

Official Journal

of the European Communities

ISSN 0378-6978

L 295

Volume 41

4 November 1998

English edition

Legislation

Contents

I *Acts whose publication is obligatory*

- Commission Regulation (EC) No 2373/98 of 3 November 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables 1
- ★ **Commission Regulation (EC) No 2374/98 of 3 November 1998 concerning the authorisation of new additives in feedingstuffs ⁽¹⁾ 3**
- ★ **Commission Regulation (EC) No 2375/98 of 3 November 1998 amending for the 18th time Regulation (EC) No 913/97 adopting exceptional support measures for the pigmeat market in Spain 7**
- Commission Regulation (EC) No 2376/98 of 3 November 1998 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip 9
- Commission Regulation (EC) No 2377/98 of 3 November 1998 suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of uniflorous (standard) carnations originating in Morocco 11
- Commission Regulation (EC) No 2378/98 of 3 November 1998 fixing the minimum selling prices for beef put up for sale under the invitation to tender referred to in Regulation (EC) No 2259/98 13
- Commission Regulation (EC) No 2379/98 of 3 November 1998 fixing export refunds on fruit and vegetables 15

⁽¹⁾ Text with EEA relevance

★ Directive 98/72/EC of the European Parliament and of the Council of 15 October 1998 amending Directive 95/2/EC on food additives other than colours and sweeteners	18
--	----

II Acts whose publication is not obligatory

Council

98/615/EC:

★ Council Decision of 22 October 1998 on the conclusion of an agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001	31
---	----

Agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001	33
---	----

Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001	34
---	----

98/616/EC:

★ Decision No 1/98 of the Association Council between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part of 12 October 1998 adopting the terms and conditions for the participation of the Republic of Hungary in Community programmes in the fields of health and social policy	40
---	----

Commission

98/617/EC:

★ Commission Decision of 21 October 1998 denying authority to Italy to refuse the grant of exemption to certain products exempt from excise duty under Council Directive 92/83/EEC on the harmonisation of the structures of the excise duties on alcohol and alcoholic beverages (<i>notified under document number C(1998) 3154</i>)	43
--	----

98/618/EC:

★ Commission Decision of 23 October 1998 under the provisions of Council Regulation (EC) No 3286/94 concerning measures maintained by the Republic of Argentina on the export of bovine hides and the import of finished leather (<i>notified under document number C(1998) 3206</i>).....	46
--	----

98/619/EC:

★ Commission Decision of 30 October 1998 on the granting of aid for the production of table olives in Greece (<i>notified under document number C(1998) 3339</i>)	50
---	----

98/620/EC:

★ Commission Decision of 30 October 1998 on the granting of aid for the production of table olives in Portugal (<i>notified under document number C(1998) 3340</i>)	54
---	----

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2373/98
of 3 November 1998
establishing the standard import values for determining the entry price of certain
fruit and vegetables

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, and in particular Article 4 (1) thereof,

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 4 November 1998.

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

Done at Brussels, 3 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 198, 15. 7. 1998, p. 4.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 3 November 1998 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 00	060	80,7
	204	66,2
	999	73,4
0709 90 70	052	94,7
	999	94,7
0805 20 10	204	64,1
	999	64,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	66,6
	999	66,6
0805 30 10	052	65,4
	388	72,8
	524	27,8
	528	47,5
	999	53,4
0806 10 10	052	137,7
	400	259,6
	999	198,7
0808 10 20, 0808 10 50, 0808 10 90	060	29,1
	064	41,1
	388	30,3
	400	84,2
	404	60,8
0808 20 50	999	49,1
	052	92,2
	064	59,1
	400	84,2
	720	121,0
	728	126,7
	999	96,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2374/98
of 3 November 1998
concerning the authorisation of new additives in feedingstuffs
(Text with EEA relevance)

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

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽¹⁾, as last amended by Commission Directive 98/19/EC ⁽²⁾, and in particular Articles 9j and 3 thereof,

Whereas Directive 70/524/EEC lays down that new additives or new additive uses may be authorised in line with advances in scientific and technical knowledge;

Whereas Council Directive 93/113/EC ⁽³⁾, as last amended by Directive 97/40/EC ⁽⁴⁾, by derogation from Directive 70/524/EEC, authorised Member States to permit provisionally the use and marketing of enzymes, micro-organisms and their preparations in animal nutrition;

Whereas examination of the dossiers, submitted by the Member States in accordance with Article 3 of Directive 93/113/EC, indicates that a certain number of substances in the groups of enzymes and micro-organisms can be provisionally authorised;

Whereas the Scientific Committee for Animal Nutrition has delivered a favourable opinion with regard to the harmlessness of these substances;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Feedingstuffs,

HAS ADOPTED THIS REGULATION:

Article 1

The substances belonging to the group 'Enzymes' and listed in the Annex to this Regulation may be authorised according to Directive 70/524/EEC as additives in animal nutrition under the conditions laid down in that Annex.

Article 2

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

It shall apply from 1 July 1999.

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

Done at Brussels, 3 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 270, 14. 12. 1970, p. 1.

⁽²⁾ OJ L 96, 28. 3. 1998, p. 39.

⁽³⁾ OJ L 334, 31. 12. 1993, p. 17.

⁽⁴⁾ OJ L 180, 9. 7. 1997, p. 21.

ANNEX

No	Additive	Chemical formula, description	Species or category of animal	Maximum age	Units of activity per kg of complete feedingstuff		Other provisions	Period of authorisation
					Minimum content	Maximum content		
26	Endo-1,3(4)-beta-glucanase EC 3.2.1.6	Preparation of endo-1,3(4)-beta-glucanase produced by <i>Trichoderma reesei</i> (CBS 526.94) having a minimum activity of: Solid form: 350 000 BU/g (!) Liquid form: 50 000 BU/g	Chickens for fattening	—	23 000 BU	—	1. In the directions for use of the additive and pre-mixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kg of complete feedingstuff: 23 000 - 50 000 BU. 3. For use in compound feed rich in non-starch polysaccharides (mainly glucans), e.g. containing more than 20 % barley or 30 % rye.	30.9.1999
			Piglets	Four months	26 000 BU	—	1. In the directions for use of the additive and pre-mixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kg of complete feedingstuff: 26 000 - 35 000 BU. 3. For use in compound feed rich in non-starch polysaccharides (mainly glucans), e.g. containing more than 60 % barley or wheat.	30.9.1999

No	Additive	Chemical formula, description	Species or category of animal	Maximum age	Units of activity per kg of complete feedingstuff		Other provisions	Period of authorisation
					Minimum content	Maximum content		
27	Endo-1,4-beta-xylanase EC 3.2.1.8 Endo-1,3(4)-beta-glucanase EC 3.2.1.6	Preparation of endo-1,4-beta-xylanase produced by <i>Trichoderma reesei</i> (CBS 529.94) and endo-1,3(4)-beta-glucanase produced by <i>Trichoderma reesei</i> (CBS 526.94) having minimum activities of: Solid form: — 200 000 BXU/g (°) — 200 000 BU/g (°) Liquid form: — 30 000 BXU/g — 30 000 BU/g	Chickens for fattening	—	2 500 BXU 2 500 BU	—	1. In the directions for use of the additive and pre-mixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kg of complete feedingstuff: — 10 000 BXU, — 10 000 BU. 3. For use in compound feed rich in non-starch polysaccharides (mainly arabinoxylans and glucans), e.g. containing more than 40 % wheat or 30 % rye.	30.9.1999
28	3-Phytase EC 3.1.3.8	Preparation of 3-phytase produced by <i>Trichoderma reesei</i> (CBS 528.94) having a minimum activity of: Solid form: 5 000 PPU/g (°) Liquid form: 1 000 PPU/g	Piglets	Four months	250 PPU	—	1. In the directions for use of the additive and pre-mixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kg of complete feedingstuff: 500 - 750 PPU. 3. For use in compound feed rich in phytates, e.g. containing more than 50 % cereals (corn, barley, wheat), tapioca, oil seeds and pulses.	30.9.1999

No	Additive	Chemical formula, description	Species or category of animal	Maximum age	Units of activity per kg of complete feedingstuff		Other provisions	Period of authorisation
					Minimum content	Maximum content		
			Pigs for fattening	—	500 PPU	—	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting. 2. Recommended dose per kg of complete feedingstuff: 500 - 750 PPU. 3. For use in compound feed rich in phytates, e.g. containing more than 50 % cereals (corn, barley, wheat), tapioca, oil seeds and pulses.	30.9.1999

(¹) 1 BU is the amount of enzyme which liberates 0,06 micromoles of reducing sugars (glucose equivalents) from barley beta-glucan per minute at pH 4,8 and 50 °C.

(²) 1 BXU is the amount of enzyme which liberates 0,06 micromoles of reducing sugars (xylose equivalents) from birch xylan per minute at pH 5,3 and 50 °C.

(³) 1 PPU is the amount of enzyme which liberates 1 micromole of inorganic phosphate from sodium phytate per minute at pH 5 and 37 °C.

COMMISSION REGULATION (EC) No 2375/98
of 3 November 1998
amending for the 18th time Regulation (EC) No 913/97 adopting exceptional
support measures for the pigmeat market in Spain

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

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾, as last amended by Regulation (EC) No 3290/94 ⁽²⁾, and in particular Article 20 thereof,

Whereas exceptional measures to support the pigmeat market in Spain were adopted by Commission Regulation (EC) No 913/97 ⁽³⁾, as last amended by Regulation (EC) No 2268/98 ⁽⁴⁾, on account of the outbreak of classical swine fever in certain production regions in that country;

Whereas the method for calculating the aid for piglets weighing from 13 to 16 kilograms should be adjusted by replacing the reference to the Lerida market by a reference to the national price quotation;

Whereas the continuation of the veterinary and marketing restrictions means that the number of pigs and piglets of the Iberian breed which can be consigned to the competent authorities should be increased, so allowing the exceptional measures to continue applying from 14 October 1998;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 913/97 is hereby amended as follows:

1. the first subparagraph of Article 4(4) is replaced by the following:

‘4. The aid provided for in Article 1(4) for the take over at the farm gate of piglets weighing 13 kilograms or more but less than 16 kilograms on average per batch shall be calculated on the basis of the price per kilogram for “national piglets” of the category weighing from 12 to 15 kilograms as recorded on the Lerida market (*Mercolerida*) during the week preceding the consigning of the piglets to the competent authorities.’;

2. Annex I is replaced by the Annex hereto.

Article 2

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

However, Article 1, point 2, shall apply from 14 October 1998.

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

Done at Brussels, 3 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 131, 23. 5. 1997, p. 14.

⁽⁴⁾ OJ L 284, 22. 10. 1998, p. 23.

*ANNEX**'ANNEX I*

Total maximum number of animals from 6 May 1997:

Pigs for fattening	695 000 head
Piglets	510 000 head
Cull sows	11 000 head
Pigs of the Iberian breed for fattening	11 500 head'

COMMISSION REGULATION (EC) No 2376/98
of 3 November 1998

fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

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

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5 (2) (a) thereof,

Whereas, pursuant to Article 2 (2) and Article 3 of above-mentioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods; whereas, pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽³⁾, as last amended by Regulation (EC) No 2062/

97 ⁽⁴⁾, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States; whereas those prices should be fixed immediately so the customs duties applicable can be determined; whereas, to that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 4 November 1998.

It shall apply from 4 to 17 November 1998.

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

Done at Brussels, 3 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ L 177, 5. 7. 1997, p. 1.

⁽³⁾ OJ L 72, 18. 3. 1988, p. 16.

⁽⁴⁾ OJ L 289, 22. 10. 1997, p. 1.

ANNEX

(ECU/100 pieces)

Period from 4 to 17 November 1998				
Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	19,97	14,73	41,26	17,40
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	13,40	—	12,72	11,17
Morocco	14,62	13,49	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 2377/98**of 3 November 1998****suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of uniflorous (standard) carnations originating in Morocco**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco, the West Bank and Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5 (2) (b) thereof,

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

Whereas Council Regulation (EC) No 1981/94 ⁽³⁾, as last amended by Commission Regulation (EC) No 650/98 ⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Algeria, Cyprus, Egypt, Israel, Jordan, Malta, Morocco, the West Bank and the Gaza Strip, Tunisia and Turkey;

Whereas Commission Regulation (EEC) No 700/88 ⁽⁵⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁶⁾, lays down the detailed rules for the application of the arrangements;

Whereas Commission Regulation (EC) No 2376/98 ⁽⁷⁾ fixes the Community producer and import prices for carnations and roses for the application of the import arrangements;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽⁸⁾, as last amended by Regulation (EC) No 150/95 ⁽⁹⁾, are used to

convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 ⁽¹⁰⁾, as last amended by Regulation (EC) No 1482/96 ⁽¹¹⁾;

Whereas, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (3) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for uniflorous (standard) carnations originating in Morocco; whereas the Common Customs Tariff duty should be re-established;

Whereas the quota for the products in question covers the period 1 November 1998 to 31 October 1999; whereas, as a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest;

Whereas, in between meetings of the Management Committees, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of uniflorous (standard) carnations (CN codes ex 0603 10 13 and ex 0603 10 53) originating in Morocco, the preferential customs duty fixed by Regulation (EC) No 1981/94 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 5 November 1998.

⁽¹⁾ OJ L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ L 177, 5. 7. 1997, p. 1.

⁽³⁾ OJ L 199, 2. 8. 1994, p. 1.

⁽⁴⁾ OJ L 88, 24. 3. 1998, p. 8.

⁽⁵⁾ OJ L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ L 289, 22. 10. 1997, p. 1.

⁽⁷⁾ See page 9 of this Official Journal.

⁽⁸⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁹⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽¹⁰⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽¹¹⁾ OJ 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, 3 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2378/98**of 3 November 1998****fixing the minimum selling prices for beef put up for sale under the invitation to
tender referred to in Regulation (EC) No 2259/98**

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

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1633/98 ⁽²⁾, and in particular Article 7(3) thereof,

Whereas tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 2259/98 ⁽³⁾;

Whereas, pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 ⁽⁴⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁵⁾, the minimum selling prices for meat put up for sale by tender should be fixed, taking into account tenders submitted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices for beef for the invitation to tender held in accordance with Regulation (EC) No 2259/98 for which the time limit for the submission of tenders was 26 October 1998 are as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 November 1998.

