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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1686/91

of 19 June 1991

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

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

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 533/91⁽⁵⁾ and subsequent amending Regulations;

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

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

the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

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

Whereas these exchange rates being those recorded on 18 June 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 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 59, 6. 3. 1991, p. 1.

ANNEX

to the Commission Regulation of 19 June 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy
0709 90 60	129,86 ⁽²⁾ ⁽³⁾
0712 90 19	129,86 ⁽²⁾ ⁽³⁾
1001 10 10	190,70 ⁽¹⁾ ⁽³⁾
1001 10 90	190,70 ⁽¹⁾ ⁽³⁾
1001 90 91	154,60
1001 90 99	154,60
1002 00 00	150,39 ⁽⁶⁾
1003 00 10	150,38
1003 00 90	150,38
1004 00 10	130,26
1004 00 90	130,26
1005 10 90	129,86 ⁽²⁾ ⁽³⁾
1005 90 00	129,86 ⁽²⁾ ⁽³⁾
1007 00 90	140,21 ⁽⁴⁾
1008 10 00	39,35
1008 20 00	123,56 ⁽⁴⁾
1008 30 00	34,79 ⁽⁵⁾
1008 90 10	⁽⁷⁾
1008 90 90	34,79
1101 00 00	231,14 ⁽⁸⁾
1102 10 00	224,44 ⁽⁸⁾
1103 11 10	309,22 ⁽⁸⁾
1103 11 90	247,81 ⁽⁸⁾

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

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 1687/91

of 19 June 1991

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 3845/90 ⁽⁵⁾ and subsequent amending Regulations;

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

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

rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

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

Whereas these exchange rates being those recorded on 18 June 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 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 367, 29. 12. 1990, p. 10.

ANNEX

to the Commission Regulation of 19 June 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 6	1st period 7	2nd period 8	3rd period 9
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	3,78	3,78	3,78
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 6	1st period 7	2nd period 8	3rd period 9	4th period 10
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 1688/91
of 17 June 1991

**derogating from the provisions on the deadline for the submission of tenders
laid down in Regulation (EEC) No 859/89 laying down detailed rules for the
application of intervention measures in the beef and veal sector**

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

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

Whereas Commission Regulation (EEC) No 859/89 of 29
March 1989 laying down detailed rules for the application
of intervention measures in the beef and veal sector ⁽³⁾, as
last amended by Regulation (EEC) No 920/91 ⁽⁴⁾, lays
down in particular the detailed rules on invitations to
tender; whereas Article 8 of the abovementioned Regula-
tion in particular sets the deadline for the submission of
tenders at the second and fourth Wednesdays of each
month;

Whereas the public holidays in August 1991 call for that
deadline to be amended for practical reasons;

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

By way of derogation from the first sentence of Article 8
of Regulation (EEC) No 859/89, during the period 1 to 31
August 1991 the deadline for the submission of tenders
shall expire at 12 noon (Brussels time) on the first and
fourth Wednesdays of August.

Article 2

This Regulation shall enter into force on 1 August 1991.

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

Done at Brussels, 17 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 91, 4. 4. 1989, p. 5.

⁽⁴⁾ OJ No L 92, 13. 4. 1991, p. 23.

COMMISSION REGULATION (EEC) No 1689/91**of 19 June 1991****on the issuing of a standing invitation to tender for the resale on the internal market of 20 000 tonnes of barley 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⁽¹⁾, as last amended by Regulation (EEC) No 3577/90⁽²⁾, 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⁽³⁾ as amended by Regulation (EEC) No 2203/90⁽⁴⁾, provides that cereals held by the intervention agency are to be sold by tender;

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

Whereas, in the present market situation, a standing invitation to tender for the resale on the internal market of 20 000 tonnes of barley held by the Danish intervention agency should be issued;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

of 20 000 tonnes of barley wheat held by it in accordance with Regulation (EEC) No 1836/82.

Article 2

1. The final date for the submission of tenders for the first partial invitation to tender shall be 27 June 1991.

2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 11 July 1991.

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

Direktoratet for Markedsordningerne Frederiksborggade 18, DK-1360 Copenhagen K (telex: 15137 DK; telefax: 33926948).

Article 3

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

Article 4

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

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 139, 24. 5. 1986, p. 36.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 5.

⁽⁵⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁶⁾ OJ No L 249, 12. 9. 1990, p. 8.

COMMISSION REGULATION (EEC) No 1690/91

of 19 June 1991

opening an invitation to tender for the fixing of aid for the private storage of carcasses and half-carcasses of lamb

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as amended by Regulation (EEC) No 3577/90⁽²⁾, and in particular Article 7 (5) thereof,Whereas Commission Regulation (EEC) No 3446/90 of 27 November 1990 laying down detailed rules for granting private storage aid for sheepmeat and goatmeat⁽³⁾, as amended by Regulation (EEC) 1258/91⁽⁴⁾, provides in particular for detailed rules on the invitation to tender;Whereas Commission Regulation (EEC) No 3447/90 of 28 November 1990 on special conditions for the granting of private storage aid for sheepmeat and goatmeat⁽⁵⁾, as last amended by Regulation (EEC) No 1258/91, provides in particular the minimum quantities in respect of which a tender may be submitted;

Whereas the application of Article 7 (3) of Regulation (EEC) No 3013/89 results in the opening of invitations to tender for private storage aid;

Whereas that Article provides for the application of these measures on the basis of the situation of each quotation

zone; whereas it is appropriate consequently to open tenders separately for each of the zones where the conditions are fulfilled;

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

HAS ADOPTED THIS REGULATION:

Article 1

An invitation to tender is hereby opened in France for aid to private storage for carcasses and half-carcasses of lamb.

Subject to the provisions of Regulation (EEC) No 3447/90 tenders may be made to the intervention agency of the Member States concerned.

Article 2

Tenders must be submitted not later than 2 p.m. on 20 June 1991 to the relevant intervention agency.

*Article 3*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.⁽³⁾ OJ No L 333, 30. 11. 1990, p. 39.⁽⁴⁾ OJ No L 120, 14. 5. 1991, p. 15.⁽⁵⁾ OJ No L 333, 30. 11. 1990, p. 46.

COMMISSION REGULATION (EEC) No 1691/91
of 19 June 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⁽¹⁾, as last amended by Regulation (EEC) No 1623/91⁽²⁾, 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⁽³⁾, as amended by Regulation (EEC) No 2455/72⁽⁴⁾, 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 refund applicable to exports of tomatoes to Sweden should be reduced during the period 1 July to 30

September pursuant to the undertakings entered into with that country under the 1980 agreement⁽⁵⁾;

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⁽⁶⁾ as last amended by Regulation (EEC) No 2205/90⁽⁷⁾,
- 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⁽⁸⁾, amended by Regulation (EEC) No 1615/90⁽⁹⁾, 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;

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 8.

⁽³⁾ OJ No L 318, 18. 12. 1969, p. 17.

⁽⁴⁾ OJ No L 266, 25. 11. 1972, p. 7.

⁽⁵⁾ OJ No L 194, 28. 7. 1980, p. 12.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁸⁾ OJ No L 351, 14. 12. 1987, p. 1.

⁽⁹⁾ OJ No L 152, 16. 6. 1990, p. 33.

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 ;

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 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 19 June 1991 fixing the export refunds on fruit and vegetables

(ECU/100 kg net)

Product code	Destination of refund (I)	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 (I)	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

(¹) 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.

(²) For exports to Sweden in the period 1 July to 30 September 1991, the refund is reduced to ECU 0,95 100 kg.

