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I *Acts whose publication is obligatory*

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3447/93

of 28 September 1993

on the conclusion of the Agreement between the European Economic Community and the Argentine Republic on relations in the sea fisheries sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

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

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

Whereas on 30 November 1992, following negotiations, the Community and Argentina initialled an Agreement on relations in the sea fisheries sector which provides Community fishermen with new fishing opportunities and in return requires concessions from the Community, and in particular tariff concessions;

Whereas, in the interests of the Community, the said Agreement should be adopted,

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement between the European Economic Community and the Argentine Republic on relations in the sea fisheries sector is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Regulation.

Article 2

For the period covered by the Agreement, the overall amount of financing by the Community for the actions and projects referred to in the Agreement shall be limited to ECU 162,5 million.

The amount shall fall within the Community financial perspective in force. The budget authority shall determine the appropriations available for each financial year taking into account the principles of sound management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

Article 3

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in order to bind the Community ⁽³⁾.

Article 4

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

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

Done at Brussels, 28 September 1993.

For the Council

The President

G. COËME

⁽¹⁾ OJ No C 64, 6. 3. 1993, p. 5.

⁽²⁾ OJ No C 194, 19. 7. 1993.

⁽³⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

AGREEMENT

on relations in the sea fisheries sector between the European Economic Community and the Argentine Republic

THE EUROPEAN ECONOMIC COMMUNITY

hereinafter referred to as 'the Community', and

THE ARGENTINE REPUBLIC,

hereinafter referred to as 'Argentina',

hereinafter referred to as the 'Parties',

HAVING REGARD to the existing close links between the Community and Argentina, and in particular those laid down pursuant to the Framework Agreement on Cooperation signed between the Community and Argentina on 2 April 1990;

CONSIDERING that the Community and Argentina are signatories to the United Nations Convention on the Law of the Sea;

RESOLVED to cooperate, in their joint interest, in the conservation and rational exploitation of living marine resources;

ANXIOUS to establish terms and conditions for fishing activities and cooperation between both Parties in this sector;

CONVINCED that their mutual interests and the achievement of their respective economic and social objectives will be reinforced by means of such cooperation;

CONSIDERING that, in the context of its political development, Argentina wishes to stabilize and encourage economic and social progress;

RECOGNIZING the efforts which Argentina has been making to restructure its economy through economic deregulation, monetary stability and the opening-up of its economy;

RESOLVED to pursue closer economic cooperation in the sea fisheries sector through the encouragement of joint enterprises, the establishment of undertakings in Argentina and the constitution of joint ventures between companies;

CONVINCED that this new type of cooperation in the fisheries sector will provide regular access to new fishing opportunities, further the aims of renewing and converting the Argentine fleet and restructuring the Community fleet and promote the rational exploitation of resources in the long term;

CONVINCED that such cooperation must be carried out in an evolutionary and pragmatic way, paying special attention to scientific research and the specific measures being adopted in the sea fisheries sector,

HAVE DECIDED AS FOLLOWS:

Article 1

This Agreement lays down the principles, rules and procedures for cooperation between Argentina and the Community as regards the conservation, exploitation and processing of fishery resources.

Article 2

For the purposes of this Agreement the following definitions shall apply:

- (a) *Argentinian enforcement authority*: the Ministry of Agriculture and Fisheries of the Argentine Republic;
- (b) *joint venture*: contractual relationship for a limited period between shipowners from one or more Member States of the Community and Argentinian shipowners for the purpose of jointly exploiting Argentinian fishery resources using one or more Community vessels with a view to the priority supply of the Community market;
- (c) *Community vessel*: a vessel flying the flag of one of the Member States of the Community;
- (d) *Community shipowner*: a shipowner of one of the Member States of the Community;
- (e) *joint enterprise*: a company constituted under private law consisting of one or more Community shipowners and one or more Argentinian natural or legal persons bound by a joint enterprise contract for the purpose of exploiting and, where appropriate, processing Argentinian fishery resources with a view to the priority supply of the Community market;
- (f) *establishment of undertakings*: a company constituted under private law with capital coming from one or more Member States of the Community, established in Argentina for the purpose of exploiting and, where appropriate, processing Argentinian fishery resources with a view to the priority supply of the Community market.

Article 3

The Parties shall cooperate to promote the conservation and rational exploitation of fish stocks on a sustainable basis, in accordance with the relevant provisions of the United Nations Convention on the Law of the Sea.

To this end, the Parties shall:

- make a joint study of the most efficient means of promoting the preservation and conservation of living marine resources while observing and respecting the relevant principles and rules of international law,

- exchange the data at their disposal on the state of fish stocks,
- develop joint scientific research programmes.

Article 4

1. The Parties shall encourage economic, commercial, scientific and technical cooperation in the fisheries and related sectors. They shall consult with each other to coordinate and integrate on a permanent basis the various activities which may be carried out under this Agreement.

2. With this aim, the Parties shall endeavour, in particular, to encourage and facilitate the exchange of information on fishing techniques and equipment and on methods for the preservation and industrial processing of fishery products and on the development of aquaculture.

3. Similarly, the Parties shall act so as to create conditions which will encourage technological, commercial and economic contacts between their undertakings.

4. The Community shall make payments to the Argentinian Government as laid down in Protocol I, to be used, in particular, for:

- the development of fisheries research programmes aimed at improving the management of resources and activities related to the conservation of living marine resources,
- the development of projects for the construction, improvement and extension of fishing port facilities,
- the development of programmes and investments in aquaculture,
- the strengthening of resources and infrastructure for sea-going training in Argentina,
- the start-up and implementation of specific programmes, activities and studies,
- the provision of means and technical assistance to step up the monitoring of fishing in the area covered by this Agreement,
- the development of new fishing techniques which promote the rational exploitation of stocks,
- vocational and technical training in all areas of fisheries and the fishing industry through study grants, practical training and the exchange of personnel,
- studies, seminars and conferences on fisheries,

- the identification, assessment and proposal of new projects,
- the official administration of this Agreement,
- the promotion of the preservation and conservation of living marine resources.

Article 5

1. The Parties shall create suitable conditions for the establishment in Argentina of undertakings using capital originating in one or more Member States of the Community and the creation of joint enterprises and joint ventures in the fisheries sector between Argentinian and Community shipowners with the aim of jointly exploiting and, where appropriate, jointly processing Argentinian fishery resources under the conditions laid down in Protocol I and Annexes I and II.

2. Argentina shall grant the undertakings referred to in paragraph 1 access to the fishing opportunities set out in Protocol I in accordance with the provisions of Annexes I to IV.

3. As part of its policy for the restructuring of its fleet, the Community shall facilitate the inclusion of Community vessels in undertakings established or to be established in Argentina. To that end, and as part of its policy for the technical renovation of its fishing industry, Argentina shall facilitate the transfer of current fishing licences and issue the appropriate new licences pursuant to this Agreement.

Article 6

The Parties shall select the projects for the joint ventures, Community undertakings established in Argentina and joint enterprises provided for in Article 5, which shall be authorized to take the catch quantities specified in Protocol I. The projects shall be selected in accordance with the methods and criteria set out in Annex III.

Article 7

1. In order to encourage the establishment of the undertakings provided for in Article 5, the projects selected by the Parties pursuant to Article 6 shall be eligible for financial assistance in accordance with Protocol I.

2. The Community shall grant a financial contribution in respect of the measures referred to in Articles 3 and 4 in accordance with Protocol I.

Article 8

1. The pursuit of fishing activities under this Agreement shall be subject to the possession of a fishing licence issued by the Argentinian enforcement authority.

2. Fishing licences shall be issued and transferred in accordance with the procedures and other conditions laid down in Annexes I to IV.

Article 9

1. If, as a result of a change in fish populations, the Argentinian enforcement authority decides to adopt new conservation measures affecting the fishing activities of vessels fishing under this Agreement, discussions shall be held between the Parties with a view to amending the Annexes and Protocol I hereto and maintaining the general balance of the Agreement.

