

Official Journal

of the European Communities

ISSN 0378-6978

L 27

Volume 40

30 January 1997

English edition

Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 154/97
of 20 January 1997
amending Regulation (EEC) No 619/71 laying down general rules for granting
aid for flax and hemp

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organization of the market in flax and hemp⁽¹⁾, and in particular Article 4 (4) thereof,

Having regard to the proposal from the Commission,

Whereas the first subparagraph of Article 3 (2) of Regulation (EEC) No 619/71⁽²⁾, lays down that three quarters of the aid for flax is to be granted to any natural or legal person who has concluded with the grower, before a date to be determined, a contract transferring ownership of the flax straw; whereas to ensure that the flax is actually processed, provision should be made for payment of the aid to the primary processor to be subject to an explicit commitment on his part to undertake processing and also to an approval procedure;

Whereas the second subparagraph of Article 3 (2) of the said Regulation lays down that growers may under certain conditions qualify for all the aid; whereas in those cases a processing obligation and a system of approval of primary processors should be established;

Whereas the checks referred to in Article 5 of the said Regulation should also cover fulfilment of the processing obligation and the conditions of approval; whereas the effectiveness of those checks can be increased by using certain elements of the integrated administration and control system and whereas, therefore, provision should be made for that possibility;

Whereas Article 6 of the said Regulation lays down that the amount of the aid is to be calculated in relation to the area sown and harvested; whereas, to prevent abuse, the

said area must have undergone normal cultivation and whereas the Commission should be able to lay down criteria on the matter;

Whereas the measures provided for in this Regulation must be properly implemented; whereas transitional measures may therefore be required to facilitate the introduction of the new arrangements,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 619/71 is hereby amended as follows:

1. Article 3 (2) shall be replaced by the following:

'2. For the flax grown mainly for the production of fibre, one quarter of the aid shall be granted to the grower and three quarters to the primary processor approved by the competent authority of the Member State on whose territory his establishment is situated, who has concluded with the grower, before a date to be determined, a contract transferring ownership of the flax straw and who undertakes to process it.

However, the entire amount of the aid shall be granted to the grower where:

- (a) the grower within the meaning of Article 3a (a) undertakes to process the flax straw and is approved for that purpose by the competent authority; or
- (b) the grower within the meaning of Article 3a (a) undertakes to have the flax straw processed on his behalf by an approved primary processor; or
- (c) the grower within the meaning of Article 3a (b) undertakes to process the flax straw and is approved for that purpose by the competent authority; or

⁽¹⁾ OJ No L 146, 4. 7. 1970, p. 1. Regulation as last amended by Regulation (EC) No 3290/94 (OJ No L 349, 31. 12. 1994, p. 105).

⁽²⁾ OJ No L 72, 26. 3. 1971, p. 2. Regulation as last amended by Regulation (EC) No 1989/93 (OJ No L 182, 24. 7. 1993, p. 6).

(d) the grower within the meaning of Article 3a (b) undertakes to have the flax straw processed on his behalf by an approved primary processor;'

2. Article 4 (2) shall be replaced by the following:

'2. For the purpose of checking, Member States shall introduce a system of declarations for areas sown and harvested and shall establish a system of approval of primary processors and, where appropriate, of growers who undertake processing;'

3. Article 5 shall be replaced by the following:

'Article 5

1. Member States shall verify the accuracy of the declarations of areas sown and harvested and applications for aid submitted by the producers and also the execution of contracts and fulfilment of processing obligations and of conditions of approval by means of spot checks.

2. Detailed rules for the application of checks shall be adopted in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1308/70, such measures being able to provide for the use of certain elements of the integrated administration and control system;'

4. Article 6 shall be replaced by the following:

'Article 6

The amount of aid paid shall be calculated on the basis of the area sown and harvested on which normal cultivation work has been carried out.

The Commission may, in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1308/70, lay down criteria regarding normal cultivation work, in particular by setting a minimum yield to be respected;'

5. The following Article shall be added:

'Article 6a

Should transitional measures be required to facilitate the implementation of the adjustments to the arrangements laid down in Regulation (EC) 154/97 (*) with effect from the 1997/1998 marketing year, such measures shall be adopted in accordance with the procedure laid down in Article 12 of Regulation (EEC) No 1308/70. They shall apply until the end of the 1997/1998 marketing year at the latest.

(*) OJ No L 27, 30. 1. 1997, p. 1.'

Article 2

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

It shall apply from the 1997/1998 marketing year. However, point 5 of Article 1 shall apply from the date of entry into force of this Regulation.

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

Done at Brussels, 20 January 1997.

For the Council

The President

J. VAN AARTSEN

COMMISSION REGULATION (EC) No 155/97

of 29 January 1997

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾,

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

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

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

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

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or

if the price quoted in the offer relates only to a small quantity that is not representative of the market; whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 30 January 1997.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽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, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

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

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	7,83	—	0,38
1703 90 00 ⁽¹⁾	12,08	—	0,00

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

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

COMMISSION REGULATION (EC) No 156/97
of 29 January 1997
altering the export refunds on white sugar and raw sugar exported in the natural 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 1599/96⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 104/97⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 104/97 to the informa-

tion known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

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, as fixed in the Annex to Regulation (EC) No 104/97 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 January 1997.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 20, 23. 1. 1997, p. 3.

ANNEX

to the Commission Regulation of 29 January 1997 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	39,82 ⁽¹⁾
1701 11 90 9910	37,69 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	39,82 ⁽¹⁾
1701 12 90 9910	37,69 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4329
	— ECU/100 kg —
1701 99 10 9100	43,29
1701 99 10 9910	42,42
1701 99 10 9950	42,42
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4329

⁽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).

COMMISSION REGULATION (EC) No 157/97

of 29 January 1997

fixing the maximum export refund for white sugar for the 24th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1464/96

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1464/96 of 25 July 1996 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1464/96 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 24th partial invitation to

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 24th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1464/96 the maximum amount of the export refund is fixed at ECU 45,422 per 100 kilograms.

Article 2

This Regulation shall enter into force on 30 January 1997.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 187, 26. 7. 1996, p. 42.

COMMISSION REGULATION (EC) No 158/97

of 29 January 1997

amending Regulation (EC) No 2482/95 laying down certain transitional measures for Austria for spirit drinks

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Austria, Finland and Sweden, and in particular Article 149 (1) thereof,

Having regard to Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 14 thereof,

Whereas Commission Regulation (EC) No 2482/95 of 25 October 1995⁽²⁾ allows Austria to produce and market for a transitional period of one extra year certain fruit spirits prepared from certain berries with a maximum methyl alcohol content of 1 500 grams per hectolitre of pure alcohol; whereas this extension was provided for pending a more thorough evaluation of the possibility of reducing their methanol content so as to set definitive levels for the products in question; whereas the initial results of this evaluation do not allow a decision to be taken on the definitive levels for the maximum methanol content for these products; whereas the existing transitional measures should therefore be extended one final time and for one year only for the products in question with a view to having the more definitive evaluation results;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Implementation Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EC) No 2482/95 is replaced by the following:

'Article 1

The transitional measures laid down in the first indent of Annex XV (VII) (B) (IV) (1) to the Act of Accession of Austria, Finland and Sweden are hereby extended until 31 December 1997 for the preparation and marketing of the fruit spirits prepared in Austria and complying with Article 1 (4) of Regulation (EEC) No 1576/89, prepared from the following fruits:

- redcurrants and blackcurrants (*Ribes species*),
- raspberries (*Rubus idaeus* L.),
- blackberries (*Rubus fruticosus* L.),
- service berries (*Sorbus aucuparia*),
- elderberries (*Sambucus nigra*).

Products still held for sale to the final consumer on the above date may be disposed of until the stocks are exhausted.'

Article 2

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

It shall apply from 1 January 1997.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 160, 12. 6. 1989, p. 1.

⁽²⁾ OJ No L 256, 26. 10. 1995, p. 12.

COMMISSION REGULATION (EC) No 159/97

of 29 January 1997

establishing the standard import values for determining the entry price of
certain fruit and vegetables

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 2375/96⁽²⁾, and in particular Article 4 (1) thereof,

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission 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 30 January 1997.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽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 29 January 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 15	204	44,1
	212	114,1
	624	181,8
	999	113,3
0707 00 10	052	114,3
	053	186,8
	068	81,2
	999	127,4
0709 10 10	220	150,7
	999	150,7
0709 90 71	052	130,8
	204	118,8
	628	130,2
	999	126,6
0805 10 01, 0805 10 05, 0805 10 09	052	37,6
	204	42,1
	212	45,6
	220	32,8
	448	26,4
	600	58,1
	624	53,1
	999	42,2
805 20 11	204	69,5
	999	69,5
0805 20 13, 0805 20 15, 0805 20 17, 0805 20 19	052	49,8
	204	65,1
	400	95,8
	464	117,0
	624	78,2
	662	45,2
	999	75,2
	052	74,2
0805 30 20	528	64,8
	600	80,7
	999	73,2
	052	68,1
0808 10 51, 0808 10 53, 0808 10 59	060	52,9
	064	40,6
	068	36,2
	400	85,3
	404	90,5
	720	47,8
	728	104,6
	999	65,8
	052	127,4
	064	51,7
0808 20 31	400	105,3
	512	79,1
	624	73,6
	999	87,4

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 160/97

of 29 January 1997

fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1581/96⁽²⁾, and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72⁽³⁾, as last amended by Regulation (EEC) No 2962/77⁽⁴⁾;

Whereas Article 3 (3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 3 (4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market; whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period; whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 3 (3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender; whereas the tendering procedure should cover the amount of the

refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 3 (3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁵⁾, as last amended by Regulation (EC) No 150/95⁽⁶⁾, 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⁽⁷⁾, as last amended by Regulation (EC) No 1482/96⁽⁸⁾;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 January 1997.

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

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ No L 78, 31. 3. 1972, p. 1.

⁽⁴⁾ OJ No L 348, 30. 12. 1977, p. 53.

⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ No L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 29 January 1997 fixing the export refunds on olive oil

<i>(ECU/100 kg)</i>	
Product code	Amount of refund ⁽¹⁾
1509 10 90 9100	27,50
1509 10 90 9900	0,00
1509 90 00 9100	31,00
1509 90 00 9900	0,00
1510 00 90 9100	2,00
1510 00 90 9900	0,00

⁽¹⁾ For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ No L 351, 14. 12. 1987, p 1), as well as for exports to third countries.

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

COMMISSION REGULATION (EC) No 161/97

of 29 January 1997

fixing the maximum export refunds for olive oil for the fifth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2081/96

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1581/96⁽²⁾, and in particular Article 3 thereof,

Whereas Commission Regulation (EC) No 2081/96⁽³⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Article 6 of Regulation (EC) No 2081/96 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the abovementioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the fifth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2081/96 are hereby fixed in the Annex, on the basis of the tenders submitted by 23 January 1997.

Article 2

This Regulation shall enter into force on 30 January 1997.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

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

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 11.

⁽³⁾ OJ No L 279, 31. 10. 1996, p. 17.

ANNEX

to the Commission Regulation of 29 January 1997 fixing the maximum export refunds for olive oil for the fifth partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 2081/96

(ECU/100 kg)	
Product code	Amount of refund
1509 10 90 9100	29,50
1509 10 90 9900	—
1509 90 00 9100	32,90
1509 90 00 9900	—
1510 00 90 9100	2,50
1510 00 90 9900	—

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

COMMISSION REGULATION (EC) No 162/97
of 29 January 1997
amending representative prices and additional duties for the import of certain
products 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 markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1599/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 1127/96 ⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1195/96 ⁽⁵⁾, as last amended by Regulation (EC) No 2439/96 ⁽⁶⁾;

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 30 January 1997.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ No L 150, 25. 6. 1996, p. 12.

