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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2467/98

of 3 November 1998

on the common organisation of the market in sheepmeat and goatmeat

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

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

(1) Whereas Council Regulation (EEC) 3013/89 of 25 September 1989 on the common organisation of the market in sheepmeat and goatmeat ⁽³⁾ has been frequently and substantially amended ⁽⁴⁾; whereas for reasons of clarity and rationality the said Regulation should therefore be codified;

(2) Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy involving common organisation of the agricultural markets; whereas the form of such organisation may vary from one product to another;

(3) Whereas, in order to attain the objectives set out in Article 39 of the Treaty, in particular market

stability and a fair standard of living for the agricultural community concerned, it is necessary to retain certain arrangements facilitating adjustment of supply to market requirements; whereas, in particular, Community sheepmeat and goatmeat producers should continue to be granted a premium to compensate for loss of income, and intervention measures should be continued;

(4) Whereas provision should be made for the fixing of a basic price at which intervention measures will come into operation and which will protect the Community market against price fluctuations on the world market for certain products in the sector;

(5) Whereas the amount of the premium to be granted to producers, determined on the basis of a Community single income loss, must take account of the different specialisations of production systems in the Community; whereas, in order to limit any increase in the budget cost in this sector, provision should be made for limiting the full rate of the premium to 1 000 animals per producer in the less-favoured areas within the meaning of Directive 75/268/EEC ⁽⁵⁾ and to 500 animals per producer in other areas; whereas, above these figures, the premium will continue to be paid at the reduced level of 50 %;

(6) Whereas it is opportune for administrative purposes that the latest date for the payment of the premium should coincide with the end of the budgetary year;

⁽¹⁾ OJ C 313, 12.10.1998.

⁽²⁾ OJ C 214, 10.7.1998, p. 72.

⁽³⁾ OJ L 289, 7.10.1989, p. 1. Regulation as last amended by Regulation (EC) No 1589/96 (OJ L 206, 16.8.1996, p. 25).

⁽⁴⁾ See Annex II, Part B.

⁽⁵⁾ OJ L 128, 19.5.1975, p. 1. Directive replaced by Regulation (EC) No 950/97 (OJ L 142, 2.6.1997, p. 1).

- (7) Whereas the upward trend in ewe numbers in the Community and the resulting substantial drop in prices are having serious repercussions on the market balance; whereas, while being partly curbed by the various measures, in particular as regards prices and stabilisers, this trend has nevertheless resulted in an increase in production and in EAGGF expenditure;
- (8) Whereas, subject to special provisions applicable to producer groups, an individual limit should be imposed on each producer, based on the total premiums granted for the 1991 marketing year to each producer;
- (9) Whereas, in order to take account of trends in production throughout the Community, this total should however be multiplied by a coefficient established for each Member State and representing the ratio between the total number of ewes eligible at the beginning of 1989, 1990 or 1991 and the total number of eligible animals conferring entitlement to the premium for the 1991 marketing year; whereas, however, special provisions should be adopted for Germany in order to take account of certain specific problems in the new *Länder*;
- (10) Whereas new producers and existing producers whose reference flocks are not in line with the normal trend in ewe numbers should not be excluded from entitlement to the premium; whereas, to that end, provision should be made for a national reserve made up initially of a flat-rate levy on the individual limits of all producers; whereas provision should be made to increase the reserve in less-favoured areas;
- (11) Whereas changes in production may be made necessary by possible alterations to the assets or production capacity of recipients; whereas, therefore, provision should be made that entitlements to the premium acquired in respect of individual limits may be transferred under certain conditions to other producers; whereas, in order to make the system of transfer as flexible as possible, it is appropriate to allow the transfer of rights to take place also without the transfer of the holding; whereas it is appropriate to submit the transfer to rules which allow some rights to be surrendered, without payment to the national reserve in order that it can provide, in particular, rights for new entrants;
- (12) Whereas, in order to take account of the fact that producers should be permitted to reduce their production for a limited period, it is appropriate to authorise the Member States to provide the option of a temporary transfer of premium rights;
- (13) Whereas it is opportune to establish a link between sensitive zones or localities and the production of sheep and goats so as to ensure the maintenance of this production especially in areas where there is no other alternative;
- (14) Whereas the individual ceiling placed on the premium per producer leads to a limitation of the number of eligible ewes and goats;
- (15) Whereas this measure renders nugatory limits per head for the purpose of determining the amount of premiums to be paid in the sector, without affecting the right to premiums which producers already enjoy; whereas, therefore, provision should be made for the possibility of rectifying individual limits;
- (16) Whereas the grant of an individual limit per producer for obtaining the right to the premium may give rise to administrative difficulties in the case of certain groups of producers, in particular family groups, during the transfer of premium rights between members of the said groups; whereas, therefore, for reasons of correct administration, provision should be made for certain groups to be exempted, under certain conditions, from payment to the national reserve of the percentage of rights provided for in the case of a transfer of rights without transfer of holding; whereas that provision should not lead to an increase in individual rights currently allocated in each Member State, nor give rise to the formation of new producer groups created with the sole aim of avoiding payment to the national reserve of the percentage of rights provided for in the case of a transfer of rights without transfer of holding;
- (17) Whereas the individual limit was established on the basis of the total amount of premiums granted for the 1991 marketing year for each producer; whereas in Italy and in Greece, because that marketing year was a year of transition between two different premium systems, a number of producers were not able to submit an application for a premium for the 1991 marketing year for the number of eligible animals they held; whereas, in order to remedy this situation, special reserves

