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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3090/91**of 21 October 1991****extending the period of application of the provisional anti-dumping duty on imports of dihydrostreptomycin originating in the People's Republic of China**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 11 (5) thereof,

Having regard to the proposal from the Commission,

Whereas Commission Regulation (EEC) No 2054/91⁽²⁾ imposed a provisional anti-dumping duty on imports of dihydrostreptomycin originating in the People's Republic of China;

Whereas the evidence is still being examined and the Commission has therefore notified the Chinese and Japanese exporters concerned of its intention to propose that

the period of application of the provisional duty be extended for a period of not more than two months;

Whereas the exporters have raised no objection,

HAS ADOPTED THIS REGULATION:

Article 1

The period of application of the provisional anti-dumping duty imposed by Regulation (EEC) No 2054/91 on imports of dihydrostreptomycin originating in the People's Republic of China is hereby extended for a period of two months. It shall cease to apply if, before the expiry of that period, the Council adopts definitive measures or if the proceeding is terminated, in accordance with Article 9 of Regulation (EEC) No 2423/88.

Article 2

This Regulation shall enter into force on the day following that 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 Luxembourg, 21 October 1991.

For the Council

The President

P. BUKMAN

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 187, 13. 7. 1991, p. 23.

COUNCIL REGULATION (EEC) No 3091/91

of 21 October 1991

imposing a definitive anti-dumping duty on imports of video tapes in cassettes originating in the People's Republic of China and definitively collecting the provisional duty

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee, as provided for under the above Regulation,

Whereas :

were also granted a period within which to make representations subsequent to the disclosure.

(4) The oral and written comments submitted by the parties were considered and, where appropriate, the Commission's findings were modified to take account of them.

(5) Due to the complexity of the proceeding, in particular to the detailed verification of the voluminous data involved and the numerous arguments put forward, including the study of related issues which arose during the proceeding and which could not have been foreseen at its outset, the investigation could not be concluded within the normal time limit.

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EEC) No 1034/91⁽²⁾, (hereinafter referred to as the Provisional Duty Regulation), imposed a provisional anti-dumping duty on imports into the Community of video tapes in cassettes originating in the People's Republic of China and falling within CN code ex 8523 13 00. The Council, by Regulation (EEC) No 2525/91⁽³⁾ extended this duty for a period not exceeding two months.

C. PRODUCT UNDER CONSIDERATION — LIKE PRODUCT — COMMUNITY INDUSTRY

(6) No comments from any of the interested parties were received concerning the conclusions of the Commission as set out in recitals 7 to 11 of the Provisional Duty Regulation, relating to the product under consideration, the like product and the Community industry. The Council confirms these conclusions.

B. SUBSEQUENT PROCEDURE

(2) Following the imposition of the provisional anti-dumping duty, the interested parties who so requested were granted an opportunity to be heard by the Commission. They also made written submissions making known their views on the findings.

(3) Upon request, parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive duties and the definitive collection of amounts secured by way of a provisional duty. They

D. DUMPING**(a) Normal Value**

(7) For the purposes of provisional findings the Commission for the reasons and in the manner described in recitals 12 to 17 of the Provisional Duty Regulation, established normal value on the basis of the price payable in the Community for the like product.

(8) The Chinese exporters strongly objected to the use of Community prices as normal value and requested that normal value should be established, in accordance with the provisions of Article 2 (5) of Regulation (EEC) No 2423/88, by using Hong Kong as a market economy for reference. In this context, several Hong Kong producers of video cassettes, which had previously refused to cooperate in the investigation, stated, immediately prior to

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 106, 26. 4. 1991, p. 15.

⁽³⁾ OJ No L 236, 24. 8. 1991, p. 1.

the imposition of provisional duties, their willingness to cooperate with the Commission in the conduct of the investigation.

- (9) The complainants argued that Hong Kong could not be used as a reference market economy territory at this stage of the proceeding because the producers now willing to cooperate had previously refused cooperation and because there appeared to be close links between some of the Chinese exporters and some of the Hong Kong producers willing to cooperate with the investigation.
- (10) The Commission considered that neither of the complainants arguments provide sufficient grounds not to select the Hong Kong market as reference for establishing normal value. The producers in Hong Kong are not interested parties in the proceeding and therefore their refusal to cooperate cannot be judged in the light of the provisions of Article 7 (7) (b) of Regulation (EEC) No 2423/88. As to the alleged links of these Hong Kong producers with Chinese exporters, the Commission considers that, insofar as it was able to satisfactorily verify all data necessary for the purposes of the investigation the existence of those links is irrelevant for the establishment of normal value.
- (11) In the light of the above conclusions, the Commission addressed questionnaires to several Hong Kong producers and obtained satisfactory replies from two of them. The information contained in those replies was verified by means of on spot visits.
- (12) Normal value was established on the basis of the prices actually paid or payable for the sales of the like product in the ordinary course of trade in Hong Kong. The Commission noted that these sales in the Hong Kong domestic market allowed the producers a considerable profit margin.

For those models which were not sold in the Hong Kong domestic market normal value was constructed on the basis of the average cost of production plus the profit margin realised on the sales of the most sold model in Hong Kong which comprised substantially all the domestic sales of the product concerned in the Hong Kong market. The selling, general and administrative expenses included in the cost of production were calculated by obtaining a weighted average for the two producers visited.

The Council confirms these conclusions.

(b) Export price

(13) *Hong Kong*

For the purposes of the Provisional Duty Regulation, the export prices were established on the basis of the prices actually paid or payable for the products sold for export to the Community. No comments from any party have been made on this course of action except insofar as the situation of companies with foreign participation is concerned. These arguments are considered in recital 18 of this Regulation. The Council confirms the course of action followed by the Commission as set out in recital 18 of the Provisional Duty Regulation.

