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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1226/95
of 30 May 1995
establishing unit values for the determination of the customs value of certain
perishable goods

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽²⁾, as last amended by Regulation (EC) No 3254/94 ⁽³⁾, and in particular Article 173 (1) thereof,

Whereas Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation ;

Whereas the result of applying the rules and criteria laid down in the abovementioned Articles to the elements

communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION :

Article 1

The unit values provided for in Article 173 (1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 2 June 1995.

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

Done at Brussels, 30 May 1995.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ No L 253, 11. 10. 1993, p. 1.

⁽³⁾ OJ No L 346, 31. 12. 1994, p. 1.

ANNEX

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	δS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
1.10	New potatoes 0701 90 51 0701 90 59	a) b) c)	49,60 282,93 484,45	648,12 325,72 1 894,09	92,18 40,48 41,46	360,37 109 704,09	14 983,82 103,19	8 016,76 9 699,71
1.30	Onions (other than seed) 0703 10 19	a) b) c)	35,53 202,72 347,10	464,36 233,38 1 357,08	66,04 29,01 29,71	258,20 78 600,98	10 735,64 73,93	5 743,86 6 949,66
1.40	Garlic 0703 20 00	a) b) c)	133,59 762,08 1 304,85	1 745,70 877,33 5 101,71	248,28 109,04 111,68	970,65 295 486,88	40 358,78 277,94	21 593,07 26 126,07
1.50	Leeks ex 0703 90 00	a) b) c)	42,20 240,74 412,20	551,47 277,15 1 611,63	78,43 34,45 35,28	306,63 93 344,29	12 749,34 87,80	6 821,25 8 253,22
1.60	Cauliflowers ex 0704 10 10 ex 0704 10 90	a) b) c)	129,66 739,68 1 266,50	1 694,38 851,55 4 951,75	240,98 105,84 108,40	942,12 286 801,44	39 172,49 269,77	20 958,37 25 358,12
1.70	Brussels sprouts 0704 20 00	a) b) c)	53,71 306,40 524,63	701,88 352,74 2 051,20	99,82 43,84 44,90	390,26 118 803,83	16 226,70 111,75	8 681,74 10 504,28
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	40,08 228,63 391,46	523,72 263,21 1 530,55	74,49 32,71 33,50	291,20 88 647,88	12 107,88 83,38	6 478,05 7 837,98
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> var. <i>italica</i>) ex 0704 90 90	a) b) c)	79,26 452,16 774,20	1 035,76 520,54 3 026,96	147,31 64,70 66,26	575,91 175 319,16	23 945,79 164,91	12 811,67 15 501,20
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	77,56 442,48 757,63	1 013,59 509,40 2 962,17	144,16 63,31 64,84	563,58 171 566,58	23 433,25 161,38	12 537,44 15 169,40
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 90	a) b) c)	156,73 894,11 1 530,91	2 048,13 1 029,33 5 985,57	291,30 127,93 131,03	1 138,81 346 678,92	47 350,80 326,09	25 333,99 30 652,31
1.120	Endives ex 0705 29 00	a) b) c)	21,82 124,48 213,13	285,14 143,30 833,31	40,55 17,81 18,24	158,55 48 264,75	6 592,19 45,40	3 527,01 4 267,42
1.130	Carrots ex 0706 10 00	a) b) c)	40,76 232,54 398,16	532,68 267,71 1 556,72	75,76 33,27 34,08	296,18 90 164,17	12 314,98 84,81	6 588,86 7 972,05
1.140	Radishes ex 0706 90 90	a) b) c)	39,42 224,88 385,05	515,14 258,89 1 505,46	73,27 32,18 32,96	286,43 87 195,07	11 909,45 82,02	6 371,89 7 709,53
1.160	Peas (<i>Pisum sativum</i>) 0708 10 10 0708 10 90	a) b) c)	286,92 1 636,81 2 802,58	3 749,44 1 884,35 10 957,54	533,26 234,20 239,87	2 084,78 634 651,59	86 683,26 596,96	46 377,95 56 113,99

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	öS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
1.170	Beans :							
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 10 ex 0708 20 90	a) b) c)	117,94 672,80 1 151,98	1 541,17 774,55 4 504,01	219,19 96,27 98,59	856,93 260 868,31	35 630,44 245,38	19 063,28 23 065,20
1.170.2	Beans (<i>Phaseolus</i> ssp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 10 ex 0708 20 90	a) b) c)	133,19 759,83 1 301,00	1 740,55 874,75 5 086,67	247,55 108,72 111,35	967,79 294 615,37	40 239,75 277,12	21 529,39 26 049,01
1.180	Broad beans ex 0708 90 00	a) b) c)	92,83 529,57 906,75	1 213,09 609,66 3 545,21	172,53 75,77 77,61	674,51 205 335,32	28 045,52 193,14	15 005,13 18 155,13
1.190	Globe artichokes 0709 10 10 0709 10 20 0709 10 30	a) b) c)	115,68 659,93 1 129,94	1 511,69 759,73 4 417,85	215,00 94,42 96,71	840,54 255 878,38	34 948,89 240,68	18 698,63 22 624,00
1.200	Asparagus :							
1.200.1	— green ex 0709 20 00	a) b) c)	334,78 1 909,86 3 270,10	4 374,91 2 198,70 12 785,47	622,22 273,27 279,88	2 432,56 740 523,48	101 143,67 696,55	54 114,68 65 474,87
1.200.2	— other ex 0709 20 00	a) b) c)	297,63 1 697,91 2 907,20	3 889,40 1 954,69 11 366,58	553,17 242,94 248,82	2 162,60 658 342,68	89 919,08 619,25	48 109,21 58 208,69
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	146,25 834,30 1 428,51	1 911,13 960,48 5 585,20	271,81 119,37 122,26	1 062,64 323 489,95	44 183,55 304,28	23 639,43 28 602,01
1.220	Ribbed celery (<i>Apium graveolens</i> var. <i>dulce</i>) ex 0709 40 00	a) b) c)	72,45 413,29 707,64	946,71 475,79 2 766,73	134,65 59,13 60,56	526,40 160 246,49	21 887,11 150,73	11 710,21 14 168,51
1.230	Chantarelles 0709 51 30	a) b) c)	963,14 5 494,48 9 407,79	12 586,22 6 325,45 36 782,61	1 790,07 786,16 805,19	6 998,24 2 130 417,52	290 980,97 2 003,90	155 682,91 188 365,14
1.240	Sweet peppers 0709 60 10	a) b) c)	131,21 748,54 1 281,67	1 714,69 861,75 5 011,09	243,87 107,10 109,70	953,41 290 238,14	39 641,89 273,00	21 209,51 25 661,99
1.250	Fennel 0709 90 50	a) b) c)	73,55 419,59 718,42	961,14 483,04 2 808,90	136,70 60,04 61,49	534,42 162 688,92	22 220,71 153,03	11 888,70 14 384,47
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	47,44 270,64 463,40	619,95 311,57 1 811,79	88,17 38,72 39,66	344,71 104 937,12	14 332,73 98,71	7 668,41 9 278,23
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	83,78 477,94 818,35	1 094,83 550,23 3 199,58	155,71 68,39 70,04	608,75 185 317,17	25 311,36 174,31	13 542,28 16 385,19
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	49,09 280,05 479,51	641,52 322,41 1 874,81	91,24 40,07 41,04	356,70 108 587,28	14 831,29 102,14	7 935,15 9 600,96
2.40	Avocados, fresh ex 0804 40 10 ex 0804 40 90	a) b) c)	132,39 755,26 1 293,17	1 730,07 869,48 5 056,05	246,06 108,06 110,68	961,96 292 842,27	39 997,57 275,45	21 399,81 25 892,24

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	δS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	126,39 721,01 1 234,53	1 651,62 830,05 4 826,78	234,90 103,16 105,66	918,34 279 562,83	38 183,81 262,96	20 429,40 24 718,11
2.60	Sweet oranges, fresh :							
2.60.1	— Sanguines and semi-sanguines 0805 10 01 0805 10 11 0805 10 21 0805 10 32 0805 10 42 0805 10 51	a) b) c)	71,44 407,55 697,81	933,57 469,18 2 728,32	132,78 58,31 59,72	519,09 158 021,71	21 583,24 148,64	11 547,63 13 971,81
2.60.2	— Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovals, Trovita and Hamlins 0805 10 05 0805 10 15 0805 10 25 0805 10 34 0805 10 44 0805 10 55	a) b) c)	47,94 273,48 468,26	626,46 314,84 1 830,80	89,10 39,13 40,08	348,33 106 038,45	14 483,16 99,74	7 748,89 9 375,60
2.60.3	— Others 0805 10 09 0805 10 19 0805 10 29 0805 10 36 0805 10 46 0805 10 59	a) b) c)	22,94 130,87 224,07	299,78 150,66 876,09	42,64 18,72 19,18	166,68 50 742,13	6 930,56 47,73	3 708,04 4 486,47
2.70	Mandarins (including tangerines and satsu- mas), fresh ; clementines, wilkings and similar citrus hybrids, fresh :							
2.70.1	— Clementines ex 0805 20 11 ex 0805 20 21	a) b) c)	93,71 534,61 915,38	1 224,64 615,47 3 578,96	174,17 76,49 78,35	680,93 207 290,24	28 312,53 194,98	15 147,99 18 327,98
2.70.2	— Monreales and Satsumas ex 0805 20 13 ex 0805 20 23	a) b) c)	47,27 269,69 461,76	617,77 310,47 1 805,40	87,86 38,59 39,52	343,49 104 567,06	14 282,19 98,36	7 641,37 9 245,51
2.70.3	— Mandarines and wilkings ex 0805 20 15 ex 0805 20 25	a) b) c)	51,89 296,02 506,85	678,09 340,79 1 981,69	96,44 42,36 43,38	377,04 114 778,09	15 676,85 107,96	8 387,55 10 148,33
2.70.4	— Tangerines and others ex 0805 20 17 ex 0805 20 19 ex 0805 20 27 ex 0805 20 29	a) b) c)	31,57 180,09 308,35	412,53 207,32 1 205,60	58,67 25,77 26,39	229,38 69 827,06	9 537,26 65,68	5 102,70 6 173,90
2.80	Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>), fresh 0805 30 20	a) b) c)	47,05 268,41 459,57	614,84 309,00 1 796,83	87,45 38,40 39,33	341,86 104 071,14	14 214,45 97,89	7 605,13 9 201,66
2.85	Limes (<i>Citrus aurantifolia</i>), fresh ex 0805 30 90	a) b) c)	142,05 810,37 1 387,54	1 856,32 932,93 5 424,99	264,01 115,95 118,76	1 032,16 314 211,04	42 916,20 295,55	22 961,36 27 781,60

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	δS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
2.90	Grapefruit, fresh :							
2.90.1	— white	a)	41,97	548,48	78,01	304,97	12 680,30	6 784,32
	ex 0805 40 10	b)	239,44	275,65	34,26	92 838,86	87,33	8 208,53
	ex 0805 40 90	c)	409,97	1 602,90	35,09			
2.90.2	— pink	a)	55,87	730,07	103,83	405,93	16 878,40	9 030,41
	ex 0805 40 10	b)	318,71	366,91	45,60	123 575,23	116,24	10 926,15
	ex 0805 40 90	c)	545,70	2 133,58	46,71			
2.100	Table grapes	a)	151,52	1 980,10	281,62	1 100,98	45 777,89	24 492,44
	0806 10 21	b)	864,41	995,14	123,68	335 162,85	315,26	29 634,10
	0806 10 29	c)	1 480,06	5 786,74	126,67			
	0806 10 30							
	0806 10 61							
	0806 10 69							
2.110	Water melons	a)	54,68	714,58	101,63	397,33	16 520,45	8 838,90
	0807 10 10	b)	311,95	359,13	44,63	120 954,51	113,77	10 694,44
		c)	534,13	2 088,33	45,71			
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, Cuper, Honey Dew (including Cantalene), Onteniente, Piel de Sapo (including Verde Liso), Rochet, Tendral, Futuro	a)	40,45	528,56	75,17	293,89	12 219,85	6 537,96
	ex 0807 10 90	b)	230,74	265,64	33,02	89 467,63	84,15	7 910,46
		c)	395,08	1 544,70	33,81			
2.120.2	— other	a)	114,55	1 496,93	212,90	832,33	34 607,53	18 515,99
	ex 0807 10 90	b)	653,48	752,31	93,50	253 379,09	238,33	22 403,02
		c)	1 118,91	4 374,70	95,76			
2.130	Apples	a)	62,02	810,52	115,28	450,67	18 738,38	10 025,56
	0808 10 51	b)	353,83	407,34	50,63	137 193,10	129,05	12 130,20
	0808 10 53	c)	605,84	2 368,70	51,85			
	0808 10 59							
	0808 10 61							
	0808 10 63							
	0808 10 69							
2.140	Pears							
2.140.1	Pears — Nashi (<i>Pyrus pyrifolia</i>)	a)	131,24	1 715,04	243,92	953,60	39 649,93	21 213,81
	0808 20 31	b)	748,69	861,92	107,13	290 296,98	273,06	25 667,19
	0808 20 37	c)	1 281,93	5 012,11	109,72			
	0808 20 41							
2.140.2	Other	a)	68,84	899,63	127,95	500,22	20 798,58	11 127,82
	0808 20 10	b)	392,73	452,13	56,19	152 276,83	143,23	13 463,86
	0808 20 31	c)	672,44	2 629,13	57,55			
	0808 20 37							
	0808 20 41							
2.150	Apricots	a)	287,20	3 753,10	533,78	2 086,81	86 767,88	46 423,23
	0809 10 10	b)	1 638,40	1 886,19	234,43	635 271,16	597,54	56 168,77
	0809 10 50	c)	2 805,32	10 968,24	240,10			
2.160	Cherries	a)	87,78	1 147,10	163,15	637,82	26 519,83	14 188,85
	0809 20 11	b)	500,76	576,50	71,65	194 164,97	182,63	17 167,49
	0809 20 19	c)	857,42	3 352,34	73,38			
	0809 20 21							
	0809 20 29							
	0809 20 71							
	0809 20 79							

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU Fmk SKr	öS FF Bfrs/Lfrs	DM £ Irl £	Dkr Lit	Dr Fl	Pta Esc
2.170	Peaches ex 0809 30 19 ex 0809 30 59	a) b) c)	56,79 323,96 554,70	742,11 372,96 2 168,77	105,55 46,35 47,48	412,63 125 613,10	17 156,74 118,15	9 179,33 11 106,33
2.180	Nectarines 0809 30 11 0809 30 51	a) b) c)	194,87 1 111,69 1 903,47	2 546,56 1 279,82 7 442,19	362,18 159,06 162,91	1 415,95 431 045,13	58 873,87 405,45	31 499,16 38 111,72
2.190	Plums 0809 40 10 0809 40 40	a) b) c)	133,19 759,81 1 300,96	1 740,49 874,72 5 086,50	247,54 108,72 111,35	967,76 294 605,86	40 238,45 277,11	21 528,69 26 048,17
2.200	Strawberries 0810 10 10 0810 10 90	a) b) c)	348,95 1 990,68 3 408,49	4 560,05 2 291,74 13 326,51	648,55 284,83 291,72	2 535,50 771 860,17	105 423,76 726,02	56 404,64 68 245,57
2.205	Raspberries 0810 20 10	a) b) c)	751,50 4 287,13 7 340,53	9 820,53 4 935,50 28 700,02	1 396,72 613,41 628,26	5 460,45 1 662 280,87	227 040,99 1 563,56	121 473,24 146 973,90
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a) b) c)	194,02 1 106,84 1 895,15	2 535,43 1 274,23 7 409,68	360,60 158,37 162,20	1 409,76 429 162,54	58 616,74 403,68	31 361,59 37 945,27
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 90 10	a) b) c)	86,15 491,49 841,54	1 125,86 565,82 3 290,26	160,12 70,32 72,03	626,00 190 569,00	26 028,68 179,25	13 926,07 16 849,54
2.230	Pomegranates ex 0810 90 85	a) b) c)	87,74 500,54 857,03	1 146,58 576,24 3 350,82	163,07 71,62 73,35	637,52 194 076,49	26 507,75 182,55	14 182,38 17 159,66
2.240	Khakis (including Sharon fruit) ex 0810 90 85	a) b) c)	370,13 2 111,51 3 615,37	4 836,83 2 430,84 14 135,40	687,92 302,12 309,43	2 689,39 818 710,38	111 822,75 770,09	59 828,28 72 387,92
2.250	Lychees ex 0810 90 30	a) b) c)	534,33 3 048,25 5 219,28	6 982,62 3 509,25 20 406,38	993,10 436,15 446,71	3 882,51 1 181 920,09	161 431,39 1 111,73	86 370,28 104 501,84

COMMISSION REGULATION (EC) No 1227/95

of 31 May 1995

fixing the import levies on syrups and certain other products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular Article 16 (8) thereof,

Whereas Article 16 (1) of Regulation (EEC) No 1785/81 provides for charging a levy on imports of the products listed in Article 1 (1) of that Regulation ;

Whereas the levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 must be calculated, where appropriate, at a standard rate on the basis of the sucrose content (including other sugars expressed as sucrose) of the product concerned and of the levy on white sugar ; whereas, however, the levies on maple sugar and maple syrup are limited to the amount resulting from application of the rate of duty bound within GATT ;

Whereas Article 7 of Commission Regulation (EEC) No 837/68 of 28 June 1968 on detailed rules for the application of levies on sugar⁽³⁾, as last amended by Regulation (EEC) No 1428/78⁽⁴⁾, provides that the basic amount of the levy for 100 kilograms of product must be fixed per percentage point of sucrose content ;

Whereas the basic amount of the levy must be equal to one-hundredth of the average of the levies applicable to 100 kilograms of white sugar during the first 20 days of the month preceding the month for which the basic amount of the levy is fixed ; whereas, however, the levy applicable to white sugar on the day of the fixing of the basic amount must be substituted for the average of the levies, where that levy differs by at least ECU 0,73 from that average ;

Whereas the basic amount must be fixed each month ; whereas it must, however, be altered during the period

between the day on which it is fixed and the first day of the month following the month for which the basic amount is applicable, if the levy on white sugar differs by at least ECU 0,73 from the average referred to above or from the levy on white sugar used to fix the basic amount ; whereas, in this case, the basic amount must be equal to one-hundredth of the levy on white sugar used to calculate the alteration ;

Whereas the basic amount thus fixed must be adjusted on the basis of variations in the threshold price for white sugar occurring between the month in which the basic amount is fixed and the period of application ; whereas this adjustment, equal to one-hundredth of the difference between these two threshold prices, must be deducted from or added to the basic amount in the circumstances provided for in Article 7 (6) of Regulation (EEC) No 837/68 ;

Whereas the levy on the products referred to in Article 1 (1) (f) and (g) of Regulation (EEC) No 1785/81 comprises, under Article 16 (6) of that Regulation, a variable element and a fixed element, with the latter, per 100 kilograms of dry matter, being equal to one-tenth of the fixed element established pursuant to point B of Article 11 (1) of Council Regulation (EEC) No 1766/92⁽⁵⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, for the fixing of the import levy on the products falling within CN codes 1702 30 91, 1702 30 99, 1702 40 90 and 1702 90 50, and the variable element, per 100 kilograms of dry matter, being equal to 100 times the basic import levy applicable as from the first of each month in the case of the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 ; whereas the levy must be fixed each month ;

Whereas as a consequence of the amendment of Article 1 (2) of Regulation (EEC) No 1785/81 and by virtue of Article 16 thereof, a levy is chargeable on imports of inuline syrup ; whereas the levy is defined in paragraph 6 (a) of the said Article 16 as equal, per 100 kilograms of dry matter, to the levy fixed in accordance with paragraph 6 of that Article multiplied by a coefficient of 1,9 ;

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 151, 30. 6. 1968, p. 42.

⁽⁴⁾ OJ No L 171, 28. 6. 1978, p. 34.

⁽⁵⁾ OJ No L 181, 1. 7. 1992, p. 21.

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁾, no levies shall apply on imports of products originating in the overseas countries and territories ;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽²⁾, as last amended by Regulation (EC) No 150/95⁽³⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies ; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁴⁾, as last amended by Regulation (EC) No 1053/95⁽⁵⁾ ;

Whereas it follows from the application of these provisions that the import levies on the products concerned should be as indicated in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION :

Article 1

The import levies on the products listed in Article 1 (1) (d), (f), (g) and (h) of Regulation (EEC) No 1785/81 shall be as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 263, 19. 9. 1991, p. 1.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽³⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁴⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁵⁾ OJ No L 107, 12. 5. 1995, p. 4.

