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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2544/94

of 20 October 1994

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 3179/93⁽²⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 1900/92⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 1901/92⁽⁶⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86⁽⁸⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 1902/92⁽¹⁰⁾, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹¹⁾,

Whereas by Regulation (EEC) No 3131/78⁽¹²⁾, as amended by the Act of Accession of Greece, the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas, in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed, taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁴⁾, no levies shall apply on imports of products originating in the overseas countries and territories;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 17 and 18 October 1994 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within CN codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 285, 20. 11. 1993, p. 9.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 192, 11. 7. 1992, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 192, 11. 7. 1992, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 192, 11. 7. 1992, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

imported product, such amount to be fixed at a standard rate ; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

Article 2

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

HAS ADOPTED THIS REGULATION :

Article 1

The minimum levies on olive oil imports are fixed in Annex I.

Article 3

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Minimum import levies on olive oil ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	79,00 ⁽²⁾
1509 10 90	79,00 ⁽²⁾
1509 90 00	92,00 ⁽²⁾
1510 00 10	77,00 ⁽²⁾
1510 00 90	122,00 ⁽⁴⁾

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

⁽²⁾ For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

(a) Lebanon : ECU 0,60 per 100 kg ;

(b) Tunisia : ECU 12,69 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(c) Turkey : ECU 22,36 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(d) Algeria and Morocco : ECU 24,78 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

⁽³⁾ For imports of oil falling within this CN code :

(a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 3,86 per 100 kg ;

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

⁽⁴⁾ For imports of oil falling within this CN code :

(a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 7,25 per 100 kg ;

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

ANNEX II

Import levies on other olive oil sector products ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
0709 90 39	17,38
0711 20 90	17,38
1522 00 31	39,50
1522 00 39	63,20
2306 90 19	6,16

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

COMMISSION REGULATION (EC) No 2545/94

of 19 October 1994

concerning the stopping of fishing for anglerfish by vessels flying the flag of France

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

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21 (3) thereof,

Whereas Council Regulation (EC) No 3676/93 of 21 December 1993 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1994 and certain conditions under which they may be fished⁽²⁾, provides for anglerfish quotas for 1994;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of anglerfish in the waters of ICES divisions VIII c, IX, X; CECAF 34.1.1 (EC-zone) by vessels flying the flag of France or registered in France have reached the quota allocated for 1994; whereas France has prohibited fishing for this stock as from 29

September 1994; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of anglerfish in the waters of ICES divisions VIII c, IX, X; CECAF 34.1.1 (EC-zone) by vessels flying the flag of France or registered in France are deemed to have exhausted the quota allocated to France for 1994.

Fishing for anglerfish in the waters of ICES divisions VIII c, IX, X; CECAF 34.1.1 (EC-zone) by vessels flying the flag of France or registered in France is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 29 September 1994.

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

- Done at Brussels, 19 October 1994.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

⁽¹⁾ OJ No L 261, 20. 10. 1993, p. 1.

⁽²⁾ OJ No L 341, 31. 12. 1993, p. 1.

COMMISSION REGULATION (EC) No 2546/94

of 20 October 1994

allocating quantities not applied for under the import quota for frozen beef
pursuant to Council Regulation (EC) No 130/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1884/94 ⁽²⁾, and in particular Article 15 (2) thereof,

Having regard to Council Regulation (EC) No 130/94 of 24 January 1994 opening and providing for the administration of a Community tariff quota for frozen meat of bovine animals falling within CN code 0202 and products falling within CN code 0206 29 91 (1994) ⁽³⁾, and in particular Article 4 thereof,

Whereas Commission Regulation (EC) No 214/94 ⁽⁴⁾ lays down detailed rules for the application of the import arrangements provided for in abovementioned Regulation (EC) No 130/94;

Whereas Article 3 of Regulation (EC) No 130/94 provides for the allocation, during the fourth quarter of 1994, of quantities not covered by import licence applications at 31 August 1994 as a priority to take account of possible administrative errors in allocating additional quantities to the operators concerned;

Whereas, when notifying the Commission of the reference quantities and of the quantities applied for pursuant to Article 3 (2) and (3) of Regulation (EC) No 214/94, the national authorities forwarded inaccurate figures in certain cases;

Whereas, once the additional quantities are allocated to the operators affected by the administrative errors, the remainder is in excess of 30 tonnes; whereas a further allocation must therefore be made of those quantities in accordance with Article 3 (1) of Regulation (EC) No 130/94;

Whereas, for reasons of administration and commercial practice, the quantity of each lot allocated should be set at 5 tonnes;

Whereas, in accordance with Article 4 (2) of Regulation (EC) No 130/94, the allocation of the quantities available

is to be decided by the Commission; whereas, with a view to fair distribution of the remainder, the quantities should be broken down by Member State on the basis of those allocated in March 1994;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The quantities not covered by import licence applications at 31 August 1994 amount to 83,675 tonnes. To take account of administrative errors, 13,413 tonnes are hereby allocated as follows:

(a) 10,905 tonnes to Galtee Meats Ltd (Charleville, Ireland);

(b) 2,508 tonnes to Ellistrin Ltd (Ireland).

2. The remaining 70 tonnes, rounded down, is hereby allocated to the Member States as follows:

Germany :	20 tonnes,
Belgium :	5 tonnes,
France :	5 tonnes,
Ireland :	5 tonnes,
Italy :	15 tonnes,
Netherlands :	5 tonnes,
United Kingdom :	15 tonnes.

3. The Member States concerned shall allocate these quantities by drawing lots for each 5 tonnes among the operators referred to in Article 1 (1) and (2) of Regulation (EC) No 214/94. Each operator shall be eligible for one lot only.

4. Articles 5, 6 and 7 of Regulation (EC) No 214/94 shall apply.

Article 2

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

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 27.

⁽³⁾ OJ No L 22, 27. 1. 1994, p. 3.

⁽⁴⁾ OJ No L 27, 1. 2. 1994, p. 46.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EC) No 2547/94**of 20 October 1994****amending Regulation (EC) No 1854/94 laying down detailed rules for the application of Council Regulation (EC) No 774/94 in relation to import licences for quality wheat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas Commission Regulation (EC) No 1854/94 ⁽²⁾ lays down the conditions for the issue of import licences for the quota opened by Regulation (EC) No 774/94; whereas the amount of the performance guarantee provided for in Regulation (EC) No 1854/94 is equal to the levy applicable on the day of import and, therefore, no sanctions are laid down for non-fulfilment of the special import conditions applicable to that quota; whereas, given the time necessary for checking the minimum quality of the imported products pursuant to the provisions establishing quality criteria and to avoid any speculation when import licences are applied for, the amount of the performance guarantee should be increased; whereas, for the same reasons, the provisions governing the release of that guarantee must be amended; whereas, therefore, Regulation (EC) No 1854/94 should be amended;

Whereas, pursuant to the relevant provisions, the first date for the submission of import licence applications is 30 October 1994; whereas this Regulation should apply to those applications;

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

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EC) No 1854/94 is hereby amended as follows :

1. the third indent of point (c) of Article 2 (1) is replaced by the following :

— a written undertaking by the applicant to lodge a guarantee, at the latest at the time of issue of the import licence, to ensure that the wheat in question will be imported within five days of the date of issue of the import licence, of an amount equal to the levy provided for in Article 10 of Regulation (EEC) No 1766/92 applicable on the day the application was lodged, increased by ECU 5 per tonne, and';

2. the first subparagraph of Article 5 (2) is replaced by the following :

'The guarantee provided for in the third indent of point (c) of Article 2 (1) shall be released on production of proof that the wheat concerned has been imported within five days of the date of issue of the import licence and proof that the imported wheat is of the quality laid down in the relevant provisions.'

