

# Official Journal

## of the European Communities

ISSN 0378-6978

L 14

Volume 34

19 January 1991

English edition

## Legislation

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## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EEC) No 117/91**

**of 16 January 1991**

**imposing a definitive anti-dumping duty on imports of linear tungsten halogen lamps originating in Japan**

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<sup>(1)</sup>, and in particular Article 12 thereof,

Having regard to the proposal from the Commission, presented after consultations within the Advisory Committee in accordance with that Regulation,

Whereas :

**A. PROVISIONAL MEASURES**

- (1) Commission Regulation (EEC) No 2064/90<sup>(1)</sup> imposed a provisional anti-dumping duty on imports originating in Japan of linear tungsten halogen lamps (hereinafter referred to as LTH lamps) for a voltage exceeding 100 volts, of 100 watts or more, double-ended with R7s caps, of a type used for illumination, falling within CN code ex 8539 21 91. Regulation (EEC) No 3307/90<sup>(2)</sup> extended this duty for a period not exceeding two months.

**B. SUBSEQUENT PROCEDURE**

- (2) Following the imposition of the provisional duty, three producer/exporters mentioned in Regulation (EEC) No 2064/90 and the complainant individually requested and were granted hearings before the Commission on the conclusions set out in the above Regulation. They also made known their views in writing.
- (3) The parties were also informed, at their request, of the main facts and considerations behind the

Commission proposal to recommend the imposition of definitive anti-dumping duties and definitive collection of the amounts secured by way of the provisional duty. They were also given the opportunity to make comments after receiving this information. Their comments were examined and, where appropriate, taken into account in the Commission's conclusions.

**C. PRODUCT**

- (4) One producer/exporter claimed that the definition of the products concerned by the proceeding, given in recital (10) of Regulation (EEC) No 2064/90, is inadequate to the extent that it fails to specify that some types of tungsten halogen tubes are not used for illumination and are therefore beyond the scope of the proceeding. The proceeding covers linear tungsten halogen lamps for a voltage exceeding 100 volts, of 100 watts or more, double-ended with R7s caps, of a type used for indoor or outdoor illumination. This means that it does not cover linear tungsten halogen tubes which can be used only as components of specialized appliances, such as photocopiers or photographic lamps, and not for indoor or outdoor lighting. It should, however, be specified that LTH lamps which can be used both for lighting and another more specific purpose are covered by the proceeding.

**D. DUMPING**

**(a) Normal value**

*I. Domestic market price*

- (5) The producer/exporter mentioned in recital (15) of Regulation (EEC) No 2064/90 repeated its argument that quantities of two of its models sold on the Japanese market should be adjusted downwards to allow for certain 'negative transactions', which

<sup>(1)</sup> OJ No L 209, 2. 8. 1988, p. 1.

<sup>(2)</sup> OJ No L 188, 20. 7. 1990, p. 10.

<sup>(3)</sup> OJ No L 318, 17. 11. 1990, p. 1.

they claimed were effectively 'notional' transactions connected particularly with cancelled sales orders and the transfer of sales from one year to the next. Domestic sales of the models in question would then account for slightly less than 5 % of the quantities exported and their price could not be used to calculate normal value.

- (6) The Council, however, confirms the Commission's conclusions on this point, on which no new evidence was submitted. These transactions had to be considered representative of normal conditions of supply and demand during the period in question and their subsequent cancellation or transfer in no way diminished their representative value. The volume of domestic sales of each of these two models is therefore greater than 5 % of the quantities of these models exported to the Community and consequently provides a suitable basis for calculating the normal value of LTH lamps in Japan.
- (7) Two other producer/exporters again contested the use of the price of the models in question to calculate a normal value which they disputed. They once more claimed that Japan's domestic market in these LTH lamps was very small, that demand was limited and irregular, and that there was no competition.
- (8) The Council is unable to accept these arguments. The Commission had already found that there were other producers of LTH lamps in Japan, most of which did not cooperate in the investigation or claimed not to export to the Community (see recitals (6), (7), (8) and (17) of Regulation (EEC) No 2064/90). There is indeed a Japanese domestic market with several firms in active competition.

The size of the market could not be ascertained owing to the lack of cooperation from other Japanese producers, including several which did not deny having exported to the Community during the reference period. Even if the market were relatively small, this would not in itself make the actual

prices in Japan an unsuitable basis for comparison and so justify a departure from the usual practice of establishing normal value on the basis of domestic sales of models which, by volume, exceed 5 % of export sales to the Community. Neither may any such conclusion be drawn from the fact that the firms concerned in this proceeding concentrate their efforts on the export market. It should also be emphasized that, as already noted by the Commission (in recital (17) of Regulation (EEC) No 2064/90), the domestic market prices established by this method are entirely borne out by the catalogues of the seven Japanese producers. When the average price of each model is adjusted to allow for a discount of the size alleged in the complaint and confirmed by the investigation, the resulting prices are on a level with those for models sold by a producer/exporter on the Japanese market. An investigation would naturally have resulted in still more exact information being gathered. However, this was made impossible by a lack of cooperation from several other Japanese exporters of LTH lamps to the Community. In such circumstances, the catalogue prices adjusted by an average discount constitute facts available in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88. Moreover, the Commission's findings concerning the overall level of prices for this product on the Japanese market were further substantiated by information from a non-exporting Japanese producer, which did, however, sell significant quantities of LTH lamps on the domestic market. Both for these reasons and on the basis of the 5 % rule, prices for the two models sold by a producer/exporter on the Japanese market must be taken to be representative.

- (9) The same producer/exporters also maintained that the method by which normal value was established, selected from those proposed in the basic anti-dumping Regulation, should have been one which permitted the use of an exporter's own data and so the calculation of an individual dumping margin. They claimed that, if another exporter's domestic sales of the two models sold in Japan represented less than 5 % of their own exports of the models in question, the rule should not apply to them, since there was nothing to say that a market thought viable by one exporter would be viable for them. Repeating an argument used before the imposition of provisional duties, they asserted that reference should have been made to the domestic market prices for JD lamps, a product they considered

similar to LTH lamps and which they sold in more representative quantities on the Japanese market (see recital (22) of Regulation (EEC) No 2064/90). Lastly, one of the producer/exporters maintained that the price of its exports to third countries could also have been used to establish normal value.

(10) The Council notes that the Commission calculated normal value individually for each producer/exporter to the extent permitted by Article 2 (3) of Regulation (EEC) No 2423/88. Article 2 (3) (a) covers the case in which a like product, within the meaning of Article 2 (12) of the above Regulation, is sold on the domestic market. The like product was defined in recital (11) of Regulation (EEC) No 2064/90. It is incontestably supplied and sold on the Japanese market. Article 2 (3) (a) was therefore applicable if domestic sales of the product were sufficient.

(11) The Commission had concluded that JD lamps were not a like product to LTH lamps. They lacked the linear form of LTH lamps, their single cap was not of the type R7s and their wattage was in most cases lower than 100 watts. The Council confirms these conclusions. Consequently, the normal value for the two models of LTH concerned must be established on the basis of the actual prices for these models on the Japanese market.

## II. *Export prices in third countries*

(12) The Commission had considered the request for such prices to be used for constructing normal value (see recital (23) of Regulation (EEC) No 2064/90). One producer/exporter stated that, as in the case of reference to a like product, its request had been presented, not in this context, but in that of Article 2 (3) (b) (i) of Regulation (EEC) No 2423/88.

(13) The Council cannot accept this argument. Since it is possible to refer to prices paid or payable on the Japanese market itself, it is preferable to construct normal value on this basis rather than by using market prices in third countries.

## III. *Constructed value*

(aa) For own brand sales

(14) None of the other models exported to the Community were sold on the domestic market. Normal value must therefore be established according to Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88. This gives priority to the use of evidence relating to like products sold on the domestic market, either by the producer/exporter concerned, or, if such data is unavailable, by reference to the expenses incurred and the profits realized by other producers or exporters in the country of origin on profitable sales of like products. Reference may only be made to the sales made by the exporter concerned or other producers or exporters in the same business sector if the first two methods cannot be used.

(15) In applying these provisions, the Commission took as a basis the fact that a like product was sold on the domestic market by a producer/exporter and that these sales could be considered representative (see recital (8)). It then established normal value, for the two producer/exporters concerned, using the second method contained in Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88 which involves taking account of their production costs, plus expenses incurred and profit realized on domestic sales of the like product by another producer/exporter.

The Council considers that this method leads to the greatest possible individualization of normal value for the producer/exporters concerned on the basis of their individual production costs.

(bb) For sales to OEM customers

(16) When calculating the constructed value of the models concerned, the Commission took account of the specific nature of sales by producer/exporters selling mainly OEM models (see recital (20) of Regulation (EEC) No 2064/90). Differentiation between types of sales allows normal value to be adjusted to an appropriate degree for each individual producer/exporter. However, the Commission considered, on the basis of comments by some producer/exporters, that the estimated reasonable profit margin in these cases should be set at a third of the margin achieved when the producer sells under its own brand. The Council agrees to this method of calculating constructed normal value.

**(b) Export prices**

- (17) No comment was made on the export price established in Regulation (EEC) No 2064/90.

**(c) Conclusions**

- (18) In the light of the above, the Council confirms the conclusions concerning dumping set out in recitals (14) to (25) of Regulation (EEC) No 2064/90.

**E. COMPARISON**

- (19) No comment was made on recitals (26) to (29) of Regulation (EEC) No 2064/90, which deal with this aspect. The Council confirms these conclusions.

**F. DUMPING MARGIN**

- (20) The Council confirms the Commission's findings set out in recitals (30) to (32) of Regulation (EEC) No 2064/90. However, the provisionally calculated dumping margins are affected by the revised estimate of the differences between the profit margin on own brand sales and that on sales to OEM (see recital (14) of this Regulation). The resulting dumping margins amount to ECU 2,3 for Iwasaki, ECU 1,5 for Sigma and ECU 1,2 for Phoenix on average per unit and still exceed the duty required to eliminate the injury (see recital (32) of this Regulation).

**G. INJURY**

- (21) Certain producer/exporters criticized the Commission's conclusions regarding undercutting, pointing out the lack of any allowance for 'goodwill' and physical differences between the Japanese products and those manufactured by the Community industry. They claimed that, if prices were equal, consumers would prefer to buy Community brands, which were well known and packaged, reputed to be of good quality and, compared with products of Japanese origin, enjoyed an excellent image in terms of reliability and service.
- (22) Information received from both exporters and the Community industry led the Commission to the opposite conclusion. No objective evidence was submitted of any difference, whether physical, technical or related to quality or service, which would have justified the requested adjustment in the calculation of undercutting. Quite apart from the issue of the admissibility of such a principle, there was no evidence to support the request to allow for greater goodwill.

- (23) The same producer/exporters also claimed that, when calculating undercutting, the Commission had underestimated the amount it had provisionally allowed to cover the fact that the Community industry sold mainly to dealers and Japanese exporters mainly to manufacturers and distributors of light fittings (see recital (38) of Regulation (EEC) No 2064/90).

The Commission reexamined the information at its disposal and concluded that there was some substance to this request, in view of the differences in costs and sales overheads depending on the type of customer to whom LTH lamps are sold.

The Council confirms this reassessment, whereby undercutting by Japanese exporters is put at between 14,3 % and 20,4 % depending on the case, the weighted average being 18,9 %. These percentages remain significant and do not alter the Commission's conclusions in recital (44) of Regulation (EEC) No 2064/90 regarding the determination of material injury to the Community industry. It must, furthermore, be noted that even without undercutting, which is only one of the factors to be considered, the conclusion would have been the same. Injury was assessed on the basis of the alleged undercutting of a minimum price established for Community products, without dumping, and not in relation to the undercutting of actual prices subject to downward pressure from massive imports.

- (24) No new evidence of material injury was presented. Consequently, except for the assessments of price undercutting, the Council confirms the Commission's conclusions on injury as they are set out in Regulation (EEC) No 2064/90.

**H. CAUSATION**

- (25) Some producer/exporters criticized the Commission's rejection of their argument that allowances should be made for their greater productivity (see recitals (49) and (50) of Regulation (EEC) No 2064/90). They claimed that their comparative advantage in terms of production costs justified selling on the Community market at prices lower than those of the Community industry and was therefore a factor, unrelated to imports at dumping prices, which had contributed to the injury. They contest the Commission's assertion that the argument is relevant only where these advantages are reflected without discrimination by both domestic and export prices, and maintain that price discrimination is relevant only in the context of a dumping

investigation but is not in itself a cause of the injury to the Community industry. They also accuse the Commission of having perceived a causal link between the alleged greater productivity and the dumping observed.

- (26) The Council cannot accept these arguments and confirms the Commission's position. As noted in recitals (46) and (47) of Regulation (EEC) No 2064/90, there is a striking concomitance between the volume growth and the expansion of the market share of imports of LTH lamps originating in Japan and the decline in market share and the financial losses suffered by the community industry in a market in full expansion. Furthermore, export prices exerted a steady downward pressure on LTH lamp prices in the Community, obliging Community producers to sell at a loss and preventing them from stepping up their sales effort and making the investment needed to improve productivity. Consequently, the state of the Community industry can be explained mainly by facts directly related to imports originating in Japan, which proved to have been dumped during the reference period, and not by factors related to the efficiency of the firms concerned.
- (27) Contrary to their claims, any comparative advantage enjoyed by Japanese exporters in terms of production costs, and the way this is reflected on the domestic and export markets, must be examined in an investigation of whether dumping has taken place. However, when the causes of injury are being examined, Article 4 (1) of Regulation (EEC) No 2423/88 requires verification that the material injury to the Community industry is a consequence of imports at dumping prices. Had these imports not been dumped, their price would necessarily have been higher. Therefore only the impact of their actual prices on Community production, independent of any cost-related considerations, had to be examined. On the basis of this examination, the Commission established a causal link between imports of LTH lamps at dumping prices and the material injury, a conclusion which the Council confirms.
- (28) As the Commission had found when examining the possible impact of other factors, there were very few other imports in the course of the investigation period. Demand was expanding strongly and there was no appreciable technology gap between production in Japan and in the Community. Apart from the injurious consequences of dumping by the producer/exporters in question, there was no evidence to cast doubt on the efficiency of the Community LTH lamp industry. The loss of

market share and the worsening financial situation of Community producers cannot therefore be attributed to other factors.

- (29) Consequently, the Council adopts the Commission's conclusions (see recital (51) of Regulation (EEC) No 2064/90) whereby the effects of dumped imports of LTH lamps originating in Japan, taken in isolation, have to be considered as causing material injury to the Community industry.

