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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 10/93

of 7 January 1993

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 1738/92⁽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 Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽⁵⁾, and in particular Article 5 thereof,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission

Regulation (EEC) No 3873/92⁽⁶⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 6 January 1993, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1820/92 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 January 1993.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ No L 390, 31. 12. 1992, p. 118.

ANNEX

to the Commission Regulation of 7 January 1993 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

| CN code | Third countries (*) |
|------------|---------------------|
| 0709 90 60 | 133,20 (2) (3) |
| 0712 90 19 | 133,20 (2) (3) |
| 1001 10 00 | 172,54 (1) (3) (10) |
| 1001 90 91 | 141,62 |
| 1001 90 99 | 141,62 (11) |
| 1002 00 00 | 156,99 (6) |
| 1003 00 10 | 124,24 |
| 1003 00 20 | 124,24 |
| 1003 00 80 | 124,24 (11) |
| 1004 00 00 | 113,52 |
| 1005 10 90 | 133,20 (2) (3) |
| 1005 90 00 | 133,20 (2) (3) |
| 1007 00 90 | 134,67 (4) |
| 1008 10 00 | 44,86 (11) |
| 1008 20 00 | 70,28 (4) |
| 1008 30 00 | 35,85 (5) |
| 1008 90 10 | (7) |
| 1008 90 90 | 35,85 |
| 1101 00 00 | 211,03 (8) (11) |
| 1102 10 00 | 231,68 (8) |
| 1103 11 30 | 279,80 (8) (10) |
| 1103 11 50 | 279,80 (8) (10) |
| 1103 11 90 | 226,93 (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.
- (3) Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.
- (4) Where millet and sorghum originating in the ACP 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 and Commission Regulation (EEC) No 2622/71.
- (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.
- (9) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC, except if paragraph 4 of the same Article applies.
- (10) An amount equal to the amount fixed by Regulation (EEC) No 1825/91 is to be levied in accordance with Article 101 (4) of Decision 91/482/EEC.
- (11) Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 11/93

of 7 January 1993

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 1738/92 ⁽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 Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽⁵⁾, and in particular Article 5 thereof,Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 3874/92 ⁽⁶⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 6 January 1993, as regards floating currencies, should be used to calculate the levies;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 January 1993.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.⁽⁶⁾ OJ No L 390, 31. 12. 1992, p. 121.

ANNEX

to the Commission Regulation of 7 January 1993 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

| CN code | Current | 1st period | 2nd period | 3rd period |
|------------|---------|------------|------------|------------|
| | 1 | 2 | 3 | 4 |
| 0709 90 60 | 0 | 0 | 0 | 1,62 |
| 0712 90 19 | 0 | 0 | 0 | 1,62 |
| 1001 10 00 | 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 20 | 0 | 0 | 0 | 0 |
| 1003 00 80 | 0 | 0 | 0 | 0 |
| 1004 00 00 | 0 | 0 | 0 | 0 |
| 1005 10 90 | 0 | 0 | 0 | 1,62 |
| 1005 90 00 | 0 | 0 | 0 | 1,62 |
| 1007 00 90 | 0 | 0 | 0 | 0 |
| 1008 10 00 | 0 | 0 | 0 | 0 |
| 1008 20 00 | 0 | 0 | 0 | 0 |
| 1008 30 00 | 0 | 0 | 0 | 0 |
| 1008 90 90 | 0 | 0 | 0 | 0 |
| 1101 00 00 | 0 | 0 | 0 | 0 |

B. Malt

(ECU/tonne)

| CN code | Current | 1st period | 2nd period | 3rd period | 4th period |
|------------|---------|------------|------------|------------|------------|
| | 1 | 2 | 3 | 4 | 5 |
| 1107 10 11 | 0 | 0 | 0 | 0 | 0 |
| 1107 10 19 | 0 | 0 | 0 | 0 | 0 |
| 1107 10 91 | 0 | 0 | 0 | 0 | 0 |
| 1107 10 99 | 0 | 0 | 0 | 0 | 0 |
| 1107 20 00 | 0 | 0 | 0 | 0 | 0 |

COMMISSION REGULATION (EEC) No 12/93

of 7 January 1993

opening invitations 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 last amended by Regulation (EEC) No 3890/92⁽²⁾, and in particular Article 7 (3) 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) No 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,

HAS ADOPTED THIS REGULATION:

Article 1

Separate invitations to tender are opened in Great Britain, Denmark, Germany, France, Netherlands, Ireland and Northern Ireland 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 submitted to the intervention agencies of the Member States concerned.

Article 2

Tenders must be submitted not later than 2 p.m. on 15 January 1993 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, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 391, 31. 12. 1992, p. 51.

⁽³⁾ OJ No L 333, 30. 11. 1990, p. 39.

⁽⁴⁾ OJ No L 120, 15. 5. 1991, p. 15.

⁽⁵⁾ OJ No L 333, 30. 11. 1990, p. 46.

COMMISSION REGULATION (EEC) No 13/93

of 7 January 1993

fixing the corrective amount applicable to the refund on cereals

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 1738/92⁽²⁾,

Having regard to Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds⁽³⁾,

Whereas Article 16 (4) of Regulation (EEC) No 2727/75 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount must be applied to the refund;

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice⁽⁴⁾, as last amended by Regulation (EEC) No 1906/87⁽⁵⁾, made possible the fixing of a corrective amount for certain products listed in Article 1 (c) of Regulation (EEC) No 2727/75;

Whereas Commission Regulation (EEC) No 1281/75⁽⁶⁾ laid down detailed rules for the advance fixing of export refunds for cereals and certain products processed from cereals;

Whereas, pursuant to that Regulation, when the corrective amount is being fixed, account must be taken of the existing situation and the future trend with regard to prices

and availabilities of cereals on the Community market on the one hand and possibilities and conditions for the sale of cereals and cereal products on the world market on the other; whereas the same Regulation provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of exports and the need to avoid disturbances on the Community market;

Whereas for the products listed in Article 1 (c) of Regulation (EEC) No 2727/75 account should be taken of the specific criteria laid down in Article 2 (2) of Regulation (EEC) No 1281/75;

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

Whereas the corrective amount must be fixed at the same time as the refund and according to the same procedure; whereas it may be altered in the period between fixings;

Whereas, if the system of corrective amounts is to operate normally, corrective amounts 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⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- 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 it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto;

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽⁶⁾ OJ No L 131, 22. 5. 1975, p. 15.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

export refunds fixed in advance in respect of cereals shall be as set out in the Annex hereto.