ANNEX

**to the Commission Regulation of 31 May 1995 fixing the basic amount of the import levy
on syrups and certain other products in the sugar sector**

(ECU)

CN code	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question ⁽¹⁾	Amount of levy per 100 kg of dry matter ⁽¹⁾
1702 20 10	0,5055	—
1702 20 90	0,5055	—
1702 30 10	—	62,23
1702 40 10	—	62,23
1702 60 10	—	62,23
1702 60 90 10 ⁽²⁾	—	118,24
1702 60 90 90 ⁽³⁾	0,5055	—
1702 90 30	—	62,23
1702 90 60	0,5055	—
1702 90 71	0,5055	—
1702 90 80	—	118,24
1702 90 99	0,5055	—
2106 90 30	—	62,23
2106 90 59	0,5055	—

⁽¹⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

⁽²⁾ Taric code : Inulin syrup. For the purposes of classification under this subheading, 'Inulin syrup' means the immediate product obtained by hydrolysis of inulin or oligofructoses.

⁽³⁾ Taric code : CN code 1702 60 90, other than inulin syrup.

COMMISSION REGULATION (EC) No 1228/95**of 31 May 1995****fixing the export refunds on syrups and certain other sugar products exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

lation (EC) No 1101/95, to the products listed in the Annex to the last mentioned Regulation ;

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (d) of that Regulation and prices for those products within the Community may be covered by an export refund ;

Whereas Article 8 of Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar⁽³⁾, as last amended by Regulation (EEC) No 1489/76⁽⁴⁾, provides that the export refund on 100 kilograms of the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose ; whereas the sucrose content of the product in question is determined in accordance with Article 13 of Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar⁽⁵⁾, as last amended by Regulation (EC) No 2529/94⁽⁶⁾ ;

Whereas Article 7 of Regulation (EEC) No 766/68 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one-hundredth of the production refund applicable, pursuant to Council Regulation (EEC) No 1010/86 of 25 March 1986 laying down general rules for the production refund on sugar used in the chemical industry⁽⁷⁾, last amended by Commission Regu-

Whereas the basic amount of the refund on the other products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 exported in the natural state must be equal to one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward processing arrangements ;

Whereas the application of the basic amount may be limited to some of the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81 ;

Whereas Article 19 of Regulation (EEC) No 1785/81 makes provision for setting refunds for export in the natural state of products referred to in Article 1 (1) (f) and (g) and (h) of that Regulation ; whereas the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1 (1) (d) of Regulation (EEC) No 1785/81 and of the economic aspects of the intended exports ; whereas, in the case of the products referred to in the said Article (1) (f) and (g), the refund is to be granted only for products complying with the conditions in Article 3 of Commission Regulation (EEC) No 1469/77 of 30 June 1977 laying down rules for applying the levy and the refund in respect of isoglucose and amending Regulation (EEC) No 192/75⁽⁸⁾, as amended by Regulation (EEC) No 1714/88⁽⁹⁾ ; whereas, for the products referred to in Article 1 (1) (h), the refund shall be granted only for products complying with the conditions in Article 13b of Regulation (EEC) No 394/70 ;

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁶⁾ OJ No L 269, 20. 10. 1994, p. 14.

⁽⁷⁾ OJ No L 94, 9. 4. 1986, p. 9.

⁽⁸⁾ OJ No L 25, 31. 1. 1975, p. 1.

⁽⁹⁾ OJ No L 152, 18. 6. 1988, p. 23.

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽¹⁾, as last amended by Regulation (EC) No 150/95⁽²⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽³⁾, as last amended by Regulation (EC) No 1053/95⁽⁴⁾;

Whereas the refunds referred to above must be fixed every month; whereas they may be altered in the intervening period;

Whereas application of these quotas results in fixing refunds for the products in question at the levels given in the Annex to this Regulation;

Whereas Council Regulation (EEC) No 990/93⁽⁵⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro);

whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (d), (f), (g) and (h) of Regulation (EEC) No 1785/81, exported in the natural state, shall be set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽³⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁴⁾ OJ No L 107, 12. 5. 1995, p. 4.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

ANNEX

to the Commission Regulation of 31 May 1995 fixing the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Amount of refund
	— ECU/100 kg dry matter —
1702 40 10 100	43,46 ⁽²⁾ ⁽³⁾
1702 60 10 000	43,46 ⁽²⁾ ⁽³⁾
1702 60 90 200	82,57 ⁽³⁾ ⁽⁵⁾
	— ECU/1 % sucrose × 100 kg —
1702 60 90 800	0,4346 ⁽¹⁾ ⁽³⁾
	— ECU/100 kg dry matter —
1702 90 30 000	43,46 ⁽²⁾ ⁽³⁾
	— ECU/1 % sucrose × 100 kg —
1702 90 60 000	0,4346 ⁽¹⁾ ⁽³⁾
1702 90 71 000	0,4346 ⁽¹⁾ ⁽³⁾
1702 90 99 900	0,4346 ⁽¹⁾ ⁽³⁾ ⁽⁴⁾
	— ECU/100 kg dry matter —
2106 90 30 000	43,46 ⁽²⁾ ⁽³⁾
	— ECU/1 % sucrose × 100 kg —
2106 90 59 000	0,4346 ⁽¹⁾ ⁽³⁾

⁽¹⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EEC) No 394/70). Sucrose content is determined in accordance with Article 13 of Regulation (EEC) No 394/70.

⁽²⁾ Applicable only to products referred to in Article 3 of Regulation (EEC) No 1469/77.

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

⁽⁴⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Regulation (EEC) No 3513/92 (OJ No L 355, 5. 12. 1992, p. 12).

⁽⁵⁾ Applicable only to products defined under Article 13 (3) of Regulation (EEC) No 394/70.

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

COMMISSION REGULATION (EC) No 1229/95

of 31 May 1995

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar⁽³⁾, as last amended by Regulation (EEC) No 1489/76⁽⁴⁾, provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 3 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽⁵⁾; whereas, furthermore, this refund should be fixed in accordance with Article 5 (2) of Regulation (EEC) No 766/68; whereas candy sugar is defined in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar⁽⁶⁾, as last amended by Regulation (EC) No 2529/94⁽⁷⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas Council Regulation (EEC) No 990/93⁽⁸⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁹⁾, as last amended by Regulation (EC) No 150/95⁽¹⁰⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽¹¹⁾, as last amended by Regulation (EC) No 1053/95⁽¹²⁾;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

Whereas it follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund 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 Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 June 1995.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 269, 20. 10. 1994, p. 14.

⁽⁸⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽¹⁰⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽¹¹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹²⁾ OJ No L 107, 12. 5. 1995, p. 4.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 31 May 1995 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund ⁽¹⁾
	— ECU/100 kg —
1701 11 90 100	39,98 ⁽¹⁾
1701 11 90 910	39,68 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	39,98 ⁽¹⁾
1701 12 90 910	39,68 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,4346
	— ECU/100 kg —
1701 99 10 100	43,46
1701 99 10 910	43,46
1701 99 10 950	43,46
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,4346

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ No L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ No L 309, 21. 11. 1985, p. 14).

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

COMMISSION REGULATION (EC) No 1230/95

of 31 May 1995

fixing the maximum export refund for white sugar for the 51th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1021/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EC) No 1021/94 of 29 April 1994 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, as amended by Regulation (EC) No 820/95⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1021/94, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 51th partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas Council Regulation (EEC) No 990/93⁽⁵⁾ prohibits trade between the European Community and the

Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 51th partial invitation to tender for white sugar issued pursuant to amended Regulation (EC) No 1021/94 the maximum amount of the export refund is fixed at ECU 46,547 per 100 kilograms.

2. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 112, 3. 5. 1994, p. 13.

⁽⁴⁾ OJ No L 83, 13. 4. 1995, p. 1.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

COMMISSION REGULATION (EC) No 1231/95

of 31 May 1995

fixing the reduced levy on imports into Finland and Portugal of certain quantities of raw sugar intended for Finnish and Portuguese refineries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1101/95 ⁽²⁾, and in particular Article 16 (5) thereof,

Whereas Article 16 a (1) of Regulation (EEC) No 1785/81 provides for a reduced rate levy to apply during the 1994/95 marketing year to Portuguese imports of certain quantities of raw sugar originating in specified third countries and for use by Portuguese refineries;

Whereas Article 16 a (2) of Regulation (EEC) No 1785/81 stipulates that this reduced levy is to equal the intervention price for raw sugar as indicated in Article 3 (2) of that Regulation applicable when the sugar is imported, less an amount equal to the average of the spot prices, adjusted where necessary to the cif stage, quoted on the London market during the first 20 days of the month preceding that for which the reduced levy amount is set;

Whereas pursuant to Article 16 a (5) the reduced levy is to be set each month for the following month;

Whereas under Article 3 of Commission Regulation (EC) No 3300/94 of 21 December 1994 laying down transitional measures to apply in the sugar sector following the accession of Austria, Finland and Sweden ⁽³⁾, during the period from 1 January to 30 June 1995, the reduced levy

for Finland referred to in Article 16a (2a) of Regulation (EEC) No 1785/81 is to be that established, fixed and applied in accordance with paragraphs 3, 4 and 5 of the said Article 16a for Portugal;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁴⁾, as last amended by Regulation (EC) No 150/95 ⁽⁵⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁶⁾, as last amended by Regulation (EC) No 1053/95 ⁽⁷⁾;

Whereas application of the abovementioned provisions gives a reduced rate import levy for the raw sugar concerned of the amount indicated in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The reduced levy on imports into Finland and Portugal of the quantities of raw sugar for refining (CN codes 1701 11 10 and 1701 12 10) indicated in Article 16 a of Regulation (EEC) No 1785/81 shall, for standard quality, be ECU 26,60 per 100 kg.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 341, 30. 12. 1994, p. 39.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁶⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁷⁾ OJ No L 107, 12. 5. 1995, p. 4.

COMMISSION REGULATION (EC) No 1232/95
of 31 May 1995
altering the corrective amount applicable to the refund on cereals

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⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 13 (4) thereof,

Whereas the corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 1134/95⁽²⁾, as amended by Regulation (EC) No 1148/95⁽³⁾;

Whereas, on the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered;

Whereas the corrective amount must be fixed according to the same procedure as the refund; whereas it may be altered in the period between fixings;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁴⁾, as

last amended by Regulation (EC) No 150/95⁽⁵⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁶⁾, as last amended by Regulation (EC) No 1053/95⁽⁷⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1 (1), points (a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 112, 19. 5. 1995, p. 28.

⁽³⁾ OJ No L 114, 20. 5. 1995, p. 26.

⁽⁴⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁶⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁷⁾ OJ No L 107, 12. 5. 1995, p. 4.

ANNEX

to the Commission Regulation of 31 May 1995 altering the corrective amount applicable to the refund on cereals

(ECU/tonne)

Product code	Destination (1)	Current 6	1st period 7	2nd period 8	3rd period 9	4th period 10	5th period 11	6th period 12
0709 90 60 000	—	—	—	—	—	—	—	—
0712 90 19 000	—	—	—	—	—	—	—	—
1001 10 00 200	—	—	—	—	—	—	—	—
1001 10 00 400	—	—	—	—	—	—	—	—
1001 90 91 000	—	—	—	—	—	—	—	—
1001 90 99 000	01	0	0	0	0	0	—	—
1002 00 00 000	01	0	0	0	0	0	—	—
1003 00 10 000	—	—	—	—	—	—	—	—
1003 00 90 000	01	0	0	0	0	0	—	—
1004 00 00 200	—	—	—	—	—	—	—	—
1004 00 00 400	01	0	0	0	0	0	—	—
1005 10 90 000	—	—	—	—	—	—	—	—
1005 90 00 000	—	—	—	—	—	—	—	—
1007 00 90 000	—	—	—	—	—	—	—	—
1008 20 00 000	—	—	—	—	—	—	—	—
1101 00 11 000	—	—	—	—	—	—	—	—
1101 00 15 100	01	0	— 35,00	— 35,00	— 35,00	— 35,00	—	—
1101 00 15 130	01	0	— 35,00	— 35,00	— 35,00	— 35,00	—	—
1101 00 15 150	01	0	— 35,00	— 35,00	— 35,00	— 35,00	—	—
1101 00 15 170	01	0	— 35,00	— 35,00	— 35,00	— 35,00	—	—
1101 00 15 180	01	0	— 35,00	— 35,00	— 35,00	— 35,00	—	—
1101 00 15 190	—	—	—	—	—	—	—	—
1101 00 90 000	—	—	—	—	—	—	—	—
1102 10 00 500	01	0	— 35,00	— 35,00	— 35,00	— 35,00	—	—
1102 10 00 700	—	—	—	—	—	—	—	—
1102 10 00 900	—	—	—	—	—	—	—	—
1103 11 10 200	01	0	0	0	0	0	—	—
1103 11 10 400	01	0	0	0	0	0	—	—
1103 11 10 900	—	—	—	—	—	—	—	—
1103 11 90 200	01	0	0	0	0	0	—	—
1103 11 90 800	—	—	—	—	—	—	—	—

(1) The destinations are identified as follows:

01 all third countries.

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

COMMISSION REGULATION (EC) No 1233/95**of 31 May 1995****fixing the import levies 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 organization of the market in cereals⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Articles 10 (5) and 11 (3) 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⁽²⁾, as last amended by Regulation (EC) No 150/95⁽³⁾,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EC) No 502/95⁽⁴⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market

rate established during the reference period from 30 May 1995, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 502/95 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽³⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁴⁾ OJ No L 50, 7. 3. 1995, p. 15.

ANNEX

to the Commission Regulation of 31 May 1995 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Third countries (*)
0709 90 60	109,87 ⁽²⁾ ⁽³⁾
0712 90 19	109,87 ⁽²⁾ ⁽³⁾
1001 10 00	62,34 ⁽¹⁾ ⁽⁷⁾ ⁽¹¹⁾
1001 90 91	95,23
1001 90 99	95,23 ⁽⁹⁾ ⁽¹¹⁾
1002 00 00	144,19 ⁽⁴⁾
1003 00 10	107,99
1003 00 90	107,99 ⁽⁹⁾
1004 00 00	106,57
1005 10 90	109,87 ⁽²⁾ ⁽³⁾
1005 90 00	109,87 ⁽²⁾ ⁽³⁾
1007 00 90	116,14 ⁽⁴⁾
1008 10 00	60,36 ⁽⁹⁾
1008 20 00	64,94 ⁽⁴⁾ ⁽⁹⁾
1008 30 00	0 ⁽⁷⁾
1008 90 10	⁽⁷⁾
1008 90 90	0
1101 00 11	178,91 ⁽⁹⁾
1101 00 15	178,91 ⁽⁹⁾
1101 00 90	178,91 ⁽⁹⁾
1102 10 00	247,45
1103 11 10	138,13
1103 11 90	206,50
1107 10 11	182,65
1107 10 19	139,80
1107 10 91	205,36 ⁽¹⁰⁾
1107 10 99	156,77 ⁽⁹⁾
1107 20 00	180,52 ⁽¹⁰⁾

(1) Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,7245/tonne.

(2) In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

(3) Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 2,186/tonne.

(4) Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

(5) Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,7245/tonne.

(6) The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10), as last amended by Regulation (EEC) No 1902/92 (OJ No L 192, 11. 7. 1992, p. 3), and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22), as amended by Regulation (EEC) No 560/91 (OJ No L 62, 8. 3. 1991, p. 26).

(7) The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

(8) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

(9) Products falling within this code, imported from Poland or Hungary under the Agreements concluded between those countries and the Community and under the Interim Agreement between the Czech Republic, the Slovak Republic, Bulgaria and Romania and the Community and in respect of which EUR.1 certificates issued in accordance with amended Regulation (EC) No 121/94 or amended Regulation (EC) No 335/94 have been presented, are subject to the levies set out in the Annex to that Regulation.

(10) In accordance with Council Regulation (EEC) No 1180/77 this levy is reduced by ECU 6,569 per tonne for products originating in Turkey.

(11) The levy for the products falling within this code in accordance with Regulation (EC) No 774/94 is restricted under the conditions of this Regulation.

COMMISSION REGULATION (EC) No 1234/95

of 31 May 1995

fixing the aid for cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton annexed thereto, as amended by Protocol 14 annexed to the Act of Accession of Spain and Portugal, and Commission Regulation (EEC) No 4006/87⁽¹⁾,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton⁽²⁾, as last amended by Regulation (EEC) No 1554/93⁽³⁾, and in particular Article 5 (1) thereof,

Whereas, pursuant to Article 5 of Regulation (EEC) No 2169/81, aid must be granted for unginned cotton harvested in the Community when the world market price for unginned cotton is below the guide price;

Whereas the aid is equal to the difference between these two prices;

Whereas the third sentence of Article 7 (1) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules implementing the system of aid for cotton⁽⁴⁾, as last amended by Regulation (EEC) No 2046/93⁽⁵⁾, stipulates that aid applications may be lodged during June and July 1995 for both the 1994/95 and 1995/96 marketing years; whereas the aid valid for the two marketing years in question should therefore be fixed during those months;

Whereas in the absence of a guide price for cotton valid for the 1995/96 marketing year, the amount of aid to be granted where it is fixed in advance for that marketing year can be fixed only provisionally on the basis of the Commission's most recent price proposals to the Council for the 1995/96 marketing year; whereas this amount must therefore be applied provisionally only, and must be confirmed or replaced as soon as the price for 1995/96 marketing year is known;

Whereas, pursuant to the second subparagraph of Article 2 (2) of Council Regulation (EEC) No 1964/87 of 2 July

1987 adjusting the system of aid for cotton⁽⁶⁾, as last amended by Regulation (EC) No 2760/94⁽⁷⁾, the aid for cotton for the 1995/96 marketing year is reduced by ECU 7,102/100 kilograms as fixed by Commission Regulation (EC) No 2150/94⁽⁸⁾, as amended by Regulation (EC) No 3012/94⁽⁹⁾, and by the reduction fixed to take account of the expected overrun of the maximum guaranteed quantity fixed by the second subparagraph of Article 2 (1) of Regulation (EEC) No 1964/87; whereas, in these circumstances, the amount of the aid has been provisionally calculated on the basis of an overall provisional reduction of ECU 33,078/100 kilograms;

Whereas the world market price for unginned cotton is determined periodically on the basis of the world prices recorded for ginned cotton and cotton seed, taking into account the estimated yield of the Community harvest in cotton seed and in ginned cotton and also the net cost of ginning;

Whereas the world market price for ginned cotton and cotton seed is determined in accordance with Article 4 of Regulation (EEC) No 2169/81;

Whereas, if the world market price for unginned cotton cannot be determined as described above, this price shall be established on the basis of the most recent price determined;

Whereas the world market price for unginned cotton is equal to the sum of the values for ginned cotton seed defined in Article 1 of Commission Regulation (EEC) No 1201/89 minus the cost of ginning;

Whereas the above values are established on the basis of the prices determined in accordance with Articles 2 and 3 of Regulation (EEC) No 1201/89; whereas the world market price is determined on the basis of the most favourable offers and quotations recorded, excluding offers and quotations which cannot be regarded as representative of the real market trend;

Whereas the necessary adjustments must be made in cases where the offers and quotations recorded do not satisfy the requirements indicated above;

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 154, 25. 6. 1993, p. 23.

⁽⁴⁾ OJ No L 123, 4. 5. 1989, p. 23.

⁽⁵⁾ OJ No L 185, 28. 7. 1993, p. 19.

⁽⁶⁾ OJ No L 184, 3. 7. 1987, p. 14.

⁽⁷⁾ OJ No L 294, 15. 11. 1994, p. 1.

⁽⁸⁾ OJ No L 228, 1. 9. 1994, p. 31.

⁽⁹⁾ OJ No L 320, 13. 12. 1994, p. 9.

Whereas, pursuant to Article 4 (4) of Regulation (EEC) No 2169/81, if there are no suitable offers or quotations for determining the world market price for cotton seed, that price shall be established on the basis of the most favourable offers and quotations for cotton seed recorded on the Community market or, if those offers and quotations cannot be established, on the basis of the value of the products obtained from processing the seed in the Community, less the processing cost; whereas this value is determined in accordance with Article 4 of Regulation (EEC) No 1201/89;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽¹⁾, as last amended by Regulation (EC) No 150/95⁽²⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions are laid down in Commission Regulation (EEC) No 1068/93⁽³⁾, as last amended by Regulation (EC) No 1053/95⁽⁴⁾;

Whereas the aid must be fixed once a month, and in such a way that it can be applied for the first day of the month following the date of fixing; whereas it may be altered between fixings;

Whereas it follows from applying these provisions to the offers and quotations known to the Commission that the aid for cotton should be as set out in this Regulation;

Whereas the Commission has presented a proposal to the Council to adapt the system of aid for cotton; whereas

the proposal provides in particular for amendments to the method for determining the world market price for unginced cotton and to the stabilizer system and fixes a guide price for the 1995/96 marketing year; whereas, should the proposal be adopted by the Council and apply to the 1995/96 marketing year, the aid will have to be replaced by an amount calculated in accordance with the new provisions applicable,

HAS ADOPTED THIS REGULATION:

Article 1

1. The aid for unginced cotton provided for in Article 5 of Regulation (EEC) No 2169/81 shall be:

- ECU 45,049 per 100 kilograms for the 1994/95 marketing year,
- ECU 54,766 per 100 kilograms for the 1995/96 marketing year.

