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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 2454/1999
of 15 November 1999**

amending Regulation (EC) No 1628/96 relating to aid for Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, in particular by the setting up of a European Agency for Reconstruction

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) Further to United Nations Security Council Resolution No 1244 of 10 June 1999, a programme of reconstruction including measures to help resettle refugees and revitalise Kosovo's economy is urgently needed;
- (2) The European Council at its meeting on 3 and 4 June 1999 confirmed the European Union's desire to play a leading role in the reconstruction efforts in the region, especially in Kosovo, and called upon the Commission to draw up, as a matter of priority, proposals regarding the organisation of the reconstruction assistance envisaged and in particular the appropriate means and mechanisms for putting such a programme in place, including the setting up of an agency to be responsible for implementing the Community's reconstruction programmes;
- (3) The Stability Pact underlines in particular the European Union's role in bolstering democratic and economic institutions in the region;
- (4) The objectives relating to this region involve reconstruction, revitalisation and economic, social and institutional development;
- (5) Aid programmes necessary for the reconstruction of Kosovo cannot be implemented unless the appropriate means and mechanisms are in place;

- (6) Regulation (EC) No 1628/96 ⁽²⁾ sets out, *inter alia*, objectives, mechanisms and instruments for the reconstruction of the regions it covers, including Kosovo;
- (7) Regulation (EC) No 1628/96 should be amended to take account of the specific requirements for Kosovo's reconstruction, which will demand the rapid implementation of numerous small-scale projects, measures to support returning refugees and the assistance of experts covering a wide range of fields; provisions should therefore be laid down for setting up and running a European Agency for reconstruction (hereinafter referred to as the 'Agency') that can be charged by the Commission with implementing the reconstruction programmes;
- (8) Reconstruction efforts must be united with those for the people of Kosovo;
- (9) Provision should be made for the States covered by the PHARE programmes and the States of South-East Europe to be involved in the tendering procedures and contracts;
- (10) Coordination of the assistance for the reconstruction with the European Investment Bank, the international financial institutions, the United Nations/High Commissioner for Refugees and the non-governmental organisations concerned should be ensured;
- (11) The measures necessary for the implementation of Regulation (EC) No 1628/96 being management measures within the meaning of Article 2 of Council Decision No 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾, such measures should be adopted in accordance with the management procedure provided for in Article 4 of that Decision;
- (12) The authority put in charge of the provisional administration of Kosovo should be consulted on the implementation of the reconstruction programmes;

⁽¹⁾ Opinion delivered on 27 October 1999 (not yet published in the Official Journal).

⁽²⁾ OJ L 204, 14.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 851/98 (OJ L 122, 24.4.1998, p. 1).

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

- (13) The reconstruction programmes should be managed in accordance with effective and flexible rules and procedures ensuring rapid implementation;
- (14) The reconstruction programmes should be managed locally and so the operational centre of the Agency should be established initially in Pristina, making use of the general services located at the seat in Thessaloniki;
- (15) The Agency will pursue its activities initially in Kosovo; it is for the Council, acting on a proposal from the Commission, to take any decision on extending the Agency's activities to other regions of the Federal Republic of Yugoslavia (FRY), when the conditions have been met;
- (16) The Agency's mandate should allow it to manage the programmes of other donors contributing to the reconstruction of the region, in particular in the context of the cooperation established with the appropriate financial institutions;
- (17) For the sake of effectiveness, the Agency requires a special financial regulation that allows a rapid response while at the same time ensuring full managerial accountability and transparency in management;
- (18) The Agency should adopt the internal rules relating to investigations by the European Anti-Fraud Office (OLAF);
- (19) The Agency is being set up for the purposes of reconstruction, and a proposal will be made to wind it up once that objective has been achieved;
- (20) Provision should be made for the Commission to submit a report on the implementation of this Regulation, together with any appropriate proposals, particularly with a view to establishing a unified regulatory framework for assistance to the region;
- (21) Regulation (EC) No 1628/96 should be extended until 31 December 2004,
- HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1628/96 is hereby amended as follows:

1. Article 4(1) shall be replaced by the following:

'1. The aim of the projects, programmes and cooperation schemes shall be to underpin the reconstruction process, to encourage the return of refugees, reconciliation and regional economic cooperation and to create the economic and social conditions that will lay the foundations for development.';

2. In Article 6 the following paragraph 3 shall be added:

'3. The Commission shall ensure that reconstruction assistance is coordinated with the European Investment Bank (EIB), the international financial institutions and the Office of the United Nations High Commissioner for Refugees. The Commission shall rely wherever necessary on the competence of the international financial institutions.';

3. In Article 8, the first subparagraph of paragraph 1 shall be replaced by the following:

'1. The operations referred to in this Regulation may cover expenditure relating to the importation of goods and services, the local expenditure necessary to complete the projects and programmes and co-financing (in forms including interest-rate subsidies) of investment projects financed by loans from the EIB or the international financial institutions, where the latter are involved. Taxes, duties and charges and the acquisition of movable property shall be excluded from Community financing.';

4. Article 9 shall be amended as follows:

(a) The first two paragraphs shall be replaced by the following:

'Participation in invitations to tender and contracts shall be open on equal terms to all natural and legal persons in the Member States and States which are recipients under this Regulation or countries benefiting from the PHARE programme, and States of south-east Europe.';

(b) The third paragraph shall be replaced by the following:

'The following shall be considered to be legal persons of a Member State, a recipient State or a State which benefits from the PHARE programme and States of south-east Europe: legal persons who are established in accordance with the legislation of a Member State, a recipient State or a State which benefits from the PHARE programme and States of south-east Europe and who have their central administration or principal establishment in the territories in which the Treaty establishing the European Community applies, in the recipient States or in the States which benefit from the PHARE programme and States of south-east Europe, or who have their registered office there, where their activity has an actual and continuous link with the economy of the said territories or States.';

5. Article 10 shall be amended as follows:

(a) the following subparagraph shall be inserted in paragraph 1:

'By derogation from the first two subparagraphs, with regard to the assistance provided for in Article 4 and implementation by the Agency as referred to in Article 14, precise annual programmes shall be adopted by the Commission in accordance with the procedure laid down in Article 12(2). Those programmes shall define the main objectives, guidelines and priorities for Community support and the projects and corresponding financial allocations. Programming shall in particular aim at ensuring consistency with the programming of the EIB and other international financial institutions.';

(b) the following paragraphs shall be added:

'4. Assistance to the High Representative for Bosnia and Herzegovina may include the financing of projects provided for in the budget of the Office of the High Representative.

5. Assistance for the reconstruction of Kosovo can be implemented on the basis of financing agreements or contracts concluded with the bodies referred to in Article 3, following consultation with the provisional authority responsible for administering Kosovo. Assistance may also be provided for that authority.';

6. The following sentence shall be added to the third subparagraph of Article 11:

'This Annex shall not apply to contracts awarded by invitation to tender in connection with the operations of the Agency referred to in Article 14.';

7. Paragraphs 1, 2 and 3 of Article 12 shall be replaced by the following:

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

2. Where reference is made to this paragraph, the management procedure provided for in Article 4 of Decision 1999/468/EC (*) shall apply.

3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be laid down as one month.

(*) OJ L 184, 17.7.1999, p. 23.';

8. Article 14 shall become Article 27 and the last subparagraph thereof shall be replaced by the following:

'It shall apply until 31 December 2004.';

9. The following Articles shall be inserted:

Article 14

The reconstruction and refugee return programmes referred to in the third subparagraph of Article 10(1) will initially target Kosovo and when conditions are right may also target other parts of the FRY. The Commission may delegate their implementation to an agency.

A European Agency for Reconstruction, hereinafter referred to as the "Agency", shall be set up to that end with the aim of implementing the abovementioned programmes for reconstruction and assistance to returning refugees.

Any decision to extend the Agency's activities to parts of the FRY other than Kosovo, which shall include the arrangements for identifying the bodies referred to in Article 3, shall be taken by the Council acting by a qualified majority on a proposal from the Commission. In the light of that decision, the Agency may establish other operational centres.

Article 15

1. To achieve the objective referred to in Article 14, the Agency shall carry out the following duties, within the bounds of its powers and in accordance with the decisions taken by the Commission:

- (a) gathering, analysing and communicating information to the Commission on:
 - war damage, the requirements for reconstruction and the return of refugees and related initiatives by the government, local or regional authorities and the international community,
 - the urgent requirements of the communities concerned, taking account of the various population displacements and possibilities for their return,
 - the priority sectors and geographical areas requiring urgent assistance from the international community;
- (b) preparing draft programmes for the reconstruction of Kosovo and the return of its refugees and submitting them to the Commission with a view to their adoption in accordance with Article 12(2) of this Regulation;
- (c) implementing the programmes provided for in the third subparagraph of Article 10(1), to the extent possible in cooperation with the local population and where necessary drawing on the services of operators selected by calls for tender. The Commission may accordingly make the Agency responsible for all operations required to implement the programmes, notably:
 - (i) drawing up the terms of reference,
 - (ii) preparing and evaluating invitations to tender,
 - (iii) signing contracts,
 - (iv) concluding financing agreements,
 - (v) awarding contracts, in accordance with the provisions of this Regulation,
 - (vi) evaluating projects,
 - (vii) monitoring project implementation,
 - (viii) effecting payments.

2. Without prejudice to any operations co-financed in the framework of the responsibilities entrusted to the Agency under Article 14, the Agency may implement reconstruction programmes and programmes for the return of refugees which the Member States and other donors entrust to it, particularly in the framework of the cooperation established by the Commission with the World Bank, the international financial institutions and the EIB.

This implementation shall be subject to the following conditions:

- (i) the finance must be fully provided by those other donors,
- (ii) the finance must cover any running costs which arise,
- (iii) the duration of these tasks must be compatible with the deadline for winding up the Agency set in Article 25.

Article 16

The Agency shall have legal personality. It shall enjoy in all Member States the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings. The Agency shall be non-profit-making.

The operational centre of the Agency with a considerable degree of management autonomy shall be established initially in Pristina in order to embark on the reconstruction work in Kosovo using the Agency's general services located at its seat in Thessaloniki.

Article 17

1. The Agency shall have a governing board composed of one representative from each Member State and two representatives of the Commission.

2. The Member State representatives shall be appointed by the Member States concerned, paying due regard to experience and qualifications relevant to the Agency's activities.

One of the two Commission representatives shall be a Member of the Commission.

3. The term of office of representatives shall be thirty months.
4. The Governing Board shall be chaired by the Commission, usually a member of the Commission. The Chairman shall not vote.
5. The EIB shall appoint a non-voting observer.
6. The Governing Board shall adopt its rules of procedure.
7. The Commission and the Member State representatives on the Governing Board shall each have one vote.

Governing Board decisions shall be adopted by a two-thirds majority.

8. The Governing Board shall lay down the language arrangements for the Agency unanimously.
9. The Governing Board shall be convened by its Chairman every month. It shall also be convened at the request of the Agency's Director or of at least a simple majority of its members.
10. On the basis of a draft submitted by the Agency's Director, the Governing Board, in consultation with the Commission, shall examine by 30 November of each year at the latest the preliminary draft annual work programme for the following year. The work programme shall be adopted at the beginning of each operating year. The programme may be adapted as necessary during the year by the same procedure to take account, *inter alia*, of programmes adopted by the Commission.

The projects included in the annual work programme shall be accompanied by an estimate of the necessary expenditure.