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

Done at Brussels, 3 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 17.

⁽³⁾ OJ L 283, 21. 10. 1998, p. 11.

⁽⁴⁾ OJ L 251, 5. 10. 1979, p. 12.

⁽⁵⁾ OJ L 248, 14. 10. 1995, p. 39.

*ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO —
BIJLAGE — ANEXO — LIITE — BILAGA*

Estado miembro	Productos	Precio mínimo expresado en ecus por tonelada
Medlemsstat	Produkter	Mindestepriser i ECU/ton
Mitgliedstaat	Erzeugnisse	Mindestpreise, ausgedrückt in ECU/Tonne
Κράτος μέλος	Προϊόντα	Ελάχιστες πωλήσεις εκφραζόμενες σε Ecu ανά τόνο
Member State	Products	Minimum prices expressed in ECU per tonne
État membre	Produits	Prix minimaux exprimés en écus par tonne
Stato membro	Prodotti	Prezzi minimi espressi in ecu per tonnellata
Lidstaat	Producten	Minimumprijzen uitgedrukt in ECU per ton
Estado-membro	Produtos	Preço mínimo expresso em ecus por tonelada
Jäsenvaltio	Tuotteet	Vähimmäishinnat ecuina tonnia kohden ilmaistuna
Medlemsstat	Produkter	Minimipriser i ecu per ton

**Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα —
Boneless beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada —
Luuton naudanliha — Benfritt kött**

IRELAND	— Intervention flank (INT 18)	—
	— Intervention forequarter (INT 24)	1 202
UNITED KINGDOM	— Intervention flank (INT 18)	851
	— Intervention forequarter (INT 24)	1 203

COMMISSION REGULATION (EC) No 2379/98
of 3 November 1998
fixing export refunds on fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁽¹⁾, as amended by Commission Regulation (EC) No 2520/97⁽²⁾, and in particular Article 35(11) thereof,

Whereas Commission Regulation (EC) No 2190/96⁽³⁾, as last amended by Regulation (EC) No 1287/98⁽⁴⁾, lays down detailed rules on export refunds on fruit and vegetables;

Whereas Article 35(1) of Council Regulation (EC) No 2200/96, provides that, to the extent necessary for economically significant quantities of the products listed in that Article to be exported, the difference between the international market prices for those products and their prices in the Community may be covered by export refunds;

Whereas Article 35(4) of Regulation (EC) No 2200/96 provides that refunds must be fixed in the light of the existing situation or the outlook for fruit and vegetable prices on the Community market and supplies available on the one hand, and prices on the international market on the other hand; whereas account must also be taken of the costs referred to in Article 35(4)(b) of that Regulation and of the economic aspect of the exports planned;

Whereas, pursuant to Article 35(1) of Regulation (EC) No 2200/96, refunds are to be set with due regard to the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas, in accordance with Article 35(5) of Regulation (EC) No 2200/96, prices on the Community market are to be established in the light of the most favourable prices from the export standpoint; whereas international trade

prices are to be established in the light of the prices referred to in the second subparagraph of that paragraph;

Whereas the international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination;

Whereas tomatoes, lemons, oranges and apples of classes Extra, I and II of the common quality standards, table grapes of classes Extra and I, shelled almonds, hazelnuts and walnuts in shell can currently be exported in economically significant quantities;

Whereas the representative market rates as 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 currencies of third countries and provide the basis for determining the agricultural conversion rates for the Member States' currencies; whereas rules for determining and applying those conversion rates are laid down in Commission Regulation (EEC) No 1068/93⁽⁷⁾, as last amended by Regulation (EC) No 961/98⁽⁸⁾;

Whereas the application of the abovementioned rules to the present and forecast market situation, and in particular to fruit and vegetable prices in the Community and international trade, gives the refund rates set out in the Annex hereto;

Whereas, pursuant to Article 35(2) of Regulation (EC) No 2200/96, the resources available should be used as efficiently as possible while avoiding discrimination between traders; whereas, therefore, care should be taken not to disturb the trade flows previously induced by the refund arrangements; whereas, for those reasons and because of the seasonal nature of exports of fruit and vegetables, quotas should be fixed for each product;

Whereas Commission Regulation (EEC) No 3846/87⁽⁹⁾, as last amended by Regulation (EC) No 2138/98⁽¹⁰⁾, establishes an agricultural product nomenclature for export refunds;

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 1.

⁽²⁾ OJ L 346, 17. 12. 1997, p. 41.

⁽³⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽⁴⁾ OJ L 178, 23. 6. 1998, p. 11.

⁽⁵⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ L 135, 8. 5. 1998, p. 5.

⁽⁹⁾ OJ L 366, 24. 12. 1987, p. 1.

⁽¹⁰⁾ OJ L 270, 7. 10. 1998, p. 4.

Whereas Commission Regulation (EEC) No 3719/88 ⁽¹⁾, as last amended by Regulation (EC) No 1044/98 ⁽²⁾, lays down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products;

Whereas, owing to the market situation, in order to make the most efficient use of the resources available and given the structure of Community exports, the most appropriate method should be selected for export refunds on certain products and certain destinations and consequently refunds under the A1 and A2 licence arrangements referred to in Article 1 of Regulation (EC) No 2190/96 should not be fixed simultaneously for the export period in question;

Whereas the quantities laid down for the various products should be distributed in accordance with the different systems for the grant of the refund, taking account in particular of their perishability;

Whereas account should be taken of the definitive rates under the A2 system fixed for the preceding licence application period;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds on fruit and vegetables shall be as set out in the Annex hereto.
2. Quantities covered by licences issued for food aid as referred to in Article 14a of Regulation (EEC) No 3719/88 shall not count against the eligible quantities covered by paragraph 1.
3. Without prejudice to the application of Article 4(5) of Regulation (EC) No 2190/96, the term of validity of A1 and A2 licences shall be two months.

Article 2

This Regulation shall enter into force on 9 November 1998.

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

Done at Brussels, 3 November 1998.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽²⁾ OJ L 149, 20. 5. 1998, p. 11.

ANNEX

EXPORT REFUNDS ON FRUIT AND VEGETABLES

Product (full definitions of eligible products are given in the 'Fruit and vegetables' sector of Commission Regulation (EEC) No 3846/87 amended)	Product code	Destination or destination group ⁽¹⁾	System Application periods					
			A1 9. 11. 1998 to 7. 1. 1999		A2 10 to 12. 11. 1998		B 16. 11. 1998 to 14. 1. 1999	
			Refund rate (ECU/tonnes net weight)	Scheduled quantity (tonnes)	Indicative refund rate (ECU/tonnes net weight)	Scheduled quantity (tonnes)	Indicative refund rate (ECU/tonnes net weight)	Scheduled quantity (tonnes)
Tomatoes	0702 00 00 9100	F	20		20	1 941	20	4 416
Shelled almonds	0802 12 90 9000	F	50	330			50	364
Hazelnuts in shell	0802 21 00 9000	F	59	69			59	130
Shelled hazelnuts	0802 22 00 9000	F	114	1 551			114	1 866
Walnuts in shell	0802 31 00 9000	F	73	191			73	208
Oranges	0805 10 10 9100 0805 10 30 9100 0805 10 50 9100	XYC	35		35	56 954	35	113 742
Lemons	0805 30 10 9100	F	20		20	16 991	20	16 819
Table grapes	0806 10 10 9100	F	25		25	4 072	25	6 406
Apples	0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	XY	25		25	7 494	25	6 533
	0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	ZD	54	7 724			54	5 738

(¹) The destination codes are defined as follows:

X: Norway, Iceland, Greenland, Faeroes, Poland, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Bosnia-Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Federal Republic of Yugoslavia (Serbia and Montenegro), Malta.

Y: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, destinations referred to in Article 34 of Commission Regulation (EEC) No 3665/87, as amended.

Z: African countries and territories except South Africa, countries of the Arabian Peninsula (Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qaiwain, Ras al Khaimah, Fujairah), Kuwait, Yemen), Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador, Colombia.

C: Switzerland, Czech Republic, Slovakia.

D: Hong Kong SAR, Singapore, Malaysia, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Uruguay, Paraguay, Argentina, Mexico, Costa Rica.

E: All destinations except Switzerland.

F: All destinations.

DIRECTIVE 98/72/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 October 1998

amending Directive 95/2/EC on food additives other than colours and sweeteners

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

HAVE ADOPTED THIS DIRECTIVE:

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

Article 1

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

Directive 95/2/EC is hereby amended as follows:

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

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

Acting in accordance with the procedure referred to in Article 189b of the Treaty ⁽³⁾,

‘1. This Directive is a specific Directive forming a part of the comprehensive Directive, within the meaning of Article 3 of Directive 89/107/EEC, and applies to additives other than colours and sweeteners. It does not apply to enzymes other than those mentioned in the Annexes;’

Having regard to Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption ⁽⁴⁾, and in particular Article 3(2) thereof,

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

‘1. Only substances listed in Annexes I, III, IV and V may be used in foodstuffs for the purposes mentioned in Article 1(3) and Article 1(4);’

Whereas there have been technical developments in the field of food additives since the adoption of Directive 95/2/EC ⁽⁵⁾;

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

‘2. Food additives listed in Annex I are permitted in foodstuffs, for the purposes mentioned in Article 1(3) and Article 1(4), with the exception of those foodstuffs listed in Annex II, following the “*quantum satis*” principle;’

Whereas Directive 95/2/EC should be adapted to take account of these developments;

4. The fifth indent of Article 2(3)(a) shall be replaced by:

‘— pasteurised and sterilised (including UHT) milk (including plain, skimmed and semi-skimmed) and plain pasteurised cream;’

Whereas the Scientific Committee for Food, set up by Decision 74/234/EEC ⁽⁶⁾, was consulted before the adoption of provisions liable to have an effect on public health;

5. The eleventh indent of Article 2(3)(a) shall be replaced by:

‘— dry pasta, excluding gluten-free and/or pasta intended for hypoproteic diets, in accordance with Directive 89/398/EEC;’

Whereas specific provisions on thiabendazole have been laid down in Council Directive 95/38/EC of 17 July 1995 amending Annexes I and II to Directive 90/642/EEC on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables, and providing for the establishment of a list of maximum levels ⁽⁷⁾; whereas the entry on thiabendazole should now be repealed,

6. The tables of the Annexes shall be amended in accordance with the provisions contained in the Annex to this Directive.

Article 2

1. Member States shall, where necessary, amend their laws, regulations and administrative provisions in order to:

⁽¹⁾ OJ C 76, 11. 3. 1997, p. 34, and OJ C 77, 12. 3. 1998, p. 7.

⁽²⁾ OJ C 75, 10. 3. 1997, p. 1.

⁽³⁾ Opinion of the European Parliament of 23 October 1997 (OJ C 339, 10. 11. 1997, p. 1), Council common position of 23 March 1998 (OJ C 161, 27. 5. 1998, p. 29) and Decision of the European Parliament of 15 July 1998 (OJ C 292, 21. 9. 1998). Council Decision of 28 September 1998.

⁽⁴⁾ OJ L 40, 11. 2. 1989, p. 27. Directive as last amended by Directive 94/34/EC of the European Parliament and of the Council (OJ L 237, 10. 9. 1994, p. 1).

⁽⁵⁾ OJ L 61, 18. 3. 1995, p. 1. Directive as amended by Directive 96/85/EC (OJ L 86, 28. 3. 1997, p. 4).

⁽⁶⁾ OJ L 136, 20. 5. 1974, p. 1.

⁽⁷⁾ OJ L 197, 22. 8. 1995, p. 14.

- authorise trade in products conforming with this Directive, by 4 May 2000 at the latest,
- prohibit trade in products not conforming with this Directive from 4 November 2000. However, products placed on the market or labelled before that date which do not comply with the Directive may be marketed until stocks are exhausted.

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 reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 15 October 1998.

For the European Parliament

The President

J.M. GIL-ROBLES

For the Council

The President

C. EINEM

ANNEX

1. In Annex I, the following additives shall be added:

'E 469	Enzymatically hydrolysed carboxy methyl cellulose
E 920	L-Cysteine (*)
E 1103	Invertase
E 1451	Acetylated oxidised starch

(*) May be used only as a flour treatment agent.'