Article 2

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

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 91, 8. 4. 1994, p. 1.

⁽²⁾ OJ No L 192, 28. 7. 1994, p. 31.

COMMISSION REGULATION (EC) No 2548/94**of 20 October 1994****fixing the import levies on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1866/94⁽²⁾, and in particular Articles 10 (5) and 11 (3) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as amended by Regulation (EC) No 3528/93⁽⁴⁾,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EC) No 1937/94⁽⁵⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 19

October 1994, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 1937/94 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 198, 30. 7. 1994, p. 36.

ANNEX

to the Commission Regulation of 20 October 1994 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Third countries ⁽⁸⁾
0709 90 60	92,47 ⁽²⁾ ⁽³⁾
0712 90 19	92,47 ⁽²⁾ ⁽³⁾
1001 10 00	18,02 ⁽¹⁾ ⁽²⁾ ⁽¹¹⁾
1001 90 91	62,41
1001 90 99	62,41 ⁽²⁾ ⁽¹¹⁾
1002 00 00	108,01 ⁽⁶⁾
1003 00 10	92,41
1003 00 90	92,41 ⁽²⁾
1004 00 00	94,85
1005 10 90	92,47 ⁽²⁾ ⁽³⁾
1005 90 00	92,47 ⁽²⁾ ⁽³⁾
1007 00 90	97,42 ⁽⁴⁾
1008 10 00	35,13 ⁽²⁾
1008 20 00	42,76 ⁽⁴⁾ ⁽²⁾
1008 30 00	6,95 ⁽²⁾
1008 90 10	⁽⁷⁾
1008 90 90	6,95
1101 00 00	125,38 ⁽²⁾
1102 10 00	189,02
1103 11 10	62,72
1103 11 90	147,14
1107 10 11	121,97
1107 10 19	93,89
1107 10 91	175,37 ⁽¹⁰⁾
1107 10 99	133,79 ⁽²⁾
1107 20 00	154,12 ⁽¹⁰⁾

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

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

⁽³⁾ Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.

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

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

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

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

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

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

⁽¹⁰⁾ In accordance with Council Regulation (EEC) No 1180/77 this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

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

COMMISSION REGULATION (EC) No 2549/94**of 20 October 1994****fixing the premiums to be added to the import levies on cereals, flour and malt**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1866/94 ⁽²⁾, and in particular Article 12 (4) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as amended by Regulation (EC) No 3528/93 ⁽⁴⁾,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EC) No 1938/94 ⁽⁵⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 19

October 1994, as regards floating currencies, should be used to calculate the levies;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 1.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁵⁾ OJ No L 198, 30. 7. 1994, p. 39.

ANNEX

to the Commission Regulation of 20 October 1994 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 10	1st period 11	2nd period 12	3rd period 1
0709 90 60	0	1,07	0	0
0712 90 19	0	1,07	0	0
1001 10 00	0	0	0	0
1001 90 91	0	0	0	7,11
1001 90 99	0	0	0	7,11
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 00	0	0	0	0
1005 10 90	0	1,07	0	0
1005 90 00	0	1,07	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	11,04
1102 10 00	0	0	0	0
1103 11 10	0	0	0	0
1103 11 90	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
1107 10 11	0	0	0	12,66	12,66
1107 10 19	0	0	0	9,46	9,46
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EC) No 2550/94**of 20 October 1994**

determining the extent to which applications lodged in October 1994 for import licences for certain pigmeat sector products under the regime provided for by Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for pigmeat and certain other agricultural products can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1432/94 of 22 June 1994 laying down detailed rules for the application in the pigmeat sector of the import arrangements provided for in Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for pigmeat and certain other agricultural products⁽¹⁾, and in particular Article 4 (4) thereof,

Whereas the applications for import licences lodged for the period from 1 October to 31 December 1994 are, in the case of some products, for quantities less than the quantities available and can therefore be met in full;

Whereas it is appropriate to draw the attention of operators to the fact that licences may only be used for products which comply with all veterinary rules currently in force in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1 October to 31 December 1994 submitted under Regulation (EC) No 1432/94 shall be met as referred to in the Annex.
2. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 156, 23. 6. 1994, p. 14.

ANNEX

Group No	Percentage of acceptance of import licences submitted for the period 1 October to 31 December 1994
1	100,00

COMMISSION REGULATION (EC) No 2551/94**of 20 October 1994**

determining the extent to which application lodged in October 1994 for import licences for certain pigmeat products under the regime provided for by the Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary, the Czech and Slovak Federal Republic can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 2698/93 of 30 September 1993, laying down detailed rules for the application in the pigmeat sector of the arrangements provided for by the Interim Agreements between the European Economic Community and the Republic of Poland, the Republic of Hungary and the former Czech and Slovak Federal Republic⁽¹⁾, amended by Regulation (EC) No 3560/93⁽²⁾, and in particular Article 4 (5) thereof,

Whereas the applications for import licences lodged for the fourth quarter of 1994 are for quantities less than the quantities available and can therefore be met in full;

Whereas, the surplus to be added to the quantity available for the following period should be determined;

Whereas, it is appropriate to draw the attention of operators to the fact that licences may only be used for products which comply with all veterinary rules currently in force in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1 October to 31 December 1994 submitted under Regulation (EEC) No 2698/93 shall be met as referred to in Annex I.
2. During the first 10 days of the period 1 January to 31 March 1995 applications may be lodged pursuant to Regulation (EEC) No 2698/93 for import licences for a total quantity as referred to in Annex II.
3. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 245, 1. 10. 1993, p. 80.

⁽²⁾ OJ No L 324, 24. 12. 1993, p. 42.

ANNEX I

Group No	Percentage of acceptance of import licences submitted for the period 1 October to 31 December 1994
1	100,0
2	100,0
3	100,0
4	100,0
5	100,0
6	100,0
7	100,0
8	100,0
9	100,0
10	100,0
11	100,0
12	100,0
13	100,0

ANNEX II

Group No	Total quantity available for the period 1 January to 31 March 1994 (tonnes)
1	1 937,0
2	232,5
3	1 315,0
4	20 950,0
5	2 800,0
6	1 831,0
7	7 930,0
8	1 300,0
9	9 100,0
10	4 000,0
11	454,9
12	2 000,0
13	194,9

COMMISSION REGULATION (EC) No 2552/94**of 20 October 1994**

determining the extent to which applications lodged in October 1994 for import licences for certain pigmeat products under the regime provided for by the Intermediate Agreements concluded by the Community with Bulgaria and Romania can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1590/94 of 30 June 1994 laying down detailed rules for the application in the pigmeat sector of the arrangements provided for in the Interim Agreement between the Community and Bulgaria and Romania⁽¹⁾, as amended by Regulation (EC) No 2337/94⁽²⁾, and in particular Article 4 (4) thereof,

Whereas the applications for import licences lodged for the fourth quarter of 1994 are for quantities less than the quantities available and can therefore be met in full;

Whereas the surplus to be added to the quantity available for the following period should be determined;

Whereas it is appropriate to draw the attention of operators to the fact that licences may only be used for

products which comply with all veterinary rules currently in force in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1 October to 31 December 1994 submitted under Regulation (EC) No 1590/94 shall be met as referred to in Annex I.
2. During the first 10 days of the period 1 January to 31 March 1995 applications may be lodged pursuant to Regulation (EC) No 1590/94 for import licences for a total quantity as referred to in Annex II.
3. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 167, 1. 7. 1994, p. 16.

⁽²⁾ OJ No L 254, 30. 9. 1994, p. 19.