#### I. COMMUNITY INTEREST

- (30) Two producer/exporters again suggested that there was a danger of Japanese imports being replaced by low-priced imports from other non-Community countries (see recital (61) of Regulation (EEC) No 2064/90), if high anti-dumping duties were imposed. They submitted several price quotations for LTH lamps of Chinese or Korean origin.
- (31) As noted by the Commission, price quotations were not proof of an effective increase in imports originating in non-Community countries other than Japan since the end of the investigation period, during which their quantity had been insignificant. None of the mainly statistical information studied by the Commission substantiated this allegation.

In view of the uncertainty of the development of imports originating in countries other than Japan, the Council confirms the Commission's findings set out in point I of Regulation (EEC) No 2064/90 and believes it in the Community interest to impose anti-dumping measures to eliminate the injurious effects of imports originating in Japan.

#### J. DUTY

- (32) In Regulation (EEC) No 2064/90, the Commission calculated a minimum price corresponding to that at which Community products would sell if there were no dumping. This calculation took account, as indicated in recital (66) of that Regulation, of the undercutting observed. The Council confirms this method of calculating the duties. Account should, however, be taken of the reassessments accepted in this Regulation (recital (23)) regarding the allowances provisionally made by the Commission when calculating undercutting. The Commission proposed that the injury threshold be established in relation to the production costs of a Community manufacturer of LTH lamps producing quantities and applying a technology that could be considered representative of the Community industry. The

Council endorses this proposal. Thus the following definitive anti-dumping duties are required for each exporter in order to eliminate the injury suffered :

— Iwasaki :	35,6 %,
— Phoenix :	45,5 %,
— Sigma :	46,5 %.

Since the dumping margins found for all the exporters concerned exceed the injury level, the above duties will be imposed in accordance with Article 13 (3) of Regulation (EEC) No 2423/88.

- (33) The Council confirms, for the reasons stated by the Commission in recital (69) of Regulation (EEC) No 2064/90, that the highest duty, i.e. 46,5 %, should be applied to firms which did not respond to the Commission's questionnaire.

#### K. COLLECTION OF THE PROVISIONAL DUTIES

- (34) In view of the dumping margins found and the material injury caused to the Community industry, the Council considers it necessary to definitively collect from the amounts secured by way of the provisional anti-dumping duty a sum amounting to the definitive duty imposed.

#### L. UNDERTAKINGS

- (35) Following the imposition of the provisional duties, Iwasaki Electric Co., Ltd, Phoenix Electric Co., Ltd and Sigma Corporation offered an undertaking concerning future exports of their LTH lamps to the Community.

After consultations, these undertakings were not considered acceptable by the Commission. The Commission has notified the producer/exporters concerned of the reasons for this decision,

HAS ADOPTED THIS REGULATION :

#### Article 1

1. A definitive anti-dumping duty of 46,5 % of the net, free-at-Community-frontier price, before duty is hereby imposed on imports of linear tungsten halogen lamps, falling within CN code ex 8539 21 91 (Taric code : 8539 21 91 91) and originating in Japan (additional Taric code : 8462).

2. The rate of duty for the products manufactured by the following companies shall be :

- Iwasaki Electric Co., Ltd :  
35,6 % (additional Taric code : 8460),
- Phoenix Electric Co., Ltd :  
45,5 % (additional Taric code : 8461).

3. The duty specified in paragraphs 1 and 2 shall apply only to linear tungsten halogen lamps for a voltage exceeding 100 volts, of 100 watts or more, double-ended with R7s caps, of a kind used for indoor or outdoor illumination. This duty is not applicable to linear tungsten halogen lamps used exclusively as components of devices not intended for lighting.

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

#### Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 2064/90 shall be definitively collected at the duty rate definitively imposed. Amounts secured which are not covered by the definitive rate of duty shall be released.

#### Article 3

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 January 1991.

*For the Council*

*The President*

J. F. POOS



## COMMISSION REGULATION (EEC) No 118/91

of 18 January 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 Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(4)</sup>, 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 3844/90<sup>(5)</sup> 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 17 January 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 3844/90 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 19 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 201, 31. 7. 1990, p. 9.

<sup>(5)</sup> OJ No L 367, 29. 12. 1990, p. 13.

## ANNEX

to the Commission Regulation of 18 January 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies
	Third country
0709 90 60	138,97 <sup>(2)</sup> <sup>(3)</sup>
0712 90 19	138,97 <sup>(2)</sup> <sup>(3)</sup>
1001 10 10	197,99 <sup>(1)</sup> <sup>(5)</sup>
1001 10 90	197,99 <sup>(1)</sup> <sup>(5)</sup>
1001 90 91	190,70
1001 90 99	190,70
1002 00 00	155,72 <sup>(6)</sup>
1003 00 10	147,86
1003 00 90	147,86
1004 00 10	145,39
1004 00 90	145,39
1005 10 90	138,97 <sup>(2)</sup> <sup>(3)</sup>
1005 90 00	138,97 <sup>(2)</sup> <sup>(3)</sup>
1007 00 90	148,88 <sup>(4)</sup>
1008 10 00	62,78
1008 20 00	123,92 <sup>(4)</sup>
1008 30 00	72,06 <sup>(7)</sup>
1008 90 10	(7)
1008 90 90	72,06
1101 00 00	281,00 <sup>(8)</sup>
1102 10 00	232,90 <sup>(8)</sup>
1103 11 10	320,27 <sup>(8)</sup>
1103 11 90	302,39 <sup>(8)</sup>

- (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 119/91

of 18 January 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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90 <sup>(2)</sup>, 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 <sup>(3)</sup>, as last amended by Regulation (EEC) No 2205/90 <sup>(4)</sup>, 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 3845/90 <sup>(5)</sup> 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 17 January 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 19 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.<sup>(4)</sup> OJ No L 201, 31. 7. 1990, p. 9.<sup>(5)</sup> OJ No L 367, 29. 12. 1990, p. 10.

## ANNEX

to the Commission Regulation of 18 January 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	1st period	2nd period	3rd period
	1	2	3	4
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	3,27	3,20	3,19
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	1st period	2nd period	3rd period	4th period
	1	2	3	4	5
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 120/91**  
**of 18 January 1991**  
**fixing the import levies on rice and broken 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 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(1)</sup>, as last amended by Regulation (EEC) No 1806/89 <sup>(2)</sup>, and in particular Article 11 (2) thereof,

Having regard to Commission Regulation (EEC) No 883/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports rice of the long-grain aromatic Basmati variety falling within CN codes 1006 10, 1006 20 and 1006 30 <sup>(3)</sup>, as amended by Regulation (EEC) No 1546/87 <sup>(4)</sup>, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 3846/90 <sup>(5)</sup>, as last amended by Regulation (EEC) No 69/91 <sup>(6)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import levies to be charged on the products listed in Article 1 (1) (a) and (b) of Regulation (EEC) No 1418/76 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 21 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 166, 25. 6. 1976, p. 1.  
<sup>(2)</sup> OJ No L 177, 24. 6. 1989, p. 1.  
<sup>(3)</sup> OJ No L 80, 24. 3. 1987, p. 20.  
<sup>(4)</sup> OJ No L 144, 4. 6. 1987, p. 10.

<sup>(5)</sup> OJ No L 367, 29. 12. 1990, p. 16.  
<sup>(6)</sup> OJ No L 9, 12. 1. 1991, p. 5.

## ANNEX

to the Commission Regulation of 18 January 1991 fixing the import levies on rice and broken rice

(ECU/tonne)

CN code	Arrangement in Regulation (EEC) No 3877/86	ACP or OCT ( <sup>1</sup> )( <sup>2</sup> )( <sup>3</sup> )	Third countries (except ACP or OCT) ( <sup>4</sup> )( <sup>5</sup> )
1006 10 21	—	155,91	319,02
1006 10 23	240,80	156,93	321,06
1006 10 25	240,80	156,93	321,06
1006 10 27	240,80	156,93	321,06
1006 10 92	—	155,91	319,02
1006 10 94	240,80	156,93	321,06
1006 10 96	240,80	156,93	321,06
1006 10 98	240,80	156,93	321,06
1006 20 11	—	195,79	398,78
1006 20 13	301,00	197,06	401,33
1006 20 15	301,00	197,06	401,33
1006 20 17	301,00	197,06	401,33
1006 20 92	—	195,79	398,78
1006 20 94	301,00	197,06	401,33
1006 20 96	301,00	197,06	401,33
1006 20 98	301,00	197,06	401,33
1006 30 21	—	242,73	509,31
1006 30 23	444,08 ( <sup>6</sup> )	284,16	592,10 ( <sup>6</sup> )
1006 30 25	444,08 ( <sup>6</sup> )	284,16	592,10 ( <sup>6</sup> )
1006 30 27	448,08 ( <sup>6</sup> )	284,16	592,10 ( <sup>6</sup> )
1006 30 42	—	242,73	509,31
1006 30 44	444,08 ( <sup>6</sup> )	284,16	592,10 ( <sup>6</sup> )
1006 30 46	444,08 ( <sup>6</sup> )	284,16	592,10 ( <sup>6</sup> )
1006 30 48	444,08 ( <sup>6</sup> )	284,16	592,10 ( <sup>6</sup> )
1006 30 61	—	258,86	542,42
1006 30 63	476,06 ( <sup>6</sup> )	305,02	634,74 ( <sup>6</sup> )
1006 30 65	476,06 ( <sup>6</sup> )	305,02	634,74 ( <sup>6</sup> )
1006 30 67	476,06 ( <sup>6</sup> )	305,02	634,74 ( <sup>6</sup> )
1006 30 92	—	258,86	542,42
1006 30 94	476,06 ( <sup>6</sup> )	305,02	634,74 ( <sup>6</sup> )
1006 30 96	476,06 ( <sup>6</sup> )	305,02	634,74 ( <sup>6</sup> )
1006 30 98	476,06 ( <sup>6</sup> )	305,02	634,74 ( <sup>6</sup> )
1006 40 00	—	93,54	193,08

(<sup>1</sup>) Subject to the application of the provisions of Articles 12 and 13 of Regulation (EEC) No 715/90.

(<sup>2</sup>) In accordance with Regulation (EEC) No 715/90, the levies are not applied to products imported directly into the overseas department of Réunion of products originating in the African, Caribbean and Pacific States or in the overseas countries and territories.

(<sup>3</sup>) The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

(<sup>4</sup>) The import levy on rice originating in Bangladesh is specified in Regulation (EEC) No 3491/90.

(<sup>5</sup>) 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 121/91

of 18 January 1991

fixing the premiums to be added to the import levies on rice and broken 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 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(1)</sup>, as last amended by Regulation (EEC) No 1806/89 <sup>(2)</sup>, and in particular Article 13 (6) thereof,

Whereas the premiums to be added to the levies on rice and broken rice were fixed by Commission Regulation (EEC) No 3847/90 <sup>(3)</sup>, as last amended by Regulation (EEC) No 70/91 <sup>(4)</sup>;

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 shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The premiums to be added to the import levies fixed in advance in respect of rice and broken rice originating in third countries shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 21 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(2)</sup> OJ No L 177, 24. 6. 1989, p. 1.

<sup>(3)</sup> OJ No L 367, 29. 12. 1990, p. 19.

<sup>(4)</sup> OJ No L 9, 12. 1. 1991, p. 7.

## ANNEX

to the Commission Regulation of 18 January 1991 fixing the premiums to be added to the import levies on rice and broken rice

CN code	<i>(ECU/tonne)</i>			
	Current 1	1st period 2	2nd period 3	3rd period 4
1006 10 21	0	0	0	—
1006 10 23	0	0	0	—
1006 10 25	0	0	0	—
1006 10 27	0	0	0	—
1006 10 92	0	0	0	—
1006 10 94	0	0	0	—
1006 10 96	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 13	0	0	0	—
1006 20 15	0	0	0	—
1006 20 17	0	0	0	—
1006 20 92	0	0	0	—
1006 20 94	0	0	0	—
1006 20 96	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 23	0	0	0	—
1006 30 25	0	0	0	—
1006 30 27	0	0	0	—
1006 30 42	0	0	0	—
1006 30 44	0	0	0	—
1006 30 46	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 63	0	0	0	—
1006 30 65	0	0	0	—
1006 30 67	0	0	0	—
1006 30 92	0	0	0	—
1006 30 94	0	0	0	—
1006 30 96	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0



**COMMISSION REGULATION (EEC) No 122/91****of 18 January 1991****adopting interim protective measures on applications for STM licences in the beef and veal sector submitted during the period 7 to 11 January 1991**

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 Article 85 (1) thereof,

Whereas Commission Regulation (EEC) No 3690/90 of 19 December 1990 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted on 31 December 1985 and Spain <sup>(1)</sup> set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued each quarter;

Whereas Article 85 (1) of the Act of Accession makes provision for the Commission to take the interim protective measures necessary if the indicative ceiling for the year in course or part of it is reached or exceeded;

Whereas the licence applications lodged between 7 and 11 January 1991 are for a quantity in excess of that set for the first quarter for live animals; whereas as an interim protective measure only a percentage of the amounts

applied for in that period should be granted and no further certificates issued for the time being,

HAS ADOPTED THIS REGULATION:

*Article 1*

For live animals of the bovine species, other than pure-bred breeding animals and animals for bullfights:

1. applications for STM licences for the following products submitted between 7 and 11 January 1991 and notified to the Commission shall be accepted for 8,537 %;
2. the issuing of STM licences in response to applications submitted from 14 January 1991 onwards is suspended for the time being.

*Article 2*

This Regulation shall enter into force on 21 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 357, 20. 12. 1990, p. 27.

**COMMISSION REGULATION (EEC) No 123/91****of 18 January 1991****determining the extent to which applications lodged in January 1991 for import licences for certain poultrymeat products can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

*Article 1*

Having regard to Council Regulation (EEC) No 3834/90 of 20 December 1990 reducing for 1991 the levies on certain agricultural products originating in developing countries <sup>(1)</sup>,

Applications for import licences for the period 1 January to 31 March 1991 submitted pursuant to Regulation (EEC) No 25/91 shall be met :

Whereas Commission Regulation (EEC) No 25/91 <sup>(2)</sup> set the quantity of poultrymeat that can be imported at a reduced levy during the first quarter of 1991 ;

(a) for 5,8824 % of the quantity applied for, in the case of products named against serial number 59.0020 in Regulation (EEC) No 3834/90 ;

(b) for 69,4444 % of the quantity applied for, in the case of products named against serial number 59.0025 in Regulation (EEC) No 3834/90.