2. In Annex II:

- (a) the list of additives and the maximum level for 'Jam, jellies and marmalades as defined in Directive 79/693/EEC and other similar fruit spreads including low-calorie products' shall be supplemented as follows:

	'E 471 Mono and diglycerides of fatty acids	<i>quantum satis</i>
--	---	----------------------

- (b) the table concerning 'Sterilised, pasteurised and UHT cream, low-calorie cream and pasteurised low-fat cream' shall be replaced by the following:

'Plain pasteurised cream	E 401 Sodium alginate	<i>quantum satis</i>
	E 402 Potassium alginate	
	E 407 Carrageenan	
	E 466 Sodium carboxy methyl cellulose	
	E 471 Mono- and diglycerides of fatty acids	

- (c) the designation 'Frozen and deep-frozen unprocessed fruit and vegetables' shall be amended as follows:

'Frozen and deep-frozen unprocessed fruit and vegetables; prepacked, refrigerated unprocessed fruit and vegetables ready for consumption and prepacked unprocessed and peeled potatoes.';

- (d) the following table shall be inserted after the table concerning 'Non-emulsified oils and fats of animal or vegetable origin':

'Non-emulsified oils and fats of animal or vegetable origin (except virgin oils and olive oils) specifically intended for cooking and/or frying purposes or for the preparation of gravy	E 270 Lactic acid	<i>quantum satis</i>
	E 300 Ascorbic acid	
	E 304 Fatty acid esters of ascorbic acid	
	E 306 Tocopherol-rich extract	
	E 307 Alpha-tocopherol	
	E 308 Gamma-tocopherol	
	E 309 Delta-tocopherol	
	E 322 Lecithins	30 g/l
	E 471 Mono- and diglycerides of fatty acids	10 g/l
	E 472c Citric acid esters of mono- and diglycerides of fatty acids	<i>quantum satis</i>
	E 330 Citric acid	
	E 331 Sodium citrates	
	E 332 Potassium citrates	
	E 333 Calcium citrates	

- (e) the list of additives and the maximum level for 'Mozzarella and whey cheese' shall be supplemented as follows:

	'E 260 Acetic acid	<i>quantum satis</i>
--	--------------------	----------------------

- (f) the list of additives and the maximum level for 'Canned and bottled fruit and vegetables' shall be supplemented as follows:

	'E 296 Malic acid	<i>quantum satis</i>
--	-------------------	----------------------

- (g) the list of additives and the maximum level for 'Gehakt' shall be supplemented as follows:

	'E 300 Ascorbic Acid E 301 Sodium ascorbate E 302 Calcium ascorbate	<i>quantum satis</i>
--	---	----------------------

- (h) the following table shall be added at the end of the Annex:

'Pineapple and passion fruit juices and nectars	E 440 Pectins	3 g/l
Sliced and grated ripened cheese	E 170 Calcium carbonates E 504 Magnesium carbonates E 509 Calcium chloride E 575 Glucono-delta-lactone E 460 Celluloses	<i>quantum satis</i>
Soured-cream butter	E 500 Sodium carbonates	<i>quantum satis</i>

3. In Annex III, Part A:

- (a) the maximum levels for 'Olives and olive-based preparations', 'Emulsified sauces with a fat content of 60 % or more' and 'Emulsified sauces with a fat content less than 60 %' shall be replaced by the following:

'Olives and olive-based preparations	1 000	500		1 000		
Emulsified sauces with a fat content of 60 % or more	1 000	500		1 000		
Emulsified sauces with a fat content less than 60 %	2 000	1 000		2 000'		

- (b) at the end of this part, the following table shall be added:

'Foodstuff	Maximum level (mg/kg or mg/l as appropriate)					
	Sa	Ba	PHB	Sa + Ba	Sa + PHB	Sa + Ba + PHB
... Mehu and Makeutettu ... Mehu	500	200				
Analogues of meat, fish, crustaceans and cephalopods and cheese based on protein	2 000					
Dulce de membrillo		1 000				

Foodstuff	Maximum level (mg/kg or mg/l as appropriate)					
	Sa	Ba	PHB	Sa + Ba	Sa + PHB	Sa + Ba + PHB
Marmelada				1 500		
Ostkaka	2 000					
Pasha	1 000					
Semmelknödelteig	2 000					
Cheese and cheese analogues (surface treatment only)	<i>quantum satis</i>					
Cooked red beet		2 000				
Collagen-based casings with a water activity greater than 0,6	<i>quantum satis</i>					

4. In Annex III, Part B:

(a) the presentation of the following foodstuffs and maximum levels:

'Crustaceans and cephalopods	
— fresh, frozen and deep-frozen	150 (l)
— crustaceans, <i>panaeidae solenceridae, aristeidae</i> family:	
— up to 80 units	150 (l)
— between 80 and 120 units	200 (l)
— over 120 units	300 (l)
— cooked	50 (l)

(l) In edible parts.'

shall be as follows:

'Crustaceans and cephalopods:	
— fresh, frozen and deep-frozen	150 (°)
— crustaceans, <i>panaeidae solenceridae, aristeidae</i> family:	
— up to 80 units	150 (°)
— between 80 and 120 units	200 (°)
— over 120 units	300 (°)
— cooked	50 (°)

(°) In edible parts.'

(b) the maximum level for the entry 'Sugars as defined in Directive 73/437/EEC except glucose syrup, whether or not dehydrated' shall be replaced by the following:

'Sugars as defined in Directive 73/437/EEC except glucose syrup, whether or not dehydrated	10'
--	-----

(c) the following foodstuffs and maximum levels:

'Vegetable and cereal-protein-based meat, fish and crustacean analogues	200'
---	------

shall be replaced by the following:

'Analogues of meat, fish and crustaceans based on protein	200'
---	------

(d) at the end of this Part, the following foodstuffs and maximum levels shall be added:

'Marinated nuts	50
Vacuum packed sweetcorn	100
Distilled alcoholic beverages containing whole pears	50'

5. In Annex III, Part C:

(a) the following foodstuff and maximum level shall be added to E 234:

'E 234	Nisin (1)	Mascarpone	10 mg/kg'
--------	-----------	------------	-----------

(b) the following foodstuffs and maximum levels shall be added to E 251 and E 252:

'E 251	Sodium nitrate	<i>Foie gras, foie gras entier, blocs de foie gras</i>	50 (*)
E 252	Potassium nitrate		

(*) Expressed as Na NO₃';

(c) the following foodstuffs and maximum levels shall be added to E 280, E 281, E 282 and E 283:

'E 280	Propionic acid	Prepacked <i>pølsebrød, boller</i> and <i>dansk flutes</i>	2 000 mg/kg, expressed as propionic acid
E 281	Sodium propionate		
E 282	Calcium propionate		
E 283	Potassium propionate		
		Cheese and cheese analogues (surface treatment only)	<i>quantum satis</i> '

(d) the following table shall be deleted:

'E 233	Thiabendazole	Surface treatment of: — citrus fruit — bananas	6 mg/kg 3 mg/kg'
--------	---------------	--	---------------------

6. The designation 'Dehydrated granulated potatoes' contained in the table in Annex III Parts B and D in the foodstuffs column shall be replaced by 'Dehydrated potatoes'.

7. In Annex IV:

(a) the designation 'Instant tea powder' concerning E 297 Fumaric acid and the maximum level of 1 g/l shall be replaced by 'Instant products for preparation of flavoured tea and herbal infusions with the maximum level: 1 g/kg';

(b) the table concerning E 338 to E 452 shall be replaced by the following:

	'In the following applications the indicated maximum levels of phosphoric acid and the phosphates E 338, E 339, E 340, E 341, E 343, E 450, E 451 and E 452 may be added individually or in combination (expressed as P_2O_5):		
E 338	Phosphoric acid	Non-alcoholic flavoured drinks	700 mg/l
		Sterilised and UHT milk	1 g/l
		Candied fruits	800 mg/kg
		Fruit preparations	800 mg/kg
E 339	Sodium phosphates	Partly dehydrated milk with less than 28 % solids	1 g/kg
	(i) Monosodium phosphate	Partly dehydrated milk with more than 28 % solids	1,5 g/kg
	(ii) Disodium phosphate	Dried milk and dried skimmed milk	2,5 g/kg
	(iii) Trisodium phosphate	Pasteurised, sterilised and UHT creams	5 g/kg
		Whipped cream and vegetable fat analogues	5 g/kg
		Unripened cheese (except Mozzarella)	2 g/kg
E 340	Potassium phosphates	Processed cheese and processed cheese analogues	20 g/kg
	(i) Monopotassium phosphate	Meat products	5 g/kg
	(ii) Dipotassium phosphate	Sport drinks and prepared table waters	0,5 g/l
	(iii) Tripotassium phosphate	Dietary supplements	<i>quantum satis</i>
		Salt and its substitutes	10 g/kg
		Vegetable protein drinks	20 g/l
E 341	Calcium phosphates	Beverage whiteners	30 g/kg
	(i) Monocalcium phosphate	Beverage whiteners for vending machines	50 g/kg
	(ii) Dicalcium phosphate	Edible ices	1 g/kg
	(iii) Tricalcium phosphate	Desserts	3 g/kg
		Dry powdered dessert mixes	7 g/kg
E 343	Magnesium phosphates	Fine bakery wares	20 g/kg
	(i) Monomagnesium phosphate	Flour	2,5 g/kg
	(ii) Dimagnesium phosphate	Flour, self-raising	20 g/kg
		Soda bread	20 g/kg
		Liquid egg (white, yolk or whole egg)	10 g/kg
E 450	Diphosphates	Sauces	5 g/kg
	(i) Disodium diphosphate	Soups and broths	3 g/kg
	(ii) Trisodium diphosphate	Instant tea and instant herbal infusions	2 g/kg
	(iii) Tetrasodium diphosphate	Cider and perry	2 g/l
	(v) Tetrapotassium diphosphate	Chewing gum	<i>quantum satis</i>
		Dried powdered foodstuffs	10 g/kg
	(vi) Dicalcium diphosphate	Chocolate and malt dairy-based drinks	2 g/l

E 451	(vii) Calcium dihydrogen diphosphate	Alcoholic drinks (excluding wine and beer)	1 g/l
	Triphosphates	Breakfast cereals	5 g/kg
		Snacks	5 g/kg
		Surimi	1 g/kg
E 452	Polyphosphates	Fish and crustacean paste	5 g/kg
		(i) Pentasodium triphosphate	Toppings (syrops for pancakes, flavoured syrops for milkshakes and ice cream; similar products)
		(ii) Pentapotassium triphosphate	Special formulae for particular nutritional uses
	Polyphosphates	Glazings for meat and vegetable products	5 g/kg
		Sugar confectionery	4 g/kg
		(i) Sodium polyphosphate	5 g/kg
		(ii) Potassium polyphosphate	Icing sugar
		(iii) Sodium calcium polyphosphate	10 g/kg
		(iv) Calcium polyphosphates	Noodles
			2 g/kg
			Batters
			12 g/kg
		Fillets of unprocessed fish, frozen and deep-frozen	5 g/kg
		Unprocessed and processed molluscs and crustaceans frozen and deep-frozen	5 g/kg

(c) the following additive shall be added:

'E 468	Crosslinked sodium carboxy methyl cellulose	Solid dietary supplements	30 g/kg'
--------	---	---------------------------	----------

(d) the designation 'Minarine' concerning E 385 shall be amended as follows:

		'Spreadable fats as defined in Annexes B and C of Regulation (EC) No 2991/94 (*) having a fat content of 41 % or less	100 mg/kg
--	--	---	-----------

(*) OJ L 316, 9.12.1994, p. 2';

(e) the following foodstuff and maximum level shall be added to E 405:

'E 405	Propane-1, 2-diol alginate	Cider excluding <i>cidre bouché</i>	100 mg/l'
--------	----------------------------	-------------------------------------	-----------

(f) the designation in the 12th section, third column, concerning E 442, shall be amended as follows:

‘Cocoa and chocolate products as defined in Directive 73/241/EEC including fillings’

‘Confectionery based on these products’;

(g) the following foodstuff and maximum level shall be added to E 445:

‘E 445	Glycerolesters of wood rosins	Surface treatment of citrus fruit	50 mg/kg’
--------	-------------------------------	-----------------------------------	-----------

(h) the following foodstuffs and maximum levels shall be added to E 473 and E 474:

‘E 473	Sucrose esters of fatty acids	Cream analogues	5 g/kg
E 474	Sucroglycerides	Sterilised cream and sterilised cream with reduced fat content	5 g/kg’

(i) the designation ‘Low and very low fat spreads and dressings’ concerning E 476 shall be amended as follows:

‘E 476	Polyglycerol polyricinoleate	Spreadable fats as defined in Annexes A, B and C of Regulation (EC) No 2991/94 having a fat content of 41 % or less	4 g/kg
		Similar spreadable products with a fat content of less than 10 % fat	4 g/kg
		Dressings	4 g/kg’

(j) the following foodstuffs and maximum levels concerning E 551 to E 559 shall be added:

		‘Seasonings	30 g/kg
		Confectionery excluding chocolate (surface treatment only) (*)	<i>quantum satis</i>
		Tin-greasing products	30 g/kg

(*) The designation “Confectionery excluding chocolate (surface treatment only)” replaces “Moulded jelly sweets (surface treatment only)” in Directive 95/2/EC.’;

(k) the designation ‘Sliced hard cheese and sliced processed cheese’ concerning E 551 to E 559 shall be amended as follows:

		‘Sliced or grated hard, semi-hard and processed cheese Sliced or grated cheese analogues and processed cheese analogues	10 g/kg’
--	--	--	----------

(l) the following foodstuff and maximum level shall be added to E 900:

‘E 900	Dimethyl polysiloxane	Cider excluding <i>cidre bouché</i>	10 mg/l’
--------	-----------------------	-------------------------------------	----------

(m) the following foodstuffs and maximum levels shall be added to E 901, E 902, E 903 and E 904:

'E 901	Beeswax, white and yellow	Peaches and pineapples (surface treatment only)	<i>quantum satis</i> '
E 902	Candelilla wax		
E 903	Carnauba wax		
E 904	Shellac		

(n) the following foodstuffs and maximum levels shall be added to E 912 and E 914:

'E 912	Montanic acid esters	Fresh melon, mango, papaya, avocado and pineapple (surface treatment only)	<i>quantum satis</i> '
E 914	Oxidised polyethylene wax		

(o) the following foodstuffs and maximum levels shall be added to E 957:

'E 957	Thaumatococcus	Water-based flavoured non-alcoholic drinks	0,5 mg/l
		Desserts — dairy and non dairy	5 mg/kg (as flavour enhancer only)'

(p) the designation 'Margarine' and 'Minarine' concerning E 959 shall be amended as follows:

'E 959	Neohesperidine DC	Spreadable fats as defined in Annexes B and C of Regulation (EC) No 2991/94	5 mg/kg'
--------	-------------------	---	----------

(q) the following foodstuff and maximum level shall be added to E 999:

'E 999	Quillaia extract	Cider excluding <i>cidre bouché</i>	200 mg/l calculated as anhydrous extract'
--------	------------------	-------------------------------------	--

(r) the following table shall be added:

'E 905	Microcrystalline wax	Surface treatment of — confectionery excluding chocolate — chewing gum — melons, papaya, mango and avocado	<i>quantum satis</i>
E 1518	Glyceryl triacetate (triacetin)	Chewing gum	<i>quantum satis</i> '

(s) the following table shall be added:

'E 459	Beta-cyclodextrine	Foodstuffs in tablet and coated tablet form	<i>quantum satis</i>
E 425	Konjac (*) (i) Konjac gum (ii) Konjac glucomannane	Foodstuffs in general (except those referred to in Article 2(3))	10 g/kg individually or in combination

(*) These substances may not be used to produce dehydrated foodstuffs intended to rehydrate on ingestion.'