2. Conservation measures adopted by the Argentinian enforcement authority shall be applied in a non-discriminatory manner to all vessels and be based on objective scientific information and criteria.

Article 10

A Joint Committee shall be set up to oversee the application of this Agreement. It shall be the duty of the Committee, in particular, to:

- supervise the implementation, interpretation and smooth operation of the Agreement,
- serve as a forum for the amicable resolution of disputes which may arise regarding the interpretation or application of the Agreement,
- ensure the necessary liaison concerning matters of common interest relating to fisheries,
- consider the programmes and activities referred to in Articles 3 and 4,
- evaluate the projects put forward by the Parties for the establishment of joint enterprises and joint ventures as provided for in Article 7, in accordance with the criteria set out in Annex III,
- recommend the projects to receive aid as laid down in Protocol I,
- study the promotion of industrial joint ventures,
- check that the projects are being properly administered and oversee the use of the financial support given to projects in accordance with Article 7,
- review the activities of Community vessels belonging to joint ventures before the end of their contracts.

The Joint Committee shall meet once a year, alternately in Argentina and the Community, and in extraordinary session at the request of either of the Parties.

Article 11

Nothing in this Agreement shall affect or prejudice in any way the views of either Party with regard to any matter relating to the Law of the Sea.

Article 12

1. This Agreement shall apply for a period of five years with effect from the date of its entry into force and shall continue to apply for additional periods of two years, unless notice of termination is given in writing by either of the Parties at least six months before the date of expiry of the initial and any additional period.

2. In the event of either of the Parties giving notice to terminate this Agreement, the parties shall enter into consultations.

3. Before the end of the period of validity of the Agreement, the Parties shall begin negotiations in order to decide upon any amendments to the Annexes and/or Protocol I which may be necessary for the subsequent period.

Article 13

Annexes I, II, III, IV, V, VI and VII and Protocol I to this Agreement shall form an integral part thereof.

Article 14

This Agreement, drawn up in duplicate in Danish, Dutch, English, French, German, Greek, Italian, Spanish and Portuguese, each version being equally authentic, shall enter into force on the day on which the Parties notify each other of the completion of the procedures necessary to that end.

ANNEX I

LAYING DOWN THE CONDITIONS GOVERNING THE CREATION AND ACCESS TO RESOURCES OF JOINT ENTERPRISES AND THE ESTABLISHMENT OF UNDERTAKINGS IN ARGENTINA

A. SELECTED PROJECTS

Once the project selection procedure laid down in Annex III to this Agreement has been completed, the Community shall provide the Argentinian enforcement authority with a list of the Community vessels selected in accordance with Article 6 of the Agreement to undertake the fishing activities in question.

B. REGISTER

The Argentinian enforcement authority shall authorize the entry in the National Vessels Register of the vessels referred to in point A.

C. FISHING OPPORTUNITIES

1. Vessels entered in the National Vessels Register may exploit non-surplus and surplus resources within the maximum limits laid down in Protocol I.
2. Fishing for non-surplus resources shall be carried out using Community vessels in substitution for vessels flying the Argentinian flag, this substitution being effected in such a way as to ensure no increase in fishing effort.
3. The Argentinian enforcement authority shall authorize the transfer of current fishing licences in accordance with technical equivalence criteria to be laid down by that authority.
4. Exploitation of resources must be effected within the limits and under the terms laid down in the fishing licence of the laid-up Argentinian flag vessel and shall include fishing for the species authorized by that licence, with the exception of the species of prawn *pleoticus mulleri*. This species may not be fished by a laid-up vessel's licence-holder or by a third party. In addition, the transfer of licences for the fishing of species intended for the processing of surimi shall not be authorized.

D. LICENCES

1. In accordance with Articles 5 and 8 of the Agreement, the Argentinian enforcement authority shall facilitate the transfer of current fishing licences to the companies referred to in this Annex, with the exception of those issued to Argentinian flag vessels laid up, for whatever reason, for longer than one year without interruption, such as vessels belonging to bankrupt undertakings. It shall also facilitate the issue of new fishing licences covering the fishing opportunities set out in Protocol I.
2. Licences for the fishing of non-surplus species shall have the same term as the original licence being transferred. The validity of new licences for the fishing of surplus species shall be determined by the Argentinian enforcement authority in a general and non-discriminatory fashion.
3. Fishing licences shall be granted to an undertaking in respect of a specific vessel.
4. The terms governing the application for and issue of licences are set out in Annex IV.
5. The terms governing the application for and arrangements for the payment of Community aid are set out in Protocol I.

ANNEX II

LAYING DOWN THE CONDITIONS GOVERNING THE CREATION AND ACCESS TO
RESOURCES OF JOINT VENTURES IN ARGENTINA

I. Common provisions governing joint ventures

A. SELECTED PROJECTS

Once the project selection procedure laid down in Annex III to this Agreement has been completed, the Community shall provide the Argentinian enforcement authority with a list of Community vessels selected in accordance with Article 6 of the Agreement for inclusion in a joint venture with a view to the exercise of fishing activities.

B. REGISTER

The Argentinian Government shall open a special register of vessels in which shall be entered all Community vessels that have been granted a fishing licence in accordance with this Annex.

A Community vessel may be replaced in the register by another Community vessel with equivalent capacity and technical specifications only on duly justified grounds and with the agreement of the Parties.

C. FISHING OPPORTUNITIES

Vessels operating under joint ventures entered in the register referred to in paragraph B may exploit non-surplus and surplus resources within the maximum limits laid down in Protocol I.

D. LICENCES

1. In accordance with Articles 5 and 8 of the Agreement, the Argentinian enforcement authority shall authorize the transfer to undertakings established or to be established in accordance with Argentinian law, in respect of Community vessels operating under joint ventures as referred to in this Annex, of new fishing licences covering the fishing opportunities set out in Protocol I, with the exception of those issued to Argentinian flag vessels laid up, for whatever reason, for longer than one year without interruption, such as vessels belonging to bankrupt undertakings. It shall also facilitate the issue of new fishing licences covering the fishing opportunities set out in Protocol I.
2. The fishing licences shall be issued for a period of validity equal to the duration of the joint venture.
3. Community vessels operating under joint ventures shall do so under fishing licences which lay down catch limits per species and authorized fishing zones.
4. Exploitation of non-surplus species must be effected within the limits laid down in the fishing licence of the laid-up Argentinian flag vessel and shall include fishing for the species authorized by that licence, with the exception of the species of prawn *pleoticus mulleri*. This species may not be fished by a laid-up vessel's licence-holder or by a third party. In addition, the transfer of licences for the fishing of species intended for the processing of surimi shall not be authorized.
5. The terms governing the application for and granting of licences are set out in Annex IV.

E. FITTING-OUT, VICTUALLING AND FISHING FEES

Vessels operating under this Agreement shall comply with the rules and regulations laid down by the Argentinian enforcement authority regarding fitting-out, victualling and fishing fees, which shall be applied without discrimination between Argentinian and Community vessels.

F. CATCH DECLARATION

All Community vessels fishing pursuant to the Agreement shall forward to the Argentinian enforcement authority a catch declaration in accordance with the model given in Annex VII within 48 hours of the end of each trip.

In the event of these provisions not being complied with, the Argentinian enforcement authority may suspend the fishing licence of the vessel involved until the said formalities have been complied with.

Community vessels shall forward a copy of the catch declaration to the Delegation of the Commission of the European Communities in Buenos Aires.

G. DURATION OF THE JOINT VENTURES

Joint ventures shall be valid for a period of not more than three (3) years. Under no circumstances may this duration be extended beyond the expiry date of this Agreement. Six (6) months before the end of the period of validity of the joint venture, the Joint Committee shall consider whether to extend its validity for the additional period requested.

H. SIGNING ON OF CREW

1. Community vessels operating under joint ventures shall sign on at least thirty per cent (30 %) of Argentinian crew members. Such crew members must possess the knowledge necessary for performing their functions.
2. The said crew members' work contracts shall be concluded in Argentina between the representatives of the shipowners and the crew members concerned and must include social security arrangements and life and accident insurance in accordance with Argentinian legislation.