Whereas Article 4 (5) of that Regulation stipulates that the quantities applied for can be reduced ; whereas applications for import licences for duckmeat lodged pursuant to the said Regulation are for total quantities in excess of those available pursuant to Article 2 thereof ; whereas in order to ensure a fair distribution of these quantities those applied for should be reduced by a fixed percentage ;

*Article 2*

This Regulation shall enter into force on 21 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 31. 12. 1990, p. 121.

<sup>(2)</sup> OJ No L 3, 5. 1. 1991, p. 9.

## COMMISSION REGULATION (EEC) No 124/91

of 18 January 1991

**determining the extent to which applications lodged in January 1991 for import licences for certain pigmeat products can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

numbers 59.0040 and 59.0080 in Regulation (EEC) No 3834/90 should therefore be determined,

Having regard to the Treaty establishing the European Economic Community,

HAS ADOPTED THIS REGULATION :

Having regard to Council Regulation (EEC) No 3834/90 of 20 December 1990 reducing for 1991 the levies on certain agricultural products originating in developing countries <sup>(1)</sup>,

*Article 1*

Whereas Commission Regulation (EEC) No 26/91 <sup>(2)</sup>, set the quantities of pigmeat products that can be imported at a reduced levy during the first quarter of 1991 ;

1. Applications for import licences for the period 1 January to 31 March 1991 submitted under Regulation (EEC) No 26/91 shall be met :

Whereas Article 4 (5) of Regulation (EEC) No 26/91 stipulates that the quantities applied for can be reduced ; whereas applications for import licences lodged under the said Regulation are for total quantities in excess of those available under Article 2 for products named against serial numbers 59.0010, 59.0060 and 59.0070 in Regulation (EEC) No 3834/90 ; whereas in order to ensure a fair distribution of these quantities those applied for should be reduced by a fixed percentage ;

(a) for 4.0584 % of the quantity applied for, in the case of products named against serial number 59.0010 in Regulation (EEC) No 3834/90 ;

(b) in full, for products named against serial number 59.0040 in Regulation (EEC) No 3834/90 ;

(c) for 20,9030 % of the quantity applied for in the case of products named against serial number 59.0060 in Regulation (EEC) No 3834/90 ;

(d) 90,9091 % for products named against serial number 59.0070 in Regulation (EEC) No 3834/90 ;

(e) in full, for products named against serial number 59.0080 in Regulation (EEC) No 3834/90.

Whereas the applications made for licences for products named against serial numbers 59.0040 and 59.0080 in Regulation (EEC) No 3834/90 are for quantities lower than those available ; whereas these applications can therefore be met in full ;

2. During the first 10 days of the second quarter of 1991 applications may be lodged pursuant to Regulation (EEC) No 26/91 for import licences for a total quantity of :

(a) 1 085,00 tonnes of the products named against serial number 59.0040 in Regulation (EEC) No 3834/90 ;

(b) 2 533,80 tonnes of the products named against serial number 59.0070 in Regulation (EEC) No 3834/90 ;

Whereas Article 4 (5) of the abovementioned Regulation stipulates that if the total quantity for which applications have been submitted is less than that available the Commission shall calculate the quantity remaining, which is to be added to that available for the following quarter ; whereas the quantity available for the second quarter of 1991 of the products named against serial

*Article 2*

This Regulation shall enter into force on 21 January 1991.

<sup>(1)</sup> OJ No L 370, 31. 12. 1990, p. 121.

<sup>(2)</sup> OJ No L 3, 5. 1. 1991, p. 12.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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**COMMISSION REGULATION (EEC) No 125/91**  
of 18 January 1991

**on the issuing of a standing invitation to tender for the resale on the internal market of 127 000 tonnes of common wheat held by the Spanish intervention agency**

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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 1340/90 <sup>(2)</sup>, and in particular Article 7 (6) thereof,

Whereas Article 3 of Council Regulation (EEC) No 1581/86 of 23 May 1986 laying down general rules for intervention on the market in cereals <sup>(3)</sup>, as last amended by Regulation (EEC) No 2203/90 <sup>(4)</sup>, provides that cereals held by the intervention agency are to be sold by tender;

Whereas Commission Regulation (EEC) No 1836/82 <sup>(5)</sup>, as last amended by Regulation (EEC) No 2619/90 <sup>(6)</sup>, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas, in the present market situation, a standing invitation to tender for the resale on the internal market of 127 000 tonnes of common wheat held by the Spanish intervention agency should be issued;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The Spanish intervention agency shall issue a standing invitation to tender for the resale on the internal market

of 127 000 tonnes of common wheat held by it in accordance with Regulation (EEC) No 1836/82.

*Article 2*

1. The final date for the submission of tenders for the first partial invitation to tender shall be 31 January 1991.

2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 21 March 1991.

3. Tenders must be lodged with the Spanish intervention agency:

Servicio Nacional de Productos Agrarios (SENPA),  
Beneficencia, 8,  
E-28004 Madrid;  
(téléc: 23427 SENPA E; tel.: 232 34 88).

*Article 3*

Not later than Tuesday of the week following the final date for the submission of tenders, the Spanish intervention agency shall notify the Commission of the quantities and average prices of the various lots sold.

*Article 4*

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, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.  
<sup>(2)</sup> OJ No L 134, 28. 5. 1990, p. 1.  
<sup>(3)</sup> OJ No L 139, 24. 5. 1986, p. 36.  
<sup>(4)</sup> OJ No L 201, 31. 7. 1990, p. 5.  
<sup>(5)</sup> OJ No L 202, 9. 7. 1982, p. 23.  
<sup>(6)</sup> OJ No L 255, 19. 9. 1990, p. 7.

**COMMISSION REGULATION (EEC) No 126/91**  
**of 16 January 1991**  
**on the supply of various lots of butteroil as food aid**

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management <sup>(1)</sup>, as last amended by Regulation (EEC) No 1930/90 <sup>(2)</sup>, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management <sup>(2)</sup> lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas following the taking of a number of decisions on the allocation of food aid the Commission has allocated to certain countries and beneficiary organizations 1 050 tonnes of butteroil;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community

food aid <sup>(4)</sup>; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

*Article 1*

Milk products shall be mobilized in the Community, as Community food aid, for supply to the recipients listed in the Annex in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

*Article 2*

This Regulation shall enter into force on the 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 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 30. 12. 1986, p. 1.

<sup>(2)</sup> OJ No L 174, 7. 7. 1990, p. 6.

<sup>(3)</sup> OJ No L 136, 26. 5. 1987, p. 1.

<sup>(4)</sup> OJ No L 204, 25. 7. 1987, p. 1.

## ANNEX

## LOTS A, B and C

1. **Operation Nos** (1): 1027/90, 1059/90 and 1073/90
2. **Programme**: 1990
3. **Recipient**: World Food Programme, Via Cristoforo Colombo 426, 00145 Rome, Telex 626675 WFP I
4. **Representative of the recipient** (2): see OJ No 103, 16. 4. 1987
5. **Place or country of destination**: A: Ethiopia, B: Cuba, C: Somalia
6. **Product to be mobilized**: butteroil
7. **Characteristics and quality of the goods** (3) (6) (7) (8):  
See OJ No C 216, 14. 8. 1987, p. 7, I.3.1 and I.3.2
8. **Total quantity**: 1 050 tonnes (A: 375 tonnes, B: 375 tonnes, C: 300 tonnes)
9. **Number of lots**: 3
10. **Packaging and marking**: 5 kg (9)  
OJ No C 216, 14. 8. 1987, p. 7 (I.3.3)  
Supplementary marking on packaging:  
A: 'ACTION No 1027/90 / BUTTEROIL / 0415801 / ETHIOPIA / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY / ACTION OF THE WORLD FOOD PROGRAMME / ASSAB'  
B: 'ACTION No 1059/90 / BUTTEROIL / 0270201 / CUBA / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY / ACTION OF THE WORLD FOOD PROGRAMME / HAVANA'  
C: 'ACTION No 1073/90 / BUTTEROIL / 0416701 / SOMALIA / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY / ACTION OF THE WORLD FOOD PROGRAMME / MOGA-DISHU'  
and OJ No C 216, 14. 8. 1987, p. 8 (I.3.4)
11. **Method of mobilization**: Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 18. 2. — 4. 3. 1991
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **In the case of an invitation to tender, date of expiry of the period allowed for submission of tenders** (4): 12 noon on 4. 2. 1991
21. **In the case of a second invitation to tender**:
  - (a) deadline for the submission of tenders: 12 noon on 18. 2. 1991;
  - (b) period for making the goods available at the port of shipment: 4. — 18. 3. 1991;
  - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 20 per tonne
23. **Amount of the delivery security**: 10 % of the tender in ecus
24. **Address for submission of tenders**:  
Bureau de l'aide alimentaire,  
à l'attention de Monsieur N. Arend,  
Bâtiment Loi 120, bureau 7/58,  
Rue de la Loi, 200,  
B-1049 Brussels,  
(telex AGREC 22037 B or 25670 B)
25. **Refund payable on request by the successful tenderer** (5): Refund applicable on 1. 1. 1991, fixed by Commission Regulation (EEC) No 3804/90 (OJ No L 365 of 16. 3. 1990, p. 54)

*Notes*

- (1) The operation number is to be quoted in all correspondence.
- (2) The successful tenderer shall deliver to the beneficiary for each action number/shipping number a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.  
Radioactivity analysis must indicate the caesium-134 and -137 levels.
- (3) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 227, 7. 9. 1985, p. 4.
- (4) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of the Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
- by porter at the office referred to in point 24 of the Annex, or
  - by telecopier on one of the following numbers in Brussels :
    - 235 01 32,
    - 236 10 97,
    - 235 01 30,
    - 236 20 05.
- (5) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 24. 7. 1989, p. 10), is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of the Annex.
- (6) The successful tenderer shall give the beneficiaries' representative, at the time of delivery, a certificate of origin.
- (7) Analysis and Quality certificate listing technical specifications of the product and issued by official entity in country of origin.
- (8) Packaging certificate giving net weight per package and total weight of packaging.
- (9) Veterinary certificate issued by an official entity stating that the product derives from healthy animals, was processed under excellent sanitary conditions which are supervised by qualified technical personnel and that the area of production of raw milk had not registered food-and-mouth disease.
-



## COMMISSION REGULATION (EEC) No 127/91

of 18 January 1991

## on the supply of various lots of skimmed-milk powder as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management <sup>(1)</sup>, as last amended by Regulation (EEC) No 1930/90 <sup>(2)</sup>, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management <sup>(3)</sup> lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas following the taking of a number of decisions on the allocation of food aid the Commission has allocated to certain beneficiary organizations 6 273 tonnes of skimmed-milk powder;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community

food aid <sup>(4)</sup>; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

*Article 1*

Milk products shall be mobilized in the Community, as Community food aid, for supply to the recipients listed in the Annex in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. Supplies shall be awarded by the tendering procedure.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

*Article 2*

This Regulation shall enter into force on the 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, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 370, 30. 12. 1986, p. 1.

<sup>(2)</sup> OJ No L 174, 7. 7. 1990, p. 6.

<sup>(3)</sup> OJ No L 136, 26. 5. 1987, p. 1.

<sup>(4)</sup> OJ No L 204, 25. 7. 1987, p. 1.

## ANNEX I

## LOTS A, B and C

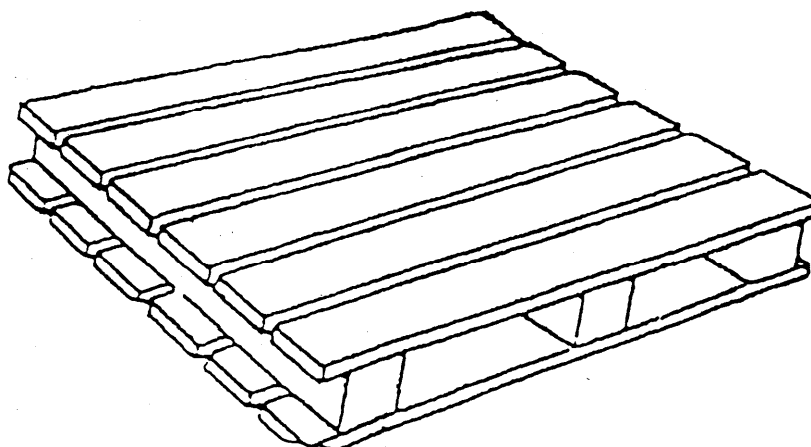
1. **Operation No** (1): 409/90, 694/90, 1072/90 and 1084/90
2. **Programme**: 1990
3. **Recipient**: World Food Programme, Via Cristoforo Colombo 426, I-00145 Rome; Telex 626675 WFP I
4. **Representative of the recipient** (2): see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: Cuba
6. **Product to be mobilized**: skimmed-milk powder
7. **Characteristics and quality of the goods** (3) (6) (7) (8) (10): see OJ No C 216, 14. 8. 1987, p. 3 (under I.1.A.1 and I.1.A.2)
8. **Total quantity**: 5 000 tonnes
9. **Number of lots**: 3 (lot A: 2 000 tonnes; lot B: 1 400 tonnes; lot C: 1 600 tonnes)
10. **Packaging and marking** (9): 25 kg and OJ No C 216, 14. 8. 1987, p. 3 (I.1.A.3)  
Supplementary marking on the packaging:  
See Annex II, and OJ No C 216, 14. 8. 1987, p. 3 (under I 1 A 4)
11. **Method of mobilization**: Community market.  
The manufacture of the skimmed-milk powder must be carried out after the award of the tender
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 4. to 18. 3. 1991
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **In the case of an invitation to tender, date of expiry of the period allowed for submission of tenders** (4): 12 noon on 4. 2. 1991
21. **In the case of a second invitation to tender**:
  - (a) deadline for the submission of tenders: 12 noon on 18. 2. 1991;
  - (b) period for making the goods available at the port of shipment: 18. 3. to 1. 4. 1991;
  - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 20 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders**: Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, Bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles, telex 22037 AGREC 22037 B
25. **Refund payable on request by the successful tenderer** (5): refund applicable on 1. 1. 1991, fixed by Commission Regulation (EEC) No 3804/90 in OJ No L 365, 28. 12. 1990, p. 54

