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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 836/96
of 7 May 1996**

**providing for the rejection of applications for export licences in relation to
products falling within CN code 1101 00 15**

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 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾, as last amended by Regulation (EC) No 285/96 ⁽⁴⁾, and in particular Article 7 (3) thereof,

Whereas the quantity covered by applications for advance fixing of refunds on common wheat flour could give rise

to speculation; whereas it has therefore been decided to reject all applications for export licences of such products made on 3 and 6 May 1996,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with Article 7 (3) of Regulation (EC) No 1162/95, applications for export licences with advance fixing of refunds for products falling within CN code 1101 00 15 made on 3 and 6 May 1996 shall be rejected.

Article 2

This Regulation shall enter into force on 8 May 1996.

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

Done at Brussels, 7 May 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 117, 24. 5. 1995, p. 2.

⁽⁴⁾ OJ No L 37, 15. 2. 1996, p. 18.

COMMISSION REGULATION (EC) No 837/96

of 7 May 1996

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

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

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

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

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

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

Whereas Council Regulation (EEC) No 990/93⁽⁶⁾, as amended by Regulation (EC) No 1380/95⁽⁷⁾, prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof and in Council Regulation (EC) No 462/96⁽⁸⁾; whereas account should be taken of this fact when fixing the refunds;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁹⁾, as last amended by Regulation (EC) No 150/95⁽¹⁰⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽¹¹⁾, as last amended by Regulation (EC) No 2853/95⁽¹²⁾;

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 May 1996.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁴⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ No L 214, 8. 9. 1995, p. 16.

⁽⁶⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁷⁾ OJ No L 138, 21. 6. 1995, p. 1.

⁽⁸⁾ OJ No L 65, 15. 3. 1996, p. 1.

⁽⁹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽¹⁰⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽¹¹⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹²⁾ OJ No L 299, 12. 12. 1995, p. 1.

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

Done at Brussels, 7 May 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 7 May 1996 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund ⁽¹⁾
	— ECU/100 kg —
1701 11 90 100	36,34 ⁽¹⁾
1701 11 90 910	36,65 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	36,34 ⁽¹⁾
1701 12 90 910	36,65 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,3950
	— ECU/100 kg —
1701 99 10 100	39,50
1701 99 10 910	39,84
1701 99 10 950	39,84
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,3950

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

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

⁽³⁾ 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.

COMMISSION REGULATION (EC) No 838/96

of 7 May 1996

fixing the maximum export refund for white sugar for the 38th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1813/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1813/95 of 26 July 1995 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, as amended by Regulation (EC) No 706/96⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1813/95 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 38th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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 thereof and in Council Regulation (EC) No 462/96⁽⁷⁾; whereas account should be taken of this fact when fixing the refunds;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 38th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1813/95 the maximum amount of the export refund is fixed at ECU 42,850 per 100 kilograms.

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.

Article 2

This Regulation shall enter into force on 8 May 1996.

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

Done at Brussels, 7 May 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.
⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.
⁽³⁾ OJ No L 175, 27. 7. 1995, p. 12.
⁽⁴⁾ OJ No L 98, 19. 4. 1996, p. 11.
⁽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.

COMMISSION REGULATION (EC) No 839/96

of 7 May 1996

fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾,

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

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

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

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

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

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 May 1996.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ No L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 7 May 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

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

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question in the event of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,95	—	0,00
1703 90 00 ⁽¹⁾	11,62	—	0,00

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

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

COMMISSION REGULATION (EC) No 840/96

of 7 May 1996

laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries⁽¹⁾, and in particular Article 21 thereof,

Whereas, for the purpose of compiling external trade statistics, it is necessary to define the implementing procedures for the collection of data and for the processing, transmission and dissemination of the results, in order to obtain harmonized statistics;

Whereas it is essential to clarify the subject of external trade statistics, especially in order to avoid dual recording or to exclude certain transactions and to define the intervals at which they are to be drawn up;

Whereas the definition of the data to be returned needs to be supplemented, together with the procedures by which they are referred to in the statistical information medium;

Whereas it is essential to define the specific movements of goods for which special provisions are necessary; whereas Community harmonization measures need to be introduced;

Whereas it is necessary to fix the timetable for the transmission of the results to the Commission and the procedures for corrections to ensure regular and uniform dissemination;

Whereas, in view of the links which exist between external trade statistics and customs procedures, there is a need to bear in mind the provisions adopted by Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾, as amended by the Act of Accession of Austria, Finland and Sweden, and by Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽³⁾, as last amended by Regulation (EC) No 482/96⁽⁴⁾;

Whereas the relevant rules should be replaced in order to improve their transparency; whereas Commission Regulation (EEC) No 546/77⁽⁵⁾, as last amended by Regulation (EEC) No 3678/87⁽⁶⁾, Commission Regulation (EEC) No 518/79⁽⁷⁾, as amended by Regulation (EEC) No 3521/87⁽⁸⁾, Commission Regulation (EEC) No 3345/80⁽⁹⁾, Regulation (EEC) No 3678/87 and Regulation (EEC) No 455/88⁽¹⁰⁾, should therefore be repealed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on External Trade Statistics,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

For the purpose of this Regulation, 'imports' shall mean the movements of the goods referred to in point (a) of Article 6 (1) of Regulation (EC) No 1172/95, hereinafter referred to as 'the Basic Regulation' and 'exports' shall mean the movements of the goods referred to in point (b) of Article 6 (1) of the Basic Regulation.

CHAPTER 2

OBJECT AND REFERENCE PERIOD

Article 2

Pursuant to Article 6 (2) of the Basic Regulation, external trade statistics shall not cover goods:

⁽¹⁾ OJ No L 70, 17. 3. 1977, p. 13.

⁽²⁾ OJ No L 346, 10. 12. 1987, p. 12.

⁽³⁾ OJ No L 69, 20. 3. 1979, p. 10.

⁽⁴⁾ OJ No L 335, 25. 11. 1987, p. 8.

⁽⁵⁾ OJ No L 351, 24. 12. 1980, p. 12.

⁽⁶⁾ OJ No L 46, 19. 2. 1988, p. 19.

⁽¹⁾ OJ No L 118, 25. 5. 1995, p. 10.

⁽²⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽³⁾ OJ No L 253, 11. 10. 1993, p. 1.

⁽⁴⁾ OJ No L 70, 20. 3. 1996, p. 4.

- released for free circulation after being subject to inward processing or processing under customs control,
- contained in the list of exemptions set out in Annex I,
- to which the exemptions referred to in Articles 23 and 25 apply.

Article 3

1. The statistical threshold referred to in Article 12 of the Basic Regulation shall be fixed, for each type of goods, so that imports or exports exceeding ECU 800 in value or 1 000 kilograms in net mass shall be covered by external trade statistics.
2. Each Member State shall inform the Commission of the statistical threshold it has fixed in national currency.

Article 4

1. The reference period shall be the calendar month during which the goods are imported or exported.
2. When the single administrative document is the statistical information medium, the date of acceptance of the document by the customs authorities shall determine the calendar month to which the data refer.

CHAPTER 3

DEFINITIONS OF DATA

Article 5

The definitions of data referred to in Article 10 (1), (2) and (3), first indent, of the Basic Regulation and the procedures whereby they are given in the data medium are indicated in Articles 6 to 14.

Article 6

1. The 'customs destination' shall be identified by the procedure for which the codes to be indicated are given in Annex 38 to Regulation (EEC) No 2454/93.
2. Without prejudice to the provisions concerning the single administrative document, the statistical procedure shall be indicated in the data medium where the customs declaration is not required by the Member States.
3. Each Member State which makes use of the option provided for in paragraph 2 shall draw up the list of statistical procedures to be given in the data medium so that the statistics may be supplied to the Commission in accordance with the codes indicated in paragraph 4.

4. Statistical procedures shall be coded as follows:

(a) imports:

- 1 — normal,
- 2 — after outward processing,
- 5 — for inward processing, suspension system,
- 6 — for inward processing, drawback system,
- 7 — after economic outward processing for textiles;

(b) exports:

- 1 — normal,
- 2 — for outward processing,
- 5 — after inward processing, suspension system,
- 6 — after inward processing, drawback system,
- 7 — for economic outward processing for textiles.

Article 7

1. For the purposes of this Regulation:
 - (a) 'country of origin' means the country where the goods originate in accordance with Title II, Chapter 2, section 1, of Regulation (EEC) No 2913/92;
 - (b) 'country of consignment' means the country from which the goods were initially dispatched to the importing Member State, without any halt or legal operation not inherent in their transport having occurred in an intermediate country; if such halts or legal operations have occurred, the final intermediate country shall be regarded as the country of consignment;
 - (c) 'country of destination' means the last Member State to which it is known, at the time of import, that the goods are to be delivered;
 - (d) 'Member State of export or import' means the Member State in which the export or import formalities are carried out;
 - (e) 'Member State of destination' means the Member State to which it is known, at the time of import, that the goods are to be ultimately delivered;
 - (f) 'Member State of actual export' means the Member State, other than the Member State of export, from which the goods were initially dispatched for the purpose of export, if the exporter is not established in the Member State of export.