⁽⁵⁾ OJ No L 161, 29. 6. 1996, p. 3.

⁽⁶⁾ OJ No L 331, 20. 12. 1996, p. 43.

ANNEX

to the Commission Regulation of 29 January 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	21,45	5,58
1701 11 90 ⁽¹⁾	21,45	10,93
1701 12 10 ⁽¹⁾	21,45	5,39
1701 12 90 ⁽¹⁾	21,45	10,41
1701 91 00 ⁽²⁾	25,66	12,44
1701 99 10 ⁽²⁾	25,66	7,88
1701 99 90 ⁽²⁾	25,66	7,88
1702 90 99 ⁽³⁾	0,26	0,39

⁽¹⁾ For the standard quality as defined in Article 1 of amended Council Regulation (EEC) No 431/68 (OJ No L 89, 10. 4. 1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 163/97
of 29 January 1997
amending the import duties in the rice sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽²⁾, as amended by Regulation (EC) No 2131/96 ⁽³⁾, and in particular Article 4 (1) thereof,

Whereas import duties in the rice sector have been fixed by Commission Regulation (EC) No 106/97 ⁽⁴⁾;

Whereas Article 4 (1) of Regulation (EC) No 1503/96 provides that if during the period of application, the

average import duty calculated differs by ECU 10 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 106/97,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 106/97 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 30 January 1997.

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

Done at Brussels, 29 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ No L 189, 30. 7. 1996, p. 71.

⁽³⁾ OJ No L 285, 7. 11. 1996, p. 6.

⁽⁴⁾ OJ No L 20, 23. 1. 1997, p. 6.

ANNEX I

to the Commission Regulation of 29 January 1997 altering the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ⁽¹⁾		
	Third countries (except ACP and Bangladesh) ⁽¹⁾ ⁽⁷⁾	ACP Bangladesh ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾	Basmati India and Pakistan ⁽⁶⁾
1006 10 21	(7)	140,81	
1006 10 23	(7)	140,81	
1006 10 25	(7)	140,81	
1006 10 27	(7)	140,81	
1006 10 92	(7)	140,81	
1006 10 94	(7)	140,81	
1006 10 96	(7)	140,81	
1006 10 98	(7)	140,81	
1006 20 11	344,33	167,83	
1006 20 13	344,33	167,83	
1006 20 15	344,33	167,83	
1006 20 17	278,95	135,14	28,95
1006 20 92	344,33	167,83	
1006 20 94	344,33	167,83	
1006 20 96	344,33	167,83	
1006 20 98	278,95	135,14	28,95
1006 30 21	(7)	271,09	
1006 30 23	(7)	271,09	
1006 30 25	(7)	271,09	
1006 30 27	(7)	271,09	
1006 30 42	(7)	271,09	
1006 30 44	(7)	271,09	
1006 30 46	(7)	271,09	
1006 30 48	(7)	271,09	
1006 30 61	(7)	271,09	
1006 30 63	(7)	271,09	
1006 30 65	(7)	271,09	
1006 30 67	(7)	271,09	
1006 30 92	(7)	271,09	
1006 30 94	(7)	271,09	
1006 30 96	(7)	271,09	
1006 30 98	(7)	271,09	
1006 40 00	(7)	84,38	

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

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

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

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

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

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

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne)	(¹)	278,95	572,00	344,33	572,00	(¹)
2. Elements of calculation:						
(a) Arag cif price (\$/tonne)	—	416,19	408,04	380,00	430,00	—
(b) fob price (\$/tonne)	—	—	—	350,00	400,00	—
(c) Sea freight (\$/tonne)	—	—	—	30,00	30,00	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

DIRECTIVE 96/92/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 19 December 1996****concerning common rules for the internal market in electricity**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 57 (2), Article 66 and Article 100a thereof,

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

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

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

- (1) Whereas it is important to adopt measures to ensure the smooth running of the internal market; whereas the internal market is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;
- (2) Whereas the completion of a competitive electricity market is an important step towards completion of the internal energy market;
- (3) Whereas the provisions of this Directive should not affect the full application of the Treaty, in particular the provisions concerning the internal market and competition;
- (4) Whereas establishment of the internal market in electricity is particularly important in order to increase efficiency in the production, transmission and distribution of this product, while reinforcing security of supply and the competitiveness of the European economy and respecting environmental protection;
- (5) Whereas the internal market in electricity needs to be established gradually, in order to enable the industry to adjust in a flexible and ordered manner to its new environment and to take account of the

different ways in which electricity systems are organized at present;

- (6) Whereas the establishment of the internal market in the electricity sector must favour the interconnection and interoperability of systems;
- (7) Whereas Council Directive 90/547/EEC of 29 October 1990 on the transit of electricity through transmission grids ⁽⁴⁾ and Council Directive 90/377/EEC of 29 June 1990 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users ⁽⁵⁾, provide for a first phase for the completion of the internal market in electricity;
- (8) Whereas it is now necessary to take further measures with a view to establishing the internal market in electricity;
- (9) Whereas, in the internal market, electricity undertakings must be able to operate, without prejudice to compliance with public service obligations, with a view to achieving a competitive market in electricity;
- (10) Whereas Member States, because of the structural differences in the Member States, currently have different systems for regulating the electricity sector;
- (11) Whereas, in accordance with the principle of subsidiarity, general principles providing for a framework must be established at Community level, but their detailed implementation should be left to Member States, thus allowing each Member State to choose the regime which corresponds best to its particular situation;
- (12) Whereas, whatever the nature of the prevailing market organization, access to the system must be open in accordance with this Directive and must lead to equivalent economic results in the States and hence to a directly comparable level of opening-up of markets and to a directly comparable degree of access to electricity markets;
- (13) Whereas for some Member States the imposition of public service obligations may be necessary to ensure security of supply and consumer and environmental protection, which, in their view, free competition, left to itself, cannot necessarily guarantee;

⁽¹⁾ OJ No C 65, 14. 3. 1992, p. 4 and OJ No C 123, 4. 5. 1994, p. 1.

⁽²⁾ OJ No C 73, 15. 3. 1993, p. 31.

⁽³⁾ Opinion of the European Parliament of 17 November 1993 (OJ No C 329, 6. 12. 1993, p. 150). Council common position of 25 July 1996 (OJ No C 315, 24. 10. 1996, p. 18) and Decision of the European Parliament of 11 December 1996 (not yet published in the Official Journal). Council Decision of 19 December 1996.

⁽⁴⁾ OJ No L 313, 13. 11. 1990, p. 30. Directive as last amended by Commission Decision 95/162/EC (OJ No L 107, 12. 5. 1995, p. 53).

⁽⁵⁾ OJ No L 185, 17. 7. 1990, p. 16. Directive as last amended by Commission Directive 93/87/EEC (OJ No L 277, 10. 11. 1993, p. 32).

- (14) Whereas long-term planning may be one means of carrying out those public service obligations;
- (15) Whereas the Treaty lays down specific rules with regard to restrictions on the free movement of goods and on competition;
- (16) Whereas Article 90 (1) of the Treaty, in particular, obliges the Member States to respect these rules with regard to public undertakings and undertakings which have been granted special or exclusive rights;
- (17) Whereas Article 90 (2) of the Treaty subjects undertakings entrusted with the operation of services of general economic interest to these rules, under specific conditions;
- (18) Whereas the implementation of this Directive will have an impact on the activities of such undertakings;
- (19) Whereas the Member States, when imposing public service obligations on the undertakings of the electricity sector, must therefore respect the relevant rules of the Treaty as interpreted by the Court of Justice;
- (20) Whereas, in establishing the internal market in electricity, full account should be taken of the Community objective of economic and social cohesion, particularly in sectors such as the infrastructures, national or intra-Community, which are used for the transmission of electricity;
- (21) Whereas Decision No 1254/96/EC of the European Parliament and of the Council of 5 June 1996 laying down a series of guidelines for trans-European energy networks⁽¹⁾ has contributed to the development of integrated infrastructures for the transmission of electricity;
- (22) Whereas it is therefore necessary to establish common rules for the production of electricity and the operation of electricity transmission and distribution systems;
- (23) Whereas there are two systems which may be applied for opening up the production market, an authorization procedure or a tendering procedure, and these must operate in accordance with objective, transparent and non-discriminatory criteria;
- (24) Whereas the position of autoproducers and independent producers needs to be taken into consideration within this framework;
- (25) Whereas each transmission system must be subject to central management and control in order to ensure the security, reliability and efficiency of the system in the interests of producers and their customers; whereas a transmission system operator should therefore be designated and entrusted with the operation, maintenance, and, if necessary, development of the system; whereas the transmission system operator must behave in an objective, transparent and non-discriminatory manner;
- (26) Whereas the technical rules for the operation of transmission systems and direct lines must be transparent and must ensure interoperability;
- (27) Whereas objective and non-discriminatory criteria must be established for the dispatching of power stations;
- (28) Whereas, for reasons of environmental protection, priority may be given to the production of electricity from renewable sources;
- (29) Whereas, at the distribution level, customers located in a given area may be granted supply rights and a manager must be designated to manage, maintain and, if necessary, develop each distribution system;
- (30) Whereas, in order to ensure transparency and non-discrimination, the transmission function of vertically integrated undertakings should be operated independently from the other activities;
- (31) Whereas a single buyer must operate separately from the generation and distribution activities of vertically integrated undertakings; whereas the flow of information between the single buyer activities and these generation and distribution activities needs to be restricted;
- (32) Whereas the accounts of all integrated electricity undertakings should provide for maximum transparency, in particular to identify possible abuses of a dominant position, consisting for example in abnormally high or low tariffs or in discriminatory practices relating to equivalent transactions; whereas, to this end, the accounts must be separate for each activity;
- (33) Whereas it is also necessary to provide for access by the competent authorities to the internal accounts of undertakings with due regard for confidentiality;
- (34) Whereas, owing to the diversity of structures and the special characteristics of systems in Member States, there should be different options for system access operating in accordance with objective, transparent and non-discriminatory criteria;
- (35) Whereas provision should be made for authorizing the construction and use of direct lines;

⁽¹⁾ OJ No L 161, 29. 6. 1996, p. 147.

- (36) Whereas provision must be made for safeguards and dispute settlement procedures;
- (37) Whereas any abuse of a dominant position or any predatory behaviour should be avoided;
- (38) Whereas, as some Member States are liable to experience special difficulties in adjusting their systems, provision should be made for recourse to transitional regimes or derogations, especially for the operation of small isolated systems;
- (39) Whereas this Directive constitutes a further phase of liberalization; whereas, once it has been put into effect, some obstacles to trade in electricity between Member States will nevertheless remain in place; whereas, therefore, proposals for improving the operation of the internal market in electricity may be made in the light of experience; whereas the Commission should therefore report to the Council and the European Parliament on the application of this Directive,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

Scope and definitions

Article 1

This Directive establishes common rules for the generation, transmission and distribution of electricity. It lays down the rules relating to the organization and functioning of the electricity sector, access to the market, the criteria and procedures applicable to calls for tender and the granting of authorizations and the operation of systems.