(c) Comparison

- (14) As explained in the Provisional Duty Regulation at recitals 20 and 21, all comparisons were made at the ex-factory basis and at the same level of trade. For the purposes of ensuring a fair comparison between normal value and export prices, the Commission took account where appropriate of differences affecting price comparability, such as transport, packing, credit and other selling expenses.
- (15) The China Association of Enterprises with Foreign Investment (CAEFI), representing several cooperating Chinese exporters, alleged that Chinese produced video cassettes were of a significantly lower quality than that of Hong Kong produced cassettes, mainly due to the use of inferior raw materials and processing methods, and requested an adjustment for differences in physical characteristics which it quantified at 20 %.

The complainant contested the request of the exporters on the basis that both Chinese and Hong Kong producers were manufacturing the tapes under the same licence and should therefore obtain the same level of quality and that consumers made no distinction between Hong Kong and Chinese produced cassettes.

- (16) After examination of the facts, the Commission considers that there are no differences in comparable physical characteristics which justify an allowance as far as the comparison between Hong Kong and Chinese produced video cassettes is

concerned. Furthermore, the Commission considers that there is no difference in the consumer's perception of Hong Kong and Chinese made video cassettes. Consequently, the exporter's claim was rejected.

The Council confirms these conclusions.

(d) Dumping margins

(17) For purposes of its provisional findings, the Commission established a single dumping margin for all Chinese exporters. This was done since the People's Republic of China is a non-market economy and, in accordance with previous Community practice, the Commission considered that, because of the lack of independence of the exporters, a single dumping margin should be established to avoid purely arbitrary results and the likelihood of circumvention.

(18) The Shenzhen Video Tape Manufacturers Association, acting on behalf of one cooperating exporter and CAEFI on behalf of four cooperating exporters, argued that these exporters were joint ventures with foreign participation which operated in an environment very similar to that of market economy companies and requested that, because of their specific characteristics, individual company findings should be determined for them. In addition the Shenzhen Video Tape Manufacturers Association requested that the joint venture exporters which did not reply to the questionnaire be granted a different treatment than that given to State owned companies.

(19) The Commission considered that these cooperating Chinese exporters had supplied sufficient evidence to determine that they were genuinely joint venture companies with foreign investment, were able to freely establish their export prices and subject to certain administrative requirements, were able to transfer profits from China to their foreign shareholders.

The Commission considered that this was also the case for two other cooperating exporters which had supplied information indicating that they were joint ventures with foreign participation.

In these circumstances and following the Community's previous practice as set out in Council Regu-

lation (EEC) No 2093/91 of 15 July 1991 imposing a definitive anti-dumping duty on imports of small-screen colour television receivers originating in Hong Kong and the People's Republic of China and collecting definitively the provisional duty⁽¹⁾, the Commission concluded that individual dumping margins could be determined for those companies.

(20) As to the remaining three co-operating exporters, namely Dong Guan Changan Jiekou Magnetic Tape Factory, Long Gung Xin Shen Fung Fu Plastic Mfg. and Shantou Ocean Audio-Video Gen., Corp., the Commission received no evidence or information indicating that these companies were joint ventures with foreign participation. The Commission considered that, because of their lack of independence, the same approach as the one set out in recital 22 on the Provisional Duty Regulation should be applied and that a single dumping margin should be calculated for these three exporters.

The Council confirms the above conclusion.

(21) On this basis, export prices were compared on a transaction by transaction basis with normal values for each of the exporters concerned with the three exceptions mentioned in recital 20. The final examination of the facts shows the existence of dumping in respect of the product concerned originating in the People's Republic of China from all the exporters involved, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

(22) The weighted average margins, expressed as a percentage of CIF Community frontier prices varied according to the exporter as follows:

— Acme Cassette Manufacturing	9,3 %
— Buji Bantian Oscar Video Products Pty	5,1 %
— Fuzhou Wonderful Video Tapes Co., Ltd	6,4 %
— Fuzhou Fortune Video Tapes Co., Ltd	3,8 %
— Nan-Hua Magnet Electricity Co., Ltd	5,4 %
— Song Gang Hang Sing Cassette Factory Song Gang	1,3 %
— All other Chinese exporters	12,5 %

⁽¹⁾ OJ No L 195, 18. 7. 1991, p. 1.

- (23) For those producers that neither replied to the Commission's questionnaire, nor otherwise made themselves known, dumping was determined on the basis of the facts available in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88. In this connection, the Commission considered that the result of its investigation concerning other companies provided the most appropriate basis for determination of the dumping margin. Since it could create an opportunity for circumvention of the duty, if the dumping margin for those producers were any lower than the highest dumping margin found in their respective countries determined with regard to those producers who had cooperated in the investigation, it is considered appropriate to use the highest dumping margin found in their respective country for these groups of producers.

E. INJURY

- (24) The Commission concluded in its Provisional Duty Regulation (see recitals 33 to 35) that the Community industry had suffered material injury as a result of the dumped imports of video tapes in cassettes originating in the People's Republic of China.
- (25) Both CAEFI and the Shenzhen video Tape Manufacturers Association objected to the Commission's findings concerning injury by indicating that:
- the volume of sales of the Community producers increased between 1986 and 1989,
 - stocks decreased during the same period,
 - the decrease in capacity utilization between 1986 and 1989 was the result of an increase in capacity and not of the existence of dumped imports,
 - the decrease in employment was due to cost rationalization and automatization,
 - one of the Community producers already incurred losses in 1986 at a time when imports of video tapes in cassettes from China were minimal.
- (26) The Commission considers that these arguments neglect the basic facts. Imports of the product concerned from the People's Republic of China increased from 0,74 million units in 1986 to 38,67

million units in 1989, the market share of the Community producers decreased in a fast growing market and their prices were significantly depressed decreasing by 28,6 % from 1986 to 1989.

