998**  
**concerning the powers of the European Central Bank to impose sanctions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and in particular to Article 108a(3) thereof and to Article 34.3 of the Protocol (No 3) on the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute'),

Having regard to the recommendation of the European Central Bank (hereinafter referred to as the 'ECB')<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Commission<sup>(3)</sup>,

Acting in accordance with the procedure laid down in Article 106(6) of the Treaty and in Article 42 of the Statute, and under the conditions set out in Article 109k(5) of the Treaty and paragraph 7 of the Protocol (No 11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland,

- (1) Whereas this Regulation, according to Article 34.3 of the Statute, in conjunction with Article 43.1 of the Statute, paragraph 8 of Protocol No 11 and paragraph 2 of the Protocol (No 12) on certain provisions relating to Denmark, is not to confer any rights or impose any obligations on a non-participating Member State;
- (2) Whereas Article 34.3 of the Statute requires the Council to specify the limits and conditions under which the ECB is entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions;
- (3) Whereas infringements of the obligations arising from ECB regulations and decisions can arise in various fields of competence of the ECB;
- (4) Whereas it is appropriate, in order to ensure a uniform approach towards the imposition of sanctions in the various fields of competence of the ECB, that all general and procedural provisions for the imposition of such sanctions are contained in a single

Council Regulation; whereas other Council Regulations provide for specific sanctions in specific fields and refer to this Regulation for the principles and procedures relating to the imposition of such sanctions;

- (5) Whereas, in order to provide an effective regime for the administration of sanctions, this Regulation must allow the ECB a certain discretion, both in relation to the relevant procedures and to their implementation within the limits and conditions laid down in this Regulation;
- (6) Whereas the European System of Central Banks (hereinafter referred to as the 'ESCB') and the ECB have been entrusted with the task of preparing for their full operation in the third stage of Economic and Monetary Union (hereinafter referred to as 'Stage Three'); whereas timely preparation is essential to enable the ESCB to fulfil its tasks in Stage Three; whereas an essential element of preparation is the adoption, ahead of Stage Three, of the regime for the imposition of sanctions on undertakings failing to comply with obligations imposed upon them by ECB regulations and decisions; whereas it is desirable to inform market participants as soon as possible of the detailed provisions the ECB may deem necessary to adopt for the imposition of sanctions; whereas it is therefore necessary to provide the ECB from the date of entry into force of this Regulation with a regulatory power;
- (7) Whereas the provisions of this Regulation can only be effectively applied if participating Member States adopt the necessary measures with a view to ensuring that their authorities have the powers to assist and collaborate fully with the ECB in the implementation of the infringement procedure as required by this Regulation, in accordance with Article 5 of the Treaty;
- (8) Whereas the ECB is to have recourse to the national central banks to carry out the tasks of the ESCB to the extent deemed possible and appropriate;
- (9) Whereas decisions under this Regulation imposing pecuniary obligations are to be enforceable in accordance with Article 192 of the Treaty,

<sup>(1)</sup> OJ C 246, 6. 8. 1998, p. 9.

<sup>(2)</sup> OJ C 328, 26. 10. 1998.

<sup>(3)</sup> Opinion delivered on 8 October 1998 (not yet published in the Official Journal).

HAS ADOPTED THIS REGULATION:

### *Article 1*

#### **Definitions**

For the purposes of this Regulation:

1. 'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty;
2. 'national central bank' shall mean the central bank of a participating Member State;
3. 'undertakings' shall mean those natural or legal persons, private or public, with the exception of public persons in the exercise of their public powers, in a participating Member State, which are the subject of obligations arising from ECB regulations and decisions, and shall include branches or other permanent establishments located in a participating Member State, the head office or registered office of which is outside a participating Member State;
4. 'infringement' shall mean any failure by an undertaking to fulfil an obligation arising from ECB regulations or decisions;
5. 'fine' shall mean a single amount of money which an undertaking is obliged to pay as a sanction;
6. 'periodic penalty payments' shall mean amounts of money which, in the case of a continued infringement, an undertaking is obliged to pay as a sanction, which shall be calculated for each day of continued infringement following the notification of the undertaking of a decision, in accordance with the second subparagraph of Article 3(1), requiring the termination of such an infringement;
7. 'sanctions' shall mean fines and periodic penalty payments imposed as a consequence of an infringement.

### *Article 2*

#### **Sanctions**

1. The limits within which the ECB may impose fines and periodic penalty payments on undertakings, unless otherwise provided for in specific Council Regulations, shall be the following:
  - (a) fines: the upper limit shall be EUR 500 000; and
  - (b) periodic penalty payments: the upper limit shall be EUR 10 000 per day of infringement. Periodic penalty payments may be imposed in respect of a maximum period of six months following the notification of the undertaking of the decision in accordance with Article 3(1).
2. In determining whether to impose a sanction and in determining the appropriate sanction, the ECB shall be guided by the principle of proportionality.

3. The ECB shall take into consideration, where relevant, the circumstances of the specific case, such as:

- (a) on the one hand, the good faith and the degree of openness of the undertaking in the interpretation and fulfilment of the obligation arising from an ECB regulation or decision as well as the degree of diligence and cooperation shown by the undertaking or, on the other, any evidence of wilful deceit on the part of officials of the undertaking;
- (b) the seriousness of the effects of the infringement;
- (c) the repetition, frequency or duration of the infringement by that undertaking;
- (d) the profits obtained by the undertaking by reason of the infringement;
- (e) the economic size of the undertaking; and
- (f) prior sanctions imposed by other authorities on the same undertaking and based on the same facts.

4. Whenever the infringement consists of a failure to perform a duty, the application of a sanction shall not exempt the undertaking from its performance, unless the decision adopted in accordance with Article 3(4) explicitly states the contrary.

### *Article 3*

#### **Procedural rules**

1. The decision on whether or not to initiate an infringement procedure shall be taken by the Executive Board of the ECB, acting on its own initiative or on the basis of a motion to that effect addressed to it by the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred. The same decision may also be taken, on its own initiative or on the basis of a motion to that effect addressed to it by the ECB, by the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred.

Written notification of the decision to initiate an infringement procedure shall be given to the undertaking concerned, to the relevant supervisory authority and to the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred or to the ECB. The notification shall disclose the details of the allegations against the undertaking and the evidence on which such allegations are founded. Where appropriate, the decision shall require the termination of the alleged infringement and shall give notice to the undertaking concerned that periodic penalty payments may be imposed.

2. The decision referred to in paragraph 1 may require the undertaking to submit to an infringement procedure. In carrying out the infringement procedure, the ECB or the national central bank, as the case may be, shall have the right to:

- (a) require the submission of documents;
- (b) examine the books and records of the undertaking;
- (c) take copies or extracts from such books and records; and
- (d) obtain written or oral explanations.

When an undertaking obstructs the conduct of the infringement procedure, the participating Member State where the relevant premises are located shall afford the necessary assistance, including ensuring access by the ECB or the national central bank to the premises of the undertaking, so that the aforementioned rights can be exercised.

3. The undertaking concerned shall have the right to be heard by the ECB or the national central bank, as the case may be. The undertaking shall be given no fewer than thirty days to present its defence.

4. The Executive Board of the ECB shall, as soon as possible after receiving a submission from the national central bank which initiates the infringement procedure or after having consulted the national central bank of the Member State in whose jurisdiction the alleged infringement has occurred, adopt a reasoned decision as to whether an undertaking has committed an infringement together with the sanction, if any, to be imposed.

5. The undertaking concerned shall be notified in writing of the decision and shall be informed of its right of review. Notification of the decision shall also be given to relevant supervisory authorities and to the national central bank of the Member State in whose jurisdiction the infringement has occurred.

6. The undertaking concerned shall have the right to request a review of the decision of the Executive Board by the Governing Council of the ECB. Such a request shall be made within thirty days of the receipt of the notification of the decision and shall include all supporting information and allegations. Such a request shall be addressed in writing to the Governing Council of the ECB.

7. A decision by the Governing Council of the ECB in response to a request submitted under paragraph 6 shall include the reasons for the decision and written notification thereof shall be given to the undertaking concerned, to the relevant supervisory authority of that undertaking and to the national central bank of the Member State in whose jurisdiction the infringement occurred. The notification shall inform the undertaking of its right of judicial review. If no decision has been taken by the Governing Council of the ECB within two months of the request, the undertaking concerned may request a judicial review of the decision of the Executive Board in accordance with the Treaty.

8. No sanction shall be enforced against the undertaking until the decision has become final through either:

- (a) the period of thirty days referred to in paragraph 6 having elapsed without the undertaking making a request for review to the Governing Council of the ECB; or
- (b) the Governing Council notifying the undertaking of its decision, or the period referred to in paragraph 7 having elapsed without the Governing Council having taken a decision.

9. The proceeds from sanctions imposed by the ECB shall belong to the ECB.

10. If an infringement relates exclusively to a task entrusted to the ESCB under the Treaty and the Statute, an infringement procedure may be initiated only on the basis of this Regulation, irrespective of the existence of any national law or regulation which may provide for a separate procedure. If an infringement also relates to one or more areas outside the competence of the ESCB, the right to initiate an infringement procedure on the basis of this Regulation shall be independent of any right of a competent national authority to initiate separate procedures in relation to such areas outside the competence of the ESCB. This provision shall be without prejudice to the application of criminal law and to prudential supervisory competencies in participating Member States.

11. An undertaking shall bear the costs of the infringement procedure if it has been decided that it has committed an infringement.

#### *Article 4*

##### **Time limits**

1. The right to take the decision to initiate an infringement procedure, as provided for in this Regulation, shall expire one year after the existence of the alleged infringement first became known either to the ECB or to the national central bank of the Member State in whose jurisdiction the alleged infringement occurred and, in any case, five years after the infringement occurred or, in the case of a continued infringement, five years after the infringement was terminated.

2. The right to take the decision to impose a sanction in respect of an infringement, as provided for in this Regulation, shall expire one year after the decision to initiate the procedure as described in Article 3(1) was taken.

3. The right to start an enforcement procedure shall expire six months after the decision has become enforceable pursuant to Article 3(8).

*Article 5***Judicial review**

The Court of Justice of the European Communities shall have unlimited jurisdiction within the meaning of Article 172 of the Treaty over the review of final decisions whereby a sanction is imposed.

*Article 6***General provisions and regulatory power**

1. In the event of a conflict between the provisions of this Regulation and the provisions of other Council Regulations enabling the ECB to impose sanctions, the provisions of the latter shall prevail.

2. Subject to the limits and conditions laid down in this Regulation, the ECB may adopt regulations to specify further the arrangements whereby sanctions may be imposed in accordance with this Regulation as well as guidelines to coordinate and harmonise the procedures in relation to the conduct of the infringement procedure.

*Article 7***Final provisions**

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

Article 6(2) shall apply from the date of entry into force of this Regulation. The remaining Articles shall apply from 1 January 1999.

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

Done at Brussels, 23 November 1998.