COMMISSION REGULATION (EEC) No 1692/91
of 19 June 1991
fixing the export refunds on beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 1628/91 ⁽²⁾, and in particular Article 18 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 18 of Regulation (EEC) No 805/68 provides that the difference between prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 885/68 ⁽³⁾, as last amended by Regulation (EEC) No 427/77 ⁽⁴⁾, lays down general rules for granting export refunds and criteria for fixing the amount of such refunds;

Whereas Regulation (EEC) No 32/82 ⁽⁵⁾, as last amended by Regulation (EEC) No 3169/87 ⁽⁶⁾, Regulation (EEC) No 1964/82 ⁽⁷⁾, as amended by Regulation (EEC) No 3169/87, and Regulation (EEC) No 2388/84 ⁽⁸⁾, as last amended by Regulation (EEC) No 3988/87 ⁽⁹⁾, lay down the conditions for granting special export refunds for certain cuts of beef and veal and certain preserved beef and veal products;

Whereas it follows from applying those rules and criteria to the foreseeable situation on the market in beef and veal that the refund should be as set out below;

Whereas given the current market situation in the Community and the possibilities of disposal in certain third countries, in particular export refunds on adult male bovine animals of a live weight of at least 300 kilograms

and other bovines of a live weight of at least 250 kilograms should be granted; whereas experience gained in recent years has shown that it is advisable to treat live pure-bred breeding animals of a weight of at least 250 kilograms for females and 300 kilograms for males in an identical manner to other bovine animals, while subjecting them to certain special administrative formalities;

Whereas export refunds should be granted for certain destinations on certain fresh or chilled meat listed in Annex I under CN code 0201, on certain frozen meat listed in Annex I under CN code 0202, on certain meat or offal listed in Annex I under CN code 0206 and on certain other prepared or preserved meat or offal listed in Annex I under CN code 1602 50 10;

Whereas, in view of the wide differences in products covered by the CN codes 0201 20 90 700 and 0202 20 90 100 used for refund purposes, the refund should only be granted on cuts in which the weight of bone does not exceed one third;

Whereas a minimum content of lean bovine meat should be fixed for boneless cuts wrapped individually and covered by CN codes 0201 30 and 0202 30;

Whereas refunds should also be granted on fresh or frozen boned or boneless pieces, even where each piece is not individually wrapped, and on minced meat, and the wording of the tariff subheadings for fresh boned or boneless pieces specified;

Whereas, in the case of meat of bovine animals, boned or boneless, salted and dried, there are traditional trade flows to Switzerland; whereas to allow this trade to continue, the refund should be set to cover the difference between prices on the Swiss market and export prices in the Member States; whereas there are possibilities for exporting such meat and also salted, smoked and dried meat to certain African, Near and Middle Eastern countries; whereas a refund should accordingly be set;

Whereas, in the case of certain other cuts and preserves of meat or offal shown in Annex I under CN code 1602 50 90, Community participation in international trade may be maintained by granting a refund corresponding to that at present available;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 16.

⁽³⁾ OJ No L 156, 4. 7. 1968, p. 2.

⁽⁴⁾ OJ No L 61, 5. 3. 1977, p. 16.

⁽⁵⁾ OJ No L 4, 8. 1. 1982, p. 11.

⁽⁶⁾ OJ No L 301, 24. 10. 1987, p. 21.

⁽⁷⁾ OJ No L 212, 21. 7. 1982, p. 48.

⁽⁸⁾ OJ No L 221, 18. 8. 1984, p. 28.

⁽⁹⁾ OJ No L 376, 31. 12. 1987, p. 31.

Whereas, in the case of other beef and veal products, a refund need not be fixed since Community participation in world trade is not significant;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽¹⁾, as last amended by Regulation (EEC) No 2205/90 ⁽²⁾;
- 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 Commission Regulation (EEC) No 3846/87 ⁽³⁾, as last amended by Regulation (EEC) No 1436/91 ⁽⁴⁾; establishes the agricultural product nomenclature for the purposes of export refunds;

Whereas, in order to simplify customs export formalities for operators, the refunds on all frozen cuts should be brought in line with those on fresh or chilled cuts other than those from adult male bovine animals, except in the case of certain frozen beef held by the intervention agencies that is to be exported under Commission Regulations (EEC) No 243/90 ⁽⁵⁾ and (EEC) No 676/90 ⁽⁶⁾;

Whereas experience has shown that in certain cases it is often difficult to determine the relevant quantities of bovine and other meat contained in prepared or preserved meat covered by CN code 1602 50; whereas products of the bovine species alone should accordingly be set apart and a new heading should be created for mixtures of meats or offals; whereas control over products other than mixtures of meat or offal should be reinforced by making the granting of refunds on these products conditional on manufacturer under the arrangements provided for in Article 4 of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products ⁽⁷⁾, as amended by Regulation (EEC) No 2026/83 ⁽⁸⁾;

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

The list of products on which the export refund referred to in Article 18 of Regulation (EEC) No 805/68 is granted and the amount of that refund shall be as set out in Annex hereto.

Article 2

This Regulation shall enter into force on 21 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽²⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽³⁾ OJ No L 366, 24. 12. 1987, p. 1.

⁽⁴⁾ OJ No L 137, 31. 5. 1991, p. 21.

⁽⁵⁾ OJ No L 27, 31. 1. 1990, p. 8.

⁽⁶⁾ OJ No L 75, 21. 3. 1990, p. 8.

⁽⁷⁾ OJ No L 62, 7. 3. 1980, p. 5.

⁽⁸⁾ OJ No L 199, 22. 7. 1983, p. 12.

ANNEX

(ECU/100 kg)		
Product code	Destination (°)	Amount of refund (°)
		— Live weight —
0102 10 00 190	01	96,00
0102 10 00 390	01	96,00
0102 90 31 900	02	85,50
	03	55,50
	04	25,50
0102 90 33 900	02	85,50
	03	55,50
	04	25,50
0102 90 35 900	02	101,50
	03	73,00
	04	34,50
0102 90 37 900	02	101,50
	03	73,00
	04	34,50
		— Net weight —
0201 10 10 100	02	92,00
	03	65,00
	04	32,50
0201 10 10 900	02	126,50
	03	88,00
	04	44,00
0201 10 90 110 (°)	02	124,50
	03	85,00
	04	42,50
0201 10 90 190	02	92,00
	03	65,00
	04	32,50
0201 10 90 910 (°)	02	171,50
	03	115,00
	04	57,50
0201 10 90 990	02	126,50
	03	88,00
	04	44,00
0201 20 21 000	02	126,50
	03	88,00
	04	44,00

(ECU/100 kg)		
Product code	Destination (°)	Amount of refund (°)
		— Net weight —
0201 20 29 100 (°)	02	171,50
	03	115,00
	04	57,50
0201 20 29 900	02	126,50
	03	88,00
	04	44,00
0201 20 31 000	02	92,00
	03	65,00
	04	32,50
0201 20 39 100 (°)	02	124,50
	03	85,00
	04	42,50
0201 20 39 900	02	92,00
	03	65,00
	04	32,50
0201 20 51 100	02	161,00
	03	110,50
	04	56,00
0201 20 51 900	02	92,00
	03	65,00
	04	32,50
0201 20 59 110 (°)	02	218,50
	03	146,00
	04	73,00
0201 20 59 190	02	161,00
	03	110,50
	04	56,00
0201 20 59 910 (°)	02	124,50
	03	85,00
	04	42,50
0201 20 59 990	02	92,00
	03	65,00
	04	32,50
0201 20 90 700	02	92,00
	03	65,00
	04	32,50
0201 30 00 050 (°)	05	112,00
0201 30 00 100 (°)	02	312,00
	03	208,50
	04	104,50
	06	266,50
0201 30 00 150 (°)	02	165,00
	03	125,00
	04	62,50
	06	144,50
	07	90,00
0201 30 00 190 (°)	02	128,00
	03	84,00
	04	42,00
	06	102,50
	07	90,00

