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Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 408/97**of 24 February 1997**

**on the conclusion of an Agreement on cooperation in the sea fisheries sector
between the European Community and the Islamic Republic of Mauritania and
laying down provisions for its implementation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43, in conjunction with Article 228 (2) and the first subparagraph of Article 228 (3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas, on 20 June 1996, the Community and the Islamic Republic of Mauritania initialled an Agreement on cooperation in the sea fisheries sector which provides fishing opportunities for Community fishermen in waters over which Mauritania has sovereignty or jurisdiction;

Whereas it is in the Community's interest to approve this Agreement;

Whereas, in order to manage them efficiently, the fishing opportunities available to the Community in Mauritania's fishing zone should be allocated between the Member States;

Whereas the fishing activities covered by this Regulation are subject to the controls provided for in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽²⁾;

Whereas, to ensure implementation of the said Agreement, it is necessary for the Member States to ensure that shipowners comply with their obligations and provide the Commission with all relevant information;

Whereas in accordance with Regulation (EC) No 3317/94⁽³⁾ and with the arrangements agreed in the

aforementioned Agreement, the flag Member State and the Commission have to ensure that applications for fishing licences comply with those arrangements and the Community rules applicable,

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement on cooperation in the sea fisheries sector between the European Community and the Islamic Republic of Mauritania, hereinafter referred to as 'the Agreement', is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Regulation⁽⁴⁾.

Article 2

The fishing opportunities arising from the provisional application of the Agreement shall be allocated according to the table in the Annex to this Regulation. As far as cephalopods are concerned, the annual allocation of the opportunities between Member States as from 1 August 1997 will be decided upon by 30 June each year according to the procedure provided for in Article 18 of Regulation (EEC) No 3760/92⁽⁵⁾.

Where, in a fishing category, a Member State draws up licence applications for less than its allocated tonnage, the Commission shall offer shipowners from the other Member States the opportunity to submit applications.

⁽¹⁾ OJ No C 380, 16. 12. 1996.

⁽²⁾ OJ No L 261, 20. 10. 1993, p. 1. Regulation as last amended by Regulation (EC) No 2870/95 (OJ No L 301, 14. 12. 1995, p. 1).

⁽³⁾ Council Regulation (EC) No 3317/94 of 22 December 1994 laying down general provisions concerning the authorization of fishing in the waters of a third country under a fisheries agreement (OJ No L 350, 31. 12. 1994, p. 13).

⁽⁴⁾ For the text of the Agreement see OJ No L 334, 23. 12. 1996, p. 20.

⁽⁵⁾ Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture (OJ No L 389, 31. 12. 1992, p. 1). Regulation as amended by the 1994 Act of Accession.

Article 3

1. The Member States shall:

- (a) check that the data given on the licence application forms provided for in Appendix 1 to Annex I to the Agreement match those in the Community register of fishing vessels established by Commission Regulation (EC) No 109/94⁽¹⁾, and report to the Commission any changes in those data at the time of subsequent applications.

They shall likewise verify the assurance of the other data necessary for the drawing-up of licences;

- (b) submit licence applications to the Commission in accordance with Article 3 (1) of Regulation (EC) No 3317/94, no later than two working days before the deadline laid down in point 2.1 of Chapter II of Annex I to the Agreement;
- (c) provide the Commission each month with a list of vessels whose licences have been suspended with, by port, the date on which a licence was handed over and the date on which it was restored;
- (d) transmit to the Commission the summaries of the inspection reports referred to in point 2 of Chapter IV of Annex II to the Agreement. The summaries shall describe the inspections carried out, the results obtained and the action taken;
- (e) transmit to the Commission each month a copy of the scientific observers' reports provided for in point 14 of Chapter V of Annex II to the Agreement;

They shall notify the Commission immediately of any infringements revealed by the information contained in these reports and the action taken;

They shall enter the scientific data contained in these reports in an electronic database. The Commission shall have access to these databases;

- (f) transmit to the Commission, and at the same time to Mauritania's competent authorities, a copy of the notice of the inspection missions planned under point 4 of Chapter VI of Annex II to the Agreement and, where relevant, of the notification that an observer will be taking part;

They shall transmit to the Commission a copy of the reports of the observers appointed by their supervisory authorities pursuant to point 3 of Chapter VI of Annex II to the Agreement;

- (g) adopt the provisions needed to take appropriate action and initiate administrative proceedings, as provided for in point 15 of Chapter V of Annex II to the Agreement.

Article 4

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 16 of the Agreement⁽²⁾.

Article 5

This Regulation shall enter into force on the seventh day following that 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, 24 February 1997.

For the Council

The President

H. VAN MIERLO

⁽¹⁾ Commission Regulation (EC) No 109/94 of 19 January 1994 concerning the fishing vessel register of the Community (OJ No L 19, 22. 1. 1994, p. 5). Regulation as amended by Regulation (EC) No 493/96 (OJ No L 72, 21. 3. 1996, p. 12).

⁽²⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

ANNEX

Provisional allocation of fishing opportunities between Member States

Fishing categories	Member State	Tonnage/permitted number of vessels				
		1. 8. 1996 to 31. 7. 1997	1. 8. 1997 to 31. 7. 1998	1. 8. 1998 to 31. 7. 1999	1. 8. 1999 to 31. 7. 2000	1. 8. 2000 to 31. 7. 2001
Crustaceans other than crawfish (GRT)	Spain	4 000	4 000	4 000	4 000	4 000
	Italy	1 000	1 000	1 000	1 000	1 000
	Portugal	500	500	500	500	500
Black hake (GRT)	Spain	8 500	8 500	8 500	8 500	8 500
Demersal species other than black hake — trawl net (GRT)	Spain	5 500	5 500	5 500	5 500	5 500
Demersal species other than black hake — other gear (GRT)	Spain	1 200	1 200	1 200	1 200	1 200
	Portugal	2 000	2 000	2 000	2 000	2 000
	France	1 000	1 000	1 000	1 000	1 000
Cephalopods (vessels)	Spain	22				
	Italy	3	p.m.	p.m.	p.m.	p.m.
Crawfish (GRT)	Portugal	300	300	300	300	300
Pelagic species (vessels)		22	22	22	22	22
Tuna seiners (vessels)	Spain	22	22	22	22	22
	France	18	18	18	18	18
Pole-and-line tuna vessels and surface longliners (vessels)	Spain	7	7	7	7	7
	Portugal	3	3	3	3	3
	France	7	7	7	7	7

COUNCIL REGULATION (EC) No 409/97
of 24 February 1997
amending Regulation (EEC) No 2328/91 on improving the efficiency of
agricultural structures

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

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

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

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

Whereas special rules have been adopted for the application of compensatory allowances as provided for in Regulation (EEC) No 2328/91 ⁽³⁾, in the less-favoured areas of Portugal; whereas, in view of the agricultural structure situation in Portugal, the provisions to improve that situation should be extended in a suitable form,

Article 1

Article 37 of Regulation (EEC) No 2328/91 is hereby replaced by the following:

'Article 37

Compensatory allowances as provided for in Article 17 may be granted until 31 December 1997 to farmers farming at least one hectare of utilized agricultural area in mainland Portugal.'

Article 2

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

It shall apply from 1 January 1996.

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

Done at Brussels, 24 February 1997.

For the Council

The President

H. VAN MIERLO

⁽¹⁾ OJ No C 8, 11. 1. 1997, p. 8.

⁽²⁾ Opinion delivered on 21 February 1997 (not yet published in the Official Journal).

⁽³⁾ OJ No L 218, 6. 8. 1991, p. 1. Regulation as last amended by Regulation (EC) No 2387/95 (OJ No L 244, 12. 10. 1995, p. 50).

COUNCIL REGULATION (EC) No 410/97

of 24 February 1997

on certain procedures for applying the Interim Agreement on Trade and Trade-Related Measures between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas a Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Slovenia, of the other part, was signed in Luxembourg on 10 June 1996;

Whereas, pending the entry into force of the Europe Agreement, its provisions on trade and trade-related matters have been given effect since 1 January 1997 by an Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part, hereinafter referred to as 'the Agreement', signed in Brussels on 11 November 1996 and which is being applied provisionally from 1 January 1997⁽¹⁾;

Whereas it is necessary to lay down the procedures for applying certain provisions of the Agreement;

Whereas, with regard to trade protection measures, it is appropriate, where the provisions of the Agreement render it necessary, to lay down specific provisions concerning the general rules provided for in particular in Council Regulation (EC) No 3285/94 of 22 December 1994 on common rules for imports⁽²⁾ and in Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽³⁾;

Whereas account should be taken of the undertakings set out in the Agreement before deciding whether a safeguard measure should be introduced;

Whereas the procedures concerning safeguard clauses provided for in the Treaty establishing the European Community are also applicable;

Whereas specific provisions have been adopted for safeguard measures concerning the textile products covered by Protocol 1 of the Agreement;

Whereas certain provisions should be introduced for the application of tariff quotas and tariff ceilings,

HAS ADOPTED THIS REGULATION:

TITLE I

Tariff quotas and tariff ceilings

Article 1

Provisions for the application of Article 15 (2) of the Agreement concerning agricultural products falling within Annex II of the Treaty and subject to a common market organization and concerning products falling within CN codes 0711 90 50 and 2003 10 10, shall be adopted in accordance with the procedure provided for in Article 23 of Regulation (EEC) No 1766/92⁽⁴⁾ or in the corresponding provisions of other regulations establishing a common organization of the agricultural markets.

Article 2

1. Provisions for the application of tariff quotas and tariff ceilings provided for in Annexes II, VI (other than those covered by Article 1) and VIIa of the Agreement and in Annex I to Protocol 1 of the Agreement, including amendments and technical adaptations made necessary by amendments to the combined nomenclature and Taric codes, or arising from the conclusion by the Council of agreements, protocols or exchanges of letters between the Community and Slovenia, shall be adopted by the Commission, assisted by the Customs Code Committee set up by Article 247 of Regulation (EEC) No 2913/92⁽⁵⁾, according to the procedure set out in paragraph 2 of this Article.

⁽¹⁾ OJ No L 344, 31. 12. 1996, p. 1.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 53.

⁽³⁾ OJ No L 56, 6. 3. 1996, p. 1.

⁽⁴⁾ OJ No L 181, 1. 7. 1992, p. 21. Regulation as last amended by Regulation (EC) No 923/96 (OJ No L 126, 24. 5. 1996, p. 37).

⁽⁵⁾ OJ No L 302, 19. 10. 1992, p. 1.

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

The Commission shall adopt the measures, which apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission may defer application of the measures which it has decided for a period of not more than three months from the date of such communication,
- the Council, acting by qualified majority, may take a different decision within the period referred to in the first indent.