2. However, the amount of the aid for 1995/96 shall be confirmed or replaced with effect from 1 June 1995 to take account of the guide price for cotton for that marketing year, the consequences of the stabilizer system and any adaptations to the arrangements.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽³⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁴⁾ OJ No L 107, 12. 5. 1995, p. 4.

COMMISSION REGULATION (EC) No 1235/95**of 31 May 1995****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⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular the third subparagraph of Article 13 (2) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽²⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,

Whereas Article 13 (1) of Regulation (EEC) No 1766/92 and Article 17 (1) of Regulation (EEC) No 1418/76 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⁽³⁾, as last amended by Regulation (EC) No 1149/94⁽⁴⁾, 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 (EEC) No 1418/76 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⁽⁵⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination;

Whereas Council Regulation (EEC) No 990/93⁽⁶⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

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 (EEC) No 1418/76, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EEC) No 1418/76 respectively, are hereby fixed as shown in the Annex to this Regulation.

2. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

Article 2

This Regulation shall enter into force on 1 June 1995.

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽³⁾ OJ No L 136, 31. 5. 1994, p. 5.

⁽⁴⁾ OJ No L 116, 23. 5. 1995, p. 1.

⁽⁵⁾ OJ No L 275, 29. 9. 1987, p. 36.

⁽⁶⁾ OJ No L 102, 28. 4. 1993, p. 14.

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

Done at Brussels, 31 May 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

ANNEX

to the Commission Regulation of 31 May 1995 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description of products (1)	Rate of refund per 100 kg of basic product (2)
1001 10 00	Durum wheat : — used unprocessed : — — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America 1,452 — — in all other cases 2,234 — used in the form of : — — pellets of CN code 1103, or grains otherwise worked (other than hulled, kibbled, or germ) of CN code 1104 3,223 — — hulled grains of CN code 1104 and starch of CN code 1108 4,834 — — germ of CN code 1104 1,880 — — gluten of CN code 1109 — — — other (except flours of CN code 1101 and groats and meal of CN code 1103) 5,371	
1001 90 99	Common wheat and meslin : — used unprocessed : — — on exports of goods falling within CN code 1902 11 and 1902 19 to the United States of America 3,491 — — in all other cases 5,371 — used in the form of : — — pellets of CN code 1103, or grains otherwise worked (other than hulled, kibbled, or germ) of CN code 1104 3,223 — — hulled grains of CN code 1104 and starch of CN code 1108 4,834 — — germ of CN code 1104 1,880 — — gluten of CN code 1109 — — — other (except flours of CN code 1101, and groats and meal of CN code 1103) 5,371	
1002 00 00	Rye : — used unprocessed 7,702 — used in the form of : — — groats, meal and pellets of CN code 1103, or pearled grains of CN code 1104 4,621 — — rolled or flaked grains and hulled grains of CN code 1104 6,932 — — germ of CN code 1104 2,602 — — starch of CN code 1108 19 90 7,434 — — gluten of CN code 2303 10 90 — — — other (except flours of CN code 1102) 7,702	
1003 00 90	Barley : — used unprocessed 6,657 — used in the form of : — — flours of CN code 1102, groats and meal of CN code 1103, or rolled, flaked or pearled grains of CN code 1104 4,660 — — pellets of CN code 1103 3,994 — — germs of CN code 1104 2,602 — — starch of CN code 1108 19 90 7,434 — — gluten of CN code 2303 10 90 — — — other 6,657	

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product ⁽²⁾
1004 00 00	Oats : – used unprocessed – used in the form of : – – pellets of CN code 1103, and pearled grains of CN code 1104 – – rolled or flaked grains and hulled grains of CN code 1104 – – germs of CN code 1104 – – starch of CN code 1108 19 90 – – gluten of CN code 2303 10 90 – – other	6,410 3,846 5,769 2,602 7,434 — 6,410
1005 90 00	Maize (Corn) : – used unprocessed – used in the form of : – – flours of CN codes 1102 20 10 and 1102 20 90 – – groats and meal of CN code 1003 and rolled or flaked grains of CN code 1104 – – pellets of CN code 1103 – – hulled or perled grains of CN code 1104 – – germs of CN code 1104 – – starch of CN code 1108 12 00 – – gluten of CN code 2303 10 11 – – glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 ⁽³⁾ – – other ⁽³⁾	7,434 5,204 5,947 4,460 6,691 2,602 7,434 2,974 7,434 7,434
1006 20	Round grain husked rice Medium grains husked rice Long grain husked rice	24,723 22,011 22,011
ex 1006 30	Round grain wholly-milled rice Medium grain wholly-milled rice Long grain wholly-milled rice	31,900 31,900 31,900
1006 40 00	Broken rice : – used unprocessed – used in the form of : – – flour of CN code 1102 30, groats and meal or pellets of CN code 1103 – – flaked grains of CN 1104 19 91 – – starch of CN code 1108 19 10 – – other	7,200 7,200 4,320 7,200 —
1007 00 90	Sorghum	6,657
1101 00	Wheat or meslin flour : – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in all other cases	 4,294 6,606
1102 10 00	Rye flour	10,552
1103 11 10	Groats and durum wheat meal : – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in all other cases	 2,062 3,172
1103 11 90	Common wheat groats and spelt : – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in all other cases	 4,294 6,606

⁽¹⁾ The quantities of semi-processed products used must be multiplied, as the case may be, by the coefficients shown in Annex I to amended Commission Regulation (EEC) No 1620/93 (OJ No L 155, 26. 6. 1993, p. 29).

⁽²⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

⁽³⁾ For syrups of CN codes 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 1236/95

of 31 May 1995

fixing the rates of the refunds applicable to certain products from the sugar sector 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 1785/81 of 30 June 1981 on the common organization of the market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular Article 19 (4) (a) and (7) thereof,

Whereas Article 19 (1) and (2) of Regulation (EEC) No 1785/81 provides that, for the products listed in Article 1 (1) (a), (c), (d), (f) and (g) of that Regulation, an export refund may be granted when these goods are exported in the form of goods listed in Annex I to that same Regulation; whereas Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common implementing rules for granting export refunds for 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⁽³⁾, as last amended by Regulation (EC) No 1149/95⁽⁴⁾, 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 I to Regulation (EEC) No 1785/81;

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 Council Regulation (EEC) No 990/93⁽⁵⁾ prohibits trade between the European Community and the

Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1222/94 and listed in Article 1 (1) and (2) of Regulation (EEC) No 1785/81, exported in the form of goods listed in Annex I to Regulation (EEC) No 1785/81, are fixed as shown in the Annex hereto.

2. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in Regulation (EEC) No 990/93 are observed.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 136, 31. 5. 1994, p. 5.

⁽⁴⁾ OJ No L 116, 23. 5. 1995, p. 1.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

ANNEX

to the Commission Regulation of 31 May 1995 fixing the rates of the refunds applicable to certain products in the sugar sector exported in the form of goods not covered by Annex II to the Treaty

	<i>— Rate of refund in ECU/100 kg —</i>
White sugar :	43,46
Raw sugar :	39,98
Syrups of beet sugar or cane sugar, other than the syrups obtained by dissolving white or raw sugar in the solid state, containing, in the dry state, 85 % or more by weight of sucrose (including invert sugar expressed as sucrose) :	$43,46^{(1)} \times \frac{S^{(1)}}{100}$ or
	the rate fixed above for 100 kg of white or raw sugar used for the dissolution
For syrups obtained by dissolving white or raw sugar in the solid state, whether or not the dissolving is followed by inversion :	
Molasses :	—
Isoglucose ⁽²⁾ :	43,46 ⁽³⁾

(¹) 'S' represents in 100 kilograms of syrup

- the sucrose content (including invert sugar expressed as sucrose) of the syrup in question, where the latter is not less than 98 % pure,
- the extractable sugar content of the syrup in question, where the latter is not less than 85 %, but less than 98 % pure.

(²) Products obtained by isomerization of glucose, which have a content by weight in the dry state of at least 41 % fructose and of which the total content by weight in the dry state of polysaccharides and oligosaccharides, including the di- or trisaccharides content, does not exceed 8,5 %.

(³) Amount of refund per 100 kilograms of dry matter.

(⁴) The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ No L 355, 5. 12. 1992, p. 12).

COMMISSION REGULATION (EC) No 1237/95

of 31 May 1995

laying down detailed rules for the application of the stabilizer to the yields used for the calculation of the compensatory payments referred to in Regulation (EEC) No 1765/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 12 thereof,

Whereas, in order to prevent complicated regionalization plans resulting in actual yields which significantly exceed historical yields, Regulation (EEC) No 1765/92 provides for the reduction of compensatory payments during the following marketing year in proportion to the overrun of the average historical yield resulting from the 1993 regionalization plans; whereas the procedure to be used for measuring such overruns should be laid down and the historical reference yields *inter alia* should be fixed;

Whereas Member States shall submit a summary statement pursuant to Commission Regulation (EEC) No 1664/93 of 29 June 1993 setting out the information to be provided by the Member States concerning the support system for producers of certain arable crops⁽²⁾, whereas information contained in those statements may be used for calculating the overruns;

Whereas the reference yields should be fixed at the level of the yields resulting from the regionalization plans implemented in 1993; whereas it is thus not possible to set yields for the new Member States;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Joint Management Committee for Cereals, Oil and Fats and Dried Fodder,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of Article 3 (6) of Regulation (EEC) No 1765/92:

- the summary statements of aid applications and the yields pertaining thereto shall be those submitted by Member States pursuant to Regulation (EEC) No 1664/93,

- the average historical yields resulting from the regionalization plans implemented in 1993 shall be those set out in the Annex hereto.

Article 2

For calculating the average yield on the basis of aid applications for a given marketing year:

- the proportional reduction referred to in the first indent of Article 2 (6) of Regulation (EEC) No 1765/92 and the reduction referred to in the sixth subparagraph of Article 3 (1) of that Regulation shall be applied, where appropriate, to the areas,
- areas under oilseeds, areas covered by the five-year set-aside scheme provided for in Council Regulation (EEC) No 2328/91⁽³⁾ and arable areas declared fodder areas for the payment of beef and sheep premiums shall be considered to be areas for which compensation is paid on the basis of the region's average cereal yield.

Article 3

The Commission shall carry out a comparative examination of the information referred to in Articles 1 and 2 hereof before 31 May of each year in accordance with the procedure referred to in Article 12 of Regulation (EEC) No 1765/92 and shall fix the necessary corrective coefficients.

Article 4

The coefficients referred to in Article 3 shall be applied to all compensatory payments in the Member State or region in which the base area in question is situated, with the exception of the amounts referred to in Article 4 (3), (4) and (5) of Regulation (EEC) No 1765/92.

Article 5

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

It shall apply from the 1994/95 marketing year.

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 12.

⁽²⁾ OJ No L 158, 30. 6. 1993, p. 19.

⁽³⁾ OJ No L 218, 6. 8. 1991, p. 1.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

**AVERAGE HISTORICAL YIELDS REFERRED TO IN ARTICLE 3 (6) OF REGULATION
(EEC) No 1765/92**

Belgium	6,24
Denmark	5,22
Germany	
— Schleswig-Holstein	6,81
— Hamburg	6,01
— Lower Saxony	5,33
— Bremen	5,34
— North Rhine-Westphalia	5,81
— Hesse	5,50
— Rhineland-Palatinate	4,78
— Baden Württemberg	5,48
— Bavaria	5,94
— Saarland	4,38
— Berlin	4,52
— Brandenburg	4,52
— Meckelenburg-Western Pomerania	5,45
— Saxony	6,23
— Saxony-Anhalt	6,14
— Thuringia	6,13
Greece	3,39
Spain	2,64
France	6,02
Ireland	6,08
Italy	3,78
Luxembourg	4,26
Netherlands	6,66
Portugal	2,90
United Kingdom	5,83

COMMISSION REGULATION (EC) No 1238/95

of 31 May 1995

establishing implementing rules for the application of Council Regulation (EC)
No 2100/94 as regards the fees payable to the Community Plant Variety Office

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (the Basic Regulation)⁽¹⁾, and in particular Article 113 thereof,

Whereas Regulation (EC) No 2100/94 is to be implemented by the Community Plant Variety Office (the Office); whereas the revenue of the Office should in principle be sufficient to balance the budget of the Office; whereas such revenues should be afforded by the fees to be paid for the official acts set out in the Basic Regulation and in Commission Regulation (EC) No 1239/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office⁽²⁾ (the Proceedings Regulation) as well as by annual fees payable for the duration of a Community plant variety right;

Whereas a subsidy from the general budget of the European Communities may cover the expenditure on the initial running phase of the Office for the transitional period defined in Article 113 (3) (b) of the Regulation; whereas an extension of that period by one year is possible by virtue of the same provision;

Whereas such extension of the transitional period should be considered if sufficient experience has not been gained for setting reasonable levels of fees ensuring the principle of self-financing whilst safeguarding the attractiveness of the Community system of plant variety protection; whereas such experience could only be gained by observing the number of applications for a Community plant variety right, the costs paid to the Examination Offices and the actual duration of Community plant variety rights granted;

Whereas the level of the fees should be based on the principles of sound financial management within the Office, and in particular economy and cost-effectiveness;

Whereas, in the interests of a simplified handling by the staff of the Office, the fees should be not only laid down, but also charged and paid in the same currency unit as is used for the budget of the Office;

Whereas the application fee should be a uniform fee covering only the processing of an application for a Community plant variety right made in respect of any given plant species;

Whereas the time limit for the payment of the application fee under Article 51 of the Basic Regulation should be considered as the period between the acts necessary for making the payment and the actual receipt of such payment by the Office, in particular in the need for a rapid recovery of costs already incurred by the Office on the one hand and for the facilitating of an effective filing of applications in the light of possibly long distances between applicant and Office, on the other;

Whereas the total of the examination fees which are charged for a technical examination should, in principle, balance the total fees to be paid by the Office to all Examination Offices; whereas costs for the maintenance of the reference collection should not necessarily be covered entirely by the examination fees charged; whereas the level of examination fee should vary between three groups of plant species in the light of experience available from existing national arrangements for plant variety protection;

Whereas the annual fees for the duration of a Community plant variety right should constitute an extra source of revenue for the Office, but should, *inter alia*, cover costs relating to the technical verification of varieties after the grant of a Community plant variety right and, in consequence, should follow the grouping established for the examination fees;

Whereas the appeal fee should be uniform in order to cover the main cost components relating to appeal proceedings, with the exception of costs relating to a technical examination pursuant to Articles 55 and 56 of the Basic Regulation or to any taking of evidence; whereas two different dates for payment of the application fee should serve as an incentive to appellants to reconsider their appeal in the light of the decisions taken by the Office pursuant to Article 70 (2) of the Basic Regulation;

⁽¹⁾ OJ No L 227, 1. 9. 1994, p. 1.

⁽²⁾ See page 37 of this Official Journal.

Whereas other fees in respect of specific requests shall in principle cover costs incurred in their processing by the Office, including the taking of decisions on such requests ;

Whereas to ensure flexibility in the management of costs, the President of the Office should be empowered to lay down the fees payable for examination reports which already exist at the date of application and are not available to the Office, and for specific services rendered ;

Whereas surcharges may be levied in order to reduce unnecessary costs to the Office arising from a lack of cooperation on the part of particular applicants for, or holders of, Community plant variety rights ;

Whereas in the light of Article 117 of the Basic Regulation, this Regulation should enter into force as soon as possible ;

Whereas the Administrative Council of the Office has been consulted ;

Whereas the provisions provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plant Variety Rights,

HAS ADOPTED THIS REGULATION :

Article 1

Scope

1. Fees due to the Office, as provided for in the Basic Regulation and the Proceedings Regulation, shall be charged in accordance with this Regulation.
2. The fees due to the Office shall be laid down, charged and paid in ecus.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to any surcharge, due to the Office.
4. Details of the fees which may be charged by authorities of Member States by virtue of provisions of the Basic Regulation or this Regulation shall be governed by the relevant national rules of the Member States concerned.
5. Where the President of the Office is empowered to take a decision as to the amount of fees and the way in which they are to be paid, such decisions shall be published in the Official Gazette of the Office.

Article 2

General provisions

1. For each individual matter, a party to proceedings as specified in the Proceedings Regulation shall be liable to pay fees or surcharges. In the case of several parties to proceedings acting in common or on whose behalf a

common course of action is pursued, each shall be liable to such payment as joint debtor.

2. Unless otherwise provided in this Regulation, the provisions relating to proceedings before the Office, including provisions as to languages, as laid down in the Basic Regulation and the Proceedings Regulation, shall apply.

Article 3

Manner of payment

1. Fees and surcharges due to the Office shall be paid by transfer to a bank account held by the Office.
2. The President of the Office may allow the following alternative forms of payment in accordance with rules on working methods which shall be established pursuant to Article 36 (1) (d) of the Basic Regulation :
 - (a) delivery or remittance of certified cheques which are made payable in ecus to the Office ;
 - (b) transfer in ecus to a giro account held by the Office ; or
 - (c) payment into a charge account held in ecus with the Office.

Article 4

Date to be regarded as the date on which payment is received

1. The date on which a payment of fees and surcharges shall be considered to have been received by the Office shall be the date on which the amount of the transfer referred to in Article 3 (1) is entered in a bank account held by the Office.
2. Where the President of the Office allows other forms of payment in accordance with Article 3 (2), he shall simultaneously include in the conditions the date to be regarded as the date on which the payment is received.
3. Where the payment is considered not to have been received by the Office within the requisite time limit, such time limit shall be considered to have been observed *vis-à-vis* the Office if sufficient documentary evidence is produced within that time-limit to show that the person who made the payment took necessary steps.
4. It shall be considered to be 'necessary' within the meaning of paragraph 3 if the person making the payment duly gave an order to a banking establishment or a post office to transfer the amount of the payment in ecus to a bank account held by the Office.
5. Documentary evidence shall be regarded as 'sufficient' within the meaning of paragraph 3 if an acknowledgement of provision of the transfer order, issued by a banking establishment or a post office, is produced.

Article 5

Name of the person making the payment and the purpose of payment

1. A person making a payment of fees or surcharges shall indicate in writing his name and the purpose of such payment.
2. If the Office cannot establish the purpose of a payment, it shall require the person having made the payment to inform it thereof in writing within two months. If the purpose is not indicated within that period, the payment shall be deemed not to have been made and shall be refunded to the person having made it.

Article 6

Underpayment

A time-limit for payment of fees or surcharges shall, in principle, be deemed to have been observed only if the full amount of the fee or surcharge has been paid in due time. If the fees or surcharges are not paid in full, the amount which has been paid shall be refunded after any time-limit for payment has expired. The Office may, however, where this is considered justified, overlook any small deficiencies, without prejudicing the rights of the person making the payment.

Article 7

Application fee

1. The applicant for a Community plant variety right (the applicant) shall pay an application fee of ECU 1 000 for the processing of the application under Article 113 (2) (a) of the Basic Regulation.
2. The applicant shall take the necessary steps for payment of the application fee, in accordance with Article 3, prior to or on the date on which the application is filed at the Office direct or at one of the sub-offices established or national agencies designated, pursuant to Article 30 (4) of the Basic Regulation; Article 4 (4) shall apply *mutatis mutandis*.
3. If the payment of the application fee is considered not to have been received at the same time as the application is received by the Office, the Office shall specify, in accordance with Article 51 of the Basic Regulation, a period of two weeks during which the formal date of application, assigned in accordance with the aforesaid Article 51, shall not be affected; a new request for payment as provided for in Article 83 (2) of the Basic Regulation shall not be issued to the applicant prior to the expiry of that period.
4. If the payment of the application fee is considered not to have been received within the time limit specified pursuant to paragraph 3, the date of receipt of payment

shall be treated as the date of application for the purposes of Article 51 of the Basic Regulation.

5. Paragraph 4 shall not apply if the application is accompanied by sufficient documentary evidence that the steps necessary to effect payment have been taken; Article 4 (5) shall apply *mutatis mutandis*.

6. As long as payment of the application fee is considered not to have been received by the Office, it shall not publish the application concerned and shall defer the technical examination.