## LOTS D, E and F

1. **Operations Nos 952 — 953/90 ; 955 — 957/90 and 1063 — 1066/90**
2. **Programme : 1990**
3. **Recipient : World Food Programme, Via Cristoforo Colombo 426, I-00145 Rome, Telex 626675 WFP I**
4. **Representative of the recipient<sup>(3)</sup> : See OJ No C 103, 16. 4. 1987**
5. **Place or country of destination : See Annex II**
6. **Product to be mobilized : skimmed milk powder : F 2  
vitaminized skimmed-milk powder : D — E — F 1 — F 3**
7. **Characteristics and quality of the goods<sup>(2)</sup> <sup>(10)</sup> : F 2 : (see OJ No C 216, 14. 8. 1987, p. 3, I.1.A. and I.1.A.2.) D — E F 1 — F 3 : (see OJ No C 216, 14. 8. 1987, p. 4 and 6 I.1.B.4 and I.1.B.4.3)**
8. **Total quantity : 1 273 tonnes**
9. **Number of lots : 3 (D : 400 tonnes ; E : 373 tonnes ; F : 500 tonnes)**
10. **Packaging and marking : 25 kg [E 4 : <sup>(11)</sup>]  
F 2 : see OJ No C 216, 14. 8. 1987, p. 3 (I.1.A.3.)  
D — E — F 1 — F 3 : see OJ No C 216, 14. 8. 1987, p. 4 and 6 (I.1.B.4. and I.1.B.4.3)  
Supplementary markings on packaging :  
and OJ No C 216, 14. 8. 1987, p. 3 (I.1.A.4.) (F 2)  
OJ No C 216, 14. 8. 1987, p. 6 (I.1.B.5.) (E — F 1 — F 3)**
11. **Method of mobilization : Community market.  
F 2 : The manufacture of skimmed milk powder must be carried out after the award of the tender.  
D — E — F 1 — F 3 : The manufacture of the skimmed-milk powder and the incorporation of vitamins must be carried out after the award of the tender.**
12. **Stage of supply : free-at-port of shipment**
13. **Port of shipment : —**
14. **Port of landing specified by the recipient : —**
15. **Port of landing : —**
16. **Address of the warehouse and, if appropriate, port of landing : —**
17. **Period for making the goods available at the port of shipment : 18. 2. 1991 to 4. 3. 1991**
18. **Deadline for the supply : —**
19. **Procedure for determining the costs of supply : invitation to tender**
20. **In the case of a second invitation to tender, date of expiry of the period allowed for submission of tenders<sup>(4)</sup> : 12 noon on 4. 2. 1991.**
21. **In the case of a second invitation to tender :  
(a) deadline for the submission of tenders : 12 noon on 18. 2. 1991 ;  
(b) period for making the goods available at the port of shipment : from 4 to 18. 3. 1991 ;  
(c) deadline for the supply : —**
22. **Amount of the tendering security : ECU 20 per tonne**
23. **Amount of the delivery security : 10 % of the amount of the tender in ecus**
24. **Address for submission of tenders :  
Bureau de l'aide alimentaire,  
Attention Mr N. Arend,  
Bâtiment Loi 120, bureau 7/58,  
200 rue de la Loi,  
B-1049 Bruxelles ;  
telex AGREC 22037 B or 25670 B**
25. **Refund payable on application by the successful tenderer<sup>(5)</sup> : Refund applicable on 1. 1. 1991, fixed by Commission Regulation (EEC) No 3804/90 (OJ No L 365, 28. 12. 1990, p. 54)**

*Notes*

- (<sup>1</sup>) The operation number is to be quoted in all correspondence.
- (<sup>2</sup>) The successful tenderer shall deliver to the beneficiary for each action number/shipping number a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
- Radioactivity analysis must indicate the caesium-134 and -137 levels.
- (<sup>3</sup>) Commission delegate to be contacted by the successful tenderer: see list published in OJ No C 227, 7. 9. 1985, p. 4.
- (<sup>4</sup>) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably:
- by porter at the office referred to in point 24 of this Annex, or
  - by telecopier on one of the following numbers in Brussels:
    - 235 01 32,
    - 236 10 97,
    - 235 01 30,
    - 236 20 05.
- (<sup>5</sup>) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 24. 7. 1989, p. 10), is applicable as regards the export refund and where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of this Annex.
- (<sup>6</sup>) The successful tenderer shall give the beneficiaries' representative, at the time of delivery, a certificate of origin.
- (<sup>7</sup>) Analysis and Quality certificate listing technical specifications of the product and issued by official entity in country of origin.
- (<sup>8</sup>) Packaging certificate giving net weight per package and total weight of packaging.
- (<sup>9</sup>) Veterinary certificate issued by an official entity stating that the product was processed with pasteurized milk, coming from healthy animals, processed under excellent sanitary conditions which are supervised by qualified technical personnel and that the area of production of raw milk had not registered food-and-mouth disease nor any other notifiable infectious/contagious disease during the 90 days prior to the processing.
- (<sup>10</sup>) The successful tenderer shall give the beneficiaries' representative, at the time of delivery, a health certificate.
- (<sup>11</sup>) Palletization of skimmed-milk powder:
- 25 kilogram bags to be supplied on a two-way double deck reversible pallet with protruding slats, as per design, of the following dimensions:
- 1,1 m × 1,4 m (approximately):
- upper board                    22 mm thick
  - bottom board                22 mm thick
  - blocks                        95 × 95 mm
- 40 bags to be placed onto the pallets, interlocked and shrink-wrapped with a plastic sheet of 150 micron thickness, with three external adjustable nylon straps in each direction to secure the unit-load.



ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II — ANEXO II

Designación del lote Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation du lot Designazione della partita Aanduiding van de partij Designação do lote	Cantidad total del lote (en toneladas) Totalmængde (tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale du lot (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Beneficiario Modtager Empfänger Δικαιούχος Beneficiary Bénéficiaire Beneficiario Begunstigde Beneficiário	Pais destinatario Modtagerland Bestimmungsland Χώρα προορισμού Recipient country Pays destinataire Paese destinatario Bestemmingsland País destinatário	Inscripción en el embalaje Emballagens påtegning Aufschrift auf der Verpackung Ένδειξη επί της συσκευασίας Markings on the packaging Inscription sur l'emballage Iscrizione sull'imballaggio Aanduiding op de verpakking Inscrição na embalagem
A	2 000		WFP	Cuba	Action No 409/90 / Cuba / 0270201 / Dried skimmed milk / Gift of the European Economic Community / Action of the World Food Programme / Havana
B	1 400		WFP	Cuba	Action No 694/90 / Cuba / 0270201 / Dried skimmed milk / Gift of the European Economic Community / Action of the World Food Programme / Havana
C	1 600	689	WFP	Cuba	Action No 1072/90 / Cuba / 0270201 / Dried skimmed milk / Gift of the European Economic Community / Action of the World Food Programme / Havana
		911	WFP	Cuba	Action No 1084/90 / Cuba / 0270201 / Dried skimmed milk / Gift of the European Economic Community / Action of the World Food Programme / Havana
D	400	100	WFP	Ecuador	Acción nº 952/90 / Ecuador / 0277000 / Leche desnatada vitaminada en polvo / Donación de la Comunidad Económica Europea / Despachado por el Programa Mundial de Alimentos / Guayaquil
		300	WFP	Ecuador	Acción nº 953/90 / Ecuador / 0309600 / Leche desnatada vitaminada en polvo / Donación de la Comunidad Económica Europea / Despachado por el Programa Mundial de Alimentos / Guayaquil
E	373	E 1 : 280	WFP	République centrafricaine	Action nº 955/90 / République centrafricaine / 0265201 / Lait en poudre vitaminé / Don de la Communauté économique européenne / Action du Programme alimentaire mondial / Douala en transit vers Bangui
		E 2 : 43	WFP	Cabo Verde	Acção nº 956/90 / Cabo Verde / 0239403 / Leite em pó vitaminado / Donativo da Comunidade Económica Europeia / Acção do Programa Alimentar Mundial / Praia

Designación del lote Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation du lot Designazione della partita Aanduiding van de partij Designação do lote	Cantidad total del lote (en toneladas) Totalmængde (tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale du lot (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Beneficiario Modtager Empfänger Δικαιούχος Beneficiary Bénéficiaire Beneficiario Begunstigde Beneficiário	País destinatario Modtagerland Bestimmungsland Χώρα προορισμού Recipient country Pays destinataire Paese destinatario Bestemmingsland País destinatário	Inscripción en el embalaje Emballagens påtegning Aufschrift auf der Verpackung Ένδειξη επί της συσκευασίας Markings on the packaging Inscription sur l'emballage Iscrizione sull'imballaggio Aanduiding op de verpakking Inscrição na embalagem
		E 3: 20	WFP	Cabo Verde	Acção nº 957/90 / Cabo Verde / 0239403 / Leite em pó vitaminado / Donativo da Comunidade Económica Europeia / Acção do Programa Alimentar Mundial / Mindelo
		E 4: 30	WFP	São Tomé e Príncipe	Acção nº 1063/90 / São Tomé / 0225004 / Leite em pó vitaminado / Donativo da Comunidade Económica Europeia / Acção do Programa Alimentar Mundial / São Tomé
F	500	F 1: 200	WFP	Moçambique	Acção nº 1064/90 / Moçambique / 0238203 / Leite em pó alimentari / Donativo da Comunidade Económica Europeia / Acção do Programa Alimentar Mundial / Maputo
		F 2: 200	WFP	Tanzania	Action No 1065/90 / Tanzania / 0224702 / Skimmed-milk powder / Gift of the European Economic Community / Action of the World Food Programme / Dar-es-Salam
		F 3: 100	WFP	Liban	Action nº 1066/90 / Liban / 0052402 / Lait en poudre vitaminé / Don de la Communauté économique européenne / Action du Programme alimentaire mondial / Ouzai

**COMMISSION REGULATION (EEC) No 128/91**  
**of 18 January 1991**  
**amending Regulation (EEC) No 3792/90 on special conditions for the granting of**  
**private storage aid for pigmeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat<sup>(1)</sup>, as last amended by Regulation (EEC) No 1249/89<sup>(2)</sup>, and in particular Article 4 (6), Article 5 (4) and Article 7 (2) thereof,

*Article 1*

The Annex to Regulation (EEC) No 3792/90 is hereby replaced by the Annex to this Regulation.

Whereas, under Commission Regulation (EEC) No 3792/90<sup>(3)</sup>; private storage aid was introduced in the pigmeat sector; whereas the products eligible for such aid are listed in the Annex to that Regulation;

*Article 2*

Whereas certain cuts frequently marketed are not included in that list; whereas the list should therefore be supplemented in order to increase the effectiveness of the intervention measure concerned;

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

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

This Regulation shall apply to applications for aid submitted from 21 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 282, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 129, 11. 5. 1989, p. 12.

<sup>(3)</sup> OJ No L 365, 28. 12. 1990, p. 5.

## ANNEX

(ECU/tonne)

CN code	Products in respect of which aid is granted	Amount of the aid for a storage period of				Supplement or deduction	
		4 months	5 months	6 months	7 months	per month	per day
1	2	3	4	5	6	7	8
ex 0203	<b>Meat of domestic swine, fresh or chilled :</b>						
ex 0203 11 10	Half carcasses without the head, forefoot, tail, flare fat, kidney, thin skirt and spinal cord <sup>(1)</sup>	261	292	323	354	31	1,03
ex 0203 12 11	Legs	314	349	384	419	35	1,17
ex 0203 12 19	Shoulders	314	349	384	419	35	1,17
ex 0203 19 11	Fore-ends	314	349	384	419	35	1,17
ex 0203 19 13	Loins, with or without the neck-end, or neck-ends separately, loins with or without the chump, <sup>(2)</sup> <sup>(3)</sup>	314	349	384	419	35	1,17
ex 0203 19 15	Bellies, whole or trimmed by rectangular cut	163	190	217	244	27	0,90
ex 0203 19 55	Bellies, whole or trimmed by rectangular cut, without rind and ribs	163	190	217	244	27	0,90
ex 0203 19 55	Legs, shoulders, fore-ends, loins with or without the neck-end, or neck-ends separately, loins with or without the chump, boned <sup>(2)</sup> <sup>(3)</sup>	314	349	384	419	35	1,17
ex 0203 19 55	Cuts corresponding to 'middles', with or without rind or fat, boned <sup>(4)</sup>	240	269	298	327	29	0,97
ex 0203 19 59	Cuts corresponding to 'middles', with or without rind or fat, with bone in <sup>(4)</sup>	240	269	298	327	29	0,97

<sup>(1)</sup> The aid may be granted for half carcasses presented as Wiltshire sides, i. e. without the head, cheek, chap, feet, tail, flare fat, kidney, tenderloin, blade bone, sternum, vertebral column, pelvic bone and diaphragm.

<sup>(2)</sup> Loins and neck-ends may be with or without rind, the adherent layer of fat, however, not exceeding 25 mm in depth.

<sup>(3)</sup> The quantity contracted may cover any combination of the products mentioned.

<sup>(4)</sup> Same presentation as for products falling within GN-code 0210 19 20.



## COMMISSION REGULATION (EEC) No 129/91

of 11 January 1991

imposing a provisional anti-dumping duty on imports of small-screen colour television receivers originating in Hong Kong and the People's Republic of China

THE COMMISSION 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<sup>(1)</sup>, and in particular Article 11 thereof,

After consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

## A. PROCEDURE

(1) In November 1988 the Commission announced, by a notice of extension published in the *Official Journal of the European Communities*<sup>(2)</sup>, the initiation of an anti-dumping proceeding concerning imports into the Community of small-screen colour television receivers (hereafter referred to as SCTVs) originating in Hong Kong and the People's Republic of China and commenced an investigation. The product investigated falls within CN code 8528 10 71 according to which classification the maximum diagonal screen size taken into account for the purposes of the proceeding is 42 cm, while SCTVs with a screen size of 15,5 cm or less are excluded, as described in recital (7).

The proceeding was initiated as a result of a complaint lodged by the European Association of Consumer Electronic Manufacturers (EACEM) on behalf of producers whose collective output was stated to constitute a major proportion of Community production of SCTVs. The complaint contained evidence of dumping of this product originating in Hong Kong and the People's Republic of China and of material injury resulting therefrom, which was considered sufficient to justify opening the proceeding.

The initiation of this proceeding followed the opening in February 1988 of an anti-dumping investigation concerning imports of the same

product originating in the Republic of Korea<sup>(3)</sup>. (That investigation led to the imposition, by Council Regulation (EEC) No 1048/90<sup>(4)</sup>, of a definitive anti-dumping duty on imports of SCTVs originating in the Republic of Korea.) In these circumstances, the present proceeding was initiated by a notice of extension, referring to the Korean proceeding.

(2) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

All the known exporters, some importers, and the majority of Community producers represented by the complainant made their views known in writing. Submissions and representations were also made by the China Commercial Chamber of Audio & Video Products Exporters which represents the majority of Chinese producers/exporters.

