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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 11/98
of 11 December 1997
amending Regulation (EEC) No 684/92 on common rules for the international
carriage of passengers by coach and bus

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 (1) thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189c of the Treaty ⁽³⁾,

(1) Whereas, in accordance with Article 75 (1) (a) of the Treaty, the establishment of a common transport policy entails, *inter alia*, laying down common rules applicable to the international carriage of passengers by road;

(2) Whereas such rules are contained in Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus ⁽⁴⁾;

(3) Whereas Article 20 of Regulation (EEC) No 684/92 lays down that before 1 July 1995 the Commission shall report to the Council on the application of the Regulation and that the Council shall adopt before 1 January 1997, on a proposal from the Commission, rules on the simplification of procedures including — in the light of the report's conclusions — the abolition of authorizations;

(4) Whereas the definition of the various international coach and bus services should be simplified and

improved; whereas those may be classed as regular services, special regular services and occasional services; whereas, therefore, the concept of shuttle service can be abolished;

(5) Whereas a system of market access exempt from authorization should be introduced for all occasional services, special regular services and all own-account transport operations;

(6) Whereas the system of authorization for regular services should be maintained, although a degree of flexibility should be introduced as regards the operating conditions for such services;

(7) Whereas in order to preserve intermodal competition, the railways should after a certain period no longer have priority in the context of the establishment of a coach or bus service;

(8) Whereas, in order to facilitate the inspection of transport operations, the international carriage of passengers by road for hire or reward should be subject to a Community licence drawn up in accordance with a harmonized model and issued under a swift and efficient administrative procedure;

(9) Whereas certain time limits involved in the procedure for the issue of authorizations should be made more flexible;

(10) Whereas Member States must take the necessary measures to implement this Regulation, in particular as regards effective, proportionate and dissuasive penalties;

(11) Whereas provision should be made for the Commission to be assisted by an advisory committee when adopting measures implementing the Regulation as regards transport documents;

(12) Whereas an appropriate deadline should be laid down for introducing the Community licence;

⁽¹⁾ OJ C 203, 13. 7. 1996, p. 11, and OJ C 107, 5. 4. 1997, p. 3.

⁽²⁾ OJ C 66, 3. 3. 1997, p. 3.

⁽³⁾ Opinion of the European Parliament of 28 November 1996 (OJ C 380, 16. 12. 1996, p. 40), Council common position of 14 April 1997 (OJ C 164, 30. 5. 1997, p. 1) and Decision of the European Parliament of 16 July 1997 (OJ C 286, 22. 9. 1997, p. 85).

⁽⁴⁾ OJ L 74, 20. 3. 1992, p. 1.

(13) Whereas the application of this Regulation must be monitored on the basis of a report to be presented by the Commission,

member of the staff of the natural or legal person or by the natural person himself.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 684/92 is hereby amended as follows:

(1) In Article 2:

- the following subparagraph shall be added to point 1.1: 'The regular nature of the service shall not be affected by any adjustment to the service operating conditions.'
- paragraph (d) of point 1.2 shall be deleted,
- in point 1.3 the words 'the use of additional vehicles and shorter intervals' shall be deleted,
- point 2 shall be deleted,
- point 3.1 shall be replaced by the following:

'3.1. Occasional services are services which do not meet the definition of regular services, including special regular services and which are characterized above all by the fact that they carry groups of passengers assembled on the initiative of the customer or the carrier himself.

The organization of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorization in accordance with the procedure laid down in Section II.'

- point 3.2 shall be deleted,
- in point 3.4, second subparagraph, the terms 'after consulting the Member States' shall be replaced by 'in accordance with the procedure laid down in Article 16a',
- point 4 shall be replaced by the following:

'4. Own-account transport operations

Own-account transport operations are those carried out for non-commercial and non-profit-making purposes by a natural or legal person, provided that:

- the transport activity is only an ancillary activity for that natural or legal person,
- the vehicles used are the property of that natural or legal person or have been obtained on deferred terms by them or have been the subject of a long-term leasing contract and are driven by a

(2) The first indent of Article 3 (1) shall be replaced by the following:

'— is authorized in the State of establishment to undertake carriage by means of regular services including special regular services or occasional services by coach and bus.'

(3) The following Article shall be added:

Article 3a

Community licence

1. In order to carry out international passenger transport operations by coach and bus, any carrier meeting the criteria laid down in Article 3 (1) must hold as Community licence issued by the competent authorities of the Member State of establishment in accordance with the model set out in the Annex.

2. The competent authorities of the Member State of establishment shall issue the holder with the original of the Community licence, which shall be kept by the carrier, and the number of certified true copies corresponding to the number of vehicles used for the international carriage of passengers at the disposal of the holder of the Community licence, either in full ownership, or in another form, notably by virtue of an instalment-purchase contract, a hire contract or a leasing contract.

3. The Community licence shall be established in the name of the carrier and shall be non-transferable. A certified true copy of the Community licence shall be carried on the vehicle and shall be presented at the request of any authorized inspecting officer.

4. The Community licence shall be issued for a period of five years which shall be renewable.

5. The Community licence shall replace the document issued by the competent authorities of the Member State of establishment certifying that the carrier has access to the market for the international carriage of passengers by road.

6. When an application for a licence is submitted, and at least every five years thereafter, the competent authorities of the Member State of establishment shall verify whether the carrier meets or continues to meet the conditions laid down in Article 3 (1).

7. Where the conditions referred to in Article 3 (1) are not met, the competent authorities of the Member State of establishment shall refuse to issue or renew a Community licence by means of a reasoned decision.

8. Member States shall guarantee the right of the applicant for, or holder of, a Community licence to appeal against a decision by the competent authorities of the Member State of establishment to refuse or withdraw this licence.

9. Member States shall inform the Commission no later than 31 January of every year of the number of carriers holding a Community licence as at 31 December of the previous year and of the number of certified true copies corresponding to the number of vehicles in circulation on that date.

10. Member States may decide that the Community licence shall also be valid for national transport operations.'

(4) Article 4 shall be replaced by the following:

'Article 4

Access to the market

1. Occasional services as defined in Article 2 (3.1) shall not require authorization.

2. Special regular services defined in Article 2 (1.2) shall not require authorization if they are covered by a contract concluded between the organizer and the carrier.

3. Empty journeys by vehicles in connection with the transport operations referred to in paragraphs 1 and 2 shall likewise not require authorization.

4. Regular services as defined in the first subparagraph of Article 2 (1.1) and special regular services not covered by a contract between the organizer and the carrier shall require authorization in accordance with Articles 5 to 10.

5. Arrangements for own-account transport operations are set out in Article 13.'

(5) The title of Section II shall be replaced by the title **'REGULAR SERVICES SUBJECT TO AUTHORIZATION'**.

(6) In Article 5:

— in the second subparagraph of paragraph 1, the first sentence shall be replaced by the following:

'In the case of undertakings associated for the purpose of operating a regular service, the authorization shall be issued in the names of all the undertakings.'

— in paragraph 2, the first sentence shall be replaced by the following:

'2. The period of validity of an authorization shall not exceed five years.'

— paragraph 3 (d) shall be replaced by the following:

'(d) the stops and the timetable.'

— in paragraph 4, the terms 'after consultation of the Member States' shall be replaced by 'in accordance with the procedure laid down in Article 16a',

— paragraph 5 shall be replaced by the following:

'5. Authorizations shall entitle their holder(s) to operate regular services in the territories of all

Member States over which the routes of the service pass.'

— the following paragraph shall be added:

'6. The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations.

In this case, the carrier must ensure that the following documents are carried on the vehicle:

— a copy of the authorization of the regular service,

— a copy of the contract between the operator of the regular service and the undertaking providing the additional vehicles or an equivalent document,

— a certified true copy of the Community licence issued to the operator of the regular service.'

(7) Article 6 shall be amended as follows:

— paragraph 1 shall be replaced by the following:

'1. Applications for authorization of regular services shall be submitted to the competent authorities of the Member State in whose territory the place of departure is situated, hereinafter referred to as the "authorizing authority". The place of departure shall mean "one of the termini of the service".'

— in paragraph 2, the terms 'after consultation of the Member States' shall be replaced by 'in accordance with the procedure laid down in Article 16a',

— paragraph 3 shall be replaced by the following:

'3. Persons applying for authorization shall provide any further information which they consider relevant or which is requested by the authorizing authority, in particular a driving schedule making it possible to monitor compliance with Community legislation on driving and rest periods and a copy of the Community licence for international carriage of passengers by road for hire or reward provided for in Article 3a.'

(8) Article 7 shall be replaced by the following:

'Article 7

Authorizing procedure

1. Authorizations shall be issued in agreement with the authorities of all the Member States in whose territories passengers are picked up or set down. The authorizing authority shall forward to such authorities — as well as to the competent authorities of Member States whose territories are crossed without passengers being picked up or set down — a copy of the application, together with copies of any other relevant documentation, and its assessment.

2. The competent authorities of the Member States whose agreement has been requested shall notify the authorizing authority of their decision on the application within two months. This time limit shall be calculated from the date of receipt of the request for an opinion which is shown in the acknowledgement of receipt. If within this period the authorizing authority has received no reply, the authorities consulted shall be deemed to have given their agreement and the authorizing authority shall grant the authorization.

The authorities of the Member States whose territories are crossed without passengers being picked up or set down may notify the authorizing authority of their comments within the time limits laid down in the first subparagraph.

3. Subject to paragraphs 7 and 8, the authorizing authority shall take a decision on the application within four months of the date of submission of the application by the carrier.

4. Authorization shall be granted unless:

- (a) the applicant is unable to provide the service which is the subject of the application with equipment directly available to him;
- (b) in the past the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorizations for international road passenger services, or has committed serious breaches of legislation in regard to road safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;
- (c) in the case of an application for renewal of authorization, the conditions of authorization have not been complied with;
- (d) it is shown that the service in question would directly compromise the existence of regular services already authorized, except in cases in which the regular services in question are carried out by a single carrier or group of carriers only;
- (e) it appears that the operation of services covered by the application is aimed only at the most lucrative of the services existing on the links concerned;
- (f) a Member State decides on the basis of a detailed analysis that the said service would seriously affect the viability of a comparable rail service on the direct sections concerned. Any decision pursuant to this provision, together with the reasons therefor, shall be notified to the carriers affected.

As from 1 January 2000, in the event that an existing international bus service is seriously

affecting the viability of a comparable rail service on the direct sections concerned, a Member State may, with the agreement of the Commission, suspend or withdraw the authorization to run the international bus service after having given six months' notice to the carrier.

The fact that a carrier offers lower prices than are offered by other road carriers or the fact that the link in question is already operated by other road carriers may not in itself constitute justification for rejecting the application.

5. The authorizing authority and the competent authorities of all the Member States involved in the procedure to reach the agreement provided for in paragraph 1 may refuse applications only on the basis of reasons compatible with this Regulation.

6. If the procedure for reaching the agreement referred to in paragraph 1 does not enable the authorizing authority to decide on an application, the matter may be referred to the Commission within the time limit of five months calculated from the date of submission of the application by the carrier.

7. After consulting the Member States concerned, the Commission shall within ten weeks take a decision which shall take effect within thirty days of the notification of the Member States concerned.

8. The Commission decision shall continue to apply until such time as agreement is reached between the Member States concerned.

9. Having completed the procedure laid down in this Article, the authorizing authority shall inform all the authorities referred to in paragraph 1 of its decision, sending them a copy of any authorization; the competent authorities of the transit Member States may indicate that they do not wish to be so informed.

(9) In Article 8 (3), second subparagraph the words 'of intervals' shall be added after the word 'adjustment'.

(10) Article 9 (4) shall be deleted.

(11) The title of Section III shall be replaced by the title '**OCCASIONAL SERVICES AND OTHER SERVICES EXEMPT FROM AUTHORIZATION**'.

(12) Article 11 shall be replaced by the following:

Article 11

Journey form

1. The services referred to in Article 4 (1) shall be carried out under cover of a journey form.

2. A carrier operating occasional services shall fill out a journey form before each journey.

3. The journey form shall contain at least the following information:

- (a) the type of service;
- (b) the main itinerary;
- (c) the carrier(s) involved.

4. The books of journey forms shall be supplied by the competent authorities of the Member State where the transport undertaking is established or by bodies appointed by those authorities.

5. The Commission shall, in accordance with the procedure provided for in Article 16a, lay down the model for the journey form and the way in which it is to be used.

(13) In Article 12, first paragraph, the terms 'of an international shuttle service with accommodation, or' shall be deleted.

(14) In Article 13:

- paragraph 2 shall be deleted,
- in paragraph 3, the term 'after consultation of the Member States' shall be replaced by 'in accordance with the procedure laid down in Article 16a'.

(15) In Article 14:

- the following shall be deleted from the introductory part of paragraph 1: 'or a shuttle service',
- the last indent of paragraph 1 shall be replaced by the following: '— the price of transport.'

(16) Article 16 shall be replaced by the following:

'Article 16

Penalties and mutual assistance

1. The competent authorities of the Member State where the carrier is established shall withdraw the Community licence provided for in Article 3a where the holder:

- no longer meets the conditions laid down in Article 3 (1),
- has supplied inaccurate information concerning the data which were required for the issue of the Community licence.

2. The authorizing authority shall withdraw an authorization if the holder no longer fulfils the conditions on the basis of which the authorization was issued under this Regulation, in particular where

the Member State in which the carrier is established so requests. The authority shall immediately inform the competent authorities of the Member State concerned.

3. In the case of a serious breach or repeated minor breaches of road safety regulations, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision without authorization of parallel or temporary services, as referred to in Article 2 (1.3), the competent authorities of the Member State of establishment of the carrier who committed the breach may *inter alia* withdraw the Community licence or make temporary and/or partial withdrawals of the certified true copies of the Community licence.

These penalties shall be determined in accordance with the seriousness of the breach committed by the holder of the Community licence and with the total number of certified true copies that he possesses in respect of his international trade.

4. The competent authorities of the Member States shall prohibit a carrier from operating on their territory an international passenger service under this Regulation if he repeatedly commits serious breaches of the regulations governing road safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers. They shall immediately inform the competent authorities of the Member State concerned.

5. Member States shall on request provide each other with any relevant information in their possession concerning:

- breaches of this Regulation and of any other Community rules applicable to the international carriage of passengers by coach and bus committed in their territory by a carrier from another Member State, and the penalties imposed,
- the penalties imposed on their own carriers in respect of breaches committed in the territory of another Member State.

(17) The following Article shall be inserted:

'Article 16a

Where the procedure referred to in this Article is to be followed the Commission shall be assisted by the advisory committee set up by Council Regulation (EC) No 12/98 of 11 December 1997, laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State (*) and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

(*) OJ No L 4, 8. 1. 1998, p. 10.

- (18) The second paragraph of Article 19 shall be replaced by the following:

'Member States shall adopt measures relating in particular to the means of carrying out checks and the system of penalties applicable to infringements of the provisions of this Regulation, and take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant measures to the Commission within 12 months of the date on which this Regulation comes into force and shall notify any subsequent changes as soon as possible. They shall

ensure that all such measures are applied without discrimination as to the nationality or place of establishment of the carrier.'

- (19) The Annex shall be replaced by that contained in the Annex to this Regulation.

Article 2

Before 11 December 1998, the Member States shall, after consulting the Commission, adopt the measures necessary for the implementation of this Regulation and notify such measures to the Commission.

Article 3

No later than 31 December 1999, the Commission shall report to the European Parliament and the Council on the results of applying this Regulation.

Article 4

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 11 December 1998, except for Article 1 (3), which shall apply from 11 June 1999.

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

Done at Brussels, 11 December 1997.

For the Council

The President

M. DELVAUX-STEHRÉS

ANNEX

'ANNEX

EUROPEAN COMMUNITY

(a)

(Heavy-duty, blue — dimension DIN A4)

(First page of the licence)

(Text in the official language(s) or one of the official languages of the
Member State issuing the licence)Distinctive symbol of the Member
State ⁽¹⁾ issuing the licenceDesignation of the competent
authority or body

LICENCE No. . . .

