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## Legislation

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## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EEC) No 294/91**  
**of 4 February 1991**  
**on the operation of air cargo services between Member States**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas it is important to adopt measures with the aim of progressively establishing the internal market during the period expiring on 31 December 1992, as provided for in Article 8a of the Treaty; whereas the internal market must comprise a territory without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers for Foreign Affairs of the two countries and such arrangements have yet to come into operation;

Whereas Regulation (EEC) No 2343/90 <sup>(4)</sup> provides for the liberalization of air cargo services operated in combination with passenger services;

Whereas it is appropriate that all-cargo air services should also be liberalized;

Whereas this Regulation is without prejudice to the application of Articles 85 and 86 of the Treaty;

Whereas the air cargo industry still encounters national barriers which hamper the free movement of goods by air; whereas increased market access possibilities will

stimulate the development of the Community air transport sector and give rise to improved services for users;

Whereas certain Member States depend heavily on air cargo services for their connections with the rest of the Community; whereas the movement of air cargo is an essential element for trade;

Whereas, as a result, it is important to remove the barriers which currently hinder access to the market for air cargo services;

Whereas it is desirable as a first stage to increase the market possibilities for air cargo services between Member States;

Whereas common rules on the granting of operating licences should be drawn up and adopted by the Council no later than 1 July 1992;

Whereas, taking into account airport infrastructure and navigational aids, it is necessary to include certain limitations concerning the exercise of traffic rights;

Whereas the communication of all standard cargo rates creates more transparency in the market place;

Whereas, in order to be better able to compete, air cargo carriers need flexibility in setting cargo rates,

HAS ADOPTED THIS REGULATION:

### Scope and definition

#### *Article 1*

1. This Regulation concerns:

- (a) access to the market for the operation of air cargo services between Member States by Community air cargo carriers;
- (b) air cargo rates between Member States.

<sup>(1)</sup> OJ No C 88, 6. 4. 1990, p. 7 and OJ No C 9, 15. 1. 1991, p. 4.

<sup>(2)</sup> OJ No C 295, 26. 11. 1990, p. 694.

<sup>(3)</sup> OJ No C 182, 23. 7. 1990, p. 8.

<sup>(4)</sup> OJ No L 217, 11. 8. 1990, p. 8.

2. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

3. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements in the joint declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will so inform the Council on that date.

### Article 2

For the purposes of this Regulation :

- (a) 'air cargo carrier' shall mean an air transport enterprise in possession of a valid operating licence issued by a Member State and authorizing it to operate, at least, air cargo services ;
- (b) 'Community air cargo carrier' shall mean :
  - (i) an air cargo carrier which has, and maintains, its central administration and principal place of business in the Community, and the majority of whose shares are, and continue to be, held by Member States and/or by nationals of Member States and which is, and continues to be, effectively controlled by such States or persons ; or
  - (ii) an air cargo carrier which meets the definition in Article 2 (e) (ii) of Regulation (EEC) No 2343/90 and is listed in the Annex hereto ;
- (c) 'cargo rates' shall mean the prices to be paid in the national currency for the carriage of cargo and the conditions under which these rates apply, including remuneration and conditions offered to agency and other auxiliary services ;
- (d) 'standard cargo rates' shall mean the prices which the air carrier would normally quote for the carriage of cargo and the conditions under which these rates apply without taking into account any special discounts ;
- (e) 'air cargo services' shall mean air services carrying only cargo and mail ;
- (f) 'a third-freedom traffic right' shall mean the right of an air carrier licensed in one State to put down, in the territory of another State, passengers, cargo and mail taken up in the State in which the licence was issued ;

'a fourth-freedom traffic right' shall mean the right of an air carrier licensed in one State to take on, in the territory of another State, passengers, cargo and mail, for off-loading in the State in which the licence was issued ;

'a fifth-freedom traffic right' shall mean the right of an air carrier to undertake air transport of passengers, cargo and mail between two States other than the State in which the licence was issued ;

- (g) 'airport system' shall mean two or more airports grouped together as serving the same city ;
- (h) 'States concerned' shall mean the Member States between which an air cargo service is operated ;
- (i) 'State of registration' shall mean the Member State in which the licence mentioned in (a) is issued.

### Operating licences

#### Article 3

1. This Regulation shall not affect the relationship between a Member State and air cargo carriers licensed by that State regarding market access and implementing capacity.
2. The Council shall, on the basis of a proposal concerning common specifications and criteria to be submitted by the Commission not later than 31 May 1991, adopt rules governing the licensing of air cargo carriers and route licensing to be brought into effect no later than 1 July 1992.