ANNEX I

Group No	Percentage of acceptance of import licences submitted for the period 1 October to 31 December 1994
14	100,00
15	100,00
16	100,00
17	100,00

ANNEX II

(tonnes)	
Group No	Total quantity available for the period 1 January to 31 March 1995
14	157,50
15	682,50
16	1 135,50
17	9 480,00

COMMISSION REGULATION (EC) No 2553/94**of 20 October 1994**

determining the extent to which applications lodged in October 1994 for import licences for certain pigmeat products under the regime provided for by the Bilateral Agreements on agriculture concluded between the Community, of the one part, and Austria and Finland, of the other part, can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3580/93 of 21 December 1993 laying down detailed rules for the application in the pigmeat sector of the regime provided for by the Bilateral Agreements on agriculture concluded between the Community, of the one part, and Austria and Finland, of the other part⁽¹⁾, and in particular Article 4 (4) thereof,

Whereas the applications for import licences lodged for the period 1 October to 31 December 1994 are for quantities less than or equal to the quantities available and can therefore be met in full,

Article 1

Applications for import licences for the period 1 October to 31 December 1994 submitted pursuant to Regulation (EC) No 3580/93 shall be met as referred to in the Annex.

Article 2

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 326, 28. 12. 1993, p. 16.

ANNEX

Group No	Percentage of acceptance of import licences submitted for the period from 1 October to 31 December 1994
A1	100,00
A2	100,00
A3	100,00
F1	100,00
F2	100,00
F3	100,00

COMMISSION REGULATION (EC) No 2554/94**of 20 October 1994****determining the extent to which applications lodged in October 1994 for import
licences for certain pigmeat products can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3834/90 of 20 December 1990 reducing for 1991 the levies on certain agricultural products originating in developing countries⁽¹⁾, as last amended by Regulation (EC) No 3668/93⁽²⁾,

Whereas the fixed amounts are those mentioned in the Annex to Regulation (EEC) No 3834/90; whereas, since on 15 June 1994 the Council did not adopt the new scheme of generalized tariff preferences, the application of Council Regulation (EC) No 3668/93 is automatically extended until 31 December 1994;

Whereas Commission Regulation (EC) No 1592/94⁽³⁾ set the quantities of pigmeat products that can be imported at a reduced levy for the period 1 October to 31 December 1994;

Whereas the applications made for licences for products named against order No 59.0080 in Regulation (EEC) No 3834/90 are for quantities lower than those available; whereas these applications can therefore be met in full;

Whereas for the products named against order Nos 59.0010, 59.0040, 59.0060 and 59.0070 no applications were lodged;

Whereas it is appropriate to draw the attention of operators to the fact that licences may only be used for products which comply with all veterinary rules currently in force in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1 October to 31 December 1994 submitted pursuant to Regulation (EC) No 1592/94 shall be met in full, for products named against order No 59.0080 in Regulation (EEC) No 3834/90.

2. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

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

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 121.

⁽²⁾ OJ No L 338, 31. 12. 1993, p. 22.

⁽³⁾ OJ No L 167, 1. 7. 1994, p. 23.

COMMISSION REGULATION (EC) No 2555/94
of 20 October 1994
fixing the export refunds on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1869/94 ⁽²⁾, and in particular the first sentence of the fourth subparagraph of Article 17 ⁽²⁾ thereof,

Whereas Article 17 of Regulation (EEC) No 1418/76 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 1431/76 of 21 June 1976 laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds ⁽³⁾, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market;

Whereas export possibilities exist for a quantity of 6 000 tonnes of white rice to certain destinations; whereas the procedure laid down in Article 9 ⁽⁴⁾ of Commission Regulation (EEC) No 891/89 ⁽⁵⁾, as last amended by Regulation (EC) No 1755/94 ⁽⁶⁾, should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Commission Regulation (EEC) No 1361/76 ⁽⁶⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

Whereas Article 3 of Regulation (EEC) No 1431/76 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated;

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

Whereas a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;

Whereas the refund must be fixed at least once a month; whereas it may be altered in the intervening period;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁷⁾, as amended by Regulation (EC) No 3528/93 ⁽⁸⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽⁹⁾, as amended by Regulation (EC) No 547/94 ⁽¹⁰⁾;

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

Whereas Council Regulation (EEC) No 990/93 ⁽¹¹⁾ prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

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

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 30. 7. 1994, p. 7.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 36.

⁽⁴⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 183, 19. 7. 1994, p. 7.

⁽⁶⁾ OJ No L 154, 15. 6. 1976, p. 11.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁸⁾ OJ No L 320, 22. 12. 1993, p. 32.

⁽⁹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹⁰⁾ OJ No L 69, 12. 3. 1994, p. 1.

⁽¹¹⁾ OJ No L 102, 28. 4. 1993, p. 14.

ADOPTED THIS REGULATION :

listed in paragraph 1 (c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 1

Article 2

The export refunds on the products listed in Article 1 of Regulation (EEC) No 1418/76 with the exception of those

This Regulation shall enter into force on 21 October 1994.

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

Done at Brussels, 20 October 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 20 October 1994 fixing the export refunds on rice and broken rice

(ECU/tonne)			(ECU/tonne)		
Product code	Destination (1)	Amount of refunds (2)	Product code	Destination (1)	Amount of refunds (2)
1006 20 11 000	01	195,00	1006 30 63 900	01	244,00
	05	195,00		04	244,00
1006 20 13 000	01	195,00		05	244,00
	05	195,00	1006 30 65 100	01	244,00
1006 20 15 000	01	195,00		02	250,00
	05	195,00		03	255,00
1006 20 17 000	—	—		04	244,00
	—	—		05	244,00
1006 20 92 000	01	195,00	1006 30 65 900	01	244,00
	05	195,00		04	244,00
1006 20 94 000	01	195,00		05	244,00
	05	195,00	1006 30 67 100	—	—
1006 20 96 000	01	195,00		—	—
	05	195,00	1006 30 67 900	—	—
1006 20 98 000	—	—		01	244,00
	—	—		02	250,00
1006 30 21 000	01	195,00		03	255,00
	05	195,00		04	244,00
1006 30 23 000	01	195,00		05	244,00
	05	195,00	1006 30 92 900	01	244,00
1006 30 25 000	01	195,00		04	244,00
	05	195,00		05	244,00
1006 30 27 000	—	—	1006 30 94 100	01	244,00
	—	—		02	250,00
1006 30 42 000	01	195,00		03	255,00
	05	195,00		04	244,00
1006 30 44 000	01	195,00		05	244,00
	05	195,00	1006 30 94 900	01	244,00
1006 30 46 000	01	195,00		04	244,00
	05	195,00		05	244,00
1006 30 48 000	—	—	1006 30 96 100	01	244,00
	—	—		02	250,00
1006 30 61 100	01	244,00		03	255,00
	02	250,00		04	244,00
	03	255,00		05	244,00
	04	244,00	1006 30 96 900	01	244,00
	05	244,00		04	244,00
1006 30 61 900	01	244,00		05	244,00
	04	244,00	1006 30 98 100	—	—
	05	244,00		—	—
1006 30 63 100	01	244,00		—	—
	02	250,00		—	—
	03	255,00		—	—
	04	244,00	1006 40 00 000	—	—
	05	244,00		—	—

(1) The destinations are identified as follows:

- 01 Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia,
- 02 Zones I, II, III, VI, Ceuta and Melilla,
- 03 Zones IV, V, VII (c), Canada and Zone VIII excluding Surinam, Guyana and Madagascar,
- 04 Destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87,
- 05 Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of 6 000 tonnes of white rice destined for Austria.

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

NB: The zones are those defined in the Annex to Commission Regulation (EEC) No 2145/92.