Article 2

For the purposes of this Directive:

1. 'generation' shall mean the production of electricity;
2. 'producer' shall mean a natural or legal person generating electricity;
3. 'autoproducer' shall mean a natural or legal person generating electricity essentially for his own use;
4. 'independent producer' shall mean:
 - (a) a producer who does not carry out electricity transmission or distribution functions in the territory covered by the system where he is established;
 - (b) in Member States in which vertically integrated undertakings do not exist and where a tendering procedure is used, a producer corresponding to the definition of point (a), who may not be exclusively subject to the economic precedence of the interconnected system;
5. 'transmission' shall mean the transport of electricity on the high-voltage interconnected system with a view to its delivery to final customers or to distributors;
6. 'distribution' shall mean the transport of electricity on medium-voltage and low-voltage distribution systems with a view to its delivery to customers;
7. 'customers' shall mean wholesale or final customers of electricity and distribution companies;
8. 'wholesale customers' shall mean any natural or legal persons, if the Member States recognize their existence, who purchase or sell electricity and who do not carry out transmission, generation or distribution functions inside or outside the system where they are established;
9. 'final customer' shall mean a customer buying electricity for his own use;
10. 'interconnectors' shall mean equipment used to link electricity systems;
11. 'interconnected system' shall mean a number of transmission and distribution systems linked together by means of one or more interconnectors;
12. 'direct line' shall mean an electricity line complementary to the interconnected system;
13. 'economic precedence' shall mean the ranking of sources of electricity supply in accordance with economic criteria;
14. 'ancillary services' shall mean all services necessary for the operation of a transmission or distribution system;
15. 'system user' shall mean any natural or legal person supplying to, or being supplied by, a transmission or distribution system;
16. 'supply' shall mean the delivery and/or sale of electricity to customers;
17. 'integrated electricity undertaking' shall mean a vertically or horizontally integrated undertaking;
18. 'vertically integrated undertaking' shall mean an undertaking performing two or more of the functions of generation, transmission and distribution of electricity;
19. 'horizontally integrated undertaking' shall mean an undertaking performing at least one of the functions of generation for sale, or transmission or distribution of electricity, and another non-electricity activity;
20. 'tendering procedure' shall mean the procedure through which planned additional requirements and replacement capacity are covered by supplies from new or existing generating capacity;

21. 'long-term planning' shall mean the planning of the need for investment in generation and transmission capacity on a long-term basis, with a view to meeting the demand for electricity of the system and securing supplies to customers;
22. 'single buyer' shall mean any legal person who, within the system where he is established, is responsible for the unified management of the transmission system and/or for centralized electricity purchasing and selling;
23. 'small isolated system' shall mean any system with consumption of less than 2500 GWh in the year 1996, where less than 5 % of annual consumption is obtained through interconnection with other systems.

CHAPTER II

General rules for the organization of the sector

Article 3

1. Member States shall ensure, on the basis of their institutional organization and with due regard for the principle of subsidiarity, that, without prejudice to paragraph 2, electricity undertakings are operated in accordance with the principles of this Directive, with a view to achieving a competitive market in electricity, and shall not discriminate between these undertakings as regards either rights or obligations. The two approaches to system access referred to in Articles 17 and 18 must lead to equivalent economic results and hence to a directly comparable level of opening-up of markets and to a directly comparable degree of access to electricity markets.

2. Having full regard to the relevant provisions of the Treaty, in particular Article 90, Member States may impose on undertakings operating in the electricity sector, in the general economic interest, public service obligations which may relate to security, including security of supply, regularity, quality and price of supplies and to environmental protection. Such obligations must be clearly defined, transparent, non-discriminatory and verifiable; they, and any revision thereof, shall be published and notified to the Commission by Member States without delay. As a means of carrying out the abovementioned public service obligations, Member States which so wish may introduce the implementation of long-term planning.

3. Member States may decide not to apply the provisions of Articles 5, 6, 17, 18 and 21 insofar as the application of these provisions would obstruct the performance, in law or in fact, of the obligations imposed on electricity undertakings in the general economic interest and insofar as the development of trade would not be affected to such an extent as would be contrary to the interests of the Community. The interests of the Community include,

inter alia, competition with regard to eligible customers in accordance with this Directive and Article 90 of the Treaty.

CHAPTER III

Generation

Article 4

For the construction of new generating capacity, Member States may choose between an authorization procedure and/or a tendering procedure. Authorization and tendering must be conducted in accordance with objective, transparent and non-discriminatory criteria.

Article 5

1. Where they opt for the authorization procedure, Member States shall lay down the criteria for the grant of authorizations for the construction of generating capacity in their territory. These criteria may relate to:

- (a) the safety and security of the electricity system, installations and associated equipment;
- (b) protection of the environment;
- (c) land use and siting;
- (d) use of public ground;
- (e) energy efficiency;
- (f) the nature of the primary sources;
- (g) characteristics particular to the applicant, such as technical, economic and financial capabilities;
- (h) the provisions of Article 3.

2. The detailed criteria and procedures shall be made public.

3. Applicants shall be informed of the reasons, which must be objective and non-discriminatory, for any refusal to grant an authorization; the reasons must be well founded and duly substantiated; they shall be forwarded to the Commission for information. Appeal procedures must be made available to the applicant.

Article 6

1. Where they opt for the tendering procedure, Member States or any competent body designated by the Member State concerned shall draw up an inventory of new means of production, including replacement capacity, on the basis of the regular estimate referred to in paragraph 2. The inventory shall take account of the need for interconnection of systems. The requisite capacity shall be allocated by means of a tendering procedure in accordance with the procedure laid down in this Article.

2. The transmission system operator or any other competent authority designated by the Member State concerned shall draw up and publish under State supervision, at least every two years, a regular estimate of the generating and transmission capacity which is likely to be connected to the system, of the need for interconnectors with other systems, of potential transmission capacity and of the demand for electricity. The estimate shall cover a period defined by each Member State.

3. Details of the tendering procedure for means of production shall be published in the *Official Journal of the European Communities* at least six months prior to the closing date for tenders.

The tender specifications shall be made available to any interested undertaking established in the territory of a Member State so that it has sufficient time in which to submit a tender.

The tender specifications shall contain a detailed description of the contract specifications and of the procedure to be followed by all tenderers and an exhaustive list of criteria governing the selection of tenderers and the award of the contract. These specifications may also relate to the fields referred to in Articles 5(1).

4. In invitations to tender for the requisite generating capacity, consideration must also be given to electricity supply offers with long-term guarantees from existing generating units, provided that additional requirements can be met in this way.

5. Member States shall designate an authority or a public body or a private body independent of electricity generation, transmission and distribution activities to be responsible for the organization, monitoring and control of the tendering procedure. This authority or body shall take all necessary steps to ensure confidentiality of the information contained in the tenders.

6. However, it must be possible for autoproducers and independent producers to obtain authorization, on the basis of objective, transparent and non-discriminatory criteria as laid down in Articles 4 and 5, in Member States which have opted for the tendering procedure.

CHAPTER IV

Transmission system operation

Article 7

1. Member States shall designate or shall require undertakings which own transmission systems to designate, for a period of time to be determined by Member States having regard to considerations of efficiency and economic balance, a system operator to be responsible for operating, ensuring the maintenance of, and, if necessary,

developing the transmission system in a given area and its interconnectors with other systems, in order to guarantee security of supply.

2. Member States shall ensure that technical rules establishing the minimum technical design and operational requirements for the connection to the system of generating installations, distribution systems, directly connected consumers' equipment, interconnector circuits and direct lines are developed and published. These requirements shall ensure the interoperability of systems and shall be objective and non-discriminatory. They shall be notified to the Commission in accordance with Article 8 of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽¹⁾.

3. The system operator shall be responsible for managing energy flows on the system, taking into account exchanges with other interconnected systems. To that end, the system operator shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services.

4. The system operator shall provide to the operator of any other system with which its system is interconnected sufficient information to ensure the secure and efficient operation, coordinated development and interoperability of the interconnected system.

5. The system operator shall not discriminate between system users or classes of system users, particularly in favour of its subsidiaries or shareholders.

6. Unless the transmission system is already independent from generation and distribution activities, the system operator shall be independent at least in management terms from other activities not relating to the transmission system.

Article 8

1. The transmission system operator shall be responsible for dispatching the generating installations in its area and for determining the use of interconnectors with other systems.

2. Without prejudice to the supply of electricity on the basis of contractual obligations, including those which derive from the tendering specifications, the dispatching of generating installations and the use of interconnectors shall be determined on the basis of criteria which may be approved by the Member State and which must be objective, published and applied in a non-discriminatory manner which ensures the proper functioning of the internal market in electricity. They shall take into account the economic precedence of electricity from available generating installations of interconnector transfers and the technical constraints on the system.

⁽¹⁾ OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by the 1994 Act of Accession.

3. A Member State may require the system operator, when dispatching generating installations, to give priority to generating installations using renewable energy sources or waste or producing combined heat and power.

4. A Member State may, for reasons of security of supply, direct that priority be given to the dispatch of generating installations using indigenous primary energy fuel sources, to an extent not exceeding in any calendar year 15 % of the overall primary energy necessary to produce the electricity consumed in the Member State concerned.

Article 9

The transmission system operator must preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its business.

CHAPTER V

Distribution system operation

Article 10

1. Member States may impose on distribution companies an obligation to supply customers located in a given area. The tariff for such supplies may be regulated, for instance to ensure equal treatment of the customers concerned.

2. Member States shall designate or shall require undertakings which own or are responsible for distribution systems to designate a system operator to be responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system in a given area and its interconnectors with other systems.

3. Member States shall ensure that the system operator acts in accordance with Articles 11 and 12.

Article 11

1. The distribution system operator shall maintain a secure, reliable and efficient electricity distribution system in its area, with due regard for the environment.

2. In any event, it must not discriminate between system users or classes of system users, particularly in favour of its subsidiaries or shareholders.

3. A Member state may require the distribution system operator, when dispatching generating installations, to give priority to generating installations using renewable

energy sources or waste or producing combined heat and power.

Article 12

The distribution system operator must preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its business.

CHAPTER IV

Unbundling and transparency of accounts

Article 13

Member States or any competent authority they designate as well as the dispute settlement authorities referred to in Article 20 (3) shall have right of access to the accounts of generation, transmission or distribution undertakings which they need to consult in carrying out their checks.

Article 14

1. Member States shall take the necessary steps to ensure that the accounts of electricity undertakings are kept in accordance with paragraphs 2 to 5.

2. Electricity undertakings, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their annual accounts in accordance with the rules of national law concerning the annual accounts of limited liability companies adopted pursuant to the fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies⁽¹⁾. Undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public in their head office.

3. Integrated electricity undertakings shall, in their internal accounting, keep separate accounts for their generation, transmission and distribution activities, and, where appropriate, consolidated accounts for other, non-electricity activities, as they would be required to do if the activities in question were carried out by separate undertakings, with a view to avoiding discrimination, cross-subsidization and distortion of competition. They shall include a balance sheet and a profit and loss account for each activity in notes to their accounts.

4. Undertakings shall specify in notes to the annual accounts the rules for the allocation of assets and liabilities and expenditure and income which they follow in drawing up the separate accounts referred to in paragraph 3. These rules may be amended only in exceptional cases. Such amendments must be mentioned in the notes and must be duly substantiated.

⁽¹⁾ OJ No L 222, 14. 8. 1978, p. 11. Directive as last amended by the 1994 Act of Accession.

5. The annual accounts shall indicate in notes any transaction of a certain size conducted with affiliated undertakings, within the meaning of Article 41 of the seventh Council Directive 83/349/EEC of 13 June 1983 based on Article 54 (3) (g) of the Treaty on consolidated accounts⁽¹⁾, or with associated undertakings, within the meaning of Article 33 (1) thereof, or, with undertakings which belong to the same shareholders.