11. The Governing Board shall lay down the principles necessary for implementation of the reconstruction programmes. On a proposal by the Director, it shall decide upon the main issues relating to the Agency's activities, e.g.:

- (a) the draft programmes to be submitted to the Commission;
- (b) methods of evaluating and properly implementing the projects;
- (c) proposals for programmes by other donors for possible implementation by the Agency;
- (d) setting the multiannual contractual framework with the provisional authority responsible for the administration of Kosovo, to implement the aid decided on in the framework of the programmes referred to in Article 10;
- (e) finalisation, any adjustments to, and implementation of projects;
- (f) whether representatives of the countries and organisations delegating implementation of their programmes to the Agency should be present as observers on its Governing Board.

12. The Governing Board shall lay down the principles governing the award of contracts by calls for tender on the basis of the principles in the Annex.

13. The Governing Board shall present a draft annual report to the Commission, by 31 March each year at the latest, on the activities of the Agency for the previous year and on how they were financed.

The Commission shall adopt the annual report and submit it to the European Parliament and the Council.

Article 17a

The translation services necessary for the operation of the Agency shall, as a rule, be provided by the translation centre of the bodies of the European Union.

Article 18

1. The Director of the Agency shall be appointed by the Governing Board, on a proposal from the Commission, for a term of office of thirty months. The term of office may be terminated by the same procedure.

The Director shall be responsible for:

- (a) the preparation and organisation of the work of the Governing Board and, in particular, for the preparation of the Agency's draft work programme;

- (b) the day-to-day administration of the Agency;
 - (c) the preparation of the statement of revenue and expenditure and execution of the Agency's budget;
 - (d) the preparation and publication of the reports specified under this Regulation;
 - (e) all staff matters;
 - (f) implementing the annual work programme referred to in Article 17(10);
 - (g) implementing the Governing Board's decisions and guidelines laid down for the Agency's activities.
2. The Director shall be accountable to the Governing Board for his activities and shall attend its meetings.
 3. The Director shall be the legal representative of the Agency.
 4. The Director shall hold the power of Appointing Authority.
 5. The Director shall present a quarterly activity report to the European Parliament.

Article 19

1. Estimates of all the revenue and expenditure of the Agency shall be prepared for each financial year and shall be shown in the budget of the Agency, which shall include an establishment plan, and each financial year shall correspond to the calendar year.
2. The revenue and expenditure shown in the budget of the Agency shall be in balance.
3. The revenue of the Agency shall comprise, without prejudice to other types of income, a subsidy from the general budget of the European Union, payments made as remuneration for services performed and funding from other sources.
4. The budget shall also include details of any funds made available by the recipient countries themselves for projects benefiting from financial assistance from the Agency.

Article 20

1. The Director shall establish each year a draft budget for the Agency covering running costs and the proposed operational programme for the following financial year, and shall submit it to the Governing Board.
2. On this basis, the Governing Board shall, by 15 February at the latest, annually adopt a draft budget for the Agency and submit it to the Commission.
3. The Commission shall assess the draft budget of the Agency, having regard to the priorities it has established and to the overall financial guidelines for reconstruction assistance for Kosovo.

It shall establish on this basis, and within the proposed limits of the overall amount to be made available for aid to Kosovo, the annual contribution for the budget of the Agency to be included in the preliminary draft of the general budget of the European Union.

4. The Governing Board, after receiving the opinion of the Commission, shall adopt the budget of the Agency together with the work programme at the beginning of each financial year, adjusting it to the various contributions granted to the Agency and to funds from other sources. The budget shall also specify the number, grade and categories of staff employed by the Agency during the financial year in question.

Article 21

1. The Director shall implement the budget of the Agency.
2. The Commission's Financial Controller shall be responsible for financial checks.
3. By 31 March each year at the latest, the Director shall submit to the Commission, the Governing Board and the Court of Auditors the detailed accounts of all revenue and expenditure from the previous financial year.

The Court of Auditors shall examine these accounts in accordance with Article 248 of the Treaty. It shall publish a report on the Agency's activities every year.

4. On a recommendation from the Council, the European Parliament shall give a discharge to the Director in respect of the implementation of the budget of the Agency.

Article 22

The Governing Board, having received the agreement of the Commission and the opinion of the Court of Auditors, shall adopt the Agency's Financial Regulation, which will in particular specify the procedure to be used for drawing up and implementing the Agency's budget, in accordance with Article 142 of the Financial Regulation applicable to the general budget of the European Union.

Article 23

The Agency's staff shall be subject to the rules and regulations applicable to officials and other servants of the European Communities. The Governing Board in agreement with the Commission, shall adopt the necessary implementing rules.

The Agency's staff shall consist of a strictly limited number of officials assigned or seconded by the Commission or Member States to carry out management duties. The remaining staff shall consist of other employees recruited by the Agency for a period strictly limited to its requirements.

Article 24

The Governing Board shall decide on the Agency's accession to the Interinstitutional Agreement concerning internal investigations by the European Anti-Fraud Office (OLAF) (**). It shall adopt the provisions necessary for the conduct of internal investigations by OLAF.

Financing decisions and any implementing contract or instrument arising therefrom shall expressly provide that the Court of Auditors and OLAF may, if necessary, carry out on-the-spot checks on recipients of the Agency's funds and on the intermediaries distributing them.

Article 25

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.

2. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to laws of the Member States, make good any damage caused by the Agency or its servants in the performance of their duties.

The Court of Justice shall have jurisdiction in disputes relating to compensation for any such damage.

3. The personal liability of servants towards the Agency shall be governed by the relevant provisions applying to the staff of the Agency.

Article 26

1. The Commission shall submit to the Council before 30 June 2000 a progress report on the implementation of this Regulation; it may if appropriate make proposals, notably with a view to establishing a unified regulatory framework for assistance to Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia.

2. Once the Commission considers that the Agency has fulfilled the mandate described in Article 14, it shall put to the Council a proposal for the winding up of the Agency. In any event, at least six months before this Regulation expires, the Commission shall submit a proposal to the Council on the status of the Agency.

(**) OJ L 136, 31.5.1999, p. 15.'

Article 2

This Regulation shall enter into force on the 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, 15 November 1999.

For the Council

The President

T. HALONEN

COMMISSION REGULATION (EC) No 2455/1999
of 19 November 1999
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 1498/98 ⁽²⁾, and in particular Article 4 (1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

- (2) 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 20 November 1999.

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

Done at Brussels, 19 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 19 November 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	101,8
	204	35,4
	999	68,6
0707 00 05	052	104,3
	628	134,8
	999	119,6
0709 90 70	052	85,4
	204	102,4
	999	93,9
0805 20 10	204	57,7
	999	57,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	50,6
	999	50,6
0805 30 10	052	47,1
	528	77,3
	600	63,8
	999	62,7
	052	148,3
0806 10 10	400	316,6
	508	325,5
	999	263,5
0808 10 20, 0808 10 50, 0808 10 90	060	34,7
	388	70,4
	400	84,6
	404	71,0
	800	149,2
	804	22,6
	999	72,1
0808 20 50	052	126,3
	064	65,7
	400	99,0
	720	80,6
	999	92,9

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2645/98 (OJ L 335, 10.12.1998, p. 22). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 2456/1999
of 19 November 1999**

**fixing the maximum export refund on wholly milled long grain rice in connection with the
invitation to tender issued in Regulation (EC) No 2176/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

- (1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2176/1999 ⁽³⁾;
- (2) Whereas, Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

(3) Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

(4) 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 maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2176/1999 is hereby fixed on the basis of the tenders submitted from 12 to 18 November 1999 at EUR/t 244,00.

Article 2

This Regulation shall enter into force on 20 November 1999.

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

Done at Brussels, 19 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 4.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 2457/1999**of 19 November 1999****concerning tenders submitted in response to the invitation to tender for the export of husked long grain rice to the island of Réunion referred to in Regulation (EC) No 2177/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 10(1) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion ⁽³⁾, as amended by Regulation (EC) No 1453/1999 ⁽⁴⁾, and in particular Article 9 (1) thereof,

- (1) Whereas Commission Regulation (EC) No 2177/1999 ⁽⁵⁾ opens an invitation to tender for the subsidy on rice exported to Réunion;
- (2) Whereas Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award;

(3) Whereas on the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89, a maximum subsidy should not be fixed;

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders submitted from 15 to 18 November 1999 in response to the invitation to tender referred to in Regulation (EC) No 2177/1999 for the subsidy on exports to Réunion of husked long grain rice falling within CN code 1006 20 98.

Article 2

This Regulation shall enter into force on 20 November 1999.

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

Done at Brussels, 19 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 261, 7.9.1989, p. 8.

⁽⁴⁾ OJ L 167, 2.7.1999, p. 19.

⁽⁵⁾ OJ L 267, 15.10.1999, p. 7.

**COMMISSION REGULATION (EC) No 2458/1999
of 19 November 1999**

**fixing the maximum export refund on wholly milled medium grain and long grain A rice in
connection with the invitation to tender issued in Regulation (EC) No 2178/1999**

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⁾, as last amended by Regulation (EC) No 2072/1999 ⁽²⁾, and in particular Article 13 ⁽³⁾ thereof,

- (1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2178/1999 ⁽³⁾;
- (2) Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

(3) Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

(4) 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 maximum export refund on wholly milled medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in European Regulation (EC) No 2178/1999 is hereby fixed on the basis of the tenders submitted from 12 to 18 November 1999 at 120,00 EUR/t.

Article 2

This Regulation shall enter into force on 20 November 1999.

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

Done at Brussels, 19 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1999, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 10.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

**COMMISSION REGULATION (EC) No 2459/1999
of 19 November 1999**

**fixing the maximum export refund on wholly milled round grain, medium grain and long grain A
rice in connection with the invitation to tender issued in Regulation (EC) No 2179/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

- (1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2179/1999 ⁽³⁾;
- (2) Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

(3) Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

(4) 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 maximum export refund on wholly milled grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2179/1999 is hereby fixed on the basis of the tenders submitted from 12 to 18 November 1999 at EUR/t 128,00.

Article 2

This Regulation shall enter into force on 20 November 1999.

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

Done at Brussels, 19 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 13.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

**COMMISSION REGULATION (EC) No 2460/1999
of 19 November 1999**

**fixing the maximum export refund on wholly milled round grain rice in connection with the
invitation to tender issued in Regulation (EC) No 2180/1999**

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⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

- (1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2180/1999 ⁽³⁾;
- (2) Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

(3) Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

(4) 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 maximum export refund on wholly milled round grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2180/1999 is hereby fixed on the basis of the tenders submitted from 12 to 18 November 1999 at 124,00 EUR/t.

Article 2

This Regulation shall enter into force on 20 November 1999.