COUNCIL REGULATION (EC) No 2556/94

of 19 October 1994

amending Regulation (EEC) No 2552/93 imposing a definitive anti-dumping duty on imports of artificial corundum originating in the People's Republic of China, the Russian Federation and Ukraine, with the exception of those imports sold for export to the Community by companies whose undertakings have been accepted, and definitively collecting the amounts secured by way of the provisional anti-dumping duty imposed by Commission Regulation (EC) No 1418/94

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, hereinafter referred to as 'the Basic Regulation', and in particular Article 12 thereof,

Having regard to the proposal from the Commission submitted after consultation within the Advisory Committee,

Whereas,

A. Provisional measures

- (1) By Decision 91/512/EEC⁽²⁾, the Commission accepted undertakings given in connection with the review of anti-dumping measures concerning imports of artificial corundum originating in the Soviet Union, Hungary, Poland, Czechoslovakia and the People's Republic of China and in connection with the anti-dumping proceeding concerning imports of artificial corundum originating in Brazil and Yugoslavia. By Council Regulation (EEC) No 2552/93⁽³⁾, a definitive anti-dumping duty was imposed on imports of artificial corundum originating in the People's Republic of China, the Russian Federation and Ukraine, with the exception of those imports sold for export to the Community by companies whose undertakings had been accepted.
- (2) The Commission, by Regulation (EC) No 1418/94⁽⁴⁾, imposed a provisional anti-dumping duty on imports into the Community of artificial corundum falling within CN code 2818 10 00 (Taric additional code: 8725), originating in the People's Republic of China and exported to the Community by the following companies:

- CMEC — China National Machinery and Equipment Import and Export Co., Beijing,
- The second abrasive wheel factory of China, Zhengzhou, Henan,
- Mount Tai Co. of the fourth Grinding Wheel factory of China, Zhangian, ZiBo, Sha Dong,
- Shandong Machinery and Equipment Import and Export Co., Qingdao,
- Guandong Machinery and Equipment Import and Export Group Co., Guangzhou,
- CAEC — China Abrasives Import and Export Co., Zhengzhou, Henan.

This provisional duty was imposed in accordance with Article 10 (6) of the Basic Regulation, as the Commission has reason to believe that the undertakings of the abovementioned exporters had been violated, and that Community interests called for such intervention. The rate of duty was 30,8 % of the net free-at-Community frontier price of the product before customs duty, and was based on the facts established before the acceptance of the undertaking.

B. Subsequent procedure

- (3) Following the imposition of the provisional anti-dumping duty, the European Chemical Industry Council (Cefic), on behalf of the Community industry of artificial corundum, and the Machine Tool and Tool Branch Chamber of the Chinese Chamber of Commerce (CCC), on behalf of the exporters concerned, made their views known in writing and, at their request, were granted an opportunity to be heard by the Commission. Both parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection of the amounts secured by way of the provisional duty, and were granted a period within which to make representations subsequent to the disclosure.

The views of both parties were considered, which resulted in the position adopted below.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).

⁽²⁾ OJ No L 275, 2. 10. 1991, p. 27.

⁽³⁾ OJ No L 235, 18. 9. 1993, p. 1.

⁽⁴⁾ OJ No L 155, 22. 6. 1994, p. 8.

C. Definitive duty

- (4) The CCC contested the need for a provisional or definitive duty, arguing that the exports covered by the undertaking were not dumped and had been made in small volumes only and that the exporters concerned had not violated the substantive terms of the undertaking. Violation of the procedural terms of the undertaking was admitted. The idea was raised of a new price undertaking, without, however, a precise offer being made. A review was also requested, based on the same claim that exports covered by the undertaking were not dumped, and on the claim that the undertaking price was above EC market prices.
- (5) Cefic argued for the quick introduction of definitive duties, given the alleged ineffectiveness of the undertaking. Cefic underlined that the volume of imports of artificial corundum from China as a whole had more than quadrupled from 4 149 tonnes in 1991 to 17 324 tonnes in 1993 following the acceptance of the undertakings, that the largest part of these exports was covered by the undertaking and that export prices had on average fallen by 14 %. This import situation had contributed to the announced closure of two plants of Community industry and to a decline in production volumes, capacity utilization, prices and profitability for the Community producers. Cefic confirmed that, despite this precarious situation, an important Community industry for artificial corundum still existed, with an estimated 400 jobs at stake in the short term.
- (6) The Council considers that undertakings can operate satisfactorily only if strict compliance exists in respect of the reporting and other procedural obligations that permit the Commission to verify whether the substantive terms of the undertaking are being correctly implemented. It was precisely because of the non-compliance with the reporting requirement, admitted by the CCC, that the Commission was prevented from determining to what precise degree the Chinese exporters still complied with their substantive obligations.

Furthermore, the Commission has written evidence in its possession that price offers and sales were made by Chinese exporters covered by the undertaking to Community customers at prices well below those stipulated in the undertaking. In some cases this concerned Chinese exporters, or local subsidiaries or branches thereof, that claimed not to

have exported anything to the Community, thus discrediting the Chinese claim that exports covered by the undertaking were small in volume. This evidence was disclosed in non-confidential form to the CCC, which was unable to rebut it. In any case, even if the quantity exported under the undertaking was small, this is no excuse for not respecting the price stipulated in the undertaking. A violation of the substantive terms of the undertakings has therefore also been determined definitively.

Once an undertaking has been violated, whether in terms of procedure or substance, or, as in this case, both, there is normally no valid reason for the Commission to maintain or renew the undertaking. By not complying with the terms of the undertaking, exporters know and accept in advance the consequences that may flow therefrom. In this case, it was established that all six Chinese exporters violated the terms of the undertaking in one way or another. In addition, it was established that the CCC, which has acted as cosignatory of the undertaking and has represented all of the six exporters concerned before the Commission, could not be relied upon to ensure the correct functioning of the undertaking in respect of those exporters. This undertaking has therefore proved unreliable as a whole. The Council thus considers that the imposition of a definitive duty on all six Chinese exporters is in the interest of the Community, in order to prevent injury to the Community industry from imports into the Community that are no longer effectively controlled by an undertaking.

- (7) This interest is not outweighed by the interests of the industrial users of artificial corundum. They have had an exceptional advantage resulting from unfair low prices, which under normal trading conditions would not have existed. It is the basic purpose of anti-dumping measures to restore normal conditions. This price benefit to companies which use artificial corundum as one input into their production process is, in any case, minor in comparison with the very survival of an entire Community industry which is at stake in the case of artificial corundum, as documented by Cefic. The Council therefore considers that in this respect the same considerations regarding Community interest still apply as mentioned in Decision 91/512/EEC accepting the undertakings, and confirmed in September 1993 by Regulation (EEC) No 2552/93 imposing a residual duty. No comments were received from users of artificial corundum that contested this view.

- (8) The arguments by the CCC that exports are not submitted have been examined. In this context it was submitted that China is no longer a non-market economy country, that Chinese export prices are higher than prices in the Chinese market, and that under the market mechanism prices cannot be lower than cost of production. The Council observes, in this respect, that China is regarded as a non-market economy country, that its domestic prices therefore cannot be used to prove an absence of dumping, and that even in a market economy, experience indicates that it is quite possible for prices to be below full cost of production.

It was also argued that the undertaking price would be above Community market prices. Even if true, this would not be relevant as there is no reason to believe that the undertaking price is at a level higher than necessary to remove the injury to the Community industry. The prices currently prevailing in the Community market are not prices that permit the Community industry a reasonable profit, the more so as those prices are influenced by the same Chinese exporters that violated their undertaking by offering artificial corundum at lower prices. The closure of two additional plants of the Community industry is an indication that reasonable profits are in fact not being made.

