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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 420/92

of 21 February 1992

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,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 357/92⁽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 20 February 1992;

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 357/92 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 22 February 1992.

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

Done at Brussels, 21 February 1992.

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 39, 15. 2. 1992, p. 3.

ANNEX

to the Commission Regulation of 21 February 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)	
CN code	Levy (°)
0709 90 60	129,24 ⁽²⁾ ⁽³⁾
0712 90 19	129,24 ⁽²⁾ ⁽³⁾
1001 10 10	163,54 ⁽¹⁾ ⁽⁵⁾ ⁽¹⁰⁾
1001 10 90	163,54 ⁽¹⁾ ⁽⁵⁾ ⁽¹⁰⁾
1001 90 91	146,91
1001 90 99	146,91
1002 00 00	162,02 ⁽⁶⁾
1003 00 10	141,64
1003 00 90	141,64
1004 00 10	125,60
1004 00 90	125,60
1005 10 90	129,24 ⁽²⁾ ⁽³⁾
1005 90 00	129,24 ⁽²⁾ ⁽³⁾
1007 00 90	137,43 ⁽⁴⁾
1008 10 00	51,94
1008 20 00	125,48 ⁽⁴⁾
1008 30 00	62,82 ⁽⁵⁾
1008 90 10	(7)
1008 90 90	62,82
1101 00 00	218,68 ⁽⁸⁾
1102 10 00	239,83 ⁽⁸⁾
1103 11 10	265,94 ⁽⁸⁾ ⁽¹⁰⁾
1103 11 90	235,00 ⁽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.

COMMISSION REGULATION (EEC) No 421/92

of 21 February 1992

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,Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1845/91⁽⁵⁾ and subsequent amending 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 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 20 February 1992;

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 22 February 1992.

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

Done at Brussels, 21 February 1992.

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 168, 29. 6. 1991, p. 4.

ANNEX

to the Commission Regulation of 21 February 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 2	1st period 3	2nd period 4	3rd period 5
0709 90 60	0	0	0	2,01
0712 90 19	0	0	0	2,01
1001 10 10	0	0	0	0,80
1001 10 90	0	0	0	0,80
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	2,01
1005 90 00	0	0	0	2,01
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 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 422/92
of 21 February 1992
fixing the import levies on rice and broken rice

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

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

Having regard to Council Regulation (EEC) No 1418/76
of 21 June 1976 on the common organization of the
market in rice ⁽¹⁾, as last amended by Regulation (EEC)
No 1806/89 ⁽²⁾, and in particular Article 11 (2) thereof,
Having regard to Commission Regulation (EEC)
No 883/87 of 23 March 1987 laying down detailed rules
for the application of Council Regulation (EEC)
No 3877/86 on imports rice of the long-grain aromatic
Basmati variety falling within CN codes 1006 10, 1006 20
and 1006 30 ⁽³⁾, as last amended by Regulation (EEC)
No 674/91 ⁽⁴⁾, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were
fixed by Commission Regulation (EEC) No 359/92 ⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 24 February
1992.

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

Done at Brussels, 21 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 177, 24. 6. 1989, p. 1.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 75, 21. 3. 1991, p. 29.

⁽⁵⁾ OJ No L 39, 15. 2. 1992, p. 8.

ANNEX

to the Commission Regulation of 21 February 1992 fixing the import levies on rice and broken rice

(ECU/tonne)

CN code	Levies (°)		
	Arrangement in Regulation (EEC) No 3877/86 (°)	ACP (⁽¹⁾) (⁽²⁾) (⁽³⁾) (⁽⁴⁾) Bangladesh	Third countries (except ACP) (⁽⁵⁾)
1006 10 21	—	153,48	314,16
1006 10 23	—	143,38	293,96
1006 10 25	—	143,38	293,96
1006 10 27	220,47	143,38	293,96
1006 10 92	—	153,48	314,16
1006 10 94	—	143,38	293,96
1006 10 96	—	143,38	293,96
1006 10 98	220,47	143,38	293,96
1006 20 11	—	192,75	392,70
1006 20 13	—	180,12	367,45
1006 20 15	—	180,12	367,45
1006 20 17	275,59	180,12	367,45
1006 20 92	—	192,75	392,70
1006 20 94	—	180,12	367,45
1006 20 96	—	180,12	367,45
1006 20 98	275,59	180,12	367,45
1006 30 21	—	238,74	501,34 (°)
1006 30 23	—	280,02	583,82 (°)
1006 30 25	—	280,02	583,82 (°)
1006 30 27	437,87 (°)	280,02	583,82 (°)
1006 30 42	—	238,74	501,34 (°)
1006 30 44	—	280,02	583,82 (°)
1006 30 46	—	280,02	583,82 (°)
1006 30 48	437,87 (°)	280,02	583,82 (°)
1006 30 61	—	254,61	533,93 (°)
1006 30 63	—	300,58	625,86 (°)
1006 30 65	—	300,58	625,86 (°)
1006 30 67	469,40 (°)	300,58	625,86 (°)
1006 30 92	—	254,61	533,93 (°)
1006 30 94	—	300,58	625,86 (°)
1006 30 96	—	300,58	625,86 (°)
1006 30 98	469,40 (°)	300,58	625,86 (°)
1006 40 00	—	63,22	132,45

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

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

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

(⁽⁴⁾) The levy on imports of rice, not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Regulation (EEC) Nos 3491/90 and 862/91.

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

(⁽⁶⁾) The levy on imports of rice of the long-grain aromatic Basmati variety is applicable under the arrangements laid down in Regulation (EEC) No 3877/86, as amended by Regulation (EEC) No 3130/91.

(⁽⁷⁾) No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EEC) No 423/92**of 21 February 1992****fixing the premiums to be added to the import levies on rice and broken rice**

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

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

Having regard to Council Regulation (EEC) No 1418/76
of 21 June 1976 on the common organization of the
market in rice ⁽¹⁾, as last amended by Regulation (EEC)
No 1806/89 ⁽²⁾, and in particular Article 13 (6) thereof,

Whereas the premiums to be added to the levies on rice
and broken rice were fixed by Commission Regulation
(EEC) No 2591/91 ⁽³⁾, as last amended by Regulation
(EEC) No 360/92 ⁽⁴⁾;

Whereas, on the basis of today's cif prices and cif forward
delivery prices, the premiums at present in force, which

are to be added to the levies, should be altered to the
amounts shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 24 February
1992.

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

Done at Brussels, 21 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 177, 24. 6. 1989, p. 1.

⁽³⁾ OJ No L 243, 31. 8. 1991, p. 8.

