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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3099/89

of 16 October 1989

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 2860/89⁽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 1636/87⁽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 1915/89⁽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 other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 16 October 1989;

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 1915/89 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 17 October 1989.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 274, 23. 9. 1989, p. 41.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 187, 1. 7. 1989, p. 1.

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

Done at Brussels, 16 October 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 16 October 1989 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	20,52	123,90
0712 90 19	20,52	123,90
1001 10 10	22,81	164,25 ⁽¹⁾ ⁽²⁾
1001 10 90	22,81	164,25 ⁽¹⁾ ⁽²⁾
1001 90 91	20,40	113,16
1001 90 99	20,40	113,16
1002 00 00	47,56	113,11 ⁽³⁾
1003 00 10	38,34	116,30
1003 00 90	38,34	116,30
1004 00 10	29,74	106,90
1004 00 90	29,74	106,90
1005 10 90	20,52	123,90 ⁽²⁾ ⁽³⁾
1005 90 00	20,52	123,90 ⁽²⁾ ⁽³⁾
1007 00 90	38,34	129,12 ⁽⁴⁾
1008 10 00	38,34	1,07
1008 20 00	38,34	75,68 ⁽⁴⁾
1008 30 00	38,34	0,00 ⁽⁵⁾
1008 90 10	(?)	(?)
1008 90 90	38,34	0,00
1101 00 00	42,00	171,87
1102 10 00	80,02	171,79
1103 11 10	49,83	269,06
1103 11 90	44,89	185,15

⁽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 486/85 the levies are not applied to imports into the French overseas departments of products 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 reduced by 50 %.

⁽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).

COMMISSION REGULATION (EEC) No 3100/89

of 16 October 1989

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 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 2860/89⁽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 1636/87⁽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 1916/89⁽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 other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of

these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 16 October 1989;

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

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 Portugal shall be zero.

2. 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 17 October 1989.

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

Done at Brussels, 16 October 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 274, 23. 9. 1989, p. 41.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 187, 1. 7. 1989, p. 4.

ANNEX

to the Commission Regulation of 16 October 1989 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	<i>(ECU/tonne)</i>			
	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	0,83	0,83	1,65
1004 00 90	0	0,83	0,83	1,65
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

CN code	<i>(ECU/tonne)</i>				
	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 3101/89
of 16 October 1989

**fixing the maximum buying-in price and the quantities of beef bought in for the
 ninth partial invitation to tender under Regulation (EEC) No 1627/89**

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

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 571/89 ⁽²⁾, and in particular Article 6 (7) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 859/89 of 29 March 1989 laying down detailed rules for the application of intervention measures in the beef and veal sector ⁽³⁾, an invitation to tender was opened by Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying-in of beef by invitation to tender ⁽⁴⁾, as last amended by Regulation (EEC) No 3020/89 ⁽⁵⁾;

Whereas, in accordance with Article 11 (1) of Regulation (EEC) No 859/89, a maximum buying-in price is to be fixed for quality R3, where appropriate, for each partial invitation to tender in the light of the tenders received; whereas, in accordance with Article 12 of that Regulation, only tenders lower than or equal to the maximum price are to be accepted;

Whereas, after the tenders submitted for the ninth partial invitation to tender have been examined and taking account, pursuant to Article 6 (1) of Regulation (EEC) No 805/68, the requirements for reasonable support of the market and the seasonal trend in slaughterings, the maximum buying-in price and the quantities which may be accepted into intervention should be fixed;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the ninth partial invitation to tender opened by Regulation (EEC) No 1627/89:

- (a) For category A:
- the maximum buying-in price is hereby fixed at ECU 283 per 100 kilograms of carcasses or half-carcasses of quality R3,
 - the maximum quantity of carcasses or half-carcasses accepted is hereby fixed at 200 tonnes;
- (b) For category C:
- the maximum buying-in price is hereby fixed at ECU 278 per 100 kilograms of carcasses or half-carcasses of quality R3,
 - the maximum quantity accepted is hereby fixed at 11 747 tonnes.

Article 2

This Regulation shall enter into force on 17 October 1989.

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

Done at Brussels, 16 October 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 61, 4. 3. 1989, p. 43.

⁽³⁾ OJ No L 91, 4. 4. 1989, p. 5.

⁽⁴⁾ OJ No L 159, 10. 6. 1989, p. 36.

⁽⁵⁾ OJ No L 289, 7. 10. 1989, p. 26.

COMMISSION REGULATION (EEC) No 3102/89

of 16 October 1989

fixing for the 1989/90 marketing year the reference prices for artichokes

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 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1119/89⁽²⁾, and in particular Article 27 (1) thereof,

Whereas, pursuant to Article 23 (1) of Regulation (EEC) No 1035/72, reference prices valid for the whole Community are to be fixed at the beginning of the marketing year;

Whereas artichokes are produced in such quantities in the Community that reference prices should be fixed for them;

Whereas artichokes harvested during a given crop year are marketed from October to September of the following year; whereas the quantities harvested in the months July to October are so small that there is no need to fix reference prices for these months; whereas reference prices should be fixed only for the period 1 November up to and including 30 June of the following year;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may,

however, not be lower than in the preceding marketing year;

Whereas, to take seasonal price variations into account, the marketing year should be divided into several periods and a reference price fixed for each of these periods;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas, in accordance with Article 147 of the Act of Accession, Spanish prices shall be used for the purpose of calculating reference prices as and from 1 January 1990;

Whereas, in accordance with Article 272 (3) of the Act of Accession, the prices of Portuguese products will not be used for the purpose of calculating reference prices, during the first stage of accession;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1989/90 marketing year, the reference prices for artichokes (CN code 0709 10 00), expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

- | | |
|-----------------------------------|--------|
| — from 1 November to 31 December: | 89,38, |
| — from 1 January to 30 April: | 78,83, |
| — May: | 74,95, |
| — June: | 63,53. |