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 16 (4) of Regulation (EEC) No 2727/75 which is applicable to

Article 2

This Regulation shall enter into force on 8 January 1993.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 7 January 1993 fixing the corrective amount applicable to the refund on cereals

(ECU/tonne)

| Product code | Destination (1) | Current | 1st period | 2nd period | 3rd period | 4th period | 5th period | 6th period |
|----------------|-----------------|---------|------------|------------|------------|------------|------------|------------|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 0709 90 60 000 | — | — | — | — | — | — | — | — |
| 0712 90 19 000 | — | — | — | — | — | — | — | — |
| 1001 10 00 200 | — | — | — | — | — | — | — | — |
| 1001 10 00 400 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1001 90 91 000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1001 90 99 000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1002 00 00 000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1003 00 10 000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1003 00 20 000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1003 00 80 000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1004 00 00 200 | — | — | — | — | — | — | — | — |
| 1004 00 00 400 | — | — | — | — | — | — | — | — |
| 1005 10 90 000 | — | — | — | — | — | — | — | — |
| 1005 90 00 000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1007 00 90 000 | — | — | — | — | — | — | — | — |
| 1008 20 00 000 | — | — | — | — | — | — | — | — |
| 1101 00 00 100 | 01 | 0 | 0 | - 35,00 | - 35,00 | - 35,00 | — | — |
| 1101 00 00 130 | 01 | 0 | 0 | - 35,00 | - 35,00 | - 35,00 | — | — |
| 1101 00 00 150 | 01 | 0 | 0 | - 35,00 | - 35,00 | - 35,00 | — | — |
| 1101 00 00 170 | 01 | 0 | 0 | - 35,00 | - 35,00 | - 35,00 | — | — |
| 1101 00 00 180 | 01 | 0 | 0 | - 35,00 | - 35,00 | - 35,00 | — | — |
| 1101 00 00 190 | — | — | — | — | — | — | — | — |
| 1101 00 00 900 | — | — | — | — | — | — | — | — |
| 1102 10 00 500 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1102 10 00 700 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1102 10 00 900 | — | — | — | — | — | — | — | — |
| 1103 11 30 200 | 01 | 0 | 0 | 0 | 0 | 0 | - 160,00 | - 160,00 |
| 1103 11 30 900 | — | — | — | — | — | — | — | — |
| 1103 11 50 200 | 01 | 0 | 0 | 0 | 0 | 0 | - 160,00 | - 160,00 |
| 1103 11 50 400 | 01 | 0 | 0 | 0 | 0 | 0 | - 160,00 | - 160,00 |
| 1103 11 50 900 | — | — | — | — | — | — | — | — |
| 1103 11 90 200 | 01 | 0 | 0 | - 35,00 | - 35,00 | - 35,00 | - 50,00 | - 50,00 |
| 1103 11 90 800 | — | — | — | — | — | — | — | — |

(1) For the following destinations:
01 all third countries.

NB: The zones are those defined in Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EEC) No 14/93

of 7 January 1993

correcting Regulation (EEC) No 3877/92 fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex II to the Treaty

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 1738/92⁽²⁾, and in particular the first sentence of the fourth subparagraph of Article 16 (2) thereof,Whereas the amounts of the refunds applicable from 1 to 31 January 1993 were fixed by Commission Regulation (EEC) No 3877/92⁽³⁾;

Whereas a check has revealed some errors; whereas the Regulation in question should be corrected accordingly,

— opposite CN code 1001 10 90 :

for: '11,388',*read:* '11,366';

— opposite CN code 1003 00 90 :

for: '3,038',*read:* '3,036';

— opposite CN code 1004 00 90 :

for: '8,371',*read:* '6,371'.

HAS ADOPTED THIS REGULATION :

*Article 2**Article 1*

The Annex to Regulation (EEC) No 3877/92 is hereby corrected as follows :

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

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

Done at Brussels, 7 January 1993.

For the Commission

Martin BANGEMANN

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.⁽³⁾ OJ No L 391, 31. 12. 1992, p. 3.

COMMISSION REGULATION (EEC) No 15/93

of 7 January 1993

applying the duty in the Common Customs Tariff to fresh lemons originating in Cyprus

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 1252/73 of 14 May 1973 on imports of citrus fruits originating in Cyprus⁽¹⁾, and in particular Article 5 thereof,

Whereas Article 5 (2) and (3) of Annex I to the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus provides for a reduced rate of duty on imports into the Community of fresh lemons originating in Cyprus; whereas, during the period in which reference prices are applied, this reduction is dependent on the observance of a specified price on the Community market; whereas detailed rules for the application of this system are contained in Regulation (EEC) No 1252/73; whereas, in certain respects, these rules refer to provisions of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽²⁾ as last amended by Regulation (EEC) No 1754/92⁽³⁾;

Whereas Regulation (EEC) No 1252/73 provides that, where products are imported, the duty in the Common Customs Tariff is applied where quotations for that product, in accordance with the provisions of Article 24 (2) of Regulation (EEC) No 1035/72 recorded on the representative Community markets at the importer/wholesaler stage or converted to that stage, adjusted by the conversion factors and following deduction of import charges other than customs duties, remain lower than the reference price in force, plus the incidence of the Common Customs Tariff on that price and a standard amount fixed at 1,2 units of account (ECU 1,44) per 100 kilograms, for three consecutive market days on the representative markets of the Community with the lowest quotations;

Whereas the conversion factors and import charges other than customs duties are those used for the purpose of

calculating the entry price referred to in Regulation (EEC) No 1035/72; whereas the method of calculating import charges other than customs duties is, for certain cases, defined in Article 2 of Regulation (EEC) No 1252/73;

Whereas, if the system is to operate normally, it 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⁽⁴⁾, as last amended by Regulation (EEC) No 2205/90⁽⁵⁾,

— 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 application of these rules to quotations recorded for lemons imported into the Community and originating in Cyprus indicates that the conditions set out in the first paragraph of Article 4 of Regulation (EEC) No 1252/73 are fulfilled; whereas the duty in the Common Customs Tariff should, therefore, be applied to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

As from 9 January 1993, the duty in the Common Customs Tariff shall be applied to fresh lemons CN code ex 0805 30 10 imported into the Community and originating in Cyprus.