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

Done at Brussels, 19 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 16.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

**COMMISSION REGULATION (EC) No 2461/1999
of 19 November 1999**

**laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards
the use of land set aside for the production of raw materials**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops⁽¹⁾, and in particular Article 9 thereof,

Whereas:

(1) since Regulation (EC) No 1251/1999 has replaced the support system for producers of certain arable crops established by Council Regulation (EEC) No 1765/92⁽²⁾, it is necessary to amend, in accordance with the new scheme and in the light of the experience gained, Commission Regulation (EC) No 1586/97 of 29 July 1997 laying down detailed implementing rules for the use of set-aside land for the provision of materials for the manufacture within the Community of products not primarily intended for human or animal consumption⁽³⁾. On the occasion of those amendments, and for reasons of clarity, that Regulation should be recast;

(2) without prejudice to receipt of the payment provided for therein, Article 6(3) of Regulation (EC) No 1251/1999 allows land set aside to be used for the production of raw materials intended for the manufacture within the Community of products not intended for direct human or animal consumption, provided that effective controls are applied;

(3) those raw materials and their end uses should be defined; the raw materials and the end products that may be obtained from such materials should be limited in order to safeguard traditional markets without reducing the scope for identifying new outlets for such raw materials; a distinction should be made between those raw materials that can potentially be used for human or animal consumption and those which cannot;

the cultivation of sugarbeet, Jerusalem artichokes or chicory roots on land set aside should not be ruled out; however, such crops cannot qualify for area payments in view of the risk of affecting the markets for sugar and cereals; care should nonetheless be taken to ensure that such crops comply with the rules governing the use of land set aside for the production of non-food products; in order to prevent any speculation and to ensure that the raw materials are processed into the intended end products, a security must be lodged even though no payment is made;

(4) the role of all principal parties involved in the market need to be defined clearly; it is essential that an explicit distinction be drawn between the applicant's obligations, which end once the total quantity of raw material harvested is delivered, and the obligations, including the requirement concerning securities, incumbent on collectors, first processors and any subsequent processors, which commence at the time of delivery and are extinguished when the raw materials are processed into the intended non-food end products; the amount of the security lodged should be high enough to prevent any risk of the raw materials ending up in use for human or animal consumption; reference should be made to Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes⁽⁴⁾, as last amended by Regulation (EC) No 1036/1999⁽⁵⁾, and to Commission Regulations (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products⁽⁶⁾, as last amended by Regulation (EC) No 1932/1999⁽⁷⁾, and (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes⁽⁸⁾, as last amended by Regulation (EC) No 1678/98⁽⁹⁾, which impose horizontal rules on the subject; special provisions should be laid down to cover biennial crops in view of the length of the production cycle;

(5) a method should also be laid down for assessing those products deemed not for human or animal consumption and those which are intended for such uses, in order to determine the ratio between those two types of product, that ratio being the criterion serving to identify the primary end use;

⁽¹⁾ OJ L 160, 26.6.1999, p. 1.

⁽²⁾ OJ L 181, 1.7.1992, p. 12.

⁽³⁾ OJ L 215, 7.8.1997, p. 3.

⁽⁴⁾ OJ L 355, 5.12.1992, p. 1.

⁽⁵⁾ OJ L 127, 21.5.1999, p. 4.

⁽⁶⁾ OJ L 205, 3.8.1985, p. 5.

⁽⁷⁾ OJ L 240, 10.9.1999, p. 11.

⁽⁸⁾ OJ L 391, 31.12.1992, p. 36.

⁽⁹⁾ OJ L 212, 30.7.1998, p. 23.

- (6) in the interests of verification, the raw materials grown need to be covered, compulsorily, by contracts between the agricultural producer (hereinafter referred to as 'the applicants') and the first processor or collector; pursuant to Article 6(9) of Regulation (EEC) No 3508/92, such contracts are to be regarded as forming an integral part of area-aid applications; experience has shown that, for the purposes of inspection, before any payment is made, such contracts should be presented by the applicants as well as by the collectors or first processors, to the relevant competent authorities; different dates of submission may be laid down depending on the sowing periods; in specific circumstances, the Member States may allow certain raw materials to be processed direct by the producers themselves on their holdings;
- (7) it should be made clear that intermediate products or by-products obtained from the raw materials harvested may be used under the scheme, in quantities equivalent to the harvested raw materials. Where such equivalent quantities come from a Member State other than that in which the raw material is harvested, the Member States need to inform each other of the transaction so that suitable checks may be conducted;
- (8) in the interests of verification, applicants should be required to declare the areas involved, the anticipated yields and the quantities harvested. The yields shown in contracts concluded between applicants and collectors or first processors, as the case may be, must be at least equal to the yields forecast. In the case of raw materials that can be bought into intervention otherwise than under this scheme and of raw materials obtained from certain rapeseed and sunflower seed, a representative individual yield or, where appropriate, a representative local yield should be fixed. The localities on the basis of which the representative local yields are calculated can, but need not necessarily, be coextensive with the regions mentioned in the regionalisation plans provided for in Regulation (EC) No 1251/1999. Checks of such raw materials will be more effective if the quantities delivered correspond to such representative yields. In duly justified cases, a shortfall may be allowed;
- (9) the whole quantities of raw materials harvested on areas covered by contracts should be delivered to the first processors or collectors. To ensure that this condition is met, applicants should be required to submit a declaration to the relevant competent authorities. Applicants need to inform the competent authorities should they be unable to deliver all or part of the quantity of raw material stipulated in the contract. Contracts should be amended or terminated in the event of special circumstances falling outside normal agricultural conditions. The conditions under which an amendment may lead to a reduction in the land covered by the contract without affecting the applicant's right to payment should be clearly defined;
- (10) the scheme would be more in line with commercial practice if the collectors or first processors, as the case may be, were allowed to change the end uses envisaged and shown in contracts, after the applicants have delivered the raw materials covered by this Regulation, provided that the scheme is effectively verified;
- (11) in order to comply with the Memorandum of Understanding on oil seeds between the European Economic Community and the United States of America within the framework of the GATT, as approved by Council Decision 93/355/EEC⁽¹⁾, a monitoring system should be introduced to assess the quantities, in soya-bean-meal equivalent, of by-products intended for human or animal consumption and obtained from colza seed, rapeseed, sunflower seed or soya beans grown on land set aside for purposes other than production for human or animal consumption;
- (12) a clear time limit should be set for the processing of the raw materials into eligible end products;
- (13) certain transport operations within Community territory involving raw materials and products derived therefrom should be subject to controls to guarantee traceability and to ensure that the provisions of this Regulation have been applied to them. Such controls should entail the use of declarations and T5 control copies to be issued in accordance with Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽²⁾, as last amended by Regulation (EC) No 1662/1999⁽³⁾;
- (14) a demonstrable measure of control must be established for each of the principal parties involved; whereas controls are to be stepped up wherever failures to observe the rules laid down in this Regulation emerge;
- (15) simplified rules may be adopted in respect of raw materials that cannot in any circumstances be used for human or animal consumption;
- (16) application of this scheme should take account of special conditions obtaining in certain Member States, in particular as regards controls, public health, the environment and criminal law provisions, without thereby accentuating the differences as to the manner in which such factors are treated within the Community. To that end, any proposal to exclude any of the raw materials listed in Annexes I or II should, prior to its enactment, be duly justified and notified to the Commission by the Member State concerned;

⁽¹⁾ OJ L 147, 18.6.1993, p. 25.

⁽²⁾ OJ L 253, 11.10.1993, p. 1.

⁽³⁾ OJ L 197, 29.7.1999, p. 25.

- (17) provision should be made whereby raw materials grown on set-aside land, and products derived therefrom, do not generally qualify for any other Community aid financed under Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations ⁽¹⁾, or Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽²⁾;
- (18) with a view to determining whether the objectives of the reform of the common agricultural policy have been achieved, this scheme should be evaluated on the basis of information on its actual application in the Member States;
- (19) the system provided for in Regulation (EC) No 1251/1999 will apply from the 2000/2001 marketing year; whereas, so that the producers concerned can carry out sowing and submit their contracts and applications for area payments in respect of that marketing year in full knowledge of, and in compliance with, the rules on the application of the new arrangements, this Regulation should enter into force immediately on publication in the *Official Journal of the European Communities*;
- (20) the measures laid down in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Aim and definitions

Article 1

1. Land set aside under the support system for producers of certain arable crops, as set out in Regulation (EC) No 1251/1999, may be used in accordance with Article 6(3) thereof for the production of the raw materials listed in Annexes I and II to this Regulation and intended for the purposes set out in Annex III.

Such land may qualify for payment of area-aid (hereinafter referred to as 'the payment') pursuant to Article 2(2) of Regulation (EC) No 1251/1999, subject to the conditions contained in this Regulation.

The provisions of Commission Regulation (EC) No 2316/1999 ⁽³⁾ shall govern land set aside and used to grow the raw materials listed in Annexes I or II.

⁽¹⁾ OJ L 160, 26.6.1999, p. 80.

⁽²⁾ OJ L 160, 26.6.1999, p. 103.

⁽³⁾ OJ L 280, 30.10.1999, p. 43.

However, the cultivation of such raw materials shall be deemed compatible with those provisions. Furthermore, by way of derogation from Article 19(2) of that Regulation, the areas concerned need not be left fallow from 15 January, provided that the requirements of this Regulation are satisfied.

2. No payment shall be made in respect of set-aside land on which sugarbeet, Jerusalem artichokes or chicory roots are grown. However, all the provisions of Chapter II shall apply to sugarbeet, Jerusalem artichokes and chicory roots grown on land set aside in the same way as if such a payment were made.

Article 2

For the purposes of this Regulation:

- (a) 'applicant' means any person applying for an area payment;
- (b) 'collector' means any person signing a contract as provided for in Article 4 who purchases on his own account raw materials listed in Annex I and intended for use in products listed in Annex III;
- (c) 'first processor' means any user of raw materials who undertakes the first processing thereof with a view to obtaining one or more of the products listed in Annex III.

CHAPTER II

Raw materials which need to be covered by a contract

Section 1

Use of raw material — Contract and application for payment

Article 3

1. The raw materials listed in Annex I (hereinafter referred to as 'raw materials') may be grown on land set aside solely on condition that they are intended primarily for use in the manufacture of the end products listed in Annex III. The economic value of non-food products obtained by processing such raw materials as determined by the valuation method set out in Article 13(3) shall be higher than that of all other products intended for human or animal consumption and obtained by such processing.

2. Raw materials grown on land set aside shall be covered by contracts as provided for in Article 4.

3. Applicants shall deliver all raw materials harvested to a collector or first processor, who shall take delivery of them and ensure that an equivalent quantity of such raw materials is used within the Community for the manufacture of one or more end products listed in Annex III.

Where the collector or first processor uses the raw material actually harvested to manufacture an intermediate product or a by-product, he may use an equivalent quantity of such intermediate products or by-products to manufacture one or more end products as referred to in Annex III.

Where the collector or first processor avails himself of the possibility provided for in the first and second subparagraphs, he shall so inform the competent authority with whom the security is lodged. Where such equivalent quantity is used in a Member State other than that in which the raw material is harvested, the competent authorities of the Member States concerned shall inform each other of the details of such transaction.

4. By way of derogation from paragraphs 2 and 3, the Member States may authorise applicants to process into biogas under CN code 2711 29 00, on their holdings, all raw materials harvested on certain areas set aside, on condition that:

- (a) the applicant undertakes, by way of a declaration in place of the contract as provided for in Article 4, to process directly the raw material covered by the declaration;
- (b) the Member State concerned introduces suitable controls ensuring that the raw material is processed into biogas under CN code 2711 29 00.

Measures as provided for in the first subparagraph and any subsequent amendments thereto shall be notified to the Commission by 30 November preceding the year of the harvest to which those measures apply.

Articles 4 to 21 shall apply *mutatis mutandis*.

Article 4

1. In support of their applications for payment, applicants shall submit to their competent authorities the contracts they have concluded with a collector or first processor.

2. Applicants shall ensure that such contracts specify the following:

- (a) the names and addresses of the parties to the contract;
- (b) the duration of the contract;
- (c) the species of all raw materials concerned and the area planted with each species;
- (d) the forecast quantities of raw materials, classified by species, and any conditions governing their delivery. Such quantities shall be no less than those calculated on the basis of the anticipated yield considered by the competent authority to be representative for the raw material in question. Such anticipated yields shall take account *inter alia* of the average yield, if any, set for the region concerned;
- (e) an undertaking to fulfil their obligations pursuant to Article 3(3);
- (f) the intended primary end uses for the raw material, each end use complying with the conditions laid down in Articles 3(1) and 13(3).

3. Applicants shall ensure that the contracts are concluded in time to allow the collector or first processor to deposit a copy with his competent authority within the time limits laid down in Article 13(1).