should be created for Italy and for Greece corresponding to the estimated maximum number of rights which the producers concerned were unable to claim; whereas the competent authorities of those two Member States should initially be allowed to grant new rights up to the limit of the special reserve referred to above and then, subject to verification by the Commission of the correct allocation of the rights granted, in particular in the regions most affected, the national reserves will be increased for Italy and Greece by the sum of the rights newly granted with effect from the 1995 marketing year;

(18) Whereas it is necessary to clarify the conditions under which special provisions may be adopted by Germany in order to take account of the specific problems which remain in the new *Länder*;

(19) Whereas, in order to effect a smooth passage from the current provisions in the territories of the new German *Länder* to the premium regime applicable in the rest of the Community, certain temporary measures may be found to be necessary;

(20) Whereas, within the framework of the production of sheepmeat and goatmeat, environmental protection has become an important element which must be taken into consideration; whereas Member States should thus have the possibility of limiting or abolishing payments under the premium regime for producers of sheepmeat and goatmeat, if the producer in question does not fully comply with the rules fixed by the Member States with respect to the environment, subject to compliance with the proportionality principle;

(21) Whereas, as regards intervention measures, provision should be made for them to take the form of private storage aid, which least affects normal marketing of products;

(22) Whereas, as a general rule, whenever certain market price criteria are met the decision to grant private storage aid should be taken in the context of a tendering procedure; whereas however, that private storage aid could be made more effective if the amount of the aid is fixed in advance, where urgent recourse to private storage proves necessary in the light of a particularly difficult market

situation in one or more quotation areas; whereas it is therefore necessary to authorise the Commission to carry out advance fixing of the aid where such a market situation has arisen, even if the market price criteria referred to above have not been met;

(23) Whereas the purpose of the abovementioned premium is to ensure a fair return for producers; whereas, however, in view of the possibilities for disposal on the Community market and the Community's international commitments, production of sheepmeat and goatmeat should no longer be encouraged once the Community flock exceeds a certain level established in the light of the market situation; whereas to that end provision should be made for reducing the degree of guarantee afforded by the measures in question; whereas the maximum guaranteed level should be fixed at that which obtained for ewes on 31 December 1987 in the regions concerned and provision should be made for its eventual revision;

(24) Whereas the introduction of individual limits by producers for the granting of the premium by maintaining flock numbers at their existing level, should reduce very appreciably the risk of budgetary overspending; whereas, in these circumstances, the coefficient for reducing the basic price referred to in Article 13(2) of this Regulation should be fixed at the level adopted for the 1990 marketing year;

(25) Whereas trade arrangements, in combination with price arrangements, premiums and intervention arrangements and containing a system of import duties, should serve to stabilise the Community market; whereas this trading arrangement is based on the agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations, hereinafter referred to as the 'GATT Agreement'.

(26) Whereas the competent authorities should be placed in a position to follow trade developments constantly in order to appraise market developments and, when necessary, the possible application of measures provided for in this Regulation; whereas, to that end, provision should be made for issuing import licences and, where appropriate, the corresponding export licences providing a guarantee to ensure the fulfilment of dealings for which the licences are sought;

- (27) Whereas in order to prevent or counteract adverse effects on the market in the Community due to the importation of certain agricultural products, the importation of one or more of these products must be subject to additional import duties if certain conditions are fulfilled;
- (28) Whereas under certain conditions, the Commission should be empowered to open and administer tariff quotas arising under the GATT Agreement;
- (29) Whereas, in addition to the system described above, provision should be made to the extent necessary for its proper working, prohibiting in whole or in part, when the situation on the market so requires, the use of inward or outward processing arrangements;
- (30) Whereas the customs duty arrangements make it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the mechanism of common prices, customs duties and levies may, in exceptional circumstances, prove defective; whereas in such cases, so as not to leave the Community market without defence against disturbances that may consequently arise, the import barriers that previously existed having been removed, the Community should be able to take all necessary measures without delay; whereas these measures must be in conformity with the obligations arising from the GATT Agreement;
- (31) Whereas there are provisions for the possibility of measures to be taken when a substantial price rise disturbs or threatens to disturb the Community market; whereas the situation on the market demands that such provision be extended to cover the case of a substantial fall in prices;
- (32) Whereas restrictions on free movement resulting from the application of measures intended to prevent the spread of animal diseases may cause difficulties on the market of one or more Member States; whereas provisions should be made for the introduction of exceptional market support measures in order to remedy such situations;
- (33) Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between the Member States and the Commission within a management committee;
- (34) Whereas the common organisation of the market in sheepmeat and goatmeat must take appropriate account of the objectives set out in both Article 39 and Article 110 of the Treaty;
- (35) Whereas the proper working of the internal market based on a common price system would be jeopardised by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aid granted by Member States and the prohibition of that which is incompatible with the common market should be made to apply to sheepmeat and goatmeat;
- (36) Whereas expenditure incurred by the Member States in carrying out obligations under this Regulation falls to the Community in accordance with Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Scope