⁽⁴⁾ OJ No L 39, 15. 2. 1992, p. 11.

ANNEX

to the Commission Regulation of 21 February 1992 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 2	1st period 3	2nd period 4	3rd period 5
1006 10 21	0	0	0	—
1006 10 23	0	0	0	—
1006 10 25	0	0	0	—
1006 10 27	0	0	0	—
1006 10 92	0	0	0	—
1006 10 94	0	0	0	—
1006 10 96	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 13	0	0	0	—
1006 20 15	0	0	0	—
1006 20 17	0	0	0	—
1006 20 92	0	0	0	—
1006 20 94	0	0	0	—
1006 20 96	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 23	0	0	0	—
1006 30 25	0	0	0	—
1006 30 27	0	0	0	—
1006 30 42	0	0	0	—
1006 30 44	0	0	0	—
1006 30 46	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 63	0	0	0	—
1006 30 65	0	0	0	—
1006 30 67	0	0	0	—
1006 30 92	0	0	0	—
1006 30 94	0	0	0	—
1006 30 96	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0

COMMISSION REGULATION (EEC) No 424/92
of 21 February 1992
amending Regulation (EEC) No 1627/89 on the buying-in of beef by invitation to tender

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 6 (8) last indent thereof,

Whereas Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying-in of beef by invitation to tender ⁽³⁾, as last amended by Regulation (EEC) No 302/92 ⁽⁴⁾, opens buying-in by invitation to tender in certain Member States or regions of a Member State for certain quality groups;

Whereas the application of Article 6 (2), (3) and (4) of Regulation (EEC) No 805/68 and the need to limit intervention to the buying-in of the quantities necessary to ensure reasonable support for the market result, on the basis of the prices of which the Commission is aware, in

an amendment, in accordance with the Annex hereto, to the list of Member States or regions of a Member State where buying-in is open by invitation to tender, and the list of the quality groups which may be bought in;

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

Annex I to Regulation (EEC) No 1627/89 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 25 February 1992.

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

Done at Brussels, 21 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 16.

⁽³⁾ OJ No L 159, 10. 6. 1989, p. 36.

⁽⁴⁾ OJ No L 32, 8. 2. 1992, p. 11.

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

Estados miembros o regiones de Estados miembros y grupos de calidades previstos en el apartado 1 del artículo 1

Medlemsstater eller regioner og kvalitetsgrupper, jf. artikel 1, stk. 1

Mitgliedstaaten oder Gebiete eines Mitgliedstaats sowie die in Artikel 1 Absatz 1 genannten Qualitätsgruppen

Κράτη μέλη ή περιοχές κρατών μελών και ομάδες ποιότητας που αναφέρονται στο άρθρο 1 παράγραφος 1

Member States or regions of a Member State and quality groups referred to in Article 1 (1)

États membres ou régions d'États membres et groupes de qualités visés à l'article 1^{er}, paragraphe 1

Stati membri o regioni di Stati membri e gruppi di qualità di cui all'articolo 1, paragrafo 1

In artikel 1, lid 1 bedoelde Lid-Staten of gebieden van een Lid-Staat en kwaliteitsgroepen

Estados-membros ou regiões de Estados-membros e grupos de qualidades referidos no n.º 1 do artigo 1.º

Estados miembros o regiones de Estados miembros	Categoría A			Categoría C		
Medlemsstat eller region	Kategori A			Kategori C		
Mitgliedstaaten oder Gebiete eines Mitgliedstaats	Kategorie A			Kategorie C		
Κράτος μέλος ή περιοχές κράτους μέλους	Κατηγορία Α			Κατηγορία Γ		
Member States or regions of a Member State	Category A			Category C		
États membres ou régions d'États membres	Catégorie A			Catégorie C		
Stati membri o regioni di Stati membri	Categoria A			Categoria C		
Lid-Staat of gebied van een Lid-Staat	Categorie A			Categorie C		
Estados-membros ou regiões de Estados-membros	Categoria A			Categoria C		
	U	R	O	U	R	O
Belgique			x			
Denmark		x	x			
Deutschland	x	x				
España	x	x	x			
France		x	x		x	x
Italia			x			
Luxembourg		x	x			
Nederland		x				
Ireland				x	x	x
Great Britain				x	x	x
Northern Ireland				x	x	x

COMMISSION REGULATION (EEC) No 425/92

of 21 February 1992

amending Regulation (EEC) No 1517/77 fixing the list of the various groups of hop varieties cultivated in the Community

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

Having regard to Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organization of the market in hops ⁽¹⁾, as last amended by Regulation (EEC) No 3577/90 ⁽²⁾, and in particular Article 12 (8) thereof,

Whereas Commission Regulation (EEC) No 1517/77 ⁽³⁾, as last amended by Regulation (EEC) No 328/91 ⁽⁴⁾, divides these varieties into the groups 'aromatic hops', 'bitter hops' and 'others' according to commercial practice in the Community and world hop markets on the basis of the final uses of the hops in brewing and by reference to common characteristics, with particular emphasis on the content of bitter and aromatic substances;

Whereas a new variety by the name of 'Hersbrucker Pure' has appeared on the Community market; whereas the knowledge at present available of its characteristics and of its use in brewing indicates that it should be classified in the third group 'others';

Whereas two varieties by the name of 'Triploid' and 'Tutsham' are no longer cultivated in the Community; whereas these varieties should be deleted from the Annex to Regulation (EEC) No 1517/77;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 1517/77 is hereby replaced by the Annex hereto.

Article 2

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

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

Done at Brussels, 21 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 175, 4. 8. 1971, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 169, 7. 7. 1977, p. 13.

⁽⁴⁾ OJ No L 38, 12. 2. 1991, p. 16.