Where the goods were not initially dispatched from another Member State for the purpose of export or when the exporter is established in the Member State of export, the Member State of export shall be the same as the Member State of actual export.

2. Pursuant to point (b) of Article 10 (1) of the Basic Regulation, the country of origin shall be indicated in the statistical information medium.

The country of consignment must nevertheless be indicated in the following instances:

- (a) for goods the origin of which is not known;
- (b) for the following goods, even if their origin is known:
 - goods falling within Chapter 97 of the combined nomenclature,
 - goods imported after outward processing,
 - returned goods and other goods of Community origin.

Without prejudice to customs provisions, the indication of the country of origin shall not be compulsory in the cases provided for in (a) and (b).

3. For specific movements of goods referred to in Chapter 4, the country of origin or country of destination shall be the partner countries referred to in the chapter.

4. The countries defined in paragraph 1 shall be designated and coded in accordance with Article 9 of the Basic Regulation.

Article 8

Where the quantity of goods to be mentioned on the data medium is determined:

- (a) 'net mass' means the actual mass of the good excluding all packaging; failing any provisions to the contrary adopted pursuant to Article 10 (4) of the Basic Regulation, the net mass shall be expressed in kilograms for each subheading of the combined nomenclature;
- (b) 'supplementary units' means the units measuring quantity, other than the units measuring mass expressed in kilograms; they must be mentioned in accordance with the information set out in the current version of the combined nomenclature, opposite the subheadings concerned, the list of which is published in Part I 'Preliminary provisions' of the said nomenclature.

Article 9

1. 'Statistical value' shall be:

- on export, the value of the goods at the place and time where they leave the statistical territory of the exporting Member State,
- on import, the value of the goods at the place and time where they enter the statistical territory of the importing Member State.

2. The value of the goods referred to in paragraph 1 shall be calculated as follows:

- in the case of sale or purchase, on the basis of the invoiced amount of the goods,
- in other cases, on the basis of the amount which would have been invoiced in the case of sale or purchase.

In cases where it is established, the customs value, defined in accordance with Regulation (EEC) No 2913/92, shall be used to determine the value of the goods.

3. The statistical value must include only ancillary charges, such as transport and insurance, relating to that part of the journey which:

- in the case of exported goods, takes place in the statistical territory of the exporting Member State,
- in the case of imported goods, takes place outside the statistical territory of the importing Member State.

The statistical value shall not therefore include taxes due on export or import, such as customs duties, value-added tax, excise duty, levies, export refunds or other taxes with similar effect.

4. For goods subject to processing operations, the statistical value shall be established as if the goods had been produced wholly in the country of processing.

5. The statistical value to be given in the data medium shall be indicated in national currency. Member States may authorize the indication of a value expressed in another currency.

The exchange rate to be used in determining the statistical value shall be either the exchange rate used in calculating the dutiable value or the official exchange rate at the time of export or import.

Without prejudice to customs regulations, in the case of a periodic declaration Member States may fix a single rate for the period for conversion into national currency.

6. At the request of the Commission, Member States shall submit the information required for the adjustment of the statistical value so that it corresponds to the value of the goods, at the place and time where they cross the Community frontier.

Article 10

1. 'Mode of transport at the external frontier' means the mode of transport determined by the active means of transport with which:

- on export, the goods are presumed to leave the statistical territory of the Community,
- on import, the goods are presumed to have entered the statistical territory of the Community.

2. 'Mode of transport inland' means the mode of transport determined by the active means of transport with which:

- on export, the goods are presumed to have left the place of departure,
- on import, the goods reach the place of arrival.

This information shall be required only in the cases for which the customs legislation provides.

3. The modes of transport referred to in paragraphs 1 and 2 are as follows:

A	B	Description
1	10	Sea transport
	12	Railway wagon on sea-going vessel
	16	Powered road vehicle on sea-going vessel
	17	Trailer or semi-trailer on sea-going vessel
	18	Inland waterway vessel on sea-going vessel
2	20	Rail transport
	23	Road vehicle on railway wagon
3	30	Road transport
4	40	Air transport
5	50	Postal consignment
7	70	Fixed transport installations
8	80	Inland waterway transport
9	90	Own propulsion

4. The modes of transport shall be designated in the data medium by the codes in column A of the list shown in paragraph 3.

Member States may require the modes of transport to be designated in the data medium by the codes in column B of the said list.

5. Transport in containers within the meaning of point (g) of Article 670 of Regulation (EEC) No 2454/93, except when the mode of transport is designated by Codes 5 (50), 7 (70), 9 (90), must be indicated.

For this purpose, the relevant codes are:

- 0 — goods not transported in containers;
- 1 — goods transported in containers.

6. The nationality of the active means of transport at the external frontier which is known on import or export must also be indicated, except when the mode of transport at the Community frontier is designated by Codes 2 (20 or 23), 5 (50), 7 (70) and 9 (90).

For this purpose, the country codes defined pursuant to Article 9 of the Basic Regulation shall be used.

7. 'Active means of transport' means the means of transport which provide the motive power; in the case of intermodal transport or if there are several means of transport, the active means of transport shall be that which provides the motive power for the whole combination.

The nationality of the active means of transport shall be that of the country of registration, as known at the time of completing the formalities.

Article 11

1. 'Preference' means the tariff system whereby preferential customs duties are applicable which are wholly or partially suspended pursuant to conventions, agreements or specific regulations of the Community.

2. The preference shall be indicated in accordance with the relevant codes laid down in Regulation (EEC) No 2454/93.

Article 12

1. 'Invoiced amount' means the amount indicated in the invoice or other documents in its stead.

2. 'Currency' means the currency in which the invoiced amount is indicated.

Article 13

1. For the purposes of this Regulation,

- (a) 'transaction' means any operation, whether commercial or not, which leads to a movement of goods covered by statistics on external trade;
- (b) 'nature of the transaction' means all those characteristics which distinguish one transaction from another.

2. The list of transactions is set out in Annex II.

They shall be specified in the data medium by the code numbers in column A or by a combination of the code numbers in column A and their subdivisions in column B, as indicated in the list referred to above.

Article 14

1. 'Delivery terms' means the provisions of the sales contract which lay down the obligations of the seller and the buyer respectively, in accordance with the Incoterms of the International Chamber of Commerce.

2. The delivery terms shall be indicated in the data medium by the codes and, if necessary, the details to be mentioned in accordance with Annex III.

CHAPTER 4

SPECIFIC MOVEMENTS

Section 1

General provisions

Article 15

1. 'Specific movements of goods' means movements of goods having specific features which have some significance for the interpretation of the information and stem, as the case may be, from the movement as such, from the nature of the goods, from the transaction which results in the movement of the goods or from the exporter or importer of the goods.

2. Specific movements of goods are as follows:

- (a) repair of means of transport;
- (b) foreign and home armed forces;
- (c) industrial plant;
- (d) staggered consignments;
- (e) bunker supplies;
- (f) ships' stores;
- (g) joint production;
- (h) postal consignment;
- (i) vessels and aircraft, as defined in section 3;
- (j) deep-sea fishery;
- (k) motor vehicle and aircraft parts;
- (l) installations at sea;
- (m) military goods;
- (n) petroleum products.

3. Subject to contrary provision in this Regulation or in the absence of provisions laid down in accordance with Article 21 of the Basic Regulation, specific movements shall be mentioned according to the relevant national provisions.

Section 2

Industrial plant

Article 16

1. 'Complete industrial plant' means a combination of machines, apparatus, appliances, equipment, instruments and materials, hereinafter referred to as 'component parts', which fall under various headings of the Harmonized

System nomenclature and which are designed to function together as a large-scale unit to produce goods or provide services.

2. A simplified declaration procedure may be used for recording exports of complete industrial plant. Those responsible for supplying the statistical information shall be authorized, at their request, to use such simplified procedure in accordance with the conditions laid down in this Regulation.

All other goods which are to be used in constructing a complete industrial plant may be treated as component parts thereof, provided they are not excluded from the statistical compilation by virtue of the Basic Regulation.

3. The simplified procedure may be applied only to the export of complete industrial plant, the total statistical value of each of which exceeds ECU 1,5 million, unless they are complete industrial plant for re-use; in this case, Member States shall inform the Commission of the criteria used.