Article 2

This Regulation shall enter into force on 1 November 1989.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

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

Done at Brussels, 16 October 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3103/89

of 16 October 1989

fixing for the 1989/1990 marketing year the reference prices for cabbage lettuce

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 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1119/89⁽²⁾, and in particular Article 27 (1) thereof,

Whereas, pursuant to Article 23 (1) of Regulation (EEC) No 1035/72, reference prices valid for the whole Community are to be fixed at the beginning of the marketing year;

Whereas cabbage lettuce is produced in such quantities in the Community that reference prices should be fixed for it;

Whereas cabbage lettuce harvested during a given crop year is marketed from July to June of the following year; whereas the quantities imported from 1 July to 31 October and in June are so small that there is no need to fix reference prices for these months; whereas reference prices should be fixed only for the period 1 November up to and including 31 May of the following year;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State plus transport costs for the current year, after this amount has been increased by the rise in production costs

less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas, to take seasonal price variations into account, the marketing year should be divided into several periods and a reference price fixed for each of these periods;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas, in accordance with Article 147 of the Act of Accession, Spanish prices shall be used for the purpose of calculating reference prices as and from 1 January 1990;

Whereas, in accordance with Article 272 (3) of the Act of Accession, the prices of Portuguese products will not be used for the purpose of calculating reference prices, during the first stage of accession;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1989/90 marketing year, the reference prices for cabbage lettuce (CN codes 0705 11 10 and 90), expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

- | | |
|-----------------------------------|--------|
| — from 1 November to 31 December: | 70,35, |
| — from 1 January to 28 February: | 75,60, |
| — from 1 March to 31 May: | 82,34. |

Article 2

This Regulation shall enter into force on 1 November 1989.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

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

Done at Brussels, 16 October 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission

COMMISSION REGULATION (EEC) No 3104/89

of 16 October 1989

fixing for the 1989/90 marketing year the reference price for sweet oranges

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 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1119/89⁽²⁾, and in particular Article 27 (1) thereof,

Whereas Article 23 (1) of Regulation (EEC) No 1035/72 provides that reference prices valid for the whole Community are to be fixed each year before the beginning of the marketing year;

Whereas the importance of sweet orange production in the Community is such that a reference price must be fixed for that product;

Whereas the period during which oranges harvested during a given crop year are marketed extends from October to 15 July of the following year; whereas the quantity put on the market during October and November and from 1 June to 15 July of the following year represents only a small percentage of that marketed over the whole marketing year; whereas the reference price should therefore be fixed only for a period running from 1 December to 31 May of the following year;

Whereas the fixing of a single reference price valid for the whole marketing year appears to be the solution most suited to the particular nature of the Community market in the product in question;

Whereas, under point (a) of the second subparagraph of Article 23 (2) of Regulation (EEC) No 1035/72, reference prices for oranges, are fixed at a level equal to that of the

previous marketing year, adjusted by an amount equal to the difference between, firstly, the amount resulting from the application, to those reference prices, of the percentage increase in the basic prices and the buying-in prices in relation to the preceding marketing year, and, secondly, the amount corresponding to the increase in the financial compensation provided for in Council Regulation (EEC) No 2511/69 of 9 December 1969 laying down special measures for improving the production and marketing of Community citrus fruit⁽³⁾, as last amended by Regulation (EEC) No 1130/89⁽⁴⁾;

Whereas, in accordance with Article 147 of the Act of Accession, Spanish prices shall be used for the purpose of calculating reference prices as and from 1 January 1990;

Whereas, in accordance with Article 272 (3) of the Act of Accession, the prices of Portuguese products will not be used for the purpose of calculating reference prices, during the first stage of accession;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1989/90 marketing year, the reference price for fresh sweet oranges (CN codes 0805 10 11, 15, 19, 21, 25, 29, 31, 35, 39, 41, 45 and 49) expressed in ecus per 100 kilograms net and applicable to class I all sizes, packed, shall, for the period 1 December 1989 to 31 May 1990, be: 22,66.

Article 2

This Regulation shall enter into force on 1 December 1989.

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

Done at Brussels, 16 October 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.
⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽³⁾ OJ No L 318, 18. 12. 1969, p. 1.
⁽⁴⁾ OJ No L 119, 29. 4. 1989, p. 22.

COMMISSION REGULATION (EEC) No 3105/89

of 16 October 1989

fixing for the 1989/90 marketing year the reference price for clementines

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 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1119/89⁽²⁾, and in particular Article 27 (1) thereof,

Whereas Article 23 (1) of Regulation (EEC) No 1035/72 provides that reference prices for the whole Community are to be fixed each year before the beginning of the marketing year;

Whereas the importance of clementine production in the Community is such that a reference price must be fixed for that product;

Whereas the period during which clementines harvested during a given crop year are marketed extends from October to 15 May of the following year; whereas the quantities put on the market during at the beginning and at the end of the marketing year represent only a relatively small percentage of that marketed over the whole marketing year; whereas the reference price should therefore be fixed only for the period running from 1 December to the last day of February of the following year;

Whereas the fixing of a single reference price valid for the whole marketing year appears to be the solution most suited to the particular nature of the Community market in the product in question;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the amount referred to in paragraph 2 (a) of that Article, the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the amount referred to in paragraph 2 (a) of that Article,
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State, with regard to Article 23, of the amount referred to in paragraph 2 (a), plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas, in accordance with Article 147 of the Act of Accession, Spanish prices shall be used for the purpose of calculating reference prices as and from 1 January 1990;

Whereas, in accordance with Article 272 (3) of the Act of Accession, the prices of Portuguese products will not be used for the purpose of calculating reference prices, during the first stage of accession;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1989/90 marketing year, the reference price for fresh clementines (CN code 0805 20 10) expressed in ecus per 100 kilograms net of packed products of quality class I, of all sizes, shall, for the period 1 December 1989 to 28 February 1990, be: 59,57.

