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## Legislation

### Contents

#### I *Acts whose publication is obligatory*

- \* **Council Regulation (EEC) No 1295/91 of 14 May 1991 on the conclusion of the Protocol establishing, for the period from 1 June 1990 to 31 May 1993, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe** ..... 1
- Protocol establishing, for the period from 1 June 1990 to 31 May 1993, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe ..... 3
- Commission Regulation (EEC) No 1296/91 of 17 May 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal ..... 8
- Commission Regulation (EEC) No 1297/91 of 17 May 1991 fixing the premiums to be added to the import levies on cereals, flour and malt ..... 10
- Commission Regulation (EEC) No 1298/91 of 17 May 1991 fixing the import levies on rice and broken rice ..... 12
- Commission Regulation (EEC) No 1299/91 of 17 May 1991 fixing the premiums to be added to the import levies on rice and broken rice ..... 14
- Commission Regulation (EEC) No 1300/91 of 17 May 1991 fixing the export refunds on fruit and vegetables ..... 16
- Commission Regulation (EEC) No 1301/91 of 17 May 1991 amending Regulation (EEC) No 1239/91 on the supply of various consignments of cereals as food aid ..... 21
- \* **Commission Regulation (EEC) No 1302/91 of 17 May 1991 on the issuing of a standing invitation to tender for the resale on the Community internal market of 1 200 tonnes of durum wheat held by the Danish intervention agency** ..... 23

* Commission Regulation (EEC) No 1303/91 of 17 May 1991 fixing Community producer prices for carnations and roses for the application of the import arrangements for certain floricultural products originating in Cyprus, Israel, Jordan and Morocco .....	25
* Commission Regulation (EEC) No 1304/91 of 17 May 1991 amending Commission Regulation (EEC) No 2159/89 laying down detailed rules for applying the specific measures for nuts and locust beans as provided for in Title IIa of Council Regulation (EEC) No 1035/72 .....	27
* Commission Regulation (EEC) No 1305/91 of 17 May 1991 re-establishing the levying of customs duties applicable to third countries on certain products originating in Yugoslavia .....	29
* Commission Regulation (EEC) No 1306/91 of 17 May 1991 on import licences for poultrymeat products originating in the African, Caribbean, and Pacific states or in the overseas countries and territories .....	30
Commission Regulation (EEC) No 1307/91 of 17 May 1991 fixing the maximum buying-in price and the quantities of beef bought in for the 45th partial invitation to tender under Regulation (EEC) No 1627/89 .....	31
Commission Regulation (EEC) No 1308/91 of 17 May 1991 introducing a corrective amount on the import of artichokes into the Community of Ten from Spain (except the Canary Islands) .....	33
Commission Regulation (EEC) No 1309/91 of 17 May 1991 introducing a countervailing charge and suspending the preferential customs duty on imports of tomatoes originating in Turkey .....	34
Commission Regulation (EEC) No 1310/91 of 17 May 1991 introducing a countervailing charge on tomatoes originating in the Canary Islands .....	36
Commission Regulation (EEC) No 1311/91 of 17 May 1991 fixing the import levies on white sugar and raw sugar .....	38
* Commission Regulation (EEC) No 1312/91 of 17 May 1991 laying down detailed rules for the application of Council Regulation (EEC) No 597/91 for the supply of sunflower oil to Romania .....	40

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II *Acts whose publication is not obligatory*

**Council**

91/252/EEC :

* Council Decision of 14 May 1991 extending to Czechoslovakia, Bulgaria and Romania Decision 90/62/EEC granting the Community guarantee to the European Investment Bank against losses under loans for projects in Hungary and Poland .....	44
---	----

91/253/EEC, Euratom :

* Council Decision of 14 May 1991 appointing a member of the Economic and Social Committee .....	45
--	----

**Commission**

91/254/EEC :

- \* **Commission Decision of 28 November 1990 concerning the proposal by the Brussels Regional Authorities (Belgium) to provide aid in favour of Volkswagen Bruxelles SA, an undertaking producing passenger cars . . . . . 46**

91/255/EEC :

- \* **Commission Decision of 1 December 1990 concerning aid and the parafiscal charge collected for the Comité national interprofessionnel de l'horticulture florale, ornementale et des pépinières (CNIH) — draft decree introducing a parafiscal charge for the benefit of the CNIH . . . . . 51**

91/256/EEC :

- \* **Commission Decision of 14 May 1991 accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of welded wire-mesh originating in Yugoslavia and terminating the investigation . . . . . 54**

## I

(Acts whose publication is obligatory)

## COUNCIL REGULATION (EEC) No 1295/91

of 14 May 1991

on the conclusion of the Protocol establishing, for the period from 1 June 1990 to 31 May 1993, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 155 (2) (b) thereof,

Having regard to the proposal from the Commission,

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

Whereas, in accordance with the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe<sup>(1)</sup>, which entered into force on 18 April 1985, the two Parties negotiated to determine the amendments or additions to be introduced into the said Agreement at the end of the period of application of the Protocol;

Whereas, as a result of these negotiations, a new Protocol establishing, for the period from 1 June 1990 to 31 May 1993, the fishing rights and financial compensation provided for in the aforementioned Agreement was initialled on 4 May 1990;

Whereas, pursuant to Article 155 (2) (b) of the Act of Accession of Spain and Portugal, it is for the Council to determine the procedures appropriate to take into consideration all or part of the interests of the Canary Islands when it adopts decisions, case by case, particularly with a view to the conclusion of fisheries agreements with third countries; whereas the case in point calls for the said procedures to be determined;

Whereas it is in the Community's interest to approve the Protocol referred to in this Agreement,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Protocol establishing, for the period from 1 June 1990 to 31 May 1993, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation.

*Article 2*

With a view to taking into consideration the interests of the Canary Islands, the Protocol referred to in Article 1 and, in so far as is necessary for its application, the provisions of the common fisheries policy relating to the conservation and management of fishery resources, shall also apply to vessels sailing under the flag of Spain which are recorded on a permanent basis in the registers of the relevant authorities at local level (*registros de base*) in the Canary Islands, under the conditions specified in Note 6 to Annex I to Council Regulation (EEC) No 1135/88 of 7 March 1988 concerning the definition of the concept of 'originating products' and methods of administrative cooperation in the trade between the customs territory of the Community, Ceuta and Melilla and the Canary Islands<sup>(2)</sup>.

*Article 3*

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in order to bind the Community.

*Article 4*

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

<sup>(1)</sup> Opinion delivered on 19 April 1991 (not yet published in the Official Journal).

<sup>(2)</sup> OJ No L 54, 25. 2. 1984, p. 1.

<sup>(3)</sup> OJ No L 114, 2. 5. 1988, p. 1.

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

Done at Brussels, 14 May 1991.

*For the Council*

*The President*

J. F. POOS

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## PROTOCOL

establishing, for the period from 1 June 1990 to 31 May 1993, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe

*Article 1*

For a period of three years from 1 June 1990, the fishing rights granted pursuant to Article 2 of the Agreement shall be 46 freezer tuna seiners and five pole-and-line wet tuna vessels.

*Article 2*

1. The financial compensation referred to in Article 6 of the Agreement shall be, for the period referred to in Article 1, ECU 1 650 000, payable in three equal annual instalments.

2. The use to which this compensation is put shall be the sole responsibility of the Government of the Democratic Republic of São Tomé e Príncipe. It shall be paid into an account with the National Bank of São Tomé e Príncipe.

*Article 3*

1. The Community shall contribute during the period referred to in Article 1 the sum of ECU 150 000 towards the financing of scientific and technical programmes to improve biological and fishery resource information as regards the exclusive economic zone of São Tomé e Príncipe.

2. These programmes shall be drawn up jointly by the competent authorities of São Tomé e Príncipe and the Community, which will, if necessary, participate in their implementation. Once the content of the programmes has been approved, they shall be financed by payments into an account indicated by the competent authorities of São Tomé e Príncipe.

3. The competent authorities of São Tomé e Príncipe shall send to the Commission of the European Communities a report on the implementation of the approved programmes and the results obtained. The Commission of the European Communities reserves the right to request any further scientific information from the authorities of São Tomé e Príncipe.

*Article 4*

1. The two Parties agree that improving the skills and knowledge of those involved in sea fishing is a vital element in the success of their cooperation. To that end, the Community shall:

- (a) make it easier for nationals of São Tomé e Príncipe to find places in establishments in its Member States and shall provide for that purpose awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries. These awards may also be used by any State linked to the Community by a Cooperation Agreement;
- (b) cover São Tomé e Príncipe's participation in the Regional Fisheries Committee for the Gulf of Guinea and Iccat;
- (c) cover its participation in international meetings or training courses on fisheries.

2. The cost of these measures may not exceed ECU 375 000. This sum shall be paid as and when it is needed.

*Article 5*

Should the Community fail to make the payments provided for in Articles 2 and 3, the application of this Protocol may be suspended.

*Article 6*

The Annex to the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe is hereby repealed and replaced by the Annex to this Protocol.

*Article 7*

This Protocol shall enter into force on the date on which it is signed.

It shall apply from 1 June 1990.

## ANNEX

**Conditions for the exercise of fishing activities by Community vessels in São Tomé e Príncipe's fishing zone**

1. The procedure for applications for and issue of the licences referred to in Article 4 of the Agreement shall be as follows :

The relevant Community authorities shall present to the Ministry for Agriculture and Fisheries of São Tomé e Príncipe, via the Commission Delegation responsible for São Tomé e Príncipe, an application for each vessel that wishes to fish under the Agreement, at least 20 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Government of the Democratic Republic of São Tomé e Príncipe, a specimen of which is attached hereto (Appendix 1).

Licences shall be issued by the São Tomé e Príncipe authorities within 20 days following submission of the application to the shipowners or their representatives via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

Licences shall be issued for a specific vessel and shall not be transferable. However, where *force majeure* is proven and at the request of the Commission of the European Communities, a vessel's licence shall be replaced by a new licence for another vessel whose features are similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the Ministry of Agriculture and Fisheries of São Tomé e Príncipe via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

The new licence shall indicate :

- the date of issue ;
- the fact that this licence replaces that of the first vessel, for the period of validity remaining.

In this case, no new lump sum as laid down in paragraph 5 below shall be due.

The licence must be held on board at all times.

2. Licences shall be valid for one year and shall be renewable.
3. The fees provided for in Article 4 of the Agreement shall be set at ECU 20 per tonne caught in São Tomé e Príncipe's fishing zone.
4. The competent authorities of São Tomé e Príncipe shall indicate the detailed rules for payment of the fees, in particular the bank accounts and currencies to be used.
5. Licences shall be issued following payment to the National Bank of São Tomé e Príncipe of a lump sum of ECU 1 500 for each freezer tuna seiner per year and ECU 200 for each pole-and-line tuna vessel per year, equivalent to the fees for :
  - 75 tonnes of tuna caught per freezer tuna seiner per year,
  - 10 tonnes of tuna caught per pole-and-line tuna vessel per year ;
6. The final statement of the fees due for the fishing period shall be drawn up by the Commission of the European Communities at the end of each calendar year on the basis of the catch statements made for each vessel and confirmed by the competent scientific institutes, namely the French Institut de la recherche scientifique et technique d'outre-mer (Orstom) and the Instituto Español de Oceanografía (IEO).

The statement shall be forwarded simultaneously to the competent authorities of São Tomé e Príncipe and to the shipowners. Any additional payment due shall be made by the shipowners to the National Bank of São Tomé e Príncipe no later than 30 days after notification of the final statement. However, if the amount of the final statement is lower than the advance referred to in paragraph 5 above, the resulting balance shall not be reimbursable to the shipowner.

7. Community vessels shall keep a fishing log, in accordance with the model in Appendix 2, for each fishing period spent in São Tomé e Príncipe's fishing zone. The form shall be sent to the Ministry of Agriculture and Fisheries, via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe, within 45 days of the end of the fishing trip spent in the São Tomé e Príncipe fishing zone.

Forms must be completed legibly and signed by the master of the vessel.

8. Every time they enter or leave São Tomé e Príncipe's fishing zone, Community vessels shall communicate the volume of catch held on board at that time to the radio station on São Tomé e Príncipe. The call sign shall be communicated to shipowners when the licence is issued.

A vessel caught fishing without having notified the radio of São Tomé e Príncipe shall be considered an unlicensed vessel.

In cases where this radio communication cannot be used, vessels may use alternative means such as telex or telegram.

6. Vessels shall allow on board observers at the request of the authorities of São Tomé e Príncipe. Observers should not remain on board any longer than the time needed to carry out spot checks on the catch. The master of the vessel shall take all necessary steps to facilitate the task of the observers on board.
10. The international standards on tuna fishing as recommended by Iccat shall apply.
11. The Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe shall be notified within 48 hours of any boarding within São Tomé e Príncipe's fishing zone of a fishing vessel flying the flag of a Member State of the Community and operating under this Agreement.