- (9) In its Regulation (EEC) No 2552/93 imposing a residual duty, the Council considered that the findings of the original investigation, including those on dumping and injury resulting therefrom, remained reliable and that the residual duty introduced at that time for other Chinese exporters than the ones from which undertakings had been accepted could be based thereon. The export prices now advanced by the CCC to demonstrate an absence of dumping are well below the injury threshold and do not indicate that these findings need to be revised downward. The Council therefore considers that the level of the duty should be

set at 30,8 %, as determined originally for the People's Republic of China.

- (10) Regulation (EEC) No 2552/93 exempted the six Chinese exporters concerned from the country-wide duty of 30,8 %, on the basis that undertakings had been accepted from them. Since those undertakings have now been violated, this exemption should be revoked. The Council thus considers that Regulation (EEC) No 2552/93 should be amended so as to apply the same duty of 30,8 % to all Chinese exporters.

D. Collection of provisional duty

- (11) In view of the seriousness of violating an undertaking, it is considered necessary to collect definitively and in their entirety the amounts secured by way of provisional anti-dumping duty pursuant to Regulation (EC) No 1418/94,

HAS ADOPTED THIS REGULATION:

Article 1

The references to the People's Republic of China and the six Chinese exporters mentioned in Article 1 (5) of Regulation (EEC) No 2552/93 shall be deleted.

Article 2

The amounts secured by way of the provisional anti-dumping duty imposed pursuant to Regulation (EC) No 1418/94 shall be definitively collected.

Article 3

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

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

Done at Brussels, 19 October 1994.

For the Council

The President

Th. WAIGEL

COUNCIL REGULATION (EC) No 2557/94**of 19 October 1994****imposing a definitive anti-dumping duty on imports of calcium metal
originating in the People's Republic of China and Russia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee,

Whereas :

A. PROVISIONAL MEASURES

- (1) By Regulation (EC) No 892/94⁽²⁾ hereinafter referred to as 'the Provisional Regulation', the Commission imposed provisional anti-dumping duties on duties of calcium metal falling within CN code 2805 21 00 and originating in the People's Republic of China and Russia.

By Regulation (EC) No 1777/94⁽³⁾ the Council extended the validity of these duties for a period not exceeding two months.

B. SUBSEQUENT PROCEDURE

- (2) Following the imposition of the provisional anti-dumping duty, several interested parties submitted comments in writing. One exporter requested, and was granted, a hearing.
- (3) The Commission continued to seek all information it deemed necessary for its definitive findings. The parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of the amounts secured by way of a provisional duty. They were also granted a period within which

to make representations subsequent to these disclosures.

- (4) The parties' comments were taken into consideration and the Commission's conclusions altered accordingly where justified.
- (5) Owing to the complexity of the case the investigation could not be completed within the normal time limit of one year as provided for in Article 7 (9) (a) of Regulation (EEC) No 2423/88.

**C. PRODUCT UNDER CONSIDERATION, LIKE
PRODUCT**

- (6) The product under consideration is calcium metal falling within CN code 2805 21 00.
- (7) Following submissions by the largest single importer in the Community of the product under investigation, IPS, on the issue of like product and, in particular, the different processes by which calcium metal is produced in different parts of the world and the uses to which it may be put, the Commission further examined this issue.
- (8) This examination confirmed that the product can be produced either by the aluminothermic process (i.e. the reduction of lime with aluminium) which is used by the Community producer and producers in the United States of America and Canada, or by electrolytic process (i.e. the igneous electrolysis of calcium followed by distillation) used by the Russian and Chinese producers.
- (9) Calcium metal produced by either process referred to above has characteristics closely resembling each other, although there is a slightly higher level of purity in the product produced by electrolysis. This difference however, as explained in recitals (10) to (13), does not generally affect the uses to which calcium produced by both processes can be mainly put.

The product can be available in various forms (size) i.e. crowns, chunks, turnings or chips and, for certain uses (see recital (10)) be further processed into grains or granules, a process that, generally, does not change the basic nature of the product.

(¹) OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).

(²) OJ No L 104, 23. 4. 1994, p. 5.

(³) OJ No L 184, 20. 7. 1994, p. 15.

- (10) Calcium metal is mainly used in the Community by the following industries :

- lead and ferro-alloys industries, which use the product in the form of broken crowns, chunks, turnings or chips,
 - the steel industry, which uses calcium metal in granulated form,
 - applications in high temperature calcium treatments (e.g. production of magnets) which also require calcium in granulated form.
- (11) The investigation has shown for uses in the lead and ferro-alloy industries, the product imported from the People's Republic of China and Russia and that produced in the Community and the United States of America (the market economy used as a reference for the exports under investigation) are completely interchangeable. This is also the case as regards the use by the steel industry of the grains or granules obtained from calcium produced from either source.

- (12) As regards applications in high temperature calcium treatments (magnets), which also need calcium in granulated form, a calcium metal with a higher level of purity than that which is obtained in the Community by aluminothermic appears to be required. For these uses the Community producer also has a specific type of the product available that also competes with the Russian and Chinese calcium metal and which is obtained by submitting the standard aluminothermic product to a distillation. Given that applications in this sector account for less than 10 % of Community consumption and that this distillation considerably increases costs, production of this type of calcium metal in the Community is limited.
- (13) One importer in the Community questioned, however, the interchangeability of the products at the level of processing into grains or granules.

In this context, the Commission has received indication that there are at least four companies in the Community which carry out this activity. One of these companies, IPS, uses a process of granulation (granules obtained by re-smelting and atomization) which is different from the process used by others (mechanical pulverization). It has not been contested that both the product imported from Russia and China and Community produced calcium metal are suitable for granulation by the mechanical method, and that, with the exception of IPS, processors in the Community could therefore use both products for granulation.

As regards IPS, the Commission has concluded that this company was unable to use, without difficulty, the calcium metal produced by the Community industry. This inability appears to result from the process used by IPS being different from that used by all other processors and, as a consequence,

having certain requirements related to the level of oxygen in the calcium metal used as raw material which appeared not to be met by the product produced by the Community industry but which are not relevant for use by other processors.

Under these circumstances, this factor alone, given the overall conclusion on similarity and interchangeability in uses and applications of imported and Community-produced calcium metal, does not affect the conclusion that the Chinese and Russian products are alike to that produced by the Community industry within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88.

- (14) In the light of the above considerations, the conclusions on the issue of like product, as set out in recital (11) of the Provisional Regulation, are confirmed.

D. DUMPING

1. Normal value

1.1. Reference country

- (15) Requirements were made by interested parties with regard to the appropriateness of the choice of the United States of America as the reference country. In one case, it was questioned that the calcium metal produced by the United States company concerned could be considered representative, it being claimed that it accounted for a marginal production of this producer. The Commission's investigation, however, showed that the volumes of own produced calcium metal sold domestically to unrelated customers during the investigation period by the United States company was sufficiently representative for constituting a basis for normal value.

In another case, it was suggested that the product manufactured by the United States company was not like that produced in Russia. For the reasons set out in recitals (8) to (13), this claim is rejected.

It should further be noted that no alternative reference market has been proposed by any of the parties concerned.

For the purpose of definitive findings, normal value was therefore established according to the same method used in the provisional conclusions, as set out in recitals (12) to (18) of the Provisional Regulation.

2. Export price

- (16) The method used to establish export prices, as set out in recitals (19) and (20) of the Provisional Regulation, are hereby confirmed, as no comments in this respect were made by interested parties.

3. Comparison

- (17) The findings and conclusions set out in recital (21) of the Provisional Regulation are hereby confirmed.