Article 15

1. Member States which designate as a single buyer a vertically integrated electricity undertaking or part of a vertically integrated electricity undertaking shall lay down provisions requiring the single buyer to operate separately from the generation and distribution activities of the integrated undertaking.

2. Member States shall ensure that there is no flow of information between the single buyer activities of vertically integrated electricity undertakings and their generation and distribution activities, except for the information necessary to conduct the single buyer responsibilities.

CHAPTER VII

Organization of access to the system

Article 16

For the organization of access to the system, Member States may choose between the procedures referred to in Article 17 and/or in Article 18. Both sets of procedure shall operate in accordance with objective, transparent and non-discriminatory criteria.

Article 17

1. In the case of negotiated access to the system, Member States shall take the necessary measures for electricity producers and, where Member States authorize their existence, supply undertakings and eligible customers either inside or outside the territory covered by the system to be able to negotiate access to the system so as to conclude supply contracts with each other on the basis of voluntary commercial agreements.

2. Where an eligible customer is connected to the distribution system, access to the system must be the subject of negotiation with the relevant distribution

system operator and, if necessary, with the transmission system operator concerned.

3. To promote transparency and facilitate negotiations for access to the system, system operators must publish, in the first year following implementation of this Directive, an indicative range of prices for use of the transmission and distribution systems. As far as possible, the indicative prices published for subsequent years should be based on the average price agreed in negotiations in the previous 12-month period.

4. Member States may also opt for a regulated system of access procedure, giving eligible customers a right of access, on the basis of published tariffs for the use of transmission and distribution systems, that is at least equivalent, in terms of access to the system, to the other procedures for access referred to in this Chapter.

5. The operator of the transmission or distribution system concerned may refuse access where he lacks the necessary capacity. Duly substantiated reasons must be given for such refusal, in particular having regard to Article 3.

Article 18

1. In the case of the single buyer procedure, Member States shall designate a legal person to be the single buyer within the territory covered by the system operator. Member States shall take the necessary measures for:

- (i) the publication of a non-discriminatory tariff for the use of the transmission and distribution system;
- (ii) eligible customers to be free to conclude supply contracts to cover their own needs with producers and, where Member States authorize their existence, with supply undertakings outside the territory covered by the system;
- (iii) eligible customers to be free to conclude supply contracts to cover their own needs with producers inside the territory covered by the system;
- (iv) independent producers to negotiate access to the system with the transmission and distribution systems operators so as to conclude supply contracts with eligible customers outside the system, on the basis of a voluntary commercial agreement.

2. The single buyer may be obliged to purchase the electricity contracted by an eligible customer from a producer inside or outside the territory covered by the system at a price which is equal to the sale price offered by the single buyer to eligible customers minus the price of the published tariff referred to in paragraph 1 (i).

⁽¹⁾ OJ No L 193, 18. 7. 1983, p. 1. Directive as last amended by the 1994 Act of Accession.

3. If the purchase obligation under paragraph 2 is not imposed on the single buyer, Member States shall take the necessary measures to ensure that the supply contracts referred to in paragraph 1 (ii) and (iii) are implemented either via access to the system on the basis of the published tariff referred to in paragraph 1 (i) or via negotiated access to the system according to the conditions of Article 17. In the latter case, there would be no obligation for the single buyer to publish a non-discriminatory tariff for the use of the transmission and distribution system.

4. The single buyer may refuse access to the system and may refuse to purchase electricity from eligible customers where he lacks the necessary transmission or distribution capacity. Duly substantiated reasons must be given for such refusal, in particular having regard to Article 3.

Article 19

1. Member States shall take the necessary measures to ensure an opening of their electricity markets, so that contracts under the conditions stated in Articles 17 and 18 can be concluded at least up to a significant level, to be notified to the Commission on an annual basis.

The share of the national market shall be calculated on the basis of the Community share of electricity consumed by final consumers consuming more than 40 GWh per year (on a consumption site basis and including auto-production).

The average Community share shall be calculated by the Commission on the basis of information regularly provided to it by Member States. The Commission shall publish this average Community share defining the degree of market opening in the *Official Journal of the European Communities* before November each year, with all appropriate information clarifying the calculation.

2. The share of the national market referred to in paragraph 1 will be increased progressively over a period of six years. This increase will be calculated by reducing the Community consumption threshold of 40 GWh, referred to in paragraph 1 from 40 GWh to a level of 20 GWh annual electricity consumption three years after the entry into force of this Directive and to a level of 9 GWh annual electricity consumption six years after the entry into force of this Directive.

3. Member States shall specify those customers inside their territory representing the shares as specified in paragraphs 1 and 2 which have the legal capacity to contract electricity in accordance with Articles 17 and 18, given that all final consumers consuming more than 100 GWh per year (on a consumption site basis and including auto-production) must be included in the above category.

Distribution companies, if not already specified as eligible customers under this paragraph, shall have the legal capacity to contract under the conditions of Articles 17 and 18 for the volume of electricity being consumed by their customers designated as eligible within their distribution system, in order to supply those customers.

4. Member States shall publish by 31 January each year the criteria for the definition of eligible customers which are able to conclude contracts under the conditions stated in Articles 17 and 18. This information, together with all other appropriate information to justify the fulfilment of market opening under paragraph 1, shall be sent to the Commission to be published in the *Official Journal of the European Communities*. The Commission may request a Member State to modify its specifications, as mentioned in paragraph 3, if they create obstacles to the correct application of this Directive as regards the smooth functioning of the internal market in electricity. If the Member State concerned does not comply with this request within a period of three months, a final decision shall be taken in accordance with Procedure I of Article 2 of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁾.

5. To avoid imbalance in the opening of electricity markets during the period referred to in Article 26:

- (a) contracts for the supply of electricity under the provisions of Articles 17 and 18 with an eligible customer in the system of another Member State shall not be prohibited if the customer is considered as eligible in both systems involved;
- (b) in cases where transactions as described in subparagraph (a) are refused because of the customer being eligible only in one of the two systems, the Commission may oblige, taking into account the situation in the market and the common interest, the refusing party to execute the requested electricity supply at the request of the Member State where the eligible customer is located.

In parallel with the procedure and the timetable provided for in Article 26, and not later than after half of the period provided for in that Article, the Commission shall review the application of subparagraph (b) of the first subparagraph on the basis of market developments taking into account the common interest. In the light of experience gained, the Commission shall evaluate this situation and report on possible imbalance in the opening of electricity markets with regard to this paragraph.

⁽¹⁾ OJ No L 197, 18. 7. 1987, p. 33.

Article 20

1. Member States shall take the necessary measures to enable:

- (i) independent producers and autoproducers to negotiate access to the system so as to supply their own premises and subsidiaries in the same Member State or in another Member State by means of the inter-connected system;
- (ii) producers located outside the territory covered by the system to conclude a supply contract following a call for tender for new generating capacity, and to have access to the system to perform the contract.

2. Member States shall ensure that the parties negotiate in good faith and that none of them abuses its negotiating position by preventing the successful outcome of negotiations.

3. Member States shall designate a competent authority, which must be independent of the parties, to settle disputes relating to the contracts and negotiations in question. In particular, this authority must settle disputes concerning contracts, negotiations and refusal of access or refusal to purchase.

4. In the event of cross-border disputes, the dispute settlement authority shall be the dispute settlement authority covering the system of the single buyer or the system operator which refuses use of, or access to, the system.

5. Recourse to this authority shall be without prejudice to the exercise of rights of appeal under Community law.

Article 21

1. Member States shall take measures under the procedures and rights referred to in Articles 17 and 18 to enable:

- all electricity producers and electricity supply undertakings, where Member States authorize their existence, established within their territory to supply their own premises, subsidiaries and eligible customers through a direct line;
- any eligible customer within their territory to be supplied through a direct line by a producer and supply undertakings, where such suppliers are authorized by Member States.

2. Member States shall lay down the criteria for the grant of authorizations for the construction of direct lines in their territory. These criteria must be objective and non-discriminatory.

3. The possibility of supplying electricity through a direct line as referred to in paragraph 1 shall not affect the possibility of contracting electricity in accordance with Articles 17 and 18.

4. Member States may make authorization to construct a direct line subject either to the refusal of system access on the basis, as appropriate, of Article 17 (5) or Article 18 (4) or to the opening of a dispute settlement procedure under Article 20.

5. Member States may refuse to authorize a direct line if the granting of such an authorization would obstruct the provisions of Article 3. Duly substantiated reasons must be given for such refusal.

Article 22

Member States shall create appropriate and efficient mechanisms for regulation, control and transparency so as to avoid any abuse of dominant position, in particular to the detriment of consumers, and any predatory behaviour. These mechanisms shall take account of the provisions of the Treaty, and in particular Article 86 thereof.

CHAPTER VIII

Final provisions*Article 23*

In the event of a sudden crisis in the energy market and where the physical safety or security of persons, apparatus or installations or system integrity is threatened, a Member State may temporarily take the necessary safeguard measures.

Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

The Member State concerned shall without delay notify these measures to the other Member States, and to the Commission, which may decide that the Member State concerned must amend or abolish such measures, insofar as they distort competition and adversely affect trade in a manner which is at variance with the common interest.

Article 24

1. Those Member States in which commitments or guarantees of operation given before the entry into force of this Directive may not be honoured on account of the provisions of this Directive may apply for a transitional regime which may be granted to them by the Commission, taking into account, amongst other things, the size

of the system concerned, the level of interconnection of the system and the structure of its electricity industry. The Commission shall inform the Member States of those applications before it takes a decision, taking into account respect for confidentiality. This decision shall be published in the *Official Journal of the European Communities*.

2. The transitional regime shall be of limited duration and shall be linked to expiry of the commitments or guarantees referred to in paragraph 1. The transitional regime may cover derogations from Chapter IV, VI and VII of this Directive. Applications for a transitional regime must be notified to the Commission no later than one year after the entry into force of this Directive.

3. Member States which can demonstrate, after the Directive has been brought into force, that there are substantial problems for the operation of their small isolated systems, may apply for derogations from the relevant provisions of Chapter IV, V, VI, VII, which may be granted to them by the Commission. The latter shall inform the Member States of those applications prior to taking a decision, taking into account respect for confidentiality. This decision shall be published in the *Official Journal of the European Communities*. This paragraph shall also be applicable to Luxembourg.

Article 25

1. The Commission shall submit a report to the Council and the European Parliament, before the end of the first year following entry into force of this Directive, on harmonization requirements which are not linked to the provisions of this Directive. If necessary, the Commission shall attach to the report any harmonization proposals necessary for the effective operation of the internal market in electricity.

2. The Council and the European Parliament shall give their views on such proposals within two years of their submission.

Article 26

The Commission shall review the application of this Directive and submit a report on the experience gained on the functioning of the internal market in electricity

and the implementation of the general rules mentioned in Article 3 in order to allow the European Parliament and the Council, in the light of experience gained, to consider, in due time, the possibility of a further opening of the market which would be effective nine years after the entry into force of the Directive taking into account the coexistence of systems referred to in Articles 17 and 18.

Article 27

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 19 February 1999. They shall forthwith inform the Commission thereof.

2. Belgium, Greece and Ireland may, due to the specific technical characteristics of their electricity systems, have an additional period of respectively 1 year, 2 years and 1 year to apply the obligations ensuing from this Directive. These Member States, when making use of this option, shall inform the Commission thereof.

