

# Council Regulation (EC) No 3290/94

of 22 December 1994

## **on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal<sup>(1)</sup>, and in particular Article 7 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>(2)</sup>, Whereas the Community has adopted a set of rules governing the common agricultural policy;

Whereas, under the Uruguay Round of multilateral trade negotiations, the Community has negotiated various agreements (hereinafter referred to as the 'GATT agreements'); whereas several of those agreements concern agriculture, in particular the Agreement on Agriculture (hereinafter referred to as 'the Agreement'); whereas the concessions relating to domestic support can be complied with by setting prices and aid at a suitable level and specific provisions need not be laid down on this subject; whereas the Agreement lays down a six-year timetable for the extension of access to the Community market for agricultural products from third countries on the one hand and the gradual reduction in support granted by the Community on exports of agricultural products on the other hand; whereas the agricultural legislation on trade with third countries should be adapted accordingly;

Whereas, by converting all the measures restricting imports of agricultural products into customs duties (tarification) and by prohibiting the application of such measures in the future, the Agreement requires the abolition of variable import levies and of the other measures and import charges currently provided for under the market organizations; whereas the rates of customs duty applicable to agricultural products in accordance with the Agreement are to be fixed in the Common Customs Tariff; whereas, however, for certain product groups such as cereals, rice, wine and fruit and vegetables, the introduction of supplementary or other trade mechanisms that do not involve the collection of fixed customs duties calls for the adoption of rules providing for derogations in the basis regulations; whereas, in addition, the measures to protect the Community market against imports of dried grapes and processed cherries can, under the Agreement on Safeguards, be maintained for a period of five years; whereas, moreover, in order to avert problems of supply to the Community market, the suspension of customs duties on certain sugar products should be permitted;

Whereas, in order to maintain a minimum level of protection against the adverse effects on the market as a result of tarification, the Agreement permits the application of additional customs duties under precisely defined conditions but only to products subject to tarification; whereas the corresponding provisions should accordingly be inserted into the basic Regulations concerned;

Whereas the Agreement provides for a series of tariff quotas under arrangements for current and minimum access; whereas the conditions applicable to such quotas are spelled out in detail in the Agreement; whereas, in view of the large number of quotas and in order to ensure that they are implemented as effectively as possible, the Commission should be responsible for opening and administering them using the management committee procedure;

Whereas the amendments resulting from the framework agreement on bananas concluded with certain countries in South America under the Uruguay Round should be incorporated in Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas<sup>(3)</sup>;

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<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 24. Regulation as last amended by Regulation (EC) No 1884/94 (OJ No L 197, 30. 7. 1994, p. 27).

<sup>(2)</sup> *Opinion delivered* on 14 December 1994 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No L 47, 25. 2. 1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 3518/93 (OJ No L 320, 22. 12. 1993, p. 15).

Whereas, since the Agreement of Safeguards lays down clear rules on the application of protective clauses as incorporated in the market organizations, such clauses should be supplemented by a reference to the obligations flowing from international agreements;

Whereas in its trading relations with third countries not subject to the GATT agreements the Community is not bound by the constraints on access to the Community market arising therefrom; whereas, in order to ensure that the necessary measures may be taken where applicable with regard to products from such countries, the Commission should be given the relevant powers, to be exercised through the management committee procedure; Whereas, by virtue of the Agreement, the granting of export subsidies is limited henceforward to certain groups of agricultural products defined therein; whereas, in addition, it is subject to limits in terms of quantity and value;

Whereas compliance with the limits in terms of value can be ensured at the time when refunds are fixed and through monitoring of payments under the rules relating to the EAGGF; whereas monitoring may be facilitated by the compulsory advance fixing of refunds, while allowing the possibility, in the case of differentiated refunds, of changing the specified destination; whereas, in the case of a change of destination, the restitution applicable to the actual destination should be paid, with a ceiling at the level of the amount applicable to the destination fixed in advance; Whereas monitoring of constraints in terms of quantity calls for the introduction of a reliable and effective system of monitoring; whereas, to that end, the granting of refunds should be made subject to an export licence; whereas refunds should be granted up to the limits available, depending on the particular situation of each product concerned; whereas exceptions to that rule can only be permitted in the case of processed products not listed in Annex II to the Treaty, to which limits in value do not apply, and in the case of food-aid operations, which are exempt from any limitation; whereas provision should be made for derogations from strict compliance with management rules where exports benefiting from refunds are not likely to exceed the limits in quantity laid down; whereas monitoring of the quantities exported with refunds during the marketing years referred to in the Agreement can be carried out on the basis of export licences issued for each marketing year;

Whereas, in most of the common organizations of the market, the exclusion from recourse to the arrangements for inward processing traffic falls exclusively within the competence of the Council; whereas in the economic conditions arising under the Agreement, it could prove necessary to react rapidly to market problems arising from the application of the said arrangements; whereas in that regard competence should be conferred on the Commission to adopt urgent measures which are limited in time; whereas those measures should be subject to the application of the procedure laid down in Article 3 of Council Decision 87/373/EEC of 13 July 1987<sup>(1)</sup>; Whereas compliance with the Agreement on Trade-Related Aspects of Intellectual Property Rights must also be ensured; whereas, to that end, the requisite stipulations must be inserted into Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine<sup>(2)</sup>;

Whereas, in the wake of the amendments to the legislation on agriculture provided for in this Regulation, many Council Regulations deriving from the basic regulations no longer serve any purpose; whereas, for the sake of legal clarity, they should be repealed; whereas certain provisions which have lapsed although they are not directly connected with the GATT agreements should also be repealed; whereas it is the same for certain Council Regulations referred to as 'second generation' which may for the most part be incorporated in the basic regulations in question;

Whereas, however, it has not been possible to integrate the existing general rules of the Council on the application of the safeguard clause in the basic regulations; whereas in the light of the importance of the amendments rendered necessary in that area following the GATT agreements, the regulations in question may not be maintained; whereas they should therefore be repealed, while providing the legal bases to enable their replacement;

Whereas application of the Agreement on agriculture could be jeopardized if the internal procedures to be used differed substantially between different sectors; whereas, for that reason, it is desirable to make those procedures uniform;

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<sup>(1)</sup> OJ No L 197, 18. 7. 1987, p. 33

<sup>(2)</sup> OJ No L 84, 27. 3. 1987, p. 1. Regulation as last amended by Regulation (EEC) No 1891/94 (OJ No L 197, 30. 7. 1994, p. 42).

Whereas adoption by the Council of general implementing rules has in the past made it possible to provide an adequate framework for the more specific rules necessary for managing the markets; whereas implementation of the said Agreement on Agriculture should not call into question the mechanisms and procedures for managing the common agricultural policy;

Whereas it will be useful to analyse, at a later stage, both the functioning of the arrangements set up by this Regulation and the experience acquired with the measures taken by third countries for the implementation of the GATT agreements; whereas to that effect, upon expiry of the first two years of application of this Regulation, the Commission should present a report to the Council and the European Parliament;

Whereas the switch-over from the existing arrangements to those resulting from the GATT agreements may give rise to difficulties of adaptation which are not dealt with in this Regulation; whereas, in order to deal with that eventuality, a general provision should be included enabling the Commission to adopt the transitional measures necessary for a certain period,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

This Regulation lays down the adaptations and transitional measures required in the agricultural sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations.

#### *Article 2*

The adaptations referred to in Article 1 are set out in the Annexes hereto.

#### *Article 3*

1. Where transitional measures are necessary under the common agricultural policy in order to facilitate the switch-over from the existing arrangements to those resulting from the requirements of the agreements referred to in Article 1, such measures shall be adopted in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC<sup>(1)</sup> or, as appropriate, the corresponding Articles in the other Regulations on the common organization of agricultural markets, or in Regulation (EC) No 3448/93<sup>(2)</sup>.

When such measures are adopted, account shall be taken of the special features of the various agricultural sectors, having due regard to the obligations arising from the agreements referred to in Article 1.

2. The measures referred to in paragraph 1 may be adopted during a period expiring on 30 June 1996 and shall not apply beyond that date. The Council, acting by a qualified majority on a proposal from the Commission, may extend that period.

#### *Article 4*

1. Where, in view of the special circumstances affecting an agricultural product, compliance with the requirements on export support under the agreements referred to in Article 1 can be assured by means having a lesser effect than those provided for to that end, the Commission may exempt that product from the application of the provisions on export refunds covered by this Regulation.

2. Without prejudice to the provisions of this Regulation, the Commission may take any measures necessary to protect the Community market against imports of agricultural products from third countries towards which the Community has no obligations under the agreements referred to in Article 1.

3. Measures pursuant to paragraphs 1 and 2 shall be adopted in accordance with the procedure set out in Article 3 (1).

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

<sup>6</sup> OJ No 172, 30. 9. 1966, p. 3025/66.

<sup>(2)</sup> OJ No L 318, 20. 12. 1993, p. 18.

#### *Article 5*

The Commission shall submit a report to the Council and to the European Parliament before 30 June 1997 on the operation of the arrangements resulting from this Regulation and on the experience acquired with the measures taken by third countries to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations.

The Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 (2) of the Treaty, will decide on any amendments arising out of the results and conclusions of that report.

#### *Article 6*

1. This Regulation shall enter into force on 1 January 1995.

2. It shall apply from 1 July 1995.

However:

- (a) Article 3 and Article 4(2) shall apply from 1 January 1995;
- (b) the provisions laid down in the Annexes on import duties and additional import duties which apply to products listed in Annexes XIII and XVI for which an entry price is applicable shall apply during 1995 as from the commencement of the marketing year for the products concerned in 1995;
- (c) the provisions on export refunds shall apply:
  - as from 1 September 1995 as regards Annexes II and XVI,
  - as from 1 October 1995 as regards Annex IV,
  - as from 1 November 1995 as regards Annex V;
- (d) the provisions laid down in Annex XV shall apply as from 1 January 1995;
- (e) the provisions laid down in Annex XVI, I.2, shall apply as from 1 January 1996.

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

Done at Brussels, 22 December 1994.

*For the Council*  
*The President*  
H. SEEHOFER

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## *ANNEX I*

### **CEREALS**

I. *Council Regulation (EEC) No 1766/92 of 30 June 1992 (OJ No L 181, 1. 7. 1992, p. 21), as last amended by Regulation (EC) No 1866/94 (OJ No L 197, 30. 7. 1994, p. 1).*

1. Article 3 (2) shall be deleted.
2. The following subparagraph shall be added to Article 3 (3):  
‘The intervention price valid for maize and grain sorghum in May shall remain valid in July, August and September of the following marketing year.’
3. The first sentence of the second subparagraph of Article 3 (4) shall be replaced by the following:  
‘The intervention price shall be subject to monthly increases for the whole or part of the marketing year.’
4. The first and last indents of Article 5 shall be deleted.
5. Title II shall be replaced by the following:

#### **‘TITLE II**

##### *Article 9*

1 Imports into the Community, or exports therefrom, of any of the products listed in Article 1 shall be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 12 and 13.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.

##### *Article 10*

1. Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

2. Notwithstanding paragraph 1, the import duty on products covered by CN codes ex 1001 other than merlin, 1002, 1003, ex 1005 other than hybrid seed, and ex 1007 other than hybrid for sowing, shall be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif, import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

3. For the purposes of calculating the import charge referred to in paragraph 2:

- (a) for products listed in paragraph 2 expressed in one standard quality or, as appropriate, subdivided into several (common wheat: high, medium, low; durum wheat; maize; other fodder grains) representative cif import prices shall be recorded on the basis of the prices for those qualities on the world market.

Such representative cif import prices shall be established regularly;

- (b) each consignment for import shall be classified according to the nearest quality among the standard qualities referred to in (a).

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.

The detailed rules shall in particular specify:

- the standard qualities to be used,
- the price quotations to be taken into consideration,
- the method of calculating the import charge for each consignment classified according to one of the standard qualities referred to in paragraph 3 (a),
- the possibility, where appropriate in specific cases, of giving operators the opportunity of knowing the charge applicable before the arrival of the consignments concerned.

#### *Article 11*

1. Without prejudice to Article 10 (2), in order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional import duty may be imposed shall be those forwarded to the World Trade Organization by the Community.

The trigger quantities which must be exceeded in order for an additional import duty to be imposed shall be determined, *inter alia*, on the basis of imports into the Community in the three years preceding that in which the adverse effects referred to in paragraph 1 arise or seem likely to arise.

3. The import prices to be taken into consideration when imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment concerned.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 23. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied pursuant to Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the said Agreement.

#### *Article 12*

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 23.

2. Quotas may be administered using one of the following methods or by a combination thereof:

- method based on the order in which applications are submitted (on a 'first come, first served' basis),
- method allocating quotas in proportion to the quantities requested when applications are submitted (using the 'simultaneous examination' method),
- method based on traditional trade flows (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for the opening of annual quotas, if necessary suitably phased over the year, determine the method of administration to be applied and include, where appropriate, provision for:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

In the case of the quota for import into Spain of 2 000 000 tonnes of maize and 300 000 tonnes of sorghum and the quota for import into Portugal of 500 000 tonnes of maize, those detailed rules shall also include the provisions necessary for carrying out the quota imports and, where appropriate, the public storage of the quantities imported by the intervention agencies of the Member States concerned and their disposal on the markets of those Member States.

### *Article 13*

1. To the extent necessary to enable the products listed in Article 1 to be exported without further processing or in the form of goods listed in Annex B on the basis of quotations or prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds.

Export refunds on the products listed in Article 1 in the form of goods listed in Annex B may not be higher than those applicable to such products exported without further processing.

2. The method adopted for allocating quantities eligible for export refund shall be that:

- (a) best suited to the nature of the product and to the situation on the market concerned, and that will allow the available resources to be used as efficiently as possible, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) which is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) which avoids any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community. They may vary according to destination, where the situation on the world market or the specific requirements of certain markets so necessitate.

Refunds shall be fixed in accordance with the procedure laid down in Article 23.

Refunds may be fixed:

- (a) at regular intervals;
- (b) by invitation to tender for products in respect of which provision was made for that procedure in the past.

Refunds fixed at regular intervals may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. Refunds on products listed in Article 1 and exported without further processing shall only be granted on application and on presentation of the relevant export licence.

5. The refund applicable to exports of products listed in Article 1 exported without further processing shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence or, where appropriate;
- (b) for the real destination, if it is not the same as that indicated on the licence. In that case, the amount applicable shall not exceed the amount applicable for the destination on the licence.

Appropriate measures may be adopted to prevent the flexibility of this paragraph from being misused.

6. Paragraphs 4 and 5 may be made to apply to products listed in Article 1 and exported in the form of goods listed in Annex B in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.



7. Paragraphs 4 and 5 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 23.

8. Save as otherwise provided in accordance with the procedure laid down in Article 23, the refund on products listed in Article 1 (1) (a) and (b) in accordance with paragraph 5 shall be adjusted in line with the level of the monthly increases applicable to the intervention price and, where appropriate, changes in that price. A corrective amount may be fixed in accordance with the procedure laid down in Article 23. However, the Commission may, where necessary, alter corrective amounts.

The first and second subparagraphs may be applied, in whole or in part, to products listed in Article 1 (1) (c) and (d) and to products listed in Article 1 and exported in the form of goods listed in Annex B. In that case, the adjustment referred to in the first subparagraph shall be corrected by applying to the monthly increase a coefficient expressing the ratio between the quantity of basic product and the quantity of the latter contained in the processed product exported or used in the goods exported.

For the first three months of the marketing year, the refund applicable to exports of malt in storage at the end of the previous marketing year or made from barley in stock at that time shall be that which would have been applied in respect of the certificate in question to exports during the last month of the preceding marketing year.

9. In so far as is necessary to take account of the features of production peculiar to certain spirituous beverages obtained from cereals, the criteria for granting export refunds as provided for in paragraph 1 and the procedures for verification may be adapted to fit this particular situation.

10. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

11. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated and unused quantities, and in particular those on the adaptation provided for in paragraph 9 shall be adopted in accordance with the procedure laid down in Article 23. Annex B shall be amended in accordance with the same procedure. However, detailed rules for the application of paragraph 6 to products referred to in Article 1 and exported in the form of goods referred to in the Annex, shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

#### *Article 14*

1. To the extent necessary for the proper working of the common organization of the market in cereals, the Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may prohibit in whole or in part the use of inward processing arrangements:

- in respect of products listed in Article 1 which are intended for the manufacture of products listed in Article 1 (1) (c) and (d), and
- in special cases, in respect of products listed in Article 1 which are intended for the manufacture of goods listed in Annex B.