Article 2

This Regulation shall enter into force on 1 December 1989.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

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

Done at Brussels, 16 October 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission

COMMISSION REGULATION (EEC) No 3106/89

of 16 October 1989

fixing for the 1989/90 marketing year the reference prices for broad-leaved
(Batavian) endives

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 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1119/89⁽²⁾, and in particular Article 27 (1) thereof,

Whereas, pursuant to Article 23 (1) of Regulation (EEC) No 1035/72, reference prices valid for the whole Community are to be fixed at the beginning of the marketing year;

Whereas broad-leaved (Batavian) endives (*Cichorium endivia* L. var. *latifolia*) are produced in such quantities in the Community that reference prices should be fixed for them;

Whereas endives harvested during a given crop year are marketed from July to June of the following year; whereas the quantities imported from 1 July to 14 November and from 1 April to 30 June of the following year are so small that there is no need to fix reference prices for these periods; whereas reference prices should be fixed only for the period 15 November up to and including 31 March of the following year;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Community products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State plus transport costs for the current year, after this

amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas, to take seasonal price variations into account, the marketing year should be divided into several periods and a reference price fixed for each of these periods;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas, in accordance with Article 147 of the Act of Accession, Spanish prices shall be used for the purpose of calculating reference prices as and from 1 January 1990;

Whereas, in accordance with Article 272 (3) of the Act of Accession, the prices of Portuguese products will not be used for the purpose of calculating reference prices, during the first stage of accession;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1989/90 marketing year, the reference prices for broad-leaved (Batavian) endives (CN code 0705 29 00), expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

- from 15 November to 31 January: 58,79,
- from 1 February to 31 March: 63,44.

Article 2

This Regulation shall enter into force on 15 November 1989.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

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

Done at Brussels, 16 October 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission

COMMISSION REGULATION (EEC) No 3107/89

of 16 October 1989

amending the Spanish version of Regulation (EEC) No 548/86 laying down detailed rules for the application of accession compensatory amounts

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 467/86 of 25 February 1986 laying down general rules for the system of accession compensatory amounts for cereals on account of the accession of Spain⁽¹⁾, and in particular Article 8 thereof, and the corresponding provisions of the other Regulations laying down general rules for the system of accession compensatory amounts for agricultural products,

Whereas a check has disclosed that the Spanish version of Article 7 (2) of Commission Regulation (EEC) No 548/86⁽²⁾, as last amended by Regulation (EEC) No 3494/88⁽³⁾, could give rise to an interpretation at variance with that of all the other language versions; whereas the said version should therefore be adapted;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

The first subparagraph of point (a) of Article 7 (2) of the Spanish version of Regulation (EEC) No 548/86 is hereby replaced by the following:

- 'a) la prueba de que los productos se han despachado al consumo en un Estado miembro para el cual es aplicable el montante compensatorio de adhesión, dicha prueba se aportará.'

Article 2

This Regulation shall enter 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, 16 October 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

(¹) OJ No L 53, 1. 3. 1986, p. 25.

(²) OJ No L 55, 1. 3. 1986, p. 52.

(³) OJ No L 172, 21. 6. 1989, p. 26.

COMMISSION REGULATION (EEC) No 3108/89

of 16 October 1989

modifying Regulation (EEC) No 4208/88 fixing, for the 1989 fishing year, the annual import quotas for the products subject to the rules for the application by Spain and Portugal of quantitative restrictions on fishery products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 360/86 of 17 February 1986 laying down rules for the application by Spain and Portugal of quantitative restrictions on fishery products⁽¹⁾, as amended by Regulation (EEC) No 4064/86⁽²⁾, and in particular Article 2 thereof,

Whereas Article 2 (3) of Regulation (EEC) No 360/86 provides for the possibility of revising during the course of the year the quantity of the quotas, as well as their quarterly instalments, as laid down in Commission Regulation (EEC) No 4208/88⁽³⁾;

Whereas Spain has made a request for an increase of 2 000 tonnes in the quota level for fresh or chilled hake of the genus *Merluccius*, for the 1989 fishing year; whereas it is therefore necessary to modify the quota level in question as well as its quarterly instalments;

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

HAS ADOPTED THIS REGULATION:

Article 1

In the table in part A of the Annex to Regulation (EEC) No 4208/88 the figures for fresh or chilled hake of the genus *Merluccius*, falling within CN codes ex 0302 69 65 and ex 0304 10 99 are hereby replaced by the following:

'Annual quota of importation	Quarterly instalments			
	1	2	3	4
6 000	400	1 240	1 480	2 880'

Article 2

This Regulation shall enter into force on the third day following 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, 16 October 1989.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 43, 20. 2. 1986, p. 8.

⁽²⁾ OJ No L 371, 31. 12. 1986, p. 9.

⁽³⁾ OJ No L 370, 31. 12. 1988, p. 25.

COMMISSION REGULATION (EEC) No 3109/89
of 16 October 1989

amending Regulation (EEC) No 4209/88 fixing, for the 1989 fishing year, the overall foreseeable level of imports for the products subject to the supplementary trade mechanism in the fisheries sector

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, and in particular Articles 174 and 361 thereof,

Whereas Commission Regulation (EEC) No 4209/88 ⁽¹⁾, has fixed for certain fishery products the overall foreseeable level of imports for the 1989 fishing year; whereas this foreseeable level includes, for each product in question, an annual quota for imports from third countries;

Whereas, as regards Spain, the quota for fresh or chilled hake of the genus *Merluccius*, initially laid down for the 1989 marketing year by Commission Regulation (EEC) No 4208/88 ⁽²⁾, as amended by Regulation (EEC) No 3108/89 ⁽³⁾, has been increased 2 000 tonnes by Regulation (EEC) No 3108/89; whereas it is consequently appropriate to adapt for that Member State the overall foreseeable level of imports of the product in question, set out in Regulation (EEC) No 4209/88;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 4209/88 is hereby amended as follows:

In the table in part A.1, '14 595' for the overall level of imports of fresh or chilled hake of the genus *Merluccius* falling within CN codes ex 0302 69 65 and ex 0304 10 99 is replaced by '16 595'.