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

Article 28

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Article 29

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1996.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

S. BARRETT

COUNCIL DIRECTIVE 97/3/EC

of 20 January 1997

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

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

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas by Directive 77/93/EEC ⁽⁴⁾, the Council laid down protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community; whereas the protection of plants against such organisms is absolutely necessary to increase agricultural productivity which is one of the objectives of the common agricultural policy;

Whereas the completion of the internal market entailed the application of the Community plant-health regime established by Directive 77/93/EEC to the Community, as an area without internal frontiers;

Whereas several measures have been adopted to strengthen effective application of the Community plant-health regime in the internal market, which is intended to protect the different areas of the Community (Member States, regional or local entities as well as individual plant growers) against damage caused by the introduction of harmful organisms;

Whereas, in addition, it is necessary to establish a system of Community financial contributions to share at Community level the burden of possible risks which might remain in trade under the Community plant-health regime;

Whereas, in order to prevent infections by harmful organisms introduced from third countries, there should be a Community financial contribution aimed at reinforcing the plant health inspection infrastructure at the Community's external frontiers;

Whereas the regime should also provide for adequate contributions to certain expenses for specific measures, which Member States have adopted to control and, where applicable, eradicate infections by harmful organisms introduced from third countries or from other areas in the

Community, and, where possible, to repair the damage caused;

Whereas the details of the mechanism for granting the Community financial contribution should be determined under a rapid procedure;

Whereas it must be ensured that the Commission is informed in full of the possible causes for the introduction of the harmful organisms concerned;

Whereas, in particular, the Commission shall monitor correct application of the Community plant-health regime;

Whereas, should it be established that the introduction of the harmful organisms has been caused by inadequate examinations or inspections, Community law shall apply in respect of the consequences, taking into account certain specific measures,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/93/EEC is hereby amended as follows:

1. The following paragraph shall be inserted after paragraph 6 of Article 12:

'6a. There shall be a Community financial contribution for Member States in order to strengthen inspection infrastructures insofar as they relate to plant-health checks carried out in accordance with the fourth subparagraph of paragraph 6.

The purpose of this contribution shall be to improve the provision, at inspection posts other than those at the place of destination, of the equipment and facilities required to carry out inspection and examination and, where necessary, to carry out the measures provided for in paragraph 8, beyond the level already achieved by complying with the minimum conditions stipulated in the implementing provisions pursuant to paragraph 6, fourth subparagraph.

The Commission shall propose the entry of suitable appropriations for that purpose in the general budget of the European Communities.

Within the limits set by the appropriations available for these purposes, the Community contribution shall cover up to 50 % of expenditure relating directly to improving equipment and facilities.

⁽¹⁾ OJ No C 31, 9. 2. 1990, p. 8 and OJ No C 205, 6. 8. 1991, p. 16.

⁽²⁾ OJ No C 106, 22. 4. 1991, p. 36 and OJ No C 255, 20. 9. 1993, p. 242.

⁽³⁾ OJ No C 201, 26. 7. 1993, p. 31.

⁽⁴⁾ OJ No L 26, 31. 1. 1977, p. 20. Directive as last amended by Commission Directive 96/78/EC (OJ No L 321, 12. 12. 1996, p. 20).

The details shall be laid down in an implementing Regulation, in accordance with the procedure laid down in Article 16a.

The allocation and the amount of the Community financial contribution shall be decided in accordance with the same procedure in the light of the information and documents submitted by the Member State concerned and, where appropriate, the results of investigations carried out on the Commission's authority by the experts referred to in Article 19a, and depending on the appropriations available for the purposes concerned;

2. The following Articles shall be inserted:

Article 19b

In the event of the actual or suspected appearance of a harmful organism as a result of its introduction or spread within the Community, Member States may receive a "plant-health control" financial contribution from the Community pursuant to Articles 19c and 19d to cover expenditure relating directly to the necessary measures which have been taken or are planned for the purpose of combating that harmful organism in order to eradicate or, if that is not possible, contain it. The Commission shall propose the entry of suitable appropriations for that purpose in the general budget of the European Communities.

Article 19c

1. The Member State concerned may receive, at its request, the Community financial contribution referred to in Article 19b, where it is established that the harmful organism concerned, whether or not listed in Annexes I and II:

- has been notified under Article 15 (1) or (2) (a), and
- constitutes an imminent danger for all or part of the Community due to its appearance in an area where the organism had either not been known to occur previously or had been or was being eradicated, and
- was introduced into that area through consignments of plants, plant products or other objects from a third country or another area of the Community.

2. The following shall be regarded as necessary measures within the meaning of Article 19b:

- destruction, disinfection, disinfection, sterilization, cleaning or any other treatment carried out officially or upon official request in respect of:
 - plants, plant products or other objects constituting the consignment(s) through which the harmful organism was introduced into the area in question and which are recognized as being contaminated or liable to be contaminated,
 - plants, plant products and other objects, recognized as being contaminated or liable to be contaminated by the harmful organism introduced, which have been grown from plants in the consignment(s) concerned or have been in close proximity to the plants, plant products or other objects of those consignments or to plants grown from them,
 - growing substrates and land recognized as being contaminated or liable to be contaminated by the harmful organism concerned,
 - production material, packaging, wrapping and storage material, storage or packaging premises and means of transport which have been in contact with all or some of the plants, plant products and other objects referred to above,
- inspections or testing carried out officially or upon official request to monitor the presence or extent of contamination by the harmful organism which has been introduced,
- prohibitions or restrictions in respect of the use of growing substrates, cultivable areas or premises, as well as plants, plant products or other objects other than material from the consignment(s) in question or grown therefrom where they result from official decisions taken on the grounds of plant-health risks related to the harmful organism introduced.

3. Payments made from public funds in order to:

- cover all or part of the costs of the measures described in the first and second indents of paragraph 2, except for those related to the regular running costs of the competent official body concerned, or
- to compensate for all or part of the financial losses other than loss of earnings resulting directly from one or more of the measures described in the third indent of paragraph 2,

shall be considered to be expenditure directly relating to the necessary measures referred to in paragraph 2.

By way of derogation from the second indent of the first subparagraph an implementing Regulation may specify, in accordance with the procedure laid down in Article 16a, cases in which compensation for loss of

earnings shall be considered to be expenditure directly relating to necessary measures subject to the conditions specified in this respect in paragraph 5 as well as the time limitations applicable to those cases, with a maximum of three years.

4. In order to qualify for the financial contribution from the Community and without prejudice to Article 15, the Member State concerned shall apply to the Commission, at the latest before the end of the calendar year following that in which the appearance of the harmful organism was detected, and shall forthwith inform the Commission and the other Member States of:

- the reference of the notification provided for in the first indent of paragraph 1,
- the nature and extent of the appearance of the harmful organism as referred to in Article 19b, and when, where and how it was detected,
- the identity of the consignments referred to in the third indent of paragraph 1 through which the harmful organism was introduced,
- the necessary measures which have been taken or are planned for which it is seeking assistance, together with timetables for them, and
- the results obtained and the actual or estimated cost of the expenditure incurred or to be incurred, and the proportion of such expenditure covered or to be covered from public funds allocated by the Member State for implementation of those same necessary measures.

Where the appearance of the harmful organism was detected prior to the date of entry into force of this Article, that date shall be deemed to be the date of detection within the meaning of paragraphs 4 and 5, provided that the actual date of detection is not earlier than 1 January 1995. However, this provision shall not apply in respect of compensation for loss of earnings referred to in paragraph 3, second subparagraph save in exceptional cases, under the conditions laid down in the implementing Regulation referred to in paragraph 3, to loss of earnings occurring thereafter.

5. Without prejudice to Article 19d, the allocation and the amount of the financial contribution from the Community shall be decided in accordance with the procedure laid down in Article 16a in the light of the information and documents submitted by the Member State concerned in accordance with paragraph 4 and, where appropriate, the results of investigations carried out on the Commission's authority by the experts referred to in Article 19a pursuant to the first subparagraph of Article 15 (3), taking into account the extent of the danger referred to in the second indent of paragraph 1 above, and depending on the appropriations available for these purposes.

Within the limits set by the appropriations available for these purposes, the financial contribution from the

Community shall cover up to 50 % and, in case of compensation for loss of earnings referred to in paragraph 3, second subparagraph, up to 25 %, of expenditure relating directly to the necessary measures referred to in paragraph 2, provided that these measures have been taken within a period not more than two years after the date of detection of the appearance of a harmful organism as referred to in Article 19c, or are planned for that period.

The abovementioned period may be extended, in accordance with the same procedure, if examination of the situation concerned leads to the conclusion that the objective of the measures will be achieved within a reasonable additional period. The financial contribution from the Community shall be degressive over the years concerned.

Where the Member State is unable to supply the required information regarding the identity of the consignments in accordance with the third indent of paragraph 4, it shall indicate the presumed sources of the appearance and the reasons why the consignments could not be identified. The allocation of the financial contribution may be approved, in accordance with the same procedure, depending on the outcome of an assessment of that information.

Detailed rules for the implementation of paragraph 5 shall be established in an implementing Regulation in accordance with the procedure laid down in Article 16a.

6. In the light of the development of the situation in the Community, it may be decided, in accordance with the procedure laid down in Article 16a or 17, that further action will be implemented or that measures taken or planned by the Member State concerned will be made subject to certain requirements or additional conditions, if these are necessary for the achievement of the objective in question.

The allocation of the financial contribution from the Community for such further action, requirements or conditions shall be decided by the same procedure. Within the limits set by the appropriations available for these purposes, the financial contribution from the Community shall cover up to 50 % of expenditure relating directly to the further action, requirements or conditions concerned.

Where such further action, requirements or conditions are essentially designed to protect Community territories other than that of the Member State concerned, it may be decided, in accordance with the same procedure, that the Community financial allocation shall cover more than 50 % of the expenditure.

The financial contribution from the Community shall be of a limited duration and shall be degressive over the years concerned.

7. The allocation of a financial contribution from the Community shall be without prejudice to claims which the Member State concerned or individuals may have against others, including other Member States in the cases referred to in Article 19d (3), for the refunding of expenditure, compensation for losses or other damages under national law, Community law or international law. Rights in these claims will be the object of a transfer, by operation of law, to the Community with effect from the payment of the financial contribution from the Community, to the extent that such expenditure, losses or other damages are covered by that contribution.

8. The financial contribution from the Community may be paid in several instalments.

If it appears that the financial contribution from the Community as allocated is no longer justified, the following shall apply:

The amount of the financial contribution from the Community allocated to the Member State concerned pursuant to paragraphs 5 and 6 may either be reduced or suspended, if it is established from the information supplied by that Member State, or from the results of investigations carried out on the Commission's authority by the experts referred to in Article 19a, or from the results of the suitable examination which the Commission has conducted in accordance with the procedures analogous to those in Article 24 (1) of Regulation (EEC) No 4253/88⁽¹⁾ that:

— failure to implement the necessary measures decided on in accordance with paragraphs 5 and 6, whether in whole or in part, or failure to comply with the rules or time limits set in accordance with those provisions or required by the objectives pursued is not justified, or

— the measures are no longer necessary, or

— a situation as described in Article 24 (2) of aforesaid Regulation (EEC) No 4253/88 is revealed.

9. Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽²⁾, shall apply *mutatis mutandis*.