A brief report of the circumstances and reasons leading to the boarding must be submitted within 72 hours.



*Appendix 1*

DEMOCRATIC REPUBLIC OF SÃO TOMÉ E PRÍNCIPE

MINISTRY OF AGRICULTURE AND FISHERIES

*FISHING LICENCE APPLICATION No ....*

Name of applicant : .....

Address of applicant : .....

Name and address of shipowner : .....

Name and address of any representative in São Tomé e Príncipe : .....

Name of vessel : .....

Type of vessel : .....

Country of registration : .....

Port and registration number : .....

External identification of vessel : .....

Radio call sign and frequency : .....

Length of vessel : .....

Width of vessel : .....

Engine type and rating : .....

Hold capacity : .....

Minimum crew : .....

Type of fishing : .....

Species to be fished : .....

Period of validity sought : .....

'I hereby certify that this information is correct and that I know and agree with and undertake to observe and enforce the laws of the Democratic Republic of São Tomé e Príncipe concerning fishing and the sea, and all applicable international legislation.'

Date : .....

The Applicant

.....



## COMMISSION REGULATION (EEC) No 1296/91

of 17 May 1991

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<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 533/91<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 16 May 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 533/91 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 18 May 1991.

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

Done at Brussels, 17 May 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 59, 6. 3. 1991, p. 1.

## ANNEX

to the Commission Regulation of 17 May 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

*(ECU/tonne)*

CN code	Levy
0709 90 60	138,54 <sup>(2)</sup> <sup>(3)</sup>
0712 90 19	138,54 <sup>(2)</sup> <sup>(3)</sup>
1001 10 10	194,95 <sup>(1)</sup> <sup>(2)</sup>
1001 10 90	194,95 <sup>(1)</sup> <sup>(2)</sup>
1001 90 91	160,76
1001 90 99	160,76
1002 00 00	154,85 <sup>(6)</sup>
1003 00 10	148,38
1003 00 90	148,38
1004 00 10	138,77
1004 00 90	138,77
1005 10 90	138,54 <sup>(2)</sup> <sup>(3)</sup>
1005 90 00	138,54 <sup>(2)</sup> <sup>(3)</sup>
1007 00 90	145,64 <sup>(4)</sup>
1008 10 00	41,61
1008 20 00	135,79 <sup>(4)</sup>
1008 30 00	51,25 <sup>(5)</sup>
1008 90 10	<sup>(7)</sup>
1008 90 90	51,25
1101 00 00	239,76 <sup>(6)</sup>
1102 10 00	231,49 <sup>(6)</sup>
1103 11 10	315,81 <sup>(6)</sup>
1103 11 90	257,12 <sup>(6)</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 1297/91  
of 17 May 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 16 May 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 18 May 1991.

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

Done at Brussels, 17 May 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 17 May 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
	5	6	7	8
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	1,32	1,32	1,32
1001 10 90	0	1,32	1,32	1,32
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

## B. Malt

*(ECU/tonne)*

CN code	Current	1st period	2nd period	3rd period	4th period
	5	6	7	8	9
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 1298/91**  
**of 17 May 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 last amended by Regulation (EEC) No 674/91 <sup>(4)</sup>, and in particular Article 8 thereof,

Whereas the import levies on rice 230/91 broken rice were fixed by Commission Regulation (EEC) No 915/91 <sup>(5)</sup>, as last amended by Regulation (EEC) No 1197/91 <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 20 May 1991.

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

Done at Brussels, 17 May 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 75, 21. 3. 1991, p. 29.

<sup>(5)</sup> OJ No L 92, 13. 4. 1991, p. 5.

<sup>(6)</sup> OJ No L 116, 9. 5. 1991, p. 5.

## ANNEX

to the Commission Regulation of 17 May 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> ) Bangladesh	Third countries (except ACP or OCT) ( <sup>4</sup> )
1006 10 21	—	152,79	312,78
1006 10 23	214,88	139,65	286,51
1006 10 25	214,88	139,65	286,51
1006 10 27	214,88	139,65	286,51
1006 10 92	—	152,79	312,78
1006 10 94	214,88	139,65	286,51
1006 10 96	214,88	139,65	286,51
1006 10 98	214,88	139,65	286,51
1006 20 11	—	191,88	390,97
1006 20 13	268,61	175,47	358,14
1006 20 15	268,61	175,47	358,14
1006 20 17	268,61	175,47	358,14
1006 20 92	—	191,88	390,97
1006 20 94	268,61	175,47	358,14
1006 20 96	268,61	175,47	358,14
1006 20 98	268,61	175,47	358,14
1006 30 21	—	237,37	498,60 ( <sup>5</sup> )
1006 30 23	430,91 ( <sup>5</sup> )	275,39	574,55 ( <sup>5</sup> )
1006 30 25	430,91 ( <sup>5</sup> )	275,39	574,55 ( <sup>5</sup> )
1006 30 27	430,91 ( <sup>5</sup> )	275,39	574,55 ( <sup>5</sup> )
1006 30 42	—	237,37	498,60 ( <sup>5</sup> )
1006 30 44	430,91 ( <sup>5</sup> )	275,39	574,55 ( <sup>5</sup> )
1006 30 46	430,91 ( <sup>5</sup> )	275,39	574,55 ( <sup>5</sup> )
1006 30 48	430,91 ( <sup>5</sup> )	275,39	574,55 ( <sup>5</sup> )
1006 30 61	—	253,15	531,01 ( <sup>5</sup> )
1006 30 63	461,94 ( <sup>5</sup> )	295,61	615,92 ( <sup>5</sup> )
1006 30 65	461,94 ( <sup>5</sup> )	295,61	615,92 ( <sup>5</sup> )
1006 30 67	461,94 ( <sup>5</sup> )	295,61	615,92 ( <sup>5</sup> )
1006 30 92	—	253,15	531,01 ( <sup>5</sup> )
1006 30 94	461,94 ( <sup>5</sup> )	295,61	615,92 ( <sup>5</sup> )
1006 30 96	461,94 ( <sup>5</sup> )	295,61	615,92 ( <sup>5</sup> )
1006 30 98	461,94 ( <sup>5</sup> )	295,61	615,92 ( <sup>5</sup> )
1006 40 00	—	67,03	140,07

(<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 originating in the African, Caribbean and Pacific States or in the overseas countries and territories and imported directly into the overseas department of Réunion.

(<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 levy on imports of rice, not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Regulation (EEC) Nos 3491/90 and 862/91.

(<sup>5</sup>) The levy on imports into Portugal is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3808/90.



**COMMISSION REGULATION (EEC) No 1299/91**

of 17 May 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 1198/91 <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 20 May 1991.

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

Done at Brussels, 17 May 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 116, 9. 5. 1991, p. 7.

## ANNEX

to the Commission Regulation of 17 May 1991 fixing the premiums to be added to the import levies on rice and broken rice

*(ECU / tonne)*

CN code	Current	1st period	2nd period	3rd period
	5	6	7	8
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 1300/91**  
of 17 May 1991  
fixing the export refunds on fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EEC) No 3920/90 <sup>(2)</sup>, and in particular Article 30 (4) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 30 of Regulation (EEC) No 1035/72 provides that, to the extent necessary to allow economically significant quantities to be exported, the difference between prices in international trade for the products referred to in that Article and prices for the products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2518/69 of 9 December 1969 laying down general rules for the granting of refunds on exports of fruit and vegetables and criteria for fixing their amounts <sup>(3)</sup>, as amended by Regulation (EEC) No 2455/72 <sup>(4)</sup>, provides that when refunds are being fixed, account must be taken of the existing situation and future trends with regard to prices and availabilities of fruit and vegetables on the Community market on the one hand and prices in international trade on the other; whereas account must also be taken of the costs indicated in (b) of that Article and of the economic aspects of the proposed exports;

Whereas, pursuant to Article 3 of Regulation (EEC) No 2518/69, when prices on the Community market are being determined account must be taken of the prices which are most favourable from the exportation point of view; whereas, when prices in international trade are being determined, the quotations and prices referred to in paragraph 2 of that Article must be taken into account;

Whereas the situation with regard to international trade or the specific requirements of certain markets may make it necessary to vary the refund for a given product according to the destination of that product;

Whereas tomatoes, fresh lemons, fresh sweet oranges, apples, peaches and nectarines of the common quality standards 'Extra' Class, Class I and Class II, 'Extra' Class and Class I table grapes, almonds and hazelnuts, and unshelled walnuts may at present be exported in economically significant quantities;

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

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

Whereas it follows from applying these detailed rules to the present market situation and to its future trends, and in particular to quotations and prices for fruit and vegetables in the Community and in international trade that the refunds should be as set out in the Annex hereto;

Whereas the obligations under Article 5 (1) (b) of Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products <sup>(7)</sup>, as last amended by Regulation (EEC) No 1615/90 <sup>(8)</sup>, may be relaxed in the case of exports to non-member countries outside Europe; whereas, in such a case, Article 19 (1) (c) of Regulation (EEC) No 3665/87 may be applied;

Whereas, for Spain and Portugal, the Act of Accession introduced transitional measures by phases and stages respectively;

Whereas where Spain and, from the beginning of the second stage of transition on 1 January 1990, Portugal are concerned when refunds are fixed, account is to be taken for each product in accordance with Articles 87 and 255 of the Act of Accession, of economically justified price differences;

<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 318, 18. 12. 1969, p. 17.

<sup>(4)</sup> OJ No L 266, 25. 11. 1972, p. 7.

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

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

<sup>(7)</sup> OJ No L 351, 14. 12. 1987, p. 1.

<sup>(8)</sup> OJ No L 152, 16. 6. 1990, p. 33.

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

HAS ADOPTED THIS REGULATION :

*Article 1*

1. The export refunds on fruit and vegetables shall be as set out in column I of the Annex hereto. However, the

refunds applicable on products harvested on the one part in Spain and on the other part in Portugal shall be those given in columns II and III of the Annex.

2. The provisions of Articles 5 (1)(b) and 19 (1)(c) of Regulation (EEC) No 3665/87 shall apply to exports of fresh sweet oranges, lemons, walnuts in shell, shelled hazelnuts, and apples as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 18 May 1991.

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

Done at Brussels, 17 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

## ANNEX

to the Commission Regulation of 17 May 1991 fixing the export refunds on fruit and vegetables

(ECU/100 kg net)

Product code	Destination of refund (')	Amounts of refunds		
		Community as constituted on 31 December 1985 (I)	Spain (II)	Portugal (III)
0702 00 10 100		4,50	—	—
0702 00 10 900	—	—	—	—
0702 00 90 100		4,50	—	—
0702 00 90 900	—	—	—	—
0802 12 90 000	07	9,67	9,67	9,67
0802 21 00 000	07	11,30	11,30	11,30
0802 22 00 000	07	21,80	21,80	21,80
0802 31 00 000	07	14,00	14,00	14,00
0805 10 11 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 11 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 11 900	—	—	—	—
0805 10 15 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 15 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 15 900	—	—	—	—
0805 10 19 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 19 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 19 900	—	—	—	—
0805 10 21 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 21 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 21 900	—	—	—	—
0805 10 25 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 25 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 25 900	—	—	—	—
0805 10 29 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 29 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 29 900	—	—	—	—
0805 10 31 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 31 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 31 900	—	—	—	—
0805 10 35 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 35 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 35 900	—	—	—	—

(ECU/100 kg net)

Product code	Destination of refund (*)	Amounts of refunds		
		Community as constituted on 31 December 1985 (I)	Spain (II)	Portugal (III)
0805 10 39 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 39 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 39 900	—	—	—	—
0805 10 41 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 41 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 41 900	—	—	—	—
0805 10 45 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 45 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 45 900	—	—	—	—
0805 10 49 100	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 49 300	01	11,00	7,00	4,74
	06	11,00	7,00	4,74
0805 10 49 900	—	—	—	—
0805 20 50 100	—	—	—	—
0805 20 50 900	—	—	—	—
0805 30 10 100	07	13,50	5,66	3,39
0805 30 10 900	—	—	—	—
0806 10 11 100	07	4,84	4,84	—
0806 10 11 300	07	4,84	4,84	—
0806 10 11 900	—	—	—	—
0806 10 15 100	07	4,84	4,84	—
0806 10 15 300	07	4,84	4,84	—
0806 10 15 900	—	—	—	—
0806 10 19 100	07	4,84	4,84	—
0806 10 19 300	07	4,84	4,84	—
0806 10 19 900	—	—	—	—
0808 10 91 100	—	—	—	—
0808 10 91 910	02	14,00	5,50	7,79
	03	4,50	—	—
	04	—	—	—
0808 10 91 990	—	—	—	—
0808 10 93 100	—	—	—	—
0808 10 93 910	02	14,00	5,50	7,79
	03	4,50	—	—
	04	—	—	—
0808 10 93 990	—	—	—	—
0808 10 99 100	—	—	—	—
0808 10 99 910	02	14,00	5,50	7,79
	03	4,50	—	—
	04	—	—	—
0808 10 99 990	—	—	—	—
0809 30 00 110	05	5,00	3,50	5,00
0809 30 00 190	—	—	—	—
0809 30 00 900	05	5,00	5,00	5,00