Article 2

This Regulation shall enter into force on 9 January 1993.

⁽¹⁾ OJ No L 133, 21. 5. 1973, p. 113.

⁽²⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽³⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ 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, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EEC) No 16/93

of 7 January 1993

fixing the maximum export refund for white sugar for the 35th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 920/92

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 3814/92⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 920/92 of 10 April 1992 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, as amended by Regulation (EEC) No 1684/92⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 920/92, 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 35th partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas Council Regulation (EEC) No 1432/92⁽⁵⁾, as amended by Regulation (EEC) No 3534/92⁽⁶⁾, prohibits

trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

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

1. For the 35th partial invitation to tender for white sugar issued pursuant to amended Regulation (EEC) No 920/92 the maximum amount of the export refund is fixed at ECU 42,342 per 100 kilograms.

2. Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

Article 2

This Regulation shall enter into force on 8 January 1993.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 7.

⁽³⁾ OJ No L 98, 11. 4. 1992, p. 11.

⁽⁴⁾ OJ No L 176, 30. 6. 1992, p. 31.

⁽⁵⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁶⁾ OJ No L 358, 8. 12. 1992, p. 16.

COMMISSION REGULATION (EEC) No 17/93

of 7 January 1993

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 3814/92 ⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

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 1684/92 ⁽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 Council Regulation (EEC) No 1432/92 ⁽⁸⁾, as amended by Regulation (EEC) No 3534/92 ⁽⁹⁾, prohibits trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

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 ⁽¹⁰⁾, as last amended by Regulation (EEC) No 2205/90 ⁽¹¹⁾,
- 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,

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 7.

⁽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 176, 30. 6. 1992, p. 31.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁹⁾ OJ No L 358, 8. 12. 1992, p. 16.

⁽¹⁰⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽¹¹⁾ OJ No L 201, 31. 7. 1990, p. 9.

HAS ADOPTED THIS REGULATION:

exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and

Article 2

This Regulation shall enter into force on 8 January 1993.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 7 January 1993 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

| Product code | Amount of refund ⁽¹⁾ |
|----------------|---------------------------------|
| | — ECU/100 kg — |
| 1701 11 90 100 | 37,42 ⁽¹⁾ |
| 1701 11 90 910 | 35,72 ⁽¹⁾ |
| 1701 11 90 950 | ⁽²⁾ |
| 1701 12 90 100 | 37,42 ⁽¹⁾ |
| 1701 12 90 910 | 35,72 ⁽¹⁾ |
| 1701 12 90 950 | ⁽²⁾ |
| | — ECU/1 % of sucrose × 100 kg — |
| 1701 91 00 000 | 0,4068 |
| | — ECU/100 kg — |
| 1701 99 10 100 | 40,68 |
| 1701 99 10 910 | 39,81 |
| 1701 99 10 950 | 39,81 |
| | — ECU/1 % of sucrose × 100 kg — |
| 1701 99 90 100 | 0,4068 |

⁽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, as amended by Regulation (EEC) No 3251/85.

⁽³⁾ Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

COMMISSION REGULATION (EEC) No 18/93
of 7 January 1993
fixing the aid for cotton

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

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 thereto, as amended by the Act of Accession of Spain and Portugal, and in particular Protocol 14 annexed thereto, and Commission Regulation (EEC) No 4006/87⁽¹⁾,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton⁽²⁾, as last amended by Regulation (EEC) No 2053/92⁽³⁾, and in particular Article 5 (1) thereof,

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 3868/92⁽⁴⁾, as last amended by Regulation (EEC) No 3557/92⁽⁵⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2539/92 to the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The aid for unginned cotton referred to in Article 5 of Regulation (EEC) No 2169/81 shall be ECU 72,348 per 100 kilograms.

Article 2

This Regulation shall enter into force on 8 January 1993.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 215, 30. 7. 1992, p. 12.

⁽⁴⁾ OJ No L 390, 31. 12. 1992, p. 106.

⁽⁵⁾ OJ No L 361, 10. 12. 1992, p. 40.

COMMISSION REGULATION (EEC) No 19/93

of 7 January 1993

fixing the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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 1738/92⁽²⁾, and in particular the fourth subparagraph of Article 16 (2) thereof,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds⁽³⁾ provides that when refunds are being fixed, account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand, and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market;

Whereas Article 3 of Regulation (EEC) No 2746/75 defines the specific criteria to be taken into account when the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC⁽⁴⁾, as last amended by Regulation (EEC) No 468/92⁽⁵⁾;

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

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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⁽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 coefficient referred to in the preceding indent;

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

Whereas Council Regulation (EEC) No 1432/92⁽⁸⁾ as last amended by Regulation (EEC) No 3534/92⁽⁹⁾, prohibits trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

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 export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 January 1993.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No 128, 27. 6. 1967, p. 2574/67.

⁽⁵⁾ OJ No L 53, 28. 2. 1992, p. 15.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁹⁾ OJ No L 358, 8. 12. 1992, p. 16.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 7 January 1993 fixing export refunds on cereals and on wheat or rye flour, groats and meal

