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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 476/96**of 18 March 1996****establishing the standard import values for determining the entry price of
certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 2933/95⁽²⁾, and in particular Article 4 (1) thereof,

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 March 1996.

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

Done at Brussels, 18 March 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 307, 20. 12. 1995, p. 21.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 18 March 1996 establishing the standard import values
for determining the entry price of certain fruit and vegetables

(ECU/100 kg)			(ECU/100 kg)		
CN code	Third country code (*)	Standard import value	CN code	Third country code (*)	Standard import value
0702 00 15	052	73,5	0805 30 20	052	42,2
	060	80,2		204	88,8
	064	59,6		220	74,0
	066	41,7		388	78,7
	068	62,3		400	88,3
	204	81,0		512	54,8
	208	44,0		520	66,5
	212	86,2		524	100,8
	624	135,7		528	102,9
	999	73,8		600	70,4
				624	80,5
0707 00 15	052	125,6	0808 10 51, 0808 10 53, 0808 10 59	999	77,1
	053	156,2		052	64,0
	060	61,0		064	78,6
	066	53,8		388	102,4
	068	90,8		400	73,1
	204	144,3		404	67,5
	624	87,1		508	68,4
	999	102,7		512	92,4
0709 10 10	220	321,1		524	110,9
	999	321,1		528	102,0
0709 90 73	052	134,9		624	86,5
	204	77,5		728	107,3
	412	54,2		800	78,0
	624	176,1		804	21,0
	999	110,7		999	80,9
0805 10 01, 0805 10 05, 0805 10 09	052	56,4	0808 20 31	039	90,4
	204	45,6		052	86,2
	208	58,0		064	72,5
	212	49,1		388	82,0
	220	55,0		400	95,5
	388	40,5		512	65,9
	400	43,8		528	67,8
	436	41,6		624	79,0
	448	25,8		728	115,4
	600	66,8		800	55,8
	624	50,6		804	112,9
	999	48,5		999	83,9

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

COMMISSION REGULATION (EC) No 477/96
of 18 March 1996
on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as last amended by Regulation (EEC) No 1930/90⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated to certain recipients 2 560 tonnes of vegetable oil;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽⁴⁾, as amended by Regulation (EEC) No 790/91⁽⁵⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs;

Whereas, for a given lot, given the small quantities to be supplied, the packaging methods and the large number of

destinations of the supplies, provision should be made for the possibility for tenderers to indicate two ports of loading, where necessary not belonging to the same port area,

HAS ADOPTED THIS REGULATION:

Article 1

Vegetable oil shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

The supply shall cover the mobilization of vegetable oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward processing arrangements.

For lot A notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

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, 18 March 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

ANNEX

LOT A.

1. **Operation Nos** ⁽¹⁾: 744/95 (A 1); 745/95 (A 2)
2. **Programme**: 1995
3. **Recipient** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag (tel: (31 70) 33 05 757; fax: 36 41 701; telex: 30960 EURON NL)
4. **Representative of the recipient** ⁽¹¹⁾: to be designated by the recipient
5. **Place or country of destination**: A 1: Madagascar; A 2: Rwanda
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** ⁽³⁾ ⁽⁷⁾: OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (1) (a))
8. **Total quantity**: 165 tonnes net
9. **Number of lots**: one in 2 parts (A 1: 15 tonnes; A 2: 150 tonnes)
10. **Packaging and marking** ⁽⁶⁾ ⁽⁸⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (2) (1), IIIA (2) (3) and IIIA (3))
 - five-litre metal canisters, without cardboard cross-pieces
 - language to be used for the markings: French
11. **Method of mobilization**: mobilization of refined rape seed oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at port of shipment ⁽⁹⁾
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 22. 4 — 12. 5. 1996
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 2. 4. 1996
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 16. 4. 1996
 - (b) period for making the goods available at the port of shipment: 6 — 26. 5. 1996
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 130, bureau 7/46, rue de la Loi/Wetstraat 200, B-1049 Brussels (Attention! New numbers: telex: 25670 AGREC B; fax: (32-2) 296 70 03 / 296 70 04)
25. **Refund payable on request by the successful tenderer** ⁽⁴⁾: —

LOT B

1. **Operation No** ⁽¹⁾: 1840/93
2. **Programme**: 1993
3. **Recipient** ⁽²⁾: Ecuador
4. **Representative of the recipient**:
Europe Ambassade de l'Équateur, chaussée de Charleroi, 70, B-1060 Bruxelles; tel: (32-2) 537 91 30, telex 63292 B
Ecuador: SENAPS, av. America 1805 y la Gasca, AP 1701, Quito; tel: (593) 52 45 68/55 34 67, fax: 50 14 29, telex: 2427
5. **Place or country of destination** ⁽³⁾: Ecuador
6. **Product to be mobilized**: refined sunflower oil
7. **Characteristics and quality of the goods** ⁽³⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (1) (b))
8. **Total quantity**: 180 tonnes net
9. **Number of lots**: one
10. **Packaging and marking** ⁽⁶⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (2) (1), IIIA (2) (3) and IIIA (3)):
 - five-litre metal canister, without cardboard crosspieces
 - markings in Spanish, supplementary markings: 'DISTRIBUCIÓN GRATUITA'
11. **Method of mobilization**: mobilization of refined sunflower oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Guayaquil
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 29. 4 — 12. 5. 1996
18. **Deadline for the supply**: 9. 6. 1996
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 2. 4. 1996
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 16. 4. 1996
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 13 — 26. 5. 1996
 - (c) deadline for the supply: 23. 6. 1996
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 130, bureau 7/46, 200 rue de la Loi/Wetstraat, B-1049 Brussels (Attention New numbers: telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04)
25. **Refund payable on request by the successful tenderer** ⁽⁴⁾: —

LOT C

1. **Operation No** ⁽¹⁾: 749/95
2. **Programme**: 1995
3. **Recipient** ⁽²⁾: Rwanda
4. **Representative of the recipient**: programme de sécurité alimentaire de l'Union européenne au Rwanda, B.P. 515, Kigali, Rwanda
5. **Place or country of destination** ⁽³⁾: Rwanda
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** ⁽⁴⁾ ⁽⁷⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (1) (a))
8. **Total quantity**: 400 tonnes net
9. **Number of lots**: one
10. **Packaging and marking** ⁽⁶⁾ ⁽¹⁰⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (2) (1), IIIA (2) (3) and IIIA (3)):
 - five-litre metal canister, without cardboard crosspieces
 - Markings in French
11. **Method of mobilization**: mobilization of rape seed oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at destination
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: Entrepôt du prog. de sécurité alimentaire de l'UE au Rwanda, zone ind. Gikondo, Kigali Tel: (250) 7 56 92, fax: 7 31 46
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 29. 4 — 12. 5. 1996
18. **Deadline for the supply**: 23. 6. 1996
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 2. 4. 1996
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 16. 4. 1996
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 13 — 26. 5. 1996
 - (c) deadline for the supply: 7. 7. 1996
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 130, bureau 7/46, 200 Rue de la Loi/Wetstraat, B-1049 Brussels (Attention! New numbers: telex: 25670 AGREC B; fax: (32 2) 296 70 03/296 70 04)
25. **Refund payable on request by the successful tenderer** ⁽⁴⁾: —

LOT D

1. **Operation No** ⁽¹⁾: 755/95
2. **Programme**: 1995
3. **Recipient** ⁽²⁾: Cape Verde
4. **Representative of the recipient**: Empresa Pública de Abastecimento de Cabo Verde (EMPA), PO Box 107, Achada Grande (tel: (238) 61 56 31; fax: (238) 61 14 60; telex: 6054; contact person: Mr Aguinaldo do Rosario)
5. **Place or country of destination** ⁽³⁾: Cape Verde
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** ⁽³⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under III.A (1) (a))
8. **Total quantity**: 1 400 tonnes net
9. **Number of lots**: one in two parts (D1: 450 tonnes and D2: 950 tonnes)
10. **Packaging and marking** ⁽⁴⁾ ⁽¹⁰⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under III.A (2) (2), III.A (2) (3) and III.A (3)):
 - five-litre plastic drums, without cardboard crosspieces
 - Markings in Portuguese
11. **Method of mobilization**: mobilization of rape seed oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: D1: Mindelo; D2: Praia
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 6 — 19. 5. 1996
18. **Deadline for the supply**: 9. 6. 1996
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 2. 4. 1996
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 16. 4. 1996
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 20. 5 — 2. 6. 1995
 - (c) deadline for the supply: 23. 6. 1996
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 130, bureau 7/46, 200 Rue de la Loi/Wetstraat, B-1049 Brussels (Attention! New numbers: telex: 25670 AGREC B; fax: (322) 296 70 03/296 70 04)
25. **Refund payable on request by the successful tenderer** ⁽¹⁾: —

LOT E

1. **Operation No** ⁽¹⁾: 1839/93
2. **Programme**: 1993
3. **Recipient** ⁽²⁾: El Salvador
4. **Representative of the recipient**: S.N.F, División asistencia alimentaria, Casa Presidencial, Barrio San Jacinto, Avenida Los Diplomáticos, San Salvador (El Salvador). Tel: (503 2) 71 02 28/32/42, fax: 710258 (att. Licenciados Carolina Ramirez/Oscar Toledo)
5. **Place or country of destination** ⁽³⁾: El Salvador
6. **Product to be mobilized**: refined sunflower oil
7. **Characteristics and quality of the goods** ⁽³⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (1) (b))
8. **Total quantity**: 415 tonnes net
9. **Number of lots**: one
10. **Packaging and marking** ⁽⁴⁾ ⁽¹²⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (2) (1), IIIA (2) (3) and IIIA (3)):
 - five-litre metal canister, without cardboard crosspieces
 - markings in Spanish
11. **Method of mobilization**: mobilization of refined sunflower oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Acajutla
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 29. 4 — 12. 5. 1996
18. **Deadline for the supply**: 9. 6. 1996
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 2. 4. 1996
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 16. 4. 1996
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 13 — 26. 5. 1996
 - (c) deadline for the supply: 23. 6. 1996
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 130, bureau 7/46, 200 rue de la Loi/Wetstraat, B-1049 Brussels (Attention! New numbers: telex: 25670 AGREC B; fax: (32 2) 296 70 03/296 70 04)
25. **Refund payable on request by the successful tenderer** ⁽¹⁾: —