**for the international carriage of passengers by coach and bus
for hire or reward**

The holder of this licence ⁽²⁾

.....

.....

.....

is authorized to carry out international carriage of passengers by road for hire or reward in the territory of the Community pursuant to the conditions laid down by Council Regulation (EEC) No 684/92 of 16 March 1992, as amended by Regulation (EC) No 11/98 and in accordance with the general provisions of this licence.

Comments:

.....

.....

.....

.....

This licence is valid from to

Issued in, on

..... ⁽³⁾

⁽¹⁾ (B) Belgium, (DK) Denmark, (D) Germany, (GR) Greece, (E) Spain, (F) France, (IRL) Ireland, (I) Italy, (L) Luxembourg, (NL) Netherlands, (A) Austria, (P) Portugal, (FIN) Finland, (S) Sweden, (UK) United Kingdom.

⁽²⁾ Full name or business name of the carrier.

⁽³⁾ Signature and stamp of the competent authority or body issuing the licence.

General provisions

1. This licence is issued pursuant to Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus, as amended by Regulation (EC) No 11/98.
2. This licence is issued by the competent authorities of the Member State of establishment of the carrier for hire or reward who:
 - is authorized in the Member State of establishment to undertake carriage by means of regular services, including special regular services or occasional services by coach and bus,
 - satisfies the conditions laid down in accordance with Community rules on admission to the occupation of road passenger transport operator in national and international transport operations,
 - meets legal requirements on road safety as far as the standards for drivers and vehicles are concerned.
3. This licence permits the international carriage of passengers by coach and bus for hire or reward on all transport links for journeys carried out in the territory of the Community:
 - where the place of departure and place of destination are situated in two different Member States, with or without transit through one or more Member States or third countries,
 - from a Member State to a third country and vice versa, with or without transit through one or more Member States or third countries,
 - between third countries crossing the territory of one or more Member States in transit,

and empty journeys in connection with transport operations under the conditions laid down by Regulation (EEC) No 684/92.

In the case of a transport operation from a Member State to a third country and vice versa, Regulation (EEC) No 684/92, is applicable, for the journey made in the territory of the Member State of picking up or setting down, once the necessary agreement between the Community and the third country in question has been concluded.

4. This licence is personal and non-transferable.
5. This licence may be withdrawn by the competent authority of the Member State of issue in particular where the carrier:
 - no longer meets the conditions laid down in Article 3 (1) of Regulation (EEC) No 684/92,
 - has supplied inaccurate information regarding the data required for the issue or renewal of the licence,
 - has committed a serious breach or repeated minor breaches of road safety regulations, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision, without authorization, of parallel or temporary services as referred to in Article 2 (1.3) of Regulation (EEC) No 684/92. The competent authorities of the Member State of establishment of the carrier who committed the breach may, *inter alia*, withdraw the Community licence or make temporary and/or partial withdrawals of the certified true copies of the Community licence.

These penalties are determined in accordance with the seriousness of the breach committed by the holder of the Community licence and with the total number of certified true copies that he possesses in respect of his international trade.

6. The original of the licence must be kept by the carrier. A certified true copy of the licence must be carried on the vehicle carrying out an international transport operation.
7. This licence must be presented at the request of any inspecting officer.
8. The holder must, on the territory of each Member State, comply with the laws, regulations and administrative measures in force in that State, particularly with regard to transport and traffic.

9. 'Regular services' means services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services shall be open to all, subject, where appropriate, to compulsory reservation.

The regular nature of the service shall not be affected by any adjustment to the service operating conditions.

Regular services require authorization.

'Special regular services' means regular services which provide for the carriage of specified categories of passengers, to the exclusion of other passengers, at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points.

Special regular services shall include:

- (a) the carriage of workers between home and work;
- (b) carriage to and from the educational institution for school pupils and students;
- (c) the carriage of soldiers and their families between their homes and the area of their barracks.

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

Special regular services do not require authorization if they are covered by a contract between the organizer and the carrier.

The organization of parallel or temporary services, serving the same public as existing regular services, requires authorization.

'Occasional services' means services which do not fall within the definition of regular services, including special regular services, and whose main characteristic is that they carry groups constituted on the initiative of a customer or of the carrier himself. The organization of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorization in accordance with the procedure with the procedure laid down in Section II of Regulation (EEC) No 684/92. These services shall not cease to be occasional services solely because they are provided at certain intervals.

Occasional services do not require authorization.'

COUNCIL REGULATION (EC) No 12/98

of 11 December 1997

laying down the conditions under which non-resident carriers may operate
national road passenger transport services within a Member State

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty ⁽³⁾,

- (1) Whereas Council Regulation (EEC) No 2454/92 of 23 July 1992, laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State ⁽⁴⁾ was declared void by the Court of Justice in its judgment of 1 June 1994 ⁽⁵⁾;
- (2) Whereas, pursuant to Article 75 (1) (b) of the Treaty, the establishment of a common transport policy entails, *inter alia*, laying down the conditions under which non-resident carriers may operate national transport services within a Member State;
- (3) Whereas that provision entails the removal of all restrictions against carriers providing the services in question on the grounds of their nationality or the fact that they are established in a Member State other than that in which the service is to be provided;
- (4) Whereas carriers providing such services should be subject to comparable systems, so as to limit inequality in the conditions of competition because of their nationality and country of establishment, and hence promote the gradual approximation of national laws;
- (5) Whereas the definitions of the various coach and bus services should be the same as those adopted in the context of international transport;
- (6) Whereas non-resident carriers should be allowed to operate certain forms of coach and bus services,

bearing in mind the specific characteristics of each form of service;

- (7) Whereas the provisions applicable to cabotage transport operations should be established;
- (8) Whereas the provisions of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services ⁽⁶⁾ apply in cases where, for the provision of special regular services, carriers, post workers, who have an employment relationship with those carriers, from the Member State where they ordinarily work;
- (9) Whereas, where regular services are concerned, only regular services provided as part of a regular international service, excluding urban and suburban services, should be opened up to cabotage, subject to certain conditions, and in particular to the legislation in force in the host Member State;
- (10) Whereas provisions should be adopted so that action can be taken in the event of serious disturbance of the transport markets affected;
- (11) Whereas an advisory committee should be set up with the task of assisting the Commission in drawing up documents relating to cabotage transport operations in the form of occasional services and advising the Commission on safeguard measures;
- (12) Whereas it is desirable that Member States should grant each other mutual assistance with a view to the sound application of this Regulation, particularly in respect of penalties applicable in the event of infringements;
- (13) Whereas it is for the Member States to adopt the measures necessary for the implementation of this Regulation;
- (14) Whereas the application of this Regulation should be monitored by means of a report to be submitted by the Commission;

⁽¹⁾ OJ C 60, 29. 2. 1996, p. 10 and OJ C 124, 21. 4. 1997, p. 73.

⁽²⁾ OJ C 30, 30. 1. 1997, p. 40.

⁽³⁾ Opinion of the European Parliament of 28 November 1996 (OJ C 380, 16. 12. 1996, p. 35), Council Common Position of 14 April 1997 (OJ C 164, 30. 5. 1997, p. 17) and Decision of the European Parliament of 16 July 1997 (OJ C 286, 22. 9. 1997, p. 84).

⁽⁴⁾ OJ L 251, 29. 8. 1992, p. 1.

⁽⁵⁾ Judgment of 1 June 1994, Case C-388/92, European Parliament v. Council (ECR 1994, p. I-2081).

⁽⁶⁾ OJ L 18, 21. 1. 1997, p. 1.

(15) Whereas the aforementioned judgment of the Court of Justice, which declared Regulation (EEC) No 2454/92 void, upholds the effects of the Regulation until such time as the Council has adopted new legislation on the matter; whereas this Regulation will not be applied until eighteen months after its entry into force; whereas it must therefore be considered that the effects of the voided Regulation will persist until this Regulation has been fully implemented,

HAS ADOPTED THIS REGULATION:

Article 1

Any carrier who operates road passenger transport services for hire or reward, and who holds the Community licence provided for in Article 3a of Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus⁽¹⁾, shall be permitted, under the conditions laid down in this Regulation and without discrimination on grounds of the carrier's nationality or place of establishment, temporarily to operate national road passenger services for hire or reward in another Member State, hereinafter referred to as the 'host Member State', without being required to have a registered office or other establishment in that State.

Such national transport services are hereinafter referred to as 'cabotage transport operations'.

Article 2

For the purposes of this Regulation:

(1) 'Regular services' means services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services shall be open to all — subject, where appropriate, to compulsory reservation.

The fact that the operating conditions of the service may be adjusted shall not affect its classification as a regular service.

(2) 'Special regular services' means regular services which provide for the carriage of specified categories of passengers, to the exclusion of other passengers, at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points.

Special regular services shall include:

- (a) the carriage of workers between home and work;
- (b) carriage to and from the educational institution for school pupils and students;
- (c) the carriage of soldiers and their families between their homes and the area of their barracks.

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

(3) 'Occasional services' means services which do not fall within the definition of regular services, including special regular services, and whose main characteristic is that they carry groups constituted on the initiative of a customer or of the carrier himself. These services shall not cease to be occasional services solely because they are provided at certain intervals.

(4) 'Vehicles' means motor vehicles which, by virtue of their type of construction and equipment, are suitable for carrying more than nine persons — including the driver — and are intended for that purpose.

Article 3

Cabotage transport operations shall be authorized for the following services:

- (1) special regular services provided that they are covered by a contract concluded between the organizer and the carrier;
- (2) occasional services;
- (3) regular services, provided they are performed by a carrier not resident in the host Member State in the course of a regular international service in accordance with Regulation (EEC) No 684/92.

Cabotage transport cannot be performed independently of such international service.

Urban and suburban services shall be excluded from the scope of this point.

'Urban and suburban services' means transport services meeting the needs of an urban centre or conurbation, and transport needs between it and the surrounding areas.

Article 4

1. The performance of the cabotage transport operations referred to in Article 3 shall be subject, save as otherwise provided in Community legislation, to the laws, regulations and administrative provisions in force in the host Member State in relation to the following areas:

⁽¹⁾ OJ L 74, 20. 3. 1992, p. 1. Regulation as amended by Regulation (EC) No 11/98. (See page 1 of this Official Journal).

- (a) rates and conditions governing the transport contract;
- (b) weights and dimensions of road vehicles; such weights and dimensions may, where appropriate, exceed those applicable in the carrier's Member State of establishment, but they may under no circumstances exceed the technical standards set out in the certificate of conformity;
- (c) requirements relating to the carriage of certain categories of passengers, *viz.* schoolchildren, children and persons with reduced mobility;
- (d) driving and rest time;
- (e) VAT (value added tax) on transport services; in this area Article 21 (1) (a) of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment⁽¹⁾ shall apply to the services referred to in Article 1 of this Regulation.

2. Save as otherwise provided in Community legislation, cabotage transport operations which form part of the transport services provided for in Article 3 (3) shall be subject to the existing laws, regulations and administrative provisions in force in the host Member State regarding authorizations, tendering procedures, the routes to be operated and the regularity, continuity and frequency of services as well as itineraries.

3. The technical standards of construction and equipment which must be met by vehicles used to carry out cabotage transport operations shall be those laid down for vehicles put into circulation in international transport.

4. The national provisions referred to in paragraphs 1 and 2 shall be applied by the Member States to non-resident carriers on the same conditions as those imposed on their own nationals, so as effectively to prevent any open or hidden discrimination on grounds of nationality or place of establishment.

5. If it is established that, in the light of experience, the list of areas covered by the host Member State's provisions, as referred to in paragraph 1, needs to be amended, the Council shall do so by a qualified majority, on a proposal from the Commission.

Article 5

The Community licence or a certified true copy thereof shall be kept on board the vehicle and be produced when requested by an authorized inspecting officer.

Article 6

1. Cabotage transport operations in the form of occasional services shall be carried out under cover of a

control document — the journey form — which must be kept on board the vehicle and be produced when requested by an authorized inspecting officer.

2. The journey form, the model for which shall be adopted by the Commission in accordance with the procedure laid down in Article 8, shall comprise the following information:

- (a) the points of departure and destination of the service;
- (b) the date of departure and the date on which the service ends.

3. The journey forms shall be supplied in books certified by the competent authority or agency in the Member State of establishment. The model for the book of journey forms shall be adopted by the Commission in accordance with the procedure laid down in Article 8.

4. In the case of special regular services, the contract concluded between the carrier and the transport organizer, or a certified true copy of the contract, shall serve as the control document.

However, the journey form shall be completed in the form of a monthly statement.

5. The journey forms used shall be returned to the competent authority or agency in the Member State of establishment in accordance with procedures to be laid down by that authority or agency.

Article 7

1. At the end of each quarter and within three months, which may be reduced by the Commission to one month in the case referred to in Article 9, the competent authority or agency in each Member State shall communicate to the Commission the data concerning cabotage transport operations, in the form of special regular services and occasional services, carried out during the quarter in question by resident carriers.

The communication shall be effected by means of a table conforming to the model adopted by the Commission in accordance with the procedure laid down in Article 8.

2. Once a year the competent authorities in the host Member State shall send the Commission statistics on the number of authorizations issued for cabotage transport operations in the form of the regular services referred to in Article 3 (3).

⁽¹⁾ OJ L 145, 13. 6. 1977, p. 1. Directive as last amended by Directive 96/95/EEC (OJ L 338, 28. 12. 1996, p. 89).

3. The Commission shall send the Member States, as soon as possible, summary statements drawn up on the basis of the data submitted under paragraph 1.

Article 8

Whenever reference is made to the procedure laid down in this Article the Commission shall be assisted by the advisory committee referred to in Article 10.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 9

1. In the event of serious disturbance of the internal transport market in a given geographical area due to or aggravated by cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures and shall provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident carriers.

2. For the purposes of paragraph 1:

- 'serious disturbance of the internal transport market in a given geographical area' means the occurrence on that market of problems specific to it, such that there is a serious and potentially enduring excess of supply over demand, implying a threat to the financial stability and survival of a significant number of road passenger transport undertakings,
- 'geographical area' means an area comprising part or all of the territory of a Member State or including part or all of the territory of other Member States.

3. The Commission shall examine the situation and, after consulting the advisory committee referred to in Article 10, shall decide within one month of receipt of the relevant Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary.

The measures introduced in accordance with this Article shall remain in force for a period not exceeding six months, renewable once for the same period.

The Commission shall without delay notify the Member States and the Council of any decision taken pursuant to this paragraph.

4. If the Commission decides to take safeguard measures concerning one or more Member States, the competent authorities of the Member States involved shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.

These measures shall be implemented no later than the same date as the safeguard measures decided on by the Commission.

5. Each Member State may refer a Commission decision as referred to in paragraph 3 to the Council within 30 days of its notification.

The Council, acting by a qualified majority within 30 days of referral by a Member State or, if there are referrals by more than one Member State, of the first referral, may take a different decision.

The limits of validity laid down in the second subparagraph of paragraph 3 shall apply to the Council's decision.

The competent authorities of the Member States concerned shall be bound to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.

If the Council takes no decision within the period laid down in the second subparagraph, the Commission decision shall become final.

6. Where the Commission considers that the measures referred to in paragraph 3 need to be prolonged, it shall submit a proposal to the Council, which shall take a decision by qualified majority.

Article 10

1. The Commission shall be assisted by an advisory committee composed of representatives of the Member States and chaired by a representative of the Commission.

The Committee, acting in accordance with the procedure laid down in Article 8, shall assist the Commission in drawing up a model for the journey forms, the book of journey forms and the table referred to in Articles 6 and 7.

2. In addition, the tasks of the Committee shall be to advise the Commission on:

- any request from a Member State under Article 9 (1),
- measures intended to resolve a serious disturbance of the market as referred to in Article 9, in particular the practical application of such measures.

3. The Committee shall draw up its rules of procedure.

Article 11

1. Member States shall assist one another in applying this Regulation.

2. Without prejudice to criminal prosecution, the host Member State may impose penalties on non-resident carriers who have committed infringements of this Regulation or of Community or national transport regulations within its territory on the occasion of a cabotage transport operation.