3. The Committee may examine any question concerning the application of tariff quotas and tariff ceilings, which is raised by its chair either at the latter's initiative or at the request of a Member State.

4. As soon as the tariff ceilings are reached, the Commission may adopt a regulation re-establishing, until the end of the calendar year, the customs duties applicable to third countries.

TITLE II

Protective measures

Article 3

The Council may, in accordance with the procedure provided for in Article 113 of the Treaty, decide to refer to the Cooperation Council established by the Agreement with regard to the measures provided for in Articles 23 and 45 (2) of the Agreement. Where necessary, the Council shall adopt these measures in accordance with the same procedure.

The Commission may, on its own initiative or at the request of a Member State, present the necessary proposals to this end.

Article 4

1. In the case of a practice that may justify application by the Community of the measures provided for in Article 33 of the Agreement, the Commission, after examining the case, on its own initiative or at the request of a Member State, shall decide whether such practice is compatible with the Agreement. Where necessary, it shall propose the adoption of safeguard measures to the

Council, which shall act in accordance with the procedure laid down in Article 113 of the Treaty, except in the cases of aid to which Regulation (EC) No 3284/94⁽¹⁾ applies, when measures shall be taken according to the procedures laid down in that Regulation. Measures shall be taken only under conditions set out in Article 33 (6) of the Agreement.

2. In the case of a practice that may cause measures to be applied to the Community by Slovenia on the basis of Article 33 of the Agreement, the Commission, after examining the case, shall decide whether the practice is compatible with the principles set out in the Agreement. Where necessary, it shall take appropriate decisions on the basis of criteria which result from the application of Articles 85, 86 and 92 of the Treaty.

Article 5

In the case of a practice which is liable to warrant the application, by the Community, of the measures provided for in Article 24 of the Agreement, the introduction of anti-dumping measures shall be decided upon in accordance with the provisions laid down in Regulation (EC) No 384/96 and the procedure provided for in Article 28 (2) and (3) (b) or (d) of the Agreement.

Article 6

1. Where a Member State requests the Commission to apply safeguard measures as provided for in Articles 25 and 26 of the Agreement, it shall provide the Commission, in support of its request, with the information needed to justify it. If the Commission decides not to apply safeguard measures, it shall inform the Council and the Member States accordingly within five working days of receipt of the request from the Member State.

Any Member State may refer this decision of the Commission to the Council within ten working days of its notification.

If the Council, acting by qualified majority, indicates its intention to adopt a different decision, the Commission shall inform Slovenia thereof forthwith and shall notify it of the opening of the consultations within the Cooperation Council as provided for in Article 28 (2) and (3) of the Agreement.

The Council, acting by a qualified majority, may take a different decision within twenty working days of the conclusion of the consultations with Slovenia within the Cooperation Council.

2. The Commission shall be assisted by a committee (hereinafter referred to as 'the Committee'), composed of representatives of the Member States and chaired by a representative of the Commission.

The Committee shall meet when convened by its chairman. The latter shall communicate any appropriate information to the Member States at the earliest opportunity.

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 22.

3. Where the Commission, at the request of a Member State or on its own initiative, decides that the safeguard measures provided for in Articles 25 and 26 of the Agreement should be applied:

- it shall inform the Member States forthwith if acting on its own initiative or, if it is responding to a Member State's request, within five working days of the date of receipt of that request,
- it shall consult the Committee,
- at the same time it shall inform Slovenia and notify the Cooperation Council of the opening of consultations as referred to in Article 28 (2) and (3) of the Agreement,
- at the same time it shall provide the Cooperation Council with all the information necessary for these consultations.

4. In any event, the consultations within the Cooperation Council shall be deemed to be completed 30 days after the notification referred to in paragraphs 1 and 3.

At the end of the consultations or on expiry of the period of 30 days, and if no other arrangement proves possible, the Commission after consulting the Committee, may take appropriate measures to implement Articles 25 and 26 of the Agreement.

5. The decision referred to in paragraph 4 shall be notified forthwith to the Council, the Member States and Slovenia; it shall also be notified to the Cooperation Council.

The decision shall be applicable immediately.

6. Any Member State may refer the Commission decision referred to in paragraph 4 to the Council within ten working days of receiving notification of the decision.

7. If the Commission has not taken a decision within the meaning of the second subparagraph of paragraph 4 within 10 working days of the end of the consultations with the Cooperation Council or, as the case may be, the end of the periods of 30 days, any Member State which has referred the matter to the Commission in accordance with paragraph 3 may refer it to the Council.

8. In the cases referred to in paragraphs 6 and 7 the Council, acting by a qualified majority, may take a different decision within two months.

Article 7

1. Where exceptional circumstances arise within the meaning of Article 28 (3) (d) of the Agreement, the Commission may take immediate safeguard measures in the cases referred to in Articles 25 and 26 of the Agreement.

If the Commission receives a request from a Member State, it shall take a decision thereon within five working days of receipt of the request.

2. The Commission shall notify the Council and the Member States of its decision.

3. Any Member State may refer the Commission's decision to the Council in accordance with the procedure provided for in Article 6 (6).

The procedure set out in Article 6 (7) and (8) shall be applicable.

If the Commission has not taken a decision within the time limit mentioned in the second subparagraph of paragraph 1, any Member State which has referred the matter to the Commission may refer it to the Council in accordance with the procedures laid down in the first and second subparagraphs of this paragraph.

Article 8

The procedures laid down in Articles 6 and 7 shall not apply to products covered by Protocol 1 of the Agreement.

Article 9

By way of derogation from Articles 6 and 7, if the circumstances demand that measures are taken concerning agricultural products on the basis of Articles 16 and 25 of the Agreement or on the basis of provisions in the Annexes covering these products, such measures shall be taken according to procedures provided for by the rules establishing a common organization of the agricultural markets, or in specific provisions adopted pursuant to Article 235 of the Treaty and applicable to products resulting from the processing of agricultural products, provided that the conditions established pursuant to Article 16 or Article 28 (2) and (3) of the Agreement are met.

Article 10

Notification to the Cooperation Council as required by the Agreement shall be the responsibility of the Commission, acting on behalf of the Community.

Article 11

This Regulation does not preclude the application of safeguard measures provided for in the Treaty establishing the European Community, in particular in Articles 109h and 109i, according to the procedures laid down therein.

Article 12

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

It shall apply from 1 January 1997.

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

Done at Brussels, 24 February 1997.

For the Council

The President

H. VAN MIERLO

COMMISSION REGULATION (EC) No 411/97**of 3 March 1997****laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational programmes, operational funds and Community financial assistance**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables⁽¹⁾, and in particular Articles 48 and 57 thereof,

Whereas Article 15 of Regulation (EC) No 2200/96 provides for financial assistance to be granted to producer organizations setting up an operational fund maintained and used within the framework of an operational programme in accordance with certain rules and within certain limits; whereas Article 13 of the abovementioned Regulation grants the same financial assistance to existing producer organizations needing a transitional period in order to qualify for recognition, provided that they comply with certain requirements and carry out a plan of action in accordance with certain rules; whereas Article 16 of the abovementioned Regulation lays down certain rules for the implementation of operational programmes; whereas detailed rules should be laid down for the application of those provisions;

Whereas, in the interests of simplification, operational programmes should be presented and approved in the same way as plans of action, and the producer organizations referred to in Articles 11 and 13 of Regulation (EC) No 2200/96 should be treated as producer organizations; whereas, to prevent misuse of the scheme, the marketed production of producer organizations should be defined as the entire production marketed by the organization itself or with its authorization; whereas, in order to facilitate the preparation of operational programmes and the calculation of the estimated amounts of the operational funds by the producer organizations in foreseeable conditions, the ceilings on Community financial assistance should be calculated on the basis of the value of production marketed during the year preceding that to which those ceilings relate;

Whereas, in the interests of sound management, the deadlines for the presentation and approval of operational programmes should be determined in the light not only of the time needed for the administrative procedures but also of the information and undertakings to be included in, and activities to be excluded from, the programmes; whereas, since the programmes are managed on an annual basis, it should be stipulated that programmes not

approved before a given date should be postponed for one year;

Whereas there must be room for discrepancies between the actual execution of the programmes and the estimates contained therein, subject to certain limits and conditions, to prevent approved programmes from slipping away from their targets; whereas, in addition, there should be an annual procedure for amending operational programmes for the following year so that they can be adjusted to take account of any new conditions which could not have been foreseen when they were initially presented;

Whereas the procedure for determining and notifying information on the estimated amounts of the operational funds and the estimated amounts of financial assistance as referred to in the first subparagraph of Article 16 (2) of Regulation (EC) No 2200/96 should be supplemented by an additional stage whereby the Commission sets the estimated ceiling on the financial assistance, since this will give producer organizations guidance as to the definitive ceiling likely to be set in accordance with the third subparagraph of Article 15 (5) of the abovementioned Regulation;

Whereas arrangements should be made for creating a system of advance payments accompanied by appropriate securities; whereas it should be stipulated that, in order to prevent the systematic recovery of advances, such payments should not exceed the minimum level of financial assistance; whereas it should be possible for furnished securities to be progressively released as implementation of the operational programme proceeds, to the extent of up to 80 % of the advances paid, the remaining amount being retained until the balance of the assistance has been paid;

Whereas the information to be included in applications for assistance should be specified; whereas, in the interests of uniform application, the marketing stage at which the value of production is to be calculated must be specified; whereas it should also be specified that the financial contributions of members of the producer organization are based on the marketed production used to calculate the Community financial assistance; whereas, in order to avoid needless duplication of applications for amendments to operational programmes because of technical delays in their implementation, it must be possible for advances to be settled at the end of the operational programme, provided that the equivalent contribution from the producer organization is maintained in the operational fund;

⁽¹⁾ OJ No L 297, 21. 11. 1996, p. 1.