| <i>(ECU/tonne)</i> | | | <i>(ECU/tonne)</i> | | |
|--------------------|-----------------|----------------------|--------------------|-----------------|----------------------|
| Product code | Destination (1) | Amount of refund (2) | Product code | Destination (1) | Amount of refund (2) |
| 0709 90 60 000 | — | — | 1005 90 00 000 | 04 | 84,00 |
| 0712 90 19 000 | — | — | | 02 | 0 |
| 1001 10 00 200 | — | — | 1007 00 90 000 | — | — |
| 1001 10 00 400 | 04 | 50,00 | 1008 20 00 000 | — | — |
| | 02 | 20,00 | 1101 00 00 100 | 01 | 93,00 |
| 1001 90 91 000 | 01 | 0 | 1101 00 00 130 | 01 | 88,00 |
| 1001 90 99 000 | 04 | 58,00 | 1101 00 00 150 | 01 | 81,00 |
| | 05 | 21,00 | 1101 00 00 170 | 01 | 75,00 |
| | 02 | 20,00 | 1101 00 00 180 | 01 | 70,00 |
| 1002 00 00 000 | 03 | 21,00 | 1101 00 00 190 | — | — |
| | 02 | 20,00 | 1101 00 00 900 | — | — |
| 1003 00 10 000 | 01 | 0 | 1102 10 00 500 | 01 | 125,00 (3) |
| 1003 00 20 000 | 04 | 66,00 | 1102 10 00 700 | — | — |
| | 02 | 20,00 | 1102 10 00 900 | — | — |
| 1003 00 80 000 | 04 | 66,00 | 1103 11 30 200 | 01 | 140,00 |
| | 02 | 20,00 | 1103 11 30 900 | 01 | 0 |
| 1004 00 00 200 | — | — | 1103 11 50 200 | 01 | 140,00 |
| 1004 00 00 400 | — | — | 1103 11 50 400 | 01 | 120,00 |
| 1005 10 90 000 | — | — | 1103 11 50 900 | 01 | 0 |
| | | | 1103 11 90 200 | 01 | 93,00 |
| | | | 1103 11 90 800 | — | — |

(1) The destinations are identified as follows:

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 05 Poland.

(2) Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

(3) Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of a quantity of 50 000 tonnes of rye flour destined for all third countries.

NB: The zones are those defined in Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EEC) No 20/93

of 7 January 1993

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2046/92⁽²⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 1900/92⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 1901/92⁽⁶⁾, and in particular Article 5 thereof,

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

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 1902/92⁽¹⁰⁾, and in particular Article 10 (2) thereof,

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

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

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

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

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁴⁾, no levies shall apply on imports of products originating in the overseas countries and territories; whereas, however, pursuant to Article 101 (4) of the abovementioned Decision, a special amount shall be charged on imports of certain products originating in the overseas countries and territories in order to prevent products originating from these countries and territories from receiving more favourable treatment than similar products imported from Spain or Portugal into the Community as constituted on 31 December 1985;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 4 and 5 January 1993 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

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

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 192, 11. 7. 1992, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 192, 11. 7. 1992, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 192, 11. 7. 1992, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

Article 3

This Regulation shall enter into force on 8 January 1993.

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

Done at Brussels, 7 January 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Minimum import levies on olive oil⁽¹⁾

(ECU/100 kg)

| CN code | Non-member countries |
|------------|-----------------------|
| 1509 10 10 | 79,00 ⁽²⁾ |
| 1509 10 90 | 79,00 ⁽²⁾ |
| 1509 90 00 | 92,00 ⁽²⁾ |
| 1510 00 10 | 77,00 ⁽²⁾ |
| 1510 00 90 | 122,00 ⁽⁴⁾ |

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3094/92 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

⁽²⁾ For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

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

(b) Tunisia : ECU 12,69 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(c) Turkey : ECU 22,36 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(d) Algeria and Morocco : ECU 24,78 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

⁽³⁾ For imports of oil falling within this CN code :

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

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

⁽⁴⁾ For imports of oil falling within this CN code :

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

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

ANNEX II

Import levies on other olive oil sector products⁽¹⁾

(ECU/100 kg)

| CN code | Non-member countries |
|------------|----------------------|
| 0709 90 39 | 17,38 |
| 0711 20 90 | 17,38 |
| 1522 00 31 | 39,50 |
| 1522 00 39 | 63,20 |
| 2306 90 19 | 6,16 |

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3148/91 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE 92/105/EEC

of 3 December 1992

establishing a degree of standardization for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 92/10/EEC⁽²⁾, and in particular Article 2 (1) (f) second subparagraph, and Article 10 (4) thereof,

Whereas the application of the Community plant-health system to the Community as an area without internal frontiers will necessitate plant-health checks on potentially hazardous Community products before their movement within the Community; whereas the most appropriate place for carrying out these checks is the place of production of producers listed in an official register;

Whereas, if the result of these checks is satisfactory, instead of the phytosanitary certificate used in international trade, a plant passport adapted to the type of product must be attached to the plants, to their packaging or to the vehicle transporting them, to ensure its free

movement throughout the Community or those parts thereof for which it is valid;

Whereas, in the case of plants, plant products or other objects originating outside the Community, which have successfully undergone the required plant-health checks on first introduction into the Community, a plant passport must also be attached for the same purpose;

Whereas it is necessary to provide for a standardized layout for the different types of plants or plant products;

Whereas, however, during an initial phase a system making use of a simplified plant passport with a degree of standardization should be used in order to make it possible for plants, plant products or other objects to be moved, as from 1 January 1993; whereas this system will be reconsidered on the basis of an assessment of the gained during the said phase;

Whereas, if one plant passport is to be replaced by another, a special mark must be defined for the replacement passport;

Whereas, with a view to ensuring that the movement of plants, plant products or other objects by Member States is properly monitored, it is necessary to establish more detailed and more uniform procedures for the issuing and replacement of plant passports;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 70, 17. 3. 1992, p. 27.

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. Member States shall ensure that the conditions laid down in paragraph 2 are met when a plant passport referred to in Article 2(1)(f), first subparagraph, of Council Directive 77/93/EEC is prepared by their responsible official bodies for use in accordance with the provisions of Articles 2 and 3 of this Directive.

2. The following conditions shall be met :

(a) the plant passport shall consist of an official label and an accompanying document containing the required information as laid down in the Annex hereto. The label shall not have previously been used and shall be of suitable material. The use of official adhesive labels shall be authorized. The 'accompanying document' shall mean any document which is normally used for trade purposes. This document shall not be necessary if the required information as laid down in the Annex is set out on the said label ;

(b) the required information shall preferably be printed and shall be in at least one of the official languages of the Community ;

(c) in the case of a plant passport for tubers of *Solanum tuberosum* L., intended for planting, it shall be the official label as specified in Council Directive 66/403/EEC⁽¹⁾. Compliance with the provisions governing the introduction of seed potatoes into, and their movement within, a protected zone recognized in respect of harmful organisms relating to seed potatoes, shall be noted either on the label or on any other trade document.

3. Member States shall require that when the plant passport consists of the label and the accompanying document :

(a) the part of the plant passport consisting of the label shall provide at least the particulars required under items 1 to 5 of the Annex ; and

(b) the part of the plant passport consisting of the accompanying document shall provide at least the particulars required under items 1 to 10 of the Annex.