ANNEX

A. 1st Group : Aromatic hops	B. 2nd Group : Bitter hops	C. 3rd Group : Others
Bramling Cross Challenger Fino Alsacia Fuggles Goldings Hallertauer Hallertauer Tradition Hersbrücker Spät Hüller Perle Progress Saaz Saxon Spalter Spalter Select Star Strisselspalt Sunshine Tardif de Bourgogne Tettnanger W.G.V.	Brewers' Gold Bullion Chinook Galena H-3 Leones H-7 Leones Hallertauer Magnum Keyworth's Midseason Northdown Northern Brewer Nugget Omega Orion Target Yeoman	Hersbrucker Pure Kent Record Viking Zenith

COMMISSION REGULATION (EEC) No 426/92**of 21 February 1992****fixing, for the eighth 12-month period, amounts for the levy referred to in Article 5c of Council Regulation (EEC) No 804/68 in the milk and milk products sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 857/84 of 31 March 1984 adopting general rules for the application of the levy referred to in Article 5c of Regulation (EEC) No 804/68 in the milk and milk products sector ⁽¹⁾, as last amended by Regulation (EEC) No 1639/91 ⁽²⁾, and in particular Article 11 (a) thereof,Whereas Article 5c of Council Regulation (EEC) No 804/68 ⁽³⁾, as last amended by Regulation (EEC) No 1630/91 ⁽⁴⁾, instituted a levy payable by every producer or purchaser of milk or other milk products on quantities exceeding an annual reference quantity; whereas rates for this levy are set in Article 1 of Regulation (EEC) No 857/84;

Whereas, pursuant to Article 11 of Regulation (EEC) No 857/84, the Commission must state amounts for the levy,

HAS ADOPTED THIS REGULATION:

Article 1

The amount of the levy referred to in Article 1 (1) of Regulation (EEC) No 857/84 is fixed for the eighth 12-month period at:

- ECU 30,83 per 100 kilograms of milk and/or milk equivalent where formula A or formula B is applied,
- ECU 20,11 per 100 kilograms of milk and/or milk equivalent where there is direct sale for consumption.

*Article 2*This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 21 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 90, 1. 4. 1984, p. 13.⁽²⁾ OJ No L 150, 15. 6. 1991, p. 35.⁽³⁾ OJ No L 148, 28. 6. 1968, p. 13.⁽⁴⁾ OJ No L 150, 15. 6. 1991, p. 19.

COMMISSION REGULATION (EEC) No 427/92
of 21 February 1992
fixing the amount of the subsidy on oil seeds

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 1720/91⁽²⁾, and in particular Article 27 (4) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture⁽³⁾, as last amended by Regulation (EEC) No 3696/91⁽⁴⁾,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed⁽⁵⁾, as last amended by Regulation (EEC) No 2206/90⁽⁶⁾, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commis-

sion Regulation (EEC) No 307/92⁽⁷⁾, as last amended by Regulation (EEC) No 377/92⁽⁸⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 307/92 to the information known to the Commission that the amount of the subsidy at present in force should be altered to the amount set out in the Annexes hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts of the subsidy and the exchange rates referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83⁽⁹⁾ shall be as set out in the Annexes hereto.

Article 2

This Regulation shall enter into force on 22 February 1992.

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

Done at Brussels, 21 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁴⁾ OJ No L 350, 19. 12. 1991, p. 22.

⁽⁵⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 11.

⁽⁷⁾ OJ No L 32, 1. 2. 1992, p. 20.

⁽⁸⁾ OJ No L 41, 18. 2. 1992, p. 13.

⁽⁹⁾ OJ No L 266, 28. 9. 1983, p. 1.

ANNEX I

Aids to colza and rape seed other than 'double zero'

(amounts per 100 kg)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1. Gross aids (ECU):					
— Spain	17,016	17,414	17,817	18,120	16,550
— Portugal	26,096	26,494	26,897	27,200	25,630
— Other Member States	17,016	17,414	17,817	18,120	16,550
2. Final aids:					
Seed harvested and processed in:					
— Federal Republic of Germany (DM)	40,06	41,00	41,94	42,66	38,96
— Netherlands (Fl)	45,14	46,19	47,26	48,06	43,90
— BLEU (Bfrs/Lfrs)	826,23	845,56	865,13	879,84	803,61
— France (FF)	134,35	137,49	140,68	143,07	130,67
— Denmark (Dkr)	152,80	156,38	159,99	162,72	148,62
— Ireland (£ Irl)	14,953	15,303	15,657	15,923	14,544
— United Kingdom (£)	13,247	13,566	13,890	14,132	12,853
— Italy (Lit)	29 973	30 674	31 384	31 917	29 152
— Greece (Dr)	4 026,78	4 111,21	4 175,77	4 220,09	3 785,71
— Spain (Pta)	2 613,73	2 673,25	2 733,51	2 777,48	2 545,60
— Portugal (Esc)	5 526,01	5 608,12	5 688,53	5 743,38	5 423,89

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1. Gross aids (ECU):					
— Spain	18,266	18,664	19,067	19,370	17,800
— Portugal	27,346	27,744	28,147	28,450	26,880
— Other Member States	18,266	18,664	19,067	19,370	17,800
2. Final aids:					
Seed harvested and processed in:					
— Federal Republic of Germany (DM)	43,00	43,94	44,89	45,60	41,90
— Netherlands (Fl)	48,45	49,51	50,58	51,38	47,22
— BLEU (Bfrs/Lfrs)	886,93	906,25	925,82	940,54	864,30
— France (FF)	144,22	147,36	150,55	152,94	140,54
— Denmark (Dkr)	164,03	167,60	171,22	173,94	159,84
— Ireland (£ Irl)	16,052	16,401	16,756	17,022	15,642
— United Kingdom (£)	14,241	14,561	14,884	15,127	13,847
— Italy (Lit)	32 175	32 876	33 586	34 119	31 354
— Greece (Dr)	4 341,93	4 426,36	4 490,92	4 535,24	4 100,87
— Spain (Pta)	2 802,26	2 861,79	2 922,05	2 966,02	2 734,14
— Portugal (Esc)	5 786,85	5 868,97	5 949,38	6 004,23	5 684,74

ANNEX III

Aids to sunflower seed

(amounts per 100 kg)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1. Gross aids (ECU):					
— Spain	30,719	31,050	31,731	31,911	31,541
— Portugal	37,449	37,780	38,461	38,641	38,271
— Other Member States	19,019	19,350	20,031	20,211	19,841
2. Final aids:					
Seed harvested and processed in:					
— Federal Republic of Germany (DM)	44,77	45,55	47,16	47,58	46,71
— Netherlands (Fl)	50,45	51,33	53,13	53,61	52,63
— BLEU (Bfrs/Lfrs)	923,49	939,56	972,63	981,37	963,41
— France (FF)	150,17	152,78	158,16	159,58	156,66
— Denmark (Dkr)	170,79	173,76	179,88	181,49	178,17
— Ireland (£ Irl)	16,713	17,004	17,603	17,761	17,436
— United Kingdom (£)	14,811	15,075	15,625	15,766	15,464
— Italy (Lit)	33 501	34 084	35 284	35 601	34 949
— Greece (Dr)	4 505,52	4 568,97	4 704,36	4 710,37	4 608,01
— Portugal (Esc)	7 896,53	7 965,34	8 102,35	8 132,33	8 057,04
— Spain (Pta)	4 680,30	4 730,09	4 831,53	4 857,49	4 802,85