These facts are by themselves sufficient to establish the existence of material injury to the Community industry, taking into account that Article 4 (2) of Regulation (EEC) No 2423/88 does not require that all the factors listed therein show a negative trend.

- (27) In addition to these arguments, the Commission notes that the exporters have not objected to the findings concerning price undercutting as set out in recital 28 of the Provisional Duty Regulation, except to request a 40 % adjustment instead of the 20 % used. The exporters based their request for this further adjustment on alleged differences in physical characteristics among Community, Hong Kong and Chinese produced video tapes.

Given the very similar nature of the Hong Kong and Chinese produced video tapes (see recital 16), the Commission considers that the evidence submitted is not conclusive enough to indicate that any adjustment for differences in physical characteristics and the perceptions of imported and Community produced video tapes by consumers should differ from that used provisionally.

In view of the above the Commission confirms its conclusions concerning the level of undercutting (59,9 %) and concerning the existence of material injury to the Community industry.

The Council confirms these conclusions.

F. CAUSATION OF INJURY

- (28) In recitals 36 to 38 of the Provisional Duty Regulation, the Commission concluded that the imports of video tapes in cassettes originating in the People's Republic of China had caused material injury to the Community industry.

The representatives of the exporters have contested this conclusion. In support of their contention they have argued that the only fact alleged by the Commission to establish the existence of a causal link between the dumped Chinese imports and the existence of material injury to the Community industry was simultaneity and that this time factor

by itself is not sufficient, according to the provisions of Article 4 of Regulation (EEC) No 2423/88, to establish the existence of a causal link.

The exporters have argued that the injury suffered by the Community industry must have been caused by imports from other sources.

- (29) The Commission cannot accept these arguments. Simultaneity is not the only factor which determines the existence of a causal link. The Commission notes that the Chinese imports are placed on the Community market at very low prices and, as the market is very price sensitive, this results in a general price depression of the Community prices which prevents the Community producers from increasing their prices and restoring their profitability to acceptable levels.

- (30) As to the argument concerning injury caused by imports from other sources the Commission considers that the fact that the increase of market share of the Chinese imports has occurred at the expense of the Hong Kong and Korean exports does not render the causal link non-existent nor the injury non-material. The very low prices of the Chinese imports and the heavy price undercutting have caused injury by not allowing the Community industry to reach acceptable levels of profitability which might secure its continuing operation. The exporters also referred to the surge of imports from unidentified sources as a possible cause of injury to the Community industry. The Commission notes that none of the parties involved has provided any information on prices of these imports which are not known to undercut Community prices. However, even if it were admitted that these imports from unidentified sources were undercutting Community prices and causing injury to the Community industry, the volume and low prices of the dumped imports are such that this would not modify the finding that the Chinese exports, taken in isolation, have caused material injury to the Community industry.

In view of the above, the Commission confirms its conclusions in recitals 36 to 38 of the Provisional Duty Regulation.

The Council confirms these conclusions.

G. COMMUNITY INTEREST

- (31) No further facts or arguments concerning this subject were submitted to the Commission by any

of the parties. The Council therefore confirms the Commission's conclusions set out in recitals 39 to 47 of the Provisional Duty Regulation, that it is in the Community's interest to eliminate the injurious effects to the Community industry of the dumping determined. The benefits of such protection for the current viability and future development of that industry outweigh the possible disadvantages, of a temporary nature, for the consumer in terms of limited price increases for certain imported video tapes in cassettes.

H. DUTY

(a) Level of duty

- (32) Provisional measures took the form of anti-dumping duties. These were imposed at the level of the increase in price considered necessary to prevent injury being caused during the proceedings. This duty was established (recital 49 of the Provisional Duty Regulation) at the level of 25,8 %.
- (33) Subsequently both the exporters and the complainant contested the method followed by the Commission in establishing the level of duty necessary to remove the injury.
- (34) The Commission considers that, since the dumping margins definitively determined are significantly below the level required to eliminate the injury caused, neither the argument of the exporters nor that of the complainants has any practical relevance in terms of the final result.
- (35) As the dumping margins established are in all cases lower than the percentage needed to remove the injury, duties should be established at the level of the dumping margins.

The Council confirms these conclusions.

(b) Form of duty

- (36) In the light of the economic structure of the exporters and price variations for very similar models, the Commission considers that the duty should take the form of a variable duty equal to the difference between price per cassette net, free at Community frontier, not cleared through customs, and a floor price established on the basis of the normal value for each individual model.

In order to avoid difficulties in the application of the duties should developments in the market result in the appearance of cassettes with different lengths from those known at present, the models of cassettes are to be described in such a way that all possible future combinations are included.

- (37) The Commission notes that the variable duty provides individual results for the cooperating Chinese joint venture exporters as the duty for each one of them will be the equivalent to the difference between their export prices and the normal value.

The Council confirms these conclusions.

I. COLLECTION OF PROVISIONAL DUTIES

- (38) In view of the dumping margins established, and the seriousness of the injury caused to the Community industry, the Council considers it necessary that amounts collected by way of provisional anti-dumping duties should be definitively collected to the extent of the amount of the duty definitively imposed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of video tapes of VHS standard in cassettes falling within CN Code ex 8523 13 00 (Taric codes: see Annex) and originating in the People's Republic of China.
2. The amount of the duty shall be equal to the difference between the minimum prices listed below and the

price per cassette net, free at Community frontier, not cleared through customs for cassettes with tapes having a playing time:

— up to and including 30 minutes	ECU 0,76
— exceeding 30 minutes and up to 60 minutes	ECU 0,92
— exceeding 60 minutes and up to 90 minutes	ECU 1,08
— exceeding 90 minutes and up to 120 minutes	ECU 1,26
— exceeding 120 minutes and up to 180 minutes	ECU 1,57
— exceeding 180 minutes and up to 195 minutes	ECU 1,74
— exceeding 195 minutes and up to 240 minutes	ECU 1,95
— exceeding 240 minutes	ECU 2,22

3. The provisions in force concerning customs duties shall apply.

Article 2

Amounts secured by way of the provisional anti-dumping duty imposed by Regulation (EEC) No 1034/91 shall be definitively collected to the extent of the amounts resulting from the application of the definitive duty as fixed in Article 1 (2).