Article 1

The common organisation of the market in sheepmeat and goatmeat shall comprise a price system and trading system and cover the following products.

⁽¹⁾ OJ L 94, 28.4.1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ L 125, 8.6.1995, p. 1.

CN code	Description
(a) 0104 10 30	Lambs (up to a year old)
0104 10 80	Live other sheep other than pure-bred breeding animals
0104 20 90	Live goats other than pure-bred breeding animals
0204	Meat of sheep or goats, fresh, chilled or frozen
0210 90 11	Meat of sheep and goats, with bone in, salted, in brine, dried or smoked
0210 90 19	Meat of sheep and goats, boneless, salted, in brine, dried or smoked
(b) 0104 10 10	Live sheep — pure-bred breeding animals
0104 20 10	Live goats — pure-bred breeding animals
0206 80 99	Edible offal of sheep and goats, fresh or chilled, other than for the manufacture of pharmaceutical products
0206 90 99	Edible offal of sheep and goats, frozen, other than for the manufacture of pharmaceutical products
0210 90 60	Edible offal of sheep and goats, salted, in brine, dried or smoked
ex 1502 00 90	Fats of sheep or goats, other than those in No 1503
(c) 1602 90 72 1602 90 74	Other prepared or preserved meat of offal of sheep or goats, uncooked; mixtures of cooked and uncooked meat or offal
(d) 1602 90 76 1602 90 78	Other prepared or preserved offal of sheep or goats

CHAPTER II

Price, premium and intervention arrangements*Article 2*

In order to encourage action by trade and joint trade organisations to facilitate the adjustment of supply to market requirements, the following Community measures may be taken in respect of the products listed in Article 1:

- (a) measures to improve sheep and goat farming;
- (b) measures to promote better organisation of production, processing and marketing;
- (c) measures to improve quality;
- (d) measures to permit the establishment of short- and long-term forecasts on the basis of the means of production used;

- (e) measures to facilitate the recording of market price trends.

General rules concerning these measures shall be adopted in accordance with the procedure laid down in Article 43(2) of the Treaty.

Article 3

1. In accordance with the procedure laid down in Article 43(2) of the Treaty, a basic price shall be fixed annually, for the following marketing year, for fresh and chilled sheep carcasses.

2. When the basic price is fixed, account shall be taken in particular of:

- (a) the situation on the sheepmeat market during the current year;
- (b) the prospects for the production and consumption of sheepmeat;
- (c) sheepmeat production costs;

- (d) the market situation in the other livestock product sectors, particularly the beef and veal sector;
- (e) past experience.

The Council, acting by a qualified majority on a proposal from the Commission, shall fix seasonally adjusted basic prices to take account of the normal seasonal variations on the Community market in sheepmeat.

3. Save where a decision to the contrary is taken by the Council, acting by a qualified majority on a proposal from the Commission, the marketing year shall begin on the first Monday in January and shall end on the day preceding that day in the following year.

Article 4

1. A weekly average weighted price for the carcasses of sheep, fresh or chilled, on the representative Community markets shall be established on the basis of the prices recorded on the representative market or markets of each quotation area for the Community standard quality of fresh or chilled sheep carcasses, account being taken of the relative volume of total sheepmeat production in each quotation area.

Quotation area shall mean:

- Great Britain,
- Northern Ireland,
- every other Member State taken separately.

2. The Community quotation for the standard quality referred to in paragraph 1 shall be the most widespread production, on average throughout the Community, for flocks specialised in the production of sheepmeat which produce heavy lambs.

The Council, acting by a qualified majority on a Commission proposal:

- shall determine the standard quality,
- shall lay down a definition of lambs which are fattened as heavy carcasses.

3. A producer of light lambs is to be understood as any sheep farmer marketing sheep's milk products based on sheep's milk. All other sheep farmers are to be understood as producers of heavy lambs.

4. Member States shall introduce, to the Commission's satisfaction and by the 1991 marketing year at the latest, a mechanism for differentiating between producers of heavy lambs and producers of light lambs.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 25.

Article 5

1. To the extent necessary to offset an income loss by sheepmeat producers in the Community during a marketing year, a premium shall be granted.