(ECU/100 kg)		
Product code	Destination (?)	Amount of refund (?)
		— Net weight —
0202 10 00 100	02	92,00
	03	65,00
	04	32,50
0202 10 00 900	02	126,50
	03	88,00
	04	44,00
0202 20 10 000	02	126,50 ⁽¹⁰⁾
	03	88,00
	04	44,00
0202 20 30 000	02	92,00 ⁽¹⁰⁾
	03	65,00
	04	32,50
0202 20 50 100	02	161,00 ⁽¹⁰⁾
	03	110,50
	04	56,00
0202 20 50 900	02	92,00
	03	65,00
	04	32,50
0202 20 90 100	02	92,00
	03	65,00
	04	32,50
0202 30 90 100 ⁽⁴⁾	05	112,00
0202 30 90 400 ⁽⁶⁾	02	165,00 ⁽¹⁰⁾
	03	125,00 ⁽¹⁰⁾
	04	62,50 ⁽¹⁰⁾
	06	144,50 ⁽¹⁰⁾
	07	90,00 ⁽¹⁰⁾
0202 30 90 500 ⁽⁶⁾	02	128,00
	03	84,00
	04	42,00
	06	102,50
	07	90,00
0202 30 90 900	07	90,00
0206 10 95 000	02	128,00
	03	84,00
	04	42,00
	06	102,50
0206 29 91 000	02	128,00
	03	84,00
	04	42,00
	06	102,50
0210 20 90 100	08	102,50
	09	60,50
0210 20 90 300	02	128,00
0210 20 90 500 ⁽⁷⁾	02	128,00
1602 50 10 120	02	134,50 ⁽⁸⁾
	03	108,00 ⁽⁸⁾
	04	108,00 ⁽⁸⁾
1602 50 10 140	02	119,50 ⁽⁸⁾
	03	96,00 ⁽⁸⁾
	04	96,00 ⁽⁸⁾

(ECU/100 kg)

Product code	Destination (°)	Amount of refund (°)
		— Net weight —
1602 50 10 160	02	96,00 (°)
	03	77,00 (°)
	04	77,00 (°)
1602 50 10 170	02	63,50 (°)
	03	51,00 (°)
	04	51,00 (°)
1602 50 10 190	02	63,50
	03	51,00
	04	51,00
1602 50 10 240	02	36,00
	03	36,00
	04	36,00
1602 50 10 260	02	26,00
	03	26,00
	04	26,00
1602 50 10 280	02	16,00
	03	16,00
	04	16,00
1602 50 90 120	01	116,00 (°)
1602 50 90 130	01	73,00 (°)
1602 50 90 190	01	36,00
1602 50 90 320	01	103,00 (°)
1602 50 90 330	01	65,00 (°)
1602 50 90 390	01	36,00
1602 50 90 520	01	77,00 (°)
1602 50 90 530	01	48,50 (°)
1602 50 90 590	01	36,00
1602 50 90 610	01	36,00
1602 50 90 620	01	16,00
1602 50 90 700	01	36,00
1602 50 90 800	01	26,00
1602 50 90 900	01	16,00

(°) Entry under this subheading is subject to the submission of the certificate appearing in the Annex to Commission Regulation (EEC) No 32/82.

(°) Entry under this subheading is subject to compliance with the condition laid down in Commission Regulation (EEC) No 1964/82.

(°) The refund on beef in brine is granted on the net weight of the meat, after deduction of the weight of the brine.

(°) OJ No L 336, 29. 12. 1979, p. 44.

(°) OJ No L 221, 19. 8. 1984, p. 28.

(°) The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ No L 210, 1. 8. 1986, p. 39).

(°) The destinations are as follows:

01 Third countries.

02 North African, Near and Middle East third countries, West, Central East and South African third countries, except Lebanon, Cyprus, Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia.

03 European third countries, the Canary Islands, Ceuta, Melilla, Lebanon, Cyprus, Greenland, Pakistan, Sri Lanka, Burma, Thailand, Vietnam, Indonesia, the Philippines, China, North Korea and Hong Kong and the destinations referred to in Article 34 of Commission Regulation (EEC) No 3665/87 (OJ No L 351, 14. 12. 1987, p. 1), except Austria, Sweden and Switzerland.

04 Austria, Sweden and Switzerland.

05 The United States of America, carried out in accordance with Commission Regulation (EEC) No 2973/79 (OJ No L 336, 29. 12. 1979, p. 44).

06 French Polynesia and New Caledonia.

07 Canada.

08 North, West, Central, East and South African third countries, except Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia.

09 Switzerland.

- (*) Article 7 of Regulation (EEC) No 885/68 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.
- (*) The refund is granted only on products manufactured under the arrangement provided for in Article 4 of Council Regulation (EEC) No 565/80.
- (10) Excluding frozen meat exported under Regulations (EEC) No 243/90, (EEC) No 676/90, (EEC) No 1680/90 and (EEC) No 1682/90. However, in the case of exports under Regulations (EEC) No 1680/90 and (EEC) No 1682/90, the export refunds set out in the Annex to Regulation (EEC) No 1309/90 should be applied.

NB: The countries are as defined in Commission Regulation (EEC) No 91/91 (OJ No L 11, 16. 1. 1991, p. 5). The descriptions corresponding to the product codes and the footnotes are set out in Commission Regulation (EEC) No 3846/87 as amended.

COMMISSION REGULATION (EEC) No 1693/91

of 19 June 1991

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For the eight partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 963/91 the maximum amount of the export refund is fixed at ECU 38,940 per 100 kilograms.

Article 2

This Regulation shall enter into force on 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 100, 20. 4. 1991, p. 9.

COMMISSION REGULATION (EEC) No 1694/91

of 19 June 1991

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the opinion of the Monetary Committee,

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

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

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

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

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 20 June 1991.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 152, 18. 6. 1988, p. 23.

⁽⁸⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁹⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 19 June 1991 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	33,47 ⁽¹⁾	
1701 11 90 910	31,54 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	33,47 ⁽¹⁾	
1701 12 90 910	31,54 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3639
1701 99 10 100	36,39	
1701 99 10 910	36,37	
1701 99 10 950	33,87	
1701 99 90 100		0,3639

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

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

COMMISSION REGULATION (EEC) No 1695/91

of 19 June 1991

fixing the import levy on molasses

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 market in sugar ⁽¹⁾, as last amended by Regulation (EEC) No 464/91 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levy on molasses was fixed by Commission Regulation (EEC) No 15/91 ⁽³⁾, as last amended by Regulation (EEC) No 1525/91 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 15/91 to the information at present available to the Commission that the levy at present in force should be altered pursuant to Article 1 of this Regulation;

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

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

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

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

Whereas these exchange rates being those recorded on 18 June 1991,

HAS ADOPTED THIS REGULATION:

Article 1

The import levy referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of molasses falling within CN codes 1703 10 00 and 1703 90 00, ECU 0,15 per 100 kilograms.

Article 2

This Regulation shall enter into force on 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 2, 4. 1. 1991, p. 8.

⁽⁴⁾ OJ No L 142, 6. 6. 1991, p. 26.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

COMMISSION REGULATION (EEC) No 1696/91

of 19 June 1991

fixing the import levies on white sugar and raw sugar

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 464/91 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 3608/90 ⁽³⁾, as last amended by Regulation (EEC) No 1672/91 ⁽⁴⁾;

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 ⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁶⁾,

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

Whereas these exchange rates being those recorded on 18 June 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 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 350, 14. 12. 1990, p. 68.

⁽⁴⁾ OJ No L 151, 15. 6. 1991, p. 74.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 19 June 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	35,30 ⁽¹⁾
1701 11 90	35,30 ⁽¹⁾
1701 12 10	35,30 ⁽¹⁾
1701 12 90	35,30 ⁽¹⁾
1701 91 00	39,35
1701 99 10	39,35
1701 99 90	39,35 ⁽²⁾

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

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

COMMISSION REGULATION (EEC) No 1697/91

of 19 June 1991

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 464/91 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on syrups and certain other sugar products were fixed by Commission Regulation (EEC) No 1453/91 ⁽³⁾, as last amended by Regulation (EEC) No 1674/91 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1453/91 to the information known to the Commission that the basic amount of the levy on syrups and certain other sugar products at present in force should be altered;

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

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

rate, multiplied by the corrective factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁶⁾,

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

HAS ADOPTED THIS REGULATION:

Article 1

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to amended Regulation (EEC) No 1453/91 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 138, 1. 6. 1991, p. 9.