(i) The destinations are as follows :

- 01 countries or States with a planned economy in central or eastern Europe and Yugoslavia,
  - 02 Botswana, Lesotho, Swaziland, Zambia, Malawi, Mozambique, Tanzania, Kenya, Rwanda, Burundi, Uganda, Somalia, Madagascar, Comoros, Mauritius, Sudan, Ethiopia, Republic of Djibouti, the countries of the Arabian peninsula including the territories attached thereto (Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qaiwain, Fujairah and Ras al Khaimah), Yemen, Iran and Jordan,
  - 03 countries and territories of Africa other than those mentioned above and South Africa, Syria, countries with a planned economy in central or eastern Europe, Yugoslavia, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador, Colombia, Iceland, Norway, Sweden, Austria, the Faroe Islands, Finland, Greenland and Malta,
  - 04 Hong Kong, Singapore, Malaysia, Indonesia, Thailand and Taiwan,
  - 05 all destinations excluding Switzerland, Austria and that part of Community territory located outside the customs territory of the Community,
  - 06 Austria, Switzerland, Finland, Sweden, Greenland, Norway, Iceland and Malta,
  - 07 All destinations excepting that part of Community territory located outside the customs territory of the Community.
-

**COMMISSION REGULATION (EEC) No 1301/91**  
**of 17 May 1991**  
**amending Regulation (EEC) No 1239/91 on the supply of various consignments**  
**of cereals 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 1750/89 <sup>(2)</sup>, and in particular Article 6 (1) (c) thereof,

Whereas Commission Regulation (EEC) No 1239/91 <sup>(3)</sup> issued an invitation to tender for the supply, as food aid, of 25 000 tonnes of cereals; whereas the installations at the place of storage indicated in Annex II to the Regulation in question for Lot B do not permit bagging of the goods to be carried out under optimum conditions; whereas Annex II to that Regulation should be amended to indicate the address of the new place of storage,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex II to Regulation (EEC) No 1239/91 is hereby replaced by the Annex hereto.

*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, 17 May 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 172, 21. 6. 1989, p. 1.

<sup>(3)</sup> OJ No L 119, 14. 5. 1991, p. 13.



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

Número de la partida Partiets nummer Nummer der Partie Αριθμός παρτίδων Number of lot Numéro du lot Numero della partita Nummer van de partij Número 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)	Nombre y dirección del almacenista Lagerindehaverens navn og adresse Name und Adresse des Lagerhalters Όνομα και διεύθυνση εναποθηκευτού Address of store Nom et adresse du stockeur Nome e indirizzo del detentore Naam en adres van de deponhouder Nome e endereço do armazenista
A	10 000	6 432 : Emder Lagerhaus GmbH (Elag) Nesserlanderstr. 150 D-2970 Emden-Außenhafen Lager Nr. 067 601 ; Partie Nr. 190 200  3 568 : Emder Lagerhaus GmbH (Elag) Nesserlanderstr. 150 D-2970 Emden-Außenhafen Lager Nr. 067 603 ; Partie Nr. 188 586
B	15 000	SIMAGIR SA Cours Bacolan, 28 F-33390 Blaye

## COMMISSION REGULATION (EEC) No 1302/91

of 17 May 1991

on the issuing of a standing invitation to tender for the resale on the Community internal market of 1 200 tonnes of durum wheat held by the Danish 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 3577/90 <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 intervention agencies are to be sold by invitation to tender at prices enabling market disturbance to be avoided;

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 procedures and conditions for the sale of cereals held by intervention agencies;

Whereas Denmark has intervention stocks of durum wheat which have been in storage for a long time; whereas this prolonged storage has brought about a deterioration in the quality of the cereals; whereas as a consequence the latter cannot be sold on the internal market at the prices laid down in Article 5 of Regulation (EEC) No 1836/82; whereas provision should accordingly be made for the resale of the cereals in question at a specific price and for a given purpose;

Whereas the cereals must be disposed of in animal feed within the Community; whereas, in order to ensure that the cereals are used for the purpose laid down, the successful tenderer must be required to lodge a security and the conditions under which it is to be released should be laid down; whereas, in addition, as regards verification of use Commission Regulation (EEC) No 569/88 of 16 February 1968 laying down common detailed rules for verifying the use and/or destination of products from intervention <sup>(7)</sup>, as last amended by Regulation (EEC) No 1187/91 <sup>(8)</sup>, should apply;

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 Danish intervention agency shall sell by standing invitation to tender on the Community internal market 1 200 tonnes of durum wheat for disposal in animal feed.

*Article 2*

The sale provided for in Article 1 shall take place in accordance with the terms of Regulation (EEC) No 1836/82. However, notwithstanding Article 5 of that Regulation, the minimum price to be met shall be equal to the minimum price for the sale of barley applying on the closing date for submission of tenders.

*Article 3*

1. Tenderers shall undertake to use as animal feed, by 31 July 1991 at the latest, any products that they are awarded, unless they are prevented from so doing by *force majeure*.
2. The successful tenderer shall lodge a security of ECU 70 per tonne against discharge of compliance with the conditions laid down in paragraph 1. The security shall be lodged within two working days at the latest of that on which the notice of award is received.

*Article 4*

1. The obligation referred to in Article 3 (1) shall be deemed a primary requirement within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 <sup>(9)</sup>. It shall only be considered to have been discharged if the successful tenderer provides proof of having complied therewith.

2. Proof that the cereals covered by this Regulation have been used shall be provided in accordance with Regulation (EEC) No 569/88.

<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 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 249, 12. 9. 1990, p. 8.

<sup>(7)</sup> OJ No L 55, 1. 3. 1988, p. 1.

<sup>(8)</sup> OJ No L 115, 8. 5. 1991, p. 21.

<sup>(9)</sup> OJ No L 205, 3. 8. 1985, p. 5.

3. Regulation (EEC) No 569/88 is hereby amended as follows:

In Part II of the Annex (Products subject to a use and/or destination other than that mentioned under I), the following point and corresponding footnote are added:

(39) Commission Regulation (EEC) No 1302/91 of 17 May 1991 on the issue of a standing invitation to tender for the resale on the Community internal market of approximately 1 200 tonnes of durum wheat held by the Danish intervention agency:

On the dispatch of the durum wheat in question, section 104 the following B to be added:

- Destinado a la utilización prevista en el artículo 1 del Reglamento (CEE) n° 1302/91,
- Bestemt til afsætning efter artikel 1 i forordning (EØF) nr. 1302/91,
- Zum Absatz gemäß Artikel 1 der Verordnung (EWG) Nr. 1302/91 bestimmt,
- Προορίζεται να διατεθεί σύμφωνα με το άρθρο 1 του κανονισμού (ΕΟΚ) αριθ. 1302/91,
- For use in accordance with Article 1 of Regulation (EEC) No 1302/91,
- Destiné à être écoulé [article 1<sup>er</sup> du règlement (CEE) n° 1302/91],
- Destinato ad essere smerciato a norma dell'articolo 1 del regolamento (CEE) n. 1302/91,
- Bestemd om te worden afgezet overeenkomstig artikel 1 van Verordening (EEG) nr. 1302/91,

— Destinado a ser escoado na alimentação animal [artigo 1º do Regulamento (CEE) n° 1302/91].

(39) OJ No L 123, 18. 5. 1991, p. 23.

#### Article 5

1. The closing date for the submission of tenders for the first partial invitation to tender shall be no later than 30 May 1991.
2. The closing date for the submission of tenders for the last partial invitation to tender shall be 27 June 1991.
3. Tenders must be lodged with the Danish intervention agency at the following address:
  - EF-Direktoratet, Direktoratet for Markedsordningerne Frederiksborggade 18, DK-1360 Copenhagen K (telex: 15137 DK; telecopier: 33926948).

#### Article 6

The Danish intervention agency shall notify the Commission, at the latest by Tuesday of the week following the closing date for the submission of tenders, of the quantities and average prices of the various lots sold.

#### Article 7

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, 17 May 1991.

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

**COMMISSION REGULATION (EEC) No 1303/91**  
of 17 May 1991

**fixing Community producer prices for carnations and roses for the application  
of the import arrangements for certain floricultural products originating in  
Cyprus, Israel, Jordan and Morocco**

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

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco <sup>(1)</sup>, as amended by Regulation (EEC) No 3551/88 <sup>(2)</sup>, and in particular Article 5 (2) (a) thereof,

Whereas, pursuant to Article 3 of the abovementioned Regulation (EEC) No 4088/87, Community producer prices applicable for fortnightly periods are fixed twice a year before 15 May and 15 October for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down certain detailed rules for the application of the arrangements for the import into the Community of certain flowers originating in Cyprus, Israel and Jordan <sup>(3)</sup>, as amended by Regulation (EEC) No 3556/88 <sup>(4)</sup>, prices for roses are determined on the basis of the average daily prices recorded on the representative producer markets for the pilot varieties of quality grade 1 in the three preceding years; whereas for carnations those prices are fixed under the same conditions for the bloom and spray types; whereas, for the determination of the average, prices which differ by 40 % and more from the

average price recorded on the same market during the same period during the three preceding years are excluded;

Whereas the Community producer prices for the fortnightly periods to 3 November 1991 should be determined on the basis of data provided by the Member States;

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

HAS ADOPTED THIS REGULATION :

*Article 1*

The Community producer for large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations provided for in Article 3 of Regulation (EEC) No 4088/87 for the fortnightly periods 3 June to 3 November 1991 shall be as set out in the Annex hereto.

*Article 2*

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

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

Done at Brussels, 17 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 382, 31. 12. 1987, p. 22.

<sup>(2)</sup> OJ No L 311, 17. 11. 1988, p. 1.

<sup>(3)</sup> OJ No L 72, 18. 3. 1988, p. 16.

<sup>(4)</sup> OJ No L 311, 17. 11. 1988, p. 8.

## ANNEX

## Community producer prices

*(ECU/100 pieces)*

Weeks	Period	Uniflorous carnations (bloom)	Multiflorous carnations (spray)	Large-flowered roses	Small-flowered roses
23 / 24	3. 6 — 16. 6. 1991	11,56	12,07	22,92	11,00
25 / 26	17. 6 — 30. 6. 1991	10,24	12,02	16,75	8,62
27 / 28	1. 7 — 14. 7. 1991	9,91	12,07	17,99	8,79
29 / 30	15. 7 — 28. 7. 1991	11,12	12,81	16,38	8,95
31 / 32	29. 7 — 11. 8. 1991	9,82	9,60	16,31	7,13
33 / 34	12. 8 — 25. 8. 1991	9,61	9,11	16,66	8,93
35 / 36	26. 8 — 8. 9. 1991	12,60	10,14	21,32	10,14
37 / 38	9. 9 — 22. 9. 1991	13,49	11,03	23,51	11,07
39 / 40	23. 9 — 6. 10. 1991	13,42	11,63	26,78	12,37
41 / 42	7. 10 — 20. 10. 1991	14,35	12,52	27,32	12,72
43 / 44	21. 10 — 3. 11. 1991	18,17	12,71	31,46	13,95

## COMMISSION REGULATION (EEC) No 1304/91

of 17 May 1991

amending Commission Regulation (EEC) No 2159/89 laying down detailed rules for applying the specific measures for nuts and locust beans as provided for in Title IIa of Council Regulation (EEC) No 1035/72

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

*Article 1*

Regulation (EEC) No 2159/89 is hereby amended as follows :

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 amended by Regulation (EEC) No 3920/90<sup>(2)</sup>, and in particular Article 14g thereof,

1. Article 8 (4) is replaced by the following :

Whereas Commission Regulation (EEC) No 2159/89<sup>(3)</sup>, as amended by Regulation (EEC) No 3403/89<sup>(4)</sup>, made provision for changing quality and marketing improvement plans in the course of their implementation; whereas the conditions under which requests to change plans may be accepted should be specified; whereas, in the case of requests submitted with a view to taking account of an increase in the surface area of the orchards concerned as a result of new members joining the producers' organization, any changes should be examined after a certain period of implementation of the plans and of the operation of these organizations, which period should enable an assessment of the stability of the organizations and of progress in implementing the plans following their approval to be made;

'4. Where there is a request to change the plan, the competent authority shall take a decision after examining in detail the supporting documents provided and in the light of the criteria laid down in the second subparagraph of paragraph 2, and in accordance with the procedure set out in this paragraph. Only one request may be made to change a plan on the grounds of a wish to extend the surface area covered by the plan, in particular following an increase in the number of member producers, and that as from the fourth year following approval of the plan. The request shall be accompanied by a report setting out the changes in the surface area of the orchards of the organization covered by the plan as a result of new members joining or of the members leaving since the plan was submitted, and setting out the progress made in implementing the plan since it was approved.