### Market access

#### Article 4

Subject to the provisions of this Regulation, Community air cargo carriers shall be permitted to operate third- and fourth-freedom air cargo services between airports or airport systems in one Member State and airports or airport systems in another Member State when these airports or airport systems are open for air cargo traffic between Member States or for international traffic.

#### Article 5

1. A Member State shall authorize air cargo carriers to exercise third-, fourth and fifth-freedom traffic rights when those carriers are licensed in another Member State,

and have been authorized by that State to exercise those rights; the fifth-freedom traffic rights shall be exercised on a service which constitutes an extension of a service from, or as a preliminary of a service to, their State of registration.

2. In operating air cargo services to or from two or more points in another Member State or between Member States other than its State of registration, a Community air cargo carrier shall be permitted by the States concerned to combine services and use the same flight number.

### Flexibility of operations

#### Article 6

1. Community air cargo carriers may at any point on a route carry out intermediate reloading where this involves one change of aircraft only.

2. Subject to Article 8, there shall be no restrictions on frequency of service, aircraft type and/or the amount of cargo and mail which may be carried.

### Conditions for the exercise of traffic rights

#### Article 7

This Regulation shall not affect a Member State's right to regulate, without discrimination on grounds of nationality, the distribution of traffic between the airports within an airport system.

#### Article 8

1. The exercise of traffic rights shall be subject to published Community, national, regional or local rules relating to safety, the protection of the environment and the allocation of slots and to the following conditions:

- (a) the airport or airport system concerned must have sufficient facilities to accommodate the service;
- (b) navigational aids must be sufficient to accommodate the service.

2. When the conditions in paragraph 1 are not met, a Member State may, without discrimination on grounds of nationality, impose conditions on, limit or refuse the exercise of those traffic rights. Before taking such a

measure, the Member State concerned shall inform the Commission and provide it with all the necessary information.

3. At the request of a Member State, the Commission shall examine the application of paragraph 2 in any particular case and within one month decide whether the Member State may continue to apply the measure.

4. The Commission shall communicate its decision to the Council and to the Member States. Any Member State may refer the Commission's decision to the Council within a time limit of one month. The Council, acting by a qualified majority, may take a different decision within a period of one month.

### Pricing

#### Article 9

1. Cargo rates charged by Community air carriers shall be set by free agreement between the parties to the contract of carriage.

2. Air carriers operating within the Community shall make available on request all standard cargo rates to the general public.

### General provisions

#### Article 10

1. This Regulation shall not prevent Member States from concluding between themselves arrangements which are more flexible than the provisions of Articles 4, 5 and 6 or from maintaining such arrangements in force.

2. The provisions of this Regulation shall not be used to make existing rights and arrangements in respect of market access, implementing capacity and operating flexibility more restrictive.

### Final provisions

#### Article 11

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

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

Done at Brussels, 4 February 1991.

*For the Council*

*The President*

J. F. POOS

*ANNEX*

**Air cargo carriers referred to in Article 2 (b) (ii)**

- Scandinavian Airlines System,
  - Britannia Airways,
  - Monarch Airlines.
-

## COUNCIL REGULATION (EEC) No 295/91

of 4 February 1991

## establishing common rules for a denied-boarding compensation system in scheduled air transport

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas liberalization measures adopted by the Council in July 1990 represent a further step towards a fully developed common air transport policy;

Whereas common action in the field of the protection of the interests of air transport users is required, in order to ensure a well-balanced development in the light of the radically changing environment in which air carriers have to operate;

Whereas current practice in the field of denied-boarding compensation differs substantially between air carriers;

Whereas certain common minimum standards in the field of denied-boarding compensation should ensure that the quality of air carriers' services is maintained in a context of increased competition;

Whereas an air carrier should be obliged to establish rules for boarding in the event of an overbooked flight;

Whereas in the event of boarding being denied the rights of passengers should be defined;

Whereas air carriers should be obliged to pay compensation and to provide additional services to passengers who are denied boarding;

Whereas passengers should be clearly informed about applicable rules,

HAS ADOPTED THIS REGULATION:

*Article 1*

This Regulation establishes common minimum rules applicable where passengers are denied access to an over-

booked scheduled flight for which they have a valid ticket and a confirmed reservation departing from an airport located in the territory of a Member State to which the Treaty applies, irrespective of the State where the air carrier is established, the nationality of the passenger and the point of destination.