The statistical value of an industrial plant is calculated by adding the statistical values of its component parts and the statistical values of the goods referred to in the second subparagraph of paragraph 1.

Article 17

1. The subheadings applicable for the purposes of this section are those provided for in Chapter 98 of the combined nomenclature, in respect of the component parts for complete industrial plant covered by Chapters 63, 68, 69, 70, 72, 73, 76, 82, 84, 85, 86, 87, 90 and 94, with reference to each of these chapters and to each of the individual headings of which they are composed.

2. For the purposes of this section, component parts falling within a given chapter shall be classified under the complete industrial plant subheading of Chapter 98 for the chapter in question unless the competent department listed in that Chapter requires the classification of the goods in Chapter 98 under the appropriate complete industrial plant subheadings at the level of the headings of the Harmonized System nomenclature or to apply the provisions of paragraph 3.

However, the simplified procedure shall not prevent the competent department from classifying certain component parts under the relevant combined nomenclature subheadings within the meaning of point (b) of Article 1 (2) of Council Regulation (EEC) No 2658/87⁽¹⁾.

3. Where the competent department referred to in paragraph 2 considers the value of the items of complete industrial plant to be too low to justify recording them under the subheadings relating to the chapters under which they fall, specific subheadings, as provided for in the combined nomenclature, shall apply.

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

Article 18

In accordance with the combined nomenclature, the code numbers for complete industrial plant subheadings shall be composed in conformity with the following rules:

1. the code shall comprise eight digits;
2. the first two digits shall be 9 and 8 respectively;
3. the third digit, which shall serve to identify exports of complete industrial plant, shall be 8;
4. the fourth digit shall vary from 0 to 9 according to the main economic activity carried out by the complete industrial plant exported and in accordance with the classification given below:

<i>Code</i>	<i>Economic activities</i>
0	energy (including production and distribution of steam and hot water),
1	extraction of non-energy-producing minerals (including preparation of metalliferous ores and peat extraction); manufacture of non-metallic mineral products (including manufacture of glass and glassware),
2	iron and steel industry; manufacture of metal articles excluding mechanical engineering and construction of means of transport),
3	mechanical engineering and construction of means of transport; instrument engineering,
4	chemical industry (including man-made fibres industry); rubber and plastics industry,
5	food, drink and tobacco industry,
6	textile, leather, footwear and clothing industry,
7	timber and paper industry (including printing and publishing); manufacturing industries not classified elsewhere,
8	transport (excluding services connected with transport, services of travel agents, freight brokers and other agents facilitating the transport of passengers or goods, storage and warehousing) and communications,
9	collection, purification and distribution of water; services connected with transport; economic activities not classified elsewhere;

5. the fifth and sixth digits shall correspond to the number of the chapter of the combined nomenclature to which the subheading relates. However, for the purposes of Article 17 (3), these fifth and sixth digits shall be 9;

6. for complete industrial plant subheadings:

— at combined nomenclature chapter level, the seventh and eighth digits shall be 0,

— at harmonized system heading level the seventh and eighth digits shall correspond to the third and fourth digits of that heading;

7. The competent department referred to in Article 17 (2) shall prescribe the designation and the code number to be used in the statistical information medium to identify the component parts of a complete industrial plant.

Article 19

1. Those responsible for supplying statistical information may not use the simplified declaration procedure defined in Article 16 (3) without prior authorization in accordance with the detailed rules which each Member State shall lay down within the framework of this section.

2. In the case of a complete industrial plant whose component parts are exported by several Member States, authorization for the use of the simplified declaration procedure shall be given by each Member State for the exports which concern it. However, such authorization may be issued only on presentation of documentary evidence that the total statistical value specified in Article 16 (3) is reached or that other criteria justify the use of the simplified procedure.

3. Where the department referred to in Article 17 (2) is not the department responsible for compiling the statistics on the external trade of the exporting Member State, it shall not issue authorization without the approval of the latter.

*Section 3***Imports and exports of vessels and aircraft***Article 20*

For the purposes of this section:

- (a) *vessels* means: the vessels used for sea transport, referred to in Additional Notes 1 and 2 of Chapter 89 of the combined nomenclature and warships;
- (b) *aircraft* means: aeroplanes falling within CN code 8802 for civilian use, provided they are used by an airline, or for military use;
- (c) *ownership of a vessel or an aircraft* means: the fact of a physical or legal person's registration as owner of a vessel or an aircraft;

(d) *partner country* means:

- on import, the third country of construction if the vessel or aircraft is new; in other cases it shall mean the third country where the natural or legal person transferring the ownership of the vessel or aircraft is established,
- on export, the third country where the natural or legal person to whom the ownership of the vessel or aircraft is transferred is established.

Article 21

1. External trade statistics shall cover:

- (a) the transfer of ownership of a vessel or aircraft from a physical or legal person established in a third country to a physical or legal person established in a Member State; this transaction shall be treated in the same way as an import;
- (b) the transfer of ownership of a vessel or aircraft from a physical or legal person established in a Member State to a physical or legal person established in a third country; this transaction shall be treated in the same way as an export;
- (c) the placing of vessels or aircraft under inward processing customs procedures and their re-export after inward processing to a destination in a third country;
- (d) the placing of vessels or aircraft under outward processing customs procedures and their re-import after outward processing.

2. The results of the operations referred to in points (a) and (b) of paragraph 1 shall be compiled using the following data:

- the code corresponding to the subdivision of the combined nomenclature,
- the statistical procedure,
- the partner country,
- the quantity, as number of items and in any other supplementary units laid down in the combined nomenclature, for vessels, and the quantity, in net mass and in supplementary units, for aircraft,
- the statistical value.

Article 22

Member States shall use every available source of information for the purpose of complying with this section.

Section 4

Armed forces

Article 23

External trade statistics shall not cover:

- goods exported to national armed forces stationed outside the statistical territory,
- goods reimported after being conveyed by national armed forces outside the statistical territory,
- goods acquired or disposed of in the statistical territory of a Member State by foreign armed forces which are stationed there.

Article 24

1. Where goods are exported to foreign armed forces stationed outside the statistical territory of the exporting Member State, the country of destination shall be deemed to be the country where they are stationed.

2. When goods are imported from foreign and armed forces stationed outside the statistical territory of the importing Member State, the country of origin shall be deemed to be the country where they are stationed.

Section 5

Repair of means of transport

Article 25

External trade statistics shall not cover:

- goods imported for the repair of foreign means of transport, containers and related transport equipment which are temporarily in the statistical territory of the importing Member State but which are not subject to inward processing under customs control,
- goods for the repair of the exporting Member State's means of transport, containers and related transport equipment which are temporarily outside the statistical territory of the said Member State but which are not subject to outward processing under customs control,
- parts replaced during the repairs referred to in the first and second indents and which do not leave the statistical territory where the repairs take place.

CHAPTER 5

COMPILATION AND TRANSMISSION OF RESULTS

Article 26

Pursuant to Article 13 of the Basic Regulation, Member States shall transmit to the Commission without delay, and no later than six weeks after the end of the reference period, the monthly results of their external trade statistics.

Article 27

1. If the data contained in a statistical information medium have to be corrected, the corrections shall be made to the figures of the reference period.
2. Member States shall transmit the corrected monthly data at least every three months, together with a file containing the cumulative and corrected annual data.

Article 28

Member States shall retain the statistical information media referred to in Articles 7 and 23 of the Basic Regu-

lation, or at least the information contained therein, for at least two years after the end of the year to which the media refer.

CHAPTER 6

FINAL PROVISIONS

Article 29

Member States shall transmit to the Commission their national instructions and any subsequent amendments.

Article 30

Regulations (EEC) No 546/77, (EEC) No 518/79, (EEC) No 3345/80, (EEC) No 3678/87 and (EEC) No 455/88 are repealed.

References to the repealed Regulations shall be deemed to refer to this Regulation.

Article 31

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

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

Done at Brussels, 7 May 1996.