ANNEX IV

Exchange rate of the ecu to be used for converting final aids into the currency of the processing country when the latter is a country other than the country of production

(value of ECU 1)

	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
DM	2,045370	2,044200	2,043100	2,042000	2,042000
Fl	2,300790	2,299570	2,298410	2,297210	2,297210
Bfrs/Lfrs	42,040000	42,017300	41,989200	41,969900	41,969900
FF	6,959950	6,958340	6,957040	6,956220	6,956220
Dkr	7,918620	7,915680	7,913350	7,912310	7,912310
£Irl	0,765908	0,765524	0,764469	0,764059	0,764059
£	0,710500	0,710527	0,710471	0,710372	0,710372
Lit	1 535,04	1 537,15	1 539,38	1 541,34	1 541,34
Dr	236,15200	238,55100	241,19100	243,39800	243,39800
Esc	175,57400	176,17700	176,62700	177,14600	177,14600
Pta	128,39100	128,63200	128,88700	129,12500	129,12500

COMMISSION REGULATION (EEC) No 428/92

of 21 February 1992

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 61/92 ⁽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 366/92 ⁽³⁾, as last amended by Regulation (EEC) No 415/92 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) 366/92 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 20 February 1992,

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 22 February 1992.

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

Done at Brussels, 21 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 6, 11. 1. 1992, p. 19.

⁽³⁾ OJ No L 39, 15. 2. 1992, p. 28.

⁽⁴⁾ OJ No L 46, 21. 2. 1992, p. 12.

⁽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 21 February 1992 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy (°)
1701 11 10	39,91 (°)
1701 11 90	39,91 (°)
1701 12 10	39,91 (°)
1701 12 90	39,91 (°)
1701 91 00	45,13
1701 99 10	45,13
1701 99 90	45,13 (°)

(°) The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68.

(°) 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.

(°) No import 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 1870/91 B to be levied in accordance with Article 101 (4) of the abovementioned Decision.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 24 April 1991

on aid granted by the Italian Government to the forestry, pulp, paper and board industry and financed by means of levies on paper, board and cellulose

(Only the Italian text is authentic)

(92/129/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 Ente nazionale per la cellulose e per la carta (ENCC) is a corporation under public law consisting of all producers of paper and cellulose as well as undertakings using cellulose in Italy. It was founded by Law No 1453 of 13 June 1935.

The ENCC has the statutory task of promoting the development of cellulose production in Italy ; of facilitating the production and use of indigenous raw materials for the production of cellulose ; of organizing the production and sale of paper ; of collecting and providing information concerning the production of cellulose and paper. The ENCC also channels aid linked, *inter alia*, to their consumption of newsprint, to publishers, notably to the press.

The ENCC's activities are financed partly by means of levies charged on home-produced cellulose and on certain

types of paper and board, as well as on similar imported products, and partly by means of funds provided directly by the Italian Government and earmarked for publishers.

The conditions on which aid is granted through ENCC have repeatedly been altered. The Commission accepted these alterations only after verifying their compatibility with the common market.

Thus, in November 1974, the Commission closed the procedure provided for in Article 93 (2) in respect of the ENCC's activities after being assured by the Italian Government that aid to consumers of Italian newsprint and newsprint imported by the ENCC would also be granted to publishers who import newsprint directly from other Member States ; that no aid would be granted for publications in languages other than Italian if such publications were to be exported ; that research into paper-making would no longer be financed by the levy on imports from other Member States. In its letter to the Italian Government dated 20 November 1974, the Commission stated that, through these modifications, the aid had become compatible with the provisions in the Treaty concerning State aid.

On 16 June 1976 the Commission adopted Decision 76/574/EEC⁽¹⁾ on a new aid scheme for the press (Law No 172 of 6 June 1975), requiring the Italian Government to publish a notice stating that the aid would be

⁽¹⁾ OJ No L 185, 9. 7. 1976, p. 32.

granted without distinction for paper purchased from the ENCC or imported directly.

In November 1983 the Commission decided to close the Article 93 (2) procedure which it had opened in April 1982 in respect of yet a further aid scheme in favour of publishers operated via the ENCC (Law No 416 of 5 August 1981). The procedure was closed following the Italian Government's statement that aid measures for newsprint production in southern Italy had not been included in the Law and that aid measures in favour of cultural publications were subject to restrictions which would prevent any alteration of trading conditions in the Community to an extent contrary to the common interest.

On 3 May 1989 the Commission adopted Decision 90/215/EEC⁽¹⁾ on aid granted by the Italian Government to the newsprint industry. In its Decision the Commission demanded that this aid be abolished immediately. The Decision was communicated to the Italian Government by letter dated 7 June 1989.

The activities of the ENCC have led to several legal actions that allowed the Court of Justice to rule on the compatibility with the common market of various aspects of these activities: see Judgment 77/72 of 19 June 1973 (Capolongo)⁽²⁾, Judgment 94/74 of 18 June 1975 (IGAV)⁽³⁾ and Judgment 74/76 of 22 March 1977 (Ianelli and Volpi)⁽⁴⁾.

II

When the Commission was investigating the misuse of aid schemes by the ENCC, which led to Decision 90/215/EEC, it also requested information by letter dated 7 July 1988 on the levies on cellulose, paper and cardboard and the use of the proceeds of these levies by the ENCC.

The Italian Government submitted this information to the Commission by letter dated 24 November 1988. The information enabled the Commission to consider that the aid to the forestry, pulp, paper and board industry and the measures to promote certain activities in the timber industry, including research into paper-making, could still be considered eligible for exemption under Article 92 (3) (c) of the Treaty, were it not that the levies which financed the aid also applied to imports from other

Member States. This created additional and unnecessary protection which rendered the aid incompatible with the common market. The Commission furthermore noted that cellulose, paper and board intended for export are exempted from the levy; when paper products are exported, the levy paid on their paper input is refunded. The Commission considered that such exemptions and refunds constitute production aid for exporting companies, which is incompatible with the common market.

By letter dated 14 March 1990, the Commission therefore proposed the following appropriate measures to the Italian Government, pursuant to Article 93 (1):

- goods imported from other Member States should no longer be subject to the levies with which the operations of the ENCC are financed,
- no aid should be awarded to the Italian cellulose, paper and board industry in the form of an exemption from the levy on exports to other Member States of cellulose, paper and board and a refund on exports to other Member States of paper products.

In this letter the Commission also stressed that its position regarding the Italian aid and levies was identical to the one it had previously taken with respect to French aids financed by means of parafiscal levies in the paper, foundry and mechanical engineering industries.