2. By way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified

majority, may confirm amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

*Article 15*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries;

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

*Article 16*

1. Where the quotations or prices on the world market for one or more of the products listed in Article 1 reach the level of Community prices and where that situation is likely to continue and to deteriorate, thereby disturbing or threatening to disturb the Community market, appropriate measures may be taken.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.

*Article 17*

1. If, by reason of an increase in imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for application of this paragraph and shall determine the cases and limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

6. The following shall be added to Annex A:

CN code	Description
2306	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, other than those of headings 2304 and 2305
2306 90	— Other:
	— — Other:
2306 90 91	— — — Of germ of maize.

II. Council Regulation (EEC) No 2729/75 of 29 October 1975 (OJ No L 281, 1. 11. 1975, p. 18).

The terms 'levy' and 'levies' shall be replaced by 'duty' and 'duties' respectively.

III. *Council Regulation (EC) No 3670/93 of 22 December 1993 (OJ No L 338, 31. 12. 1993, p. 35).*

The above Regulation is repealed.

## **ANNEX II**

### **RICE**

I. *Council Regulation (EEC) No 1418/76 of 21 June 1976 (OJ No L 166, 25. 6. 1976, p. 1), as last amended by Regulation (EEC) No 1869/94 (OJ No L 197, 30. 7. 1994, p. 7).*

1. Article 4 (5) is replaced by the following:

‘5. The following shall be determined in accordance with the procedure provided for in Article 27:

- (a) after consultation with the Member States concerned, the intervention centres referred to in paragraph 4;
- (b) the rate for converting husked rice into paddy rice, or vice versa;
- (c) the rate for converting husked rice into wholly milled and semi-milled rice, or vice versa; and
- (d) processing costs and the value of by-products to be taken into consideration for the application of paragraph 3.

2. Title II shall be replaced by the following:

## **‘TITLE II**

### **Trade with third countries**

#### *Article 10*

1. Imports into the Community or exports therefrom, of any of the products listed in Article 1 shall be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 14 and 15.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 27.

#### *Article 11*

1. A subsidy may be fixed for consignments to the French overseas department of Réunion, intended for consumption there, of products falling within CN code 1006 (excluding code 1006 10 10) which come from the Member States and are in one of the situations referred to in Article 9 (2) of the Treaty.

That subsidy shall be fixed, taking into account the supply requirements of the Réunion market, on the basis of the difference between the quotations or prices of the relevant products on the world market and the quotations or prices of those products on the Community market, and, if necessary, the price of those products delivered to Réunion.

The subsidy shall be granted on application by the party concerned. The subsidy may be fixed, where appropriate, by a tendering procedure. Such tendering procedure shall relate to the amount of the subsidy.

The subsidy shall be fixed periodically in accordance with the procedure laid down in Article 27. However, where the need arises, the Commission may, at the request of a Member State or on its own initiative, alter the subsidy in the interval.

2. The rules on the financing of the common agricultural policy shall apply to the subsidy provided for in paragraph 1.

3. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 27.

#### *Article 12*

1. Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

2. Notwithstanding paragraph 1, the import duty on:

- (a) husked rice covered by CN code 1006 20 shall be equal to the intervention price valid for indica rice and japonica rice respectively on importation, increased by:
  - 80 % in the case of indica rice, and
  - 88 % in the case of japonica rice, minus the import price; and
- (b) wholly milled rice covered by CN code 1006 30 shall be equal to the intervention price at the time of importation, plus a percentage to be calculated and minus the import price.

However, that duty may not exceed the rate of duty in the Common Customs Tariff.

The percentage referred to in (b) shall be calculated by adjusting the respective percentage referred to in (a) by reference to the conversion rate, processing costs and the value of by-products, and then adding an amount for the protection of the industry.

3. Notwithstanding paragraph 1:

- (a) no duty shall be charged on imports of products covered by CN codes 1006 10, 1006 20 or 1006 40 00 into the French overseas department of Réunion, intended for consumption there;
- (b) the duty to be charged on imports of products covered by CN code 1006 30 into the French overseas department of Réunion, intended for consumption there shall be multiplied by a coefficient of 0,30.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 27. Such detailed rules shall in particular lay down the criteria for distinguishing the types of imported rice referred to in paragraph 2, fix the amount for the protection of the industry and include the necessary provisions for determining and calculating import prices and checking their authenticity.

#### *Article 13*

1. Without prejudice to Article 12 (2), in order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those forwarded by the Community to the World Trade Organization

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment in question.

The cif import prices shall be verified for this purpose on the basis of representative prices for the product in question on the world market or on the Community import market for the product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 27. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

#### *Article 14*

1. To the extent necessary to enable the products listed in Article 1 to be exported without further processing or in the form of goods listed in Annex B on the basis of quotations or prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by an export refund.

Export refunds on the products listed in Article 1 in the form of goods listed in Annex B may not be higher than those applicable to such products exported without further processing.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, taking into account the effectiveness and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively, for operators taking account of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community. They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 27.

Refunds may be fixed:

- (a) at regular intervals;
- (b) by invitation to tender for products for which that procedure was laid down in the past.

Refunds fixed at regular intervals may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

Refunds fixed at regular intervals for the product referred to in Article 1 (1) (a) and (b) shall be fixed at least once a month.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and future trends with regard to:
  - prices and availability of rice and broken rice on the Community market;
  - prices of rice and broken rice on the world market;
- (b) the aims of the common organization of the market in rice, which are to ensure equilibrium and the natural development of prices and trade on this market;
- (c) limits resulting from agreements concluded in accordance with Article 228 of the Treaty;
- (d) the need to avoid disturbances on the Community market;
- (e) the economic aspect of the proposed exports.

When the amount of the refund is set, account shall be taken in particular of the need to establish a balance between the use of basic Community agricultural products for export as processed goods to third countries, and the use of basic agricultural products from these countries admitted for inward processing.

5. Refunds for products listed in Article 1 (1) (a) and (b) shall be fixed in accordance with the following specific criteria:

- (a) prices for those products obtaining on the various representative export markets of the Community;
- (b) the most favourable quotations recorded on the various markets of importing third countries; and
- (c) marketing costs and the most favourable transport charges from the Community markets referred to in (a) to ports or other points of export in the Community serving these markets, as well as costs incurred in placing the goods on the world market.

6. Where refunds are fixed by a tendering procedure, such tendering procedure shall relate to the amount of the refund.

7. Refunds on products listed in Article 1 and exported without further processing shall only be granted on application and on presentation of the relevant export licence.

8. The refund applicable to exports of products listed in Article 1 exported without further processing shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day for:

- (a) the destination indicated on the licence; or
- (b) the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

9. Paragraphs 7 and 8 may be able to apply to products listed in Article 1 and exported in the form of goods listed in Annex B in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

10. Paragraphs 7 and 8 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 27.

11. Save as otherwise provided in accordance with the procedure laid down in Article 27, the refund on products listed in Article 1 (1) (a) and (b) applicable in accordance with paragraph 4 shall be adjusted in line with the amount of monthly increases applicable to the intervention price and, where appropriate, variations in that price, depending on the degree of processing and using the applicable conversion rate.

A corrective amount may be fixed in accordance with the procedure laid down in Article 27. However, the Commission may, where necessary, alter corrective amounts.

The first and second subparagraphs may be applied, in whole or in part, to products listed in Article 1 (1) (c) and to products listed in Article 1 and exported in the form of goods listed in Annex B. In that case, the adjustment referred to in the first subparagraph shall be corrected by applying a coefficient expressing the ratio between the quantity of basic product and the quantity of the latter contained in the processed product exported or used in the goods exported.

12. The refund may be increased by a compensatory amount in respect of stocks of paddy rice harvested within the Community and of husked rice obtained therefrom, in hand at the end of a marketing year and forming part of that year's crop, which are exported without further processing in the form of wholly milled rice or semi-milled rice between the beginning of the following marketing year and dates still to be determined. Before 1 July of each year the Council, acting by a qualified majority on a proposal from the Commission, shall, if necessary, determine the products to which the provisions of the preceding subparagraph shall apply.

The compensatory amount shall be:

- in the case of husked rice, equal to the difference between the target price valid for the last month of the marketing year and that valid for the first month of the new marketing year,
- in the case of paddy rice, equal to that difference adjusted by the conversion rate.

This amount shall, however, be reduced by the amount of any carry-over payment already granted, pursuant to Article 8.

The compensatory amount shall be granted only if stocks reach a minimum level.

13. The refund on the products referred to in Article 1 (a) and (b) shall be paid upon proof that:

- the products, in the case of paddy rice and husked rice, are of Community origin, except where paragraph 14 applies,
- the products have been exported from the Community, and
- in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to paragraph 8 (b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 27, provided conditions are laid down which offer equivalent guarantees.

Additional provisions may be adopted in accordance with the procedure laid down in Article 27.

14. No export refund shall be granted on paddy rice and husked rice which is imported from third countries and re-exported to third countries, unless the exporter proves:

- that the product to be exported and the product previously imported are one and the same, and
- that the levy was collected on importation.

In such cases the refund on each product shall be equal to the duties collected on importation where the latter are lower than the refund applicable; where the duties collected on importation are higher than that refund, the latter shall apply.

15. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

16. Detailed rules for the application of this Article, including provisions concerning the reallocation of quantities exported not allocated or not used, in particular as regards the adjustment referred to in paragraph 11, shall be adopted in accordance with the procedure laid down in Article 27. Annex B shall be amended in accordance with the same procedure. However, detailed rules for the application of paragraph 7 to products referred to in Article 1 and exported in the form of goods referred to in the Annex shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

#### *Article 15*

1. To the extent necessary for the proper working of the common organization of the market in rice, the Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 (2) of the Treaty, may in special cases prohibit in whole or in part the use of inward or outward processing arrangements in respect of products listed in Article 1.

2. By way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward or outward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. The Commission decision may be referred to the Council by any Member State within a week of the day on which it was notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

## *Article 16*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation, including the definitions listed in Annex A, shall be incorporated in the Common Customs Tariff.
2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited:
  - the levying of any charge having equivalent effect to a customs duty,
  - the application of any quantitative restriction on imports or measure having equivalent effect.

## *Article 17*

1. Where the quotations or prices on the world market for one or more of the products listed in Article 1 (a) and (b) reach the level of Community prices and where that situation is likely to continue and to deteriorate, thereby disturbing or threatening to disturb the Community market, appropriate measures may be taken.
2. Quotations or prices on the world market shall be regarded as having reached the level of Community prices when they approach or exceed the intervention buying-in price for indica and japonica rice, increased by:
  - 80 % in the case of indica rice, and
  - 80 % in the case of japonica rice.
3. The situation referred to in paragraph 1 shall be regarded as likely to persist or deteriorate where there is an imbalance between supply and demand and where that imbalance is likely to continue in view of foreseeable production and market price trends.
4. The Community market shall be regarded as being disturbed or threatened with disturbance, as a result of the situation referred to in the preceding paragraphs, where international trade prices are so high as to impede importation of products listed in Article 1 into the Community or to provoke their export from the Community, thereby jeopardizing market stability or security of supplies.
5. Where the conditions specified in this Article are met, the following measures may be taken:
  - application of an export levy; in addition, a special export levy may be determined by a tendering procedure in respect of a fixed quantity,
  - fixing of a time limit for the issue of export licences,
  - total or partial suspension of the issue of export licences,
  - total or partial rejection of outstanding applications for the issue of export licences.These measures shall be repealed at the latest when it is found that, for a period of three consecutive weeks, the condition stated in paragraphs 2 is no longer fulfilled.
6. The following shall be taken into account when an export levy is being fixed for products listed in Article 1 (1) (a) and (b):
  - (a) the existing situation and the future trend with regard to:
    - prices and availability of rice on the Community market,
    - prices for rice and products processed in the rice sector on the world market;
  - (b) the aims of the common organization of the markets in the rice sector, which are to ensure equilibrium for both supply and trade;
  - (c) the need to avoid disturbances on the Community market;
  - (d) the economic aspect of the exports.
7. When the export levy on the products listed in Article 1 (1) (c) is being fixed, the factors listed in paragraph 6 shall apply. In addition, the following specific factors shall be taken into account:
  - (a) prices obtaining for broken rice on the various Community markets;



(b) the quantity of broken rice necessary to manufacture the products under consideration and, where appropriate, the value of the by-products;

(c) sale opportunities and conditions for the products in question on the world market.

8. Where the situation on the world market and the specific requirements of certain markets so require, the export levy may be differentiated.

9. The export levy to be charged shall be the one applicable on the day of export. However, the levy applicable on the day of lodgement of the application for a licence shall be applied, if the applicant so requests at the time of requesting the licence, to an export to be carried out during the period of validity of the licence.

10. No levy may be applied to exports carried out under food-aid arrangements pursuant to Article 25.

11. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 27.

In accordance with the same procedure and for each of the products:

— a decision shall be taken to establish the measures listed in paragraph 5 and put an end to the measures listed in the second and third indents of that paragraph,

— the export levy shall be fixed periodically.

Where necessary, the Commission may establish or modify the export levy.

12. In urgent cases, the Commission may take the measures referred to in the third and fourth indents of paragraph 5. It shall notify its decision to the Member States and shall publish it on the notice boards at its headquarters. The measures shall, by virtue of such a decision, be applied to the relevant products from the date specified to that end, that day shall be subsequent to the date of notification. The decision on the measures referred to in the third indent of paragraph 5 shall be applicable for a period not exceeding seven days.

#### *Article 18*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1, is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures, the Member States shall be notified of such measures which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member States within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

II. *Council Regulation (EEC) No 1423/76 of 21 June 1976 (OJ No L 166, 25. 6. 1976, p. 20).*

Article 3 shall be deleted.

III. *Council Regulation (EEC) No 1428/76 of 21 June 1976 (OJ No L 166, 25. 6. 1976, p. 30).*

*Council Regulation (EEC) No 1431/76 of 21 June 1976 (OJ No L 166, 25. 6. 1976, p. 36).*

*Council Regulation (EEC) No 1432/76 of 21 June 1976 (OJ No L 166, 25. 6. 1976, p. 39).*

*Council Regulation (EEC) No 1433/76 of 21 June 1976 (OJ No L 166, 25. 6. 1976, p. 42).*

*Council Regulation (EEC) No 1263/78 of 12 June 1978 (OJ No 156, 14. 6. 1978, p. 14).*  
The above Regulations shall be repealed.

### **ANNEX III**

## **DRIED FODDER**

*Council Regulation (EEC) No 1117/78 of 22 May 1978 (OJ No L 142, 30. 5.1978, p. 2), as last amended by Regulation (EEC) No 3496/93 (OJ No L 319, 21. 12.1993, p. 17)*

1. In Title II the following Article is inserted before Article 7.

#### *'Article 6a*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.'

2. Article 7(2) is replaced by the following:

'2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.'

3. Article 8 is replaced by the following:

#### *'Article 8*

1. If, by reason of an increase in imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43(2) of the Treaty, shall adopt the general rules for application of this paragraph and shall determine the cases and limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

### **ANNEX IV**

## **SUGAR**

1. *Council Regulation (EEC) No 1785/81 of 30 June 1981 (OJ No L 177, 1. 7. 1981, p. 4), as last amended by Regulation (EC) No 133/94 (OJ No L 22, 27. 1. 1994, p. 7).*

1. Title II is replaced by the following:

## **‘TITLE II Trade with third countries**

### *Article 13*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (1) (a), (b), (c), (d), (f), (g) and (h) shall be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 16 and 17.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. In accordance with the procedure laid down in Article 41:

- (a) the scheme provided for by this Article may be extended to cover the products listed in Article 1 (1) (e);
- (b) the term of validity of licences and other detailed rules for the application of this Article, which may lay down in particular a time limit for the issue of licences, shall be adopted.

### *Article 14*

1. Unless this Regulation provides otherwise, the rates of duty in the Common Custom Tariff shall apply to the products listed in Article 1.