4. Dumping margin

- (18) The definitive examination of the facts showed that Chinese and Russian exports were being dumped during the investigation period. The weighted average dumping margin at the level of the free-at-Community frontier was ECU 2 202 per tonne for the Chinese product and ECU 2 502 per tonne for the Russian product.

E. INJURY

- (19) In its determination of the extent to which injury has been suffered by the Community industry, the Commission restricted its calculations for the most part to the calcium metal in the form of pieces equal to and above 7 mm, on which information concerning the product imported from China and Russia was available. As far as grains and granules are concerned, no information on sales volumes and prices of the processors in the Community was available to the Commission given that the two major processors did not supply the information requested of them on these issues.

Indeed, one of these processors claimed that the product is not resold in the form in which it is imported and should not therefore be included in the investigation. The Commission notes, however, that the product processed into grains by these processors competes, for most uses, with the granulated product of the Community producer which itself has the same chemical characteristics as its primary calcium. Under these circumstances, the factors concerning the market for granulated calcium are relevant to the examination of the injury suffered by the Community producer since granulated and primary calcium have characteristics which sufficiently closely resemble one another to be considered part of the same product range.

In this context, the Commission notes, furthermore, that as regards the situation of the Community producer, its prices for grains obtained from primary calcium also fell substantially, i.e. by more than 17 % between 1989 and 1992 and its sales volume by more than 5 % in the same period, leading to considerable losses in the investigation period.

- (20) One importer questioned the Commission's provisional conclusions concerning the levels of capacity

utilization of the Community producer during the period under consideration. The Commission further examined this issue and concluded that capacity utilization, in the context of a slight increase in installed capacity, remained at low levels, fluctuating between approximately 50 and 60 % during the period under consideration.

In the absence of other representations from interested parties on the issue of injury, the Commission confirms the remaining findings as set out in recitals (23) to (36) of the Provisional Regulation.

F. CAUSATION OF INJURY

1. Effect of the dumped imported

- (21) The Commission's findings showed that the increase in volume of dumped imports, in a context of stable Community consumption, coincided with a loss of market share, price erosion and negative financial results on the part of the Community industry. These losses were particularly the result of significant price decreases and also of low capacity utilization caused by the effect of sales in the Community of dumped Chinese and Russian calcium metal in the form of pieces equal to, or greater than, 7 mm and processed into grains.

Furthermore, imports from other countries, namely the United States of America and Canada fell from 31 % in 1988 to 14,6 % in 1989 then remaining stable to 15,3 % in 1990, 16,5 % in 1991 and 15,6 % in 1992.

2. Other factors

- (22) In its Judgement of 11 June 1992 in case C-358/89, the Court of Justice of the European Communities declared that, as regards their findings on injury and causal link, the institutions and insufficiently examined the question of whether injury could have been the result of the Community producer's behaviour aimed at hindering the setting-up of a competitor in a downstream market by effectively refusing to supply IPS (then operating under the name Extramet), the largest single user of the imported product under consideration. Indeed Péchiney Electrometallurgie (PEM) was condemned in March 1992 in France (Conseil de la Concurrence) for this behaviour, and on appeal ('Cour d'Appel de Paris') the judgment at first instance was confirmed in January 1993.

The appeal Judgment, however, also declared that no abuse of a dominant position or any unlawful competitive practices could be attributed to PEM after 1984.

- (23) The Commission has, accordingly, continued to examine this issue. In particular, the Commission examined whether there had been refusal by PEM to supply the product to IPS.
- (24) This examination has confirmed, that due to the specificity of the granulation process used by IPS, this company had technical difficulties in using the product produced by the Community producer, as presently available (see also recital (13)). In this context, however, PEM has shown that it made efforts to achieve a product suitable for use by IPS. Indeed, contacts were made between the parties which resulted in a number of deliveries of the product and tests being carried out by IPS. Furthermore, PEM has made investment in plant and research in an attempt to meet IPS requirements, although facing a precarious financial situation in this sector and being aware, at the same time that IPS could continue to purchase calcium metal from China and Russia at heavily dumped prices.
- (25) The circumstance that, for the reasons set out in recital (13), PEM's product does not appear to be fully suitable for use by IPS, although being suitable for use by other processors and users in the Community, therefore does not in the view of the Council justify a finding of self-inflicted injury.
- (26) IPS claimed, nonetheless, that because it could not use without considerable difficulty the product produced by PEM, its imports of Russian and Chinese calcium metal could not have caused injury to the Community producer. In this context, it should be noted in the first place, that imports made by IPS during the investigation period accounted for less than 50 % of the total quantities of calcium metal imported for subsequent resale in the Community either in the form imported or further processed into granules. Secondly, the Commission notes that granules sourced from primary calcium imported from China and Russia caused injury to the Community producer's sales of granulated calcium (see recital (19)). In addition, to the extent that the production of grains requires an input of primary calcium, any negative factors affecting the segment of the market for grains has a commensurate negative effect on the production of primary calcium of the Community producer.

3. Conclusion

- (27) In light of the above, the Council concludes that the Community industry suffered material injury as a result of the volume and prices of the dumped Russian and Chinese product sold in the form in

which it is imported and further processed by Community processors into granulated form.

G. COMMUNITY INTEREST

- (28) In assessing Community interest, the Community institutions have consistently maintained that the purpose of anti-dumping measures is to remove distortions of competition arising from unfair commercial practices, and thus re-establish effective competition on the Community market, and that it is fundamentally in the general Community interest to do so. Furthermore, in the present case, failure to take definitive measures would aggravate the already precarious situation of the Community industry, especially noticeable from the continued and heavy losses which jeopardize its viability and therefore its continued existence. Should the industry be forced to cease production, effects on purchasers would almost certainly be detrimental as a result of the lower number of competitors in the market.
- (29) In this context, the Council considered whether the adoption of anti-dumping measures might lead to a situation in which effective competition might be significantly reduced. In view of the fact that supplies were available from the United States of America and Canada, and that the imports from the People's Republic of China and Russia would remain available at non-dumped prices, the Council concluded that there was no such danger and that there was a need to ensure that the Community industry continued to operate.
- (30) The Commission also assessed the possible impact of the measures on several categories of users of the product: the primary users, i.e. the processors, and the user industries, i.e. the lead, ferro-alloy and steel industries.

As regards the sales within the Community achieved by processors which obtained their supplies of calcium metal from Russia or the People's Republic of China, IPS claimed that in case anti-dumping measures were taken, this would exclude from the market its only source of supply. This claim is unfounded, since processors, including IPS, would be able to continue to obtain supplies from Russia and the People's Republic of China at non-dumped prices and also from the United States of America and Canada. Furthermore, for their sales of processed calcium metal outside the Community, they could continue to purchase from Russia and the People's Republic of China under the inward processing régime without paying duty of any kind.

As regards the final user industry, the Commission found that a price increase for calcium metal originating in the People's Republic of China or Russia from its present levels, by the amount of the anti-dumping duty definitively imposed, would increase the cost of a tonne of lead, incorporating such material, by less than 0,3 % and that of a tonne of steel, before rolling, by less than 0,2 %. The effect on these user industries would therefore be minimal.

The Council therefore concludes that the Community interest calls for the imposition of definitive measures.

- (31) In view of the fact that there is only one Community producer of calcium metal and given the advisability, in this case, of examining the effect of the measures in conjunction with the development of the market situation of this particular product, it is considered appropriate that the Commission undertakes a review of this Regulation, which shall be initiated after six months have elapsed from its coming into force, provided that competition conditions in the sector concerned so require. Otherwise the review should be initiated after one year.

H. FINAL PROVISION

- (32) Provisional measures took the form of anti-dumping duties in the form of a specific amount per tonne. These were imposed for both the People's Republic of China and Russia at the injury elimination levels determined, since these were lower than the respective dumping margins established, as set out in recital (42) of the Provisional Regulation.