The Italian Government replied to the Commission's proposal by letter of 15 June 1990 containing various legal and economic observations and arguments as to why the measures proposed by the Commission had not been implemented.

The Commission was not convinced by the Italian Government's arguments. It maintained its view that the aid awarded to the Italian cellulose, paper and cardboard industry in the form of an exemption from the levy on exports to other Member States of cellulose, paper and board and a refund on exports to other Member States of paper products is incompatible with the common market. The Commission also maintained its view that ENCC aid, which is financed partly by means of levies on goods imported from other Member States, is for that reason incompatible with the common market. The Commission therefore decided to initiate the procedure provided for in Article 93 (2) of the EEC Treaty. The Italian Government was informed of this decision by letter dated 16 October 1990 and invited to submit its observations⁽⁵⁾.

⁽¹⁾ OJ No L 114, 5. 5. 1990, p. 25.

⁽²⁾ [1973] ECR 611.

⁽³⁾ [1975] ECR 699.

⁽⁴⁾ [1977] ECR 557.

⁽⁵⁾ This procedure does not concern the exceptional assistance granted by the ENCC to Nuova cartiera di arbatax, which is the subject of a separate investigation.

The Italian Government submitted its observations by telex on 21 November 1990 and 14 January 1991, and by letters dated 8 February 1991 and 13 April 1991. The matter was also discussed at bilateral meetings on 26 November 1990 and 17 February 1991.

The Italian Government did not contest the Commission's appraisal, and even communicated its intention to reform the ENCC and to phase out the levies with which its activities are financed. A draft law to that effect was endorsed by the Italian Government on 10 January 1991 for presentation to Parliament. It provided for a transitional period ending on 1 January 1994 for the abolition of the aid in question.

In response to the Commission's concern as to the duration of the transitional period, the Italian authorities proposed, by letter dated 13 April 1991, to reduce it by 12 months, with 31 December 1992 as the deadline. In the opinion of the authorities, the transitional period is necessary to allow the adoption of laws modifying the existing scheme.

No observations were received from other interested parties further to the publication of the Commission's letter to the Italian Government dated 16 October 1990 in the *Official Journal of the European Communities*⁽¹⁾.

III

The use of public funds in a Member State to finance an agency which promotes the development of cellulose production there, facilitates the production and use of indigenous materials for the domestic cellulose, paper and board industry and which provides information and advice to that industry, constitutes State aid to the manufacturers of cellulose, paper and board in that Member State. Public funds include the proceeds of levies, when these are instituted by law.

Where a Member State charges levies on home-produced cellulose and on certain types of paper and board, as well as on similar imported products, and where this Member State exempts from these levies cellulose, paper and board intended for export or refunds the levies on the paper input of paper products when these products are exported, such exemptions or refunds constitute State aid to exporting companies in the cellulose, paper, board and paper products industries.

Consequently, the Italian Government grants aid to the domestic cellulose, paper and board industry by financing the activities of the ENCC. It also grants aid to exporting companies in these industries and in the paper products industry by granting exemption from and refunds of the levy on cellulose, paper and board.

In order to quantify the aid, it should be noted that, according to the information provided by the Italian Government, the levies amount to Lit 1/kg for cellulose and 3 % for paper and board. In 1987, the last year for which the Commission has the annual report of the ENCC, the levies on cellulose, paper and board amounted to Lit 140 billion (ECU 93 million), this being the sum of the following elements: levy on domestic cellulose: Lit 74 million; levy on imported cellulose: Lit 1 776 million; levy on domestic paper and board: Lit 91 724 million; levy on imported paper and board, Lit 45 949 million.

As for the export aid in the form of exemptions and refunds, the Commission estimated in its letter dated 14 March 1990 that these amounted to between Lit 15 billion and Lit 20 billion a year. The Italian Government did not contest this estimate in its reply dated 15 June 1990 or in its observations submitted in the course of the procedure. In its letter the Italian Government did, however, claim that the Commission had recognized in 1974 that aid to forestry and paper-making research did not fulfil the conditions set out in Article 92 (1) of the Treaty. The Commission replied to this statement by letter dated 16 October 1990, explaining why it could not subscribe to the Italian Government's interpretation. The Commission's point of view in 1974, laid down in its letter to the Italian Government dated 20 November 1974, excluded only the aid to the press from the general incompatibility criterion set out in Article 92 (1), and not the other aid granted by the ENCC. The Italian Government did not return to this subject in its observations within the framework of the Article 93 (2) procedure.

There is competition between manufacturers of paper, board and pulp in the Community and there is trade in these products between Member States, even though the Community as a whole is a net importer of pulp and most types of paper and board.

In 1986, Italy imported 606 200 tonnes of paper and board from other Member States and 984 600 tonnes from third countries; in 1987, these figures were 715 000 and 1 169 000 tonnes, in 1988, 774 000 and 1 244 000 tonnes, and in 1989, 892 700 and 1 436 800 tonnes. In these four years total Italian imports of paper and board represented around one third of domestic consumption of these products.

⁽¹⁾ OJ No C 304, 4. 12. 1990, p. 3.

Total intra-Community trade in paper and board amounted to 6 663 700 tonnes in 1986, 7 250 700 tonnes in 1987, 8 559 200 tonnes in 1988 and 9 388 500 tonnes in 1989. In these years imports from third countries rose from 12 441 700 tonnes in 1986 to 13 221 600 tonnes in 1987, 14 428 300 tonnes in 1988 and 15 246 100 tonnes in 1989.

Italy exported 575 600 tonnes of paper and board to other Member States and 247 400 tonnes to third countries in 1986, 617 000 tonnes to other Member States and 262 000 tonnes to third countries in 1987, 801 900 to other Member States and 313 400 tonnes to third countries in 1988 and 862 300 tonnes to other Member States and 293 900 tonnes to third countries in 1989.

There is less trade in pulp than in paper and board, given that part of pulp production takes place in integrated companies for their own production of paper and board.

In 1986, Italy imported 355 800 tonnes of pulp from other Member States and 1 479 100 tonnes from third countries; in 1987, it imported 403 000 tonnes from other Member States and 1 696 000 tonnes from third countries; in 1988, it imported 433 600 tonnes from other Member States and 1 812 600 tonnes from third countries; in 1989, it imported 376 000 tonnes from other Member States and 1 735 100 tonnes from third countries. In these four years total Italian imports of pulp represented some 75 % of domestic consumption of pulp in paper-making.