*For the Council*  
*The President*  
R. EDLINGER

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**COUNCIL REGULATION (EC) No 2533/98**  
**of 23 November 1998**  
**concerning the collection of statistical information by the European Central Bank**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Protocol (No 3) on the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute') and in particular to Article 5.4 thereof,

Having regard to the recommendation of the European Central Bank (the 'ECB')<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Commission<sup>(3)</sup>,

Acting in accordance with the procedure laid down in Article 106(6) of the Treaty establishing the European Community and in Article 42 of the Statute,

- (1) Whereas Article 5.1 of the Statute requires the ECB, assisted by the national central banks, to collect either from the competent national authorities or directly from economic agents the statistical information which is necessary for the tasks of the European System of Central Banks (hereinafter referred to as the 'ESCB') to be performed; whereas, to facilitate the execution of these tasks, set out in Article 10.5 of the Treaty, and in particular the conduct of monetary policy, this statistical information is used primarily for the production of aggregated statistical information, for which the identity of individual economic agents is irrelevant, but may also be used at the level of individual economic agents; whereas Article 5.2 of the Statute requires the national central banks to carry out, to the extent possible, the tasks described in Article 5.1 of the Statute; whereas Article 5.4 of the Statute requires the Council to define the natural and legal persons subject to reporting requirements, the confidentiality regime and the appropriate provisions for enforcement; whereas the national central banks may cooperate with other competent authorities, including national statistical institutes and market regulators, for the purposes of Article 5.1 of the Statute;
- (2) Whereas, in order for statistical information to be effective as an instrument for the performance of the tasks of the ESCB, definitions and procedures

for its collection need to be structured so that the ECB has the ability and flexibility to avail itself in a timely manner of high-quality statistics which reflect changing economic and financial conditions and take account of the burden imposed on reporting agents; whereas in so doing attention must be paid not only to the performance of the ESCB's tasks and its independence but also to keeping the burden placed on the reporting agents to a minimum;

- (3) Whereas it is therefore desirable to define a reference reporting population in terms of categories of economic units and statistical applications involved, to which the statistical powers of the ECB is confined and from which the ECB determines the actual reporting population through its regulatory power;
- (4) Whereas a homogeneous reporting population is necessary for the production of the consolidated balance sheet of the Monetary Financial Institutions sector of the participating Member States, the principal aim of which is to provide the ECB with a comprehensive statistical picture of monetary developments in the participating Member States, seen as one economic territory; whereas the ECB has established and maintains a List of Monetary Financial Institutions for statistical purposes based on a common definition of these institutions;
- (5) Whereas the said common definition for statistical purposes specifies that Monetary Financial Institutions comprise credit institutions as defined in Community law, and all other resident financial institutions whose business is to receive deposits and/or close substitutes for deposits from entities other than Monetary Financial Institutions and, for their own account (at least in economic terms), to grant credits and/or to make investments in securities;
- (6) Whereas those post office giro institutions which may not fulfil the common definition for statistical purposes of Monetary Financial Institutions may nevertheless need to be made subject to the ECB's statistical reporting requirements in the field of

<sup>(1)</sup> OJ C 246, 6. 8. 1998, p. 12.

<sup>(2)</sup> OJ C 328, 26. 10. 1998.

<sup>(3)</sup> Opinion delivered on 8 October 1998 (not yet published in the Official Journal).

money and banking statistics and payment systems statistics because they may, to a significant extent, receive deposits and/or close substitutes for deposits and undertake payment systems business;

- (7) Whereas in the European System of National and Regional Accounts 1995<sup>(1)</sup> (hereinafter referred to as the 'ESA 95'), the Monetary Financial Institutions therefore comprise the sub-sectors 'the central bank' and 'other monetary financial institutions' and may be broadened solely through the inclusion of categories of institutions coming from the sub-sector 'other financial intermediaries, except insurance corporations and pension funds';
- (8) Whereas statistics on the balance of payments, the International Investment Position, securities, electronic money and payment systems are necessary to enable the ESCB to fulfil its tasks in an independent manner;
- (9) Whereas the use of the terms 'legal and natural persons' in Article 5.4 of the Statute has to be construed in a manner that is consistent with the practices of Member States in the field of money and banking statistics and balance of payments statistics and therefore also encompasses entities that are neither legal persons nor natural persons under their respective national laws but still fall within the relevant sub-sectors of the ESA 95; whereas reporting requirements can therefore be imposed on entities such as partnerships, branches, undertakings for collective investments in transferable securities (UCITS) and funds that, under their respective laws, do not enjoy the status of a legal person; whereas in these cases the reporting obligation is imposed on those persons who, under the applicable national laws, legally represent the entities concerned;
- (10) Whereas the statistical balance sheet reports of institutions mentioned in Article 19.1 of the Statute may also be used to calculate the amount of minimum reserves which they may be obliged to hold;
- (11) Whereas it is the task of the Governing Council of the ECB to specify the division of tasks between the ECB and the national central banks concerning the collection and verification of statistical information and their enforcement, taking into account the principle laid down in Article 5.2 of the Statute, as well as the tasks which will be assumed by national authorities within the limits of their

competence, for the purposes of obtaining statistics of a consistently high quality;

- (12) Whereas, in the early years of the single currency area, cost-effectiveness may require that the ECB's statistical reporting requirements be satisfied through transitional procedures due to existing constraints on the collection systems; whereas this may imply in particular that, in the case of the Financial Account of the balance of payments, data on cross-border positions or transactions of the participating Member States seen as one economic territory may in the early years of the single currency area be compiled using all positions or transactions between residents of a participating Member State and residents of other countries;
- (13) Whereas the limits within and the conditions under which the ECB is entitled to impose sanctions on undertakings for failure to comply with the obligations laid down in regulations and decisions of the ECB have been defined by Council Regulation (EC) No 2532/98 of 23 November 1998, concerning the powers of the European Central Bank to impose sanctions<sup>(2)</sup>, in accordance with Article 34.3 of the Statute; whereas in the event of a conflict between the provisions of the said Regulation and this Regulation enabling the ECB to impose sanctions, the provisions of this Regulation will prevail; whereas the sanctions for non-compliance with the obligations set out in this Regulation are without prejudice to the possibility of the ESCB establishing appropriate enforcement provisions in its relations with counterparties, including the partial or total exclusion of a reporting agent from monetary policy operations in the case of a serious infringement of statistical reporting requirements;
- (14) Whereas regulations made by the ECB under Article 34.1 of the Statute do not confer any rights or impose any obligations on non-participating Member States;
- (15) Whereas Denmark, referring to paragraph 1 of the Protocol (No 12) on certain provisions relating to Denmark, has given notification, in the context of the Edinburgh Decision of 12 December 1992, that it will not participate in the third stage of Economic and Monetary Union; whereas, therefore, in accordance with paragraph 2 of the said Protocol, all Articles and provisions of the Treaty and the Statute referring to a derogation will be applicable to Denmark;

<sup>(1)</sup> OJ L 310, 30. 11. 1996, p. 1.

<sup>(2)</sup> See page 4 of this Official Journal.

- (16) Whereas under paragraph 8 of the Protocol (No 11) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland, Article 34 of the Statute does not apply to the United Kingdom unless it participates in the third stage of Economic and Monetary Union;
- (17) Whereas, while it is recognised that the statistical information needed to fulfil the ECB's statistical reporting requirements is not the same for the participating as for the non-participating Member States, Article 5 of the Statute applies to both participating and non-participating Member States; whereas this fact, together with Article 5 of the Treaty, implies an obligation to design and implement at the national level all the measures that Member States consider appropriate in order to carry out the collection of the statistical information needed to fulfil the ECB's statistical reporting requirements and the timely preparations in the field of statistics in order for them to become participating Member States;
- (18) Whereas confidential statistical information which the ECB and the national central banks must obtain for the performance of the tasks of the ESCB must be protected in order to gain and maintain the confidence of the reporting agents; whereas once this Regulation is adopted there will be no further cause to invoke provisions on confidentiality preventing the exchange of confidential statistical information relating to the tasks of the ESCB, subject to the provisions of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(1)</sup>;
- (19) Whereas Article 38.1 of the Statute provides that members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy and Article 38.2 of the Statute provides that persons having access to data covered by Community legislation imposing an obligation of secrecy shall be subject to such legislation;
- (20) Whereas any infringement of the rules binding members of the staff of the ECB, whether committed wilfully or through negligence, renders them liable to disciplinary sanctions and, if appropriate, legal penalties for the violation of professional secrecy, subject to the combined provisions of Articles 12 and 18 of the Protocol on the privileges and immunities of the European Communities;
- (21) Whereas the possible use of statistical information for the execution of the tasks to be carried out through the ESCB in accordance with Article 105 of the Treaty, while reducing the overall reporting burden, implies that the confidentiality regime defined in this Regulation must differ to some extent from the general Community and international principles on statistical confidentiality, and in particular from the provisions on statistical confidentiality in Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics<sup>(2)</sup>; whereas, subject to this point, the ECB will take into account the principles underlying Community statistics set out in Article 10 of Regulation (EC) No 322/97;
- (22) Whereas the confidentiality regime defined in this Regulation applies only to confidential statistical information transmitted to the ECB for the performance of the tasks of the ESCB and does not affect special national or Community provisions relating to the transmission of other types of information to the ECB; whereas the rules on statistical confidentiality applied by the national statistical institutes and the Commission on the statistical information they collect on their own behalf must be respected;
- (23) Whereas, for the purposes of Article 5.1 of the Statute, the ECB is required to cooperate in the field of statistics with the Community institutions or bodies and with the competent authorities of the Member States or third countries and with international organisations; whereas the ECB and the Commission will establish appropriate forms of cooperation in the field of statistics in order to carry out their tasks in the most efficient way, trying to minimise the burden on reporting agents;
- (24) Whereas the ESCB and ECB have been entrusted with the task of preparing the statistical reporting requirements for the euro area for their full operation in the third stage of Economic and Monetary Union (hereinafter referred to as 'Stage Three'); whereas timely preparation in the statistical field is essential to enable the ESCB to fulfil its tasks in Stage Three; whereas an essential element of preparation is the adoption, ahead of Stage Three, of

<sup>(1)</sup> OJ L 281, 23. 11. 1995, p. 31.

<sup>(2)</sup> OJ L 52, 22. 2. 1997, p. 1.

ECB statistical regulations; whereas it is desirable to inform market participants during 1998 of the detailed provisions the ECB may deem necessary to adopt for the implementation of its statistical reporting requirements; whereas it is therefore necessary to provide the ECB from the date of entry into force of this Regulation with a regulatory power;

- (25) Whereas the provisions of this Regulation can be effectively applied only if participating Member States in their entirety have adopted the necessary measures with a view to ensuring that their authorities have the powers to assist and collaborate fully with the ECB in carrying out the verification and compulsory collection of statistical information, in conformity with Article 5 of the Treaty,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Definitions**

For the purposes of this Regulation:

1. 'the ECB's statistical reporting requirements' shall mean the statistical information which reporting agents are required to provide and which is necessary for the tasks of the ESCB to be performed;
2. 'reporting agents' shall mean the legal and natural persons and the entities referred to in Article 2(3) which are subject to the ECB's statistical reporting requirements;
3. 'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty;
4. 'resident' and 'residing' shall mean having a centre of economic interest in the economic territory of a country as described in Annex A; in this context, 'cross-border positions' and 'cross-border transactions' shall mean respectively positions and transactions in the assets and/or liabilities of residents of participating Member States seen as one economic territory *vis-a-vis* residents of non-participating Member States and/or residents of third countries;
5. 'International Investment Position' shall mean the balance sheet of the stock of cross-border financial assets and liabilities;
6. 'electronic money' shall mean an electronic store of monetary value on a technical device, including prepaid cards, that may be widely used for making payments to entities other than the issuer without necessarily involving bank accounts in the transaction, but acting as a prepaid bearer instrument.

#### *Article 2*

##### **Reference reporting population**

1. For the fulfilment of the ECB's statistical reporting requirements, the ECB, assisted by the national central banks in accordance with Article 5.2 of the Statute, shall have the right to collect statistical information within the limits of the reference reporting population and of what is necessary to carry out the tasks of the ESCB.
2. The reference reporting population shall comprise the following reporting agents:
  - (a) legal and natural persons falling within the sub-sectors 'central bank', 'other monetary financial institutions' and 'other financial intermediaries, except insurance corporations and pension funds' as described in Annex B and residing in a Member State, to the extent necessary to fulfil the ECB's statistical reporting requirements in the field of money and banking statistics and payment systems statistics;
  - (b) post office giro institutions, to the extent necessary to fulfil the ECB's statistical reporting requirements in the field of money and banking statistics and payment systems statistics;
  - (c) legal and natural persons residing in a Member State, to the extent that they hold cross-border positions or carry out cross-border transactions and that statistical information relating to such positions or transactions is necessary to fulfil the ECB's statistical reporting requirements in the field of balance of payments statistics or the International Investment Position;
  - (d) legal and natural persons residing in a Member State, to the extent that statistical information relating to the securities or the electronic money issued by them is necessary to fulfil the ECB's statistical reporting requirements.

3. An entity that would otherwise be covered by the definition in paragraph 2, but which according to the national law of its country of residence is neither a legal person nor a collection of natural persons, while it can be the subject of rights and obligations, shall be a reporting agent. The reporting obligation of such an entity shall be fulfilled by the persons legally representing it.

Where a legal person, collection of natural persons or an entity as referred to in the first subparagraph has a branch resident in another country, the branch shall be a reporting agent in its own right irrespective of where the head office is located insofar as the branch satisfies the conditions defined in paragraph 2, with the exception of the need to possess separate legal personality. Any number of branches set up in the same Member State shall be regarded as a single branch when they belong to the same sub-sector of the economy. The reporting obligation of a branch shall be fulfilled by the persons legally representing it.