*Article 2*

For the purposes of this Regulation:

(a) 'denied boarding' means a refusal to accommodate passengers on a flight although they have:

- a valid ticket,
- a confirmed reservation on that flight, and
- presented themselves for check-in within the required time limit and as stipulated;

(b) 'confirmed reservation' means that a ticket sold by the air carrier or its authorized travel agent contains:

- a specification of the number, date and time of the flight, and
- the notation 'OK', or any other entry, in the appropriate space on the ticket signifying the registration by the air carrier as well as the express confirmation by the air carrier of the reservation;

(c) 'scheduled flight' means a flight possessing all of the following characteristics:

- it is performed by aircraft for the transport of passengers or passengers and cargo and/or mail for remuneration, in such a manner that, for each flight, seats are available for purchase by members of the public, either directly from the carrier or from its authorized agents,
- it is operated to serve traffic between two or more points, either:

- (i) according to a published timetable; or
- (ii) with flights so regular or frequent that they constitute a recognizably systematic series;

(d) 'overbooked flight' means a flight where the number of passengers holding a confirmed reservation and presenting themselves for check-in within the required time limit and as stipulated exceeds the number of available seats on that flight;

<sup>(1)</sup> OJ No C 129, 24. 5. 1990, p. 15.

<sup>(2)</sup> OJ No C 19, 28. 1. 1991.

<sup>(3)</sup> OJ No C 31, 6. 2. 1991.

- (e) 'volunteer' means a person who has :
- a valid ticket,
  - a confirmed reservation, and
  - presented himself for check-in within the required time limit and as stipulated and who responds positively to the air carrier's call for passengers being prepared to surrender their confirmed reservation in exchange for compensation ;
- (f) 'final destination' means the destination on the flight coupon presented at the check-in counter or, in the case of successive flights, on the last flight coupon of the ticket. Connecting flights which can be carried out without difficulties although a delay has been caused by denied boarding are not taken into account.

#### Article 3

1. The air carrier must lay down the rules which it will follow for boarding in the event of an overbooked flight. It shall notify these rules and any changes therein to the Member State concerned and to the Commission, which shall make them available to the other Member States. Any such changes shall enter into force one month after their notification.
2. The rules referred to in paragraph 1 shall be made available to the public at the carrier's agencies and check-in counters.
3. The rules referred to in paragraph 1 should include the possibility of a call for volunteers prepared not to board.
4. In any event the air carrier should take into consideration the interests of passengers who must be given boarding priority for legitimate reasons, such as handicapped persons and unaccompanied children.

#### Article 4

1. In the event of boarding being denied, a passenger shall have the choice between :
  - reimbursement without penalty of the cost of the ticket for the part of the journey not made, or
  - re-routing to his final destination at the earliest opportunity, or
  - re-routing at a later date at the passenger's convenience.
2. Irrespective of the passenger's choice mentioned in the case referred to in paragraph 1, the air carrier shall, immediately after boarding has been denied, pay minimum compensation, without prejudice to paragraphs 3 and 4, amounting to :
  - ECU 150 for flights of up to 3 500 km,
  - ECU 300 for flights of more than 3 500 km,
 having regard to the final destination specified in the ticket.

3. Where the air carrier offers re-routing to the final destination on an alternative flight, the arrival time of which does not exceed the scheduled arrival time of the flight originally booked by two hours for flights of up to 3 500 km, and by four hours for flights of more than 3 500 km, the compensation provided for in paragraph 2 above may be reduced by 50 %.

4. The amounts of compensation need not exceed the price of the ticket in respect of the final destination.

5. The compensation shall be paid in cash or, in agreement with the passenger, in travel vouchers and/or other services.

6. If, on an overbooked flight, a passenger agrees to be placed in a class lower than that for which a ticket has been purchased, he shall be entitled to reimbursement of the difference in price.

7. The distances given in paragraphs 2 and 3 shall be measured by the great circle track method (great circle route).

#### Article 5

1. In the event of boarding being denied on a flight sold as part of a package tour, the air carrier shall be obliged to compensate the tour operator who has concluded a contract with the passenger and who is liable to him for the proper performance of the contract for the said package tour under Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours<sup>(1)</sup>.
2. Without prejudice to the rights and obligations arising under Directive 90/314/EEC, the tour operator shall be obliged to pass on to the passenger the sums collected under paragraph 1.

#### Article 6

1. Apart from the minimum compensation amounts set out in Article 4, the air carrier shall offer free of charge to passengers who are denied boarding :
  - (a) the expenses for a telephone call and/or telex/fax message to the point of destination ;
  - (b) meals and refreshments in a reasonable relation to the waiting time ;
  - (c) hotel accommodation in cases where an additional stay of one or more nights is necessary.
2. When a town, city or region is served by several airports and an air carrier offers a passenger, who has been denied boarding, a flight to an airport other than the destination airport that the passenger had booked, the

<sup>(1)</sup> OJ No L 158, 23. 6. 1990, p. 59.

cost of travelling between the alternative airports or to an alternative close-by destination, agreed with the passenger, shall be borne by the air carrier.