To this end, a single income loss shall be determined which shall be deemed to be any difference, per 100 kilograms carcass weight, between the basic price referred to in Article 3(1) and the arithmetic mean of the weekly market prices recorded in accordance with Article 4.

2. The premium payable per ewe to the producers of heavy lambs referred to in Article 4(3) shall be obtained by multiplying the income loss referred to in paragraph 1 of this Article by a coefficient expressing for the Community as a whole the annual average production of meat from heavy lambs per ewe producing such lambs, expressed per 100 kilograms carcass weight.

3. The amount of the premium payable per ewe to the producers of light lambs referred to in Article 4(3) shall be obtained by multiplying the income loss referred to in paragraph 1 of this Article by a coefficient representing 80 % of the coefficient determined in accordance with the provisions of paragraph 2 of this Article.

4. Each producer shall receive the premium calculated for the category in which he is classified. However, a producer marketing sheep's milk or sheep's milk products will, if he can prove that at least 40 % of the lambs born on his holding have been fattened as heavy carcasses with a view to their slaughter, be able, at his request, to receive the premium for the heavy category, in proportion with the number of lambs born on his holding which are fattened as heavy carcasses.

5. To offset an income loss by goatmeat producers, a premium shall be granted:

- (a) firstly, in the areas indicated in Annex I;
- (b) secondly, in the mountain and hill areas within the meaning of Article 23(1) of Council Regulation (EC) No 950/97 of 20 May 1997 on improving the efficiency of agricultural structures⁽¹⁾, other than the areas indicated in Annex I to this Regulation, provided that it is established following the procedure laid down in Article 25 that the production of those areas meets the following two criteria:

⁽¹⁾ OJ L 142, 2.6.1997, p. 1.

- goat rearing is mainly directed towards the production of goatmeat,
- goat and sheep rearing techniques are similar in nature.

The premium payable per she-goat shall be 80 % of the amount per ewe in accordance with paragraph 2.

6. Before the end of each half-year, the Commission shall — in accordance with the procedure laid down in Article 25 — assess the foreseeable income loss for the entire marketing year and the foreseeable amount of the premium.

On the basis of this estimated income loss, the Member States shall be authorised to pay all their producers a half-yearly advance payment of 30 % of the expected premium.

Member States may make provision for these two advance payments to take the form of a single payment to producers as of the end of the second half-year.

The amount of the final premium shall be determined without delay after the end of the marketing year in question and not later than 31 March. Before 15 October of the same year, any balance, where appropriate, shall be paid.

Premiums shall be paid to recipient producers on the basis of the number of ewes and/or she-goats kept on their holding over a minimum period to be determined in accordance with the procedure laid down in Article 25.

7. Until the end of the 1994 marketing year premiums for producers of sheepmeat and goatmeat referred to in this Article shall be paid at the full rate within the limit of 1 000 animals per producer in the less-favoured areas within the meaning of Article 3(3), (4) and (5) of Directive 75/268/EEC and within the limit of 500 animals in other areas.

Outside the limits indicated in the first subparagraph, the premiums payable shall until the end of the 1994 marketing year, be fixed at 50 % of the amount to be calculated.

In the case of groups, associations or other forms of cooperation between producers, the limits indicated in the first subparagraph shall be applied individually to each of the member farmers.

8. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for implementing this Article, and in particular shall define which producers may receive the premium and for

which ewes, and in the areas specified in paragraph 5, for which goats.

The Council, by the same procedure:

- may extend the premium to certain mountain-breed ewes raised in precisely defined areas presenting particularly difficult production conditions that do not qualify as eligible ewes: in such cases the premium payable shall be 70 % of that for eligible ewes in accordance with paragraph 2,
- may specify that the premium is to be granted only to producers keeping a minimum number of ewes or, in the case of the areas specified in paragraph 5, a minimum number of ewes and/or she-goats.

9. The Commission, acting in accordance with the procedure laid down in Article 25:

- shall fix as appropriate the premium payable per ewe to the producers specified in paragraphs 2 and 3 per mountain-breed female within the meaning of paragraph 8 and per she-goat in the areas specified in paragraph 5,
- shall fix for the duration of each marketing year the coefficients referred to in paragraph 2,
- shall adopt implementing rules for this Article covering, in particular, the submission of premium applications and payment of the premium.

10. Expenditure under the arrangements provided for in this Article shall be deemed to form part of intervention for the purpose of stabilising agricultural markets.

Article 6

1. An individual limit per producer is hereby introduced in respect of the grant of the premium provided for in Article 5.

In the case of producers who have been granted the premium prior to the 1992 marketing year, the premium shall be paid for the 1993 marketing year and subsequent years within the limits of the number of animals for which the premium has been paid for the 1991 marketing year, such number being multiplied by the coefficient referred to in paragraph 5.

However, where this coefficient is higher than one, Member States may decide to use, in whole or in part, the additional number of rights to the premium resulting therefrom in order to stock the national reserve referred to in Article 7(1).