Article 2

This Regulation shall enter into force on the third day following 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, 16 October 1989.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 370, 31. 12. 1988, p. 27.

⁽²⁾ OJ No L 370, 31. 12. 1988, p. 25.

⁽³⁾ See page 16 of this Official Journal.

COMMISSION REGULATION (EEC) No 3110/89

of 16 October 1989

altering the import levies on products processed from cereals and rice

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 2860/89⁽²⁾, and in particular Article 14 (4) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EEC) No 1806/89⁽⁴⁾, and in particular Article 12 (4) 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⁽⁵⁾, as last amended by Regulation (EEC) No 1636/87⁽⁶⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 2893/89⁽⁷⁾, as last amended by Regulation (EEC) No 3029/89⁽⁸⁾;

Whereas Council Regulation (EEC) No 1906/87⁽⁹⁾ amended Council Regulation (EEC) No 2744/75⁽¹⁰⁾ as regards products falling within CN codes 2302 10, 2302 20, 2302 30 and 2302 40;

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

(¹) OJ No L 281, 1. 11. 1975, p. 1.
 (²) OJ No L 274, 23. 9. 1989, p. 41.
 (³) OJ No L 166, 25. 6. 1976, p. 1.
 (⁴) OJ No L 177, 24. 6. 1989, p. 1.
 (⁵) OJ No L 164, 24. 6. 1985, p. 1.
 (⁶) OJ No L 153, 13. 6. 1987, p. 1.
 (⁷) OJ No L 279, 28. 9. 1989, p. 16.
 (⁸) OJ No L 289, 7. 10. 1989, p. 49.
 (⁹) OJ No L 182, 3. 7. 1987, p. 49.
 (¹⁰) OJ No L 281, 1. 11. 1975, p. 65.

— 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 other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 16 October 1989;

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

Whereas the levy on the basic product as last fixed differs from the average levy by more than ECU 3,02 per tonne of basic product; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 1579/74⁽¹¹⁾, as last amended by Regulation (EEC) No 1740/78⁽¹²⁾, the levies at present in force must therefore 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 processed from cereals and rice covered by Regulation (EEC) No 2744/75 as fixed in the Annex to amended Regulation (EEC) No 2893/89 are hereby altered to the amounts set out in the Annex.

Article 2

This Regulation shall enter into force on 17 October 1989.

(¹¹) OJ No L 168, 25. 6. 1974, p. 7.
 (¹²) OJ No L 202, 26. 7. 1978, p. 8.

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

Done at Brussels, 16 October 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 16 October 1989 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CN code	Import levies		
	Portugal	ACP or OCT	Third countries (other than ACP or OCT)
0714 10 10 (*)	39,06	113,54	118,37
0714 10 91	36,04	113,54	115,35
0714 10 99	39,06	113,54	118,37
0714 90 11	36,04	113,54 (*)	115,35
0714 90 19	39,06	113,54 (*)	118,37
1102 90 10	70,91	207,63	213,67
1102 90 30	55,43	191,59	197,63
1103 12 00	55,43	191,59	197,63
1103 19 30	70,91	207,63	213,67
1103 29 20	70,91	207,63	213,67
1103 29 30	55,43	191,59	197,63
1104 11 10	39,78	117,66	120,68
1104 11 90	78,12	230,70	236,74
1104 12 10	31,01	108,57	111,59
1104 12 90	60,92	212,88	218,92
1104 21 10	60,68	184,56	187,58
1104 21 30	60,68	184,56	187,58
1104 21 50	96,14	288,38	294,42
1104 21 90	39,78	117,66	120,68
1104 22 10 10 (*)	31,01	108,57	111,59
1104 22 10 90 (*)	52,41	191,59	194,61
1104 22 30	52,41	191,59	194,61
1104 22 50	46,92	170,30	173,32
1104 22 90	31,01	108,57	111,59
1106 20 10	39,06	111,72 (*)	118,37
1107 10 91	75,03	205,32	216,20 (*)
1107 10 99	58,81	153,42	164,30
1107 20 00	66,74	178,79	189,67 (*)

(¹) 6% *ad valorem*, subject to certain conditions.

(²) In accordance with Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10) this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

(³) In accordance with Regulation (EEC) No 486/85 the levy shall not be charged on the following products originating in the African, Caribbean and Pacific States and in the overseas countries and territories:

- arrow-root falling within CN codes 0714 90 11 and 0714 90 19,
- flours and meal of arrow-root falling within CN code 1106 20,
- arrow-root starch falling within CN code 1108 19 90.

(⁴) TARIC code: clipped oats.

(⁵) TARIC code: CN code 1104 22 10, other than 'clipped oats'.

COMMISSION REGULATION (EEC) No 3111/89

of 16 October 1989

introducing a countervailing charge on apples originating in New Zealand

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 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1119/89⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Article 25 (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a third country remains at least ECU 0,6 below the reference price for two consecutive market days, a countervailing charge must be introduced in respect of the exporting country concerned, save in exceptional circumstances; whereas this charge is equal to the difference between the reference price and the arithmetic mean of the last two entry prices available for that exporting country;

Whereas Commission Regulation (EEC) No 1736/89 of 19 June 1989 fixing for the 1989/90 marketing year the reference prices for apples⁽³⁾ fixed the reference price for products of class I at ECU 43,78 per 100 kilograms net for the month of October 1989;

Whereas the entry price for a given exporting country is equal to the lowest representative prices recorded for at least 30 % of the quantities from the exporting country concerned which are marketed on all representative markets for which prices are available less the duties and the charges indicated in Article 24 (3) of Regulation (EEC) No 1035/72; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72;

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74⁽⁴⁾, as last amended by

Regulation (EEC) No 3811/85⁽⁵⁾, the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

Whereas, for apples originating in New Zealand the entry price calculated in this way has remained at least ECU 0,6 below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these apples;

Whereas, if the system is to operate normally, the entry price 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 Council Regulation (EEC) No 1676/85⁽⁶⁾, as last amended by Regulation (EEC) No 1636/87⁽⁷⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 24,93 per 100 kilograms net is applied to apples (CN codes 0808 10 91, 0808 10 93 and 0808 10 99) originating in New Zealand.