The penalties shall be imposed on a non-discriminatory basis and in accordance with paragraph 3.

3. The penalties referred to in paragraph 2 may, inter alia, consist of a warning or, in the event of serious or repeated infringements, a temporary ban on cabotage transport operations within the territory of the host Member State where the infringement was committed.

Where a falsified Community licence, falsified authorization or falsified certified true copy thereof is produced, the falsified document shall be withdrawn immediately and, where appropriate, forwarded as soon as possible to the competent authority of the carrier's Member State of establishment.

4. The competent authorities of the host Member State shall inform the competent authorities of the Member State of establishment of the infringements recorded and any penalties imposed on the carrier and may, in the event of serious or repeated infringements, at the same time transmit a request that a penalty be imposed.

In the event of serious or repeated infringements, the competent authorities of the Member State of establishment shall decide whether an appropriate penalty should be imposed on the carrier concerned; these authorities shall take into account any penalty already imposed in the host Member State and ensure that the penalties already imposed on the carrier concerned are, as a whole, proportional to the infringements or infringements which gave rise to such penalties.

The penalty imposed by the competent authorities of the Member State of establishment, after consulting the

competent authorities of the host Member State, may extend to withdrawal of authorization to pursue the occupation of road passenger transport operator.

The competent authorities of the Member State of establishment may also, pursuant to its national law, arraign the carrier concerned before a competent national court or tribunal.

They shall inform the competent authorities of the host Member State of the decisions taken pursuant to this paragraph.

Article 12

Member States shall ensure that carriers may appeal to the courts against any administrative penalty imposed on them.

Article 13

1. The Commission shall report to the European Parliament and the Council before 30 June 1998 on the results of the application of Regulation (EEC) No 2454/92 and the operation of regular services in the Member States.

2. The Commission shall report to the European Parliament and the Council by 31 December 1999 at the latest on the application of this Regulation and, in particular, on the impact of cabotage transport operations on national transport markets.

Article 14

Member States shall adopt in good time the laws, regulations and administrative provisions necessary for implementation of this Regulation and shall communicate them to the Commission.

Article 15

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

It shall apply from 11 June 1999.

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

Done at Brussels, 11 December 1997.

For the Council

The President

M. DELVAUX-STEHRÉS

COMMISSION REGULATION (EC) No 13/98**of 7 January 1998****establishing the standard import values for determining the entry price of
certain fruit and vegetables**

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽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 8 January 1998.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 7 January 1998 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 00	052	76,7
	204	74,2
	999	75,4
0707 00 05	624	201,3
	999	201,3
0709 10 00	220	181,6
	999	181,6
0709 90 70	052	137,9
	204	171,0
	999	154,4
0805 10 10, 0805 10 30, 0805 10 50	052	41,4
	204	38,5
	220	46,0
	388	18,5
	448	29,1
	624	39,3
	999	35,5
0805 20 10	052	78,7
	204	51,1
	999	64,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	35,0
	464	117,3
	624	113,4
	999	88,6
0805 30 10	052	85,7
	204	67,2
	400	80,0
	528	39,7
	600	85,6
	999	71,6
0808 10 20, 0808 10 50, 0808 10 90	060	49,9
	400	99,1
	404	103,4
	728	86,0
	999	84,6
0808 20 50	064	98,3
	400	90,6
	999	94,5

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 14/98

of 7 January 1998

fixing the representative prices and the additional import duties for molasses 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 market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68⁽³⁾, and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market;

whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 January 1998.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 7 January 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,18	—	0,03
1703 90 00 ⁽¹⁾	11,35	—	0,00

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 15/98

of 7 January 1998

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 1 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾, and in particular point (a) of the first subparagraph of Article 19⁽⁴⁾ thereof,

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

Whereas Regulation (EEC) No 1785/81 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 17a of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽³⁾, as amended by Regulation (EC) No 3290/94⁽⁴⁾; whereas, furthermore, this refund should be fixed in accordance with Article 17a (4) of Regulation (EEC) No 1785/81; whereas candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector⁽⁵⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

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

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁶⁾, as last amended by Regulation (EC) No 150/95⁽⁷⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁸⁾, as last amended by Regulation (EC) No 1482/96⁽⁹⁾;

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 January 1998.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 89, 10. 4. 1968, p. 3.

⁽⁴⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ L 214, 8. 9. 1995, p. 16.

⁽⁶⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁸⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁹⁾ OJ L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 7 January 1998 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	36,66 ⁽¹⁾
1701 11 90 9910	32,35 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	36,66 ⁽¹⁾
1701 12 90 9910	32,35 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,3985
	— ECU/100 kg —
1701 99 10 9100	39,85
1701 99 10 9910	39,20
1701 99 10 9950	39,20
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,3985

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

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

COMMISSION REGULATION (EC) No 16/98

of 7 January 1998

fixing the maximum export refund for white sugar for the 21st partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1408/97

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⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1408/97 of 22 July 1997 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1408/97 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 21st partial invitation to

tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 21st partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1408/97 the maximum amount of the export refund is fixed at ECU 42,220 per 100 kilograms.

Article 2

This Regulation shall enter into force on 8 January 1998.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 194, 23. 7. 1997, p. 16.

COMMISSION REGULATION (EC) No 17/98**of 6 January 1998****establishing unit values for the determination of the customs value of certain perishable goods**

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 82/97 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 1427/97 ⁽⁴⁾, and in particular Article 173 (1) thereof,

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

Whereas the result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 9 January 1998.

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

Done at Brussels, 6 January 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

⁽¹⁾ OJ L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ L 17, 21. 1. 1997, p. 1.

⁽³⁾ OJ L 253, 11. 10. 1993, p. 1.

⁽⁴⁾ OJ L 196, 24. 7. 1997, p. 31.

ANNEX

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 51 0701 90 59	a) b) c)	67,35 402,94 587,53	936,35 445,33 2 745,50	133,09 51,96 44,92	506,83 130 835,46	21 032,87 150,02	11 268,46 13 609,89
1.30	Onions (other than seed) 0703 10 19	a) b) c)	38,50 230,34 335,86	535,25 254,57 1 569,44	76,08 29,70 25,68	289,72 74 790,87	12 023,24 85,76	6 441,51 7 779,96
1.40	Garlic 0703 20 00	a) b) c)	97,38 582,60 849,50	1 353,84 643,90 3 969,66	192,44 75,12 64,95	732,83 189 172,34	30 410,99 216,91	16 292,84 19 678,26
1.50	Leeks ex 0703 90 00	a) b) c)	39,49 236,26 344,49	549,02 261,12 1 609,79	78,04 30,46 26,34	297,17 76 714,06	12 332,41 87,96	6 607,15 7 980,02
1.60	Cauliflowers 0704 10 10 0704 10 05 0704 10 80	a) b) c)	75,84 453,73 661,60	1 054,38 501,47 3 091,59	149,87 58,50 50,58	570,72 147 328,30	23 684,23 168,93	12 688,94 15 325,52
1.70	Brussels sprouts 0704 20 00	a) b) c)	91,88 549,69 801,52	1 277,38 607,53 3 745,45	181,57 70,88 61,28	691,42 178 487,93	28 693,39 204,66	15 372,63 18 566,83
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	23,78 142,27 207,45	330,61 157,24 969,38	46,99 18,34 15,86	178,95 46 195,50	7 426,30 52,97	3 978,68 4 805,39
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. <i>convar. botrytis</i> (L.) Alef var. <i>italica</i> Plenck) ex 0704 90 90	a) b) c)	105,95 633,87 924,26	1 472,99 700,57 4 319,01	209,37 81,73 70,66	797,30 205 820,59	33 087,34 236,00	17 726,71 21 410,06
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	23,02 137,72 200,82	320,04 152,21 938,40	45,49 17,76 15,35	173,23 44 719,11	7 188,96 51,28	3 851,52 4 651,81
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 05 0705 11 80	a) b) c)	152,67 913,38 1 331,83	2 122,53 1 009,49 6 223,53	301,70 117,77 101,82	1 148,88 296 579,80	47 677,62 340,06	25 543,52 30 851,10
1.120	Endives ex 0705 29 00	a) b) c)	21,82 130,54 190,35	303,36 144,28 889,48	43,12 16,83 14,55	164,20 42 387,97	6 814,21 48,60	3 650,75 4 409,32
1.130	Carrots ex 0706 10 00	a) b) c)	37,45 224,05 326,70	520,66 247,63 1 526,63	74,01 28,89 24,98	281,82 72 751,12	11 695,34 83,42	6 265,83 7 567,78
1.140	Radishes ex 0706 90 90	a) b) c)	159,85 956,34 1 394,46	2 222,35 1 056,97 6 516,22	315,89 123,31 106,61	1 202,92 310 527,81	49 919,88 356,05	26 744,82 32 302,01
1.160	Peas (<i>Pisum sativum</i>) 0708 10 90 0708 10 20 0708 10 95	a) b) c)	635,19 3 800,17 5 541,12	8 830,86 4 200,03 25 893,27	1 255,23 490,00 423,64	4 779,98 1 233 932,80	198 364,76 1 414,84	106 274,91 128 357,29

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	100,50 601,26 876,72	1 397,22 664,53 4 096,84	198,60 77,53 67,03	756,29 195 233,31	31 385,35 223,86	16 814,86 20 308,74
1.170.2	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	73,45 439,43 640,75	1 021,15 485,67 2 994,16	145,15 56,66 48,99	552,73 142 685,44	22 937,85 163,60	12 289,07 14 842,56
1.180	Broad beans ex 0708 90 00	a) b) c)	92,83 555,38 809,81	1 290,59 613,81 3 784,18	183,45 71,61 61,91	698,57 180 333,41	28 990,07 206,77	15 531,57 18 758,81
1.190	Globe artichokes 0709 10 30	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	658,05 3 936,94 5 740,55	9 148,67 4 351,18 26 825,15	1 300,41 507,63 438,89	4 952,01 1 278 341,09	205 503,75 1 465,76	110 099,66 132 976,77
1.200.2	— other ex 0709 20 00	a) b) c)	333,39 1 994,58 2 908,35	4 635,02 2 204,45 13 590,51	658,83 257,18 222,36	2 508,85 647 650,08	104 115,03 742,60	55 780,15 67 370,45
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	141,60 847,15 1 235,26	1 968,62 936,29 5 772,27	279,82 109,23 94,44	1 065,58 275 074,99	44 220,55 315,40	23 691,38 28 614,10
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	60,11 359,62 524,37	835,69 397,46 2 450,36	118,79 46,37 40,09	452,34 116 770,89	18 771,87 133,89	10 057,12 12 146,85
1.230	Chantarelles 0709 51 30	a) b) c)	1 182,56 7 074,94 10 316,14	16 440,78 7 819,37 48 206,59	2 336,92 912,25 788,71	8 899,10 2 297 264,71	369 304,03 2 634,07	197 856,48 238 968,18
1.240	Sweet peppers 0709 60 10	a) b) c)	170,32 1 018,98 1 485,80	2 367,91 1 126,20 6 943,03	336,58 131,39 113,60	1 281,71 330 867,04	53 189,57 379,38	28 496,58 34 417,75
1.250	Fennel 0709 90 50	a) b) c)	73,55 440,03 641,62	1 022,54 486,33 2 998,24	145,35 56,74 49,05	553,48 142 879,70	22 969,08 163,83	12 305,80 14 862,76
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	65,05 389,18 567,47	904,37 430,13 2 651,74	128,55 50,18 43,39	489,52 126 367,43	20 314,59 144,89	10 883,65 13 145,11
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	178,55 1 068,22 1 557,59	2 482,33 1 180,62 7 278,52	352,84 137,74 119,08	1 343,64 346 854,80	55 759,74 397,71	29 873,56 36 080,85
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	51,34 307,15 447,87	713,76 339,47 2 092,85	101,46 39,60 34,24	386,35 99 734,11	16 033,07 114,36	8 589,80 10 374,63

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.40	Avocados, fresh ex 0804 40 90 ex 0804 40 20 ex 0804 40 95	a) b) c)	99,75 596,78 870,18	1 386,79 659,57 4 066,27	197,12 76,95 66,53	750,65 193 776,35	31 151,13 222,19	16 689,37 20 157,18
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	123,97 741,68 1 081,46	1 723,52 819,72 5 053,59	244,98 95,63 82,68	932,91 240 826,60	38 714,84 276,13	20 741,67 25 051,49
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 42 0805 10 51 0805 10 37	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamou- tis, ovalis, trovita and hamlins 0805 10 44 0805 10 55 0805 10 38	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.3	— Others 0805 10 39 0805 10 46 0805 10 59	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70	Mandarins (including tangerines and satsu- mas), fresh; clementines, wilkings and simi- lar citrus hybrids, fresh:							
2.70.1	— Clementines 0805 20 21	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70.2	— Monreales and satsumas 0805 20 23	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70.3	— Mandarines and wilkings 0805 20 25	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70.4	— Tangerines and others ex 0805 20 27 ex 0805 20 29	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.85	Limes (<i>Citrus aurantifolia</i>), fresh ex 0805 30 90	a) b) c)	134,87 806,89 1 176,55	1 875,06 891,79 5 497,92	266,52 104,04 89,95	1 014,93 262 001,16	42 118,82 300,41	22 565,37 27 254,12
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	39,04 233,57 340,57	542,76 258,14 1 591,45	77,15 30,12 26,04	293,79 75 839,88	12 191,88 86,96	6 531,86 7 889,09
2.90.2	— pink ex 0805 40 90 ex 0805 40 20 ex 0805 40 95	a) b) c)	47,45 283,88 413,93	659,68 313,75 1 934,28	93,77 36,60 31,65	357,07 92 177,32	14 818,26 105,69	7 938,95 9 588,55

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.100	Table grapes 0806 10 10	a) b) c)	223,11 1 334,81 1 946,32	3 101,83 1 475,26 9 094,99	440,90 172,11 148,80	1 678,97 433 417,95	69 675,47 496,96	37 328,98 45 085,40
2.110	Water melons 0807 11 00	a) b) c)	41,86 250,44 365,17	581,97 276,79 1 706,41	82,72 32,29 27,92	315,01 81 318,07	13 072,54 93,24	7 003,68 8 458,94
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	a) b) c)	69,31 414,66 604,63	963,60 458,29 2 825,39	136,97 53,47 46,23	521,58 134 642,99	21 644,96 154,38	11 596,39 14 005,96
2.120.2	— other ex 0807 19 00	a) b) c)	131,42 786,25 1 146,45	1 827,09 868,98 5 357,28	259,71 101,38 87,65	988,97 255 299,12	41 041,41 292,73	21 988,14 26 556,96
2.140	Pears							
2.140.1	Pears — nashi (<i>Pyrus pyrifolia</i>) ex 0808 20 41	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.140.2	Other ex 0808 20 41	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.150	Apricots 0809 10 10 0809 10 50	a) b) c)	165,54 990,38 1 444,10	2 301,45 1 094,59 6 748,17	327,13 127,70 110,41	1 245,73 321 581,31	51 696,82 368,73	27 696,83 33 451,83
2.160	Cherries 0809 20 05 0809 20 95	a) b) c)	296,82 1 775,79 2 589,33	4 126,60 1 962,65 12 099,75	586,56 228,97 197,97	2 233,65 576 608,47	92 694,51 661,15	49 661,55 59 980,50
2.170	Peaches 0809 30 90	a) b) c)	182,97 1 094,66 1 596,15	2 543,78 1 209,84 7 458,70	361,58 141,15 122,03	1 376,90 355 441,18	57 140,07 407,55	30 613,08 36 974,03
2.180	Nectarines ex 0809 30 10	a) b) c)	227,03 1 358,26 1 980,51	3 156,33 1 501,18 9 254,79	448,65 175,14 151,42	1 708,46 441 033,02	70 899,65 505,69	37 984,84 45 877,54
2.190	Plums 0809 40 05	a) b) c)	192,26 1 150,24 1 677,19	2 672,93 1 271,27 7 837,40	379,93 148,31 128,23	1 446,81 373 488,12	60 041,26 428,25	32 167 41 38 851,32
2.200	Strawberries 0810 10 10 0810 10 05 0810 10 80	a) b) c)	380,29 2 275,17 3 317,49	5 287,06 2 514,57 15 502,37	751,51 293,36 253,64	2 861,79 738 758,96	118 761,52 847,07	63 627,08 76 847,86
2.205	Raspberries 0810 20 10	a) b) c)	1 930,12 11 547,39 16 837,54	26 833,88 12 762,42 78 680,57	3 814,21 1 488,93 1 287,30	14 524,69 3 749 489,71	602 761,04 4 299,21	322 932,24 390 032,86
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a) b) c)	1 143,62 6 841,97 9 976,45	15 899,41 7 561,89 46 619,21	2 259,96 882,21 762,74	8 606,06 2 221 619,08	357 143,38 2 547,33	191 341,35 231 099,30
2.220	Kiwi fruit (<i>Actinidia chinensis Planch.</i>) 0810 50 10 0810 50 20 0810 50 30	a) b) c)	65,25 390,37 569,21	907,15 431,45 2 659,89	128,94 50,34 43,52	491,02 126 755,95	20 377,05 145,34	10 917,11 13 185,52