4. Any particulars other than those listed in the Annex, of relevance for labelling purposes under Council Directives 91/682/EEC⁽²⁾, 92/33/EEC⁽³⁾ or 92/34/EEC⁽⁴⁾ may also be provided on the said accompanying document, but shall be clearly separated from the information specified in the Annex.

⁽¹⁾ OJ No 125, 11. 7. 1966, p. 2320/66.

⁽²⁾ OJ No L 376, 31. 12. 1991, p. 21.

⁽³⁾ OJ No L 157, 10. 6. 1992, p. 1.

⁽⁴⁾ OJ No L 157, 10. 6. 1992, p. 10.

Article 2

1. Member States shall ensure that the conditions laid down in paragraph 2 are met when a plant passport is produced, printed and stored.

2. The plant passport shall be produced, printed and/or subsequently stored either by the responsible official bodies referred to in Article 1(1) directly, or — under their control — by the producer referred to in Article 6(4), third subparagraph, or person referred to in Article 10(3), second indent, or importer referred to in Article 12(6), second subparagraph of Directive 77/93/EEC.

Article 3

1. Member States shall ensure that the conditions laid down in paragraph 2 are met when a plant passport is issued and attached to plants, plant products or other objects, to their packaging or to the vehicles transporting them.

The issuing includes the preparation of the passport, in particular the filling-in of the information, and the action necessary to make the plant passport available for use by the applicant.

2. For the purpose of paragraph 1, the responsible official bodies referred to in Article 1(1) shall, without prejudice to the requirements laid down in Directive 77/93/EEC :

(a) ensure that the producer, person or importer referred to in Article 2(2) applies to them for the issuance of a plant passport, or for the replacement of a plant passport ;

(b) determine, where appropriate, on the basis of examinations provided for in Article 6(1)(2) and (3) of Directive 77/93/EEC and carried out in accordance with Article 6(4) or on the basis of the requirements laid down in Article 10(3) or 12(6) of the said Directive, the restrictions applicable to the plants, plant products or other objects, and accordingly the territorial validity of the plant passport, or determine the replacement of the said plant passport, as well as the information to be filled in.

If the producer, person or importer referred to in Article 2(2) intends to dispatch a plant, plant product or other object into a protected zone referred to in Article 2(1)(h) of the said Directive for which he does not have a valid plant passport, the said responsible official bodies shall take the necessary steps and determine accordingly whether the product is qualified for the relevant protected zone. The said responsible official bodies shall ensure that the producer, person or importer referred to in Article 2(2) shall notify the

abovementioned intention to them within a reasonable period of time prior to dispatch and shall apply simultaneously for the corresponding plant passport ;

- (c) ensure that the information is filled in, either entirely in capital letters if the plant passport is pre-printed, or in capital letters or entirely in typescript in all other cases. The botanical name of the plants or plant products shall be indicated in Latin characters ; uncerified alterations or erasures shall invalidate the said plant passport ;
- (d) ensure that if a plant, plant product or other object has received the qualification by them for a specific protected zone(s), the code for the protected zone(s) shall be indicated on the plant passport, against the distinctive marking 'ZP' (*zona protecta*) indicating that the said plant passport covers a plant, plant product or other object qualified for a protected zone(s) ;
- (e) ensure that if a plant passport is to be delivered for a plant, plant product or other object originating outside the Community, the plant passport shall be used, with the indication of the name of the country of origin or, where appropriate, the consignor country on the said plant passport ;
- (f) ensure that if a plant passport is to be replaced by another plant passport, the plant passport referred to in Article 1 (1) shall be used ; the code for the originally registered producer or importer shall be indicated on the said plant passport, against the distinctive marking 'RP' ('replacement passport') indicating that the said plant passport replaces another plant passport ;
- (g) depending on where the said plant passport is physically stored, either deliver the said plant passport, or authorize the producer, person or importer referred to in Article 2 (2) to use it accordingly ;
- (h) ensure that the part of the said plant passport consisting of the label be attached under the responsibility of the producer, person or importer referred to in

Article 2 (2), to the plants, plant products or other objects, to their packaging or to the vehicles transporting them in such a manner that it cannot be reused.

Article 4

The system whereby the plant passport referred to in Article 1 (1) is used shall be reconsidered not later than 30 June 1994.

The use of the plant passport referred to in Article 1 (2) (c) shall apply for a period expiring on 30 June 1993.

Article 5

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive on the date referred to in Article 3 (1) of Council Directive 91/683/EEC⁽¹⁾. They shall forthwith inform the Commission thereof.

2. When Member States adopt these measures, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

3. Member States shall immediately communicate to the Commission all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 3 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 376, 31. 12. 1991, p. 29.

*ANNEX***REQUIRED INFORMATION**

1. 'EEC-plant passport'.
 2. Indication of EC Member State code.
 3. Indication of responsible official body or its distinguishing code.
 4. Registration number.
 5. Individual serial, or week or batch number.
 6. Botanical name.
 7. Quantity.
 8. The distinctive marking 'ZP' for the territorial validity of the passport and, where appropriate, the name of the protected zone(s) for which the product is qualified.
 9. The distinctive marking 'RP' in case of replacement of a plant passport and, where appropriate, the code for the originally registered producer or importer.
 10. Where appropriate, the name of the country of origin or consignor country, for third country products.
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COMMISSION DECISION

of 4 December 1992

relating to a proceeding pursuant to Articles 85 of the EEC Treaty
IV/32.797 and 32.798 — Lloyd's Underwriters' Association and The Institute of
London Underwriters

(Only the English text is authentic)

(93/3/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation No 17 of 6 February
1962, First Regulation implementing Articles 85 and 86
of the Treaty⁽¹⁾, as last amended by the Act of Accession
of Spain and Portugal, and in particular Article 2 thereof,

Having regard to the notification and application for
exemption and/or negative clearance of 7 June 1989
submitted to the Commission by Lloyd's Underwriters'
Association and the Institute of London Underwriters of
two agreements, namely the Joint Hull Understandings
(JHU) and the Respect of Lead Agreement (RLA),

Having regard to the Commission Decision of 1 October
1990 to initiate proceedings in this case,

Having regard to the summary of the application and
notification published⁽²⁾ pursuant to Article 19 (3) of
Regulation No 17,

After consulting the Advisory Committee on Restrictive
Practices and Dominant Positions,

HAS DECIDED AS FOLLOWS:

I. THE FACTS

A. The notification

- (1) On 7 June 1989 the Institute of London Underwriters (ILU) and Lloyd's Underwriters' Association (LUA) formally notified to the Commission for negative clearance or exemption two Agreements referred to as the Joint Hull Understandings (JHU) and the Respect of Lead Agreement (RLA). This formal notification was preceded by an informal notification and submission in relation to both Agreements by letters dated 7 July 1988. The noti-

fied Agreements relate to marine hull and machinery insurance.