Notes:

- (¹) The operation number should be mentioned in all correspondence.
- (²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Article 7 (3) (g) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.
- (⁵) Commission delegation to be contacted by the successful tenderer: OJ No C 114, 29. 4. 1991, p. 33 (B: José Benito Prior, Torre B, Piso 11, Santafé de Bogota (Colombia); fax: (57-1) 21 83 020; E: see Costa Rica).
- (⁶) Notwithstanding OJ No C 114, point III.A (3) (c) is replaced by the following: 'the words "European Community"'.
(⁷) The successful tenderer shall supply to the beneficiary or its representative, on delivery, a sanitary certificate.
- (⁸) Shipment to take place in 20-foot containers, FCL/FCL (each containing 15 tonnes net). The supplier will be responsible for the cost of making the containers available in the stack position at the container terminal at the port of shipment. The beneficiary will be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.
The provisions of Article 13 (2), second subparagraph, of Regulation (EEC) No 2200/87 shall not apply.
The successful tenderer must submit to the recipient's agent a complete packing list of each container, specifying the number of metal canisters belonging to each shipping number as specified in the invitation to tender. The successful tenderer must stow the cartons in the containers in such a way that any empty spaces are filled; he must stabilize the final row of cartons using stowage belts.
The successful tenderer must seal each container with a numbered locktainer (sysko locktainer 180 seal), the number of which is to be provided to the recipient's forwarder.
- (⁹) For Lot A, notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.
- (¹⁰) Placed in 20-foot containers. The free holding period for containers must be at least 15 days.
- (¹¹) The supplier should send a duplicate of the original invoice to: Willis Corroon Scheuer, PO Box 1315, NL-1000 BH Amsterdam.
- (¹²) The cartons shall be stacked on wooden pallets (made of pine, fir, or poplar wood) measuring not more than 1 200 × 1 400 mm, and with the following features:
- four-way entry, non-reversible, with wings,
 - a top deck consisting of a minimum of seven planks (width: 100 mm; thickness: 22 mm),
 - a bottom deck consisting of three planks (width: 100 mm; thickness: 22 mm),
 - three bearers (width: 100 mm; thickness: 22 mm),
 - nine dowels: 100 × 100 × 78 mm minimum.
- The palletized load (max. 1 050 kg) shall be covered by a shrink film of a thickness of at least 150 microns. The whole of the above must be bound, in each direction, by two nylon straps of a width of not less than 15 mm with plastic buckles.
- The cartons must have reinforced protection consisting of four angles (35 × 35 mm) made of cardboard at least 3 mm thick placed on the four upper edges;
-

COMMISSION REGULATION (EC) No 478/96
of 18 March 1996

amending Regulation (EC) No 3238/94 providing for the determination and the administration of the variable component for certain goods originating in Poland, Hungary, Romania, Bulgaria, the Czech Republic, the Slovak Republic, Lithuania, Latvia and Estonia resulting from the processing of certain agricultural products referred to in the Annexes to Council Regulation (EC) No 3448/93

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products⁽¹⁾, and in particular Article 7 paragraph 2 thereof,

Whereas Commission Regulation (EC) No 3238/94⁽²⁾, as amended by Regulation (EC) No 1795/95⁽³⁾, opened for 1995 the quotas within which, under the provisions of the Europe Agreement concluded with Poland, Romania, Bulgaria, the Czech Republic and the Slovak Republic, certain processed agricultural products originating in these countries may be imported at a reduced agricultural component; whereas these quotas should be re-opened for 1996; whereas Regulation (EC) No 3238/94 should be amended accordingly;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for 'horizontal questions concerning trade in processed agricultural products not listed in Annex II',

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 3238/94 is hereby amended as follows:

1. Article 1 (1) is replaced by the following text:

'1. From 1 January to 31 December 1996, goods originating in Poland, Romania, Bulgaria, the Czech Republic and the Slovak Republic which are listed in Annexes I, II, III, IV and V to this Regulation shall be subject to a reduced agricultural component within the limits of the annual quotas and under the conditions set out in these Annexes.'

2. The Annexes are replaced by Annexes I, II, III, IV and V to the present Regulation.

Article 2

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

It is applicable from 1 January 1996.

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

Done at Brussels, 18 March 1996.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 318, 20. 12. 1993, p. 18.

⁽²⁾ OJ No L 338, 28. 12. 1994, p. 30.

⁽³⁾ OJ No L 174, 26. 7. 1995, p. 9.

ANNEX I

'POLAND

Order No	CN code	Description	1996 quota (tonnes)	Preference
09.5401	0403 10 51 to 0403 10 99	Yoghurts, flavoured or containing added fruit, nuts or cocoa	15	EAR
	0403 90 71 to 0403 90 99	Other, flavoured or containing added fruit, nuts or cocoa		
09.5403	1704 10	Chewing gum, whether or not sugar-coated	4 120	EAR
	1704 90 30	White chocolate		
	1704 90 55	Throat pastilles and cough drops		
09.5405	ex 1902	Pasta, whether or not cooked or otherwise prepared excluding stuffed pasta falling within CN codes 1902 20 10 and 190 20 30, couscous, whether or not prepared	350	EAR
09.5407	1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms	39	EAR
09.5409	2001 90 40 2008 99 91	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch, prepared or preserved by vinegar or acetic acid or otherwise prepared or preserved, not containing added sugar or added spirit	24	EAR
	2004 10 91 2005 20 10	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid		
09.5411	2101 12 98	Preparations with a basis of coffee	15	EAR
	2101 20 98	Preparations with a basis of tea or maté		
09.5413	2101 30 19	Roasted coffee substitutes other than roasted chicory	300	EAR
	2101 30 99	Extracts, essences and concentrates of roasted coffee substitutes other than those of roasted chicory		
09.5415	2106 90 10	Cheese fondues	540	EAR'

ANNEX II

ROMANIA

Order No	CN code	Description	1996 quota (tonnes)	Preference
05.5431	ex 1704	Sugar confectionery (including white chocolate), not containing cocoa; excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances, falling within CN code 1704 90 10 (1)	1 960	EAR
09.5433	ex 1806	Chocolate and other food preparation containing cocoa excluding goods falling within CN codes 1806 10 15 and 1806 20 70 (1)	1 061	EAR
09.5435	ex 1902	Pasta, whether or not cooked or otherwise prepared excluding stuffed pasta falling within CN codes 1902 20 10 and 1902 20 30, couscous, whether or not prepared	466	EAR
09.5437	ex 1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals other than maize (corn), in grain form or in the form of flakes or other worked grains (except flour and meal), precooked or otherwise prepared, not elsewhere specified or included, excluding goods falling within CN codes 1904 20 10	294	EAR
09.5439	1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	1 388	EAR
09.5441	2101 30 19 2101 30 99	Roasted coffee substitutes other than roasted chicory Extracts, essences and concentrates of roasted coffee substitutes other than those of roasted chicory	163	EAR
09.5443	2105	Ice cream and other edible ice, whether or not containing cocoa	114	EAR
09.5445	0405 20 10 0405 20 30 ex 2106 3302 10 29	Dairy spreads of a fat content, by weight, of 39 % or more, but not exceeding 75 % Food preparations not elsewhere specified or included other than those falling within CN codes 2106 10 20, 2106 90 20 and 2106 90 92 and other than flavoured or coloured sugar syrups (1) Other preparations based on odoriferous substances, containing all flavouring agents characterizing a beverage, of the type used in the drink industries for the manufacture of beverages	980	EAR
09.5447	2202 90 91 2202 90 95 2202 90 99	Non-alcoholic beverages, not including fruit or vegetable juices of CN code 2009, containing products of CN codes 0401 to 0404 or containing fat obtained from products of CN codes 0401 to 0404	16	EAR

(1) Other than goods of CN codes 1704 90 51, 1704 90 99, 1806 20 80, 1806 20 95, 1806 90 90 and 2106 90 98 containing 70 % or more by weight of sucrose (including invert sugar expressed as sucrose).

ANNEX III

'BULGARIA

Order No	CN code	Description	1996 quota (tonnes)	Preference
09.5461	1704 10	Chewing gum, whether or not sugar-coated	163	EAR
09.5463	1806 1806 20 1806 20 10 1806 31 00 1806 32 1806 90	Chocolate and other food preparations containing cocoa: — Other preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg: — — Containing 31 % or more by weight of cocoa butter or containing a combined weight of 31 % or more of cocoa butter and milk fat — Other, in blocks, slabs or bars: — — Filled — — Not filled — Other	490	EAR
09.5465 09.5467	1901 10 1901 90 99	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included: — Preparations for infant use, put up for retail sale — — Other	16 81	EAR EAR
09.5469	1902 19	Uncooked pasta, not stuffed or otherwise prepared: — — Other	326	EAR
09.5471	1904 10 ex 1904 20	Prepared foods obtained by the swelling or roasting of cereals or cereal products Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals, excluding goods falling within CN codes 1904 20 10	245	EAR
09.5473	1905 30 1905 90	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products: — Sweet biscuits; waffles and wafers — Other	571	EAR
09.5475	2101 12 98	Preparations with a basis of coffee	163	EAR
09.5477	2102 10 31 2102 10 39	Active baker's yeast, dried Other active baker's yeast	81	EAR

Order No	CN code	Description	1996 quota (tonnes)	Preference
09.5479	2105	Ice cream and other edible ice, whether or not containing cocoa	81	EAR
09.5481	0405 20 10 0405 20 30 2106 2106 10 80 2106 90 98 3302 10 29	Dairy spreads of a fat content, by weight, of 39 % or more, but not exceeding 75 % Food preparations not elsewhere specified or included: — — Other — Other Other preparations based on odouriferous substances, containing all flavouring agents characterizing a beverage, of the type used in the drink industries for the manufacture of beverages	490	EAR
09.5483	2202 90 91 2202 90 95 2202 90 99	Non-alcoholic beverages, not including fruit or vegetable juices of CN code 2009, containing products of CN codes 0401 to 0404 or containing fat obtained from products of CN codes 0401 to 0404	16	EAR'