Whereas it should be stipulated that the ceiling on Community financial assistance applies uniformly to all applications for assistance in excess of 2 % and, from 1999, in excess of 2,5 % of the value of production, while applications not exceeding this minimum limit fixed by the Council will not be affected;

Whereas, in view of the very short time available for the implementation of this Regulation, certain transitional provisions should be laid down, particularly as regards the deadlines for presentation and approval of operational programmes; whereas, in addition, for the purpose of the initial application of the new arrangements, calculation of the ceiling set on assistance should be based on the value of production marketed during a three-year period, so as not to disadvantage organizations having had a year with a low level of marketed production;

Whereas the activities of producer organizations and their effectiveness should be monitored; whereas this can be achieved by means of periodical reports and an assessment;

Whereas strict control procedures should be laid down, together with deterrent penalties in the event of infringement, given the high degree of responsibility and initiative conferred on the producer organizations;

Whereas the deadline for transmission to the Commission of the national frameworks referred to in the second subparagraph of Article 16 (1) of Regulation (EC) No 2200/96 must be fixed; whereas, since for practical reasons that date is later than the deadline for approval by the Member States of the first set of operational programmes, those programmes must be approved by reference to the objectives laid down in Article 130r of the Treaty and the Community programme of policy and action in relation to the environment and sustainable development;

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

HAS ADOPTED THIS REGULATION:

CHAPTER I

Subject-matter and scope

Article 1

The rules laid down herein shall apply to Community financial assistance, operational funds and operational programmes as referred to in Article 15 (1) and (2) (b) of

Regulation (EC) No 2200/96 and to plans of action as referred to in Article 13 (2) (a) of that Regulation.

For the purposes of this Regulation, unless it is stated otherwise, plans of action shall be treated in the same way as operational programmes.

Article 2

1. 'Producer organizations' as referred to in this Regulation means those recognized pursuant to Article 11 of Regulation (EC) No 2200/96 and those referred to in Article 13 of that Regulation subject to the conditions therein.

2. Where associations of producer organizations act on behalf of their members for the purposes of managing their operational funds in accordance with Article 16 (3) of Regulation (EC) No 2200/96, they shall be treated in the same way as producer organizations for the purposes of this Regulation. However, the provisions relating to verifications and penalties shall continue to apply to producer organizations which are members of such associations.

3. Producer organizations may qualify for Community financial assistance on the terms set out in Articles 15 and 16 of Regulation (EC) No 2200/96 and those laid down herein.

4. For the purposes of this Regulation, 'marketed production' means the products of members of producer organizations for which the latter are recognized, disposed of under the conditions laid down in Article 11 (1) (c) (3) of Regulation (EC) No 2200/96.

5. For the purpose of applying the third subparagraph of Article 15 (5) of Regulation (EC) No 2200/96, the ceiling on financial assistance shall be calculated on the basis of the value of marketed production for the year preceding that for which the ceiling is fixed.

6. Member States shall take the measures necessary to gather information on the value, as at the stage referred to in Article 9 (2) (a), of marketed production within the meaning of paragraph 5 of producer organizations which have not presented operational programmes.

CHAPTER II

Operational programmes and funds

Article 3

Proposed operational programmes shall be submitted for approval to the competent authorities in the Member State in which the producer organization has its headquarters by 15 September of the year preceding that in which they are to be implemented. However, the Member States may postpone that date.

The closing date for presenting plans of action before the expiry of the transitional period referred to in Article 13 (1) of Regulation (EC) No 2200/96 shall be 15 September 1998.

The programmes shall be implemented in annual periods running from 1 January to 31 December.

Article 4

1. Proposed operational programmes shall satisfy the requirements of Article 15 (4) of Regulation (EC) No 2200/96 or, in the case of plans of action, those required, once the plan of action is completed, for compliance with Article 11 (2) of that Regulation. They shall cover at least the following:

- (a) the duration of the programme;
- (b) a description of the initial situation, in particular as regards production, marketing and equipment;
- (c) the objectives of the programme, bearing in mind the outlook for production and outlets;
- (d) the operations to be undertaken and the means to be employed for attaining those objectives in each year of implementation of the programme;
- (e) the financial aspects, namely the method of calculation and the financial contributions, the procedure for financing the operational fund as referred to in paragraph 3 (b), and the budget and timetable for undertaking operations for each year of implementation of the programme.

2. Proposed operational programmes shall not cover:

- (a) administrative or operating expenditure, with the exception of expenditure relating to their implementation;
- (b) fruit and vegetables produced by organization members outside the Community;
- (c) supplements to income or prices;
- (d) advertising campaigns for specific brand names;
- (e) operations that could lead to distortion of competition in other business activities undertaken by the producer organization; operations or measures directly or indirectly benefiting other business activities undertaken by the producer organization shall be financed in proportion to their use by the sectors or products for which the producer organization is recognized.

3. Proposed operational programmes shall be admissible only if accompanied by:

- (a) a written undertaking from the producer organization to comply with Regulation (EC) No 2200/96 and this Regulation, and not to receive, directly or indirectly,

duplicate Community or national funding in respect of measures and/or operations qualifying for Community financing under this Regulation;

- (b) evidence of the setting-up of an operational fund as referred to in Article 15 (1) of Regulation (EC) No 2200/96 and in particular of the opening of a bank account with a financial institution in the Member State in which the producer organization has its headquarters, to be used solely for transactions connected with the implementation of the programme, the administration of the operational fund and the financing of withdrawals in accordance with Article 15 (3) of Regulation (EC) No 2200/96.

Article 5

1. The competent national authorities shall take decisions on programmes before 15 December of the year in which they are submitted.

2. The national competent authorities shall verify:

- (a) by all appropriate means, including on-the-spot inspections, the accuracy of information provided pursuant to Article 4 (1) (b) and (c);
- (b) compliance of the objectives of programmes with Article 15 (4) of Regulation (EC) No 2200/96 or, in the case of plans of action, compliance of their objectives with Article 11 (2) of that Regulation;
- (c) the economic consistency and technical quality of proposed programmes, the soundness of the estimates and the financing plan, and the planning of its implementation.

3. The competent national authorities shall, as appropriate:

- (a) approve programmes which meet the requirements of Articles 15 and 16 of Regulation (EC) No 2200/96 and those of this Chapter;
- (b) request changes to the proposed programmes; only programmes that incorporate the changes requested shall be approved;
- (c) reject the programmes.

The competent national authorities shall notify producer organizations of their decisions.

4. Operational programmes approved before 15 December shall be implemented as from 1 January of the following year.

The implementation of programmes approved after 15 December shall be postponed for one year.

Article 6

1. Where unforeseeable circumstances arise, or in order to take account of the estimate of the ceiling on financial assistance drawn up in accordance with Article 7 (5), producer organizations may implement their operational programmes in part only; in such cases, programmes may continue, provided that a request for changes is submitted in accordance with paragraph 2 of this Article.

The expenditure set out in the approved programme may be exceeded by up to 20 % for each measure, provided that the estimated amount of the operational fund referred to in Article 7 (1) is not exceeded; programmes may continue provided that a request for changes is submitted in accordance with paragraph 2 if the excess is more than 5 % of the foreseeable expenditure under the operational programme.

2. Producer organizations may request changes to operational programmes each year by 15 September for implementation on 1 January of the following year. However, Member States may postpone the date for submitting requests.

Changes may include extending operational programmes on condition that their total duration does not exceed five years. In the case of plans of action as referred to in Article 13 (2) of Regulation (EC) No 2200/96, the duration shall commence on the entry into force of this Regulation.

Requests for changes shall be accompanied by all supporting documents.

The competent authorities shall take decisions on requests for changes to operational programmes before 15 December, after considering the evidence supplied, and with due regard for the requirements of Article 5 (2). Where a decision is not taken within the abovementioned time limit, the request shall be deemed to have been rejected.

CHAPTER III

Community financial assistance

Article 7

1. Each year by 15 September at the latest and, where applicable, at the same time as proposed operational programmes as referred to in Article 3 or requests for changes as referred to in Article 6 (2) of this Regulation, producer organizations implementing operational programmes shall forward the estimated amounts of the

operational funds for the following year to the Member States in accordance with Article 16 (2) of Regulation (EC) No 2200/96.

Calculation of the estimated amount of operational funds shall be based on:

- (a) the factors referred to in Article 16 (2) of Regulation (EC) No 2200/96 and contained in the proposed operational programmes and on estimated expenditure on withdrawals as referred to in Article 15 (3) thereof;
- (b) an estimate of the value of marketed production during the current year.

2. When proposed programmes are being approved, Member States shall establish the estimated amount of financial assistance as referred to in the first subparagraph of Article 16 (2) of Regulation (EC) No 2200/96, taking into account its capping at 4 %, and from 1999 onwards at 4,5 %, of the value of the marketed production of the producer organization used to calculate the estimated amount of the operational fund. They shall notify the producer organizations of that amount before 15 December, together with the decisions as referred to in Article 5 (3) or in the fourth subparagraph of Article 6 (2) of this Regulation, in accordance with Article 16 (2) of Regulation (EC) No 2200/96.

3. Before 31 January of the year for which the estimated amount of the operational fund is fixed in accordance with paragraph 1, producer organizations shall communicate to Member States an update of the amount to take account of the definitive value of production marketed during the previous year.

As soon as Member States receive this communication, they shall update the estimated amount of financial assistance established in accordance with paragraph 2.

4. Before 20 February, Member States shall send the Commission a summary of the updated estimated amounts of the operational funds, indicating separately the definitive value of the production marketed during the previous year on which those amounts are calculated, and a summary of the updated estimated amounts of financial assistance, differentiating between aid amounting respectively to less than and more than 2 % and, from 1999, less than and more than 2,5 %, of the value of the production of the producer organizations marketed during the previous year. They shall also forward the information referred to in Article 2 (6).

5. The Commission shall draw up an estimate of the ceiling on financial assistance as referred to in Article 15 (5) of Regulation (EC) No 2200/96, which it shall forward to the Member States for their information.

Article 8

1. Producer organizations may on application be granted advance payments on the proportion of the operational fund to be used to finance an operational programme.

Applications for advance payments shall be made in January, April, July and October. They shall cover foreseeable expenditure arising from operational programmes for the three-month period starting in the month in which the application is submitted. Total advance payments made for a given year may not exceed 2 % of the definitive value of production marketed during the previous year, less the estimated expenditure on withdrawals as referred to at point (a) of the second subparagraph of Article 7 (1).

2. Advances shall be paid subject to the furnishing of a security equivalent to 110 % thereof.

Applications for the release of securities may be submitted during the year and shall be accompanied by the relevant supporting documents. Securities shall be released in respect of up to 80 % of advances paid.

Applications for the proportion of the financial assistance covering withdrawals as referred to in Article 15 (3) of Regulation (EC) No 2200/96 may, where applicable, be submitted at the same time as applications for the release of securities as referred to in the second subparagraph of this paragraph, accompanied by the relevant supporting documents. All applications for a proportion of the financial assistance shall, when added to that covered by previous applications, cover amounts and quantities not exceeding the limits laid down in the third subparagraph of Article 15 (3) and in Article 23 (3) and (4) of the above-mentioned Regulation; from 2002 onwards, for the purposes of Article 23 (5) of Regulation (EC) No 2200/96, the maximum quantity of withdrawals to be considered for the purposes of the operational fund shall be determined on the basis of the quantities withdrawn, financed from the fund, in the previous two years. In the first two years of application, the maximum quantity referred to above shall be 13 %.