B. The associations of undertakings

- (2) The ILU is an association of insurers (underwriters) offering marine and aviation insurance in London. Founded in 1884, it provides the usual functions of a trade association including various administrative support services for members. It has approximately 112 members of which 50 % are British-owned companies. The other half comprises subsidiaries or branches of companies from around the developed world.
- (3) Lloyd's of London is an incorporated society of private underwriters who provide an international market for almost any type of insurance. It has a premium income of approximately £ 6 000 million per year. Three-quarters of this business comes from outside the United Kingdom. Policies are subscribed by private individuals whose liability is unlimited. There are currently some 31 000 members who are grouped into some 400 syndicates. A specialist underwriter agent accepts business on behalf of each syndicate. Members may join more than one syndicate.
- (4) LUA was founded in 1909 and represents all Lloyd's syndicates which handle marine business, of which there are approximately 230.
- (5) The two Associations operate a number of joint committees whose purpose is to monitor topics of interest in particular fields and which brings together specialists in each field. One of these committees is the Joint Hull Committee (JHC) referred to below. The JHC comprises 16 people drawn in equal numbers from the LUA and ILU. The JHC's *raison d'être* is to consider matters of market interest and to develop and administer the two notified Agreements — the JHU and RLA.
- (6) ILU and LUA represent the vast majority of underwriters active in marine insurance in London. Together, they account for approximately 90 % of the United Kingdom's total marine insurance capacity, the remainder being provided by a few companies outside the two Associations.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 87, 8. 4. 1992, p. 4.

C. The Market

- (7) Marine hull insurance is written mainly in the USA, France, Norway and the United Kingdom. The United Kingdom share of international hull business is a significant part of the world total for hull insurance not subject to compulsory localization requirements. The parties estimate that approximately 25 % of Community hull business is insured in London and that a higher proportion of vessels from outside the EEC is insured in London. The parties have also said that the London market's reputation in the marine insurance business means that many risks are 'led' (i.e. initially but partially placed) in London with other foreign markets following the London market's judgment on rating and claims settlements so that to some extent the 'London market's influence is somewhat greater than its true market share'.
- (8) Total premiums earned by the two Associations from marine insurance is estimated to be approximately £ 4 000 million per year of which £ 3 000 million is hull and machinery insurance.
- (9) Shipowners generally use insurance brokers to handle business on their own behalf to ensure that their fleets are placed on the best possible terms to be found in any markets anywhere in the world. According to the applicants 'competition on hull business tends to be between rather than within markets'. Thus, the London market as a unit competes directly with other markets with risks being switched between markets where brokers obtain better terms from a different market but there is little competition within the London market itself which is initiated by underwriters. The market relies upon brokers to initiate competitive requests.
- (10) Marine insurance is characterized by the fact that it is normally done on a co-insurance basis, i.e., because of the large amounts of money involved, underwriters almost always seek to share exposure on a given risk by limiting participation to an agreed proportion of the whole. Sometimes a particular risk is placed in more than one market (i.e. in both London and, for example, France). It is usual, even for co-insurers, to seek reinsurance for part of the risk and, where the risk is covered partly in another market, the underwriters in that other market may reinsure in London.
- (11) Another characteristic of this market is that only a few underwriters (known as leaders) consider any particular risk in detail, evaluating the risk and assessing appropriate conditions and premiums. The remainder (known as followers) rely largely on the judgment of the leaders to decide whether they too should participate so that the reputation of the leader is of some importance in helping the broker obtain following support in the market. The placing of a risk is done by means of a 'slip' or order form which gives details of the risk and the cover proposed. A typical placing of a marine hull risk would involve some 20 underwriters and could be as large as 50 where the sums involved are very large.
- (12) Similarly when claims are made, although each underwriter theoretically has the right to decide for himself, in practice the leaders make the decision and followers merely review it briefly. Payments are made centrally as are premiums.
- (13) A further distinguishing feature of hull insurance is that it has a 'long tail', i.e. a long time may elapse between payment of premium on the one hand and the reporting and payment of claims on the other. Most claims are made well after the policy year in which the damage occurred, usually in the third or fourth year and very few, other than major casualties, are even reported before the second year. This is why at renewal the insurer does not take into account solely the current year's results but rather several years and, if possible, as many as eight years. This period is thought to be adequate to give a complete pattern of losses and claims and to give an indication of when losses occur and when claims are made.
- (14) According to the applicants, 'the main focus for competition is on price, with claims settlement experience and the security and reputation of the insurance carriers also carrying considerable weight'.
- (15) Other characteristics of this market are the high frequency of claims and the role of the owner, crew and other variables in assessing the risk. The importance of these additional factors, and particularly that of the owner, mean that 'in hull insurance one vessel could be insured at more than ten times the premium payable for an identical one owned by a shipowner with a good record.'