These limits shall be reduced in such a way as to enable the national reserve referred to in Article 7(1) to be constituted.

2. In the case of natural circumstances which led to a non-payment or to a reduced payment of the premium for the 1991 marketing year, the number of animals corresponding to the payments made during the most recent marketing year shall be used. In the case of non-payment of the premium or of reduced payment for the 1991 marketing year, as a result of the imposition of penalties provided for to that end, the number recorded during the check which gave rise to those penalties shall be used.

3. In the case of groups, associations or other forms of cooperation between producers, the limits laid down in paragraph 1 shall be applied individually to each associate member in accordance with the following rule:

- (a) where the group has notified the competent authority of the formula for apportioning livestock referred to in Article 2(2) of Commission Regulation (EEC) No 2385/91 ⁽¹⁾ in respect of the 1991 marketing year, in accordance with Article 4 of that Regulation, those limits shall be fixed for each producer member using that formula as a basis;
- (b) where the group has not notified the competent authority of the formula for apportionment referred to in (a) in respect of the 1991 marketing year, the premium shall be paid to the group in respect of not more than the number of animals for which it was granted to the group for the 1991 marketing year, in accordance with the rules laid down in paragraph 1. An individual limit shall be fixed for each producer member in respect of the 1993 marketing year, in accordance with the allocation formula communicated by the group.

In the event of subsequent changes in the membership of the group, account shall be taken, when the premium is paid to the group, of the individual limit of each producer member who has joined or left the group.

4. Entitlement to the premium shall be subject to the following rules:

- (a) the right to premium attaches to producers who have been granted the premium in respect of the 1991 marketing year and who have also applied for a premium, under the 1992 marketing year;

- (b) when a producer sells or otherwise transfers his holding, he may transfer all his premium rights to the person who takes over his holding.

He may also transfer, in whole or in part, his rights to other producers without transferring his holding. According to the procedure provided for in Article 25, the Commission may draw up specific rules relating to the minimum number which could form the subject of the partial transfer.

In the case of a transfer without transfer of the holding, a part of the premium rights transferred, not exceeding 15 %, shall be surrendered without compensation to the national reserve of the Member State where his holding is situated for free distribution to new entrants or other priority producers referred to in Article 7(2).

However, with effect from the 1995 marketing year the third subparagraph shall not apply to groups of producers, in the case of a transfer of rights between member of the same group of producers meeting conditions to be determined by the Commission in accordance with the procedure provided for in Article 25.

These conditions should take into account at least:

- the status of the group members,
- the length of time members have belonged to and participated in the group,
- the composition of the group,

to the extent necessary not to jeopardise the application of the third subparagraph;

- (c) Member States:

- must take the necessary measures to avoid premium rights being moved away from sensitive zones or regions where sheep production is especially important for the local economy,
- may provide either that the transfer of the rights without transfer of the holding is carried out directly between the producers or that it is carried out through the intermediary of the national reserve;

- (d) Member States may authorise, before a date to be fixed, temporary leases of that part of the premium rights which the producer who is entitled thereto does not intend to use;

- (e) entitlement to the premium transferred or temporarily leased to a producer shall be aggregated with that originally granted to him;

⁽¹⁾ OJ L 219, 7.8.1991, p. 15. Regulation as last amended by Regulation (EC) No 2143/96 (OJ L 286, 8.11.1996, p. 10).

(f) the Commission shall lay down the detailed rules for implementing this paragraph in accordance with the procedure provided for in Article 25, and in particular those rules which enable Member States to determine, bearing in mind the structure of their flocks, the reduction referred to in paragraph 1 and those enabling Member States to resolve specific problems linked to the transfer of premium rights by producers who do not own the areas on which their holdings are situated.

5. For the purpose of applying paragraph 1, Member States shall establish a single coefficient representing the ratio between:

- (a) the total number of eligible animals conferring entitlement to the premium present at the beginning of one of the 1989, 1990 or 1991 marketing years on the holdings of beneficiaries; and
- (b) the total number of eligible animals conferring entitlement to the premium for the 1991 marketing year.

Member States shall inform the Commission before 31 October 1992 of the year which they have chosen for the purpose of point (a).

6. Member States shall recalculate the individual limits in such a way that quantities above the limits of 500 and 1 000 animals referred to in Article 5(7) are reduced by 50 %. These recalculated limits shall apply with effect from the 1995 marketing year.

Article 7

1. Each Member State shall establish an initial national reserve equal to at least 1 % and at most 3 % of the sum of the individual limits applicable to producers whose holdings are situated in its territory. The national reserve shall also receive the entitlements pursuant to Article 6(4)(b).

For Germany, the initial national reserve shall be calculated on the basis of the total number of the sum of the individual limits applicable to producers whose holdings are situated in the former German *Länder*. This reserve concerns only those producers.