I. SCIENTIFIC OBSERVERS

At the request of the Argentinian enforcement authority, Community vessels fishing pursuant to the Agreement shall permit a scientific observer designated by the said authority to come on board and to perform his tasks. He shall be provided with all the facilities necessary for the exercise of his functions.

The conditions of his stay on board shall be the same as those of the other officers of the vessel. Observers' remuneration and social security contributions shall be paid by the Argentinian authorities. The costs of their stay on board shall be borne by the owner of the vessel.

J. INSPECTION AND MONITORING

At the request of the Argentinian enforcement authority, Community vessels fishing pursuant to this Agreement shall permit the officials of Argentina designated by the said authority and charged with the inspection and control of fishing activities to come on board and to exercise their functions and shall provide them with assistance in doing so.

Such officials must not stay on board any longer than is required for the performance of their task.

K. FISHING ZONES AND GEAR

Fishing is authorized for the following species, in the zones and with the gear specified below, not including the territorial waters and the Argentinian-Uruguayan joint fishing zone established in the Treaty of Rio de La Plata and its maritime coast:

1. Fishing zones

Merluccius hubbsi:

- (a) north of 47°S latitude;
- (b) south of 47°S latitude and west of 65°W longitude to the outer limit of the territorial sea at the Isla Grande de Tierra del Fuego.

Patagonian grenadier, Patagonian rockcod or roughhead grenadier:

south of 47°S latitude and west of 65°W longitude to the outer limit of the territorial sea at the Isla Grande de Tierra del Fuego.

Argentinian shortfin squid:

north of 45°S latitude.

2. Fishing gear

Argentinian shortfin squid may only be fished using jiggers.

II. Special provisions for joint ventures fishing for species in structural surplus

Joint ventures may catch up to a third ($\frac{1}{3}$) of the maximum total volume fixed in Protocol I for the species in structural surplus.

A. THE GRANT OF FISHING LICENCES

Community vessels must commence operations within six (6) months of the issue of the corresponding licence. If they fail to begin within this period, the licence shall be revoked automatically without prior notice or further formalities.

The Argentinian enforcement authority may, however, extend the period for commencing operations for one further period of three (3) months.

B. REQUIREMENTS FOR LICENCE APPLICATIONS

The Argentinian enforcement authority shall lay down the documents which must accompany applications, a specimen of which can be found in Annex IV.

III. Special provisions for joint ventures fishing for species not in structural surplus and substituting Argentinian flag vessels

A. Joint ventures between companies may catch up to a third ($\frac{1}{3}$) of the maximum total volume fixed in Protocol I for *Merluccius hubbsi*.

B. The provisions of Annex I, points C (2), (3) and (4) and D shall apply.

*ANNEX III***METHODS AND CRITERIA FOR PROJECT SELECTION**

1. The Parties shall exchange information on the projects presented for the formation of joint enterprises, undertakings established in Argentina and joint ventures as provided for in Article 5 of the Agreement which are liable to receive financial aid from the Community.
 2. The projects shall be presented to the Commission of the European Communities via the competent authorities of the Member State or States concerned in accordance with Community rules.
 3. The Community shall submit to the Joint Committee the list of projects eligible for financial assistance as provided for in Article 7 of the Agreement. The Joint Committee shall evaluate the projects in accordance basically with the following criteria:
 - (a) technology appropriate to the proposed fishing operations;
 - (b) species and fishing zones;
 - (c) modernization of vessels;
 - (d) total investment in the project;
 - (e) investment in on-shore plant;
 - (f) previous experience of Community shipowner and any Argentinian partner in the fisheries sector.
 4. The Joint Committee shall recommend to the Parties the projects selected in accordance with the criteria set out in point 3.
 5. Once the projects have been approved by the Argentinian enforcement authority and the Community, the Community shall forward to the Argentinian enforcement authority the list of selected projects for the purpose of transferring and issuing the necessary fishing licences and their subsequent entry in the appropriate Register.
-

ANNEX IV

CONDITIONS GOVERNING APPLICATIONS FOR AND THE ISSUING OF FISHING LICENCES

1. Argentinian owners who have established joint enterprises, undertakings in Argentina or joint ventures with Community owners in accordance with this Agreement shall submit an application for the relevant fishing licence to the Argentinian enforcement authority once they have complied with the provisions of point 5 of Annex III.
2. In the case of joint enterprises and undertakings established in Argentina, the fishing licence shall be issued to the joint enterprise or undertaking in respect of the vessels for which projects have been approved by the Parties.
3. In the case of joint ventures, the fishing licence shall be issued to the Argentinian undertaking which formed the joint venture, in respect of the Community vessel or vessels the projects for which have been approved by the Parties and identified in the respective joint venture contract.
4. Applications shall be submitted on the forms supplied for that purpose by the Argentinian enforcement authority, a specimen of which is attached.
5. Fishing licences shall be issued within thirty (30) working days of submission of applications.
6. Fishing activities by Community vessels shall begin within six (6) months of issue of the relevant licence. If they do not, the licence will be automatically revoked, without prior notification or further formality.
The Argentinian enforcement authority may nevertheless grant a single three (3) month extension of the period for beginning fishing activities.
7. If the Argentinian enforcement authority decides to revoke a licence, it shall inform the Commission of the European Communities of its decision within fifteen (15) working days.

Note to point 4 of Annex IV

APPLICATIONS FOR FISHING LICENCES FOR VESSELS COVERED BY THE FISHERIES AGREEMENT BETWEEN ARGENTINA AND THE COMMUNITY

National Director for Fisheries
and Agriculture

In my capacity as
of the company
a legal entity which I declare to be, I hereby apply for the relevant fishing
licence for the vessel
registration number, of which the principal characteristics are:

Length	Engine power
Beam	Hold capacity
Depth	GRT

Authorization of the abovementioned vessel was recommended by the Joint Committee
on, Decision No and approved by the Argentinian enforcement
authority on, resolution No

The Community approved the project on and notified the Argentinian
enforcement authority on

I therefore request that the relevant fishing licence be issued for the abovementioned vessel within the time
limit laid down in the resolution approving the project.

ANNEX V

Exchange of Letters

Letter No 1

Sir,

We should be grateful if you would kindly confirm the Community's Agreement on the following:

With regard to the Fishing Agreement signed today between the European Economic Community and the Government of the Argentine Republic, and in particular with respect to Protocol I annexed thereto, establishing between the Parties the terms for cooperation in the fisheries sector, I have the honour to confirm that the Argentinian Government shall offer the fishing opportunities laid down in Protocol I annexed to the Agreement.

These fishing opportunities shall be retained on condition that the Community fulfils its obligations with regard to commercial cooperation as set out above.

Talks will be held as soon as possible to resolve any difficulties in fulfilling the Agreement experienced by either of the Parties.

I have the honour to confirm, moreover, that the Community will grant tariff reductions on the importation of specific fishery products listed in the note annexed to this letter for the period from 1 January to 31 December during the period of the Agreement's validity.

The maintenance of these tariff reductions shall depend on Argentina fulfilling its obligations regarding the allocation of fishing quotas as referred to in previous paragraphs.

The Community shall foster in an appropriate way regular exchanges of information on commercial cooperation with a view to ensuring the smooth operation and creating favourable conditions for the harmonious development of this Agreement.

In the event of serious disruption of the Community market as a result of tariff reductions for the products specified in the note annexed to this letter, the Parties shall consult one another on the matter as promptly as possible.

This exchange of letters is without prejudice to the rights and obligations of Argentina and the Community pursuant to the General Agreement on Tariffs and Trade.