8. In Annex V, the following table shall be added:

E 322	Lecithins	glazing agents for fruit
E 432-E 436	Polysorbates	
E 470a	Sodium, potassium and calcium salts of fatty acids	
E 471	Mono and diglycerides of fatty acids	
E 491-E 495	Sorbitans	
E 570	Fatty acids	
E 900	Dimethylpolysiloxane	
	Polyethyleneglycol 6000	sweeteners
E 425	Konjac (i) Konjac gum (ii) Konjac glucomannane	
E 459	Beta-cyclodextrine	1 g/kg
E 1451	Acetylated oxidised starch	
E 468	Cross linked sodium carboxy methyl cellulose	sweeteners
E 469	Enzymatically hydrolysed carboxy methyl cellulose'	

9. In Annex VI:

(a) the first subparagraph of the introductory note shall be replaced by the following:

'Formulae and weaning foods for infants and young children may contain E 414 (acacia gum, gum arabic) and E 551 (silicon dioxide) resulting from the addition of nutrient preparations containing not more than 150 g/kg of E 414 and 10 g/kg of E 551, as well as E 421 (mannitol) when used as a carrier for vitamin B₁₂ (not less than one part vitamin B₁₂ to 1 000 parts mannitol). The carry over of E 414 in the product ready for consumption should not be more than 10 mg/kg.

Formulae and weaning foods for infants and young children may contain E 301 (sodium L-ascorbate), used at QS level in coatings of nutrient preparations containing polyunsaturated fatty acids. The carry over of E 301 in the product ready for consumption should not be more than 75 mg/l';

(b) in Part 1, note 2 shall be replaced by the following:

'2. If more than one of the substances E 322, E 471, E 472c and E 473 are added to a foodstuff, the maximum level established for that foodstuff for each of those substances is lowered with that relative part as is present of the other substances together in that foodstuff.';

(c) in Part 1, the following table shall be added:

E 304	L-ascorbyl palmitate	10 mg/l
E 331	Sodium citrates	2 g/l
E 332	Potassium citrates	Individually or in combination and in conformity with the limits set in Annex I to Directive 91/321/EEC
E 339	Sodium phosphates	1 g/l expressed as P_2O_5
E 340	Potassium phosphates	Individually or in combination and in conformity with the limits set in Annex I to Directive 91/321/EEC
E 412	Guar gum	1 g/l, where the liquid product contains partially hydrolysed proteins and is in conformity with the conditions set in Annex IV of Directive 91/321/EEC, as amended by Directive 96/4/EC
E 472 c	Citric acid esters of mono- and diglycerides of fatty acids	7,5 g/l sold as powder 9 g/l sold as liquid where the products contain partially hydrolysed proteins, peptides or amino acids and are in conformity with the conditions set in Annex IV of Directive 91/321/EEC, as amended by Directive 96/4/EC
E 473	Sucrose esters of fatty acids	120 mg/l in products containing hydrolysed proteins, peptides or amino acids'

(d) in Part 2, note 2 shall be replaced by the following:

'2. If more than one of the substances E 322, E 471, E 472c and E 473 is added to a foodstuff, the maximum level established for that foodstuff for each of those substances is lowered with that relative part as is present of the other substances together in that foodstuff.';

(e) in Part 2, the following table shall be added:

E 304	L-ascorbyl palmitate	10 mg/l
E 331	Sodium citrates	2 g/l
E 332	Potassium citrates	Individually or in combination and in conformity with the limits set in Annex I to Directive 91/321/EEC
E 339	Sodium phosphates	1 g/l expressed as P_2O_5
E 340	Potassium phosphates	Individually or in combination and in conformity with the limits set in Annex I to Directive 91/321/EEC
E 472c	Citric acid esters of mono- and diglycerides of fatty acids	7,5 g/l sold as powder 9 g/l sold as liquid where the products contain partially hydrolysed proteins, peptides or amino acids and are in conformity with the conditions set in Annex IV of Directive 91/321/EEC, as amended by Directive 96/4/EC
E 473	Sucrose esters of fatty acids	120 mg/l in products containing hydrolysed proteins, peptides or amino acids'

(f) in Part 3, the following table shall be added:

'E 333	Calcium citrates (*)	In low-sugar fruit based products	<i>quantum satis</i>
E 341	Tricalcium phosphate (*)	In fruit based desserts	1 g/kg as P ₂ O ₅
E 1451	Acetylated oxidised starch	Weaning foods	50 g/kg

(*) The note in part 4 does not apply.;

(g) in Part 4, the following table shall be added:

'E number	Name	Maximum level	Special conditions
E 401	Sodium alginate	1 g/l	From four months onwards in special food products with adapted composition, required for metabolic disorders and for general tube-feeding
E 405	Propane 1,2-diolalginate	200 mg/l	From 12 months onwards in specialised diets intended for young children who have cow's milk intolerance or inborn errors of metabolism
E 410	Locust bean gum	10 g/l	From birth onwards in products for reduction of gastro-oesophageal reflux
E 412	Guar gum	10 g/l	From birth onwards in products in liquid formulae containing hydrolysed proteins, peptides or amino acids in conformity with the conditions set in Annex IV of Directive 91/321/EEC, as amended by Directive 96/4/EC
E 415	Xanthan gum	1,2 g/l	From birth onwards for use in products based on amino acids or peptides for use with patients who have problems with impairment of the gastro-intestinal tract, protein mal-absorption or inborn errors of metabolism
E 440	Pectins	10 g/l	From birth onwards in products used in case of gastro-intestinal disorders
E 466	Sodium carboxy methyl cellulose	10 g/l or kg	From birth onwards in products for the dietary management of metabolic disorders
E 471	Mono- and diglycerides of fatty acids	5 g/l	From birth onwards in specialised diets, particularly those devoid of proteins
E 1450	Starch sodium octenyl succinate	20 g/l	In infant formulae and follow-on formulae'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 October 1998

on the conclusion of an agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001

(98/615/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar ⁽¹⁾, and in particular Article 14 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 14 of the above Agreement, the Community and the Republic of Madagascar held negotiations to determine amendments or additions to be made to the Agreement at the end of the period of application of the preceding Protocol to the Agreement;

Whereas, as a result of those negotiations, a new Protocol was initialled on 5 March 1998;

Whereas, under this Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Republic of Madagascar for the period from 21 May 1998 to 20 May 2001;

Whereas, in order to avoid interruption of fishing activities by Community vessels, it is essential that the said Protocol be approved as quickly as possible; whereas both Contracting Parties have therefore initialled an Agreement in the form of an exchange of letters providing for the provisional application of the initialled Protocol from

the day following the date of expiry of the Protocol previously in force;

Whereas the Agreement in the form of an exchange of letters should be approved subject to a definitive decision under Article 43 of the Treaty;

Whereas the method for allocating the fishing opportunities among the Member States should be defined on the basis of the traditional allocation of fishing opportunities under the fisheries agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and the financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001, shall be approved on behalf of the Community.

The text of the Agreement in the form of an exchange of letters and the Protocol are attached to this Decision.

Article 2

The fishing opportunities fixed in the Protocol shall be allocated among the Member States as follows:

⁽¹⁾ OJ L 73, 18. 3. 1986, p. 26.

(a) Tuna seiners:

Article 3

Spain: 22 vessels,
France: 20 vessels,
Italy: 3 vessels;

The President of the Council is hereby authorised to designate the persons empowered to sign the Agreement in order to bind the Community.

(b) Surface longliners:

Spain: 20 vessels,
France: 6 vessels,
Portugal: 4 vessels.

Done at Luxembourg, 22 October 1998.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may take into consideration licence applications from any other Member State.

For the Council

The President

W. MOLTERER

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

concerning the provisional application of the Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001

A. Letter from the Government of Madagascar

Sir,

With reference to the Protocol initialled on 5 March 1998 setting out fishing opportunities and financial compensation for the period from 21 May 1998 to 20 May 2001, I have the honour to inform you that the Government of Madagascar is prepared to apply the Protocol on a provisional basis with effect from 21 May 1998, pending its entry into force in accordance with Article 7 of the said Protocol, provided the European Community is disposed to do the same.

This is on the understanding that the first annual instalment of the financial compensation specified in Article 2 of the Protocol is paid by 30 October 1998.

I should be obliged if you would confirm the European Community's agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration.

*For the Government
of the Republic of Madagascar*

B. Letter from the Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

'With reference to the Protocol initialled on 5 March 1998 setting out fishing opportunities and financial compensation for the period from 21 May 1998 to 20 May 2001, I have the honour to inform you that the Government of Madagascar is prepared to apply the Protocol on a provisional basis with effect from 21 May 1998, pending its entry into force in accordance with Article 7 of the said Protocol, provided the European Community is disposed to do the same.

This is on the understanding that the first annual instalment of the financial compensation specified in Article 2 of the Protocol is paid by 30 October 1998.

I should be obliged if you would confirm the European Community's agreement to such provisional application.'

I have the honour to confirm the European Community's agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of
the Council of the European Union*

PROTOCOL

setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001

Article 1

Pursuant to Article 2 of the Agreement, licences authorising fishing in Madagascar's fishing zone shall be granted to 45 freezer tuna seiners and 30 surface longliners for a period of three years beginning on 21 May 1998.

In addition, at the request of the Community, authorisation may be granted for other categories of fishing vessel under conditions to be laid down in the Joint Committee referred to in Article 9 of the Agreement.

Article 2

The amount of the contribution referred to in Article 7 of the Agreement shall be fixed at ECU 304 000 for each of the three years of the Protocol, the first instalment to be paid not later than 30 October 1998 and the two remaining instalments before 20 May 1999 and 20 May 2000. This amount is to cover an annual catch of 9 500 tonnes of tuna in Malagasy waters; if the tuna caught by Community vessels in Madagascar's fishing zone exceeds this weight, the amount referred to above shall be increased by ECU 50 per additional tonne.

The financial compensation shall be paid into an account to be indicated by the Malagasy authorities, in the name of the Public Treasury.

Article 3

1. During the period referred to in Article 1, the Community shall contribute an additional ECU 1 368 000 to financing the measures described below, allocated as follows:

- (1) ECU 168 000 for Malagasy scientific programmes to improve knowledge of fisheries resources and ensure sustainable management thereof.

At the request of the Government of Madagascar, this contribution may take the form of a contribution to the cost of international meetings to improve knowledge and the management of fishery resources;

- (2) ECU 600 000 towards a system of fisheries monitoring, checks and surveillance;
- (3) ECU 300 000 for the financing of study grants and training courses;
- (4) ECU 125 000 for assistance in the development of traditional fisheries;
- (5) ECU 175 000 for the Ecole Nationale de l'Enseignement Maritime de Majunga (ENEM).

2. The competent Malagasy authorities shall send the Commission a detailed annual report on the use of the funds allocated to the measures provided for in paragraph 1 and on the implementation of these measures and the results achieved not later than three months after the anniversary date of the Protocol. The Commission of the European Communities reserves the right to request additional information from the Ministry responsible for fisheries and to review the payments concerned in the light of the actual implementation of the measures.

3. The amounts allocated to the measures referred to in paragraph 1 shall be made available to the Ministry responsible for fisheries and paid as they are used into the bank accounts indicated by it.

Article 4

Should the Community not make the payments referred to in Articles 2 and 3 of this Protocol, the Fisheries Agreement may be suspended.

Article 5

The Annex to the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar is hereby repealed and replaced by the Annex to this Protocol.

Article 6

This Protocol shall enter into force on the date of its signature.

It shall apply from 21 May 1998.

ANNEX

CONDITIONS GOVERNING FISHING ACTIVITIES BY COMMUNITY VESSELS IN MADAGASCAR'S FISHING ZONE

1. Application for and issue of licences

The procedure for applications for, and the issue of, licenses authorising Community vessels to fish in Malagasy water shall be as follows:

- (a) through its representative in Madagascar, the European Commission shall present to the Malagasy authorities:
 - at least 20 days before the beginning of the desired period of validity, a licence application completed by the shipowner in respect of each vessel for which authority to fish under the Agreement is requested,
 - an annual application for prior authorisation to enter Madagascar's territorial waters; such authorisation shall be valid for the duration of the licence.

Licence applications must be made on the form provided by Madagascar for this purpose, in accordance with the specimen given in Appendix 1; they shall be accompanied by proof of payment of the advance due from the shipowner.

- (b) Licences shall be issued for a specific vessel and shall not be transferable.

However, in the event of *force majeure*, a licence for one vessel may be replaced by a new licence for another vessel of similar characteristics should the Commission of the European Communities so request. The owner of the vessel being replaced shall return the cancelled licence to the Malagasy Ministry with responsibility for sea fisheries via the delegation of the Commission of the European Communities in Madagascar.

The new licence shall indicate:

- the date of issue,
- the fact that it cancels and replaces the licence of the previous vessel.

The fee provided for in Article 5 of the Agreement shall not be due for the remaining period of validity.

- (c) The Malagasy authorities shall send licences to the representative of the Commission of the European Communities in Madagascar.
- (d) Licences must be kept on board at all times; however, on receipt of notification of payment of the advance sent to the Malagasy authorities by the Commission of the European Communities, vessels shall be entered on a list of vessels authorised to fish, which shall be sent to the Malagasy authorities responsible for fisheries inspection. A copy of the said licence may be obtained by fax pending arrival of the licence itself; that copy shall be kept on board.
- (e) Owners of tuna boats must be represented by an agent in Madagascar.
- (f) The Malagasy authorities shall give notice, before the Agreement enters into force, of the arrangements for payment of fees and advances, including information on bank accounts.

2. Validity of licences and payment of fees

- (a) Licences shall be valid for one year. They shall be renewable.
- (b) The fee shall be ECU 20 per tonne caught in waters under Malagasy jurisdiction. Licences shall be issued on advance payment to the Malagasy Treasury of an annual sum of ECU 2 000 per tuna seiner, ECU 1 100 per surface longliner of more than 150 GRT and ECU 800 per surface longliner of 150 GRT or less.

- (c) At the end of each calendar year, the Commission of the European Communities shall draw up a final statement of the fees due in respect of the fishing year on the basis of catch declarations completed by each shipowner and confirmed by the scientific institutes competent for verifying catch statistics such as Orstom (Office of Overseas Scientific and Technical Research), IEO (Spanish Oceanographic Institute) or USTA (Antsiranana Tuna Statistical Unit) and transmitted by the Member States of the European Community. The statement shall simultaneously be notified to the Malagasy sea fisheries authorities and the shipowners. Shipowners shall make any additional payments to the Malagasy fisheries authorities within 30 days of notification of the final statement.

However, where the final statement is less than the advance referred to at (b), the balance shall not be recoverable by the shipowner.