2. Notwithstanding paragraph 1, to ensure that the Community market is adequately supplied with the products listed in Article 1 (1) (a) (raw sugar for refining falling within CN codes 1701 11 10 and 1701 12 10) and Article 1 (1) (c) (molasses) by means of imports from third countries, the Commission may, in accordance with the procedure laid down in Article 41, suspend in whole or in part the application of import duties on these products, and establish the arrangements for any such suspension.

Suspension may apply for the period in which the price on the world market plus the import duty in the Common Customs Tariff:

- in the case of raw sugar, exceeds the intervention price for the product;
- in the case of molasses, exceeds the price level corresponding to the price of molasses used as a basis, for the sugar marketing year under consideration, for determining revenue from sales of molasses pursuant to the provisions of Article 4 (2).

### *Article 15*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain agricultural products, imports of one or more of such products at the rate of duty laid down in the Common Customs Tariff shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled, unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall in particular be determined on the basis of imports into the Community in the three years

preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 41. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall apply under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

#### *Article 15a*

For molasses:

- the world market price referred to in Article 14 (2), and
- the representative price referred to in Article 15 (3),

shall apply to standard quality.

Standard quality may be determined in accordance with the procedure laid down in Article 41.

#### *Article 16*

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 41.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on chronological order of the lodgment of applications ('first come, first served' principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
- method based on taking traditional trade patterns into account (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary, shall determine the administrative method to be used and, where appropriate, shall include provisions regarding:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

#### *Article 17*

1. To the extent necessary to enable the products listed in Article 1 (1) (a), (c) and (d) to be exported without further processing or in the form of goods listed in Annex I, on the basis of

quotations or prices on the world market for those products listed in Article 1 (1) (a) and (c), and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds.

The export refund granted for raw sugar may not exceed that granted for white sugar.

2. Provision may be made for export refunds in respect of the products listed in Article 1 (1) (f), (g) and (h) and exported without further processing or in the form of goods mentioned in Annex I.

When determining the amount of the refund, for each 100 kg of dry matter particular account shall be taken of:

- (a) the refund applicable to exports of products falling within subheading 1702 30 91 of the Combined Nomenclature;
- (b) the refund applicable to exports of the products referred to in Article 1 (1) (d);
- (c) the economic aspects of the planned exports.

3. The refund applicable to products listed in Article 1 exported in the form of goods listed in Annex I shall not be greater than that applicable to these products exported without further processing.

4. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) prevents any discrimination between the operators concerned.

5. Refunds shall be the same for the whole Community. They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 41. Refunds may be fixed:

- (a) at regular intervals;
- (b) by invitation to tender in respect of products for which provision was made for that procedure in the past.

Refunds fixed at regular intervals may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

Tenders submitted in response to an invitation shall not be considered unless a deposit is lodged. Except in cases of *force majeure*, the deposit shall be forfeited in whole or in part if tenderers have not fulfilled, or have only partially fulfilled, the obligations placed upon them.

The provisions of Articles 17a, 17b and 17c concerning products not denatured and exported without further processing listed in Article 1 (1) (a), (c) and (d) shall apply in addition.

6. When the amount of the refund is set, account shall be taken in particular of the need to establish a balance between the use of Community basic agricultural products for export as processed goods to third countries, and the use of products from these countries admitted for inward processing.

7. Refunds on products listed in paragraph 1 and exported without further processing shall only be granted on application and on presentation of the relevant export licence.

8. The refund applicable to exports of products listed in Article 1 exported without further processing shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence; or

- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

9. Paragraphs 5 and 6 may be made to apply to products listed in Article 1 and exported in the form of goods listed in Annex I in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

10. Paragraphs 5 and 6 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 41.

11. The refund shall be paid upon proof:

- that the products have been exported from the Community, and
- that, in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to paragraph 6 (b). However, exceptions may be made to this rule in accordance with the procedure laid down in paragraph 41, provided that conditions are laid down which offer equivalent guarantees.

Supplementary provisions may be laid down in accordance with the procedure provided for in Article 41.

12. No refund shall be granted on exports in the natural state of the not denatured products referred to in Article 1 (1) (a) unless, depending on the case, they have been:

- (a) obtained from sugar beet or sugar cane harvested within the Community;
- (b) imported into the Community in accordance with Article 33;
- (c) obtained from one of the products imported pursuant to the provisions of paragraph (b).

13. No refund shall be granted on exports in the natural state of the not denatured products referred to in Article 1 (c) and (d) which are not of Community origin or which have not been obtained from sugars imported into the Community in accordance with the provisions of paragraph 8b (b) or from the products referred to in paragraph 8b (c).

14. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export licences issued for the reference periods provided for therein and applicable to the products concerned.

15. The detailed rules for the application of this Article, including the arrangements for redistributing unallocated or unused exportable quantities, and the amendment of Annex I shall be adopted in accordance with the procedure laid down in Article 41. However, the rules governing the application of paragraph 6 for the products referred to in Article 1 exported in the form of goods listed in the Annex shall be adopted in accordance with the procedure provided for in Article 16 of Regulation (EC) No 3448/93.

#### *Article 17a*

1. This Article shall apply to the fixing of refunds on the not denatured products exported in the natural state referred to in Article 1 (1) (a).

2. As regards the periodic fixing of refunds for the products referred to in Article 1 (1) (a):

- (a) the refunds shall be fixed every two weeks.  
However, such fixing may be discontinued in accordance with the procedure laid down in Article 41 if it is found that no surplus sugar is available within the Community for export on the basis of world market prices. In that event, no refund shall be granted;
- (b) when the refund is being fixed, the situation on the Community and world markets in sugar, and in particular the following, shall be taken into account:
  - the intervention price for white sugar for the Community area with the largest surplus or the intervention price for raw sugar for the Community area which is considered to be representative for the exportation of this type of sugar,

- the costs of transporting sugar from the areas referred to in (a) to ports or other points of export in the Community,
- trade expenses and any transshipment, transport and packaging charges incurred in marketing sugar on the world market,
- quotations or prices recorded for sugar on the world market, and
- the economic aspect of the proposed exports.

3. Where the refund is fixed by tender for the products referred to in Article 1 (1) (a):

- (a) the purpose of the tender shall be to determine the amount of the refund;
- (b) the competent authorities of the Member States shall invite tenders in accordance with an instrument binding in law in all Member States. This instrument shall lay down the terms of the invitation to tender. These terms must guarantee equal access for all persons established within the Community;
- (c) the terms of the invitation to tender shall include a time limit for the submission of tenders. The maximum amount of the refund for the invitation in question shall be fixed in accordance with the procedure laid down in Article 41 within three working days following the expiry of the time limit and in the light of the tenders received. When the maximum amount is being calculated, account shall be taken of the supply situation and prices within the Community, prices and potential outlets on the world market and costs incurred in exporting sugar.

A maximum tonnage may be fixed in accordance with the same procedure;

- (d) where exports can be effected on the basis of a refund which is lower than that which would result from taking the difference between prices within the Community and prices on the world market into account and where exports are for a specific destination, the competent authorities of the Member States may be required to issue a special invitation to tender, the terms of which shall include:
  - the possibility of submitting tenders at any time until the tendering procedure is terminated, and
  - a maximum amount of the refund, calculated in the light of requirements for the exports in question;
- (e) if the amount of the refund shown in a tender:
  - exceeds the maximum fixed, the competent authorities of the Member States shall reject that tender,
  - does not exceed the maximum, those authorities shall fix the refund at an amount equal to the refund appearing in the tender in question.

4. The refund on raw sugar:

- (a) shall be fixed for the standard quality defined in Article 1 of Regulation (EEC) No 431/68;
- (b) fixed periodically in accordance with paragraph 2 (a):
  - may not exceed 92 % of the refund for white sugar for the same period. However, this limit shall not apply to refunds to be fixed for candy sugar,
  - shall for each exporting operation under consideration be multiplied by a conversion factor which shall be obtained by dividing the yield of the raw sugar exported, calculated in accordance with the provisions of Article 1 of Regulation (EEC) No 431/68, by 92;
- (c) the maximum amount fixed pursuant to paragraph 3 (c) within the framework of a tender may not exceed 92 % of the maximum amount fixed at the same time for white sugar pursuant to that paragraph.

*Article 17b*

- 1. The refund on the not denatured products exported in the natural state listed in Article 1 (1) (c), shall be fixed each month, account being taken of:

- (a) the price of molasses used to determine receipts from the sale of molasses for the sugar year in question pursuant to Article 4 (2);
- (b) prices and potential outlets for molasses on the Community market;
- (c) quotations or prices recorded for molasses on the world market; and
- (d) the economic aspect of the proposed exports.

However, such fixing may be discontinued in accordance with the procedure laid down in Article 41 if it is found that no surplus molasses is available within the Community for export on the basis of world market prices. In that event, no refund shall be granted.

2. In special circumstances the amount of the refund may be fixed by tender for specific quantities and specific areas of the Community. The purpose of the tender shall be to determine the amount of the refund.

The competent authorities of the Member States concerned shall invite tenders on the basis of an authorization laying down the terms of the invitation to tender. These terms must guarantee equal access for all persons established within the Community.

#### *Article 17c*

1. The basic amount of the refund shall be fixed each month for the not denatured products exported in the natural state listed in Article 1 (1) (d).

However, such periodic fixing may be discontinued in accordance with the procedure laid down in Article 41 if the periodic fixing of the refund on white sugar not further processed, is suspended. In this event, no refund shall be granted.

2. The basic amount of the refund on the products referred to in paragraph 1, with the exception of sorbose, shall be equal to one-hundredth of an amount arrived at by taking account of:

- (a) the difference between the intervention price for white sugar for the Community area with the largest surplus for the month for which the basic amount is fixed, and the quotations or prices for white sugar recorded on the world market;
- (b) the need to establish a balance between:
  - the use of Community basic products in the manufacture of processed goods for export to third countries, and
  - the use of third country products brought in under inward processing arrangements.

3. In the case of sorbose, the basic amount of the refund shall be equal to the basic amount of the refund less one-hundredth of the production refund valid pursuant to Regulation (EEC) No 1010/86 for the products listed in Annex I to that Regulation.

4. The application of the basic amount of the refund may be limited to some of the products listed in Article 1 (1) (d).

#### *Article 18*

1. To the extent necessary for the proper working of the common organization of the markets in the sugar sector, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may prohibit in whole or in part the use of inward processing arrangements:

- in respect of products listed in Article 1 (1) (a) and (d), and
- in special cases, in respect of products listed in Article 1 (1) which are intended for the manufacture of goods listed in Annex I.

2. By way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by inward or outward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.



3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council acting by a qualified majority, may confirm amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

#### *Article 19*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries:

- (a) the levying of any charge having equivalent effect to a customs duty;
- (b) the application of any quantitative restriction or measure having equivalent effect.

#### *Article 20*

1. Where the price of sugar on the world market exceeds the intervention price, provision may be made to apply an export levy in respect of the sugar in question. This levy must be applied when the cif price of white sugar or raw sugar is greater than the intervention price plus an amount equal to the sum of 10 % of the intervention price and the storage levy applicable during the marketing year concerned.

The export levy may be determined by tender. Except in the case of tendering, the levy to be charged shall be that applicable on the day of export.

2. Where the cif price of white or raw sugar is greater than the intervention price plus an amount equal to the sum of 10 % of the intervention price and the storage levy applicable during the marketing year concerned, the Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may decide to grant an import subsidy for the product in question.

Where it is established that:

- (a) supplies to the Community or;
- (b) supplies to a major consumption region in the Community;

cannot be ensured from Community availability, the Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall decide to grant the import subsidy and determine the conditions for its application. Those conditions shall relate in particular to the quantity of white or raw sugar to be covered by the subsidy, the duration of the subsidy and, where appropriate, the importing regions.

3. The following shall be decided in accordance with the procedure laid down in Article 41:

- (a) the cif prices referred to in paragraphs 1 and 2;
- (b) the other arrangements for implementation of this Article.

In the case of the products referred to in Article 1 (1) (b), (c), (d), (f), (g) and (h) provisions similar to those in paragraphs 1 and 2 may be adopted in accordance with the procedure laid down in Article 41.

4. The amounts stemming from the application of this Article shall be fixed by the Commission. However, the export levies determined by tendering shall be fixed in accordance with the procedure laid down in Article 41.

#### *Article 21*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt the general rules for implementing this paragraph and shall define the cases and limits within which the Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228(2) of the Treaty.'

2. Article 26 shall be amended as follows:

(a) In paragraph 1 the last sentence shall be replaced by:

'Articles 8, 9, 17 and 20 shall not apply to such sugar and Articles 9, 17 and 20 to such isoglucose and insulin syrup'.

(b) The reference to 'Article 18' in paragraph 2 shall be replaced by a reference to 'Article 20'.

3. Article 35 (1) shall be amended as follows:

(a) Paragraph 1 shall be replaced by the following:

'1. No import duty shall apply to imports of preferential sugar.'

(b) In paragraph 2, 'referred to in Article 21 (2)' shall be replaced by 'referred to in Article 19 (2)'.

II. *Council Regulation (EEC) No 431/68 of 9 April 1968 (OJ No L 89, 10. 4. 1968, p. 3).*

Article 2 shall be deleted.

III. *Council Regulation (EEC) No 766/68 of 18 June 1968 (OJ No L 143, 25. 6. 1968, p. 6), as last amended by Regulation (EEC) No 1489/76 (OJ No L 167, 26. 6. 1976, p. 13).*

*Council Regulation (EEC) No 770/68 of 18 June 1968 (OJ No L 143, 25. 6. 1968, p. 16).*

*Council Regulation (EEC) No 226/72 of 31 January 1972 (OJ No L 28, 1. 2. 1972, p. 3).*

*Council Regulation (EEC) No 608/72 of 23 March 1972 (OJ No L 75, 28. 3. 1972, p. 5).*

The above Regulations shall be repealed.

## ANNEX V OILS AND FATS

I. *Council Regulation No 136/66/EEC of 22 September 1966 (OJ No 172, 30. 9. 1966, p. 3025), as last amended by Regulation (EC) No 3179/93 (OJ No L 285, 20. 11. 1993, p. 9)*

1. Title I is replaced by the following:

### ‘TITLE I Trade

#### *Article 2*

1. Imports into the Community of any of the products listed in Article 1 (2) (c) or of the products falling within CN codes 0709 90 39, 0711 20 90, 2306 90 19, 1522 00 31, 1522 00 39 shall be subject to presentation of an import licence.

Exports of olive oil from the Community shall be subject to presentation of an export licence.

Exports from the Community of other products listed in Article 1 (2) may be subject to presentation of export licences.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Article 3.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; save in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 38.

#### *Article 2a*

Save as otherwise provided for in this Regulation, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (2).

#### *Article 2b*

1. Without prejudice to Article 10 (2), in order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional import duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes which must be exceeded for an additional import duty to be imposed shall be determined in particular on the bases of Community imports over the three years preceding the year in which the adverse effects referred to in paragraph 1 have occurred or are likely to occur.

3. The import prices to be taken into account for the imposition of an additional import duty shall be determined on the basis of the cif import prices of the shipment concerned.

The cif import prices shall be verified for that purpose on the basis of representative prices for the product concerned on the world market or on the Community import market for the product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 38. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied, in accordance with Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the said Agreement.

#### *Article 3*

1. To the extent necessary to enable the olive oil and colza and rape seed harvested in the Community to be exported on the basis of quotations or prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds.

2. For the allocation of the quantities which may be exported with refunds, a method shall be established which:

- (a) is the best suited to the nature of the product and to the situation on the market in question, enabling the most efficient use possible to be made of the available resources,

taking account of the efficiency and structure of Community imports without, however, creating discrimination between large and small operators;

- (b) is the least cumbersome administratively for operators, having regard to management imperatives;
- (c) precludes discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

They may vary according to destination where the situation on the world market or the specific requirements of certain markets make this necessary. Where olive oil is concerned, the refund may also be fixed at different levels according to quality and presentation where the situation on the world market or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 38. For olive oil, refunds may be fixed in particular:

- (a) at regular intervals;
- (b) by invitation to tender if the market situation so warrants. For olive oil the invitation to tender may be restricted to certain countries of destination, certain quantities and qualities and presentations.

Except where fixed by invitation to tender, the amount of the refund shall be fixed at least once a month. Where necessary, refunds may be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. Refunds for olive oil shall be fixed in the light of:

- (a) the situation and likely trends:
  - on the Community market, with respect to olive oil prices and supplies,
  - on the world market, with respect to olive oil prices;
- (b) the limits resulting from the agreements concluded in accordance with Article 228 of the Treaty.