#### Article 3

#### Modalities for the definition of statistical reporting requirements

In defining and imposing its statistical reporting requirements, the ECB shall specify the actual reporting population within the limits of the reference reporting population as defined in Article 2. Without prejudice to the fulfilment of its statistical reporting requirements, the ECB:

- (a) shall minimise the reporting burden involved, including by using existing statistics as far as possible;
- (b) shall take into account Community and international statistical standards;
- (c) may fully or partly exempt specific classes of reporting agents from its statistical reporting requirements.

#### Article 4

#### Obligations of Member States

Member States shall organise themselves in the field of statistics and shall fully cooperate with the ESCB in order to ensure the fulfilment of the obligations arising out of Article 5 of the Statute.

#### Article 5

#### Regulatory power of the ECB

1. The ECB may adopt regulations for the definition and imposition of its statistical reporting requirements on the actual reporting population of participating Member States.

2. To guarantee the coherence necessary to produce statistics meeting their respective information requirements, the ECB shall consult the Commission on draft regulations whenever links with the statistical requirements of the Commission exist. The Committee on Monetary, Financial and Balance of Payments Statistics shall take part, within the limits of its competence, in the process of cooperation between the Commission and the ECB.

#### Article 6

#### Right of verification and compulsory collection of statistical information

1. If a reporting agent residing in a participating Member State is suspected of an infringement, as set out in Article 7(2), of the ECB's statistical reporting requirements, the ECB and, in accordance with Article 5.2 of the Statute, the national central bank of the participating Member State concerned shall have the right to verify the accuracy and quality of the statistical information and to carry out its compulsory collection. However, should the statistical information concerned be necessary in order to demonstrate compliance with minimum reserve requirements, the verification should be carried out in accordance with Article 6 of Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank<sup>(1)</sup>. The right to verify statistical information or to carry out compulsory collection thereof shall comprise the right to:

- (a) require submission of documents;
- (b) examine the books and records of the reporting agents;
- (c) take copies or extracts from such books and records; and
- (d) obtain written or oral explanations.

<sup>(1)</sup> See page 1 of this Official Journal.

2. The ECB or the competent national central bank shall notify the reporting agent in writing of its decision to verify statistical information or to collect it compulsorily, specifying the time limit for compliance with the verification request, the sanctions applicable in the case of non-compliance and the right to review. The ECB and the national central bank concerned shall inform each other of such verification requests.

3. For the verification and the compulsory collection of statistical information, national procedures shall be followed. The costs of the procedure shall be borne by the reporting agent concerned if it is established that the reporting agent has breached statistical reporting requirements.

4. The ECB may adopt regulations specifying the conditions under which the right to verify or to carry out the compulsory collection of statistical information may be exercised.

5. Within the limits of their competence, national authorities of participating Member States shall give the necessary assistance to the ECB and national central banks in the exercise of the powers provided for in this Article.

6. When a reporting agent opposes or obstructs the verification process or the compulsory collection of the required statistical information, the participating Member State in which the reporting agent's premises are located shall afford the necessary assistance, including ensuring access to the reporting agent's premises by the ECB or the national central bank so that the rights mentioned in paragraph 1 can be exercised.

#### *Article 7*

##### **Imposition of sanctions**

1. The ECB shall have the power to impose the sanctions set out in this Article on reporting agents which are subject to reporting requirements and residing in a participating Member State and which fail to comply with the obligations resulting from this Regulation or from ECB regulations or decisions defining and imposing the ECB's statistical reporting requirements.

2. The obligation to transmit certain statistical information to the ECB or to the national central banks shall be deemed to have been infringed if:

- (a) no statistical information is received by the ECB or national central bank by the established deadline; or

- (b) the statistical information is incorrect, incomplete or in a form not complying with the requirement.

3. The obligation to allow the ECB and the national central banks to verify the accuracy and quality of the statistical information submitted by reporting agents to the ECB or national central bank shall be deemed to have been infringed whenever a reporting agent obstructs this activity. Such obstruction includes, but is not limited to, the removal of documents and prevention of physical access by the ECB or the national central bank which is necessary for them to carry out their verification task or compulsory collection.

4. The ECB may impose sanctions on a reporting agent as follows:

- (a) in the event of an infringement as defined in paragraph 2(a), a daily penalty payment not exceeding EUR 10 000, with the total fine not exceeding EUR 100 000;
- (b) in the event of an infringement as defined in paragraph 2(b), a fine not exceeding EUR 200 000; and
- (c) in the event of an infringement as defined in paragraph 3, a fine not exceeding EUR 200 000.

5. The sanctions set out in paragraph 4 shall be additional to the obligation on the reporting agent to meet the costs of the verification and compulsory collection procedure as required in Article 6(3).

6. In exercising the powers provided for in this Article, the ECB shall act in accordance with the principles and procedures as set out in Regulation (EC) No 2532/98.

#### *Article 8*

##### **Confidentiality regime**

1. Within the scope of this Regulation and for the purposes of the confidentiality regime covering the statistical information which is necessary for the tasks of the ESCB to be performed, statistical information shall be confidential when it allows reporting agents or any other legal person, natural person, entity or branch to be identified, either directly from their name, address or from an officially allocated identification code, or indirectly through deduction, thereby disclosing individual information. To determine whether a reporting agent or any other legal person, natural person, entity or branch is identifiable, account shall be taken of all the means that might reasonably be used by a third party to identify the said

reporting agent or the other legal person, natural person, entity or branch. Statistical information taken from sources which are available to the public in accordance with national law is not confidential.

2. Transmission from the national central banks to the ECB of confidential statistical information shall take place to the extent and at the level of detail necessary for the exercise of the tasks to be carried out through the ESCB, as described in Article 105 of the Treaty.

3. Reporting agents shall be informed of the statistical and other, administrative, uses, to which statistical information provided by them may be put. Reporting agents shall have the right to obtain information on the legal basis for the transmission and the protective measures adopted.

4. The ECB shall use confidential statistical information transmitted to it exclusively for the exercise of the tasks of the ESCB except:

- (a) if the reporting agent or the other legal person, natural person, entity or branch which can be identified, has explicitly given its consent to the use of the said statistical information for other purposes; or
- (b) for the production of specific Community statistics, following an agreement between the Commission and the ECB in accordance with Article 9 of Regulation (EC) No 322/97; or
- (c) for granting scientific research bodies access to confidential statistical information which does not allow direct identification, without prejudice to national legislation and with the previous explicit consent of the national authority which provided the information.

5. The national central banks shall use the confidential statistical information collected to fulfil the ECB's statistical reporting requirements exclusively for the exercise of the tasks of the ESCB except:

- (a) if the reporting agent or the other legal person, natural person, entity or branch which can be identified has explicitly given its consent to the use of the said statistical information for other purposes; or
- (b) if it is used at the national level for statistical purposes following an agreement between the national statistical authorities and the national central bank or for the production of Community statistics in accordance with Article 9 of Regulation (EC) No 322/97; or

(c) if it is used in the field of prudential supervision or for the exercise in accordance with Article 14(4) of the Statute of functions other than those specified in the Statute; or

(d) for granting scientific research bodies access to confidential statistical information which does not allow direct identification.

6. This Article shall not prevent confidential statistical information collected for purposes other than, or in addition to, meeting the ECB's statistical reporting requirements from being used to meet those other purposes.

7. This Article shall apply only to the collection and transmission of confidential statistical information for the fulfilment of the ECB's statistical reporting requirements; it shall not affect special national or Community provisions relating to the transmission of other types of information to the ECB.

8. This Regulation shall apply without prejudice to Directive 95/46/EC.

In the case of data collected by national statistical institutes and the Commission, which are submitted to the ECB, this Regulation shall, as regards statistical confidentiality, apply without prejudice to Regulation (EC) No 322/97.

9. The ECB and the national central banks shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the protection of confidential statistical information. The ECB shall define common rules and minimum standards to prevent unlawful disclosure and unauthorised use. The protection measures shall apply to all confidential statistical information as defined in paragraph 1.

10. Member States shall adopt all the necessary measures to ensure the protection of confidential statistical information, including the imposition of the appropriate enforcement measures by the Member States in the event of an infringement.

#### Article 9

#### Final provisions

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

Article 5, Article 6(4) and Article 8(9) shall apply from the date of entry into force of this Regulation. The remaining Articles shall apply from 1 January 1999.

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

Done at Brussels, 23 November 1998.

*For the Council*

*The President*

R. EDLINGER

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## ANNEX A

## THE LIMITS OF THE NATIONAL ECONOMY

- 2.04. The units, whether institutional, local kind-of-activity or of homogeneous production, which constitute the economy of a country and whose transactions are recorded in the ESA, are those which have a centre of economic interest on the economic territory of that country. These units, known as resident units, may or may not have the nationality of that country, may or may not be legal entities, and may or may not be present on the economic territory of the country at the time they carry out a transaction. Having thus defined the limits of the national economy in terms of resident units, it is necessary to define the meaning of the terms economic territory and centre of economic interest.
- 2.05. The term economic territory means:
- (a) the geographic territory administered by a government within which persons, goods, services and capital move freely;
  - (b) any free zones, including bonded warehouses and factories under customs control;
  - (c) the national air-space, territorial waters and the continental shelf lying in international waters, over which the country enjoys exclusive rights<sup>(1)</sup>;
  - (d) territorial enclaves, i.e. geographic territories situated in the rest of the world and used, under international treaties or agreements between States, by general government agencies of the country (embassies, consulates, military bases, scientific bases, etc.);
  - (e) deposits of oil, natural gas, etc. in international waters outside the continental shelf of the country, worked by units resident in the territory as defined in the preceding subparagraphs.
- 2.06. The economic territory does not include extraterritorial enclaves (i.e. the parts of the country's own geographic territory used by general government agencies of other countries, by the institutions of the European Union or by international organisations under international treaties or agreements between States<sup>(2)</sup>).
- 2.07. The term centre of economic interest indicates the fact there exists some location within the economic territory on, or from, which a unit engages, and intends to continue to engage, in economic activities and transactions on a significant scale, either indefinitely or over a finite but long period of time (a year or more). It follows that a unit which carries out such transactions on the economic territory of several countries is deemed to have a centre of economic interest in each of them. The ownership of land and buildings within the economic territory is deemed to be sufficient in itself for the owner to have a centre of economic interest there.
- 2.08. On the basis of these definitions, units deemed to be residents of a country can be sub-divided into:
- (a) units which are principally engaged in production, finance, insurance or redistribution, in respect of all their transactions except those relating to ownership of land and buildings;
  - (b) Units which are principally engaged in consumption<sup>(3)</sup>, in respect of all their transactions except those relating to ownership of land and buildings;
  - (c) all units in their capacity as owners of land and buildings with the exception of owners of extraterritorial enclaves which are part of the economic territory of other countries or are States *sui generis* (see paragraph 2.06).

<sup>(1)</sup> Fishing boats, other ships, floating platforms and aircraft are treated in the ESA just like any other mobile equipment, whether owned and/or operated by units resident in the Country, or owned by non-residents and operated by resident units. Transactions involving the ownership (gross fixed capital formation) and use (renting, insurance, etc.) of this type of equipment are attributed to the economy of the country of which the owner and/or operator respectively are resident. In cases of financial leasing a change of ownership is assumed.

<sup>(2)</sup> The territories used by the institutions of the European Union and international organisations thus constitute the territories of States *sui generis*. The feature of such States is that the only residents are the institutions themselves (see paragraph 2.10(e)).

<sup>(3)</sup> Consumption is not the only possible activity of households. Households may as entrepreneurs engage in any kind of economic activity.