For the Commission

Yves-Thibault DE SILGUY

Member of the Commission

*ANNEX I***List of exceptions referred to in Article 2**

Data shall not be compiled for the following goods:

- (a) means of payment which are legal tender, and securities;
 - (b) monetary gold;
 - (c) emergency aid for disaster areas;
 - (d) because of the diplomatic or similar nature of their intended use:
 - 1. goods benefiting from diplomatic and consular or similar immunity;
 - 2. gifts to a Head of State or to members of a government or parliament;
 - 3. items being circulated within the framework of administrative mutual aid;
 - (e) provided that they are not the subject of a commercial transaction:
 - 1. decorations, honorary distinctions and prizes, commemorative badges and medals;
 - 2. travel equipment, provisions and other items, including sports equipment, intended for personal use or consumption which accompany, precede or follow the traveller;
 - 3. bridal outfits, items involved in moving house, or heirlooms;
 - 4. coffins, funerary urns, ornamental funerary articles and items for the upkeep of graves and funeral monuments;
 - 5. printed advertising material, instruction for use, price lists and other advertising items;
 - 6. goods which have become unusable, or which cannot be used for industrial purposes;
 - 7. ballast;
 - 8. photographs, exposed and developed films, drafts, drawings, copies of plans, manuscripts, files and records, official printed matter and printing proofs, as well as all information media used for an international exchange of information;
 - 9. postage stamps;
 - 10. pharmaceutical products used at international sport events;
 - (f) products used as part of exceptional common measures for the protection of persons or of the environment;
 - (g) goods which are the subject of non-commercial traffic between persons resident in the frontier zones defined by the Member States (frontier traffic); products obtained by agricultural producers on properties located outside, but adjacent to, the statistical territory where their holding is located.
-

ANNEX II

List of transactions referred to in Article 13 (2)

Column A	Column B
1. Transactions involving actual or intended <i>transfer of ownership</i> against <i>payment</i> or <i>other consideration</i> (financial or otherwise) (other than the transactions listed under 2, 7 and 8) ^(a) ^(b) ^(c)	1. Final purchase/sale ^(b) 2. Goods, dispatched for viewing, trial samples, goods dispatched with right of return and transactions involving commission 3. Transactions involving payment in kind 4. Sale to foreign travellers for their personal use 5. Financial leasing ^(c)
2. Return of goods already recorded under code 1 ^(d) ; replacement of goods free of charge ^(d)	1. Return of goods 2. Replacement for returned goods 3. Replacement (e.g. under terms of guarantee) for goods not returned
3. Transactions (not temporary in nature) involving <i>transfer of ownership</i> but without consideration (financial or otherwise)	1. Deliveries of goods under programmes wholly or partly financed by the European Community 2. Other government-aid deliveries 3. Other aid deliveries (individuals and non-governmental organizations) 4. Other transactions
4. Transactions <i>with a view to processing under contract</i> ^(e) or <i>repair</i> ^(f) (other than the transactions recorded under 7)	1. Processing 2. Repair and maintenance against payment 3. Repair and maintenance free of charge
5. Transactions <i>after processing under contract</i> ^(e) or <i>repair</i> ^(f) (other than the transactions recorded under 7)	1. Processing 2. Repair and maintenance against payment 3. Repair and maintenance free of charge
6. Transactions <i>not involving transfer of ownership</i> , e.g. hire, loan, operational leasing ^(g) and other temporary uses ^(h) , with the exception of processing under contract or repair (delivery and return)	1. Hire, loan, operational leasing 2. Other temporary uses
7. Transactions in connection with <i>joint defence programmes</i> or other intergovernmental production programmes (e.g. Airbus)	
8. Delivery of <i>building material and equipment</i> in connection with construction or civil engineering activities constituting part of a general contract ⁽ⁱ⁾	
9. Other transactions	

^(a) This item covers most exports and imports, i.e. transactions in respect of which:

- ownership is transferred from resident to non-resident or vice versa,
- payment of other compensation (payment in kind) is or will be made.

It should be noted that this also applies to goods sent between entities of a same enterprise or of a same group of enterprises and to goods sent from/to central distribution depots, unless no payment or other compensation is made in respect of these transactions (in which case such transactions shall be listed under heading 3).

^(b) Including spare parts and other replacement deliveries made against payment.

^(c) Financial leasing: the lease instalments are calculated in such a way as to cover all or virtually all the value of the goods. The benefits and risks of ownership are transferred to the lessee. At the end of the contract, the lessee becomes the legal owner.

^(d) Return and replacement dispatches of goods originally recorded under headings 3 to 9 of column A should be recorded under the corresponding headings.

^(e) Processing operations (whether or not under customs supervision) should be recorded under headings 4 and 5 of column A. Own-account processing operations are not covered by these headings and should be recorded under heading 1 of column A.

^(f) Repair entails the restoration of goods to their original function; this may involve some structural alterations or improvements.

^(g) Operational leasing: all lease contracts other than financial leasing (see note ^(c)).

^(h) This item covers goods exported/imported with the intention of subsequent re-import/re-export without any change of ownership taking place.

⁽ⁱ⁾ The transactions recorded under heading 8 of column A involve goods which are not separately invoiced but for which a single invoice is made covering the total collective value. Where this is not the case, the transactions should be recorded under heading 1.

ANNEX III

List of delivery terms referred to in Article 14 (2)

First sub-box	Meaning	Second sub-box
Incoterm code	Incoterm ICC/ECE Geneva	Place to be indicated
EXW	ex-works	location of works
FCA	franco carrier	... agreed place
FAS	free alongside ship	agreed port of loading
FOB	free on board	agreed port of loading
CFR	cost and freight (C&F)	agreed port of destination
CIF	cost, insurance, freight	agreed port of destination
CPT	carriage paid to	agreed place of destination
CIP	carriage and insurance paid to	agreed place of destination
DAF	delivered at frontier	agreed place of delivery at frontier
DES	delivered ex-ship	agreed port of destination
DEQ	delivered ex-quay	after customs clearance, agreed port
DDU	delivered duty unpaid	agreed place of destination in importing country
DDP	delivered duty paid	agreed place of delivery in importing country
XXX	delivery terms other than the above	precise statement of terms specified in the contract

Third sub-box

- 1: place located in the territory of the Member State concerned;
- 2: place located in another Member State;
- 3: other (place located outside the Community).

COMMISSION REGULATION (EC) No 841/96**of 7 May 1996****amending Commission Regulation (EC) No 717/96 adopting exceptional support measures for the beef and veal market in Belgium, France and the Netherlands**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Commission Regulation (EC) No 2417/95⁽²⁾, and, in particular, Article 23 thereof,

Whereas Commission Regulation (EC) No 717/96⁽³⁾ provided exceptional support measures for the beef and veal market in Belgium, France and the Netherlands by authorizing those Member States to purchase bovine animals aged six months or less on 20 March 1996, such expenditure being co-financed by the Community;

Whereas experience has demonstrated that it is normally not possible to determine the precise day of the month on which an animal was born; whereas provision should therefore be made to enable animals born throughout the month of September 1995 to receive payments under the Regulation; whereas this can be achieved by allowing the purchase of bovine animals aged six months or less on 1 March 1996;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EC) No 717/96 paragraph 1 is replaced by the following:

'1. The competent authorities in Belgium, France and the Netherlands shall be authorized to purchase any bovine animal born on or after 1 September 1995 and present on 20 March 1996 on a holding located in the territory of Belgium, France or the Netherlands respectively presented to them by any producer, which can be proved by him to have been born in the United Kingdom.'

Article 2

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

It shall be applicable from 11 April 1996.

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

Done at Brussels, 7 May 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 248, 14. 10. 1995, p. 39.

⁽³⁾ OJ No L 99, 20. 4. 1996, p. 16.

COMMISSION REGULATION (EC) No 842/96
of 7 May 1996
amending Regulation (EC) No 721/96 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 Commission Regulation (EC) No 721/96 ⁽³⁾ issued an invitation to tender for the supply, as food aid, of 1 000 tonnes of vegetable oil; whereas some of the conditions specified in Annex to that Regulation should be altered,

'10. **Packaging and marking** ⁽⁶⁾: OJ No C 114, 29. 4. 1991, p. 1 (III. A (2) (1), IIIA (2) (3) and III. A (3))

— five-litre metal canisters, without cardboard cross-pieces

— Markings in French

Supplementary markings: "Date d'expiration: ..."

HAS ADOPTED THIS REGULATION:

Article 2

Article 1

For lot A, point 10 of the Annex to Regulation (EC) No 721/96 is replaced by the following:

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

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

Done at Brussels, 7 May 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 100, 23. 4. 1996, p. 2.

COMMISSION REGULATION (EC) No 843/96**of 7 May 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 8 May 1996.