However, where the situation on the world market does not allow the most favourable prices for olive oil to be determined, account may be taken of the price on that market of the main competing vegetable oils and of the gap recorded over a representative period between that price and the price for olive oil.

The amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted if appropriate to take account of the costs of exporting the products to that market.

5. Refunds for colza and rape seed shall be fixed in the light of:

- (a) the prices obtaining in the Community on the different representative markets for processing and export and the level of market prices in the Community for colza and rape seed and the likely trends in these prices;
- (b) the situation in the Community regarding the supply of these products in relation to demand;
- (c) the most favourable prices recorded on the various markets of the importing third countries;
- (d) shipment costs on the world market;
- (e) the economic aspects of the exports proposed;
- (f) the limits arising out of the agreements concluded pursuant to Article 228 of the Treaty.

6. Refunds shall be granted only on request and on presentation of the relevant export licence.

7. The refund applicable to exports of olive oil and colza and rape seed shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence, or, if appropriate;
- (b) for the actual destination, if it differs from that indicated on the licence. In that case the amount applicable may not exceed the amount applicable to the destination indicated on the licence.

Appropriate measures may be taken to preclude abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be waived in the case of olive oil and colza and rape seed on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 38.

9. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

10. Detailed rules for the application of this Article, including provisions concerning redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 38.

#### *Article 3a*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

#### *Article 3b*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) is affected by or its threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt general rules for the implementation of this paragraph.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty’.

2. Article 4 (1) is replaced by the following:

‘1. A production target price, an intervention price and a representative market price for olive oil shall be fixed each year for the Community.

However, when during the marketing year the factors which are used to determine the representative market price for olive oil undergo a change which, on the basis of the criteria to be established under the procedure laid down in Article 38, may be considered as substantial, a decision shall be taken under the said procedure to adjust the representative market price during the marketing year.

In such cases, the level of consumption aid referred to in Article 11 (5) and (6) may be adjusted in accordance with the same procedure.’

3. Articles 9, 14, 15, 16, 17, 18 and 19 shall be deleted.
4. Article 20 shall be replaced by the following:

*‘Article 20*

1. Where olive oil is exported to third countries and world prices are higher than the Community price, a levy to cover the difference may be charged.

2. For olive oil which has not undergone a refining process, the amount of the levy may not exceed the cif price for olive oil less the representative market price fixed pursuant to Articles 4 and 6. The cif price shall be determined on the basis of the most favourable purchasing possibilities on the world market, the prices being adjusted in the light of any differences in relation to the denomination or quality of the products concerned.

For olive oil which has undergone a refining process, the amount of the levy may not exceed the cif price referred to in the first subparagraph less the representative market price, the amount of the difference being weighted, as appropriate, by a weighting of 111 representing the quantity of virgin olive oil needed to produce 100 kg of refined olive oil or by a weighting of 149 representing the quantity of raw olive-residue oil needed to produce 100 kg of refined olive-residue oil.

3. The export levy shall be fixed by the Commission.

4. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 38.’

5. Article 20a is replaced by the following:

*‘Article 20a*

1. Olive oil used for the manufacture of preserved fish falling within CN code 1604, with the exception of subheading 1604 30, preserved crustaceans and molluscs falling within CN code 1605 and preserved vegetables falling within CN codes 2001, 2002, 2003, 2004 and 2005, shall benefit from a system of production refunds.

2. The amount of the refund shall be fixed on the basis of the difference between the prices obtaining on the world market and on the Community market. To that end the following shall be taken into account:

- the import charge applicable to olive oil falling within subheading CN 1509 90 00 during a reference period;
- the factors taken into consideration when fixing the export refunds valid for olive oil falling within subheading CN 1509 90 00 during a reference period.

However, where the olive oil used in the manufacture of the preserves was produced in the Community, the refund shall be equal to the amount referred to in the previous subparagraph, plus an amount equal to the consumption aid applicable on the day on which the refund was applied.

3. The refund previously fixed shall be maintained where the difference between that refund and the new one does not exceed an amount to be determined.

4. In the event of a significant change in the representative market price at the beginning of the period of validity of the refund, account may also be taken, when fixing the refund, of the difference between the new representative price and that previously valid.

5. Entitlement to the refund shall be acquired at the time the oil is used in the manufacture of preserves. The Member States shall ensure, by means of monitoring arrangements, that the refund is granted solely for olive oil used for the manufacture of the preserves referred to in paragraph 1.

6. The production refund shall be fixed every two months by the Commission.

7. The detailed rules for the application of this Article, and in particular those concerning the monitoring arrangements referred to in paragraph 5, shall be adopted in accordance with the procedure laid down in Article 38.’

6. Articles 20b and 28 shall be deleted.

II. Regulation (EEC) No 142/67 of 21 June 1967 (OJ No L 125, 26. 6. 1967, p. 2461), as last amended by Regulation (EEC) No 2429/72 (OJ No L 264, 23. 11. 1972, p. 1)  
Regulation (EEC) No 143/67 of 21 June 1967 (OJ No L 125, 26. 6. 1967, p. 2463), as last amended by Regulation (EEC) No 2077/71 (OJ No L 220, 30. 9. 1972, p. 1)  
Regulation (EEC) No 19/69 of 20 December 1968 (OJ No L 3, 7. 1. 1969, p. 2), as last amended by Regulation (EEC) No 2429/72 (OJ No L 264, 23. 11. 1972, p. 1)  
Regulation (EEC) No 2596/69 of 18 December 1969 (OJ No L 324, 27. 12. 1969, p. 12) Regulation (EEC) No 1076/71 of 25 May 1971 (OJ No L 116, 28. 5. 1971, p. 2)  
Regulation (EEC) No 443/72 of 29 February 1972 (OJ No L 54, 3. 3. 1972, p. 3), as last amended by Regulation (EEC) No 2560/77 (OJ No L 303, 28. 11. 1977, p. 1)  
Regulation (EEC) No 1569/72 of 20 July 1972 (OJ No L 167, 25. 7. 1972, p. 9), as last amended by Regulation (EEC) No 2206/90 (OJ No L 201, 31. 1. 1990, p. 11)  
Regulation (EEC) No 2751/78 of 23 November 1978 (OJ No L 331, 28. 11. 1978, p. 5)  
Regulation (EEC) No 591/79 of 26 March 1979 (OJ No L 78, 30. 3. 1979, p. 2), as last amended by Regulation (EEC) No 2903/89 (OJ No L 280, 29. 9. 1989, p. 3)  
Regulation (EEC) No 1594/83 of 14 June 1983 (OJ No L 163, 22. 6. 1983, p. 44), as last amended by Regulation (EEC) No 1321/90 (OJ No L 132, 23. 5. 1990, p. 15)  
Regulation (EEC) No 1491/85 of 23 May 1985 (OJ No L 151, 10. 6. 1985, p. 15), as last amended by Regulation (EEC) No 1724/91 (OJ No L 162, 26. 6. 1991, p. 35)  
Regulation (EEC) No 2194/85 of 25 July 1985 (OJ No L 204, 2. 8. 1985, p. 7), as last amended by Regulation (EEC) No 1725/91 (OJ No L 162, 26. 6. 1991, p. 37)  
Regulation (EEC) No 1650/86 of 26 May 1986 (OJ No L 145, 30. 5. 1986, p. 8)

The above Regulations are repealed.

## ANNEX VI FLAX AND HEMP

I. Council Regulation (EEC) No 1308/70 of 29 June 1970 (OJ No L 146, 4. 7. 1970, p. 1), as last amended by Regulation (EEC) No 1557/93 (OJ No L 154, 25. 6. 1993, p. 26).

Articles 7 and 8 are replaced by the following:

### ‘Article 7

Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

### Article 8

1. This Article shall apply without prejudice to more restrictive provisions adopted by Member States.
2. Raw true hemp falling within CN code 5302 10 00 and coming from third countries may be imported only if the product meets the conditions laid down in Article 4 (1) and if evidence is produced that its tetrahydrocannabinol content is no higher than that referred to in Article 4 (4).
3. Only seed or hemp varieties falling with CN code 1207 99 10 coming from third countries which offer the guarantees provided for in Article 4 (1) and which are included in the list to be drawn up may be imported. That list shall be drawn up in accordance with the conditions to be laid down in accordance with Article 4 (4).
4. Community imports of the products specified in paragraphs 2 and 3 shall be subject to checks to determine whether the terms of this Article have been complied with.

Where the said terms have been complied with, the importing Member State shall issue a certificate indicating such compliance.

5. Only the following shall be authorized to import hemp seed falling within CN code 1207 99 91:

- research organizations and institutes,
- natural or legal persons who can provide proof of a sufficient level of activity in the sector concerned.

6. All imports, by persons referred to in the second indent of paragraph 5 of seeds referred to in that paragraph shall be subject to a system of control which shall apply until the seeds are used for a purpose other than sowing.

7. Member States shall communicate to the Commission the provisions adopted by them to ensure the control provided for in paragraph 6 before applying them. Where these provisions do not enable such control to be carried out effectively, the amendments which the Member State concerned is to make to them shall be decided in accordance with the procedure laid down in Article 12.

8. Detailed rules for the implementation of this paragraph shall be adopted in accordance with the procedure provided for in Article 12.

#### *Article 8a*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt general rules for the implementation of the paragraph and define the cases and limits in which Member States may take precautionary measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days of receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

II. *Council Regulation (EEC) No 1430/82 of 18 May 1982 (OJ No L 162, 12. 6. 1982, p. 27), as last amended by Regulation (EEC) No L 2058/84 (OJ No L 191, 19. 7. 1984, p. 5).*

Article 2 is deleted.

III. *Council Regulation (EEC) No 2059/84 of 16 July 1984 (OJ No L 191, 19. 7. 1984, p. 6)*

Articles 2, 3 and 4 are deleted.

IV. *Council Regulation (EEC) No 1054/72 of 19 May 1972 (OJ No L 120, 25. 5. 1972, p. 1)*

The above Regulation is repealed.



## *ANNEX VII*

### **MILK PRODUCTS**

I. Council Regulation (EEC) No 804/68 of 27 June 1968 (OJ No L 148, 27. 6. 1968, p. 13), as last amended by Regulation (EC) No 2807/94 (OJ No L 298, 19. 11. 1994, p. 1).

1. Article 4 is deleted.
2. Title III is replaced by the following:

#### **‘TITLE III**

#### **Trade with third countries**

##### *Article 13*

1. Imports into the Community of any of the products listed in Article 1 shall be subject to the presentation of an import licence. Exports from the Community of any such products may be made subject to presentation of an export licence.

2. Licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to the measures taken for the application of Articles 16 and 17.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

3. The following shall be adopted in accordance with the procedure laid down in Article 30:

- (a) the list of products in respect of which export licences are required;
- (b) the term of validity of the licences; and
- (c) the other detailed rules for the application of this Article.

##### *Article 14*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

##### *Article 15*

1. In order to prevent or counteract adverse effects on the market in the community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those which are forwarded by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 30. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

#### *Article 16*

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 30.

2. Quotas may be administered by applying one of the following methods or a combination of them:

- method based on the chronological order of the lodging of applications (using the ‘first come, first served’ principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the ‘simultaneous examination’ method),
- method based on taking traditional trade patterns into account (using the ‘traditional/new arrivals’ method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements on the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary, to be opened, determine the administrative method to be applied and, where appropriate, include provisions regarding:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

#### *Article 17*

1. To the extent necessary to enable the products listed in Article 1 to be exported without further processing or in the form of goods listed in the Annex if they are products listed in Article 1 (a), (b), (c), (d), (e) and (g), on the basis of prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

Export refunds on the products listed in Article 1 in the form of goods listed in the Annex may not be higher than those applicable to such products exported without further processing.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 30. Refunds may be fixed:

- (a) at regular intervals;
- (b) by invitation to tender for products for which that procedure was provided for in the past.

Except where fixed by tender, the list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every four weeks. The amount of the refund may, however, remain at the same level for more than four weeks and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative. However, for products listed in Article 1 and exported in the form of goods listed in the Annex, the refund may be fixed according to another timetable determined in accordance with the procedure referred to in Article 16 of Regulation (EC) No 3448/93.

4. The following shall be taken into account when refunds are being fixed for the products listed in Article 1 and exported without further processing:

- (a) the existing situation and future trends with regard to:
  - prices and availabilities for milk and milk products on the Community market;
  - prices of milk and milk products on the world market;
- (b) the most favourable marketing costs and transport costs from Community markets to Community ports or other places of export together with forwarding costs to the countries of destination; demand on the Community market;
- (c) the objectives of the common organization of the markets in milk and milk products, which are to ensure a balanced situation and natural development regarding prices and trade on these markets;
- (d) limits resulting from agreements concluded in accordance with Article 228 of the Treaty;
- (e) the importance of avoiding disturbances on the Community market;
- (f) the economic aspect of the proposed exports.

Account shall also be taken in particular of the need to establish a balance between the use of Community basic agricultural products for export as processed goods to third countries, and the use of products from those countries admitted for inward processing.

5. For the products referred to in Article 1 and exported as such:

- (a) the prices in the Community referred to in paragraph 1 shall be determined taking account of the prices prevailing which prove to be the most favourable as regards export;
- (b) the prices on the world market referred to in paragraph 1 shall be determined taking account in particular of:
  - (a) the prices on third-country markets;
  - (b) the most favourable prices in third countries of destination for third-country imports;
  - (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries;
  - (d) free-at-frontier offer prices.

6. Refunds shall be granted for the products referred to in paragraph 1 only on application and on presentation of the relevant export licence.

7. The refund applicable to exports of products listed in Article 1 and exported as such shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day for:

- (a) the destination indicated on the licence, or where appropriate
- (b) the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable or the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be made to apply to products listed in Article 1 and exported in the form of goods listed in the Annex in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

9. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 30.

10. The refund shall be paid upon proof that:

- the products are of Community origin, except where paragraph 11 applies,
- the products have been exported from the Community, and
- in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to paragraph 7 (b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 30, provided conditions are laid down which offer equivalent guarantees.

11. No export refund shall be granted on products which are imported from third countries and re-exported to third countries, unless the exporter proves that:

- the product to be exported and the product previously imported are one and the same, and
- all import duties were collected on importation.

In such cases the refund on each product shall be equal to the levy collected on importation where that levy is equal to or lower than the refund applicable; the refund shall be equal to the refund applicable where the levy collected on importation is higher than this refund.

12. As regards the products referred to in Article 1 and exported in the form of the goods listed in the Annex, paragraphs 10 and 11 shall apply only to goods falling within the following CN codes:

- 1806 90 60 to 1806 90 90 (certain products containing cocoa),
- 1901 (certain food preparations of flour, etc.),
- 2106 90 99 (certain food preparations not elsewhere specified),

having a high milk-product content.

13. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement of Agriculture, the ending of a reference period shall not affect the validity of export licences.

14. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 30. However, the detailed rules on the application of paragraphs 8, 10, 11 and 12 for products referred to in Article 1 and exported in the form of goods listed in the Annex shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EEC) No 3448/93.

#### *Article 18*

1. To the extent necessary for the proper working of the common organization of the market in milk and milk products, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward processing arrangements in respect of products listed in Article 1 which are intended for the manufacture of products listed in that Article or of goods listed in the Annex.

2. By way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

#### *Article 19*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

#### *Article 20*

1. Where, for one or more of the products listed in Article 1, the free-at-frontier price significantly exceeds the level of Community prices and where that situation is likely to continue, thereby disturbing or threatening to disturb the Community market, the measures provided for in paragraph 5 may be taken.

2. A significant excess within the meaning of paragraph 1 shall exist when the free-at-frontier price exceeds the intervention price fixed for the product in question, increased by 15 %, or, as regards products for which there is no intervention price, a price derived from the intervention price, to be determined in accordance with the procedure laid down in Article 30, taking account of the nature and composition of the product in question.

3. The situation in which the free-at-frontier price significantly exceeds the level of prices is likely to continue when an imbalance exists between supply and demand and that imbalance is likely to continue, in view of foreseeable trends in production and market prices.

4. The Community market is disturbed or under threat of disturbance by the situation referred to in this Article when the high level of prices in international trade:

- hinders imports of milk products into the Community, or
- causes milk products to leave the Community,

so that security of supply is no longer ensured or threatens to be no longer ensured in the Community.