*Article 7*

The air carrier shall not be obliged to pay denied-boarding compensation in cases where the passenger is travelling free of charge or at reduced fares not available directly or indirectly to the public.

*Article 8*

Air carriers shall provide each passenger affected by denied boarding with a form setting out the denied-boarding compensation rules.

*Article 9*

1. This Regulation shall apply without prejudice to subsequent application to the courts having jurisdiction with a view to further compensation.
2. Paragraph 1 shall not apply to the volunteers as defined in Article 2 (e) who have accepted compensation under the rules referred to in Article 3.

*Article 10*

This Regulation shall enter into force two months after the date 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, 4 February 1991.

*For the Council*

*The President*

J. F. POOS

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## COUNCIL REGULATION (EEC) No 296/91

of 4 February 1991

amending Regulation (EEC) No 4059/89 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Whereas the enlargement of the Community through the unification of Germany is reflected in an extension of the market in the carriage of goods by road;

Whereas it is therefore necessary to increase, with effect from 1 January 1991, the quota referred to in Article 2 of Regulation (EEC) No 4059/89 <sup>(3)</sup> and allocate the additional cabotage authorizations amongst the Member States; whereas that allocation must afford carriers established in the former German Democratic Republic access to the national markets of the other Member States,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 4059/89 is hereby amended as follows:

1. The following subparagraph is added to Article 2 (1):

'With effect from 1 January 1991, the number of cabotage authorizations shall be increased by 298 to 15 298.'

2. The following subparagraph is added to Article 2 (3):

'With effect from 1 January 1991, the additional authorizations shall be allocated amongst the Member States as follows:

|                  |      |
|------------------|------|
| — Belgium        | 20,  |
| — Denmark        | 19,  |
| — Germany        | 97,  |
| — Greece         | 11,  |
| — Spain          | 21,  |
| — France         | 26,  |
| — Ireland        | 10,  |
| — Italy          | 28,  |
| — Luxembourg     | 10,  |
| — Netherlands    | 27,  |
| — Portugal       | 12,  |
| — United Kingdom | 17.' |

*Article 2*

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

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

Done at Brussels, 4 February 1991.

*For the Council*

*The President*

J. F. POOS

<sup>(1)</sup> OJ No C 19, 28. 1. 1991.

<sup>(2)</sup> Opinion delivered on 18 December 1990 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No L 390, 30. 12. 1989, p. 3.

## COUNCIL REGULATION (EEC) No 297/91

of 4 February 1991

amending Regulation (EEC) No 715/90 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific (ACP) States or in the overseas countries or territories (OCT) to take into account the accession of Namibia to the fourth ACP-EEC Convention

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products<sup>(1)</sup>, and in particular Article 12 thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 715/90<sup>(2)</sup> lays down the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries or territories;

Whereas by its Decision No 4/90 of 23 November 1990, the ACP-EEC Council of Ministers added Namibia to the States signatory to the fourth ACP-EEC Convention;

Whereas, under Protocol 7 to the Convention, the said Decision provides for the allocation of an annual quota of beef and veal to Namibia;

Whereas the list in Annex I to Regulation (EEC) No 715/90 should be amended accordingly and an addition made to Title I thereof,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 715/90 is hereby amended as follows:

1. 'Namibia' is added to the list in Annex I.
2. The following Article is added to Title I:

*'Article 4a*

1. Article 3 shall apply to Namibia in respect of the following quantities of boneless meat:

for the first and second calendar years: 10 500 tonnes,  
for the third, fourth and fifth calendar years: 13 000 tonnes.

2. Article 4 (2) and (3) shall also apply to Namibia. For the purposes of applying these provisions, the quantities referred to in paragraph 1 of this Article shall be added to the sum referred to in Article 4 (2) and (3).'

*Article 2*

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

It shall apply with effect from 1 January 1991.

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

Done at Brussels, 4 February 1991.

*For the Council*

*The President*

J. F. POOS

<sup>(1)</sup> OJ No L 323, 29. 11. 1980, p. 1.

<sup>(2)</sup> OJ No L 84, 30. 3. 1990, p. 85.

## COMMISSION REGULATION (EEC) No 298/91

of 7 February 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 6 February 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 8 February 1991.