Secured amounts in excess of these amounts shall be released.

Article 3

This Regulation shall enter into force on the day following that 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 Luxembourg, 21 October 1991.

For the Council

The President

P. BUKMAN

ANNEX

CN code	Taric subheading	Description
		--- Video tapes : ---- In cassettes : ----- falling under VHS standards : ----- having a playing time : ----- up to and including 30 minutes ----- exceeding 30 minutes and up to 60 minutes ----- exceeding 60 minutes and up to 90 minutes ----- exceeding 90 minutes and up to 120 minutes ----- exceeding 120 minutes and up to 180 minutes ----- exceeding 180 minutes and up to 195 minutes ----- exceeding 195 minutes and up to 240 minutes ----- exceeding 240 minutes ----- Other ----- Other
ex 8523 13 00	*21	
ex 8523 13 00	*23	
ex 8523 13 00	*25	
ex 8523 13 00	*27	
ex 8523 13 00	*28	
ex 8523 13 00	*31	
ex 8523 13 00	*33	
ex 8523 13 00	*35	
ex 8523 13 00	*39	
ex 8523 13 00	*49	

COUNCIL REGULATION (EEC) No 3092/91

of 21 October 1991

amending Regulation (EEC) No 1307/85 authorizing the Member States to grant consumption aid for butter

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

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

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

Whereas the arrangement introduced by Regulation (EEC) No 1307/85 ⁽³⁾, as last amended by Regulation (EEC) No 3232/90 ⁽⁴⁾, which authorizes Member States to grant aid for butter in favour of the final private consumer, expires at the end of the 1990/1991 milk year; whereas in order to prevent a drop in butter consumption that aid arrangement should be prolonged for the 1991/92 milk year; whereas, given the market situation, the maximum level of aid should remain unchanged,

Article 1

In Article 1 of Regulation (EEC) No 1307/85 the dates '1990/91' shall be replaced by '1991/92'.

Article 2

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

It shall apply from the beginning of the 1991/92 milk year.

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

Done at Luxembourg, 21 October 1991.

For the Council

The President

P. BUKMAN

⁽¹⁾ OJ No C 174, 5. 7. 1991, p. 18.

⁽²⁾ Opinion delivered on 11 October 1991 (not yet published in the Official Journal).

⁽³⁾ OJ No L 137, 27. 5. 1985, p. 15.

⁽⁴⁾ OJ No L 310, 9. 11. 1990, p. 8.

**COMMISSION REGULATION (EEC) No 3093/91
of 23 October 1991**

fixing the import levies on cereals and on wheat or rye flour, groats and meal

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

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 3577/90 ⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2661/91 ⁽⁵⁾ and subsequent amending Regulations;

Whereas, if the levy system is to operate normally, levies should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 22 October 1991;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2661/91 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 October 1991.

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

Done at Brussels, 23 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 250, 7. 9. 1991, p. 1.

ANNEX

to the Commission Regulation of 23 October 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levy
0709 90 60	119,40 ⁽¹⁾ ⁽²⁾
0712 90 19	119,40 ⁽²⁾ ⁽³⁾
1001 10 10	173,57 ⁽¹⁾ ⁽³⁾
1001 10 90	173,57 ⁽¹⁾ ⁽³⁾
1001 90 91	150,98
1001 90 99	150,98
1002 00 00	161,41 ⁽⁴⁾
1003 00 10	137,99
1003 00 90	137,99
1004 00 10	124,64
1004 00 90	124,64
1005 10 90	119,40 ⁽²⁾ ⁽³⁾
1005 90 00	119,40 ⁽²⁾ ⁽³⁾
1007 00 90	133,45 ⁽⁴⁾
1008 10 00	49,99
1008 20 00	121,60 ⁽⁴⁾
1008 30 00	60,19 ⁽⁷⁾
1008 90 10	(7)
1008 90 90	60,19
1101 00 00	224,37 ⁽⁸⁾
1102 10 00	238,98 ⁽⁸⁾
1103 11 10	282,22 ⁽⁸⁾
1103 11 90	241,81 ⁽⁸⁾

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

⁽²⁾ In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

⁽³⁾ Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by ECU 1,81/tonne.

⁽⁴⁾ Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

⁽⁶⁾ The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10) and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22).

⁽⁷⁾ The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

⁽⁸⁾ On importation into Portugal the levy is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3808/90.

COMMISSION REGULATION (EEC) No 3094/91

of 23 October 1991

fixing the premiums to be added to the import levies on cereals, flour and malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 3577/90⁽²⁾, and in particular Article 15 (6) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1845/91⁽⁵⁾ and subsequent amending Regulation;

Whereas, if the levy system is to operate normally, levies should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

— for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 22 October 1991;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 October 1991.

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

Done at Brussels, 23 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 168, 29. 6. 1991, p. 4.

ANNEX

to the Commission Regulation of 23 October 1991 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 10	1st period 11	2nd period 12	3rd period 1
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 3095/91**of 22 October 1991****establishing unit values for the determination of the customs value of certain perishable goods**

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

Having regard to Commission Regulation (EEC) No 1577/81 of 12 June 1981 establishing a system of simplified procedures for the determination of the customs value of certain perishable goods⁽¹⁾, as last amended by Regulation (EEC) No 3334/90⁽²⁾, and in particular Article 1 thereof,

Whereas Article 1 of Regulation (EEC) No 1577/81 provides that the Commission shall periodically establish unit values for the products referred to in the classification in the Annex;

Whereas the result of applying the rules and criteria laid down in that same Regulation to the elements communicated to the Commission in accordance with Article 1 (2)

of that Regulation is that the unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 1 (1) of Regulation (EEC) No 1577/81 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 25 October 1991.