Article 8

Fees relating to technical examination

1. Fees for arranging and carrying out the technical examination of a variety being the subject of an application for a Community plant variety right 'examination fee' shall be paid in accordance with Annex I for each growing period started. In the case of varieties for which material with specific components has to be used repeatedly for the production of material, the examination fee laid down in Annex 1 shall be due in respect of such variety and in respect of each of the components for which an official description is not available and which must also be examined; however, it shall not in any circumstances exceed ECU 3 000.
2. The examination fee for the first growing period shall be due and payable no later than one month after the closing date for receipt of the material for the technical examination.
3. The examination fee for each subsequent growing period shall be due and payable no later than one month prior to the beginning of such period unless the Office decides otherwise.
4. The President of the Office shall publish the dates for payment of the examination fees in the Official Gazette of the Office.
5. In the case of an examination report on the results of a technical examination which has already been carried out, in accordance with Article 27 of the Implementing Rules, prior to the date of application under Article 51 of the Basic Regulation, an administrative fee shall be due within such time limit as the Office shall specify.

Article 9

Annual fee

1. The Office shall charge a holder of a Community plant variety right (hereinafter referred to as the holder) a fee for each year of the duration of a Community plant variety right (annual fee) as laid down in Annex II.
2. The date for payment of the annual fee shall be the last day of the calendar month following the calendar month in which the Community plant variety right was granted, and in each subsequent year on the corresponding day.

3. The Office shall issue to the holder a request containing the subject of payment, the amount due, the date for payment, and information on the possibility of a surcharge pursuant to Article 13 (2) (a).

4. The Office shall not refund any payments which have been effected in order to keep the Community plant variety right in force.

Article 10

Fees for processing specific requests

1. Fees for the processing of a request, payable by the person making such request, shall be as follows:

- (a) for an application for a compulsory exploitation right, including any entries in the Registers, an application for an exploitation right to be granted by the Office pursuant to Article 100 (2) of the Basic Regulation, or a request to amend such exploitation rights, once granted, (compulsory licence fee), save for the Commission or a Member State in the circumstances referred to in Article 29 (2) thereof: ECU 1 500;
- (b) for a request for the following entries into the Register of Community plant variety rights (register fee):
 - transfer of a Community plant variety right, contractual exploitation right,
 - identification of varieties as initial or essentially derived,
 - institution of actions in respect of claims referred to in Articles 98 (1), (2) and 99 of the Basic Regulation,
 - a Community plant variety right given as a security or as the subject of rights *in rem*, or
 - any levy of execution as referred to in Article 24 of the Basic Regulation: ECU 300;
- (c) for a request for any entry in the Register of Applications for Community plant variety rights or the Register of Community plant variety rights, other than those referred to in (a) and (b) above: ECU 100;
- (d) for a request for determining amount of costs pursuant to Article 85 (5) of the Regulation: ECU 100.

2. The fees referred to in paragraph 1 shall be due and payable on the date of receipt of the request to which they relate. Where the payment is not received in good time, Article 83 (2) of the Basic Regulation shall apply.

Article 11

Appeal fee

1. The appellant shall pay an appeal fee of ECU 1 500 for the processing of an appeal, as provided for in Article 113 (2) (c) of the Basic Regulation.

2. A third of the appeal fee shall be due on the date of receipt of the appeal at the Office; Article 83 (2) of the Basic Regulation shall apply to that third. The remaining two-thirds of the appeal fee shall be due, upon request of the Office, within one month after remittal of the case by the relevant body of the Office of the Board of Appeal.

3. A refund of the appeal fee already paid shall be ordered, in the event of an interlocutory revision, under the authority of the President of the Office and in other cases by the Board of Appeal, provided that the conditions laid down in Article 83 (4) of the Basic Regulation are met.

4. Paragraph 1 shall not apply to the Commission or a Member State, being the appellant against a decision taken under Article 29 (2) of the Basic Regulation.

Article 12

Fees laid down by the President of the Office

1. The President of the Office shall fix the fees for the following matters:

- (a) the administrative fee referred to in Article 8 (5);
- (b) fees for issuing copies, certified or not, as in particular referred to in Article 84 (3) of the Proceedings Regulation; and
- (c) fees in respect of the Official Gazette of the Office (Article 89 of the Basic Regulation, Article 87 of the Proceedings Regulation) and any other publication issued by the Office.

2. The President of the Office may decide to make the services mentioned under paragraph 1 (b) and (c) dependent on an advance payment.

Article 13

Surcharges

1. The Office may levy a surcharge to the application fee if it establishes that:

- (a) a proposed denomination cannot be approved, in accordance with Article 63 of the Basic Regulation, by reason of its being identical to a denomination of another variety or by reason of its differing from a denomination of the same variety; or
- (b) an applicant for a Community plant variety right makes a new proposal for a variety denomination unless he was required by the Office to do so or unless he pursued an application for a Community plant variety right in accordance with Article 21 (3) of the Proceedings Regulation.

The Office shall not publish a proposal for variety denomination prior to the payment of a surcharge levied in accordance with the provisions of the first subparagraph.

2. The Office may levy a surcharge to the annual fee if it establishes that :

- (a) the holder has failed to pay the annual fee in accordance with Article 9 (2) and (3); or
- (b) the variety denomination must be amended in the event of a prior conflicting right of a third party, as laid down in Article 66 (1) of the Basic Regulation.

3. The surcharges referred to in paragraphs 1 and 2 shall be levied in accordance with the rules on working methods to be established pursuant to Article 36 (1) (d) of the Basic Regulation, shall amount to 20 % of the fee concerned, subject to a minimum of ECU 100, and shall be due and payable within one month of the date on which the Office issues a request.

Article 14

Derogations

1. Notwithstanding Article 7, the formal date of application assigned under Article 51 of the Basic Regulation shall remain valid in respect of all applications filed in accordance with Article 116 (1) or (2) thereof if sufficient evidence is produced on 30 September 1995 at the latest that the applicant for the Community plant variety right carried out the acts necessary for payment of the application fee.

2. Notwithstanding Article 8 (5), an administrative fee of ECU 100 shall be paid where a technical examination of the variety is carried out on the basis of the available findings from any proceedings for the grant of a national plant variety right in accordance with Article 116 (3) of the Basic Regulation. Such administrative fee shall be due on 30 November 1995 at the latest.

3. Notwithstanding Article 8 (5), authorities before which proceedings for the grant of a national plant variety right have been held may charge the applicant for a Community plant variety right a fee for marking available the relevant documents under the conditions laid down in Article 93 (3) of the Proceedings Regulation. Such fee shall not exceed the fee charged in the Member State concerned for the transmission of an examination report from a testing authority in another country; its payment shall be without prejudice to the payments to be made pursuant to paragraphs 1 and 2.

4. Notwithstanding Article 8, a report fee of ECU 300 shall be due in the case of an examination report referred to in Article 94 of the Proceedings Regulation within such time limit as the Office shall specify.

Article 15

Entry into force

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

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

The examination fee due to be paid pursuant to Article 8 shall be as follows :

Group A

ECU 1 000

Group A is related to the following agricultural crops :

beet, cereals, cotton, potatoes, rapeseed, soyabean, sunflower

Group B

ECU 800

Group B is related to :

1. agricultural crops (including grasses), other than those referred to in Group A ;

2. the following vegetables :

aubergine (egg plants), courgette, cucumber, endive, french bean, lettuce, marrow, melon, onion, pepper, tomato, vegetable pea, water melon ;

3. the following ornamentals :

alstroemeria, anthurium, azalea, begonia (elator), chrysanthemum, dianthus, euphorbia pulcherrima, fuchsia, gerbera, impatiens, kalanchoe, lily, orchidaceae, pelargonium, pentas, petunia, rose, saint-paulia, spathiphyllum.

Group C

ECU 700

Group C is related to all genera or species, other than those referred to in Groups A and B.

ANNEX II

The annual fee due to be paid pursuant to Article 9 for each year of duration shall be, on the basis of the groups established in Annex I, as follows :

(in ecu)

Year	Group		
	A	B	C
1	400	400	400
2	600	500	500
3	800	600	600
4	1 000	700	700
5	1 100	800	800
6	1 200	1 000	900
7 and subsequent years	1 300	1 100	1 000

COMMISSION REGULATION (EC) No 1239/95

of 31 May 1995

**establishing implementing rules for the application of Council Regulation (EC)
No 2100/94 as regards proceedings before the Community Plant Variety Office**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

TITLE I

Having regard to Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights⁽¹⁾, and in particular Article 114 thereof,

PARTIES TO PROCEEDINGS, OFFICE AND EXAMINATION OFFICES

Whereas Regulation (EC) No 2100/94 (hereinafter referred to as 'the Basic Regulation') creates a new Community system of plant variety rights, whereby a plant variety right is valid throughout the Community;

CHAPTER I

PARTIES TO PROCEEDINGS

Whereas such a system should be carried out in an effective manner as soon as possible by the Community Plant Variety Office, which is assisted by Examination Offices in conducting the technical examination of the plant varieties concerned and which may avail itself of the services of designated national agencies or one of its own sub-offices established for that purpose; whereas, in that regard, it is indispensable to define the relationship between the Office and its own sub-offices, the Examination Offices and national agencies;

Article 1

Parties to proceedings

1. The following persons may be party to proceedings before the Community Plant Variety Office, hereinafter referred to as 'the Office':

- (a) the applicant for a Community plant variety right;
- (b) the objector referred to in Article 59 (2) of the Basic Regulation;
- (c) the holder or holders of the Community plant variety right, hereinafter referred to as 'the holder';
- (d) any person whose application or request is a prerequisite for a decision to be taken by the Office.

Whereas decisions of the Office may be appealed against before its Board of Appeal which should be established and provisions on its procedure should be adopted; whereas further Boards of Appeal may be established, if necessary, by the Administrative Council;

Whereas certain provisions of Articles 23, 29, 34, 35, 36, 42, 45, 46, 49, 50, 58, 81, 85, 87, 88 and 100 of the Basic Regulation already explicitly provide that detailed rules shall or may be drawn up for their implementation; whereas other detailed rules should be drawn up for the same purpose if clarification is required;

2. The Office may allow participation in the proceedings by any person other than those referred to in paragraph 1 who is directly and individually concerned, upon written request.

3. Any natural or legal person as well as any body qualifying as a legal person under the law applicable to that body shall be considered a person within the meaning of paragraphs 1 and 2.

Whereas the entry into effect of a transfer of a Community plant variety right or a transfer of an entitlement thereto should be defined in the rules relating to the entries to the Registers;

Article 2

Whereas the Administrative Council of the Community Plant Variety Office has been consulted;

Designation of parties to proceedings

Whereas the rules provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plant Variety Rights,

1. A party to proceedings shall be designated by his name and address.

2. Names of natural persons shall be indicated by the person's family name and given names. Names of legal persons as well as companies or firms shall be indicated by their official designations.

⁽¹⁾ OJ No L 227, 1. 9. 1994, p. 1.

3. Addresses shall contain all the relevant administrative information, including the name of the State in which the party to proceedings is resident or where his seat or establishment is located. Only one address should preferably be indicated for each party to proceedings; where several addresses are indicated, only the address mentioned first shall be taken into account, except where the party to proceedings designates one of the other addresses as an address for service.

4. Where a party to proceedings is a legal person, it shall also be designated by the name and address of the natural person legally representing the party to proceedings by virtue of the relevant national legislation. The provisions of paragraph 2 shall apply *mutatis mutandis* to such natural person.

The Office may permit derogations from the provisions of the first sentence of the first subparagraph.

5. Where the Commission or a Member State is party to proceedings, it shall communicate a representative for each proceeding in which it takes part.

Article 3

Languages of parties to proceedings

1. A language, being an official language of the Communities, chosen by a party to proceedings for use in the document first submitted to the Office and signed for the purpose of submission shall be used by the party to proceedings until a final decision is delivered by the Office.

2. If a party to proceedings files a document signed for that purpose by him in any other official language of the Communities than that to be used pursuant to paragraph 1, the document shall be deemed to have been received when the Office holds a translation thereof, provided by other services. The Office may permit derogations from this requirement.

3. If, in oral proceedings, a party uses a language other than the official language of the Communities used by the competent members of the staff of the Office, by other parties to proceedings, or by both, being the language to be used by him, he shall make provision for simultaneous interpretation into that official language. If no such provision is made, oral proceedings may continue in the languages used by the competent members of the staff of the Office and by other parties to the proceedings.

Article 4

Languages in oral proceedings and in the taking of evidence

1. Any party to proceedings and any witness or expert who gives evidence in oral proceedings may use any of the official languages of the European Community.

2. Should the taking of evidence referred to in paragraph 1 be allowed at the request of a party to proceedings,

then, should a party to proceedings, a witness or expert be unable to express himself adequately in any of the official languages of the European Communities, he may be heard only if the party who made the request makes provision for interpretation into the languages used jointly by all parties to proceedings or, in the absence thereof, by the members of the staff of the Office.

The Office may permit derogations from the first subparagraph.

3. Statements made by the members of the staff of the Office, by parties to proceedings, witnesses or experts in one of the official languages of the European Communities during oral proceedings or taking of evidence shall be entered in the minutes in the language used. Statements made in any other language shall be entered in the language used by the members of the staff of the Office.

Article 5

Translation of documents of parties to proceedings

1. If a party to proceedings files a document in a language other than an official language of the European Communities, the Office may require a translation of the documents received to be made by the party to the proceedings into the language to be used by that party or by the competent members of the staff of the Office.

2. Where a translation of a document is to be filed or is filed by a party to proceedings, the Office may require the filing, within such time as it may specify, of a certificate that the translation corresponds to the original text.

3. Failure to file the translation referred to in paragraph 1 and the certificate referred to in paragraph 2 shall lead to the document's being deemed not to have been received.

CHAPTER II

THE OFFICE

Section 1

Committees of the Office

Article 6

Qualification of members of the Committees

1. The Committees referred to in Article 35 (2) of the Basic Regulation shall, at the discretion of the President of the Office, be composed of technically or legally qualified members, or both.

2. A technical number shall hold a degree, or shall be qualified by recognized experience, in the field of plant science.

3. A legally qualified member shall be a graduate in law or qualified by recognized experience in the field of intellectual property or plant variety registration.

Article 7

Decisions of the Committee

1. A Committee shall, besides taking the decisions referred to in Article 35 (2) of the Regulation, deal with :

- the non-suspension of a decision pursuant to Article 67 (2) of the Basic Regulation,
- interlocutory revision pursuant to Article 70 of that Regulation,
- the *restitutio in integrum* pursuant to Article 80 of that Regulation, and
- the award of costs pursuant to Article 85 (2) of that Regulation and Article 75 of this Regulation.

2. A decision of the Committee shall be taken by a majority of its members.

Article 8

Power of individual members of the Committees

1. The Committee shall designate one of its members as rapporteur on its behalf.

2. The rapporteur may in particular :

- (a) perform the duties under Article 25 and monitor the submission of reports by the Examination Offices ;
- (b) pursue the procedure within the Office, including the communication of any deficiencies to be remedied by a party to proceedings and the setting of time limits ; and
- (c) ensure a close consultation and exchange of information with the parties to the proceedings.

Article 9

Role A the President

The President of the Office shall ensure the consistency of decisions taken under his authority. He shall in particular lay down the conditions under which decisions on objections lodged pursuant to Article 59 of the Basic Regulation, and also decisions pursuant to Articles 61, 62, 63 or 66 of that Regulation, are taken.

Article 10

Consultations

Members of the staff of the Office may use, free of charge, the premises of national agencies designated pursuant to Article 30 (4) of the Basic Regulation, and those of Examination Offices, for holding periodical consultation days with parties to proceedings and third persons.

Section 2

Boards of Appeal

Article 11

Boards of Appeal

1. For the purpose of deciding on appeals from the decisions referred to in Article 67 of the Basic Regulation, a Board of Appeal is hereby established. If necessary, the Administrative Council may, on a proposal from the Office, establish more Boards of Appeal. In that event, it shall determine the allocation of work between the Boards of Appeal thus established.

2. Each Board of Appeal shall consist of technical and legally qualified members ; Article 6 (2) and (3) shall apply *mutatis mutandis*. The chairman shall be a legally qualified member.

3. The examination of an appeal shall be assigned by the chairman of the Board of Appeal to one of its members as rapporteur. Such assignment may include, where appropriate, the taking of evidence.

4. Decisions of the Board of Appeal shall be taken by a majority of its members.

Article 12

Registry attached to a Board of Appeal

1. The President of the Office shall attach a registry to the Board of Appeal ; members of the staff of the Office shall be excluded from the registry if they have participated in proceedings relating to the decisions under appeal.

2. The employees of the registry shall in particular be responsible for :

- drawing up the minutes of oral proceedings and taking evidence pursuant to Article 63 of this Regulation,

- apportioning costs pursuant to Article 85 (5) of the Basic Regulation and Article 76 of this Regulation, and
- confirming any settlement of costs referred to in Article 77.

CHAPTER III

EXAMINATION OFFICES

Article 13

Designation of an Examination Office referred to in Article 55 (1) of the Basic Regulation

1. When the Administrative Council entrusts the competent office in a Member State with responsibility for technical examination, the President of the Office shall notify the designation to such office, hereinafter referred to as Examination Office. It shall take effect on the day of issue of the notification by the President of the Office. This provision shall apply *mutatis mutandis* to the cancellation of the designation of an Examination Office, subject to Article 15 (6) of this Regulation.
2. A member of the staff of the Examination Office taking part in a technical examination is not allowed to make any unauthorized use of, or disclose to any unauthorized person, any facts, documents and information coming to their knowledge in the course of or in connection with the technical examination; they shall continue to be bound by this obligation after the termination of the technical examination concerned, after leaving the service and after the cancellation of the designation of the Examination Office concerned.
3. Paragraph 2 shall apply *mutatis mutandis* to material of the plant variety which has been made available to the Examination Office by the applicant.
4. The Office shall monitor compliance with paragraphs 2 and 3 and shall decide on the exclusion of or objections raised to members of the staff of Examination Offices in accordance with Article 81 (2) of the Basic Regulation.

Article 14

Designation of an Examination Office referred to in Article 55 (2) of the Basic Regulation

1. Where the Office intends to entrust agencies with responsibility for the technical examination of varieties in accordance with Article 55 (2) of the Basic Regulation, it shall transmit an explanatory statement on the technical suitability of such agency as Examination Office to the Administrative Council for consent.
2. Where the Office intends to establish its own sub-office for the technical examination of varieties, it shall transmit an explanatory statement on the technical and

economic appropriateness of establishing such a sub-office for that purpose and on the siting of such sub-office to the Administrative Council for consent.

3. When the Administrative Council gives its consent to the explanatory statements referred to in paragraphs 1 and 2, the President of the Office may notify such designation to the agency referred to in paragraph 1, or may publish the designation of a sub-office as referred to in paragraph 2 in the *Official Journal of the European Communities*. It may be cancelled only with the consent of the Administrative Council. Article 13 (2) and (3) shall apply *mutatis mutandis* to the members of the staff of the agency referred to in paragraph 1.

Article 15

Procedure for designation

1. The designation of an Examination Office shall be effected by a written agreement between the Office and the Examination Office providing for the performance of the technical examination of plant varieties by the Examination Office and for the payment of the fee referred to in Article 58 of the Basic Regulation. In the case of a sub-office referred to in Article 14 (2) of this Regulation, the designation shall be by internal rules on working-methods issued by the Office.
2. The effect of the written agreement shall be such that acts performed or to be performed by members of the staff of the Examination Office in accordance therewith shall be considered, as far as third parties are concerned, to be acts of the Office.
3. Where the Examination Office intends to avail itself of the services of other technically qualified bodies in accordance with Article 56 (3) of the Basic Regulation, such bodies shall be named in the written agreement with the Office. Article 81 (2) of the Basic Regulation and Article 13 (2) and (3) of this Regulation shall apply *mutatis mutandis* to the staff members concerned, who shall sign a written undertaking to observe confidentiality.
4. Payment of the fee by the Office to the Examination Office shall be within the scales to be inserted later in this Regulation, by 31 December 1999, on the basis of the requirements laid down in Article 93 (1) hereof. The scales, once adopted, may be amended only subject to amendment of Commission Regulation (EC) No 1238/95⁽¹⁾ (fees).
5. The Examination Office shall periodically submit to the Office a breakdown of the costs of the technical examination performed and of the maintenance of the necessary reference collections. In the circumstances set out in paragraph 3, a separate auditing report of the bodies shall be submitted to the Office by the Examination Office.

⁽¹⁾ See page 31 of this Official Journal.

6. Any cancellation of designation of an Examination Office may not take effect prior to the day on which revocation of the written agreement referred to in paragraph 1 takes effect.