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

Done at Brussels, 7 February 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 7 February 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

| <i>(ECU/tonne)</i> |                                      |
|--------------------|--------------------------------------|
| CN code            | Levy                                 |
| 0709 90 60         | 143,17 <sup>(2)</sup> <sup>(3)</sup> |
| 0712 90 19         | 143,17 <sup>(2)</sup> <sup>(3)</sup> |
| 1001 10 10         | 203,98 <sup>(1)</sup> <sup>(5)</sup> |
| 1001 10 90         | 203,98 <sup>(1)</sup> <sup>(5)</sup> |
| 1001 90 91         | 197,55                               |
| 1001 90 99         | 197,55                               |
| 1002 00 00         | 160,25 <sup>(6)</sup>                |
| 1003 00 10         | 164,49                               |
| 1003 00 90         | 164,49                               |
| 1004 00 10         | 150,02                               |
| 1004 00 90         | 150,02                               |
| 1005 10 90         | 143,17 <sup>(2)</sup> <sup>(3)</sup> |
| 1005 90 00         | 143,17 <sup>(2)</sup> <sup>(3)</sup> |
| 1007 00 90         | 149,24 <sup>(4)</sup>                |
| 1008 10 00         | 70,11                                |
| 1008 20 00         | 132,22 <sup>(4)</sup>                |
| 1008 30 00         | 79,27 <sup>(7)</sup>                 |
| 1008 90 10         | (7)                                  |
| 1008 90 90         | 79,27                                |
| 1101 00 00         | 290,76 <sup>(8)</sup>                |
| 1102 10 00         | 238,54 <sup>(8)</sup>                |
| 1103 11 10         | 329,62 <sup>(8)</sup>                |
| 1103 11 90         | 312,75 <sup>(8)</sup>                |

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

<sup>(2)</sup> 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'.

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

<sup>(4)</sup> 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.

<sup>(5)</sup> 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.

<sup>(6)</sup> 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).

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

<sup>(8)</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 299/91

of 7 February 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 6 February 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 8 February 1991.

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

Done at Brussels, 7 February 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 7 February 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<br>2 | 1st period<br>3 | 2nd period<br>4 | 3rd period<br>5 |
|------------|--------------|-----------------|-----------------|-----------------|
| 0709 90 60 | 0            | 0               | 0               | 4,47            |
| 0712 90 19 | 0            | 0               | 0               | 4,47            |
| 1001 10 10 | 0            | 0               | 0               | 0,86            |
| 1001 10 90 | 0            | 0               | 0               | 0,86            |
| 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               | 4,47            |
| 1005 90 00 | 0            | 0               | 0               | 4,47            |
| 1007 00 90 | 0            | 0               | 0               | 0               |
| 1008 10 00 | 0            | 0               | 0               | 0               |
| 1008 20 00 | 0            | 3,16            | 3,16            | 3,18            |
| 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<br>2 | 1st period<br>3 | 2nd period<br>4 | 3rd period<br>5 | 4th period<br>6 |
|------------|--------------|-----------------|-----------------|-----------------|-----------------|
| 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 300/91  
of 7 February 1991**

**fixing the minimum levies on the importation of olive oil and levies on the  
importation of other olive oil sector products**

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 No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria<sup>(3)</sup>, as last amended by Regulation (EEC) No 4014/88<sup>(4)</sup>, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco<sup>(5)</sup>, as last amended by Regulation (EEC) No 4015/88<sup>(6)</sup>, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia<sup>(7)</sup>, as last amended by Regulation (EEC) No 413/86<sup>(8)</sup>, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey<sup>(9)</sup>, as last amended by Regulation (EEC) No 4016/88<sup>(10)</sup>, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon<sup>(11)</sup>;

Whereas by Regulation (EEC) No 3131/78<sup>(12)</sup>, as amended by the Act of Accession of Greece, the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender<sup>(13)</sup> specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on

the world market and the Community market and of the levy rates indicated by tenderers;

Whereas, with regard to Turkey and the Maghreb countries, the provisions of this Regulation should be without prejudice to the additional amount to be determined in accordance with the agreements between the Community and these third countries;

Whereas, in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed, taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 4 and 5 February 1991 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within 29 codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

HAS ADOPTED THIS REGULATION :

*Article 1*

The minimum levies on olive oil imports are fixed in Annex I.

*Article 2*

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

*Article 3*

This Regulation shall enter into force on 8 February 1991.

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

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

<sup>(3)</sup> OJ No L 169, 28. 6. 1976, p. 24.

<sup>(4)</sup> OJ No L 358, 27. 12. 1988, p. 1.

<sup>(5)</sup> OJ No L 169, 28. 6. 1976, p. 43.

<sup>(6)</sup> OJ No L 358, 27. 12. 1988, p. 2.

<sup>(7)</sup> OJ No L 169, 28. 6. 1976, p. 9.

<sup>(8)</sup> OJ No L 48, 26. 2. 1986, p. 1.

<sup>(9)</sup> OJ No L 142, 9. 6. 1977, p. 10.

<sup>(10)</sup> OJ No L 358, 27. 12. 1988, p. 3.