⁽⁴⁾ OJ No L 151, 15. 6. 1991, p. 78.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 19 June 1991 altering the basic amount of the import
levies on syrups and certain other products in the sugar sector

(ECU)

CN code	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question	Amount of levy per 100 kg of dry matter
1702 20 10	0,3935	—
1702 20 90	0,3935	—
1702 30 10	—	52,52
1702 40 10	—	52,52
1702 60 10	—	52,52
1702 60 90	0,3935	—
1702 90 30	—	52,52
1702 90 60	0,3935	—
1702 90 71	0,3935	—
1702 90 90	0,3935	—
2106 90 30	—	52,52
2106 90 59	0,3935	—

COMMISSION REGULATION (EEC) No 1698/91
of 19 June 1991
altering the export refunds on milk and milk products

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

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

Having regard to Council Regulation (EEC) No 804/68 of
27 June 1968 on the common organization of the market
in milk and milk products⁽¹⁾, as last amended by
Regulation (EEC) No 1630/91⁽²⁾, and in particular Article
17 (5) thereof,

Whereas the export refunds on milk and milk products
were fixed by Commission Regulation (EEC) No
1618/91⁽³⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 1618/91 to the

information known to the Commission that the export
refunds for the products listed in the Annex hereto
should be altered to the amounts set out therein,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds referred to in article 17 of Regulation
(EEC) No 804/68 on products exported in the natural
state, as fixed in the Annex to Regulation (EEC) No
1618/91 are hereby altered, in respect of the products set
out in the Annex hereto, to the amounts set out therein.

Article 2

This Regulation shall enter into force on 20 June 1991.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 19.

⁽³⁾ OJ No L 149, 14. 6. 1991, p. 34.

ANNEX

to the Commission Regulation of 19 June 1991 altering the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination	Amount of refund
0405 00 10 100	056 ***	—
0405 00 10 200		122,49
0405 00 10 300		154,10
0405 00 10 500		158,05
0405 00 10 700		195,00 (*)
		162,00
0405 00 90 100		162,00
0405 00 90 900		208,00

COMMISSION REGULATION (EEC) No 1699/91

of 19 June 1991

fixing for Great Britain the level of the variable slaughter premium for sheep
and the amounts to be charged on products leaving region 1

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 3013/89
of 25 September 1989 on the common organization of
the market in sheepmeat and goatmeat ⁽¹⁾, as amended by
Regulation (EEC) No 3577/90 ⁽²⁾,

Having regard to Commission Regulation (EEC) No
1633/84 of 8 June 1984 laying down detailed rules for
applying the variable slaughter premium for sheep and
repealing Regulation (EEC) No 2661/80 ⁽³⁾, as last
amended by Regulation (EEC) No 1075/89 ⁽⁴⁾, and in
particular Articles 3 (1) and 4 (1) thereof,

Whereas the United Kingdom is the only country which
grants the variable slaughter premium, in region 5, within
the meaning of Article 22 (2) of Regulation (EEC) No
3013/89 whereas it is necessary therefore for the Commis-
sion to fix, for the week beginning 27 May 1991, the level
of the premium and the amount to be charged on
products leaving that region;

Whereas Article 3 (1) of Regulation (EEC) No 1633/84
stipulates that the level of the variable slaughter premium
is to be fixed each week by the Commission;

Whereas Article 4 (1) of Regulation (EEC) No 1633/84
lays down that the amount to be charged on products
leaving region 1 shall be fixed weekly by the Commis-
sion;

Whereas in the Annex to Commission Regulation (EEC)
No 3618/89 of 1 December 1989 on the application of
the guarantee limitation arrangements for sheepmeat and
goatmeat ⁽⁵⁾ the weekly amounts of the guide level are set
out pursuant to Article 25 of Regulation (EEC) No
3013/89;

Whereas, pursuant to the provisions of Article 24 (2) and
(3) of Regulation (EEC) No 3013/89, for the week begin-
ning 27 May 1991, the variable slaughter premium for
sheep certified as eligible in the United Kingdom is to be
in accordance with the amounts fixed in the Annexes
hereto; whereas, for that week, in the light of the Judg-
ment of the Court of Justice of 2 February 1988 in Case
61/86, the provisions of Article 9 (5) of Regulation (EEC)
No 3013/89 and of Article 4 of Regulation (EEC) No
1633/84 lead to the amounts to be charged on products,
leaving region 1, being fixed in accordance with those
Annexes;

Whereas, as regards the controls necessary for the appli-
cation of the provisions relating to the said amounts, the
system of controls provided for by Regulation (EEC) No
1633/84 should be maintained without prejudice to the
preparation of any more specific provisions;

HAS ADOPTED THIS REGULATION:

Article 1

For sheep or sheepmeat certified as eligible in the United
Kingdom in region 1, within the meaning of Article 22
(2) of Regulation (EEC) No 3013/89, for the variable
slaughter premium during the week beginning 27 May
1991, the level of the premium is fixed at ECU 94,140 per
100 kilograms of estimated or actual dressed carcass
weight within the limits laid down by Article 1 (1) (b) of
Regulation (EEC) No 1633/84.

Article 2

For products referred to in Article 1 (a) and (c) of Regu-
lation (EEC) No 3013/89 which left the territory of region 1
during the week beginning 27 May 1991, the amounts to
be charged shall be equivalent to those fixed in the
Annexes hereto.

Article 3

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

It shall apply with effect from 27 May 1991.

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 154, 9. 6. 1984, p. 27.

⁽⁴⁾ OJ No L 114, 27. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 351, 2. 12. 1989, p. 18.

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

Done at Brussels, 19 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 19 June 1991 fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 1

(ECU/100 kg)

CN code	Amounts	
	A. Products qualifying for the premium specified in Article 24 of Regulation (EEC) No 3013/89	B. Products specified in Article 4 (4) of Regulation (EEC) No 1633/84 ⁽¹⁾
	Live weight	Live weight
0104 10 90	44,246	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	94,140	0
0204 21 00	94,140	0
0204 50 11		0
0204 22 10	65,898	
0204 22 30	103,554	
0204 22 50	122,382	
0204 22 90	122,382	
0204 23 00	171,335	
0204 30 00	70,605	
0204 41 00	70,605	
0204 42 10	49,424	
0204 42 30	77,666	
0204 42 50	91,787	
0204 42 90	91,787	
0204 43 00	128,501	
0204 50 13		0
0204 50 15		0
0204 50 19		0
0204 50 31		0
0204 50 39		0
0204 50 51		0
0204 50 53		0
0204 50 55		0
0204 50 59		0
0204 50 71		0
0204 50 79		0
0210 90 11	122,382	
0210 90 19	171,335	
1602 90 71 :		
— unboned (bone-in)	122,382	
— boned or boneless	171,335	

⁽¹⁾ Eligibility for these reduced amounts is subject to compliance with the conditions laid down in the second subparagraph of Article 5 (3) of Regulation (EEC) No 1633/84.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 December 1990

on aid granted by the German Government and the Government of the *Land* of Bavaria to the producer of polyamide and polypropylene yarns, Reinhold KG, situated in Selbitz

(Only the German text is authentic)

(91/304/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 to the parties concerned to submit their comments as provided for in the said Article 93, and having regard to those comments,

Whereas :

I

On 24 November 1989, the Permanent Representation of Germany notified a project of the German authorities to grant aid in the form of a subvention and a soft loan for the investments that the company Heinrich Reinhold KG (Reinhold) carried out in the years 1987 to 1989.

Further information concerning the beneficiary and the aid was supplied, on request of the Commission, on 26 January 1990 and 28 February 1990.

A further request for information concerning the date of payment of the DM 1,8 million soft loan was sent by the Commission on 26 November 1990. The German Government was informed that failing any answer to this request the date of 1 April 1989 would be assumed as the date from which the elements of aid of the soft loan took place. The German authorities did not answer this request.