(3) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following :

## (a) Community producers :

- Grundig AG, Fürth, Germany,
- Nokia-Graetz, Pforzheim, Germany,
- Philips International BV, Eindhoven, Netherlands,
- Séleco SpA, Pordenone, Italy,
- Thomson Consumer Electronics, Paris, France ;

## (b) Hong Kong producers/exporters :

- Cony Electronic Products Ltd, Hong Kong,
- Hanwah Electronics Ltd, Hong Kong,
- Kong Wah Electronic Enterprises Ltd, Hong Kong,
- Koyoda Electronics Ltd, Hong Kong,
- Luks Industrial Co Ltd, Hong Kong,
- Tai Wah Television Industries Ltd, Hong Kong ;

<sup>(1)</sup> OJ No L 209, 2. 8. 1988, p. 1.

<sup>(2)</sup> OJ No C 288, 12. 11. 1988, p. 13.

<sup>(3)</sup> OJ No C 44, 17. 2. 1988, p. 2.

<sup>(4)</sup> OJ No L 107, 27. 4. 1990, p. 56.

(c) *Japanese exporters of SCTVs produced by Sino-Japanese joint ventures:*

- Hitachi Sales Corporation, Tokyo, Japan,
- Sanyo Electric Co Ltd, Osaka, Japan,
- Sanyo Electric (Hong Kong) Co Ltd, Hong Kong;

(d) *Importers in the Community:*

- Cathay, Abingdon, United Kingdom,
- Coelge Soc. Com. de Electronica GERAL LDA, Lisbon, Portugal,
- Electronics Nederland BV, Amsterdam, Netherlands,
- Hardman Isherwood Ltd, Wakefield, United Kingdom,
- Hitachi Sales Europe GmbH, Hamburg, Germany,
- Sanyo Deutschland Vertrieb GmbH, Neu Isenburg, Germany,
- Schneider UK Ltd, Northampton, United Kingdom,
- Sembodja Holland BV, Diemen, Netherlands,
- Thompson Cook Distributors Ltd, Washford, United Kingdom,
- YOKO International BV, Halfweg, Netherlands.

- (4) The investigation of dumping covered the period 1 January 1988 to 31 October 1988 (the investigation period).
- (5) This investigation has exceeded the normal time because of the volume and complexity of the data initially gathered and examined, and because the completion of the investigation has required the study of related issues which arose during the proceeding and which could not have been foreseen at its outset.

**B. PRODUCT UNDER CONSIDERATION, ORIGIN FOR CUSTOMS PURPOSES****(a) Definition of product**

- (6) The products concerned by the proceeding are colour television receivers, with an integral picture tube, that have a diagonal screen measurement of more than 15,5 cm (six inches) but no greater than 42 centimetres (16 inches) (see recital 7).

Their principal components are: a housing (normally of plastic material although wood may also be used), a control unit, a power supply unit, a tuner for receiving broadcast television signals, a series of circuits for converting received signals into audio and video output, a sound assembly inclu-

ding loudspeakers and a cathode ray tube (also commonly referred to as colour picture tube or CPT) with deflection yoke in which the electronic video output signals are converted into images on the screen. This last component is by far the largest and most costly item in the assembly of a complete television receiver.

- (7) The notice of initiation of the Korean proceeding and the notice of extension initiating this proceeding cover all SCTVs with a diagonal measurement of the screen of not more than 42 cm.

A Hong Kong producer/exporter claimed that its exports of a model with screen measurement of five-and-a-half inches (approximately 14 cm) should be excluded from the scope of this proceeding because of the essential differences (features, usages) of the abovementioned model with the 14 inch (36 cm) models which are the most representative within the SCTV sector.

The Commission, having already considered similar claims in Regulation (EEC) No 1048/90 imposing definitive anti-dumping duties on imports of SCTVs originating in the Republic of Korea (recital (8)) came to the conclusion that the existence of significant differences of a physical nature (size, weight, degree of portability, types of usage, function with batteries) between the very small SCTVs five to six inch) and the larger ones (mainly 14-16 inch) allows it to be maintained that the very small SCTVs should be considered separately from the others, with which they are not in direct competition.

In these circumstances the Commission concludes that SCTVs with a diagonal screen size of six inches and below should be excluded from the scope of the proceeding.

- (8) The Commission considers that SCTVs which incorporate further elements within the housing of the television receiver, such as a radio broadcast receiver or a clock, are covered by the present proceeding. The physical differences represented by these additional elements do not materially affect the definition of the product under consideration and the Commission is consequently unable to accept the argument that their presence constitutes a separate product.

**(b) Like product**

- (9) The Commission found that the SCTVs produced in the Community use the same basic technology as those sold in and exported from Hong Kong and China and are alike in their essential physical and technical characteristics.

Colour television receivers in general are marketed with a wide range of technical features. In the

particular case of the SCTV sector, however, the determining features tend to be more restricted in number, since the normal household use in the Community of this product as a 'second set' implies that the majority of such sets sold need to satisfy less sophisticated technical requirements than those of the more highly featured, larger screen, 'first set' or 'family television'.

In comparing Community models with Hong Kong and Chinese models sold on the Community market and in comparing Hong Kong export models with those sold in the Hong Kong domestic market, the Commission took account in general — and where model availability permitted — of criteria based on those features which submissions had shown to be important in consumers' perceptions of the product. These are the same features as have been set out in recital (8) of Commission Regulation (EEC) No 3232/89<sup>(1)</sup> imposing provisional anti-dumping duties on SCTV imports originating in the Republic of Korea, and are the following:

- screen size,
- presentation — asymmetrical or symmetrical ('monitor look'), use of glass plate over screen,
- tuning control system — remote control, number of preselection available,
- connections (video, audio, etc.) and sound output available.

In order to avoid possibly misleading results, for example in undercutting exercises, the Commission did not compare with Hong Kong and Chinese exports the higher range of SCTVs produced and sold in the Community, which include such features as flat square screens teletext modules, and digital chassis. These models — although falling within the like product definition — were excluded from the comparison exercises because their more innovative and enhanced technical characteristics were not normally shared by the Hong Kong and Chinese models, at least during the reference period chosen.

The adaptation of television receivers to different broadcasting standards (PAL, Secam, etc.) or combinations of standards does not modify the basic technology employed or the consumer perception and usage of the product in the context of the like product determination, although it may give rise to price or cost differences.

### (c) Origin

- (10) The statistics for SCTV exports from the countries covered by the proceeding are unclear, and probably do not reflect accurately the distribution of assembly locations between the two territories involved. This consideration appears to be supported by the finding that most of the Hong Kong producer/exporters carried out a part or the whole of their assembly operations in facilities owned and managed by them over the border in China.

During the investigation period Eurostat figures show 730 000 SCTVs of declared Hong Kong origin imported into the Community, while the Commission's investigation showed that SCTVs of ascertained Hong Kong assembly exported to the Community in the same period totalled 495 000. On the other hand, information collected during the investigation suggests that 653 000 SCTVs manufactured in China were exported to the Community during the investigation period, while Eurostat figures show only 363 000 SCTVs of declared Chinese origin imported into the Community in the same period. Export statistics provided by representatives of the Chinese exporters also diverge widely from the Eurostat figures.

However, the specific Community rules of origin concerning colour television sets, which are contained in Commission Regulation (EEC) No 2632/70<sup>(2)</sup>, are framed in terms of criteria for which the location of assembly operations is not always a determining factor. The first condition of these rules requires a given proportion of value to be added in the country of origin through assembly operations and, where applicable, the incorporation of locally originating parts. Where this proportion cannot be reached, origin may be determined on the basis of the country of origin of a certain proportion of the value of the parts incorporated. In relation to these criteria, it was found that there was no production in Hong Kong of the major components used in SCTV manufacturing, such as colour picture tubes, fly back transformers, etc. Components were imported from several sources, among which figured Korea principally, and to a lesser extent, Japan.

Given the above, and the fact that it has not been possible for the Commission to verify the correctness or otherwise of the claimed origin during the course of the proceedings, it cannot be excluded that customs authorities, in the event of a check carried out on the basis of the abovementioned Community origin rules, may determine an origin which differs from that which is declared.

<sup>(1)</sup> OJ No L 314, 28. 10. 1989, p. 1.

<sup>(2)</sup> OJ No L 279, 24. 12. 1970, p. 35.

The Commission has therefore based its provisional findings on dumping and injury contained hereafter on the working assumption that the SCTVs investigated do have the origin that is declared to Community customs authorities, i.e. Hong Kong or Chinese origin.

### C. DUMPING

#### (a) Normal value

##### (i) *Hong Kong*

- (11) The great majority of export sales from Hong Kong to the Community were made on an OEM (original equipment manufacture) basis. In this case the importer, who is not a manufacturer of SCTVs, distributes (or sells to consumers through his own retail outlets) the product in the Community under his proprietary brand name. The few sales found on the Hong Kong domestic market were made either under the producers'/exporters' brand name or on an OEM basis. Both domestic prices and constructed values have been used to establish normal value according to the type of export transaction (own-brand or OEM) and the existence of sufficient domestic sales.
- (12) For one Hong Kong exporter where profitable domestic sales made under its own brand name were found to exceed five per cent in volume of the sales of the equivalent export models in the same channel of trade, normal value has been established on the basis of the weighted average domestic prices to independent customers net of all discounts directly linked to the sales under consideration. The Commission has accepted the exporter's claim to disregard certain own brand domestic sales made through a different channel of trade (sales through a department store), since this trade channel was not comparable with that used for own-brand export sales.
- (13) In the case of another Hong Kong producer/exporter where profitable domestic sales made through a related trading company on an OEM basis were found to exceed five per cent in volume of the sales of the equivalent export models also made on an OEM basis, normal value for these models has been established on the basis of the resale price of the related trading company to the first independent customer adjusted by the allowable selling expenses (see recital (23)) incurred

either by the producer/exporter or by the related trading company. Commissions paid by the producer/exporter to the related trading company have not been taken into account as allowable selling expenses, since the two companies concerned form part of the same economic entity.

- (14) For the own brand export sales of the same Hong Kong producer/exporter, which was found to sell only on an OEM basis in the domestic market, constructed values have been calculated. These constructed values have been based on cost of manufacture of each export model concerned plus average SG&A expenses incurred and the average profit margin earned on sales through the sales channel of this company on the Hong Kong domestic market.
- (15) In the case of three other Hong Kong producers/exporters where all the export sales were made on an OEM basis and no or insufficiently representative domestic sales were found, normal value has been based on constructed values.

Constructed values have been calculated for each one of these companies on the basis of their own cost of manufacture. To these costs have been added the SG&A expenses incurred by the domestic OEM sales channel for SCTVs of the company mentioned above in recitals (13) and (14). The profit margin taken into account is five per cent; this figure has been considered reasonable in the light of the results of this same company's sales channel where in fact somewhat more than this level of profit was earned on the sales mentioned.

- (16) For the export sales made on an OEM basis by the two remaining producers/exporters, which failed to show during the verification visits — in spite of claims to the contrary — that any of their SCTVs were effectively manufactured in Hong Kong, the constructed values used for normal value have been based on the best evidence available, i.e. on the cost of manufacture of equivalent export models of another Hong Kong producer/exporter whose manufacturing activity during the investigation period took place exclusively in Hong Kong. This producer was the larger and more efficient, with a far wider range of models permitting easy comparison, of the two exporters whose production has been carried out exclusively in Hong Kong during the investigation period. To these costs of manufacture the SG&A expenses and five per cent profit margin already discussed in recital (15) have been added.

(ii) *People's Republic of China*

- (17) All the export sales from China to the Community were made on an OEM basis, with the exception of the export sales from the Sino-Japanese joint ventures, which were made under the brand names of the Japanese parent companies.

Normal values for Chinese models were established according to Article 2 (5) (b) of Regulation (EEC) No 2423/88 on the basis of constructed values established in Hong Kong for comparable models which were manufactured in Hong Kong and exported to the Community. Hong Kong has been proposed as the reference market economy country by China Commercial Chamber of Audio and Video Products Exporters, as well as by the legal representatives of the Sino-Japanese joint venture producers, and by the legal representative of an important importer of SCTVs from China. The constructed values have been calculated on the basis of all costs of manufacture plus SG&A and a five per cent margin of profit in the same way as they have been established for comparable export models in Hong Kong.

- (18) The China Commercial Chamber of Audio and Video Products Exporters, having been informed of the Hong Kong models the Commission used as the basis for the calculation of constructed values for the Chinese export sales, reacted by proposing two other models which, according to its evaluation, are more appropriate for this purpose than those used by the Commission. The investigation showed that one of the two proposed models was probably not manufactured in Hong Kong but in China, and therefore it was not appropriate to establish normal value on such a basis.

The other proposed model, although it was manufactured in Hong Kong and resembles in technical characteristics the corresponding model retained by the Commission, was manufactured and sold in much smaller quantities and by a smaller producer. The Commission therefore considers that for the purpose of provisional determination the models it has selected are the most appropriate in order to establish normal value for the Chinese export sales.

(b) **Export price**(i) *Hong Kong*

- (19) All export sales were made either directly to unrelated importers or through unrelated trading companies in Hong Kong. In both cases the export prices have been established on the basis of the prices paid or payable for export.

(ii) *People's Republic of China*

- (20) In the case of export sales made directly to unrelated importers or through unrelated trading companies, export prices have been established on the basis of the prices paid or payable.

- (21) Where exports were made to importers related to Sino-Japanese joint venture producers/exporters, export prices have been constructed on the basis of resale prices to the first independent buyer, adjusted to take account of all costs incurred between importation and resale, including customs duties and a 10 % profit on turnover. This profit has been considered reasonable given the information available, i.e. the data collected from independent importers in this sector. The same profit margin was adopted in the proceeding against South Korea. Where cost allocations for SG&A have been necessary in constructing export prices, these generally have been made on the basis of turnover.

Discounts and rebates, given in connection with sales of a related importer to an independent buyer, have been taken into account in constructing export prices.

- (22) Certain export sales of SCTVs manufactured by companies in China, which were invoiced through Hong Kong producers/exporters to which these Chinese companies were related, have been excluded from the scope of this proceeding because the investigation has not shown whether they have been imported in the Community as originating in Hong Kong or China. The investigation has shown, moreover, that these production facilities have not traded in their own right.

(c) **Comparison**(i) *Hong Kong*

- (23) For the purposes of a fair comparison between normal value and export prices, the Commission has taken account, where appropriate, of differences affecting price comparability, such as differences in physical characteristics and selling expenses, where a direct relationship between these differences and the sales under consideration could be satisfactorily demonstrated. Under the heading of selling expenses, for export sales of Hong Kong producers/exporters, adjustments have been made for differences in commissions, transport, insurance, handling, loading and ancillary costs, payment terms, warranty expense and salesmen's salaries. All comparisons of normal values with the export sales prices of Hong Kong producers/exporters have been made at ex-works level.