3. Declaration of catches

- (a) Vessels authorised to fish in Madagascar's fishing zone under the Agreement shall notify their catch statistics to the sea fisheries authorities, with a copy for the delegation of the Commission of the European Communities in Madagascar, in accordance with the following procedure.

Tuna seiners and surface longliners shall complete a fishing form corresponding to the specimen given in Appendix 2 for each period spent fishing in Madagascar's fishing zone. The forms shall be sent to the competent authorities referred to in the first paragraph not later than 30 September each year.

Forms must be completed legibly and be signed by the master of the vessel. In addition, they must be completed by all vessels which have obtained a licence, even if they have not fished.

- (b) In the event of failure to comply with these provisions, the Malagasy authorities reserve the right to suspend the licence of the offending vessel until the formalities have been completed. In such cases, the delegation of the Commission of the European Communities in Madagascar shall be informed without delay.

4. Communication of information

The captain shall give notification, at least 24 hours in advance, by radio, telex or fax to the coastal radio station at Antsiranana, and by fax (No (261-20) 224 16 55) to the Ministry responsible for fisheries, of his intention to bring his vessel into or take it out of Madagascar's fishing zone. When notifying his intention to leave, he shall also notify the estimated catches taken during the time his vessel has spent in Madagascar's fishing zone.

The radio frequency and the telex and fax numbers to be used will be indicated on the licence.

5. Observers

At the request of the Malagasy authorities, tuna seiners and surface longliners shall take an observer on board who shall be treated as an officer. The time spent on board by the observer shall be fixed by the Malagasy authorities, but, as a general rule, it should not exceed the time required to carry out his duties. Once on board, the observer will:

- observe the fishing activities of the vessels,
- verify the position of vessels engaged in fishing operations,
- perform biological sampling in the context of scientific programmes,
- note the fishing gear used,
- verify the catch data for Madagascar's zone recorded in the logbook.

While on board, the observer:

- must take all appropriate steps to ensure that the conditions under which he is taken on board and his presence on board do not interrupt or hamper fishing activities,
- must respect the material and equipment on board and the confidentiality of all documents belonging to the said vessel.

The conditions governing his embarkation shall be agreed between the shipowner or his agent and the Malagasy authorities.

The shipowner shall, via his agent, make a payment of ECU 10 to the Malagasy Government for each day spent by an observer on board a tuna seiner or surface longliner. If the shipowner is unable to take the observer aboard and put him off at a Malagasy port agreed by common accord with the Malagasy authorities, the shipowner shall bear the cost of taking the observer aboard and putting him ashore.

If the observer is not present at the time and place agreed and during the 12 hours following the time agreed, the shipowner shall be automatically absolved of his obligation to take the observer on board.

6. Employment of seamen

At least six Malagasy seamen shall be employed by the fleet of tuna seiners and surface longliners for the duration of the fishing season.

In the event that these seamen are not so employed, the shipowners shall pay the full amount of the wages of the seamen or seaman not employed; this sum is to be used for the training of Malagasy fishermen and shall be paid into an account whose number shall be notified to the agents.

The employment contracts for the seamen shall be concluded between the agents and the seamen concerned.

7. Fishing zones

Community vessels shall have access to all waters under Madagascar's jurisdiction outside the coastal zone of 10 nautical miles.

Should the Malagasy authorities decide to install experimental fish concentration devices (FCDs), they shall inform the Commission of the European Communities and the agents of the shipowners concerned, indicating the geographical position of the devices.

From the 30th day after such notification, it shall be forbidden to approach within 1,5 nautical miles of the FCDs. The dismantling of any FCD must be immediately notified to the same parties.

8. Use of port facilities

The authorities of Madagascar and the beneficiaries of the Agreement shall lay down the conditions for using port facilities.

9. Inspection and monitoring of fishing activities

Vessels holding a licence shall permit and assist any Malagasy official responsible for the inspection and monitoring of fishing activities to board the ship and carry out his duties.

10. Transshipment

When fish are transshipped, freezer tuna seiners shall hand over the fish which they do not intend to keep to a company or body nominated by the Malagasy authorities in charge of fisheries.

11. Provision of services

Community vessel owners operating in the Malagasy fishing zone shall practise positive discrimination in favour of Malagasy services (careening, handling, fuel-oil bunkering, consignment, etc.).

12. Boarding**(a) *Transmission of information***

The Malagasy Ministry responsible for fisheries shall inform the delegation and the flag State, within 48 hours, of the boarding of any fishing vessel flying the flag of a Member State of the Community fishing under the Fisheries Agreement in Madagascar's fishing zone and shall transmit a brief report of the circumstances and reasons leading to such boarding. The delegation and the flag State shall be kept informed of any proceedings initiated and penalties imposed.

(b) *Settlement of boarding*

In accordance with the law on fisheries and the relevant regulations, infringements may be settled:

- either by composition, in which case the amount of the fine shall be determined in accordance with Malagasy legislation laying down minimum and maximum figures,
- or by legal proceedings, if no composition is possible, in accordance with Malagasy law.

(c) The vessel shall be released and its crew authorised to leave the port:

- either as soon as the obligations imposed by the composition procedure have been completed on presentation of the receipt for the settlement, or
 - on presentation of proof that a bank security has been lodged, pending completion of the legal proceedings.
-

*Appendix 1***APPLICATION FORM FOR A FISHING LICENCE**

1. New application or renewal:
2. Name and flag of vessel:
3. Period of validity: from to
4. Name of shipowner:
5. Address of shipowner:
.....
6. Name and address of charterer (if different from 4 and 5):
.....
.....
7. Name and address of official representative in Madagascar:
.....
8. Name of captain:
9. Type of vessel:
10. Registration number:
11. External identification of vessel:
12. Port and country of registration:
13. Overall length and breadth of vessel:
14. Gross and net tonnage of vessel:
15. Make and power of main engine:
16. Freezer capacity (t/d):
17. Hold capacity (m³):
18. Radio call sign:
19. Other communications equipment (telex, fax):
20. Fishing appliances:
.....
21. Number of crew broken down by nationality:
.....
22. Number of fishing licence (in the case of a renewal, attach licence):
.....

I, the undersigned,....., certify that the above information is correct and undertake to comply therewith.

.....
(Stamp and signature of shipowner)

.....
(Date)

ICCAT LOGBOOK for TUNA FISHERY

Vessel name	Gross tonnes			
Flag country	Capacity (MT)			
Registration No	Captain			
Company or owner	No of crew			
Address	Reporting date			
	Reported by			
Boat LEFT		Boat RETURNED		
month		day	year	port
19 . .			19 . .	
days		Number of fishing days or number of sets made		
Number of days at sea		Trip number		
19 . .				

- ☐ Longline
- ☐ Bait boat
- ☐ Purse seiner
- ☐ Trawling
- ☐ Others

Page

of

pages

Dates		Area		Surf. water temp. (in °C)	Effort (number of hooks used)	CATCHES														Bait used			
Month	Day	Latitude N/S	Longitude E/W			Bluefin tuna <i>Thunnus thynnus</i> or <i>maccoyii</i>	Yellowfin tuna <i>Thunnus albacares</i>	Bigeye tuna <i>Thunnus obesus</i>	Albacore <i>Thunnus alalunga</i>	Swordfish <i>Xiphias gladius</i>	Striped marlin White marlin <i>Tetrapturus audax</i> or <i>albidus</i>	Black marlin <i>Makaira indica</i>	Sailfish <i>Istiophorus albicans</i> or <i>platypterus</i>	Skipjack <i>Katsuwonus pelamis</i>	Miscellaneous fish		Daily total (in weight) (kg only)	Saury	Squid	Live bait	Others		
	01																						
	02																						
	03																						
	04																						
	05																						
	06																						
	07																						
	08																						
	09																						
	10																						
	11																						
	12																						
	13																						
	14																						
	15																						
	16																						
	17																						
	18																						
	19																						
	20																						
	21																						
	22																						
	23																						
	24																						
	25																						
	26																						
	27																						
	28																						
	29																						
	30																						
	31																						
Landing weight (in kg)																							

Remarks:

1. Use one sheet per month, and one line per day.

2. At the end of each trip, forward a copy of the log to your correspondent or to ICCAT, General Mula 17, Madrid 1, Spain.

3. 'Day' refers to the day you set the line.

4. Fishing area refers to the noon position of the boat, round off minutes, and record degrees of latitude and longitude. Be sure to record N/S and E/W.

5. The bottom line ('landing weight') should be completed only at the end of the trip. Actual weight at the time of unloading should be recorded.

6. All information reported herein will be kept strictly confidential.

**DECISION No 1/98 OF THE ASSOCIATION COUNCIL BETWEEN THE
EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE
PART, AND THE REPUBLIC OF HUNGARY, OF THE OTHER PART**

of 12 October 1998

**adopting the terms and conditions for the participation of the Republic of
Hungary in Community programmes in the fields of health and social policy**

(98/616/EC)

THE ASSOCIATION COUNCIL,

HAS DECIDED AS FOLLOWS:

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part ⁽¹⁾,

Having regard to the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part ⁽²⁾, concerning Hungary's participation in Community programmes, and in particular Articles 1 and 2 thereof,

Whereas, according to Article 1 of the said Additional Protocol, Hungary may participate in Community framework programmes, specific programmes, projects or other Community actions notably in the fields of health and social policy;

Whereas, according to Article 2 of the said Additional Protocol, the terms and conditions for the participation of Hungary in the activities referred to in Article 1 are to be decided by the Association Council,

Article 1

Hungary shall participate in the European Community programmes on health promotion, combating cancer, prevention of AIDS and other communicable diseases, drug dependence and equal opportunities for men and women according to the terms and conditions set out in Annexes I and II which shall form an integral part of this Decision.

Article 2

This Decision shall apply until 31 December 2000.

Article 3

This Decision shall enter into force on the first day of the month following the day of its adoption.

Done at Brussels, 12 October 1998.

For the Association Council

The President

W. SCHÜSSEL

⁽¹⁾ OJ L 347, 31. 12. 1993, p. 2.

⁽²⁾ OJ L 317, 30. 12. 1995, p. 30.

ANNEX I

Terms and conditions for the participation of the Republic of Hungary in the programmes on health promotion, combating cancer, prevention of AIDS and other communicable diseases, drug dependence and equal opportunities for men and women

1. Hungary will participate in all activities of the health promotion, combating cancer, prevention of AIDS and other communicable diseases, drug dependence and equal opportunities for men and women programmes (hereinafter called 'the Programmes') in conformity, unless otherwise provided in this Decision, with the objectives, criteria, procedures and deadlines as defined in Decision No 645/96/EC of the European Parliament and of the Council of 29 March 1996 adopting a programme of Community action on health promotion, information, education and training within the framework for action in public health (1996-2000)⁽¹⁾, and in particular Article 6(2) thereof, Decision No 646/96/EC of the European Parliament and of the Council of 29 March 1996 adopting an action plan to combat cancer within the framework for action in the field of public health (1996-2000)⁽²⁾, and in particular Article 6(2) thereof, Decision No 647/96/EC of the European Parliament and of the Council of 29 March 1996 adopting a programme of Community action on the prevention of AIDS and certain other communicable diseases within the framework for action in the field of public health (1996-2000)⁽³⁾, and in particular Article 6(2) thereof, Decision No 102/97/EC of the European Parliament and of the Council of 16 December 1996 adopting a programme of Community action on the prevention of drug dependence within the framework for action in the field of public health (1996-2000)⁽⁴⁾, and in particular Article 6(2) thereof and Council Decision 95/593/EC of 22 December 1995 on a medium-term Community action programme on equal opportunities for men and women (1996-2000)⁽⁵⁾, and in particular Article 6(1) thereof.
2. The terms and conditions for the submission, assessment and selection of applications related to eligible institutions, organisations and individuals of Hungary will be as far as possible in conformity with those prevailing in the Member States of the Community.
3. To ensure the Community dimension of the Programmes, transnational projects and activities proposed by Hungary will be required to include a minimum number of partners from the Member States of the Community. This minimum number will be decided in the framework of the implementation of the Programmes, taking into account the nature of the various activities, the number of partners in a given project and the number of countries participating in the Programmes.
4. Hungary will pay each year a contribution to the general budget of the European Communities to cover the costs resulting from its participation in the Programmes (see Annex II). The Association Committee is entitled to adapt this contribution whenever necessary.
5. The Member States of the Community and Hungary will make every effort, within the framework of the existing provisions, to facilitate the free movement and residence of all eligible persons to the Programmes moving between Hungary and the Member States of the Community for the purpose of participating in activities covered by the Decision.
6. Without prejudice to the responsibilities of the Commission and the Court of Auditors of the European Communities in relation to the monitoring and evaluation of the programmes pursuant to the Decisions concerning health promotion, combating cancer, prevention of AIDS and other communicable diseases, drug dependence and equal opportunities for men and women (Articles 7, 7, 7, 7 and 11 respectively), the participation of Hungary in the Programmes will be continuously monitored on a partnership basis involving Hungary and the Commission of the European Communities. Hungary will submit the necessary reports to the Commission and take part in other specific activities set out by the Community in that context.
7. Without prejudice to the procedures referred to in Article 5 of the Decision on health promotion, Article 5 of the Decision on combating cancer, Article 5 of the Decision on prevention of AIDS and other communicable diseases, Article 5 of the Decision on drug dependence and Article 9 of the Decision on equal opportunities for men and women, Hungary will be invited to any coordination meeting on any question concerning the implementation of this Decision prior to the regular meetings of the Programme Committees. The Commission will inform Hungary about the results of such regular meetings.
8. The language to be used as regards the application process, contracts, reports to be submitted and other administrative arrangements for the Programmes will be one of the official languages of the Community.

⁽¹⁾ OJ L 95, 16. 4. 1996, p. 1.

⁽²⁾ OJ L 95, 16. 4. 1996, p. 9.

⁽³⁾ OJ L 95, 16. 4. 1996, p. 16.

⁽⁴⁾ OJ L 19, 22. 1. 1997, p. 25.

⁽⁵⁾ OJ L 335, 30. 12. 1995, p. 37.