4. Where contracts relate to rapeseed, colza seed, sunflower seed or soya beans covered by CN codes ex 1205 00 90, 1206 00 91, 1206 00 99 or 1201 00 90, the applicants shall ensure that, in addition to the information required under paragraph 2, they specify the anticipated quantity of by-products intended for uses other than human or animal consumption.

5. For the purposes of control, Member States may require each applicant to conclude a single supply contract for each raw material.

Article 5

Each year, in their payment applications submitted to the competent authorities, applicants shall identify the parcel or parcels on which the raw materials are to be grown. The following particulars must be provided in respect of each parcel set aside and each raw material grown thereon:

- (a) the species of raw material and varieties thereof;
- (b) the anticipated yield per species and variety.

Where the same species or variety is also grown on land not set aside within the same holding, the species or variety and the forecast output shall be shown, together with details of the parcels concerned, their location and identification.

Section 2

Amendment and termination of contract — Applicant's obligations

Article 6

Where the parties to the contract amend or terminate the latter after the applicant has lodged a payment application, the applicant may maintain such payment application only on condition that, with a view to allowing the requisite inspections to be carried out, he informs the relevant competent authority of such amendment or termination, no later than the closing date set in the Member State concerned for amendment of the application.

Article 7

Without prejudice to Article 6, where applicants inform their competent authorities that, owing to special circumstances, they will be unable to supply all or part of the raw materials specified in the contract, the competent authorities may, after obtaining sufficient evidence of such special circumstances, authorise such amendments to contracts as appear justified, or may authorise their termination.

Where the land covered by contracts is reduced as a result of their amendments, or where contracts are terminated, then, in order to maintain their right to payments, applicants shall:

- (a) once more set aside the land in question by any means permitted by the competent authorities;
- (b) abstain from selling, transferring or using raw materials grown on land struck out of the contracts.

Article 8

Without prejudice to Article 6, collectors or first processors may alter the intended primary end uses of raw materials, as referred to in Article 4(2)(f), once the raw materials under contract have been delivered to the collector or first processor and once the conditions laid down in Article 10(1) and in the first subparagraph of Article 13(4) have been fulfilled.

Changes in end uses shall be made in compliance with the conditions laid down in Articles 3(1) and 13(3).

The collectors or first processors shall give prior notice to their competent authorities with a view to the requisite controls.

Section 3

Representative yields and quantities delivered

Article 9

1. Each year before the harvest, the Member States shall establish representative yields, which shall be attained in practice, for raw materials that may be bought into intervention otherwise than under this scheme and for rapeseed or colza seed covered by CN code ex 1205 00 90, with the exception of varieties having a high erucic acid content, and sunflower seeds covered by CN codes 1206 00 91 or 1206 00 99. Those representative yields shall be established:

- (a) for each individual holding concerned; or
- (b) on a local basis.

2. In the case set out in point 1, Member States shall select the localities to be used to calculate representative yields, which may, but need not necessarily, correspond to the regions set out in their regionalisation plans drawn up in accordance with Regulation (EC) No 1251/1999. Each year before the harvest, Member States shall inform the applicants concerned of those representative yields, doing so by:

- (a) 31 July at the latest in the case of raw materials that may be bought into intervention otherwise than under this scheme and rapeseed as referred to in the first subparagraph; and
- (b) 31 August at the latest in the case of sunflower seeds as referred to in paragraph 1.

Article 10

1. Applicants shall declare the total quantity of raw materials harvested by species to their competent authorities and shall confirm the quantities of raw materials delivered and the parties to whom such deliveries are made.

2. In the case of raw materials as referred to in Article 9, the actual quantities to be delivered by the applicants to the collectors or first processors must at least correspond to the representative individual yield or, as the case may be, the representative local yield for the parcels concerned established by the Member States pursuant to that Article.

However, in duly justified cases, the Member States may, by way of an exception, allow a shortfall of up to 10 % in the yield.

Furthermore, where they have authorised the amendment or termination of contracts in accordance with Article 7, the competent authorities may, where it seems justified to do so, reduce the quantities that applicants are required to deliver under the first subparagraph of this paragraph.

Article 11

Where applicants fail to deliver the requisite quantity of any given raw material pursuant to this Regulation, they shall be deemed, for the purposes of Article 9(2) of Regulation (EEC) No 3887/92, to have failed to fulfil their obligations under the set-aside scheme for non-food purposes in respect of an area calculated by multiplying the area of land set aside and used by them for the production of the raw materials in accordance with the criteria laid down in this Regulation by the percentage shortfall in deliveries of that raw material.

Section 4

Conditions of payment

Article 12

1. Payments may be made to applicants in respect of land set aside in accordance with Regulation (EC) No 1251/1999 before the raw materials are processed. However, such payments shall only be made where the requisite quantities of raw materials pursuant to this Regulation have been delivered to the collector or first processor and where:

- (a) the declaration referred to in Article 10 has been made;
- (b) a copy of the contract has been deposited with the collector's or first processor's competent authority, the conditions referred to in Article 13(2) have been fulfilled, and the information specified in the first subparagraph of Article 13(4) has been forwarded by either the collector or first processor;
- (c) the competent authority has received proof that the full security provided for in Article 15(2) has been lodged;
- (d) the competent authority responsible for the payment has checked that the conditions laid down in Article 4 have been met in respect of each application.

2. In the case of biennial crops, where the raw materials are harvested, and hence delivered, in the course of the second year of cultivation only, payment shall be made in each of the two years following the conclusion of the contract as provided for in Article 4, on condition that the competent authorities establish that:

- (a) the obligations laid down in point (b) of paragraph 1, with the exception of the communication of the information referred to in the first subparagraph of Article 13(4), and in point (d) thereof, are fulfilled as from the first year of cultivation; and
- (b) the obligations laid down in points (a) and (c) of paragraph 1 are fulfilled, and the information referred to in the first subparagraph of Article 13(4) is communicated, in the second year of cultivation.

However, payments shall only be made in respect of the first year of cultivation if the competent authorities receive proof that 50 % of the security as provided for in Article 15(2) has been lodged.

Section 5

Contract and obligations on collector or first processor

Article 13

1. Collectors or first processors shall deposit copies of the contracts with their competent authorities:

- (a) in respect of raw materials to be sown from 1 July to 31 December, by 31 January of the following year; or
- (b) in respect of raw materials to be sown from 1 January to 30 June, by the closing date for the submission of payment applications for the year in question in the Member State concerned.

Where applicants and collectors or first processors amend or terminate contracts prior to the date referred to in Article 6 in a given year, the collectors or first processors shall deposit with their competent authorities a copy of the amended or terminated contract, no later than that date.

2. The competent authorities referred to in paragraph 1 shall check that contracts submitted comply with the conditions laid down in Article 3(1). Where those conditions are not met, the applicants' competent authorities shall be notified.

With a view to facilitating such checks, collectors or first processors shall provide their competent authorities with the requisite information on the processing chain in question, in particular as regards prices and the technical processing coefficients to be used for determining the quantities of end products that may be obtained. The coefficients shall be those set out in Article 21(1).

3. With a view to monitoring compliance with Article 3(1), the competent authorities concerned shall, on the basis of the information referred to in paragraph 2, compare the sum of the values of all non-food products with the sum of the values of all other products intended for human or animal consumption and obtained from the same processing operation. Each figure shall equal the relevant quantity multiplied by the average of the ex-factory prices recorded during the previous marketing year. Where such prices are not available, the competent authorities shall determine the relevant prices, in particular on the basis of the information referred to in paragraph 2.

4. Collectors or first processors who have taken over the raw materials from applicants shall inform their competent authorities of the quantities of raw materials received, specifying the species, the name and address of the party to the contract who delivered the raw materials, the place of delivery and the contract reference, within a time limit to be set by the Member States that allows the payments to be made within the period specified in Article 8 of Regulation (EC) No 1251/1999.

Within 40 working days of the date on which they deliver the raw materials to the first processors, the collectors shall inform their competent authorities of the names and addresses of those first processors. Within 40 working days of receipt by the first processors, the latter shall in turn inform their competent authorities of the names and addresses of the collectors who delivered the raw materials to them, the quantities and type thereof and the dates of delivery.

Where delivery of the raw materials to the first processors is not made by the collectors direct, the latter shall inform their competent authorities of the names and addresses of the parties involved in the delivery, together with the names and addresses of the first processors. That information shall be provided within 40 working days of receipt of the raw materials by the first processors.

Within 40 working days of the transaction, all other parties involved in the delivery shall, in turn, inform their competent authorities of the names and addresses of the purchasers of raw materials and the quantities sold to them.

Where the competent authorities are not the same, the competent authorities of the first processors and the competent authorities of all other parties involved in delivering the raw materials as referred to in the third subparagraph shall inform the collectors' competent authorities of the quantities supplied to the first processors.

Where the Member States of the collectors or first processors are not the same as the Member States in which the raw materials have been grown, then, within 40 working days of receipt of the information referred to in the first and third subparagraphs, the competent authorities concerned shall inform the authorities of the applicants of the total quantities of raw materials delivered.

Section 6

Soya-flour equivalents for oleaginous by-products*Article 14*

1. Without prejudice to Article 13, as soon as possible and by no later than 31 May of the year in which the raw materials are to be harvested, the competent authorities referred to in paragraph 1 of that Article shall inform the Commission of the total quantity of by-products intended for human or animal consumption and resulting from the contracts as provided for in Article 4, covering rapeseed, colza seed, sunflower seeds and soya beans falling under CN codes ex 1205 00 90, 1206 00 91, 1206 00 99 and 1201 00 90.

The competent authorities shall calculate the quantity on the basis of the following ratios:

- (a) 100 kg of rapeseed covered by CN code 1205 00 90 shall be deemed equivalent to 56 kg of by-products;
- (b) 100 kg of sunflower seeds covered by CN codes 1206 00 91 or 1206 00 99 shall be deemed equivalent to 56 kg of by-products;
- (c) 100 kg of soya beans covered by CN code 1201 00 90 shall be deemed equivalent to 78 kg of by-products.

The anticipated quantity of by-products to be produced, as referred to in Article 4(4), shall be deducted from the forecast quantity of all by-products calculated in accordance with the second subparagraph.

2. On the basis of the information provided pursuant to paragraph 1, the Commission shall calculate the forecast total quantity of by-products for human or animal consumption, expressed in terms of soya-bean-meal equivalent.

Section 7

Securities*Article 15*

1. The collectors or first processors shall lodge a full security as provided for in paragraph 2 with their competent authorities by the closing date for submission of payment applications for the year in question in the Member State concerned.

2. The securities to be lodged in respect of each raw material shall be calculated by multiplying the sum of all areas set aside under this scheme, covered by a contract signed by the collector or first processor concerned and used to produce that raw material, by the rate of EUR 250 per hectare.

3. Where contracts are amended or terminated in accordance with Article 6 or Article 7, the securities lodged shall be adjusted accordingly.

4. A percentage of the security corresponding to the quantity of the raw material processed into the relevant principal non-food end product shall be released on condition that the competent authority of the collector or first processor concerned is in possession of proof that that quantity of raw

material has been processed in compliance with the requirement laid down in Article 4(2)(f), account being taken, where necessary, of any changes pursuant to Article 8.

5. Without prejudice to paragraph 4:

- (a) where the security has been lodged by the collector, it shall be released once the raw material in question is delivered to the first processor,
- (b) where the security has been lodged by a processor, it shall be released once the raw material or the intermediate products covered by the contract are delivered to another processor,

provided that the competent authority of the party selling or transferring the goods in question has proof that the party purchasing or taking over the goods has lodged an equivalent security with his competent authority.