TITLE II

SPECIFIC PROCEEDINGS BEFORE THE OFFICE

CHAPTER I

APPLICATION FOR A COMMUNITY PLANT VARIETY RIGHT

Section 1

Actions of the applicant

Article 16

Filing of the application

1. The application for a Community plant variety right shall be filed in duplicate at the Office, or in triplicate at the national agencies or sub-offices established pursuant to Article 30 (4) of the Basic Regulation.

2. The 'information' sent to the Office under indent (b) of Article 49 (1) of the Basic Regulation shall contain :

- particulars for identifying the applicant and, where appropriate, his procedural representative,
- the national agency or sub-office at which the application for a Community plant variety right was filed, and
- the provisional designation of the variety concerned.

3. The Office shall make the following forms available free of charge, to be filled out and signed by the applicant :

- (a) an application form and a technical questionnaire, for the purposes of filing an application for a Community plant variety right ;
- (b) a form for forwarding the information referred to in paragraph 2, indicating the consequences of any failure of the forwarding.

Article 17

Receipt of the application

1. Where a national agency designated pursuant to Article 30 (4) of the Basic Regulation or a sub-office established thereunder, receives an application, it shall forward to the Office, together with the application to be

forwarded in accordance with Article 49 (2) of the Basic Regulation, a confirmation of receipt. The confirmation of receipt shall include the file number of the national agency, the number of forwarded documents and the date of receipt at the national agency or sub-office. A copy of the forwarded receipt shall be issued to the applicant by the national agency or sub-office.

2. Where the Office receives an application from the applicant direct or via a sub-office or a national agency, it shall, without prejudice to other provisions, mark the documents making up the application with a file number and the date of receipt at the Office and shall issue a receipt to the applicant. The receipt shall include the file number of the Office, the number of documents received, the date of receipt at the Office and the date of application within the meaning of Article 51 of the Basic Regulation. A copy of the receipt shall be issued to the national agency or sub-office via which the Office has received the application.

3. If the Office receives an application via a sub-office or national agency more than one month after its filing by the applicant, the 'date of application' within the meaning of Article 51 of the Basic Regulation may not be earlier than the date of receipt at the Office, unless the Office establishes on the basis of sufficient documentary evidence that the applicant has forwarded an information to it in accordance with indent (b) of Article 49 (1) of the Basic Regulation and Article 16 (2) of this Regulation.

Article 18

Conditions referred to in Article 50 (1) of the Basic Regulation

1. If the Office finds that the application does not comply with the conditions in Article 50 (1) of the Basic Regulation, it shall notify to the applicant the deficiencies it has found, stating that only such date as sufficient information remedying those deficiencies is received shall be treated as the date of application for the purposes of Article 51 of the Regulation.

2. An application complies with the condition in indent (i) of Article 50 (1) of the Basic Regulation only if date and country of any first disposal within the meaning of Article 10 (1) of that Regulation are indicated, or if, in the absence of such disposal a declaration is made that no such disposal has occurred.

3. An application complies with the condition in indent (j) of Article 50 (1) of the Basic Regulation only if the date and the country given in any earlier application for the variety are, to the best of the applicant's knowledge, indicated in respect of :

- an application for a property right in respect of the variety, and

- an application for official acceptance of the variety for certification and marketing where official acceptance includes an official description of the variety,

in a Member State or as a Member of the International Union for the Protection of New Varieties of Plants.

Article 19

Conditions referred to in Article 50 (2) of the Basic Regulation

1. If the Office finds that the application does not comply with the provisions of paragraphs 2, 3 and 4 of this Article or with Article 16 of this Regulation, it shall apply Article 17 (2) hereof, but shall require the applicant to remedy the deficiencies it has found within such time limit as it may specify. Where those deficiencies are not remedied in good time the Office shall without delay refuse the application, pursuant to Article 61 (1) (a) of the Basic Regulation.

2. The application shall contain the following details :

- (a) the nationality of the applicant, if he is a natural person, and his designation as party to proceedings referred to in Article 2 of this Regulation and, if he is not the breeder, the name and address of the breeder ;
- (b) the Latin name of the genus, species or sub-species to which the variety belongs, and the common name ;
- (c) the characteristics of the variety which, in the applicant's opinion, are clearly distinguishable from other varieties, such other varieties being named (if appropriate) as reference varieties for testing ;
- (d) breeding, maintenance and propagation of the variety, including information on :
 - the characteristics, the variety denomination or, in the absence thereof, the provisional designation, and the cultivation of any other variety or varieties the material of which has to be used repeatedly for the production of the variety, or
 - characteristics which have been genetically modified, where the variety concerned represents a genetically modified organism within the meaning of Article 2 (2) of Council Directive 90/220/EEC ⁽¹⁾ ;
- (e) the region and the country in which the variety was bred or discovered and developed ;

- (f) date and country of any first disposal of varietal constituents or harvested material of the variety, for the purposes of assessing novelty in accordance with Article 10 of the Basic Regulation, or a declaration that such disposal has not yet occurred ;
- (g) the designation of the authority applied to and the file number of the applications referred to in Article 18 (3) ;
- (h) existing national plant variety rights or any patent for the variety operating within the Community.

3. The Office may call for any necessary information and documentation, and, if necessary, sufficient drawings or photographs for the conduct of the technical examination within such time limit as it shall specify.

4. Where the variety concerned represents a genetically modified organism within the meaning of Article 2 (2) of Directive 90/220/EEC, the Office may require the applicant to transmit a copy of the written attestation of the responsible authorities stating that a technical examination of the variety under Articles 55 and 56 of the Basic Regulation does not pose risks to the environment according to the norms of the aforesaid Directive.

Article 20

Claiming priority

If the applicant claims a right of priority for an applications within the meaning of Article 52 (2) of the Basic Regulation, which is not the earliest of those to be indicated pursuant to the first indent of Article 18 (3), the Office shall state that a priority date can only be given to such earlier application. Where the Office has issued a receipt including the date of filing of an application which is not the earliest of those to be indicated, the priority date notified shall be considered void.

Article 21

Entitlement to a Community plant variety right during proceedings

1. When the commencement of an action against the applicant in respect of a claim referred to in Article 98 (4) of the Basic Regulation has been entered in the Register of Applications for Community plant variety rights, the Office may stay the application proceedings. The Office may set a date on which it intends to continue the proceedings pending before it.

2. When a final decision in, or any other termination of, the action referred to in paragraph 1 has been entered

⁽¹⁾ OJ No L 117, 8. 5. 1990, p. 15.

in the Register of Community plant variety rights, the Office shall resume proceedings. It may resume them at an earlier date, but not prior to the date already set pursuant to paragraph 1.

3. Where entitlement to a Community plant variety right is validly transferred to another person for the purposes of the Office, that person may pursue the application of the first applicant as if it were his own, provided that he gives notice to this effect to the Office within one month of the entry of final judgment in the Register of Applications for Community plant variety rights. Fees due pursuant to Article 83 of the Basic Regulation and already paid by the first applicant shall be deemed to have been paid by the subsequent applicant.

Section 2

Conduct of the technical examination

Article 22

Decision on test guidelines

1. Upon proposal of the President of the Office, the Administrative Council shall take a decision as to the test guidelines. The date and the species concerned of the decision shall be published in the Official Gazette referred to in Article 87 of this Regulation.

2. In the absence of a decision of the Administrative Council as to test guidelines, the President of the Office may take a provisional decision thereon. The provisional decision shall lapse on the date of the decision of the Administrative Council. Where the provisional decision of the President of the Office deviates from the decision of the Administrative Council, a technical examination started prior to the decision of the Administrative Council shall not be affected; the Administrative Council may decide otherwise, if circumstances so dictate.

Article 23

Powers vested in the President of the Office

1. Where the Administrative Council takes a decision on test guidelines, it shall include a power whereby the President of the Office may insert additional characteristics and their expressions in respect of a variety.

2. Where the President of the Office makes use of the power in paragraph 1, Article 22 (2) of this Regulation shall apply *mutatis mutandis*.

Article 24

Notification by the Office of the Examination Office

In accordance with Article 55 (3) of the Basic Regulation, the Office shall transmit copies of the following documents relating to the variety to the Examination Office :

- (a) the application form, the technical questionnaire and each additional document submitted by the applicant containing information needed for the conduct of the technical examination ;
- (b) the forms filled out by the applicant pursuant to Article 86 of this Regulation ;
- (c) documents relating to an objection based on the contention that the conditions laid down in Articles 7 to 9 of the Basic Regulation have not been met.

Article 25

Cooperation between the Office and the Examination Office

The staff of the Examination Office responsible for the technical examination and the rapporteur designated in accordance with Article 8 (1) of this Regulation shall cooperate in all phases of a technical examination. Cooperation shall cover at least the following aspects :

- (a) monitoring of the conduct of the technical examination, including inspection of the locations of the test plots and the methods used for the tests by the rapporteur ; and
- (b) without prejudice to other investigations by the Office, information from the Examination Office about details of any previous disposal of the variety ;
- (c) submission by the Examination Office to the Office of interim reports on each growing period.

Article 26

Form of the examination reports

1. The examination report referred to in Article 57 of the Basic Regulation shall be signed by the responsible member of the staff of the Examination Office and shall expressly acknowledge the exclusive rights of disposal of the Office under Article 57 (4) of the Regulation.

2. The provisions of paragraph 1 shall apply *mutatis mutandis* to any interim reports to be submitted to the Office. The Examination Office shall issue a copy of such interim report direct to the applicant.

Article 27

Other examination reports

1. An examination report on the results of any technical examination without has been carried out or is in the process of being carried out for official purposes in a Member State by one of the offices responsible for the species concerned pursuant to Article 55 (1) of the Basic Regulation may be considered by the Office to constitute a sufficient basis for decision, provided that :

- the material submitted for the technical examination has complied, in quantity and quality, with any standards that may have been laid down pursuant to Article 55 (4) of the Basic Regulation,
- the technical examination has been carried out in a manner consistent with the designations by the Administrative Council pursuant to Article 55 (1) of the Basic Regulation, and has been conducted in accordance with the test guidelines issued, on general instructions given, pursuant to Article 56 (2) of that Regulation and Articles 22 and 23 of this Regulation,
- the Office has had the opportunity to monitor the conduct of the technical examination concerned, and
- where the final report is not immediately available, the interim reports on each growing period are submitted to the Office prior to the examination report.

2. Where the Office does not consider the examination report referred to in paragraph 1 to constitute a sufficient basis for a decision, it may follow the procedure under Article 55 of the Regulation, after consultation of the applicant and the Examination Office concerned.

3. The Office and each competent national plant variety office in a Member State shall give administrative assistance to the other by making available, upon request, any examination reports on a variety, for the purpose of assessing distinctiveness, uniformity and stability of that variety. A specific amount shall be charged by the Office or the competent national plant variety office for the submission of such a report, such amount being agreed by the offices concerned.

Section 3

Variety denomination

Article 28

Proposal for a variety denomination

The proposal for a variety denomination shall be signed and shall be filed in duplicate at the Office, or, if the

proposal accompanies the application for a Community plant variety right filed at the national agency designated, or sub-office established, pursuant to Article 30 (4) of the Regulation, in triplicate. The Office shall make available, free of charge, a form for the purposes of proposing a variety denomination.

Article 29

Examination of a proposal

1. Where the proposal does not accompany the application for a Community plant variety right or where a proposed variety denomination cannot be approved by the Office, the Office shall without delay communicate this to the applicant, shall require him to submit a proposal or a new proposal and shall indicate the consequences of failure.

2. Where the Office establishes at the time of receipt of the results of the technical examination pursuant to Article 57 (1) of the Regulation that the applicant has not submitted any proposal for a variety denomination, it shall without delay refuse the application for a Community plant variety right in accordance with Article 61 (1) (c) of the Regulation.

Article 30

Guidelines for variety denomination

The Administrative Council shall adopt guidelines establishing uniform and definitive criteria for determining impediments to the generic designation of a variety denomination referred to in Article 63 (3) and (4) of the Basic Regulation.

CHAPTER II

OBJECTION

Article 31

Filing of objections

1. Objections under Article 59 of the Basic Regulation shall contain :

- (a) the name of the applicant and the file number of the application to which the objection is lodged ;
- (b) the designation of the objector as party to proceedings as set out in Article 2 of this Regulation ;
- (c) if the objector has appointed a procedural representative, his name and the address ;
- (d) a statement on the contention referred to in Article 59 (3) of the Basic Regulation on which the objection is based, and on particulars, items of evidence and arguments presented in support of the objection.

2. If several objections in respect of the same application for a Community plant variety right are filed, the Office may deal with those objections in one set of proceedings.

Article 32

Rejection of objections

1. If the Office finds that the objection does not comply with Article 59 (1) and (3) of the Basic Regulation or Article 31 (1) (d) of this Regulation or that it does not provide sufficient identification of the application against which objection is lodged, it shall reject the objection as inadmissible unless such deficiencies have been remedied within such time limit it may specify.

2. If the Office notes that the objection does not comply with other provisions of the Basic Regulation or of this Regulation, it shall reject the objection as inadmissible unless such deficiencies have been remedied prior to the expiry of the objection periods.

CHAPTER III

MAINTENANCE OF COMMUNITY PLANT VARIETY RIGHTS

Article 33

Obligations of the holder under Article 64 (3) of the Basic Regulation

1. The holder shall permit inspection of material of the variety concerned and of the location where the identity of the variety is preserved, in order to furnish the information necessary for assessing the continuance of the variety in its unaltered state, pursuant to Article 64 (3) of the Regulation.

2. The holder shall be required to keep written records in order to facilitate verification of appropriate measures referred to in Article 64 (3) of the Regulation.

Article 34

Technical verification of the protected variety

Without prejudice to Article 87 (4) of the Regulation, a technical verification of the protected variety shall be conducted in accordance with the test guidelines duly applied when the Community plant variety right was granted in respect of that variety. Articles 22 and 24 to 27 of this Regulation shall apply *mutatis mutandis* to the Office, the Examination Office and to the holder.

Article 35

Other material to be used for a technical verification

When the holder has submitted material of the variety in accordance with Article 64 (3) of the Basic Regulation, the Examination Office may, with the consent of the Office, verify the submitted material by inspecting other material which has been taken from holdings where material is produced by the holder, or with his consent, or taken from material being marketed by him, or with his consent, or taken by official bodies in a Member State by virtue of their powers.

Article 36

Amendments of the variety denominations

1. Where the variety denomination has to be amended in accordance with Article 66 of the Regulation, the Office shall communicate the grounds thereof to the holder, shall set up a time limit within which the holder must submit a suitable proposal for an amended variety denomination, and shall state that, should he fail to do so, the Community plant variety right may be cancelled pursuant to Article 21 of the Regulation. Each proposal of the holder shall be filed in duplicate at the Office.

2. Where the proposal for an amended variety denomination cannot be approved by the Office, the Office shall without delay inform the holder, shall again set a time limit within which the holder must submit a suitable proposal, and shall state that, should he fail to comply, the Community plant variety right may be cancelled pursuant to Article 21 of the Regulation.

3. Articles 31 and 32 of this Regulation shall apply *mutatis mutandis* to an objection lodged pursuant to Article 66 (3) of the Basic Regulation.

CHAPTER IV

COMMUNITY EXPLOITATION RIGHTS TO BE GRANTED BY THE OFFICE

Section 1

Compulsory exploitation rights

Article 37

Applications for a compulsory exploitation right

1. The application for a compulsory exploitation right shall contain:

- (a) the designation of the applicant and the opposing holder of the variety concerned as parties to proceedings;

- (b) the variety denomination and the plant species of the variety or varieties concerned ;
 - (c) a proposal for the type of acts to be covered by the compulsory exploitation right ;
 - (d) a statement setting out the public interest concerned, including details of facts, items of evidence and arguments presented in support of the public interest claimed ;
 - (e) in the case of an application referred to in Article 29 (2) of the Basic Regulation, a proposal for the category of persons to which the compulsory exploitation right shall be granted, including, as the case may be, the specific requirements related to that category of persons.
2. The application referred to in Article 29 (1) or (5) shall be accompanied by documents evidencing his unsuccessful request for a contractual exploitation right from the opposing holder.
3. The application referred to in Article 29 (2) of the Regulation shall be accompanied by documents evidencing the unsuccessful requests of persons for a contractual exploitation right from the opposing holder. Should the Commission or a Member State be the applicant for a compulsory exploitation right, the Office may waive this condition in the case of *force majeure*.
4. A request for a contractual exploitation right shall be considered unsuccessful within the meaning of paragraphs 2 and 3 if :
- (a) the opposing holder has not given a final reply to the person seeking such right within a reasonable period ; or
 - (b) the opposing holder has refused to grant a contractual exploitation right to the person seeking it ; or
 - (c) the opposing holder has offered a contractual exploitation right to the person seeking it, on obviously unreasonable fundamental terms including those relating to the royalty to be paid, or on terms which, seen as a whole, are obviously unreasonable.

Article 38

Examination of the application for a compulsory exploitation right

1. Oral proceedings and the taking of evidence shall in principle be held together in one hearing.
2. Requests for further hearings shall be inadmissible except for those requests based on circumstances which have undergone change during or after the hearing.

3. Before taking a decision, the Office shall invite the parties concerned to come to an amicable settlement on a contractual exploitation right. If appropriate, the Office shall make a proposal for such an amicable settlement.

Article 39

Tenure of a Community plant variety right during the proceedings

1. If the commencement of an action in respect of a claim referred to in Article 98 (1) of the Basic Regulation against the holder has been entered in the Register of Community Plant Variety Rights, the Office may suspend the proceedings on the grant of a compulsory exploitation right. It shall not resume them prior to the entry in the same Register of the final judgment upon, or any other termination of, such action.
2. If a transfer of the Community plant variety right is binding on the Office, the new holder shall enter the proceedings as party thereto, upon request of the applicant, if that applicant has unsuccessfully requested the new holder to grant him a contractual exploitation right within two months of receipt of communication from the Office that the name of the new holder has been entered in the Register of Community Plant Variety Rights. A request from the applicant shall be accompanied by sufficient documentary evidence of his vain attempt and, if appropriate, of the conduct of the new holder.
3. In the case of an application referred to in Article 29 (2) of the Regulation, the new holder shall enter the proceedings as party thereto. The provisions of paragraph 1 shall not apply.

Article 40

Contents of the decision on the application

The written decision shall be signed by the President of the Office. The decision shall contain :

- (a) a statement that the decision is delivered by the Office ;
- (b) the date when the decision was taken ;
- (c) the names of the members of the committee having taken part in the proceedings ;
- (d) the names of the parties to proceedings and of their procedural representatives ;
- (e) the reference to the opinion of the Administrative Council ;
- (f) a statement of the issues to be decided ;
- (g) a summary of the facts ;
- (h) the grounds on which the decision is based ;

- (i) the order of the Office; if need be, the order shall include the stipulated acts covered by the compulsory exploitation right, the specific conditions pertaining thereto and the category of persons, including where appropriate the specific requirements relating to that category.

Article 41

Grant of a compulsory exploitation right

1. The decision to grant a compulsory exploitation right shall contain a statement setting out the public interest involved.
2. The following grounds may in particular constitute a public interest :
 - (a) the protection of life or health of humans, animals or plants ;
 - (b) the need to supply the market with material offering specific features ; or
 - (c) the need to maintain the incentive for continued breeding of improved varieties.
3. The compulsory exploitation right shall be non-exclusive.
4. The compulsory exploitation right may not be assigned, otherwise than together with that part of an enterprise which makes use of the compulsory exploitation right, or, in the circumstances set out in Article 29 (5) of the Basic Regulation, together with the assignment of the rights over of an essentially derived variety.

Article 42

Conditions pertaining to the person to whom a compulsory exploitation right is granted

1. Without prejudice to the other conditions referred to in Article 29 (3) of the Basic Regulation, the person to whom the compulsory exploitation right is granted shall dispose of appropriate financial and technical capacities to make use of the compulsory exploitation right.
2. Compliance with the conditions pertaining to the compulsory exploitation right and laid down in the decision thereupon shall be considered a 'circumstance' under Article 29 (4) of the Basic Regulation.
3. The Office shall provide that the person to whom a compulsory exploitation right is granted may not bring a legal action for infringement of a Community plant variety right unless the holder has refused or neglected to do so within two months after being so requested.

Article 43

Category of persons satisfying specific requirements

1. Any person intending to make use of a compulsory exploitation right who comes under the category of

person satisfying specific requirements referred to in Article 29 (2) of the Basic Regulation shall declare his intention to the Office and to the holder by registered letter with advice of delivery. The declaration shall include :

- (a) the name and address of that person as laid down for parties to proceedings pursuant to Article 2 of this Regulation ;
- (b) a statement on the facts meeting the specific requirements ;
- (c) a statement setting out the acts to be effected ; and
- (d) an assurance that that person disposes of appropriate financial resources as well as information about the technical capacity for making use of the compulsory exploitation right.