- 2.09. In the case of units which are principally engaged in production, finance, insurance or redistribution, in respect of all their transactions except those relating to ownership of land and buildings, the following two cases may be distinguished:
- (a) activity conducted exclusively on the economic territory of the country: units which carry out such activity are resident units of the country;
  - (b) activity conducted for a year or more on the economic territories of several countries: only that part of the unit which has a centre of economic interest on the economic territory of the country is deemed to be a resident unit. It may be:
    - 1. either an institutional resident unit, whose activities conducted for a year or more in the rest of the world are excluded and treated separately <sup>(1)</sup>, or
    - 2. a notional resident unit, in respect of the activity conducted in the country for a year or more by a unit which is resident in another country.
- 2.10. In the case of units which are principally engaged in consumption, except in their capacity as owners of land and buildings, households which have a centre of economic interest in the country are deemed to be resident units, even if they go abroad for short periods (less than a year). They include, in particular, the following:
- (a) border workers, i.e. people who cross the frontier daily to work in a neighbouring country;
  - (b) seasonal workers, i.e. people who leave the country for several months, but less than a year, to work in another country in sectors in which additional manpower is needed periodically;
  - (c) tourists, patients, students <sup>(2)</sup>, visiting officials, businessmen, salesmen, artists and crew members who travel abroad;
  - (d) locally recruited staff working in the extraterritorial enclaves of foreign governments;
  - (e) the staff of the institutions of the European Union and of civilian or military international organisations which have their headquarters in extraterritorial enclaves;
  - (f) the official, civilian or military representatives of the government of the country (including their households) established in territorial enclaves.
- 2.11. All units in their capacity as owners of land and/or buildings which form part of the economic territory are deemed to be resident units or notional resident units of the country in which the land or buildings in question are located.

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<sup>(1)</sup> It is only where such activity is carried on for less than a year that it should not be separated from the activities of the producer institutional unit. This may also be done where the activity, though conducted for a year or more, is insignificant, and in all circumstances for the installation of equipment abroad. However, a unit which is resident in another country and which is carrying out a construction activity in the country for a duration of less than a year is deemed to have a centre of economic interest on the economic territory of the country if the output of the construction activity constitutes gross fixed capital formation. Such a unit should therefore be treated as a notional resident unit.

<sup>(2)</sup> Students are always treated as residents, however long they study abroad.

## ANNEX B

**SUBSECTOR: THE CENTRAL BANK (S.121)**

- 2.45. *Definition:* The subsector the central bank (S.121) consists of all financial corporations and quasi-corporations whose principal function is to issue currency, to maintain the internal and external value of the currency and to hold all or part of the international reserves of the country.
- 2.46. The following financial intermediaries are classified in subsector S.121:
- (a) the national central bank, also in the case where it is part of a European System of Central Banks;
  - (b) central monetary agencies of essentially public origin (e.g. agencies managing foreign exchange or issuing currency) which keep a complete set of accounts and enjoy autonomy of decision in relation to central government. Mostly these activities are performed either within central government or within the central bank. In these cases no separate institutional units exist.
- 2.47. Subsector S.121 does not include agencies and bodies, other than the central bank, which regulate or supervise financial corporations or financial markets.

**SUBSECTOR: OTHER MONETARY FINANCIAL INSTITUTIONS (S.122)**

- 2.48. *Definition:* The subsector other monetary financial institutions (S.122) consists of all financial corporations and quasi-corporations, except those classified in the central bank subsector, which are principally engaged in financial intermediation and whose business is to receive deposits and/or close substitutes for deposits from institutional units other than monetary financial institutions, and, for their own account, to grant loans and/or to make investments in securities.
- 2.49. The monetary financial institutions (MFIs) comprise the subsector the central bank (S.121) and the subsector other monetary financial institutions (S.122), and coincide with the monetary financial institutions for statistical purposes as defined by the EMI.
- 2.50. MFIs cannot be described simply as 'banks', because they may possibly include some financial corporations which may not call themselves banks, and some which may not be permitted to do so in some countries, while some other financial corporations describing themselves as banks may not in fact be MFIs. In general, the following financial intermediaries are classified in subsector S.122:
- (a) commercial banks, 'universal' banks, 'all-purpose' banks;
  - (b) savings banks (including trustee savings banks and savings banks and loan associations);
  - (c) post office giro institutions, post banks, giro banks;
  - (d) rural credit banks, agricultural credit banks;
  - (e) cooperative credit banks, credit unions;
  - (f) specialised banks (e.g. merchant banks, issuing houses, private banks).
- 2.51. The following financial intermediaries may also be classified in subsector S.122 where it is their business to receive repayable funds from the public whether in the form of deposits or in other forms such as the continuing issue of bonds and other comparable securities. Otherwise, they should be classified in subsector S.123:
- (a) corporations engaged in granting mortgages (including building societies, mortgage banks and mortgage credit institutions);
  - (b) mutual funds (including investment trusts, unit trusts and other collective investment schemes, e.g. undertakings for collective investment in transferable securities-UCITS);
  - (c) municipal credit institutions.

2.52. Subsector S.122 does not include:

- (a) holding corporations which only control and direct a group consisting predominantly of other monetary financial institutions, but which are not other monetary financial institutions themselves. They are classified in subsector S.123;
- (b) non-profit institutions recognised as independent legal entities serving other monetary financial institutions, but not engaged in financial intermediation.

**SUBSECTOR: OTHER FINANCIAL INTERMEDIARIES, EXCEPT INSURANCE CORPORATIONS AND PENSION FUNDS (S.123)**

2.53. *Definition:* The subsector other financial intermediaries except insurance corporations and pension funds (S.123) consists of all financial corporations and quasi-corporations which are principally engaged in financial intermediation by incurring liabilities in forms other than currency, deposits and/or close substitutes for deposits from institutional units other than monetary financial institutions, or insurance technical reserves.

2.54. Subsector S.123 includes various types of financial intermediaries especially those which are predominantly engaged in long-term financing. In most cases this predominant maturity forms the basis of a distinction from the other monetary financial institutions subsector. Based on the non-existence of liabilities in the form of insurance technical reserves, the borderline with the insurance corporations and pension funds subsector can be determined.

2.55. In particular, the following financial corporations and quasi-corporations are classified in subsector S.123 unless they are MFIs:

- (a) corporations engaged in financial leasing;
- (b) corporations engaged in hire purchase and the provision of personal or commercial finance;
- (c) corporations engaged in factoring;
- (d) security and derivative dealers (on own account);
- (e) specialised financial corporations such as venture and development capital companies, export/import financing companies;
- (f) financial vehicle corporations, created to be holders of securitised assets;
- (g) financial intermediaries which receive deposits and/or close substitutes for deposits from MFIs only;
- (h) holding corporations which only control and direct a group of subsidiaries principally engaged in financial intermediation and/or in auxiliary financial activities, but which are not financial corporations themselves.

2.56. Subsector S.123 does not include non-profit institutions recognised as independent legal entities serving other financial intermediaries except insurance corporations and pension funds, but not engaged in financial intermediation.

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**COMMISSION REGULATION (EC) No 2534/98**  
**of 26 November 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 1498/98<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 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 27 November 1998.

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

Done at Brussels, 26 November 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 198, 15. 7. 1998, p. 4.

<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 26 November 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	39,1
	999	39,1
0709 90 70	052	75,5
	999	75,5
0805 20 10	204	64,2
	999	64,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	61,2
	999	61,2
0805 30 10	052	56,5
	388	47,9
	524	37,2
	528	53,4
	600	85,3
	999	56,1
	999	56,1
0808 10 20, 0808 10 50, 0808 10 90	039	62,2
	060	25,1
	064	46,9
	400	86,0
	404	70,1
	999	58,1
	999	58,1
0808 20 50	052	93,1
	064	61,8
	400	72,5
	720	47,4
	728	201,4
	999	95,2

<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 2535/98**  
**of 26 November 1998**  
**amending Regulation (EEC) No 3046/92 with regard to information provided by**  
**the tax authorities**

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

Having regard to Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States <sup>(1)</sup>, as amended by Commission Regulation (EEC) No 3046/92 <sup>(2)</sup>, and in particular Article 30 thereof,

Whereas a key element of the Intrastat system consists in the use of value added tax information on intra-Community transactions in order to ensure that the exhaustiveness of the statistics can be checked;

Whereas it is appropriate to specify in a restrictive manner the information which may be the subject of transmission between the administrative authorities in the Member States responsible for the application of laws on value added tax and those responsible for the establishment of statistics relating to the trading of goods between Member States;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on the statistics relating to the trading of goods between Member States,

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

Done at Brussels, 26 November 1998.

HAS ADOPTED THIS REGULATION:

*Article 1*

The following paragraph 2 is added to Article 8 of Regulation (EEC) No 3046/92:

‘2. The provision of information of a fiscal nature referred to in Article 11(4) of the Basic Regulation by a Member State’s administrative authorities responsible for the application of laws on value added tax to the departments in that Member State responsible for compiling statistics relating to the trading of goods between Member States is limited to information which those liable to account for VAT are required to provide in accordance with Article 22 of Directive 77/388/EEC.’

*Article 2*

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

*For the Commission*  
Yves-Thibault DE SILGUY  
*Member of the Commission*

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<sup>(1)</sup> OJ L 316, 16. 11. 1991, p. 1.

<sup>(2)</sup> OJ L 307, 23. 10. 1992, p. 27.

**COMMISSION REGULATION (EC) No 2536/98**  
**of 26 November 1998**  
**amending Regulation (EEC) No 920/89 laying down quality standards for carrots,**  
**citrus fruit and dessert apples and pears**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables <sup>(1)</sup>, as amended by Commission Regulation (EC) No 2520/97 <sup>(2)</sup>, and in particular Article 2(2) thereof,

Whereas Annex I to Commission Regulation (EEC) No 920/89 <sup>(3)</sup>, as last amended by Regulation (EC) No 888/97 <sup>(4)</sup>, lays down a quality standard for carrots;

Whereas Article 149 of the Act of Accession of Austria, Finland and Sweden provides for any transitional measures necessary to facilitate the transition from the existing regime in the new Member States to that resulting from application of the common organisation of the markets to be taken under the Management Committee procedure; whereas the period during which that could be done originally expired on 31 December 1997; whereas the Council has extended it until 31 December 1998;

Whereas Commission Regulation (EC) No 2376/96 of 13 December 1996 derogating, for an additional period of one year, from Regulation (EEC) No 920/89, as regards carrots covered with pure peat produced in Sweden and Finland <sup>(5)</sup>, as amended by Regulation (EC) No 341/98 <sup>(6)</sup>, permits the marketing of these products on the Swedish and Finnish markets and their export to third countries; whereas that Regulation expires on 31 December 1998;

Whereas most of the carrots marketed in Sweden and Finland are covered with pure peat; whereas it has been scientifically demonstrated that covering washed carrots

with pure peat has no deleterious effect on their quality and, indeed, in some cases may improve conservation; whereas the marketing of these products should therefore be permitted without restriction in time;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EEC) No 920/89 is hereby amended as follows:

1. the second sub-indent of the second indent of point II.A is replaced by the following:
 

‘— practically free from excess dirt and impurities if they are not washed, or if they are washed and covered with pure peat.’;
2. the following paragraph is added to point V.C:
 

‘Where washed carrots are covered in pure peat, the peat used shall not be considered as foreign matter.’;
3. the following new indent is inserted after the second indent in point VI.B:
 

‘— where appropriate, “carrots in peat”, even if the contents are visible from the outside.’

*Article 2*

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

It shall apply from 1 January 1999.

<sup>(1)</sup> OJ L 297, 21. 11. 1996, p. 1.

<sup>(2)</sup> OJ L 346, 17. 12. 1997, p. 41.

<sup>(3)</sup> OJ L 97, 11. 4. 1989, p. 19.

<sup>(4)</sup> OJ L 126, 17. 5. 1997, p. 11.

<sup>(5)</sup> OJ L 325, 14. 12. 1996, p. 6.

<sup>(6)</sup> OJ L 40, 13. 2. 1998, p. 3.

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

Done at Brussels, 26 November 1998.

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

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## COMMISSION REGULATION (EC) No 2537/98

of 26 November 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 last amended by Regulation (EC) No 2072/98<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 1352/98<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 1011/98<sup>(9)</sup>, for the basic product in question, used during the assumed period of manufacture of the goods;

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 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 27 November 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 265, 30. 9. 1998, p. 4.

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

<sup>(6)</sup> OJ L 184, 27. 6. 1998, p. 25.

<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 145, 15. 5. 1998, p. 11.

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

Done at Brussels, 26 November 1998.

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

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## ANNEX

to the Commission Regulation of 26 November 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 <sup>(1)</sup>	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	0,910 1,400
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 <sup>(2)</sup> – – in other cases	1,520 — 2,339
1002 00 00	Rye	4,761
1003 00 90	Barley	5,592
1004 00 00	Oats	4,495
1005 90 00	Maize (corn) used in the form of: – starch: – – where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 <sup>(2)</sup> – – 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 <sup>(3)</sup> : – – where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 <sup>(2)</sup> – – 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 <sup>(2)</sup> – in other cases	1,832 5,389 1,070 4,627 5,389 1,832 5,389
ex 1006 30	Wholly-milled rice: – round grain – medium grain – long grain	10,800 10,800 10,800
1006 40 00	Broken rice	2,700
1007 00 90	Sorghum	5,592

<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 2538/98**  
**of 26 November 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 2519/98<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 2457/98<sup>(5)</sup>, as amended by Regulation (EC) No 2530/98<sup>(6)</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 2457/98,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annexes I and II to Regulation (EC) No 2457/98 are hereby replaced by Annexes I and II to this Regulation.