Whereas it is necessary to ensure that Community funds are being properly used; whereas, for this purpose, the percentage of advances granted in respect of annual phases of implementation of the quality and marketing improvement plans should be restricted and payment in respect of an annual phase should only be approved once the annual phase of the previous year has actually been paid for; whereas provision should also be made to ensure that the supporting documents submitted enable the progress made in carrying out the work throughout the entire area of the orchards covered by the plan to be monitored and checked;

The competent authority shall take its decision in respect of those requests after having carried out an on-the-spot inspection of the various aspects referred to in the second subparagraph of paragraph 2 and of the progress made in implementing the plan, as well as of all supporting documents in relation to the request to change the plan. A report on this inspection shall be attached to the communication sent to the Commission in accordance with the abovementioned paragraph.

Under no circumstances may the time limit for the implementation of the amended plan exceed that originally laid down.'

Whereas the Management Committee for Fruit and Vegetables has not delivered an opinion within the time limit laid down by its chairman,

2. The following subparagraph is added to Article 8 (5) :

'The competent authority shall note any reduction in the surface area of the orchards covered by the plan that results from a decrease in the number of members of the producers' organization.'

3. The following is added to the third subparagraph of Article 19 :

'Aid applications shall include all necessary information to enable the geographical location of that section of the orchard covered by each type of work carried

<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 207, 19. 7. 1989, p. 19.

<sup>(4)</sup> OJ No L 328, 14. 11. 1989, p. 23.

out during the annual period in question to be ascertained. The invoices and supporting documents shall give a detailed reference to the part of the orchard in which the work in question has been carried out.'

4. Article 22a (3) is replaced by the following :

'3. In the case of aid for implementing the plan, applications for an advance may be submitted, in the form set out in Annex VII, after approval of the plan. Only one application shall be submitted for each year of implementation of the plan on the submission of proof that the annual phase of implementation has begun. Such proof shall be constituted by supporting documents relating to at least 50 % of the estimate referred to in point 7 of Annex VII. The application shall include all the information required to identify that section of the orchard covered by the different types of work that make up the annual phase.

The payment made as an advance on the Community contribution shall not exceed 50 % of the annual financial contribution by the Community as defined in Article 14d (2) of Regulation (EEC) No 1035/72. This payment shall be subject to payment of 50 % of the Member State's contribution as defined in the above-mentioned Article having actually been made.

The total of the advances referred to in the preceding subparagraph may not, however, exceed 50 % of the amount laid down in Article 2 of Regulation (EEC) No

790/89. The rate to be applied for the conversion of the maximum amount of the advances into national currency shall be the agricultural conversion rate in force on 1 September preceding the application for the advance.

No advance and no payment of the aid in respect of an annual phase of implementation of the plan may be made before all payments relating to the previous annual phase have been completed under the conditions laid down in Articles 19 and 20.'

5. The following is added at the end of Annex III. D. 1 :

'The plan must specify the precise location of the plots on which each of the measures is carried out.'

6. In Annex VII :

(a) in 'A. Eligible Expenditure', point 4, '0,44' is replaced by '0,275';

(b) in 'B. Maximum permitted amount of advance', point 1, '0,90' is replaced by '0,50'.

*Article 2*

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

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

Done at Brussels, 17 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

## COMMISSION REGULATION (EEC) No 1305/91

of 17 May 1991

re-establishing the levying of customs duties applicable to third countries on certain products originating in Yugoslavia

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

Having regard to the Cooperation Agreement between the European Economic Community and the Socialist Federal Republic of Yugoslavia<sup>(1)</sup>, and in particular Protocol 1 thereto,

Having regard to Council Regulation (EEC) No 3412/90 of 19 November 1990 establishing ceilings and Community surveillance for imports of certain products originating in Yugoslavia (1991)<sup>(2)</sup>, and in particular Article 1 thereof,

Whereas the abovementioned Protocol 1 and Article 15 of the Cooperation Agreement provide that the products listed in the Annex hereto are imported exempt of customs duty into the Community, subject to the annual ceiling shown in the Annex hereto, above which the customs duties applicable to third countries may be re-established;

Whereas imports into the Community of those products, originating in Yugoslavia, have reached that ceiling; whereas the situation on the Community market requires that customs duties applicable to third countries on the products in question be re-established,

HAS ADOPTED THIS REGULATION:

*Article 1*

From 21 May to 31 December 1991, the levying of customs duties applicable to third countries shall be re-established on imports into the Community of the products listed in the Annex, originating in Yugoslavia.

*Article 2*

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

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

Done at Brussels, 17 May 1991.

*For the Commission*

Christiane SCRIVENER

*Member of the Commission*

## ANNEX

Order No	CN code	Description of goods	Ceiling (tonnes)
01.0240	ex 8544	Insulated (including enamelled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors: optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors excluding products of CN codes 8544 30 10 and 8544 70 00	2 773

<sup>(1)</sup> OJ No L 41, 14. 2. 1983, p. 2.

<sup>(2)</sup> OJ No L 335, 30. 11. 1990, p. 1.



## COMMISSION REGULATION (EEC) No 1306/91

of 17 May 1991

on import licences for poultrymeat products originating in the African, Caribbean, and Pacific states or in the overseas countries and territories

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard Council Regulation (EEC) No 715/90 of 5 March 1990 on 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 and territories<sup>(1)</sup>, as last amended by Regulation (EEC) No 523/81<sup>(2)</sup>, and in particular Article 27 thereof,

Whereas Article 4 (5) of Commission Regulation (EEC) No 903/90<sup>(3)</sup>, as amended by Regulation (EEC) No 1741/90<sup>(4)</sup>, provides that the Commission is to decide to what extent quantities may be awarded in respect of applications for import licences; whereas, however, imports must not exceed the quotas;

Whereas licence applications have been lodged from 1 to 10 January 1991;

Whereas Article 4 (5) of Regulation (EEC) No 903/90 stipulates that if the total quantity for which applications have been submitted is less than that available, the Commission is to determine the quantity remaining, which is to be added to that available for the following quarter; whereas the quantity available for the second six months of 1991 of the products referred to in Article 6 of Regulation (EEC) No 715/90 should therefore be determined;

Whereas Regulation (EEC) No 715/90 applied only until 28 February 1991; whereas it has accordingly not been possible to decide to what extent action could be taken in

respect of such applications or to fix the quantities for which licence applications could be submitted in the first 10 days of July 1991;

Whereas Regulation (EEC) No 523/91 replaces the date 28 February 1991 by 29 February 1992 and whereas those decisions may accordingly be taken and those quantities fixed;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Applications for import licences lodged in accordance with Regulation (EEC) No 903/90 for the period 1 January to 30 June 1991 shall be accepted in full.

*Article 2*

Licence applications may be lodged in accordance with Article 4 of Regulation (EEC) No 903/90 during the first 10 days of July 1991 for:

- 193 tonnes of products falling within CN code 0207,
- 250 tonnes of products falling within CN codes 1602 31 and 1602 39.

*Article 3*

This Regulation shall enter into force on the third day after 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, 17 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 84, 30. 3. 1990, p. 85.

<sup>(2)</sup> OJ No L 58, 5. 3. 1991, p. 1.

<sup>(3)</sup> OJ No L 93, 10. 4. 1990, p. 20.

<sup>(4)</sup> OJ No L 161, 27. 6. 1990, p. 32.

## COMMISSION REGULATION (EEC) No 1307/91

of 17 May 1991

fixing the maximum buying-in price and the quantities of beef bought in for the 45th partial invitation to tender under Regulation (EEC) No 1627/89

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal <sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90 <sup>(2)</sup>, and in particular Article 6 (7) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 859/89 of 29 March 1989 laying down detailed rules for the application of intervention measures in the beef and veal sector <sup>(3)</sup>, as last amended by Regulation (EEC) No 920/91 <sup>(4)</sup>, an invitation to tender was opened by Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender <sup>(5)</sup>, as last amended by Regulation (EEC) No 1070/91 <sup>(6)</sup>;

Whereas, in accordance with Article 11 (1) of Regulation (EEC) No 859/89, a maximum buying-in price is to be fixed for quality R3, where appropriate, for each partial invitation to tender in the light of the tenders received; whereas, in accordance with Article 12 of that Regulation, only tenders lower than or equal to the maximum price are to be accepted; whereas, however, pursuant to Article 5 of that Regulation, where the intervention agencies in Member States are offered meat in quantities greater than they are able to take over forthwith, such intervention agencies may limit buying in to the quantities they can take over;

Whereas, after the tenders submitted for the 45th partial invitation to tender have been examined and taking account, pursuant to Article 6 (1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market and the seasonal trend in slaughterings, the maximum buying-in price and the quantities which may be accepted into intervention should be fixed;

Whereas the quantities offered at present exceed the quantities which may be bought in; whereas a reducing coefficient or, where appropriate depending on the differences in prices and the quantities tendered for, several reducing coefficients should accordingly be applied to the quantities which may be bought in in accordance with Article 11 (3) of Regulation (EEC) No 859/89;

Whereas, moreover, since the conditions laid down in the first indent of Article 6 (5) of Regulation (EEC) No 805/68 are met in respect of certain Member States or regions of Member States and certain quality groups, all the tenders relating thereto which do not exceed 80 % of the intervention price should be accepted;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 45th partial invitation to tender opened by Regulation (EEC) No 1627/89:

(a) for category A:

- the maximum buying-in price is hereby fixed at ECU 269 per 100 kilograms of carcasses or half-carcasses of quality R3,
- the maximum quantity of carcasses or half-carcasses accepted is hereby fixed at 19 416 tonnes; the quantities are hereby reduced by 80 % pursuant to Article 11 (3) of Regulation (EEC) No 859/89;

(b) for category C:

in the Member States or regions of Member States which meet the conditions laid down in Article 6 (2) of Regulation (EEC) No 805/68:

- the maximum buying-in price is hereby fixed at ECU 269 per 100 kilograms of carcasses or half-carcasses of quality R3,
- the maximum quantity of carcasses or half-carcasses accepted is hereby fixed at 386 tonnes; the quantities are hereby reduced by 80 % pursuant to Article 11 (3) of Regulation (EEC) No 859/89;

(c) in the Member States or regions of Member States which meet the conditions laid down in the first indent of Article 6 (5) of Regulation (EEC) No 805/68:

- the maximum buying-in price is hereby fixed at ECU 274,4 per 100 kilograms of carcasses or half-carcasses of quality R3,
- the maximum quantity accepted of carcasses or half-carcasses is hereby fixed at 7 745 tonnes.

*Article 2*

This Regulation shall enter into force on 21 May 1991.

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 24.

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

<sup>(3)</sup> OJ No L 91, 4. 4. 1989, p. 5.

<sup>(4)</sup> OJ No L 92, 13. 4. 1991, p. 23.

<sup>(5)</sup> OJ No L 159, 10. 6. 1989, p. 36.

<sup>(6)</sup> OJ No L 107, 27. 4. 1991, p. 46.

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

Done at Brussels, 17 May 1991.

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

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## COMMISSION REGULATION (EEC) No 1308/91

of 17 May 1991

introducing a corrective amount on the import of artichokes into the Community of Ten from Spain (except the Canary Islands)

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 3709/89 of 4 December 1989 laying down general rules for implementing the Act of Accession of Spain and Portugal as regards the compensatory mechanism for imports of fruit and vegetables from Spain<sup>(1)</sup>, and in particular Article 4 (2) thereof,

Whereas Article 152 of the Act of Accession introduces from 1 January 1990 a compensatory mechanism for imports into the Community as constituted on 31 December 1985, hereinafter called 'the Community of Ten', of fruit and vegetables from Spain (except the Canary Islands) for which a reference price is fixed with regard to third countries;

Whereas Regulation (EEC) No 3709/89 lays down general rules for applying the said compensatory mechanism;

Whereas Commission Regulation (EEC) No 3542/90<sup>(2)</sup> fixed, for the 1990/1991 marketing year, the Community offer price for artichokes applicable with regard to Spain (except Canary Islands);

Whereas Commission Regulation (EEC) No 3815/89<sup>(3)</sup> lays down detailed rules for applying the compensatory mechanism on imports of fruit and vegetables from Spain (except the Canary Islands);

Whereas, in the case of artichokes, the offer price for the Spanish product as calculated in accordance with the provisions of Council Regulation (EEC) No 3709/89 has

remained for two consecutive market days at a level at least ECU 0,6 below the Community offer price; whereas a corrective amount equal to the difference between the Community offer price and the Spanish offer price must therefore be introduced for these products from Spain (except the Canary Islands);

Whereas if the system is to operate normally the offer price of the Spanish product should be calculated on the following basis:

- in the case of currencies the spot market rates for which are maintained in relationship to each other 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*

On import into the Community of Ten of artichokes (CN code 0709 10 00) from Spain (except the Canary Islands) a corrective amount of ECU 5,99 per 100 kilograms net shall be levied.