The notification concerned the applications submitted by Reinhold on 19 November 1987 and 9 March 1988 to the Federal Office for Trade and Industry, in respect of an extension of its plant in Selbitz involving an investment volume of DM 3 440 000 in the period from December 1987 to December 1988, for a 10 % grant (i.e. DM 344 000) under the Investment Premium Law (*Investitionszulagengesetz*), approved by the Commission by letter of 7 December 1987. At the same time, a loan amounting to DM 1,8 million was granted from the budget of Bavaria under the Bavarian regional assistance programme (*Bayerisches Regionales Förderprogramm*), approved by the Commission by letter dated 27 December 1988; the loan has a duration of eight years, with a two-year grace period, at a 4 % interest rate.

Taking into account the total amount of the investments, the net grant equivalent of the different aids is worth about 12,4 %.

State aid to the synthetic fibres industry is subject to constraints, introduced in 1977, renewed every two years since then and most recently in 1989 (communication to the Member States of 6 July 1989). The production of Reinhold, namely yarns of polyamide and polypropylene, falls within the scope of the constraints (covering fibres and yarns for textiles up to July 1989 and for all end-uses from July 1989 on) which requires that all aid proposals, of whatever type, in favour of companies in the synthetic fibre and yarn sector have to be notified to the Commission in sufficient time to submit its comments and, if necessary, initiate, in respect of the proposed measures, the procedure provided for in Article 93 (2) of the EEC Treaty.

The said constraints limit the acceptable exceptions to the general restrictions on State aid solely to incentives for disinvestments from the sector towards other types of production, and excludes all measures which have the effect of increasing the net production capacity of synthetic fibres.

On the basis of the information supplied by the German Government the Commission took the view that the purpose of the investments to which the proposed aid relates was neither to reduce the company's production capacity of synthetic yarns nor to encourage conversion to other sectors, as mentioned in the said constraints. On the contrary, the Commission observed that the main purpose for the investment was to increase production capacity.

Finally, the Commission considered that, in a Community market for yarns of polyamide and polypropylene which is highly competitive as a result of the presence of numerous producers operating in all the national markets and is characterized by stagnant demand, capital intensive investments and reduced margins, the aid in question is likely to affect trade between Member States and that, for this reason it is incompatible with the rules laid down in Article 92 (1) of the EEC Treaty.

Therefore, the Commission took the view that the aid did not meet the conditions which must be fulfilled for one of the exceptions laid down in Article 92 to apply and initiated the procedure provided for in the first subparagraph of Article 93 (2) of the EEC Treaty.

By letter of 17 April 1990, it gave the German Government notice to submit its comments. The other Member States and interested parties were informed by means of the publication of the communication to the German Government⁽¹⁾.

II

The German Government, in submitting its comments under the procedure provided for in Article 93 (2) by letter of 11 May 1990, confirmed its position stated at the time of the notification that Reinhold's production relates to the coarse fibres sector which is characterized according to the statement of the recipient of the aid (at the time of the investments) by a high level of demand at

a European level and especially by a high level of demand from customers of the undertaking itself.

The German Government therefore concluded that the aid is compatible with the common market.

The German Government also pointed out that the soft loans of DM 1,8 million over eight years, including a two-year grace period, and bearing interest at 4 %, were granted to Reinhold in the spring of 1989, namely prior to notification of the aid to the Commission. On the other hand, the 10 % investment premium (or DM 344 000) was not paid out because it could not be shown, pursuant to Article 2 of the Investment Premium Law, that the project was economically particularly worthy of assistance.

In the course of the procedure the Commission received the comments of a federation of undertakings in the sector. On 19 October 1990 these observations were submitted to the German Government which did not supply any further comment.

III

The financial assistance granted to Reinhold under the Investment Premium Law approved by the Commission by letter of 7 December 1987 and under the Bavarian regional assistance programme approved by letter of 27 December 1988 constitutes aid within the meaning of Article 92 (1) of the EEC Treaty because it enables the undertaking to invest the abovementioned amounts without bearing all the costs.

The aid has to be notified to the Commission pursuant to Article 93 (3) because under aid rules for synthetic fibre and yarn the Commission requires that prior notification of all aid proposals, of whatever type, be given, even in the case of the application of approved aid schemes in favour of companies in the synthetic fibre and yarn sector.

Since the German Government failed to notify the soft loan in question before granting it, the Commission was unable to state its views on the measure before it was implemented. Thus, this aid is contrary to Community law from the time that it came into operation. The situation produced by this failure is particularly serious since the aid has already been paid to the recipient. The aid has therefore given rise to effects that are regarded as being incompatible with the common market.

In the case of aid which is incompatible with the common market, the Commission has the possibility, given it by the Court of Justice in its Judgments of 12

⁽¹⁾ OJ No C 158, 28. 6. 1990, p. 3.

July 1973 in Case 70/72⁽¹⁾, of 21 March 1990 in Case 142/87⁽²⁾ and of 20 September 1990 in Case 5/89⁽³⁾, of requiring Member States to recover aid granted illegally from recipients.

There is a very high volume of trade in synthetic yarns and particularly in polyamide and polypropylene yarns with about one third of total Community production being traded within the Community.

Reinhold's share of the combined polyamide and polypropylene production in the Community is 0,6 % (over 600 000 tonnes). It has increased its production capacity of yarns (polyamide, polypropylene) from 2 250 tonnes in 1982 to 4 000 tonnes in 1988. Export sales account for 16 % of the turnover (1987 figures).

The planned investments aim at further increasing such capacity by 50 % to approximately 6 000 tonnes via an additional third processing line. The new production capacity represents about 1 % of total Community capacity.

There is substantial overcapacity in polyamide and polypropylene yarns in the Community as the geographical shift in production continues in favour of the Third World. In 1988 the capacity utilization rate for polyamide was 76 %, having decreased from 81 % in 1986, with a total estimated overcapacity of 41 000 tonnes. The capacity utilization rate for polypropylene yarns was 83 % in 1988, the same as in 1986, with a total estimated overcapacity of 8 000 tonnes.

The very high levels of capacity utilization which are required in the Community synthetic fibre and yarn industry in order to achieve a satisfactory rate of profits, are the result of two sector-specific constraints: fierce competition in the downstream markets so that the producers' customers are very sensitive to the price factor; and the very active presence of producers both from low-wage countries, enjoying competitive advantages, and highly industrialized countries (USA and Japan) where capacity utilization is close to 100 %.

In such conditions any public intervention which leads to a reduction in costs undoubtedly represents a valuable advantage for a company over its competitors.

In the case of Reinhold the aid at issue considerably reduces the costs, direct and financial, of its investments

and also strengthens its financial position *vis-à-vis* competitors who do not receive such assistance. The distortion of competition is appreciable. The aid (loan and grant) amount to 12,4 % net grant equivalent.

When State financial aid strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade the latter must be regarded as prejudicially affected by that aid. In the case at issue, the aid, which reduced the investment costs which the undertaking in Selbitz would normally have to bear, is liable to affect trade and distort or threaten to distort competition between Member States by favouring the said undertaking within the meaning of Article 92 (1) of the EEC Treaty. Article 92 (1) lays down the principle that aid having the features therein described are incompatible with the common market.

IV

The exceptions from the principle of incompatibility as set out in Article 92 (2) (a) and (b) of the EEC Treaty are not applicable in the case at issue because of the character of the aid which was not intended for the purposes in question.

Article 92 (2) (c) provides that aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, shall be compatible with the common market. The Commission has never considered the 'zonal border areas' of Germany to be automatically exempted from the control of State aid in favour of industrial sectors subject to a specific aid code established in order to combat a serious crisis. In particular in its letter of 6 November 1981 concerning the 10th joint Federal Government/*Länder* aid plan it had informed the German Government of this proviso, which the latter never contested.

Moreover, this policy was confirmed when in 1985 and 1986 the Commission prohibited the granting of State aid to synthetic yarn producers situated in Neumünster⁽¹⁾ and Deggendorf⁽²⁾ in the 'zonal border area'.