In addition, for Italy and Greece a special reserve with a ceiling of 600 000 rights for each of those two Member States shall be established to permit the granting of additional rights to producers affected by the fact that the changes in the conditions of eligibility of animals for the premium and the introduction of individual limits on the guarantee per producer based on the number of

premiums paid for the marketing year both occurred in 1991.

The Commission shall verify that the allocation of the additional rights to be provided is to be limited to the producers concerned and that those producers do not ultimately obtain more rights than would have been granted to them if the situation referred to in the third subparagraph had not occurred.

Subject to that verification and within the limit of the special reserve referred to in the third subparagraph, the national reserve established pursuant to this Article shall be increased by an amount corresponding to the sum of the additional rights to be granted; that increase shall not affect the additional reserve referred to in paragraph 3.

2. Member States shall use their national reserves to grant, within the limits of the reserves, entitlements to the following producers in particular:

- (a) producers who have submitted an application for a premium prior to the 1992 marketing year and who have shown, to the satisfaction of the competent authority, that the application of the limits, pursuant to Article 6, would jeopardise the viability of their holdings, taking into consideration the implementation of an investment programme in the sheep and goat sector drawn up before 1 January 1993;
- (b) producers who have submitted, in respect of the 1991 marketing year, an application for a premium which, owing to exceptional circumstances, does not correspond to the true situation as ascertained in previous marketing years;
- (c) producers who have regularly submitted an application for a premium without having submitted an application in respect of the 1991 marketing year;
- (d) producers who submit an application for a premium for the first time in the 1993 or subsequent marketing years;
- (e) producers who have acquired part of an area formerly used for sheep and/or goat production by other producers.

3. An additional reserve shall be created equal to 1 % of the sum of the limits of individual producers in the less-favoured areas of each Member State; this reserve shall be allocated exclusively to producers in these same areas in accordance with criteria to be defined by Member States.

For Germany, the additional reserve shall be equal to 1 % of the sum of the individual limits applicable to producers whose holdings are situated in the less-favoured areas of the former German *Länder*. This reserve concerns only those producers.

4. Without prejudice to Article 6(4)(f), detailed rules for the application of Article 6 and this Article shall be laid down in accordance with the procedure provided for in Article 25.

In accordance with the same procedure measures applicable in cases where the national reserve in a Member State is not allocated shall be adopted.

Article 8

1. By way of derogation from Article 6(1), for the new *Länder* of Germany:

- (a) a regional ceiling of one million eligible animals shall be fixed;
- (b) Germany shall determine the conditions for the distribution of this ceiling and its regional breakdown.

2. In the territories of the new German *Länder*, not later than the marketing year 2000, Germany shall apply the provisions on individual limits applicable in the rest of the Community, subject to the provisions of this Article.

Germany shall notify the producers of their individual limit per producer, in respect of the granting of the premium provided for in Article 5. The individual producer limit shall be determined on the basis of the number of ewes for which premium was paid in the marketing year preceding the year in which notification to producers of their individual limits was made.

3. In the case of natural circumstances which led to a non-payment or to a reduced payment for the reference year, the number of animals corresponding to the payments made during the most recent marketing year shall be used. In the case of non-payment of the premium or of reduced payment for the reference year, as a result of the imposition of penalties provided for to that end, the number recorded during the check which gave rise to those penalties shall be used.

4. In the event that the sum of the individual limits of producers whose holdings are situated in the new German *Länder* is less than the regional ceiling fixed for this territory, the remaining rights shall be added to the German national reserve, referred to in Article 7(1). The new reserve thus constituted shall be applicable in the entire German territory.

5. The Commission shall lay down, if necessary, the detailed rules for implementing this Article in accordance with the procedure provided for in Article 25.

Article 9

Member States may apply appropriate environmental protection measures on the basis of the specific situation of the land used for the production of sheep and goats eligible for benefit under the premium scheme.

Member States which avail themselves of this possibility shall impose penalties appropriate to and commensurate with the seriousness of the ecological consequences of any breach of these measures. Such penalties may provide for the reduction or, where necessary, the abolition of the benefits linked to the respective premium schemes. Member States shall inform the Commission of the measures they take pursuant to this Article.

Article 10

1. By way of derogation from Article 6(1), (2), (3), (4)(a), (5) and (6), an overall ceiling for the granting of the premium referred to in Article 5 shall be set for Austria, Finland and Sweden. The total number of entitlements within that ceiling shall be set at:

- 205 651 for Austria,
- 80 000 for Finland,
- 180 000 for Sweden.

These figures include both the quantities to be allocated initially and any reserve established by these Member States.

2. On the basis of the ceilings set out in paragraph 1 individual limits shall be assigned to producers in Austria, Finland and Sweden, at the latest on:

- 31 December 1996 for Austria,
- 31 December 1995 for Finland and Sweden.

3. The Commission shall adopt detailed implementing rules for this Article, and in particular the necessary adjusting and transitional measures, in accordance with the procedure laid down in Article 25.