<sup>(11)</sup> OJ No L 181, 21. 7. 1977, p. 4.

<sup>(12)</sup> OJ No L 370, 30. 12. 1978, p. 60.

<sup>(13)</sup> OJ No L 331, 28. 11. 1978, p. 6.

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

Done at Brussels, 7 February 1991.

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

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## ANNEX I

## Minimum import levies on olive oil

(ECU/100 kg)

| CN code    | Non-member countries  |
|------------|-----------------------|
| 1509 10 10 | 77,00 <sup>(1)</sup>  |
| 1509 10 90 | 77,00 <sup>(1)</sup>  |
| 1509 90 00 | 89,00 <sup>(2)</sup>  |
| 1510 00 10 | 77,00 <sup>(1)</sup>  |
| 1510 00 90 | 122,00 <sup>(3)</sup> |

<sup>(1)</sup> For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

(a) Lebanon : ECU 0,60 per 100 kg ;

(b) Turkey : ECU 11,48 per 100 kg <sup>(\*)</sup> provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(c) Algeria, Tunisia and Morocco : ECU 12,69 per 100 kg <sup>(\*)</sup> provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

<sup>(\*)</sup> These amounts may be increased by an additional amount to be determined by the Community and the third countries in question.

<sup>(2)</sup> For imports of oil falling within this CN code :

(a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 3,86 per 100 kg ;

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

<sup>(3)</sup> For imports of oil falling within this CN code :

(a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 7,25 per 100 kg ;

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

## ANNEX II

## Import levies on other olive oil sector products

(ECU/100 kg)

| CN code    | Non-member countries |
|------------|----------------------|
| 0709 90 39 | 16,94                |
| 0711 20 90 | 16,94                |
| 1522 00 31 | 38,50                |
| 1522 00 39 | 61,60                |
| 2306 90 19 | 6,16                 |

## COMMISSION REGULATION (EEC) No 301/91

of 7 February 1991

## derogating from Regulation (EEC) No 1589/87 on the sale by tender of butter to intervention agencies

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products <sup>(1)</sup>, as last amended by Regulation (EEC) No 3641/90 <sup>(2)</sup>, and in particular the first subparagraph of Article 7a (1) and 7a (3) thereof,

Whereas Commission Regulation (EEC) No 1589/87 <sup>(3)</sup>, as last amended by Regulation (EEC) No 1310/90 <sup>(4)</sup>, lays down the rules on the sale by tender of butter to intervention agencies; whereas Article 7 (2) of that Regulation provides that within 14 days of the closing date for the submission of tenders, the successful tenderer is to deliver the butter; whereas, owing to public holidays, that time limit is likely to be insufficient for the second invitation to tender in March 1991; whereas deliveries of butter as a result of the abovementioned invitations to tender should accordingly be extended;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the invitations to tender the closing dates for the submission of tenders for which expires on the fourth Tuesday in March 1991, the 14-day time limit referred to in Article 7 (1) of Regulation (EEC) No 1589/87 is hereby replaced by 21 days.

*Article 2*

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

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

Done at Brussels, 7 February 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 13.

<sup>(2)</sup> OJ No L 362, 27. 12. 1990, p. 5.

<sup>(3)</sup> OJ No L 146, 6. 6. 1987, p. 28.

<sup>(4)</sup> OJ No L 129, 19. 5. 1990, p. 29.

## COMMISSION REGULATION (EEC) No 302/91

of 7 February 1991

## laying down definitive measures on the issuing of STM licences for milk and milk products as regards Spain

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 (3) thereof,

Having regard to Council Regulation (EEC) No 569/86 of 25 February 1986 laying down general rules for the application of the supplementary mechanism applicable to trade<sup>(1)</sup>, as last amended by Regulation (EEC) No 3296/88<sup>(2)</sup>, and in particular Article 7 (1) thereof,

Whereas the Commission Regulation (EEC) No 606/86 of 28 February 1986 laying down detailed rules for applying the supplementary trade mechanism to milk products imported into Spain from the Community of Ten<sup>(3)</sup>, as last amended by Regulation (EEC) No 3881/90<sup>(4)</sup>, fixes the indicative ceiling for imports into Spain of certain products in the milk and milk products sector for 1990;

Whereas application for STM licences lodged in the week 3 to 8 December 1990 for category 1 of cheese covers quantities exceeding that fraction of the indicative ceiling applicable for the fourth quarter of 1990;

Whereas the Commission accordingly adopted by an emergency procedure appropriate interim protection measures by Regulation (EEC) No 3589/90<sup>(5)</sup>; whereas

definitive measures must be adopted; whereas in view of the situation of the market in Spain, an increase in the indicative ceiling could not be contemplated;

Whereas, as a definitive measure as mentioned in Article 85 (3) of the Act, suspension of the issuing of STM licences provided for in Articles 1 (2) of Regulation (EEC) No 3589/90 should be confirmed until the end of the fourth quarter of 1990;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The issuing of STM licences for products in the milk and milk products sector, as referred to in Regulation (EEC) No 3589/90 is hereby definitively suspended.