No new arguments were put forward to contradict this approach. Therefore, duties should be definitively established at the level provisionally imposed, i.e. ECU 2 074 per tonne for the Chinese imports and ECU 2 120 per tonne for the Russian imports.

I. COLLECTION OF THE PROVISIONAL DUTIES

- (33) In view of the dumping margins established, the injury caused to the Community industry and of the latter's precarious situation, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty should be definitively collected,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of calcium metal falling within CN code 2805 21 00 and originating in the People's Republic of China and Russia.
2. The rate of the duty applicable is ECU 2 074 per tonne for imports originating in the People's Republic of China and ECU 2 120 per tonne for imports originating in Russia.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of the provisional anti-dumping duty, pursuant to Regulation (EC) No 892/94, shall be definitively collected in full.

Article 3

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

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

Done at Brussels, 19 October 1994.

For the Council

The President

Th. WAIGEL

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 5 October 1994

on the Community's financial contribution to programmes for the control of organisms harmful to plants and plant products in the French overseas departments for 1994

(Only the French text is authentic)

(94/679/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments⁽¹⁾, as amended by Commission Regulation (EEC) No 3714/92⁽²⁾, and in particular the first subparagraph of Article 11 (3) thereof,

Whereas Commission Decision 93/522/EEC⁽³⁾ defines what measures are eligible for Community financing as regards programmes for the control of organisms harmful to plants and plant products in the French overseas departments, the Azores and Madeira;

Whereas the specific agricultural production conditions in the French overseas departments call for particular attention; whereas action must be taken or stepped up as regards crop production, and in particular in its phytosanitary aspects;

Whereas the action to be taken or stepped up in phytosanitary matters is exceptionally costly;

Whereas the action programme has been presented to the Commission by the relevant French authorities; whereas

this programme specifies the objectives to be achieved, the measures to be carried out, their duration and their cost so that the Community may, in appropriate circumstances, contribute to their financing;

Whereas the Community's financial contribution may cover up to 60 % of eligible expenditure, protective measures for bananas being excluded;

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

The Community's financial contribution to the official programme for the control of organisms harmful to plants and plant products in the French overseas departments presented by France for 1994 is hereby approved.

Article 2

The official programme is made up of four sub-programmes:

1. a sub-programme drawn up for the department of Guadeloupe in five parts:

— reinforcement of the work of the FDGCEC (Departmental Federation of Crop Protection Groups),

⁽¹⁾ OJ No L 356, 24. 12. 1991, p. 1.

⁽²⁾ OJ No L 378, 23. 12. 1992, p. 23.

⁽³⁾ OJ No L 251, 8. 10. 1993, p. 35.

- control of yam anthracnose,
 - a fruit fly survey,
 - strengthening of an agricultural information network,
 - pest risk assessment and establishment of flower quarantine facilities;
2. a sub-programme drawn up for the department of Guiana in five parts :
- the strengthening of a phytosanitary information network,
 - reinforcement of the work of groups combating crop pests,
 - reinforcement of analysis and diagnosis structures,
 - publication of a compendium on phytosanitary products suitable for use in Guiana,
 - a survey on fruit flies and a feasibility study on the eradication of *Dacus dorsalis*;
3. a sub-programme for the department of Réunion in three parts :
- the establishment of a phytosanitary analysis unit,
 - reinforcement of the resources of the FDGDEC (Federation of Crop Protection Groups),
 - a survey on fruit fly control;
4. a sub-programme for the department of Martinique in four parts :
- development of detection methods for harmful organisms,
 - development of integrated control in market gardens,
 - a fruit fly survey,
 - reinforcement of the resources of communal groups combating crop pests.

Article 3

The Community contribution to financing the programme is limited to a maximum of 60 % of the expenditure related to eligible measures as defined by Decision 93/522/EEC and is set for 1994 at ECU 1 000 000 out of a total expenditure of ECU 1 666 700 (VAT excluded).

The schedule of programme costs and their financing is set out as Annex I to this Decision. Should the total eligible expenditure for 1994, as presented by France, be

less than the anticipated amount of ECU 1 666 700, the Community's contribution shall be reduced proportionately.

The Community reimbursement shall be effected up to the amount indicated in the first paragraph, at the rate of the ecu as at 1 July 1994, namely FF 6,591 580.

Article 4

An advance of ECU 400 000, equal to 40 % of the Community contribution, shall be paid to France.

Article 5

The Community assistance shall relate to the eligible measures associated with the operations covered by the programme set up in France by provisions for which the necessary financial resources have been committed between 1 October and 31 December 1994. The final date for payments in connection with the operations shall be 30 September 1995, and any non-compliance without justification of delay shall entail loss of entitlement to Community financing.

Article 6

Provisions for the financial implementation of the programme, provisions on compliance with Community policies and the information to be supplied to the Commission by France are set out in Annex II.

Article 7

Any public contracts in connection with investments covered by the programme referred to in this Decision shall be governed by Community law and in particular by the Directives coordinating procedures for awarding public works and supply contracts, and by Articles 30, 52 and 59 of the Treaty.

Article 8

This Decision is addressed to the French Republic.

Done at Brussels, 5 October 1994.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

FINANCIAL TABLE FOR 1994

(in thousands of ecu)

	Eligible expenses 1994		
	EC	National	Total
Guadeloupe	251,2	167,5	418,7
Martinique	263,9	176,0	439,9
Guiana	104,7	69,8	174,5
Réunion	380,2	253,4	633,6
Total	1 000,0	666,7	1 666,7

*ANNEX II***I. PROVISIONS ON THE IMPLEMENTATION OF THE PROGRAMME****A. Provisions on financial implementation**

1. The Commission's intention is to establish real cooperation with the authorities responsible for the implementation of the programme. In line with the programme these authorities are those indicated below.

Commitments and payments

2. France guarantees that, for all action co-financed by the Commission all public and private bodies involved in its management and implementation shall keep accounts in standard form of all transactions in order to facilitate monitoring of expenditure by the Community and the national authorities responsible for surveillance.
3. The initial budgetary commitment shall be based on an indicative financial plan ; this commitment shall be made for one year.
4. The commitment will be made when the decision approving assistance is adopted by the Commission according to Article 16a of Council Directive 77/93/EEC ⁽¹⁾.
5. Following commitment a first advance of 40 % of the amount committed is made.
6. The balance of the amount committed is paid as two equal payments, each of 30 % of the total amount committed. The first part of the balance is paid upon presentation to the Commission of the first interim report of activity and after it has been approved by the Commission. The second and final part of the balance is paid upon presentation to the Commission of the detailed total expenditure made, and after approval by the Commission of the final report of activity.

Authorities responsible for the implementation of the programme

— Central administration :

Ministère de l'agriculture et de la pêche
Direction générale de l'alimentation
Sous-direction de la protection des végétaux
175 rue du Chevaleret
75646 Paris Cedex 13

— Local administration :

— Guadeloupe :

Ministère de l'agriculture et de la pêche
Direction de l'agriculture et de la forêt
Jardin Botanique
97109 Basse-Terre Cedex

— Martinique :

Ministère de l'agriculture et de la pêche
Direction de l'agriculture et de la forêt
Jardin Desclieux
BP 642
97262 Fort-de-France Cedex

— Guyana :

Ministère de l'agriculture et de la pêche
Direction de l'agriculture et de la forêt
Cité Rebard
Route de Baduel
BP 746
97305 Cayenne Cedex

— Réunion :

Ministère de l'agriculture et de la pêche
Direction de l'agriculture et la forêt
Parc de la Providence
97489 Saint-Denis

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

7. The actual expenditure incurred shall be notified to the Commission broken down by type of action or sub-programme in a way demonstrating the link between the indicative financial plan and expenditure actually incurred. If France keeps suitable computerized accounts this will be acceptable.
8. All payments of aid granted by the Commission pursuant to this Decision shall be made to the authority designated by France, which will also be responsible for repayment to the Commission of any excess amount.
9. All commitments and payments shall be made in ecus.