10. The Member State concerned shall repay the Community all or part of any amounts paid it by way

of a Community financial contribution allocated under paragraphs 5 and 6 above if it is established from the sources as specified in paragraph 8, that

— the necessary measures taken into account pursuant to paragraphs 5 or 6

— have not been implemented, or

— have not been implemented in a manner which complies with the rules or time limits set in accordance with those provisions or required by the objectives pursued,

or

— the amounts paid have been used for purposes other than those for which the financial contribution was allocated,

or

— a situation as described in Article 24 (2) of aforesaid Regulation (EEC) No 4253/88 is revealed.

The rights referred to in the second sentence of paragraph 7 will be the object of a transfer by operation of law back to the Member State concerned with effect from the time of repayment, inasmuch as they are covered by that repayment.

Interest on account of late payment shall be charged on sums not repaid in compliance with the provisions of the Financial Regulation and in accordance with the arrangements to be drawn up by the Commission in accordance with the procedure laid down in Article 16a.

Article 19d

1. In respect of the causes for the appearance of the harmful organism referred to in Article 19 (b), the following shall apply:

The Commission shall verify whether the appearance of the harmful organism in the area concerned was caused by the movement into that area of one or more consignments carrying the harmful organism and shall identify the Member State or the successive Member States from which the consignment(s) came.

The Member State from which the consignment(s) carrying the harmful organism came, whether or not the same Member State as that referred to above, shall forthwith inform the Commission, at the latter's request, of all details relating to the origin or origins of the consignment(s) and the administrative handling involved, including the examinations, inspections and controls provided for in this Directive, in order to determine why that Member State failed to detect that the consignment(s) did not comply with the provisions of this Directive. It shall also inform the Commission, at its request, of the destination of all the other consignments sent from the same origin or origins during a specified period.

⁽¹⁾ Council Regulation (EEC) No 4253/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments (OJ No L 374, 31. 12. 1988, p. 1). Regulation as last amended by Regulation (EC) No 3193/94 (OJ No L 337, 24. 12. 1994, p. 11).

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ No L 125, 8. 6. 1995, p. 1).

For the purpose of supplementing the information, investigations may be carried out on the Commission's authority by the experts referred to in Article 19a.

2. The information acquired pursuant to these provisions or those of Article 15 (3) shall be examined in the Standing Committee on Plant Health for the purposes of identifying any failings in the Community's plant health regulations or their implementation, and any measures that could be taken to remedy those failings.

The information referred to in paragraph 1 shall also be used to establish, in accordance with the Treaty, whether the Member State from which the consignment(s) came did not detect their non-compliance which resulted in the appearance of the harmful organism in the area concerned because that Member State failed to meet one of its obligations under the Treaty and under the provisions of this Directive relating in particular to the examinations laid down in Article 6 or the inspections laid down in Article 12 (1).

3. Where the conclusion referred to in paragraph 2 is reached in respect of the Member State referred to in Article 19c (1), the Community financial contribution shall not be allocated to that Member State or, if already allocated, shall not be paid or, if already paid, shall be refunded to the Community. In the latter case, the last subparagraph of Article 19c (10) shall apply.

Where the conclusion referred to in paragraph 2 is reached in respect of another Member State, Community law shall apply, taking into account the second sentence of Article 19c (7).'

Article 2

The Council, acting by qualified majority on a proposal from the Commission, shall adopt provisions in respect of the exceptional cases of predominant Community interest justifying a Community contribution, up to 70 %, of the expenditure relating directly to improving equipment and facilities, within the limits set by appropriations available for those purposes and provided that this would not affect

decisions pursuant to Article 19 (c) (5) or (6) of Directive 77/93/EEC.

Article 3

Within five years from the date of adoption of this Directive, the Commission shall examine the results of its application and submit to the Council a report, accompanied by any necessary proposals for amendments.

Article 4

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the relevant provisions of this Directive before 1 April 1998. They shall forthwith inform the Commission thereof.

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

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

Article 5

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

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 20 January 1997.

For the Council

The President

J. VAN AARTSEN

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 9 January 1997

recognizing that the production of certain quality wines in specified regions in Spain, by reason of their qualitative characteristics, is far from able to satisfy demand

(Only the Spanish text is authentic)

(Text with EEA relevance)

(97/85/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 1592/96 ⁽²⁾, and in particular Article 6 (4) thereof,

Whereas, Article 6 (1) of Regulation (EEC) No 822/87 stipulates that any new planting of vine varieties is banned until 31 August 1998; whereas there is provision, however, for Member States to grant in the 1996/97 and 1997/98 wine years authorizations for new vine planting for areas intended for the production of:

- quality wines produced in specified regions (psr), and
- table wines designated as one of the following: 'Landwein', 'vin de pays', 'indicazione geografica tipica', 'vino de la tierra', 'vinho regional', 'regional wine', etc., for which the Commission has recognized that production, by reason of its qualitative characteristics, is far from able to satisfy demand;

Whereas applications to apply this provision as regards certain quality wines psr were submitted by the Spanish Government on 3 December 1996;

Whereas the scrutiny of these applications concluded that the quality wines psr in question fulfil the requisite

conditions; whereas the limit of 3 615 hectares laid down by the Regulation has not been exceeded;

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

HAS ADOPTED THIS DECISION:

Article 1

The quality wines psr listed in the Annex hereto fulfil the conditions laid down in the second subparagraph of Article 6 (1) of Regulation (EEC) No 822/87, provided that the increase in surface area listed in the same Annex is complied with for all the quality wines psr of the same region.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 9 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 31.

ANNEX

<i>(in hectares)</i>		
Autonomous community	Designation of origin	New plantings
ANDALUCIA	Málaga	30
ARAGÓN	Somontano	30
CANARY ISLANDS	Tacoronte-Acentejo Lanzarote La Palma Ycoden-Daute-Isora El Hierro Valle Orotava Abona Güimar	Total Canary Islands 90
CASTILE-LA MANCHA	Méntrida Almansa	120 40 Total Castile-La Mancha 160
CASTILE-LEON	Bierzo Cigales Ribera del Duero Rueda Toro	Total Castile-Leon 535
CATALONIA	Alella, Bages, Penedés, Priorato, Tarragona, Terra Alta Conca de Barberá, Costera del Segre Ampurdán-Costa Brava	500 91 14 Total Catalonia 605
GALICIA	Rías Baixas Ribeiro Valdeorras Ribeira Sacra Monterrei	Total Galicia 240
RIOJA	Rioja	1 060
NAVARRRE	Rioja	140
BASQUE COUNTRY	Rioja Chacolí	325 5 Total Basque Country 330
VALENCIA	Utiel-Requena	150
		Total Spain 3 370

COMMISSION DECISION

of 10 January 1997

concerning the specific financial contribution by the Community for surveillance relating to the eradication of foot-and-mouth disease in Greece

(Only the Greek text is authentic)

(97/86/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Decision 94/370/EC ⁽²⁾ and, in particular, Article 3 (2) and Article 11 (4) thereof,

Whereas outbreaks of foot-and-mouth disease have occurred in Greece during the period from 3 July to 30 September 1996;

Whereas the appearance of this disease is a serious danger to the Community's livestock and, in order to help eradicate the disease as rapidly as possible, the Community has the possibility to participate with financial assistance;

Whereas, when the presence of foot-and-mouth disease was officially confirmed, the Greek authorities established measures within the framework of the provisions of Article 3 (2) of Decision 90/424/EEC and the provisions of Council Directive 85/511/EEC of 18 November 1985, introducing Community measures for the control of foot-and-mouth disease ⁽³⁾, as last amended by the Act of Accession of Austria, Finland and Sweden; whereas such measures were notified by the Greek authorities;

Whereas as a result of outbreaks of foot-and-mouth disease in July 1996 in Greece the Commission adopted Decision 96/440/EC of 18 July 1996 concerning certain protection measures with regard to foot-and-mouth disease ⁽⁴⁾; whereas in the light of the disease situation the said Decision was repealed and the established disease protection measures amended by Commission Decision 96/526/EC of 30 August 1996 concerning certain protection measures with regard to foot-and-mouth disease in Greece and repealing Commission Decision 96/440/EC ⁽⁵⁾;

Whereas the foot-and-mouth disease situation requires an intensified disease surveillance;

Whereas Greece by letter of 19 September 1996 has presented a programme for the surveillance of foot-and-

mouth disease in Rodopi; whereas this programme takes into account the provisions of Annex II of Decision 96/526/EC;

Whereas for the purpose of disease surveillance, a village may be considered as an epidemiological unit in so far as sheep and goat farms are concerned;

Whereas the conditions for Community financial assistance for the surveillance programme presented by Greece have been met;

Whereas for supervisory purposes Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on financing of the common agricultural policy ⁽⁶⁾, as last amended by Regulation (EEC) No 2048/88 ⁽⁷⁾, should apply;

Whereas, in order to carry out good financial management, it is necessary that Greece should send the necessary supporting documents to the Commission;

Whereas it is necessary to fix in advance the maximum level of Community financial aid for this action;

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

1. The Greek surveillance programme for foot-and-mouth disease presented on 19 September 1996 is hereby approved.

2. For the surveillance of foot-and-mouth disease during the period 1 October 1996 to 31 December 1996, Greece may obtain Community financial assistance. The surveillance shall be carried out in accordance with the provisions of Annex II of Decision 96/526/EC. The financial contribution shall be 70 % of the costs related to:

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 19.

⁽²⁾ OJ No L 168, 2. 7. 1994, p. 31.

⁽³⁾ OJ No L 315, 26. 11. 1985, p. 11.

⁽⁴⁾ OJ No L 181, 20. 7. 1996, p. 38.

⁽⁵⁾ OJ No L 221, 31. 8. 1996, p. 65.

⁽⁶⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽⁷⁾ OJ No L 185, 15. 7. 1988, p. 1.

- clinical inspection of cattle, sheep and goats,
- maintenance of records on epidemiological information relevant to herds and flocks inspected,
- collection and transport of blood samples,
- purchase of reagents and laboratory examination of samples.

Article 2

1. The Community financial contribution shall be granted after the supporting documents have been submitted.
2. The documents referred to in paragraph 1 shall as regards the measures listed in Article 1 include:
 - (a) an epidemiological report covering inspections carried out in each veterinary substation district,
 - (b) a report on laboratory examinations performed,
 - (c) a financial report including a list of the beneficiaries, their location and amount paid.

3. The financial participation of the Community is limited to ECU 30 000.

Article 3

Articles 8 and 9 of Council Regulation (EEC) No 729/70 shall apply *mutatis mutandis*.

Article 4

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 10 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 15 January 1997

concerning a specific financial contribution by the Community relating to diagnostic and management measures for the eradication of foot-and-mouth-disease in Greece

(Only the Greek text is authentic)

(97/87/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Council Decision 94/370/EC ⁽²⁾ and, in particular, Article 3 (3) and Article 11 (4) thereof,

Whereas outbreaks of foot-and-mouth-disease have occurred in Greece in 1994 and 1996;

Whereas in 1994 and in 1996 the foot-and-mouth-disease virus was introduced into Greece from abroad;

Whereas the appearance of this disease is a serious danger to the Community's livestock; whereas the Community has the possibility to provide financial assistance to Member States in order rapidly to eradicate this disease;

Whereas it is necessary that Greece has a high level of preparedness for the eradication of foot-and-mouth-disease and in particular in areas considered to be at high risk;

Whereas in the light of the importance of a high level of preparedness at all levels engaged in disease eradication it is appropriate to provide financial assistance to cover costs incurred by Greece up to a maximum of ECU 170 000;

Whereas a financial contribution from the Community shall be granted in so far as the actions provided for are carried out and provided that the authorities furnish all the necessary information within the time limits provided for;

Whereas for supervisory purposes Articles 8 and 9 of Council Regulation (EEC) No 729/70 of 21 April 1970 on financing of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 2048/88 ⁽⁴⁾, should apply;

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

Article 1

1. With the view to ensuring that Greece can provide a high level of preparedness for eradication of foot-and-mouth-disease in areas considered at risk, the Community shall provide financial assistance for:

- purchase and instalment of equipment for diagnostic work in the national foot-and-mouth disease laboratory as shown in section A of the Annex,
- purchase and instalment of equipment as shown in section B of the Annex for recording of epidemiological data and for the establishment of a network providing a direct link between district veterinary services of Rodopi and Evros, the national foot-and-mouth disease laboratory and the national disease crisis centre,
- training and conduct of simulation exercise as shown in section C of the Annex.