*Article 2*

This Regulation shall enter into force on 27 November 1998.

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

Done at Brussels, 26 November 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 315, 25. 11. 1998, p. 7.

<sup>(5)</sup> OJ L 304, 14. 11. 1998, p. 21.

<sup>(6)</sup> OJ L 317, 26. 11. 1998, p. 24.

## ANNEX I

## Import duties for the products covered by 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 high quality	40,73	30,73
	medium quality <sup>(1)</sup>	50,73	40,73
1001 90 91	Common wheat seed	41,47	31,47
1001 90 99	Common high quality wheat other than for sowing <sup>(3)</sup>	41,47	31,47
	medium quality	73,89	63,89
	low quality	90,35	80,35
1002 00 00	Rye	99,03	89,03
1003 00 10	Barley, seed	99,03	89,03
1003 00 90	Barley, other <sup>(3)</sup>	99,03	89,03
1005 10 90	Maize seed other than hybrid	101,39	91,39
1005 90 00	Maize other than seed <sup>(3)</sup>	101,39	91,39
1007 00 90	Grain sorghum other than hybrids for sowing	99,03	89,03

<sup>(1)</sup> In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, 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

(period from 13 November 1998 to 25 November 1998)

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

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (**)	US barley 2
Quotation (ECU/tonne)	117,53	101,15	90,96	73,60	135,29 (*)	125,29 (*)	77,00 (*)
Gulf premium (ECU/tonne)	—	10,80	4,52	10,84	—	—	—
Great Lakes premium (ECU/tonne)	16,00	—	—	—	—	—	—

(\*) Fob Duluth.

(\*\*) A discount of ECU 10 per tonne (Article 4(1) of Regulation (EC) No 1249/96).

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 10,45 per tonne; Great Lakes — Rotterdam: ECU 21,29 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 2539/98**

of 26 November 1998

**fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 2004/98**

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 2513/98 <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 certain ACP States was opened pursuant to Commission Regulation (EC) No 2004/98 <sup>(5)</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 Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

For tenders notified from 20 to 26 November 1998, pursuant to the invitation to tender issued in Regulation (EC) No 2004/98, the maximum refund on exportation of common wheat shall be ECU 33,94 per tonne.

*Article 2*

This Regulation shall enter into force on 27 November 1998.

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

Done at Brussels, 26 November 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 313, 21. 11. 1998, p. 16.

<sup>(5)</sup> OJ L 258, 22. 9. 1998, p. 4.

**COMMISSION REGULATION (EC) No 2540/98**  
of 26 November 1998

**fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1079/98**

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 2513/98 <sup>(4)</sup>, and in particular Article 4 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of common wheat to all third countries with the exception of certain ACP States was opened pursuant to Commission Regulation (EC) No 1079/98 <sup>(5)</sup>, as amended by Regulation (EC) No 2005/98 <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 20 to 26 November 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1079/98, the maximum refund on exportation of common wheat shall be ECU 27,25 per tonne.

*Article 2*

This Regulation shall enter into force on 27 November 1998.

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

Done at Brussels, 26 November 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 313, 21. 11. 1998, p. 16.

<sup>(5)</sup> OJ L 154, 28. 5. 1998, p. 24.

<sup>(6)</sup> OJ L 258, 22. 9. 1998, p. 8.

**COMMISSION REGULATION (EC) No 2541/98**  
**of 26 November 1998**

**fixing the maximum export refund on oats in connection with the invitation to  
tender issued in Regulation (EC) No 2007/98**

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 2513/98 <sup>(4)</sup>,

Having regard to Commission Regulation (EC) No 2007/  
98 of 21 September 1998 on a special intervention  
measure for cereals in Finland and Sweden <sup>(5)</sup>, as  
amended by Regulation (EC) No 2434/98 <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 2007/98;

Whereas Article 8 of Regulation (EC) No 2007/98  
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 20 to 26 November 1998,  
pursuant to the invitation to tender issued in Regulation  
(EC) No 2007/98, the maximum refund on exportation of  
oats shall be ECU 53,95 per tonne.

*Article 2*

This Regulation shall enter into force on 27 November  
1998.

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

Done at Brussels, 26 November 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 313, 21. 11. 1998, p. 16.

<sup>(5)</sup> OJ L 258, 22. 9. 1998, p. 13.

<sup>(6)</sup> OJ L 302, 12. 11. 1998, p. 30.

**COMMISSION REGULATION (EC) No 2542/98**  
**of 26 November 1998**

**fixing the maximum export refund on barley in connection with the invitation to  
tender issued in Regulation (EC) No 1564/98**

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 2513/98 <sup>(4)</sup>, and in particular Article 7 thereof,

Whereas an invitation to tender for the refund for the export of barley exported from Spain to all third countries was opened pursuant to Commission Regulation (EC) No 1564/98 <sup>(5)</sup>, as amended by Regulation (EC) No 2309/98 <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;

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 20 to 26 November 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1564/98, the maximum refund on exportation of barley shall be ECU 63,98 per tonne.

*Article 2*

This Regulation shall enter into force on 27 November 1998.

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

Done at Brussels, 26 November 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 313, 21. 11. 1998, p. 16.

<sup>(5)</sup> OJ L 203, 21. 7. 1998, p. 6.

<sup>(6)</sup> OJ L 288, 27. 10. 1998, p. 11.

**COMMISSION REGULATION (EC) No 2543/98**  
**of 26 November 1998**  
**concerning tenders notified in response to the invitation to tender for the export**  
**of barley issued in Regulation (EC) No 1078/98**

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 2513/98 <sup>(4)</sup>, and in particular Article 4 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 1078/98 <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 20 to 26 November 1998 in response to the invitation to tender for the refund or the tax for the export of barley issued in Regulation (EC) No 1078/98.

*Article 2*

This Regulation shall enter into force on 27 November 1998.

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

Done at Brussels, 26 November 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 313, 21. 11. 1998, p. 16.

<sup>(5)</sup> OJ L 154, 28. 5. 1998, p. 20.

**COMMISSION REGULATION (EC) No 2544/98****of 26 November 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 last amended by Regulation (EC) No 2072/98<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 265, 30. 9. 1998, p. 4.

<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 27 November 1998.

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

Done at Brussels, 26 November 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

*ANNEX*

to the Commission Regulation of 26 November 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>	75,45	1104 23 10 9100	80,84
1102 20 10 9400 <sup>(1)</sup>	64,67	1104 23 10 9300	61,97
1102 20 90 9200 <sup>(1)</sup>	64,67	1104 29 11 9000	23,86
1102 90 10 9100	67,29	1104 29 51 9000	23,39
1102 90 10 9900	45,76	1104 29 55 9000	23,39
1102 90 30 9100	80,91	1104 30 10 9000	5,85
1103 12 00 9100	80,91	1104 30 90 9000	13,47
1103 13 10 9100 <sup>(1)</sup>	97,00	1107 10 11 9000	41,63
1103 13 10 9300 <sup>(1)</sup>	75,45	1107 10 91 9000	79,85
1103 13 10 9500 <sup>(1)</sup>	64,67	1108 11 00 9200	46,78
1103 13 90 9100 <sup>(1)</sup>	64,67	1108 11 00 9300	46,78
1103 19 10 9000	47,61	1108 12 00 9200	86,22
1103 19 30 9100	69,53	1108 12 00 9300	86,22
1103 21 00 9000	23,86	1108 13 00 9200	86,22
1103 29 20 9000	45,76	1108 13 00 9300	86,22
1104 11 90 9100	67,29	1108 19 10 9200	41,04
1104 12 90 9100	89,90	1108 19 10 9300	41,04
1104 12 90 9300	71,92	1109 00 00 9100	0,00
1104 19 10 9000	23,86	1702 30 51 9000 <sup>(2)</sup>	96,69
1104 19 50 9110	86,22	1702 30 59 9000 <sup>(2)</sup>	74,02
1104 19 50 9130	70,06	1702 30 91 9000	96,69
1104 21 10 9100	67,29	1702 30 99 9000	74,02
1104 21 30 9100	67,29	1702 40 90 9000	74,02
1104 21 50 9100	89,72	1702 90 50 9100	96,69
1104 21 50 9300	71,78	1702 90 50 9900	74,02
1104 22 20 9100	71,92	1702 90 75 9000	101,32
1104 22 30 9100	76,42	1702 90 79 9000	74,32
		2106 90 55 9000	74,02

<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 2545/98**  
**of 26 November 1998**  
**fixing production refunds on 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 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 7 (3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice<sup>(3)</sup>, as last amended by Regulation (EC) No 2072/98<sup>(4)</sup>, and in particular Article 7 (2) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors<sup>(5)</sup>, as last amended by Regulation (EC) No 1011/98<sup>(6)</sup>, and in particular Article 3 thereof,

Whereas Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund; whereas the basis for the calculation is established in Article 3 of the said Regulation; whereas the refund thus calculated

must be fixed once a month and may be altered if the price of maize and/or wheat changes significantly;

Whereas the production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable;

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 refund referred to in Article 3 (2) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from maize, wheat, barley, oats, potatoes, rice or broken rice, shall be ECU 61,26 per tonne.

*Article 2*

This Regulation shall enter into force on 27 November 1998.

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

Done at Brussels, 26 November 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 329, 30. 12. 1995, p. 18.

<sup>(4)</sup> OJ L 265, 30. 9. 1998, p. 4.

<sup>(5)</sup> OJ L 159, 1. 7. 1993, p. 112.

<sup>(6)</sup> OJ L 145, 15. 5. 1998, p. 11.

**COMMISSION REGULATION (EC) No 2546/98**

of 26 November 1998

**fixing the export refunds on rice and broken rice and suspending the issue of export certificates**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Regulation (EC) No 2072/98 <sup>(2)</sup>, and in particular the second subparagraph of Article 13(3) and (15) thereof,

Whereas Article 13 of Regulation (EC) No 3072/95 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 Article 13(4) 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 rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas Commission Regulation (EEC) No 1361/76 <sup>(3)</sup> lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

Whereas Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated;

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 a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;

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

Whereas it follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto;

Whereas, for the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export certificates with fixing of refunds should be suspended;

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 of Regulation (EC) No 3072/95 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

The issue of export certificates with advance fixing of refunds is hereby suspended for the products listed in the Annex hereto.

*Article 3*

This Regulation shall enter into force on 27 November 1998.

<sup>(1)</sup> OJ L 329, 30. 12. 1995, p. 18.

<sup>(2)</sup> OJ L 265, 30. 9. 1998, p. 4.

<sup>(3)</sup> OJ L 154, 15. 6. 1976, p. 11.

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

Done at Brussels, 26 November 1998.

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

ANNEX

**to the Commission Regulation of 26 November 1998 fixing the export refunds on rice and broken rice and suspending, the issue of export licences**

<i>(ECU/tonne)</i>			<i>(ECU/tonne)</i>		
Product code	Destination (1)	Amount of refunds	Product code	Destination (1)	Amount of refunds
1006 20 11 9000	01	86,00	1006 30 65 9900	01	108,00
1006 20 13 9000	01	86,00		04	—
1006 20 15 9000	01	86,00	1006 30 67 9100	05	—
1006 20 17 9000	—	—	1006 30 67 9900	—	—
1006 20 92 9000	01	86,00	1006 30 92 9100	01	108,00
1006 20 94 9000	01	86,00		02	114,00
1006 20 96 9000	01	86,00		03	119,00
1006 20 98 9000	—	—		04	—
1006 30 21 9000	01	86,00	1006 30 92 9900	01	108,00
1006 30 23 9000	01	86,00		04	—
1006 30 25 9000	01	86,00		—	—
1006 30 27 9000	—	—	1006 30 94 9100	01	108,00
1006 30 42 9000	01	86,00		02	114,00
1006 30 44 9000	01	86,00		03	119,00
1006 30 46 9000	01	86,00		04	—
1006 30 48 9000	—	—	1006 30 94 9900	01	108,00
1006 30 61 9100	01	108,00		04	—
	02	114,00		—	—
	03	119,00	1006 30 96 9100	01	108,00
	04	—		02	114,00
1006 30 61 9900	01	108,00		03	119,00
	04	—		04	—
1006 30 63 9100	01	108,00	1006 30 96 9900	01	108,00
	02	114,00		04	—
	03	119,00		—	—
	04	—	1006 30 98 9100	05	—
1006 30 63 9900	01	108,00	1006 30 98 9900	—	—
	04	—	1006 40 00 9000	—	—
1006 30 65 9100	01	108,00			
	02	114,00			
	03	119,00			
	04	—			

(1) The destinations are identified as follows:

- 01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia,
- 02 Zones I, II, III, VI, Ceuta and Melilla,
- 03 Zones IV, V, VII (c), Canada and Zone VIII excluding Suriname, Guyana and Madagascar,
- 04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,
- 05 Ceuta and Melilla.