Financial schedules for Community support frameworks and amounts of Community aid shall be expressed in ecus at the rate fixed by this Decision. Payment shall be made to the following account :

Ministère du budget
Direction de la comptabilité publique
Agence comptable centrale du Trésor
139 rue de Bercy
75572 Paris Cedex 12
N° 47598

Financial control

10. Inspections may be carried out by the Commission or the Court of Auditors should it so request. France and the Commission shall immediately exchange all relevant information in regard to the outcome of an inspection.
11. For three years following the last payment relating to the assistance the authority responsible for implementation shall keep available to the Commission all documentary evidence of expenditure incurred.
12. When it submits applications for payment France shall make available to the Commission all official reports relating to supervision of the measures in question.

Reduction, suspension and withdrawal of aid

13. France shall declare that Community funds are used for the intended purposes. If implementation of a measure appears to require only part of the financial assistance allotted the Commission shall immediately recover the amount due. In cases of dispute the Commission shall examine the case, asking France or the other authorities designated by France for implementation of the measure to submit their comments within two months.
14. The Commission may reduce or suspend aid for a measure if the examination confirms the existence of an irregularity, in particular of a substantial modification affecting the nature or conditions of implementation of the measure for which approval by the Commission has not been sought.

Recovery of undue payments

15. All sums unduly paid must be reimbursed to the Commission by the designated authority indicated in point 8. Interest may be levied on sums not reimbursed. If for any reason the designated authority indicated in point 8 does not reimburse the Community, France shall pay the amount to the Commission.

Prevention and detection of irregularities

16. The partners shall observe a code of conduct drawn up by France in order to ensure that any irregularity in the provision of assistance programme is detected. France shall ensure that :
 - suitable action is taken in this area,
 - any amount unduly paid as a result of an irregularity is recovered,
 - action is taken to prevent irregularities.

B. Monitoring and assessment

I. Monitoring committee

1. Establishment

Independent of the financing of this action, a monitoring committee for the operational programme shall be set up, composed of representatives of France and the Commission. It shall review implementation of the programme and, where appropriate, propose any adjustments required.

2. The committee shall establish its own internal procedures within three months of its establishment.

3. Competence of monitoring committee

The committee :

- shall have as its general responsibility the satisfactory progress of the operational programme towards attainment of the objectives set. Its competence shall embrace the programme measures within the limits of the Community aid granted. It shall keep watch on respects for the regulatory provisions, including those on eligibility of operations and projects,
- shall, on the basis of information on the selection of projects already approved and implemented, reach an opinion on application of the selection criteria set out in the operational programme,
- shall propose any action required to accelerate implementation of the programme in the light of the information furnished periodically by the interim monitoring and assessment indicators,
- may, in agreement with the Commission representative(s), adjust the financing plans within a limit of 15 % of the Community contribution to a sub-programme or measure for the entire period, and 20 % for any year, provided that the total amount scheduled in the operational programme is not exceeded. Care must be taken to see that the main objectives of the operational programme are not thereby compromised,
- shall give its opinion on the adjustments proposed to the Commission,
- shall issue an opinion on technical assistance projects scheduled in the operational programme,
- shall give its opinion on draft annual implementation reports,
- shall report regularly to the Standing Committee on Plant Health on the progress of the programme and expenditure incurred, at least twice a year.

II. *Monitoring and assessment of the operational programme during the implementation period (continuous monitoring and assessment)*

1. The national agency responsible for implementation shall also be responsible for continuous monitoring and assessment of the operational programme.
2. By continuous monitoring is meant an information system on the state of progress of the programme. Continuous monitoring will cover the measures contained in the operational programme. It involves reference to the financial and physical indicators structured so as to permit assessment of the correspondence between expenditure on each measure and predefined physical indicators showing the degree of realization.
3. Continuous assessment of an operational programme will involve analysis of the quantitative results of implementation on the basis of operational, legal and procedural considerations. The purpose is to guarantee correspondence between measures and programme objectives.

Implementation report and scrutiny of operational programmes

4. France shall notify to the Commission, within three months of adoption of the operational programme, the name of the authority responsible for compilation and presentation of the annual implementation report. Within three months of its appointment this authority shall present to the Commission a proposal for standard presentation of implementation reports.

The final report shall contain a concise evaluation of the entire programme (degree of achievement of physical and qualitative objectives and of progress accomplished) and an assessment of the immediate phytosanitary and economic impact should be made on the basis of the indicators agreed.

The final report on the present programme will be presented by the competent authority to the Commission and to the Standing Committee on Plant Health on 31 December 1995 at the latest.

5. The Commission may jointly with France call in an independent assessor who shall, on the basis of the continuous monitoring, carry out the continuous assessment defined at 3. He may submit proposals for adjustment of the sub-programmes and/or measures, modification of the selection criteria for projects, etc., in the light of difficulties encountered in the course of implementation. On the basis of monitoring of management he shall issue an opinion on the administrative measures to be taken. To guarantee the assessor's impartiality the Commission will not pay the entire cost of employing him.

C. Information and publicity

In the framework of this action, the agency appointed as responsible for the programme shall ensure that it is adequately publicised.

It shall in particular take action to :

- make potential recipients and professional organizations aware of the possibilities offered under the programme measures,
- make the general public aware of the Community's role in the programme.

France and the agency responsible for implementation shall consult the Commission on initiatives envisaged in this area, possibly through the monitoring committee. They shall regularly notify the Commission of information and publicity measures adopted, either by an annual report or through the monitoring committee.

The national legal provisions on confidentiality of information shall be complied with.

II. COMPLIANCE WITH COMMUNITY POLICIES

Community policies applying in this field must be complied with.

The operational programme shall be implemented in accordance with the provisions on coordination of and compliance with Community policies. The following information must be supplied by France.

1. Award of public contracts

The 'public contracts' ⁽¹⁾ questionnaire must be completed for :

- public contracts above the ceilings set by the 'supplies' and 'works' directives that are awarded by contract-awarding authorities as defined in these directives and are not covered by the exemptions specified therein,
- public contracts below these ceilings where they constitute components of a single piece of work or of uniform supplies of a value above the ceiling. By 'a single piece of work' is meant a product of building or civil engineering works intended in itself to fulfil an economic or technical function.

The thresholds will be those in force on the date of notification of this Decision.

2. Protection of the environment

(a) *General information*

- description of the main environmental features and problems of the region concerned, giving a description of the important conservation areas (sensitive zones),
- a comprehensive description of the major beneficial and harmful effects that the programme, given the investments planned, is likely to have on the environment,
- a description of the action planned to prevent, reduce or offset any serious harmful effects on the environment,
- a report on consultations with the responsible environmental authorities (opinion of the Ministry for the Environment or its equivalent) and , if there were any such consultations, with the public concerned.

(b) *Description of planned activities*

For programme measures liable to have a significantly harmful effect on the environment :

- the procedures which will be applied for assessing individual projects during implementation of the programme,
- the mechanisms planned for monitoring environmental impact during implementation, assessing results and eliminating, reducing or offsetting harmful effects.

⁽¹⁾ Commission notification to the Member States C(88) 2510 (OJ No C 22, 28. 1. 1989, p. 3) on monitoring of compliance with public procurement rules in the projects and programmes financed by the structural funds and financial tools.