*Article 2*

This Regulation shall enter into force on 21 May 1991.

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

Done at Brussels, 17 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 363, 13. 12. 1989, p. 3.  
<sup>(2)</sup> OJ No L 344, 8. 12. 1990, p. 17.  
<sup>(3)</sup> OJ No L 371, 20. 12. 1989, p. 28.

<sup>(4)</sup> OJ No L 164, 24. 6. 1985, p. 1.  
<sup>(5)</sup> OJ No L 201, 31. 7. 1990, p. 9.

## COMMISSION REGULATION (EEC) No 1309/91

of 17 May 1991

introducing a countervailing charge and suspending the preferential customs duty on imports of tomatoes originating in Turkey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<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 802/91 of 28 March 1991 fixing the reference price for tomatoes for the 1991 marketing year<sup>(3)</sup> fixed the reference price for products of class I for the month of May 1991 at ECU 136,75 per 100 kilograms net;

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

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74<sup>(4)</sup>, as last amended by Regulation (EEC) No 3811/85<sup>(5)</sup>, the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

whereas it is necessary to multiply the prices with the coefficient fixed in the first indent of Article 1 (2) (a) of Regulation (EEC) No 802/91;

Whereas, for Turkish tomatoes, 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 tomatoes;

Whereas, in Article 1 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey<sup>(6)</sup>, as amended by Regulation (EEC) No 1555/84<sup>(7)</sup>, when the Commission introduces a countervailing charge on imports of tomatoes originating in Turkey, at the same time it reintroduces for the product in question the conventional rate of customs duty; whereas, therefore, a rate of customs duty of 18 % should be reintroduced for these tomatoes, with a minimum charge of ECU 3,5 per 100 kilograms net;

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 coefficient provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85<sup>(8)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(9)</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

1. A countervailing charge of ECU 3,6 per 100 kilograms net is applied on imports of tomatoes falling within CN code 0702 00 originating in Turkey.

<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 82, 28. 3. 1991, p. 33.

<sup>(4)</sup> OJ No L 220, 10. 8. 1974, p. 20.

<sup>(5)</sup> OJ No L 368, 31. 12. 1985, p. 1.

<sup>(6)</sup> OJ No L 367, 23. 12. 1981, p. 3.

<sup>(7)</sup> OJ No L 150, 6. 6. 1984, p. 4.

<sup>(8)</sup> OJ No L 164, 24. 6. 1985, p. 1.

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

2. The rate of customs duty on imports of these products shall be 18 % with a minimum charge of ECU 3,5 per 100 kilograms net.

*Article 2*

This Regulation shall enter into force on 21 May 1991.

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

Done at Brussels, 17 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## COMMISSION REGULATION (EEC) No 1310/91

of 17 May 1991

## introducing a countervailing charge on tomatoes originating in the Canary Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<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 802/91 of 27 March 1991 fixing for the 1991 marketing year the reference prices for tomatoes<sup>(3)</sup> fixed the reference price for products of class I for the month of May 1991 at ECU 136,75 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 the provisions of Regulation (EEC) No 773/90<sup>(4)</sup> altering the entry price for tomatoes originating in Morocco and the Canary Islands being applicable; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72;

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74<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 it is necessary to multiply the prices with the

coefficient fixed in the first indent of Article 1 (2) of Regulation (EEC) No 802/91;

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

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;

Whereas, in accordance with Article 4 of Protocol 2 to the Act of Accession of Spain and Portugal, the products, including tomatoes, specified in Annex A to the Protocol, qualify for preferential arrangements, subject to the tariff quota determined by Council Regulation (EEC) No 1391/87<sup>(9)</sup> concerning certain adjustments to the arrangements applicable to the Canary Islands,

HAS ADOPTED THIS REGULATION:

*Article 1*

When tomatoes falling within CN code 0702 00 and originating in the Canary Islands are imported, a countervailing charge shall be levied, the amount of which shall be fixed at ECU 1,79 per 100 kilograms net weight.

However this charge shall not be levied on quantities imported into Spain within the tariff quotas fixed by Regulation (EEC) No 1391/87.

*Article 2*

This Regulation shall enter into force on 21 May 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 82, 28. 3. 1991, p. 33.  
 (<sup>4</sup>) OJ No L 83, 30. 3. 1990, p. 82.  
 (<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.  
 (<sup>9</sup>) OJ No L 133, 22. 5. 1987, p. 5.

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

Done at Brussels, 17 May 1991.

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

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**COMMISSION REGULATION (EEC) No 1311/91**  
of 17 May 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 464/91<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 1278/91<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 16 May 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 18 May 1991.

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

Done at Brussels, 17 May 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 54, 28. 2. 1991, p. 22.

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

<sup>(4)</sup> OJ No L 121, 16. 5. 1991, p. 36.

<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 17 May 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	40,82 <sup>(1)</sup>
1701 11 90	40,82 <sup>(1)</sup>
1701 12 10	40,82 <sup>(1)</sup>
1701 12 90	40,82 <sup>(1)</sup>
1701 91 00	43,55
1701 99 10	43,55
1701 99 90	43,55 <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 1312/91

of 17 May 1991

## laying down detailed rules for the application of Council Regulation (EEC) No 597/91 for the supply of sunflower oil to Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 597/91 of 5 March 1991 on urgent action for the supply of agricultural and medical products intended for the people of Romania and Bulgaria<sup>(1)</sup>, and in particular Article 5 (2) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy<sup>(2)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(3)</sup>, and in particular Article 2 (4) thereof,

Whereas Council Regulation (EEC) No 597/91 provides for urgent action for the free supply of agricultural products to Bulgaria and Romania: whereas the costs of supplying these products are to be met by the European Community;

Whereas Romania has requested the supply of 20 000 tonnes of unrefined sunflower oil, in view of the urgent situation and the capacity of its processing plants; whereas this request should be granted and detailed rules should be laid down for the supply of an initial lot on a trial basis; whereas, since this product is not available from intervention stocks, it must be mobilized on the Community market;

Whereas, pursuant to Regulation (EEC) No 597/91, suppliers are to be chosen by tendering procedure; whereas this procedure must enable the most advantageous supply costs to be determined, in particular as regards the price of the product and the cost of transport for delivery to the destination in Romania indicated;

Whereas, in order to ensure that the suppliers are effected properly, it is necessary to determine the conditions for lodging securities together with the necessary detailed rules for the implementation of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products<sup>(4)</sup>, as last amended by Regulation (EEC) No 3745/89<sup>(5)</sup>;

Whereas, for the purposes of determining the supply costs and the securities to be lodged, and in order to avoid market distortions as a result of monetary factors, provi-

sion should be made for the use of the representative market rates referred to in Article 3 a of Commission Regulation (EEC) No 3152/85 of 11 November 1985 laying down detailed rules for the application of Council Regulation (EEC) No 1676/85 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy<sup>(6)</sup>, as last amended by Regulation (EEC) No 3237/90<sup>(7)</sup>;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

A tendering procedure is hereby initiated for the supply of 5 000 tonnes of crude (unrefined) sunflower oil to Romania pursuant to Regulation (EEC) No 597/91 and in accordance with the conditions laid down in this Regulation.

The supply shall comprise:

- the mobilization on the Community market of unrefined sunflower oil of sound, fair and merchantable quality with the following characteristics:
  - basic acidity (FFA) 2 %, not more than 3 %
  - water and impurities: not more than 0,5 %;
- bulk delivery,
- if by sea:
  - to the port of Constanta, product unloaded on the quay (FRIAL A.A., Constanta. Tel. 916/83300)
- in other cases:
  - to destination, product unloaded (ULCOM S.A., Sloboyia, Chaussée AMARA, 3. Tel. 910/13650)

before 10 July 1991.

*Article 2*

1. Tenderers may participate in the tendering procedure as follows:

- tenders may be sent in writing by registered mail to the Commission office indicated below or the written tender may be lodged, against acknowledgment of receipt, with that office. In such cases, tenders shall be placed in an envelope bearing the words 'Emergency aid to Romania, Regulation (EEC) No 1312/91', the

<sup>(1)</sup> OJ No L 67, 14. 3. 1991, p. 17.

<sup>(2)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(3)</sup> OJ No L 201, 31. 7. 1990, p. 9.

<sup>(4)</sup> OJ No L 205, 3. 8. 1985, p. 5.

<sup>(5)</sup> OJ No L 364, 14. 12. 1989, p. 54.

<sup>(6)</sup> OJ No L 310, 21. 11. 1985, p. 1.

<sup>(7)</sup> OJ No L 310, 9. 11. 1990, p. 18.

envelope must be sealed and placed inside a second envelope bearing the address given below ;

— tenders may also be sent by telecommunication in written form.

In order to be considered acceptable, tenders must be received by mail or lodged in their entirety before 12 noon on 28 May 1991.

Commission of the European Communities,  
Oilseeds and Protein Crops Division,  
Loi 120, office 7/132  
Rue de la Loi 200,  
B-1049 Brussels ;  
(Telefax : AGREC 22037B or 25670B),  
(Fax : Brussels 2364317 or 2362005).

2. Tenders shall be valid only if :

- (a) they refer clearly to the supply provided for in Article 1 and to this Regulation ;
- (b) they indicate the name and address of the tenderer established in the Community ;
- (c) they cover the total quantity laid down in Article 1 ;
- (d) they specify an amount in ecus per tonne for effecting the entire supply. The tender must indicate the costs of sea transport separately ;
- (e) they indicate the means of transport to be used and the address of the storehouse of departure ; in the case of sea transport, they must indicate the port of embarkation in the Community ;
- (f) they are accompanied by proof that the tenderer has lodged a tendering security of ECU 15 per tonne in favour of the Commission.

A tender which is not submitted in accordance with the provisions of this Article or which contains conditions other than those laid down in respect of the tendering procedure shall not be valid.

No tender may be changed or withdrawn.

#### Article 3

1. On the basis of the tenders received,

- the supply contract shall be awarded to the tenderer whose tender quotes the lowest amount,
- or, where necessary, no supply contract shall be granted, in particular where the tenders submitted exceed the prices normally obtaining on the market.

2. Within three days following the closing date for submission of tenders, the Commission shall inform all tenderers by written telecommunication of the outcome of the tendering procedure. Where a contract is awarded, the successful tenderer shall be informed thereof without delay by written telecommunication.

#### Article 4

1. The tendering security provided for in Article 2 (2) (f) shall be released without delay if a tender is not accepted or if no supply contract is awarded.

2. The primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be :

- (a) for tenderers : the maintenance of their tender until the decision provided for in Article 3 (1) has been adopted ;
- (b) for the successful tenderer : the lodging of the supply security in accordance with Article 5 (1).

#### Article 5

Within five days of being notified that he has been awarded the supply contract, the successful tenderer shall communicate to the address indicated in Article 6 evidence that a supply security amounting to 10 % of the amount quoted in the tender has been lodged in favour of the Commission, as laid down in Title III of Regulation (EEC) No 2220/85.

#### Article 6

The successful tenderer shall present before 31 August 1991 an application for payment for the supplies to the intervention agency in the Member State in which the storehouse referred to in Article 2 (2) (e) is situated or the Member State of the port of loading in the case of sea transport. That application shall be accompanied by :

- the original of the take-over certificate drawn up on the model in the Annex and issued by the representative of Prodexport S.A., 1 Walter Marcineanu Square, Bucharest (tel. 15 55 95),
- a copy of the marine transport document,
- the certificate drawn up by the body mentioned in Article 7 on completion of the checks carried out.

Payment for the supplies will be calculated for the net quantity indicated on the take-over certificate referred to .

#### Article 7

The successful tenderer shall submit to the checks carried out by the agency appointed by the Commission, having been informed of its identity in good time. For this purpose he shall inform the agency of the places where the product to be supplied is stored or packaged, where applicable, as well as indicating the port of loading, the ship and the date of loading at the port.

#### Article 8

1. The primary requirements relating to the supply within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be the delivery of the full quantity under the conditions laid down. The quantity delivered shall be considered as satisfactory when the net weight ascertained, when the product is taken over by the beneficiary, is not more than 1 % less than the quantity foreseen.