3. Securities shall be furnished in accordance with the conditions laid down in Commission Regulation (EEC) No 2220/85 (¹).

The primary requirement within the meaning of Article 20 of that Regulation shall cover the performance of the operations set out in the operational programmes subject to the undertakings set out in Article 4 (3) (a) of this Regulation.

In the event of failure to comply with the primary requirement or of serious failure to meet the obligations referred to in Article 4 (3) (a), the security shall be forfeited, without prejudice to other penalties to be applied in accordance with Article 48 of Regulation (EC) No 2200/96.

In the event of failure to comply with other requirements, the security shall be forfeited in proportion to the gravity of the irregularity that has been established.

Article 9

1. Applications for financial assistance or the balance thereof shall be submitted, one only in respect of each programme, no later than 31 January of the year following that to which they relate.

2. Applications shall be accompanied by supporting documents showing:

- (a) the quantity and value of the marketed production within the meaning of Article 2 (4) and (5), as at the 'ex-producer organization' stage and, where applicable, as 'packaged or prepared but not processed product';
- (b) the financial contributions levied on members and paid into the operational fund, in accordance with the second subparagraph of Article 15 (1) of Regulation (EC) No 2200/96 for marketed production within the meaning of Article 2 (4) of this Regulation;
- (c) the expenditure incurred in respect of the operational programme;
- (d) the proportion of the operational fund intended to finance market withdrawals in accordance with Article 15 (3) of Regulation (EC) No 2200/96, the level of compensation and/or supplements paid to members, and also compliance with the limits laid down in the third subparagraph of Article 15 (3) and in Article 23 (3), (4) and (5) of the abovementioned Regulation.

3. Advances granted for operations which cannot be implemented within the time limits laid down in the programme shall only be deducted from the balance as referred to in paragraph 1 when the last balance for the last year of application of the programme in question is determined, provided that an equivalent contribution from the producer organization is maintained in the operational fund.

Article 10

Before 1 March, Member States shall send the Commission a summary of the financial assistance applied for by the producer organizations and the value of their marketed production within the meaning of Article 2 (5),

(¹) OJ No L 205, 3. 8. 1985, p. 5.

differentiating between applications in respect of assistance of less than and more than 2 % and, from 1999, of less than and more than 2,5 %, of the value of the marketed production of the producer organization. They shall also forward the information referred to in Article 2 (6).

In accordance with the third subparagraph of Article 15 (5) of Regulation (EC) No 2200/96, before 1 April the Commission shall set the ceiling on financial assistance applicable to applications for assistance in excess of 2 % and, from 1999, in excess of 2,5 % of the value of marketed production.

CHAPTER IV

General provisions

Article 11

The implementation of operational programmes and withdrawal operations eligible for Community financing under an operational fund shall be the subject of annual reports, which shall accompany applications for financial assistance or, as appropriate, applications for the balance. The reports shall cover operational programmes implemented during the preceding year and withdrawals.

Final reports shall replace the reports referred to in the first paragraph for the final year of application of operational programmes.

Such final reports shall be accompanied by an assessment of the operational programmes, prepared, where applicable, with the assistance of a specialized consultancy office. Such assessments must verify attainment of the objectives pursued by the programmes and, where appropriate, suggest changes to operations and/or methods to be considered when subsequent operational programmes are drawn up.

Article 12

1. Member States shall carry out checks on producer organizations so as to ensure effective verification of compliance with the conditions for grant of assistance.

2. Checks shall relate at least to a significant sample of applications each year. The sample must represent at least 10 % of producer organizations and 30 % of total Community assistance.

Should the checks reveal significant irregularities in a region or part of a region, the competent authorities shall carry out additional checks during the year in question and shall increase the percentage of applications to be checked the following year for that region or part thereof.

3. The competent authorities shall determine which producer organizations to check on the basis, in particular, of a risk analysis and the representativeness of the assistance. The risk analysis shall take account of:

- (a) the amount of assistance;
- (b) the trend of annual programmes in relation to the previous year;
- (c) the findings of the checks in previous years;
- (d) other parameters to be determined by Member States.

Article 13

1. The recipient shall be required to reimburse double the amounts unduly paid out, plus interest calculated on the basis of the period elapsing between payment and reimbursement by the recipient, where checks carried out in accordance with Article 12 show that:

- (a) the real value of marketed production within the meaning of Article 2 (4) and (5) is less than the amount used to calculate the Community financial assistance; or
- (b) the operational fund has been maintained in a manner which does not comply with Article 15 (1) of Regulation (EC) No 2200/96 or has been used for purposes other than those referred to in Article 15 (2) of that Regulation; or
- (c) the operational programme has been implemented in a manner which does not comply with the conditions for its approval by the Member State concerned, without prejudice to Article 6 of this Regulation.

The rate of interest referred to in the first subparagraph shall be that applied by the European Monetary Institute to transactions in ecus published in the 'C' series of the *Official Journal of the European Communities* and in force on the date on which the undue payment is made, plus three percentage points.

2. Where the difference between the aid actually paid and the aid due is greater than 20 % of the aid due, the recipient shall be required to repay all of the aid paid, plus the interest referred to in paragraph 1.

3. Sums recovered, with the interest accrued, shall be paid to the responsible paying agency and deducted by it from expenditure financed by the European Agricultural Guidance and Guarantee Fund.

4. In the event of a false declaration made deliberately or by serious negligence, the producers' organization concerned shall be debarred from receiving Community financial assistance for the year following that in respect of which the false declaration was discovered.

5. Paragraphs 1 to 4 shall apply without prejudice to other penalties to be adopted in accordance with Article 48 of Regulation (EC) No 2200/96.

Article 14

The national framework referred to in the second subparagraph of Article 16 (1) of Regulation (EC) No 2200/96 shall be transmitted to the Commission not later than 15 September 1997.

CHAPTER V**Transitional provisions***Article 15*

1. For 1997, producer organizations which have lodged applications for recognition pursuant to Regulation (EC) No 2200/96 and those recognized pursuant to Council Regulation (EEC) No 1035/72⁽¹⁾, may submit for approval until 30 June 1997 proposed operational programmes of a duration which may be limited to 31 December 1998 where they are accompanied by a undertaking from the organization to submit a new operational programme before 15 September 1998. Proposed programmes shall indicate the estimated amounts of operational funds as referred to in Article 7 (1) based on the average value of production marketed during 1994, 1995 and 1996.

2. Within three months the competent national authorities shall take a decision on proposals submitted. Proposals for operational programmes submitted by producer organizations which do not receive recognition shall be rejected automatically.

3. The competent national authorities shall notify the producer organizations of their decisions approving proposals and at the same time the estimated amount of the financial assistance for 1997 calculated in accordance with Article 7 (2).

4. Communications as referred to in Article 7 (4) shall be made before 15 September 1997.

5. For the purpose of applying Articles 9 and 10 in 1998, account shall be taken of the average value of production marketed during 1994, 1995 and 1996.

6. Implementation of operational programmes may commence once they have been submitted, at the producer organizations' own risk.

Article 16

This Regulation shall enter into force on the seventh 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, 3 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

COMMISSION REGULATION (EC) No 412/97

of 3 March 1997

laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards the recognition of producer organizations

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables⁽¹⁾, and in particular Articles 11 (2) (a) and 48 thereof,

Whereas a minimum number of members and a minimum volume of marketable production should be laid down using a pragmatic approach and taking into account the structural, economic and administrative situation in the Member States; whereas these minimum conditions should be modulated for different categories of producer organizations to take account of different circumstances of production and of experience acquired; whereas the Member States should therefore be allowed to lay down minimum conditions more stringent than those provided for by this Regulation;

Whereas the minimum volume of marketable production should be expressed in ecus so that it may be more representative; whereas Member States should nevertheless be permitted to express the minimum volume as a percentage of production in an economic region where producers are established in order to take account of specific situations;

Whereas, in order to ensure that producer organizations genuinely represent a minimum number of producers, Member States should take steps to ensure that a minority of members who may account for the bulk of production in the producer organization do not unduly dominate its management and operation;

Whereas the main and essential activities of a producer organization should relate to the production of its members; whereas nevertheless the producer organization should be allowed to engage in other activities, whether or not of a commercial nature, without prejudice to the right of Member States to lay down stricter limits;

Whereas, in view of the nature of the products, their production and their marketing, the holdings of members of a producer organization may be located in Member States other than that in which the producer organization has its head office;

Whereas Article 11 (1) (a) and (3) of Regulation (EC) No 2200/96 make provision for different types of producer

organizations; whereas all producer organizations for which an application for recognition is submitted should fall into one of the categories laid down;

Whereas, in order to facilitate the concentration of supply, the merger of existing producer organizations to form new ones should be encouraged; whereas the acquired rights referred to in Article 53 of Regulation (EC) No 2200/96 apply to the new producer organizations resulting from the merger of organizations already recognized under Regulation (EEC) No 1035/72⁽²⁾, as last amended by Commission Regulation (EC) No 1363/95⁽³⁾;

Whereas, in order to help achieve the goals of the common organization of markets and to ensure that producer organizations carry out their work in a sustainable and effective way, there should be the utmost stability within producer organizations; whereas membership of a producer organization should therefore be for a minimum period, particularly with regard to the obligations relating to an operational programme of the type referred to in Article 15 of Regulation (EC) No 2200/96; whereas the minimum period of membership should be laid down within certain limits, without prejudice to the right of Member States to lay down stricter limits;

Whereas, in order to ensure the sound operation of the market organization, Member States should keep the Commission regularly informed about the situation and developments in the sector; whereas the arrangements for so doing should be laid down;

Whereas, the recognition of organizations of citrus-fruit producers, on the basis of certain specific conditions, is included in this Regulation; whereas, accordingly, Commission Regulation (EEC) No 2602/90 of 7 September 1990 laying down detailed rules concerning citrus-fruit producers' organizations⁽⁴⁾ should be repealed;

Whereas the Management Committee for Fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down the detailed rules for the application of Regulation (EC) No 2200/96 as regards the

⁽²⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽³⁾ OJ No L 132, 16. 6. 1995, p. 8.

⁽⁴⁾ OJ No L 245, 8. 9. 1990, p. 13.

⁽¹⁾ OJ No L 297, 21. 11. 1996, p. 1.

conditions for recognition of producer organizations pursuant to Article 11 of that Regulation.