D. The Agreements as notified

- (i) *The Joint Hull Understandings (JHU)*
- (16) The JHU contained three clauses (clauses 3, 2B and 11) which limited the freedom of the members of ILU and LUA to determine their own prices, particularly on renewal. These clauses, following the issuing of a statement of objections, ceased to be applied by LUA and ILU on 25 April 1991. These clauses are described below.
- (17) Clause 3 referred to a 'Graph' annexed to the JHU. This graph set out recommended minimum premium increases for a given loss ratio. The rate of increase increased as the loss ratio worsened. For example, for a single vessel with a 17 % credit balance or loss ratio (i.e. premiums paid exceed losses by 17 %) the increase was 53 %. If the balance went into debit at say — 25 %, the rate of increase would be 90 %. For larger fleets, the rates could vary within a certain band and the rates within the bands were lower than those applying to single vessels. For ratios (i.e. debit balances) in excess of — 25 %, the leaders were free to charge such further increases as they thought appropriate. If the terms of renewal were below the minima set in 'the graph, it is strongly recommended that the four leaders should consult before any quotation is made and the result of their deliberations reported to the Joint Hull Committee'. This freedom to depart from the graph was introduced on 9 February 1989. Prior to that date, underwriters were not free to depart from the graph unless the consent of the JHC was obtained. No sanctions existed where underwriters chose to depart from the graph unilaterally other than, according to the applicants, 'strong criticism ... of the leading underwriters concerned or if the case was serious enough, the chairman of the Joint Hull Committee or his deputy may speak privately to the underwriter or underwriters regarded as having been at fault'.
- (18) Since the graph had been in existence for 'longer than any serving underwriter can remember' the parties were not able to explain how exactly it was first drawn up. The parties have, however, explained that it reflected 'general market experience' and that changes to it were made after a general assessment of such factors as 'exchange fluctuations ... , inflations, and changes in shipbuilding and repair costs'.
- (19) Clause 2B provided that where results call for an increase then the 'excess' (referred to as the 'deductible') should be increased by 50 % 'of the percentage rise ... with a minimum increase of 10 %'.
- (20) Clause 11 stipulated that where payment was not made in cash immediately but was deferred, the rebate which is normally available for prompt cash payment was to be reduced from 15 % to 10 %.
- (21) Clause 1 (a) of the notified JHU provided that 'Hull quota share and obligatory surplus reinsurance contracts shall be restricted to flag and ownership/management FOM business of the country concerned unless specifically agreed by all underwriters'. This meant that, unless otherwise specifically agreed, reinsured business was restricted to vessels whose country of registration, ownership and management was the same as that of the reinsured. This clause was amended at the request of the Commission and now contains a recommendation that reinsurers should ask for information on the nationality of the vessels' owners as this is considered to be a material fact affecting the assessment of risk.
- (22) The remaining clauses of the JHU provide guidelines and uniform criteria on the technical detail of policy renewals. Essentially, they identify prudent market practices and provide methods for reducing confusion over the true record of the insured or of the scope of the hull and machinery policy. Underwriters are free to ignore these guidelines and use others should they so wish. They relate to such questions as :
- (a) the methodology for classifying vessels ;
 - (b) the need for information about the shipowner and his record to be presented in a uniform manner (so as to facilitate comparisons and prevent misrepresentation) ;
 - (c) the treatment of changes in value of vessels and in particular the need to differentiate between increases which are merely designed to keep pace with inflation and those which increase the vessel's propensity to partial loss ;
 - (d) the valuation of vessels for partial and total losses and in particular the need to ensure that the valuation of vessels for partial and total loss does not diverge unduly ;

(e) the centralization and administration of refunds for periods when vessels are in port — when a vessel is in port it is subject to a lower risk than if it were fully operational. In recognition of this, a refund is normally made to the assured. The amount of and reference period for the rebate is freely negotiated at the time of conclusion of each insurance contract. The claim for refund is made to a central office, run by LUA/ILU, whose staff has expert knowledge of ports and port conditions around the world and which verifies that the vessel has actually moored for the period claimed. The clause refers to refunds for completed periods of 30 days which is the normal reference period. However, every underwriter or group of underwriters is free to give refunds for periods of less than 30 days;

(f) the need not to forfeit or prejudice the insurers' legal right to question the 'seaworthiness admitted' clause;

(g) the need for mortgagees to obtain separate cover since the hull and machinery policy does not indemnify them against the improper conduct of the owner;

(h) the definition of the risks covered by the hull and machinery policy.

(ii) *Respect of lead agreement (RLA)*

(23) This agreement provided essentially that the same leaders who first underwrote hull business should be allowed to continue as leaders when the policy came up for renewal. Following underwriters or other potential leaders were prohibited from attempting to 'lead' on the renewal. This meant that other underwriters were deprived of the opportunity of bidding or competing for renewal business and that shipowners were deprived of the choice and possibly cheaper prices which competition between competing leaders would afford.

(24) Furthermore, pursuant to clause 1 of the RLA, the members of the two Associations agreed not to subscribe to any slip unless two leaders from each Association were signatories (except where a non-signatory was a leader prior to the signing of the RLA). This meant that competition between the ILU and LUA was prohibited in principle.

(25) The RLA was adhered to by almost all members of the ILU and LUA. If the member breached the

agreement, his Association (either ILU or LUA) could announce that he was deemed no longer to adhere to the agreement. The effect of this announcement was that no other underwriter could follow his lead. This occurred on at least one occasion and although the parties claim that the underwriter concerned 'lost no business as a result', the announcement was still felt to be 'a worthwhile sanction'.

(26) The LUA and ILU, at the request of the Commission, abandoned this agreement on 25 April 1991. It has been replaced by a new text (the 'new RLA') which provides:

1. Where a risk for renewal is being quoted by a competing group or groups of underwriters the leader(s) of the competing group(s) may consult the existing slip leader(s). If consulted, the existing slip leader(s) will make available their records of the fleet statistics.

2. The existing slip and competing slip must not discuss their proposed renewal terms.

3. Underwriters currently subscribing to the existing slip must give the leader of their slip notice, at the latest two months prior to the renewal date of the first vessel, of their intention of leaving the existing slip to join a potentially competing slip.

The notice provision does not apply if the competing slip is covered as to 100 %.

E. Observations from third parties

(27) The Commission has received no observations from interested third parties following publication of the notice required by Article 19 (3) of Regulation No 17.

II. LEGAL ASSESSMENT

ARTICLE 85 (1)

A. Decisions of associations of undertakings

(28) The ILU and LUA are associations of undertakings within the meaning of Article 85 (1). The JHU and the RLA each constitute decisions of associations of undertakings within the meaning of Article 85 (1).

B. Effect on trade

- (29) An agreement relating to marine insurance which involves transport is one which, by its very nature, is liable to affect trade between Member States. In addition, trade is affected because the ILU and LUA members provide this service to shipowners or through brokers who are established in other Member States. Furthermore, given the United Kingdom market share of the members of the two Associations (almost 100 %) this effect can be said to be appreciable.