5. Where the conditions listed in the previous paragraphs are met, total or partial suspension of the levies and/or collection of export charges may be decided on in accordance with the procedure laid down in Article 30. Detailed rules for the application of this Article shall be adopted in accordance with the same procedure.

#### *Article 21*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt general rules for the application of this paragraph and shall define the cases in which and the limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission

receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

II. *Council Regulation (EEC) No 876/68 of 28 June 1968 (OJ No L 155, 3. 7. 1968, p. 1), as last amended by Regulation (EEC) No 1344/86 (OJ No L 119, 8. 5. 1986, p. 36).*

*Council Regulation (EEC) No 2115/71 of 28 September 1971 (OJ No L 222, 2. 10. 1971, p. 5).*

*Council Regulation (EEC) No 2180/71 of 12 October 1971 (OJ No L 231, 14. 10. 1971, p. 1).*

*Council Regulation (EEC) No 1603/74 of 25 June 1974 (OJ No L 172, 27. 6. 1974, p. 9).*

*Council Regulation (EEC) No 2915/79 of 18 December 1979 (OJ No L 329, 24. 12. 1979, p. 1), as last amended by Regulation (EEC) No 3798/91 (OJ No L 357, 28. 12. 1991, p. 3).*

The above Regulations are repealed.

## **ANNEX VIII BEEF AND VEAL**

I. *Council Regulation (EEC) No 805/68 of 27 June 1968 (OJ No L 148, 28. 6. 1968, p. 24), as last amended by Regulation (EC) No 1884/94 (OJ No L 197, 30. 7. 1994, p. 27).*

1. Article 3 is deleted.
2. Title II is replaced by the following:

### **'TITLE II Trade with third countries**

#### *Article 9*

1. Imports into the Community of any of the products listed in Article 1 (1) (a) shall be subject to presentation of an import licence.

Imports into the Community of any of the products listed in Article 1 (1) (b) and exports from the Community of products listed in Article 1 (1) (a) and (b) may be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 12 and 13.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 27.

#### *Article 10*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

## *Article 11*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below on which an additional duty may be imposed shall be those which are forwarded by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 30. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

## *Article 12*

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 27.

With regard to the import quota of 50 000 tonnes of frozen meat coming under CN codes 0202 20 30, 0202 30 and 0206 29 91 and intended for processing, the Commission shall submit a report on the balance before December each year. The Council, acting on a proposal from the Commission by a qualified majority, may lay down that all or part of the quota shall cover equivalent quantities of quality meat, applying a conversion rate of 4,375.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on chronological order of the lodgement of applications ('first come, first served' principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
- method based on taking traditional trade patterns into account (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded as part of the Uruguay Round trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year and, if necessary, shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product, and, where appropriate, the maintenance of traditional trade patterns;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

### *Article 13*

1. To the extent necessary to enable the products listed in Article 1 to be exported on the basis of prices or those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community. They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary. Refunds shall be fixed in accordance with the procedure laid down in Article 27. Refunds may be fixed:

- (a) at regular intervals;
- (b) in addition and for limited quantities, by invitation to tender for products for which that procedure seems appropriate.

Except where fixed by tender, the list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and the future trend with regard to:
  - prices and availabilities of beef and veal sector products on the Community market;
  - prices for beef and veal sector products on the world market;
- (b) the aims of the common organization of the market in beef and veal, which are to ensure equilibrium and the natural development of prices and trade on this market;
- (c) the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;
- (d) the need to avoid disturbances on the Community market;
- (e) the economic aspect of the proposed exports.

Account shall also be taken in particular of the need to establish a balance between the use of Community basic products in the manufacture of processed goods exported to third countries and the use of products from these countries admitted to inward processing arrangements.

In addition, in calculating the amount of the refund for products listed in sections (a), (c) and (d) of the Annex, and in section (b) under subheadings 0202 20 30, 0202 20 50, 0202 20 90, 0202 30 and 0206 29 91, the flat-rate coefficients set for each of the products concerned may be taken into account.

5. When prices within the Community listed in paragraph 1 are being determined the following shall be taken into account:

- prices ruling on the representative Community markets,
- prices ruling at export.



When prices in international trade listed in paragraph 1 are being determined account shall be taken of:

- prices ruling on third-country markets,
- the most favourable prices in third countries of destination for third-country imports,
- producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries,
- free-at-Community-frontier offer prices.

6. Refunds shall be granted only on application and on presentation of the relevant export licence.

7. The refund applicable to exports of products listed in Article 1 shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence; or
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 63 and 47 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 27.

9. The refund shall be paid upon proof that:

- the products are of Community origin, except where paragraph 10 applies,
- the products have been exported from the Community, and
- in the case of a differentiated refund the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to paragraph 3 (b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 27, provided conditions are laid down which offer equivalent guarantees.

10. In the absence of a derogation granted in accordance with the procedure laid down in Article 27, no export refund shall be granted on products which are imported from third countries and re-exported to third countries.

11. Observance of the volume limits resulting from the agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export licences issued for the reference periods provided for therein which apply to the products concerned. With regard to compliance with the obligations arising in the framework of the Uruguay Round multilateral trade negotiations, the ending of a reference period shall not affect the validity of export licences.

12. Detailed rules for the application of this Article, including provisions on the redistribution of exportable quantities which have not been allocated or utilized, shall be adopted in accordance with the procedure laid down in Article 27.

#### *Article 14*

1. To the extent necessary for the proper working of the common organization of the market in beef and veal, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward or outward processing arrangements in respect of products listed in Article 1.

2. However, by way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward or outward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no

more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

#### *Article 15*

1. The general rules for the interpretation of the combined nomenclature and the detailed rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated into the Common Customs tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect

#### *Article 16*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission, in accordance with the voting procedure laid down in Article 43 of the Treaty, shall adopt general rules for the application of this paragraph and shall define the circumstances and limits within which Member States may adopt protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures: the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

3. Article 22a (2) is replaced by the following:

'2. The Council, acting on a Commission proposal in accordance with the voting procedure laid down in Article 43 of the Treaty, shall adopt general rules for the application of this Article.'

II. *Council Regulation (EEC) No 98/69 of 16 January 1969 (OJ No L 14, 21. 1. 1969, p. 2), as amended by Regulation (EEC) No 429/77 (OJ No L 61, 5. 3. 1977, p. 18).*

Article 1 is replaced by the following:

#### *'Article 1*

1. Disposal of the products held by intervention agencies may be undertaken only:

- (a) where the products are intended for a particular use; or
- (b) where the products are intended for export; or
- (c) in the case of disposal without a specific destination, if no risk of disturbance of the market results, having regard in particular to the level of average market prices for adult

bovine animals in the Community and in the Member States, as recorded in accordance with Regulation (EEC) No 1892/87; or

(d) where removal from storage is necessary for technical reasons.

2. In the cases referred to in paragraph 1 (a) and (b), special conditions may be laid down to ensure that the products are not used for a purpose other than that for which they were intended and to take account of the particular requirements of such sales. To ensure that the obligations entered into are fulfilled, such conditions may include the provision of a security which shall be forfeited in whole or in part if the said obligations are not or are only partially fulfilled.'

III. *Council Regulation (EEC) No 885/68 of 28 June 1968 (OJ No L 156, 4. 7. 1968, p. 2), as last amended by Regulation (EEC) No 427/77 (OJ No L 61, 5. 3. 1977, p. 16)*

*Council Regulation (EEC) No 1157/92 of 28 April 1992 (OJ No L 122, 7. 5. 1992, p. 4)*

The above Regulations are repealed.

## *ANNEX IX* **SHEEPMEAT AND GOATMEAT**

I. *Council Regulation (EEC) No 3013/89 of 25 September 1989 (OJ No L 289, 7. 10. 1989, p. 1), as last amended by Regulation (EC) No 1886/94 (OJ No L 197, 30. 7. 1994, p. 30).*

Title II is replaced by the following:

### **'TITLE II** **Trade with third countries**

#### *Article 9*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 may be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Article 12.

Import and export licences shall be valid throughout the Community. The issuing of such licences may be subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

2. The list of products for which export licences are required, the term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 30.

#### *Article 10*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

#### *Article 11*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of

multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below on which an additional duty may be imposed shall be those which are forwarded by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 30. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

#### *Article 12*

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 30.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on chronological order of the lodgement of applications ('first-come, first served' principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
- method based on taking traditional trade patterns into account (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The methods of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary, shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product and, where appropriate, the maintenance of traditional trade patterns;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

#### *Article 13*

1. To the extent necessary for the proper working of the common organization of the market in milk and milk products, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in special cases,

prohibit in whole or in part the use of inward processing arrangements in respect of products listed in Article 1.

2. However, by way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward or outward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

#### *Article 14*

1. The general rules for the interpretation of the combined nomenclature and the detailed rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated into the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

#### *Article 15*

1. If, by reason of an increase in imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a Commission proposal in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt general rules for the application of this paragraph and shall define the circumstances and limits within which Member States may adopt protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

*II. Council Regulation (EEC) No 2641/80 of 14 October 1980 (OJ No L 275, 18. 10. 1980, p. 2), as last amended by Regulation (EEC) No 3890/92 (OJ No L 391, 31. 12. 1992, p. 51).*

*Council Regulation (EEC) No 2642/80 of 14 October 1980 (OJ No L 275, 18. 10. 1980, p. 4), as last amended by Regulation (EEC) No 3939/87 (OJ No L 373, 31. 12. 1987, p. 1).*

*Council Regulation (EEC) No 3643/85 of 19 December 1985 (OJ No L 348, 24. 12. 1985, p. 2), as last amended by Regulation (EEC) No 3890/92 (OJ No L 391, 31. 12. 1992, p. 51).*

The above Regulations are repealed.

## **ANNEX X PIGMEAT**

I. Council Regulation (EEC) No 2759/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 1) as last amended by Regulation (EEC) No 1249/89 (OJ No L 129, 11. 5. 1989, p. 12).

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

‘The basic price shall be fixed taking account, in particular, of the need to fix this price at a level which contributes towards stabilizing market prices without, however, leading to the formation of structural surpluses in the Community.’

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

‘For products of standard quality other than pig carcasses, buying-in prices shall be derived from the buying-in price for pig carcasses on the basis of the ratio existing between the commercial value of these products to the commercial value of pig carcasses.’

3. The following point is added to Article 5 (4):

‘(d) fixing the coefficient expressing the ratio referred to in paragraph 2.’

4. Title II is replaced by the following:

### **‘TITLE II Trade with third countries**

#### *Article 8*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 may be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 11 and 13.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 24.

#### *Article 9*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (1).

#### *Article 10*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those which are forwarded by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

Cif import prices shall be checked to that end, against the representative prices for the product on the world market or on Community import market for that product.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 30. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of that Agreement.

#### *Article 11*

1. Tariff quotas for the products listed in Article 1, resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations, shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 24.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on the chronological order of the lodging of applications ('first come, first served' principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
- method based on taking traditional trade patterns into account (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary and where appropriate for:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

#### *Article 12*

1. Where prices on the Community market rise significantly and where that situation is likely to continue, thereby disturbing or threatening to disturb that market, the measure provided for in paragraph 4 may be taken.

2. A significant rise in prices within the meaning of paragraph 1 exists when, following a general price rise in all Community regions, the average price of pig carcasses on the Community representative markets given in the Annex to Regulation (EEC) No 2123/89 is at a higher level than the average of those prices established for the previous period of three marketing years, from 1 July to 30 June, adjusted if necessary on the basis of cyclical trends in the prices in question, with the addition of the difference between that average and the average of basic prices in force during the period under consideration, taking into account any amendment of the basic price by comparison with the price emerging from the average for the said period.

3. The significant rise in prices is likely to continue within the meaning of paragraph 1 when an imbalance between pigmeat supply and demand exists and is likely to continue, particularly in view of:

- (a) cyclical trends in the number of sows covered and in the prices for piglets;
- (b) surveys and estimates carried out pursuant to Directive 93/23/EEC of 1 June 1993 on the statistical surveys to be carried out on pig production;
- (c) foreseeable trends in market prices for pig carcasses.

4. Where the conditions listed in the previous paragraphs are met, total or partial suspension of import duties may be decided on in accordance with the procedure laid down in Article 24. Detailed rules for the application of this Article shall, if necessary, be adopted in accordance with the same procedure.

### *Article 13*

1. To the extent necessary to enable the products listed in Article 1 to be exported on the basis of quotations or prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those quotations or prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) avoids any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community. They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 24. Refunds shall be fixed at regular intervals, without recourse, however, to the tendering procedure.

The list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and the future trend with regard to:
  - prices and availabilities of pigmeat products on the Community market,
  - prices for pigmeat products on the world market;
- (b) the need to avoid disturbances likely to cause a prolonged imbalance between supply and demand on the Community market;
- (c) the economic aspect of the proposed exports;
- (d) the limits resulting from agreements concluded in accordance with Article 228 of the Treaty.

When the refund is being fixed, particular account shall also be taken of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries, and the use of third-country products brought in under processing arrangements.

When the refund on the products listed in Article 1 is being calculated, account shall be taken of the difference between prices within the Community and prices on the world market for the quantity of feed grain required for the production in the Community of one kilogram of pigmeat,



the coefficients referred to in Article 5 (2) also being taken into account in the case of products other than pig carcasses.

5. The Community price referred to in paragraph 1 shall be established on the following basis:

- (a) prices obtaining at the various stages of marketing in the Community;
- (b) prices obtaining for exports.

The world market prices referred to in paragraph 1 shall be established on the following basis:

- (a) prices obtaining on third-country markets;
- (b) the most favourable prices in third countries of destination for third-country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and
- (d) free-at-Community-frontier offer prices.

6. Refunds shall only be granted on application and on presentation of the relevant export licence.

7. The refund applicable to exports of products listed in Article 1 shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence, or, where appropriate;
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 24.

9. The refund shall be paid upon proof:

- that the products have been exported from the Community,
- that the products are of Community origin, except where paragraph 10 applies, and
- that in the case of a differentiated refund the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to paragraph 7 (b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 24, provided conditions are laid down which offer equivalent guarantees.

10. No export refund shall be granted on products listed in Article 1 which are imported from third countries and re-exported to third countries, unless the exporter proves:

- that the product to be exported and the product previously imported are one and the same, and
- that all import duties were collected on importation.

In such cases the refund on each product shall be equal to the duty collected on importation where that duty is equal to or lower than the refund applicable; the refund shall be equal to the refund applicable where the duty collected on importation is higher than that refund.

11. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

12. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 24.

#### *Article 14*

1. To the extent necessary for the proper working of the common organization of the market in pigmeat, the Council, acting in accordance with the voting procedure laid down in Article 43 (2)

of the Treaty on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward processing arrangements in respect of products listed in Article 1 which are intended for the manufacture of products listed in that Article.

2. In derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward or outward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

#### *Article 15*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

#### *Article 16*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and define the cases in which and the limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

II. *Council Regulation (EEC) No 2764/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 21), as last amended by Regulation (EEC) No 4160/87 (OJ No L 392, 31. 12. 1987, p. 46).*

*Council Regulation (EEC) No 2765/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 23).*

*Council Regulation (EEC) No 2766/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 25), as last amended by Regulation (EEC) No 3906/87 (OJ No L 370, 30. 12. 1987, p. 11).*

*Council Regulation (EEC) No 2768/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 39).*

*Council Regulation (EEC) No 2769/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 43).*

The above Regulations are repealed.

## *ANNEX XI*

### **POULTRYMEAT**

I. Council Regulation (EEC) No 2777/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 77), as last amended by Regulation (EEC) No 1574/93 (OJ No L 52, 24. 6. 1993, p. 1).

1. Articles 3 to 11 are replaced by the following:

#### *Article 3*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (1) may be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 6 and 8.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 17.

#### *Article 4*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (1).

#### *Article 5*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional import duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes which must be exceeded for an additional import duty to be imposed shall be determined specifically on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment in question.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 17. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of that Agreement.