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.230	Pomegranates ex 0810 90 85	a) b) c)	100,71 602,52 878,55	1 400,14 665,92 4 105,40	199,02 77,69 67,17	757,87 195 641,26	31 450,93 224,32	16 849,99 20 351,17
2.240	Khakis (including sharon fruit) ex 0810 90 85	a) b) c)	90,62 542,15 790,53	1 259,86 599,20 3 694,09	179,08 69,91 60,44	681,94 176 040,22	28 299,90 201,85	15 161,81 18 312,22
2.250	Lychees ex 0810 90 30	a) b) c)	177,82 1 063,85 1 551,23	2 472,18 1 175,79 7 248,76	351,40 137,17 118,60	1 338,15 345 436,69	55 531,76 396,08	29 751,42 35 933,33

COMMISSION REGULATION (EC) No 18/98

of 7 January 1998

imposing a provisional anti-dumping duty on imports of synthetic fibre ropes
originating in India

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) In June 1997, an anti-dumping proceeding concerning imports of synthetic fibre ropes originating in India was terminated without imposition of measures on the grounds that although some factors appeared to indicate the existence of injury, the overall degree of injurious impact of the dumped imports was not sufficiently established to justify the imposition of measures in the light of the information available in relation to the investigation period. However, information made subsequently available to the Commission contained sufficient *prima facie* evidence that the situation of the Community industry may have further deteriorated as a result of continued dumped imports from India. In these special circumstances, and given that the new information could not be taken into consideration within the context of the abovementioned proceeding, the Commission decided to initiate a new anti-dumping proceeding on the basis of Article 5 (6) of Regulation (EC) No 384/96 (hereinafter referred to as the 'Basic Regulation'). The initiation of this proceeding was announced by a notice published in the *Official Journal of the European Communities*⁽³⁾ in July 1997.

(2) The Commission officially advised the producers exporters and importers known to be concerned and the representatives of the exporting country, about the initiation of the proceeding. Interested

parties were given the opportunity to make their views known in writing and to request a hearing.

- (3) The Commission sent questionnaires to all exporters and importers known to be concerned and received replies from one Indian exporting producer. None of the importers replied to the Commission's questionnaire.
- (4) Given the large number of Community producers supporting the proceeding, the Commission decided to investigate injury on the basis of a selection of Community producers in accordance with Article 17 of the Basic Regulation. Detailed questionnaires were sent to this selection of Community producers and information was received from them.
- (5) The Commission sought and verified all information it deemed necessary for the assessment of preliminary determination of dumping and injury and carried out investigations at the premises of the following companies:

Community producers

- Randers (Denmark),
- Oliveira SA (Portugal),
- Verto Portugal (Portugal),
- Bihr Frères (France),
- Quintas & Quintas (Portugal),
- Cotesi (Portugal),
- Sicor (Portugal),
- Geo Gleistein & Sohn (Germany);

Producer/exporter

- Garware-Wall Ropes Limited, Pune, India.

- (6) The investigation of dumping covered the period from 1 July 1996 to 31 May 1997 (hereinafter referred to as 'the investigation period'). The examination of injury covered the period from 1993 up to the end of the investigation period.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (7) The product under consideration is twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics of polyethylene or polypropylene, other than binder and baler twine,

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ C 201, 1. 7. 1997, p. 8.

measuring more than 50 000 decitex (5 g/m), plaited and other, as well as other synthetic fibres of nylon or other polyamides or of polyesters measuring more than 50 000 decitex (5 g/m), plaited and other. The product as described above falls within CN codes 5607 49 11, 5607 49 19, 5607 50 11 and 5607 50 19.

The product in question is used for a wide variety of naval and industrial applications, in particular for shipping (especially for mooring purposes), and the fishing industry.

- (8) It is produced in many different types depending on the raw material composition and on the number of strands making up the ropes.

2. Like product

- (9) The investigation showed that the different types of synthetic fibre ropes sold in India are alike in their physical characteristics, application and use to those exported to the Community industry. Similarly, the ropes manufactured in the Community and those exported from India to the Community have the same characteristics and compete with each other. It is therefore concluded that they must be considered like products within the meaning of Article 1 (4) of the Basic Regulation.

C. DUMPING

1. Normal value

- (10) In order to establish normal value, the Commission first analysed whether the total domestic sales of the cooperating exporting producer was representative in accordance with Article 2 (2) of the Basic Regulation i.e. whether the total volume of such sales constituted 5 % or more of the total volume of export sales to the Community. This assessment revealed that the cooperating exporting producer's domestic sales of synthetic fibre ropes were representative.
- (11) The Commission then examined whether total domestic sales of each product type exported to the Community were representative, i.e. whether the volume of such sales constituted 5 % or more of the sales volume of the corresponding type exported to the Community.
- (12) For those product types meeting this test, the Commission subsequently examined whether the domestic sales of each product type could be considered as being made in the ordinary course of

trade, by looking at the proportion of profitable sales of the type in question.

In cases where, per product type, the volume of sales above unit cost represented less than 80 % but more than 10 % of the total sales volume, the normal value for this type was established on the basis of the weighted average price of profitable domestic sales transactions only. Where, per product type, the volume of domestic sales above unit cost represented less than 10 % of the total sales volume, domestic sales were considered insufficient in the sense of Article 2 (4) of the Basic Regulation and were therefore disregarded.

Where, for the corresponding product type, there were no or insufficient similar domestic sales in the ordinary course of trade and given that there was no other cooperating producer in India, normal value was constructed in accordance with Article 2 (3) and Article 2 (6) (b) of the Basic Regulation, i.e. on the basis of all costs of manufacturing and SG&A expenses incurred by the exporting producer when producing the product type concerned for sales on the domestic market, plus a profit margin based on the profitable sales of the like product made by this producer on the domestic market.

2. Export price

- (13) As the cooperating producer made its export sales to the Community directly to independent importers, export price was, in accordance with Article 2 (8) of the Basic Regulation, established on the basis of the prices actually paid or payable by these independent customers.

3. Comparison

- (14) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect price comparability in accordance with Article 2 (10) of the Basic Regulation.

Adjustments for transport, insurance, clearing and handling charges, indirect taxes, import charges, credit costs and discounts were granted.

- (15) The cooperating exporting producer claimed that an allowance should be granted for the imported charges borne by the raw material imported. This adjustment was granted where the duties shown to be paid on raw materials imported and physically incorporated in the product sold domestically were shown to be refunded when exporting the products.

The company also claimed an adjustment for physical characteristics on the grounds that some ropes exported to the Community contained a small proportion of waste. This claim was rejected, in accordance with Article 2 (10) of the Basic Regulation, as the company was not in a position to demonstrate that this physical difference had affected sales prices.

An adjustment for differences in other factors was also claimed on the grounds that the domestic market infrastructure requires the maintenance of a network of depots throughout the country which affects price comparability. However, the company was neither able to quantify the expenses incurred by this infrastructure nor to demonstrate how these expenses affected prices. In view of the above, this claim was rejected.

4. Dumping margin

- (16) In accordance with Article 2 (11) of the Basic Regulation, the dumping margin was established on the basis of a comparison between the weighted average normal value by type and the weighted average export price of the corresponding type at an ex-factory level.

The comparison of the normal value with the export price showed the existence of dumping, the dumping margin being equal to the amount by which the normal value exceeds the price for export to the Community.

Expressed as a percentage of the free-at-Community frontier price, duty unpaid, the weighted average dumping margin amounts to 96,4 %.

- (17) For exporting producers which neither replied to the Commission's questionnaire nor otherwise made themselves known, the dumping margin was determined on the basis of the facts available in accordance with the provisions of Article 18 (1) of the Basic Regulation.

A comparison of Eurostat data with the volume of exports to the Community reported by the co-operating exporting producer was made in order to establish the level of cooperation. This comparison showed that the level of cooperation was high. However, during the investigation, the Commission has established that the volume of exports declared by the cooperating producer of the product concerned from India to the Community was higher than the volume of imports quantified by

Eurostat, possibly because of the delay in reporting by national customs authorities.

Nevertheless, in order to avoid rewarding any possible non-cooperation, the product type which appeared most dumped was selected, provided that it did not result in a dumping margin lower than that established. The residual dumping margin was then determined on the basis of the dumping margin of the product type selected for the co-operating company. Expressed as a percentage of the free-at-Community frontier price, duty unpaid, the margin is 251 %.

D. COMMUNITY INDUSTRY

- (18) The Community producers supporting the proceeding represented approximately 96 % of the Community production of the product concerned and therefore constituted the Community industry in accordance with Articles 4 (1) and 5 (4) of the Basic Regulation.

E. INJURY

1. Preliminary remarks

- (19) As indicated in recital 6, for the purposes of establishing injury in the present proceeding the Commission has analysed data relating to the period 1993 to May 1997. However, as regards the development of the injury indicators over the period considered, the Commission has, for the purpose of a year-to-year comparison, used the figures relating to the 11 months of the investigation period (six months of 1996 and five months of 1997) as a basis for extrapolating the figures for a 12-month period.
- (20) The geographical scope of the investigation was the Community as composed at the time of the initiation of the proceeding, i.e. the Community of 15 Member States.

2. Collection of injury data

- (21) The Commission requested and obtained information from all producers supporting the proceeding relating to production, sales and employment ('global information'). In view of the large number of producers in the Community industry, the Commission based the remaining injury indicators on information from a selection of Community producers, i.e. capacity, capacity utilization, prices, profitability, cost of production, stocks and investments ('sampled information').

Pursuant to Article 17 of the Basic Regulation, the selection was made according to geographical location and the size of the companies in terms of production and sales and it includes large as well as small companies. Furthermore, it should be noted that more than half of the Community production is located in one Member State. Notwithstanding this, the Commission included producers from other Member States in its selection.

The selected companies accounted for 47 % of production and 44 % of sales of the product concerned of the Community industry during the investigation period.

3. Community consumption

- (22) Community consumption was based on global information on volume of sales of the Community industry and Eurostat information on volume of imports. As regards imports originating in India, the data obtained from Eurostat were adjusted to take account of information supplied by the Indian cooperating exporting producer and verified by the Commission. The volume of sales of the Community producers not cooperating in the proceeding was estimated, on the basis of the available information, at 4 % of the total sales of the whole Community producers.

On the above basis, Community consumption increased from 21 820 tonnes in 1993 to 26 405 tonnes in 1995 and remained relatively stable thereafter, reaching 27 049 tonnes in the investigation period, which represents an overall increase of 24 % over the period considered.

4. Volume and market share of the dumped imports

- (23) The total volume of all dumped imports of synthetic fibre ropes originating in India increased significantly over the period considered, rising from 440 tonnes in 1993 to 1 342 tonnes in 1996, then slightly decreasing to 1 239 tonnes in the investigation period. Overall, the volume of dumped imports increased by 182 % between 1993 and the investigation period.

The market share of synthetic fibre ropes imported from India rose significantly between 1993 and the investigation period, increasing from 2 % in 1993 to 5,1 % in 1996 then slightly decreasing to 4,6 % in the investigation period.

5. Prices of the dumped imports

- (24) In order to determine whether the exporting producer was undercutting the prices of the

Community producers during the investigation period, the Commission compared the prices of the selected Community producers with comparable prices of the cooperating exporter concerned in the Community. Due to the large number of different types of synthetic fibre ropes, the price comparison was made on the basis of a selection of transactions representing approximately 70 % of the volume of sales of all types of synthetic fibre ropes made by the Community producers.

The sales prices of the Community industry considered were those to independent customers, adjusted where necessary to ex-works level. Adjustments were made to the exporters' selling prices (cif Community frontier) to take account of customs duty paid and an allowance in respect of post importation costs. The transactions of the product types selected represented a large proportion of the total volume of imports from India into the Community during the investigation period. All prices were compared after excluding all discounts and rebates and at a comparable level of trade.

The results of the comparison (conducted on an average-to-average basis) showed that during the investigation period price undercutting margins for the imports originating in India, expressed as a percentage of the Community industry's average selling prices ranged from 0 % to 38 % with an overall weighted average of 16 %. The differences in these margins reflect the large variety of ropes falling within the definition of the product concerned.

6. Situation of the Community industry

(a) Production (global information)

- (25) Production levels of the product concerned produced by the Community industry increased during the period considered, going from 19 465 tonnes in 1993 to 22 373 tonnes in the investigation period, which represents an overall increase of 15 %. Production levels should be viewed in conjunction with Community consumption which increased by 24 % during the period considered.

(b) Sales volume of the Community industry (global information)

- (26) The volume of sales of the Community industry on the Community market increased during the period considered, with the sales levels at 19 179 tonnes in 1993 and 20 784 tonnes in the investigation period, which represents an overall increase of 8 %. This trend shows that the sales of Community producers were not able to follow the trend in consumption which increased by 24 % during the period considered.

(c) Market share (global information)

- (27) The development of sales volume compared to that of apparent Community consumption, shows that the market share held by the Community producers decreased during the period considered. The market share of the Community producers went from 88 % in 1993 to 77,5 % in 1995, 78,6 % in 1996 and 76,8 % in the investigation period. The overall loss of market share was 11 percentage points between 1993 and the investigation period. Moreover, it should be noted that the Community industry lost 10 percentage points in market share between 1993 and 1995 which is the period during which the increase in imports from India became particularly relevant. In 1996, the market share of the Community industry slightly improved but was again on the decline in the investigation period.

(d) Employment (global information)

- (28) Employment levels in the Community industry for the product concerned declined during the period considered. Employment fell from 1 247 in 1993 to 1 129 in the investigation period, a decrease of 9 %. Despite a slight improvement between 1995 and 1996, employment declined again in the investigation period.

(e) Capacity, capacity utilization (sampled information)

- (29) As regards capacity, it should be noted that the production facilities for synthetic fibre ropes are also used in the production of other products not concerned by the present proceedings, products which are subject to seasonal fluctuations of demand in the market, e.g. agricultural twines. As a consequence, an estimate of the capacity normally attributed to the production of the product concerned by the Community industry had to be made.

On this basis, capacity slightly increased, from 16 164 tonnes in 1993 to 17 008 tonnes during the investigation period which represents an increase of 5 %. This increase was in line with expectations of market growth (increase in consumption of 24 % over the period concerned). However, the rate of capacity utilization remained relatively stable during the period considered going from 61 % in 1993 to 62 % in the investigation period.

(f) Stocks (sampled information)

- (30) The investigation has shown that the product concerned is usually produced to order within the

Community. Generally, therefore, no significant levels of stocks were maintained by the Community producers, although stocks of product ordered and not yet sold exist occasionally.

(g) Investments (sampled information)

- (31) Yearly investments made by the sampled companies increased overall, going from ECU 549 996 in 1993 to ECU 1 033 882 in the investigation period. This represents an overall increase of 88 %. It should be noted that this significant increase is due for the most part to investments in replacement machinery over the period considered as part of an overall restructuring programme.