2. The financial assistance from the Community for measures referred to in paragraph 1 shall be 70 % of the costs incurred by Greece.

3. The purchase and instalment of equipment referred to in paragraph 1 shall be carried out before 30 June 1997; the training and simulation exercise shall be completed by 31 December 1997.

Article 2

The Community financial contribution shall be a maximum of ECU 170 000.

Article 3

The Community financial assistance shall be granted after the supporting technical and financial documents have been submitted to the European Commission.

The documents must be presented before 1 March 1998.

Article 4

Articles 8 and 9 of Council Regulation (EEC) No 729/70 shall apply *mutatis mutandis*.

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 19.

⁽²⁾ OJ No L 168, 2. 7. 1994, p. 31.

⁽³⁾ OJ No L 94, 28. 4. 1970, p. 13.

⁽⁴⁾ OJ No L 185, 15. 7. 1988, p. 1.

Article 5

This Decision is addressed to the Hellenic Republic,

Done at Brussels, 15 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

PREPAREDNESS FOR ERADICATION OF FOOT-AND-MOUTH DISEASE

Section A

Laboratory equipment (estimates)

	(in drachmas)
1. Washing machine ultra sound 14 litre	900 000
2. Centrifuge apparatus	800 000
3. Vertical ultra low temperature freezer	3 850 000
4. Deep freezer (– 40 °C)	1 000 000
5. Vacuum pump for pipetting	500 000
6. Two personal computers and one plate reader	1 300 000
7. Incubator 37 °C	1 000 000
8. Six pipettes	1 200 000
9. Glassware and plastics	600 000
10. Safety clothing for laboratory work	800 000
11. Laminar air, flow, work station	1 800 000
12. Precision balance	650 000
13. Laboratory pH Meter	250 000
14. Magnetic stirrer heating plate	130 000
15. Shaking water bath	1 000 000
16. Handy wash (Microplate washer)	600 000
17. Fire boy	250 000
18. Double distillation water purification system	4 000 000
19. Stirrer (vortex)	90 000
20. Tissue emulsifier (stomacher)	1 300 000
21. Incubator-sterilizer	600 000
22. Lyophiliser	3 500 000
23. Water bath with thermostat and circulator	1 000 000
24. Floor standing autoclave	2 000 000
25. Binocular microscope with camera	1 500 000
26. PCR apparatus	10 000 000
27. Miscellaneous	10 000 000
Total Maximum	50 620 000

Section B

Equipment for recording and transfer of equidemiological data (estimates)

	(in drachmas)
PC hardware 12 units × 450 000	5 400 000
Printers 12 units × 250 000	3 000 000
Modems 12 units × 250 000	3 000 000
Software	2 000 000
Telefax	300 000
Miscellaneous	2 000 000
Total maximum	15 700 000

*Section C***Training (estimates)**

<i>(in drachmas)</i>	
Training of staff in use of computer network	1 500 000
Training of field staff in epidemiology	1 500 000
Training of laboratory staff	2 000 000
Foot and Mouth Disease Simulation exercise	500 000
Miscellaneous	1 000 000
Total maximum	6 500 000
Grand Total (A + B + C)	72 820 000

COMMISSION DECISION

of 20 January 1997

on import licences in respect of beef and veal products originating in Botswana,
Kenya, Madagascar, Swaziland, Zimbabwe and Namibia

(97/88/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP) or in the overseas countries and territories (OCT)⁽¹⁾, as last amended by Regulation (EC) No 619/96⁽²⁾, and in particular Article 27 thereof,

Having regard to Commission Regulation (EC) No 589/96 of 2 April 1996 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EEC) No 715/90 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories⁽³⁾, in particular Article 4 thereof,

Whereas Article 1 of Regulation (EC) No 589/96 provides for the possibility of issuing import licences for beef and veal products; whereas, however, imports must take place within the limits of the quantities specified for each of these exporting non-member countries;

Whereas the applications for import licences submitted between 1 and 10 January 1997, expressed in terms of boned meat, in accordance with Regulation (EC) No 589/96, do not exceed, in respect of products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia the quantities available from these States; whereas it is therefore possible to issue import licences in respect of the quantities requested;

Whereas the quantities, in respect of which licences may be applied for from 1 February 1997, should be fixed within the scope of the total quantity of 52 100 tonnes;

Whereas it seems expedient to recall that this Decision is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection

problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries⁽⁴⁾, as last amended by the Act of Accession of Austria, Finland and Sweden,

HAS ADOPTED THIS DECISION:

Article 1

The following Member States shall issue on 21 January 1997 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

Denmark:

— 15,000 tonnes originating in Madagascar;

Germany:

— 13,500 tonnes originating in Botswana,
— 160,000 tonnes originating in Swaziland;

United Kingdom:

— 750,000 tonnes originating in Botswana,
— 50,000 tonnes originating in Swaziland,
— 220,000 tonnes originating in Namibia.

Article 2

Licence applications may be submitted, pursuant to Article 3 (3) of Regulation (EC) No 589/96 during the first 10 days of February 1997 for the following quantities of boned beef and veal:

— Botswana:	18 152,500 tonnes,
— Kenya:	142,000 tonnes,
— Madagascar:	7 564,000 tonnes,
— Swaziland:	3 153,000 tonnes,
— Zimbabwe:	9 100,000 tonnes,
— Namibia:	12 780,000 tonnes.

⁽¹⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽²⁾ OJ No L 89, 10. 4. 1996, p. 1.

⁽³⁾ OJ No L 84, 3. 4. 1996, p. 22.

⁽⁴⁾ OJ No L 302, 31. 12. 1972, p. 28.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 24 January 1997

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

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

(97/89/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 96/78/EC⁽²⁾, and in particular Article 14 (1) thereof,

Having regard to the request made by Portugal,

Whereas, pursuant to the provisions of Directive 77/93/EEC, seed potato tubers originating in the American continent may not, in principle, be introduced into the Community;

Whereas, however, Directive 77/93/EEC permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms;

Whereas in Portugal the planting and growing of seed potatoes of certain North American varieties for ware potato production has been an established practice; whereas part of the supply of seed potatoes of these varieties has been ensured by imports from Canada;

Whereas, by Decision 96/6/EC⁽³⁾, the Commission approved derogations based on the concept of 'area freedom', subject to certain technical conditions to prevent the risk of harmful organisms spreading; whereas that approval expired on 31 March 1996; whereas the Commission also provided that those derogations would provide for the opportunity to seek confirmation of the proper functioning of the concept of 'area freedom';

Whereas it is known that Canada is still not completely free from potato spindle tuber viroid or from *Clavibacter michiganensis* (Smith) Davis *et al.*, ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis *et al.*;

Whereas information supplied by Canada has shown that Canada has further developed its programme to eradicate these harmful organisms in the provinces of New Brunswick and Prince Edward Island; whereas there are good reasons to believe that the programme to eradicate potato spindle tuber viroid has become fully effective in those provinces, and that the programme to eradicate *Clavibacter michiganensis* ssp. *sepedonicus* has become largely effective in certain areas of Prince Edward Island; whereas there had been no confirmed findings of the disease on samples drawn from seed potatoes originating in Prince Edward Island and introduced pursuant to Decision 96/6/EC; whereas therefore it has not been established that there are sufficient elements which would militate against the proper functioning of the aforementioned concept of 'area freedom' in Prince Edward Island and therefore against the recognition of the provisions implemented there as equivalent to the Community provisions on combating *Clavibacter michiganensis* ssp. *sepedonicus*;

Whereas, however, Italy informed the Commission on 14 March 1996 that a sample drawn from seed potatoes imported pursuant to Decision 96/6/EC and originating in New Brunswick was identified as infected by *Clavibacter michiganensis* ssp. *sepedonicus*; whereas so far the source of infection could not be identified; whereas, therefore as a precaution, the recognition of the 'area freedom' concept in the province of New Brunswick should be temporarily suspended, resulting in a temporary prohibition of the import of seed potatoes from this province, in order to enable the Canadian authorities to complete their investigation in respect of the source of the said infection;

Whereas, in the case of the sample(s) drawn from seed potatoes imported into the Community and identified as infected with *Clavibacter michiganensis* ssp. *sepedonicus*, it became apparent that improved legislative, administrative or other arrangements should be taken in order to improve the trace back system in Canada;

Whereas, moreover, as a result of inspections carried out in 1996 by the Community Office for Veterinary and Phytosanitary Inspection and Control in the importing Member States, it became apparent that certain technical conditions should be modified to improve the trace back system in the Member State of the imported lots;

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 321, 12. 12. 1996, p. 20.

⁽³⁾ OJ No L 2, 4. 1. 1996, p. 24.

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

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

Whereas, the risk of establishing and spreading *Clavibacter michiganensis* ssp. *sepedonicus* is high in wet and cold regions; consequently the derogation should not apply to Member States which are particularly exposed to such risks, i.e. Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, the Netherlands, Sweden and the United Kingdom; whereas, therefore, the authorization should not apply to the abovementioned Member States, taking into account the differences in agricultural and ecological conditions;

Whereas, therefore, derogations should be authorized for the next seed-potato marketing season, provided that they include the aforementioned conditions and without prejudice to Council Directive 66/403/EEC⁽¹⁾, as last amended by Directive 96/72/EC⁽²⁾, and to Council Directive 70/457/EEC⁽³⁾, as last amended by the Act of Accession of Austria, Finland and Sweden;

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

HAS ADOPTED THIS DECISION:

Article 1

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

2. The following conditions shall be satisfied:

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

⁽¹⁾ OJ No 125, 11. 7. 1966, p. 2320/66.

⁽²⁾ OJ No L 304, 27. 11. 1996, p. 10.

⁽³⁾ OJ No L 225, 12. 10. 1970, p. 1.