#### *Article 6*

1. Tariff quotas for the products listed in Article 1 (1) resulting from agreements concluded in the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 17.
2. Quotas shall be administered by applying one of the following methods or a combination of them:
  - method based on the chronological order of the lodging of applications ('first come, first served' principle),
  - method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
  - method based on taking traditional trade patterns into account (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.
4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year if necessary, and, where appropriate, for:
  - (a) guarantees covering the nature, provenance and origin of the product;
  - (b) recognition of the document used for verifying the guarantees referred to in (a); and
  - (c) the conditions under which import licences are issued and their term of validity.

#### *Article 7*

Where prices on the Community market rise significantly and where that situation is likely to continue, thereby disturbing or threatening to disturb that market, appropriate measures may be taken.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for application of this Article.

#### *Article 8*

1. To the extent necessary to enable the products listed in Article 1 (1) to be exported on the basis of prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.
2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:
  - (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
  - (b) is least cumbersome administratively for operators, account being taken of administration requirements;
  - (c) prevents any discrimination between the operators concerned.
3. Refunds shall be the same for the whole Community.

They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 17. Refunds shall be fixed at regular intervals, without recourse, however, to the tendering procedure.

The list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and the future trend with regard to:
  - prices and availabilities of poultrymeat products on the Community market,
  - prices for poultrymeat products on the world market;
- (b) the importance of avoiding disturbances likely to bring about a prolonged imbalance between supply and demand on the Community market;
- (c) the economic aspect of the proposed exports;
- (d) limits arising from agreements concluded in accordance with Article 228 of the Treaty.

When the amount of the refund is set, account shall also be taken in particular of the need to establish a balance between the use of Community basic agricultural products for export as processed goods to third countries, and the use of products from those countries admitted for inward processing.

In addition, for the purpose of calculating the refund for the products referred to in Article 1 (1), account shall be taken of the difference between Community and world market prices for the amount of feed-grains required to produce one kilogram of slaughtered poultry in the Community, allowing, in the case of products other than slaughtered poultry, for the differences in the weight of the different products and/or the average of their commercial values.

5. The Community price referred to in paragraph 1 shall be established on the following basis:

- (a) prices obtaining at the various stages of marketing in the Community;
- (b) prices obtaining for exports.

The world market prices referred to in paragraph 1 shall be established on the following basis:

- (a) the prices on third-country markets;
- (b) the most favourable prices in third countries of destination for third-country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries;
- (d) free-at-Community-frontier offer prices.

6. Refunds shall be granted only on application and on presentation of the relevant export licence, except in this case of day-old chicks for which a licence may be granted ex-post.

7. The refund applicable to exports of products listed in Article 1 (1) shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence or, where appropriate;
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 (1) on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 17.

9. The refund shall be paid upon proof:

- that the products have been exported from the Community,
- that the products are of Community origin, except where paragraph 10 applies, and
- that, in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to paragraph 7 (b). Exceptions may be made to this rule in accordance with the

procedure laid down in Article 17, provided conditions are laid down which offer equivalent guarantees.

10. No export refund shall be granted on products listed in Article 1 (1) which are imported from third countries and re-exported to third countries, unless the exporter proves: – that the product to be exported and the product previously imported are one and the same, and – that all import duties were collected on importation.

In such cases the refund on each product shall be equal to the duty collected on importation where that duty is equal to or lower than the refund applicable; the refund shall be equal to the refund applicable where the duty collected on importation is higher than that refund.

11. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

12. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated and unused quantities, shall be adopted in accordance with the procedure laid down in Article 17.

#### *Article 9*

1. To the extent necessary for the proper working of the common organization of the market in poultrymeat, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward or outward processing arrangements in respect of products listed in Article 1 (1) which are intended for the manufacture of products listed in Article 1 (1).

2. In derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward or outward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

#### *Article 10*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

#### *Article 11*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (1) is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a Commission proposal in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and define the cases in which and the limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

2. Article 12 is deleted.

II. *Council Regulation (EEC) No 2778/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 84), as last amended by Regulation (EEC) No 3714/92 (OJ No L 378, 23. 12. 1992, p. 23).*

*Council Regulation (EEC) No 2779/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 90).*

*Council Regulation (EEC) No 2780/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 94).*

The above Regulations are repealed.

## ANNEX XII

### EGGS, OVALBUMIN AND LACTALBUMIN

#### A. EGGS

I. *Council Regulation (EEC) No 2771/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 49), as last amended by Regulation (EEC) No 1574/93 (OJ No L 152, 24. 6. 1993, p. 1).*

1. Articles 3 to 11 are replaced by the following:

#### *Article 3*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (1) shall be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 6 and 8.

Import and export licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 17.

#### *Article 4*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (1).

## *Article 5*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement of Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional import duty may be imposed shall be those notified which are in conformity with the prices notified by the Community to the World Trade Organization.

The trigger volumes which must be exceeded for an additional import duty to be imposed shall be determined specifically on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 17. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the said Agreement.

## *Article 6*

1. Tariff quotas for the products listed in Article 1 (1) resulting from agreements concluded in the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 17.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on the chronological order of the lodging of applications (first come, first served principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the simultaneous examination method),
- method based on taking traditional trade patterns into account (using the traditional/new arrivals method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1 without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year if necessary, and, where appropriate, for:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.



### *Article 7*

Where prices on the Community market rise significantly and where that situation is likely to continue, thereby disturbing or threatening to disturb that market, appropriate measures may be taken.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for application of this Article.

### *Article 8*

1. To the extent necessary to enable the products listed in Article 1 (1) to be exported on the basis of prices for those products on the world market and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available, account being taken of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, account being taken of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

They may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Refunds shall be fixed in accordance with the procedure laid down in Article 17. Refunds shall be fixed at regular intervals without recourse, however, to the tendering procedure.

The list of products on which an export refund is granted and the amount of such refund shall be fixed at least once every three months. The amount of the refund may, however, remain at the same level for more than three months and may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and the future trend with regard to:
  - prices and availability's of egg-sector products on the Community market,
  - prices of egg-sector products on the world market;
- (b) the need to avoid disturbances likely to lead to a prolonged imbalance between supply and demand on the Community market;
- (c) the economic aspect of the proposed exports;
- (d) the limits resulting from agreements concluded in accordance with Article 228 of the Treaty.

When the amount of the refund is set, account shall also be taken in particular of the need to establish a balance between the use of Community basic agricultural products for export as processed goods to third countries, and the use of products from those countries admitted for inward processing.

Moreover, when the amount of the refund is calculated, account shall be taken, in the case of the products listed in Article 1 (1), of the difference between the prices in the Community on the one hand and on the world market on the other of the quantity of feed-grain needed in the Community to produce one kilogram of eggs in shell and having regard, in the case of products other than eggs in shell, to the quantity of eggs in shell used in the manufacture of such products and/or the average ratio between the commercial values of the egg constituents.

5. When prices in the Community referred to in paragraph 1 are being determined account shall be taken of:

- (a) prices obtaining at the various stages of marketing in the Community;
- (b) prices obtaining for exports.

When prices on the world market referred to in paragraph 1 are being determined, account shall be taken of:

- (a) prices obtaining on third-country markets;
- (b) the most favourable prices in third countries of destination for third-country imports;
- (c) producer prices recorded in exporting third countries, account being taken where appropriate, of subsidies granted by those countries;
- (d) free-at-Community-frontier offer prices.

6. Refunds on products listed in Article 1 (1) and exported without further processing shall only be granted on application and on presentation of the relevant export licence, except in the case of eggs for hatching where a licence may be granted ex post.

7. The refund applicable to exports of products listed in Article 1 (1) exported without further processing shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day for:

- (a) the destination indicated on the licence, or where appropriate;
- (b) the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be made to apply to products listed in Article 1 (1) and exported in the form of goods listed in Annex I in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

9. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 (1) on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 17.

10. The refund shall be paid upon proof that:

- the products have been exported from the Community,
- the products are of Community origin, except where paragraph 11 applies, and
- in the case of a differentiated refund, the products have reached the destination for which the refund was fixed, without prejudice to paragraph 7 (b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 17, provided conditions are laid down which offer equivalent guarantees.

11. No export refund shall be granted on products listed in Article 1 (1) which are imported from third countries and re-exported to third countries, unless the exporter proves that:

- the product to be exported and the product previously imported are one and the same, and
- the levy was collected on importation. In such cases the refund on each product shall be equal to the levy collected on importation where this levy is equal to or lower than the refund applicable; the refund shall be equal to the refund applicable where the levy collected on importation is higher than this refund.

12. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

13. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated and unused quantities, shall be adopted in accordance with the procedure laid down in Article 17. Annex I shall be amended in accordance with the same procedure. However, detailed rules for the application of paragraph 8 to the products referred to in Article 1 (1) exported in the form of goods listed in Annex I shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.

### *Article 9*

1. To the extent necessary for the proper working of the common organization of the market in eggs, the Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may in special cases prohibit in whole or in part the use of inward processing traffic in respect of:

- products listed in Article 1 (1) which are intended for the manufacture of products listed in Article 1 (1) (b), and
- in special cases, products listed in Article 1 (1) which are intended for the manufacture of goods listed in Annex I.

2. In derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.

### *Article 10*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

### *Article 11*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (1) is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

2. Article 12 is deleted.

II. Council Regulation (EEC) No 2773/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 64), as last amended by Regulation (EEC) No 4155/87 (OJ No L 392, 31. 12. 1987, p. 29).

Council Regulation (EEC) No 2774/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 68).

Council Regulation (EEC) No 2775/75 of 1 October 1975 (OJ No L 282, 1. 11. 1975, p. 72).

The above Regulations are repealed.

## B. OVALBUMIN AND LACTALBUMIN

Council Regulation (EEC) No 2783/75 of 29 October 1975 (OJ No L 282, 1. 11. 1975, p. 104), as last amended by Regulation (EEC) No 4001/87 (OJ No L 377, 31. 12. 1987, p. 44).

1. The introductory sentence in Article 1 is replaced by the following:

‘Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the following products:’.

2. Article 2 is replaced by the following:

### ‘Article 2

1. Imports into the Community, of any of the products listed in Article 1 shall be subject to presentation of an import licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Article 4.

Import licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited on whole or in part if import is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 17 of Regulation (EEC) No 2771/75.’

3. Article 3 is replaced by the following:

### ‘Article 3

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

Cif import prices shall be checked to that end against the representative prices for the product on the world market or on the Community import market for that product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 17 of Regulation (EEC) No 2771/75. Such detailed rules shall specify in particular:

(a) the products to which additional import duties shall be applied under the terms of Article 5 of the Agreement on Agriculture;

- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.’

4. Article 4 is replaced by the following:

*‘Article 4*

1. Tariff quotas for the products listed in Article 1 resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 17 of Regulation (EEC) No 2771/75.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on chronological order of the lodging of applications (first come, first served principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the simultaneous examination method),
- method based on taking traditional trade patterns into account (using the traditional/new arrivals method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary to be opened and, where appropriate, for:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.’

5. Article 5 is replaced by the following:

*‘Article 5*

Where prices on the Community market rise significantly and where that situation is likely to continue, thereby disturbing or threatening to disturb that market, appropriate measures may be taken.

The Council, acting in accordance with the procedure laid down in Article 43 of the Treaty, shall, if necessary, adopt detailed rules for the application of this Article.’

6. Article 7 is replaced by the following:

*‘Article 7*

1. To the extent necessary for the proper working of the common organization of the market in eggs and this Regulation, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in special cases, prohibit in whole or in part the use of inward processing arrangements in respect of products listed in Article 1 which are intended for the manufacture of products listed in that Article.

2. In derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. Measures decided on by the Commission may be referred to the Council by any Member State within a week of the day on which they were notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission decision. If the Council has not acted within three months, the Commission decision shall be deemed to have been repealed.'

7. Article 8 is replaced by the following:

*'Article 8*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.'

*ANNEX XIII*

**FRUIT AND VEGETABLES**

I. *Council Regulation (EEC) No 1035/72 of 18 May 1972 (OJ No L 118, 20. 5. 1972, p. 1), as last amended by Regulation (EC) No 3669/93 (OJ No L 338, 31. 12. 1993, p. 26)*

Title IV shall be replaced by the following:

**'TITLE IV**

**Trade with third countries**

*Article 22*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (2) shall be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 25 and 26.

Import and export licences shall be valid throughout the Community; such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33.

*Article 23*

1. Save as otherwise provided for in this Regulation, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (2).

2. Should the application of the rates of duty in the Common Customs Tariff depend on the entry price of the imported consignment, the veracity of this price shall be checked using a flat-rate import value calculated by the Commission depending on the origin and product on the basis of the weighted average prices for the products in question on Member States' representative import markets or on other markets where applicable.

3. Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set in accordance with paragraph 5 which may not exceed

the flat-rate value by more than 10 %, the lodging of a security equal to the import duties determined on the basis of the flat-rate import value shall be required.

4. If the entry price of the consignment in question is not declared at the time of customs clearance, the application of the rates of duty in the Common Customs Tariff depends on the flat-rate import value or the application of the relevant provisions of customs legislation under conditions to be determined in accordance with paragraph 5.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33.

#### *Article 24*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment under consideration.

The cif import prices shall be checked to that end on the basis of the representative prices for the product in question on the world market or on the Community import market for the product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 33. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied pursuant to Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

#### *Article 25*

1. Tariff quotas for the products listed in Article 1 (2) resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 33.

2. Quotas may be administered using one of the following methods or by a combination thereof:

- method based on the order in which applications are submitted (on a 'first come, first served' basis);
- method allocating quotas in proportion to the quantities requested when applications are submitted (using the 'simultaneous examination' method),
- method based on traditional trade flows (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid discrimination between the operators concerned.

3. The management method shall take account, where appropriate, of supply needs on the Community market and the need to safeguard balance on that market, and may draw on methods applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to any levies arising from agreements concluded in the course of the Uruguay Round of trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, if necessary, shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

#### *Article 26*

1. To the extent necessary to enable economically significant quantities of the products listed in Article 1 (2) to be exported on the basis of the prices of these products in international trade and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available and taking account of the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, taking account of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

Where the international trade situation or the specific requirements of certain markets make this necessary, the refund for a given product may vary according to the destination of the product.

Refunds shall be fixed in accordance with the procedure laid down in Article 33. Refunds shall be fixed at regular intervals. Refunds fixed at regular intervals may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and future trends with regard to:
  - prices and availabilities of fruit and vegetables on the Community market,
  - prices for fruit and vegetables in international trade;
- (b) marketing costs and the minimum transport charges from Community markets to ports and other points of export in the Community, as well as costs incurred in placing goods on the market of the country of destination;
- (c) the economic aspect of the proposed exports;
- (d) limits resulting from agreements concluded in accordance with Article 228 of the Treaty

5. When prices on the Community market referred to in paragraph 1 are being determined the prices which are most favourable from the exportation point of view shall be taken into account.

When the world market prices referred to in paragraph 1 are being determined particular account shall be taken of:

- (a) prices recorded on third-country markets;
- (b) the most favourable prices in third countries of destination for third-country imports;
- (c) producer prices recorded in exporting third countries;
- (d) free-at-Community-frontier offer prices.

6. Refunds shall only be granted on application and on presentation of the relevant export licence.

7. The refund applicable to exports of products listed in Article 1 (2) shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:



- (a) for the destination indicated on the licence; or
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 (2) on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 33.

9. The refund shall be paid upon proof:

- that the products have been exported from the Community,
- that the products are of Community origin, and – that, in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to paragraph 7 (b). Exceptions may be made to this rule in accordance with the procedure laid down in Article 33, provided conditions are laid down which offer equivalent guarantees.

10. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

11. Detailed rules for the application of this Article, including provisions for the redistribution of exportable quantities not allocated or not used, shall be adopted in accordance with the procedure laid down in Article 24.

#### *Article 27*

1. Save as otherwise provided for in this Regulation or pursuant to a provision thereof, the following shall be prohibited when importing the products listed in Article 1 (2) from third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

2. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

#### *Article 28*

1. Appropriate measures may be taken when trading with third countries if, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty,

Such measures may be applied only until, depending on the case, the disturbance or threat of disturbance has ceased or the quantities withdrawn or bought in have diminished appreciably.

The Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.
4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

II. *Council Regulation (EEC) No 2518/69 of 9 December 1969 (OJ No L 318, 18. 12. 1969, p. 17), as last amended by Regulation (EEC) No 2455/72 (OJ No L 266, 14. 11. 1972, p. 7)*

*Council Regulation (EEC) No 2707/72 of 19 December 1972 (OJ No L 291, 28. 12. 1972, p. 3)*

*Council Regulation (EEC) No 1200/88 of 28 April 1988 (OJ No L 115, 3. 5. 1988, p. 7), as last amended by Regulation (EEC) No 3821/90 (OJ No L 366, 29. 12. 1990, p. 45)*

The above Regulations shall be repealed.

## ANNEX XIV PROCESSED FRUIT AND VEGETABLES

I. *Council Regulation (EEC) No 426/86 of 24 February 1986 ( OJ No L 49, 27. 2. 1986, p. 1), as last amended by Regulation (EC) No 1490/94 (OJ No L 161, 29. 6. 1994, p. 13)*

1. Title II is replaced by the following:

### ‘TITLE II Trade with third countries

#### *Article 9*

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (1) may be subject to presentation of an import or export licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 12, 13, 14 and 14a.

Import and export licences shall be valid throughout the Community. The issue of such licences may be subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

2. The term of validity of licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 22.

#### *Article 10*

1. Unless this Regulation otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (1).

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 22.

#### *Article 10a*

1. A minimum import price for the 1995, 1996, 1997, 1998 and 1999 marketing years shall be fixed for the products listed in Part B of Annex I. The minimum import price shall be determined having regard in particular to:

- the free-at-frontier prices on import into the Community,
- the prices obtaining on world markets,
- the situation on the internal Community market,

— the trend of trade with third countries.

Where the minimum import price is not observed, a countervailing charge in addition to customs duty shall be imposed, based on the prices of the main supplier third countries.

2. The minimum import price for dried grapes shall be fixed before the beginning of the marketing year.

A minimum import price shall be fixed for currants and for other dried grapes. For each of the two groups of products, the minimum import price may be fixed for products in immediate packing of a net weight to be determined and for products in immediate packing of a net weight exceeding that weight.

3. The minimum import price for processed cherries shall be fixed before the beginning of the marketing year. The price may be fixed for products in immediate packing of a determined net weight.

4. The minimum import price to be observed for dried grapes shall be that applicable on the day of importation. The countervailing charge to be levied, if any, shall be that which is applicable on the same day.

5. The minimum price to be observed for import of sour cherries and processed cherries shall be that applicable on the day of acceptance of entry for free circulation.

6. Countervailing charges for dried grapes shall be fixed by reference to a scale of import prices. The difference between the minimum import price and each step of the scale shall be:

— 1 % of the minimum price for the first step,

— 3, 6 and 9 %, respectively, of the minimum price for the second, third and fourth steps.

The fifth step of the scale shall cover all cases where the import price is lower than that applied for the fourth step.

The maximum countervailing charge to be fixed for dried grapes shall not exceed the difference between the minimum price and an amount determined on the basis of the most favourable prices applied on the world market for significant quantities by the most representative non-member countries.

7. Where the import price for sour cherries and processed cherries is less than the minimum price for those products, a countervailing charge equal to the difference between those prices shall be levied.

8. The minimum import price, the amount of the countervailing charge and the other rules for the implementation of this Article shall be adopted in accordance with the procedure laid down in Article 22.

#### *Article 11c*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those forwarded by the Community to the World Trade Organization in accordance with its offer tabled during the Uruguay Round of multilateral negotiations.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined particularly on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment in question.

The cif import prices shall be verified for this purpose on the basis of representative prices for the product in question on the world market or on the Community import market for the product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 22. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under the terms of Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary to ensure application of paragraph 1 in accordance with Article 5 of the Agreement on Agriculture.

#### *Article 12*

1. Tariff quotas for the products listed in Article 1 (1) resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 22.

2. Quotas shall be administered by applying one of the following methods or a combination of them:

- method based on chronological order of the lodgment of applications ('first come, first served' principle),
- method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination' method),
- method based on taking traditional trade patterns into account (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted.

They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, give due weight to the supply requirements of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time possibly drawing on methods which may have been applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to the rights resulting from agreements concluded in the framework of the Uruguay Round negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product,
- (b) recognition of the document used for verifying the guarantees referred to in (a); and
- (c) the conditions under which import licences are issued and their term of validity.

#### *Article 13*

1. To the extent necessary to enable export of:

- (a) economically significant quantities of the products without added sugar referred to in Article 1 (1);
- (b) white and raw sugar falling with CN code 1701,
  - glucose and glucose syrup falling within CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99 and 1702 40 90,
  - isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30, and
  - beet and cane syrups falling within CN code 1702 90 90,

used in the products listed in Article 1 (1) (b),

on the basis of prices for those products in international trade and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available and having regard to the effectiveness and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, taking account of administration requirements;
- (c) prevents any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

Where the situation in international trade or the specific requirements of certain markets make this necessary, the refund on a given product may be varied according to destination.

Refunds shall be fixed in accordance with the procedure laid down in Article 22. Refunds shall be fixed at regular intervals.

Refunds fixed at regular intervals, may, if necessary, be amended in the interval by the Commission at the request of a Member State or on its own initiative.

4. Refunds shall only be granted on application and on presentation of the relevant export licence.

5. The refund applicable to exports shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence; or
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

6. Paragraphs 4 and 5 may be waived in the case of products on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 22.

7. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

8. Detailed rules for the application of this Article, including provisions on redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 22.

#### *Article 14*

1. This Article shall apply to the refunds referred to in Article 13 (1) (a).

2. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and future trends with regard to:
  - prices and availability on the Community market of products processed from fruit and vegetables,
  - prices ruling in international trade;
- (b) minimum marketing and transport costs from the Community markets to ports or other points of export in the Community, as well as costs of shipment to the countries of destination;
- (c) the economic aspect of the proposed exports;
- (d) limits resulting from the agreements concluded in accordance with Article 228 of the Treaty.

3. When prices on the Community market are being determined for the products referred to in Article 13 (1) (a), account shall be taken of the ruling prices which are most favourable from the point of view of exportation.

The following shall be taken into account when prices in international trade are being determined:

- (a) prices ruling on third-country markets;
- (b) the most favourable prices in third countries of destination for imports from third countries;
- (c) producer prices recorded in exporting third countries;
- (d) offer prices at the Community frontier.

4. The refund shall be paid upon proof that:

- the products have been exported from the Community,
- the products are of Community origin, and
- in the case of a differentiated refund the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to Article 13 (5) (b). However, exceptions may be made to this rule in accordance with the procedure laid down in Article 22, provided conditions are laid down which offer equivalent guarantees.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 22.

#### *Article 14a*

1. This Article shall apply to the refunds referred to in Article 13 (1) (b).

2. The amount of the refund shall equal:

- for raw sugar, white sugar and beet and cane syrup, the amount of the export refund for such products in the unprocessed state, fixed in accordance with Article 17 of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector and its implementing provisions,
- for isoglucose, the amount of the export refund for that product in its unprocessed state, fixed in accordance with Article 17 of Regulation (EEC) No 1785/81 and its implementing provisions,
- for glucose and glucose syrup, the amount of the export refund for such products in their unprocessed state, fixed for each of those products in accordance with Article 13 of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the markets in cereals, and its implementing provisions.

3. In order to benefit from the refund, processed products must be accompanied, upon export, by a declaration from the applicant stating the quantities of raw and white sugar and beet and cane syrups, isoglucose, glucose and glucose syrup used in manufacture.

The accuracy of the declaration referred to in the first paragraph shall be subject to checking by the competent authorities of the Member States concerned.

4. If the refund is insufficient to allow export of the products listed in Article 1 (1) (b), the provisions laid down for the refund referred to in Article 13 (1) (a) shall apply to those products instead of those in Article 13 (1) (b).

5. The refund shall be granted on exports of products:

- (a) which are of Community origin;
- (b) which have been imported from third countries and on which the import duties referred to in Article 10 have been paid, provided the exporter proves:
  - that the product to be exported and the product previously imported are one and the same, and
  - that the import duties were collected on importation.

In the case covered by subparagraph (b), the refund on each product shall be equal to the duties collected on importation where the latter are lower than the refund applicable; where the duties collected on importation are higher than that refund, the latter shall apply.

6. The refund shall be paid upon proof that:

- the products fulfil either of the two conditions set out in the preceding paragraph,

— the products have been exported from the Community, and – in the case of a differentiated refund the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to Article 13 (5) (b). However, exceptions may be made to this rule in accordance with the procedure laid down in Article 22, provided conditions are laid down which offer equivalent guarantees.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 22.

#### *Article 15*

1. To the extent necessary for the proper working of the common organization of the markets in cereals, sugar and fruit and vegetables, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in particular cases, prohibit in whole or in part the use of inward processing arrangements in respect of:

- the products referred to in Article 13 (1) (b), and
- fruit and vegetables,

intended for the manufacture of the products listed in Article 1 (1).

2. However, by way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. The Commission's decision may be referred to the Council by any Member State within a week of the day on which it was notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission's decision. If the Council has not acted within three months, the Commission's decision shall be deemed to have been repealed.

#### *Article 16*

1. Where pursuant to Article 20 of Regulation (EEC) No 1785/81 a levy exceeding ECU 5 per 100 kilograms is charged on exports of white sugar, the imposition of a charge on exports of the products specified in Article 1 (1) containing a minimum of 35 % added sugar may be decided in accordance with the procedure laid down in Article 22.

2. The amount of the export charge shall be fixed taking into account:

- the nature of the product processed from fruit of vegetables which contains added sugar,
- the added sugar content of the product in question,
- the prices of white sugar in the Community and on the world market,
- the export levy applicable to white sugar,
- the economic implications of applying the said charge.

3. The added sugar content shall be considered to be given by the figure shown against the product in question in column 1 of Annex III to this Regulation.

However, at the request of the exporter, if the added sugar content per 100 kilograms net weight of product, established in accordance with paragraph 4, is two kilograms or more below the content expressed by the figure for the product in question appearing in column 1 of Annex III, the content established in accordance with paragraph 4 shall be used.

4. The added sugar content of the products listed in Annex III shall be considered to mean the reading obtained by using a refractometer, multiplied by 0,93 in the case of products falling within CN code 2008, excluding CN codes 2008 11 10, 2008 91 00, 2008 99 85 and 2008 99 91, and by 0,95 in the case of other products listed in Annex III and reduced by the figure for the product in question appearing in column 2 of Annex III.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 22.

*Article 17*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

*Article 18*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (1) is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for application of this paragraph and shall determine the cases in which and limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

2. Annexes II and IV are deleted.

II. *Council Regulation (EEC) No 518/77 of 14 March 1977 (OJ No L 73, 21. 3. 1977, p. 22)*

*Council Regulation (EEC) No 519/77 of 14 March 1977 (OJ No L 73, 21. 3. 1977, p. 24)*

*Council Regulation (EEC) No 520/77 of 14 March 1977 (OJ No L 73, 21. 3. 1977, p. 26)*

*Council Regulation (EEC) No 521/77 of 14 March 1977 (OJ No L 73, 21. 3. 1977, p. 28)*

*Council Regulation (EEC) No 1796/81 of 30 June 1981 (OJ No L 183, 4. 7. 1981) as last amended by Regulation (EEC) No 1122/92 (OJ No L 117, 1. 5. 1992, p. 98)*

*Council Regulation (EEC) No 2089/85 of 23 July 1985 (OJ No L 197, 27. 7. 1985, p. 10)*

*Council Regulation (EEC) No 3225/88 of 17 October 1988 (OJ No L 288, 21. 10. 1988, p. 11)*

*Council Regulation (EEC) No 1201/88 of 28 April 1988 (OJ No L 115, 3. 5. 1988, p. 9), as last amended by Regulation (EEC) No 2781/90 (OJ No L 265, 28. 9. 1990, p. 3)*

The above Regulations are repealed.



## *ANNEX XV* **BANANAS**

*Council Regulation (EEC) No 404/93 of 13 February 1993 (OJ No L 47, 25. 2. 1993, p. 1), as last amended by Regulation (EC) No 3518/93 (OJ No L 320, 22. 12. 1993, p. 15)*

1. Article 15 is replaced by the following:

### *'Article 15*

1. Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1 (2).

2. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

3. The trigger prices below which an additional import duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes which must be exceeded for an additional import duty to be imposed shall be determined in particular on the basis of Community imports over the three years preceding the year in which the adverse effects referred to in paragraph 2 have occurred or are likely to occur.

4. The import prices to be taken into account for the imposition of an additional import duty shall be determined on the basis of the cif import prices of the shipment concerned.

The cif import prices shall be verified for this purpose on the basis of representative prices for the product in question on the world market or on the Community import market for the product

5. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 27. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied, in accordance with Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the said Agreement.'

2. The following Article is inserted:

### *'Article 15a*

Articles 15a to 20 inclusive of this Title shall apply only to fresh products falling within CN code ex 0803, excluding plantains.

For the purposes of this Title:

- (a) "traditional imports from ACP States" means the quantities of bananas set out in the Annex exported by each ACP State which has traditionally exported bananas to the Community; such bananas shall be referred to as "traditional ACP bananas";
- (b) "non-traditional imports from ACP States" means the quantities of bananas exported by the ACP States which exceed the quantity defined in 1; such bananas shall be referred to as "non-traditional bananas";
- (c) "imports from non-ACP third countries" means quantities exported by other third countries; such bananas shall be referred to as "third-country-bananas";
- (d) "Community bananas" means bananas produced in the Community;
- (e) "to market" and "marketing" mean placing on the market, not including making the product available to the final consumer.'

3. In Article 17, the second paragraph is replaced by the following:

‘Import licences shall be valid throughout the Community. Save where derogations are adopted under the procedure laid down in Article 27, such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported in compliance with this Regulation, during the term of validity of the licence; save in cases of force majeure, the security shall be forfeited in whole or in part if import is not carried out, or is only carried out partially, within that period.’

4. Article 18 is replaced by the following:

*‘Article 18*

1. A tariff quota of 2,2 million tonnes (net weight) shall be opened each year for imports of third-country bananas and non-traditional ACP bananas.

Within the framework of the tariff quota, imports of third-country bananas shall be subject to a levy of ECU 75 per tonne and imports of non-traditional ACP bananas shall be subject to a zero duty. For 1994, the tariff quota shall be 2,1 million tonnes (net weight).

Where Community demand determined on the basis of the supply balance referred to in Article 16 increases, the volume of the quota shall be increased in consequence, in accordance with the procedure laid down in Article 27. Any such adjustment shall be made before 30 November preceding the marketing year concerned.

2. By derogation from Article 15 (1), non-traditional ACP bananas imported outside the tariff quota referred to in paragraph 1 of this Article shall be subject to a customs duty per tonne equal to the duty referred to in Article 15 (1), less ECU 100.

3. The quantities of third-country bananas and non-traditional ACP bananas re-exported from the Community shall not be charged to the quota referred to in paragraph 1.

4. The amounts referred to in this Article shall be converted into national currency at the rate applicable to the products concerned in connection with the Common Customs Tariff.’

5. The following indents are added to Article 20:

- ‘— measures guaranteeing the provenance and origin of bananas imported within the tariff quota provided for in Article 18 (1),
- measures necessary to fulfil obligations arising from agreements concluded by the Community in accordance with Article 288 of the Treaty.’

6. Article 22 is replaced by the following:

*‘Article 22*

The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.’

7. Article 23 is replaced by the following:

*‘Article 23*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be taken in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt general rules for the application of this paragraph and shall determine the cases in and limits within which Member States may take interim protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission

receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 27.

5. This Article shall be applied having regard to the obligations arising from international agreements concluded in accordance with Article 228 (2) of the Treaty.'

## *ANNEX XVI* **WINE**

I. *Council Regulation (EEC) No 822/87 of 16 March 1987 (OJ No L 84, 27. 3. 1987, p. 1), as last amended by Regulation (EEC) No 1891/94 (OJ No L 197, 30. 7. 1994, p. 42)*

1. Title IV is replaced by the following:

### **'TITLE IV** **Trade with third countries**

#### *Article 52*

1. Imports into the Community of any of the products listed in Article 1 (2) (a) and (b) shall be subject to presentation of an import licence. Imports into the Community of any other products listed in Article 1 (2) and exports from the Community of any products listed in Article 1 (2) may be subject to presentation of an import or export licence.

2. Licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 55 and 56.

Licences shall be valid throughout the Community.