ANNEX IV

'CZECH REPUBLIC

Order No	CN code	Description	1996 quota (ecus)	Preference
09.5417	0403 10 51 to 0403 10 99	Yoghurt, flavoured or containing added fruit, nuts or cocoa	3 624 000	EAR
	0403 90 71 to 0403 90 99	Other, flavoured or containing added fruit, nuts or cocoa		
	0405 20 10 to 0405 20 30	Dairy spreads of a fat content, by weight, of 39 % or more, but not exceeding 75 %		
	1517 10 10	Margarine (excluding liquid margarine) containing more than 10 % but not more than 15 % by weight of milk fats		
	1517 90 10	Other, containing more than 10 % but not more than 15 % by weight of milk fats		
	ex 1704	Sugar confectionery (including white chocolate), not containing cocoa; excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances, falling within CN code 1704 90 10		
	ex 1806	Chocolate and other food preparations containing cocoa, excluding goods falling within CN code 1806 10 15		
	ex 1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of CN heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included, excluding goods falling within CN code 1901 90 91		
	ex 1902	Pasta, whether or not cooked or otherwise prepared excluding stuffed pasta falling within CN codes 1902 20 10 and 1902 20 30; couscous, whether or not prepared		
	1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, siftings or similar forms		
	ex 1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals (other than maize (corn)), in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked or otherwise prepared, not elsewhere specified or included, excluding goods falling within CN codes 1904 20 10		
	1905	Bread, pastry, cakes biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products		
	2101 12 98	Preparations with a basis of coffee		
	2101 20 98	Preparations with a basis of tea or maté		
	2101 30 19	Roasted coffee substitutes other than roasted chicory		
	2101 30 99	Extracts essences and concentrates of roasted coffee substitutes other than those of roasted chicory		

Order No	CN code	Description	1996 quota (ecus)	Preference
09.5417 (cont'd)	2102 10 31	Active baker's yeast, dried		
	2102 10 39	Other active baker's yeast		
	2105	Ice cream and other edible ice, whether or not containing cocoa		
	ex 2106	Food preparations not elsewhere specified or included other than those falling within CN codes 2106 10 20, 2106 90 20 and 2106 90 92 and other than flavoured or coloured sugar syrups		
	2202 90 91	Non-alcoholic beverages not including fruit or vegetable juices of CN code 2009 containing products of CN codes 0401, 0402 and 0404 or obtained from products of CN codes 0401, 0402 and 0404		
	2202 90 95			
	2202 90 99			
3302 10 29	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used in the food or drink industries'			

ANNEX V

'SLOVAK REPUBLIC

Order No	CN code	Description	1996 quota (ecus)	Preference
09.5417	0403 10 51 to 0403 10 99	Yoghurt, flavoured or containing added fruit, nuts or cocoa	1 812 000	EAR
	0403 90 71 to 0403 90 99	Other, flavoured or containing added fruit, nuts or cocoa		
	0405 20 10 0405 20 30	Dairy spreads of a fat content, by weight, of 39 % or more, but not exceeding 75 %		
	1517 10 10	Margarine (excluding liquid margarine) containing more than 10 % but not more than 15 % by weight of milk fats		
	1517 90 10	Other, containing more than 10 % but not more than 15 % by weight of milk fats		
	ex 1704	Sugar confectionery (including white chocolate), not containing cocoa; excluding liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances, falling within CN code 1704 90 10		
	ex 1806	Chocolate and other food preparations containing cocoa, excluding goods falling within CN code 1806 10 15		
	ex 1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of CN heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included, excluding goods falling within CN code 1901 90 91		
	ex 1902	Pasta, whether or not cooked or otherwise prepared excluding stuffed pasta falling within CN codes 1902 20 10 and 1902 20 30; couscous, whether or not prepared		
	1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, siftings or similar forms		
	ex 1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, cornflakes); cereals (other than maize (corn)), in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked or otherwise prepared, not elsewhere specified or included, excluding goods falling within CN codes 1904 20 10		
	1905	Bread, pastry, cakes biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products		
	2101 12 98	Preparations with a basis of coffee		
	2101 20 98	Preparations with a basis of tea or maté		
	2101 30 19	Roasted coffee substitutes other than roasted chicory		
	2101 30 99	Extracts essences and concentrates of roasted coffee substitutes other than those of roasted chicory		

Order No	CN code	Description	1996 quota (ecus)	Preference
09.5417 (cont'd)	2102 10 31	Active baker's yeast, dried		
	2102 10 39	Other active baker's yeast		
	2105	Ice cream and other edible ice, whether or not containing cocoa		
	ex 2106	Food preparations not elsewhere specified or included other than those falling within CN codes 2106 10 20, 2106 90 20 and 2106 90 92 and other than flavoured or coloured sugar syrups		
	2202 90 91	Non-alcoholic beverages not including fruit or vegetable juices of CN code 2009 containing products of CN codes 0401, 0402 and 0404 or obtained from products of CN codes 0401, 0402 and 0404		
	2202 90 95			
	2202 90 99			
	3302 10 29	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used in the food or drink industries'		

COMMISSION REGULATION (EC) No 479/96
of 18 March 1996
fixing the export refunds on pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94⁽²⁾, and in particular the second paragraph of Article 13 (3) thereof,

Whereas Article 13 of Regulation (EEC) No 2759/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for these products within the Community may be covered by an export refund;

Whereas it follows from applying these rules and criteria to the present situation on the market in pigmeat that the refund should be fixed as set out below;

Whereas facilities exist at present for the export of certain products falling within CN code 0203; whereas a refund should be fixed for these products taking particular account of the conditions of competition for Community exporters on world markets;

Whereas, in the case of products falling within CN code 0210 19 81, the refund should be limited to an amount which takes account of the qualitative characteristics of each of the products falling within these codes and of the foreseeable trend of production costs on the world market; whereas it is important that the Community should continue to take part in international trade in the case of certain typical Italian products falling within CN code 0210 19 81;

Whereas, because of the conditions of competition in certain third countries, which are traditionally importers of products falling within CN codes 1601 00 and 1602, the refund for these products should be fixed so as to take this situation into account; whereas steps should be taken to ensure that the refund is granted only for the net weight of the edible substances, to the exclusion of the net weight of the bones possibly contained in the said preparations;

Whereas, since economically significant quantities of other pigmeat products are not being exported at present, there is no need to fix a refund for these products;

Whereas Article 13 of Regulation (EEC) No 2759/75 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 (1) of Regulation (EEC) No 2759/75 according to destination;

Whereas the refunds should be fixed taking account of the amendments to the refund nomenclature established by Commission Regulation (EEC) No 3846/87⁽³⁾, as last amended by Regulation (EC) No 310/96⁽⁴⁾;

Whereas Council Regulation (EEC) No 990/93⁽⁵⁾, as amended by Regulation (EC) No 1380/95⁽⁶⁾, prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 hereof and in Council Regulation (EC) No 462/96⁽⁷⁾; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of products on which the export refund specified in Article 15 of Regulation (EEC) No 2759/75 is granted and the amount of the refund shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 19 March 1996.

⁽³⁾ OJ No L 366, 24. 12. 1987, p. 1.

⁽⁴⁾ OJ No L 46, 23. 2. 1996, p. 1.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁶⁾ OJ No L 138, 21. 6. 1995, p. 1.

⁽⁷⁾ OJ No L 65, 15. 3. 1996, p. 1.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 1.

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

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

Done at Brussels, 18 March 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 18 March 1996 fixing the export refunds on pigmeat

(ECU/100 kg net weight)			(ECU/100 kg net weight)		
Product code	Destination of refund ⁽¹⁾	Amount of refund	Product code	Destination of refund ⁽¹⁾	Amount of refund
0203 11 10 000	01	18,00	0203 29 15 100	01	11,00
0203 12 11 100	01	18,00	0210 11 31 110	01	75,00
0203 12 19 100	01	18,00	0210 11 31 910	01	75,00
0203 19 11 100	01	18,00	0210 12 19 100	01	18,00
0203 19 13 100	01	18,00	0210 19 81 100	01	85,00
0203 19 15 100	01	11,00	0210 19 81 300	01	66,00
0203 21 10 000	01	18,00	1601 00 91 100	01	30,00
0203 22 11 100	01	18,00	1601 00 99 100	01	15,00
0203 22 19 100	01	18,00	1602 41 10 210	01	54,00
0203 29 11 100	01	18,00	1602 42 10 210	01	42,00
0203 29 13 100	01	18,00	1602 49 19 190	01	21,00

⁽¹⁾ The destinations are as follows:

01 All third countries.

⁽²⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 and Regulation (EC) No 462/96 are observed.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 480/96
of 18 March 1996
amending the import duties in the cereals sector

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 1863/95⁽²⁾,

Having regard to Commission Regulation (EC) No 1502/95 of 29 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 for the 1995/96 marketing year as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 346/96⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas the import duties in the cereals sector are fixed by Commission Regulation (EC) No 457/96⁽⁵⁾;

Whereas Article 2 (1) of Regulation (EC) No 457/96 provides that if during the period of application, the

average import duty calculated differs by ECU 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 457/96,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 457/96 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 19 March 1996.

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

Done at Brussels, 18 March 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 179, 29. 7. 1995, p. 1.

⁽³⁾ OJ No L 147, 30. 6. 1995, p. 13.

⁽⁴⁾ OJ No L 49, 28. 2. 1996, p. 5.

⁽⁵⁾ OJ No L 64, 14. 3. 1996, p. 6.

ANNEX I

Import duties for the products listed in Article 10 (2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne)	Import duty by sea from other ports ⁽²⁾ (ECU/tonne)
1001 10 00	Durum wheat ⁽¹⁾	1,29	0,00
1001 90 91	Common wheat seed	6,59	0,00
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	6,59	0,00
	medium quality	27,53	17,53
	low quality	32,69	22,69
1002 00 00	Rye	39,26	29,26
1003 00 10	Barley, seed	39,26	29,26
1003 00 90	Barley, other ⁽³⁾	39,26	29,26
1005 10 90	Maize seed other than hybrid	60,26	50,26
1005 90 00	Maize other than seed ⁽³⁾	60,26	50,26
1007 00 90	Grain sorghum other than hybrids for sowing	39,26	29,26

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1502/95, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean (Article 2 (4) of Regulation (EC) No 1502/95), the importer may benefit from a reduction in the duty of:

- ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or
- ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of ECU 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1502/95 are met.