This provision shall also apply to cases where fields located inside the areas declared disease-free are operated by establishments outside such areas or where establishments inside such areas operate fields located outside them;

and

- (vi) 'Agriculture and Agri-Food Canada' shall provide the Commission with a complete list of the areas declared as free, supported by a map updated each year of the provinces concerned, showing through appropriate marks the geographical distribution of the areas;
- (b) the seed potatoes shall be certified officially as seed potatoes meeting at least the conditions laid down for the 'Foundation' category;
- (c) samples shall be taken officially in respect of each lot intended for export to the Community; a lot shall consist only of tubers of one single variety and class which have been produced on one single farm and with the same reference number. The samples shall be examined by official laboratories in order to detect any presence of potato spindle tuber viroid or *Clavibacter michiganensis* ssp. *sepedonicus*; the samples for the detection of potato spindle tuber viroid shall be tubers, or leaves taken from the crop which produced the lot; for the detection of *Clavibacter michiganensis* ssp. *sepedonicus* a sample of at least 200 tubers per lot of 25 tonnes or less shall be taken; examinations shall be carried out on the entire sample, using the following methods:
 - as regards potato spindle tuber viroid: the 'reverse-page' method, or c-DNA hybridization procedure, and
 - as regards *Clavibacter michiganensis* ssp. *sepedonicus*: at least that set out in the Method for the detection and diagnosis of the ring rot bacterium in batches of potato tubers as laid down in Council Directive 93/85/EEC⁽¹⁾;
- (d) legislative, administrative or other arrangements shall have been made to ensure
 - a direct supervision and control by the certification authority (i.e. Agriculture and Agri-Food Canada) of the sampling process, i.e. collection, tagging and sealing, and in the labelling system through appropriate label accountability procedures, to ensure that for each seed lot within each consignment shipped to the Community a numbered label is used and stitched on the bags separately from the certification labels, as well as the relevant colour code corresponding to a specified importer in the importing Member State, and
 - that at the time of loading the vessel, two sealed bags of potatoes of each lot shipped to the

Community are kept aside and stored under the jurisdiction of Agriculture and Agri-Food Canada, at least until the results of the examinations referred to in (i) are completed,

- that the lots shall be kept separate in all operations including transport, at least until delivery to the premises of the importers referred to in (f);
- (e) the phytosanitary certificate required shall be made out separately for each consignment and only if it has been established by the scientists involved that the examinations referred to in (c) did not give rise to suspicions or to the detection of the presence of potato spindle tuber viroid or *Clavibacter michiganensis* ssp. *sepedonicus* in the consignment and that, in particular, the IF-testing was shown to be negative.

It shall state, under 'Additional Declaration', that the conditions laid down in (a), (b) and (c) have been complied with, and shall give the name of the establishment or establishments which have produced the seed potato lots and the relevant seed potato certification lot numbers, as well as the name of the area referred to in (a), of the establishment referred to in (a) (ii) and the number of bags. It shall give under 'Distinguishing marks', the colour code corresponding to a specified importer in the importing Member State as well as the details of the numbered label used for each seed lot within each consignment. Documents attached to the said phytosanitary certificate as an integral part of the certificate shall relate precisely to that certificate in both description and quantity of commodity;

- (f) prior to introduction into the Community, the importer shall notify each introduction sufficiently in advance to the responsible official bodies in the Member State concerned, and that Member State shall then convey the details of the notification to the Commission, indicating:
 - the variety,
 - the quantity,
 - the declared date of import,
 - the names and addresses of the premises of the importers of the potatoes, and those listed in accordance with the provisions of Commission Directive 93/50/EEC⁽²⁾.

At the moment of import the importer shall provide confirmation of the details of the aforementioned advance notification to the responsible official bodies in the Member State concerned, and that Member State shall then immediately convey these details to the Commission.

⁽¹⁾ OJ No L 259, 18. 10. 1993, p. 1.

⁽²⁾ OJ No L 205, 17. 8. 1993, p. 22.

(g) the potatoes may be introduced into the Community only via the following ports of unloading:

- Aveiro,
- Lisbon,
- Porto.

(h) the inspections required pursuant to Article 12 of Directive 77/93/EEC shall be made by responsible official bodies referred to in the said Directive. Without prejudice to the monitoring referred to in Article 19a (3) second indent, first possibility, the Commission shall determine to which extent the inspections referred to in Article 19a (3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19a (5) (c) of that Directive. The said official bodies and, as appropriate, the experts referred to in Article 19a (3) shall check the importers premises to confirm details of the quantities of potatoes imported from Canada, the colour coding, the numbered labels and those destinations for planting at premises listed under Directive 93/50/EEC.

(i) the responsible official bodies of the importing Member States shall take a sample of at least 200 tubers per lot of 25 tonnes or less from each of the non-bulk lots intended to be imported pursuant to this Decision for official examination in respect of *Clavibacter michiganensis* ssp. *sepedonicus* in accordance with the Community established method for the detection and diagnosis of *Clavibacter michiganensis* ssp. *sepedonicus*; the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of *Clavibacter michiganensis* ssp. *sepedonicus* was not suspected or detected in those examinations; the total lots imported shall not exceed an amount which is adequate for the abovementioned examinations, taking into account the facilities available for that purpose; sub-samples shall be kept available for subsequent examination by other Member States and the responsible official bodies referred to in the said Directive of the importing Member State shall by 15 April 1997 inform the Commission, with a view to organizing that examination and the recording thereof.

(j) the potatoes shall be planted only at premises in the Member State of import, for which it is possible to trace the names and addresses; this provision shall not apply in the case of final users planting the imported seed potatoes or for users who will sell only onto the local market;

(k) in the growing period following introduction, a suitable proportion of the plants shall be inspected by the said responsible official bodies, at appropriate times, at the premises listed in accordance with the

provisions of Commission Directive 93/50/EEC or referred to in (j);

(l) potatoes grown from seed potatoes introduced pursuant to this Decision shall not be certified as seed potatoes, and shall be used only as potatoes for consumption.

For the premises referred to in under (j) the potatoes grown from such seed potatoes shall be packaged and labelled accordingly and shall bear the number of the premises listed in accordance with the provisions of Directive 93/50/EEC, as well as the Canadian origin of the seed potatoes used. Such potatoes may be moved within the Member States, only after approval by the said responsible official bodies taking into account the results of the inspection referred to in (k).

Article 2

Member States shall inform the other Member States and the Commission of any use of the authorization. The importing Member States shall provide the Commission and the other Member States, before 1 June 1997, with information on the amounts imported pursuant to this Decision and with a detailed technical report on the official examination referred to in Article 1 (2) (i); in those cases where Member States have made official examinations on sub-samples as referred to in Article 1 (2) (i), the detailed technical reports thereof shall also be submitted to the Commission before 1 June 1997; copies of each phytosanitary certificate shall be transmitted to the Commission.

Article 3

The authorization granted in Article 1 shall apply from 1 February 1997 until 31 March 1997. It shall be revoked prior to 31 March 1997 if it is found that the conditions laid down in Article 1 (2) have been insufficient to prevent the introduction of the harmful organisms in question or have not been complied with. It may be revoked prior to that date if it is found that there are elements which would militate against the proper functioning of the 'area freedom' concept in Canada.

Article 4

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

Done at Brussels, 24 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 24 January 1997

extending the period referred to in Article 15 (2a) of Directive 66/403/EEC on the marketing of seed potatoes

(97/90/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/403/EEC of 14 June 1966 on the marketing of seed potatoes⁽¹⁾, as last amended by Directive 96/72/EC⁽²⁾, and in particular Article 15 (2a) thereof,

Whereas in principle, with effect from certain dates, Member States may no longer determine for themselves the equivalence of seed potatoes harvested in third countries with seed potatoes harvested within the Community and complying with that Directive;

Whereas, however, since work to establish Community equivalence for all the third countries concerned had not been completed, Article 15 (2a) of that Directive permitted Member States to extend to 31 March 1996 the period of validity of equivalence which they had already for certain countries not covered by the Community equivalence;

Whereas the said work is still incomplete;

Whereas the authorization may only be extended in accordance with Member States' obligations under the common rules on plant health, laid down by Council Directive 77/93/EEC⁽³⁾, as last amended by Commission Directive 96/78/EC⁽⁴⁾;

Whereas by Commission Decision 97/89/EC⁽⁵⁾ derogations provided for by certain Member States from certain

provisions of Directive 77/93/EEC in respect of seed potatoes originating in Canada have been approved until 31 March 1997;

Whereas the authorization granted to Member States by Article 15 (2a) of Directive 66/403/EEC should accordingly be extended;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

In Article 15 (2a) of Directive 66/403/EEC, '31 March 1996' is replaced by '31 March 1997'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 24 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No 125, 11. 7. 1966, p. 2320/66.

⁽²⁾ OJ No L 304, 27. 11. 1996, p. 10.

⁽³⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽⁴⁾ OJ No L 321, 12. 12. 1996, p. 20.

⁽⁵⁾ See page 45 of this Official Journal.

CORRIGENDA

Corrigendum to the Agreement on fisheries relations between the European Community and the Republic of Lithuania*(Official Journal of the European Communities No L 332 of 20 December 1996)*

On page 7, introduction:

the words 'of the one part,' and 'of the other part,' should be deleted;

in the first recital, third line and third recital first line:

for: '... Lithuania...';

read: '... the Republic of Lithuania...';

in the seventh recital, third line:

for: '... these resources should be...';

read: '... these resources, should be...';

in the tenth recital, last line:

delete: '(IBSFC)';

in the twelfth recital, first line:

for: '... of continuing...';

read: '... to continue...';

in the thirteenth recital, third line:

for: '... of promoting...';

read: '... to promote...';

On page 8, last recital, first line:

for: '... of establishing...';

read: '... to establish...';

in Article 3 (1) (c), first line:

for: '(c) reciprocal...';

read: '(c) decide on reciprocal...';

On page 9 Article 5 (3), last line:

for: '... Articles 3 and 4,'

read: '... Articles 3 and 4 of this Agreement.';

in Article 9:

the indications '1.' and '2.' introducing the two paragraphs should be deleted.

On page 10, Article 16, first line:

for: 'This Agreement shall be without...';

read: 'This Agreement is without...';

Article 16, last line:

for: '... Community,'

read: '... European Community,';

Article 18, second subparagraph, fifth and seventh lines:

for: '... Lithuania...';

read: '... the Republic of Lithuania...';

On page 11, title of the Protocol, first line:

for: 'PROTOCOL',

read: 'PROTOCOL 1';

in the preamble to Protocol 1:

the words 'THE EUROPEAN COMMUNITY' up till and including the words 'HAVE AGREED AS FOLLOWS' should be deleted;

Protocol 1, Article 1 (a), sixth line:

for: '... of the Community...';

read: '... of the European Community...';

Protocol 1, Article 2 (4), second and third line:

for: '... to Article 5 and with the financial assistance envisaged...';

read: '... to Article 5 hereafter and with the financial assistance foreseen...';

On page 12, Protocol 1, Article 3 (1), first indent, third line:

for: '... Article 2 and...';

read: '... Article 2 of the Protocol and...';

Protocol 1, Article 3 (1), second indent, last line:

for: 'Article 5,'

read: 'Article 5 of this Protocol,';

Protocol 1, Article 4 (2), last line:

for: '15 % of that...';

read: 'fifteen (15) per cent of that...';

Protocol 1, Article 5 (2), fourth line:

for: '... support of 15 % of the...';

read: '... support of fifteen (15) per cent of the...';

Protocol 1, Article 5 (2), eighth line:

for: 'Lithuania, which shall...';

read: 'the Republic of Lithuania, which shall...';

Protocol 1, Article 10:

Article 10 should be deleted and the Articles 11 and 12 should be renumbered Articles 10 and 11 respectively;

Protocol 1, Article 10 (2), second line:

for: '... validity, the Parties...';

read: '... validity of this Protocol, the Parties...';

end of Protocol 1:

the words 'For the European Community' and 'For the Republic of Lithuania' should be deleted.

On page 14, Protocol 1, Annex III, penultimate line:

for: '... the Community...';

read: '... the European Community...';

Protocol 1, Annex IV, penultimate line:

for: '... the Community...';

read: '... the European Community...';

Protocol 1, Annex IV, last line:

for: '... to Lithuania,'

read: '... to the Republic of Lithuania.'

On page 15, Protocol 1, Annex V, point A first line:

for: '... Annex II has been...';

read: '... Annex II to this Protocol has been...';

Protocol 1, Annex V, point H (1), first line:

for: '... at least 30 % of...';

read: '... at least thirty per cent (30 %) of...';