2. For the purposes of this Regulation:

- (a) 'producer' shall mean any individual or legal person who is a member of a producer organization to which he delivers his production for marketing in accordance with Regulation (EC) No 2200/96;
- (b) 'marketed production' shall mean the production of members of a producer organization, disposed of in accordance with Article 11 (1) (c) (3) of Regulation (EC) No 2200/96 for the category of products for which recognition is requested, measured at the 'ex-producer organization' stage and, where applicable, as 'packaged or prepared but not processed product';
- (c) 'marketable production' shall mean marketed production, plus withdrawals.

Article 2

1. The minimum number of producers and the minimum volume of marketable production referred to in Article 11 (2) (a) of Regulation (EC) No 2200/96 are given in Annexes I and II to this Regulation.

2. Member States may replace the volume of production set out in Annex I by a percentage of the marketable production of a producer organization in terms of the average total production of the economic region where the producers in the organization are established. This percentage shall not be lower than 15 %. In such cases, the minimum number of producers shall be twenty for the producer organizations referred to in Article 11 (1) (a) (i) to (iv) of Regulation (EC) No 2200/96 and five for the producer organizations referred to in paragraph (1) (a) (vi) and (vii) and paragraph (3) of that Article.

Member States shall determine the economic regions in the light of the existing conditions of production and marketing. They shall notify the Commission of these regions.

3. For the purposes of applying paragraphs 1 and 2, the volume to be taken into consideration shall be the average volume of marketable production of all member producers during the three marketing years preceding recognition.

4. Member States may fix minimum numbers of producers and minimum volumes of marketable production greater than those laid down in paragraphs 1 and 2. They shall notify the Commission thereof.

Article 3

Member States shall take such measures as are required to avoid any abuse of power or influence by one or more

producers on the management and operation of the producer organization. They shall notify the Commission of the measures taken before 1 July 1997.

Article 4

The turnover of a producer organization arising from the sale, where applicable after processing, of the production of its members may not be less than the turnover generated by the group's other activities. Activities relating to the production of other agricultural products and, where applicable, their development shall not be taken into consideration.

Article 5

In the case of transnational producer organizations, the rules applicable under this Regulation shall be those applicable in the Member State in which the organization's head office is located.

The head office of the organization must be located in a Member State where the organization has significant holdings or a significant number of members.

Article 6

Applications for recognition submitted by producer organizations shall indicate, from amongst those listed in Article 11 (1) (a) or 11 (3) of Regulation (EC) No 2200/96, the product category for which recognition is requested.

Article 7

New producer organizations resulting from the merger of bodies recognized under Regulation (EEC) No 1035/72 shall retain the acquired rights referred to in Article 53 of Regulation (EC) No 2200/96. If they do not secure recognition under Article 11 of Regulation (EC) No 2200/96, they shall be considered producer organizations as provided for in Article 13 (1) of that Regulation.

Article 8

1. The minimum membership period of a producer shall not be less than one year. However, where an operational plan pursuant to Regulation (EC) No 2200/96 has been submitted, no member may disclaim his obligations under that programme during the period of its implementation, except where the producer organization concerned gives its approval.

2. Resignation of membership shall be notified to the group in writing no later than 31 May, to take effect on 1

January of the following year. The rules of the producer organization may require a longer period of notice to be given.

Article 9

Member States shall submit a report relating to the preceding calendar year in accordance with the model set out in Annex III before 1 July.

Article 10

Regulation (EEC) No 2602/90 is hereby repealed.

Article 11

This Regulation shall enter into force on the seventh day following that 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, 3 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

RECOGNITION CRITERIA FOR PRODUCER ORGANIZATIONS OTHER THAN FOR
CITRUS FRUITS

Member States or specific regions	Producer organizations Article 11 (1) (a) categories (i) to (iv)		Producer organizations Article 11 (1) (a) categories (vi) and (vii) and Article 11 (3)	
	Minimum number of producers	Minimum volume (million ecus)	Minimum number of producers	Minimum volume (million ecus)
Belgium, Germany, Spain (except Balearic Islands and Canaries), France, Greece ⁽¹⁾ , Italy, Netherlands, Austria, United Kingdom (except Northern Ireland)	40 or 15 or 5	1,5 2,5 3	5	0,25
Denmark, Ireland, Northern Ireland, Greece ⁽²⁾ , Balearic and Canary Islands, Portugal (except Madeira and Azores)	15 or 5	0,5 1		
Finland, Sweden, Greece (<i>Nomoi</i> (regions) other than under ⁽¹⁾ and ⁽²⁾)	10 or 5	0,25 0,5		
Greece (islands), Luxembourg, Madeira and Azores	5	0,1	5	0,1

⁽¹⁾ *Nomoi*: Imathias, Pellas, Artas, Argolidas, Korinthias, Viotias, Serron, Kavallas.⁽²⁾ *Nomoi*: Larisas, Magnisias, Karditsas, Evrou, Thessalonikis, Prevezas, Kilkis, Pierias, Lakonias, Kastorias.

ANNEX II

RECOGNITION CRITERIA FOR PRODUCER ORGANIZATIONS FOR CITRUS FRUITS

Member States	Producer organizations Article 11 (1) (a) category (v)	
	Minimum number of producers	Minimum volume (tonnes)
GREECE		
<i>Nomoi</i> (regions) ⁽¹⁾	100	5 000
<i>Nomoi</i> (regions) ⁽²⁾	50	1 500
Other	20	100
SPAIN		
All regions	25	2 500
Balearic Islands	25	1 200
FRANCE	20	2 000
ITALY		
Sicily and Calabria	100	10 000
Other	100	5 000
PORTUGAL	10	1 000
Other Member States	10	100

⁽¹⁾ *Nomoi*: Piraias, Chania, Preveza, Arta, Achaia, Arkadia, Argolida.

⁽²⁾ *Nomoi*: Korinthias, Messinia, Aitolokarnania, Ilia, Lakonia, Thesprotia, Zakynthos, Chios.

ANNEX III

ANNUAL REPORT

(Part 1)

Producer organization (PO)

Granting of recognition

Member State:

Year:

PO serial No	Name & initial	Address	Recognition date and number	Type of recognition ⁽¹⁾	Legal form	Category of PO ⁽²⁾	Number of members	Volume of marketable production

⁽¹⁾ 1: recognition under Article 11 of Regulation (EC) No 2200/96.
2: recognition under Article 13 (1) of Regulation (EC) No 2200/96.
3: recognition under Article 13 (2) of Regulation (EC) No 2200/96.
4: recognition under Article 14 of Regulation (EC) No 2200/96.

⁽²⁾ i) Fruit and vegetables.
ii) Fruit.
iii) Vegetables.
iv) Products for processing.
v) Citrus fruit.
vi) Nuts.
vii) Mushrooms.
a) PO (Article 11 (3)) (indicate product(s)).

ANNUAL REPORT
(Part 2)
Producer organization (PO)
Withdrawal of recognition

Member State:		Year:			Comments
PO serial No	Name and initial	Address	Recognition date and number	Recognition withdrawal date and number	

ANNUAL REPORT

(Part 3 (a))

Producer organization (PO)

Activities

Member State:

Year:

PO serial No	Number	Production of members						Production of members of other POs			
		Total			Marketed by another PO (Article 11 (1) (c) (3))			(Article 11 (1) (c) (3))			
		Fruit		Vegetables		Fruit		Vegetables		Fruit	
		Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)

(*) Of production marketed

ANNUAL REPORT

(Part 3 (b))

Producer organization (PO)

Activities

Member State:

Year:

PO Serial No	Purchase of products on the markets						Imports				
	Fruit		Vegetables		Fruit		Vegetables				
	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)			

(*) Of production marketed.

(*) Of production marketed.

Activities

Member State:

[illegible]

(*) Of production marketed.

COMMISSION REGULATION (EC) No 413/97

of 3 March 1997

adopting exceptional support measures for the market in pigmeat in the Netherlands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975, on the common organisation of the market in pigmeat⁽¹⁾, as last amended by Regulation (EC) No 3290/94⁽²⁾, and in particular Articles 20 and 22, second paragraph thereof,

Whereas, because of the outbreak of classical swine fever in certain production regions in the Netherlands, protection and surveillance zones have been established by the Dutch authorities pursuant to Article 9 of Council Directive 80/217/EEC of 22 January 1980 introducing Community measures for the control of classical swine fever⁽³⁾, as last amended by Decision 93/384/EEC⁽⁴⁾; whereas, consequently, in these zones the trade in live pigs, fresh pigmeat and pigmeat products which have not been subjected to heat treatment is temporarily prohibited;

Whereas restrictions on the free movement of goods resulting from the application of veterinary measures are likely to bring about a serious disturbance of the pigmeat market in the Netherlands; whereas exceptional market support measures, to apply for no longer than is strictly necessary, must accordingly be adopted with respect solely to live animals from the affected areas;

Whereas, with the aim of preventing a further spread of the disease, the pigs produced in the said zones should be separated from normal trade in products intended for human consumption and processed into products intended for uses other than human consumption, in accordance with the provisions laid down in Article 3 of Council Directive 90/667/EEC⁽⁵⁾, amended by Directive 92/118/EEC⁽⁶⁾;

Whereas it is appropriate to grant an aid for the delivery to the competent authorities of live fattened pigs and piglets coming from the affected zones;

Whereas in view of the extent of the disease and, in particular, of its duration, and consequently of the magnitude

of the efforts needed to support the market, it would be appropriate for such efforts to be shared by the Community and the Member State concerned;

Whereas provision should be made for the Dutch authorities to adopt all necessary control and surveillance measures and to inform the Commission accordingly;

Whereas the restrictions on the free movement of live pigs have been operative for several weeks now in the zones in question, provoking a substantial increase in the weight of the animals and consequently leading to an intolerable situation where the welfare of the animals is concerned; whereas retroactive application of this Regulation from 18 February 1997 is therefore justified;

Whereas the measures provided for in this Regulation are in accordance with the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 18 February 1997 producers may benefit, on request, from an aid granted by the competent Dutch authorities for the delivery of live fattened pigs falling under CN code 0103 92 19 weighing 120 kilograms or more on average per batch.
2. From 18 February 1997 producers may benefit, on request, from an aid granted by the competent Dutch authorities for the delivery to them of piglets falling under CN code 0103 91 10 weighing 25 kilograms or more on average per batch.
3. Seventy per cent of the expenditure related to this aid is financed by the Community budget, for a total maximum number of animals as laid down in Annex I.

Article 2

Only live fattened pigs and piglets raised in the protection and surveillance zones located within the administrative regions listed in Annex II to this Regulation can be delivered, provided that the veterinary provisions laid down by the Dutch authorities apply in the zones on the day the animals are delivered.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 1.

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

⁽³⁾ OJ No L 47, 21. 2. 1980, p. 11.