*NB:* The zones are those defined in the Annex to amended Commission Regulation (EEC) No 2145/92.

**COMMISSION REGULATION (EC) No 2547/98**

of 26 November 1998

**fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common 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 13 (2) 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 in the Community may be covered by an export refund;

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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 2513/98<sup>(4)</sup>;

Whereas, as far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Regulation (EC) No 1501/95;

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 it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

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 (a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 November 1998.

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

Done at Brussels, 26 November 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 313, 21. 11. 1998, p. 16.

## ANNEX

## to the Commission Regulation of 26 November 1998 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

<i>(ECU / tonne)</i>			<i>(ECU / tonne)</i>		
Product code	Destination (1)	Amount of refund	Product code	Destination (1)	Amount of refund
1001 10 00 9200	—	—	1101 00 11 9000	—	—
1001 10 00 9400	01	0	1101 00 15 9100	01	37,25
1001 90 91 9000	—	—	1101 00 15 9130	01	34,75
1001 90 99 9000	03	17,00	1101 00 15 9150	01	32,00
	02	0	1101 00 15 9170	01	29,75
1002 00 00 9000	03	50,00	1101 00 15 9180	01	27,75
	02	0	1101 00 15 9190	—	—
1003 00 10 9000	—	—	1101 00 90 9000	—	—
1003 00 90 9000	03	47,00	1102 10 00 9500	01	82,00
	02	0	1102 10 00 9700	—	—
1004 00 00 9200	—	—	1102 10 00 9900	—	—
1004 00 00 9400	—	—	1103 11 10 9200	01	20,00 (2)
1005 10 90 9000	—	—	1103 11 10 9400	—	— (2)
1005 90 00 9000	03	36,00	1103 11 10 9900	—	—
	02	0	1103 11 90 9200	01	20,00 (2)
1007 00 90 9000	—	—	1103 11 90 9800	—	—
1008 20 00 9000	—	—			

(1) The destinations are identified as follows:

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Liechtenstein.

(2) No refund is granted when this product contains compressed meal.

*NB:* The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30. 7. 1992, p. 20).

**COMMISSION DIRECTIVE 98/87/EC**  
**of 13 November 1998**  
**amending Council Directive 79/373/EEC on the marketing of compound**  
**feedingstuffs**  
(Text with EEA relevance)

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

Having regard to Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs<sup>(1)</sup>, as last amended by Commission Directive 97/47/EC<sup>(2)</sup>, and in particular Article 10(e) thereof,

Whereas, under point VII.E.4 of Annex XV to the Act of Accession, the Kingdom of Sweden may maintain its national legislation making it compulsory to state the phosphorus content on the labelling of compound feedingstuffs intended for fish until 31 December 1997;

Whereas, under Annex XV of the abovementioned Act, Sweden is required to accompany requests for the adaptation of the Community legislation for the mineral concerned by a detailed scientific statement of reasons;

Whereas Sweden transmitted a statement of reasons on 5 June 1997;

Whereas Directive 79/373/EEC provides for the regular updating of the Annex thereto in the light of scientific and technical knowledge;

Whereas enrichment with phosphorus is disturbing the ecological balance of lakes and seas; whereas eutrophication effects frequently observed in inland lakes are blue-green algae blooms, oxygen deficiency, high fish mortality and reduced biodiversity;

Whereas it is therefore necessary to restrict phosphorus emissions to an absolute minimum; whereas the compulsory indication of phosphorus content on the labelling of compound feedingstuffs for fish would make a significant contribution to that objective by facilitating good feeding practice;

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

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The Annex to Directive 79/373/EEC is hereby amended in accordance with the Annex hereto.

*Article 2*

1. Member States shall adopt and publish not later than 30 June 1999 the laws, regulations and administrative provisions necessary to comply with the provisions of this Directive. They shall immediately inform the Commission thereof.

They shall apply those provisions from 1 July 1999.

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

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field governed by this Directive.

*Article 3*

This Directive shall enter into force on the 20th 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, 13 November 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 86, 6. 4. 1979, p. 30.

<sup>(2)</sup> OJ L 211, 5. 8. 1997, p. 45.

## ANNEX

In Part B of the Annex, the section 'Complete feedingstuffs' is replaced by the following:

'Complete feedingstuffs'	— Crude protein	}	Animals except pets other than dogs and cats	}	Pets other than dogs and cats
	— Crude oils and fats				
	— Crude fibre				
	— Crude ash				
	— Lysine		Pigs		Animals other than pigs
	— Methionine		Poultry		Animals other than poultry
	— Cystine		.....	}	All animals
	— Threonine		.....		
	— Tryptophan		.....		
	— Energy value		.....		Poultry (according to EC method)
			.....		Pigs and ruminants (according to national official methods)
	— Starch		.....	}	All animals
	— Total sugar (as sucrose)		.....		
	— Total sugar plus starch		.....		
	— Calcium		.....		
	— Sodium		.....		
	— Magnesium		.....		
— Potassium		.....			
— Phosphorus			Fish except orna- mental fish		Animals other than fish except orna- mental fish'

**COMMISSION DIRECTIVE 98/88/EC**

of 13 November 1998

**establishing guidelines for the microscopic identification and estimation of constituents of animal origin for the official control of feedingstuffs**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Directive 70/373/EEC of 20 July 1970 on the introduction of Community methods of sampling and analysis for the official control of feedingstuffs<sup>(1)</sup>, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 2 thereof,

Whereas Directive 70/373/EEC stipulates that official controls of feedingstuffs for the purpose of checking compliance with the requirements arising under the laws, regulations and administrative provisions governing their quality and composition must be carried out using Community sampling and analysis methods;

Whereas Commission Decision 94/381/EC of 27 June 1994 concerning certain protection measures with regard to bovine spongiform encephalopathy and the feeding of mammalian derived protein<sup>(2)</sup>, as amended by Decision 95/60/EC<sup>(3)</sup> prohibits the feeding of protein derived from all mammalian tissues to ruminants, with the exception of certain animal products and by-products;

Whereas Commission Decision 91/516/EEC of 9 September 1991 establishing a list of ingredients whose use is prohibited in compound feedingstuffs<sup>(4)</sup>, as last amended by Decision 97/582/EC<sup>(5)</sup>, prohibits the use of protein derived from mammalian tissue in compound feedingstuffs for ruminants;

Whereas Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs<sup>(6)</sup>, as last amended by Commission Directive 97/47/EC<sup>(7)</sup>, provides in Article 5c that all ingredients must be mentioned where a declaration of the ingredients is provided and that the listing of ingredients is subject to several rules, *inter alia*, the listing of ingredients in descending order

by weight for compound feedingstuffs intended for animals other than pets;

Whereas Directive 97/47/EC amending the Annexes to Council Directives 77/101/EEC<sup>(8)</sup>, 79/373/EEC and 91/357/EEC<sup>(9)</sup> introduces appropriate labelling provisions with regard to the prohibition of these products on their use in ruminant feed;

Whereas Member States may have adopted more stringent provisions, in accordance with Article 1(2) of Council Directive 90/667/EEC of 27 November 1990 laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive 90/425/EEC<sup>(10)</sup>, as last amended by the Act of Accession of Austria, Finland and Sweden;

Whereas by microscopic examination the presence of constituents of animal origin can be established; whereas bones of terrestrial animals and bones of fish can be distinguished by microscopic examination; whereas the possibility of distinguishing, by microscopic examination, the bones of mammalian origin from bones of poultry origin depends on the experience of the analyst; whereas the possibility of estimation of the quantity of constituents of animal origin depends also largely on the experience of the analyst; whereas it may be appropriate according to the progress of scientific and technological knowledge, to combine microscopic examination with other methods of analysis; whereas the fixing of these guidelines for the microscopic examination do not exclude the use, instead or in addition, of methods of analysis, other than microscopic examination, which have been proved to be scientifically valid;

Whereas it is therefore advisable to lay down the provisions concerning microscopic examination as guidelines;

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

<sup>(1)</sup> OJ L 170, 3. 8. 1970, p. 2.

<sup>(2)</sup> OJ L 172, 7. 7. 1994, p. 23.

<sup>(3)</sup> OJ L 55, 11. 3. 1995, p. 43.

<sup>(4)</sup> OJ L 281, 9. 10. 1991, p. 23.

<sup>(5)</sup> OJ L 237, 28. 8. 1997, p. 39.

<sup>(6)</sup> OJ L 86, 6. 4. 1979, p. 30.

<sup>(7)</sup> OJ L 211, 5. 8. 1997, p. 45.

<sup>(8)</sup> OJ L 32, 3. 2. 1977, p. 1.

<sup>(9)</sup> OJ L 193, 17. 7. 1991, p. 34.

<sup>(10)</sup> OJ L 363, 27. 12. 1990, p. 51.

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The Member States shall provide that where, with a view to officially controlling the identification and/or estimation of the amount of constituents of animal origin in feedingstuffs, microscopic examination is carried out, it shall be carried out using the guidelines set out in the Annex hereto.

In accordance with the requirements posed by the competent authorities to the analysis, point 7 'Calculation and evaluation' of these guidelines are to be considered as optional, provided that in the case where the estimation of the quantity is carried out, the provisions laid down in point 7 have to be followed.

The fixing of these guidelines, in respect of the procedure for microscopic examination does not exclude the use, instead or in addition, of methods of analysis, other than microscopic examination, which have been scientifically proved to be valid for the identification and/or estimation of the amount of constituents of animal origin.

*Article 2*

The Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with the provisions of this Directive, not later than 1 September 1999. They shall forthwith notify the Commission thereof.

When Member States adopt these provisions, the provisions 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 the Member States.

*Article 3*

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

This Directive is addressed to the Member States.

Done at Brussels, 13 November 1998.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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## ANNEX

**Guidelines for the microscopic identification and estimation of constituents of animal origin in feedstuffs**1. *Objective and field of application*

These guidelines should be used where detection of constituents of animal origin (defined as products from processing bodies and body-parts of mammals, poultry and fish) in feedingstuffs is carried out by means of microscopic examination.

In the case where the estimation of the quantity of animal constituents is carried out, the provisions under point 7 of these guidelines have to be followed.

2. *Sensitivity*

Dependent on the nature of the constituents of animal origin, very small amounts (<0,1 %) in feedingstuffs can be detected.

3. *Principle*

A representative sample, taken in accordance with the provisions laid down in Commission Directive 76/371/EEC of 1 March 1976 establishing Community methods of sampling for the official control of feedingstuffs<sup>(1)</sup> which has undergone suitable preparation is used for the identification. The constituents of animal origin are identified on the basis of typical, microscopically identifiable characteristics (i.e. muscle fibres and other meat particles, cartilage, bones, horn, hair, bristles, blood, feathers, egg shells, fish bones, scales). The identification has to be done both on the sieve fraction (6.1) and the concentrated sediment (6.2) of the sample.

4. *Reagents*<sup>(2)</sup>

## 4.1. Embedding agent

## 4.1.1. Chloral hydrate (aqueous, 60 % w/v)

## 4.1.2. Paraffin oil

## 4.2. Concentrating agent

## 4.2.1. Tetrachloroethylene (density 1,62)

## 4.3. Staining reagents

## 4.3.1. Bradford reagent

## 4.3.2. Iodine/potassium iodide solution

## 4.3.3. Millon reagent

4.3.4. Cystine reagent (2 g lead acetate, 10 g NaOH/100 ml H<sub>2</sub>O)

The reagents listed may be replaced by others which produce comparable results.