Article 2

This Regulation shall enter into force on 17 October 1989.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽³⁾ OJ No L 171, 20. 6. 1989, p. 28.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 16 October 1989.

For the Commission
Ray MAC SHARRY
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 3 October 1989

on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

(89/552/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 57 (2) and 66 thereof,

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

In cooperation with the European Parliament ⁽²⁾,

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

Whereas the objectives of the Community as laid down in the Treaty include establishing an even closer union among the peoples of Europe, fostering closer relations between the States belonging to the Community, ensuring the economic and social progress of its countries by common action to eliminate the barriers which divide Europe, encouraging the constant improvement of the living conditions of its peoples as well as ensuring the preservation and strengthening of peace and liberty;

Whereas the Treaty provides for the establishment of a common market, including the abolition, as between Member States, of obstacles to freedom of movement for services and the institution of a system ensuring that competition in the common market is not distorted;

Whereas broadcasts transmitted across frontiers by means of various technologies are one of the ways of pursuing the objectives of the Community; whereas measures

should be adopted to permit and ensure the transition from national markets to a common programme production and distribution market and to establish conditions of fair competition without prejudice to the public interest role to be discharged by the television broadcasting services;

Whereas the Council of Europe has adopted the European Convention on Transfrontier Television;

Whereas the Treaty provides for the issuing of directives for the coordination of provisions to facilitate the taking up of activities as self-employed persons;

Whereas television broadcasting constitutes, in normal circumstances, a service within the meaning of the Treaty;

Whereas the Treaty provides for free movement of all services normally provided against payment, without exclusion on grounds of their cultural or other content and without restriction of nationals of Member States established in a Community country other than that of the person for whom the services are intended;

Whereas this right as applied to the broadcasting and distribution of television services is also a specific manifestation in Community law of a more general principle, namely the freedom of expression as enshrined in Article 10 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms ratified by all Member States; whereas for this reason the issuing of directives on the broadcasting and distribution of television programmes must ensure their free movement in the light of the said Article and subject only to the limits set by paragraph 2 of that Article and by Article 56 (1) of the Treaty;

⁽¹⁾ OJ No C 179, 17. 7. 1986, p. 4.

⁽²⁾ OJ No C 49, 22. 2. 1988, p. 53, and OJ No C 158, 26. 6. 1989.

⁽³⁾ OJ No C 232, 31. 8. 1987, p. 29.

Whereas the laws, regulations and administrative measures in Member States concerning the pursuit of activities as television broadcasters and cable operators contain disparities, some of which may impede the free movement of broadcasts within the Community and may distort competition within the common market;

Whereas all such restrictions on freedom to provide broadcasting services within the Community must be abolished under the Treaty;

Whereas such abolition must go hand in hand with coordination of the applicable laws; whereas this coordination must be aimed at facilitating the pursuit of the professional activities concerned and, more generally, the free movement of information and ideas within the Community;

Whereas it is consequently necessary and sufficient that all broadcasts comply with the law of Member State from which they emanate;

Whereas this Directive lays down the minimum rules needed to guarantee freedom of transmission in broadcasting; whereas, therefore, it does not affect the responsibility of the Member States and their authorities with regard to the organization — including the systems of licensing, administrative authorization or taxation — financing and the content of programmes; whereas the independence of cultural developments in the Member States and the preservation of cultural diversity in the Community therefore remain unaffected;

Whereas it is necessary, in the common market, that all broadcasts emanating from and intended for reception within the Community and in particular those intended for reception in another Member State, should respect the law of the originating Member State applicable to broadcasts intended for reception by the public in that Member State and the provisions of this Directive;

Whereas the requirement that the originating Member State should verify that broadcasts comply with national law as coordinated by this Directive is sufficient under Community law to ensure free movement of broadcasts without secondary control on the same grounds in the receiving Member States; whereas, however, the receiving Member State may, exceptionally and under specific conditions provisionally suspend the retransmission of televised broadcasts;

Whereas it is essential for the Member States to ensure the prevention of any acts which may prove detrimental to freedom of movement and trade in television programmes or which may promote the creation of

dominant positions which would lead to restrictions on pluralism and freedom of televised information and of the information sector as a whole;

Whereas this Directive, being confined specifically to television broadcasting rules, is without prejudice to existing or future Community acts of harmonization, in particular to satisfy mandatory requirements concerning the protection of consumers and the fairness of commercial transactions and competition;

Whereas co-ordination is nevertheless needed to make it easier for persons and industries producing programmes having a cultural objective to take up and pursue their activities;

Whereas minimum requirements in respect of all public or private Community television programmes for European audio-visual productions have been a means of promoting production, independent production and distribution in the abovementioned industries and are complementary to other instruments which are already or will be proposed to favour the same objective;