Thus, it has to be concluded that the aid granted or to be granted to Reinhold cannot benefit from the exemption provided for in Article 92 (2) (c) of the EEC Treaty.

⁽¹⁾ [1973] ECR 813.

⁽²⁾ [1990] ECR 959.

⁽³⁾ Not yet published.

⁽¹⁾ OJ No L 181, 13. 7. 1985, p. 42.

⁽²⁾ OJ No L 300, 24. 10. 1986, p. 34.

Article 92 (3) sets out which aids may be considered to be compatible with the common market. Compatibility with the EEC Treaty must be determined in the context of the Community and not of a single Member State. In order to safeguard the proper functioning of the common market and taking into account the principles of Article 3 (f) of the EEC Treaty, the exceptions from the principle of Article 92 (1) as set out in Article 92 (3) must be construed narrowly when an aid scheme or any individual award is scrutinized.

In particular, the exceptions may be applied only when the Commission is satisfied that the free play of market forces alone, without the aid, would not induce the prospective aid recipient to adopt a course of action contributing to attainment of one of the said objectives.

To apply the exceptions to cases where the aid is not necessary to achieve such an objective would be to give unfair advantages to certain Member States' industries or undertakings, the financial position of which would be bolstered, and could prejudice trading conditions between Member States and distort competition without any justification on grounds of Community interest as set out in Article 92 (3).

The German Government has been unable to give, or the Commission to discover, any justification for a finding that the aid falls within one of the categories of exception in Article 92 (3).

The exception provided for in Article 92 (3) (a) is applicable to aid which promotes the economic development of areas where the standard of living is abnormally low or where there is serious underemployment.

In its method for the application of Article 92 (3) (a) to regional aid⁽¹⁾, to which express reference is made here, the Commission stipulated that only regions having a *per capita* GDP/PPS of under 75 % of the Community average are eligible for an exemption arrangement under Article 92 (3) (a). As is clear from the list of eligible regions⁽²⁾, the Commission considers that the economic and social situation of the Federal Republic of Germany, within its borders prior to 3 October 1990, does not justify the application of Article 92 (3) (a) either for the country as a whole or for individual regions.

As regards the exception provided for in Article 92 (3) (b), it is evident that the aid in question was not intended to

promote the execution of an important project of common European interest, or to remedy a serious disturbance in the German economy. Aid in favour of one company in the synthetic yarn industry is not adequate to remedy the kind of situation described in Article 92 (3) (b).

With regard to the exemption provided for in Article 92 (3) (c) in favour of 'aid to facilitate the development of certain economic activities', it must be observed that as regards synthetic fibres and yarns in general, and polyamide and polypropylene yarns in particular, there is a high level of trade between Member States and competition is very keen, because of persistent and uncontested overcapacity as stated above. For these reasons, synthetic fibres and yarns including polyamide and polypropylene are also subject to the aid rules for synthetic fibres and yarns.

In its letters of 7 July 1987 and 6 July 1989 by which it extended this system of control of aid for two further two-year periods ending 19 July 1991, thus covering the period relevant in this aid case, the Commission pointed out to Member States that it would *a priori* express an unfavourable opinion with regard to proposed aids, be they sectoral, regional or general, which had the effect of increasing the net production capacity of companies in this sector. It also reminded Member States that it would continue to give sympathetic consideration to proposals to grant aid for the purpose of speeding up or facilitating the process of conversion away from synthetic fibres into other activities or restructuring leading to reductions in capacity.

In these letters the Commission also reminded Member States that it requires the prior notification of all aid proposals, of whatever type, in favour of companies in the synthetic fibre and yarn sector.

The main purpose of the investment in this case is to expand the production capacity of the company by 50 % by adding a third processing line to the two already installed thus reaching a total output (polyamide and polypropylene yarns) of 6 000 tonnes.

Moreover, the limited increase of the workforce (14 people) needed to operate this third line will result in a significant increase in the overall productivity and competitiveness of the company.

In view of the main purpose of Reinhold's investment plan, the aid at issue is contrary to the synthetic fibres and yarns aid code. At the same time, the investment contains no feature justifying the commission in exempt-

⁽¹⁾ OJ No C 212, 12. 8. 1988, p. 2.

⁽²⁾ OJ No C 212, 12. 8. 1988, p. 6.

ing the aid concerned from the rules set out in the aid code under which any public support has to be avoided, since all new increases of capacity are contrary to the Community interest (which seeks a reduction in capacity) and aggravate the situation of competing undertakings all suffering from an oversupplied market.

In its comments in the course of the procedure, the German Government claimed that the types of yarn produced by Reinhold have special features (coarse filaments) and undergo special dyeing treatment which make them particularly appreciated by customers with special requirements and give Reinhold a competitive advantage. In this respect it has to be pointed out that polyamide and polypropylene yarns are in surplus in the Community as a whole and that the kind of filaments produced by Reinhold do not have any special innovative feature so that they can be produced in high quantities by a large number of other undertakings.

However, it has to be pointed out that the beneficiary has constantly recorded positive economic results, so that market forces would have been sufficient to secure a normal development of the company and the implementation of the investment in question without any State intervention.

In recent years the Commission has always prohibited Member States from granting financial assistance to synthetic fibre or yarn producers in similar or, indeed, identical situations, that is when the company in question was merely wishing to increase and modernize its production without effecting any of the changes required under the aid rules for synthetic fibres.

Therefore in view of all the foregoing considerations with regard to the exemption provided for in Article 92 (3) (c) of the EEC Treaty in favour of 'aid to facilitate the development of certain economic activities', it must be observed that the aid at issue, by artificially lowering the costs of the undertaking in question, weakened the competitive position of other producers in the Community and thereby had the effect of further reducing the overall capacity utilization to the detriment of producers who have, by their own efforts, hitherto survived by virtue of restructurization of their operations, and improvements in productivity and quality, and which may now be forced out of the market. The aid granted to the undertaking in question, whose market position is no longer solely determined by its own profitability, efficiency and financial position, cannot be considered as contributing to a development which from the Community point of view would

be adequate to counteract the distortion of trade caused by the aid.

The exception provided for in Article 92 (3) (c) is also applicable to aid which facilitates the development of certain economic areas, but which does not adversely affect trading conditions to an extent contrary to the common interest.

Because of the weak condition of the man-made fibres industry, the sectoral effects of regional aid have to be checked even for the most underdeveloped areas — to which Selbitz does not belong. Above all, the Commission carries out its analysis of the economic and social situation in the context of the Community interest, which, in this sector, is to reduce capacity.

The limited impact of Reinhold's investments on the labour market, involving the creation of just 14 new jobs, are certainly insufficient to persuade the Commission to set aside its essentially negative attitude to aid in the man-made fibres sector as set out in the aid code.

For all the abovementioned reasons the exception provided for in Article 92 (3) (c) cannot apply to this case.

V

In view of all the foregoing considerations, the elements of aid contained in the DM 1,8 million soft loan paid in the spring of 1989 under the Bavarian regional assistance programme, is illegal because the German Government did not fulfil its obligation to notify pursuant to Article 93 (3) of the EEC Treaty. Moreover, as explained above, the aid unlawfully enjoyed by Reinhold does not meet the conditions which must be fulfilled in order for one of the exceptions of Article 92 (2) and (3) to apply. the aid must therefore be recovered. In quantifying this aid, the Commission has calculated the difference between the reference market rate at the time when the loan was granted (on the assumption that it was 1 April 1989: 7,8 %), and the 4 % interest rate attaching to the loan, namely 3,86 percentage points. At the time of adoption of this Decision the interest subsidy on the loan therefore resulted in a gain of DM 53 044.

Moreover the 10 % grant (DM 344 000) still to be paid under the Investment Premium Law does not meet either the conditions for the exceptions provided for in Articles 92 (2) and (3) and may not therefore be paid.