5. *Equipment and accessories*

## 5.1. Analytical balance (accuracy of 0,001 g)

## 5.2. Material for grinding (rasp, mill, etc.)

## 5.3. Sieve fitted with sieve mesh with square meshes of width 0,1 to 2 mm

## 5.4. Stereomicroscope (up to 50' magnification)

## 5.5. Compound microscope (up to 400' magnification), transmitted light/polarised light

## 5.6. Standard laboratory glassware

<sup>(1)</sup> OJ L 102, 15. 4. 1976, p. 1.

<sup>(2)</sup> The reagents listed are commercially available, if no other indication is given.

## 6. Procedure

At least 10 g of the sample should, if necessary, depending on the nature of the material be treated (depelletarised or ground with care using the suitable grinding equipment) and then divided into two representative parts, one of at least 5 g for the sieve fraction (6.1) and one of at least 2 g for the concentrated sediment (6.2). Colouring with staining reagents (6.3) is recommended for the identification.

### 6.1. Identification of constituents of animal origin in the sieve fractions

At least 5 g of the sample is sieved through the sieves (5.3) in at least two fractions.

The sieve fraction(s) > 0,5 mm (or a representative part of the fraction) is applied as a thin layer to a suitable support and screened systematically under the stereomicroscope (5.4) at various magnifications for constituents of animal origin.

Slides made with the sieve fraction(s) < 0,5 mm are screened systematically under the compound microscope (5.5) at various magnifications for constituents of animal origin.

### 6.2. Identification of constituents of animal origin from the concentrated sediment

At least 2 g (accurate to 0,001 g) of the sample are weighed into a test tube or a separating funnel and treated with at least 15 ml of tetrachloroethylene (4.2.1). After the mixture has been stirred/shaken repeatedly and left to stand for a sufficient time (at least one minute and no more than two to three minutes), the sediment is separated off.

The sediment is dried in a fume cupboard and subsequently weighed (accurate to 0,001 g). The weighing is only necessary in case an estimation is required. Examine the entire dried sediment or part thereof for bone constituents under the stereomicroscope (5.4) and the compound microscope (5.5).

### 6.3. Use of embedding agents and staining reagents

The microscopic identification of the constituents of animal origin can be supported by the use of special embedding agents and staining reagents.

Chloral hydrate (4.1.1): By carefully heating, cell structures can be seen more clearly because starch grains gelatinise and unwanted cell contents are removed.

Paraffin oil (4.1.2): Bone constituents can be well identified in this embedding agent because most lacunae remain filled with air and appear as black holes about 5 to 15 µm.

Bradford reagent (4.3.1): Is used for the detection of protein (typical blue colour). Dilute with water approx. 1:4.

Iodine/potassium iodide solution (4.3.2): Is used for the detection of starch (blue-violet colour) and protein (yellow-orange colour). Dilution can be made if required.

Millon reagent (4.3.3): By carefully heating, the bone constituents become pink.

Cystin reagent (4.3.4): By carefully heating, cystin-containing constituents (hair, feathers, etc.) become black-brown.

## 7. Calculation and evaluation

In the case where the estimation of the quantity of animal constituents is carried out the provisions under this point have to be followed.

The calculation can only be made if the constituents of animal origin contain bone fragments.

Bone fragments of terrestrial warm-blooded species (i.e. mammals and birds) can be distinguished from the different types of fish bone in the microscopic slide by means of the typical lacunae. The proportion of constituents of animal origin in the sample material is estimated taking into consideration:

- the estimated proportion (weight %) of bone fragments in the concentrated sediment, and
- the proportion (weight %) of bone in the constituents of animal origin.

The estimate has to be based on at least three (if possible) slides and at least five fields per slide. In compound feedingstuffs, the concentrated sediment as a rule contains not only terrestrial animal bone and fish bone fragments, but also other particles of high specific weight, e.g. minerals, sand, lignified plant fragments and the like.

7.1. Estimated value of the percentage of bone fragments

$$\% \text{ terrestrial bone fragments} = \frac{S \times c}{W}$$

$$\% \text{ fish bone and scale fragments} = \frac{S \times d}{W}$$

(S = sediment weight (mg), c = correction factor (%) for the estimated portion of terrestrial animal bones in the sediment, d = correction factor (%) for the estimated portion of fish bones and scale fragments in the sediment, W = weight of the sample material for the sedimentation (mg)).

7.2. Estimated value of constituents of animal origin

The proportion of bone in animal products can vary greatly. (The percentage of bone in the case of bone meals is of the order of 50 to 60 % and in the case of meat meals of the order of 20 to 30 %; in the case of fish meals bone and scale contents vary according the category and origin of fish meal, normally in the order of 10 to 20 %).

If the type of animal meal present in the sample is known, it is possible to estimate the content:

$$\text{Estimated content of constituents of terrestrial animal products (\%)} = \frac{S \times c}{W \times f} \times 100$$

$$\text{Estimated content of constituents of fish products (\%)} = \frac{S \times d}{W \times f} \times 100$$

(S = sediment weight (mg), c = correction factor (%) for the estimated portion of terrestrial animal bone constituents in the sediment, d = correction factor (%) for the estimated portion of fish bones and scale fragments in the sediment, f = correction factor for the proportion of bone in the constituents of animal origin in the sample examined, W = weight of the sample material for the sedimentation (mg)).

8. *Expression of the result of the examination*

The different cases could be reported in the following way:

8.1. As far as was discernible under the microscope, no constituents of animal origin (as defined in point 1) were found in the submitted sample.

8.2. As far as was discernible under the microscope constituents of animal origin (!) were found in the submitted sample.

In this case, the reporting of the result of the examination, if required, can be further specified as:

8.2.1. As far as was discernible under the microscope, small amounts of constituents of animal origin (!) were found in the submitted sample.

8.2.2. Dependent on the experience of the analyst:

— either, as far as was discernible under the microscope, constituents of animal origin (!) were found in the submitted sample. The content of bone fragments (fish/terrestrial animals — in the case of bone fragments of terrestrial animals, eventually specified as bone fragments from poultry or mammals — see remark 9.3) is estimated in an order of magnitude of ...%, equal to ...% of animal constituents when calculated on the basis of ...% bone in the animal constituents' product (= correction factor f used),

— or, as far as was discernible under the microscope, constituents of animal origin (!) were found in the submitted sample in measurable quantities.

(!) The type of constituents found, for example bones (fish or terrestrial animals), meat constituents, etc. should be indicated here.

For the cases under point 8.2, 8.2.1 and 8.2.2, when bone constituents from terrestrial animals are identified, the report shall contain the additional clause:

‘The possibility that the above constituents are derived from mammals cannot be excluded.’

This clause is not necessary in cases where the bone fragments from terrestrial animals have been specified as bone fragments from poultry or mammals (see remark 9.3).

9. *Remarks*

- 9.1. It is recommended in the case of many and big constituents in the concentrated sediment to sieve the sediment into two fractions (i.e. use of a 320  $\mu\text{m}$  sieve). The fraction with the big constituents can be examined as a paraffin oil preparation under a stereomicroscope with transmitted light. The fraction with the fine constituents must be examined under the compound microscope.
  - 9.2. The concentrated sediment obtained (6.2), can, if necessary, be divided further using a concentrating agent with a greater density.
  - 9.3. Dependent on the experience of the analyst, the distinction between constituents of mammalian or poultry origin can be made, making use of specific histological features, by which this distinction can be made.
-

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 20 November 1998

**appointing the members, chairmen and vice-chairmen of the expert groups to assist the Commission on the content and direction of the key actions in the field of research and technological development**

*(notified under document number C(1998) 3347)*

*(Text with EEA relevance)*

*(98/682/EC, Euratom)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Commission Decision 98/610/EC, Euratom of 22 October 1998 setting up expert groups assisting the Commission on the content and direction of the key actions in the field of research and technological development <sup>(1)</sup>,

Whereas Article 3(1) of Decision 98/610/EC, Euratom provides that the Commission shall set the groups up, ensuring that they have a balanced composition, taking account of the geographical origin and sector of origin of their members (in particular industry and services, research and innovation, users and public regulatory authorities and socio-economic circles); whereas it shall also endeavour to ensure the best possible balance between the participation of women and men;

Whereas, for the purposes of appointing the members of the expert groups, the Commission will assess all the applications in the light of the selection criteria set out in

point A paragraph 2 of the Annex to Decision 98/610/EC, Euratom; whereas, on the basis of that assessment, the commission will appoint the members of the expert groups in accordance with the provisions of Article 3(1) of that Decision and Section B of the Annex to the Decision;

Whereas, in accordance with Article 4(1) of Decision 98/610/EC, Euratom, the members of the expert groups will be appointed by the Commission in a personal capacity for a period of two years; whereas their appointment may be renewed once, for a maximum of two years;

Whereas, in accordance with Article 4(4) of the abovementioned Decision, the Commission will also appoint the chairman and vice-chairman of each of the expert groups from among their members; whereas, the vice-chairman may not be of the same geographical origin or sector of origin as the chairman;

Whereas, in accordance with the fourth recital of Decision 98/610/EC, Euratom, the expert groups are expected to deliver their conclusions in an independent and transparent manner; whereas, as a consequence, the members should act independently of any outside instructions in order to provide the Commission with objective views;

<sup>(1)</sup> OJ L 290, 29. 10. 1998, p. 57.

Whereas, in the light of this, it is necessary that the members inform the Commission on the basis of the agenda, before each meeting of all interests which could be considered as prejudicial to their independence; whereas they should abstain from discussions on a topic on which they have a conflict of interests;

Whereas, for this purpose, the experts selected should, before each meeting of the expert groups, sign a declaration in which they certify that, on the basis of the agenda, no conflict of interest exists which could be prejudicial to their independence;

Whereas, without prejudice to Article 214 of the Treaty establishing the European Community and Article 194 of the Treaty establishing the European Atomic Energy Community, the members should be required not to divulge information given in the context of the work of the expert groups when it has been indicated to them that this information is subject to a request for confidentiality;

Whereas, when a member is in breach of these requirements for independence and confidentiality, he/she should be considered as no longer being in a position to contribute effectively to the group's work, in accordance with Article 4 of Decision 98/610/EC, Euratom;

Whereas the members of the expert groups and the 17 chairmen and 17 vice-chairmen of those groups should be appointed, and the confidentiality of their work and the independence of the members guaranteed,

HAS DECIDED AS FOLLOWS:

*Article 1*

The persons listed in Annex I are hereby appointed as members of the expert groups set up by Decision 98/610/EC, Euratom.

*Article 2*

The persons listed in Annex II are hereby appointed as chairmen or vice-chairmen of the expert groups mentioned in Article 1.

*Article 3*

The persons referred to in Articles 1 and 2 are required to respect the conditions of independence and confidentiality set out in Annex III.

*Article 4*

This Decision shall take effect from the day of its adoption.

Done at Brussels, 20 November 1998.

*For the Commission*

Édith CRESSON

*Member of the Commission*

## ANNEX I

Expert group	Surname and forename	
Health, food and environmental factors	BIESALSKI BORRESEN COLOMER DANIEL FORSBERG GARCEZ DE LENCASTRE KATSOUYLANNI KORPELA LESLIE MEROT PFANNHAUSER ROTILIO SARIS TAEYMANS WALL WILLIAMS	HANS TORGER CONCHA H. ETHEL HERMINIA KLEA RIITTA JIM BERTRAND WERNER GIUSEPPE WIM DOMINIQUE PATRICK CHRISTINE
Control of infectious diseases	BARRET BELLOD BORRIELLO ESTEBAN ESTOLIO DO ROSARIO KARLSSON MOENNIG O'FLANAGAN PAPAMICHAIL RANKI RAPPUOLI SALMASO SÁNCHEZ VAN EDEN VANHEMELRIJCK WAHREN WILLEBERG	NOËL ANNE SAVERIO MARIANO VIRGILIO LARS VOLKER DARINA M. ANNAMARI RINO STEFANIA J.M. WILLEM JOHAN BRITTA PREBEN
The cell factory	ALBERGHINA BOWLES CARRONDO COLIJN-HOOYMANS DIDERICHSEN GLIMELIUS LECOMTE MÄKINEN PÜHLER ROELS	LILIA DIANNA MANUEL CATHARINA BORGE KRISTINA JEANNE-MARIE SEPPO ALFRED J.A.