Article 11

Intervention measures may take the form of private storage aid for carcasses of lambs and cuts thereof.

Article 12

1. Where:

- the price established in accordance with Article 4 on the one hand, and
- the market price in a quotation area referred to in Article 4(1) on the other hand,

are lower than 90 % of the seasonally adjusted basic price referred to in Article 3(2) and if they are likely to remain so, a decision may be taken to grant private storage aid as provided for in Article 11 to the quotation area concerned.

2. Where:

- the price established in accordance with Article 4, on the one hand, and
- the market price in a quotation area, on the other hand,

are less than 70 % of the seasonally adjusted basic price and are likely to remain at that level, the private storage aid provided for in Article 11 may be brought in for the quotation area in question. In this case, aid shall be introduced in the framework of a tendering procedure.

However, it may be decided to grant aid in the framework of an advance fixing procedure where urgent recourse to private storage proves necessary in the light of a particularly difficult market situation in one or more quotation areas. In such cases, this procedure may only be applied to those quotation areas where such a market situation has been established.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article.

4. The procedure laid down in Article 25 shall be used to determine:

- (a) the products and product qualities admitted for private storage;
- (b) initiation of action under paragraphs 1 and 2;
- (c) the private storage aid, the quantities accepted and termination of the period in respect of which aid may be granted;
- (d) other rules for the implementation of this Article, in particular the circumstances in which the intervention measures will be applied.

Article 13

1. The maximum guaranteed level is hereby fixed at 63 400 000 head of ewes.

2. For each marketing year:

- if the estimate of ewe numbers for the marketing year exceeds the maximum guaranteed level for that year, the premium provided for in Article 5 shall be reduced for both ewes and she-goats by the effect on the basic price of a coefficient representing a reduction of 1 % for each 1 % by which the maximum guaranteed level is extended,
- where the mechanism provided for in the first indent, applied to the actual ewe numbers recorded for the preceding marketing year, leads to a premium different from that calculated, the correction shall be made at the time of fixing the definitive premium for ewes for the marketing year in question or, failing that, shall be included in the calculation of the premium for the following marketing year.

When the ewe herd is estimated, no account shall be taken of the number of ewes bred in the territory of the former German Democratic Republic.

3. Detailed rules for the application of this Article, and in particular the coefficient and the premium referred to in paragraph 2, shall be adopted in accordance with the procedure laid down in Article 25.

4. However, from the 1993 marketing year, the coefficient for reducing the basic price referred to in paragraph 2 shall be 7 %.

CHAPTER III

Trade with third countries*Article 14*

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 17.

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 25.

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.

Article 16

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 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 which are forwarded by the Community to the World Trade Organisation.

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 25. 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 17

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 25.

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

- (a) method based on chronological order of the lodgement of applications ('first-come, first served' principle);
- (b) method of distribution in proportion to the quantities requested when the applications were lodged (using the 'simultaneous examination method');
- (c) method based on taking traditional trade patterns into account (using the 'traditional/new arrival 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 multilateral 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 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 18

1. To the extent necessary for the proper working of the common organisation of the market in sheepmeat and goatmeat 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. 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 19

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 Custom 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:

- (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. 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 jeopardise 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.

CHAPTER IV

General provisions

Article 21

In order to take account of any restrictions on free movement which might result from the application of measures to prevent the spread of animal diseases, exceptional measures to support any market affected by such restrictions may be taken under the procedure laid down in Article 25, but only to the extent that and for such period as is strictly necessary for the support of that market.

Article 22

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the production of, and trade in, the products listed in Article 1 of this Regulation.

Article 23

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation.

Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 25.

Article 24

A Management Committee for Sheep and Goats (hereinafter called 'the Committee') is hereby set up, consisting of representatives of the Member States with a representative of the Commission as chairman.

Article 25

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in

accordance with the opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may, for not more than one month from the date of such communication, defer application of the measures which it has adopted.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 26

The Committee may consider any other question referred to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 27

This Regulation shall be so applied that appropriate account is taken of the objectives set out in both Article 39 and Article 110 of the Treaty.

Article 28

Annex I may be amended by the Council, acting by a qualified majority on a proposal from the Commission.

Article 29

Regulation (EEC) No 3013/89 is hereby repealed.

References to the said Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table set out in Part A of Annex II.

Article 30

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

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

Done at Brussels, 3 November 1998.