Article 16

1. The competent authorities of the Member States in which processing takes place shall take the necessary steps to ensure that processors established in their territory provide all assurances as regards the obligations undertaken.

2. The principal processing of quantities of raw materials into the end products specified in the contract shall constitute the primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85.

The raw materials shall be processed into one or more of the endproducts listed in Annex III by 31 July of the second year following that of harvest by the applicant.

3. The following obligations, incumbent on collectors or processors, shall constitute subordinate requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85:

- (a) the obligation to take delivery of all raw materials delivered by applicants pursuant to Article 3(3);
- (b) the obligation to deposit copies of contracts in accordance with Article 13(1);
- (c) the obligation to provide the information required in accordance with the first, second and third subparagraphs of Article 13(4);
- (d) the obligation to lodge a security in accordance with Article 15(1).

Section 8

Documents for sale, transfer, or delivery in another Member State, or export*Article 17*

Where collectors or first processors sell or transfer raw materials or intermediate products and/or co-products or by-products covered by contracts as provided for in Article 4 to processors established in other Member States, the products shall be accompanied by T5 control copies issued in accordance with Regulation (EEC) No 2454/93.

One of the following shall be entered under the heading 'Other' in box 104 of the T5 control copies:

- Producto destinado a su transformación o entrega de acuerdo con lo establecido en el artículo 4 del Reglamento (CE) n° 2461/1999 de la Comisión
- Skal anvendes til forarbejdning eller levering i overensstemmelse med artikel 4 i Kommissionens forordning (EF) nr. 2461/1999
- Zur Verarbeitung oder Lieferung gemäß Artikel 4 der Verordnung (EG) Nr. 2461/1999 der Kommission zu verwenden
- Πρέπει να χρησιμοποιηθεί για μεταποίηση ή παράδοση σύμφωνα με το άρθρο 4 του κανονισμού (ΕΚ) αριθ. 2461/1999 της Επιτροπής
- To be used for processing or delivery in accordance with Article 4 of Commission Regulation (EC) No 2461/1999
- À utiliser pour transformation ou livraison conformément aux dispositions de l'article 4 du règlement (CE) n° 2461/1999 de la Commission
- Da consegnare o trasformare conformemente all'articolo 4 del regolamento (CE) n. 2461/1999 della Commissione
- Te gebruiken voor verwerking of aflevering overeenkomstig artikel 4 van Verordening (EG) nr. 2461/1999 van de Commissie
- A utilizar para transformação ou entrega em conformidade com o artigo 4.º do Regulamento (CE) n.º 2461/1999 da Comissão
- Käytetään jalostamiseen tai toimittamiseen komission asetuksen (EY) N:o 2461/1999 mukaisesti
- Används till bearbetning eller leverans i enlighet med kommissionens förordning (EG) nr 2461/1999.

The provisions of the first and second paragraphs shall apply to all subsequent sales to processors in other Member States up to the stage of manufacture of the end product shown in the contract. In the case of co-products or by-products, they shall apply only where the products would attract export refunds if they were obtained from raw materials grown otherwise than under this scheme.

Article 18

1. Where collectors deliver all or part of the raw materials which they have received, to first processors who are not established in the same Member State, they shall complete a T5 control copy, entering the following under 'Other' in box 104:

- (a) the quantities they have delivered direct to the first processors;
- (b) the names and addresses of the first processors;
- (c) the names and addresses of the other parties involved in the delivery circuit, even where those parties are located in the Member State where first processing has taken place;

(d) the quantities delivered by each other party involved.

2. All parties involved in deliveries as referred to in paragraph 1(c) who are not established in the same Member State as the first processor shall complete a T5 control copy, entering, under the heading 'Other' in box 104, the names and addresses of the collector and the information specified in points (a) and (b) of that paragraph.

Article 19

Where one or more end products, intermediate products, co-products or by-products covered by contracts as provided for in Article 4 are intended for export to third countries, a T5 control copy shall be drawn up by the competent authority of the Member State in which those products are obtained to cover their transport within the Community.

One of the following remarks shall be entered under 'Other' in box 104 of the T5 control copy:

- Este producto no podrá acogerse a ninguna de las medidas previstas en el apartado 2 del artículo 1 del Reglamento (CE) n° 1258/1999 del Consejo
- De finansieringsforanstaltninger, der er omhandlet i artikel 1, stk. 2, i Rådets forordning (EF) nr. 1258/1999 kan ikke anvendes på dette produkt
- Dieses Erzeugnis kommt für keine Finanzierungen gemäß Artikel 1 Absatz 2 der Verordnung (EG) Nr. 1258/1999 des Rates in Betracht
- Το προϊόν αυτό δεν μπορεί να επωφεληθεί από τα μέτρα που προβλέπονται στο άρθρο 1 παράγραφος 2 του κανονισμού (ΕΚ) αριθ. 1258/1999 του Συμβουλίου
- This product shall not qualify for any benefit pursuant to Article 1(2) of Council Regulation (EC) No 1258/1999
- Ce produit ne peut pas bénéficier des financements prévus à l'article 1^{er} paragraphe 2 du règlement (CE) n° 1258/1999 du Conseil
- Questo prodotto non può beneficiare delle misure di cui all'articolo 1, paragrafo 2 del regolamento (CE) n. 1258/1999 del Consiglio
- Dit product komt niet in aanmerking voor financieringen als bedoeld in artikel 1, lid 2, van Verordening (EG) nr. 1258/1999 van de Raad
- O presente produto não pode beneficiar de medidas ao abrigo do n.º 2 do artigo 1.º do Regulamento (CE) n.º 1258/1999 do Conselho
- Tähän tuotteeseen ei sovelleta neuvoston asetuksen (EY) N:o 1258/1999 1 artiklan 2 kohdan mukaisia toimenpiteitä
- De åtgärder som avses i artikel 1.2. i rådets förordning (EG) nr 1258/1999 kan inte användas för denna produkt.

The provisions of the first and second paragraphs shall apply only where end products listed in Annex III, intermediate products, co-products or by-products covered by contracts as provided for in Article 4 would attract export refunds if they were obtained from raw materials grown otherwise than under this scheme.

Section 9

Controls*Article 20*

Member States shall lay down the records which collectors and processors are to keep.

In the case of collectors, such records shall include the following entries:

- (a) the quantities of all raw materials purchased and sold for processing under this scheme;
- (b) the names and addresses of subsequent purchasers/processors;

In the case of processors, such records shall include, at regular intervals to be determined by the competent authority, the following entries:

- (a) the quantities of all raw materials purchased for processing;
- (b) the quantities of raw materials processed and the quantities and types of end products, co-products and by-products obtained therefrom;
- (c) wastage during processing;
- (d) the quantities destroyed and the reasons for such destruction;
- (e) the quantities and types of products sold or transferred by the processor and the prices obtained;
- (f) the names and addresses of subsequent purchasers/processors.

Article 21

1. The competent authorities of collectors and those of the Member States in which processing takes place shall carry out controls comprising physical checks and inspections of commercial documents, with a view to verifying, in the case of collectors, consistency between the purchases of raw materials and the corresponding deliveries, and, in the case of processors, between deliveries respectively of raw materials, finished products, co-products and by-products.

For the purpose of such controls, the competent authorities shall base themselves in particular on the technical processing coefficients for the raw materials concerned.

Where such coefficients for exports are to be found in Community legislation, they shall be applied. Where there are none but other coefficients may be found in Community legislation, they shall be applied. In all other cases, inspection shall rely mainly on the coefficients generally accepted by the processing industry.

The controls shall also seek to establish that the correct end use is made of the raw materials, co-products and by-products, and that Articles 3(1) and 13(3) are complied with.

Controls shall cover at least 10 % of the transactions and processing operations that take place in the Member State concerned and shall be determined by the competent authority on the basis of a risk analysis and taking account of how representative the contracts submitted are.

2. The competent authorities shall step up the controls as referred to in paragraph 1, and shall inform the Commission immediately, where:

- (a) irregularities are revealed by at least 3 % of the controls as referred to in paragraph 1;
- (b) there is a deviation from the previous performances of processors;
- (c) there are processing operations where:
 - (i) the quantities or values of end products, by-products or co-products are disproportionate in relation to the coefficients referred to in the second and third subparagraphs of paragraph 1; or where
 - (ii) there is a disparity relative to the criteria for determining the economic value of products set out in Articles 3(1) and 13(3).

CHAPTER III

Raw materials which need not be covered by contracts*Article 22*

The raw materials listed in Annex II (hereinafter referred to as 'raw materials') may be grown on land set aside, on condition that they are intended for use in the manufacture of the end products listed in Annex III.

They do not need to be covered by a contract.

Article 23

1. To qualify for payments, applicants wishing to use land set aside for growing raw materials shall submit a written undertaking with their payment applications to the competent authorities in their Member States, to the effect that the raw materials concerned will only be used or sold for purposes in accordance with Annex III.

2. Each year applicants shall inform their competent authorities, in their payment applications, of the parcels set aside in accordance with this Chapter, the crops grown on such parcels, the duration of the crop cycle and the foreseeable frequency of harvesting.

CHAPTER IV

General provisions

Section 1

Exclusion from the scheme and prohibition of overlapping aid*Article 24*

The Member States may exclude any of the raw materials listed in Annexes I or II from the scheme established by this Regulation where such materials raise difficulties in terms of controls, public health, the environment or criminal law. In such cases, the Member State concerned shall notify the Commission of the raw material(s) which it intends to exclude and shall provide grounds therefor.

Article 25

Raw materials listed in Annex I and grown on land set aside and intermediate products, end products, co-products and by-products derived therefrom, raw materials listed in Annex II and grown on land set aside and products derived therefrom and land used to produce such raw materials shall not be eligible for:

- (a) any financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund pursuant to Article 1(2) of Regulation (EC) No 1258/1999;
- (b) Community aid as provided for in Regulation (EC) No 1257/1999, with the exception of support granted in respect of the costs of planting fast-growing species as provided for in the second subparagraph of Article 31(3) thereof.

*Section 2***Evaluation and additional national measures***Article 26*

Within three months of the end of each marketing year, the Member States shall forward to the Commission all the information needed to evaluate the scheme introduced by this Regulation.

Where Chapter II is concerned, such information shall include the following information:

- (a) the areas corresponding to each species of raw material, the anticipated yields as referred to in Article 4(2)(d) and the representative yields as referred to in Article 9;
- (b) the quantities of each species of raw material not sold by collectors;

- (c) the quantities of each type of end product, by-product and co-product obtained, with details of the type of raw material used.

Where Chapter III is concerned, the information shall include the surface area set aside for each species grown.

Article 27

1. The Member States shall appoint the competent authorities as referred to in this Regulation.
2. The Member States may adopt any additional measures necessary for the application of this Regulation and shall notify the Commission thereof.

*Section 3***Final provisions***Article 28*

Regulation (EC) No 1586/97 is hereby repealed with effect from 1 July 2000.

It shall continue to apply to contracts in respect of the 1999/2000 and earlier marketing years.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 29

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

It shall apply to contracts and payment applications submitted in respect of 2000/2001 and subsequent marketing years.