Expert group	Surname and forename	
	SCHWAB SEKERIS VAN DE VOORDE VELA VIKKARI YEATS	HELMUT CONSTANTINE ANDRÉ CARMEN LIISA SIOBHAN
The ageing population	BALTES BARTOLI COMELLA GREENGROSS GUILLEMARD LINDSTRÖM O HARA PAULA BARBOSA PERANI PICCART SCHROLL STATHAKOS TAIPALE VAN DEN BERG WICK	MARGARET ETTORE JOAN SALLY A. M. JAN-INGVAR SEAMUS MANUEL DANIELA MARTINE MARIANNE DIMITRI VAPPU HANS GEORG
Sustainable agriculture, fisheries and forestry, including integrated development of rural areas	CARLSSON CARUSO DE SOUSA VASCONCELOS DEROANNE GONZALES-GARCES GRIFFITH HOFREITHER KASSIOUMIS LANGSTRAAT PAAVILAINEN POUZET RASCHE REXEN TAIT THOMAS VON MEYER WERRY	MÅRTEN CAMILLO MARCELLO CLAUDE ALBERTO DAVID MARKUS KONSTANTINOS DIRK LEENA ANDRÉ ERNST FINN ELIZABETH TOM HEINO P.
Information society	AIRAGHI ALVES BAUSCH BERTHELSEN BRAVO COCHRANE	ANGELO JOSÉ ROMAIN HANS ALAIN PETER

Expert group	Surname and forename	
	CRONBERG DE KEMP FENEYROL GALUZZI HALKIAS HORN HORWOOD KUUSI LAGASSE LARROUTUROU MERKER MOSSOTTO NILSSON PACHL PURVES SCHUURMANS UCEDA WERTHNER WEYRICH	TARJA ARNOUD MICHEL PAOLO CHRISTOS CHRIS ROSEMARY JUHANI PAUL BERNARD WOLFGANG CESARE ANN MARIE URSULA IAN MARTIN JAVIER HANNES CLAUS
Innovative products, processes and organisation	ÁLVAREZ BENAVENT BLONDELOT DE CHARENTENAY DE MEYER FOUNTI GREGORY HELLER JÄGER NORELL O'DONOVAN PEDERSEN PINTO RIBERA SALCEDO SISTERMANS TEMMES WARNECKE	S. R. ÉMILE FRANÇOIS A. MARIA MIKE BERNDT HEIMO MARGARETA P. HANS LUIGI JOSÉ JOOP ARMI HANS-JÜRGEN
Sustainable mobility and intermodality	BAYLISS BOGG DOGANIS FERNÁNDEZ DURÁN FINLAY KNOFLACHER LINDBERG LINKAMA PAYE-JEANNENEY	DAVID KEITH RIGAS REYES HUGH HERMANN JOHAN EEVA LAURENCE

Expert group	Surname and forename	
	RICOTELLI RUIJGROK SCHACKE SOBOLL SQUASSAFICHI VAN DE VOORDE VIANA BAPTISTA	MARCELLO C. J. IVAR HORST NICOLA EDDY JOSÉ
New perspectives for aeronautics	ABBINK ARIAS CATOIRE GOULETTE JENSEN LAWLER LOJACONO LUREAU MADALENO MALANICK NYSSSEN OLSSON PAPAILIOU SZODRUCH TRUMAN VON TEIN	J. ANGEL-LUIS SERGE MIKE KURT JAMES EROS FRANÇOIS UTÍMIA PETER CLAUDE ULF KYRIACOS JOACHIM TREVOR VOLKER
Land transport and marine technologies	ACKERMANN ANDERSEN BRÄNNSTRÖM BYRNE CERECEDA DUARTE SILVA FEITLER GOLDAN GOODRICH KEROSUO KYRTATOS LIST MAGGETTO MICHELLONE PERSON SEIFFERT	CHARLES-LOUIS TORBEN KLAS GERALD C. ANTÓNIO SIMONE MICHAEL DAVID MATTI NIKOLAOS HELMUT GASTON GIAN CARLO P. ULRICH
Sustainable management and quality of water and marine ecosystems	BJORNSEN BOZZO CANDELA DE MARSILY DRONKERS	PETER GIAN MARIO LUCILA GHISLAIN JOB

Expert group	Surname and forename	
	ELEFThERIOU JASKULKE KAUPPI KLAGHOFER LANCELOT MCGLADE MONTESINOS MULCAHY NUNES PFEIFFER	ANASTASSIOS ELISABETH LEA E. CHRISTIANE JACQUELINE SALOMÓN MAIRE FRANCISCO KLAUS
Global change, climate and biodiversity	BERGER BERZ CAHILL CORTE-REAL CRUTZEN DAHL-JENSEN GRABHERR LALAS LÓPEZ FERNANDEZ MCWILLIAMS ROHDE SERREAULT WALLS YARMIN ZERBINI	ANDRÉ G. BRONWYN JOÃO PAUL DORTHE GEORG DIMITRIS MARIA LUISA BRENDAN HENNING BRIGITTE MARI FARHANA S.
The city of tomorrow and cultural heritage	ANDERSSON BEEDHOLM CAMPILLO CASSAR DUNLEAVY HECQ JILKA KUTTER MAUGARD MOROPOULOU NYSTROM PORTAS ROELOFS ROGERS SABBIONI	HARRI BENTE ROSA MAY SEAN WALTER BRIGITTE ECKHARD ALAIN ANTONIA LOUISE NUNO LAMBERT RICHARD CRISTINA
Cleaner energy systems and economic and efficient energy	AIGNER BILLFALK DA SILVA CARVALHO DURAND	MANFRED LENNART MARIA JEAN-MICHEL

Expert group	Surname and forename	
	FREDERICK GARIBBA HINSTRUP KERONEN LEWIS MAVRAKIS OTTER PAZ FRIEND ROCCA ROULET SARIS SCHNEEBERGER	GUY M. PETER JOUNI TONY DIMITRIOS NICHOLAS MARIA UGO CLAUDE FRANS MICHAEL
Improving the socio-economic knowledge base	BRUNN CARTON DURU ERIKSON GIANNITSIS GRODAL JOÃO RODRIGUES MARTINOTTI NEWBY NOWOTNY OSTNER SCHABER SCHNABEL SILIUS SOMMESTAD SUBIRATS WHELAN	ANKE LUC MARIE ROBERT TASSOS BIRGIT MARIA GUIDO HOWARD HELGA ILONA GASTON PAUL HARRIET LENA JOAN BRENDAN
Controlled thermonuclear fusion	BELLI BERKE BUSCH D'HAESELEER FUSTER HÖGBERG HOPKINS KATSANOS KNERINGER LAVAL POLICARPO POOLEY SALOMAA VAN DER WIEL	MARIA CLAUS NIELS WILLIAM FELICIANO LARS MIKE ANASTASIOS GÜNTHER GUY ARMANDO DEREK RALF MARNIX

Expert group	Surname and forename	
Nuclear fission	CARO CARVALHO SOARES COLINO CUNNINGHAM GOVAERTS HAYNS HEUSENER HOLM MATTILA NIELSEN RAKHORST SCHMITZER SIDERIS VALENTINI VALLEE	RAFAEL JOSÉ ANTONIO JOHN PIERRE MIKE GERHARD LARS-ERIK LASSE SVEN HUBERT CHRISTIAN ELEFThERIOS PAOLO ALAIN

## ANNEX II

## List of chairmen and vice-chairmen of the expert groups

Expert group	Surname and forename of chairman	Surname and forename of vice-chairman
Health, food and environmental factors	WILLIAMS Christine	COLOMER Concha
Control of infectious diseases	BELLOD Anne	ESTOLIO DO ROSARIO Virgilio
The cell factory	ALBERGHINA Lilia	LECOMTE Jeanne-Marie
The ageing population	BALTES Margaret	TAIPALE Vappu
Sustainable agriculture, fisheries and forestry, including integrated development of rural areas	THOMAS Tom	HOFREITHER Markus
Information society	WEYRICH Claus	HORN Chris
Innovative products, processes and organisation	PEDERSEN Hans	SISTERMANS J. F.
Sustainable mobility and inter-modality	BAYLISS David	DOGANIS Rigas
New perspectives for aeronautics	OLSSON Ulf	ARIAS Angel-Luis
Land transport and marine technologies	MICHELLONE Gian Carlo	GOODRICH David
Sustainable management and quality of water and sustainable management of marine ecosystems	KAUPPI Lea	BJÖRNSÉN Peter
Global change, climate and biodiversity	SERREAULT Brigitte	BERGER André
The city of tomorrow and cultural heritage	PORTAS Nuno	SABBIONI Christina
Cleaner energy systems and economic and efficient energy	SARIS Frans	BILLFALK Lennart
Improving the socio-economic knowledge base	NOWOTNY Helga	SCHABER Gaston
Controlled thermonuclear fusion	FUSTER Feliciano	D'HAESELEER William
Nuclear fission	HEUSENER Gerhard	VALLEE Alain

*ANNEX III***Conditions concerning the independence of the members and the confidentiality of their work****A. Confidentiality of work**

Without prejudice to Article 214 of the Treaty establishing the European Community and Article 194 of the Treaty establishing the European Atomic Energy Community, the members are required not to divulge information given in the context of the work of the expert groups when it has been indicated to them that this information is subject to a request for confidentiality.

**B. Independence of the members**

1. The members will inform the Commission of all interests which could be considered as prejudicial to their independence.
2. Before each meeting, the members will declare to the Commission, on the basis of the agenda, any particular interests which could be considered prejudicial to their independence. They will abstain from discussions on a topic on which they have a conflict of interests.
3. For this purpose, the experts selected should, before each meeting of the expert groups, sign the declaration in the Appendix, in which they certify that there is no conflict of interests.

**C. Breaches**

When a member is in breach of the requirements set out above, he/she will be considered as no longer being in a position to contribute effectively to the group's work, in accordance with Article 4 of Decision 98/610/EC, Euratom.

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*Appendix*

**DECLARATION ON CONFLICTS OF INTEREST**

*(Tick the appropriate box)*

**Declaration of absence of conflicts of interest on the basis of the agenda for the meeting of**  
.....

<input type="checkbox"/> I the undersigned, Mr/Ms ....., certify that, on the basis of the agenda for the current meeting, no conflict of interest exists that could be considered as being prejudicial to my independence.
---

<input type="checkbox"/> I the undersigned, Mr/Ms ....., declare that, on the basis of the agenda for the current meeting, a possible conflict of interest that could be considered as being prejudicial to my independence exists with respect to the following work of the expert group in which I participate:										
<table> <thead> <tr> <th style="text-align: left;"><i>Agenda item</i></th> <th style="text-align: left;"><i>Conflict of interest</i></th> </tr> </thead> <tbody> <tr><td>.....</td><td>.....</td></tr> <tr><td>.....</td><td>.....</td></tr> <tr><td>.....</td><td>.....</td></tr> <tr><td>.....</td><td>.....</td></tr> </tbody> </table>	<i>Agenda item</i>	<i>Conflict of interest</i>	.....	.....	.....	.....	.....	.....	.....	.....
<i>Agenda item</i>	<i>Conflict of interest</i>									
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In addition, if, during a meeting of the expert group in which I participate, I discover any conflict of interest that could be considered as being prejudicial to my independence with any item on the agenda or any subject discussed in the group, I undertake to inform the Commission services immediately.

Signature .....

Names and Surname .....

Date .....

\_\_\_\_\_

## CORRIGENDA

**Corrigendum to Commission Regulation (EC) No 707/98 of 30 March 1998 amending Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds**

*(Official Journal of the European Communities L 98 of 31 March 1998)*

On page 18, Annex I, column 'Product code':

*for:* '0403 90 29 9110

0404 90 59 9150

0403 90 81 9100

0403 90 81 9910

0403 90 81 9950

0403 90 89 9130

0403 90 89 9150

0403 90 89 9930

0403 90 89 9950

0403 90 89 9990',

*read:* '0404 90 29 9110

0404 90 29 9150

0404 90 81 9100

0404 90 81 9910

0404 90 81 9950

0404 90 89 9130

0404 90 89 9150

0404 90 89 9930

0404 90 89 9950

0404 90 89 9990'.

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**Corrigendum to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms**

*(Official Journal of the European Communities L 125 of 27 April 1998)*

On page 29 in Annex XII, second table, second column, last line:

*for:* '... VIIIId: 110 mm',

*read:* '... VIIId: 110 mm'.

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