- (24) In general, the matching of export SCTV models with comparable domestically sold or other models used as the basis of constructed values has been sufficiently close to limit the extent of the significant physical differences which had to be taken into account.

The adjustments for these differences, which mainly have been confined to differences in television broadcasting standards (PAL BG, PAL I, SECAM BG, SECAM L) and in the tuning system (remote control), have been estimated on the basis of their market value. Since these differences could not be found between the limited domestically sold models the Commission has estimated their market value either in full cost of production terms including the profit margin earned on domestically sold models or in market price difference terms.

- (25) One Hong Kong exporter claimed, during the verification visit at its premises, an adjustment for credit expenses on the prices of domestically sold models. The calculation of this adjustment was based on accounts receivable and the short term borrowing interest rate of 1988. The Commission has examined this claim although it was not mentioned in the exporter's original submission. No relationship could be established between these credit expenses and the sales under consideration because all the domestic sales were made under cod (cash on delivery) terms, a fact which has been verified through the sales invoices. The Commission therefore cannot accept the claim.

- (26) Another Hong Kong producer/exporter claimed that it did not employ any salesmen for export sales of SCTVs. The Commission's investigation at its premises showed that during the investigation period it actually employed two salesmen in selling SCTVs to the Community. The salaries of these two salesmen have been taken into account to calculate a relevant adjustment on the export prices.

(ii) *People's Republic of China*

- (27) The Commission has no data or any other reasonable basis to estimate adjustments for selling expenses on export sales from China except for warranty expenses. The warranty expenses, i.e. free of charge spare parts or sets, have been identified in the Chinese export sales invoices which the Chinese exporters made available to the Commission, and therefore an adjustment on the export prices has been estimated.

The Commission has considered that under these circumstances all the comparisons between normal

value and export prices for the Chinese export sales should be made at fob level.

(d) **Dumping margins**

- (28) Normal values and export prices have been compared on a transaction by transaction basis for each of the exporters concerned. The preliminary examination of the facts shows the existence of dumping in respect of imports of SCTVs originating in Hong Kong and 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.

The margins of dumping varied according to the exporter, and the weighted average margins, expressed as a percentage of cif frontier prices, have been as follows :

(a) *Hong Kong*

— Cony Electronic Products Ltd	3,19
— Hanwah Electronics Ltd	4,88
— Kong Wah Electronic Enterprises Ltd	3,13
— Koyoda Electronics Ltd	4,61
— Luks Industrial Co Ltd	4,17
— Tai Wah Television Industries Ltd	2,16 ;

(b) *People's Republic of China*

— China Great Wall Industry Corporation (Shanghai Branch)	17,49
— China National Electronics Import & Export Corporation	16,39
— China National Light Industrial Products Import & Export Corporation (Tianjin Branch)	16,88
— Fujian Hitachi Television Co Ltd	17,04
— Huaquiang Sanyo Electronics Co Ltd	7,55.

**D. COMMUNITY INDUSTRY**

- (29) The cooperating companies manufactured in 1988 more than 50 % of the total Community output of SCTVs, which can be considered as a major proportion of the total Community production of the like product.

As recently as 1985 the cooperating complainant companies still represented some 68 % of total Community output.

The rapid reduction in the percentage between 1985 and 1988 can be explained by the important change in the composition of Community SCTV production which took place, with mainly Japanese-controlled production which has moved into the Community, as well as by the Community controlled production which has been relocated outside the Community, as described later.

## E. INJURY

### (a) Cumulation of injury findings

- (30) The methodology used in the establishment of findings in the present proceeding essentially reflects that employed in the proceeding concerning Korean SCTVs as set out in Regulation (EEC) No 3232/89 and Regulation (EEC) No 1048/90. Consequently, when necessary, reference will be made to the proceeding concerning Korean SCTVs.

Injury findings related to the cumulated effect of imports from the Hong Kong and Chinese exporters investigated, and for which dumping has been established. This approach is justified by the homogeneity of the exports in question: the SCTVs exported to the Community were similar to a large range of the Community products (and similar to all the Community products with which they were compared for injury measurement purposes). They competed both with each other and with the comparable Community products, and were sold through equivalent channels of distributions. In addition, the volume of imports from each of these exporting countries, taken in isolation, was significant.

It should also be noted that, although the injury findings presented here are amply justified by figures relating to the exports covered by the current proceeding on their own, these injury findings follow immediately upon those already established during the proceeding concerning Korean SCTVs referred to above. It must be remembered therefore that certain elements of the injury now presented have in fact been borne by a Community industry already weakened by the injurious dumping found during the Korean proceeding mentioned above. In order to illustrate this aspect of the economic reality confronting the Community SCTV industry, mention may also be made from time to time in the following recitals of the statistical information concerning SCTV imports from Korea during the period 1985 to

1988. These imports are considered in fact to have exercised a 'spillover' effect, in that they continued to have an injurious impact, which was not offset by anti-dumping measures, on the Community industry during the investigation period relating to Hong Kong and China.

- (31) One Hong Kong exporter argued that imports of Hong Kong SCTVs should not be cumulated with imports from other exporters to determine injury and that Hong Kong SCTVs cannot have caused material injury to the Community SCTV industry.

The Commission's answer to this argument is that cumulation of imports, which is its standard practice in anti-dumping proceedings, has been justified by the considerations set out in the previous recital, while the volumes imported in the investigation period can in no way be described as negligible — either on a cumulated basis or when referring to imports from Hong Kong alone.

The argument in this case also assumed a lower rate of increase in SCTV imports from Hong Kong than from other investigated exporters, and a price level for the Hong Kong SCTVs which exceeds that of SCTVs from Korea and China. However, the Eurostat figures demonstrate a similar rate of increase in imports from Hong Kong, while their 1988 price level hardly exceeds the Korean and Chinese price levels of the same period.

### (b) Volume and market shares

- (32) Hong Kong imports into the Community increased, according to official Eurostat statistics, from some 54 000 units in 1985 to more than 856 000 units in 1988. At the same time Chinese imports amounted only to some 1 000 units in 1985 but in 1988 some 427 000 units were already imported into the Community. Thus combined imports from these two sources rose from 55 000 units in 1985 to 1 283 000 in 1988.

If Korean imports over the same period are taken into account: these grew from 87 000 units in 1985 to 1 083 000 units in 1988, and for all three exporting countries taken together the volume of exports to the Community therefore showed a progression from 142 000 sets in 1985 to 2 367 000 in 1988.

- (33) In terms of estimated market shares, these volume figures represented a combined share for Hong Kong and China of some 1,21 % in 1985, growing to 16,88 % in 1988. Within these cumulated figures, the market share for Hong Kong has grown

from 1,21 % in 1985 to 2,62 % in 1986 while in 1987 it has increased heavily to 7,05 % and in 1988 it went up to 11,27 %. For China the market share was negligible in 1985 and still amounted in 1986 to only 0,17 % while in 1987 it rose to 3,35 % with a further increase in 1988 to 5,61 %.

- (34) If Korean imports are taken into account, it must be noted that the Korean market share grew from 1,95 % in 1985 to 6,81 % in 1986, to 12,27 % in 1987, and to 14,25 % in 1988. Therefore if all three exporting countries are taken together, the combined market share shows a progression from 3,19 % in 1985 to 31,93 % in 1988.

Over the same period the Community industry has lost market share — declining from 69 % in 1985 to 39 % in 1988 — to almost exactly the same extent as the Hong Kong, Korean, and Chinese exporters have gained it.

- (35) This decline was all the more serious since it took place against the background of rapidly increasing consumption in the Community. Between 1985 and 1988 Community consumption in this range of colour televisions increased by 70 % (from an estimated 4,5 million to 7,6 million sets) while the sales volume of the Community industry showed an increase of only 15 %.
- (36) Some exporters raised the argument that if the production of the Community industry outside the EC had been taken into account the downward trend of the Community industry's market share would not have been so marked or might have been eliminated. This argument can be rejected by the following figures: while in 1985 the Community market share held by total Community industry sales (i.e. sourced from both Community and extra-Community production capacities) still amounted to about 80 %, this figure went down in 1988 to some 53 % or a loss of market share of about 27 %.

By comparison, the market share of the Community industry's sales sourced from productions units inside the Community went down by about 30 %. It must be stressed again that both figures also include the output of Japanese or other foreign-owned companies with manufacturing facilities within the Community, but in spite of this factor which complicates the presentation of the figures, it remains clear that the fall in the market share of the complainant industry in the Community is not just a statistical illusion, hiding a transfer of

productive capacity into non-Community countries. Whether extra-Community production capacity of the complainant industry is taken into account or not, the latter's market share has decreased markedly, and a major factor in this decrease has been the rapidly growing market share taken by dumped imports from Hong Kong and China. This development is exposed even more clearly if imports from Korea are taken into account.

#### (c) Prices

- (37) A detailed investigation of SCTV pricing in the Community was made by reference to the sales prices of the models in this market sector sold by Ferguson, Grundig, Philips, Nokia Graetz (formerly Standard Elektrik Lorenz) and Thomson. These companies together represent about 88 % in sales volume of the complainants which were represented and which cooperated.
- (38) In terms of price level erosion, it was found that the prices of all SCTV models of the above companies decreased between 1985 and 1988 by 20 % on a weighted average basis. Although it is considered normal for prices of electronics items to fall over time for reasons of increased volume and technical improvements in production (even where no exceptional competitive pressure is present), these factors tend to be very limited in the case of a product such as colour television, which is positioned now at a mature point on its current technology curve, and the rate of price depression mentioned above exceeds that which would have been expected under conditions of normal competition.
- (39) After taking account of this price erosion over the period 1985 to 1988, the Commission investigated, in addition, the price undercutting practised by the Hong Kong and Chinese exporters during the investigation period.

For the assessment of price undercutting, the Commission compared the prices of the major Community producers (i.e. Philips, Grundig, Nokia, Thomson, Ferguson and Seleo which represent about 92 % in sales volume of the cooperating firms) with those of the Hong Kong and Chinese exporters involved in the proceeding in five major Community markets (i.e. Germany, France, the United Kingdom, Italy and the Netherlands).

In order to make a model comparison the Commission selected representative Community models of the firms mentioned above. The selected models accounted for more than 50 % of sales of



comparable models of Community producers in the markets concerned. The Hong Kong and Chinese exporters did not produce any 15 or 16 inch models at that time. Therefore only 10 and 14 inch models were compared.

For the comparison of these models the Commission established a ranking of criteria which could be considered as decisive from a consumer's point of view. The most important were screen size, feature type and the tuning control system.

On the basis of these criteria the Commission chose representative Hong Kong and Chinese models which were directly comparable with the selected European models.

Much care was taken in selecting only those Hong Kong and Chinese models which had at least the same features or even more features than the European models with which they were compared. These models represented a major proportion of the Hong Kong and Chinese sales in the markets concerned (i.e. more than 50 %).

The price comparison was made on the basis of sales to the first independent customer in the different sales channels (national distributor, dealer and OEM). The average selling prices of each exporter in each of these sales channels in the five Member States concerned by the undercutting exercise was then compared with the corresponding figures for the comparable Community models. The weighting was based on the sales volume of the comparable Community, Hong Kong and Chinese sales.

Adjustments were made to ensure comparability in terms of the transport and any other expenses included in selling prices of Community models, when Hong Kong or Chinese models were priced fob Hong Kong or Chinese port.

Similarly, adjustments were used to take account of differences in expenses and margins where comparisons could not be made directly within the same sales channel.

- (40) The results of the comparison exercise outlined above showed price undercutting to have taken place on the part of all the Hong Kong and Chinese exporters whose models were investigated.

The overall average undercutting results, expressed at cif level, varied for the Hong Kong exporters

between a minimum of 14,52 % and a maximum of 31,59 %, while for the Chinese exporters the minimum undercutting found was 13,13 % with a maximum of 25,03 %.

It should be noted that the effects of the price undercutting found do not refer only to the models of SCTV in the Community which may be considered to be directly comparable to the Hong Kong and Chinese exports, it applies to the whole range including the newest and most enhanced models. Undercutting at the lower priced end of the range — the major volume market segment — naturally has a depressive effect on price throughout the whole SCTV range by reducing the consumer's perception of the value of the product and of the different features of the various models.

- (41) One exporter carried out an investigation concerning pricing on the Community market. He came to the conclusion that prices did not really differ. However, it must be mentioned that the prices taken for the price comparison were prices to independent customers to which exporters normally have no access.

The evidence is based mainly on prices to end users. These prices can be influenced by various factors such as dealer margins and therefore cannot be considered as reliable evidence.

#### (d) Other relevant economic factors

- (42) As far as production volume and employment in the Community industry is concerned it is necessary to take account of the flexibility of basic SCTV assembly in terms of location, which stems from its relatively modest requirements in technology, fixed investment and the training of factory personnel. Although this is a fundamental characteristic of basic colour television production or assembly, the same description cannot be applied to colour picture tube production, or to the other activities essential to the long term economic viability of a vertically integrated and technologically progressive video products manufacturer: R & D, marketing, product design and engineering, etc. The flexibility of basic assembly processes, however, has made possible the progressive location of a not inconsiderable proportion of Community companies' SCTV production, particularly of basic models, outside the Community, mainly in South East Asia but also in other European countries.

This relocation was determined initially by the need to reduce costs — notably of components and labour — on the part of the Community producers, in response to normal competitive pressures. What is most apparent from the statistics, is the marked acceleration of this relocation taking place since the onset of unfair competition caused by the surge in dumped import penetration which began in 1985. While in that year production of Community companies in extra-Community locations amounted to 16 % of their total production, this proportion had more than doubled by the end of 1987. This sharply increased production volume outside the Community was used for the most part by the Community companies to combat, with basic models, the new imports on certain Member States' markets under particular attack, where price depression and financial losses exceeded by far the already serious Community average levels. In 1988, although considerable transfers of production took place, the picture was mixed and the overall situation did not change. While one important Community producer transferred a further large proportion of its production to third countries (thus eliminating its SCTV production capacity in one of the larger Member States), another increased its production within the Community by a considerable percentage.

- (43) Naturally, the relocation of production had a disruptive effect on employment in the Community. While employment was increasing until 1986, it declined in 1986/87 by 15 % or more than one thousand jobs.

In 1988 the employment level maintained the low position it has reached at the end of 1987.

- (44) Capacity utilization in the Community industry attained nearly 86 % in 1985 and then declined to 79 % in 1986 and 1987 while in 1988 it went up again to 85 %.

As far as year-end stock level of finished goods are concerned, they did not show a real trend.

As was mentioned in the original proceeding concerning Korean SCTVs, television production capacity is very flexible in character. This is not only true in terms of location, but also in terms of its adaptability to changing market conditions. This adaptability has been used by the Community producers to keep their production capacities as far as possible in line with sales volumes.