ANNEX II

Factors for calculating duties (period from 13. 3. 1996 to 26. 3. 1996):

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Mid-America	Mid-America
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	152,21	142,28	142,45	118,84	191,91 ⁽²⁾	153,94 ⁽²⁾
Gulf premium (ECU/tonne)	34,40	24,31	18,05	14,10	—	—
Great lake premium (ECU/tonne)	—	—	—	—	—	—

⁽¹⁾ Fob Duluth.

⁽²⁾ Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 10,70 per tonne; Great Lakes/St Lawrence — Rotterdam: ECU 29,38 per tonne.

3. Subsidy (third paragraph of Article 4 (2) of Regulation (EC) No 1502/95: ECU 0,00 per tonne).

COMMISSION DIRECTIVE 96/14/EC

of 12 March 1996

amending certain Annexes to Council Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

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

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 95/66/EC⁽²⁾, and in particular Article 13, second subparagraph, third and fourth indents thereof,

Whereas certain provisions on protective measures in Greece against *Phytophthora cinnamomi* Rands and the bark beetle *Ips typographus* Heer, in Spain against the bark beetles *Dendroctonus micans* Kugelán, *Ips amitinus* Eichhof, *Ips cembrae* Heer, *Ips duplicatus* Sahlberg and *Ips typographus* Heer and in Italy against *Curtobacterium flaccumfaciens* pv. *flaccumfaciens* (Hedges) Collins and Jones, should be modified because it is no longer appropriate to maintain the current provisions set out in the said Directive;

Whereas, furthermore certain provisions on protective measures against *Dendroctonus micans* Kugelán, *Ips amitinus* Eichhof, *Ips cembrae* Heer, *Ips duplicatus* Sahlberg, *Ips sexdentatus* Boerner, *Ips typographus* Heer and *Pissodes* spp. (European) for the relevant protected zones recognized for each type of harmful organism, should be modified to take account of the concern in relation to the relevant host plants of these organisms;

Whereas similarly certain provisions on protective measures in Spain against *Anthonomus grandis* (boh.) should be modified to take into account the concerns in relation to the relevant production areas of *Gossypium* spp. and in relation to the risk of spread of this organism in unginned cotton; whereas also certain provisions on protective measures in Spain and Portugal against *Sternonchetus mangiferae* Fabricius should be modified to take account of the concern in relation to the relevant production areas of *Mangifera* spp.;

Whereas certain provisions on protective measures in one part of France, in Brittany, against Beet necrotic yellow vein virus should be improved;

Whereas the protective measures against *Erwinia amylovora* (Burr.) Winsl. (*et al.*) adopted with respect to certain areas in France should be clarified;

Whereas therefore the relevant Annexes of the said Directive 77/93/EEC should be amended accordingly;

Whereas these amendments are in agreement with the requests of the Member States concerned;

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/93/EEC is hereby amended as indicated in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive on 1 April 1996. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. The Member States shall immediately communicate to the Commission all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 12 March 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 308, 21. 12. 1995, p. 77.

ANNEX

1. In Annex I, Part B (d), point 1, the entry is replaced by the following:

'1. Beet necrotic yellow vein virus	DK, F (Brittany), FI, IRL, P (Azores), S, UK'
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2. In Annex II, Part B (a), point 1, the entry is replaced by the following:

'1. <i>Anthonomus grandis</i> (Boh).	Seed and fruits (bolls) of <i>Gossypium</i> spp., and unginned cotton	EL, E (Andalucia, Catalonia, Extremadura, Murcia, Valencia)
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3. In Annex II, Part B (a), point 3, the entry is replaced by the following:

'3. <i>Dendroctonus micans</i> Kugelan	Plants of <i>Abies</i> Mill., <i>Larix</i> Mill., <i>Picea</i> A. Dietr., <i>Pinus</i> L. and <i>Pseudotsuga</i> Carr., over 3 m in height, other than fruit and seeds, wood of conifers (Coniferales) with bark, isolated bark of conifers	EL, IRL, UK (*)
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(*) (Scotland, Northern Ireland, Jersey, England: the following counties: Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Cleveland, Cornwall, Cumbria, Devon, Dorset, Durham, East Sussex, Essex, Greater London, Hampshire, Hertfordshire, Humberside, Kent, Lincolnshire, Norfolk, Northamptonshire, Northumberland, Nottinghamshire, Oxfordshire, Somerset, South Yorkshire, Suffolk, Surrey, Tyne and Wear, West Sussex, West Yorkshire, the Isle of Wight, the Isle of Man, the Isles of Scilly, and the following parts of counties; Avon: that part of the county which lies to the south of the southern boundary of the M4 motorway; Cheshire: that part of the county which lies to the east of the eastern boundary of the Peak District National Park together with that part of the county which lies to the north of the northern boundary of the A52 (T) road to Derby and that part of the county which lies to the north of the northern boundary of the A6 (T) road; Gloucestershire: that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road; Greater Manchester: that part of the county which lies to the east of the eastern boundary of the Peak District National Park; Leicestershire: that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road together with that part of the county which lies to the east of the eastern boundary of the B411A road together with that part of the county which lies to the east of the eastern boundary of the M1 motorway; North Yorkshire: the whole county except that part of the county which comprises the district of Craven; Staffordshire: that part of the county which lies to the east of the eastern boundary of the A52 (T) road; Warwickshire: that part of the county which lies to the east the eastern boundary of the Fosse Way Roman road; Wiltshire: that part of the county which lies to the south of the southern boundary of the M4 motorway to the intersection of the M4 motorway and the Fosse Way Roman road, and that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road.)'

4. In Annex II, Part B (a), point 6, the entry is replaced by the following:

'6. (a) <i>Ips amitinus</i> Eichhof	Plants of <i>Abies</i> Mill., <i>Larix</i> Mill., <i>Picea</i> A. Dietr. and <i>Pinus</i> L., over 3 m in height, other than fruit and seeds, wood of conifers (Coniferales) with bark, isolated bark of conifers	EL, F (Corsica), IRL, UK
(b) <i>Ips cembrae</i> Heer	Plants of <i>Abies</i> Mill., <i>Larix</i> Mill., <i>Picea</i> A. Dietr., <i>Pinus</i> L. and <i>Pseudotsuga</i> Carr., over 3 m in height, other than fruit and seeds, wood of conifers (Coniferales) with bark, isolated bark of conifers	EL, IRL, UK (N-IRL, Isle of Man)
(c) <i>Ips duplicatus</i> Sahlberg	Plants of <i>Abies</i> Mill., <i>Larix</i> Mill., <i>Picea</i> A. Dietr. and <i>Pinus</i> L., over 3 m in height, other than fruit and seeds, wood of conifers (Coniferales) with bark, isolated bark of conifers	EL, IRL, UK

- | | | |
|---------------------------------------|---|------------------------------|
| (d) <i>Ips sexdentatus</i>
Boerner | Plants of <i>Abies</i> Mill., <i>Larix</i> Mill., <i>Picea</i> A. Dietr. and <i>Pinus</i> L., over 3 m in height, other than fruit and seeds, wood of conifers (Coniferales) with bark, isolated bark of conifers | IRL, UK (N-IRL, Isle of Man) |
| (e) <i>Ips typographus</i>
Heer | Plants of <i>Abies</i> Mill., <i>Larix</i> Mill., <i>Picea</i> A. Dietr., <i>Pinus</i> L. and <i>Pseudotsuga</i> Carr., over 3 m in height, other than fruit and seeds, wood of conifers (Coniferales) with bark, isolated bark of conifers | IRL, UK' |

5. In Annex II, Part B (a), point 8, the entry is replaced by the following:

- | | | |
|--|---|--------------------------------------|
| '8. <i>Pissodes</i> spp.
(European) | Plants of <i>Abies</i> Mill., <i>Larix</i> Mill., <i>Picea</i> A. Dietr. and <i>Pinus</i> L., other than fruit and seeds, wood of conifers (Coniferales) with bark, isolated bark of conifers | IRL, UK (N-IRL, Isle of Man, Jersey) |
|--|---|--------------------------------------|

6. In Annex II, Part B (a), point 9, the entry is replaced by the following:

- | | | |
|---|---|---|
| '9. <i>Sternochetus mangiferae</i>
Fabricius | Seeds of <i>Mangifera</i> spp. originating in third countries | E (Granada and Malaga), P (Alentejo, Algarve and Madeira) |
|---|---|---|

7. In Annex II, Part B (b), point 1, the right hand column is altered as follows:

'EL, E, P'.

8. In Annex II, Part B (c), point 4 is deleted.

9. In Annex III, Part B, point 1, the right hand column is altered as follows:

'E, F (Champagne-Ardenne, Alsace — except department of Bas Rhin —, Lorraine, Franche-Comté, Rhône-Alpes — except department of Rhône —, Bourgogne, Auvergne — except department of Puy de Dôme —, Provence-Alpes-Côte d'Azur, Corse, Languedoc-Roussillon), IRL, I, P, UK (N-IRL, Isle of Man and the Channel Islands), A, FI'.

10. In Annex IV, Part B, points 1 and 14.1, the right hand column is replaced by the following:

'EL, IRL, UK (*)'.

(*) (Scotland, Northern Ireland, Jersey, England: the following counties: Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Cleveland, Cornwall, Cumbria, Devon, Dorset, Durham, East Sussex, Essex, Greater London, Hampshire, Hertfordshire, Humberside, Kent, Lincolnshire, Norfolk, Northamptonshire, Northumberland, Nottinghamshire, Oxfordshire, Somerset, South Yorkshire, Suffolk, Surrey, Tyne and Wear, West Sussex, West Yorkshire, the Isle of Wight, the Isle of Man, the Isles of Scilly, and the following parts of counties; Avon: that part of the county which lies to the south of the southern boundary of the M4 motorway; Cheshire: that part of the county which lies to the east of the eastern boundary of the Peak District National Park together with that part of the county which lies to the north of the northern boundary of the A52 (T) road to Derby and that part of the county which lies to the north of the northern boundary of the A6 (T) road; Gloucestershire: that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road; Greater Manchester: that part of the county which lies to the east of the eastern boundary of the Peak District National Park; Leicestershire: that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road together with that part of the county which lies to the east of the eastern boundary of the B411A road together with that part of the county which lies to the east of the eastern boundary of the M1 motorway; North Yorkshire: the whole county except that part of the county which comprises the district of Craven; Staffordshire: that part of the county which lies to the east of the eastern boundary of the A52 (T) road; Warwickshire: that part of the county which lies to the east the eastern boundary of the Fosse Way Roman road; Wiltshire: that part of the county which lies to the south of the southern boundary of the M4 motorway to the intersection of the M4 motorway and the Fosse Way Roman road, and that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road).'