2. The supply security shall be released when the tenderer presents the documents referred to in Article 6 to the intervention agency concerned.

*Article 9*

The conversion rates to be used for tenders and for the tendering and supply securities shall be the representative

market rates referred to in Article 3a of Regulation (EEC) No 3152/85 applicable on the final date for submission of tenders.

*Article 10*

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, 17 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

ANNEX

TAKE-OVER CERTIFICATE

I, the undersigned :

.....

(name, first name, business name)

acting on behalf of ..... for the account of the .....  
Government, hereby certify that the goods referred to below, delivered pursuant to Commission Regulation  
(EEC) No 1312/91, have been taken over :

— Place and date of taking-over :

.....  
.....

— Type of product :

.....  
.....

— Tonnage, weight taken over (gross) :

.....  
.....

— Packaging :

.....  
.....  
.....  
.....  
.....

Comments :

.....  
.....  
.....  
.....  
.....

Signature : .....

Date : .....



## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 14 May 1991

extending to Czechoslovakia, Bulgaria and Romania Decision 90/62/EEC granting the Community guarantee to the European Investment Bank against losses under loans for projects in Hungary and Poland

(91/252/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

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

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

Whereas the European Council at its meeting of 28 April 1990 agreed that action within the framework of the G-24 should be extended to the other central and east European countries;

Whereas the Ministers of the G-24 in their meeting on 4 July 1990 welcomed the Commission's action plan, which envisages, among others, loans from the European Investment Bank, hereafter referred to as 'the Bank';

Whereas the arrangements set out in Decision 90/62/EEC <sup>(3)</sup> for finance by the Bank for projects in Poland and Hungary should be extended to include projects, notably in the field of infrastructure, to be carried out in Czechoslovakia, Bulgaria and Romania;

Whereas the Council has invited the Bank, and the Bank has agreed, to make available loans for projects in Czechoslovakia, Bulgaria and Romania under the guarantee provided in this Decision;

Whereas Decision 90/62/EEC should therefore be amended,

HAS DECIDED AS FOLLOWS:

*Sole Article*

Decision 90/62/EEC is hereby amended as follows:

1. All references to 'Hungary and Poland' shall henceforth be to 'Hungary, Poland, Czechoslovakia, Bulgaria and Romania'.
2. All references to 'the two countries' shall henceforth be to 'the five countries'.

Done at Brussels, 14 May 1991.

*For the Council*  
*The President*  
J. F. POOS

<sup>(1)</sup> OJ No C 242, 27. 9. 1990, p. 15.

<sup>(2)</sup> OJ No C 72, 18. 3. 1991.

<sup>(3)</sup> OJ No L 42, 16. 2. 1990, p. 68.

**COUNCIL DECISION**  
**of 14 May 1991**  
**appointing a member of the Economic and Social Committee**  
**(91/253/EEC, Euratom)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 193 to 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 165 to 167 thereof,

Having regard to the Convention on certain Institutions common to the European Communities, and in particular Article 5 thereof,

Having regard to the Council Decision of 24 September 1990 appointing the members of the Economic and Social Committee for the period ending on 20 September 1994<sup>(1)</sup>,

Whereas a seat has become vacant on the above Committee following the resignation of Mr Heinz-Adolf Hörsken, notified to the Council on 11 February 1991,

Having regard to the nominations submitted by the Permanent Representation of Germany on 11 March 1991,

Having obtained the favourable opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS :

*Sole Article*

Mr Alexander von Schwerin is hereby appointed a member of the Economic and Social Committee in place of Mr Heinz-Adolf Hörsken for the remainder of the latter's term of office, which runs until 20 September 1994.

Done at Brussels, 14 May 1991.

*For the Council*

*The President*

J. F. POOS

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<sup>(1)</sup> OJ No L 290, 23. 10. 1990, p. 13.



# COMMISSION

## COMMISSION DECISION

of 28 November 1990

concerning the proposal by the Brussels Regional Authorities (Belgium) to provide aid in favour of Volkswagen Bruxelles SA, an undertaking producing passenger cars

(Only the French and Dutch texts are authentic)

(91/254/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having given notice in accordance with the above Article to interested parties to submit their comments,

Whereas,

### I

Following several requests for information by the Commission, the Belgian authorities informed the Commission by letter from its Permanent Representation dated 6 December 1989 that the Brussels Regional Authorities (BRA) had decided on 27 June 1989 to approve a request for aid in support of six investment projects that Volkswagen Bruxelles SA would realize. The aid would be awarded in the form of a grant of 8 % of the investment sum of each project as well as an exemption from property taxes (*précompte immobilier*) for five years. The investment projects concern different sections of the production line of the company (pressings, pre-assembly and assembly of bodies, paint shop, final assembly, etc.) and would be realized between June 1988 and December 1990. The investment sum of each project falls below the notification threshold set out in the approved aid scheme in question, i.e. the Expansion Law of 17 July 1959<sup>(1)</sup>, as well as below the ECU 12 million threshold provided in the Community framework on State aid to the motor vehicle industry (the 'automobile framework')<sup>(2)</sup>.

<sup>(1)</sup> On 3 August 1990 the Commission wrote to the Belgian Government, pursuant to Article 93 (1) of the EEC Treaty, proposing the termination of the general aid scheme provided for in the Law of 17 July 1959.

<sup>(2)</sup> OJ No C 123, 18. 5. 1989, p. 3.

By letter of 22 December 1989, the Commission informed the Belgian authorities that the six projects would have to be considered in their totality, given that they concern one line of production of the same assembly plant, and that, taken together, they exceed the notification threshold of ECU 12 million provided in the automobile framework. Although the letter of 6 December 1989 did not follow the form of a notification under the automobile framework, the Commission nevertheless considered exceptionally that it constituted a notification under this framework and invited the Belgian authorities to complete this notification.

By letter of 8 March 1990 the Belgian authorities completed the notification by supplying additional information.

The total investment cost of the projects would amount to Bfrs 1 409 million or ECU 33 million and aid in the form of grants adds up to Bfrs 112,7 million, or ECU 2,7 million. The value of the property tax exemption for five years was not known. The impact of the investments on capacity and production could not be quantified. The investment would maintain existing employment.

On the basis of the Commission's decision of 17 June 1975, public assistance awarded under the general aid scheme initiated by the Law of 17 July 1959 constitutes aid within the meaning of Article 92 (1) of the EEC Treaty. The Commission considered that proposed aid to Volkswagen Bruxelles SA did not appear to qualify for exemption under the terms of the Community automobile framework on the grounds that the investment in question covered expenditure on modernization and the introduction of a second model at one plant, a common activity in the sector, and did not require assistance to be carried out by Volkswagen. Accordingly, the Commission opened the procedure provided for in Article 93 (2) of the EEC Treaty in respect of the aid.

By letter dated 4 May 1990, the Commission gave the Belgian Government notice to submit its observations. Observations were also invited from other Member States and from other interested parties by a notice in the *Official Journal of the European Communities* (1).

## II

The Belgian authorities presented their observations by letters dated 6 June and 31 July 1990.

According to the Belgian authorities the investments being undertaken by Volkswagen Bruxelles SA were designed to improve plant efficiency without increasing existing capacity of 800 vehicles per day in two shifts. The plant at Forest, Brussels suffers from particular handicaps deriving from its location only 10 kilometres from the centre of Brussels. These are :

- the assembly building has very little room for expansion because it is situated between the Paris-Brussels railway line and the Forest commune centre which makes long-term planning particularly difficult,
- logistical costs are high because of the design of the plant and slow internal transport much of which must be vertically executed,
- maintenance and security costs are high because of poor access facilities,
- the plant design makes it very difficult to install a 'just in time' delivery system — a very important factor for such a large assembly plant,
- parking and urban traffic congestion costs are high,
- being in an urban location the plant has to invest heavily in meeting more exacting pollution norms than in an alternative setting.

The aid proposed by the BRA scarcely compensated for these specific handicaps.

From a regional policy perspective the proposed aid was justified by reference to the BRA's objective of restoring the share of industrial production and employment in the region. The company was the region's largest industrial employer and was committed to maintaining employment through the investment projects concerned.

In their letter of 31 July 1990 the Belgian authorities argued that elements of the investment expenditures

amounting to Bfrs 180 million, or ECU 4,2 million, were innovative. These were :

1. installation of a robotized measuring device to check the dimensions of parts and components on receipt which would be innovative in its flexibility (investment : Bfrs 25 086 147);
2. installation of a computerized integrated system ('MONA') to optimize the scheduling of production and orders which would be innovative in terms of the choice and application of technology and would improve flexibility in catering for customer requirements (investment : Bfrs 95 000 000);
3. installation of robotized machinery for fitting wind-screens adapted to requirement of the assembly line to accommodate three car types : the Golf, the Passat saloon and Passat Variant (investment : Bfrs 4 813 877);
4. installation of robotized computerized measuring machinery for bodywork which would facilitate frequent and more economic inspection of a wider range of models (investment : Bfrs 30 249 465);
5. installation of a computerized energy management system designed to reduce wastage and pollution effects (investment : Bfrs 8 000 000);
6. installation of a computer-assisted machine for shaping metal brake pipes (investment : Bfrs 17 279 430).

No other Member State or interested party submitted observations on the procedure.

## III

Volkswagen Bruxelles SA is a subsidiary of Volkswagen AG located in Brussels (Forest) which produces Golf and Passat models. Vehicle production and average employment in recent years have been as follows :

	Production (units)	Employment (end year)
1986	194 353	5 636
1987	210 562	5 422
1988	185 499	5 866
1989	186 210	6 564

Some 95 % of production is exported, mainly to Germany, Holland, France and Italy. In 1989 net profits after tax amounted to Bfrs 1 724 million on a turnover of Bfrs 60 348 million.

(1) OJ No C 169, 11. 7. 1990, p. 11.

The parent company, Volkswagen SA, is one of the most profitable and financially-sound motor manufacturers in the Community and has car plants in Germany, Belgium and Spain as well as outside the Community. In recent years it has been the leading Community supplier of passenger cars. In 1989 Volkswagen Group passenger car sales in the Community amounted to 1 836 million units, representing 15 % of total Community sales.

The European private car industry has recovered in recent years from the serious crisis which it faced in the first half of the 1980s. In the EC new car registrations in 1989 rose for the fourth consecutive year, reaching a record level of 12,3 million, confirming the position of the EC as the world's largest car market. This strong growth in demand was combined with enormous cost-cutting exercises and technological modernization to result in a spectacular improvement in the financial performance of EC car manufacturers. More recently, however, these boom conditions have come to a halt. Demand in certain Member States has fallen sharply to date in 1990 and overall demand in the Community in 1990 and 1991 is expected to show a modest decline.

Several producers have recently announced their intentions to lay off staff on a temporary basis in order to reduce output in line with lower demand. Profit margins are also forecast to be hit, not only because of the market decline but also because of the more intense price competition by which producers intend to limit the impact of the fall in aggregate demand on their sales.

#### IV

The Commission confirms its view stated in the opening of the present procedure that the public assistance proposed by the BRA on the basis of the Expansion Law of 17 July 1989 constitutes aid within the meaning of Article 92 (1) of the EEC Treaty. The assistance relieves Volkswagen Bruxelles SA from part of the investment costs and from property taxes which it would normally have to bear, threatens to distort competition and affects intra-Community trade in passenger cars.

Trade and competition within this sector is particularly intense. Intra-Community trade in passenger cars in 1989 amounted to 4,67 million units, equivalent to 38 % of total Community sales.

#### V

Article 92 (1) provides that aid meeting the criteria laid down therein is in principle incompatible with the common market. The exceptions, provided for in Article 92 (2) are not applicable in this case because of the nature of the proposed assistance, which is not directed towards attainment of such objectives. The Belgian Government has not claimed otherwise.

Article 92 (3) of the Treaty lists aid which may be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not of a single Member State.

In order to ensure the proper functioning of the common market, and having regard to the principles embodied in Article 3 (f) of the Treaty, the exceptions provided for in Article 92 (3) must be construed narrowly when any aid scheme or any individual aid award is scrutinized. In particular, they may be invoked only when the Commission is satisfied that, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the objectives of the said exceptions. The Commission has explained how it will apply Article 92 of the Treaty to the automobile sector in its framework on State aid to the motor vehicle industry.

With regard to the exceptions provided for in Article 92 (3) (a) for aid that promotes the development of certain regions, the Brussels region in which the investments are taking place does not suffer from an abnormally low standard of living or from serious under-employment within the meaning of those exceptions.

As to the exceptions provided for in Article 92 (3) (b), the facts of the case provide no grounds whatsoever for considering that the aid in question is intended to promote a project of common European interest or to remedy a serious disturbance in the Belgian economy. Furthermore, the Belgian Government has not presented any such arguments to justify the aid in question.