Because of this, economic indicators such as that of capacity utilization and stock levels cannot be held to be really significant for injury determination in

this case. These indicators do not clearly reflect the difficult market conditions, for which evidence must be sought in other parameters such as sales and output volumes, prices, employment and profits.

- (45) Since 1983 profitability has shown a downward trend. Average industry returns on both sales and equity have been negative since 1984. Between 1985 and 1987 losses were kept stable, mainly because the financial results for SCTVs were influenced by a number of rationalization measures as described in the Regulation imposing provisional duties on imports of SCTVs from Korea, Regulation (EEC) No 3232/89.

However, in 1988 the downturn was dramatic. While in previous years the losses did not reach more than 4 % on average. In 1988 they went up to about 10 %. This was caused mainly by the huge drop in market prices in 1988. Although prices had already decreased by 12 % between 1985 and 1987 they continued to fall between 1987 and 1988 by 9 %.

While in previous years the losses could be stabilized by rationalization factors such as cost reductions, these remedies could no longer compensate in 1988 for a new price decrease. Thus, in 1988 there was no longer any complainant company which was found to be profitable.

For most of the Community producers the situation deteriorated in 1988 in such a way that drastic decisions such as further transfers to extra-Community production centres and closures in the Community were considered in order to stop a further decay.

#### (e) Conclusion

- (46) In order to determine whether the Community industry is suffering material injury the Commission took account of the following facts:

— imports of Hong Kong SCTVs have increased from some 54 000 units in 1985 to more than 856 000 units in 1988 while Chinese imports increased over the same period from some 1 000 units to about 427 000 units. This extremely rapid increase is rendered even more serious if imports from Korea are taken into account, since total imports from Hong Kong, China and Korea combined increased from 142 000 units in 1985 to 2 367 000 in 1988;

- the market share of the Hong Kong imports rose between 1985 and 1988 by 10 % of Community consumption, while the market share of the Chinese imports had an increase of more than 5 % between 1985 and 1988. If Korean imports are taken into account, it can be seen that the combined market shares of Hong Kong, China and Korea on the Community SCTV market rose by some 29 % over this period. At the same time the Community producers' share fell by 30 % between 1985 and 1988 ;
  - the complainant producers' selling prices in the Community suffered a significant erosion between 1985 and 1988. In addition, the average undercutting practised by Hong Kong exporters varied between 14 % and 31 %. The undercutting margin for the Chinese exporters amounted to between 13 % and 25 %. These margins are expressed at cif level ;
  - Community producers were unable to increase their production and sales volume between 1985 and 1988 in the same way as the overall consumption for the same period ;
  - while between 1985 and 1987 losses could be contained by a series of marketing and rationalization measures, they went up dramatically in 1988 mainly because of a new price decrease which could no longer be compensated for by any of the aforementioned remedies ;
  - at present, taking into account the actual situation, further transfers to extra-Community production centres can be foreseen with a further loss of employment in the Community as a consequence.
- (47) All these facts summarized above lead the Commission to conclude, for the purpose of its provisional findings, that the Community industry has suffered material injury within the terms of Article 4 (1) of Regulation (EEC) No 2423/88.
- (48) Certain exporters have argued that a determination of material injury to the Community SCTV industry is not justified because four Member States' markets enforce quantitative restrictions on Korean, Hong Kong or Chinese exports. These four national markets together constitute a major proportion of Community SCTV consumption which enjoys a protection excluding the possibility of inflicting injury to a major portion of the Community industry.

As already stated in the proceeding concerning Korean SCTVs, this argument is unconvincing on

two counts. In the first place neither Community nor international law forbids the application of further trade measures — such as anti-dumping or customs duties — to imports which are subject to quantitative restrictions. The application of these further measures if of course conditional upon the normal requirements for their use being fulfilled : in the case of anti-dumping duties that the imports in question are dumped and causing material injury, in spite of the operation of the restrictions. Second, the Commission was able to establish significant injury relating to the national markets concerned on the basis of the data obtained during its investigation.

## F. CAUSATION OF INJURY

### (a) Effect of dumped imports

- (49) In assessing whether the injury suffered by the Community industry has been caused through the effects of dumping within the meaning of Article 4 (1) of Council Regulation (EEC) No 2423/88, the Commission found that the rapid increase of Hong Kong and Chinese low-priced imports coincides with an equally rapid loss of market share by the Community industry, price erosion and undercutting of the Community's SCTV models and heavily increased financial losses on the part of Community companies, together with an accelerated relocation of Community producers' assembly facilities outside the Community.

While in 1985 the cumulated market share of Hong Kong and China amounted only to about 1 % of the Community SCTV market, by 1988 it went up to nearly 17 %. Over the same period the Community industry's market share showed a decline of about 30 %, and although its selling prices decreased by 20 %, price undercutting by Hong Kong and Chinese exporters of up to 52 % was found by the Commission for 1988.

Given the predominant sensitivity of the consumer to considerations of price in the small screen sector of the Community colour television market, the low-priced imports from Hong Kong and China could not fail to affect very negatively the sales volumes, sales prices and consequently the profits of the Community industry. The appearance and rapid development of negative parameters in these areas — or the significant deterioration in, for example, Community industry profitability — correspond exactly in timing with the arrival and rapid penetration of low-priced dumped Hong Kong and Chinese exports in the Community SCTV market. The true significance of these deve-

lopments is rendered even clearer if exports from Korea over the same period are taken into account.

On the basis of these considerations, the Commission concludes the causal link between the dumped imports covered by the proceeding, and the injury suffered by Community industry, to be established.

**(b) Effect of other factors**

- (50) The Commission has already found that material injury has been caused to the Community SCTV industry by dumped Korean imports in an earlier proceeding, and now finds that the dumped Hong Kong and Chinese imports in the present proceeding have also caused injury to the industry. However, it does not assume that all injury suffered by the industry in recent years has necessarily to be attributed to those imports.

As already mentioned in the proceeding concerning Korean SCTVs, it has been argued that the situation of the Community industry could not be considered completely satisfactory even in 1985. However, this does not contradict the fact that there has been a very serious deterioration in the Community industry's situation since 1985, and that Hong Kong and Chinese dumped exports played a large part in this mounting injury.

- (51) Some Hong Kong exporters claimed that their individual market shares were minimal and that because of a late entry or increased selling prices they could not have caused injury.

As was stated already in the Korean proceeding, the exporters' market shares have to be considered together; the exporters sold a like product, in the same Community market sectors, through comparable sales channels. This view is confirmed by the judgment of the Court of 7 May 1987 in the Case No 255/84, Nachi Fujikoshi Corporation v. Council of the European Communities (ECR [1987] p. 1861), where it is stated that the injury caused to an established Community industry must be assessed as a whole, and that it is not necessary or possible to define separately the share of injury attributable to individual exporters involved.

- (52) The argument which has been given greatest weight by the exporters alleges that the effects of the increase in volume and the low price of SCTV imports from non-investigated countries, principally from Taiwan and Singapore, have in fact at least been co-responsible for the injury suffered by the Community industry. The Commission has already examined the effects of imports from these sources for the Korean case.

In terms of Community market shares all exporters other than the Korean, Hong Kong and Chinese exporters covered nearly 28 % of total SCTV consumption in 1985. In 1988 this share went up to some 30 %.

As far as 1988 is concerned the Commission has again turned its attention to Singapore and Taiwan, two exporting countries whose exclusion from the proceeding is particularly discriminatory according to the exporters.

In the case of Singapore, the growth in export volumes to the Community is accounted for largely by the further relocation of Community production facilities. In this respect we should recall the assessment made in the Korean case, to the effect that this movement of production facilities was to be seen as a consequence of the injury suffered by the Community industry rather than its cause.

Indeed, this search by Community producers for competitive advantage in extra-Community production locations is one economically logical response to the damage caused by low-priced imports, and in no way has been found to contribute — as alleged by some exporters — to the injury suffered by the Community industry.

Furthermore, it can be shown that in 1988 the Singapore imports of SCTVs into the Community were on average 28 % higher in cif unit price value than Chinese imports, 26 % higher than Korean imports and 17 % higher than imports from Hong Kong.

In the case of Taiwan their volume sold into the Community, even if growing (also due largely to relocation by Community producers), is not growing as rapidly as, and has not reached the critical volume already attained by, Korea and Hong Kong in the first place and by China in the second place.

As was the case also in the Korean proceeding, the exporters have provided no evidence of dumping and injury for which these other exporting countries are responsible, according to their allegations. The Commission has no such evidence, and, having examined the situation of all other countries exporting to the Community, has no basis at present for including them in the present anti-dumping proceeding as demanded by the exporters. It should be noted, in addition, that even if these other exporting countries had caused injury, there is no indication that the injury caused by dumped imports from Hong Kong and China would thereby be rendered non-material.

(53) After taking account of the above factors, the Commission concludes that the injury caused by the combined dumped imports from Hong Kong and China, taken together in isolation from all other factors, is material. This position is reinforced if the injurious dumping of imports from Korea, established by an earlier proceeding, is taken into account. As already indicated, this conclusion does not imply that the Commission considers that all ascertainable difficulties of the Community industry should necessarily be imputed to this cause, rather than to competition between Community companies or to undumped imports from other sources. Reference is made to this point in recital (60) below, in considering the establishment of an appropriate injury threshold.

#### G. COMMUNITY INTEREST

(54) In the opinion of the Commission, the evaluation of Community interest with regard to the application of anti-dumping measures against Korean imports of SCTVs requires little updating and applies equally to imports from Hong Kong and the People's Republic of China.

(55) It must be recalled that, in the Commission's opinion, a continuing rise in unfair and injurious imports could lead to the elimination of Community SCTV production, with a consequent large loss of employment both in the SCTV and component manufacturing firms. On the other hand, it should also be noted that the purpose of anti-dumping measures is only to re-establish a situation of fair competition.

Attention was also drawn to two important factors operating in the case of this industry: that the loss of the SCTV market to Community firms would fatally weaken their marketing base in the overall colour television market. This would then undermine in turn the Community industry's technological base, given the interdependence in the consumer electronics industry between marketing strategy and constant technological innovation.

This simultaneous weakening in its colour television market and technological positions would be extremely serious for the Community electronics industry in general, in view of the relations between television production and that of other electronics products such as video-cassette recorders, and in view of the implications for common electronics components production in the Community. It would obviously be particularly serious for the Community colour television industry at the current stage in its development, with the introduction of high definition television possibly transforming its prospects and profitability over the next few years.

(56) Exporters have argued, as they did in the Korean proceeding, that measures would be contrary to the Community interest, in view of the restriction in choice and higher prices this would mean — it is alleged — for consumers.

Just as in the Korean proceeding, however, the Commission does not accept these allegations. Consumer choice will hardly be restricted, in view of the large number of sources available for this product.

In terms of prices, the Commission would expect their impact to be limited, in view of the modesty of some of the duties proposed, and in view above all of the fact that consumer choice, in a highly competitive market, will in practice remain unrestricted.

(57) Therefore, after weighing the various interests involved, the Commission considers, as in the original Korean proceeding, that the imposition of measures in the present case will not eliminate active price competition and will indeed establish fairer competition by eliminating the injurious dumping practices found to be used by the exporters. It is also still valid to point out that consumer interest in the long term is not necessarily served when lower prices based on unfair trading practices are used to gain market dominance leading to restricted competition and consumer choice.

The Commission concludes that it is in the interest of the Community to eliminate the injurious effects on the Community industry of the dumping which has been established. The measures proposed will contribute to the current viability and future development of that industry, and this benefit outweighs possible short term disadvantages for the consumer, in terms of perhaps higher market prices for a small proportion of the SCTV models available on the Community market.

#### H. UNDERTAKINGS

(58) The China Commercial Chamber of Audio and Video Products Exporters expressed its intention to offer an undertaking. The Commission, after consultations with the Advisory Committee, considers that the acceptance of undertakings is not recommended in this case, as has been stated in the original proceeding against Korea in Regulation (EEC) No 1048/90, and furthermore it is inappropriate to discuss in detail such a proposal at this stage of the proceeding. The situation of the colour television industry in China, the established links between Hong Kong exporters and Chinese production facilities, the frequent renewal of models and the high level of mobility of SCTV production operations are the basic reasons for which the Commission believes that undertakings

would be extremely difficult to monitor and are unlikely to restore fair competitive conditions in the Community market by eliminating dumping and its injurious effects.

### I. DUTY

- (59) In order to eliminate totally the injury sustained by the complainant Community producers it would be necessary for all undercutting, as described in recitals (39) and (40), to be eliminated. In addition, these producers would need to be placed in the position where they could achieve further price rises — at the same time regaining market share — in order to enable them to eliminate losses and to realize adequate returns on sales and assets. In the circumstances of this industry, and for the purposes of provisional determination, the Commission considers that an adequate annual return on sales allowing a balanced long term development would be 10 %. If these elements are combined, in a calculation of the price levels that would be necessary to remove all the above indicators of injury, it can be shown that price increases of Hong Kong and Chinese imports between 43 % and 67 % at the cif level for the different exporters would be required.
- (60) The Commission considers however, as discussed in recitals (50) to (53), that it is inappropriate to impute the totality of the ascertained injury suffered by the complainant Community producers to dumped Hong Kong and Chinese exports. Indeed Article 4 (1) of Regulation (EEC) No 2423/88 requires that other possible causal factors of injury should not be ascribed to the dumped imports. The Commission therefore considers that for the purposes of provisional determination injury should be measured in terms of the price undercutting found to have been practised by the Hong Kong and Chinese exporters on the Community market, in the same way as it has been measured for the Korean exporters in Regulation (EEC) No 3232/89. The undercutting margins expressed at cif level in recital 40 represent the price increases at the Community frontier necessary to remove the injury defined in terms of undercutting.
- (61) The dumping margins set out in recital (28) are lower than the injury threshold figures as defined in recitals (40) and (60), with the exception of one Sino-Japanese joint venture producer/exporter. It is therefore considered appropriate, in order to eliminate as far as possible the injurious effect of the dumped imports, that the amount of provisional duty to be imposed should correspond to the dumping margins found, except for the Sino-Japanese producer/exporter mentioned above, for whom the amount of provisional duty to be imposed should be fixed at the level of the injury threshold.
- (62) A period should be fixed within which the parties concerned may make their views known and request a hearing. Furthermore, it should be stated

that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

#### Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of small screen colour television receivers with a diagonal screen size of more than 15,5 cm but no greater than 42 cm, whether or not combined in the same housing with a radio broadcast receiver and/or a clock, falling within CN code ex 8528 10 71 (Taric code : 8528 10 71 \* 10), originating in Hong Kong and in the People's Republic of China.