(Complimentary close)

*For the Government
of the Argentine Republic*

Letter No 2

Sir,

I have the honour to confirm the Community's Agreement on the following:

With regard to the Fishing Agreement signed today between the European Economic Community and the Government of the Argentine Republic, and in particular with respect to Protocol I annexed thereto, establishing between the Parties the terms for cooperation in the fisheries sector, I have the honour to confirm that the Argentinian Government shall offer the fishing opportunities laid down in Protocol I annexed to the Agreement.

These fishing opportunities shall be retained on condition that the Community fulfils its obligations with regard to commercial cooperation as set out above.

Talks will be held as soon as possible to resolve any difficulties in fulfilling the Agreement experienced by either of the Parties.

I have the honour to confirm, moreover, that the Community will grant tariff reductions on the importation of specific fishery products listed in the note annexed to this letter for the period from 1 January to 31 December during the period of the Agreement's validity.

The maintenance of these tariff reductions shall depend on Argentina fulfilling its obligations regarding the allocation of fishing quotas as referred to in previous paragraphs.

The Community shall foster in an appropriate way regular exchanges of information on commercial cooperation with a view to ensuring the smooth operation and creating favourable conditions for the harmonious development of this Agreement.

In the event of serious disruption of the Community market as a result of tariff reductions for the products specified in the note annexed to this letter, the Parties shall consult one another on the matter as promptly as possible.

This exchange of letters is without prejudice to the rights and obligations of Argentina and the Community under the General Agreement on Tariffs and Trade.'

(Complimentary close)

For the Council
of the European Communities

Note to Annex V

CN code	Description	Rate of duty
ex 0302 69 97	Fish of the species <i>Sparus pagrus</i> (red sea bream), fresh or chilled, excluding fish fillets and other fish meat falling within heading No 0304	5 %
ex 0303 78 10 ex 0304 90 47	Hake of the species <i>Merluccius hubbsi</i> , frozen, excluding fish fillets and minced fish	5 %
ex 0303 79 97	Patagonian rockcod (<i>Salilota australis</i>), Patagonian grenadier (<i>Macruronus magellanicus</i>), fish of the species <i>Gerypteris blacodes</i> (pollack) and <i>Sparus pagrus</i> (red sea bream), frozen, excluding fish fillets and other fish meat falling within heading No 0304	5 %
ex 0304 20 57	Frozen fillets of hake of the genus <i>Merluccius hubbsi</i>	5 % (*)
ex 0304 20 97	Frozen fillets of the species Patagonian grenadier (<i>Macruronus magellanicus</i>) and Patagonian rockcod (<i>Salilota australis</i>)	5 %
ex 0305 63 00	Fish of the species <i>Engraulis anchoita</i> , salted but not dried or smoked and in brine	5 %
ex 1604 19 91	Fillets of hake of the species <i>Merluccius hubbsi</i> , merely coated with batter or breadcrumbs, whether or not prefried in oil, deep frozen	10 %

(*) Subject to compliance with the reference price.

ANNEX VI

NOTE No 1

Maximum amount of Community financial assistance for joint enterprises and Community undertakings established in Argentina as laid down in Article 3 (1) of Protocol I

Category of vessel (Gross registered tonnes)	Age of vessel	Amount per vessel
Less than 100 GRT	10 years or less	7 200 ECU/GRT + 90 000
	More than 10 years but 20 years or less	4 800 ECU/GRT + 60 000
	More than 20 years	3 600 ECU/GRT + 45 000
100 GRT or more but less than 400 GRT	10 years or less	3 600 ECU/GRT + 450 000
	More than 10 years but 20 years or less	2 400 ECU/GRT + 300 000
	More than 20 years	1 800 ECU/GRT + 225 000
400 GRT or more but less than 3 500 GRT	10 years or less	1 800 ECU/GRT + 1 170 000
	More than 10 years but 20 years or less	1 200 ECU/GRT + 780 000
	More than 20 years	900 ECU/GRT + 585 000
3 500 GRT or more	10 years or less	1 440 ECU/GRT + 2 430 000
	More than 10 years but 20 years or less	960 ECU/GRT + 1 620 000
	More than 20 years	720 ECU/GRT + 1 215 000

NOTE No 2

Maximum amount of Community financial assistance for joint ventures laid down in Article 3 (1) of Protocol I

Tonnage of the vessel (expressed in gross registered tonnes)	Amount of the cooperation premium per vessel (ECU/day)
Less than 25 GRT	89
from 25 to under 50 GRT	179
from 50 to under 70 GRT	250
from 70 to under 100 GRT	394
from 100 to under 200 GRT	715
from 200 to under 300 GRT	1 180
from 300 to under 500 GRT	1 573
from 500 to under 1 000 GRT	2 002
from 1 000 to under 1 500 GRT	2 646
from 1 500 to under 2 000 GRT	3 217
from 2 000 to under 2 500 GRT	3 575
from 2 500 to under 3 000 GRT	4 076
3 000 GRT or more	4 676

ANNEX VII

DEEP-SEA FISHING

Refrigerator

Freezer

Factory

Annual voyage No.....

Name of vessel.....Registration No

Fishing company.....Number of crew.....

Port of loadingDay Month Year Hour Minute

Port of unloading.....

Fuel (litres).....Distance travelled (miles)

Fishing gear used

Seine net	01		Pelagic trawl	06	
Trawl net	02		Dredge	07	
Lampara net	03		Pots	08	
Gill net	04		Lines	09	
Long line	05		'Rano'	10	
Other (specify)					

Fishing zone					
Number of casts					
Fishing time (h)					
Type of waters					
Depth in fathoms					
Weather					
Species	captures by kg by zone				Total catch
Comments					

I hereby declare that to the best of my knowledge the information given above is correct.

Signature and skipper's declaration

PROTOCOL I

establishing the fishing opportunities and financial compensation provided for in the Agreement on relations in the sea fisheries sector between the Argentine Republic and the European Economic Community

Article 1

1. In accordance Article 5 of the Agreement and for a period of five years from the date on which it comes into force, the maximum annual fishing opportunities shall be as follows:

A. Non-surplus species:

Merluccius hubbsi: 120 000 tonnes.

B. Surplus species:

- (i) Patagonian grenadier (*Macruronus magellanicus*): 50 000 tonnes;
- (ii) Argentinian shortfin squid (*Illex argentinus*): 30 000 tonnes;
- (iii) Patagonian rockcod (*Salilota australis*) and/or roughhead grenadier (*Macrourus whitsoni*): 50 000 tonnes in all.

2. By-catches shall be included in the maximum quantities indicated above and may not exceed 10 % of the catch actually taken on each trip.

Article 2

Of the quantities referred to in Article 1, Community vessels operating as part of joint ventures may catch the following maximum annual quantities:

A. Non-surplus species:

Merluccius hubbsi: 40 000 tonnes.

B. Surplus species:

- (i) Patagonian grenadier (*Macruronus magellanicus*): 17 000 tonnes;
- (ii) Argentinian shortfin squid (*Illex argentinus*): 10 000 tonnes;
- (iii) Patagonian rockcod (*Salilota australis*) and/or roughhead grenadier (*Macrourus whitsoni*): 17 000 tonnes in all.

Article 3

1. In accordance with Article 7 of the Agreement, the Community shall provide financial assistance for the formation of joint enterprises, Community undertakings established in Argentina and joint ventures selected in accordance with Article 6 of the Agreement.

This financial assistance, as specified in the sheets in Annex VI, shall be paid to the Community owner to cover part of his financial contribution to the establishment of a joint enterprise, undertaking or joint venture in Argentina and/or to remove the vessels in question from the Community register.

2. With a view to encouraging the establishment and development of joint enterprises, the Community shall grant to joint enterprises established in Argentina financial support of fifteen (15) per cent of the amount paid to the Community owner. This financial support in the form of operating capital shall be paid by the Community to the Argentinian enforcement authority, which shall lay down the terms governing its use and its administration.

Argentina shall inform the Joint Committee of how these funds are used.

3. The Community shall grant to the Argentinian company which forms a joint venture financial support equivalent to fifteen (15) per cent of that granted to the Community owner.