For the Council

The President

B. PRAMMER

ANNEX I

1. FRANCE: Corsica.
 2. GREECE: the whole country.
 3. ITALY: Lazio, Abruzzo, Molise, Campania, Apulia, Basilicata, Calabria, Sicily and Sardinia.
 4. SPAIN: the autonomous communities of Andalusia, Aragon, the Balearic Islands, Castile-La Mancha, Castile-Leon, Catalonia, Extremadura, Galicia (with the exception of the provinces of Coruña and Lugo), Madrid, Murcia, La Rioja, Comunidad Valenciana and the Canary Islands.
 5. PORTUGAL: the whole country, with the exception of the Azores and Madeira.
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ANNEX II

Part A

CORRELATION TABLE

Regulation (EEC) No 3013/89	This Regulation
—	CHAPTER I
Article 1	Article 1
—	CHAPTER II
Article 2	Article 2
Title I	—
Article 3	Article 3
Article 4	Article 4
Article 5(1) to (4)	Article 5(1) to (4)
Article 5(5), first subparagraph, first indent	Article 5(5), first subparagraph, (a)
Article 5(5), first subparagraph, second indent	Article 5(5), first subparagraph, (b)
Article 5(5), first subparagraph, second indent, (a)	Article 5(5), first subparagraph, (b), first indent
Article 5(5), first subparagraph, second indent, (b)	Article 5(5), first subparagraph, (b), second indent
Article 5(5), second subparagraph	Article 5(5), second subparagraph
Article 5(6) to (10)	Article 5(6) to (10)
Article 5a(1), (2) and (3)	Article 6(1), (2) and (3)
Article 5a(4)(a) to (d)	Article 6(4) introductory phrase and points (a) to (d)
Article 5a(4)(e), first subparagraph	Article 6(4)(e)
Article 5a(4)(e), second subparagraph	—
Article 5a(4)(f)	Article 6(4)(f)
Article 5a(5)	Article 6(5)
Article 5a(6)	Article 6(6)
Article 5b(1), first subparagraph	Article 7(1), first subparagraph
Article 5b(1), second subparagraph	Article 7(1), second subparagraph
Article 5b(1), third subparagraph	Article 7(1), third subparagraph
Article 5b(1), fourth subparagraph	—
Article 5b(1), fifth subparagraph	—
Article 5b(1), sixth subparagraph, first part of sentence	—
Article 5b(1), sixth subparagraph, the part of the sentence starting from the second comma	Article 7(1), fourth subparagraph
Article 5b(1), seventh subparagraph	Article 7(1), fifth subparagraph
Article 5b(2)	Article 7(2)
Article 5b(3)	Article 7(3)
Article 5b(4), first subparagraph	Article 7(4), first subparagraph
Article 5b(4), second subparagraph, first indent	Article 7(4), second subparagraph
Article 5b(4), second subparagraph, second indent	—

Regulation (EEC) No 3013/89	This Regulation
Article 5b(5)	—
Article 5c	Article 8
Article 5d	Article 9
Article 5e	Article 10
Articles 6, 7 and 8	Articles 11, 12 and 13
Title II	CHAPTER III
Articles 9, 10 and 11	Articles 14, 15 and 16
Article 12(1)	Article 17(1)
Article 12(2), first subparagraph, first indent	Article 17(2), first subparagraph, point (a)
Article 12(2), first subparagraph, second indent	Article 17(2), first subparagraph, point (b)
Article 12(2), first subparagraph, third indent	Article 17(2), first subparagraph, point (c)
Article 12(2), second subparagraph	Article 17(2), second subparagraph
Article 12(2), third subparagraph	Article 17(2), third subparagraph
Article 12(3)	Article 17(3)
Article 12(4)	Article 17(4)
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Article 14(1)	Article 19(1)
Article 14(2), first indent	Article 19(2), point (a)
Article 14(2), second indent	Article 19(2), point (b)
Article 15	Article 20
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Articles 21 to 25	—
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Article 29(1)	Article 24
Article 29(2)	—
Article 30	Article 25
Article 31	Article 26
Article 32	Article 27
Article 33	Article 28
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—	Article 30
Annex I	Annex I
—	Annex II

Part B

REGULATIONS AMENDING REGULATION (EEC) No 3013/89

	<i>No</i>	<i>Official Journal page</i>	<i>date</i>
Council Regulation (EEC) No 3577/90 of 4 December 1990	L 353	23	17.12.1990
Council Regulation (EEC) No 1741/91 of 13 June 1991	L 163	41	26.6.1991
Council Regulation (EEC) No 1601/92 of 15 June 1992	L 173	13	27.6.1992
Council Regulation (EEC) No 2069/92 of 30 June 1992	L 215	59	30.7.1992
Commission Regulation (EEC) No 3890/92 of 28 December 1992	L 391	51	31.12.1992
Council Regulation (EEC) No 363/93 of 10 February 1993	L 42	1	19.2.1993
Council Regulation (EC) No 233/94 of 24 January 1994	L 30	9	3.2.1994
Commission Regulation (EC) No 1096/94 of 11 May 1994	L 121	9	12.5.1994
Council Regulation (EC) No 1886/94 of 27 July 1994	L 197	30	30.7.1994
Council Regulation (EC) No 3290/94 of 22 December 1994	L 349	105	31.12.1994
Council Regulation (EC) No 1265/95 of 29 May 1995	L 123	1	3.6.1995
Council Regulation (EC) No 1589/96 of 30 July 1996	L 206	25	16.8.1996