11. In Annex IV, Part B, points 2 and 14.4, the right hand column is replaced by the following:

'EL, IRL, UK'.

12. In Annex IV, Part B, points 3 and 14.6, the right hand column is replaced by the following:

'IRL, UK'.

13. In Annex IV, Part B, points 4 and 14.2, the right hand column is replaced by the following:

'EL, F (Corsica), IRL,
UK'.

14. In Annex IV, Part B, points 5 and 14.3, the right hand column is replaced by the following:

'EL, IRL, UK (N-IRL,
Isle of Man)'.

15. In Annex IV, Part B, point 7, the left hand column is replaced by the following:

'Plants of *Abies* Mill., *Larix* Mill., *Picea*
A. Dietr., *Pinus* L. and *Pseudotsuga*
Carr., over 3 m in height, other than
fruit and seeds'

and the right hand column is replaced by the following:

'IRL, UK (').

(') (Scotland, Northern Ireland, Jersey, England: the following counties: Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Cleveland, Cornwall, Cumbria, Devon, Dorset, Durham, East Sussex, Essex, Greater London, Hampshire, Hertfordshire, Humberside, Kent, Lincolnshire, Norfolk, Northamptonshire, Northumberland, Nottinghamshire, Oxfordshire, Somerset, South Yorkshire, Suffolk, Surrey, Tyne and Wear, West Sussex, West Yorkshire, the Isle of Wight, the Isle of Man, the Isles of Scilly, and the following parts of counties; Avon: that part of the county which lies to the south of the southern boundary of the M4 motorway; Cheshire: that part of the county which lies to the east of the eastern boundary of the Peak District National Park together with that part of the county which lies to the north of the northern boundary of the A52 (T) road to Derby and that part of the county which lies to the north of the northern boundary of the A6 (T) road; Gloucestershire: that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road; Greater Manchester: that part of the county which lies to the east of the eastern boundary of the Peak District National Park; Leicestershire: that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road together with that part of the county which lies to the east of the eastern boundary of the B411A road together with that part of the county which lies to the east of the eastern boundary of the M1 motorway; North Yorkshire: the whole county except that part of the county which comprises the district of Craven; Staffordshire: that part of the county which lies to the east of the eastern boundary of the A52 (T) road; Warwickshire: that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road; Wiltshire: that part of the county which lies to the south of the southern boundary of the M4 motorway to the intersection of the M4 motorway and the Fosse Way Roman road, and that part of the county which lies to the east of the eastern boundary of the Fosse Way Roman road).'

16. In Annex IV, Part B, point 8, the left hand column is replaced by the following:

'Plants of *Abies* Mill., *Larix* Mill., *Picea*
A. Dietr. and *Pinus* L., over 3 m in
height, other than fruit and seeds'

and the right hand column is replaced by the following:

'EL, IRL, UK'.

17. In Annex IV, Part B, point 9, the left hand column is replaced by the following:

'Plants of *Abies* Mill., *Larix* Mill., *Picea*
A. Dietr., *Pinus* L. and *Pseudotsuga*
Carr., over 3 m in height, other than
fruit and seeds'

and the right hand column is replaced by the following:

'IRL, UK'.

18. In Annex IV, Part B, point 10, the left hand column is replaced by the following:

'Plants of *Abies* Mill., *Larix* Mill., *Picea*
A. Dietr. and *Pinus* L., over 3 m in
height, other than fruit and seeds'

and the right hand column is replaced by the following:

'EL, F (Corsica), IRL,
UK'.

19. In Annex IV, Part B, point 11, the left hand column is replaced by the following:

'Plants of *Abies* Mill., *Larix* Mill., *Picea*
A. Dietr. y *Pinus* L. and *Pseudotsuga*
Carr., over 3 m in height, other than
fruit seeds'

and the right hand column is replaced by the following:

'EL, IRL, UK (N-IRL,
Isle of Man)'.

20. In Annex IV, Part B, point 12, the left hand column is replaced by the following:

'Plants of *Abies* Mill., *Larix* Mill., *Picea*
A. Dietr. and *Pinus* L., over 3 m in
height, other than fruit seeds'.

21. In Annex IV, Part B, point 13, the left hand column is replaced by the following:

'Plants of *Abies* Mill., *Larix* Mill., *Picea*
A. Dietr. and *Pinus* L., other than fruit
and seeds'.

22. In Annex IV, Part B, points 20.1, 20.2, 22, 23, 25.1, 25.2, 26, 27.1, 27.2 and 30, the right hand column is replaced by the following:

'DK, F (Brittany), FI,
IRL, P (Azores), S,
UK'.

23. In Annex IV, Part B, point 21, paragraph (a), the middle column is altered as follows:

'(a) the plants originate in the protected zones E, F
(Champagne-Ardenne, Alsace — except depart-
ment of Bas Rhin —, Lorraine, Franche-Comté,
Rhône-Alpes — except department of Rhône —,
Bourgogne, Auvergne — except department of
Puy de Dome —, Provence-Alpes-Côte d'Azur,
Corse, Languedoc-Roussillon), IRL, I, P, UK
(N-IRL, Isle of Man and the Channel Islands), A,
FI'.

24. In Annex IV, Part B, a new point 28.1 is added:

'28.1 Seeds of *Gossypium* spp. Official statement that the seed has been acid
delinted

EL, E (Andalucia,
Catalonia, Extrema-
dura, Murcia, Valen-
cia)'

25. In Annex IV, Part B, point 29, the right hand column is replaced by the following:

'E (Granada and
Malaga), P (Alentejo,
Algarve and Madei-
ra)'.

26. In Annex V, Part A, II, point 1.1 is replaced by the following:

'1.1. Plants of *Abies* Mill., *Larix* Mill., *Picea* A. Dietr., *Pinus* L., and *Pseudotsuga* Carr.'

27. In Annex V, Part A, II, Point 1.3, the words '*Persea americana* P. Mill.' are deleted after '*Mespilus* L.'.

28. In Annex V, Part A, II, point 1.9 is replaced by the following:

'1.9. Fruit (bolls) of *Gossypium* spp. and unginned cotton'.

29. In Annex V, Part A, II, point 2.1 is deleted, and former point 2.2 shall become point 2.1.

30. In Annex V, Part B, II, point 6 is replaced by the following:

'6. Seeds and fruit (bolls) of *Gossypium* spp., and unginned cotton'.

31. In Annex V, Part B, II, point 8 is replaced by the following:

'8. Parts of plants of *Eucalyptus* L'Hérit'.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 11 March 1996

confirming Commission Regulation (EC) No 2914/95 introducing prior Community surveillance of imports of certain iron and steel products covered by the ECSC and EC Treaties originating in certain third countries

(96/208/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3285/94 of 22 December 1994 on the common rules for imports and repealing Regulation (EC) No 518/94⁽¹⁾, and in particular Article 16 (8) thereof,

Whereas, by Regulation (EC) No 2914/95⁽²⁾, the Commission took measures introducing prior Community surveillance of imports of certain iron and steel products covered by the ECSC and EC Treaties originating in certain third countries;

Whereas a Member State has referred the Commission's decision to the Council in accordance with the procedure laid down in Article 16 (7) and (8) of Regulation (EC) No 3285/94;

Having taken cognizance of the reasons for Regulation (EC) No 2914/95,

Article 1

Commission Regulation (EC) No 2914/95 of 18 December 1995 introducing prior Community surveillance of imports of certain iron and steel products covered by the ECSC and EC Treaties originating in certain third countries, is hereby confirmed.

Article 2

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

Done at Brussels, 11 March 1996.

For the Council

The President

L. DINI

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 53. Regulation as amended by Regulation (EC) No 139/96 (OJ No L 21, 27. 1. 1996, p. 7).

⁽²⁾ OJ No L 305, 19. 12. 1995, p. 23.

COUNCIL RECOMMENDATION

of 11 March 1996

concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (1984) (Sixth EDF) for the financial year 1994

(96/209/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 206 thereof,

Having regard to the Third ACP-EEC Convention, signed at Lomé on 8 December 1984,

Having regard to Council Decision 86/283/EEC of 30 June 1986 on the association of the overseas countries and territories with the European Economic Community ⁽¹⁾,

Having regard to the Internal Agreement on the financing and administration of Community aid ⁽²⁾, signed in Brussels on 19 February 1985, as amended by Decision 86/281/EEC ⁽³⁾, and in particular Article 29 (3) thereof,

Having regard to the Financial Regulation of 11 November 1986 applicable to the Sixth European Development Fund ⁽⁴⁾, and in particular Articles 66 to 73 thereof,

Having examined the revenue and expenditure account and the balance sheet relating to the operations of the European Development Fund (1984) (Sixth EDF) as at

31 December 1994 and the Court of Auditors' report relating to the financial year 1994 together with the Commission's replies ⁽⁵⁾,

Whereas, pursuant to Article 29 (3) of the Internal Agreement, the discharge for the management of the European Development Fund (1984) (Sixth EDF) must be given to the Commission by the European Parliament on a recommendation from the Council;

Whereas the overall implementation by the Commission of the operations of the European Development Fund (1984) (Sixth EDF) during the financial year 1994 has been satisfactory,

HEREBY RECOMMENDS that the European Parliament give the Commission a discharge in respect of the implementation of the operations of the European Development Fund (1984) (Sixth EDF) for the financial year 1994.

Done at Brussels, 11 March 1996.

For the Council

The President

L. DINI

⁽¹⁾ OJ No L 175, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 86, 31. 3. 1986, p. 210.

⁽³⁾ OJ No L 178, 2. 7. 1986, p. 13.

⁽⁴⁾ OJ No L 325, 20. 11. 1996, p. 42.

⁽⁵⁾ OJ No C 303, 14. 11. 1995, pp. 252 to 293.