*Article 2*

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

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

Done at Brussels, 7 February 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 55, 1. 3. 1986, p. 106.

<sup>(2)</sup> OJ No L 293, 27. 10. 1988, p. 7.

<sup>(3)</sup> OJ No L 58, 1. 3. 1986, p. 28.

<sup>(4)</sup> OJ No L 367, 29. 12. 1990, p. 124.

<sup>(5)</sup> OJ No L 350, 14. 12. 1990, p. 8.

## COMMISSION REGULATION (EEC) No 303/91

of 7 February 1991

altering the basic amount of the import levies on syrups and certain other products in the sugar sector

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 syrups and certain other sugar products were fixed by Commission Regulation (EEC) No 236/91<sup>(3)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 236/91 to the information known to the Commission that the basic amount of the levy on syrups and certain other sugar products at present in force should be altered;

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>(4)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(5)</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*

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to Regulation (EEC) No 236/91 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 8 February 1991.

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

Done at Brussels, 7 February 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 27, 1. 2. 1991, p. 25.<sup>(4)</sup> OJ No L 164, 24. 6. 1985, p. 1.<sup>(5)</sup> OJ No L 201, 31. 7. 1990, p. 9.

## ANNEX

to the Commission Regulation of 7 February 1991 altering the basic amount of the import levies on syrups and certain other products in the sugar sector

(ECU)

| CN code    | Basic amount per percentage point of sucrose content and per 100 kg net of the product in question | Amount of levy per 100 kg of dry matter |
|------------|--|---|
| 1702 20 10 | 0,4594   | —                                       |
| 1702 20 90 | 0,4594   | —                                       |
| 1702 30 10 | —  | 54,76                                   |
| 1702 40 10 | —  | 54,76                                   |
| 1702 60 10 | —  | 54,76                                   |
| 1702 60 90 | 0,4594   | —                                       |
| 1702 90 30 | —  | 54,76                                   |
| 1702 90 60 | 0,4594   | —                                       |
| 1702 90 71 | 0,4594   | —                                       |
| 1702 90 90 | 0,4594   | —                                       |
| 2106 90 30 | —  | 54,76                                   |
| 2106 90 59 | 0,4594   | —                                       |

## COMMISSION REGULATION (EEC) No 304/91

of 7 February 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 282/91<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 6 February 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 8 February 1991.

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

Done at Brussels, 7 February 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 34, 6. 2. 1991, p. 10.

<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 7 February 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

| CN code    | Levy                 |
|------------|----------------------|
| 1701 11 10 | 41,64 <sup>(1)</sup> |
| 1701 11 90 | 41,64 <sup>(1)</sup> |
| 1701 12 10 | 41,64 <sup>(1)</sup> |
| 1701 12 90 | 41,64 <sup>(1)</sup> |
| 1701 91 00 | 45,94                |
| 1701 99 10 | 45,94                |
| 1701 99 90 | 45,94 <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.

## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 25 January 1991

**determining which applications for compensation for the abandonment of milk production provided for in Article 4 (1b) of Council Regulation (EEC) No 857/84 are to be given priority**

*(Only the Spanish, English, French and Italian texts are authentic)*

(91/58/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector<sup>(1)</sup>, as last amended by Regulation (EEC) No 3642/90<sup>(2)</sup>, and in particular Article 4 (1b) (e) thereof,

Having regard to Commission Regulation (EEC) No 1546/88 of 3 June 1988 laying down detailed rules for the application of the additional levy referred to in Article 5c of Regulation (EEC) No 804/68<sup>(3)</sup>, as last amended by Regulation (EEC) No 2333/90<sup>(4)</sup>, and in particular the first subparagraph of Article 4a (3) thereof,

Whereas Article 4 (1b) of Regulation (EEC) No 857/84 provides for the granting of compensation for permanent abandonment of milk production; whereas Community financing of this compensation is restricted to a quantity of 500 000 tonnes;

Whereas the second subparagraph of Article 4a (3) of Regulation (EEC) No 1546/88 states that if the total of the reference quantities proposed for repurchase by the Member States exceeds 500 000 tonnes the Commission

shall determine for each Member State which applications are to have priority for financing by the Community; whereas this situation has arisen; whereas these priority applications should be determined proportionately to the total number of applications made;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS DECISION:

*Article 1*

Applications for the compensation provided for in Article 4 (1b) of Regulation (EEC) No 857/84 are to be given priority, as indicated in the second subparagraph of Article 4a (3) of Regulation (EEC) No 1546/88, as follows:

1. in the case of Spain, applications in chronological order of registration up to 4 October 1990 at the latest, up to a limit of 87 700 tonnes;
2. in the case of France, applications in chronological order of registration up to 15 October 1990 at the latest, up to a limit of 247 650 tonnes;
3. in the case of Ireland, applications in chronological order of registration up to 25 October 1990 at the latest, up to a limit of 550 tonnes;
4. in the case of Italy, applications in chronological order of registration up to 9 October 1990 at the latest, up to a limit of 164 000 tonnes.

<sup>(1)</sup> OJ No L 90, 1. 4. 1984, p. 13.

<sup>(2)</sup> OJ No L 362, 27. 12. 1990, p. 7.

<sup>(3)</sup> OJ No L 139, 4. 6. 1988, p. 12.

<sup>(4)</sup> OJ No L 211, 9. 8. 1990, p. 5.

*Article 2*

This Decision is addressed to the Kingdom of Spain, the French Republic, Ireland and the Italian Republic.

Done at Brussels, 25 January 1991.

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

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## COMMISSION DECISION

of 4 February 1991

terminating the review and confirming expiry of the anti-dumping measures applying to imports into the Community of self-propelled hydraulic excavators, track-laying or wheeled, of a total operating weight exceeding six tonnes but not exceeding 35 tonnes, equipped with a single bucket mounted on a boom capable of pivoting through 360°, or intended to be so equipped, originating in Japan

(91/59/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 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community<sup>(1)</sup>, and in particular Article 4 (5) thereof,

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

Whereas :

## A. PRODUCT

- (1) The products concerned are self-propelled hydraulic excavators, track-laying or wheeled, of a total operating weight exceeding six tonnes but not exceeding 35 tonnes, equipped with a single bucket mounted on a boom capable of pivoting through 360°, or intended to be so equipped, originating in Japan, falling within CN code ex 8429 52 00.

## B. PROCEDURE

- (2) In March 1990 the Commission received a complaint lodged under Article 15 of Regulation (EEC) No 2423/88 by the Federation of Manufacturers of Construction Equipment and Cranes on behalf of hydraulic excavator producers whose collective output was alleged to constitute the majority of Community production of the products in question. The complaint contained evidence of continued dumping by Japanese producers despite the provisions of Council Regulation (EEC) No 1877/85<sup>(2)</sup>. The complaint also alleged threat of injury if the measures were allowed to lapse. This was considered sufficient to justify the initiation of a review proceeding and the Commission

announced, by a notice published in the *Official Journal of the European Communities*<sup>(3)</sup>, the initiation of an anti-dumping review concerning imports into the Community of the products in question. In conformity with Article 15 of Regulation (EEC) No 2423/88, the measures remained in force pending the outcome of the review.

- (3) The Commission officially notified the exporters and importers known to be concerned, the representatives of the exporting country and the Community producers. The parties were given the opportunity to make their views known in writing and/or request a hearing.
- (4) The Commission commenced the investigation including transmission of questionnaires to the parties involved seeking the information necessary for the assessment of dumping and injury. A very high proportion of the Community producers failed to reply to the questionnaires despite the fact that the original deadline for reply was extended by the Commission.
- (5) In calculating the proportion of the Community industry which replied to the questionnaires, the Commission found that their combined production did not constitute a major proportion of the total Community production as set out in the complaint. As a result, the Commission is unable to establish whether expiry of the measure would lead again to injury or threat of injury.

## C. TERMINATION OF REVIEW PROCEEDING

- (6) In view of the circumstances set out above, the Commission considers that the review proceeding should be terminated forthwith.
- (7) No objections to this course of action were raised in the Advisory Committee.

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

<sup>(2)</sup> OJ No L 176, 6. 7. 1985, p. 1.

<sup>(3)</sup> OJ No C 206, 18. 8. 1990, p. 5.

- (8) The Federation of Manufacturers of Construction Equipment and Cranes was informed of the Commission's reasons for terminating the proceeding

HAS DECIDED AS FOLLOWS:

*Article 1*

The review proceeding concerning imports of hydraulic excavators, track-laying or wheeled, of a total operating weight exceeding six tonnes but not exceeding 35 tonnes, equipped with a single bucket mounted on a boom capable of pivoting through 360°, or intended to be so

equipped, originating in Japan and falling within CN code ex 8429 52 00, is hereby terminated.

*Article 2*

This Decision shall take effect on the day following its publication in the *Official Journal of the European Communities*.

Done at Brussels, 4 February 1991.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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