Total intra-Community trade in pulp amounted to 1 891 100 tonnes in 1986, 1 963 900 tonnes in 1987, 2 139 900 tonnes in 1988 and 2 064 700 tonnes in 1989. In these years imports from third countries rose from 8 282 900 tonnes in 1986 to 8 670 900 tonnes in 1987, 8 793 100 tonnes in 1988 and 8 934 900 tonnes in 1989.

Italy exported only 33 900 tonnes of pulp to other Member States and 17 800 tonnes to third countries in 1986; it exported 27 000 tonnes to other Member States and 15 000 tonnes to third countries in 1987; it exported 37 100 tonnes to other Member States and 21 900 tonnes to third countries in 1988, and it exported 42 500 tonnes to other Member States and 24 500 tonnes to third countries in 1989.

Where financial assistance from the State strengthens the position of certain enterprises compared with that of competitors in the Community, it must be deemed to affect those other enterprises.

Consequently, the aid which the Italian Government grants to domestic manufacturers and exporters of cellulose, paper, board and paper products affects trade between Member States and distorts or threatens to distort competition within the meaning of Article 92 (1) of the Treaty.

IV

Article 92 (1) provides that, in principle, any aid fulfilling the criteria set out therein is incompatible with the common market.

The exceptions to this principle, set out in Article 92 (2) of the Treaty, are inapplicable in this case in view of the nature and objectives of the proposed aid.

Article 92 (3) of the Treaty lists the aid which may be considered compatible with the common market. Compatibility with the Treaty must be viewed 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 taking into account the principles laid down in Article 3 (f) of the Treaty, the exceptions to the principle of Article 92 (1) set out in paragraph 3 of that Article must be interpreted strictly when any aid scheme or any individual aid award is examined.

In particular, they may be applied only where the Commission establishes that, without the aid, market forces alone would be insufficient to induce potential recipients to act in such a manner as to contribute to the attainment of one of the objectives sought.

To apply the exceptions to cases which do not contribute to the attainment of such an objective, or where the aid is not essential to that end, would be tantamount to granting undue advantages to the industries or firms of certain Member States whose financial position would be bolstered and might affect trade between Member States and distort competition without this being justified in any way by the common interest within the meaning of Article 92 (3) of the EEC Treaty.

With regard to the exceptions provided for in Article 92 (3) (a) and (c) for aid that promotes or facilitates the development of certain areas, the Italian Government has been unable to give, or the Commission to discover, any regional consideration in the award of the aid to the Italian cellulose, paper and board industry and the aid to exporting companies in the industry and in the paper products industry.

As regards the exceptions provided for in Article 92 (3) (b), the aid to the Italian cellulose, paper, board and paper products industry is intended neither to promote the execution of an important project of common European interest, nor to remedy a serious disturbance in the Italian economy; neither has the Italian Government advanced any arguments in favour of a possible application of these exceptions.

As regards the exceptions provided for in Article 92 (3) (c) for aid to facilitate the development of certain economic activities where such aid does not adversely affect trading conditions to an extent contrary to the common interest, a distinction must be made between ENCC expenditure on afforestation and collective activities in the domestic cellulose, paper and board industry, on the one hand, and exemption from and refunding of export levies, on the other.

The Commission considers that the latter type of aid does not facilitate the development of the cellulose, paper board and paper products industry and that it adversely affects trading conditions to an extent contrary to the common interest, whenever exports to other Member States are concerned. It is the Commission's well-established policy to consider that aid for exports to other Member States is by its very nature ineligible for one of the exemptions in Article 92. This aid must, therefore, be abolished without delay.

As regards the compatibility of this type of aid with the common market when it is applied to exports to third countries, the Commission informed the Italian Government, by letter dated 16 October 1990, that it was examining aid schemes in all Member States in support of exports to third countries. The results of this work will be discussed in due course with all Member States in order to assess the compatibility of such schemes with Article 92.

By contrast, aid to afforestation and collective activities in the cellulose, paper and board industry can well be said to facilitate the development of the industry. In this connection, the Commission also considers that aid to such activities that are relatively far from the market is unlikely to adversely affect trading conditions to an extent contrary to the common interest. This aid can, therefore, be considered compatible with the common market, when viewed in isolation from the way it is financed.

V

According to the judgment of the Court of Justice on 26 June 1970 in Case 47/69 *Government of the French Republic v. Commission* (¹), the fact that aid is financed by means of an obligatory levy constitutes an essential element of the aid; when the compatibility of such aid is assessed, the aid, as well as the way it is financed, must be examined with respect to Community law.

Consequently, even if the aid to afforestation and collective activities in the cellulose, paper and board industry were compatible as regards its form and objective, the fact that they are financed partly by levies on products imported from other Member States has an additional and unnecessary protective effect which exceeds that of the aid itself.

The Commission considers that, taking into account the ruling of the Court in Case 47/69, the more Community undertakings succeed in increasing sales of cellulose,

paper and board in Italy by marketing efforts and by price-cutting, the more they have to contribute under the system of levies to the ENCC and, consequently, to aid essentially intended for Italian competitors who have not made such efforts.

In this context, the Commission notes that intra-Community trade in paper and board has increased in the last 10 years. According to statistics published by the European Confederation of Pulp, Paper and Board Industries (Cepac), intra-Community imports represented 12,5 % of apparent consumption of paper and board in the Community in 1980; this percentage gradually increased to 15,1 % in 1984 and to 19,3 % in 1989. In Italy, imports from other Member States represented only 5 % of apparent consumption of paper and board in 1980; this rose to 9,1 % in 1984 and to 13,3 % in 1989.

Intra-Community trade in pulp has increased as well, mainly on account of the accession of Portugal and Spain. Intra-Community imports of pulp represented only 3,3 % of apparent consumption in the Community in 1980; this percentage increased to 4 % in 1984 and to 11,8 % in 1989. In Italy, imports from other Member States represented 5,2 % of apparent domestic consumption of pulp in 1980; this percentage increased to 7,4 % in 1984 and to 14,8 % in 1989.

Accordingly, the Commission considers that aid to the cellulose, paper and board industry partly financed by levies on imports from other Member States cannot be considered compatible with the common market. As the Commission explained in its letter dated 14 March 1990 (see point II), this appraisal cannot be altered by the Italian Government's commitment in 1974 not to use the proceeds of the levy on imports from other Member States to assist research in the paper industry for two reasons. Firstly, because the activities in the timber industry as described in the ENCC's statute are linked to each other and cannot be separated artificially. Secondly, because the ENCC can easily switch funds from one activity to another, and this commitment consequently has no real significance. Neither in its reply to this letter, nor in its observations within the framework of the procedure laid down in Article 93 (2) of the Treaty, did the Italian Government contest these two reasons.