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

Done at Brussels, 7 May 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 7 May 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 ⁽¹⁾	Standard import value	CN code	Third country code ⁽¹⁾	Standard import value
0702 00 25	052	97,0		436	41,6
	060	80,2		448	23,5
	064	59,6		528	53,6
	066	41,7		600	59,8
	068	62,3		624	73,1
	204	76,9		625	41,2
	208	44,0		999	49,3
	212	97,5		052	128,2
	624	97,1		204	88,8
	999	72,9		220	74,0
ex 0707 00 20	052	97,0	0805 30 20	388	64,2
	053	156,2		400	70,8
	060	61,0		512	54,8
	066	53,8		520	66,5
	068	69,1		524	100,8
	204	144,3		528	72,9
	624	87,1		600	69,7
	999	95,5		624	96,1
	220	309,2		999	80,6
	999	309,2		039	106,9
0709 10 10	052	72,5	0808 10 61, 0808 10 63, 0808 10 69	052	64,0
	204	77,5		064	78,6
	412	54,2		284	75,5
	624	151,9		388	84,5
	999	89,0		400	96,2
0709 90 75	052	66,1		404	65,4
	204	39,5		416	72,7
	208	58,0		508	90,7
	212	55,0		512	69,8
	220	53,3		524	82,8
	388	40,5		528	68,4
	400	35,8		624	86,5
				728	107,3
				800	78,0
				804	104,1
0805 10 21, 0805 10 25, 0805 10 29	052	66,1		999	83,2
	204	39,5			
	208	58,0			
	212	55,0			
	220	53,3			
	388	40,5			
	400	35,8			

⁽¹⁾ 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 844/96

of 7 May 1996

re-establishing the preferential customs duty on imports of large-flowered roses
originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as last amended by Regulation (EC) No 539/96⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EC) No 1981/94⁽³⁾, as last amended by Regulation (EC) No 585/96⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty:

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EC) No 2524/95⁽⁵⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁶⁾, as last amended by Regulation (EEC) No 2917/93⁽⁷⁾, laid down detailed rules for the application of these arrangements;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁸⁾, as last amended by Regulation (EC) No 150/95⁽⁹⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽¹⁰⁾, as last amended by Regulation (EC) No 2853/95⁽¹¹⁾;

Whereas the preferential customs duty fixed for large-flowered roses originating in Morocco by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 747/96⁽¹²⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the last indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for large-flowered roses originating in Morocco; whereas the preferential customs duty should be reintroduced;

Whereas the preferential customs duty could not be reintroduced on time because of the late provision of information by one Member State; whereas this Regulation introducing the preferential duty must as a result have retroactive effect from 30 April 1996,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of large-flowered roses (CN codes ex 0603 10 11 and ex 0603 10 51) originating in Morocco the preferential customs duty set by amended Regulation (EC) No 1981/94 is reintroduced.

Article 2

This Regulation shall enter into force on 8 May 1996.

It shall apply with effect from 30 April 1996.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 79, 29. 3. 1996, p. 6.

⁽³⁾ OJ No L 199, 2. 8. 1994, p. 1.

⁽⁴⁾ OJ No L 84, 3. 4. 1996, p. 8.

⁽⁵⁾ OJ No L 258, 28. 10. 1995, p. 42.

⁽⁶⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁷⁾ OJ No L 264, 23. 10. 1993, p. 33.

⁽⁸⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁹⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽¹⁰⁾ OJ No L 108, 1. 5. 1993, p. 96.

⁽¹¹⁾ OJ No L 299, 12. 12. 1995, p. 1.

⁽¹²⁾ OJ No L 102, 25. 4. 1996, p. 28.

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

Done at Brussels, 7 May 1996.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 845/96

of 7 May 1996

re-establishing the preferential customs duty on imports of small-flowered roses
originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as last amended by Regulation (EC) No 539/96⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EC) No 1981/94⁽³⁾, as last amended by Regulation (EC) No 585/96⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EC) No 2524/95⁽⁵⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁶⁾, as last amended by Regulation (EEC) No 2917/93⁽⁷⁾, laid

down detailed rules for the application of these arrangements;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁸⁾, as last amended by Regulation (EC) No 150/95⁽⁹⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽¹⁰⁾, as last amended by Regulation (EC) No 2853/95⁽¹¹⁾;

Whereas the preferential customs duty fixed for small-flowered roses originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 649/96⁽¹²⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the last indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for small-flowered roses originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of small-flowered roses (CN codes ex 0603 10 11 and ex 0603 10 51) originating in Israel the preferential customs duty set by amended Regulation (EC) No 1981/94 is reintroduced.

Article 2

This Regulation shall enter into force on 8 May 1996.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 79, 29. 3. 1996, p. 6.

⁽³⁾ OJ No L 199, 2. 8. 1994, p. 1.

⁽⁴⁾ OJ No L 84, 3. 4. 1996, p. 8.

⁽⁵⁾ OJ No L 258, 28. 10. 1995, p. 42.

⁽⁶⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁷⁾ OJ No L 264, 23. 10. 1993, p. 33.

⁽⁸⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁹⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽¹⁰⁾ OJ No L 108, 1. 5. 1993, p. 96.

⁽¹¹⁾ OJ No L 299, 12. 12. 1995, p. 1.

⁽¹²⁾ OJ No L 91, 12. 4. 1996, p. 18.

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

Done at Brussels, 7 May 1996.

For the Commission

Franz FISCHLER

Member of the Commission

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 31 October 1995

concerning aid to French pig farmers in the form of a guarantee — Stabiporc adjustment fund

(Only the French text is authentic)

(96/297/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93 (2) thereof,

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 Regulation (EC) No 3290/94⁽²⁾, and in particular Article 21 thereof,

Having, in accordance with Article 93 (2) of the EC Treaty, given notice to the parties concerned to submit their comments⁽³⁾,

Whereas:

I

1. By letter dated 19 April 1993, recorded on 20 April 1993, the French Permanent Representative to the European Communities notified the Commission of the relaunch of the Stabiporc adjustment fund, in reply to the request made by the Commission on 9 March 1993.
2. On 16 February 1994, the Commission decided to initiate the procedure laid down in Article 93 (2) of the EC Treaty with regard to the measures financed from public funds through the Office national interprofessionnel des viandes, de l'élevage et de l'aviculture

(Ofival — National Bureau for the Meat, Livestock and Poultry Trade), for the following reasons:

- the measures are identifiable as aid in the form of advances at a reduced rate of Pibor interest (Paris interbank offer rate '12 months' + 0,5 %). The advances bear an interest rate lower than the normal market rate and must therefore be considered as operating aids producing no long-term structural improvements in the sector concerned,
 - there was no guarantee of full or part repayment of the cash advances made to pig farmers from the funds made available by Ofival,
 - the adjustment mechanism was in breach of the rules of the common organization of the market in pigmeat,
 - the Commission had no information on other agreements between Stabiporc on the one hand and various banking institutions (Caisse nationale de crédit agricole CNCA, Crédit Mutuel) and the solidarity fund for cereal growers and stock farmers (Unigrains), on the other hand.
3. After examining the comments received from other interested parties and from France, the Commission adopted a final negative decision with regard to the measures referred to in point 2 (Case C 8/94) and asked France to abolish the aid in question and to recover the aid already paid⁽⁴⁾.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 1.

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

⁽³⁾ OJ No C 311, 8. 11. 1994, p. 5.

⁽⁴⁾ OJ No L 335, 23. 12. 1994, p. 82.

4. By letter dated 20 June 1994, the French authorities submitted the information requested by the Commission in its letter of 22 February 1994 (Procedure No C 8/94). This revealed that additional aid in the form of a State guarantee was provided for the loans granted to Stabiporc by a banking pool and Unigrains.

From the information submitted by France on 20 June 1994, it appears that the reduced interest rates on advances granted by Stabiporc to pig farmers and the absence of adequate guarantees as to the full repayment of those advances are the result not only of favourable terms given by Ofival to Stabiporc (Procedure No C 8/94) but also of the same favourable terms included in the loan agreements signed between Stabiporc and the banking pool and Stabiporc and Unigrains.

The Ofival guarantee, under the terms of the two agreements, covers a sum of FF 61 million.

5. On 27 July 1994, the Commission decided to initiate the procedure laid down in Article 93 (2) of the EC Treaty (No C 36/94) with regard to the State guarantee provided by Ofival on behalf of pig farmers for the funds made available by the banking pool and Unigrains. The French authorities were notified of this decision by a letter dated 8 August 1994.
6. By a notice in the *Official Journal of the European Communities*, the Commission informed the Governments of the other Member States and other interested parties of its decision and gave them notice to submit their comments.

II

In their letter of 17 November 1994, the French authorities submitted their comments in response to the Commission's letter dated 8 August 1994 informing them of the opening of the procedure with regard to the aid referred to in point I (5).

Under that procedure and following the adoption of a final negative decision on 27 July 1994 in Case C 8/94, France continued to deny the justification for the successive decisions adopted by the Commission. Four meetings were held between the Ministry of Agriculture and the Directorate-General for Agriculture on 21 December 1994 and on 31 March, 26 April and 3 October 1995. In addition, France sent further information by letter dated 27 January 1995 following the meeting of 21 December 1994 and by letter dated 29 September 1995.

France's comments are given in points 1 to 4 below:

1. As regards the actual or potential contribution by Ofival:

— The French authorities deny, for the following reasons, that, under the terms of the two agreements, between Stabiporc and the banking pool, on the one hand and Stabiporc and Unigrains on the other, the financial contribution of Ofival to the Stabiporc adjustment fund can total FF 121 million. They insist that the potential financial contribution is FF 60 million plus a guarantee of FF 1 million.