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

Done at Brussels, 22 October 1991.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 154, 13. 6. 1981, p. 26.

⁽²⁾ OJ No L 321, 21. 11. 1990, p. 6.

ANNEX

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
1.10	0701 90 51 0701 90 59	New potatoes	56,54	2391	448,47	116,16	393,69	12706	43,41	86438	130,84	39,51
1.20	0702 00 10 0702 00 90	Tomatoes	73,53	3099	580,10	150,59	513,20	16745	56,31	112644	169,69	51,74
1.30	0703 10 19	Onions (other than seed)	16,22	683	127,96	33,21	113,20	3693	12,42	24848	37,43	11,41
1.40	0703 20 00	Garlic	203,85	8591	1608,20	417,48	1422,73	46423	156,10	312280	470,43	143,45
1.50	ex 0703 90 00	Leeks	31,69	1342	249,61	65,25	221,05	7103	24,39	48368	73,54	22,07
1.60	ex 0704 10 10 ex 0704 10 90	Cauliflowers	111,88	4727	881,91	229,55	781,19	24749	86,13	171354	258,72	78,54
1.70	0704 20 00	Brussels sprouts	53,72	2267	423,88	110,06	374,08	11735	41,29	82719	124,09	37,72
1.80	0704 90 10	White cabbages and red cabbages	23,05	975	182,88	47,36	160,54	5181	17,70	35248	53,35	16,11
1.90	ex 0704 90 90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> var. <i>italica</i>)	65,16	2755	516,83	133,86	453,71	14643	50,03	99614	150,79	45,53
1.100	ex 0704 90 90	Chinese cabbage	48,42	2050	382,57	99,63	337,79	10913	37,24	73939	112,24	33,73
1.110	0705 11 10 0705 11 90	Cabbage lettuce (head lettuce)	65,45	2767	519,12	134,46	455,72	14708	50,25	100055	151,46	45,73
1.120	ex 0705 29 00	Endives	45,32	1923	357,88	93,59	315,84	10133	34,99	69174	105,45	31,22
1.130	ex 0706 10 00	Carrots	32,74	1384	259,75	67,27	228,02	7359	25,14	50064	75,78	22,88
1.140	ex 0706 90 90	Radishes	54,33	2302	429,62	111,96	379,00	12152	41,89	83107	126,19	37,58
1.150	0707 00 11 0707 00 19	Cucumbers	79,69	3358	628,72	163,21	556,22	18149	61,02	122086	183,91	56,08
1.160	0708 10 10 0708 10 90	Peas (<i>Pisum sativum</i>)	221,22	9323	1745,23	453,06	1543,96	50379	169,40	338889	510,52	155,67
1.170		Beans :										
1.170.1	0708 20 10 0708 20 90	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.)	121,03	5101	954,89	247,88	844,77	27564	92,69	185421	279,32	85,17
1.170.2	0708 20 10 0708 20 90	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus Savi</i>)	86,96	3672	688,79	178,47	606,54	19724	66,72	133437	201,07	60,90
1.180	ex 0708 90 00	Broad beans	40,17	1701	317,44	82,67	280,28	9055	30,90	61351	93,13	27,99
1.190	0709 10 00	Globe artichokes	76,11	3221	598,42	156,61	531,31	17132	58,50	116646	176,44	52,84
1.200		Asparagus :										
1.200.1	ex 0709 20 00	— green	262,99	11084	2074,82	538,61	1835,54	59893	201,40	402888	606,93	185,07
1.200.2	ex 0709 20 00	— other	302,03	12787	2386,34	621,48	2107,02	68076	232,31	461204	700,14	210,44
1.210	0709 30 00	Aubergines (egg-plants)	78,05	3289	615,76	159,85	544,74	17774	59,77	119568	180,12	54,92
1.220	ex 0709 40 00	Ribbed celery (<i>Apium graveolens</i> var. <i>dulce</i>)	63,90	2705	504,88	131,48	445,78	14403	49,15	97577	148,13	44,52
1.230	0709 51 30	Chantarelles	713,23	30060	5626,73	1460,68	4977,83	162425	546,18	1092598	1645,94	501,92
1.240	0709 60 10	Sweet peppers	68,95	2906	543,99	141,21	481,25	15703	52,80	105632	159,13	48,52
1.250	0709 90 50	Fennel	151,15	6399	1194,24	311,01	1054,46	34069	116,26	230809	350,38	105,31
1.260	0709 90 70	Courgettes	76,94	3243	607,03	157,58	537,02	17523	58,92	117874	177,57	54,14
1.270	ex 0714 20 10	Sweet potatoes, whole, fresh (intended for human consumption)	98,95	4174	781,50	202,59	690,51	22594	75,77	151536	228,30	69,55
2.10	ex 0802 40 00	Chestnuts (<i>Castanea</i> spp.), fresh	87,98	3716	694,15	180,34	612,04	18967	67,47	135667	203,31	61,65
2.20	ex 0803 00 10	Bananas (other than plantains), fresh	47,15	1987	372,03	96,58	329,13	10739	36,11	72242	108,82	33,18
2.30	ex 0804 30 00	Pineapples, fresh	32,02	1349	252,62	65,57	223,48	7292	24,52	49053	73,89	22,53
2.40	ex 0804 40 10 ex 0804 40 90	Avocados, fresh	136,04	5733	1073,25	278,61	949,48	30981	104,17	208405	313,95	95,73