(h) Productivity (sampled information)

- (32) Productivity of the Community industry increased overall from 12,45 tonnes per person employed in 1993 to 15,2 tonnes per person employed in the investigation period, in spite of a slight decrease in the investigation period compared to 1996. This increase in productivity must be seen in the context of the significant technological improvements in the rope-making machines before and during the period considered which enabled the introduction of leaner and more integrated production processes.

(i) Price evolution (sampled information)

- (33) The weighted average prices of the product concerned sold by the sampled companies on the Community market fluctuated over the period considered, overall however, they increased by 1 %.

Furthermore, while the prices of the imports from India increased by 6 % over the period considered, it should be noted that, in the vast majority of cases, these prices were found to be significantly lower than the Community producers' prices for the whole period considered.

(j) Profitability (sampled information)

- (34) The profitability of the Community industry, expressed as a percentage of net sales, went from a weighted average loss of - 1,7 % in 1993 to a weighted average loss of - 7,1 % in the investigation period. It should be noted however, that the financial situation deteriorated particularly from 1995 onwards, going from a loss of - 1,2 % to a loss of - 7,1 % in the investigation period.

7. Conclusion on injury

- (35) The investigation has shown that the Community industry has suffered significant price pressure from the imports originating in India over the whole period considered, with undercutting up to 38 %. In addition, the Community industry suffered a significant loss of market share (11 percentage points) at a time when Community consumption increased by 24 %. Employment levels appeared to be on the decline in spite of restructuring efforts made by the Community industry.

Furthermore, the Community industry showed a significant deterioration of the financial results from 1995 onwards and a weighted average loss of – 7,1 % of net sales in the investigation period.

In the light of the foregoing analysis, the Commission has provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3 (1) of the Basic Regulation.

F. CAUSATION OF INJURY

1. Effects of the dumped imports

- (36) In its examination of whether the material injury suffered by the Community industry had been caused by the effect of the dumped imports, the Commission found that the volume of dumped imports increased substantially between 1993 and the investigation period (+182 %). It should be noted that, between 1993 and 1996, the volume of imports originating in India into the Community more than doubled and their cumulated market share increased by 3 percentage points, whilst during the same period the Community industry lost 10 percentage points. Between 1996 and the investigation period, the volume of imports from India slightly declined. However, despite this slight decrease, the volume of dumped imports from India remained significant in the investigation period.

Furthermore, it is noted that the market for synthetic fibre ropes is price-sensitive and transparent. The Commission found that the product under investigation is to be considered as a commodity and that any downward pressure on prices tended to have an immediate impact on the market.

In this context, the Commission found that the imports from India undercut the prices of the

Community industry by an average of 16 % and up to 38 % during the investigation period. In addition, over the whole period considered, the prices of imports from India were consistently and significantly lower than those of the Community industry. It should be noted that this undercutting continued during the investigation period, despite the relative decline in volume of the imports originating in India in this later period. Furthermore, the Indian prices were found to be the lowest on the market in this period.

- (37) As concerns the Community industry's financial situation, it was not favourable at the beginning of the period considered, however, it had significantly deteriorated by the end of the period.

Two distinct phases can be observed. Between 1993 and 1995 the Community industry's financial situation remained relatively stable, albeit loss-making. This shows that the Community industry, under pressure from the dumped imports, attempted to maintain the level of profitability at the expense of market share. From 1995 onwards, however, in the light of the continuous price pressure of the dumped imports, the Community industry had to modify its pricing strategy in order not to lose further shares of the market and to maintain production levels. Profits were consequently reduced and profitability significantly deteriorated.

Under the circumstances, it is concluded that the dumped imports of synthetic fibre ropes originating in India have caused material injury to the Community industry.

2. Effects of other factors

- (38) The Commission examined whether the injury suffered by the Community industry could have been caused by factors other than the dumped imports. In particular, the Commission looked at the trend in consumption in the Community market, the viability of the Community industry, the evolution and impact of imports from third countries not included in the present proceeding and the impact of any increases in the cost of raw materials.

(a) Community consumption

- (39) Community consumption of synthetic fibre ropes increased in total by 24 % between 1993 and the investigation period, with a tendency to stabilize after 1995. The injury suffered by the Community industry cannot, therefore, be attributed to the trend in demand.

(b) *Competitiveness of the Community industry*

- (40) Despite losses in the beginning of the period, it is recalled that over the period considered the Community industry made significant investments in replacement machinery in order to tie-up with developments in technology. These new machines enabled a leaner and more integrated production process, which in turn resulted in a notable increase in productivity of 22 % between 1993 and the investigation period. Moreover, the Community industry continued its efforts in research and development and in quality control throughout the period considered. The Community industry therefore improved its performance both in cost and in quality terms over the period considered.

(c) *Imports from other third countries*

- (41) The Commission found that the overall market share of imports from third countries not concerned by these proceedings increased by 8,5 % during the period considered. The Commission examined in particular imports from the Republic of Korea, Norway, Poland, Russia and the Czech Republic.

As regards the imports from the Republic of Korea, an anti-dumping proceeding was initiated on 31 July 1997, following a complaint by Eurocord on behalf of the Community industry⁽¹⁾. Since the market share of the imports originating in the Republic of Korea significantly progressed during the period considered from 0,4 % to 4 %, it cannot be excluded that Korean imports contributed to the injury sustained by the Community industry. However, the results of the investigation are still pending.

The market share held by imports from Norway, Russia and the Czech Republic increased over the period considered, but their prices were found to be higher than Indian prices. The prices of imports originating in Poland were found to be lower than Indian prices only in 1994, furthermore, their market share remained stable over the period considered.

It should be further noted that, except for 1994, the Indian import prices were found to be the lowest on the market in the period considered. Moreover, between 1995 and the investigation period, the volume of the Indian imports alone represented 20 % of the total volume of imports

into the Community, which was the highest relative individual share of imports.

(d) *Changes in the prices of raw materials*

- (42) The Commission also considered whether the injury suffered by the Community industry could have been caused by the fluctuations in the cost of the raw materials during the period considered.

The Commission found significant fluctuations in the cost of the raw materials over the period concerned. Overall, the prices of polyethylene and polypropylene granulates, the main raw materials used in the production of the product concerned, increased respectively by 41 % and 52 % between 1993 and the investigation period. Considering that the raw materials account for approximately 50 % of the total costs of production, the average sales price charged by the Community industry should have increased by 23 % over the period considered to cover the overall increase in raw material costs. This should be compared to an overall increase in the sales prices of the Community industry of 1 %.

3. Conclusion on causation

- (43) Although it cannot be excluded that the variation in the cost of raw materials may have had a certain adverse effect on the situation of the Community industry, and that some of the imports from other third countries may have contributed to the loss in market share and the negative situation of the Community industry, this does not detract from the fact that the imports of synthetic fibre ropes originating in India, taken in isolation, caused material injury to the Community industry.

This conclusion is drawn in particular given the loss of market share of the Community industry combined with a deterioration of profitability, which coincided with an increase in the volume and market share of Indian imports at prices that constantly undercut those of the Community industry, at levels found to be the lowest on the market in the investigation period.

G. COMMUNITY INTEREST

1. Preliminary remarks

- (44) The Commission provisionally examined, on the basis of the information submitted, whether despite the dumping and injury findings, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose measures in the present case.

⁽¹⁾ OJ C 232, 31. 7. 1997, p. 6.

For this purpose, the Commission has considered the impact of possible measures for all parties involved in the proceedings and also the consequences for those same parties, of not taking provisional measures.

2. Collection of information

- (45) In order to assess the likely impact of measures, the Commission requested information from all interested parties known to the Commission, including parties in the upstream industries, the Community industry, and user industries. It is to be noted that the Commission received only limited and generic replies.

The parties examined in the context of the present Community interest analysis fall into the following main categories: the raw material producers upstream, the Community industry, the importers/distributors and users downstream.

It should be noted that synthetic fibre ropes are sold in the Community in their finished state, therefore no downstream processing industry as such is concerned by these proceedings.

3. Interests of the raw material producers

- (46) The raw materials used in the production of the product are polymers such as, *inter alia*, polypropylene, polyethylene, polyamide and polyester. These polymers can be in the form of granulates, which need to be extruded, or yarns. They are generally produced in the Community by the main petrochemical industrial groups.

Although a number of raw material producers wrote to the Commission in support of the present proceedings, there appears to be no evidence that these producers would be significantly affected by the imposition or the non-imposition of measures, given that their sales to rope producers would be marginal to their overall businesses.

4. Interests of the Community industry

(a) *Nature and structure of the Community industry*

- (47) The Community industry is made up of some 30 companies that produce the product concerned. The Community industry is spread over most Member States, however a large concentration of companies is to be found in Portugal. The Portuguese producers accounted for approximately 60 %

of the production of the Community industry in the investigation period.

The Community producers are, for the largest part, family-owned small- to medium-sized companies.

The Community industry essentially transforms the raw materials into synthetic fibre rope through the following main production phases: an extrusion phase (the melting of the raw materials into useable yarn), a stranding phase (creating strands from the yarns) and a twisting or braiding phase (twisting or braiding the strands to make up the rope). The product concerned is a finished product that does not generally undergo any further significant transformation.

(b) *Viability of the Community industry*

- (48) The financial situation of the Community industry was not favourable already at the beginning of the period considered, leading to restructuring during this period. The investigation has shown that as a result of the dumped imports the financial situation of the Community industry has worsened significantly and that the Community industry has lost significant market share over the period considered. However, it is recalled that the Community industry invested significantly throughout the period considered in new machinery, which enabled the introduction of more efficient production processes. The Community industry also invested into quality assurance and control and has undergone important research and development efforts to introduce the production of new types of special ropes providing a higher added value and involving more advanced technologies. Finally, at the end of the investigation period the Community industry still held a significant market share, which demonstrates that Community producers are reliable suppliers.

(c) *Likely effects of the imposition or non-imposition of measures*

- (49) If the pressure exerted by the dumped imports is allowed to continue further, financial losses would continue to occur. The Community industry would then not be able to finance its efforts in developing products and over a longer term company closures could follow. In this respect it is noted that the Commission were informed that, as a consequence of the price pressure existing on the Community market during the period considered, a number of Community producers have had to limit their production range and a number of others have stopped producing altogether.

It is very likely that without measures to correct the effects of dumped imports, this negative trend will continue.

On the other hand, if measures were imposed, the Community industry should be able to increase prices and improve profitability.

5. Interests of the importers/distributors

- (50) The distribution chain of the product concerned is characterized by an important number of importers-distributors who, unlike the Community industry, hold significant levels of stocks of the product concerned. It is important to note that the distributors have an important power in setting the price level for the product concerned often resulting from their unique position in the distribution chain.

The importers/distributors generally act as the intermediaries between both the Community industry and the exporters, and the users. A typical example of the role of the importers/distributors is the activity of a ship's chandler in a major port; the ship's chandler will often determine the source of his supply (Community or imported) on the basis of the price charged for the product concerned on the day.

Since the importers and distributors have the power to set the prices on the market and since they are generally free to determine the source of their supply (Community or imported), the Commission do not see that they would be significantly affected by the imposition or non-imposition of measures. Moreover, no evidence was submitted to the Commission that this would not be the case.

6. Interests of the users

- (51) The users of the product concerned mainly consist of the fishing and shipping industries.

Given the extreme price sensitivity of the market, the Commission believes that, the impact of the imposition of measures would in all likelihood take the form of a price increase.

Ropes are generally used for mooring purposes, general on-board purposes or for ancillary purposes to the use of fishing nets. The costs relating to the ropes is therefore peripheral to the main costs incurred by the industry concerned, when compared to other costs such as the depreciation of

the vessels, fuel, insurance, labour or maintenance. This conclusion is reinforced given that synthetic fibre ropes can be used for a long time, without specific maintenance. According to the information available, the Commission believe, therefore, that the product concerned only represents a negligible part of the overall costs of the user industries, which also explains the lack of cooperation from the users in this present proceeding. Any expected price increase would therefore be marginal for the users.

7. Conclusion on Community interest

- (52) Given the rate of increases of imports from India over the period considered and the exporter's behaviour on the Community market to constantly and significantly undercut the prices of the Community industry, there is a likelihood that, in the absence of measures, this trend will continue and further aggravate the injury caused to the Community producers.

The effects of the imposition of measures can be expected to assist the Community industry to improve profitability, with consequent beneficial effects on the competitive conditions on the Community market and the reduction of the threat of further closures and reductions in employment. The beneficial effects are also expected to assist the Community producers to take full advantage of the investments made in recent years, to continue developing new products of higher technology for new and specialized applications.

As regard the user industries, any expected price increase would only have a marginal impact.

The Commission has concluded that, in the circumstances there are no compelling reasons not to impose measures.

H. PROVISIONAL DUTY

1. Injury elimination level

- (53) Having established that the dumped imports under consideration have caused material injury to the Community industry and that there are no compelling reasons not to take action, provisional anti-dumping measures should be adopted. The measures envisaged should be sufficient to eliminate the injury caused by these imports without exceeding the dumping margins found.

The removal of such injury requires that the industry should be put in a position where prices reach a level which would prevail in the absence of dumped imports. It was concluded that at such a level Community producers could cover their costs of production plus a reasonable amount for profit.

Therefore, the weighted average export prices for those product types used in the determination of price undercutting were compared, for the period of investigation, on a cif Community frontier level, adjusted to take account of customs duty paid and an allowance in respect of post importation costs, with the actual weighted average selling prices charged by the selected Community producers concerned, increased, where appropriate, to cover production cost plus a profit margin of 5 %.

This profit margin was considered, for the purpose of a preliminary determination, to be the minimum profit level necessary to make this sector viable. It takes account of the fact that the product concerned is considered by the interested parties as being a commodity.

This comparison showed an injury margin of 53,0 % of the weighted average net, free-at-Community frontier price, before duty.

2. Provisional anti-dumping duty

- (54) According to Article 7 (2) of the Basic Regulation, the level of the provisional anti-dumping duties should be equal either to the margin of dumping or the amount necessary to remove injury, whichever is the lower.

Since the injury margin provisionally found for the Indian exporter is lower than the respective dumping margin, the rate of provisional anti-dumping duty for this exporter should be based on the injury elimination level found.

- (55) For companies which did not cooperate in the investigation, the provisional duty is based on the injury margin, i.e. 82,0 %, found for the product type selected for the establishment of dumping margin in respect of these companies, since the dumping margin exceeded the injury margin.

I. FINAL PROVISION

- (56) In the interests of sound administration, a period should be fixed in which the parties concerned

may make their views known in writing and request a hearing. Furthermore, it should be emphasised that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of synthetic fibre ropes falling within CN codes 5607 49 11, 5607 49 19, 5607 50 11 and 5607 50 19 originating in India.

2. For the purposes of this Regulation, the rate of the provisional anti-dumping duty applicable to the net free-at-Community frontier price before duty shall be as follows:

- Garware Wall Ropes Ltd 53,4 % (additional Taric code 8755),
- Other manufacturers 82,0 % (additional Taric code 8900).

3. The provisions in force concerning duties and other customs practices shall apply.

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

Pursuant to Articles 20 and 21 of Regulation (EC) No 384/96 of 22 December 1995, the parties concerned may make their views known in writing and apply to be heard orally by the Commission within one month of the entry into force of this Regulation.

Article 3

Subject to Articles 7, 9, 10 and 14 of Regulation (EC) No 384/96 of 22 December 1995, Article 1 of this Regulation shall apply for a period of six months unless the Commission extends its validity or the Council adopts definitive measures before the expiry of that period.