⁽⁴⁾ OJ No L 166, 8. 7. 1993, p. 34.

⁽⁵⁾ OJ No L 363, 27. 12. 1990, p. 51.

⁽⁶⁾ OJ No L 62, 15. 3. 1993, p. 49.

Article 3

On the day they are delivered, the animals shall be weighed and killed in such a way as to prevent the disease from spreading.

They shall be transported without delay to a rendering plant and processed into products falling within CN codes 1501 00 11, 1506 00 00 and 2301 10 00, in accordance with the provisions laid down in Article 3 of Council Directive 90/667/EEC.

These operations shall be carried out under the permanent supervision of the competent Dutch authorities.

Article 4

1. For fattened pigs weighing 120 kilograms or more on average per batch, the aid provided for in Article 1 (1), at farm gate, shall be equal to the market price for slaughtered pigs of grade E, within the meaning of Article 4 (2) of Regulation (EEC) No 2759/75, of Commission Regulation (EEC) No 3537/89 ⁽¹⁾ and Commission Regulation (EEC) No 2123/89 ⁽²⁾, recorded in the Netherlands during the week preceeding the delivery of the fattened pigs to the competent authorities.

2. For fattened pigs weighing less than 120 kilograms but more than 110 kilograms on average per batch, the aid fixed pursuant to the provisions in paragraph 1 is reduced by 15 %.

3. The aid is fixed on the basis of the established slaughter weight. If, however, the animals are only weighed live, a coefficient of 0,81 is applied on the aid.

4. The aid provided for in Article 1 (2), at farm gate, shall be:

— ECU 45 per head for piglets weighing 25 kilograms or more on average per batch,

— ECU 38 per head for piglets weighing more than 24 kilograms on average per batch, but less than 25 kilograms.

Article 5

The competent Dutch authorities shall adopt all measures necessary to ensure compliance with the provisions of this Regulation and in particular with Article 2 thereof. They shall inform the Commission accordingly as soon as possible.

Article 6

The competent Dutch authorities shall send the Commission each Wednesday the following information concerning the previous week:

— number and total weight of fattened pigs delivered,

— number and total weight of piglets delivered.

Article 7

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

It shall apply from 18 February 1997.

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

Done at Brussels, 3 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 347, 28. 11. 1989, p. 20.

⁽²⁾ OJ No L 203, 15. 7. 1989, p. 23.

ANNEX I

	North Brabant
Fattened pigs	350 000 head
Piglets	450 000 head

ANNEX II

In North Brabant, the protection and surveillance zones in the following areas:

- Venhorst,
 - Best.
-

COMMISSION REGULATION (EC) No 414/97

of 3 March 1997

adopting exceptional support measures for the market in pigmeat in Germany

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975, on the common organisation of the market in pigmeat⁽¹⁾, as last amended by Regulation (EC) No 3290/94⁽²⁾, and in particular Articles 20 and 22, second paragraph thereof,

Whereas, because of the outbreak of classical swine fever in certain production regions in Germany, protection and surveillance zones have been established by the German authorities pursuant to Article 9 of Council Directive 80/217/EEC of 22 January 1980 introducing Community measures for the control of classical swine fever⁽³⁾, as last amended by Decision 93/384/EEC⁽⁴⁾; whereas, consequently, in these zones the trade in live pigs, fresh pigmeat and pigmeat products which have not been subjected to heat treatment is temporarily prohibited;

Whereas restrictions on the free movement of goods resulting from the application of veterinary measures are likely to bring about a serious disturbance of the pigmeat market in Germany; whereas exceptional market support measures, to apply for no longer than is strictly necessary, must accordingly be adopted with respect solely to live animals from the affected areas;

Whereas, with the aim of preventing a further spread of the disease, the pigs produced in the said zones should be separated from normal trade in products intended for human consumption and processed into products intended for uses other than human consumption, in accordance with the provisions laid down in Article 3 of Council Directive 90/667/EEC⁽⁵⁾, amended by Directive 92/118/EEC⁽⁶⁾;

Whereas it is appropriate to grant an aid for the delivery to the competent authorities of live fattened pigs and piglets coming from the affected zones;

Whereas in view of the extent of the disease and, in particular, of its duration, and consequently of the magnitude

of the efforts needed to support the market, it would be appropriate for such efforts to be shared by the Community and the Member State concerned;

Whereas provision should be made for the German authorities to adopt all necessary control and surveillance measures and to inform the Commission accordingly;

Whereas the restrictions on the free movement of live pigs have been operative for several weeks now in the zones in question, provoking a substantial increase in the weight of the animals and consequently leading to an intolerable situation where the welfare of the animals is concerned; whereas retroactive application of this Regulation from 18 February 1997 is therefore justified;

Whereas the measures provided for in this Regulation are in accordance with the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 18 February 1997 producers may benefit, on request, from an aid granted by the competent German authorities for the delivery of live fattened pigs falling under CN code 0103 92 19 weighing 120 kilograms or more on average per batch.
2. From 18 February 1997 producers may benefit, on request, from an aid granted by the competent German authorities for the delivery to them of piglets falling under CN code 0103 91 10 weighing 25 kilograms or more on average per batch.
3. Seventy per cent of the expenditure related to this aid is financed by the Community budget, for a total maximum number of animals as laid down in Annex I.

Article 2

Only live fattened pigs and piglets raised in the protection and surveillance zones located within the administrative regions listed in Annex II to this Regulation can be delivered, provided that the veterinary provisions laid down by the German authorities apply in the zones on the day the animals are delivered.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 1.

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

⁽³⁾ OJ No L 47, 21. 2. 1980, p. 11.

⁽⁴⁾ OJ No L 166, 8. 7. 1993, p. 34.

⁽⁵⁾ OJ No L 363, 27. 12. 1990, p. 51.

⁽⁶⁾ OJ No L 62, 15. 3. 1993, p. 49.

Article 3

On the day they are delivered, the animals shall be weighed and killed in such a way as to prevent the disease from spreading.

They shall be transported without delay to a rendering plant and processed into products falling within CN codes 1501 00 11, 1506 00 00 and 2301 10 00, in accordance with the provisions laid down in Article 3 of Council Directive 90/667/EEC.

These operations shall be carried out under the permanent supervision of the competent German authorities.

Article 4

1. For fattened pigs weighing 120 kilograms or more on average per batch, the aid provided for in Article 1 (1), at farm gate, shall be equal to the market price for slaughtered pigs of grade E, within the meaning of Article 4 (2) of Regulation (EEC) No 2759/75, of Commission Regulation (EEC) No 3537/89 ⁽¹⁾ and Commission Regulation (EEC) No 2123/89 ⁽²⁾, recorded in Germany during the week preceeding the delivery of the fattened pigs to the competent authorities.

2. For fattened pigs weighing less than 120 kilograms but more than 110 kilograms on average per batch, the aid fixed pursuant to the provisions in paragraph 1 is reduced by 15 %.

3. The aid is fixed on the basis of the established slaughter weight. If, however, the animals are only weighed live, a coefficient of 0,81 is applied on the aid.

4. The aid provided for in Article 1 (2), at farm gate, shall be:

- ECU 55 per head for piglets weighing 25 kilograms or more on average per batch,
- ECU 47 per head for piglets weighing more than 24 kilograms on average per batch, but less than 25 kilograms.

Article 5

The competent German authorities shall adopt all measures necessary to ensure compliance with the provisions of this Regulation and in particular with Article 2 thereof. They shall inform the Commission accordingly as soon as possible.

Article 6

The competent German authorities shall send the Commission each Wednesday the following information concerning the previous week:

- number and total weight of fattened pigs delivered,
- number and total weight of piglets delivered.

Article 7

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

It shall apply from 18 February 1997.

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

Done at Brussels, 3 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 347, 28. 11. 1989, p. 20.

⁽²⁾ OJ No L 203, 15. 7. 1989, p. 23.

ANNEX I

	North Rhine-Westphalia	Mecklenburg-Western Pomerania
Fattened pigs	100 000 head	—
Piglets	25 000 head	20 000 head

ANNEX II

1. In North Rhine-Westphalia, the protection and surveillance zones in the following *kreise*:
 - Paderborn,
 - Soest,
 - Gütersloh,
 - Lippe.
 2. In Mecklenburg-Western Pomerania, the protection and surveillance zones in the following *kreise*:
all *kreise* with exception of Nordwestmecklenburg and Ludwigslust.
-

**COMMISSION REGULATION (EC) No 415/97
of 3 March 1997**

**amending representative prices and additional duties for the import of certain
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 1599/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses⁽³⁾, as last amended by Regulation (EC) No 1127/96⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1195/96⁽⁵⁾, as last amended by Regulation (EC) No 389/97⁽⁶⁾;

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 March 1997.

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

Done at Brussels, 3 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ No L 150, 25. 6. 1996, p. 12.

⁽⁵⁾ OJ No L 161, 29. 6. 1996, p. 3.

⁽⁶⁾ OJ No L 60, 1. 3. 1997, p. 57.

ANNEX

to the Commission Regulation of 3 March 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	23,41	4,59
1701 11 90 ⁽¹⁾	23,41	9,83
1701 12 10 ⁽¹⁾	23,41	4,40
1701 12 90 ⁽¹⁾	23,41	9,40
1701 91 00 ⁽²⁾	26,04	12,21
1701 99 10 ⁽²⁾	26,04	7,69
1701 99 90 ⁽²⁾	26,04	7,69
1702 90 99 ⁽³⁾	0,26	0,39

⁽¹⁾ For the standard quality as defined in Article 1 of amended Council Regulation (EEC) No 431/68 (OJ No L 89, 10. 4. 1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1).

⁽³⁾ By 1 % sucrose content.

**COMMISSION REGULATION (EC) No 416/97
of 3 March 1997**

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

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

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

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the 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 4 March 1997.