In its letter dated 15 June 1990 (see point III), the Italian Government did claim that ENCC's activities were of interest to pulp and paper manufacturers in other Member States as well. It also claimed that the bulk of the levy was, in reality, passed on to the consumer. It finally claimed that abolishing the levy on imports from other Member States would create disproportionate damage compared to the objective pursued.

(¹) [1970] ECR 487.

In its reply dated 16 October 1990, the Commission rejected these claims. It notably pointed out that, already in its judgment in Case 47/69, the Court of Justice had discarded the argument of accessibility of the aided activities to foreign undertakings. Such accessibility is not the same thing as effective participation, as the aided activities are based on national targets, specializations and needs. The Commission also noted that the Italian Government's view that the levy is, in reality, passed on to the consumer had also been put by the French Government in Case 47/69, to no avail. The Commission finally disagreed that the effects of its proposals would create disproportionate damage compared to the objective pursued; painful adjustments in ENCC's activities would clearly be outweighed by the elimination of aid which is incompatible with the common market when seen from a Community point of view.

The Italian authorities finally agreed with this assessment and, within the framework of the procedure, informed the Commission of the draft law that had been presented to Parliament with a view to transforming ENCC into the Ente nazionale per la forestazione ed il recupero della carta (Enfor). Article 15 of the draft law provides for the phasing-out by 1 January 1994 of the levies with which the activities of ENCC and Enfor are financed. In the letter dated 14 April 1991, however, this deadline was brought forward to 31 December 1992 in order to allow the existing scheme to be amended by legislation. The aid to be abolished also includes the exemption from and refund of the levies on exports of pulp, paper and board.

By virtue of the powers conferred on it by the first subparagraph of Article 93 (2), the Commission considers that the deadline of 31 December 1992 is too long and cannot be justified; it also considers that a distinction should be made between aid that is incompatible under the case-law resulting from the judgment in Case 47/69, referred to above, and aid for the export of certain products to other Member States. On the basis of the criteria hitherto applied for the application of Articles 92 and 93 (2), the Commission considers that, for aid in the first category, a transitional period of 12 months from the date of adoption of this Decision may be envisaged. On the other hand, the export aid should, given its direct and immediate impact on trade between Member States and on the conditions of competition, be abolished without delay, i.e. within the two months Member States are usually given to comply with decisions on State aid.

These arrangements should give the Italian authorities reasonable time to comply with the Commission decision since they need only instruct the competent departments (e.g. by circular or any other form of internal memo) to

refrain from granting the aid in question as from the dates stipulated in this Decision.

It should be borne in mind here that, even if the appropriate measures proposed by the Commission in March 1990 have the force only of recommendations, the Italian authorities have, nevertheless, already had 11 months in which to bring their legislation into line with the appropriate measures.

Secondly, it should be stressed that Commission decisions pursuant to Article 93 (2) are directly applicable⁽¹⁾ and that their implementation does not, therefore, necessitate any legislative measures on the part of the Member States. Such decisions take precedence over national provisions that might conflict with the obligations arising out of such decisions. Since the obligation to abolish the aid referred to in this Decision within the periods stipulated is clear and unconditional, the Decision must have full effect in the Italian legal system⁽²⁾ without it being necessary to modify the scheme through legislative channels. Furthermore, according to a judgment of the Court, administrative authorities, including municipal or regional authorities, are under the same obligation as national courts to apply Community provisions in the place of any conflicting national provisions⁽³⁾. That being so, if the Italian Republic were to consider it expedient to modify the aid scheme in question through legislative channels (as regards the incompatible aid) solely in order to satisfy the need for additional legal certainty, it must bear in mind the rule that a Member State cannot rely on procedures, practices or provisions of its national legal system for the purpose of justifying a failure to comply with Community obligations⁽⁴⁾ such as those resulting from a decision on State aid pursuant to Article 93 (2) of the Treaty⁽⁵⁾.

The first sentence of Article 93 (2) of the Treaty provides that, where the Commission finds that aid granted by a State or through State resources is not compatible with the common market having regard to Article 92, it must decide that the State concerned has to abolish or alter

⁽¹⁾ Judgment of 19 June 1973 in Case 77/72 Capolongo [1973] ECR 611.

⁽²⁾ See, *inter alia*, judgment of 6 February 1963 in Case 26/62 Van Gend en Loos [1963] ECR 1, and Judgment of 9 March 1978 in Case 106/77 Simmenthal [1978] ECR 629.

⁽³⁾ Judgment of 22 June 1989 in Case 103/88 Costanzo [1989] ECR 1839.

⁽⁴⁾ See, *inter alia*, judgment of 11 April 1978 in Case 100/77 Commission v. Italian Republic [1978] ECR 879, judgment of 2 February 1982 in Case 71/81 Commission v. Kingdom of Belgium [1982] ECR 175, and judgment of 21 February 1990 in Case C-79/89 Commission v. Kingdom of Belgium [1990] ECR 491.

⁽⁵⁾ The Commission adopted the same approach in its Decision of 21 February 1990 on German aid schemes for the motor vehicle industry (OJ No L 188, 20. 7. 1990, p. 55).

such aid within a period of time to be determined by the Commission. In the present case, it considers that the aid granted to exports to other Member States must be abolished without delay. As regards the aid to ENCC financed out of a levy on imports from other Member States, the Commission considers a period of one year to be reasonable and quite sufficient for the Italian Government to modify its system of levies,

HAS ADOPTED THIS DECISION:

Article 1

The aid granted by Italy to the Italian cellulose, paper, board and paper products industry in the form of an exemption from or a refund of the levies imposed on exports to other Member States and used to finance activities of the ENCC is incompatible with the common market. The aid shall be abolished within the shortest possible time, and not later than two months after the date of notification of this Decision.

Article 2

The aid which Italy grants to the Italian cellulose, paper and board industry by financing the activities of the

ENCC is incompatible with the common market, in so far as these activities are financed partly out of the proceeds of levies on cellulose, paper and board imported from other Member States. The levies on imported products shall, therefore, be abolished by 24 April 1992 at the latest.

Article 3

Italy shall inform the Commission within two months from the date of notification of this Decision on the steps taken to comply herewith.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 24 April 1991.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION
of 13 February 1992
amending Annexes B and C to Council Directive 90/426/EEC
(92/130/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and import from third countries of equidae⁽¹⁾, and in particular Article 23 thereof,

Whereas in the light of experience gained, some of the wording in the certificates set out in the Annex to Directive 90/426/EEC should be changed so that guarantees relating to certain diseases can be included;

Whereas, in order to avoid confusion, the provisions of Annexes B and C to the said Directive should be reworded;

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

Annexes B and C to Directive 90/426/EEC are hereby replaced by the Annex to this Decision as per 1 March 1992.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 42.