2. Upon request, the Office shall enter a person in the Register of Community Plant Variety Rights if such person has fulfilled the conditions relating to the declaration referred to in paragraph 1. Such person shall not be entitled to make use of the compulsory exploitation right prior to the entry. The entry shall be communicated to that person and the holder.

3. Article 42 (3) of this Regulation shall apply *mutatis mutandis* to a person entered pursuant to paragraph 2. Any judgment, or other termination, of the legal action in respect of the act of infringement shall apply to the other persons entered or to be entered.

4. The entry referred to in paragraph 2 may be deleted on the sole grounds that the specific requirements laid down in the decision on the grant of a compulsory exploitation right or the financial and technical capacities established pursuant to paragraph 2 have undergone change more than one year after the grant of the compulsory exploitation right and within any time limit stipulated in that grant. The deletion of the entry shall be communicated to the person entered and the holder.

Section 2

Exploitation rights pursuant to Article 100 (2) of the Basic Regulation

Article 44

Exploitation rights pursuant to Article 100 (2) of the Basic Regulation

1. A request for a contractual non-exclusive exploitation right from a new holder, as referred to in Article 100 (2) of the Basic Regulation, shall be made, in the case of

the former holder within two months, or in the case of a person having enjoyed an exploitation right within four months, of receipt of notification from the Office that the name of the new holder has been entered in the Register of Community Plant Variety Rights.

2. An application for an exploitation right to be granted pursuant to Article 100 (2) of the Basic Regulation shall be accompanied by documents supporting the unsuccessful request referred to in paragraph 1. The provisions of Articles 37 (1) (a), (b), (c) and (4), 38, 39 (3), 40 except letter (f), 41 (3) and (4) and 42 of this Regulation shall apply *mutatis mutandis*.

TITLE III

PROCEEDINGS BEFORE THE BOARD OF APPEAL

Article 45

Contents of the notice of appeal

The notice of appeal shall contain :

- (a) the designation of the appellant as party to appeal proceedings in accordance with Article 2 of this Regulation ;
- (b) the file number of the decision against which the appeal is lodged and a statement as to the extent to which amendment or cancellation of the decision is sought ;

Article 46

Receipt of the notice of appeal

Where the Office receives a notice of appeal, it shall mark it with a file number of the appeal proceedings and the date of receipt at the Office and shall notify the appellant of the time limit for setting out the grounds of the appeal ; any omission of such notice may not be pleaded.

Article 47

Participation as party to the appeal proceedings

1. The Office shall promptly transmit a copy of the notice of appeal marked with the file number and the date of its receipt to the parties to proceedings having participated in the proceedings before the Office.
2. The parties to proceedings referred to in paragraph 1 may intervene as parties to the appeal proceedings within two months of transmission of a copy of the notice of appeal.

Article 48

Role of the Office

1. The body of the Office referred to in Article 70 (1) of the Basic Regulation and the chairman of the Board of Appeal shall ensure by internal preparatory measures that the Board of Appeal can examine the case immediately after its remittal ; the chairman shall in particular select the two other members in accordance with Article 46 (2) of that Regulation and shall designate a rapporteur, prior to the remittal of the case.
2. Prior to the remittal of the case, the body of the Office referred to in Article 70 (1) of the Basic Regulation shall promptly transmit a copy of the documents received by a party to the appeal proceedings to the other parties to the appeal proceedings.
3. The President of the Office shall provide for the publication of the information referred to in Article 89 of this Regulation, prior to the remittal of the case.

Article 49

Rejection of the appeal as inadmissible

1. If the appeal does not comply with the provisions of the Basic Regulation and in particular Articles 67, 68 and 69 thereof or those of this Regulation and in particular Article 45 thereof, the Board of Appeal shall so inform the appellant and shall require him to remedy the deficiencies found, if possible, within such period as it may specify. If the appeal is not rectified in good time, the Board of Appeal shall reject it as inadmissible.
2. Where an appeal is lodged against a decision of the Office against which an action under Article 74 of the Basic Regulation is likewise lodged, the Board of Appeal shall forthwith submit the appeal as an action to the Court of Justice of the European Communities, with the consent of the appellant ; if the appellant does not consent, it shall reject the appeal as inadmissible. In the case of the submission of an appeal to the Court of Justice, such an appeal shall be deemed to have been lodged with the Court of Justice as at the date of receipt at the Office under Article 46 of this Regulation.

Article 50

Oral proceedings

1. After the remittal of the case, the chairman of the Board of Appeal shall, without delay, summon the parties to the appeal proceedings to oral proceedings as provided for in Article 77 of the Basic Regulation and shall draw their attention to the contents of Article 59 (2) of this Regulation.
2. The oral proceedings and the taking of evidence shall in principle be held in one hearing.

3. Requests for further hearings shall be inadmissible except for requests based on circumstances which have undergone change during or after the hearing.

Article 51

Examination of appeals

Unless otherwise provided, the provisions relating to proceedings before the Office shall apply to appeal proceedings *mutatis mutandis*; parties to proceedings shall in that regard be treated as parties to appeal proceedings.

Article 52

Decision on the appeal

1. Within three months after closure of the oral proceedings, the decision on the appeal shall be forwarded in writing to the parties to the appeal proceedings.

2. The decision shall be signed by the chairman of the Board of Appeal and by the rapporteur designated pursuant to Article 48 (1) of this Regulation. The decision shall contain :

- (a) a statement that the decision is delivered by the Board of Appeal ;
- (b) the date when the decision was taken ;
- (c) the names of the chairman and of the other members of the Board of Appeal having taken part in the appeal proceedings ;
- (d) the names of the parties to the appeal proceedings and their procedural representatives ;
- (e) a statement of the issues to be decided ;
- (f) a summary of the facts ;
- (g) the grounds on which the decision is based ;
- (h) the order of the Board of Appeal, including, where necessary, a decision as to the award of costs or the refund of fees.

3. The written decision of the Board of Appeal shall be accompanied by a statement that further appeal is possible, together with the time limit for lodging such further appeal. The parties to the appeal proceedings may not plead the omission of the statement.

TITLE IV

GENERAL PROVISIONS RELATING TO PROCEEDINGS

CHAPTER I

DECISIONS, COMMUNICATIONS AND DOCUMENTS

Article 53

Decisions

1. Any decision of the Office is to be signed by and to state the name of the member of staff duly authorized by

the President of the Office in accordance with Article 35 of the Basic Regulation.

2. Where oral proceedings are held before the Office, the decisions may be given orally. Subsequently, the decision in writing shall be served on the parties to proceedings.

3. Decisions of the Office which are open to appeal under Article 67 of the Basic Regulation or to direct appeal under Article 74 thereof shall be accompanied by a statement of that appeal or direct appeal if possible, together with the time limits provided for lodging such appeal or direct appeal. The parties to proceedings may not plead to omission of the statement.

4. Linguistic errors, errors of transcription and patent mistakes in decisions of the Office shall be corrected.

Article 54

Certificate for a Community plant variety right

1. Where the Office grants a Community plant variety right, it shall issue, together with the decision thereon, a certificate for the Community plant variety right as evidence of the grant.

2. The Office shall issue the certificate for the Community plant variety right in whichever official language or languages of the Communities is requested by the holder.

3. On request, the Office may issue a duplicate to the person entitled if it establishes that the original certificate has been lost or destroyed.

Article 55

Communications

Unless otherwise provided, any communication by the Office or an Examination Office shall include the name of the competent member of the staff.

Article 56

Right of audience

1. If the Office finds that a decision may not be adopted in the terms sought, it shall communicate the deficiencies noted to the party to the proceedings and shall require him to remedy those deficiencies within such time limit as it may specify. If the deficiencies noted and communicated are not remedied in good time, the Office shall proceed to take its decision.

2. If the Office receives observations from a party to proceedings, it shall communicate those observations to the other parties to the proceedings and shall require them, if it considers it necessary, to reply within such time limit as it may specify. If a reply is not received in good time, the Office shall disregard any document received later.

Article 57

Documents filed by parties to proceedings

1. The date of receipt of any document filed by parties to proceedings shall be deemed to be the date on which a document is in fact received on the premises of the Office, on the national agency, or the sub-office designated pursuant to Article 30 (4) of the Basic Regulation.

2. With the exception of annexed documents, any documents filed by parties to proceedings must be signed by them or their procedural representative.

3. With the consent of the Administrative Council, the Office may allow documents of a party to proceedings to be filed by telegraph, telex, telecopier, or other information equipment and lay down conditions governing their use.

4. If a document has not duly been signed or has been allowed to be filed in accordance with paragraph 3, the party to proceedings shall be required to supply the original of the document signed pursuant to the provision of paragraph 2 within a time limit of one month. If such document is supplied within such time limit, the date of receipt of the former document shall be maintained; otherwise, it shall be deemed not to have been received.

5. The Office may permit a derogation from the time limit required under paragraph 4 where the party to proceedings concerned may file the document concerned only at the Office direct. Such derogation may not exceed two further weeks.

6. Such documents as must be communicated to other parties to proceedings as well as to the Examination Office concerned, or documents relating to two or more applications for a Community plant variety right or an exploitation right, must be filed in a sufficient number of copies. Missing copies shall be provided at the expense of the party to the proceedings.

Article 58

Documentary evidence

1. Documentary evidence of final judgments or decisions other than those of the Office shall be deemed suffi-

cient where a copy thereof is furnished that has been certified by the court or authority responsible for the judgment or decision.

2. Documentary evidence of other documents to be submitted by parties to proceedings shall be deemed sufficient where it is the original document or a certified copy thereof.

CHAPTER II

ORAL PROCEEDINGS AND TAKING OF EVIDENCE

Article 59

Summons to oral proceedings

1. The parties to proceedings shall be summoned to oral proceedings provided for in Article 77 of the Basic Regulation and their attention shall be drawn to paragraph 2 hereof. At least one month's notice of the summons dispatched to the parties to proceedings shall be given unless the parties to proceedings and the Office agree on a shorter period.

2. If a party to proceedings who has duly been summoned to oral proceedings before the Office does not appear as summoned, the proceedings may continue without him.

Article 60

Taking of evidence by the Office

1. Where the Office considers it necessary to hear the oral evidence of parties to proceedings or of witnesses or experts, or to carry out an inspection, it shall take a decision to that effect, stating the means by which it intends to obtain evidence, the relevant facts to be proved and the date, time and place of hearing or inspection. If oral evidence from witnesses and experts is requested by a party to proceedings, the decision of the Office shall state the period of time within which the party to proceedings filing the request must make known to the Office the names and addresses of the witnesses and experts whom the party to proceedings wishes to be heard.

2. At least one month's notice of a summons dispatched to a party to proceedings, witness or expert to give evidence shall be given unless the Office and they agree to a shorter period. The summons shall contain :

- (a) an extract from the decision referred to in paragraph 1, indicating in particular the date, time and place of the investigation ordered and setting out the facts regarding which parties to proceedings, witnesses and experts are to be heard;

(b) the names of the parties to proceedings and particulars of the rights which the witnesses or experts may invoke under the provisions of Article 62 (2) to (4) of this Regulation ;

(c) a statement that the party to proceedings, witness or expert may ask to be heard by the competent judicial or other authority in his country of domicile and a request that he inform the Office within a time limit to be fixed by the Office whether he is prepared to appear before it.

3. Before a party to proceedings, a witness or an expert may be heard, he shall be informed that the Office may request the competent judicial or another authority in his country of domicile to re-examine his evidence on oath or in some other binding form.

4. The parties to proceedings shall be informed of the hearing of a witness or expert before a competent judicial or other authority. They shall have the right to be present and to put questions to the testifying parties to proceedings, witnesses and experts, either through the intermediary of the authority or direct.

Article 61

Commissioning of experts

1. The Office shall decide in what form the report to be made by an expert whom it appoints shall be submitted.

2. The mandate of the expert shall contain :

(a) a precise description of his task ;

(b) the time limit laid down for the submission of the report ;

(c) the names of the parties to the proceedings ;

(d) particulars of the rights which he may invoke under Article 62 (2) to (4) of this Regulation.

3. For the purposes of the expert's report, the Office may require the Examination Office having conducted the technical examination of the variety concerned to make available material in accordance with instructions given. If necessary, the Office may also require material from parties to proceedings or third persons.

4. The parties to proceedings shall be provided with a copy and, where appropriate, a translation of any written report.

5. The parties to proceedings may object to an expert. Articles 48 (3) and 81 (2) of the Basic Regulation shall apply *mutatis mutandis*.

6. Article 13 (2) and (3) shall apply *mutatis mutandis* to the expert appointed by the Office. When appointing the expert, the Office shall inform him of the requirement of confidentiality.

Article 62

Costs of taking evidence

1. The taking of evidence may be made conditional upon deposit with the Office, by the party to proceedings who requested that such evidence be taken, of a sum to be quantified by the Office by reference to an estimate of the costs.

2. Witnesses and experts who are summoned by and who appear before the Office shall be entitled to appropriate reimbursement of expenses for travel and subsistence. An advance may be granted to them.

3. Witnesses entitled to reimbursement under paragraph 2 shall also be entitled to appropriate compensation for loss of earnings, and experts unless members of the staff of the Examination Offices, to fees for their work. Those payments shall be made to the witnesses after the taking of evidence and to the experts after they have fulfilled their duties or tasks.

4. Payments of amounts due pursuant to paragraphs 2 and 3 and in accordance with the details and scales laid down in the Annex shall be made by the Office.

Article 63

Minutes of oral proceedings and of taking of evidence

1. Minutes of oral proceedings and of the taking of evidence shall record the essentials of the oral proceedings or of the taking of evidence, the relevant statements made by the parties to proceedings, the testimony of the parties to proceedings, witnesses or experts and the result of any inspection.

2. The minutes of the testimony of a witness, expert or party to proceedings shall be read out or submitted to him so that he may examine them. It shall be noted in the minutes that this formality has been carried out and that the person who gave the testimony approved the minutes. Where his approval is not given, his objections shall be noted.

3. The minutes shall be signed by the employee who drew them up and by the employee who conducted the oral proceedings or the taking of evidence.

4. The parties to proceedings shall be provided with a copy and, where appropriate, a translation of the minutes.

CHAPTER III

SERVICE

Article 64

General provisions on service

1. In proceedings before the Office, any service of documents to be made on a party to proceedings shall take the form of the original document, in the case of the certificate, or of a copy of the original document certified by the Office. Copies of documents emanating from other parties to proceedings shall not require such certification.
2. If a procedural representative has been appointed by one or more parties to proceedings, service shall be made on him in accordance with the provisions of paragraph 1.
3. Service shall be made :
 - (a) by post in accordance with Article 65 of this Regulation ;
 - (b) by delivery by hand in accordance with Article 66 hereof ;
 - (c) by public notice in accordance with Article 67 hereof.

Article 65

Service by post

1. Documents or copies thereof containing actions for which service is provided in Article 79 of the Regulation shall be served by registered letter with advice of delivery.
2. Service on addressees not having their domicile or their seat or establishment within the Community and who have not appointed a procedural representative in accordance with Article 82 of the Basic Regulation shall be effected by posting the documents to be served by ordinary letter to the addressee's last address known to the Office. Service shall be deemed to have been effected by posting even if the letter is returned as undeliverable.
3. Where service is effected by registered letter, whether or not with advice of delivery, this shall be deemed to have been delivered to the addressee on the 10th day following its posting, unless the letter has failed to reach the addressee or has reached him on a later day ; in the event of any dispute, it shall be for the Office to establish that the letter has reached its destination or to establish the date on which the letter was delivered to the addressee, as the case may be.
4. Service by registered letter, whether or not with advice of delivery, shall be deemed to have been effected even if the addressee refuses to accept the letter or to acknowledge receipt thereof.

5. Where service by post is not covered by paragraphs 1 to 4, the law of the State on the territory of which the service is made shall apply.

Article 66

Service by hand delivery

On the premises of the Office, service of a document may be effected by delivery by hand to the addressee, who shall on delivery acknowledge its receipt. Service shall be deemed to have taken place even if the addressee refuses to accept the document or to acknowledge receipt thereof.

Article 67

Public notice

If the address of the addressee cannot be established, or if service in accordance with Article 65 (1) has proved to be impossible even after a second attempt by the Office, service shall be effected by public notice, to be issued in the periodical publication referred to in Article 89 of the Basic Regulation. The President of the Office shall determine details as to the issue of public notice.

Article 68

Irregularities in service

If the Office is unable to prove that a document which has reached the addressee has been duly served, or if provisions relating to its service have not been observed, the document shall be deemed to have been served on the date established by the Office as the date of receipt.

CHAPTER IV

TIME LIMITS AND INTERRUPTION OF PROCEEDINGS

Article 69

Computation of time limits

1. Time limits shall be laid down in terms of full years, months, weeks or days.
2. Time limits shall run from the day following the day on which the relevant event occurred, the event being either an action or the expiry of another time limit. Unless otherwise provided, the event considered shall be the receipt of the document served, where the action consists in service.
3. Notwithstanding the provisions of paragraph 2, the time limits shall run from the 15th day following the day of publication of a relevant action, where the action is either the public notice referred to in Article 67 of this Regulation, a decision of the Office unless served to the relevant person, or any action of a party to proceedings to be published.

4. When a time limit is expressed as one year or a certain number of years, it shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred; where the relevant subsequent month has no day bearing the same number the time limit shall expire on the last day of that month.

5. When a time limit is expressed as one month or a certain number of months, it shall expire in the relevant subsequent month on the day which has the same number as the day on which the said event occurred; where the relevant subsequent month has no day bearing the same number the period shall expire on the last day of that month.

6. Where a time limit is expressed as one week or a certain number of weeks, it shall expire in the relevant subsequent week on the day having the same name as the day on which the said event occurred.

Article 70

Duration of time limits

Where either the Basic Regulation or this Regulation specifies a time limit to be determined by the Office, such a time limit shall be not less than one month and not more than three months. In certain special cases, the time limit may be extended by up to six months upon a request presented before the expiry of such time limit.

Article 71

Extension of time limits

1. If a time limit expires on a day on which the Office is not open for receipt of documents or on which, for reasons other than those referred to in paragraph 2, ordinary mail is not delivered in the locality in which the Office is situated, the time limit shall extend until the first day thereafter on which the Office is open for receipt of documents and on which ordinary mail is delivered. The days referred to in the first sentence shall be as stated and communicated by the President of the Office before the commencement of each calendar year.

2. If a time limit expires on a day on which there is a general interruption or a subsequent dislocation in the delivery of mail in a Member State or between a Member State and the Office, the time limit shall extend until the first day following the end of the period of interruption or dislocation for parties to proceedings having their domicile or seat or establishment in the State concerned or having appointed procedural representatives with a seat in that State. Should the Member State concerned be the State in which the Office is located, this provision shall

apply to all parties to proceedings. The duration of the period of interruption or dislocation shall be as stated and communicated by the President of the Office.

3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to the national agencies, or the sub-offices designated, pursuant to Article 30 (4) of the Regulation as well as to the Examination Offices.

Article 72

Interruption of proceedings

1. Proceedings before the Office shall be interrupted :
 - (a) in the event of the death or legal incapacity of the applicant for, or holder of, a Community plant variety right or of the applicant for an exploitation right to be granted by the Office or of the person entitled to enjoy such exploitation right, or of the procedural representative of any of those parties ; or
 - (b) in the event of a supervening legal impediment to such person's continuation of proceedings before the Office, due to some action taken against his property.
2. When the necessary particulars in respect of the identity of the person authorized to continue proceedings as party thereto or procedural representative have been entered in the relevant register, the Office shall inform such person and the other parties that the proceedings shall be resumed as from the date to be determined by the Office.
3. The time limits in force shall begin afresh as from the day on which proceedings are resumed.
4. The interruption of proceedings shall not affect the pursuit of the technical examination or verification of the variety concerned by an Examination Office where the relevant fees have already been paid to the Office.

CHAPTER V

PROCEDURAL REPRESENTATIVES

Article 73

Designation of a procedural representative

1. Any designation of a procedural representative shall be communicated to the Office. The communication shall contain the name and address of the procedural representative ; Article 2 (2) and (3) of this Regulation shall apply *mutatis mutandis*.
2. Without prejudice to Article 2 (4), the communication referred to in paragraph 1 shall also identify as such employee of the party to proceedings. An employee may not be designated as procedural representative within the meaning of Article 82 of the Basic Regulation.

3. Failure to comply with the provisions of paragraphs 1 and 2 shall lead to the communication being deemed not to have been received.

4. A procedural representative whose mandate has ended shall continue to be considered as procedural representative until the termination of his mandate has been communicated to the Office. Subject to any provisions to the contrary contained therein, a mandate shall however, terminate *vis-à-vis* the Office upon the death of the person who conferred it.