Whereas it is therefore necessary to promote markets of sufficient size for television productions in the Member States to recover necessary investments not only by establishing common rules opening up national markets but also by envisaging for European productions where practicable and by appropriate means a majority proportion in television programmes of all Member States; whereas, in order to allow the monitoring of the application of these rules and the pursuit of the objectives, Member States will provide the Commission with a report on the application of the proportions reserved for European works and independent productions in this Directive; whereas for the calculation of such proportions account should be taken of the specific situation of the Hellenic Republic and the Portuguese Republic; whereas the Commission must inform the other Member States of these reports accompanied, where appropriate by an opinion taking account of, in particular, progress achieved in relation to previous years, the share of first broadcasts in the programming, the particular circumstances of new television broadcasters and the specific situation of countries with a low audio-visual production capacity or restricted language area;

Whereas for these purposes 'European works' should be defined without prejudice to the possibility of Member States laying down a more detailed definition as regards television broadcasters under their jurisdiction in accordance with Article 3 (1) in compliance with Community law and account being taken of the objectives of this Directive;

Whereas it is important to seek appropriate instruments and procedures in accordance with Community law in order to promote the implementation of these objectives with a view to adopting suitable measures to encourage the activity and development of European audio-visual production and distribution, particularly in countries with a low production capacity or restricted language area ;

Whereas national support schemes for the development of European production may be applied in so far as they comply with Community law ;

Whereas a commitment, where practicable, to a certain proportion of broadcasts for independent productions, created by producers who are independent of broadcasters, will stimulate new sources of television production, especially the creation of small and medium-sized enterprises ; whereas it will offer new opportunities and outlets to the marketing of creative talents of employment of cultural professions and employees in the cultural field ; whereas the definition of the concept of independent producer by the Member States should take account of that objective by giving due consideration to small and medium-sized producers and making it possible to authorize financial participation by the coproduction subsidiaries of television organizations ;

Whereas measures are necessary for Member States to ensure that a certain period elapses between the first cinema showing of a work and the first television showing ;

Whereas in order to allow for an active policy in favour of a specific language, Member States remain free to lay down more detailed or stricter rules in particular on the basis of language criteria, as long as these rules are in conformity with Community law, and in particular are not applicable to the retransmission of broadcasts originating in other Member States ;

Whereas in order to ensure that the interests of consumers as television viewers are fully and properly protected, it is essential for television advertising to be subject to a certain number of minimum rules and standards and that the Member States must maintain the right to set more detailed or stricter rules and in certain circumstances to lay down different conditions for television broadcasters under their jurisdiction ;

Whereas Member States, with due regard to Community law and in relation to broadcasts intended solely for the national territory which may not be received, directly or indirectly, in one or more Member States, must be able to lay down different conditions for the insertion of advertising and different limits for the volume of advertising in order to facilitate these particular broadcasts ;

Whereas it is necessary to prohibit all television advertising promoting cigarettes and other tobacco products including indirect forms of advertising which,

whilst not directly mentioning the tobacco product, seek to circumvent the ban on advertising by using brand names, symbols or other distinctive features of tobacco products or of undertakings whose known or main activities include the production or sale of such products ;

Whereas it is equally necessary to prohibit all television advertising for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the broadcaster falls and to introduce strict criteria relating to the television advertising of alcoholic products ;

Whereas in view of the growing importance of sponsorship in the financing of programmes, appropriate rules should be laid down ;

Whereas it is, furthermore, necessary to introduce rules to protect the physical, mental and moral development of minors in programmes and in television advertising ;

Whereas although television broadcasters are normally bound to ensure that programmes present facts and events fairly, it is nevertheless important that they should be subject to specific obligations with respect to the right of reply or equivalent remedies so that any person whose legitimate interests have been damaged by an assertion made in the course of a broadcast television programme may effectively exercise such right or remedy.

HAS ADOPTED THIS DIRECTIVE :

CHAPTER I

Definitions

Article 1

For the purpose of this Directive :

- (a) 'television broadcasting' means the initial transmission by wire or over the air, including that by satellite, in unencoded or encoded form, of television programmes intended for reception by the public. It includes the communication of programmes between undertakings with a view to their being relayed to the public. It does not include communication services providing items of information or other messages on individual demand such as telecopying, electronic data banks and other similar services ;
- (b) 'television advertising' means any form of announcement broadcast in return for payment or for similar consideration by a public or private undertaking in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, or rights and obligations, in return for payment.

Except for the purposes of Article 18, this does not include direct offers to the public for the sale, purchase or rental of products or for the provision of services in return for payment;

- (c) 'surreptitious advertising' means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the broadcaster to serve advertising and might mislead the public as to its nature. Such representation is considered to be intentional in particular if it is done in return for payment or for similar consideration;
- (d) 'sponsorship' means any contribution made by a public or private undertaking not engaged in television broadcasting activities or in the production of audio-visual works, to the financing of television programmes with a view to promoting its name, its trade mark, its image, its activities or its products.

CHAPTER II

General provisions

Article 2

1. Each Member State shall ensure that all television broadcasts transmitted

- by broadcasters under its jurisdiction, or
- by broadcasters who, while not being under the jurisdiction of any Member State, make use of a frequency or a satellite capacity granted by, or a satellite up-link situated in, that Member State,

comply with the law applicable to broadcasts intended for the public in that Member State.

2. Member States shall ensure freedom of reception and shall not restrict retransmission on their territory of television broadcasts from other Member States for reasons which fall within the fields coordinated by this Directive. Member States may provisionally suspend retransmissions of television broadcasts if the following conditions are fulfilled:

- (a) a television broadcast coming from another Member State manifestly, seriously and gravely infringes Article 22;
- (b) during the previous 12 months, the broadcaster has infringed the same provision on at least two prior occasions;
- (c) the Member State concerned has notified the broadcaster and the Commission in writing of the alleged

infringements and of its intention to restrict retransmission should any such infringement occur again;

- (d) consultations with the transmitting State and the Commission have not produced an amicable settlement within 15 days of the notification provided for in point (c), and the alleged infringement persists.