4. The provisions governing applications for and the grant of Community assistance to the Community owner as referred to in paragraph 1 shall be laid down in accordance with the relevant Community rules in force.

In the case of joint ventures, payment of the aid provided for in paragraph 1 shall be made twice yearly. Applications for payment shall be made in accordance with Community rules and shall be accompanied by a report on the activity of the joint venture during the period in question.

5. Payment of the financial assistance shall take place as soon as possible after all the formal requirements have been met.

Article 4

1. The financial contribution referred to in Article 7 (2) of the Agreement for scientific and technical cooperation shall be fixed at ECU twenty-eight million for the duration of the Agreement.

2. The Joint Committee established under Article 10 of the Agreement shall be informed of the programmes and activities implemented with this financial contribution.

Argentina shall undertake to use the financial support for the purposes laid down. The Commission of the European Communities shall receive a report on the results of the programmes and activities in question.

3. The total financial contribution for the period covered by the Agreement shall be paid by the Community on an annual basis; the amount paid each year shall be determined by the Argentinian

Government, which shall inform the Community of how the funds have been used.

Article 5

The financial assistance referred to in Article 3 (2) and the financial contribution referred to in Article 4 of this Protocol shall be paid to an account authorized for that purpose by the Argentinian enforcement authority and which shall be extra-budgetary.

COUNCIL REGULATION (EC) No 3448/93

of 6 December 1993

laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 113 thereof,

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

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

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Articles 38 to 47 of the Treaty provide for the establishment of a common agricultural policy covering the agricultural products listed in Annex II to the Treaty;

Whereas certain agricultural products are used in numerous goods not covered by Annex II to the Treaty;

Whereas it is necessary to provide for measures under the common agricultural policy and the common commercial policy to take account of the impact of trade in such goods on the objectives of Article 39 of the Treaty and of how measures adopted to implement Article 43 of the Treaty affect the economic position of such goods, given the differences between the costs of procuring agricultural products within and outside the Community and the differences in the prices of agricultural products;

Whereas the Treaty lays down that agricultural policy and commercial policy are Community policies; whereas it is necessary to establish for certain goods resulting from the processing of agricultural products general and comprehensive rules, applicable throughout the Community, relating to trade in these goods, in order to attain the objectives of the Treaty;

Whereas Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing

of agricultural products ⁽⁴⁾ provides for the levying on imports of certain goods of a charge consisting of a fixed component for the protection of the processing industry and a variable component to offset any difference between the prices of the relevant agricultural products in the Community and on the world market;

Whereas the overall approach of the arrangements introduced by Regulation (EEC) No 3033/80 must be maintained, with certain extensions as explained below and certain adjustments; whereas, on the one hand, it is appropriate to draw up, in respect of the goods to which the arrangements currently apply, set out in Table 1 of Annex B, the list of agricultural products for which price differences between the world market and the Community market can be offset on importation, and, on the other hand, it must be possible to identify among those agricultural products the basic products for which such differences are actually recorded, the quantities of other agricultural products, assimilated products or products resulting from their processing being converted into equivalent quantities of basic products;

Whereas certain amendments are needed to the rules applicable to trade in these goods to take account of developments in the Community's agreements and in the common agricultural policy;

Whereas certain goods falling within Chapters 1 to 24 of the combined nomenclature are not covered by Regulation (EEC) No 3033/80; whereas these goods are also obtained using agricultural products subject to the common agricultural policy; whereas the charges applied to imports of such goods must therefore likewise cover the difference between the world market prices and the prices on the Community market for the agricultural products used in their production and ensure the protection of the processing industry concerned; whereas it is therefore necessary to consolidate the rules applying to all the goods obtained in significant proportion from agricultural products;

Whereas, under agreements entered into, the Community is to limit such charges to covering, in whole or in part, differences in the price of agricultural products used in the production of the goods in question; whereas it is accordingly necessary to establish for these goods that part of the overall charge which covers the differences between the prices of the agricultural products taken into account;

⁽¹⁾ OJ No C 126, 7. 5. 1993, p. 13.

⁽²⁾ OJ No C 315, 22. 11. 1993.

⁽³⁾ OJ No C 304, 10. 11. 1993, p. 8.

⁽⁴⁾ OJ No L 323, 29. 11. 1980, p. 1. Regulation as last amended by Regulation (EEC) No 1436/90 (OJ No L 138, 31. 5. 1990, p. 9).

Whereas, for the basic products concerned, the offsetting of the price differences between the world market and the Community market takes the form of agricultural levies; whereas it is necessary to maintain a close link between the calculation of the agricultural component of the charge applicable to goods and that applicable to basic products imported in the unaltered state;

Whereas, in order to avoid undue administrative formalities, negligible amounts should not be applied and Member States should be permitted to refrain from adjusting amounts relating to a given transaction where the balance of the amounts concerned is itself negligible;

Whereas the implementation of preferential agreements should not complicate the procedures applicable to trade with third countries; whereas the implementing rules must therefore ensure that goods declared for export under a preferential arrangement are not in fact exported in accordance with the general arrangements and vice versa;

Whereas arrangements must be made for export refunds on certain agricultural products used in the manufacture of goods not covered by Annex II to the Treaty in order not to penalize producers of the said goods for the prices at which they are obliged to procure their supplies as a result of the common agricultural policy; whereas such refunds may cover only the difference between the price of an agricultural product on the Community market and world market respectively; whereas these arrangements should accordingly be established as part of the common organization of the markets concerned;

Whereas Article 13 of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾ and the corresponding Articles of certain other regulations on the common organization of the markets in agricultural products provide for the granting of such refunds; whereas the implementing rules should be adopted under the management committee procedure referred to in Article 23 of Regulation (EEC) No 1766/92 and the corresponding Articles of the other Regulations concerned; whereas the amounts of the refunds should be fixed under the same procedure as the amounts of the refunds for the agricultural products exported in the unaltered state; whereas the implementing rules for the said procedure must be established having regard essentially to the manufacturing processes of the goods concerned; whereas the implementing rules should accordingly be established on the same basis;

Whereas the mechanism of agricultural protection provided for by this Regulation may prove defective under exceptional circumstances; whereas that risk may

also arise in the context of preferential agreements; whereas in order to avoid in such cases leaving the Community market without defence against disturbances which could result from this, it is appropriate to provide for all necessary measures to be taken rapidly;

Whereas Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community customs code⁽²⁾ should be made applicable to trade covered by this Regulation;

Whereas the distinction drawn between agricultural products covered by Annex II to the Treaty and goods not covered by Annex II is a criterion specific to the Community, based on the situation of agriculture and the food industry in the Community; whereas the situation may be appreciably different in certain third countries with which the Community concludes agreements; whereas, therefore, provision must be made in such agreements for the possibility of extending the general rules applicable to processed agricultural products not covered by Annex II to the Treaty, *mutatis mutandis*, to certain agricultural products covered by Annex II to the Treaty;

Whereas the Regulation requires detailed implementing rules; whereas it is appropriate for those detailed rules to be laid down after consulting a management committee on which the Member States are represented; whereas the rules should include, in particular, rules on fixing the quantities of basic products considered to have been used in the manufacture of goods covered by Regulation (EEC) No 3033/80 and listed in Table 1 of Annex B to this Regulation, which replace Council Regulation (EEC) No 3034/80 of 11 November 1980 fixing the quantities of basic products considered to have been used in the manufacture of goods covered by Regulation (EEC) No 3033/80⁽³⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation determines the trade arrangements applicable to certain goods defined in the third indent of paragraph 2:

- (a) in the manufacture of which one or more agricultural products have been used, either unprocessed or after processing, or

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ No L 323, 29. 11. 1980, p. 7. Regulation as last amended by Commission Regulation (EEC) No 572/91 (OJ No L 63, 9. 3. 1991, p. 24).

⁽³⁾ OJ No L 181, 1. 7. 1992, p. 21.

(b) which, in accordance with Article 13 (2), are considered to be manufactured from agricultural products, or

(c) which are classified under the same (eight-digit) combined nomenclature code as the goods referred to in (a) and (b).