COUNCIL RECOMMENDATION

of 11 March 1996

concerning the discharge to be given to the Commission in respect of the implementation of the operations of the European Development Fund (1989) (Seventh EDF) for the financial year 1994

(96/210/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union, and in particular Article 206 thereof,

Having regard to the Fourth ACP-EEC Convention, signed at Lomé on 15 December 1989,

Having regard to Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community ⁽¹⁾,

Having regard to the Internal Agreement on the financing and administration of Community aid ⁽²⁾, signed in Brussels on 16 July 1990, and in particular Article 33 (3) thereof,

Having regard to the Financial Regulation of 29 July 1991 applicable to the Seventh European Development Fund ⁽³⁾, and in particular Articles 69 to 77 thereof,

Having examined the revenue and expenditure account and the balance sheet relating to the operations of the European Development Fund (1989) (Seventh EDF) as at 31 December 1994 and the Court of Auditors' report relating to the financial year 1994 together with the Commission's replies ⁽⁴⁾,

Whereas, pursuant to Article 33 (3) of the Internal Agreement, the discharge for the management of the European Development Fund (1989) (Seventh EDF) must be given to the Commission by the European Parliament on a recommendation from the Council;

Whereas the overall implementation by the Commission of the operations of the European Development Fund (1989) (Seventh EDF) during the financial year 1994 has been satisfactory,

HEREBY RECOMMENDS that the European Parliament give the Commission a discharge in respect of the implementation of the operations of the European Development Fund (1989) (Seventh EDF) for the financial year 1994.

Done at Brussels, 11 March 1996.

For the Council

The President

L. DINI

⁽¹⁾ OJ No L 263, 19. 9. 1991, p. 1.

⁽²⁾ OJ No L 229, 17. 8. 1991, p. 288.

⁽³⁾ OJ No L 266, 21. 9. 1991, p. 1.

⁽⁴⁾ OJ No C 303, 14. 11. 1995, pp. 252 to 293.

COMMISSION

COMMISSION DECISION

of 26 February 1996

concerning the prohibition of pentachlorophenol (PCP) notified by Denmark

(Only the Danish text is authentic)

(Text with EEA relevance)

(96/211/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 100a (4) thereof,

Whereas:

I. FACTS

(1) Pentachlorophenol

Pentachlorophenol is a chemical substance obtained by a synthetic process which is recognized as being dangerous. PCP is dangerous for both man and the environment. Its classification and labelling, harmonized at Community level in accordance with Council Directive 67/548/EEC⁽¹⁾, as last amended for the seventh time by Directive 92/32/EEC⁽²⁾, relating to the classification, packaging and labelling of dangerous substances, are as follows:

- classified as a Category 3 carcinogen, i.e. a substance of concern to man because of a possible carcinogenic effect which, however, cannot be satisfactorily assessed given the information is available. Evidence is available from appropriate studies on animals but it is not sufficient to place the substance in the second category of carcinogens. Such a substance is labelled with the risk phrase 'R 40: Possible risk of irreversible effects',

- classified a very toxic by inhalation and labelled 'R 26: Very toxic by inhalation',

- classified as toxic in contact with skin and if swallowed and labelled 'R 24/25: Toxic in contact with skin and if swallowed',

- classified as irritating to eyes, the respiratory system and skin and labelled 'R 36/37/38: Irritating to eyes, respiratory system and skin',

- classified as dangerous for the environment and labelled 'R 50: Very toxic to aquatic organisms',

- classified as dangerous for the environment and labelled 'R 53: May cause long-term adverse effects in the aquatic environment'.

On the basis of the three criteria of toxicity, persistence and bioaccumulation, PCP is included in List I of Council Directive 74/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community⁽³⁾, as amended by Directive 91/692/EEC⁽⁴⁾.

With the aim of eliminating pollution of the various parts of the aquatic environment which could be affected by discharges of PCP, limit values were fixed by Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC⁽⁵⁾, as last amended by Directive 91/692/EEC.

⁽¹⁾ OJ No 196, 16. 8. 1967, p. 1.
⁽²⁾ OJ No L 154, 5. 6. 1992, p. 1.

⁽³⁾ OJ No L 129, 18. 5. 1976, p. 23.
⁽⁴⁾ OJ No L 377, 31. 12. 1991, p. 48.
⁽⁵⁾ OJ No L 181, 4. 7. 1986, p. 16.

Pentachlorophenol contains dangerous impurities including up to 0,1 % of polychlorodibenzodioxins and 1 to 5 % of polychlorinated phenoxyphenols. PCP alone and these two impurities are responsible for the daily emission of dioxins into the environment. Dioxins are emitted when products treated with PCP are exposed to the sun and when they are incinerated at the end of their useful life. PCP in sewage sludge is also a source of dioxins.

PCP is used as:

- a wood preservative (fungicide and anti-blueing agent),
- an agent for the impregnation of industrial textiles (fungicide),
- bactericide in tanning and the paper pulp industry,
- a molluscicide in the treatment of industrial water, in particular cooling water,
- and sometimes as
- a sterilizing agent.

Because of its toxicity, PCP has been made subject to various restrictions in more than thirty countries.

II. PROCEDURE

(2) Directive 91/173/EEC

Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations⁽¹⁾, as last amended by Directive 94/60/EEC⁽²⁾, provides for the prohibition and restriction of the use of certain dangerous substances and preparations. Directive 76/769/EEC is regularly amended to add to its Annex new substances which are dangerous for man and the environment.

Council Directive 91/173/EEC, which amends Directive 76/769/EEC⁽³⁾ for the ninth time, harmonizes completely the marketing of substances containing PCP.

Directive 91/173/EEC prohibits the marketing and use of pentachlorophenol and its salts and esters in a concentration equal to or greater than 0,1 % by mass in substances and preparations. However, four exceptions are given. The use of pentachlorophenol

and its compounds in industrial installations is permitted:

- (a) for wood preservation;
- (b) for the impregnation of fibres and heavy-duty textiles;
- (c) as a synthesizing and/or processing agent in industrial processes;
- (d) for the *in situ* treatment of buildings of cultural and historic interest (subject to individual authorization by the Member State concerned).

In any event PCP used as such or as a constituent of preparations used on the basis of the exceptions referred to above must have a total hexachlorodibenzoparadioxin (H₆CDD) content of less than four parts per million.

These exceptions have to be reconsidered in the light of changes in knowledge and technology no later than three years after the implementation of the Directive.

Given the dangers of PCP for human health and the environment, the Commission asked its departments to prepare a report assessing the risks of PCP and leading, if necessary, to legislative proposals in this area.

The Directive was adopted by the Council on 21 March 1991, by qualified majority, under Article 100a of the Treaty. Member States had to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 1992 at the latest.

(3) Measures notified

The Danish Permanent Representation informed the Commission by letters of 7 January 1992, 13 March 1992 and 30 June 1992 that Council Directive 91/173/EEC had been transposed into Danish law by the following Orders of the Ministry for the Environment:

- No 582 of 28 November 1977 limiting dioxins in pentachlorophenol, etc⁽⁴⁾,
- No 454 of 16 June 1991 restricting the sale and use of certain dangerous chemical substances and products⁽⁵⁾ for specific purposes, and
- No 446 of 7 June 1992 amending the Order restricting the sale and use of certain dangerous chemical substances and products for specific purposes⁽⁶⁾.

⁽¹⁾ OJ No L 262, 27. 9. 1976, p. 201.

⁽²⁾ OJ No L 365, 31. 12. 1994, p. 1.

⁽³⁾ OJ No L 85, 5. 4. 1991, p. 34.

⁽⁴⁾ Miljømin.j No D.5100-29.

⁽⁵⁾ Miljømin.j No D.817-0012.

⁽⁶⁾ Miljømin.j No D. 817-0031/817-0004.

The Danish authorities considered that they had transposed Directive 91/173/EEC correctly, while acknowledging that some of their national measures were stricter than the provisions of the Directive. At the beginning of this procedure, they did not wish to invoke Article 100a (4) of the Treaty in so far as they considered that Directive 91/173/EEC simply represented a minimum rather than complete harmonization and that Member States could therefore adopt stricter provisions concerning the use of PCP.

As this legal point of view was not accepted by the Commission, infringement proceedings for non-conformity of the national implementing measures to Directive 91/173/EEC were initiated with a letter of formal notice of 28 March 1994 addressed to Denmark in accordance with Article 169 of the Treaty (Infringement No 93/2180).

In its letter the Commission noted that

- Article 24 of Order No 454 of 16 June provides for a general procedure for granting exceptions regarding a concentration of PCP equal to or greater than 0,1 % by mass in substances and preparations placed on the market whereas Article 1 of the Directive provides only for four specific exceptions (see point 2),
- Article 5 of Order No 582 of 28 November 1977 stipulates a limit of one part per million of traces of dioxins (H_6CDD) in PCP whereas Article 1 of the Directive fixes this limit at four points per million, and
- the Danish legislation contains no rule on the labelling and packaging of PCP whereas Article 1 of the Directive provides for a series of rules.

After numerous contacts between the Commission and the Danish authorities, the latter declared their readiness to comply with the Directive on the third point mentioned in the letter of formal notice and announced their intention of submitting a request for the application of Article 100a (4) in respect of the points on which they wish to maintain stricter rules.

The Danish authorities made this request by letter of 31 January 1995 from their Permanent Representation renotifying their existing national measures.

The legal position concerning the request from the Danish authorities is as follows:

According to Article 1 thereof, Order No 582 of 28 November 1977 applies to chlorinated phenols and their salts and to H_6CDD and all its isomers. Under Article 3 of that Order, the use of chlorinated phenols and their salts is prohibited in the manufacture of wood preservatives. Article 5 stipulates that the content of H_6CDD in pentachlorophenol and its salts may not exceed one part per million. This fixing of the maximum H_6CDD content has made it impossible in practice to use PCP for other industrial purposes than the production of wood preservatives, which is already expressly prohibited under Article 3. However, Article 7 gives the Danish Environmental Protection Agency general powers to authorize exceptions to these rules, although so far these have never been used.

Order No 454 of 16 June 1991 contains provisions restricting the sale and use of a number of categories of dangerous chemical substances and products. A new Article 14a added the ban on the sale of chemical substances and products containing pentachlorophenol or its salts and esters in concentrations equal to or greater than 0,1 % by mass.