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

Done at Brussels, 19 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

RAW MATERIALS REFERRED TO IN CHAPTER II

CN code	Brief description
0602 90 59	Other outdoor plants (e.g. <i>Kenaf</i> <i>Hibiscus Cannabinus</i> L. and <i>Cheopodium</i>) with the exception of <i>Euphorbia lathyris</i> ; <i>Sylbium marianum</i> and <i>Isatis tinctoria</i>
0701 90 10	Potatoes
ex 0713 10 90	Peas (<i>Pisum arvense</i> L.), other than those for sowing
0713 50 00	Broad beans other than those for sowing
ex 0714 90	Jerusalem artichokes (provided that they do not undergo the process known as hydrolysis as defined by Commission Regulation (EEC) No 1443/82 ⁽¹⁾ , either in their natural state or as an intermediate product such as inuline, or as a by-product such as oligo fructose, or as any co-products)
0810 30 10	Blackcurrants
ex 0810 90 85	Fruits of the species <i>Aronia Arbutifolia</i> , sea buckthorn and elder
0904 20	Fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> , dried or crushed or ground
0909	Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries
0910 50 00	Curry
0910 99 10	Fenugreek seed
ex 0910 99 91	Spices, other than mixtures
ex 0910 99 99	Spices, other than mixtures
1001 90 99	Spelt, common wheat and meslin other than for sowing
ex 1002 00 00	Rye other than seed
1003 00 90	Barley other than seed
1004 00 00	Oats other than seed
1005 90 00	Maize (corn) other than seed
1007 00 90	Grain sorghum, other than hybrids for sowing
ex 1008 10 00	Buckwheat other than seed
ex 1008 20 00	Millet other than seed
ex 1008 90 10	Triticale other than seed
ex 1008 90 90	Other cereals other than seed
1201 00 90	Soya beans other than for sowing
1202 20 00	Shelled ground nuts
ex 1204 00 90	Linseed other than for sowing but destined for uses other than textiles
ex 1205 00 90	Rape or colza seeds other than for sowing (only those types referred to in Articles 4(1) and 4(2)(a), (b) and (e) of Commission Regulation (EC) No 2316/1999 ⁽²⁾)
1206 00 91 1206 00 99	Sunflower seeds other than for sowing
1207 30 90	Castor oil seeds other than for sowing
1207 40 90	Sesamum seeds other than for sowing
1207 50 90	Mustard seeds other than for sowing
1207 60 90	Safflower seeds other than for sowing

CN code	Brief description
ex 1207 99 91	Hemp seeds other than for sowing and mentioned in Annex B to Commission Regulation (EEC) No 1164/89 ⁽¹⁾ , destined for uses other than textiles
1207 99 99	Other oil seeds and oleaginous fruits other than for sowing
ex 1209 29	Bitter lupin
ex 1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, other than lavender, lavandin and sage
1212 91	Sugar beet (provided that sugar, as defined by Commission Regulation (EEC) No 1443/82, is not produced from it, either as an intermediate product, co-product or by-product)
1212 99 10	Chicory roots (provided that they do not undergo the process known as hydrolysis as defined by Commission Regulation (EEC) No 1443/82, either in their natural state or as an intermediate product such as inuline, or as a by-product such as oligofructose, or as any co-products)
1214	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupins, vetches and similar forage products
Chapter 14	Vegetable plaiting, stuffing or padding materials, or those used in brooms or brushes; vegetable products not elsewhere specified or included (e.g. broomcorn (<i>Sorghum vulgare</i> var. <i>technicum</i>))

⁽¹⁾ OJ L 158, 9.6.1982, p. 17.

⁽²⁾ OJ L 280, 30.10.1999, p. 43.

⁽³⁾ OJ L 121, 25.4.1989, p. 4.

ANNEX II

RAW MATERIALS REFERRED TO IN CHAPTER III

CN code	Brief description of products
ex 0602 90 41	Short rotation forest trees with a harvest cycle of 10 years or less
ex 0602 90 49	Trees, shrubs and bushes, producing plant material covered by CN code 1211 and by Chapter 14 of the Combined Nomenclature, excluding all those which can be used for human or animal consumption
ex 0602 90 51	Outdoor multiannual plants (e.g. <i>Miscanthus sinensis</i>) other than those which can be used for human or animal consumption, in particular those producing plant material covered by CN code 1211, other than lavender, lavandin and sage, and by Chapter 14 of the Combined Nomenclature
ex 0602 90 59	<i>Euphorbia lathyris</i> , <i>Sylibum marianum</i> and <i>Isatis tinctoria</i>
1211 90 95	<i>Digitalis lanata</i> , <i>Secale cornutum</i> and <i>Hypericum perforatum</i> , excluding plant material which can be used for human or animal consumption

ANNEX III

End-products that may be manufactured from raw materials listed in Annexes I and II:

- all products falling within Chapters 25 to 99 of the Combined Nomenclature,
- all products falling within Chapter 15 of the Combined Nomenclature and intended for uses other than human or animal consumption,
- products covered by CN code 2207 20 00 and intended for direct use in motor fuel or for processing for use in motor fuel,
- packaging material covered by CN codes ex 1904 10 and ex 1905 90 90, on condition that proof has been obtained that the products have been used for non-food purposes in accordance with Article 15(4) of this Regulation,
- mushroom spawn covered by CN code 0602 91 10,
- lac, natural gums, resins, gum-resins and balsams covered by CN code 1301,
- saps and extracts of opium covered by CN code 1302 11 00,
- saps and extracts of pyrethrum or of the roots of plants containing rotenone covered by CN code 1302 14 00,
- other mucilages and thickeners covered by CN code 1302 39 00,
- all agricultural products listed in Annex I and products derived therefrom by an intermediate process and used as fuel for energy production,
- all products listed in Annex II and products derived therefrom and intended for energy purposes,
- all products referred to in Commission Regulation (EEC) No 1722/93 ⁽¹⁾, as last amended by Regulation (EC) No 87/1999 ⁽²⁾, on condition that they are not obtained from cereals or potatoes cultivated on land set aside and that they do not contain products derived from cereals or potatoes cultivated on land set aside,
- all products referred to in Council Regulation (EEC) No 1010/86 ⁽³⁾, as last amended by Commission Regulation (EC) No 1148/98 ⁽⁴⁾, on condition that they are not obtained from sugarbeet cultivated on land set aside, and that they do not contain products derived from sugarbeet cultivated on land set aside.

⁽¹⁾ OJ L 159, 1.7.1993, p. 112.

⁽²⁾ OJ L 9, 5.1.1999, p. 8.

⁽³⁾ OJ L 94, 9.4.1986, p. 9.

⁽⁴⁾ OJ L 159, 3.6.1998, p. 38.

COMMISSION REGULATION (EC) No 2462/1999**of 19 November 1999****determining the world market price for unginne cotton and the rate for the aid**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Community,

(3) Whereas application of the above rules gives the world market price for unginne cotton indicated hereunder;

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⁾,

(4) Whereas the first subparagraph of Article 5(3a) 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 unginne cotton production; whereas Commission Regulation (EC) No 1870/1999 ⁽⁶⁾ determined estimated production for the 1999/2000 marketing year; whereas application of these rules gives the advance payment rates for each Member State indicated hereunder,

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 last amended by Regulation (EC) No 1419/98 ⁽³⁾, and in particular Articles 3, 4 and 5 thereof,

(1) Whereas Article 3 of Regulation (EC) No 1554/95 requires a world market price for unginne 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 1624/1999 ⁽⁵⁾; whereas if it cannot be determined in this way it is to be based on the last price determined;

HAS ADOPTED THIS REGULATION:

Article 1

1. The world market price for unginne cotton as indicated in Article 3 of Regulation (EC) No 1554/95 is set at 20,017 EUR/100 kg.

(2) 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

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

- EUR 43,550 kg in Spain,
- EUR 43,231 kg in Greece,
- EUR 86,283 kg in other Member States.

Article 2

This Regulation shall enter into force on 20 November 1999.

⁽¹⁾ OJ L 148, 30.6.1995, p. 45.

⁽²⁾ OJ L 148, 30.6.1995, p. 48.

⁽³⁾ OJ L 190, 4.7.1998, p. 4.

⁽⁴⁾ OJ L 123, 4.5.1989, p. 23.

⁽⁵⁾ OJ L 192, 24.7.1999, p. 39.

⁽⁶⁾ OJ L 230, 31.8.1999, p. 3.

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

Done at Brussels, 19 November 1999.

For the Commission
Franz FISCHLER
Member of the Commission

II

(Acts whose publication is not obligatory)

CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES of 10 November 1999

appointing a member of the Court of First Instance of the European Communities

(1999/748/EC, ECSC, Euratom)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE
MEMBER STATES OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Community, and in particular Article 225 thereof,

Having regard to the Treaty establishing the European Coal and
Steel Community, and in particular Article 32d thereof,

Having regard to the Treaty establishing the European Atomic
Energy Community, and in particular Article 140a thereof,

Having regard to Council Decision 88/591/ECSC, EEC,
Euratom of 24 October 1988 establishing a Court of First
Instance of the European Communities ⁽¹⁾,

Whereas, pursuant to Articles 7 and 44 of the Protocol on the
Statute of the Court of Justice of the European Community and
to the corresponding provisions of the Protocols on the
Statutes of the Court of Justice of the European Coal and Steel
Community and of the European Atomic Energy Community, a
member of the Court of First Instance should be appointed to
replace Mr Christopher Bellamy, who has resigned, for the

remainder of his term of office, which runs until 31 August
2001,

HAVE DECIDED AS FOLLOWS:

Article 1

Mr Nicholas Forwood is hereby appointed a member of the
Court of First Instance of the European Communities from 2
December 1999 until 31 August 2001.

Article 2

This Decision shall be published in the *Official Journal of the
European Communities*.

Done at Brussels, 10 November 1999.

The President

A. SATULI

⁽¹⁾ OJ L 319, 25.11.1988, p. 1. Decision as last amended by the 1994
Act of Accession.

COUNCIL

COUNCIL DECISION of 8 November 1999 appointing a member of the Economic and Social Committee

(1999/749/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 258 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 166 thereof,

Having regard to the Council Decision of 15 September 1998 appointing the members of the Economic and Social Committee for the period from 21 September 1998 to 20 September 2002 ⁽¹⁾,

Whereas a member's seat on that Committee has fallen vacant following the resignation of Mr Ferdinand Maier, of which the Council was informed on 30 March 1999;

Having regard to the nominations submitted by the Austrian Government,

Having obtained the opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Johann Költringer is hereby appointed a member of the Economic and Social Committee in place of Mr Ferdinand Maier for the remainder of his term of office, which runs until 20 September 2002.

Done at Brussels, 8 November 1999.

For the Council

The President

K. SASI

⁽¹⁾ OJ L 257, 19.9.1998, p. 37.

COMMISSION

COMMISSION DECISION

of 3 November 1999

authorising the Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of potatoes, other than potatoes intended for planting, originating in South Africa

(notified under document number C(1999) 3542)

(1999/750/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ⁽¹⁾, as last amended by Commission Directive 1999/53/EC ⁽²⁾, and in particular Article 14(1) thereof,

Having regard to the request made by the United Kingdom,

- (1) Whereas, under the provisions of Directive 77/93/EEC, potatoes, other than potatoes intended for planting, originating in South Africa may in principle not be introduced into the Community because of the risk of introducing exotic potato diseases which would present a plant health risk to the Community;
- (2) Whereas by Decisions 93/159/EEC ⁽³⁾, 95/95/EC ⁽⁴⁾ and 96/112/EC ⁽⁵⁾ the Commission authorised certain Member States to provide for derogations in respect of potatoes for human consumption originating in South Africa, under specified conditions in the 1993, 1995 and 1996 seasons respectively, and by Decision 98/688/EC ⁽⁶⁾ in respect of potatoes other than potatoes intended for planting originating in South Africa in the 1999 season;
- (3) Whereas there were no confirmed findings of diseases and pests on samples drawn from potatoes imported pursuant to Decisions 93/159/EEC, 96/112/EC and 98/688/EC and whereas due to technical reasons there were no imports made under Decision 95/95/EC;

- (4) Whereas it is expected that South Africa makes available all technical information necessary to assess in the future, the phytosanitary status of potato production in South Africa, in particular details on the regular monitoring of seed and ware potatoes imported into, and marketed within South Africa by means of examination and testing of representative samples by scientifically recognized methods for *Clavibacter michiganensis* (Smith) Davis et al. ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al., *Ralstonia solanacearum* (Smith) Smith and potato spindle tuber viroid, as well as the results of the said examination and testing;
- (5) Whereas the circumstances justifying the authorisation still obtain;
- (6) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

1. The Member States are hereby authorised to provide, under the conditions laid down in paragraph 2, for exceptions from Article 4(1) of Directive 77/93/EEC, with regard to the prohibitions referred to in Part A, point 12 of Annex III thereto for potatoes, other than potatoes intended for planting, originating in South Africa.