Article 4

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

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

Done at Brussels, 7 January 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 19/98

of 7 January 1998

suspending the sale of butter from public stocks pursuant to Regulation (EEC) No 3143/85 on the sale at reduced prices of intervention butter intended for direct consumption in the form of concentrated butter and the granting of aid pursuant to Regulation (EEC) No 429/90 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Articles 6 (6) and 7a (3) thereof,

Whereas Commission Regulation (EEC) No 3143/85 ⁽³⁾, as last amended by Regulation (EC) No 1802/95 ⁽⁴⁾, provides for the sale at reduced prices of intervention butter intended for direct consumption in the form of concentrated butter in the Community; whereas those arrangements are to continue to apply as long as the quantities of butter in public storage so allow; whereas, given the current level of butter in intervention stocks and the need to maintain sales of such butter for other purposes, sales pursuant to Regulation (EEC) No 3143/85 should be suspended; whereas the notice of expiry referred to in Article 1 (2) of that Regulation was issued on 1 July 1989;

Whereas Commission Regulation (EEC) No 429/90 ⁽⁵⁾, as last amended by Regulation (EC) No 1802/95, provides for the granting by invitation to tender of aid for concentrated butter made from butter or cream from the market and intended for direct consumption in the Community; whereas those arrangements were introduced to supplement and continue the measure provided for in Regulation (EEC) No 3143/85; whereas, in view of the situation

on the market for butter, where butter production and stocks are currently lower, the aid scheme provided for in Regulation (EEC) No 429/90 should be suspended;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The sale of butter from public stocks pursuant to Regulation (EEC) No 3143/85 is hereby suspended.
2. The granting of aid pursuant to Regulation (EEC) No 429/90 is hereby suspended.

Article 2

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

It shall apply from 1 January 1998.

However, it shall not apply to quantities of butter or concentrated butter covered by bids already submitted under an invitation to tender at its date of entry into force.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 298, 12. 11. 1985, p. 9.

⁽⁴⁾ OJ L 174, 26. 7. 1995, p. 27.

⁽⁵⁾ OJ L 45, 21. 2. 1990, p. 8.

COMMISSION REGULATION (EC) No 20/98

of 7 January 1998

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

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⁾, as amended by Commission Regulation (EC) No 2520/97⁽²⁾, and in particular Article 48 thereof,

Whereas Article 14 of Regulation (EC) No 2200/96 states that new producer organizations or those which have not been recognized under Council Regulation (EEC) No 1035/72⁽³⁾, as last amended by Commission Regulation (EC) No 1363/95⁽⁴⁾, may be allowed a transitional period of no more than five years in which to meet the conditions for recognition laid down in Article 11 of Regulation (EC) No 2200/96; whereas Regulation (EC) No 478/97⁽⁵⁾ establishes the conditions for granting preliminary recognition to producer organizations;

Whereas, in order to encourage the formation of producer organizations, Article 14 of Regulation (EC) No 2200/96 also states that Member States may grant two sorts of aid to producer organizations granted preliminary recognition in the five years following such preliminary recognition, one to cover the costs of their formation and administrative operation and one to cover part of the investments required to attain recognition and set out in their recognition plans;

Whereas, to facilitate the correct application of the system of aid to cover the costs of formation and administrative operation, that aid should be granted at a flat rate; whereas that flat-rate aid should be subject to a ceiling in order to comply with budgetary constraints; whereas, to take account of the differing financial needs of producer organizations of different sizes, that ceiling should be adjusted in line with the marketable production of the producer organizations; whereas, since the rules contained in Commission Regulation (EEC) No 2118/78⁽⁶⁾ are no longer applicable, that Regulation should accordingly be repealed;

Whereas the selection criteria laid down by the Commission pursuant to Article 8 of Council Regulation (EC) No 951/97 of 20 May 1997 on improving the processing and marketing conditions for agricultural products⁽⁷⁾ should be applied to investments eligible under this Regulation in order to ensure consistency between the various measures financed by the Community, until such time as the new agricultural policy guidelines for fruit and vegetables introduced by Regulation (EC) No 2200/96 are implemented;

Whereas the aid provided for in this Regulation should be discontinued once the producer organization is recognized by the Member State; whereas, however, to take account of the multiannual financing of investments, those qualifying for investment aid under this Regulation can be carried over to operational programmes as referred to in Article 15 of Regulation (EC) No 2200/96;

Whereas, in the event of mergers, the aid may continue to be granted to the producer organizations resulting from the merger;

Whereas, in order to ensure that the aid provided for in this Regulation is applied properly, the Member State in question should check that the grant of the aid is duly justified, account being taken of any previous grants of aid for the launching of producer organizations and of any movements of producers between producer organizations; whereas the Member States must also ensure that duplicate Community or national financing is not granted for measures qualifying for Community financing under this Regulation;

Whereas procedures should be laid down for controls and penalties;

Whereas Article 14 (7) of Regulation (EC) No 2200/96 provides a special scheme for Portugal; whereas provisions should be laid down to ensure compliance with that special scheme;

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

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 1.
⁽²⁾ OJ L 346, 17. 12. 1997, p. 41.
⁽³⁾ OJ L 118, 20. 5. 1972, p. 1.
⁽⁴⁾ OJ L 132, 16. 6. 1995, p. 8.
⁽⁵⁾ OJ L 75, 15. 3. 1997, p. 4.
⁽⁶⁾ OJ L 246, 8. 9. 1978, p. 11.

⁽⁷⁾ OJ L 142, 2. 6. 1997, p. 22.

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down rules on the granting of aid as provided for in Article 14 (2) of Regulation (EC) No 2200/96 to producer organizations granted preliminary recognition.

2. For the purposes of this Regulation:

- (a) 'producer organization granted preliminary recognition' means a new producer organization or one not recognized under Regulation (EEC) No 1035/72 before the entry into force of Regulation (EC) No 2200/96, to which a Member State has granted preliminary recognition pursuant to Regulation (EC) No 478/97;
- (b) 'producer' means a producer as referred to in Article 1 (2) of Regulation (EC) No 412/97⁽¹⁾;
- (c) 'recognition plan' means a phased recognition plan in line with Regulation (EC) No 478/97 presented by a producer organization, acceptance of which signals the start of the period of no more than five years referred to in Article 14 (1) of Regulation (EC) No 2200/96;
- (d) 'marketed production' means the production of a producer organization's members in the category for which preliminary recognition is granted:

- delivered to the producer organization and actually sold through the organization fresh or processed,
- sold under the terms of the second and third indents of Article 11 (1) (c) (3) of Regulation (EC) No 2200/96 with the organization's authorization,
- directly sold by the organization's members in accordance with the first and fourth indents of Article 11 (1) (c) (3) of Regulation (EC) No 2200/96.

Marketed production shall not include the production of members of other producer organizations marketed through the organization in question in accordance with the second and third indents of Article 11 (1) (c) (3) of Regulation (EC) No 2200/96;

- (e) 'value of marketed production' means the value of marketed production at the 'ex-producer organization' stage, or, where appropriate, as a 'wrapped or prepared unprocessed product'.

Article 2

1. The aid provided for in Article 14 (2) (a) of Regulation (EC) No 2200/96 shall be granted towards the costs of setting up and running the producer organization, at a flat rate.

2. The aid referred to in paragraph 1 shall be determined for each producer organization on the basis of its annual marketed production, and shall:

- (a) amount, for the first, second, third, fourth and fifth years, to 5 %, 5 %, 4 %, 3 % and 2 % respectively of the value of marketed production up to a maximum of ECU 1 000 000, and
- (b) amount, for the first, second, third, fourth and fifth years, to 2,5 %, 2,5 %, 2,0 %, 1,5 % and 1,5 % respectively of the value of marketed production exceeding ECU 1 000 000;
- (c) be subject to a ceiling for each producer organization of:
 - ECU 100 000 for the first year,
 - ECU 100 000 for the second year,
 - ECU 80 000 for the third year,
 - ECU 60 000 for the fourth year,
 - ECU 50 000 for the fifth year;
- (d) be paid in annual instalments for a period of not more than seven years starting on 1 January following the date on which preliminary recognition is granted.

Article 3

1. Aid as provided for in Article 14 (2) (b) of Regulation (EC) No 2200/96 shall be granted, directly or through credit institutions, in the form of special loans to cover part of the cost of investments linked to implementation of the measures in recognition plans as described in Article 4 (1) of Regulation (EC) No 478/97.

Investments liable to distort competition where the other economic activities of the organization are concerned and investments not satisfying the selection criteria adopted by the Commission on the basis of Article 8 (3) of Regulation (EC) No 951/97 shall be excluded.

2. Investments to the direct or indirect benefit of such activities shall be financed pro rata to their use for the sectors or products for which preliminary recognition is granted.

Article 4

1. Aid as provided for in Articles 2 and 3 shall cease once recognition is granted.

⁽¹⁾ OJ L 62, 4. 3. 1997, p. 16.

2. Where an operational programme is submitted pursuant to Commission Regulation (EC) No 411/97⁽¹⁾, the Member State shall ensure that there is no duplicate financing of the measures financed under the recognition plan.

3. Investments qualifying for the aid for the costs referred to in Article 3 may be carried over to operational programmes provided they are in line with Regulation (EC) No 411/97.

Article 5

1. Applications for reimbursement of the aid to meet the costs referred to in Articles 2 and 3 and relating to expenditure paid by the Member State to all the organizations concerned during the course of a calendar year shall be submitted to the Commission in a single batch not later than 30 June of the following year.

2. All applications for aid shall be accompanied by a written declaration from the organization to the effect that the latter:

- complies, and will comply, with the provisions of Regulations (EC) No 2200/96 and (EC) No 478/97 and this Regulation,
- does not benefit and has not benefited directly or indirectly from duplicate Community or national financing for measures for which Community financing is granted pursuant to this Regulation.

Article 6

1. Aid as provided for in Articles 2 and 3 of this Regulation may be given, or may continue to be given, to producer organizations which have been granted preliminary recognition under Regulation (EC) No 478/97 and which result from the merger between a producer organization granted preliminary recognition under that Regulation and one or more of the following:

- (a) one or more producer organizations granted preliminary recognition under Regulation (EC) No 478/97;
- (b) one or more producer organizations recognized under Regulation (EEC) No 1035/72;
- (c) one or more producer organizations recognized under Article 11 of Regulation (EC) No 2200/96.

2. For the purpose of calculating the aid payable under paragraph 1, the producer organization resulting from the merger shall replace the merging organizations.

Article 7

Member States shall evaluate the eligibility of producer organizations for the aid under this Regulation in order to

establish that the aid is duly justified, regard being had to the conditions and the date on which any earlier public aid was granted to the producer organizations from which the members of the producer organizations in question originate, and to any movements of members between producer organizations.

Article 8

Eligible expenditure incurred by Member States on aid as provided for in Articles 2 and 3 shall qualify for assistance from the EAGGF Guidance Section.

Article 9

The Community contribution from the EAGGF Guidance Section towards aid as provided for in Article 2 shall amount to:

- 75 % of eligible public expenditure for regions falling within Objectives 1 and 6, and
- 50 % of eligible public expenditure for other regions.

Article 10

1. The Community contribution from the EAGGF Guidance Section, expressed in terms of capital grant equivalent, shall not exceed, as a percentage of the eligible investment costs referred to in Article 3:

- 50 % in regions falling within Objectives 1 and 6,
- 30 % in other regions.

2. The Member States concerned must undertake to contribute at least 5 % of the eligible costs referred to in Article 3.

3. Recipients of the aid towards the investment costs referred to in Article 3 shall pay at least:

- 25 % of eligible costs in Objective 1 and Objective 6 regions, and
- 45 % of eligible costs in other regions.

Article 11

1. The expenditure referred to in Article 8 shall form part of the provisions contained in Article 31 of Council Regulation (EC) No 950/97⁽²⁾. Article 33 of that Regulation shall apply to the payment of Community aid.

2. The Commission shall adopt rules governing applications for payment and reimbursement after consulting the Committee referred to in Article 29 of Council Regulation (EEC) No 4256/88⁽³⁾.

⁽¹⁾ OJ L 62, 4. 3. 1997, p. 9.

⁽²⁾ OJ L 142, 2. 6. 1997, p. 1.

⁽³⁾ OJ L 374, 31. 12. 1988, p. 25.

3. Checks on aid for the costs referred to in Articles 2 and 3 shall be carried out in accordance with Article 23 of Council Regulation (EEC) No 4253/88 ⁽¹⁾.

Article 12

1. If a check made under Title VI of Regulation (EC) No 2200/96 or Article 23 of Regulation (EEC) No 4253/88 shows that:

- the value of marketed production is less than the amount used for the calculation of the Community's financial assistance, or
- aid covered by this Regulation has not been used in accordance with the regulations applicable or with the approved recognition plan,

the recipient shall be required to reimburse double the amount unduly paid, plus interest for the period between payment and reimbursement.

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

2. If the difference between the aid actually paid and that due is more than 20 % of the latter, the recipient shall be required to reimburse all the aid received, plus interest as indicated in paragraph 1.

3. The share of amounts recovered by a Member State which belongs to the Guidance Section of the EAGGF and the relevant interest shall be deducted from the next application for the balance of the reimbursement sent to

the Guidance Section of the EAGGF or credited to an account of the Commission.

4. In the event of a false declaration made deliberately or as a result of serious negligence on a matter within the scope of this Regulation, the organization concerned shall be barred from Community financial assistance for the remaining duration of the recognition plan in progress.

5. Paragraphs 1 to 4 shall apply without prejudice to other penalties to be set as provided for in Article 48 of Regulation (EC) No 2200/96.

Article 13

Where the Portuguese authorities demonstrate that, in a given year, the aid payable to a producer organization in Portugal under this Regulation is less than that stipulated in Article 14 (7) of Regulation (EC) No 2200/96, the aid provided for in Article 2 (2) shall be increased so as to satisfy the provisions of the aforesaid Article 14.

Article 14

Regulation (EEC) No 2118/78 is repealed.

However, it shall continue to apply to the producer organizations which have applied for the aid under Article 14 of Regulation (EEC) No 1035/72 before the entry into force of Regulation (EC) No 2200/96, and to calculation to be made in accordance with Article 13 of this Regulation.

Article 15

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, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 374, 31. 12. 1988, p. 1.

COMMISSION REGULATION (EC) No 21/98

of 7 January 1998

laying down detailed rules for the implementation of the specific arrangements
for the supply of sheepmeat and goatmeat to the French overseas departments
for 1998

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments⁽¹⁾, as last amended by Regulation (EC) No 2598/95⁽²⁾, and in particular Article 4 (5) 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⁾, and in particular Article 12 thereof,

Whereas, pursuant to Article 4 of Regulation (EEC) No 3763/91, the number of pure-bred breeding sheep and goats originating in the Community and qualifying for aid with a view to developing production potential in the French overseas departments should be determined for each annual period of application;

Whereas the aid referred to above for the supply of pure-bred breeding sheep and goats originating in the rest of the Community to the French overseas departments should be fixed; whereas that aid must be fixed in the light, in particular, of the costs of supply from the Community market and the conditions resulting from the geographical situation of the French overseas departments;

Whereas special needs may arise during the course of different marketing years for the supply to the French overseas departments of pure-bred breeding sheep and goats; whereas, therefore, the French authorities should be granted a degree of flexibility in administering the supply arrangements, in that they should be allowed to issue aid certificates for animals intended for certain overseas departments in excess of the maximum quantities available to those departments, provided that the maximum quantities available to the four departments of both male and female animals are respected; whereas, so as to take account of those special needs, the French authorities should notify the Commission of the cases where that facility was used for the issue of certificates;

Whereas common detailed rules for the application of the arrangements for the supply of certain agricultural products to the French overseas departments are laid down in Commission Regulation (EEC) No 131/92⁽⁴⁾, as last amended by Regulation (EC) No 1736/96⁽⁵⁾; whereas additional detailed rules should be laid down in line with current commercial practice in the sheepmeat and goatmeat sector, in particular as regards the term of validity of aid certificates and the securities ensuring operators' compliance with their obligations;

Whereas, with a view to sound administration of the supply arrangements, a timetable should be laid down for the lodging of certificate applications and for a period of reflection for their issue;

Whereas the operative event for converting the aid into national currency should be the day the aid certificate is lodged with the competent authorities at the destination pursuant to Article 3 (6) of Regulation (EEC) No 131/92, without prejudice to the possibility of advance fixing as provided for in Articles 8 to 12 of Commission Regulation (EEC) No 3819/92 of 28 December 1992 on detailed rules for determining and applying the agricultural conversion rates⁽⁶⁾;

Whereas, with a view to bringing the administration of the aid more closely into line with the requirements of the French overseas departments, the aid and the quantities to which the latter may apply should be fixed annually per calendar year;

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

HAS ADOPTED THIS REGULATION:

Article 1

The aid provided for in Article 4 (1) of Regulation (EEC) No 3763/91 for the supply to the French overseas departments of pure-bred breeding sheep and goats originating in the Community and the number of animals in respect of which that aid is granted shall be as fixed in the Annex hereto.