2. For the purposes of this Regulation:

— 'agricultural products' shall mean products covered by Annex II to the Treaty;

— 'basic products' shall mean certain agricultural products covered by Annex A to this Regulation or assimilated to those products or resulting from their processing for which differences are established between prices on the Community market and prices on the world market. Those price differences are considered representative of price differences for all eligible products.

However:

(i) where a preferential agreement provides for the offsetting of differences in prices for agricultural products other than those listed in Annex A, additional basic products may be included among the eligible products pursuant to that agreement;

(ii) where a preferential agreement concluded with a specific area provides for a special offsetting method, the difference between prices on the Community market and prices on the world market may be replaced by the difference defined in that agreement.

— 'goods' shall mean products not covered by Annex II to the Treaty listed in Annex B to this Regulation, obtained wholly or partly from agricultural products.

3. This Regulation may also apply to certain agricultural products in the framework of preferential trade.

In that case the list of those agricultural products subject to the rules governing trade in goods shall be established by the agreement concerned.

TITLE I TRADE ARRANGEMENTS

CHAPTER 1

Importation

Article 2

1. On importation into the Community, the goods listed in Annex B shall be subject to a charge; this charge shall take account of:

(a) the production and marketing conditions of those goods;

(b) the difference between the prices on the Community market of the agricultural products considered to have been used in their production and

— the prices of imports from third countries, where the total cost of the basic products in question is higher in the Community, or,

— if provided for by a preferential agreement, the prices of the agricultural products in certain third countries.

2. For the goods listed in Table 1 of Annex B, the charge referred to in paragraph 1 shall consist of:

— an *ad valorem* duty, which is the fixed component of the charge, to take account of the production and marketing conditions of the goods;

— an 'agricultural component' to offset the price differences referred to in point (b) of paragraph 1.

The agricultural component may take account only of the price differences for the agricultural products referred to in Annex A, products which are assimilated to them or products resulting from their processing.

It may take the form of a variable component established in line with the conditions laid down in Article 3 or of a fixed component established in line with the conditions laid down in Article 5.

3. For the goods listed in Table 2 of Annex B, the agricultural component shall consist of a duty or a specific amount established per measurement unit.

Where provided for by a preferential agreement, this agricultural component may be replaced by one of the forms referred to in paragraph 2.

4. Subject to Article 10, the levying of any customs duty or charge having equivalent effect other than the charge provided for in paragraph 1 shall be prohibited.

Article 3

1. The Commission shall fix a variable component for each of the goods listed in Table 1 of Annex B.

The variable component shall be determined on the basis of the quantities of basic products set pursuant to Article 13 (2) considered to have been used in the manufacture of the goods in question, and the price differences referred to in paragraph 2.

A list of basic products, to which the quantities of agricultural products must be converted, shall be established in accordance with Article 13 (1).

2. For each of the basic products the Commission shall:

— either establish the difference between:

- (a) the average threshold price applicable over the reference period for which the variable components are fixed, and
- (b) the average cif price (excluding special cif prices) or, where appropriate, the free-at-frontier prices used for fixing the levy applicable during the period preceding the period for which the variable component was fixed;

— or, in the case of isoglucose, adopt the average levies referred to in Article 16 (6) of Regulation (EEC) No 1785/81⁽¹⁾ applicable over the period preceding the period for which the components are fixed.

3. The period referred to in paragraph 2 shall be one quarter. It may be subdivided into two subperiods of one and two months if the quarter is spread over two calendar years or two marketing years, or it may be longer than one quarter within the framework of preferential agreements.

For the purposes of calculating the cif prices, the free-at-frontier prices or the levies, the figures for the last 20 days of the period preceding the period for which the component is fixed shall not be taken into consideration.

4. If one of the figures used for calculating the price difference referred to in paragraph 2 is not available for one or more basic products, the Commission shall replace the missing figure with the corresponding figure for the closest period available, corrected, where appropriate, by the monthly gradation of payments or with any other known details affecting comparison between the missing figure and the figure chosen to replace it.

When the figure which was not available is determined, the Commission may fix the corrected variable components if, by reason of the application of the preceding subparagraph, trade is seriously disrupted or is in danger of being seriously disrupted.

Article 4

1. Where the Common Customs Tariff lays down a maximum charge, the charge provided for in Article 2 (2) may not exceed this maximum.

Where the maximum charge may be applied only under specific conditions, these conditions shall be determined in accordance with the procedure laid down in Article 11 (1) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽²⁾.

2. Where the maximum charge includes an additional duty on various kinds of sugar, expressed as sucrose (AD S/Z), or on flour (AD F/M), such additional duty shall be calculated, as appropriate, taking either sugar or flour as the sole agricultural product.

The quantity of sugar or flour shall be determined under the conditions laid down in Article 13 (1).

Where the quantities of sugar or flour actually used, as provided for in Article 13 (1), are not known, these quantities shall be determined under the same conditions as applied for the purposes of establishing the agricultural component.

3. The Commission shall determine for each period referred to in Article 3 (3):

- (a) the amount of the additional duties, calculated in accordance with paragraph 2 of this Article;
- (b) the price differences applicable to the additional duties, determined in accordance with Article 3 (2).

Article 5

1. If the levies applicable to imports of the basic products referred to in Annex A are replaced by fixed amounts, the variable components applicable to the goods referred to in Table 1 of Annex B shall be calculated on the basis of these amounts.

2. For each basic product to be taken into account in calculating the agricultural component of the charge, the amount established when Article 3 (2) is applied shall be replaced by the amount applicable to the basic product considered to have been used.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 256, 7. 9. 1987, p. 1.

3. The date from which the fixed amounts applicable to imports of basic products shall be taken into account in establishing the agricultural component of the charge shall be determined in accordance with the procedure laid down in Article 16.

Article 6

1. For the purposes of determining the agricultural component in the case of trade in the framework of preferential agreements with countries that satisfy the requirements of Community legislation for processed agricultural products:

- (a) the quantities of agricultural products used, as determined in accordance with Article 13 (2), may be replaced by the quantities actually used in the manufacture of the imported goods if the Community has concluded a customs cooperation agreement covering the establishment of such quantities; in this case, conversion coefficients may be established taking account of the parties' respective definitions of these basic products to make them directly comparable;
- (b) the price difference referred to in Article 3 (2) may be replaced by a system of direct offsetting of the differences in agricultural prices in the Community and the region concerned or by direct offsetting *vis-à-vis* a jointly established price recognized for the region concerned;
- (c) where application of point (b) results in differences with little impact on the goods covered, this arrangement may be replaced by a system of flat-rate amounts or rates.

2. The agricultural components referred to in paragraph 1 may apply for a period different from the period allowed for non-preferential trade.

3. The *ad valorem* duties corresponding to the agricultural component of the charge for the goods in Table 2 of Annex B may be replaced by another agricultural component where provided for by a preferential agreement.

4. The detailed rules for applying paragraphs 1 to 3 shall be adopted in accordance with the procedure laid down in Article 16 if the preferential agreement concerned determines:

- the agricultural prices adopted in the agreement,

- the period for which these agricultural components are fixed,

- any goods and agricultural products subject to the rules of the Agreement.

Any component or components not determined in the agreement in question shall be adopted by the Council in accordance with the procedure laid down in Article 113 of the Treaty.

5. The other implementing rules necessary in order to establish preferential arrangements shall be determined in accordance with the procedure laid down in Article 16.

These implementing rules shall cover in particular:

- completion and circulation of the documents necessary for granting these arrangements,
- the measures necessary to avoid diversion of trade.

Article 7

1. Where a preferential agreement provides for the reduction or phasing out of the part of the charge referred to in Article 2 (1) (a), this shall be the fixed component in the case of the goods listed in Table 1 of Annex B. In the case of the other goods covered by the agreement, this part of the charge shall be obtained by deducting from the total charge the agricultural component provided for in the agreement unless the agreement makes provision for determining this part by some other means.