They point out that the two agreements in question stipulate that:

'Any debts unpaid by producer groups to Stabiporc, after use of the joint surety provided by the groups in favour of Stabiporc, shall be borne by it from its own resources up to FF 1 million; Ofival undertakes to bear responsibility for an equivalent amount.

Beyond that sum, Ofival shall bear such unpaid debts from the credit of FF 60 million ...; its assistance shall be dependent on that granted by Unigrains and the CNCA.'

— The fact that unpaid debts are charged first of all to Ofival's funds, together with the special recovery facilities it has in its capacity as intervention agency, provide additional guarantees of recovery which strengthen the whole system of contractual guarantees provided for. As an intervention agency, and unlike the other bodies providing funds to Stabiporc, Ofival is able to deduct debts owed to Stabiporc from amounts due to groups and/or producers under other measures it implements at a later date.

2. As regards the guarantee mechanisms:

- 2.1. According to the French authorities, the guarantee of recovery provided by booking unpaid debts in the first instance against Ofival's funds is just one of several guarantee mechanisms laid down in the arrangements negotiated by Stabiporc with the bodies funding it.

They point to the following principal private guarantee mechanisms:

— the relaunch of the Stabiporc business fund was subject to an increase in its own resources of FF 10 million through a levy of FF 1 per pig, paid by producers benefiting from the scheme,

- implementation of the Stabiporc scheme is subject to the provision of a joint surety by groups in favour of Stabiporc equivalent to 25 % of the advances granted to them,
- the agreements provide for the option of directly debiting sums to be recovered from groups' accounts.

2.2. At the meeting held on 3 October 1995, the French authorities insisted that the pyramidal structure of the adjustment system implemented through Stabiporc reduced the risk assumed by the lending bodies, for the following reasons:

- The solvency of the producer groups was thoroughly checked.

The Stabiporc organization selected the producer groups eligible to benefit from the adjustment mechanism on the basis of their financial position. Producer groups not providing adequate guarantees as to repayment were therefore not eligible for advances. At the meeting of 3 October 1995, the French authorities insisted on the importance of this rule, arguing that the selection of groups on the basis of their solvency was an essential condition for the grant of the FF 300 million loan made to Stabiporc by the banking pool and Unigrains.

The producer groups are generally agricultural cooperatives, not as a rule including producers whose sole activity is pig farming. Most of the producers concerned have more than one activity, providing a variety of income sources, thereby permitting the provision of a large capital sum and ensuring greater stability.

- There is a ceiling on the advances, which limits the debts of the groups involved.

Although not contesting the description of the current situation in the pig-farming sector, the French authorities stressed that the Stabiporc mechanism was limited to permitting the grant of loans to adjust cash flow, and thus involved small sums up to a maximum of FF 60 000 per beneficiary per annum. Under the terms of the agreement between Stabiporc and the producer groups, loans are limited to a maximum of FF 40 per heavy pig up to a maximum of 1 500 pigs per farmer per annum.

- The mechanism is designed to ensure that loans are to be repaid when pig prices are rising, thus greatly reducing the risk of unpaid debts.

- The producer groups concerned have provided a number of guarantees (joint sureties, own resources; see point 2.1). Furthermore, the contracts contain the usual conditions (cancellation clauses, interest for late payment, means of redress through the courts).

3. As to the recovery of unpaid debts:

The French authorities contest the Commission's interpretation of the final paragraph of Article 5 of the agreement concluded between Stabiporc and Ofival in view of the provision laying down that unpaid debts are booked in the first instance against Ofival's funds. They point out that the Commission has taken the view that, where the final paragraph of Article 5 lays down that 'Ofival may deduct the sums owing from any amounts due to groups or their members under other measures', this must be interpreted not as an obligation on Ofival to deduct the sums concerned but simply as a facility (point 5 of the grounds of the Decision of 27 July 1994).

The French authorities stress that reading through the whole of the agreement would show such an interpretation of the final paragraph of Article 5 to be incorrect. Article 8 of the agreement, pursuant to which any unpaid debts 'shall be deducted in accordance with Article 5' clearly confirms that this is an obligation on Ofival. They therefore have no difficulty in amending the two agreements initially concluded, as requested in the second indent of Article 2 of the Decision of 27 July 1994, by replacing the words 'Ofival may deduct' by 'Ofival shall deduct'. The amendments were notified to the Commission by letter dated 18 October 1995.

4. As to the interest rates:

By letter dated 5 July 1995, under Procedure No C 8/94, the French authorities stated that the interest rebate on the loan of FF 60 million granted to Stabiporc by Ofival was 2 % and that they undertook to recover the aid on that basis. The debate was calculated on the basis of an enquiry into the cost to enterprises carried out by the Bank of France and notified by France.

That information and the abovementioned undertaking, however, do not relate to the loan of FF 300 million granted by the banking pool and Unigrains to Stabiporc, namely Case 36/94 now under consideration.

III

1. Articles 92 to 94 of the EC Treaty were rendered applicable by Article 21 of Regulation (EEC) No 2759/75.

2. It would appear from the comments made by France on the actual contribution of Ofival (see point II (1)) that the latter's guarantee on the loan of FF 300 million is partly in the form of a subordinated debt of FF 60 million and partly in the form of a budget heading of FF 1 million.

3. The Commission takes note of the fact that, with regard to the recovery of unpaid debts, France is prepared to amend the agreements initially concluded, by replacing the words 'Ofival may deduct' by 'Ofival shall deduct' (see point II (3)).

4. According to the various agreements establishing the Stabiporc scheme, the terms governing the two loans granted to Stabiporc by, on the one hand, Ofival (Case C 8/94) for FF 60 million, and, on the other hand, the banking pool and Unigrains (Case C 36/94) for FF 300 million are different.

The loan from the banking pool and Unigrains is backed by a number of relatively significant private guarantees which are, however, lacking in the loan granted by Ofival (Case C 8/94). Therefore, the impact of the State guarantee on the interest rates for the two loans is not the same.

— The following private guarantees were given with the loan made to Stabiporc by the banking pool and Unigrains:

— FF 90 million in private joint collateral in the form of a joint surety of 25 % of the advances made to pig producer groups,

— FF 10 million paid by beneficiary groups in the form of a levy of FF 1 per pig at the time of the first two payments to the groups,

— guarantees regarding the solvency of the producer groups;

— a limit on the sums borrowed by the producer groups;

— the usual contractual conditions ensuring recovery.

— The guarantee given by Ofival for the two loans is FF 61 million (FF 60 million for waiving the right

to repayment plus an additional guarantee of FF 1 million).

— It follows from the figures given above that, of the FF 300 million in loans taken out by the Stabiporc organization, FF 139 million (FF 300 million less FF 161 million) are covered neither by the Ofival guarantee nor by the private sureties or contributions. Therefore, in order to assess the impact of State aid on the interest rates offered to Stabiporc by the two lender organizations, France was asked at the meeting held on 3 October 1995 to give details of the way in which the whole of the loan of FF 300 million was guaranteed and, in particular, whether the system involved other State aid.

At the abovementioned meeting, the French authorities stressed that the only State aid provided under the Stabiporc scheme was the guarantee of FF 61 million provided by Ofival in the form of a subordinated debt and the opening of a budget heading.

They stated that the FF 139 million was guaranteed by the pyramidal structure of the system and the reduced risk that this involved (see point II (2.2)).

— The interest rate that Stabiporc should have paid if it had had to pay the risk premium from which it was exempted by the existence of the guarantee provided by Ofival was calculated by the Commission, using the following weighted average:

IRs: the conventional interest rate offered to Stabiporc by the banking pool and Unigrains.

PApub: percentage of the total loan amount guaranteed by public guarantees

PApriv: percentage of the total loan amount guaranteed by private guarantees

$$[PA_{pub} \times (IRs + 2\%)] + (PA_{priv} \times IRs)$$

Given that the State guarantee of FF 61 million covers 20,33 % of the loan of FF 300 million and that no other State aid is involved in the scheme, it can be concluded that the private guarantees cover 79,67 % of that loan.

On the basis of the above, therefore, the interest rate that Stabiporc should have offered to pig producer groups in 1993 and 1994 from the funds made available to it by the banking pool and Unigrains was:

1993

$$(20,33 \% \times 8,83 \%) + (79,67 \% \times 6,83 \%) = 7,23 \%$$

1994

$$(20,33 \% \times 8,07 \%) + (79,67 \% \times 6,07 \%) = 6,47 \%$$

The interest rebate for 1993 and 1994 was therefore 0,4 %:

$$7,23 \% - 6,83 \% = 0,4 \% (1993)$$

$$6,47 \% - 6,07 \% = 0,4 \% (1994).$$

- France supplied the information necessary for calculating the total amount of aid by Stabiporc to producer groups from the loan of FF 300 million from the banking pool and Unigrains.