As to the exceptions provided for in Article 92 (3) (c), when opening the present procedure the Commission stated that under the assessment criteria set out in the automobile framework the aid proposed by the BRA could be considered as aid for innovation, modernization or rationalization. In subsequent correspondence the

Belgian authorities argued that consideration of the aid should draw on, *inter alia*, regional considerations, in particular the need to redress the sectoral imbalance in the Brussels region in favour of industry. The Commission cannot accept, however, that any element of the proposed aid be considered regional aid, primarily because the Brussels region does not qualify for regional aid under the Community rules. While the location of a car assembly plant in a major urban centre can, and does in this case, pose particular problems, the considerable advantages enjoyed by the Volkswagen plant in Brussels must also be borne in mind. Specifically, the plant is very close to a very sophisticated road and communications network, is adjacent to the Paris to Brussels railway line, is within a relatively short distance of many of the major markets in the Community and can draw on a large and well-trained pool of labour.

Accordingly the Commission maintains that the proposed aid should be assessed by reference to the framework guidelines for investment aid for innovation, modernization or rationalization. These provide that the Commission will take a strict attitude towards aid for modernization and innovation on the grounds that these are normal commercial activities undertaken by a firm operating in a competitive environment which should be financed from own resources or commercial borrowings. Where investment is shown to give rise to the introduction of genuinely innovative products or processes at Community level, aid may be authorized. Proposals for aid for rationalization would be carefully examined to verify that it brings about a necessary radical change in the structure and organization of the company's activities and that the financing required goes beyond that which companies should normally be expected to finance from own resources.

The investment projects in question, with the exception of those elements totalling Bfrs 180 million which the Belgian authorities claim to be innovative, are largely designed to rearrange and make more efficient use of the existing site and to subsidize the purchase of machinery for production, thereby improving profitability. They are linked in particular to the introduction of a second model, the new Passat. As such they represent a reasonably common activity in the industry. They cannot be considered as investments in rationalization as defined in the Community framework. The fact that the plant in Brussels gives rise to particular physical constraints and additional costs should be regarded as no more than one of the many factors to be considered in going ahead with such an investment at that location. It does not change the basic objective of the investment of modernizing the plant and increasing its flexibility. This, in itself, does not constitute a valid case for authorizing aid on the basis of any of the criteria set out in the Community framework. Moreover, the more intense competition and difficult

market conditions experienced by producers in recent times, as outlined earlier, further reduce the case for granting aid for improving efficiency and profitability. Accordingly the Commission considers that there are no valid grounds for granting aid to these investment projects.

## VI

The Commission carried out a thorough technical examination of the investment projects claimed by the Belgian authorities to be innovative to ascertain if they satisfied the Community framework criteria for eligibility for aid in this domain, i.e. that they relate to the introduction of genuinely innovative products or processes at Community level. The Commission also drew on the assessment criteria applied in other recent cases in the motor vehicle industry where the question of the eligibility of State aid purporting to be assisting investments of an innovative nature was considered, namely the Peugeot SA case <sup>(1)</sup>, the Renault case <sup>(2)</sup> and the Valeo case <sup>(3)</sup>. The conclusions it came to were as follows:

1. the investment of Bfrs 25 086 147 on the installation of a robotized three-dimensional measuring device to check the dimensions of parts and components when they are received related to technology which is recent but not innovative. There are a number of similar machines in existence. The Commission is satisfied, however, that the application of this machine in a purpose-built inspection area together with the associated conveying equipment can be considered innovative at a Community level. The design of the off-line inspection area allows the automated inspection of a large number of components. The variety of components that can be automatically checked in an extremely flexible way is large. The facility is fully programmable either at a local level or hooked in to VW's main computer systems with the possibility of having specifications downloaded from VW's engineering database;
2. the expenditure of Bfrs 95 million on the installation of a computerized integrated system ('MONA') to optimize the scheduling of production material and customer orders can be regarded as a particularly interesting and innovative application of existing technology in its integrated use of a relational database, fourth-generation language and cooperative processing within the context of a production environment, together with factory control and management architecture;

<sup>(1)</sup> OJ No L 123, 4. 5. 1989, p. 52.

<sup>(2)</sup> OJ No L 220, 11. 8. 1988, p. 30.

<sup>(3)</sup> OJ No L 143, 26. 5. 1989, p. 44.

3. the expenditure of Bfrs 4 813 877 on the installation of robotized machinery for fitting windscreens involves essentially the automatic applications of sealant to windscreens. Neither the technology here nor its application is new; the first applications were in existence in the Community as long as 10 years ago and its use is widespread even if not the industry standard. Accordingly this investment cannot be regarded as innovative at a Community level;
4. the installation of a robotized and computerized measuring machine for bodywork is based on similar technology to the machinery considered in point 1, but on a larger scale. It measures the dimensions of a vehicle body against the pre-determined standard dimensions. Again, the technology involved is not innovative. Indeed, the parent company in Germany has similar machines. However, the use of this device in an off-line quality control environment which is fully integrated in the body assembly line and the use of the telescopic arms to take vehicles off-line and on-line again after measurement, can be considered innovative. Accordingly the investment of Bfrs 30 249 465 in this machinery can be considered innovative at a Community level;
5. the investment of Bfrs 8 million in a computerized central energy management system ('ZEUS') is designed to optimize the flow of electricity, fluids and gases (e.g. air, gas, water). The system allows the archiving of information to facilitate the prediction of trends and optimization of such items as heating or water flows. The distribution of energy is automated and can be altered by time schedule or commands. Such an energy and liquid control system is a modern and interesting application but cannot be considered innovative. Several other plants within the Community have implemented such energy control systems in the automotive area. In any case such process control technology has been in existence within the chemical and petroleum sectors for several decades. Accordingly this investment cannot be considered innovative;
6. the investment of Bfrs 17 279 430 in the shaping of metal brakepipes by computer numerically controlled (CNC) cannot be considered innovative. CNC machines have been in existence for up to two decades. Such numerically-controlled equipment is no longer considered state of the art. It provides a certain amount of flexibility but flexible manufacturing systems (FMS) have now replaced this type of technology.

In conclusion, of the Bfrs 180 428 920 investment expenditure by Volkswagen Bruxelles SA submitted by the BRA as being of an innovatory nature, the Commission considers that Bfrs 150 335 610 represents investment in innovation as defined in the Community framework on State aid to the motor vehicle industry, and hence is eligible for State aid under the general aid scheme initiated by the Expansion Law of 17 July 1959 to an amount equivalent to 8 % of the investment, or Bfrs 12 026 849 and for exemption from property tax, 'précompte immobilier' up to a period of five years,

HAS ADOPTED THIS DECISION:

*Article 1*

The aid proposed by the Brussels Regional Authority to Volkswagen Bruxelles SA in the form of an 8 % investment grant towards a series of investment projects amounting to Bfrs 1 409 million under the Expansion Law of 17 July 1959 and exemption from property tax ('précompte immobilier') for five years and notified to the Commission by the Belgian authorities on 6 December 1989 is, with the exception of aid relating to those projects deemed innovative by the Commission and amounting to Bfrs 150 335 610, incompatible with the common market within the meaning of Article 92 of the EEC Treaty and shall therefore not be awarded. Grand aid up to a maximum amount of Bfrs 12 026 849 may be granted towards the cost of those projects deemed innovative, and the corresponding exemption from property tax in respect of these same investments may be granted up to a period of five years.

*Article 2*

Belgium shall inform the Commission of the measures taken to comply with this Decision within two months from its notification.

*Article 3*

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 28 November 1990.

*For the Commission*

Leon BRITTAN

*Vice-President*

## COMMISSION DECISION

of 1 December 1990

concerning aid and the parafiscal charge collected for the Comité national interprofessionnel de l'horticulture florale, ornementale et des pépinières (CNIH)  
— draft decree introducing a parafiscal charge for the benefit of the CNIH

(Only the French text is authentic)

(91/255/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

II

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having regard to Council Regulation (EEC) No 234/68 of 27 February 1968 on the common organization of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage<sup>(1)</sup>, as last amended by Regulation (EEC) No 3991/87<sup>(2)</sup>,

After having given the parties concerned notice to submit their comments<sup>(3)</sup>, in accordance with the first subparagraph of Article 93 (2), and having regard to those comments,

Whereas :

I

By letter dated 13 March 1990 the Office of the Permanent Representative of France to the European Communities notified the Commission pursuant to Article 93 (3) of the Treaty of the draft decree prolonging until 31 December 1992 the parafiscal charge for the benefit of the CNIH.

By telex message dated 8 May 1990 and letter No SG(90) D/25239 dated 1 June 1990, the Commission notified the French Government of its decision to initiate proceedings under Article 93 (2) of the Treaty in respect of the draft decree.

By letters dated 9 July and 14 November 1990 the Office of the Permanent Representative of France to the European Communities transmitted the comments of its Government on the Commission's position.

Comments by other interested parties were communicated to the French authorities by letter No IV/D/19765 dated 4 December 1990.

<sup>(1)</sup> OJ No L 55, 2. 3. 1968, p. 1.

<sup>(2)</sup> OJ No L 377, 23. 12. 1987, p. 19.

<sup>(3)</sup> OJ No C 170, 12. 7. 1990, p. 7.

1. The draft decree extends until 31 December 1992 the parafiscal charge on sales and imports of non-edible flowers, ornamental foliage and nursery products listed in Article 1 of Decree No 64-283 of 26 March 1964 for the benefit of the Comité national interprofessionnel de l'horticulture florale, ornementale et des pépinières (National Joint Trade Committee for Floral and Ornamental Horticulture and Nurseries). This represents the continuation of a scheme which began in 1964 (Article 10 of Decree No 64-283 of 26 March 1964), notified by the French authorities to the Commission by letter of 11 November 1987 in response to an inquiry by the Commission into aid financed by parafiscal charges in all the Member States.

2. The charge is levied :

- (a) at the time of first marketing by producers on all amounts and values of goods and services received or to be received, exclusive of tax, in return for the supply of chargeable products ;
- (b) on imports, on the value, exclusive of tax, assessed at the place of importation into metropolitan France ;
- (c) on resale by traders on the purchase price, exclusive of tax.

In the case of producers subject to the agricultural flat-rate scheme, a flat-rate determination of chargeable sales takes the place of a general declaration of sales made.

The charge is levied at the rate of 0,28 % on first marketing and on imports and at 0,14 % on sales by traders.

Where products which have been marketed or imported are resold, both charges are levied cumulatively.

In 1989 the total collected by the charge amounted to FF 41 million (ECU 5,6 million).

The French authorities assessed the value of imported non-edible horticultural products in 1988 at FF 3 612 million (ECU 524 million) and that of exports in the same year at FF 664 million (ECU 96 million).

The bulk of imports (94,9 %) come from the other Member States, with 66,3 % being of Dutch origin.

According to the French authorities, 25 % of the yield of the charge is derived from imports.

3. The CNIH grants financial aid from the charge of research, vocational training, advertising, participation in fairs and exhibitions, etc.

The French authorities consider that the CNIH undertakes work designed to improve product quality and develop new production techniques. Its research on selection, conservation, growing techniques and mechanization is carried out in close cooperation with institutes and universities in many Community countries, particularly through Community research programmes (Eclair).

This cooperation includes the dissemination of technical and economic information.

The CNIH also plays a very important role in vocational training in an effort to give horticultural trades higher status and to diversify the activity of producers.

The proceeds of the parafiscal charge are also used for advertising, promotional activities and communications: distribution of publications, attendance at national and international horticultural shows, open days, etc., provided these are such as to improve product marketing. French producers and traders are also provided with regular information on changes in Community rules in the horticultural sector. The French authorities have confirmed that the content of advertising campaigns has always conformed to the criteria laid down by the Commission in its framework for national aid for the advertising of agricultural products and certain products not listed in Annex II to the EEC Treaty, excluding fishery products<sup>(1)</sup>.

4. Although the Commission considered that the aid financed in this way was such as to facilitate the development of the sector concerned, without adversely affecting trading conditions to an extent contrary to the common interest within the meaning of Article 92 (3) (c) of the Treaty, it nevertheless decided on 8 May 1990 to initiate proceedings against the draft decree because of the way in which the planned aid was financed.

### III

By letters dated 9 July and 14 November 1990, the French authorities sent the Commission their comments on its position.

<sup>(1)</sup> OJ No C 302, 12. 11. 1987, p. 6.

In their letter of 9 July 1990, the French authorities argued that the method of financing the CNIH bore equally on national and imported products and so did not distort intra-Community trade.

The parafiscal charge collected by that body was intended not to finance aid for certain producers or undertakings but to enable the CNIH to carry out the duties assigned to it by the supervisory authorities, principally research, experimentation and market surveys. Its scientific and administrative work could not have the effect of making national products better able to compete within the Community.