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
2.50	ex 0804 50 00	Guavas and mangoes, fresh	127,05	5354	1002,31	260,19	886,72	28 933	97,29	194 629	293,20	89,40
2.60		Sweet oranges, fresh :										
2.60.1	0805 10 11 0805 10 21 0805 10 31 0805 10 41	— Sanguines and semi-sanguines	34,48	1 454	272,35	70,60	240,64	7 874	26,40	52 809	79,56	24,23
2.60.2	0805 10 15 0805 10 25 0805 10 35 0805 10 45	— Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovalis, Trovita and Hamlins	40,61	1 711	320,40	83,17	283,45	9 249	31,10	62 215	93,72	28,58
2.60.3	0805 10 19 0805 10 29 0805 10 39 0805 10 49	— Others	54,68	2 304	431,44	112,00	381,69	12 454	41,88	83 778	126,20	38,48
2.70		Mandarins (including tangerines and satsumas), fresh ; clementines, wilkings and similar citrus hybrids, fresh :										
2.70.1	ex 0805 20 10	— Clementines	52,29	2 207	414,15	107,31	364,70	11 860	40,12	80 233	120,90	36,61
2.70.2	ex 0805 20 30	— Monreales and Satsumas	89,26	3 774	707,98	183,37	621,51	20 059	68,53	136 456	206,56	62,37
2.70.3	ex 0805 20 50	— Mandarins and wilkings	65,95	2 782	520,88	135,03	460,23	15 059	50,50	101 001	152,17	46,36
2.70.4	ex 0805 20 70 ex 0805 20 90	— Tangerines and others	89,81	3 785	708,57	183,94	626,86	20 454	68,78	137 591	207,27	63,20
2.80	ex 0805 30 10	Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>), fresh	45,40	1 913	358,23	92,99	316,92	10 341	34,77	69 562	104,79	31,95
2.85	ex 0805 30 90	Limes (<i>Citrus aurantifolia</i>), fresh	96,07	4 049	757,91	196,75	670,50	21 878	73,56	147 171	221,70	67,60
2.90		Grapefruit, fresh :										
2.90.1	ex 0805 40 00	— white	52,22	2 201	411,99	106,95	364,47	11 892	39,99	80 000	120,51	36,75
2.90.2	ex 0805 40 00	— pink	86,14	3 630	679,58	176,41	601,21	19 617	65,96	131 962	198,79	60,62
2.100	0806 10 11 0806 10 15 0806 10 19	Table grapes	99,27	4 184	783,19	203,31	692,87	22 608	76,02	152 080	229,10	69,86
2.110	0807 10 10	Water-melons	10,32	435	81,50	21,12	72,01	2 356	7,90	15 803	23,81	7,25
2.120		Melons (other than water-melons) :										
2.120.1	ex 0807 10 90	— Amarillo, Cuper, Honey dew (including Cantalene), Onteniente, Piel de Sapo (including Verde Liso), Rochet, Tendral, Futuro	40,74	1 717	321,45	83,44	284,38	9 279	31,20	62 420	94,03	28,67
2.120.2	ex 0807 10 90	— other	133,55	5 628	1 053,62	273,51	932,11	30 414	102,27	204 592	308,20	93,98
2.130	0808 10 91 0808 10 93 0808 10 99	Apples	68,36	2 881	539,36	140,01	477,15	15 569	52,35	104 732	157,77	48,11
2.140		Pears										
2.140.1	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Pears — Nashi (<i>Pyrus pyrifolia</i>)	229,74	9 683	1 812,49	470,52	1 603,47	52 320	175,93	351 950	530,19	161,68
2.140.2	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Other	58,89	2 482	464,65	120,62	411,06	13 413	45,10	90 226	135,92	41,44
2.150	0809 10 00	Apricots	25,50	1 078	202,14	52,37	177,93	5 786	19,58	39 065	58,99	17,80
2.160	0809 20 10 0809 20 90	Cherries	90,53	3 825	718,45	185,77	632,16	20 401	69,52	138 679	209,44	63,20
2.170	ex 0809 30 00	Peaches	202,70	8 543	1 599,16	415,14	1 414,74	46 162	155,22	310 525	467,79	142,65

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ IrI	Lit	Fl	£
2.180	ex 0809 30 00	Nectarines	82,65	3 490	653,93	169,38	577,04	18 814	63,39	126 770	190,90	57,88
2.190	0809 40 11] 0809 40 19]	Plums	76,28	3 215	601,85	156,23	532,44	17 373	58,42	116 867	176,05	53,68
2.200	0810 10 10] 0810 10 90]	Strawberries	275,35	11 605	2 172,28	563,91	1 921,76	62 706	210,86	421 812	635,43	193,77
2.205	0810 20 10	Raspberries	1 336,1	56 503	10 597,8	2 745,00	9 303,49	300 265	1 025,9	2 042 614	3 092,02	933,75
2.210	0810 40 30	Fruit of the species <i>Vaccinium myrtillus</i>	136,31	5 755	1 079,64	279,74	950,71	30 917	104,59	209 154	315,16	95,45
2.220	0810 90 10	Kiwi fruit (<i>Actinidia chinensis</i> Planch.)	155,53	6 555	1 227,05	318,54	1 085,54	35 421	119,10	238 270	358,94	109,45
2.230	ex 0810 90 80	Pomegranates	67,76	2 855	534,57	138,77	472,92	15 431	51,89	103 803	156,37	47,68
2.240	ex 0810 90 80	Khakis (including Sharon fruit)	295,15	12 465	2 335,24	604,90	2 060,65	67 186	226,39	452 705	681,74	206,72
2.250	ex 0810 90 30	Lychees	329,14	13 901	2 604,20	674,56	2 297,98	74 924	252,46	504 846	760,25	230,53

COMMISSION REGULATION (EEC) No 3096/91

of 23 October 1991

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 464/91⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Having regard to the opinion of the Monetary Committee,

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

Whereas Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar⁽³⁾, as last amended by Regulation (EEC) No 1489/76⁽⁴⁾, provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 3 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽⁵⁾; whereas, furthermore, this refund should be fixed in accordance with Article 5 (2) of Regulation (EEC) No 766/68; whereas candy sugar is defined in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar⁽⁶⁾, as last amended by Regulation (EEC) No 1714/88⁽⁷⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

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

Whereas, if the refund system is to operate normally, refunds should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁸⁾, as last amended by Regulation (EEC) No 2205/90⁽⁹⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 24 October 1991.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 152, 18. 6. 1988, p. 23.