ANNEX II

Financial contribution of the Republic of Hungary to health promotion, combating cancer, prevention of AIDS and other communicable diseases, drug dependence and equal opportunities for men and women

1. The financial contribution of Hungary will cover:
 - financial support from the Programmes to Hungarian participants,
 - supplementary costs of an administrative nature related to the management of the Programmes by the Commission stemming from Hungary's participation.
 2. For every financial year, the aggregated amount of subsidies or any other financial support received from the Programmes by the Hungarian beneficiaries will not exceed the contribution paid by Hungary, after deduction of the supplementary administrative costs.

Should the contribution paid by Hungary to the general budget of the European Communities, after deduction of the supplementary administrative costs, be higher than the aggregated amount of subsidies or other financial support received by the Hungarian beneficiaries from the Programmes, the Commission will transfer the balance to the next budgetary exercise, and it will be deducted from the following year's contribution. Should such a balance be left when the Programmes come to an end, the corresponding amount will be reimbursed to Hungary.
 3. *Health promotion*

Hungary's annual contribution will be of ECU 92 621 from 1998. From this sum, an amount of ECU 6 321 will cover supplementary administrative costs related to the management of the Programme by the Commission stemming from Hungary's participation.
 4. *Combating cancer*

Hungary's annual contribution will be of ECU 167 476 from 1998. From this sum, an amount of ECU 10 956 will cover supplementary administrative costs related to the management of the Programme by the Commission stemming from Hungary's participation.
 5. *Prevention of AIDS and other communicable diseases*

Hungary's annual contribution will be of ECU 128 828 from 1998. From this sum, an amount of ECU 8 429 will cover supplementary administrative costs related to the management of the Programme by the Commission stemming from Hungary's participation.
 6. *Drug dependence*

Hungary's annual contribution will be of ECU 64 414 from 1998. From this sum, an amount of ECU 4 214 will cover supplementary administrative costs related to the management of the Programme by the Commission stemming from Hungary's participation.
 7. *Equal opportunities for men and women*

Hungary's annual contribution will be of ECU 109 170 from 1998. From this sum, an amount of ECU 7 142 will cover supplementary administrative costs related to the management of the Programme by the Commission stemming from Hungary's participation.
 8. The financial regulations applicable to the general budget of the Community will apply, notably to the management of the contribution of Hungary.

Upon entry into force of this Decision and at the beginning of each following year, the Commission will send to Hungary a call for funds corresponding to its contribution to the costs under this Decision. This contribution will be expressed in ecus and paid into an ecu bank account of the Commission. Hungary will pay its contribution to the annual costs under this Decision according to the call for funds and at the latest three months after the call for funds is sent. Any delay in the payment of the contribution shall give rise to the payment of interest by Hungary on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Monetary Cooperation Fund, for the month of the due date, for its operations in ecus, increased by 1,5 percentage points.
 9. Hungary will pay the supplementary costs of an administrative nature referred to in paragraphs 3, 4, 5, 6 and 7 from its national budget.
 10. Hungary will pay 50 % of the remaining cost of its participation from its national budget.

Subject to regular PHARE programming procedures, the remaining 50 % will be paid from Hungary's annual PHARE allocation.
-

COMMISSION

COMMISSION DECISION

of 21 October 1998

denying authority to Italy to refuse the grant of exemption to certain products exempt from excise duty under Council Directive 92/83/EEC on the harmonisation of the structures of the excise duties on alcohol and alcoholic beverages

(notified under document number C(1998) 3154)

(Only the Italian text is authentic)

(98/617/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of the excise duties on alcohol and alcoholic beverages ⁽¹⁾, and in particular Article 27(5) thereof,

Having regard to the notification sent by Italy to the Commission and transmitted by the Commission to the other Member States,

Whereas:

- (1) By letter of 4 July 1997, Italy notified the Commission that it had imposed the following national conditions for exemption on certain products, whether Italian or from other Member States, falling within Article 27(1)(b) of Directive 92/83/EEC:

- perfumes and cosmetics: that they contain no waste alcohol,
- certain household products (liquid detergents and washing preparations (for laundry, dishes and hard surfaces) of CN code 3402, self-shine liquid shoe polish of CN code 3405, room deodorisers in liquid form, aerosol and spray of CN code 3307, insecticides in liquid form aerosol and spray of CN code 3808): that their alcoholic strength should not exceed 40 % vol.

- (2) The notification explained that the conditions it imposed on the grant of exemption were designed to ensure that goods 'deliberately prepared in an irregular manner cannot benefit unlawfully from the denaturing arrangements or the movement and warehousing procedures laid down for certain categories of goods'. The example of a lightly denatured cosmetic marketed as perfume was given. This had been exempted under Article 27(1)(b) but did not have the requisite properties to be considered a perfume and was in fact used for the purpose of completely denatured alcohol, exempt under Article 27(1)(a).

- (3) The notification requested the Commission to advise the other Member States in accordance with Article 27(5) of Directive 92/83/EEC, so that a decision on Italy's action might be taken in accordance with the procedure laid down in Article 24 of Council Directive 92/12/EEC of 25 February 1992 on the holding, movement and monitoring of such products subject to excise duty ⁽²⁾, as last amended by Directive 96/99/EC ⁽³⁾.

- (4) In the view of the Commission, the notification contained insufficient information to permit a decision to be drafted authorising Italy's action. The Italian authorities were therefore invited to explain in more detail the reasons for their request in the presence of the Excise Committee.

⁽¹⁾ OJ L 316, 31. 10. 1992, p. 21.

⁽²⁾ OJ L 76, 25. 2. 1992, p. 1.

⁽³⁾ OJ L 8, 11. 1. 1997, p. 12.

- (5) At a meeting of that Committee which took place on 8 October 1997, the Italian delegation explained the position broadly as set out in its original notification. After considerable discussion the Commission's representative concluded that he still lacked sufficient information to draft a proposal and the Committee was in no position to take a decision. The Italian delegation was requested to produce further information regarding the excise duty risk involved, in particular as to whether the goods concerned were used for taxable purposes.
- (6) By letter of 10 November 1997, the Italian authorities further explained:
- that their action was based on the increased risks to the revenue of products which do not meet nationally imposed conditions,
 - that the Directive provides a control system for the products of Article 27(1)(a) which is much stricter than for the products of Article 27(1)(b),
 - that in a case which had occurred, a lightly denatured product containing waste alcohol, and declared as a cosmetic (for which waste alcohol is not normally used) exempt under Article 27(1)(b), was marketed and subsequently used for cleaning purposes; hence, the product concerned was being substituted for a completely denatured alcohol under Article 27(1)(a), and thus benefiting unlawfully from a more favourable system,
 - that such a result entails both a revenue risk and distortion of competition,
 - that the condition that household products which are exempt under Article 27(1)(b) should have an alcoholic strength not exceeding 40 % vol. was imposed for similar reasons, such products not normally exceeding that strength, and no complaints having arisen.
- (7) After a further meeting of the Excise Committee held on 1 December 1997 at which the Italian delegation received no support for its position, the Commission's representative concluded that if a decision was to be drafted, the Italian authorities still needed to supply sufficient information on the products and to take a decision as to whether or not they wished the procedure laid down in Article 27(5) to be terminated.
- (8) By letter of 20 February 1998, the Italian authorities further explained that in the case which had actually occurred, referred to in its previous letter, perfume delivered from another Member State was found to have been produced with denatured alcohol which complied with the Italian denaturing rules, but not with the requirement that it be pure. Italy requested confirmation that in such a case a Member State might refuse exemption without the need to activate the Article 27(5) procedure.
- (9) In the case of an affirmative reply, Italy pointed out that the Article 27(5) procedure remained necessary for products denatured according to the rules of the Member State of origin but which did not satisfy the Italian condition regarding waste alcohol. No such case had however been discovered to date.
- (10) The purpose of Directive 92/83/EEC is to create, in the field of alcohol taxation, conditions ensuring the establishment and functioning of the internal market. Article 27(1) of the Directive specifies the alcoholic products which shall be exempt from duty throughout the Community. With the exception of 'completely denatured' alcohol exempt under Article 27(1)(a), for which special provisions apply, the system laid down is that of mutual acceptance — once a product falling under Article 27(1)(b) has been exempted in any Member State it may move freely throughout the Community. The purpose of Article 27(5) of that Directive is to permit Member States to take prompt action to safeguard their revenue should the operation of the general rules lead to genuine cases of evasion, avoidance or abuse.
- (11) As regards the reasons given by Italy for the refusal of exemption to cosmetics (perfumes) containing impure alcohol, the use of cheap impure alcohol to produce goods falling within Article 27(1)(b) cannot be regarded as a cause of evasion, avoidance or abuse in particular since, on the one hand, an impure alcohol presents less danger of improper use and, on the other hand, whether or not

cosmetics produced from impure alcohol are cheaper, Article 27(1)(b) is in no way restricted to expensive goods, the disparate goods falling within it varying extremely widely in price. Nor does anything in the Directive require products exempt under Article 27(1)(b) (which are not for human consumption) to be derived from pure alcohol.

- (12) Moreover, since Article 27(1)(b) covers not only, or even mainly, cosmetics, but also products used *inter alia* for cleaning purposes, the use of goods described as cosmetics for cleaning purposes cannot affect their classification under Article 27(1)(b) and cannot be regarded as evasion, avoidance or abuse. This seems particularly clear in view of the fact that in some Member States it is not unusual for colognes and the like to be used for non-cosmetic purposes such as cleaning. The fact that the 'completely denatured' alcohols of Article 27(1)(a) may also be used for such purposes is not relevant.
- (13) The above considerations apply equally to the particular case raised by Italy of goods which arrived at their destination declared to be denatured in accordance with Italian rules but not meeting the requirement that they be pure. In addition:
- (i) movements under Article 27(1)(b) should be entirely free of formalities, and require no declarations;
 - (ii) compliance with the requirements of any Member State is sufficient, and
 - (iii) since the methods of denaturing for the products of Article 27(1)(b) are not laid down at Community level, the fact that the goods have been released — for free movement throughout the Community — in the Member State of origin is evidence that they have fulfilled that Member State's requirements.
- (14) The above considerations apply equally to the case of perfumes exempt under 27(1)(b) and denatured according to the rules of other Member States but not meeting Italy's condition that they be derived

from pure alcohol. In addition, however, Italy has stated that no such cases have been found.

- (15) Similar considerations apply to Italy's refusal of exemption to certain household products, where Italy has simply pointed out that its reasons for refusing exemption are similar to those concerning cosmetics, that no complaints have been received and that the normal trade is not affected by its condition for exemption.
- (16) In addition, Italy has not shown that any of the products subject to its refusal of exemption have in fact given rise to any actual evasion, avoidance or abuse. Nor has any other Member State — most of which have much higher duty rates than Italy — reported any problems of evasion avoidance or abuse arising from the exemption of these products.
- (17) The measures provided for in this Decision are in accordance with the opinion of the Committee on Excise Duties,

HAS ADOPTED THIS DECISION:

Article 1

Italy is not authorised to refuse the grant of exemption from excise duty on the products notified in its letter of 4 July 1997.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 21 October 1998.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 23 October 1998

under the provisions of Council Regulation (EC) No 3286/94 concerning measures maintained by the Republic of Argentina on the export of bovine hides and the import of finished leather

(notified under document number C(1998) 3206)

(98/618/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organisation (WTO)⁽¹⁾, as amended by Regulation (EC) No 356/95⁽²⁾, and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

istic duty on finished leather imports; and (d) the advance payment of turnover tax when importing finished leather.

- (3) The complaint contained sufficient *prima facie* evidence to justify the initiation of a Community examination procedure pursuant to Article 8 of the Regulation. Consequently, an examination procedure was initiated on 26 February 1997⁽³⁾.
- (4) Following the initiation of the Community examination procedure the Commission conducted an in-depth legal and factual investigation. Based on the findings of this investigation the Commission reached the conclusions which are indicated below.

A. PROCEDURE

- (1) On 8 January 1997 the Commission received a complaint pursuant to Article 4 of Regulation (EC) No 3286/94 (hereafter the 'Regulation'). The complaint was lodged by Cotance, the Confederation of National Associations of Tanners and Dressers of the European Community, on behalf of those of its members that are engaged in production and/or finishing of bovine leather.
- (2) The complainant alleged that a number of Argentinian measures on the export of raw and semi-tanned bovine hides and the import of finished leather are inconsistent with several provisions of the Agreement establishing the World Trade Organisation (hereafter 'WTO Agreement') and its Annexes and that these measures are causing adverse trade effects to its member companies. On that basis the complainant asked the Commission to take the necessary actions to convince Argentina to repeal these practices consisting of: (a) a *de facto* export ban on raw hides; (b) a customs control procedure for raw hides in which experts of the Argentinian tanning industry participate; (c) the payment of additional value added tax and a stat-

B. FINDINGS REGARDING THE EXISTENCE OF AN OBSTACLE TO TRADE

- (5) The investigation revealed that the Argentinian export regime for raw and semi-tanned bovine hides operate as a *de facto* export prohibition. It appears that, since 1972, the Argentinian authorities have shown a constant will to prohibit the export of raw and semi-tanned bovine hides by means of various measures, which all have succeeded in considerably restricting and finally making impossible the export of raw and semi-tanned bovine hides. Before 1972 there were regular and important trade flows in hides between Argentina and the Community.

The fact that this export regime succeeded in reaching its objective is demonstrated by the following elements: (a) the Argentinian authorities admit that there have been no (legal) exports of raw and semi-tanned bovine hides since 1987; (b) hide traders state that it is impossible to buy hides in Argentina for export purposes; and (c) the Argentinian tanning industry admits that the Argentinian hide market is not a free market. Furthermore, by availing themselves of Article XI:2(a) of GATT

⁽¹⁾ OJ L 349, 31. 12. 1994, p. 71.

⁽²⁾ OJ L 41, 23. 2. 1995, p. 3.

⁽³⁾ OJ C 59, 26. 2. 1997, p. 6.

1994, which is an exemption to the obligation not to maintain prohibitions or restrictions on exports, the Argentinian authorities appear to suggest that the country is maintaining an export prohibition, or at least export restrictions, in the sense of Article XI:1. Finally, an analysis based on Argentinian and US prices shows that, even after allowing for the export duty on bovine hides which exists in Argentina, the price of Argentinian hides should normally have reached a level at which it would have been possible to export.