Such licences shall be issued subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; save in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is only carried out partially, within that period.

3. The following shall be adopted in accordance with the procedure laid down in Article 83:

- (a) the list of products in respect of which import or export licences are required;
- (b) the term of validity of the licences and other detailed rules for the application of this Article.

#### *Article 53*

1. Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

2. For musts falling within CN code 2204 30 for which application of the duties in the Common Customs Tariff depends on the import price of the product imported, the accuracy of that price shall be checked by means of a flat-rate import value calculated by the Commission depending on the origin and product on the basis of the weighted average prices for the products in question on Member States' representative import market or on other markets where applicable.

Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set in accordance with paragraph 3 which may not exceed the flat-rate value by more than 10 %, the lodging of a security equal to the import duties determined on the basis of the flat-rate import value shall be required.

If the entry price of the consignment in question is not declared at the time of customs clearance, the application of the rates of duty in the Common Customs Tariff depends on the flat-rate import value or the application of the relevant provisions of customs legislation under conditions to be determined in accordance with paragraph 3.

3. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 83. Such detailed rules shall include the provisions necessary for the verification of import prices.

#### *Article 54*

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1, imports of one or more of such products at the rate of duty laid down in Article 10 shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on Agriculture concluded in accordance with Article 228 of the Treaty in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled unless the imports are unlikely to disturb the Community market, or where the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional import duty may be imposed shall be those forwarded by the Community to the World Trade Organization.

The trigger volumes which must be exceeded for an additional import duty to be imposed shall be determined in particular on the basis of Community imports over the three years preceding the year in which the adverse effects referred to in paragraph 1 have occurred or are likely to occur.

3. The import prices to be taken into account for the imposition of an additional import duty shall be determined on the basis of the cif import prices of the shipment concerned.

The cif import prices shall be verified for this purpose on the basis of representative prices for the product in question on the world market or on the Community import market for the product.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in the Article 83. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties shall be applied, in accordance with Article 5 of the Agreement on Agriculture;
- (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the said Agreement.

#### *Article 55*

1. To the extent necessary to enable the export of:

- (a) products listed in Article 1 (2) (a), (b) and (c);
- (b) sugars falling with CN code 1701, glucose and glucose syrup falling within CN codes 1702 30 91, 1702 30 99, 1702 40 90 and 1702 90 50, including in the form of products falling within CN codes 1702 30 51 and 1702 30 59, incorporated into products falling within CN codes 2009 60 11, 2009 60 71, 2009 60 79 and 2204 30 99;

on the basis of prices for those products in international trade and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

2. For the allocation of the quantities which may be exported with refunds, the method shall be established which:

- (a) is the best suited to the nature of the product and to the situation on the market in question, enabling the most efficient use possible to be made of the available resources, and having regard to the efficiency and structure of Community exports without, however, creating discrimination between large and small operators;
- (b) is the least cumbersome administratively for operators, having regard to management imperatives;

(c) precludes discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community. They may vary according to destination where the situation on the international market or the specific requirements of certain markets make this necessary.

The refunds referred to in paragraph 1 (a) shall be fixed in accordance with the procedure laid down in Article 83. They shall be fixed at regular intervals.

Refunds fixed at regular intervals may, where necessary, be adjusted in the intervening period by the Commission at the request of a Member State or on its own initiative.

The provisions of Article 56 regarding the products referred to therein shall apply on a supplementary basis.

4. Refunds shall be granted only on application and on presentation of the relevant export licence.

5. The refund applicable to exports of products listed in Article 1 shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence or, if appropriate;
- (b) for the actual destination, if it differs from that indicated on the licence. In that case the amount applicable may not exceed the amount applicable to the destination indicated on the licence.

Appropriate measures may be taken to preclude abuse of the flexibility provided for in this paragraph.

6. Paragraphs 4 and 5 may be waived in the case of products listed in Article 1 on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 83.

7. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the Agreement on Agriculture, the ending of a reference period shall not affect the validity of export licences.

With regard to compliance with the obligations arising under agreements concluded in the framework of the Uruguay Round of trade negotiations, the ending of a reference period shall not affect the validity of export licences.

8. Detailed rules for the application of this Article, including provisions on redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 83.

#### *Article 56*

1. This Article shall apply to the refunds referred to in Article 55 (1).

2. The amount of the refund for products referred to in Article 55 (1) (b) shall be:

- in the case of raw sugar and white sugar, the amount of refund for export of these products unprocessed as fixed in accordance with Article 17 of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in the sugar sector and with the provisions adopted for its application;
- in the case of glucose and glucose syrup, the amount of the refund for export of these products unprocessed as fixed for each of these products in accordance with Article 13 of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals and with the provisions adopted for its application.

To qualify for the refund, processed products must, on export, be accompanied by a declaration from the applicant indicating the amounts of raw sugar, white sugar, glucose and glucose syrup used in their manufacture.

The accuracy of this declaration shall be subject to checks by the competent authorities of the Member State concerned.

3. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and likely trends with regard to:
  - prices and availability of the products listed in Article 55 (1) on the Community market;
  - world market prices for those products;
- (b) the most advantageous marketing and transport costs from the Community markets to the ports or other export points of the Community as well as the costs of shipment to the country of destination;
- (c) the objectives of the common organization of the market in wine, which are to ensure balance on the market and natural development in respect of prices and trade;
- (d) limits arising out of agreements concluded in accordance with Article 228 of the Treaty;
- (e) the need to avoid disturbances on the Community market;
- (f) the economic aspect of the proposed exports.

4. Community market prices referred to in Article 55 (1) shall be determined on the basis of the most advantageous export prices.

The following shall be taken into account the prices in international trade referred to in Article 55 (1) are being determined:

- (a) prices recorded on third-country markets;
- (b) the most advantageous prices in third countries of destination for imports from third countries;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries;
- (d) free-at-Community-frontier offer prices.

5. Without prejudice to the third subparagraph of Article 55 (3), the intervals at which the list of products for which a refund is actually granted is to be fixed and the amount at which that refund is to be fixed shall be determined in accordance with the procedure laid down in Article 83.

6. The refund shall be paid upon proof that the products:

- are of Community origin, save where paragraph 7 applies;
- have been exported from the Community, and
- in case of a differentiated refund, have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to Article 55 (5) (b). However, exceptions may be made to this rule in accordance with the procedure laid down in Article 83, provided that conditions are laid down which offer equivalent guarantees.

Additional provisions may be adopted in accordance with the procedure laid down in Article 83.

7. No export refund shall be granted on products imported from third countries and re-exported to third countries, unless the exporter proves that:

- the product to be exported and the product previously imported are one and the same;
- import duties have been collected on importation.

In such cases the refund on each product shall be equal to the duties collected on importation where these are equal to or lower than the refund applicable; where the duties collected on importation are higher than the refund applicable, the refund shall equal the latter.

#### *Article 57*

1. To the extent necessary for the proper working of the common organization of the market in wine, the Council, acting on a proposal from the Commission in accordance with the voting procedure set out in Article 43 (2) of the Treaty, may in particular cases prohibit the use of inward processing arrangements wholly or partially in respect of the products listed in Article 1.

2. By way of derogation from paragraph 1, if the situation referred to in that paragraph occurs with particular urgency and if the Community market is, or is likely to be, disturbed by outward or inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, the period of validity of which may not exceed six months

and which shall apply immediately. If the Commission receives a request from a Member State, it shall take a decision thereon within one week of receipt of the request.

3. The Commission's decision may be referred to the Council by any Member State within one week of the day on which it was notified. The Council, acting by a qualified majority, may confirm, amend or annul the Commission's decision. If the Council has not reached a decision within three months, the Commission's decision shall be deemed to have been repealed.

#### *Article 58*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for this Regulation or pursuant to a provision thereof, the following shall be prohibited:

- the levying of any charge having equivalent effect to a customs duty;
- the application of any quantitative restriction or measure having equivalent effect.

#### *Article 59*

1. The import of the products referred to in Article 1 (2) to which alcohol has been added, with the exception of those products equivalent to products originating in the Community in respect of which such an admixture is permitted pursuant to Article 25 (1) and (2), shall be prohibited.

2. Detailed rules for the application of this Article, and in particular the conditions for the equivalence of products, shall be adopted in accordance with the procedure laid down in Article 83.

#### *Article 60*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance has ceased.

In order to assess whether the situation justifies the application of such measures, the following in particular must be taken into account:

- (a) the quantities in respect of which import licences have been issued or applied for and the figures given in the forecast supply balance;
- (b) where appropriate, the scale of intervention.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt general rules for the application of this paragraph and define the cases in which and the limits within which Member States may take interim protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or in its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

#### *Article 61*

1. Imported wine intended for direct human consumption and described with the aid of a geographical ascription may be eligible, with regard to its marketing in the Community and with the proviso that reciprocity exists, for the control and protection arrangements referred to in Article 16 of Regulation (EEC) No 823/87 for quality wines produced in specified regions.
  2. The provision laid down in paragraph 1 shall be implemented by means of agreements with interested third countries to be negotiated and concluded in accordance with the procedure laid down in Article 113 of the Treaty.
  3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 83.'
2. The following is inserted after Article 72:

#### *'Article 72a*

1. The Member States shall take all necessary measures to enable interested parties to prevent, on the terms stipulated in Articles 23 and 24 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, the use in the Community of a geographical indication attached to the products referred to in Article 1 (2) (b) for products not originating in the place indicated by a geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.  
For the purposes of this Article, "geographical indications" is taken to mean indications which identify a product as originating in the territory of a third country which is a member of the World Trade Organization or in a region or locality within that territory, in cases where a certain quality, reputation or other given characteristic of the product may be attributed essentially to that geographical place of origin.
  2. Paragraph 1 shall apply notwithstanding other specific provisions in Community legislation laying down rules for the designation and presentation of the products referred to in Article 1 (2) (b).
  3. Detailed rules for the application of this Article shall be adopted, if necessary, in accordance with the procedure laid down in Article 83.'
3. Annex VII is deleted.

II. *Council Regulation (EEC) No 344/79 of 5 February 1979 (OJ No L 54, 5. 3. 1979, p. 67)*

*Council Regulation (EEC) No 345/79 of 5 February 1979 (OJ No L 54, 5. 3. 1979, p. 69) as amended by Regulation (EEC) No 2009/81 (OJ No L 195, 18. 7. 1981, p. 6)*

The above Regulations are repealed.

## **ANNEX XVII TOBACCO**

*Council Regulation (EEC) No 2075/92 of 30 June 1992 (OJ No L 215, 30. 7. 1992, p. 70).*

Title IV is replaced by the following:

### **'TITLE IV Trade with third countries**

#### *Article 15*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.



#### *Article 16*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation.
2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:
  - (a) the levying of any charge having equivalent effect to a customs duty;
  - (b) the application of any quantitative restriction or measure having equivalent effect.

#### *Article 16a*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objective set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

### **ANNEX XVIII**

#### **HOPS**

*Council Regulation (EEC) No 1696/71 of 26 July 1971 (OJ No L 175, 4. 8. 1971, p. 1), as last amended by Regulation (EEC) No 3124/92 (OJ No L 313, 30. 10. 1992, p. 1).*

Title V is replaced by the following:

#### **'TITLE V**

#### **Trade with third countries**

#### *Article 14*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

#### *Article 15*

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation.
2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:
  - the levying of any charge having equivalent effect to a customs duty,
  - the application of any quantitative restriction or measure having equivalent effect.

#### *Article 15a*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objective set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance or disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

### *ANNEX XIX*

## **LIVE TREES AND OTHER PLANTS, BULBS, ROOTS AND THE LIKE, CUT FLOWERS AND ORNAMENTAL FOLIAGE**

I. *Council Regulation (EEC) No 234/68 of 27 February 1968 (OJ No L 55, 2. 3. 1968, p. 1), as last amended by Regulation (EEC) No 3336/92 (OJ No L 336, 20. 11. 1992, p. 1).*

Articles 8, 9 and 10 are replaced by the following:

#### *Article 8*

1. Imports into the Community, of any of the products listed in Article 1 may be subject to presentation of an import licence.

Licences shall be issued by the Member States to any applicant, irrespective of his place of establishment in the Community. Import licences shall be valid throughout the Community. Such licences shall be issued subject to the lodging of a security guaranteeing the products are imported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import is not carried out, or is only carried out partially, within that period.

2. The term of validity of licenses and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 14.

#### *Article 9*

Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

#### *Article 10*

1. The general rule for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

#### *Article 10a*

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 14.

5. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

II. *Council Regulation (EEC) No 3280/75 of 16 December 1975 (OJ No L 326, 18. 12. 1975, p. 4).*

The above Regulation is repealed.

## **ANNEX XX**

### **SEEDS**

I. *Council Regulation (EEC) No 2358/71 of 26 October 1971 (OJ No L 246, 5. 11. 1971, p. 1), as last amended by Regulation (EEC) No 3375/93 (OJ No L 303, 10. 12. 1993, p. 9).*

1. Articles 5, 6 and 7 are replaced by the following:

#### *'Article 5*

1. Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in Article 1.

2. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

#### *Article 6*

Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

### Article 7

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.

2. Article 8a is deleted.

II. *Council Regulation (EEC) No 1578/72 of 20 July 1972 (OJ No L 168, 26. 7. 1972, p. 1), as last amended by Regulation (EEC) No 1984/86 (OJ No L 171, 28. 6. 1986, p. 3).*

The above Regulation is repealed.

## ANNEX XXI MISCELLANEOUS REGULATIONS

I. *Council Regulation (EEC) No 827/68 of 28 June 1968 (OJ No L 151, 30. 6. 1968, p. 16), as last amended by Regulation (EEC) No 794/94 (OJ No L 92, 9. 4. 1994, p. 15).*

1. Articles 2 and 3 are replaced by the following:

### 'Article 2

1. Unless this Regulation provides otherwise, the rates of duty in the Common Customs Tariff shall apply to the products listed in the Annex.

2. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff. 3. Save as otherwise provide for in this Regulation or in provisions adopted pursuant thereto and subject to the obligations arising from international agreements concerning the products listed in the Annex, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

### Article 3

1. If, by reason of imports or exports, the Community market in one or more of the products listed in the Annex is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from agreements concluded in accordance with Article 228 (2) of the Treaty.'

2. Article 6 is replaced by the following:

*'Article 6*

Where reference is made to this Article, measures shall be adopted in accordance with the procedures laid down in Article 38 of Regulation No 136/66/EEC and the corresponding Articles of the other regulations on the common organization of agricultural markets.'

II. *Council Regulation (EEC) No 234/79 of 5 February 1979 (OJ No L 34, 9. 2. 1979, p. 2), as last amended by Regulation (EEC) No 3209/89 (OJ No L 312, 27. 10. 1989, p 5).*

Article 2 (2) is deleted.

**ANNEX XXII**  
**THE OUTERMOST REGIONS**

I. *Council Regulation (EEC) No 3763/91 of 16 December 1991 (OJ No L 356, 24. 12. 1991, p. 1) as amended by Regulation (EEC) No 3714/92 (OJ No L 378, 23. 12. 1992, p. 23).*

Article 2 (2) is amended as follows:

(a) In the first subparagraph, the part of the sentence which reads: 'The levies fixed pursuant to Article 13 (1) of Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals' is replaced by:

'The import duties provided for in the Common Customs Tariff'

(b) In the second paragraph, the words 'the levy (exemption)' are replaced by '(exemption from) import duty'.

II. *Council Regulation (EEC) No 1600/92 of 15 June 1992 (OJ No L 173, 27. 6. 1992, p. 1) as last amended by Regulation (EEC) No 3714/92 (OJ No L 378, 23. 12. 1992, p. 23).*

1. In Article 3 (1), the words 'Levies and/or' are deleted.

2. In Article 5 (1) (a), the words 'and/or levies referred to in Article 9 of Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal' are deleted.

3. In Article 7, the words 'the levy/and or' are deleted.

III. *Council Regulation (EEC) No 1601/92 of 15 June 1992 (OJ No L 173, 27. 6. 1992, p. 13) as amended by Regulation (EEC) No 3714/92 (OJ No L 378, 23. 12. 1992, p. 23).*

1. In Article 3 (1), the words 'Levies and/or' are deleted.

2. In Article 5 (1) (a), the words 'and/or levies referred to in Article 9 of Council Regulation (EEC) No 805/68' are deleted.