2. In addition to the requirements laid down in Annexes I, II and IV to Directive 77/93/EEC in relation to potatoes other than potatoes intended for planting, the following specific conditions shall be satisfied:

- (a) the potatoes shall be potatoes other than potatoes intended for planting;

⁽¹⁾ OJ L 26, 31.1.1977, p. 20.

⁽²⁾ OJ L 142, 5.6.1999, p. 29.

⁽³⁾ OJ L 67, 19.3.1993, p. 24.

⁽⁴⁾ OJ L 79, 4.4.1995, p. 19.

⁽⁵⁾ OJ L 27, 3.2.1996, p. 26.

⁽⁶⁾ OJ L 324, 2.12.1998, p. 37.

- (b) they shall have been grown in South Africa directly from seed potatoes certified in the South African seed potato certification scheme or from seed potatoes certified in one of the Member States and imported into South Africa exclusively from the Member States, or from seed potatoes certified in any other country for which the entry into the Community of potatoes intended for planting is not prohibited pursuant to Annex III of Directive 77/93/EEC;
- (c) they shall have been grown in areas where *Ralstonia solanacearum* (Smith) Yabuuchi et al. is known not to occur;
- (d) they shall have been handled by machinery which is reserved for them or which has been disinfected in an appropriate manner after each use for other purposes;
- (e) they shall be packed either in new bags or in containers which have been disinfected in an appropriate manner; and an official label shall be applied to each bag or container, bearing the information specified in the Annex;
- (f) prior to export the potatoes shall have been cleaned free from soil, leaves and other plant debris;
- (g) the potatoes intended for the Community shall be accompanied by a phytosanitary certificate issued in South Africa in accordance with Articles 7 and 12 of Directive 77/93/EEC, on the basis of the examination laid down therein, in particular freedom from the harmful organism mentioned in (c).

The certificate shall state:

— under 'Additional Declarations', the indication 'This consignment meets the conditions laid down in Decision 1999/750/EC';

- (h) the potatoes shall be introduced through points of entry situated within the territory of a Member State and designated for the purpose of this derogation by that Member State; these points of entry and the name and address of the responsible official body referred to in Directive 77/93/EEC in charge of each point shall be notified sufficiently in advance by the Member States to the Commission and shall be held available on request to other Member States. In those cases where the introduction into the Community takes place in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State of introduction shall inform and cooperate with the said responsible official bodies of the Member States making use of this derogation to ensure that the provisions of this Decision are complied with;
- (i) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in (a) to (l); the said importer shall notify details of each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction and that Member State, without delay, shall convey the details of the notification to the Commission, indicating:
 - the type of material,
 - the quantity,
 - the declared date of introduction and confirmation of the point of entry.

The importer shall provide details of any changes to the aforementioned advance notification, to the responsible official bodies of their own Member State, preferably as soon as they are known and in any case prior to the time of import, and that Member State, without delay, shall convey the details of the changes to the Commission;

- (j) the inspections including testing, as appropriate, required pursuant to Article 12 of Directive 77/93/EEC and in accordance with provisions laid down in the present Decision shall be made by the responsible official bodies, referred to in the said Directive; of these inspections, the plant health checks shall be carried out by the Member State making use of this derogation. Furthermore during the said plant health check that Member State(s) shall also inspect for all other harmful organisms. Without prejudice to the monitoring referred to in Article 19a(3) second indent, first possibility of the said Directive, the Commission shall determine to which extent the inspections referred to in Article 19a(3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19a(5)(c) of that Directive;
- (k) the potatoes shall be packed and repacked only at premises which have been authorised and registered by the said responsible official bodies;
- (l) the potatoes shall be packed or repacked in closed packages that are ready for direct delivery to retailers or to final consumers, and that do not exceed a weight common in the Member State of introduction for that purpose, up to a maximum of 25 kilograms; the packaging shall bear the number of the registered premises referred to in (k), as well as the South African origin;
- (m) Member States making use of this derogation shall, where appropriate, in cooperation with the Member State of introduction ensure that at least two samples of 200 tubers shall be drawn from each consignment of 50 tonnes or part thereof, of imported potatoes pursuant to this Decision, for official examination in respect of *Ralstonia solanacearum* and *Clavibacter michiganensis* ssp. *sepedonicus*, in accordance with the Community established methods for the detection and diagnosis of *Ralstonia solanacearum* and *Clavibacter michiganensis* ssp. *sepedonicus*; in the case of suspicion the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of *Clavibacter michiganensis* ssp. *sepedonicus* or *Ralstonia solanacearum* was not confirmed in those examinations.

Article 2

Member States shall inform the other Member States and the Commission by means of the notification referred to in Article 1(2)(i) of any use made of the authorisation. They shall provide the Commission and the other Member States, before 1 September 2000, with the information on amounts imported pursuant to this Decision and with a detailed technical report of the official examination referred to in Article 1(2)(m); copies of each phytosanitary certificate shall be transmitted to the Commission.

Article 3

1. Article 1 shall apply during the period between 1 December 1999 and 30 June 2000.
2. The present Decision shall be revoked if it is established that the conditions laid down in Article 1(2) have been insufficient to prevent the introduction of harmful organisms or have not been complied with.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 3 November 1999.

For the Commission

David BYRNE

Member of the Commission

*ANNEX***Information required on the label**

(referred to in Article 1(2)(e))

1. Name of the authority issuing the label.
 2. Name of the exporters' organisation.
 3. Indication 'South African potatoes other than potatoes intended for planting'.
 4. Variety.
 5. Area and/or place of production.
 6. Size.
 7. Declared net weight.
 8. Indication 'In accordance with EC conditions laid down in Decision 1999/750/EC'.
 9. A mark printed or stamped on behalf of the South African plant protection organisation.
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COMMISSION DECISION

of 4 November 1999

authorising certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of seed potatoes originating in Canada

(notified under document number C(1999) 3541)

(Only the Spanish, Greek, Italian and Portuguese texts are authentic)

(1999/751/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

michiganensis (Smith) Davis et al. ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al.;

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ⁽¹⁾, as last amended by Commission Directive 1999/53/EC ⁽²⁾, and in particular Article 14(1) thereof,

Having regard to the requests made by Italy and Portugal,

- (1) Whereas, pursuant to the provisions of Directive 77/93/EEC, seed potato tubers originating in the American continent may not, in principle, be introduced into the Community;
- (2) Whereas, however, Directive 77/93/EEC permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms;
- (3) Whereas in Italy and Portugal the planting and growing of seed potatoes of certain North American varieties for ware potato production has been an established practice; whereas part of the supply of seed potatoes of these varieties has been ensured by imports from Canada;
- (4) Whereas, by Decisions 96/6/EC ⁽³⁾, 97/89/EC ⁽⁴⁾, 98/92/EC ⁽⁵⁾ and 1999/50/EC ⁽⁶⁾ the Commission approved derogations based on the concept of 'area freedom', subject to certain technical conditions to prevent the risk of harmful organisms spreading; whereas that approval expired on 31 March 1999; whereas the Commission also provided that those derogations would provide for the opportunity to seek confirmation of the proper functioning of the concept of 'area freedom';
- (5) Whereas it is known that Canada is still not completely free from potato spindle tuber viroid or from *Clavibacter*

- (6) Whereas information supplied by Canada has shown that Canada has further developed its programme to eradicate these harmful organisms in the provinces of New Brunswick and Prince Edward Island; whereas there are good reasons to believe that the programme to eradicate potato spindle tuber viroid has become fully effective in those provinces, and that the programme to eradicate *Clavibacter michiganensis* ssp. *sepedonicus* has become largely effective in certain areas of Prince Edward Island and New Brunswick: in the 1998 crop no incidence of this disease in any of the seed potato fields in the above Provinces was recorded and there was no laboratory finding of *Clavibacter michiganensis* ssp. *sepedonicus* in any of the seed potato lots from any of the above Provinces; whereas there had been no confirmed findings of the disease on samples drawn from seed potatoes originating in Prince Edward Island and New Brunswick and introduced pursuant to Decision 1999/50/EC; whereas therefore it has not been established that there are sufficient elements which would militate against the proper functioning of the aforementioned concept of 'area freedom' in Prince Edward Island and New Brunswick and therefore against the recognition of the provisions implemented there as equivalent to the Community provisions on combating *Clavibacter michiganensis* ssp. *sepedonicus*;

- (7) Whereas it can therefore be established that there is no risk of the harmful organisms in question spreading, provided that the seed potatoes originate in areas declared, on scientific evidence, free from both potato spindle tuber viroid and from *Clavibacter michiganensis* ssp. *sepedonicus*, and that certain special technical conditions are complied with;

- (8) Whereas the Commission will ensure that Canada makes all technical information available which is necessary to monitor the functioning of the protective measures required under the aforementioned technical conditions and to assess the functioning of the aforementioned concept of 'area freedom';

⁽¹⁾ OJ L 26, 31.1.1977, p. 20.

⁽²⁾ OJ L 142, 5.6.1999, p. 29.

⁽³⁾ OJ L 2, 4.1.1996, p. 24.

⁽⁴⁾ OJ L 27, 30.1.1997, p. 45.

⁽⁵⁾ OJ L 18, 23.1.1998, p. 30.

⁽⁶⁾ OJ L 16, 21.1.1999, p. 31.

- (8a) Whereas pursuant to Article 14(1) of Directive 77/93/EEC each authorisation shall apply to all or part of the territory of the Community under conditions which take into account the risk of spreading harmful organisms;
- (9) Whereas, the risk of establishing and spreading *Clavibacter michiganensis* ssp. *sepedonicus* is high in wet and cold regions; consequently the derogation should not apply to Member States which are particularly exposed to such risks, i.e. Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, the Netherlands, Sweden and the United Kingdom; whereas, therefore, the authorisation should not apply to the abovementioned Member States, taking into account the differences in agricultural and ecological conditions;
- (10) Whereas, therefore, derogations should be authorised for the next three seed-potato marketing seasons, provided that they include the aforementioned conditions and without prejudice to Council Directive 66/403/EEC ⁽¹⁾, as last amended by Directive 98/111/EC ⁽²⁾ and to Council Directive 70/457/EEC ⁽³⁾, as last amended by Directive 98/96/EC ⁽⁴⁾;
- (11) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant health,
- HAS ADOPTED THIS DECISION:

Article 1

1. The Hellenic Republic, the Kingdom of Spain, the Italian Republic and the Portuguese Republic are hereby authorised to provide, under the conditions laid down in paragraph 2, for derogations from Article 4(1) of Directive 77/93/EEC, with regard to Annex III(A)(10) and from Article 5(1) and the third indent of Article 12(1)(a) of that Directive as regards the requirements referred to in part A, Section I, points 25.2 and 25.3 of Annex IV thereto, for seed potatoes of the varieties 'Atlantic', 'Donna', 'Kennebec', 'Russet Burbank', 'Sebago' and 'Shepody' originating in Canada.