⁽¹⁾ OJ L 356, 24. 12. 1991, p. 1.

⁽²⁾ OJ L 267, 9. 11. 1995, p. 1.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 15, 22. 1. 1992, p. 13.

⁽⁵⁾ OJ L 225, 6. 9. 1996, p. 3.

⁽⁶⁾ OJ L 387, 31. 12. 1992, p. 17.

Article 2

Regulation (EEC) No 131/92 shall apply, with the exception of Article 3 (4) thereof.

Article 3

France shall designate the competent authority for:

- (a) issuing the aid certificate provided for in Article 3 (1) of Regulation (EEC) No 131/92;
- (b) paying the aid to the operators concerned.

Article 4

1. Applications for certificates shall be submitted to the competent authority in the first five working days of each month. Certificate applications shall be admissible only where:

- (a) they relate to not more than the maximum number of animals available as published by France prior to the period for the submission of applications;
- (b) before the period for the submission of certificate applications expires, proof is provided that the party concerned has lodged a security of ECU 40 per animal.

2. However, the competent authority may, in order to meet special needs arising under the supply arrangements, issue aid certificates for a quantity of animals in excess of the maximum quantity available to each overseas department, without the total number of animals eligible for the

aid in the four departments being exceeded; that facility being applied separately to male and to female animals.

France shall notify the Commission of the cases in which certificates are issued in accordance with the previous subparagraph.

3. The certificates shall be issued by the 10th working day of each month at the latest.

Article 5

Aid certificates shall be valid for three months.

Article 6

The aid provided for in Article 1 shall be paid in respect of the quantities actually supplied.

Notwithstanding Article 3 (4) of Regulation (EEC) No 131/92, the rate to be applied for converting the aid into national currency shall be the agricultural conversion rate in force on the day of presentation of the aid certificate to the competent authorities at the destination.

Article 7

Regulation (EEC) No 1123/93 is hereby repealed.

Article 8

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

It shall apply from 1 January to 31 December 1998.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

PART 1

Supply to French Guiana of pure-bred breeding sheep and goats originating in the Community for the calendar year 1998

<i>(ECU/head)</i>			
CN code	Description	Number of animals to be supplied	Aid
0104 10 10	Pure-bred breeding sheep ⁽¹⁾ :		
	— males	15	530
	— females	15	205
0104 20 10	Pure-bred breeding goats ⁽¹⁾ :		
	— males	2	530
	— females	28	205

PART 2

Supply to Martinique of pure-bred breeding sheep originating in the Community for the calendar year 1998

<i>(ECU/head)</i>			
CN code	Description	Number of animals to be supplied	Aid
0104 10 10	Pure-bred breeding sheep ⁽¹⁾ :		
	— males	5	530
	— females	10	205

PART 3

Supply to Réunion of pure-bred breeding sheep originating in the Community for the calendar year 1998

<i>(ECU/head)</i>			
CN code	Description	Number of animals to be supplied	Aid
0104 10 10	Pure-bred breeding sheep ⁽¹⁾ :		
	— males	15	530
	— females	—	—
0104 20 10	Pure-bred breeding sheep ⁽¹⁾ :		
	— males	13	530
	— females	297	205

⁽¹⁾ Inclusion in this subposition is subject to the conditions provided for in Council Directive 89/361/EEC of 30 May 1989 concerning pure-bred breeding sheep and goats (OJ L 153, 6. 6. 1989, p. 30).

COMMISSION REGULATION (EC) No 22/98

of 7 January 1998

fixing the standard fee per farm return for the 1998 accounting year of the farm
accountancy data network

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

Having regard to Council Regulation No 79/65/EEC of
15 June 1965 setting up a network for the collection of
accountancy data on the incomes and business operating
of agricultural holdings in the European Economic
Community ⁽¹⁾, as last amended by Regulation (EC) No
1256/97 ⁽²⁾, and in particular Article 9 (2) thereof,

Whereas Article 5 of Commission Regulation (EEC) No
1915/83 of 13 July 1983 on certain detailed implementa-
tion rules concerning the keeping of accounts for the
purpose of determining the incomes of agricultural
holdings ⁽³⁾ provides that a standard fee shall be fixed to
be paid by the Commission to the Member States for each
farm return completed;

Whereas Commission Regulation (EC) No 84/97 ⁽⁴⁾ fixes
the standard fee for the 1997 accounting year at ECU 122
per farm return;

Whereas the trend in costs and its effects on the cost of
completing the farm return justify a revision of the fee;

Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Community
Committee on the Farm Accountancy Data Network,

HAS ADOPTED THIS REGULATION:

Article 1

The standard fee paid by the Commission to Member
States for each duly completed farm return is hereby fixed
at ECU 126 for the 1998 accounting year.

Article 2

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

It shall apply for the 1998 accounting year.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 109, 23. 6. 1965, p. 1859/65.

⁽²⁾ OJ L 174, 2. 7. 1997, p. 7.

⁽³⁾ OJ L 190, 14. 7. 1983, p. 25.

⁽⁴⁾ OJ L 17, 21. 1. 1997, p. 8.

COMMISSION REGULATION (EC) No 23/98
of 7 January 1998
amending Regulation (EEC) No 689/92 fixing the procedure and conditions for
the taking over of cereals by intervention agencies

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 2731/75 of 29 October 1975 fixing standard qualities for common wheat, rye, barley, maize, sorghum and durum wheat⁽³⁾, as last amended by Regulation (EC) No 2594/97⁽⁴⁾, and in particular Article 6 (a) thereof,

Whereas, in view of their climatic conditions, the growing period for barley varieties predominantly produced in Finland and Sweden is much shorter; whereas the kernel size of six-row barley varieties is under 2,2 mm in those two countries; whereas the barley therefore does not meet the intervention requirements regarding kernel size; whereas the immediate application of the Community rules is accordingly likely to exclude considerable quantities of Finnish and Swedish barley from buying in, thereby provoking severe difficulties for producers in the two countries; whereas Finland and Sweden should accordingly be authorised temporarily to buy in barley of a kernel size of under 2,2 mm; whereas the acceptance of a lower kernel size should not lead to barley of inferior quality being bought in; whereas the barley in question should accordingly have a specific weight of at least 64 kg/hl;

Whereas Commission Regulation (EEC) No 689/92⁽⁵⁾, as last amended by Regulation (EC) No 2507/97⁽⁶⁾, lays down the conditions for the taking over of cereals for intervention and must accordingly be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following subparagraph is hereby inserted after the first subparagraph of Article 2 (3) of Regulation (EEC) No 689/92:

‘However, notwithstanding point 2 (a) of the Annex to Regulation (EEC) No 2731/75, in the case of barley harvested in Finland or Sweden with a specific weight of at least 64 kg/hl and offered for intervention in those countries until the end of the 1998/99 marketing year, “shrivelled grains” shall mean grains which, after elimination of all the other matter referred to in the Annex to that Regulation, pass through sieves with apertures measuring 2 millimetres.’

Article 2

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

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 281, 1. 11. 1975, p. 22.

⁽⁴⁾ OJ L 351, 23. 12. 1997, p. 10.

⁽⁵⁾ OJ L 74, 20. 3. 1992, p. 18.

⁽⁶⁾ OJ L 345, 16. 12. 1997, p. 29.

COMMISSION REGULATION (EC) No 24/98

of 7 January 1998

laying down detailed rules for granting the aid provided for in Article 3 (1) of Regulation (EEC) No 3763/91 for the supply of products for animal feed to French Guiana for the period 1 July 1994 to 30 April 1996

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments⁽¹⁾, as last amended by Regulation (EC) No 2598/95⁽²⁾, and in particular Article 3 (5) thereof,

Whereas Regulation (EC) No 2598/95 provides that, from 1 July 1994 and until such time as the corresponding manufacturing plants in the department of French Guiana actually commence production, products falling within CN codes 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 which are used there for animal feed are to be covered by the supply arrangements under the conditions laid down in Articles 3 (1) and 2 (1) and (3) to (6) of Regulation (EEC) No 3763/91; whereas, in view of the retroactive application of those provisions, the quantities of the products concerned supplied to the department of French Guiana and likely to qualify for aid for supply and the amount of such aid must be determined;

Whereas Commission Regulation (EC) No 795/96 of 30 April 1996 establishing the forecast supply balance and Community aid for the supply to French Guiana of products falling within CN codes 2309 90 31, 2309 90 33, 2309 90 41, 2309 90 43, 2309 90 51 and 2309 90 53 used in feedingstuffs for the period 1 May to 31 December 1996⁽³⁾ lays down the quantities likely to qualify for supply aid and the amount of such aid during that period; whereas, as from 1 January 1997, the same measures were adopted for 1997 by Commission Regulation (EC) No 2415/96⁽⁴⁾; whereas the supply situation regarding the products concerned during the period 1 July 1994 to 30 April 1996 should accordingly be settled;

Whereas, at the Commission's request, the French authorities have communicated the quantities of products as referred to in Article 3 of Regulation (EEC) No 3763/91

sent to French Guiana and eligible for the aid for the period 1 July 1994 to 30 April 1996 and the delivery periods and supporting documents required for the quantities declared; whereas those authorities have also declared that the selling price, as a precautionary measure, reflects an amount equivalent to the aid and have communicated the types of checks and controls conducted; whereas the quantities eligible for the aid communicated by the French authorities for the period in question amounted to 6 692,36 tonnes as regards products covered by CN codes 2309 90 31, 2309 90 41 and 2309 90 51 and 56,70 tonnes as regards products covered by CN codes 2309 90 33, 2309 90 43 and 2309 90 53;

Whereas, in accordance with Regulation (EEC) No 3763/91 and until 30 June 1994, the method for calculating the aid for the supply of the products concerned was set out in Article 2 of Commission Regulation (EEC) No 646/92⁽⁵⁾, as amended by Regulation (EEC) No 1670/93⁽⁶⁾; whereas, in accordance with those provisions, the aid is equal in amount to the export refund applicable on the products in question on the day of application for the aid certificate, plus ECU 20/tonne; whereas, according to the French authorities, pending the adoption by the Council of the Commission proposal extending those aid arrangements, importers have actually passed on an amount equal to the aid thus calculated during the period 1 July 1994 to 30 April 1996; whereas Regulation (EC) No 795/96 re-established that calculation method with effect from 1 May 1996;

Whereas, since the relevant provisions were lacking, no aid certificate could be applied for in respect of the period 1 July 1994 to 30 April 1996 with a view to the supply of the products in question; whereas, as a consequence, the aid should be maintained as laid down in Article 2 of Regulation (EEC) No 646/92 for supplies during the period in question, by replacing the date of application of the licence by that of supply, for the purposes of calculating the aid applicable;

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

⁽¹⁾ OJ L 356, 24. 12. 1991, p. 1.

⁽²⁾ OJ L 267, 9. 11. 1995, p. 1.

⁽³⁾ OJ L 108, 1. 5. 1996, p. 35.

⁽⁴⁾ OJ L 329, 19. 12. 1996, p. 25.

⁽⁵⁾ OJ L 69, 14. 3. 1992, p. 29.

⁽⁶⁾ OJ L 158, 30. 6. 1993, p. 30.

HAS ADOPTED THIS REGULATION:

Article 1

Products used for animal feed and supplied to the department of French Guiana in the period 1 July 1994 to 30 April 1996 shall be eligible for the aid pursuant to Article 3 (1) and (2) of Regulation (EEC) No 3763/91 subject to the following limits:

- (a) 6 692,36 tonnes as regards products covered by CN codes 2309 90 31, 2309 90 41 and 2309 90 51;
- (b) 56,70 tonnes as regards products covered by CN codes 2309 90 33, 2309 90 43 and 2309 90 53.

Article 2

- 1. The aid for the supply of animal feed as referred to in Article 1 and manufactured from cereals processed in

the rest of the Community shall be equal to the export refund applicable to such products on the day they are actually delivered to French Guiana, plus ECU 20 per tonne.

- 2. The competent French authorities shall pay the aid, on application from the operators, up to the limits laid down in Article 1; they shall pay the aid only in respect of the quantities covered by proof provided to their satisfaction to the effect that they have been delivered in the department of French Guiana and that an amount equivalent to the aid has been passed on, as a precaution, in the selling price.

Article 3

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

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 25/98

of 7 January 1998

amending Regulation (EC) No 441/96 laying down certain detailed rules for the application of a tariff quota for potato starch imported from the Republic of Poland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽¹⁾, as last amended by Regulation (EC) No 1595/97⁽²⁾, and in particular Article 8 thereof,

Whereas Commission Regulation (EC) No 441/96⁽³⁾, as last amended by Regulation (EC) No 204/97⁽⁴⁾, provides for concessions in the form of tariff quotas until 31 December 1997; whereas, as a result of the adjustment of Regulation (EC) No 3066/95 and pending the application, with effect from 1 July 1997, of the results of the negotiations on the conclusion of additional protocols to the Europe Agreements and on the abolition of the restriction to 31 December of the period of application of Regulation (EC) No 3066/95, Regulation (EC) No 441/96 should be amended with effect from 1 July 1997;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 441/96 is hereby amended as follows:

1. Article 1 is replaced by the following:

Article 1

Pursuant to the arrangements provided for in Article 3 of Regulation (EC) No 3066/95, potato starch falling within CN code 1108 13 00 originating in Poland may be imported into the Community during the period

referred to in the Annex hereto in accordance with this Regulation. The rate of customs duty applicable to such imports, the annual quantities of which are indicated in the Annex hereto, shall be 20 % of the duty applicable to the most favoured nation.⁵

2. Article 3 (c) is replaced by the following:

'(c) in box 24, one of the following:

- Derecho de aduana en el arancel aduanero común reducido en un 80 % en aplicación del Reglamento (CE) n° 3066/95
- Told i henhold til den fælles toldtarif nedsat med 80 %, jf. forordning (EF) nr. 3066/95
- Zollermäßigung um 80 % gemäß der Verordnung (EG) Nr. 3066/95
- Καθοριζόμενη στο κοινό δασμολόγιο εισφορά μειωμένη κατά 80 %, κατ' εφαρμογή του κανονισμού (ΕΚ) αριθ. 3066/95
- Customs duty fixed by the Common Customs tariff reduced by 80 % pursuant to Regulation (EC) No 3066/95
- Droit de douane fixé au tarif douanier commun réduit de 80 % en application du règlement (CE) n° 3066/95
- Riduzione del dazio dell'80 % a norma del regolamento (CE) n. 3066/95
- Het in het gemeenschappelijk douanetarief vastgesteld douanerecht is verlaagd met 80 % overeenkomstig Verordening (EG) nr. 3066/95
- Redução de 80 % do direito aduaneiro fixado na Pauta Aduaneira Comum em aplicação do Regulamento (CE) n° 3066/95
- Yhteisessä tullitariffissa vahvistetun tullin alentaminen 80 prosentilla asetuksen (EY) N:o 3066/95 mukaan
- Nedsatt tull med 80 % enligt Gemensamma tulltaxan med tillämpning av förordning (EG) nr 3066/95.⁵

3. The Annex is replaced by the Annex hereto.

Article 2

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

It shall apply with effect from 1 July 1997.

⁽¹⁾ OJ L 328, 30. 12. 1995, p. 31.

⁽²⁾ OJ L 216, 8. 8. 1997, p. 1.

⁽³⁾ OJ L 61, 12. 3. 1996, p. 4.