On the basis of that information, the amount of aid paid from the said loan to be recovered from producers is FF 1 617 738.

5. According to the Farm Accountancy Data Network, the rate of indebtedness of the pig-farming sector (relationship between total loans and total own capital plus borrowed capital) is almost 48 % in France and 31 % in the Community, as compared with 32 % in France and 15 % in the Community for the agricultural sector as a whole.

The Commission took account of the size of the private guarantees backing the Stabiporc scheme in estimating the actual impact of the State guarantee on the interest rate offered by the bodies granting loans to Stabiporc which that body then passes on to producer groups.

Nevertheless, given that the interest terms received by Stabiporc and passed on to pig farmers are clearly not terms that an economic operator could obtain on the financial market, this aid constitutes an operating aid for pig farmers.

IV

1. The aid granted to French pig farmers, in view of the position occupied by France in the pig-farming sector within the Community, could have an effect on the Community market and thus affect trade between Member States. It therefore fulfils the conditions laid down in Article 92 (1) of the EC Treaty. According to information supplied by Eurostat, in 1993 and 1994, 24 112 500 and 24 785 400 pigs respectively were

slaughtered in France as against 180 022 887 and 179 937 466 pigs in the Community as a whole, France therefore accounting for about 13 % of the total. During the same two years, exports to third countries from France were 56 736 tonnes and 113 611 tonnes (live pigs and pigmeat) as against 730 642 tonnes and 973 498 tonnes from the Community as a whole, France accounting for 8 % and 12 % in 1993 and 1994 respectively.

2. This aid infringes the common organization of the market in pigmeat. Since the aid is for products covered by a common organization of the market, there are limits to the powers of Member States to intervene independently in the workings of that organization. The common organizations of the markets are comprehensive and exhaustive systems which preclude any measures by Member States which could derogate from or adversely affect them.

3. The derogations provided for in Article 92 (2) of the EC Treaty are manifestly not applicable to the aid in question.

- Those provided for in paragraph 3 of that Article specify objectives pursued in the interest of the Community and not solely in that of particular sectors of the national economy. Those derogations must be strictly interpreted when regional or sectoral aid programmes are examined. They can only be granted where the Commission can establish that the aid is necessary for the achievement of one of the objectives set out in those provisions. In the case in question, the Commission found no justification for concluding that the aid concerned fulfilled the conditions for allowing any of the derogations under Article 92 (3) of the Treaty.

- The measure is not intended to promote the execution of an important project of common European interest within the meaning of Article 92 (3) (b) of the Treaty since, given the impact it could have on trade, the aid goes against the common interest. Neither is it a measure intended to remedy a serious disturbance in the economy of the Member State concerned within the meaning of that same provision.

- With regard to the derogations provided for in Article 92 (3) (a) and (c) of the EC Treaty concerning aid to promote or facilitate the economic development of regions and certain activities referred to in point (c), the measure, being operating aid, cannot bring about a long-term improve-

ment in the conditions of the recipient economic sector, since, when payment ceases, the sector will be in the same structural situation as prevailed before the government measure was introduced. It is a type of aid which the Commission has always in principle opposed, given that it is not linked to conditions making it eligible for either of the derogations provided for in Article 92 (3) (a) and (c) of the EC Treaty.

— Even if a derogation under Article 92 (3) of the EC Treaty were possible for the aid in question, the fact that the measure goes against the common organization of the market, as stated in point 2, precludes the application of such a derogation.

4. The aid in question must therefore be considered incompatible with the common market within the meaning of Article 92 of the EC Treaty.
5. This Decision should not prejudice any conclusions the Commission might draw as regards the financing of the common agricultural policy by the European Agricultural Guidance and Guarantee Fund.
6. The measure, notified on 20 June 1994 in reply to the Commission's letter of 16 February 1994 under Procedure No C 8/94, was adopted and applied before the Commission had adopted its final decision, and is therefore illegal under Article 93 (3) of the EC Treaty.
7. Where aid is incompatible with the common market, the Commission, in accordance with case-law of the Court of Justice, and in particular the judgment handed down on 12 July 1973 in Case 70/72⁽¹⁾, confirmed by the judgments of 24 February 1987 and 20 September 1990 in Cases 310/85⁽²⁾ and C-5/89⁽³⁾ respectively, must demand that Member States recover from the beneficiaries any aid granted illegally.

In view of the above, the aid in question must be repaid.

Repayment must be made in accordance with the procedures and provisions of French law, in particular those concerning interest on overdue payments owed to the State, the interest being calculated from the day the aid in question was paid.

Repayment is necessary in order to restore the previous situation by abolishing all the financial advantages

enjoyed by the beneficiaries of the illegal aid since the date on which it was paid. It is especially necessary in view of the sensitive market situation and in view of the decision taken by the Commission on 19 August 1988 to close the procedure opened by its letter dated 12 October 1984 concerning the previous launch of Stabiporc. To that end, it took account of the particular circumstances of the case and decided not to pursue aid paid during the previous period on condition that France did not pay this type of aid in future. Accordingly, it asked the French authorities to notify all planned amendments and reserved the right to initiate the procedure provided for in Article 93 (2) of the EC Treaty should those measures be found to be incompatible with Article 92,

HAS ADOPTED THIS DECISION:

Article 1

The aid granted to pig farmers in connection with the advances made under the Stabiporc-banking pool and Stabiporc-Unigrains agreements is illegal, having been granted in breach of Article 93 (3) of the EC Treaty. This aid is also incompatible with the common market for the purposes of Article 92 of the Treaty.

The aid referred to in the first paragraph comprises the amount resulting from the difference between the interest rate applied to advances paid to producer groups through Stabiporc and the interest rate at which those groups could have obtained them through Stabiporc from the same financial institutions under normal market conditions, i.e. without the State guarantee provided by Ofival.

The amount to be recovered is FF 1 617 738.

Article 2

The French Government shall abolish the aid referred to in Article 1 by fixing the interest rate on advances at the normal market rate referred to in that Article.

Article 3

The French Government shall demand the recovery and repayment of aid already paid, referred to in Article 1, within two months of the date of this Decision.

⁽¹⁾ Commission v. Federal Republic of Germany, [1973] ECR, p. 813.

⁽²⁾ Deufiol GmbH v. Commission, [1987] ECR, p. 901.

⁽³⁾ Commission v. Federal Republic of Germany, [1990] ECR, p. L-3437.

The aid shall be recovered in accordance with the procedures and provisions of national law, and in particular those relating to interest on overdue payments owed to the government. Interest on the sums in question shall be charged from the date on which the aid was granted.

Article 4

The French Government shall inform the Commission within two months of the date of notification of this

Decision of the measures taken to comply with Articles 2 and 3.

Article 5

This Decision is addressed to the French Republic.

Done at Brussels, 31 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 23 February 1996

amending Decision 94/984/EC laying down animal health conditions and veterinary certificates for the importation of fresh poultrymeat from certain third countries

(Text with EEA relevance)

(96/298/EC)

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

Having regard to Council Directive 91/494/EEC of 26 June 1991 on animal health conditions governing intra-Community trade in and imports from third countries of fresh poultrymeat⁽¹⁾, as last amended by Directive 93/121/EC⁽²⁾, and in particular 11, paragraph 1 thereof,

Whereas Commission Decision 94/984/EC⁽³⁾, as amended by Decision 95/302/EC⁽⁴⁾, established the animal health conditions and the veterinary certificates for imports of fresh poultrymeat from certain third countries;

Whereas it is now possible to review the list of countries by including Argentina, Bulgaria, Lithuania, Madagascar and Slovenia and to establish the regionalization for China, in accordance with information received from these countries, in some cases completed with the results of an on-the-spot inspection carried out by the Commission services; whereas however Madagascar can comply with the requirements of model A in respect of goose and duck liver only;

Whereas a certain delay should be provided for these changes to enable the competent authorities in the Member States to implement this Decision; whereas a further delay is needed for imports from China, in view of the regionalization of this country;

Whereas the title of the Decision needs to be extended to third countries in general and the reference to certain third countries has to be deleted;

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

HAS ADOPTED THIS DECISION:

Article 1

Commission Decision 94/984/EC is amended as follows:

1. In the title, the word 'certain' is deleted;
2. Annex I is replaced by the Annex to this Decision.

Article 2

This Decision shall apply from 1 March 1996.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 23 February 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 268, 24. 9. 1991, p. 35.

⁽²⁾ OJ No L 340, 31. 12. 1993, p. 39.