⁽⁸⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁹⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 23 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 23 October 1991 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	33,71 ⁽¹⁾	
1701 11 90 910	33,58 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	33,71 ⁽¹⁾	
1701 12 90 910	33,58 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3664
1701 99 10 100	36,64	
1701 99 10 910	36,50	
1701 99 10 950	36,50	
1701 99 90 100		0,3664

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

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

COMMISSION REGULATION (EEC) No 3097/91

of 23 October 1991

fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 464/91⁽²⁾, and in particular Article 16 (8) thereof,Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1849/91⁽³⁾, as last amended by Regulation (EEC) No 3078/91⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 1849/91 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

Whereas, if the levy system is to operate normally, levies should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in

the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90⁽⁶⁾,

- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 22 October 1991,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 October 1991.

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

Done at Brussels, 23 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.⁽³⁾ OJ No L 168, 29. 6. 1991, p. 16.⁽⁴⁾ OJ No L 290, 22. 10. 1991, p. 33.⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 23 October 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	37,48 ⁽¹⁾
1701 11 90	37,48 ⁽¹⁾
1701 12 10	37,48 ⁽¹⁾
1701 12 90	37,48 ⁽¹⁾
1701 91 00	42,76
1701 99 10	42,76
1701 99 90	42,76 ⁽²⁾

⁽¹⁾ The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42).

⁽²⁾ In accordance with Article 16 (2) of Regulation (EEC) No 1785/81 this amount is also applicable to sugar obtained from white and raw sugar containing added substances other than flavouring or colouring matter.

COMMISSION REGULATION (EEC) No 3098/91
of 23 October 1991

fixing the maximum export refund for white sugar for the 26th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 963/91

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

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 464/91⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 963/91 of 18 April 1991 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾ requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 963/91, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 26th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 26th partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 963/91 the maximum amount of the export refund is fixed at ECU 39,186 per 100 kilograms.

Article 2

This Regulation shall enter into force on 24 October 1991.

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

Done at Brussels, 23 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 100, 20. 4. 1991, p. 9.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 14 October 1991

on acceptance of the terms of reference of the International Nickel Study Group

(91/537/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 113 and 116 thereof,

Having regard to the proposal from the Commission,

Whereas the terms of reference of the International Nickel Study Group hereafter referred to as 'Group' were adopted in Geneva on 2 May 1986 by the United Nations Conference on Nickel and amended during the inaugural meeting of the Group in June 1990;

Whereas the States and international organizations which participated in the Conference have been asked to notify the secretary-general of the Group of their acceptance of the terms of reference in accordance with paragraph 19 (c) thereof;

Whereas the Group will perform the important functions of analysing and monitoring the market of and trade in nickel;

Where the institutional structure of the Group, as laid down in the terms of reference, implies joint participation of the Community and those Member States which have agreed to the terms of reference;

Whereas certain other Member States have indicated their intention to participate in the work of the Group;

Whereas some Member States already participate in the work of the Group,

HAS DECIDED AS FOLLOWS:

Article 1

The terms of reference of the International Nickel Study Group are hereby accepted by the European Economic Community.

The Community and those Member States which at this stage have decided to participate in the proceedings of the Group shall simultaneously lodge their instruments of acceptance with the secretary-general of the Group as soon as the necessary internal procedures have been completed.

The text of the terms of reference is attached hereto.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to lodge the instrument of acceptance on behalf of the Community.

Done at Luxembourg, 14 October 1991.

For the Council

The President

B. de VRIES

ANNEX

TERMS OF REFERENCE OF THE INTERNATIONAL NICKEL STUDY GROUP

as adopted on 2 May 1986

by the United Nations Conference on Nickel, 1985, and incorporating amendments approved at the inaugural meeting of June 1990

Preamble

The parties to this arrangement have reached an understanding for the establishment of an International Nickel Study Group which will have the following terms of reference.

Establishment

1. The International Nickel Study Group is hereby established to administer the provisions and supervise the operation of the terms of reference.

Objectives

2. To ensure enhanced international cooperation on issues concerning nickel, in particular by improving the information available on the international nickel economy and by providing a forum for intergovernmental consultations on nickel.

Definitions

3. (a) 'The Group' means the International Nickel Study Group as constituted in these terms of reference ;
(b) 'Nickel' shall include, *inter alia*, scraps, wastes, and/or residues and such nickel products as the Group may determine ;
(c) 'Members' means all States and intergovernmental organizations as provided for in paragraph 5 which have notified their acceptance pursuant to paragraph 19.

Functions

4. (a) To establish the capacity for and to undertake the continued monitoring of the world nickel economy and its trends, particularly by establishing, maintaining and continuously updating a statistical system on world production, stocks, trade and consumption of all forms of nickel ;
(b) to conduct between Members consultations and exchanges of information on developments related to the production, stocks, trade and consumption of all forms of nickel ;

(c) to undertake studies as appropriate on a broad range of important issues concerning nickel, in accordance with the decisions of the Group ;

(d) to consider special problems or difficulties which exist or may be expected to arise in the international nickel economy.

Membership

5. Membership of the Group shall be open to all States which are interested in the production or consumption of, or international trade in nickel, and to any intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements.

Powers of the Group

6. (a) The Group shall exercise such powers and perform or arrange for the performance of such functions as are necessary to carry out the provisions of the terms of reference ;
(b) the Group is not a trading organization and shall not have power to enter into any trading contract for nickel or any other commodity or product ;
(c) the Group shall adopt such rules of procedure as are considered necessary to carry out its functions.