⁽⁴⁾ OJ L 33, 4. 2. 1997, p. 3.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

ANNEX

(tonnes)

Serial number	CN code, description	Annual quantities			
		From 1. 7. 1997 to 30. 6. 1998	From 1. 7. 1998 to 30. 6. 1999	From 1. 7. 1999 to 30. 6. 2000	From 1. 7. 2000
09.4804	1108 13 00 Potato starch	8 250	8 625	9 000	9 375'

COMMISSION REGULATION (EC) No 26/98

of 7 January 1998

laying down detailed rules for the implementation of the specific arrangements
for the supply of sheepmeat and goatmeat to the Azores and Madeira for 1998

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products⁽¹⁾, as last amended by Regulation (EC) No 2348/96⁽²⁾, and in particular Article 10 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⁾, and in particular Article 12 thereof,

Whereas, pursuant to Article 4 of Regulation (EEC) No 1600/92, the number of pure-bred breeding sheep and goats originating in the Community and qualifying for aid with a view to developing production potential in the Azores and Madeira should be determined for each annual period of application;

Whereas the aid referred to above for the supply of pure-bred breeding sheep and goats originating in the rest of the Community to the Azores and Madeira should be fixed; whereas that aid must be fixed in the light in particular of the costs of supply from the Community market and the conditions resulting from the geographical situation of the Azores and Madeira;

Whereas common detailed rules for the application of the arrangements for the supply of certain agricultural products to the Azores and Madeira are laid down in Commission Regulation (EEC) No 1696/92⁽⁴⁾, as last amended by Regulation (EEC) No 2596/93⁽⁵⁾; whereas additional detailed rules should be laid down in line with current commercial practice in the sheepmeat and goatmeat sector, in particular as regards the term of validity of aid certificates and the securities ensuring operators' compliance with their obligations;

Whereas, with a view to sound administration of the supply arrangements, a timetable should be laid down for

the lodging of certificate applications and for a period of reflection for their issue;

Whereas the operative event for converting the aid into national currency should be the day the aid certificate application is lodged with the competent authorities at the destination pursuant to Article 4 (7) of Regulation (EEC) No 1696/92, without prejudice to the possibility of advance fixing as provided for in Articles 8 to 12 of Commission Regulation (EEC) No 3819/92 of 28 December 1992 on detailed rules for determining and applying the agricultural conversion rates⁽⁶⁾;

Whereas, with a view to bringing the administration of the aid more closely into line with the requirements of the Azores and Madeira, the aid and the quantities to which the latter may apply should be fixed annually per calendar year;

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

HAS ADOPTED THIS REGULATION:

Article 1

The aid provided for in Article 4 (1) (c) of Regulation (EEC) No 1600/92 for the supply to the Azores and Madeira of pure-bred breeding sheep and goats originating in the Community and the number of animals in respect of which that aid is granted shall be as fixed in the Annex hereto.

Article 2

Regulation (EEC) No 1696/92 shall apply, with the exception of Article 4 (5) thereof.

Article 3

Portugal shall designate the competent authority for:

- (a) issuing the aid certificate provided for in Article 4 (1) of Regulation (EEC) No 1696/92;
- (b) paying the aid to the operators concerned.

⁽¹⁾ OJ L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ L 320, 11. 12. 1996, p. 1.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 179, 1. 7. 1992, p. 6.

⁽⁵⁾ OJ L 238, 23. 9. 1993, p. 24.

⁽⁶⁾ OJ L 387, 31. 12. 1992, p. 17.

Article 4

1. Applications for certificates shall be submitted to the competent authority in the first five working days of each month. Certificate applications shall be admissible only where:

- (a) they relate to not more than the maximum number of animals available as published by Portugal prior to the period for the submission of applications;
- (b) before the period for the submission of certificate applications expires, proof is provided that the party concerned has lodged a security of ECU 40 per animal.

2. Aid certificates shall be issued by the 10th working day of each month at the latest.

Article 5

Aid certificates shall be valid for three months.

Article 6

The aid provided for in Article 1 shall be paid in respect of the quantities actually supplied.

Notwithstanding Article 4 (5) of Regulation (EEC) No 1696/92, the rate to be applied for conversion into national currency of the amount of the aid shall be the agricultural conversion rate in force on the day of presentation of the aid certificate to the competent authorities at the destination.

Article 7

Regulation (EEC) No 510/93 is hereby repealed.

Article 8

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

It shall apply from 1 January to 31 December 1998.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

SECTION 1

Pure-bred breeding sheep and goats originating in the Community for supply to the Azores for the 1998 calendar year

CN code	Description	Number of animals to be supplied	Aid (ECU/head)
0104 10 10	Pure-bred breeding sheep ⁽¹⁾ : — Males — Females	100 2 500	380 110
0104 20 10	Pure-bred breeding goats: — Males — Females		

⁽¹⁾ Entry under this subheading is subject to the conditions laid down in Council Directive 89/361/EEC of 30 May 1989 concerning pure-bred breeding sheep and goats (OJ L 153, 6. 6. 1989, p. 30).

SECTION 2

Pure-bred breeding sheep and goats originating in the Community for supply to Madeira for the 1998 calendar year

CN code	Description	Number of animals to be supplied	Aid (ECU/head)
0104 10 10	Pure-bred breeding sheep ⁽¹⁾ : — Males — Females	15 150	380 110
0104 20 10	Pure-bred breeding goats: — Males — Females	5 50	380 110

⁽¹⁾ Entry under this subheading is subject to the conditions laid down in Council Directive 89/361/EEC of 30 May 1989 concerning pure-bred breeding sheep and goats (OJ L 153, 6. 6. 1989, p. 30).

COMMISSION REGULATION (EC) No 27/98
of 7 January 1998
concerning the issue of import licences for certain preserved mushrooms

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

Having regard to Commission Regulation (EEC) No 2125/95 of 6 September 1995 opening and providing for the administration of Community tariff quotas for preserved mushrooms⁽¹⁾, as last amended by Regulation (EC) No 2405/97⁽²⁾, and in particular Article 6 (4) thereof,

Whereas Article 6 (4) of Regulation (EC) No 2125/95 lays down that where the quantities applied for exceed the quantity available, the Commission must set a flat-rate percentage reduction and suspend the issue of licences in respect of subsequent applications;

Whereas the quantities applied for on 2 January 1998 for products originating in China exceeded the quantity available; whereas, as a result, the extent to which licences may be issued must be determined and the issue of licences for all subsequent applications should be suspended until 31 December 1998;

HAS ADOPTED THIS REGULATION:

Article 1

1. Import licences applied for pursuant to Article 4 (1) (a) of Regulation (EC) No 2125/95 for products origin-

ating in China on 2 January 1998 and submitted to the Commission on 5 January 1998 shall be issued, bearing the wording laid down in Article 11 (1) of that Regulation, for 96,65 % of the quantity applied for.

2. Import licences applied for pursuant to Article 4 (1) (b) of Regulation (EC) No 2125/95 for products originating in China on 2 January 1998 and submitted to the Commission on 5 January 1998 shall be issued, bearing the wording laid down in Article 11 (1) of that Regulation, for 12,05 % of the quantity applied for.

Article 2

The issue of import licences applied for pursuant to Regulation (EC) No 2125/95 for China shall be suspended for applications submitted from 3 January until 31 December 1998.

Article 3

This Regulation shall enter into force on 8 January 1998.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 212, 7. 9. 1995, p. 16.

⁽²⁾ OJ L 332, 4. 12. 1997, p. 32.

COMMISSION REGULATION (EC) No 28/98
of 7 January 1998
fixing the import duties in the rice sector

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽²⁾, as last amended by Regulation (EC) No 1403/97 ⁽³⁾, and in particular Article 4 (1) thereof,

Whereas Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12 (3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product;

Whereas Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11 (1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 8 January 1998.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 189, 30. 7. 1996, p. 71.

⁽³⁾ OJ L 194, 23. 7. 1997, p. 2.

ANNEX I

to the Commission Regulation of 7 January 1998 fixing the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ⁽¹⁾			
	Third countries (except ACP and Bangladesh) ⁽²⁾ ⁽³⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	130,91		202,88
1006 10 23	(7)	130,91		202,88
1006 10 25	(7)	130,91		202,88
1006 10 27	(7)	130,91		202,88
1006 10 92	(7)	130,91		202,88
1006 10 94	(7)	130,91		202,88
1006 10 96	(7)	130,91		202,88
1006 10 98	(7)	130,91		202,88
1006 20 11	321,82	156,57		241,37
1006 20 13	321,82	156,57		241,37
1006 20 15	321,82	156,57		241,37
1006 20 17	225,47	108,40	0,00	169,10
1006 20 92	321,82	156,57		241,37
1006 20 94	321,82	156,57		241,37
1006 20 96	321,82	156,57		241,37
1006 20 98	225,47	108,40	0,00	169,10
1006 30 21	(7)	251,59		399,75
1006 30 23	(7)	251,59		399,75
1006 30 25	(7)	251,59		399,75
1006 30 27	(7)	251,59		399,75
1006 30 42	(7)	251,59		399,75
1006 30 44	(7)	251,59		399,75
1006 30 46	(7)	251,59		399,75
1006 30 48	(7)	251,59		399,75
1006 30 61	(7)	251,59		399,75
1006 30 63	(7)	251,59		399,75
1006 30 65	(7)	251,59		399,75
1006 30 67	(7)	251,59		399,75
1006 30 92	(7)	251,59		399,75
1006 30 94	(7)	251,59		399,75
1006 30 96	(7)	251,59		399,75
1006 30 98	(7)	251,59		399,75
1006 40 00	(7)	78,38		123,00

⁽¹⁾ Subject to the application of the provisions of Articles 12 and 13 of amended Council Regulation (EEC) No 715/90 (OJ L 84, 30. 3. 1990, p. 85).

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

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11 (3) of Regulation (EC) No 3072/95.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4. 12. 1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9. 4. 1991, p. 7).

⁽⁵⁾ No import duty applies to products originating in the OCT pursuant to Article 101 (1) of amended Council Decision 91/482/EEC (OJ L 263, 19. 9. 1991, p. 1).

⁽⁶⁾ For husked rice of the Basmati variety originating in India and Pakistan, a reduction of ECU 250 per tonne applies (Article 4a of amended Regulation (EC) No 1503/96).

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

⁽⁸⁾ The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15. 11. 1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1. 2. 1997, p. 53).

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne)	(¹)	225,47	533,00	321,82	533,00	(¹)
2. Elements of calculation:						
(a) Arag cif price (ECU/tonne)	—	374,74	309,68	305,07	351,29	—
(b) fob price (ECU/tonne)	—	—	—	277,34	323,56	—
(c) Sea freight (ECU/tonne)	—	—	—	27,73	27,73	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 29/98

of 7 January 1998

determining the world market price for unginned cotton and the rate for the aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1553/95⁽¹⁾,

Having regard to Council Regulation (EC) No 1554/95 of 29 June 1995⁽²⁾ laying down general rules for the system of aid for cotton and repealing Regulation (EEC) No 2169/81, as amended by Regulation (EC) No 1584/96⁽³⁾, and in particular Articles 3, 4 and 5 thereof,

Whereas Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginned cotton to be periodically determined from the world market price determined for ginned cotton, using the historical relationship between the two prices as specified in Article 1 (2) of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules for implementing the system of aid for cotton⁽⁴⁾, as last amended by Regulation (EC) No 1740/97⁽⁵⁾; whereas if it cannot be determined in this way it is to be based on the last price determined;

Whereas Article 4 of Regulation (EC) No 1554/95 requires the world market price for ginned cotton to be determined for a product of specific characteristics using the most favourable offers and quotations on the world market of those considered representative of the real market trend; whereas to this end an average is to be calculated of offers and quotations on one or more European exchanges for a cif product to a North European port from the supplier countries considered most representative as regards international trade; whereas these rules for determination of the world market price for ginned cotton provide for adjustments to reflect dif-

ferences in product quality and the nature of offers and quotations; whereas these adjustments are specified in Article 2 of Regulation (EEC) No 1201/89;

Whereas application of the above rules gives the world market price for unginned cotton indicated hereunder;

Whereas Article 5 (3) of Regulation (EC) No 1554/95 stipulates that the advance payment rate for the aid is to be the guide price less the world market price and less a further amount calculated by the formula applicable when the guaranteed maximum quantity is overrun but with a 15 % increase in the estimate for unginned cotton production; whereas Commission Regulation (EC) No 1670/97⁽⁶⁾ determined estimated production for the 1997/98 marketing year; whereas application of these rules gives the advance payment rates for each Member State indicated hereunder,

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginned cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at ECU 36,148 per 100 kilograms.

2. Advance payment of the aid as indicated in Article 5 (3) of Regulation (EC) No 1554/95 shall be at the rate of:

- ECU 31,246 per 100 kilograms in Spain,
- ECU 37,305 per 100 kilograms in Greece,
- ECU 70,152 per 100 kilograms in other Member States.

Article 2

This Regulation shall enter into force on 8 January 1998.

⁽¹⁾ OJ L 148, 30. 6. 1995, p. 45.

⁽²⁾ OJ L 148, 30. 6. 1995, p. 48.

⁽³⁾ OJ L 206, 16. 8. 1996, p. 16.

⁽⁴⁾ OJ L 123, 4. 5. 1989, p. 23.

⁽⁵⁾ OJ L 244, 6. 9. 1997, p. 1.

⁽⁶⁾ OJ L 237, 28. 8. 1997, p. 1.

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

Done at Brussels, 7 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 December 1997

on financial contributions from the Community for the eradication of swine vesicular disease in Portugal

(Only the Portuguese text is authentic)

(Text with EEA relevance)

(98/11/EC)

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

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Decision 94/370/EC ⁽²⁾, and in particular Articles 3 (3) and 4 (2) thereof,

Whereas an outbreak of swine vesicular disease occurred in Portugal in 1995; whereas the appearance of this disease is a serious danger to the Community's pig population and, in order to help eradicate the disease as rapidly as possible, the Community has the possibility of compensating for the losses suffered;

Whereas, as soon as the presence of swine vesicular disease was officially confirmed the national authorities took appropriate measures which included the measures as listed in Article 3 (2) of Decision 90/424/EEC; whereas such measures were notified by Portugal;

Whereas the conditions for Community financial assistance have been met;

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

Portugal may obtain Community financial assistance for an outbreak of swine vesicular disease which occurred

during 1995. The financial contribution by the Community shall be:

- 50 % of the costs incurred by Portugal in compensating the owner for the slaughter, destruction of pigs and pig products as appropriate,
- 50 % of the costs incurred by Portugal for the cleaning and disinfection of holdings and equipment,
- 50 % of the costs incurred by Portugal in compensating the owner for the destruction of contaminated feedingstuffs and contaminated equipment.

Article 2

1. The Community financial contribution shall be granted after supporting documents have been submitted.
2. The documents referred to in paragraph 1 shall be sent by Portugal no later than three months from the notification of this Decision.

Article 3

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 224, 18. 8. 1990, p. 19.

⁽²⁾ OJ L 168, 2. 7. 1994, p. 31.

COMMISSION DECISION

of 15 December 1997

amending for the fourth time Council Directive 82/894/EEC on the notification of animal diseases within the Community and temporarily amending the frequency of notification for bovine spongiform encephalopathy

(Text with EEA relevance)

(98/12/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 82/894/EEC of 21 December 1982 on the notification of animal diseases within the Community ⁽¹⁾, as last amended by Commission Decision 92/450/EEC ⁽²⁾, and in particular Article 5 (2) thereof,

Whereas outbreaks of bovine spongiform encephalopathy continue within Community territory; whereas that disease should accordingly be kept on the list of diseases notifiable under Directive 82/894/EEC;

Whereas, in the light of experience gained, the requirement to notify outbreaks of that disease should be extended; whereas, as a derogation until 31 December 2002, weekly reporting of outbreaks containing the information normally required for secondary outbreaks appears sufficient;

Whereas provisions adopted previously concerning notification of the disease should be repealed;

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

Article 1

'Bovine spongiform encephalopathy' is hereby added to Annex I to Directive 82/894/EEC.

Article 2

By way of a derogation from Article 3 (1) of Directive 82/894/EEC, all outbreaks of bovine spongiform encephalopathy shall be notified until 31 December 2002 in accordance with Article 4 of that Directive.

Article 3

Decision 92/450/EEC is hereby repealed.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 15 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 378, 31. 12. 1982, p. 58.

⁽²⁾ OJ L 248, 28. 8. 1992, p. 77.