5. If there are two or more parties to proceedings acting in common, which have not notified a procedural representative to the Office, the party to proceedings first named in an application for a Community plant variety right or for an exploitation right to be granted by the Office or in an objection shall be deemed to be designated as the procedural representative of the other party or parties to proceedings.

Article 74

Credentials of procedural representatives

1. Where the appointment of a procedural representative is notified to the Office, the necessary signed credentials shall be presented for inclusion in the files within such period as the Office may specify unless otherwise provided. If the credentials are not filed in due time, any procedural step taken by the procedural representative shall be deemed not to have been taken.

2. Credentials may cover one or more proceedings and shall be filed in the corresponding number of copies. General credentials enabling a procedural representative to act in all the proceedings of the party giving the credentials may be filed. A single document embodying the general credentials shall be sufficient.

3. The President of the Office may determine the contents of, and make available, forms for credentials, including the general credentials referred to in paragraph 2, free of charge.

CHAPTER VI

APPORTIONMENT AND DETERMINATION OF COSTS

Article 75

Awards of costs

1. A decision as to costs shall be dealt with in the decision on the revocation or cancellation of a Community plant variety right, or the decision on the appeal.

2. In the case of an award of costs pursuant to Article 85 (1) of the Regulation, the Office shall set out that award in the statement of the grounds of the decision on the revocation or cancellation of a Community plant variety right, or the decision on the appeal. The parties to proceedings may not plead the omission of the indication.

Article 76

Determination of costs

1. A request for the determination of costs shall be admissible only if the decision has been taken in respect of which the determination of costs is required and if, in the event of an appeal against such decision, the Board of Appeal has decided upon that appeal. A bill of costs, with supporting documents, shall be attached to the request.

2. Costs may be determined once their credibility is established.

3. Where one party to proceedings incurs the costs of another party to the proceedings, it shall not be required to reimburse any costs other than those referred to in paragraph 4. Where the successful party to proceedings is represented by more than one agent, adviser or advocate, the losing party shall bear the costs referred to in paragraph 4 for one such person only.

4. The costs essential to proceedings shall cover:

- (a) costs of witnesses and experts paid by the Office to the witness or expert concerned;
- (b) expenses for travel and subsistence of a party to proceedings and an agent, adviser or advocate duly designated as a procedural representative before the Office, within the relevant scales applicable to witnesses and experts laid down in the Annex;
- (c) remuneration of an agent, adviser or advocate duly designated as the procedural representative of a party to proceedings before the Office, within the scales laid down in the Annex.

Article 77

Settlement of costs

In the event of a settlement of costs referred to in Article 85 (4) of the Basic Regulation, the Office shall confirm such settlement in a communication to the parties to the proceedings. Where such communication confirms also a settlement as to the amount of costs to be paid, a request for the determination of costs shall be inadmissible.

TITLE V

INFORMATION GIVEN TO THE PUBLIC

CHAPTER I

REGISTERS, PUBLIC INSPECTION AND PUBLICATIONS

Section 1

The Registers

Article 78

Entries related to proceedings and to Community plant variety rights, to be entered in the Registers

1. The following 'other particulars' referred to in Article 87 (3) of the Regulation shall be entered in the Register of Applications for Community Plant Variety Rights:

- (a) date of publication where such publication is a relevant event for the computation of time limits;
- (b) any objection, together with its date, the name and address of the objector and those of his procedural representative;
- (c) priority data (date and State of the earlier application);
- (d) any institution of actions in respect of claims referred to in Articles 98 (4) and 99 of the Regulation as to entitlement to the Community plant variety right, and the final decision in, or of any other termination of, such action.

2. The following 'other particulars' referred to in Article 87 (3) of the Regulation shall be entered in the Register of Community Plant Variety Rights, upon request:

- (a) the giving of a Community plant variety right as a security or as the object of any other rights *in rem*; or
- (b) any institution of actions on claims referred to in Articles 98 (1) and (2) and 99 of the Regulation and relating to the Community plant variety right, and the final decision in, or of any other termination of, such institution.

3. The President of the Office shall decide upon the details of the entries to be made and may decide upon further particulars to be entered in the Registers for the purpose of the management of the Office.

Article 79

Entry of transfer of a Community plant variety right

1. Any transfer of Community plant variety rights shall be entered in the Register of Community Plant Variety Rights on production of documentary evidence of the transfer, or of official documents confirming the transfer, or of such extracts from those documents as suffice to establish the transfer. The Office shall retain a copy of those papers in its files.

2. The entry of a transfer may be refused only in the event of failure to comply with the conditions laid down in paragraph 1 and Article 23 of the Regulation.

3. Paragraphs 1 and 2 shall apply to any transfer of an entitlement to a Community plant variety right for which an application has been entered in the Register of Applications for Community Plant Variety Rights. The reference to the Register of Community Plant Variety Rights shall be understood as a reference to the Register of Applications for Community Plant Variety Rights.

Article 80

Conditions for entries in the Registers

Without prejudice to other provisions of the Basic Regulation or of this Regulation, a request for an entry or a deletion of an entry in the Registers may be made by any interested person. The request shall be made in writing, accompanied by supporting documents.

Article 81

Conditions for specific entries in the Registers

1. Where a Community plant variety right applied for or granted is involved in bankruptcy or like proceedings, an entry to this effect shall be made, free of charge, in the Register for Community Plant Variety Rights at the request of the competent national authority. This entry shall also be deleted at the request of the competent national authority, free of charge.

2. Paragraph 1 shall apply *mutatis mutandis* to the institution of actions on claims referred to in Article 98

and 99 of the Regulation and the final decision in, or of any other termination of, such institution.

3. Where varieties are identified respectively as initial and essentially derived, a request for entry by all the parties to proceedings may be made jointly or separately. In the event of a request from only one party to proceedings, the request shall be accompanied by sufficient documentary evidence of the actions referred to in Article 87 (2) (h) of the Regulation to replace the request of the other party.

4. Where the entry of a contractual exclusive exploitation right or of a Community plant variety right given as security or as the subject of rights *in rem* is requested, such request shall be accompanied by sufficient documentary evidence.

Article 82

Public inspection of the Registers

1. The Registers shall be open for public inspection on the premises of the Office.

2. Extracts from the Registers shall be delivered at the request of any person on receipt of payment of an administrative fee.

3. The President of the Office may provide for public inspection on the premises of national agencies, or sub-offices designated, pursuant to Article 30 (4) of the Regulation.

Section 2

Keeping of documents, public inspection of documents and varieties grown

Article 83

Keeping of the files

1. Documents relating to proceedings shall be kept in files, a file number being attached to such proceedings, except for those documents relating to the exclusion of, or objection to, members of the Board of Appeal, or to the staff of the Office or the Examination Office concerned, which shall be kept separately.

2. The Office shall keep one copy of the file referred to in paragraph 1 (file copy) which shall be considered the true and complete copy of the file. The Examination Office may keep a copy of the documents relating to such proceedings (examination copy), but shall at all times ensure delivery of those originals which the Office does not hold.

3. The President of the Office shall determine details as to the form of the files to be kept.

Article 84

Inspection of documents

1. A written request for the inspection of documents shall be addressed to the Office.

2. Inspection of documents shall take place on the premises of the Office. However, on request, inspection of documents may take place on the premises of the national agencies or sub-offices designated pursuant to Article 30 (4) of the Regulation on the territory of the Member State in which the person making the request is resident or has his seat or establishment.

3. On request, the Office shall permit inspection of the documents by issuing copies thereof to the person requesting them. Such copies may be subject to separate fees. On request, the documents may also be inspected by way of a communication in writing of the information contained therein. However, the Office may require the person concerned to view the documents personally should it deem this to be appropriate in view of the quantity of information to be supplied.

Article 85

Inspection of the growing of the varieties

1. A request for inspection of the growing of the varieties shall be addressed in writing to the Office. With the consent of the Office, access to the test plots shall be arranged by the Examination Office.

2. Without prejudice to Article 88 (3) of the Basic Regulation, general access to the test plot by visitors shall not be affected by the provisions of this Regulation, provided that all grown varieties are coded, that appropriate measures against any removal of material are taken by the Examination Office entrusted and are approved by the Office, and that all necessary steps are taken to safeguard the rights of the applicant for, or holder of, a Community plant variety right.

3. The President of the Office may lay down the details of the procedure for the inspection of the growing of the varieties, and may review the safeguards to be provided under paragraph 2.

Article 86

Confidential information

For the purpose of keeping information confidential, the Office shall make available, free of charge, forms to be used by the applicant for a Community plant variety right in order to request the withholding of all data relating to components as referred to in Article 88 (3) of the Regulation.

Section 3**Publications****Article 87****Official Gazette**

1. The publication to be issued at least every two months pursuant to Article 89 of the Basic Regulation shall be called the Official Gazette of the Community Plant Variety Office (hereinafter 'the Official Gazette').

2. The Official Gazette shall also contain the information entered in the Registers pursuant to Articles 78 (1) (c), (d) and (2) and 79 of this Regulation.

Article 88**Publication of applications for exploitation rights to be granted by the Office and decisions thereupon**

The date of receipt of an application for an exploitation right to be granted by the Office and of delivery of the decision on such application, the names and addresses of the parties to proceedings and the form of order sought, or decided upon, shall be published in the Official Gazette. In the case of a decision to grant a compulsory exploitation right, the contents of such decision shall likewise be published.

Article 89**Publication of appeals and decisions thereupon**

The date of receipt of a notice of appeal and of delivery of the decision on such appeal, the names and addresses of the parties to the appeal proceedings and the form of order sought, or decided upon, shall be published in the Official Gazette.

CHAPTER II**ADMINISTRATIVE AND LEGAL COOPERATION****Article 90****Communication of information**

1. Information to be exchanged in accordance with Article 90 of the Basic Regulation shall be communicated direct between the authorities referred to in that provision.

2. Communication of information referred to in Article 91 (1) of the Regulation by or to the Office may be

effected through the competent plant variety offices of the Member States, free of charge.

3. Paragraph 2, shall apply *mutatis mutandis* to communication of information under Article 91 (1) of the Regulation effected to or by the Examination Office. The Office shall receive a copy of such communication.

Article 91**Inspection by or via courts or public prosecutors' offices of the Member States**

1. Inspection of files under Article 91 (1) of the Regulation shall be of duplicate file copies issued by the Office exclusively for that purpose.

2. Courts or public prosecutors' offices of the Member States may, in the course of proceedings before them, lay the documents transmitted by the Office open to inspection by third parties. Such inspection shall be subject to Article 88 of the Basic Regulation, the Office shall not charge any fee for it.

3. The Office shall, at the time of transmission of the files to the courts or public prosecutor's offices of the Member States, indicate the restrictions to which the inspection of documents relating to applications for, or to grants of Community plant variety rights is subject pursuant to Article 88 of the Basic Regulation.

Article 92**Procedure for letters rogatory**

1. Each Member State shall designate a central authority which will undertake to receive letters rogatory issued by the Office and to transmit them to the court or authority competent to execute them.

2. The Office shall draw up letters rogatory in the language of the competent court or authority or shall attach to such letters a translation into that language.

3. Subject to paragraphs 4 and 5, the competent court or authority shall apply its own law as to the procedures to be followed in executing such requests. In particular, it shall apply suitable coercive measures in accordance with its law.

4. The Office shall be informed of the time when, and the place where, the enquiry or other legal measures is to take place and shall inform the parties to proceedings, witnesses and experts concerned.

5. If so requested by the Office, the competent court or authority shall permit the attendance of the staff of the Office concerned and allow them to question any person giving evidence, either directly or through the competent court or authority.

6. The execution of letters rogatory shall not give rise to any charge of fees or to costs of any kind. Nevertheless, the Member State in which letters rogatory are executed has the right to require the Office to reimburse any fees paid to experts and interpreters and the costs arising from the procedure under paragraph 5.

TITLE VI

FINAL PROVISIONS

Article 93

Transitional provisions

1. In accordance with Article 15 (4) of this Regulation, the Office shall pay the Examination Office a fee for the conduct of the technical examination, on the basis of full recovery of costs incurred. By 27 April 1997 the Administrative Council shall have determined uniform methods for calculating the costs and the uniform constituents of the costs, which shall apply to all designated Examination Offices.

2. The Administrative Council shall take a decision by 27 October 1996 on the test guidelines referred to in Article 22 of this Regulation; the President of the Office shall submit a proposal for such test guidelines by 27 April 1996, taking into account those examination reports which form part of the findings referred to in Article 116 (3) of the Basic Regulation.

3. The applicant for a Community plant variety right pursuant to Article 116 (1) or (2) of the Basic Regulation shall provide a certified copy of the findings referred to in Article 116 (3) of that Regulation by 30 November 1995. Such copy shall include the relevant documents relating to the proceedings for the grant of a national plant variety right and shall be certified by the authority before which the proceedings were held. Where such certified copy is not provided in good time, Article 55 of the Basic Regulation shall apply.

Article 94

Derogations

Notwithstanding Article 27 (1) of this Regulation, the Office may consider examination reports on the results of a technical examination on that variety for official purposes in a Member State provided that examination has begun by 27 April 1996 unless a decision by the Administrative Council on the test guidelines concerned has been taken prior to that date.

Article 95

Entry into force

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

Article 27 shall apply until 30 June 1998.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

1. The compensation payable to witnesses and experts in respect of travel and subsistence expenses provided for in Article 62 (2) shall be calculated as follows :
 - 1.1. Travel expenses :

For the outward and return journey between the domicile or seat and the place where oral proceedings are held or where evidence is taken :

 - (a) the cost of the first-class rail transport including usual transport supplements shall be paid where the total distance by the shortest rail route does not exceed 800 km ;
 - (b) the cost of the tourist-class air transport shall be paid where the total distance by the shortest rail route exceeds 800 km or the shortest route requires a sea-crossing.
 - 1.2. Subsistence expenses shall be paid equal to the daily subsistence allowance of officials in grades A4 to A8 as laid down in Article 13 of Annex VII of the Staff Regulations of Officials of the European Communities.
 - 1.3. When a witness or expert is summoned to proceedings at the Office he will receive with the summons a travel order containing details of those amounts payable under 1.1 and 1.2, together with a request form covering an advance on expenses. Before an advance can be paid to a witness or expert his entitlement must be certified by the member of the staff of the Office who ordered the evidence to be taken or, in the case of appeal proceedings, the chairman of the responsible Board of Appeal. The request form must therefore be returned to the Office for certification.
 2. The compensation payable to witnesses in respect of loss of earnings provided for in Article 62 (3) shall be calculated as follows :
 - 2.1. If a witness is required to be absent for a total period of more than 12 hours or less, the compensation for loss of earnings shall be equal to one sixtieth of the basic monthly salary of an employee of the Office at the lowest step of grade A4.
 - 2.2. If a witness is required to be absent for a total period of more than 12 hours, he shall be entitled to payment of further compensation equal to one sixtieth of the basic salary referred to in 2.1 in respect of each further period of 12 hours which is commenced.
 3. The fees payable to experts provided for in Article 62 (3) shall be determined, case by case, taking into account a proposal by the expert concerned. The Office may decide to invite the parties to proceedings to submit their comments on the amount proposed. Fees may be paid to an expert only if he adduces evidence by supporting documents of not being a member of the staff of an Examination Office.
 4. Payments to witnesses or experts for loss of earnings or fees under points 2 and 3 will be made following certification of the entitlement of the witness or expert concerned by the member of the staff of the Office who ordered the evidence to be taken or, in the case of the appeal proceedings, the chairman of the responsible Boards of Appeal.
 5. The remuneration of an agent, adviser or advocate acting as a representative of a party to proceedings as provided for in Article 76 (3) and (4) (c) shall be borne by the other party to proceedings on the basis of the following maximum rates :
 - (a) in the case of appeal proceedings except for the taking of evidence which involves the examination of witnesses, opinions by experts or inspection : ECU 500 ;
 - (b) in the case of taking of evidence in appeal proceedings which involves the examination of witnesses, opinions by experts or inspection : ECU 250 ;
 - (c) in the case of proceedings for revocation or cancellation of a Community plant variety right : ECU 250.
-

COMMISSION REGULATION (EC) No 1240/95

of 31 May 1995

fixing for June 1995 the maximum levels of withdrawal prices for tomatoes grown under glass

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Commission Regulation (EC) No 997/95⁽²⁾, and in particular the last subparagraph of Article 18 (1) thereof,

Whereas the market in tomatoes grown under glass has different characteristics from those of the market in open-grown tomatoes; whereas tomatoes grown under glass are mainly 'Extra' class and class I products, the prices for which are considerably higher than those for open-grown products;

Whereas, in order to provide more effective support for the market grown under glass, producers' organizations or associations of such organizations should be allowed to fix their withdrawal price; whereas, in accordance with the last subparagraph of Article 18 (1) of Regulation (EEC) No 1035/72, it appears that the maximum level of the withdrawal price for these products can justifiably be fixed by applying, to the prices fixed for June 1994 a variation of the same order as that applied by the Council when fixing the basic prices and buying-in prices for tomatoes for June 1995;

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

HAS ADOPTED THIS REGULATION:

Article 1

For June 1995 producers' organizations or associations of such organizations may fix withdrawal prices, not exceeding the following maxima, in ecus per 100 kilograms net, for tomatoes grown under glass:

- June (11 to 20): 36,33,
(21 to 30): 33,41.

Article 2

The producers' organizations shall supply the following information to the national authorities, who shall communicate it to the Commission:

- the period during which withdrawal prices are available,
- the levels of withdrawal prices proposed and of those applied.

Article 3

This Regulation shall enter into force on 11 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 101, 4. 5. 1995, p. 16.

COMMISSION REGULATION (EC) No 1241/95

of 31 May 1995

reducing the basic and buying-in prices for cauliflowers, peaches, nectarines and lemons for June 1995 as a result of the overrun in the intervention thresholds fixed for the 1994/95 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Commission Regulation (EC) No 997/95⁽²⁾, and in particular Article 16b (4) thereof,

Whereas Commission Regulation (EC) No 1146/94⁽³⁾ fixes the intervention thresholds for the 1994/95 marketing year at 64 300 tonnes for cauliflowers, 303 600 tonnes for peaches, 83 100 tonnes for nectarines and 363 000 tonnes for lemons;

Whereas, pursuant to Article 16a (1) of Regulation (EEC) No 1035/72 and Article 2 (1) of Council Regulation (EEC) No 2240/88 of 19 July 1988 fixing, for peaches, lemons and oranges, the rules for applying Article 16b of Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables⁽⁴⁾, as last amended by Regulation (EEC) No 1623/91⁽⁵⁾, and Article 2 (2) and (3) of Council Regulation (EEC) No 1121/89 of 27 April 1989 on the introduction of an intervention threshold for apples and cauliflowers⁽⁶⁾, as last amended by Regulation (EEC) No 1754/92⁽⁷⁾, where intervention measures taken during a marketing year in respect of cauliflowers, peaches, nectarines and lemons relate to quantities in excess of the intervention thresholds fixed for those products for that marketing year, the basic and buying-in prices fixed for those products for the following marketing year are to be reduced by 1 % for each 20 000 tonnes by which the threshold is exceeded in the case of cauliflowers, 23 000 tonnes in the case of peaches, 3 000 tonnes in the case of nectarines and 11 200 tonnes in the case of lemons;

Whereas, according to information provided by the Member States, intervention measures taken in the Community in respect of the 1994/95 marketing year involved 170 676 tonnes of cauliflowers, 798 916 tonnes of peaches, 191 523 tonnes of nectarines and 479 001

tonnes of lemons; whereas the Commission has recorded overruns in the intervention thresholds amounting to 106 376 tonnes of cauliflowers, 495 316 tonnes of peaches, 108 423 tonnes of nectarines and 116 001 tonnes of lemons;

Whereas it ensues from the foregoing that the basic and buying-in prices for cauliflowers, peaches, nectarines and lemons fixed by Council Regulation (EC) No 1225/95⁽⁸⁾ for the 1995/96 marketing year must be reduced by 5 % in the case of cauliflowers, 20 % in the case of peaches, 20 % in the case of nectarines and 10 % in the case of lemons;

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

HAS ADOPTED THIS REGULATION:

Article 1

The basic and buying-in prices for cauliflowers, peaches, nectarines and lemons for the period 1 to 30 June 1995 as fixed by Regulation (EC) No 1225/95 are hereby reduced by 5 % in the case of cauliflowers, 20 % in the case of peaches, 20 % in the case of nectarines and 10 % in the case of lemons and shall be as follows:

	Basic price	Buying-in price
Cauliflowers	28,06	12,16
Peaches	43,67	24,22
Nectarines	57,07	27,39
Lemons	46,14	27,08

These prices refer respectively to:

- packed trimmed cauliflowers of quality class I,
- packed peaches of the Amsden, Cardinal, Charles Ingouf, Dixired, Jeronimo, J. H. Hale, Merrill Gemfree, Michelini, Red Haven, San Lorenzo, Springcrest and Springtime varieties of quality class I, size 61 to 67 millimetres,

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 101, 4. 5. 1995, p. 16.