The Commission shall ensure that the suspension is compatible with Community law. It may ask the Member State concerned to put an end to a suspension which is contrary to Community law, as a matter of urgency. This provision is without prejudice to the application of any procedure, remedy or sanction to the infringements in question in the Member State which has jurisdiction over the broadcaster concerned.

3. This Directive shall not apply to broadcasts intended exclusively for reception in States other than Member States, and which are not received directly or indirectly in one or more Member States.

Article 3

1. Member States shall remain free to require television broadcasters under their jurisdiction to lay down more detailed or stricter rules in the areas covered by this Directive.

2. Member States shall, by appropriate means, ensure, within the framework of their legislation, that television broadcasters under their jurisdiction comply with the provisions of this Directive.

CHAPTER III

Promotion of distribution and production of television programmes

Article 4

1. Member States shall ensure where practicable and by appropriate means, that broadcasters reserve for European works, within the meaning of Article 6, a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria.

2. Where the proportion laid down in paragraph 1 cannot be attained, it must not be lower than the average for 1988 in the Member State concerned.

However, in respect of the Hellenic Republic and the Portuguese Republic, the year 1988 shall be replaced by the year 1990.

3. From 3 October 1991, the Member States shall provide the Commission every two years with a report on the application of this Article and Article 5.

That report shall in particular include a statistical statement on the achievement of the proportion referred to in this Article and Article 5 for each of the television programmes falling within the jurisdiction of the Member State concerned, the reasons, in each case, for the failure to attain that proportion and the measures adopted or envisaged in order to achieve it.

The Commission shall inform the other Member States and the European Parliament of the reports, which shall be accompanied, where appropriate, by an opinion. The Commission shall ensure the application of this Article and Article 5 in accordance with the provisions of the Treaty. The Commission may take account in its opinion, in particular, of progress achieved in relation to previous years, the share of first broadcast works in the programming, the particular circumstances of new television broadcasters and the specific situation of countries with a low audiovisual production capacity or restricted language area.

4. The Council shall review the implementation of this Article on the basis of a report from the Commission accompanied by any proposals for revision that it may deem appropriate no later than the end of the fifth year from the adoption of the Directive.

To that end, the Commission report shall, on the basis of the information provided by Member States under paragraph 3, take account in particular of developments in the Community market and of the international context.

Article 5

Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve at least 10 % of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services, or alternately, at the discretion of the Member State, at least 10 % of their programming budget, for European works created by producers who are independent of broadcasters. This proportion, having regard to broadcasters' informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria; it must be achieved by earmarking an adequate proportion for recent works, that is to say works transmitted within five years of their production.

Article 6

1. Within the meaning of this chapter, 'European works' means the following:

(a) works originating from Member States of the Community and, as regards television broadcasters falling

within the jurisdiction of the Federal Republic of Germany, works from German territories where the Basic Law does not apply and fulfilling the conditions of paragraph 2;

- (b) works originating from European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 2;
- (c) works originating from other European third countries and fulfilling the conditions of paragraph 3.

2. The works referred to in paragraph 1 (a) and (b) are works mainly made with authors and workers residing in one or more States referred to in paragraph 1 (a) and (b) provided that they comply with one of the following three conditions:

- (a) they are made by one or more producers established in one or more of those States; or
- (b) production of the works is supervised and actually controlled by one or more producers established in one or more of those States; or
- (c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

3. The works referred to in paragraph 1 (c) are works made exclusively or in co-production with producers established in one or more Member State by producers established in one or more European third countries with which the Community will conclude agreements in accordance with the procedures of the Treaty, if those works are mainly made with authors and workers residing in one or more European States.

4. Works which are not European works within the meaning of paragraph 1, but made mainly with authors and workers residing in one or more Member States, shall be considered to be European works to an extent corresponding to the proportion of the contribution of Community co-producers to the total production costs.

Article 7

Member States shall ensure that the television broadcasters under their jurisdiction do not broadcast any cinematographic work, unless otherwise agreed between its rights holders and the broadcaster, until two years have elapsed since the work was first shown in cinemas in one of the Member States of the Community; in the case of cinematographic works co-produced by the broadcaster, this period shall be one year.

Article 8

Where they consider it necessary for purposes of language policy, the Member States, whilst observing Community law, may as regards some or all programmes of television broadcasters under their jurisdiction, lay down more detailed or stricter rules in particular on the basis of language criteria.

Article 9

This chapter shall not apply to local television broadcasts not forming part of a national network.

CHAPTER IV

Television advertising and sponsorship*Article 10*

1. Television advertising shall be readily recognizable as such and kept quite separate from other parts of the programme service by optical and/or acoustic means.
2. Isolated advertising spots shall remain the exception.
3. Advertising shall not use subliminal techniques.
4. Surreptitious advertising shall be prohibited.

Article 11

1. Advertisements shall be inserted between programmes. Provided the conditions contained in paragraphs 2 to 5 of this Article are fulfilled, advertisements may also be inserted during programmes in such a way that the integrity and value of the programme, taking into account natural breaks in and the duration and nature of the programme, and the rights of the rights holders are not prejudiced.
2. In programmes consisting of autonomous parts, or in sports programmes and similarly structured events and performances comprising intervals, advertisements shall only be inserted between the parts or in the intervals.
3. The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their programmed duration is more than 45 minutes, may be interrupted once for each complete period of 45 minutes. A further interruption is allowed if their programmed duration is at least 20 minutes longer than two or more complete periods of 45 minutes.
4. Where programmes, other than those covered by paragraph 2, are interrupted by advertisements, a period of at least 20 minutes should elapse between each successive advertising break within the programme.

5. Advertisements shall not be inserted in any broadcast of a religious service. News and current affairs programmes, documentaries, religious programmes, and children's programmes, when their programmed duration is less than 30 minutes shall not be interrupted by advertisements. If their programmed duration is of 30 minutes or longer, the provisions of the previous paragraphs shall apply.