2. The rate of duty shall be 4,8 % for products originating in Hong Kong (Taric additional code : 8500) and 17,4 % for products originating in the People's Republic of China (Taric additional code : 8506) of the net free-at-Community-frontier price before duty.

The rates of duty for products specified in paragraph 1 and manufactured and sold for export by the following companies shall be as set out below, expressed as a percentage of the net, free-at-Community-frontier price before duty :

	<i>Rate of duty %</i>	<i>Taric additional code</i>
(a) Hong Kong		
Cony Electronic Products Ltd	3,1	8494
Hanwah Electronics Ltd	4,8	8495
Kong Wah Electronic Enterprises Ltd	3,1	8496
Koyoda Electronics Ltd	4,6	8497
Luks Industrial Co., Ltd	4,1	8498
Tai Wah Television Industries Ltd	2,1	8499
(b) People's Republic of China		
China Great Wall Industry Corporation (Shanghai Branch)	17,4	8501
China National Electronics Import and Export Corporation	16,3	8502
China National Light Industrial Products Import and Export Corporation (Tianjin Branch)	16,8	8503
Fujian Hitachi Television Co., Ltd	13,1	8504
Huaquiang Sanyo Electronics Co., Ltd	7,5	8505

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

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

*Article 2*

Without prejudice to Article 7 (4) (b) of Regulation (EEC) No 2423/88, the parties concerned may make known their views and apply to be heard orally by the Commis-

sion within one month of the date of entry into force of this Regulation.

*Article 3*

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 11 January 1991.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

**COMMISSION REGULATION (EEC) No 130/91**  
**of 18 January 1991**  
**concerning applications for STM licences for imports of rice into Portugal**

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 Article 252 (1) thereof,

Whereas Commission Regulation (EEC) No 45/91 of 8 January 1991 laying down detailed rules for applying the supplementary trade mechanism to imports of rice into Portugal <sup>(1)</sup>, provides for a target ceiling of 10 000 tonnes covering the period up to 28 February 1991;

Whereas, pursuant to Article 6 (2) of Commission Regulation (EEC) No 574/86 of 28 February 1986 laying down detailed rules for the application of the supplementary trade mechanism (STM) <sup>(2)</sup>, as last amended by Regulation (EEC) No 3296/88 <sup>(3)</sup>, the Commission has been notified of applications received on the first working day following

the entry into force of Regulation (EEC) No 45/91 for STM licences for imports of rice into Portugal corresponding to the abovementioned target ceiling; whereas, accordingly, measures should be taken to prevent disturbance of the Portuguese rice market,

HAS ADOPTED THIS REGULATION:

*Article 1*

The issuing of STM licences is hereby suspended for applications lodged as from 15 January 1991.

*Article 2*

This Regulation shall enter into force on 19 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 6, 9. 1. 1991, p. 14.

<sup>(2)</sup> OJ No L 57, 1. 3. 1986, p. 1.

<sup>(3)</sup> OJ No L 293, 27. 10. 1988, p. 7.



## COMMISSION REGULATION (EEC) No 131/91

of 18 January 1991

## introducing a countervailing charge on fresh sweet oranges originating in Egypt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EEC) No 3920/90<sup>(2)</sup>, 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 3009/90 of 18 October 1990 fixing for the 1990/91 marketing year the reference prices for fresh sweet oranges<sup>(3)</sup> fixed the reference price for products of class I for the period 1 December 1990 to 31 May 1991 at ECU 22,75 per 100 kilograms net;

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 according to the dispositions of Regulation (EEC) No 3982/89 of 20 December 1989 altering the entry price for citrus fruit originating in certain Mediterranean third countries<sup>(4)</sup>; 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 Regulation (EEC) No 2118/74<sup>(5)</sup>, as last amended by Regulation

(EEC) No 3811/85<sup>(6)</sup>, the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

Whereas, for fresh sweet oranges originating in Egypt 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 fresh sweet oranges;

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<sup>(7)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(8)</sup>,
- 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;

HAS ADOPTED THIS REGULATION:

*Article 1*

A countervailing charge of ECU 8,52 per 100 kilograms net is applied to fresh sweet oranges (CN code ex 0805 10) originating in Egypt.

*Article 2*

This Regulation shall enter into force on 22 January 1991.

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 375, 31. 12. 1990, p. 17.

<sup>(3)</sup> OJ No L 287, 19. 10. 1990, p. 8.

<sup>(4)</sup> OJ No L 380, 29. 12. 1989, p. 24.

<sup>(5)</sup> OJ No L 220, 10. 8. 1974, p. 20.

<sup>(6)</sup> OJ No L 368, 31. 12. 1985, p. 1.

<sup>(7)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(8)</sup> 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, 18 January 1991.

*For the Commission*  
Ray MAC SHARRY  
*Member of the Commission*

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## COMMISSION REGULATION (EEC) No 132/91

of 18 January 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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 3608/90<sup>(3)</sup>, as last amended by Regulation (EEC) No 116/91<sup>(4)</sup>;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 3608/90 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<sup>(5)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(6)</sup>,

- 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 17 January 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 19 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 350, 14. 12. 1990, p. 68.

<sup>(4)</sup> OJ No L 13, 18. 1. 1991, p. 15.

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(6)</sup> OJ No L 201, 31. 7. 1990, p. 9.

## ANNEX

to the Commission Regulation of 18 January 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	40,67 <sup>(1)</sup>
1701 11 90	40,67 <sup>(1)</sup>
1701 12 10	40,67 <sup>(1)</sup>
1701 12 90	40,67 <sup>(1)</sup>
1701 91 00	45,09
1701 99 10	45,09
1701 99 90	45,09 <sup>(2)</sup>

<sup>(1)</sup> 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).

<sup>(2)</sup> 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 133/91

of 18 January 1991

altering the export refunds on white sugar and raw sugar exported in the natural 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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90 <sup>(2)</sup>, and in particular the second subparagraph of Article 19 (4) thereof,Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 100/91 <sup>(3)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 100/91 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

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, as fixed in the Annex to Regulation (EEC) No 100/91 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 19 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 12, 17. 1. 1991, p. 5.

## ANNEX

to the Commission Regulation of 18 January 1991 altering the export refunds on white sugar and raw sugar exported in the natural 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	35,07 <sup>(1)</sup>	
1701 11 90 910	33,97 <sup>(1)</sup>	
1701 11 90 950	<sup>(2)</sup>	
1701 12 90 100	35,07 <sup>(1)</sup>	
1701 12 90 910	33,97 <sup>(1)</sup>	
1701 12 90 950	<sup>(2)</sup>	
1701 91 00 000		0,3812
1701 99 10 100	38,12	
1701 99 10 910	36,93	
1701 99 10 950	36,93	
1701 99 90 100		0,3812

<sup>(1)</sup> 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.

<sup>(2)</sup> 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 134/91**  
**of 18 January 1991**

**altering the export refunds 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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, and in particular the fifth subparagraph of Article 16(2) thereof,

Whereas the export refunds on cereals and on wheat or rye flour, groats and meal were fixed by Commission Regulation (EEC) No 115/91<sup>(3)</sup>;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 115/91 to the information known to the Commission that the

export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, as fixed in the Annex to Regulation (EEC) No 115/91 are hereby altered as shown in the Annex to this Regulation in respect of the products set out therein.

*Article 2*

This Regulation shall enter into force on 19 January 1991.

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

Done at Brussels, 18 January 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 13, 18. 1. 1991, p. 11.

## ANNEX

to the Commission Regulation of 18 January 1991 altering the export refunds on cereals  
and on wheat or rye flour, groats and meal

<i>(ECU/tonne)</i>		
Product code	Destination (1)	Amount of refund
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 10 000	—	—
1001 10 90 000	04	140,00
	06	50,00
	02	0
1001 90 91 000	—	—
1001 90 99 000	04	100,00
	05	100,00
	02	20,00
1002 00 00 000	03	100,00
	05	100,00
	02	20,00
1003 00 10 000	07	87,00
	02	0
1003 00 90 000	04	87,00
	02	20,00
1004 00 10 000	—	—
1004 00 90 000	—	—
1005 10 90 000	—	—
1005 90 00 000	03	65,00
	02	0
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 100	01	158,00
1101 00 00 130	01	139,00
1101 00 00 150	01	129,00
1101 00 00 170	01	119,00
1101 00 00 180	01	107,00
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 600	01	158,00
1102 10 00 900	—	—
1103 11 10 100	01	233,00
1103 11 10 200	01	221,00
1103 11 10 500	01	197,00
1103 11 10 900	01	186,00
1103 11 90 100	01	158,00
1103 11 90 900	—	—



(<sup>1</sup>) The destinations are identified as follows :

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 05 Zone II (b),
- 06 The Soviet Union,
- 07 Poland.

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*NB*: The zones are those defined in Commission Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977, p. 53), as last amended by Regulation (EEC) No 3049/89 (OJ No L 292, 11. 10. 1989, p. 10).

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## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 11 January 1991

**terminating the anti-dumping proceeding concerning imports of potassium permanganate originating in the USSR**

(91/24/EEC)

THE COMMISSION 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 on protection against dumped or subsidized imports from countries not members of the European Economic Community<sup>(1)</sup>, and in particular Article 9 thereof,

After consultation within the Advisory Committee as provided for in Regulation (EEC) No 2423/88,

Whereas :

**A. PROVISIONAL MEASURES**

- (1) The Commission, by Regulation (EEC) No 1537/90<sup>(2)</sup>, imposed a provisional anti-dumping duty on imports of potassium permanganate falling within CN code ex 2841 60 00 and originating in the USSR. Furthermore, the validity of the provisional duty was extended for a period not exceeding two months by Council Regulation (EEC) No 2896/90<sup>(3)</sup>.

**B. SUBSEQUENT PROCEDURE**

- (2) Following the imposition of the provisional anti-dumping duty, the representatives of the exporting country requested, and were granted, an opportu-

nity to be heard orally by the Commission, and the exporter in the USSR known to be concerned made its views known in writing. This submission stressed that the only exports of potassium permanganate made in 1988 were destined for Austria, and that no exports to the Community had been made in 1989 nor were envisaged in 1990.

- (3) Given that since the beginning of 1988 all imports into the Community of potassium permanganate known to have originated in the USSR have not been made directly from the country of origin but from Austria, the Commission considered it appropriate to carry out inquiries with regard to the Austrian chemical traders likely to have exported the product concerned to the Community. It was finally established that one trader in Austria handled almost all exports to the Community of potassium permanganate originating in the USSR during the period from January 1988 to June 1989. Furthermore, the Commission carried out an investigation at the premises of this Austrian trader.

**C. NEW FINDINGS**

- (4) In the course of the investigation carried out in Austria new findings were made showing that, of 475 tonnes of potassium permanganate declared at Community customs and, therefore, registered in Community statistics as imported from the USSR during the period from January 1988 to June 1989, only 100 tonnes actually originated in that country. As to the remaining 375 tonnes, most of them appeared to have originated in Romania although they were declared at Community customs as originating in the USSR.

<sup>(1)</sup> OJ No L 209, 2. 8. 1988, p. 1.

<sup>(2)</sup> OJ No L 145, 8. 6. 1990, p. 9.

<sup>(3)</sup> OJ No L 276, 6. 10. 1990, p. 36.

- (5) The alleged Romanian origin of most of these 375 tonnes was supported by documentary evidence consisting of invoices and certificates of origin issued respectively by the exporting company in Romania and the authorities in this country.
- (6) In addition to the fact that only 100 tonnes of the product concerned originating in the USSR were imported into the Community, these imports took place in an isolated manner during the first quarter of 1988 and, therefore, out of the investigation period covered by the anti-dumping proceeding (1 July 1988 to 30 June 1989).
- (7) With regard to the imports apparently originating in Romania, this country does not appear to be a producer of potassium permanganate and there are indications that these imports may originate in countries for which anti-dumping measures are already in force. Therefore, any anti-dumping action which might be taken in respect to these imports, on the basis of the preliminary findings made on dumping and injury, has to be delayed until the Commission establishes their correct origin.

#### D. DUMPING

- (8) Given that no imports of potassium permanganate originating in the USSR appear to have entered into the Community within the investigation period, preliminary findings on dumping set out in the recital 17 of Commission Regulation (EEC) No 1537/90 become invalidated insofar as they refer to the USSR. Consequently, a dumping determination cannot be made in respect of these imports.

#### E. INJURY

- (9) For the reason given in recital 8, considerations and preliminary findings on injury and causality set out in recitals 18 to 28 of Regulation (EEC) No 1537/90 also become invalidated as far as imports from the USSR are concerned. Therefore, although it is confirmed that the Community industry is in a precarious economic and financial situation, characterized especially by losses in profitability, sales and market share, this is not a result of dumping from the USSR since there were no

imports from this country during the investigation period.

#### F. TERMINATION

- (10) Accordingly, it becomes apparent that protective measures with regard to the USSR are unnecessary and the anti-dumping proceeding concerning imports of potassium permanganate originating in the USSR should be terminated without definitive measures being imposed.
- (11) No objections to this conclusion were raised in the Advisory Committee.
- (12) The complainant was informed of the facts and principal considerations on the basis of which the Commission intended to terminate the proceeding and did not dispute them.

#### G. EXPIRY OF THE PROVISIONAL DUTY

- (13) The Commission notes that the period of validity of the provisional anti-dumping duty on imports of potassium permanganate originating in the USSR, imposed by Regulation (EEC) No 1537/90 and extended by Regulation (EEC) No 2896/90, expired on 9 December 1990. It also notes that the amounts secured by way of the provisional anti-dumping duty should be released in accordance with Article 11 (7) of Council Regulation (EEC) No 2423/88,

HAS DECIDED AS FOLLOWS:

#### *Sole Article*

The anti-dumping proceeding concerning imports of potassium permanganate falling within CN-code ex 2841 60 00 and originating in the USSR is hereby terminated.

Done at Brussels, 11 January 1991.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

**CORRIGENDA**

**Corrigendum to Council Regulation (EEC) No 3413/90 of 19 November 1990 opening and providing for the administration of Community tariff quotas for certain products originating in Yugoslavia (1991)**

*(Official Journal of the European Communities No L 335 of 30 November 1990)*

On page 27, order No 09.1503, column (4):

for: '5 240 hl',

read: '5 420 hl'.

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**Corrigendum to Commission Regulation (EEC) No 3814/90 of 19 December 1990 laying down the level of the accession compensatory amounts for milk and milk products applicable from 1 January 1991 in trade between Spain and Portugal**

*(Official Journal of the European Communities No L 366 of 29 December 1990)*

On page 27, in the Annex:

footnote <sup>(10)</sup> is deleted.

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