⁽³⁾ OJ No L 128, 20. 5. 1994, p. 9.

⁽⁴⁾ OJ No L 198, 26. 7. 1988, p. 9.

⁽⁵⁾ OJ No L 150, 15. 6. 1991, p. 8.

⁽⁶⁾ OJ No L 118, 29. 4. 1989, p. 21.

⁽⁷⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽⁸⁾ OJ No L 120, 31. 5. 1995, p. 34.

- packed nectarines of the Armking, Crimsongold, Early Sun Grand, Fantasia, Independence, May Grand, Nectared, Snow Queen and Stark Red Gold varieties of quality class I, size 61 to 67 millimetres,
- packed lemons of quality class I, size 53 to 62 millimetres.

These prices do not reflect the cost of the packaging in which the product is presented.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1242/95

of 31 May 1995

fixing for the month of June 1995 the minimum purchase price for lemons delivered to the processing industry and the financial compensation payable after processing thereof

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1035/77 of 17 May 1977 laying down special measures to encourage the marketing of products processed from lemons⁽¹⁾, as last amended by Regulation (EEC) No 1199/90⁽²⁾, and in particular Article 3 thereof,Whereas, pursuant to Article 1 (3) of Regulation (EEC) No 1035/77, the minimum price which processors must pay to producers is fixed, as from the 1991/92 marketing year at 105 % of the average withdrawal price calculated in accordance with the first indent of Article 18 (1) (a) of Council Regulation (EEC) No 1035/72⁽³⁾, as last amended by Commission Regulation (EC) No 997/95⁽⁴⁾; whereas the minimum price must be fixed on the basis of the basic and buying-in prices for the month of June 1995 by Council Regulation (EC) No 1225/95⁽⁵⁾ and reduced by Commission Regulation (EC) No 1241/95⁽⁶⁾;

Whereas, pursuant to Article 2 of Regulation (EEC) No 1035/77, financial compensation cannot exceed the difference between the minimum purchase price referred to in Article 1 of that Regulation and the prices obtained for the raw material in producer third countries;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the month of June 1995 the minimum price referred to in Article 1 (3) of Regulation (EEC) No 1035/77 shall be as follows:

Minimum price: ECU 15,77/100 kg net.

The minimum price shall refer to products ex-producers' packaging stations.

Article 2

For the month of June 1995 the financial compensation referred to in Article 2 of Regulation (EEC) No 1035/77 shall be as follows:

Financial compensation: ECU 10,48/100 kg net.

*Article 3*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission⁽¹⁾ OJ No L 125, 19. 5. 1977, p. 3.⁽²⁾ OJ No L 119, 11. 5. 1990, p. 61.⁽³⁾ OJ No L 118, 20. 5. 1972, p. 1.⁽⁴⁾ OJ No L 101, 4. 5. 1995, p. 16.⁽⁵⁾ OJ No L 120, 31. 5. 1995, p. 34.⁽⁶⁾ See page 61 of this Official Journal.

COMMISSION REGULATION (EC) No 1243/95

of 31 May 1995

amending for the second time Regulation (EEC) No 586/93 providing for an exception in respect of the volatile acid content of certain wines

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

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by the Act Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94 ⁽²⁾, and in particular Article 66 (4) thereof,

Whereas Article 66 of Regulation (EEC) No 822/87 fixes the maximum volatile acid content of wine; whereas provision may be made for exceptions for certain quality wines psr which have undergone ageing for at least two years or have been prepared by special methods; whereas certain quality wines psr originating in Tuscany, the Bordeaux region and south-western France have a volatile acid content higher than that provided for in Article 66 of Regulation (EEC) No 822/87 as a result of ageing for more than two years or other techniques; whereas, if the abovementioned wines are to continue to be prepared by the traditional methods which enable them to acquire their characteristic properties, provision should be made for an exception to Article 66 (1) of Regulation (EEC) No 822/87;

Whereas, for the sake of clarity, these exceptions should be incorporated into Commission Regulation (EEC) No 586/93 ⁽³⁾, as last amended by Regulation (EC) No 1252/94 ⁽⁴⁾, which brings together in a single text all the exceptions provided for in respect of volatile acidity;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EEC) No 586/93 is hereby amended as follows:

1. the following three indents are added to point (b):

- Monbazillac,
- Jurançon,
- Pacherenc de Vic Bihl¹;

2. the following indent is inserted after the first indent of point (c):

- "Bianco dell'Empolese" quality wines psr designated as "vin santo".

Article 2

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

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 61, 13. 3. 1993, p. 39.

⁽⁴⁾ OJ No L 137, 1. 6. 1994, p. 45.

COMMISSION REGULATION (EC) No 1244/95

of 31 May 1995

modifying Regulation (EC) No 1431/94 laying down detailed rules for the application in the poultrymeat sector of the import arrangements provided for in Council Regulation (EC) No 774/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 774/94 of 29 March 1994 opening and providing for the administration of certain Community tariff quotas for high-quality beef, and for pigmeat, poultrymeat, wheat and meslin, and brans, sharps and other residues⁽¹⁾, and in particular Article 7 thereof,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations⁽²⁾, and in particular Article 3 (1) thereof,

Whereas Commission Regulation (EC) No 1431/94⁽³⁾, as last amended by Regulation (EC) No 406/95⁽⁴⁾, laid down detailed rules in the poultrymeat sector for the import arrangements provided for in Regulation (EC) No 774/94;

Whereas the agricultural agreement concluded in the framework Uruguay Round of multilateral trade negotiations and approved by Council Decision 94/800/EC⁽⁵⁾ abolished import levies and provided only for Common Customs Tariff duties; whereas Regulation (EC) No 1431/94 should therefore be adapted accordingly;

Whereas, with a view to preventing speculation and in the light of experience acquired especially concerning the high number of applicants, the conditions for gaining

access to the system must be adjusted in order to exclude the operators who do not have the intention to use the certificates to fulfil their own needs;

Whereas the Management Committee for Poultrymeat and Eggs has not delivered an opinion within the time limit laid down by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1431/94 is amended as follows:

1. Point (a) of Article 3 is replaced by the following text:

'(a) Applicants for import licences must be natural or legal persons who, at the time applications are submitted, can prove to the satisfaction of the competent authorities that they have imported not less than 80 tonnes (product weight) of products falling within CN code 0207, 1602 31 or 1602 39 in the two calendar years preceding the year in which the licence application is lodged. However, retail establishments or restaurants selling their products to final consumers are excluded from the benefits of this system.'

2. In Annexes I, II and III, the word 'levy' is replaced by 'Common Customs Tariff duty'.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 91, 8. 4. 1994, p. 1.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 156, 23. 6. 1994, p. 9.

⁽⁴⁾ OJ No L 44, 28. 2. 1995, p. 10.

⁽⁵⁾ OJ No L 336, 23. 12. 1994, p. 1.

COMMISSION REGULATION (EC) No 1245/95

of 31 May 1995

adopting interim protective measures on applications for STM licences in the beef and veal sector submitted for trade with Spain on 31 May 1995

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

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 85 (1) thereof,

Whereas Commission Regulation (EEC) No 1112/93 of 6 May 1993 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted at 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 3810/91 and (EEC) No 3829/92 ⁽¹⁾, as last amended by Regulation (EC) No 3083/94 ⁽²⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued in May and June 1995;

Whereas Article 85 (1) of the Act of Accession makes provision for the Commission to take the interim protective measures necessary if the indicative ceiling for the year in course or part of it is reached or exceeded;

Whereas an examination of licence application lodged on 31 May 1995 shows that the quantities applied for are

likely to bring about a serious disturbance of the market for live animals; whereas, as an interim protective measure, licences should only be issued for up to a given percentage of the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

For live animals of the bovine species other than pure-bred breeding animals and animals for bullfights:

1. applications for STM licences lodged on 31 May 1995 and notified to the Commission shall be accepted in respect of 100 % for Spain;
2. further applications may be submitted from 29 June 1995.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 113, 7. 5. 1993, p. 10.

⁽²⁾ OJ No L 325, 17. 12. 1994, p. 42.

COMMISSION REGULATION (EC) No 1246/95

of 31 May 1995

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

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994, on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as amended by Regulation (EC) No 553/95⁽²⁾, and in particular Article 4 (1) thereof,

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 56, 14. 3. 1995, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 31 May 1995 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 35	052	69,0
	060	80,2
	066	41,3
	068	32,4
	204	50,9
	212	117,9
	624	75,0
	999	66,7
0707 00 25	052	47,2
	053	166,9
	060	39,2
	066	68,6
	068	60,4
	204	49,1
	624	207,3
	999	91,2
0709 90 77	052	129,7
	204	77,5
	624	196,3
	999	134,5
0809 20 41, 0809 20 49	052	274,7
	400	424,3
	999	349,5

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17). Code '999' stands for 'of other origin.'

COMMISSION REGULATION (EC) No 1247/95
of 31 May 1995
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1101/95 ⁽²⁾, and in particular Article 16 (8) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EC) No 150/95 ⁽⁴⁾, and in particular Article 5 thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EC) No 1957/94 ⁽⁵⁾, as last amended by Regulation (EC) No 1224/95 ⁽⁶⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EC) No 1957/94 to

the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 30 May 1995, as regards floating currencies, should be used to calculate the levies,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁵⁾ OJ No L 198, 30. 7. 1994, p. 88.

⁽⁶⁾ OJ No L 120, 31. 5. 1995, p. 32.

ANNEX

to the Commission Regulation of 31 May 1995 fixing the import levies on white sugar and raw sugar*(ECU/100 kg)*

CN code	Levy ⁽¹⁾
1701 11 10	39,61 ⁽¹⁾
1701 11 90	39,61 ⁽¹⁾
1701 12 10	39,61 ⁽¹⁾
1701 12 90	39,61 ⁽¹⁾
1701 91 00	51,35
1701 99 10	51,35
1701 99 90	51,35 ⁽²⁾

⁽¹⁾ The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42), as last amended by Regulation (EEC) No 1428/78 (OJ No L 171, 28. 6. 1978, p. 34).

⁽²⁾ In accordance with Article 16 (2) of Regulation (EEC) No 1785/81 this amount is also applicable to sugar obtained from white and raw sugar containing added substances other than flavouring or colouring matter.

⁽³⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EC) No 1248/95
of 31 May 1995
fixing the import levy on molasses

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽¹⁾, as last amended by Regulation (EC) No 1101/95 ⁽²⁾, and in particular Article 16 (8) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EC) No 150/95 ⁽⁴⁾, and in particular Article 5 thereof,

Whereas the import levy on molasses was fixed by Commission Regulation (EC) No 1946/94 ⁽⁵⁾, as last amended by Regulation (EC) No 1114/95 ⁽⁶⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EC) No 1946/94 to the information at present available to the Commission that the levy at present in force should be altered pursuant to Article 1 of this Regulation;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 30 May 1995 as regards floating currencies, should be used to calculate the levies,

HAS ADOPTED THIS REGULATION:

Article 1

1. The import levy referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be fixed, in respect of molasses falling within CN codes 1703 10 00 and 1703 90 00, to ECU 0,15 per 100 kilograms.
2. However, no import levy applies to OCT originating products according to Article 101 (1) of Council Decision 91/482/EEC ⁽⁷⁾.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁵⁾ OJ No L 198, 30. 7. 1994, p. 59.

⁽⁶⁾ OJ No L 111, 18. 5. 1995, p. 15.

⁽⁷⁾ OJ No L 263, 19. 9. 1991, p. 1.

COMMISSION REGULATION (EC) No 1249/95
of 31 May 1995
fixing the import levies on rice and broken rice

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 11 (2) thereof,

Having regard to Commission Regulation (EEC) No 833/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports of rice of the long-grain aromatic Basmati variety falling within CN codes 1006 10, 1006 20 and 1006 30 ⁽²⁾, as last amended by Regulation (EEC) No 674/91 ⁽³⁾, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EC) No 178/95 ⁽⁴⁾, as last amended by Regulation (EC) No 1177/95 ⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on the products listed in Article 1 (1) (a) and (b) of Regulation (EEC) No 1418/76 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 June 1995.

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

Done at Brussels, 31 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽³⁾ OJ No L 75, 21. 3. 1991, p. 29.

⁽⁴⁾ OJ No L 24, 1. 2. 1995, p. 52.

⁽⁵⁾ OJ No L 118, 25. 5. 1995, p. 23.

ANNEX

to the Commission Regulation of 31 May 1995 fixing the import levies on rice and broken rice

(ECU/tonne)

CN code	Levies ^(*)		
	Arrangement in Regulation (EEC) No 3877/86 ⁽²⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Third countries (except ACP and Bangladesh) ⁽¹⁾
1006 10 21	—	190,02	388,74
1006 10 23	—	185,05	378,81
1006 10 25	—	185,05	378,81
1006 10 27	284,11	185,05	378,81
1006 10 92	—	190,02	388,74
1006 10 94	—	185,05	378,81
1006 10 96	—	185,05	378,81
1006 10 98	284,11	185,05	378,81
1006 20 11	—	238,61	485,93
1006 20 13	—	232,40	473,52
1006 20 15	—	232,40	473,52
1006 20 17	355,14	232,40	473,52
1006 20 92	—	238,61	485,93
1006 20 94	—	232,40	473,52
1006 20 96	—	232,40	473,52
1006 20 98	355,14	232,40	473,52
1006 30 21	—	293,18	615,17
1006 30 23	—	338,30	705,31
1006 30 25	—	338,30	705,31
1006 30 27	528,98	338,30	705,31
1006 30 42	—	293,18	615,17
1006 30 44	—	338,30	705,31
1006 30 46	—	338,30	705,31
1006 30 48	528,98	338,30	705,31
1006 30 61	—	312,66	655,16
1006 30 63	—	363,13	756,10
1006 30 65	—	363,13	756,10
1006 30 67	567,07	363,13	756,10
1006 30 92	—	312,66	655,16
1006 30 94	—	363,13	756,10
1006 30 96	—	363,13	756,10
1006 30 98	567,07	363,13	756,10
1006 40 00	—	64,54	136,34

⁽¹⁾ Subject to the application of the provisions of Articles 12 and 13 of Regulation (EEC) No 715/90.

⁽²⁾ In accordance with Regulation (EEC) No 715/90, the levies are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

⁽⁴⁾ The levy on imports of rice, not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Regulations (EEC) No 3491/90 and (EEC) No 862/91.

⁽⁵⁾ The levy on imports of rice of the long-grain aromatic Basmati variety is applicable under the arrangements laid down in amended Regulation (EEC) No 3877/86.

⁽⁶⁾ No import levy applies to products originating in the OCT pursuant to Article 101 (1) of amended Decision 91/482/EEC.

COMMISSION REGULATION (EC) No 1250/95

of 31 May 1995

fixing the rates of the refunds applicable to certain milk 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 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 17 (4) thereof,

Whereas Article 17 (1) of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 (a), (b), (c), (d), (e), and (g) of that Regulation and 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 criteria for fixing the amount of such refunds⁽²⁾, as last amended by Regulation (EC) No 1149/95⁽³⁾, 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 the Annex to Regulation (EEC) No 804/68;

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 Article 4 (3) of Regulation (EC) No 1222/94 provides that, when the rate of the refund is being fixed, account should be taken, where necessary, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organization of the market in the product in question to the basic products listed in Annex A to that Regulation or to assimilated products;

Whereas Article 11 (1) of Regulation (EEC) No 804/68 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions set out in Article 1 of Council Regulation (EEC) No 987/68 of 15 July 1968 laying down general rules for granting aid for skimmed milk processed into casein or caseinates⁽⁴⁾, as last amended by Regulation (EEC) No 1435/90⁽⁵⁾;

Whereas Commission Regulation (EEC) No 570/88 of 16 February 1988 on the sale of butter at reduced prices and the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs⁽⁶⁾, as last amended by Regulation (EC) No 455/95⁽⁷⁾, lay down that butter and cream at reduced prices should be made available to industries which manufacture certain goods;

Whereas Council Regulation (EEC) No 990/93⁽⁸⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1222/94 and listed in Article 1 of Regulation (EEC) No 804/68, exported in the form of goods listed in the Annex to Regulation (EEC) No 804/68, are hereby fixed as shown in the Annex to this Regulation.
2. No rates of refund are fixed for any of the products referred to in the preceding paragraph which are not listed in the Annex to this Regulation.
3. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only when the conditions laid down in Regulation (EEC) No 990/93 are observed.

Article 2

This Regulation shall enter into force on 1 June 1995.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 136, 31. 5. 1994, p. 5.

⁽³⁾ OJ No L 116, 23. 5. 1995, p. 1.

⁽⁴⁾ OJ No L 169, 18. 7. 1968, p. 6.

⁽⁵⁾ OJ No L 138, 31. 5. 1990, p. 8.

⁽⁶⁾ OJ No L 55, 1. 3. 1988, p. 31.

⁽⁷⁾ OJ No L 46, 1. 3. 1995, p. 31.

⁽⁸⁾ OJ No L 102, 28. 4. 1993, p. 14.

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

Done at Brussels, 31 May 1995.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX

to the Commission Regulation of 31 May 1995 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description	Rate of refund (ECU/100 kg)
ex 0402 10 19	Powdered milk, obtained by the spray process, with a fat content of less than 1,5 % by weight and with a water content of less than 5 % by weight (PG 2): a) On exportation of goods of CN code 3501 b) On exportation of other goods	— 68,00
ex 0402 21 19	Powdered milk, obtained by the spray process, with a fat content of 26 % by weight and a water content of less than 5 % by weight (PG 3): a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EEC) No 570/88 are exported b) On exportation of other goods	56,66 108,64
ex 0405 00	Butter, with a fat content by weight of 82 % (PG 6): a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EEC) No 570/88 are exported b) On exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat c) On exportation of other goods	20,00 167,25 160,00

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 31 May 1995

terminating the anti-dumping proceeding concerning imports of certain watch movements originating in Malaysia and Thailand

(95/187/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, as last amended by Regulation (EC) No 522/94⁽²⁾, and in particular Articles 5 and 9 (1) thereof,

After consultation within the Advisory Committee,

Whereas :

B. CURRENT SITUATION OF THE COMMUNITY INDUSTRY

- (2) Shortly after the imposition of the provisional measures, the sole Community producer, France Ebauches SA (hereinafter referred to as 'FE', which was the complainant Community industry in this proceeding, went into receivership. In October 1994, the Commission was informed that the competent French court for commercial affairs had accepted an offer from a company named Société Nouvelle France Ebauches SA (hereafter referred to as 'SNFE'), for the maintenance of the activities of FE as a going concern.

A. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EC) No 1076/94⁽³⁾, hereinafter referred to as the 'provisional Regulation', imposed a provisional anti-dumping duty on imports into the Community of certain watch movements originating in Malaysia and Thailand, and falling within CN code 9108 11 00. The duty was extended for a maximum period of two months by Council Regulation (EC) No 2198/94⁽⁴⁾. The period of validity of the provisional duty expired on 11 November 1994.

- (3) Given the abovementioned changed situation in the Community industry, the Commission examined whether this factor might lead to a change in its findings as set out in the provisional Regulation. In this regard, the Commission noted that the complainant Community industry consists of one company, FE, which is no longer a manufacturer of watch movements, as its business has been taken over by SNFE. Since this take-over, SNFE has explicitly requested that the proceeding not be pursued. In the circumstances, as the complaint is no longer supported by producers whose collective output represents a major proportion of the Community's production of the like product, it has become apparent that protective measures are unnecessary, and the proceeding should be terminated.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 66, 10. 3. 1994, p. 10.

⁽³⁾ OJ No L 120, 11. 5. 1994, p. 3.

⁽⁴⁾ OJ No L 236, 10. 9. 1994, p. 1.

C. TERMINATION OF THE PROCEEDING

- (4) In the light of the above, the Commission concludes that the proceeding should be terminated without imposition of protective measures.
- (5) The Advisory Committee has been consulted and has raised no objection.
- (6) Interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to terminate the proceeding and have been given the opportunity to comment,

9108 11 00 and originating in Malaysia and Thailand, is hereby terminated.

- 2. The amounts secured by way of the provisional duty pursuant to Regulation (EC) No 1076/94 shall be released.

Done at Brussels, 31 May 1995.

HAS DECIDED AS FOLLOWS:

Sole Article

- 1. The anti-dumping proceeding, concerning imports of certain watch movements falling within CN code

For the Commission

Leon BRITTAN

Vice-President