For each month of delay in complying with this obligation the German Government shall require Reinhold to repay the monthly interest subsidy of DM 2 588,

HAS ADOPTED THIS DECISION:

Article 1

1. The aid granted by the Federal German Republic to Reinhold KG in April 1988 in the form of an interest subsidy on a loan of DM 1,8 million, valued at DM 53 044 at the date of the adoption of this Decision, is illegal as it was granted in breach of the provisions of Article 93 (3) of the EEC Treaty. Moreover, this aid is incompatible with the common market within the meaning of Article 92 of the EEC Treaty.

2. The aid granted to the same firm in the form of a grant of DM 344 000 is incompatible with the common market within the meaning of Article 92 and may not therefore be implemented.

Article 2

1. The German Government shall require Reinhold KG to refund without delay the interest subsidy of DM 53 044 referred to in Article 1 (1).

2. The German Government shall furthermore without delay cancel the aid arising from the loan of DM 1,8 million referred to in Article 1 (1) by requiring the loan to

be refunded or by making it liable to a market interest rate of 7,86 %, which rate corresponds to that charged on loans granted by the Kreditanstalt für Wiederaufbau (programmes M1 and M2).

For each month of delay in complying with this obligation the German Government shall require Reinhold KG to repay the monthly interest subsidy of DM 2 588.

Article 3

The German Government shall inform the Commission of the measures taken to comply with this Decision within two months of its notification.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 17 December 1990.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 24 January 1991

concerning investment aid which the Belgian Government plans to grant to
Mactac SA, Soignies

(Only the French and Dutch texts are authentic)

(91/305/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 and having regard to those comments,

Whereas :

I

The Belgian Law of 17 July 1959 establishing and coordinating measures to promote economic expansion and the creation of new industries and the Royal Order of 17 August 1959 ⁽¹⁾ introduced general measures to assist the Belgian economy, in the form in particular of interest subsidies on loans for investments, State guarantees for loans contracted by enterprises with banks which benefited from the subsidy, and exemption from the property tax for five years.

Having examined the said Law in accordance with Article 93 (1) and (2) of the EEC Treaty, the Commission concluded that it constituted a general aid scheme since it had no sectoral or regional objectives. As the scheme was applicable to all investments, irrespective of enterprise, region or sector, it could not qualify for exemption under Article 93 (3) (a) or (c) of the EEC Treaty. Because of this lack of specificity, the Commission was unable to assess the effects of the scheme in question on intra-Community trade and competition and, in particular, its compatibility with the common market.

The Commission has approved this type of general aid scheme in the past where one of the two following conditions has been satisfied: either the Member State concerned informs the Commission of a regional or

sectoral plan or, failing that, notifies individual significant awards of aid.

Pursuant to Commission Decision 75/397/EEC ⁽²⁾, the Belgian Government is required to notify the Commission in advance of all individual significant awards of aid under the Law of 17 July 1959 to enable it to assess their compatibility with the common market.

As part of its task of keeping under constant review, in cooperation with the Member States, all aid systems existing in those States, the Commission suggested, by letters dated 3 August and 12 September 1990, that the Belgian Government abolish, as from 1 January 1991, the general aid system introduced by the Law of 17 July 1959.

II

By letter dated 31 May 1990, received on 5 June 1990, the Belgian Government, in accordance with the procedure in force, notified the Commission that the Walloon authorities planned to grant investment aid under the Law of 17 July 1959 to Mactac SA, based at Soignies in the province of Hainaut.

Mactac specializes in the manufacture, processing and sale of self-adhesive papers and supplies for silk-screen printing. The investment programme, totalling Bfr 775 million, concerns the construction of a new production line.

The planned aid will take the form of a capital grant of Bfr 93 million and exemption from property tax for five years, representing a net grant equivalent of 9,2 %. The Belgian Government has argued that the investment would introduce new technologies, and that it would benefit both the environment, as the proposed new adhesives are non-polluting, and the region.

The Commission concluded from its initial analysis of the notification that the aid proposal could not be considered compatible with the common market as it would distort competition and adversely affect trade within the meaning of Article 92 (1), and that it did not qualify for exemption pursuant to that Article.

⁽¹⁾ *Moniteur belge* 29. 8. 1959.

⁽²⁾ OJ No L 177, 8. 7. 1975, p. 13.

The Commission noted that the Soignies area was not among the regions receiving regional aid pursuant to Article 92 (3) (a) of (c), that the investment to be aided does not satisfy the conditions set out in the Community framework on environmental aid since it would increase Mactac's production capacity and that aid for setting up a new production line would not facilitate the development of the sector in question within the meaning of Article 92 (3) (c). The Commission therefore decided to initiate the procedure provided for in Article 93 (2) of the EEC Treaty and gave the Belgian Government notice, by letter dated 11 July 1990, to submit its comments.

III

The Belgian Government submitted its observations under the procedure by letter dated 25 September 1990. It particularly emphasized the environmental aspects and Mactac's contribution to the creation of 51 new jobs in a region experiencing severe unemployment. The Belgian authorities claimed that the combination of these two aspects justified the proposed measure.

By letter dated 6 November 1990, the Belgian Government forwarded the comments of the recipient enterprise. The latter contended that the proposed measure should qualify for exemption pursuant to Article 92 (3) (c) since it would facilitate the development of Soignies, a less-favoured area. Nor was the aid liable adversely to affect trading conditions to an extent contrary to the common interest. Mactac also pointed out that the investment would provide for environmental improvements and energy savings, factors which had played a large part in the decision to grant the aid.

No other comments from interested parties were received following the publication of the Commission's letter of 11 July 1990 to the Belgian Government in the *Official Journal of the European Communities*⁽¹⁾.

IV

The capital grant and exemption from property tax proposed by the Belgian authorities constitute aid within the meaning of Article 92 (1) of the EEC Treaty as they would allow the recipient enterprise to be relieved, by

means of State resources, of part of the costs of the investment which it would normally have to bear itself.

Self-adhesive papers are traded between the Member States and there is competition between manufacturers.

According to information in the Commission's possession, there are 36 producers in the Community and a further seven in the EFTA countries, Mactac's share of the European market being 10 %. Although the market for self-adhesives (obtained by the application of various chemical products to processed paper) is an expanding new market, the arrival of new specialized producers has increased competition and pushed down sales prices.

In 1989, the Belgo-Luxembourg Customs Union (UEBL) exported self-adhesive paper and board (CN code 4811 21 00) totalling ECU 83,5 million to other Member States, which represents 26 % of total intra-Community exports, and imported from other Member States goods worth ECU 15,6 million. The recipient firm exports 75 % of its production to other Member States.

Where financial aid from the State strengthens the position of some enterprises in relation to their competitors in the Community, it must be regarded as affecting such competitors.

In view of these considerations, the aid proposed by the Belgian Government is liable to affect trade between Member States and distort competition within the meaning of Article 92 (1) of the EEC Treaty by favouring the firm concerned.

Article 92 (1) provides that aid having the features therein described is in principle incompatible with the common market.

The exceptions provided for in Article 92 (2) of the EEC Treaty are not applicable in the case in point in view of the nature and objectives of the aid in question.

V

Article 92 (3) of the EEC Treaty lists aid which may be compatible with the common market. Compatibility with the EEC Treaty must be determined in the context of the Community as a whole and not in that of a single Member State. In order to ensure the proper functioning of the common market, and having regard to the principle embodied in Article 3 (f) of the EEC Treaty, the

⁽¹⁾ OJ No C 229, 14. 9. 1990, p. 8.

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 the patterns of behaviour that would serve one of the said objectives.

Applying the exceptions to cases not contributing to such an objective or where aid is not needed to this end would mean conferring advantages on the industries or undertakings of certain Member States, thus strengthening their financial position, adversely affecting trading conditions between Member States and distorting competition without any justification based on grounds of the common interest referred to in Article 92 (3).

In view of the foregoing, the aid in question does not qualify for any of the exceptions provided for in Article 92 (3).