Headquarters

7. The headquarters of the Group shall be at a location selected by it in the territory of a Member State. The Group shall negotiate a headquarters agreement with the host government.

Decision-making

8. (a) The highest authority of the Group established under these terms of reference shall be vested in the general session ;
(b) the Group, the standing committee referred to in paragraph 9, and such committees and subsidiary bodies as may be established, shall normally take decisions by consensus. If a vote is called for, it shall be taken under the conditions set out in the rules of procedure.

Standing committee

9. (a) The Group shall establish a standing committee which shall consist of those members of the Group who have indicated their desire to participate in its work ;
- (b) the standing committee shall undertake such tasks as may be assigned to it by the Group and shall report to the Group on completion, or on progress, of its work.

Committees and subsidiary bodies

10. The Group may establish such committees or subsidiary bodies, in addition to the standing committee, on such terms and conditions as it may determine.

Secretariat

11. (a) The Group shall have a secretariat consisting of a secretary-general and such staff as may be required ;
- (b) the secretary-general shall be the chief administrative officer of the Group and shall be responsible to it for the administration and operation of these terms of reference in accordance with the decisions of the Group.

Cooperation with others

12. (a) The Group may make arrangements for consultations or cooperation with the United Nations, its organs or specialized agencies, and with other intergovernmental institutions, as appropriate ;
- (b) the Group may also make arrangements for maintaining contact with interested non-participating Governments of the States referred to in paragraph 5, with other international non-governmental organizations, or with private sector institutions, as appropriate.

Legal status

13. (a) The Group shall have legal personality in its host country. It shall, in particular, have the category to enter into contracts, to acquire and to dispose of movable and immovable property, and to institute legal proceedings ;
- (b) the status of the Group in the territory of the host government shall be governed by a headquarters agreement between the host government and the Group, to be concluded as soon as possible after these terms of reference have come into effect.

Budget contributions

14. The Group shall assess the contribution of each Member for each financial year, in the currency of the host country, in accordance with the provisions for contributions specified in the Rules of Procedure.

The payment of the contribution by each Member shall be made in accordance with its constitutional procedures.

Statistics and information

15. (a) The Group shall collect, collate and make available to Members such statistical information on production, trade, stocks, consumption and internationally recognized published prices of nickel as it deems appropriate for the effective operation of these terms of reference ;
- (b) the Group shall make such arrangements as it considers appropriate by which information may be exchanged with the interested non-participating governments and with appropriate non-governmental and intergovernmental organizations in order to ensure the availability of recent and reliable data on production, consumption, stocks, international trade, internationally recognized published prices, and on other factors that influence the demand for and supply of nickel ;
- (c) the Group shall endeavour to ensure that no information published shall prejudice the confidentiality of the operations of persons or enterprises producing, processing, marketing or consuming nickel.

Annual assessment and studies

16. (a) The Group shall prepare and distribute to Members an annual assessment of the world nickel situation and related matters in the light of information supplied by Members and supplemented by information from all other relevant sources ;
- (b) the Group shall, as deemed desirable, undertake or make appropriate arrangements to undertake studies of short- and long-term trends in the international nickel economy, including, once a year or, with the approval of the Group, more than once a year, the provision of an outlook on nickel production, consumption and trade for the following calendar year, so that such an exchange of information will be a technical aid to Members in their individual assessments of the evolution of the international nickel economy.

Obligations of members

17. Members shall use their best endeavours to cooperate and to promote the attainment of the objectives of the Group, in particular as far as the provision of data referred to in paragraph 15 on the nickel economy is concerned.

Amendment

18. The terms of reference may only be amended by consensus of the Group and without a vote.

Coming into effect

19. (a) These terms of reference shall come into effect when at least 15 States which in total account for over 50 % of the world trade in nickel have notified the Secretary-General of the United Nations pursuant to (c) below. If the terms of reference come into effect under this article, members shall be invited to attend an inaugural meeting. members shall be notified at least one month, where possible, prior to that meeting;
- (b) if the requirements for the coming into effect of these terms of reference have not been met on 20 September 1986, the Secretary-General of the United Nations shall invite those governments having notified, pursuant to (c) below, their intention to become members of the Group, to meet at the earliest time practicable to decide whether or not to put these terms of reference into effect among themselves in whole or in part;
- (c) any State or any intergovernmental organization referred to in paragraph 5 which desires to become a member of the Group shall give written notice that it intends to apply these terms of reference either provisionally, pending the conclusion of its internal procedures, or definitively. Pending the coming into effect of these terms of reference and the assumption of office by the secretary-general of the Group, such notice shall be given to the Secretary-General of the United Nations; thereafter it shall be given to the secretary-general of the Group. A State applying these terms of reference provisionally shall endeavour to complete its procedures within six months but in any case not later than 12 months from the

date of its notification and shall notify the depositary accordingly.

Withdrawal

20. (a) A member may withdraw from the Group at any time by giving written notice of the withdrawal to the secretary-general of the Group;
- (b) withdrawal shall be without prejudice to any financial obligations already incurred and shall not entitle the withdrawing State to any rebate of its contribution for the year in which the withdrawal occurs;
- (c) withdrawal shall become effective 60 days after the notice is received by the Secretary-General;
- (d) the Secretary-General shall notify each Member of any notification received under this paragraph.

Duration of the Group

21. The Group shall remain in existence as long as it continues in the opinion of the Members to serve a useful purpose, unless terminated in accordance with paragraph 22.

Termination

22. (a) The Group may at any time decide by a two-thirds majority vote of the members to terminate these terms of reference. Such termination shall take effect on such date as the Group shall decide;
- (b) notwithstanding the termination of these terms of reference, the Group shall continue in being for as long as it is necessary to carry out its liquidation, including the settlement of accounts.