ANNEX

ANNEX B

HEALTH INFORMATION (a)

Passport No

I, the undersigned, certify (b) that the equine animal described above meets the following requirements :

- (a) it has been examined today and shows no clinical sign of disease ;
- (b) it is not intended for slaughter under a national programme of contagious or infectious disease eradication ;
- (c) — it does not come from the territory or part of the territory of a Member State/third country which is the subject of restrictions for reasons of African horse sickness (c), or
it comes from the territory or part of the territory of a Member State which was subject to prohibition for animal health reasons and has undergone, with satisfactory results, the tests provided for in Article 5 (3) of Directive 90/426/EEC in the quarantine station of between and (c) ;
— it is not vaccinated against African horse sickness, or it was vaccinated against African horse sickness on (c) (d) ;
- (d) it has not come from a holding which was subject to prohibition for animal health reasons nor had contact with equidae from a holding which was subject to prohibition for animal health reasons :
 - during six months in the case of equidae suspected of having contracted dourine, beginning on the date of the last actual or possible contact with a sick animal. However, in the case of a stallion, the prohibition shall apply until the animal is castrated,
 - during six months in the case of glanders or equine encephalomyelitis, beginning on the day on which the equidae suffering from the disease in question are slaughtered,
 - in the case of infectious anaemia, until the date on which, the infected animals having been slaughtered, the remaining animals have shown a negative reaction to two Coggins tests carried out three months apart,
 - during six months from the last case, in the case of vesicular stomatitis,
 - during one month from the last case, in the case of rabies,
 - during 15 days from the last case, in the case of anthrax,
 - if all the animals of species susceptible to the disease located on the holding have been slaughtered and the premises disinfected during 30 days, beginning on the day on which the animals were destroyed and the premises disinfected, except in the case of anthrax, where the period of prohibition is 15 days ;
- (e) to the best of my knowledge, it has not been in contact with equidae suffering from an infectious or contagious disease in the 15 days prior to this declaration.

Date	Place	Stamp and signature of the official veterinarian (1)

(1) Name in block capitals and capacity.

(a) This information is not required where there is a bilateral agreement in accordance with Article 6 of Directive 90/426/EEC.
(b) Valid for 10 days.
(c) Delete whichever does not apply.
(d) The vaccination date must be entered in the passport.

ANNEX C

MODEL

HEALTH CERTIFICATE
for trade between Member States of the EEC

EQUIDAE

No :

Member State of dispatch :

Ministry responsible :

Territorial Department responsible :

I. Number of equidae :

II. Identification of equidae :

Number of equidae (1)	Species horse, ass, mule, hinny	Breed Age Sex	Method of identification and identification (2)

(1) In the case of animals for slaughter, nature of the special mark.
(2) A passport identifying the equine animal may be attached to this certificate provided that its number is stated.

III. Origin and destination of animal/s :

The animal/s is/are to be sent
from :
(Place of export)
to :
(Member State and place of destination)
Name and address of consignor :
.....
Name and address of consignee :
.....

IV. Health information (a)

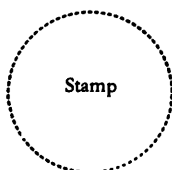
- I, the undersigned, certify that the animal/s described above meet/s the following requirements :
- 1. it/they has/have been examined today and show/s no clinical sign of disease ;
 - 2. it/they is/are not intended for slaughter under a national programme of contagious or infectious disease eradication ;

(a) This information is not required where there is a bilateral agreement in accordance with Article 6 of Directive 90/426/EEC.

3. — it/they does/do not come from the territory or part of the territory of a Member State/third country which is the subject of restrictions for reasons of African horse sickness,
- or
- it/they come/s from the territory or part of the territory of a Member State which was the subject of restrictions for reasons of African horse sickness and has/have undergone, with satisfactory results, the tests provided for in Article 5 (3) of Directive 90/426/EEC in the quarantine station of between and (b);
- it/they is/are not vaccinated against African horse sickness,
- or
- it/they was/were vaccinated against African horse sickness on (b);
4. it/they has/have not come from a holding which was subject to prohibition for animal health reasons nor had contact with equidae from a holding which was subject to prohibition for animal health reasons :
- during six months in the case of equidae suspected of having contracted dourine, beginning on the date of the last actual or possible contact with a sick animal. However, in the case of a stallion, the prohibition shall apply until the animal is castrated,
 - during six months in the case of glanders or equine encephalomyelitis, beginning on the day on which the equidae suffering from the disease in question are slaughtered,
 - in the case of infectious anaemia, until the date on which, the infected animals having been slaughtered, the remaining animals have shown a negative reaction to two Coggins tests carried out three months apart,
 - during six months from the last case, in the case of vesicular stomatitis,
 - during one month from the last case, in the case of rabies,
 - during 15 days from the last case, in the case of anthrax,
 - if all the animals of species susceptible to the disease located on the holding have been slaughtered and the premises disinfected during 30 days, beginning on the day on which the animals were destroyed and the premises disinfected, except in the case of anthrax, where the period of prohibition is 15 days;
5. to the best of my knowledge, it/they has/have not been in contact with equidae suffering from an infectious or contagious disease in the 15 days prior to this declaration.

V. This certificate is valid for 10 days.

(Place), (date)



.....
(Signature)

(Name in capital letters and capacity
of signing veterinarian) (c)

(b) Delete whichever does not apply.

(c) In Germany 'Beamteter Tierarzt'; in Belgium 'Inspecteur vétérinaire' or 'Inspecteur Dierenarts'; in France 'Vétérinaire officiel'; in Italy 'Veterinario ufficiale'; in Luxembourg 'Inspecteur vétérinaire'; in the Netherlands 'Officieel Dierenarts'; in Denmark 'Embeds Dyrlæge'; in Ireland 'Veterinary Inspector'; in the United Kingdom 'Veterinary Inspector'; in Greece 'Επίσημος κτηνίατρος'; in Spain 'Inspector Veterinario'; and in Portugal 'Inspector Veterinário'.

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 402/92 of 19 February 1992 fixing the export refunds on pigmeat*(Official Journal of the European Communities No L 44 of 20 February 1992)*

insert at the end of the Annex on page 24, the following :

<i>(ECU/100 kg net weight)</i>		
Product code	Destination of refund (1)	Amount of refund
1602 49 50 900	01	—
1602 90 10 100	01	28,00
1602 90 10 900	01	—
1902 20 30 100	01	16,00
1902 20 30 900	01	—'