Article 92 (3) (a) and (c) allows exceptions for aid that promotes or facilitates the development of certain areas, but there is no region in Belgium which has an abnormally low standard of living or serious underemployment within the meaning of subparagraph (a); as regards the exception in subparagraph (c), the Soignies area in the province of Hainaut, where the firm concerned is located, is not included in the special regional aid zones set out in Commission Decision 82/740/EEC⁽¹⁾, as last amended by Decision No 88/612/EEC⁽²⁾, on the definition of development areas in Belgium.

In the course of the procedure, the Belgian Government and the recipient enterprise stressed the serious problems of high structural unemployment and low *per capita* GDP in the Soignies area. On the basis of indicators defined by the Commission, they submitted that Soignies fulfilled the conditions for being considered a region qualifying for regional aid pursuant to Article 92 (3) (c).

The first point to be noted in this connection is that the scheme to be applied here has no regional objectives. In the course of the Commission's examination of the Law of 17 July 1959 pursuant to Article 93 (1) of the EEC Treaty referred to in the last recital of point 1 of this Decision, the Belgian Government emphasized in its

letter of 12 November 1990 that the Law was not simply a general aid scheme but also a horizontal aid system which provided for:

- aid to protect the environment, in accordance with the Commission framework,
- aid for energy savings and the rational use of energy,
- aid to small and medium-sized undertakings,
- aid to reduce structural and long-term unemployment,
- aid to promote the rational utilization of raw materials.

It must therefore be concluded that regional development is not one of the objectives of the Law of 17 July 1959.

A second problem concerning the application of the regional exemption provided for in subparagraph (c) to the aid plan in question concerns the eligibility of the *town* of Soignies for regional aid. It should first be noted that the *region* of Soignies is not listed as an eligible region under the aid scheme introduced by the Law of 30 December 1970 which was authorized by Decision No 82/740/EEC. The Commission also notes that it has never been requested by the Belgian Government to amend the abovementioned Decision in order to include the region of Soignies in the list of eligible regions.

The principles for the coordination of regional aid schemes and the method for the application of Article 92 (3) (c) to regional aid established by the Commission were published in the C series of the *Official Journal of the European Communities*⁽³⁾. According to that method, assessment of aid is based in particular on structural unemployment and the gross domestic product of a region in relation to the national average. The Belgian Government and Mactac referred in their letters of 25 September 1990 and 6 November 1990 to that method, pointing out that on the basis of the thresholds in force for Belgium⁽⁴⁾, the region of Soignies in practice satisfied the conditions for entitlement to regional aid.

The Commission considers that the fact that a region reaches or exceeds the thresholds of the method is not sufficient to apply the exemption of Article 92 (3) (c) if the Member State in question does not regard the region in question as eligible under its regional policy and therefore does not adopt measures under national law establishing a regional aid scheme in that region.

⁽¹⁾ OJ No L 312, 9. 11. 1982, p. 18.

⁽²⁾ OJ No L 335, 7. 12. 1988, p. 31.

⁽³⁾ OJ No C 31, 3. 2. 1979, p. 9 and

OJ No C 212, 12. 8. 1988, p. 2.

⁽⁴⁾ OJ No C 163, 4. 7. 1990, p. 5.

The application of regional development measures to the whole of a given region, and not to enterprises in isolated geographical points of a region, is not simply an administrative necessity but a response to the need for action throughout the area in question, in accordance with the spirit and letter of Article 92 (3) (c) which provides for aid 'to facilitate the development ... of certain *economic areas*'.

This interpretation is confirmed in point 9 (iii) of the abovementioned coordination principles which states that regional aid may not be granted in a pinpoint manner, i. e. to isolated geographical points having virtually no influence on the development of a region as a whole.

In so far as such aid is not granted to all enterprises located in the region experiencing the socio-economic difficulties described in the method, an individual award to a single enterprise located at a given geographical point (e.g. a town) of the region in question would necessarily have a very limited effect and would not contribute to the development of the region. The aid will not be sufficiently in the Community interest as required by the EEC Treaty.

It must be concluded from the foregoing that the aid which the Belgian Government plans to grant to Mactac alone (investment aid leading to only 51 new jobs) does not satisfy the tests of Article 92 (3) (c) with regard to regional aid.

As to the exceptions provided for in Article 92 (3) (b), the aid in question is not intended to remedy a serious disturbance in the Belgian economy and the Belgian Government has not put forward any such justification. The other exception provided for in paragraph 3 (b) concerns aid to promote the execution of an important project of common European interest. In its framework on State aid in environmental matters which it communicated to Member States by letters dated 7 November 1974, 7 July 1980 and 23 March 1987, the Commission stated that such aid could qualify for exemption pursuant to Article 92 (3) (b) provided that it was granted to finance additional adaptation investments in existing plants, other than investments leading to increased production capacity.

The Mactac investment, however, concerns the setting-up of a new production line leading to a 36 % increase in overall capacity. Aid to such an investment does not satisfy the criteria for exemption pursuant to Article 92 (3) (b).

With regard to the exception in Article 92 (3) (c) for aid to facilitate the development of certain economic activities without adversely affecting trading conditions to an extent contrary to the common interest, the Commission pointed out in its letter of 11 July 1990 to the Belgian Government that the construction of a new production line does not facilitate the development of the industry in question within the meaning of paragraph (3) (c). It considered that it was quite normal, and in each producer's own interests, to maintain or increase its market presence, to develop and market new products, and to use the most modern and efficient techniques for a new line. It also noted that the Belgian authorities had not been able to show the need for the aid and assumed that, given the financial position of the firm and its parent company, market forces alone were sufficient to ensure that the project was carried out without State aid.

In their comments following the opening of the procedure, the Belgian Government and Mactac placed particular emphasis on the regional and environmental aspects of the investment and did not reject the assessment set out by the Commission in its letter of 11 July 1990 as described above.

Mactac SA stressed the fact that it allocates a large part of its budget to research and development costs and that the results obtained are often copied by new producers. The view of the Commission is that the aid in question is an investment aid to finance the construction of a new production line and not an aid covered by the Community framework on State aid for research and development (¹). Thus the firm's research activities do not justify aid for a productive investment.

Mactac also referred to the higher investment, compared with the setting-up of a traditional line, required for a new coating system involving resins in suspension in water instead of resins dissolved in solvents derived from

(¹) OJ No C 83, 11. 4. 1986, p. 2.

oil. Reference should be made in this connection to the framework on a Community approach to State aid in environmental matters, which is based on the 'polluter pays' principle.

Lastly, Mactac pointed out that two of its competitors were in the process of building new factories for the production of self-adhesive materials in France and Luxembourg with State aid. First, aid to an enterprise cannot be justified on the ground that aid is granted to its competitors. As regards the specific aids to which Mactac referred, one concerns an aid to the setting-up of Fasson at Rodange in Luxembourg and the other the setting-up of Raflatac at Pompey (Meurthe-et-Moselle) in France.

It should be noted that both the new plants benefited under regional aid schemes. By Decision of 5 November 1986, the Commission approved regional aid not exceeding 30 % net grant equivalent for the European Development Pole in which Rodange is located and, by Decision of 27 July 1989, it approved a nominal 10 % regional planning grant (PAT) for the setting-up of Raflatac at Pompey. While it is true that both investments could also have gone ahead without the aid, they would not necessarily have been in the form of new plants in the regions in question.

Consequently the aid proposed by the Belgian Government does not fulfil the conditions for exemption under Article 92 (3) of the EEC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The Belgian Government shall not implement the plan of the Walloon authorities, notified to the Commission by letter dated 31 May 1990, to grant aid under the Law of 17 July 1959 in the form of a capital grant of Bfr 93 million and a five-year exemption from the property tax for investments to be carried out by Mactac SA at Soignies.

Article 2

The Belgian Government shall inform the Commission, within two months of the date of notification of this Decision, of the measures it has taken to comply therewith.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 24 January 1991.

For the Commission

Leon BRITTAN

Vice-President