2. In addition to the requirements laid down in Annexes I, II and IV to Directive 77/93/EEC in relation to potatoes the following conditions shall be satisfied:

- (a) the seed potatoes shall have been produced in fields located in areas of Prince Edward Island or New Brunswick which have been officially declared, by 'Canadian Food Inspection Agency', free from both potato spindle tuber viroid and from *Clavibacter michiganensis* ssp. *sepedonicus* and which satisfy the following conditions, irrespective of whether the fields are operated by producers inside or outside the area:
- (i) the areas either,
 - consist of fields owned or rented by at least three distinct potato producers, or
 - cover an area of at least four square kilometres, surrounded entirely by water or by fields where the organisms concerned have not been found within the previous three years; and
 - (ii) all potatoes produced in the area are the first direct progeny of seed potatoes of the category 'Pre-elite', 'Elite I', 'Elite II' or 'Elite III' which were produced in establishments qualified to produce seed potatoes of the 'Pre-elite' or 'Elite I' categories and which are either official establishments or officially designated and controlled for that purpose; and
 - (iii) the surface used for the production of potatoes which are not finally certified as seed potatoes does not exceed one-fifth of that used for the production of potatoes certified as seed potatoes; and
 - (iv) systematic and representative annual surveys which have been carried out over at least the previous five years under appropriate conditions for the detection of the organisms concerned, on all potato fields located in the area and on potatoes harvested there, including appropriate laboratory testing, did not show any positive finding, or any other element which could militate against the recognition as disease-free; and
 - (v) legislative, administrative or other arrangements have been made to ensure that:
 - no potatoes originating in areas of Canada other than those declared disease-free, or in countries where the organisms concerned are known to occur, can be introduced into such areas, and
 - neither potatoes originating in such areas nor any containers, packaging material, vehicles and handling, grading and preparation equipment used there can be brought into contact with potatoes originating, or material or equipment as specified used, in areas other than those declared disease-free.
- This provision shall also apply to cases where fields located inside the areas declared disease-free are operated by establishments outside such areas or where establishments inside such areas operate fields located outside them;
- (vi) 'Canadian Food Inspection Agency' shall provide the Commission with a complete list of the areas declared as free, supported by a map updated each year of the provinces concerned, showing through appropriate marks the geographical distribution of the areas;
- (b) the seed potatoes shall be certified officially as seed potatoes meeting at least the conditions laid down for the 'Foundation' category.

⁽¹⁾ OJ 125, 11.7.1966, p. 2320/66

⁽²⁾ OJ L 28, 4.2.1998, p. 42.

⁽³⁾ OJ L 225, 12.10.1970, p. 1.

⁽⁴⁾ OJ L 25, 1.2.1999, p. 27.

- (c) samples shall be taken officially in respect of each lot intended for export to the Community; a lot shall consist only of tubers of one single variety and class which have been produced on one single farm and with the same reference number. The samples shall be examined by official laboratories in order to detect any presence of potato spindle tuber viroid or *Clavibacter michiganensis* ssp. *sepedonicus*; the samples for the detection of potato spindle tuber viroid shall be tubers, or leaves taken from the crop which produced the lot; for the detection of *Clavibacter michiganensis* ssp. *sepedonicus* a sample of at least 200 tubers per lot of 25 tonnes or less shall be taken; examinations shall be carried out on the entire sample, using the following methods:

- as regards potato spindle tuber viroid: the 'reverse-page' method, or c-DNA hybridisation procedure, and
- as regards *Clavibacter michiganensis* ssp. *sepedonicus*: at least that set out in the Method for the detection and diagnosis of the ring rot bacterium in batches of potato tubers as laid down in Council Directive 93/85/EEC ⁽¹⁾;

- (d) legislative, administrative or other arrangements shall have been made to ensure

- a direct supervision and control by the certification authority (i.e. Canadian Food Inspection Agency) of the sampling process, i.e. collection, tagging and sealing, and in the labelling system through appropriate label accountability procedures, to ensure that for each seed lot within each consignment shipped to the Community a numbered label is used and stitched on the bags separately from the certification labels, as well as the relevant colour code corresponding to a specified importer in the importing Member State, and
- that at the time of loading the vessel, two sealed bags of potatoes of each lot shipped to the Community are kept aside and stored under the jurisdiction of Canadian Food Inspection Agency, at least until the results of the examinations referred to in (i) are completed.
- that the lots shall be kept separate in all operations including transport, at least until delivery to the premises of the importers referred to in (f);

- (e) the phytosanitary certificate required shall be made out separately for each consignment and only if it has been established by the scientists involved that the examinations referred to in (c) did not give rise to suspicions or to the detection of the presence of potato spindle tuber viroid or *Clavibacter michiganensis* ssp. *sepedonicus* in the consignment and that, in particular, the IF-testing was shown to be negative.

It shall state, under 'Additional Declaration', that the conditions laid down in (a), (b) and (c) have been complied with, and shall give the name of the establishment or establishments which have produced the seed potato lots and the relevant seed potato certification lot numbers, as well as

the name of the area referred to in (a), of the establishment referred to in (a)(ii) and the number of bags. It shall give under 'Distinguishing marks', the colour code corresponding to a specified importer in the importing Member State as well as the details of the numbered label used for each seed lot within each consignment. Documents attached to the said phytosanitary certificate as an integral part of the certificate shall relate precisely to that certificate in both description and quantity of commodity;

- (f) prior to introduction into the Community, the importer shall notify each introduction sufficiently in advance to the responsible official bodies in the Member State concerned, and that Member State shall then, without delay, convey the details of the notification to the Commission, indicating:
- the variety,
 - the quantity,
 - the declared date of import,
 - the names and addresses of the premises of the importers of the potatoes, and those listed in accordance with the provisions of Commission Directive 93/50/EEC ⁽²⁾.

Modifications in respect of the above details which occur after the said advance notification shall be, without delay, conveyed by the relevant Member State to the Commission.

At the moment of import the importer shall provide confirmation of the details of the aforementioned advance notification to the responsible official bodies in the Member State concerned.

- (g) the potatoes may be introduced into the Community only via the following ports of unloading:
- Genova
 - La Spezia
 - Livorno
 - Napoli
 - Ravenna
 - Salerno
 - Savona
 - Aveiro
 - Lisbon
 - Porto.
- (h) the inspections required pursuant to Article 12 of Directive 77/93/EEC shall be made by responsible official bodies referred to in the said Directive. Without prejudice to the monitoring referred to in Article 19a(3) second indent, first possibility, the Commission shall determine to which extent the inspections referred to in Article 19a(3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance

⁽¹⁾ OJ L 259, 18.10.1993, p. 1.

⁽²⁾ OJ L 205, 17.8.1993, p. 22.

with Article 19a(5)(c) of that Directive. The said official bodies and, as appropriate, the experts referred to in Article 19a(3) shall check the importers premises to confirm details of the quantities of potatoes imported from Canada, the colour coding, the numbered labels and those destinations for planting at premises listed under Directive 93/50/EEC.

- (i) the responsible official bodies of the importing Member States shall take a sample of at least 200 tubers per lot of 25 tonnes or less from each of the non-bulk lots intended to be imported pursuant to this Decision for official examination in respect of *Clavibacter michiganensis* ssp. *sepedonicus* in accordance with the Community established method for the detection and diagnosis of *Clavibacter michiganensis* ssp. *sepedonicus*; the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of *Clavibacter michiganensis* ssp. *sepedonicus* was not suspected or detected in those examinations; the total lots imported shall not exceed an amount which is adequate for the abovementioned examinations, taking into account the facilities available for that purpose; sub-samples shall be kept available for subsequent examination by other Member States and the responsible official bodies referred to in the said Directive of the importing Member State shall by 15 April 2000, by 15 April 2001 and again by 15 April 2002 inform the Commission, with a view to organising that examination and the recording thereof.
- (j) the potatoes shall be planted only at premises in the Member State of import, for which it is possible to trace the names and addresses; this provision shall not apply in the case of final users planting the imported seed potatoes or for users who will sell only onto the local market;
- (k) in the growing period following introduction, a suitable proportion of the plants shall be inspected by the said responsible official bodies, at appropriate times, at the premises listed in accordance with the provisions of Commission Directive 93/50/EEC or referred to in (j);
- (l) potatoes grown from seed potatoes introduced pursuant to this Decision shall not be certified as seed potatoes, and shall be used only as potatoes for consumption.

For the premises referred to in under (j) the potatoes grown from such seed potatoes shall be packaged and labelled accordingly and shall bear the number of the premises listed in accordance with the provisions of Directive 93/50/EEC, as well as the Canadian origin of the seed potatoes used. Such potatoes may be moved within the Member

States, only after approval by the said responsible official bodies taking into account the results of the inspection referred to in (k).

Article 2

Member States shall inform the other Member States and the Commission by means of the notification referred to in Article 1(2)(f), first sentence of any use of the authorisation. The importing Member States shall provide the Commission and the other Member States, before 1 June 2000, before 1 June 2001 and again before 1 June 2002, with information on the amounts imported pursuant to this Decision and with a detailed technical report on the official examination referred to in Article 1(2)(i); in those cases where Member States have made official examinations on sub-samples as referred to in Article 1(2)(i), the detailed technical reports thereof shall also be submitted to the Commission before 1 June 2000, before 1 June 2001 and again before 1 June 2002; copies of each phytosanitary certificate shall be transmitted to the Commission.

Article 3

The authorisation granted in Article 1 shall apply from 15 January 2000 until 31 March 2000, from 1 December 2000 until 31 March 2001 and again from 1 December 2001 until 31 March 2002. It shall be revoked prior to 31 March 2002 if it is found that the conditions laid down in Article 1(2) have been insufficient to prevent the introduction of the harmful organisms in question or have not been complied with. It may be revoked prior to that date if it is found that there are elements which would militate against the proper functioning of the 'area freedom' concept in Canada.

Article 4

This Decision is addressed to the Hellenic Republic, the Kingdom of Spain, the Italian Republic and the Portuguese Republic.

Done at Brussels, 4 November 1999.

For the Commission

David BYRNE

Member of the Commission

EUROPEAN CENTRAL BANK

DECISION OF THE EUROPEAN CENTRAL BANK of 16 November 1999

appointing the members of the Anti-Fraud Committee of the European Central Bank (ECB/1999/8)

(1999/752/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank,

Having regard to the Decision ECB/1999/5 ⁽¹⁾ of the European Central Bank of 7 October 1999 on fraud prevention and in particular to Article 1, paragraph 3, thereof,

- (1) Whereas Article 1, paragraph 3, of Decision ECB/1999/5 provides for the Anti-Fraud Committee of the European Central Bank to be composed of three outside independent persons who possess outstanding qualifications relevant to the activities of the Anti-Fraud Committee;
- (2) Whereas it is appropriate to appoint the members of the Anti-Fraud Committee as soon as possible;
- (3) Whereas Article 1, paragraph 3, of Decision ECB/1999/5 provides for the members of the Anti-Fraud Committee to be appointed by a decision of the Governing Council;
- (4) Whereas Article 1, paragraph 4, of Decision ECB/1999/5 stipulates that the term of office of the members of the Anti-Fraud Committee shall be three years,

HAS DECIDED AS FOLLOWS:

Article 1

The following persons are hereby appointed as members of the Anti-Fraud Committee of the European Central Bank as from 1 January 2000:

- John L. Murray
- Erik Ernst Nordholt
- Maria Schaumayer.

Article 2

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 16 November 1999.

The President of the ECB
Willem F. DUISENBERG

⁽¹⁾ OJ L 291, 13.11.1999, p. 36.