This provision was inserted in Order No 454 of 16 June 1991 by Order No 446 of 7 June 1992 in order to transpose the maximum PCP content laid down by Directive 91/173/EEC. Consequently, and by virtue of the fact that Article 24 of the Order of 16 June 1991 allows the Environmental Protection Agency to authorize exceptions to its rules in specific cases, any request to use PCP for industrial or non-industrial purposes must since the date of adoption of Order No 446 (7 June 1992) be made in accordance with this procedure which replaces the procedure for the authorization of derogations provided for in Article 7 of Order No 582 of 28 November 1977, save as regards the H_6CDD content is PCP.

The Danish authorities have indicated their intention to keep this system for the authorization of derogations in force without exempting the four specific exceptions provided for by the Directive which they consider inadequate in terms of the protection of the environment and human health. As no derogation has yet been granted for PCP under this authorization system, it has proved as strict in its application as the system of prohibition in principle provided for by Directive 91/173/EEC, and more restrictive than the system of mandatory exceptions pursuant to that Directive.

Consequently, the request by the Danish authorities to apply Article 100a (4) relates to the first two points of non-conformity with Directive 91/173/EEC mentioned in the letter of formal notice, i.e. the maintenance of a system for the authorization of derogations for the use of PCP and the limit on the H₆CDD content in PCP.

As regards the requirements of Directive 91/173/EEC concerning the labelling and packaging of PCP, the Danish authorities notified a draft order on 14 July 1995 amending Order No 454 of 16 June 1991 to order to comply with the Directive. As a result, the Commission's departments have suspended the infringement proceedings initiated.

On 14 July 1995 the Danish authorities notified a draft 'Order on restrictions on the sale and use of pentachlorophenol', the aim of which is to replace the relevant provisions on PCP by a single legislative act. If it is adopted, this draft will not change the object of the Danish request to apply Article 100a (4) since in essence it represents merely a consolidation of the provisions in force.

It was examined by the Commission's departments as part of the procedure for the notification of new technical rules by the Member States in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and Regulations⁽¹⁾, as last amended by European Parliament and Council Directive 94/10/EC⁽²⁾, insofar as it also lays down provisions on the packaging and labelling of substances and products containing PCP. With these latter provisions, Denmark has complied with Directive 91/172/EEC. Consequently, the Commission's departments have suspended the infringement proceedings initiated.

To back up their request, the Danish authorities sent a report dated 22 July 1994 on human health and environmental concerns of PCP to the Commission. Among other things it gives the background to the industrial use of PCP in Scandinavia, particularly Denmark, as well as the regulatory policy of the Danish Government to counter the damage and risks caused by PCP and dioxins. According to this report, PCP was used in the past

by Danish producers as a preservative in mushroom cultivation, the treatment of leather and textiles.

In 1977, most industrial uses were prohibited (by Environment Ministry Order No 582 of 28 November 1977), and this was accompanied by the fixing of a maximum limit of one part per million for dioxins containing PCP and an action plan to limit the effects of dioxins.

Pesticides containing PCP have not been sold in Denmark since 1981. In spite of these measures, the report notes that in a number of cases, PCP has been found in groundwater in Denmark. Much of this unpurified groundwater finds its way into the water supply of the population.

Monitoring programmes have apparently found PCP in groundwater in concentrations (0,1 µg/l for individual substances and 0,5 µg/l in total) above the maximum limit laid down for drinking water (in accordance with Order No 515 of 29 August 1988 transposing Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption⁽³⁾).

The following table shows the PCP concentrations at various sites in Denmark, which can be as high as 20 µg/l in groundwater below landfills:

Site	PCP (µg/l)
Groundwater, drinking water source	<0,01 — 0,35
Groundwater below landfill	<0,1 — 20
Soil covering landfill	0,1 — 10 (µg/kg)
Lake	0,08
Marine sediments	10 — 20 (µ/kg)

Source: Danish Environmental Protection Agency, 1985.

The limit of one part per million of dioxin in PCP was introduced to reduce emissions of dioxins on incineration, in particular, of wooden products treated with PCP.

As the use of PCP to treat wood has often led to environmental contamination through very high concentrations of PCP, the Danish authorities

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8.

⁽²⁾ OJ No L 100, 19. 4. 1994, p. 30.

⁽³⁾ OJ No L 229, 30. 8. 1980, p. 11.

conclude that allowing the use of PCP for the purposes provided for in Directive 91/173/EEC would not provide adequate protection for human health and the environment.

(4) **Opinions of the Member States and independent expert's report required by the Commission**

A. Opinions of the Member States

An acknowledgement of receipt of the Danish notification of 31 January 1995 was sent to its Permanent Representative on 12 April 1995.

The notification was transmitted to the other Member States for their opinions. The Commission has received opinions from Finland, Germany, Sweden, the Netherlands, Luxembourg and Portugal.

Finland considers that the conditions for the application of Article 100 a (4) have been met in this case and that the Commission should confirm the Danish measures. Moreover, Finland has expressed its desire to raise the level of protection provided by Directive 91/173/EEC through common action by the Member States to adapt it to a high level of protection as provided for in Article 100a (3) of the Treaty.

Germany lays emphasis on the Danish Government's intention to maintain in force stricter bans on PCP. Moreover, it is in favour of a total ban on the production, use and marketing of PCP on environmental and health grounds.

Sweden supports the Danish measures which in its opinion are neither a discriminatory measure, nor a disguised restriction on trade between the Member States. In particular, it refers to conclusive tests conducted in Sweden some fifteen years ago when PCP was replaced as a wood preservative.

The Netherlands shares Denmark's opinion that Directive 91/173/EEC offers an inadequate level of protection and refers in this connection to its own request for the application of Article 100a (4).

Luxembourg is in favour of stricter limits on the dioxin content in PCP and on the use of PCP.

Portugal considers that the technical reasons mentioned by Denmark to not prove that the use of PCP in accordance with Directive 91/173/EEC

aggravates the situation described regarding the accumulation of the substance in question.

The Portuguese authorities are however ready to accept that the specific situation prevailing in Denmark could justify stricter measures concerning the local treatment of wood. However, they are opposed to any attempt to introduce a future total ban on the use of PCP and its derivatives, particularly in uses where the risks are controlled and where alternative products are still not well known, especially their effects on the environment. Finally, the Portuguese authorities fear that a failure to apply the Directive in full could have very serious economic consequences for those industries using PCP.

B. Independent expert's report required by the Commission

The Commission requested the assistance of an internationally recognized expert, Professor Rappe, of the Institute of Environmental Chemistry at the University of Umeå in Sweden, to assess:

- whether there are special circumstances concerning environmental and health protection in Denmark, and
- the commercial effects on the internal market of a possible application of the Danish measures in question.

In his report to the Commission, Professor Rappe analysed the various ways in which PCP could be discharged into the environment (evaporation of PCP from water and agricultural land and from treated products). He referred to the toxicity of PCP (particularly for aquatic organisms where concentrations as low as 0,1 µg/litre may be enough to kill for example certain algae, molluscs, crustaceans and fish) and certain polychlorodibenzodioxins (PCDD) and -furans (PCDF), which are secondary products or impurities often released during the high temperature incineration of PCP.

In Denmark, the major problem arising from the use of PCP is apparently contamination of groundwater and drinking water supplies. Groundwater is the main source of drinking water supplies for the population. A survey launched in 1985 by the Danish Environmental Protection Agency showed that in some cases, concentrations of PCP in groundwater were as high as 0,35 µg/l, whereas the limit laid down in the guidelines for impurities of chlorinated substances by the Danish authorities

was only 0,1µg/l. At a conference of experts from the Nordic countries (Norway, Sweden, Finland and Denmark) in February 1995, it was observed that drinking water polluted by chlorophenols represented a high cancer risk. This is consistent with the classification of PCP in Community legislation as a Category 3. carcinogen (see description of PCP in point 1).

The data in the report supplied by the Danish authorities confirm these findings. Measurements in 1990 at two sites at different depths (at Gørlev, Zealand at a depth of 12,5 m and Jarbaek, Jutland at a depth of 72 m) also showed concentrations of 0,35 µg/l and 0,28 µg/l (although a specific source of this contamination has not been identified).

As regards the effects on the internal market, Professor Rappe takes the view that these are practically non-existent since estimates of the supplies of PCP in Denmark vary from seven to a maximum of 30 tonnes per year (1984 figures for the period before the virtual ban on the use of PCPs in Denmark). This very small amount would, in the case of the exceptional authorization of the industrial uses of PCP provided for by Directive 91/173/EEC, in any event be imported from third countries (in the absence of Community production of PCP).

III. LEGAL ASSESSMENT

(5) Formal conditions for the application of Article 100a (4)

In accordance with the principle set out by the Court of Justice in its Judgment of 17 May 1994⁽¹⁾ concerning the Commission Decision of 2 December 1992 confirming the German regulation of 12 December 1989 on the prohibition of PCP in Germany⁽²⁾, a Member State which intends to continue to apply, after the expiry of the deadline for transposing the harmonization measure referred to in Article 100a (1), national provisions derogating therefrom is obliged to notify them to the Commission.

The aim of the procedure provided for in Article 100a (4) is to ensure that no Member State will be able to apply national regulations which derogate from the harmonized rules without having obtained confirmation from the Commission. A Member State will therefore be authorized to apply the

national provisions notified only after having obtained a Commission decision confirming them. In turn, it is the responsibility of the Commission to verify whether the provisions in question are justified by the major needs referred to in the first subparagraph of Article 100a (4) and do not constitute either a means of arbitrary discrimination or a disguised restriction on trade between Member States. The Commission examined the measures notified in the light of these considerations.

Denmark, which voted against the final adoption of Directive 91/173/EEC in the Council, duly communicated those provisions of its national regulations that it intends to continue to apply after the expiry of the deadline for transposing Directive 91/173/EEC. The first notification of these measures was made before expiry of the said deadline for transposition of 30 June 1992. However, at this stage of the procedure, Denmark did not wish, because of its particular interpretation of the Directive (cf. point II.3 above), to make this a notification based on Article 100a (4) although it has since the outset, as proof of its good faith, indicated that some of the measures adopted were stricter than the provisions of the Directive.

Consequently, the Commission was unable to adopt a position on this matter before Denmark was deemed to be in infringement of the Treaty following expiry of the deadline for transposing the Directive. However, although the formal request for application of Article 100a (4) was not presented before expiry of the deadline in June 1992, the Commission considers that in this case this should not prevent it from being examined. The Danish authorities announced their intention of making formal notification under Article 100a (4) as soon as they were convinced, following discussions with the Commission's departments and the initiation of infringement proceedings, of the soundness of the Commission's argument regarding the nature of the Directive and of the need to notify under the said Article 100a (4) the stricter measures that Denmark intends to continue to apply.