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

Done at Brussels, 3 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽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 3 March 1997 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 15	204	59,8
	212	113,8
	624	205,3
	999	126,3
0707 00 15	068	94,2
	999	94,2
0709 10 10	220	192,0
	999	192,0
0709 90 73	052	118,2
	204	95,0
	999	106,6
0805 10 01, 0805 10 05, 0805 10 09	052	35,1
	204	40,6
	212	49,8
	220	28,7
	448	26,7
	600	54,8
	624	54,7
	999	41,5
0805 30 20	052	63,4
	600	68,4
	999	65,9
0808 10 51, 0808 10 53, 0808 10 59	052	62,1
	060	59,3
	400	87,5
	404	94,2
	508	87,8
	512	93,1
	528	101,3
	720	96,9
	999	85,3
0808 20 31	039	106,6
	388	72,5
	400	131,4
	512	73,7
	528	71,7
	999	91,2

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 February 1997

authorizing the Member States exceptionally to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of plants of *Vitis* L., other than fruits, originating in Switzerland

(97/159/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Directive 97/3/EC⁽²⁾, and in particular Article 14 (1) thereof,

Having regard to the request made by France,

Whereas, under the provisions of Directive 77/93/EEC, plants of *Vitis* L., other than fruits, originating in third countries, may in principle not be introduced into the Community;

Whereas, on the basis of the information supplied by Switzerland and by the relevant Member State, it appears that in Switzerland, plants of *Vitis* L. can be grown under adequate health conditions and that there are no sources for the introduction of exotic diseases affecting plants of *Vitis* L.;

Whereas the imports would take place for a limited period of time to enable specialised nurseries to multiply these plants in the EU, whereby these plants will be re-exported afterwards to Switzerland;

Whereas therefore a derogation should be authorized for a limited period, provided that it includes specific conditions and without prejudice to Council Directive

68/193/EEC⁽³⁾, as last amended by the Act of Accession of Austria, Finland and Sweden;

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

HAS ADOPTED THIS DECISION:

Article 1

1. The Member States are hereby authorized to provide, under the conditions laid down in paragraph 2, for exceptions from Article 4 (1) of Directive 77/93/EEC, with regard to the prohibitions referred to in Part A, point 15 of Annex III thereto for plants of *Vitis* L., other than fruits, originating in Switzerland.

2. The following specific conditions shall be satisfied:

- (a) the plants shall be propagating material in the form of dormant bud material of the variety Chasselas;
- (b) the buds shall be intended to be grafted in the Community at premises referred to in (h), on to rootstocks produced in the Community;
- (c) the buds intended for the Community shall be:
 - harvested from propagating material grown in vineyards, which are officially registered. The lists of the registered vineyards shall be made available to the Member States making use of the derogation, and to the Commission, at the latest by 1

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 27, 30. 1. 1997, p. 30.

⁽³⁾ OJ No L 93, 17. 4. 1968, p. 15.

March 1997. The lists shall include the name of the variety, the number of rows planted with this variety, the number of plants per row for each of these vineyards, as far as they are deemed suitable for dispatch to the Community in 1997, under the conditions laid down in this Decision,

- properly packed and the packaging made recognizable with a marking, enabling the identification of the registered nursery and the variety,
- accompanied by a phytosanitary certificate issued in Switzerland in accordance with Article 7 of Directive 77/93/EEC, on the basis of the examination laid down in Article 6 thereof, in particular freedom from the following harmful organisms:
 - *Daktulosphaira vitifoliae* (Fitch),
 - *Xylophilus ampelinus* (Panagopoulos) Willems *et al.*,
 - Grapevine flavescence dorée MLO,

The certificate shall state under 'Additional Declaration', the indication 'this consignment meets the conditions laid down in Decision 97/159/EC';

(d) the official plant protection organisation of Switzerland shall ensure the identity of the buds from the time of harvesting as referred to in (c), first indent, until the time of loading for export to the Community;

(e) the inspections required pursuant to Article 12 of Directive 77/93/EEC shall be made by the responsible official bodies, referred to in the said Directive, of the Member States making use of this derogation, and where appropriate, in co-operation with the said bodies of the Member State in which the buds will be grafted. Without prejudice to the monitoring referred to in Article 19 a(3) second indent, first possibility, the Commission shall determine to which extent the inspections referred to in Article 19 a(3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19 a(5) (c) of that Directive;

(f) the buds shall be introduced through points of entry situated within the territory of a Member State making use of this derogation and designated for the purposes of this derogation by that Member State;

(g) prior to introduction into the Community, the importer shall notify each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction and that Member State shall convey the details of the notification to the Commission, indicating:

- the type of material,
- the variety and quantity,
- the declared date of introduction and confirmation of the point of entry,

— the names, addresses and the locations of the premises referred to in (h) where the buds will be grafted and/or where the grafted plants will subsequently be planted.

At the time of import the importer shall provide confirmation of the details of the aforementioned advance notification.

The importer shall be officially informed, prior to the introduction, of the conditions laid down in (a), (b), (c) (d), (e), (f), (g), (h), (i), and (j).

(h) the buds shall be grafted onto rootstocks and the grafted material subsequently planted only at premises for which the names, addresses and the locations have been notified by the person who intends to use the buds imported pursuant to this Decision, to the said responsible official bodies of the Member State in which the premises are situated; in those cases where the place of grafting or planting is situated in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State making use of this derogation, at the moment of receipt of the aforementioned advance notification from the importer, shall inform the said responsible official bodies of the Member State in which the plants will be grafted or planted giving the names, addresses and the locations of the premises where the plants will be grafted or planted;

(i) at the premises referred to in (h), the

— buds shall be grafted and the grafted plants shall be planted and further grown in fields belonging to the premises referred to in (h) where they should remain until they are moved to a destination outside the Community as referred to in (j);

— grafted plants shall in the growing period following importation, be visually inspected by the said responsible official bodies of the Member State in which the grafted plants are planted, at appropriate times, for harmful organisms or symptoms caused by any harmful organism; in order to identify the harmful organisms having caused such symptoms an appropriate testing on any symptom observed in the visual inspection shall be carried out. Any plant which has not been found free during the said inspections or testing, from harmful organisms listed under (c), third indent, shall be immediately destroyed;

(j) any grafted plant resulting from a successful grafting using the buds referred to in (a) shall be moved in 1998 to a destination outside the Community. The said responsible official bodies shall ensure that any plant not so moved shall be officially destroyed. Records shall be kept available to the Commission on the amounts of successfully grafted plants, of officially destroyed plants and of plants sold as well as on the country of destination of the plants sold.

Article 2

Member States shall inform the other Member States and the Commission of any use of the authorization. They shall provide the Commission and the other Member States, before 1 November 1997, with the information on amounts imported pursuant to this Decision and with a detailed technical report of the official examination referred to in Article 1 (2) (i). Furthermore any other Member State in which the buds are grafted onto rootstocks and in which the grafted plants are planted, after the import, shall also provide the Commission and the other Member States, before 1 November 1997, with a detailed technical report of the official examination referred to in Article 1 (2) (i).

Article 3

Without prejudice to the provisions laid down in Article 14 (3) of Directive 77/93/EEC, the Member States concerned shall notify the Commission and the other Member States of all cases of consignments introduced

pursuant to this Decision which do not comply with the conditions laid down herein.

Article 4

This Decision shall apply during the period between 1st March 1997 and 15 April 1997. It shall be revoked if it is established that the conditions laid down in Article 1 (2) are not sufficient to prevent the introduction of harmful organisms or have not been complied with.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 13 February 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 14 February 1997

amending Council Decision 79/542/EEC and Commission Decisions 92/260/EEC, 93/195/EEC and 93/197/EEC with regard to the animal health conditions for the temporary admission, re-entry and imports into the Community of registered horses from Lebanon

(Text with EEA relevance)

(97/160/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and imports from third countries of equidae⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Articles 12, 13, 15, 16 and 19 (ii) thereof,

Whereas by Council Decision 79/542/EEC⁽²⁾, as last amended by Commission Decision 96/624/EC⁽³⁾, a list of third countries from which Member States authorize imports of bovine animals, swine, equidae, sheep and goats, fresh meat and meat products has been established;

Whereas the health conditions and veterinary certification for the temporary admission, the re-entry of registered horses after temporary export and imports of registered horses are laid down respectively in Commission Decisions 92/260/EEC⁽⁴⁾, 93/195/EEC⁽⁵⁾ and 93/197/EEC⁽⁶⁾, all as last amended by Commission Decision 96/279/EC⁽⁷⁾;

Whereas following a Commission veterinary inspection mission to Lebanon the animal health situation initially appeared insufficiently under control of the veterinary services; whereas however substantial improvements have been made since, including a comprehensive sero-epidemiological survey for African horse sickness, glanders, dourine and infectious anaemia, carried out on equidae all over the territory of the country with negative result in each case;

Whereas Lebanon has been free from African horse sickness for more than thirty years and vaccination against this disease has not been carried out during that period of time;

Whereas Lebanon is free from glanders and dourine for more than six months and Venezuelan equine encephalomyelitis and vesicular stomatitis have never occurred;

Whereas the veterinary authorities of Lebanon have guaranteed to notify within 24 hours by telefax, telegram or telex to the Commission and the Member States the confirmation of any infectious or contagious disease in equidae mentioned in Annex A of Directive 90/426/EEC and any change in the vaccination or import policy in respect of equidae;

Whereas the animal health conditions and veterinary certification must be adopted according to the animal health situation of the third country concerned; whereas the present case relates only to registered horses;

Whereas Decision 79/542/EEC and Decisions 92/260/EEC, 93/195/EEC and 93/197/EEC must be amended accordingly;

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

HAS ADOPTED THIS DECISION:

Article 1

In Part 2 of the Annex to Council Decision 79/542/EEC, special column for equidae, the following line is inserted in accordance with the alphabetical order of the ISO code:

LB	Lebanon	x
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Article 2

Decision 92/260/EEC is amended as follows:

- 'Lebanon' is added in alphabetical order of the ISO code to the list of third countries in Group E of Annex I;
- 'Lebanon' is added in alphabetical order of the ISO code to the list of third countries in the title of the health certificate set out in Annex II E.

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 42.

⁽²⁾ OJ No L 146, 14. 6. 1979, p. 15.

⁽³⁾ OJ No L 279, 31. 10. 1996, p. 33.

⁽⁴⁾ OJ No L 130, 15. 5. 1992, p. 67.

⁽⁵⁾ OJ No L 86, 6. 4. 1993, p. 1.

⁽⁶⁾ OJ No L 86, 6. 4. 1993, p. 16.

⁽⁷⁾ OJ No L 107, 30. 4. 1996, p. 1.

Article 3

Decision 93/195/EEC is amended as follows:

1. 'Lebanon' is added in alphabetical order of the ISO code to the list of third countries in Group E of Annex I;
2. 'Lebanon' is added in alphabetical order of the ISO code to the list of third countries under Group E in the title of the health certificate set out in Annex II.