2. Where a preferential agreement provides for a reduction in the agricultural component of the charge, the detailed rules for determining and managing such reduced agricultural components shall be adopted in accordance with the procedure laid down in Article 16, provided the agreement specifies:

- the products eligible for these reductions,
- the quantities of goods or value of any quotas to which these reductions apply or the method of calculating these quantities or values,
- the reduction in the agricultural component for each basic product concerned.

Any component or components not determined in the agreement in question shall be adopted by the Council in accordance with the procedure laid down in Article 113 of the Treaty.

CHAPTER 2

Exportation

Article 8

1. On exportation of the goods, the agricultural products which have been used and which satisfy the conditions laid down in Article 9 (2) of the Treaty may qualify for refunds established pursuant to the regulations on the common organization of the market in the sectors concerned.

No export refund may be granted on agricultural products incorporated into goods not covered by a common organization of the market providing for export refunds on products exported in the form of such goods.

2. The list of goods qualifying for refunds shall be established, taking account of:

- the impact of the difference between the prices on the Community market and on the world market of the agricultural products used in their production,
- the need to cover this difference in whole or in part, to allow exportation of the agricultural products used in the goods concerned.

The list shall be drawn up pursuant to the regulations on the common organization of the agricultural markets.

3. The common implementing rules for the refund arrangements referred to in this Article shall be adopted in accordance with the procedure laid down in Article 16.

The amounts of the refunds shall be fixed in accordance with the same procedure as for the granting of refunds on the agricultural products concerned when they are exported in the unprocessed state.

4. Where the arrangements for the direct offsetting referred to in Article 6 (1) (b) are established within the framework of a preferential agreement, the amounts payable on exports to the country or countries concerned by the agreement shall be determined jointly and on the same basis as the agricultural component of the charge under the conditions laid down in the agreement.

These amounts shall be established in accordance with the procedure laid down in Article 16. The implementing rules which may be necessary pursuant to this paragraph, and in particular measures to ensure that goods declared for export under a preferential arrangement are not in

fact exported under a non-preferential arrangement or vice versa, shall be adopted by the same procedure.

Where methods of analysing the agricultural products used are necessary, the methods specified for the agricultural products in question in the case of refunds on exports to third countries shall be used.

Article 9

Where, pursuant to a regulation on the common organization of a particular market, levies, charges or other measures are applied to exports of an agricultural product listed in Annex A, appropriate measures with regard to certain goods the export of which is likely to hinder achievement of the objective in the agricultural sector in question, because of their high content of the agricultural product concerned and the uses to which they may be put, may be decided, in accordance with the procedure laid down in Article 16, taking due account of the specific interest of the processing industry.

TITLE II

GENERAL PROVISIONS

Article 10

Where there is a danger that a reduction in the agricultural component applicable to imports of goods under a preferential agreement could disturb the agricultural markets or the markets in the goods concerned, the safeguard clauses applicable to imports of the agricultural products concerned shall also apply to the goods listed in Annex B.

For the purposes of assessing the disturbances in question, account shall be taken of the characteristics of the goods actually imported under the preferential arrangements compared with the characteristics of the goods traditionally imported prior to the introduction of these arrangements.

Article 11

The quantity of agricultural products covered by the regulations on the common organization of markets which is not subject to levies or charges having an equivalent effect to customs duties, for the purpose of, or as a result of, exporting such goods, shall be determined in accordance with Regulation (EEC) No 2913/92.

The quantity of goods admitted under inward processing arrangements and, therefore, not subject to the charge provided for in Article 2 for the purpose of, or as a result of, exporting other goods shall be that actually used in the manufacture of the goods.

Article 12

1. Table 1 of Annex B may be amended by the Council acting in accordance with the procedure laid down in Article 113 of the Treaty.
2. Table 2 of Annex B may be amended in accordance with the procedure laid down in Article 16, in order to adapt it to the agreements concluded by the Community.
3. The Commission shall adapt the Annexes to this Regulation to any amendments to the combined nomenclature in order to keep unchanged the arrangements in force prior to such amendments.

Article 13

1. In order to establish the agricultural component of the charge, a list of basic products for non-preferential trade shall be adopted in accordance with the procedure laid down in Article 16.

The basic products shall be selected on the basis of their importance in international trade and the representative nature of their price levels for all the other agricultural products to be taken into account.

The quantities of other agricultural products considered to have been used shall be converted where appropriate to equivalent quantities of basic products taking due account of the equivalence ratios adopted by the Council in the framework of the common agricultural policy.

2. The quantities of basic products considered to have been used for the manufacture of goods referred to in this Regulation or, where appropriate, of agricultural products following the trade arrangements laid down by this Regulation, where the composition of those goods or products has not been established, shall be adopted in accordance with the procedure laid down in Article 16.
3. Without prejudice to assimilations adopted by the Council under the common agricultural policy, certain agricultural products may be treated as basic products, in accordance with the procedure laid down in Article 16, for the purposes of establishing terms for comparison of prices.
4. The characteristics of the basic products necessary in order to establish the terms for comparison of prices shall be determined in accordance with the procedure laid down in Article 16.

Article 14

1. The threshold or thresholds below which the amounts established in accordance with Article 3 (2) shall be fixed at zero may be laid down in accordance with the procedure laid down in Article 16. The non-application of the amounts established in accordance with Article 3 (2) may be made subject to special

conditions, in accordance with the same procedure, in order to avoid creating artificial trade flows.

2. A threshold below which Member States may refrain from applying amounts to be granted or levied pursuant to this Regulation, in connection with a given economic transaction, may be established in accordance with the procedure laid down in Article 16 if the balance of these amounts is lower than the threshold.

Article 15

The Commission shall be assisted by a management committee on horizontal questions concerning trade in processed agricultural products not listed in Annex II, hereinafter referred to as 'the committee', composed of representatives of the Member States and chaired by the representative of the Commission.

Article 16

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

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided for up to one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 17

The committee may examine any other matter referred to it by its chairman, either on the chairman's own initiative or at the request of a Member State.

Article 18

In accordance with the procedure laid down in Article 16:

- the amounts resulting from application of this Regulation may be amended when, during any three-monthly period:

- a threshold price is altered or
- a production refund or aid applicable in all the Member States is introduced, amended or abolished;
- measures may be taken to bring the provisions of this Regulation into line with any technical amendments which may be made to the relevant regulations on agricultural products.

Article 19

Methods of qualitative and quantitative analysis of the goods and the other technical provisions necessary for identifying them or for determining their composition shall be adopted in accordance with the procedure laid down in Article 10 of Regulation (EEC) No 2658/87.

Article 20

The Member States shall communicate to the Commission the information necessary for implementing this Regulation, on the one hand, on imports, exports and, even where appropriate, production of the goods and, on the other, on the administrative implementing

measures adopted. The detailed rules for communication of this information shall be laid down in accordance with the procedure laid down in Article 16.

Article 21

Regulation (EEC) No 3033/80 shall be repealed on 1 January 1994. References to Regulation (EEC) No 3033/80 shall be treated as references to this Regulation.

Regulation (EEC) No 3034/80 shall be repealed on the date of entry into force of the regulation adopted pursuant to Article 13.

Article 22

1. 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 1994.

2. The application of this Regulation to caseins falling within CN code 3501 10 and to caseinates and other casein derivatives falling within CN code 3501 90 90 shall be deferred until a further decision by the Council.

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

Done at Brussels, 6 December 1993.

For the Council

The President

W. CLAES

ANNEX A

List of the agricultural products in respect of which price differences between the world market and the Community market can be offset on importation (*)

CN code	Description of the agricultural products
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter, not flavoured or containing added fruit, nuts' or cocoa
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included
0405	Butter and other fats and oils derived from milk
0709 90 60	Sweet corn, fresh or chilled
0712 90 19	Dried sweet corn, whole, cut, sliced, broken or in powder, but not otherwise further prepared, other than hybrid sweet corn for sowing
Chapter 10	Cereals (1)
1701	Cane or beet sugar and chemically pure sucrose, in solid form
1703	Molasses resulting from the extraction or refining of sugar

(*) Agricultural products taken into account when used in the unprocessed state or after processing or considered to have been used for the manufacture of the goods listed in Table 1 of Annex B.