The French authorities had also taken care to avoid an imbalance between the charges levied on importers and the benefit they derive from the CNIH's activities. Research and market development do not benefit French horticulture exclusively but are available and widely circulated throughout the Community with the specific aim of developing exchanges of information with researchers in other producer countries.

In their letter dated 14 November 1990, the French authorities amplified these initial comments and undertook to conform to the Commission's position on charges levied on horticultural products imported from other Member States by 1 January 1992 if the Commission were unable to accept a later date.

That interval was regarded as necessary because conforming to the Commission's position would entail a complete reorganization of the CNIH's structure and work, very probably including a change in the system of charges levied on national products. It would therefore be necessary to prepare a new draft decree, which would be notified to the Commission in accordance with the Community rules on aids.

Such a reform required a transitional period to ensure the continuity of measures whose compatibility with Community law was acknowledged as regards both their form and the objectives sought.

Accordingly, a period of two years was initially planned. The French Government asked the Commission to agree to allow the draft decree currently under consideration to run for a limited period of at least one year until 31 December 1991.

So that permission could be given for this period of adaptation as soon as possible, the French authorities notified the Commission of their undertaking to conform to the

Commission's position on charges levied on horticultural products imported from other Member States by 1 January 1992 if the Commission were unable to accept a later date.

#### IV

1. The aid financed by the CNIH is such as to affect trade between the Member States and distort competition within the meaning of Article 92 (1) of the Treaty by favouring the sector concerned. However, since the aid facilitates the development of the sector concerned without affecting trading conditions to an extent contrary to the common interest, it could be argued that the aid should enjoy a derogation under Article 92 (3) (c) of the Treaty.

2. However, this conclusion cannot be accepted because the aid is financed from charges on products imported from other Member States.

According to the case law of the Court of Justice, the financing of a State aid by a special compulsory charge is an essential feature of such aid and, in assessing such aid, both the aid and its financing should be considered in the light of Community law.

Hence, although the planned aid is compatible as regards both form and objectives, it has been ruled by the Court of Justice that the financing of aid by parafiscal charges which are also imposed on imported Community products has a protective effect going beyond the aid itself.

Even if the CNIH makes its research, experimentation and publicity work available to all interested parties in the other Member States, this does not necessarily mean that they all actually participate in this work and derive equal benefit from it since, even if the rules provide for equal treatment, the situation in practice inevitably favours French operators, because the work is based on specializations, needs and shortcomings detected in France. It should also be noted that operators in the other Member States often support work of the same kind either directly or by making a financial contribution to similar national research centres, and feel no need to make use of the results produced by the CNIH.

The same conclusions apply to measures to promote consumption and vocational training.

Furthermore, the principle of non-collection of the charge on imported products should be extended to sales by dealers so that exemption at the frontier does not lead simply to payment of the charge on imported products being transferred to later stages.

3. The financial aid granted by the CNIH and described at III (3) cannot therefore be considered compa-

tible with the common market because of the way in which it is financed and should therefore be abolished.

4. However, account should be taken of the position of the French authorities, as set out in their replies to the Commission to the effect that, since this is an existing measure, there are many research, publicity and promotional contracts with private bodies which cannot be broken off immediately. The need for fundamental changes to the system of finance and for preparation of a new decree should also be considered.

In view of these facts and the undertaking by the French authorities to conform to the Commission's position from 1 January 1992, the aid in question should be abolished from 1 January 1992,

HAS ADOPTED THIS DECISION :

#### *Article 1*

The aid granted by the French Government in the sector of non-edible horticultural products and financed by the parafiscal charge referred to in the draft decree notified by letter No 433 dated 13 March 1990 from the Office of the Permanent Representative of France to the European Communities is incompatible with the common market within the meaning of Article 92 of the Treaty and must be abolished from 1 January 1992 to the extent that the charge is also levied on products imported from other Member States either at the point of importation or at the point of sale by dealers.

#### *Article 2*

The French Government shall inform the Commission within two months from the date of notification of this Decision of the measures which it has taken to comply with the Decision.

#### *Article 3*

This Decision is addressed to the French Republic.

Done at Brussels, 1 December 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*



## COMMISSION DECISION

of 14 May 1991

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of welded wire-mesh originating in Yugoslavia and terminating the investigation

(91/256/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 Articles 4, 10 and 13 thereof,

After consultation within the Advisory Committee as provided for in the above Regulation,

Whereas :

## A. PROCEDURE

- (1) In June 1990 the Commission received a complaint lodged by Mr E. F. Dimou on behalf of Greek producers of welded wire-mesh representing more than 90 % of the welded wire-mesh production in Greece. The complaint contained evidence of dumping of welded wire-mesh used for reinforcement originating in Yugoslavia and of injury to a Community industry, it being understood that the Greek market for welded wire-mesh could be considered an isolated competitive market, according to Article 4 (5) second indent of Regulation (EEC) No 2423/88. The evidence was considered sufficient to justify the initiation of a proceeding.
- (2) The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*<sup>(2)</sup>, the initiation of an anti-dumping proceeding concerning imports into Greece of welded wire-mesh used for reinforcement, falling within CN codes ex 7314 20 00 and ex 7314 30 90, originating in Yugoslavia.
- (3) The Commission officially so advised the producers and exporters and importer known to be concerned, the representatives of the exporting country and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(4) All known producers and exporters, the importer and the complainant Community companies made their views known in writing.

(5) The Commission sought and verified all information it deemed necessary for the purpose of a preliminary determination and carried out investigations at the premises of the following companies :

(a) *EC producers :*

- ABNE O. Daring & Co., Athens, Greece,
- Do. Ple SA, Mandra Attikis, Greece,
- Helliniki Halyvourgia SA, Athens, Greece,
- Domika Plegmata SA, Kifisia, Greece,
- Sider SA, Athens, Greece ;

(b) *Yugoslav producers and/or exporters :*

- DP 'Mesud Mujkic', Bijeljina,
- DP 'RMK-Promet', Zenica ;

(c) *EC importers :*

- Intertech SA, Athens, Greece.

(6) No consumers or processors of welded wire-mesh made their views known to the Commission.

(7) In accordance with Article 7 (4) of Regulation (EEC) No 2423/88 all parties were given the appropriate information.

## B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(8) Welded wire-mesh is a product made from smooth or ribbed cold drawn iron or steel wires, jointed together at the intersection to form a network, mainly used for reinforcement of concrete constructions, both on the building site and for inclusion in prefabricated components. The product under consideration is welded wire-mesh for reinforcement and thus welded wire-meshes used for fences are excluded from the investigation. The product under consideration exported from Yugoslavia does not show any significant differences with the product produced in the Community and they can therefore be considered like products within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88.

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

<sup>(2)</sup> OJ No C 188, 28. 7. 1990, p. 7.

**C. DUMPING**

- (9) Normal value was established on the basis of monthly average prices actually paid or payable in the ordinary course of trade for the product under consideration on the Yugoslav market.
- (10) The export prices were determined on the basis of the monthly average prices paid or payable for the products under consideration sold for export to Greece, it being understood that this method would not materially affect the results of the investigation.
- (11) Normal values were compared to export prices on a monthly basis at the ex-works level, while, where appropriate, the Commission took into account differences in conditions and terms of sale.
- (12) The evidence available to the Commission showed the existence of dumping, the margin being equal to the amount by which the normal values as established exceeded the prices for export to Greece. The weighted average dumping margin thus found is 29,7 % of the cif export price.

**D. INJURY****(a) Definition of Community industry**

- (13) The Greek producers of welded wire-mesh sell all or almost all their production of welded wire-mesh on the Greek market, while the demand in that market is not to any substantial degree supplied by producers of welded wire-mesh located elsewhere in the Community. It has also been established that there existed a concentration of dumped imports from Yugoslavia into the Greek market.

Therefore, in accordance with Article 4 (5), second indent of Regulation (EEC) No 2423/88, the Greek market for welded wire-mesh can be considered as an isolated competitive market within the Community, and the Greek production of welded wire-mesh as the Community industry.

**(b) Volume and prices of imports**

- (14) The imports into Greece of welded wire-mesh originating in Yugoslavia between 1986 and 30 June 1990 rose from 0 tonnes in 1986 to 30 826 tonnes during the investigation period.

Consequently the market share of the Yugoslav products rose to 26 %, wholly to the detriment of the market share of the Greek products.

- (15) The evidence available to the Commission also indicates that the prices of the Yugoslav products undercut the prices of the Greek products at the comparable level of trade. The weighted average

margin of price undercutting was found to be 12,5 %.

**(c) Situation of the Community industry**

- (16) Community producers did not benefit in full from the strong increase in demand for welded wire-mesh in Greece. Their sales lagged significantly behind the development of consumption to the extent that the Community producers lost more than 25 % of their market to dumped imports.
- (17) The considerable loss of market share was particularly detrimental because in view of the very favourable demand prospects most of the Greek producers increased significantly their capacities or made commitments for investment in new machinery.
- (18) The Community producers were prevented from passing on the cost increases for the intermediate material (1987 to 1990 : 24 %), while they were at the same time faced with additional financial burdens arising from their investment efforts.
- (19) Since the market for the product concerned is price sensitive, the low prices at which the dumped imports were offered forced the Community producers to align their prices and thereby to forego a proper return on investment.

**(d) Causality**

- (20) There being no imports to any significant degree from other countries, nor a slackening of demand, the Commission has come to the conclusion that the substantial increase in dumped imports and the prices at which they were offered for sale in Greece are causing material injury to the Community industry concerned.

**E. COMMUNITY INTEREST**

- (21) Since the investigation is being limited to the Greek market in accordance with Article 4 (5), second indent of Regulation (EEC) No 2423/88, the Community interest should be understood primarily as the interest of the Community in a vital Greek industry.

The Greek economy is still in the process of integrating itself into the Community economy as a whole. The process thus far has not been without serious economic and social costs. This is especially true for the Greek steel industry, which depends almost fully on the Greek construction industry for its sales of reinforcing bars, rods and welded wire-mesh. Where the use of reinforcing bars and rods is increasingly being substituted by the use of welded wire-mesh, the sales of this last product are of increasing importance for the Greek steel industry. Loss of profitability in the welded wire-mesh

market will directly affect the profitability of the Greek steel mills, which have just gone through a costly restructuring process.

The Greek welded wire-mesh production itself is in the process of dynamic development in order to cope with the increasing need for its products by the domestic construction industry. Considerable efforts have been made to modernize, to install new equipment and to increase employment in this sector. It is clearly in the interest of the Greek economy that the viability of these new investments and the deepening of its domestic production facilities it not jeopardized by dumped imports.

Action to maintain a free and fair trade in welded wire-mesh is therefore in the interest of the Greek economy and as such in the interest of the Community as a whole.

The Commission also considered that the necessary defensive measures will have a limited effect on the cost of the products concerned to the end users. The measures will mainly lead to a stabilization of the price level for wire-mesh and to the maintenance of regular and qualitatively adequate domestic supplies of the products concerned.

#### F. UNDERTAKINGS

- (22) In accordance with Article 13 (6) of Regulation (EEC) No 2423/88, the Yugoslav parties were given an opportunity to offer undertakings with respect to the exports of welded wire-mesh to Greece and did subsequently offer undertakings.
- (23) The undertakings will have the effect of removing on average the price undercutting and thereby of bringing the prices of the Yugoslav exports of welded wire-mesh to Greece at a level which the Commission, in view of the considerations above, deems sufficient, to eliminate the injury suffered by the Community industry.

Moreover the Commission notes that in case of breach of these price undertakings it can impose immediate provisional duties and the Council can then impose definitive duties based on the facts

established in the present investigation concerning dumping and injury resulting therefrom.

#### G. CONCLUSION

- (24) With regard to the imports into Greece of welded wire-mesh originating in Yugoslavia and on the basis of the findings during the investigation, it is considered that the interests of the Community require the imposition of protective measures.
- (25) The Commission is of the opinion that the price undertakings offered can be accepted without anti-dumping duties being imposed on imports of the product in question originating in Yugoslavia.
- (26) The Advisory Committee has been consulted with regard to this course of action and has raised no objection to the proposal,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

The undertakings offered by the following Yugoslav producers and/or exporters of welded wire-mesh:

- 'TGA-Podujeva', Podujevo,
- DP 'Mesud Mujkic', Bijeljina,
- DP 'RMK-Promet', Zenica,
- 'Javor-Export', Skopje,

in connection with the anti-dumping investigation concerning imports into Greece of welded wire-mesh, falling under CN codes ex 7314 20 00 and ex 7314 30 90, originating in Yugoslavia are hereby accepted.

#### *Article 2*

The anti-dumping investigation referred to in Article 1 is hereby terminated.

Done at Brussels, 14 May 1991.

*For the Commission*

Leon BRITTAN

*Vice-President*