Article 12

Television advertising shall not:

- (a) prejudice respect for human dignity;
- (b) include any discrimination on grounds of race, sex or nationality;
- (c) be offensive to religious or political beliefs;
- (d) encourage behaviour prejudicial to health or to safety;
- (e) encourage behaviour prejudicial to the protection of the environment.

Article 13

All forms of television advertising for cigarettes and other tobacco products shall be prohibited.

Article 14

Television advertising for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the broadcaster falls shall be prohibited.

Article 15

Television advertising for alcoholic beverages shall comply with the following criteria:

- (a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- (b) it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- (c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- (d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- (e) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- (f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

Article 16

Television advertising shall not cause moral or physical detriment to minors, and shall therefore comply with the following criteria for their protection:

- (a) it shall not directly exhort minors to buy a product or a service by exploiting their inexperience or credulity ;
- (b) it shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised ;
- (c) it shall not exploit the special trust minors place in parents, teachers or other persons ;
- (d) it shall not unreasonably show minors in dangerous situations.

Article 17

1. Sponsored television programmes shall meet the following requirements :

- (a) the content and scheduling of sponsored programmes may in no circumstances be influenced by the sponsor in such a way as to affect the responsibility and editorial independence of the broadcaster in respect of programmes ;
- (b) they must be clearly identified as such by the name and/or logo of the sponsor at the beginning and/or the end of the programmes ;
- (c) they must not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services.

2. Television programmes may not be sponsored by natural or legal persons whose principal activity is the manufacture or sale of products, or the provision of services, the advertising of which is prohibited by Article 13 or 14.

3. News and current affairs programmes may not be sponsored.

Article 18

1. The amount of advertising shall not exceed 15 % of the daily transmission time. However, this percentage may be increased to 20 % to include forms of advertisements such as direct offers to the public for the sale, purchase or rental of products or for the provision of services, provided the amount of spot advertising does not exceed 15 %.

2. The amount of spot advertising within a given one-hour period shall not exceed 20 %.

3. Without prejudice to the provisions of paragraph 1, forms of advertisements such as direct offers to the public for the sale, purchase or rental of products or for the provision of services shall not exceed one hour per day.

Article 19

Member States may lay down stricter rules than those in Article 18 for programming time and the procedures for

television broadcasting for television broadcasters under their jurisdiction, so as to reconcile demand for televised advertising with the public interest, taking account in particular of :

- (a) the role of television in providing information, education, culture and entertainment ;
- (b) the protection of pluralism of information and of the media.

Article 20

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11 (2) to (5) and in Article 18 in respect of broadcasts intended solely for the national territory which may not be received, directly or indirectly, in one or more other Member States.

Article 21

Member States shall, within the framework of their laws, ensure that in the case of television broadcasts that do not comply with the provisions of this chapter, appropriate measures are applied to secure compliance with these provisions.

CHAPTER V

Protection of minors

Article 22

Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include programmes which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence. This provision shall extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.

Member States shall also ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality.

CHAPTER VI

Right of reply

Article 23

1. Without prejudice to other provisions adopted by the Member States under civil, administrative or criminal law, any natural or legal person, regardless of nationality,

whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a television programme must have a right of reply or equivalent remedies.

2. A right of reply or equivalent remedies shall exist in relation to all broadcasters under the jurisdiction of a Member State.

3. Member States shall adopt the measures needed to establish the right of reply or the equivalent remedies and shall determine the procedure to be followed for the exercise thereof. In particular, they shall ensure that a sufficient time span is allowed and that the procedures are such that the right or equivalent remedies can be exercised appropriately by natural or legal persons resident or established in other Member States.

4. An application for exercise of the right of reply or the equivalent remedies may be rejected if such a reply is not justified according to the conditions laid down in paragraph 1, would involve a punishable act, would render the broadcaster liable to civil law proceedings or would transgress standards of public decency.

5. Provision shall be made for procedures whereby disputes as to the exercise of the right of reply or the equivalent remedies can be subject to judicial review.

CHAPTER VII

Final provisions

Article 24

In fields which this Directive does not coordinate, it shall not affect the rights and obligations of Member States resulting from existing conventions dealing with telecommunications or broadcasting.

Article 25

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 3 October 1991. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the fields governed by this Directive.

Article 26

Not later than the end of the fifth year after the date of adoption of this Directive and every two years thereafter, the Commission shall submit to the European Parliament, the Council, and the Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the field of television broadcasting.

Article 27

This Directive is addressed to the Member States.

Done at Luxembourg, 3 October 1989.

For the Council

The President

R. DUMAS

CORRIGENDA

Corrigendum to Council Regulation (EEC) No 2503/88 of 25 July 1988 on customs warehouses

(Official Journal of the European Communities No L 225 of 15 August 1988)

(This corrigendum cancels and replaces the corrigendum published on page 40 of *Official Journal of the European Communities No L 156* of 8 June 1989)

On page 5 in lines 3 and 4 of the second subparagraph of Article 22 (1):

for: '... those costs need to be included in the customs value...'

read: '... those costs need not be included in the customs value...'

Corrigendum to Council Directive 89/438/EEC of 21 June 1989 amending Directive 74/561/EEC on admission to the occupation of road haulage operator in national and international transport operations, Directive 74/562/EEC on admission to the occupation of road passenger transport operator in national and international transport operations and Directive 77/796/EEC aiming at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators, including measures intended to encourage these operators effectively to exercise their right to freedom of establishment

(Official Journal of the European Communities No L 212 of 22 July 1989)

On page 105 the quoted material in Article 3 shall read as follows:

'1. As from 1 January 1990 Member States shall recognize as sufficient proof of professional competence certificates as referred to in the fourth subparagraph of Article 3 (4) of Directive 74/561/EEC and in the fourth subparagraph of Article 2 (4) of Directive 74/562/EEC which are issued by another Member State.'