This factual evidence indicates that Argentina maintains a *de facto* ban on the export of raw and semi-tanned bovine hides. Moreover, the investigation uncovered at least one government measure (namely the authorisation granted to the tanning industry to participate in customs control procedures of hides before export) designed to enforce this ban. Export prohibitions or restrictions are expressly ruled out by Article XI of GATT 1994. This provision thus provides the Community a right of action within the meaning of Article 2(1) of the Regulation against Argentina.

- (6) Personnel appointed by the Argentinian chamber for the tanning industry are authorised to assist the Argentinian customs authorities in carrying out customs controls of raw and semi-tanned bovine hides before exports. Apart from being part of the export regime designed to make exports of hides impossible, this practice is in itself challengeable under the provisions of GATT 1994. The participation of representatives of an industry which has an obvious interest in impeding the export of its raw material does not guarantee the impartial management of such procedure in the sense of Article X:3(a) of GATT 1994.

Therefore, with regard to this practice Article X:3(a) of GATT 1994 read in conjunction with Article XI:1 constitute international trade rules conferring on the Community a right of action within the meaning of Article 2(1) of the Regulation.

- (7) Argentina applies an 'additional VAT' of 9 % on imported products. In practice this means that the VAT rate for imported goods is 30 % instead of 21 % for goods purchased on the domestic market. The VAT rate for imported goods is thus discriminatory when compared to the rate applied on domestic sales. The fact that the 'additional' VAT is only an instalment that can be deducted from the final settlement of VAT does not affect this analysis. Therefore the additional VAT is to be considered as a breach of the national treatment principle enshrined in Article III:2 of GATT 1994

which constitutes an international trade rule conferring the Community a right of action within the meaning of Article 2(1) of the Regulation.

- (8) Operators who import foreign goods into Argentina must pay an 'advance turnover tax' of 3 % of the price of the goods. Although it is treated as a credit for the taxpayer when he presents his tax declaration it clearly implies a discrimination in favour of Argentinian input material for the manufacture and finished consumer goods. Therefore, also with regard to this 'advance turnover tax', Article III:2 of GATT 1994 constitutes an international trade rule conferring the Community a right of action within the meaning of Article 2(1) of the Regulation.
- (9) Under these circumstances the Commission considers that the complainant's allegations are well-founded.
- (10) The Commission nonetheless considers that reference to the above legal bases does not rule out recourse to any other pertinent provision of the WTO Agreement and of the Agreements annexed to it, which could be of use in procedures before the WTO.

C. FINDINGS REGARDING ADVERSE TRADE EFFECTS

- (11) At present, the export prohibition makes it totally impossible for Community tanners to purchase raw bovine hides in Argentina, although this investigation has shown that, for various reasons, Community tanneries are very interested in sourcing bovine hides from Argentina.
- (12) Despite Argentina's important hide production, its contribution to international trade in bovine hides is negligible. Argentina's absence from international trade in this commodity reduces the international availability of this product and consequently affects the Community tanning sector's security of supply.
- (13) The Argentinian measures on the export of bovine hides entail a further risk of further proliferation of export restrictions. In this regard, Argentina's Mercosur partners may be a matter for concern.
- (14) The Community tanning sector depends heavily on imported hides. As a result of export restrictions maintained by Argentina and subsequently by other countries, tanneries need more supplying countries for an ever growing part of their supplies, which implies increasing uncertainty and additional costs.

(15) As a result of the export measures, the Argentinian market is insulated from the casual movements of world market prices, which leads to an artificial reduction of the local price for Argentinian hides.

(16) Because raw material prices are artificially low, Argentinian tanners have a cost advantage over foreign manufacturers that have to pay prices influenced by the world markets. Given the high share of raw material in leather production costs, the cost advantage of Argentinian tanners is therefore considerable. It is therefore established that, with an artificially cheap raw material, Argentinian bovine leather tanners can undercut their EC competitors substantially.

(17) Argentina has significantly increased its exports of finished leather since the implementation of export restrictions as from 1972. Since the Argentinian leather producers benefit from a considerable unfair competitive advantage, it is clear that an important part of their export successes stem from this advantage. Under normal and fair circumstances of competition, Community tanners could at least have held part of the market shares that are now held by Argentinian leather throughout the world.

(18) Most EC bovine leather tanners have lost market shares in the Community since the beginning of the decade, while Argentina increased its market share in a number of Community Member States. Here again parts of these market share gains are due to the Argentinian tanners' unfair competitive advantage.

(19) The Argentinian measures on exports of raw and semi-tanned bovine hides seriously impede trade flows in these products and endanger the Community tanning industry's security of supply in raw materials. They also result in an unfair competitive advantage for Argentinian leather producers, which allows them to undercut prices of their EC competitors. Therefore, the Commission concluded that abovementioned effects do constitute adverse trade effects within the meaning of Article 2(4) of the Regulation. Moreover, the Commission found that, as in the event of an Argentinian upswing in the demand of Community leather they may discourage processors from buying Community leather, the additional VAT on imports and the advance payment of income tax raised on imports result in potentially adverse trade effects that are likely to develop into actual trade effects within the meaning of Article 2(4) of the Regulation.

D. COMMUNITY INTEREST

(20) Ensuring that WTO partners fully comply with their obligations is of the utmost importance for the Community which has committed itself to the same obligations.

(21) If the Community does not react against the present barriers to trade, the number of countries maintaining export restrictions or prohibitions may increase further in the coming years, adding new and severe distortions to trade, which will further affect Community producers of leather.

(22) The Argentinian practices affect a Community tanning industry which is faced with increasing low-cost competition from Asian and Latin American tanners. In a world leather market where the number of participants is growing, the market share available to each is getting smaller and smaller. In such a context any unfair competitive advantage leads to severe market distortions, and should therefore effectively be challenged.

E. CONCLUSIONS AND MEASURES TO BE TAKEN

(23) The investigation has established that it will take no remedy other than a radical change in the regime applicable in Argentina to exports of bovine hides and imports of finished leather to eliminate the actual and potential adverse trade effects of abovementioned obstacles to trade.

(24) Intensive discussions have been held with the relevant Argentinian authorities to discuss this matter further aimed at finding an amicable solution to the problems concerning hide and leather trade. More particularly, the Commission services met the Argentinian authorities on 30 and 31 March 1998 in Buenos Aires. On this occasion, the Argentinian authorities agreed to the objective of fully liberalising their hide exports by January 2000 and accepted to notify the phasing out scheme of the export tax on bovine hides to the WTO. The Argentinian authorities also showed a certain flexibility and agreed to explore the possible means to amend the customs regulation authorising the Argentinian leather industry to participate in customs control of hides before export.

However, despite their expressed willingness to find a mutually satisfactory solution and after five months of discussing the modalities of such a solution with the Commission, the Argentinian author-

ities have so far failed to notify their objective of fully liberalising trade in hides and the phasing out scheme of the export tax on bovine hides to the WTO, and have not yet amended the Regulation on customs control of hides before export.

- (25) In these circumstances, it appears that the interests of the Community call for initiation of WTO dispute settlement proceedings,

HAS DECIDED:

Article 1

1. The tacit export prohibition on bovine hides, the participation of representatives of the tanning industry in customs control procedures of hides before export, the additional value added tax on imported products and the advance payment of turnover tax maintained by the Republic of Argentina constitute an 'obstacle to trade'

within the meaning of Article 2 of Council Regulation (EC) No 3286/94.

2. The Community will commence action against the Republic of Argentina under the Understanding on the Rules and Procedures for the Settlement of Disputes and other relevant WTO provisions with a view to securing removal of the obstacle to trade.

Article 2

This Decision shall apply from the date of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 23 October 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 30 October 1998

on the granting of aid for the production of table olives in Greece

(notified under document number C(1998) 3339)

(Only the Greek text is authentic)

(98/619/EC)

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 organisation of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1638/98⁽²⁾, and in particular Article 5(4) thereof,

Whereas Article 5(4) of Regulation No 136/66/EEC grants the Member States the possibility of allocating part of their national guaranteed quantities and of their olive-oil production aid to support for table olives under conditions to be approved by the Commission in accordance with the procedure laid down in Article 38 of that Regulation;

Whereas Greece has presented a request in respect of the 1998/99 marketing year; whereas detailed rules should be laid down on the granting of the aid;

Whereas provision should be made for the aid to be granted to growers of processed table olives from olive groves in Greece and the conditions governing the granting of the aid should be specified;

Whereas the processing period should be defined as running from 1 November 1998 to 31 August 1999; whereas fresh olives entering the processing undertaking before 1 September 1998 are not considered to be processed during that period; whereas olives which have undergone initial treatment in brine lasting at least 15 days and have been removed from the brine definitively or failing that have undergone treatment making them fit for human consumption should be deemed to be processed olives;

Whereas the weight of processed table olives on which aid is payable and the equivalence between processed table olives and olive oil should be determined for the purposes of calculating the unit aid on table olives and of administering the national guaranteed quantities;

Whereas undertakings processing table olives must be approved in accordance with conditions to be determined;

Whereas provision should be made for checks on aid for table olives; whereas those provisions must in particular cover crop declarations by table-olive growers, notifications by processors of the quantities of olives delivered by growers and leaving the processing chain, and the obligations on paying agencies regarding controls; whereas provision should be made for penalties on table-olive growers where their declarations conflict with the results of checks conducted;

Whereas the information needed for calculating the aid to be granted to growers of processed table olives should be determined; whereas an advance on the aid may be granted under certain conditions;

Whereas Greece must notify the Commission of the national measures adopted for the purposes of applying this Decision and of the information used for calculating the advance on the aid and the definitive aid;

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

HAS ADOPTED THIS DECISION:

Article 1

For the 1998/99 olive-oil marketing year, Greece is hereby authorised to grant aid for the production of table olives in accordance with this Decision.

Article 2

1. Aid for the production of table olives shall be granted to growers of olives which come from olive groves in Greece and are sent to approved processing undertakings for processing into table olives.

2. The aid shall be granted on table olives processed from 1 November 1998 to 31 August 1999.

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 32.

However, olives which entered approved processing undertakings before 1 September 1998 shall not be taken into consideration.

3. Within the meaning of this Decision, 'processed table olives' means olives that have undergone for at least 15 days' initial treatment in brine and have been removed from the brine definitively or failing that have undergone treatment making them fit for human consumption.

Article 3

1. For the purposes of calculating the unit aid on table olives and of administering the national guaranteed quantities of olive oil, 100 kg of processed table olives shall be deemed to be equivalent to 13 kg of olive oil eligible for production aid as provided for in Article 5 of Regulation No 136/66/EEC.

2. The weight of processed table olives to be taken into consideration shall be the drained net weight of whole olives after processing, possibly bruised but not stoned.

Article 4

1. Approval numbers shall be allocated to undertakings which:

- submit an application for approval accompanied by the information referred to in paragraph 2 and the commitments referred to in paragraph 3,
- market processed table olives, with or without additional preparation,
- have plants capable of processing at least 20 tonnes of olives per year in the islands and 50 tonnes of olives per year in the other zones.

2. Applications for approval shall include at least:

- a description of the processing plant and storage facilities, with details of their capacity,
- a description of the types of table-olive preparations marketed, indicating the average weight of processed table olives required for one kilogram of each type of prepared product,
- details of stocks of table olives at various stages of preparation, by type of preparation, at 1 September and 1 November 1998.

3. For the purposes of approval, processors shall undertake to:

- keep table olives on which aid is payable separate from table olives originating in third countries and those on which aid is not payable when taking delivery of, processing and storing them;
- keep stock accounts covering table olives, linked to the financial accounts and indicating, for each day:

- (a) the quantities of olives entering the establishment, showing each consignment separately and identifying the grower of each,
- (b) the quantities of olives sent for processing within the meaning of Article 2(3) and the quantities of table olives processed,
- (c) the quantities of table olives for which the process of preparation has been completed,
- (d) the quantities of table olives leaving the undertaking, broken down by type of preparation and indicating the consignees,

— provide the grower and the competent body with the documents and the information referred to in Article 6 in accordance with the conditions laid down therein;

— submit to all checks provided for under this Decision.

4. Approval shall be refused or immediately withdrawn where undertakings:

- fail to comply with the conditions for approval, or
- are prosecuted by the competent authorities for irregularities in respect of the arrangements provided for in Regulation No 136/66/EEC, or
- have been penalised for an infringement of that Regulation within the past 24 months.

Article 5

For the purposes of granting the aid for the production of table olives, in addition to the crop declaration required for olive-oil production aid, olive growers shall, by 31 December 1998, lodge a supplementary declaration or, as appropriate, a new declaration containing the same information as the crop declaration for olive oil but referring to table olives.

Where the information concerned has already been furnished by a crop declaration for olive oil, the supplementary declaration shall simply indicate the references to the crop declaration and the parcels concerned.

The declarations concerning table olives shall be included in the alphanumeric database provided for in connection with the aid scheme for olive oil production.

Article 6

1. On delivery of the olives, approved undertakings shall issue growers of table olives with a certificate of delivery showing the net weight of olives entering the undertaking. Such certificates must be issued before 1 December 1998 in respect of olives entering the undertaking from 1 September 1998 to 31 October 1998 for processing from 1 November 1998.

2. Approved undertakings shall notify the competent body and the control agency:

(a) by the tenth day of each month, of:

- the quantities of olives received, sent for processing and processed in the course of the previous month,
- the quantities of olives prepared and sent out, broken down by type of preparation, in the course of the previous month,
- the aggregate quantities referred to in the first two indents and the stock situation at the end of the previous month;

(b) before 1 July 1999, of the names of growers delivering table olives in respect of the 1998/99 olive-oil marketing year and of the quantities covered by certificates issued in accordance with paragraph 1;

(c) before 1 June 2000, of the total quantities delivered in respect of the 1998/99 olive-oil marketing year and of the total corresponding quantities processed.

Article 7

1. Before 1 July 1999, table-olive growers shall lodge aid applications, directly or indirectly, with the competent body, containing at least the following details:

- the name and address of the grower,
- the location of the holdings and the parcels where olives were harvested, with a reference to the relevant crop declaration,
- the approved undertaking to which the olives were delivered.

Such applications shall be accompanied by certificates of delivery as referred to in Article 6(1).

Where applicable, applications may be accompanied by an application for an advance on the aid.