Article 4

Decision 93/197/EEC is amended as follows:

1. 'Lebanon' is added in alphabetical order of the ISO code to the list of third countries in Group E of Annex I;
2. 'Lebanon' is added in alphabetical order of the ISO code to the list of third countries in the first half

sentence of the title relating to registered horses of the health certificate set out in Annex II E.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 14 February 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 17 February 1997

on the procedure for attesting the conformity of construction products pursuant to Article 20 (2) of Council Directive 89/106/EEC as regards metal anchors for use in concrete for fixing lightweight systems

(Text with EEA relevance)

(97/161/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products⁽¹⁾, as amended by Directive 93/68/EEC⁽²⁾, and in particular Article 13 (4) thereof,

Whereas the Commission is required to select, as between the two procedures under Article 13 (3) of Directive 89/106/EEC for attesting the conformity of a product, the 'least onerous possible procedure consistent with safety'; whereas this means that it is necessary to decide whether, for a given product or family of products, the existence of a factory production control system under the responsibility of the manufacturer is a necessary and sufficient condition for an attestation of conformity, or whether, for reasons related to compliance with the criteria mentioned in Article 13 (4), the intervention of an approved certification body is required for that purpose;

Whereas Article 13 (4) requires that the procedure thus determined must be indicated in the mandates and in the technical specifications; whereas, therefore, it is desirable to define the concept of products or family of products as used in the mandates and in the technical specifications;

Whereas the two procedures provided for in Article 13 (3) are described in detail in Annex III to Directive 89/106/EEC; whereas it is necessary therefore to specify clearly the methods by which the two procedures must be implemented, by reference to Annex III, for each product or family of products, since Annex III gives preference to certain systems;

Whereas the procedure referred to in point (a) of Article 13 (3) corresponds to the systems set out in the first possibility, without continuous surveillance, and the second and third possibilities of point (ii) of Section 2 of Annex

III, and the procedure referred to in point (b) of Article 13 (3) corresponds to the systems set out in point (i) of Section 2 of Annex III, and in the first possibility, with continuous surveillance, of point (ii) of Section 2 of Annex III;

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

HAS ADOPTED THIS DECISION:

Article 1

The products set out in Annex I shall have their conformity attested by a procedure whereby, in addition to a factory production control system operated by the manufacturer, an approved certification body is involved in assessment and surveillance of the production control or of the product itself.

Article 2

The procedure for attesting conformity as set out in Annex II shall be indicated in mandates for guidelines for European technical approvals.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 17 February 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 12.

⁽²⁾ OJ No L 220, 30. 8. 1993, p. 1.

ANNEX I

Metal anchors for use in concrete for fixing lightweight systems: for use in redundant systems for fixing and/or supporting to concrete, elements such as lightweight suspended ceilings, as well as installation.

ANNEX II

PRODUCT FAMILY

Metal anchors for use in concrete for fixing lightweight systems (1/1)**Systems of attestation of conformity**

For the product(s) and intended use(s) listed below, European Organization for Technical Approval (EOTA) is requested to specify the following system(s) of attestation of conformity in the relevant Guideline for European Technical Approval:

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity system(s)
Metal anchors for use in concrete (light-duty type).	for use in redundant systems for fixing and/or supporting to concrete elements such as lightweight suspended ceilings, as well as installation		2 +

System 2+: See Annex III, 2 (ii) to Directive 89/106/EEC, first possibility, including certification of the factory production control by an approved body on the basis of initial inspection of factory and of factory production control as well as of continuous surveillance assessment and approval of factory production control

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such characteristic (see Article 2.1 of Directive 89/106/EEC and, where applicable, clause 1.2.3 of the Interpretative Documents). In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.

COMMISSION DECISION

of 18 February 1997

on the initiation of international consultation and dispute settlement procedures concerning changes to United States rules of origin for textile products resulting in the non-conferral of Community origin on certain products processed in the European Community

(97/162/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (WTO)⁽¹⁾, as amended by Regulation (EC) No 356/95⁽²⁾, and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 11 October 1996 a complaint was submitted to the Commission about an obstacle to trade resulting from changes to United States legislation on rules of origin for textile products. The complainant alleged that the new rules refuse Community originating status to products which have been dyed, printed and finished in the Community on loom-state fabrics produced in non-member countries. Under previous US legislation, that is prior to July 1995, these products had Community origin. According to the complainant, this change threatens Community exports of textile products.
- (2) The complaint was lodged by the association Federtessile, Italy, on behalf of the association representing the Italian silk industry and the association representing the Italian luxury finishing textile industry. The complaint contained sufficient

evidence to justify the initiation of a procedure under Regulation (EC) No 3286/94.

- (3) An examination procedure was initiated on 22 November 1996⁽³⁾. Federtessile's allegations were included in the notice of initiation.

B. ALLEGATIONS OF OBSTACLES TO TRADE

- (4) The complainant alleged that the changes made by the US to their rules of origin legislation for textile products, following the entry into force of the WTO Agreements, constituted an obstacle to trade within the meaning of Article 2 (1) of Regulation (EC) No 3286/94. More specifically, the complainant referred to two Agreements annexed to the WTO Agreement: Article 4 (2) of the Agreement on Textiles and Clothing and Article 2 (b) and (c) of the Agreement on Rules of Origin.
- (5) The Commission considers that Article 4 (2) of the Agreement on Textiles and Clothing could provide the basis for an action for all Community textile exports to the US which will or may be subject to the quantitative restrictions imposed by the US on fibre producers. This situation is expressly provided for by Article 4 (2), which states that: 'the introduction of changes [...] in rules [...] in the implementation or administration of those restrictions notified or applied under this Agreement should not: [...] adversely affect the access available to a Member [...] or disrupt trade under this Agreement'.
- (6) The Commission also considers that a significant aspect of the problem lies in the requirement to label the products in question as originating in the country which produced the loom-state fabric and not in the European Community or one of its Member States. This practice is likely to turn the US consumer away from Community exports of the textiles in question because he is no longer able to identify them. Hence the Commission considers

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 71.

⁽²⁾ OJ No L 41, 23. 2. 1995, p. 3.

⁽³⁾ OJ No C 351, 22. 11. 1996, p. 6.

that the Agreement on Rules of Origin should be used as a basis of the action, particularly as a matter of principle is at stake. Article 2 of the Agreement on Rules of Origin provides that: 'rules of origin shall not be used as instruments to pursue trade objectives directly or indirectly [...] and shall not themselves create restrictive, distorting or disruptive effects on international trade'.

- (7) The Commission nonetheless considers that reference to these two legal bases does not rule out recourse to other provisions of the two Agreements, or any other pertinent provision of the Agreement establishing the WTO and the Agreements annexed to it, which could be of use in procedures before the WTO.

C. ADVERSE TRADE EFFECTS

- (8) On publishing the notice of initiation of the examination procedure, the Commission commenced an investigation to determine the actual extent to which exports of Community textiles would be affected by the new US rules.
- (9) This investigation is currently under way. However, the factual information so far gathered by the Commission already provide sufficient proof of certain adverse trade effects and their possible build-up. While the investigation should continue with a view to establishing more accurately the effects of the US practice on Community exports of the products in question, there is therefore no need to wait until the end of the investigation to decide on the specific infringement constituted by the practice resulting from the new US rules of origin.

D. COMMUNITY INTEREST

- (10) It is not just the interests of a few individual enterprises which are threatened but an entire Community sector of activity and hence a significant number of enterprises located in several different regions of the European Community.

In addition, one of the priorities of the European Commission is to ensure that all non-member countries comply with their multilateral undertakings. This compliance is particularly important in the textiles sector where the progressive liberalization provided for in the WTO means it is even more vital to avoid disruptions to trade flows which could be caused by new barriers to trade.

- (11) It is in the Community's interest for the Commission to act rapidly against the US to protect the exports in question. Since the practices in question fall within the scope of disciplines established at multilateral level, the WTO would be the most appropriate international legal framework for the Community's action.

E. CONCLUSIONS AND MEASURES TO BE TAKEN

- (12) Well before the examination procedure was formally initiated, many consultations had been held between representatives of the European Commission and the US to seek a satisfactory solution to the problem. These bilateral discussions have since continued in the framework of the investigation but have not led to a result acceptable to the European Community. The US representatives have offered only temporary assurances which provided only very partial solutions to the problems.
- (13) It emerged from these consultations that only a further change to US legislation on origin rules for textiles would restore the security of Community exporters. Thus until the US Congress examines such an amendment, further consultations with the US administration will not produce final and satisfactory results since it does not have the power to enter into any undertaking.
- (14) Therefore, unless a bill to amend US rules of origin for textiles is put before the US Congress and results in the adoption of legislation in full compliance with US commitments arising from the Uruguay Round, the Commission considers that it must take official action against the US under the two Agreements of the WTO under which a right of action has been identified by the complainant and confirmed by the Commission's examination.
- (15) The Commission will therefore request consultations pursuant to the Agreement on Textiles and Clothing and if necessary it will bring this case before the Textiles Monitoring Body (TMB) for thorough consideration of the matter and the formulation of recommendations in accordance with Article 8 (5) *et seq.* of the Agreement.
- (16) At the same time, consultations will be requested with the US under the aegis of the WTO Agreement on Rules of Origin, in order to discuss with the US the conditions of application of Article 2 of that Agreement to their rules of origin.

- (17) Pursuant to Article 13 (2) of Regulation (EC) No 3286/94, the decision to initiate formal international consultation or dispute settlement procedures must be taken in accordance with Article 14. This states that the Commission must adopt a decision which it shall communicate to the Member States and which shall apply after a period of 10 days if during this period no Member State has referred the matter to the Council,

HAS DECIDED AS FOLLOWS:

Article 1

1. The appropriate consultation procedures, followed if necessary by referral to the Textiles Monitoring Body provided for in Article 8 of the Agreement on Textiles and Clothing annexed to the Agreement establishing the World Trade Organization, and subsequently by recourse to the WTO dispute settlement body, shall be initiated in respect of the US rules of origin for textiles and clothing, in accordance with Title III, Sub-section D, Section 334 of the Uruguay Round Agreements Act.

2. The appropriate consultation procedures, followed if necessary by the dispute settlement procedures provided for in Articles 7 and 8 of the Agreement on Rules of Origin, annexed to the Agreement establishing the World Trade Organization, shall be initiated in respect of the US rules of origin for textiles and clothing, in accordance

with Title III, Sub-section D, Section 334 of the Uruguay Round Agreements Act.

Article 2

1. Application of the provisions of Article 1 (1) and (2) shall be suspended if a bill is laid before the US Congress by 4 April 1997 proposing amendments to US legislation on rules of origin for textiles and clothing which would bring it into full compliance with US undertakings as established by the Uruguay Round.

2. If after a period of four months following the submission to the US Congress of the bill referred to in Article 2 (1), the US Congress does not adopt an amendment to the legislation on rules of origin for textiles and clothing which would bring it into full compliance with US undertakings as established by the Uruguay Round, the provisions of Article 1 (1) and (2) will once again apply.

Article 3

This Decision shall apply from the date of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 18 February 1997.

For the Commission

Leon BRITTAN

Vice-President