(1) Excluding spelt for sowing falling within CN code 1001 10 90, hybrid seed maize falling within CN codes 1005 10 11 to 1005 10 19, rice for sowing falling within CN code 1006 10 10 and hybrid sorghum for sowing falling within CN code 1007 00 10.

ANNEX B

TABLE 1

Goods covered by Article 2 (2)

CN code	Description
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa;
0403 10 51 to 0403 10 99	— Yoghurt, flavoured or containing added fruit or cocoa
0403 90 71 to 0403 90 99	— Other, flavoured or containing added fruit or cocoa
0710 40 00	Sweet corn (uncooked or cooked by steaming or boiling in water), frozen
0711 90 30	Sweet corn provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption;
ex 1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of heading No 1516;
1517 10 10	— Margarine, excluding liquid margarine containing more than 10 % but not more than 15 % by weight of milkfats
1517 90 10	— Other, containing more than 10 % but not more than 15 % by weight of milkfats
1702 50 00	Chemically pure fructose
ex 1704	Sugar confectionary (including white chocolate), not containing cocoa; excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances, falling within CN code 1704 90 10
1806	Chocolate and other food preparations containing cocoa
1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 50 %, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10 %, not elsewhere specified or included
ex 1902	Pasta, excluding stuffed pasta falling within CN codes 1902 20 10 and 1902 20 30; couscous, whether or not prepared
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty sachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
2001 90 30	Sweet corn (<i>Zea mays</i> var. <i>saccharata</i>), prepared or preserved by vinegar or acetic acid
2001 90 40	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch, prepared or preserved by vinegar or acetic acid
2004 10 91	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid, frozen

CN code	Description
2004 90 10	Sweet corn (<i>Zea mays</i> var. <i>saccharata</i>) prepared or preserved otherwise than by vinegar or acetic acid, frozen
2005 20 10	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2005 80 00	Sweet corn (<i>Zea mays</i> var. <i>saccharata</i>) prepared or preserved otherwise than by vinegar or acetic acid, not frozen
2008 92 45	Preparation of the Müsli type based on unroasted cereal flakes
2008 99 85	Maize (corn), other than sweet corn (<i>Zea mays</i> var. <i>saccharata</i>) otherwise prepared or preserved, not containing added spirit or added sugar
2008 99 91	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch, otherwise prepared or preserved, not containing added spirit or added sugar
2101 10 99	Preparations with a basis of extracts, essences and concentrates of coffee or with a basis of coffee, other than those of CN code 2101 10 91
2101 20 90	Extracts, essences and concentrates of tea or maté and preparations with a basis of these extracts, or with a basis of tea or maté, other than those of CN code 2101 20 10
2101 30 19	Roasted coffee substitutes excluding roasted chicory
2101 30 99	Extracts, essences and concentrates or roasted coffee substitutes excluding those of roasted chicory
2102 10 31 2102 10 39	Bakers' yeast
2105	Ice cream and other edible ice, whether or not containing cocoa
ex 2106	Food preparations not elsewhere specified or included other than those falling within CN codes 2106 10 10 and 2106 90 91 and other than flavoured or coloured sugar syrups
2202 90 91 2202 90 95 2202 90 99	Non-alcoholic beverages, not including fruit or vegetable juices of CN code 2009, containing products of CN codes 0401 to 0404 or fat obtained from products of CN heading Nos 0401 to 0404
2905 43 00	Mannitol
2905 44	D-Glucitol (sorbitol)
ex 3501	Caseins, caseinates and other casein derivatives
ex 3505 10	Dextrins and other modified starches, excluding esterified or etherified starches of CN code 3505 10 50
3505 20	Glues based on starches or on dextrins or other modified starches
3809 10	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the paper, leather or like industries, with a basis of amylaceous substances, not elsewhere specified or included
3823 60	Sorbitol other than of CN code 2905 44

TABLE 2
Goods covered by Article 2 (3)

CN code	Description
0505	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers:
0505 10	— Feathers of a kind used for stuffing; down:
0505 10 90	— — Other than raw
0505 90	— Other
0509 00 90	Natural sponges of animal origin, other than raw
1212 20	Seaweeds and other algae
1302 12	Vegetable saps and extracts of liquorice
1302 13	Vegetable saps and extracts of hops
1302 14	Vegetable saps and extracts of pyrethrum or of the roots of plants containing rotenone
1302 19 30 and 1302 19 91	Intermixtures of vegetable extracts, for the manufacture of beverages or of food preparations; other intermixtures of vegetable extracts, medicinal
ex 1302 20	Pectates
1302 31	Agar-agar, whether or not modified
1302 32 10	Mucilages and thickeners, whether or not modified, derived from locust beans or locust bean seeds
1505	Wool grease and fatty substances derived therefrom (including lanolin)
1506	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified
1515 60	Jojoba oil and its fractions, whether or not refined, but not chemically modified
1516 20 10	Hydrogenated castor oil, so called 'opal-wax'
1517 90 93	Edible mixtures or preparations of a kind used as mould release preparations
ex 1518	Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurized, blown, polyincized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of CN code 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of Chapter 15, not elsewhere specified or included; excluding the oils of CN codes 1518 00 31 and 1518 00 39
1519	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols
1520	Glycerol (glycerine), whether or not pure; glycerol waters and glycerol lyes
1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured
1522 00 10	Degras
1702 90 10	Chemically pure maltose
1704 90 10	Liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances

CN code	Description
1803	Cocoa paste, whether or not defatted
1804	Cocoa butter, fat and oil
1805	Cocoa powder, not containing added sugar or other sweetening matter
2001 90 60	Palm hearts, prepared or preserved by vinegar or acetic acid
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included;
2008 11 10	— Peanut butter
2008 91 00	— Palm hearts
ex 2101 10	Extracts, essences and concentrates, of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee, other than preparations of CN code 2101 10 99
2101 20	Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates or with a basis of tea or maté:
2101 20 10	— containing no milkfats, milk proteins, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milkfat, 2,5 % milk proteins, 5 % sucrose or isoglucose, 5 % glucose or starch
2101 30 11	Roasted chicory
2101 30 91	Extracts, essences and concentrates of roasted chicory
2102 10	Active yeasts:
2102 10 10	— Culture yeast
2102 10 90	— Other, excluding bakers' yeast
2102 20	Inactive yeasts; other single-cell micro-organisms, dead
2102 30	Prepared baking powders
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard
2104	Soups and broths and preparations therefor; homogenized composite food preparations
2106	Food preparations not elsewhere specified or included:
2106 10	— Protein concentrates and textured protein substances:
2106 10 10	— — containing no milkfats, milk proteins, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milkfat, 2,5 % milk proteins, 5 % sucrose or isoglucose, 5 % glucose or starch
2106 90	— other than cheese fondues or flavoured or coloured sugar syrups:
2106 90 91	— — containing no milkfats, milk proteins, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milkfat, 2,5 % milk proteins, 5 % sucrose or isoglucose, 5 % glucose or starch
2201 10	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured
2202 10	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured
2202 90 10	Other non-alcoholic beverages, not including fruit or vegetable juices of CN code 2009, not containing products of CN codes 0401 to 0404 or fat obtained from products of CN codes 0401 to 0404

CN code	Description
2203	Beer made from malt
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances
ex 2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher; ethyl alcohol and other spirits, denatured, of any strength: — other than obtained from agricultural products listed in Annex II to the EEC Treaty
ex 2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol, not obtained from agricultural products listed in Annex II to the EEC Treaty; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
2403	Other manufactured tobacco and manufactured tobacco substitutes; 'homogenized' or 'reconstituted' tobacco; tobacco extracts and essences