As regard the admissibility of the notification from the point of view of timing, the Commission considers in this case that Denmark has not made abusive use of the notification pursuant to Article 91/173/EEC, given that Denmark notified in good faith the more restrictive provisions of its national legislation that it intends to continue to apply after the period for transposal of the Directive and that it made its formal request for application of Article 100a (4) of the Treaty as soon as it recognized the soundness of the Commission's interpretation of the nature of the Directive.

⁽¹⁾ Case C-41/93 (*French Republic v. Commission*), ECR 1994, I-1829.

⁽²⁾ OJ No L 316, 9. 12. 1994, p. 43.

As regards those points on which the Danish authorities intend to maintain stricter rules than under Community legislation, namely the dioxin content of PCP and the system for authorizing exceptions for the use of PCP, it may be noted that this legislation was in existence before Directive 91/173/EEC. The lower limit for H₄CDD in PCP was introduced by Order No 582 of 28 November 1977 and has remained in force ever since. The system for the authorization of exceptions, although replaced by the provisions of Order No 454 of 16 June 1991, essentially also goes back to the said Order of 1977.

Since the authorization system provided for by the Danish legislation has never led to the granting of a derogation for PCP, it has proved, firstly, to be as strict as the system of prohibition on principle provided for by Directive 91/173/EEC and, secondly, more restrictive than that Directive as regards the system of mandatory exceptions provided therein. In this respect, the Danish provisions may be the subject of a notification pursuant to Article 100a (4). However, since the authorization system for exceptions under the Danish legislation would, in principle, permit the Danish authorities to authorize the use of PCP even for applications not covered by the four exceptions allowed under Directive 91/173/EEC, confirmation of the Danish provisions must be made conditional on the conformity with the provisions of that Directive of any future authorization granted by the Danish authorities concerning PCP.

(6) **Verification that the measures examined are justified on grounds of major needs**

A. PCP contamination

The Danish measures in question have the twin aim of limiting release of PCP itself into the environment through a system for the authorization of exceptions for (industrial) use and imposing a stricter limit on the content of dioxins in PCP in order to minimize emissions of these very toxic substances. As regards the dangers from PCP, the expert opinions at the Commission's disposal described above, particularly the report by the independent expert, show that there is a specific risk to groundwater because of high concentrations of PCP. In view of the fact that groundwater is the main source of drinking water supplies in Denmark, very strict controls over any additional infiltration of PCP are required. High concentra-

tions of PCP up to 0,35 µg/l were recorded in groundwater in the mid-80s and even in 1990 despite the cessation of the main uses of PCP as a constituent of pesticides used in farming and as an industrial wood preservative, showing how persistent PCP is in the environment in Denmark.

According to the report presented by the Danish authorities, the high concentration of PCP in drinking water is due to poor absorption by the alkaline soils common in Denmark (the best absorption measured is between 4,6 and 5,1 pH, and there is no absorption above 6,8 pH).

PCP therefore passes rapidly from the surface into groundwater. Furthermore, the PCP in groundwater does not easily degrade at the low water temperatures found in Denmark. Thus the PCP reaching groundwater at high concentrations tends to accumulate. It is this groundwater which is used, unpurified, as the main source of drinking water.

As already discussed, Directive 80/778/EEC on the quality of water intended for human consumption lays down 'maximum admissible concentrations' for certain toxic substances, including pentachlorophenol in the pesticides and related products group which has a threshold of 0,1 µg/l (see Annex I, table D: parameters concerning toxic substances). In the context of this assessment of the justification of the important human health and environmental protection requirements asserted by Denmark, the limit values of Directive 80/778/EEC may serve as a yardstick for the acceptability of Member States' measures, particularly in view of the fact that the first indent of Article 7 (3) of the Directive provides that 'the values to be fixed by the Member States must be less than or the same as the values shown in the "maximum admissible concentration" column'. Since the measurements made in Denmark showed that the maximum admissible concentration of 0,1 µg/l was exceeded by a factor of 3,5 (measured value 0,35 µg/l), there is indeed strong justification for action to improve or at least prevent a deterioration in the quality of groundwater in this context.

PCP is also highly toxic to aquatic organisms (such as algae, molluscs, crustaceans and fish). For example, a concentration of 70 µg/kg PCP was measured in blue mussels in a Danish fjord. It can therefore be concluded that contamination of surface marine water also constitutes a source of intoxication in Denmark.

It is probable that these levels will be reached again and possibly even exceeded if the system of exceptions for industrial uses provided for by Directive 91/173/EEC was allowed (particularly as regards the three cases of industrial use, namely the treatment of wood, impregnation of fibres and heavy-duty textiles and as a synthesizing and/or processing agent in industrial processes; see point (2) above). Under these conditions, the refusal of the Danish authorities to transpose the exceptions set out in the restrictions of the use of PCP under Directive 91/73/EEC may be considered justified on grounds of major needs, given the specific situation in that Member State.

As there is no other means of reducing PCP emissions by industrial uses, this measure is also commensurate with the objective to be achieved.

B. Dioxin contamination

The fixing in 1977 of a maximum limit of 1 µg/kg of hexachlorodibenzodioxins (H₆CDD) in PCP and its salts has resulted in the cessation of practically all industrial use of PCP in Denmark due to the fact that it was not technically possible to achieve such a low level of impurities.

As the Danish authorities stated in their report on the dangers of PCP, this measure forms part of an action plan to reduce the effects of dioxins. The reduction in dioxin emissions was a complementary measure to the ban on the use of chlorinated phenols and their salts in the manufacture of wood preservatives.

If the non-inclusion of the industrial uses allowed by Directive 91/173/EEC in Danish legislation is considered justified, there is therefore no reason to refuse the continued application of the maximum dioxin limit which is lower than that provided for in the Directive.

As the Commission has already noted in its decision of 14 September 1994 on the prohibition of PCP in Germany, it (the Commission) considers it reasonable that a Member State should wish to reduce the exposure levels of certain populations at risk.

According to the Nordic experts at their February 1995 conference, a daily dose of 5 pg/kg of body weight would be acceptable for their countries. It should be pointed out in this connection that there is no international consensus or agreement at present at Community level on the permissible daily dose of dioxins. The limit fixed by the Nordic

countries is half-way between that recommended by certain Member States such as the United Kingdom and Germany (1 pg/kg) and certain third countries such as Canada (10 pg/kg).

The available data show a wide variation in the concentration of dioxins in blood and in contamination of people in the Scandinavian countries, including Denmark. Experts from Scandinavia have concluded that certain population groups are likely to show dioxin uptake levels approaching or even exceeding the permissible daily dose (5 pg/kg) in some cases. The Danish authorities mention an estimate in this connection according to which babies being breast-fed receive a dose 50 times higher. Hence, according to the experts, any additional exposure to dioxins through contaminated food in particular should be limited as far as possible.

According to Professor Rappe, it would be fully in keeping with those recommendations to limit the contamination of industrial products by PCDDs and PCDFs as far as possible. Moreover, having examined all the facts and circumstances surrounding the Danish measures, the Commission does not have any expert findings that would enable it to conclude that less stringent measures are available which would achieve the same level of protection.

(7) Verification that the measures examined are not arbitrarily discriminatory in nature

The exclusion of any arbitrary discrimination as provided for in the second subparagraph of Article 100a (4) is intended to prohibit any material discrimination which, in line with Court rulings, consists either in giving different treatment to similar situations or similar treatment to different situations.

The Danish legislation applies without distinction to all substances and preparations containing PCP, whether they are made in Denmark or supplied by other Member States. With regard to the application of the legislation, since no derogation pursuant to Article 24 of the Order of 16 June 1991 has been authorized, the Commission has no evidence that this instrument has been used as a means of arbitrary discrimination between economic operators in the Community.

In view of the above, the Commission considers that the measures examined do not constitute a means of arbitrary discrimination in trade between Member States.

(8) **Verification that the measures examined do not constitute a disguised restriction on trade between Member States**

This concept, enshrined in the second subparagraph of Article 100a (4), is intended to prevent the restrictions based on the criteria of the first subparagraph being applied for inappropriate reasons, and in reality constituting economic measures introduced to impede the import of products from other Member States in order indirectly to protect national production.

PCP is no longer produced in the Community and the expert report by Professor Rappe states that PCP imports in the past have not exceeded 30 tonnes per year. The effects of the legislation on trade between Denmark and the Member States of the Community are therefore very small. The Member States consulted during the examination of the application were not opposed to the Danish measures. Nor has the Commission received any complaints from industry.

Moreover, the stricter system for authorizing exceptions for the use of PCP is likely to restrict economic activities principally in Denmark insofar as exceptions for industrial use are not possible there. As far as the various possible substitutes are concerned, mainly in the principal industrial sectors, treatment of wood and textiles, Denmark has no particular economic interests in their development, production or export.

The Commission therefore considers that there is no evidence of a disguised restriction on trade between Member States.

IV. CONCLUSION

In the light of the above, the Commission is of the opinion that the provisions notified by Denmark pursuant to Article 100a (4):

- should be considered justified on grounds of the major needs of protection of life and health

of humans and animals referred to in Article 36 of the EC Treaty and environmental protection, that they are necessary given the special circumstances in that Member State in relation to these requirements and are not disproportionate to the aims pursued, and

- do not constitute either a means of arbitrary discrimination or a disguised restriction on trade between Member States,

HAS ADOPTED THIS DECISION:

Article 1

1. The provisions of Environment Ministry Orders No 582 of 28 November 1977 limiting dioxins in pentachlorophenol etc., No 454 of 16 June 1991 restricting the sale and use of certain dangerous chemical substances and products for specific purposes and No 446 of 7 June 1992 amending the Order restricting the sale and use of certain dangerous chemical substances and products for specific purposes, notified by Denmark, are hereby confirmed.

2. No derogations pursuant to Article 24 of the Order of 16 June 1991 shall be granted which go beyond the provisions of Directive 91/173/EEC with regard to exceptions to the ban on the use of PCP.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 26 February 1996.

For the Commission

Martin BANGEMANN

Member of the Commission