2. Applications lodged after the deadline shall incur a penalty consisting in a reduction of 1 % of the amount to which the grower would have been entitled had the application been lodged by the due date, for each working day of delay. Applications lodged more than 25 working days late shall be refused.

Article 8

1. Before the definitive payment of the aid, the competent body shall carry out the controls required to check:

- the quantities of table olives covered by certificates of delivery issued,

- the quantities of table olives processed, broken down by grower.

Controls shall involve:

- a number of physical inspections of goods in stock and a check of the accounts of approved undertakings,
- stricter checks of aid applications from olive growers applying for aid on both table olives and olive oil.

2. Greece shall see that all the necessary controls are in place to ensure that:

- entitlement to table-olive production aid is respected,
- olives entering an undertaking approved under this Decision are excluded from eligibility for olive-oil production aid,
- no more than one aid application is lodged for the same olives.

3. Without prejudice to the penalties laid down by Greece, no aid shall be granted to table-olive growers whose declarations as provided for in Article 5 or whose aid applications in accordance with Article 7 prove to conflict with the results of checks conducted.

Article 9

1. The advance on the aid shall be equal to the unit amount referred to in Article 17a(1) of Council Regulation (EEC) No 2261/84⁽¹⁾, multiplied by the quantity of olive oil equivalent, in accordance with Article 3(1) of this Decision, to the relevant quantity of table olives processed.

For the purposes of granting advances to growers, the quantity of table olives processed shall be determined by applying a provisional processing coefficient to the quantity appearing in the certificate of delivery, as confirmed by the other information notified to the competent body. That coefficient shall be established by the competent body depending on the data available on the approved undertaking concerned. However, the quantity of table olives taken into consideration may not exceed 90 % of the quantity of table olives delivered.

2. Advances on the aid shall be paid from 16 October 1999 to growers applying therefore in accordance with Article 7(1).

Article 10

1. The aid shall be equal to the unit amount referred to in Article 17a(2) of Regulation (EEC) No 2261/84, multiplied by the quantity of olive oil equivalent, in accordance with Article 3(1) of this Decision, to the relevant quantity of table olives processed.

⁽¹⁾ OJ L 208, 3. 8. 1984, p. 3.

For the purposes of granting the aid to growers, the quantity of table olives processed shall be determined by applying a processing coefficient for the undertaking concerned to the quantity appearing in the certificate of delivery, as confirmed by the other information notified to the competent body. That coefficient shall be equal to the ratio between the total quantity of table olives processed on the one hand, and the total quantity of table olives covered by certificates of delivery issued on the other hand, in respect of the 1998/99 olive-oil marketing year.

Where the quantity of processed olives corresponding to the aid as set out in the certificate of delivery cannot be established, the quantities of table olives processed for the growers concerned shall be calculated on the basis of the average coefficient for the other undertakings. However, without prejudice to any claims which the olive growers concerned might make against the undertaking, that quantity of processed olives may not exceed 75 % of the quantity shown in the certificate of delivery.

2. The rate applicable for converting the aid into drachmas shall be the agricultural conversion rate in force on the first day of the month of the first delivery of olives by the grower concerned.

3. Once the controls referred to in Article 8 have been carried out, the aid or, where applicable, the balance of the aid shall be paid to the grower in full within 90 days of fixing by the Commission of the unit amount thereof.

Article 11

Greece shall notify the Commission:

- without delay, of the national measures taken pursuant to this Decision,
- before 1 August 1999, of the quantities of olive oil equivalent to the estimated output of table olives processed and of the provisional processing coefficients for that estimate,
- before 16 June 2000, of the quantities of olive oil equivalent to the actual output of table olives processed and of the processing coefficients adopted.

Article 12

This Decision is addressed to the Hellenic Republic.

It shall apply from 1 November 1998.

Done at Brussels, 30 October 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION DECISION

of 30 October 1998

on the granting of aid for the production of table olives in Portugal

*(notified under document number C(1998) 3340)***(Only the Portuguese text is authentic)**

(98/620/EC)

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 organisation of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1638/98⁽²⁾, and in particular Article 5(4) thereof,

Whereas Article 5(4) of Regulation No 136/66/EEC grants the Member States the possibility of allocating part of their national guaranteed quantities and of their olive-oil production aid to support for table olives under conditions to be approved by the Commission in accordance with the procedure laid down in Article 38 of that Regulation;

Whereas Portugal has presented a request in respect of the 1998/99 marketing year; whereas detailed rules should be laid down on the granting of the aid;

Whereas provision should be made for the aid to be granted to growers of processed table olives from olive groves in Portugal and the conditions governing the granting of the aid should be specified;

Whereas the processing period should be defined as running from 1 November 1998 to 31 August 1999; whereas fresh olives entering the processing undertaking before 1 September 1998 are not considered to be processed during that period; whereas olives which have undergone initial treatment in brine lasting at least 15 days and have been removed from the brine definitively or failing that have undergone treatment making them fit for human consumption should be deemed to be processed olives;

Whereas the weight of processed table olives on which aid is payable and the equivalence between processed table olives and olive oil should be determined for the purposes of calculating the unit aid on table olives and of administering the national guaranteed quantities;

Whereas undertakings processing table olives must be approved in accordance with conditions to be determined;

Whereas provision should be made for checks on aid for table olives; whereas those provisions must in particular cover crop declarations by table-olive growers, notifications by processors of the quantities of olives delivered by growers and leaving the processing chain, and the obligations on paying agencies regarding controls; whereas provision should be made for penalties on table-olive growers where their declarations conflict with the results of checks conducted;

Whereas the information needed for calculating the aid to be granted to growers of processed table olives should be determined; whereas an advance on the aid may be granted under certain conditions;

Whereas Portugal must notify the Commission of the national measures adopted for the purposes of applying this Decision and of the information used for calculating the advance on the aid and the definitive aid;

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

HAS ADOPTED THIS DECISION:

Article 1

For the 1998/99 olive-oil marketing year, Portugal is hereby authorised to grant aid for the production of table olives in accordance with this Decision.

Article 2

1. Aid for the production of table olives shall be granted to growers of olives which come from olive groves in Portugal and are sent to approved processing undertakings for processing into table olives.

2. The aid shall be granted on table olives processed from 1 November 1998 to 31 August 1999.

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 32.

However, olives which entered approved processing undertakings before 1 September 1998 shall not be taken into consideration.

3. Within the meaning of this Decision, 'processed table olives' means olives that have undergone for at least 15 days' initial treatment in brine and have been removed from the brine definitively or failing that have undergone treatment making them fit for human consumption.

Article 3

1. For the purposes of calculating the unit aid on table olives and of administering the national guaranteed quantities of olive oil, 100 kg of processed table olives shall be deemed to be equivalent to 10 kg of olive oil eligible for production aid as provided for in Article 5 of Regulation No 136/66/EEC.

2. The weight of processed table olives to be taken into consideration shall be the drained net weight of whole olives after processing, possibly bruised but not stoned.

Article 4

1. Approval numbers shall be allocated to undertakings which:

- submit an application for approval accompanied by the information referred to in paragraph 2 and the commitments referred to in paragraph 3,
- market processed table olives, with or without additional preparation,
- have received or are receiving approval to undertake industrial activities under national legislation.

2. Applications for approval shall include at least:

- a description of the processing plant and storage facilities, with details of their capacity,
- a description of the types of table-olive preparations marketed, indicating the average weight of processed table olives required for one kilogram of each type of prepared product,
- details of stocks of table olives at various stages of preparation, by type of preparation, at 1 September and 1 November 1998.

3. For the purposes of approval, processors shall undertake to:

- keep table olives on which aid is payable separate from table olives originating in third countries and those on which aid is not payable when taking delivery of, processing and storing them;
- keep stock accounts covering table olives, linked to the financial accounts and indicating, for each day:

- (a) the quantities of olives entering the establishment, showing each consignment separately and identifying the grower of each,
- (b) the quantities of olives sent for processing within the meaning of Article 2(3) and the quantities of table olives processed,
- (c) the quantities of table olives for which the process of preparation has been completed,
- (d) the quantities of table olives leaving the undertaking, broken down by type of preparation and indicating the consignees,

— provide the grower and the competent body with the documents and the information referred to in Article 6 in accordance with the conditions laid down therein;

— submit to all checks provided for under this Decision.

4. Approval shall be refused or immediately withdrawn where undertakings:

- fail to comply with the conditions for approval, or
- are prosecuted by the competent authorities for irregularities in respect of the arrangements provided for in Regulation No 136/66/EEC, or
- have been penalised for an infringement of that Regulation within the past 24 months.

Article 5

For the purposes of granting the aid for the production of table olives, in addition to the crop declaration required for olive-oil production aid, olive growers shall, by 31 December 1998, lodge a supplementary declaration or, as appropriate, a new declaration containing the same information as the crop declaration for olive oil but referring to table olives.

Where the information concerned has already been furnished by a crop declaration for olive oil, the supplementary declaration shall simply indicate the references to the crop declaration and the parcels concerned.

The declarations concerning table olives shall be included in the alphanumeric database provided for in connection with the aid scheme for olive oil production.

Article 6

1. On delivery of the olives, approved undertakings shall issue growers of table olives with a certificate of delivery showing the net weight of olives entering the undertaking. Such certificates must be issued before 1 December 1998 in respect of olives entering the undertaking from 1 September 1998 to 31 October 1998 for processing from 1 November 1998.

2. Approved undertakings shall notify the competent body and the control agency:

(a) by the tenth day of each month, of:

- the quantities of olives received, sent for processing and processed in the course of the previous month,
- the quantities of olives prepared and sent out, broken down by type of preparation, in the course of the previous month,
- the aggregate quantities referred to in the first two indents and the stock situation at the end of the previous month;

(b) before 1 July 1999, of the names of growers delivering table olives in respect of the 1998/99 olive-oil marketing year and of the quantities covered by certificates issued in accordance with paragraph 1;

(c) before 1 June 2000, of the total quantities delivered in respect of the 1998/99 olive-oil marketing year and of the total corresponding quantities processed.

Article 7

1. Before 1 July 1999, table-olive growers shall lodge aid applications, directly or indirectly, with the competent body, containing at least the following details:

- the name and address of the grower,
- the location of the holdings and the parcels where olives were harvested, with a reference to the relevant crop declaration,
- the approved undertaking to which the olives were delivered.

Such applications shall be accompanied by certificates of delivery as referred to in Article 6(1).

Where applicable, applications may be accompanied by an application for an advance on the aid.

2. Applications lodged after the deadline shall incur a penalty consisting in a reduction of 1 % of the amount to which the grower would have been entitled had the application been lodged by the due date, for each working day of delay. Applications lodged more than 25 working days late shall be refused.

Article 8

1. Before the definitive payment of the aid, the competent body shall carry out the controls required to check:

- the quantities of table olives covered by certificates of delivery issued,

- the quantities of table olives processed, broken down by grower.

Controls shall involve:

- a number of physical inspections of goods in stock and a check of the accounts of approved undertakings,
- stricter checks of aid applications from olive growers applying for aid on both table olives and olive oil.

2. Portugal shall see that all the necessary controls are in place to ensure that:

- entitlement to table-olive production aid is respected,
- olives entering an undertaking approved under this Decision are excluded from eligibility for olive-oil production aid,
- no more than one aid application is lodged for the same olives.

3. Without prejudice to the penalties laid down by Portugal, no aid shall be granted to table-olive growers whose declarations as provided for in Article 5 or whose aid applications in accordance with Article 7 prove to conflict with the results of checks conducted.

Article 9

1. The advance on the aid shall be equal to the unit amount referred to in Article 17a(1) of Council Regulation (EEC) No 2261/84⁽¹⁾, multiplied by the quantity of olive oil equivalent, in accordance with Article 3(1) of this Decision, to the relevant quantity of table olives processed.

For the purposes of granting advances to growers, the quantity of table olives processed shall be determined by applying a provisional processing coefficient to the quantity appearing in the certificate of delivery, as confirmed by the other information notified to the competent body. That coefficient shall be established by the competent body depending on the data available on the approved undertaking concerned. However, the quantity of table olives taken into consideration may not exceed 90 % of the quantity of table olives delivered.

2. Advances on the aid shall be paid from 16 October 1999 to growers applying therefore in accordance with Article 7(1).

Article 10

1. The aid shall be equal to the unit amount referred to in Article 17a(2) of Regulation (EEC) No 2261/84, multiplied by the quantity of olive oil equivalent, in accordance with Article 3(1) of this Decision, to the relevant quantity of table olives processed.

⁽¹⁾ OJ L 208, 3. 8. 1984, p. 3.

For the purposes of granting the aid to growers, the quantity of table olives processed shall be determined by applying a processing coefficient for the undertaking concerned to the quantity appearing in the certificate of delivery, as confirmed by the other information notified to the competent body. That coefficient shall be equal to the ratio between the total quantity of table olives processed on the one hand, and the total quantity of table olives covered by certificates of delivery issued on the other hand, in respect of the 1998/99 olive-oil marketing year.

Where the quantity of processed olives corresponding to the aid as set out in the certificate of delivery cannot be established, the quantities of table olives processed for the growers concerned shall be calculated on the basis of the average coefficient for the other undertakings. However, without prejudice to any claims which the olive growers concerned might make against the undertaking, that quantity of processed olives may not exceed 75 % of the quantity shown in the certificate of delivery.

2. The rate applicable for converting the aid into Portuguese escudos shall be the agricultural conversion rate in force on the first day of the month of the first delivery of olives by the grower concerned.

3. Once the controls referred to in Article 8 have been carried out, the aid or, where applicable, the balance of the aid shall be paid to the grower in full within 90 days of fixing by the Commission of the unit amount thereof.

Article 11

Portugal shall notify the Commission:

- without delay, of the national measures taken pursuant to this Decision,
- before 1 August 1999, of the quantities of olive oil equivalent to the estimated output of table olives processed and of the provisional processing coefficients for that estimate,
- before 16 June 2000, of the quantities of olive oil equivalent to the actual output of table olives processed and of the processing coefficients adopted.

Article 12

This Decision is addressed to the Portuguese Republic.

It shall apply from 1 November 1998.

Done at Brussels, 30 October 1998.

For the Commission

Franz FISCHLER

Member of the Commission