⁽³⁾ OJ No L 378, 31. 12. 1994, p. 11.

⁽⁴⁾ OJ No L 185, 4. 8. 1995, p. 50.

ANNEX

ANNEX I

Third countries or parts of third countries which are allowed to use the certificates laid down in Annex II for imports of fresh poultrymeat into the Community

Note: the characters A and B refer to the model established in part 2 of Annex II.

ISO code	Country	Parts of the Territory	Model to be used
AR	Argentina		B ⁽²⁾
AU	Australia		A
BG	Bulgaria		A ⁽²⁾
BR-1	Brazil	The States of Rio Grande do Sul, Santa Catarina, Paraná, São Paulo and Mato Grosso do Sul ⁽¹⁾	A
CA	Canada		A
CH	Switzerland		A
CL	Chile		A
CN	China (P.R.)	The Municipality of Shanghai excluding the county of Chongming and the districts of Weifang, Linyi and Qingdao in the Province of Shandong ⁽³⁾	B ⁽³⁾
CY	Cyprus		A
CZ	Czech Republic		A
HR	Croatia	The provinces of Zagrebacka, Krapinsko-Zagorska, Varazdinska, Koprivnicko-Krizevacka, Bjelovarsko-Bilogorska, Primorsko-Goranska, Viroviticko-Podravska, Pozesko-Slavonska, Istarska, Medimurska, Grad Zagreb	A
HU	Hungary		A
IL	Israel		A ⁽⁴⁾
LI	Lithuania		A ⁽²⁾
MG	Madagascar		A ⁽²⁾ ⁽⁴⁾
NZ	New Zealand		A
PL	Poland		A
RO	Romania		A
SI	Slovenia		A ⁽²⁾
SK	Slovakia		A
TH	Thailand		B
US	United States of America		A

⁽¹⁾ Applicable from 1 September 1995.

⁽²⁾ Applicable from 1 March 1996.

⁽³⁾ Applicable from 1 August 1996.

⁽⁴⁾ Goose and duck liver only (for Israel, other poultrymeat being covered by Commission Decision 95/346/EC).'

COMMISSION DECISION**of 17 April 1996****on the eligibility of expenditure to be incurred by certain Member States in 1996
for the purpose of introducing monitoring and control systems applicable to the
common fisheries policy**

(96/299/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 95/527/EC of 8 December 1995 on a Community financial contribution towards certain expenditure incurred by the Member States in implementing the monitoring and control systems applicable to the common fisheries policy⁽¹⁾, and in particular Article 6 thereof,

Whereas the Commission has received five-year programmes from Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Netherlands, Portugal, Finland, Sweden and the United Kingdom that describe the controls they intend to operate between 1 January 1996 and 31 December 2000;

Whereas these Member States have sent the Commission applications for a financial contribution in respect of the expenditure referred to in Article 2 of Decision 95/527/EC and planned for 1996;

Whereas some applications relate to investment expenditure for the purchase or modernization of vessels, aircraft, land vehicles, systems to locate and record fishing activities and systems to record, manage and transmit data on the controls, including computer applications and software;

Whereas some applications also relate to expenditure for trying out or introducing new technology to improve the monitoring of fishing activity and related activities which can accordingly qualify for a higher rate of Community contribution pursuant to the second subparagraph of Article 3 (2) of Decision 95/527/EC;

Whereas, pursuant to Article 3 (3) of Decision 95/527/EC, Ireland should qualify for a higher rate of Community contribution for certain operating and investment expenditure with a view to undertaking the necessary checks to ensure compliance with the scheme to manage the fishing effort;

Whereas this expenditure will help to mobilize monitoring for the proper application of the common fisheries policy;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

Article 1

The planned expenditure for 1996 referred to in Annex I, amounting to ECU 48 769 446, shall be eligible for a financial contribution pursuant to Decision 95/527/EC. The Community contribution shall be 50 % of the eligible expenditure.

Article 2

The planned expenditure for 1996 in respect of the activities and projects listed in Article 3 (2) of Decision 95/527/EC and referred to in Annex II, amounting to ECU 300 070, shall be eligible for a financial contribution pursuant to Decision 95/527/EC. The Community contribution shall be 100 % of the eligible expenditure.

Article 3

Investment expenditure incurred in Ireland in 1996 amounting to ECU 3 563 971 and running costs amounting to ECU 2 457 911 shall be eligible for a financial contribution pursuant to Article 3 (3) of Decision 95/527/EC. The Community financial contribution shall be 65 % in the case of the admissible investments and 100 % in the case of the running costs referred to in this paragraph.

Article 4

1. The ecu exchange rate in force in February 1996 shall be used to calculate the eligible amounts under this Decision.

2. The ecu exchange rate to be applied for reimbursing expenditure and for paying advances shall be that in force in the month during which the payment order is effected.

⁽¹⁾ OJ No L 301, 14. 12. 1995, p. 30.

OJ No L 302, 15. 12. 1995, p. 45 (corrigendum).

Article 5

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 17 April 1996.

For the Commission

Emma BONINO

Member of the Commission

ANEXO I / BILAG I / ANHANG I / ΠΑΡΑΡΤΗΜΑ I / ANNEX I / ANNEXE I / ALLEGATO I / BIJLAGE I / ANEXO I /
LIITE I / BILAGA I

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lid-Staat Estado-membro Jäsenvaltio Medlemsstat	Gastos en moneda nacional Udgifter i national valuta Ausgaben in nationaler Währung Σύνολο σε εθνικό νόμισμα Expenditure national currency Dépenses monnaie nationale Spese moneta nazionale Uitgaven nationale valuta Despesas em moeda nacional Kustannukset kansallisessa valuutassa Kostnader nationell valuta	Gastos Udgifter Ausgaben Δαπάνη Expenditure Dépenses Spese Uitgaven Despesas Kustannukset Kostnader (ECU)	Contribución de la Comunidad Fællesskabets finansielle bidrag Gemeinschaftsbeitrag Κοινοτική συμμετοχή Community contribution Contribution communautaire Contributo della Comunità Bijdrage van de Gemeenschap Contribuição da Comunidade Yhteisön osuus EU-Bidrag (50 % — ECU)
Belgique/België	522 000 BEC	13 454	6 727
Danmark	33 200 000 DKR	4 546 058	2 273 029
Deutschland	687 300 DM	364 291	182 145
Ελλάδα	4 148 500 000 DRA	13 273 926	6 636 963
España	422 000 000 PTA	2 641 545	1 320 772
France	29 726 019 FF	4 584 243	2 292 121
Ireland	925 000 IRL	1 136 784	568 392
Italia	8 260 000 000 LIT	4 071 894	2 035 947
Nederland	1 350 000 HFL	638 832	319 416
Portugal	2 188 500 000 ESC	11 160 521	5 580 260
Suomi	2 200 000 FMK	380 499	190 250
Sverige	24 130 000 SKR	2 732 568	1 366 284
United Kingdom	2 721 399 UKL	3 224 831	1 612 415
Total / I alt / Σύνολο / Totale / Totaal / Yhteensä		48 769 446	24 384 723

ANEXO II / BILAG II / ANHANG II / ΠΑΡΑΡΤΗΜΑ II / ANNEX II / ANNEXE II / ALLEGATO II / BIJLAGE II /
ANEXO II / LIITE II / BILAGA II

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lid-Staat Estado-membro Jäsenvaltio Medlemsstat	Gastos en moneda nacional Udgifter i national valuta Ausgaben in nationaler Währung Σύνολο σε εθνικό νόμισμα Expenditure national currency Dépenses monnaie nationale Spese moneta nazionale Uitgaven nationale valuta Despesas em moeda nacional Kustannukset kansallisessa valuutassa Kostnader nationell valuta	Gastos Udgifter Ausgaben Δαπάνη Expenditure Dépenses Spese Uitgaven Despesas Kustannukset Kostnader (ECU)	Contribución de la Comunidad Fællesskabets finansielle bidrag Gemeinschaftsbeitrag Κοινοτική συμμετοχή Community contribution Contribution communautaire Contributo della Comunità Bijdrage van de Gemeenschap Contribuição da Comunidade Yhteisön osuus EU-Bidrag (100 % — ECU)
Belgique/België	—	—	—
Danmark	500 000 DKR	68 465	68 465
Deutschland	—	—	—
Ελλάδα	—	—	—
España	37 000 000 PTA	231 605	231 605
France	—	—	—
Ireland	—	—	—
Italia	—	—	—
Nederland	—	—	—
Portugal	—	—	—
Suomi	—	—	—
Sverige	—	—	—
United Kingdom	—	—	—
Total / I alt / Σύνολο / Totale / Totaal / Yhteensä		300 070	300 070