C. Restrictions of competition

(i) *The Joint Hull Understanding (JHU)*

The JHU contained three clauses which restricted competition contrary to Article 85 (1):

(a) Clause 3 — The graph

- (30) The graph was equivalent to a price fixing agreement. Its object was to prevent renewals being agreed at rates which were below the minima indicated in the graph. It limited the scope for leaders to negotiate different rates at renewal from those indicated in the graph. Until 9 February 1989, the members of the two Associations were obliged to respect the rates indicated in the graph. If they did not, although there were no sanctions, such underwriters were generally 'criticized' by their fellow underwriters. The absence of sanctions did not, however, mean that there was no price fixing agreement within the meaning of Article 85 (1) since such an agreement by its very nature restricts competition and is explicitly prohibited by Article 85 (1).
- (31) In so far as the effect is concerned, the applicants could not determine exactly the number of times the graph may have been breached. They did, however, state that to their own knowledge 'a number of renewals' each year would have been in breach of the graph. In other words, the vast majority of renewals complied with the minima set in the graph, while breaches of it were regarded as somewhat exceptional.
- (32) Furthermore, the fact that from 9 February 1989 until 25 April 1991 the parties were free to depart from the graph does not mean that there was during this period no infringement of Article 85 (1).

Recommended price increases also fall within the prohibition in Article 85 (1)⁽¹⁾. The fact that there continued to be an obligation to report deviations from the graph would also have acted as a dissuasive factor and would have tended therefore to re-enforce the restrictive nature of the graph.

(b) Clause 2B

- (33) The clause limited the freedom of underwriters to set their own levels for increases in deductibles (excess) and was therefore restrictive of competition within the meaning of Article 85 (1).

(c) Clause 11

- (34) It is established law⁽²⁾ that an agreement as to the amount of rebate to be granted is caught by the prohibition against price-fixing in Article 85 (1). Clearly the clause implied that there was an underlying agreement that a rebate of 15 % should be available for immediate payment in cash. Where payment is deferred, this rebate is required to be reduced to 10 %.

- (35) The abovementioned clauses were deleted by the ILU and LUA on 25 April 1991.

- (36) The remaining clauses of the JHU are of a technical nature and do not contain any provisions which appreciably prevent, restrict or distort competition within the common market.

(ii) *The respect of lead agreement (RLA)*

- (37) The RLA restricted competition in the London market by effectively ensuring that the same leaders who first insured the risk continued to underwrite that risk at renewal. These leaders were thus protected from competition from potential competing leaders who might have wished to offer better terms or prices. This agreement was abandoned by the ILU and LUA on 25 April 1991 and replaced by a new agreement.

- (38) The RLA also restricted competition between the ILU/LUA by providing that there should be two leaders from each Association on every 'slip' (order). Brokers were therefore not free to concentrate their attention on one Association where they so chose or where this might have produced cost savings and better prices.

⁽¹⁾ German fire insurance case: Commission Decision 85/75/EEC, OJ No L 35, 7. 2. 1985, p. 20, and Case 45/85 *Verband der Sachversicherer v. Commission* [1987] ECR 405.

⁽²⁾ Joined Cases 209 to 215 and 218/78 *Van Landewijck v. Commission* [1980] ECR 3125; Joined Cases 240 to 242, 261, 262, 268 and 269/84 *Stichting Sigarettenindustrie v. Commission* [1985] ECR 3831.

(39) The new RLA permits a competing group or groups of underwriters to challenge the existing group (or 'slip'), obliges the latter to make available their records of fleet statistics so as to facilitate the competing group's task of assessing the risk and prohibits any discussion of renewal terms between the existing and competing group of underwriters. For these reasons it can be concluded that the new RLA does not contain any clauses which appreciably restrict, prevent or distort competition within the common market,

HAS ADOPTED THIS DECISION:

Article 1

On the basis of the information in its possession the Commission has no grounds for action under Article 85 (1) of the EEC Treaty in respect of the notified agree-

ments as modified, namely the new joint hull understandings and respect of lead agreement.

Article 2

This decision is addressed to the following associations of undertakings:

- Lloyd's Underwriters' Association,
Lloyd's,
1 Lime Street,
UK-London EC3M 7HA,
- The Institute of London Underwriters,
49 Leadenhall Street,
UK-London EC3A 2BE.

Done at Brussels, 4 December 1992.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 9 December 1992

amending Decision 91/426/EEC concerning the time limit for the transmission
of certain supporting documents

(93/4/EEC)

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

Having regard to Council Directive 90/425/EEC of
26 June 1990 concerning veterinary and zootechnical
checks applicable in intra-Community trade in certain
live animals and products with a view to the completion
of the internal market⁽¹⁾, as last amended by Directive
92/65/EEC⁽²⁾, and in particular Article 20 (2) thereof,

Having regard to Council Decision 90/424/EEC of
26 June 1990 on expenditure in the veterinary field⁽³⁾, as
last amended by Decision 92/438/EEC⁽⁴⁾, and in par-
ticular Article 37 (1) thereof,

Whereas in Decision 91/426/EEC⁽⁵⁾ the Commission laid
down the details of the Community's financial contribu-
tion to the setting up of a computerized network linking
veterinary authorities (Animo); whereas in particular this
Decision lays down a time limit for the transmission of
supporting documents by the authorities of the Member
States;

Whereas it is necessary to foresee an extension of the
time limit for the submission of supporting documents
relating to the communication software; whereas for
reasons of financial management this time limit shall not
be later than 11 December 1992;

Whereas the measures provided for in this Decision are in
accordance with the opinion of the Standing Veterinary
Committee,

HAS ADOPTED THIS DECISION:

Article 1

The following sentence is added to Article 2 (2) of Deci-
sion 91/426/EEC:

'However, for the expenses mentioned in Article 1 (1)
second indent, the supporting documents, including
those relating to software trials must be forwarded at
the latest by 11 December 1992.'

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 9 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 29.
⁽²⁾ OJ No L 268, 14. 9. 1992, p. 54.
⁽³⁾ OJ No L 224, 18. 8. 1990, p. 19.
⁽⁴⁾ OJ No L 243, 25. 8. 1992, p. 27.
⁽⁵⁾ OJ No L 234, 23. 8. 1991, p. 27.