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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1191/89**of 27 April 1989****derogating from Regulation (EEC) No 797/85 as regards certain investment aids
in the pig production sector**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas the last subparagraph of Article 3 (4) of Council Regulation (EEC) No 797/85 of 23 March 1985 on improving the efficiency of agricultural structures ⁽²⁾, as last amended by Regulation (EEC) No 591/89 ⁽³⁾, provides that the granting of investment aid in the pig production sector is to be subject to the condition that the equivalent of at least 35 % of the feed consumed by the pigs can be produced on the holding;

Whereas the investments for improving the health situation of pig farms in certain Community areas covered by a swine fever eradication plan, or in certain areas of Greece, of Spain and of Portugal characterized by small holdings or by low-yield production land and by unsatisfactory rearing conditions from the animal health viewpoint cannot in all cases be achieved while complying with the abovementioned condition; whereas, however, national aid should be authorized on application, with supporting documents, by the Member States to enable such improvement to be achieved,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from the last subparagraph of Article 3 (4) of Regulation (EEC) No 797/85, the

Commission may, in accordance with the procedure referred to in Article 25 of that Regulation, authorize a Member State to grant investment aid intended to improve the animal health situation in the pig production sector, subject to compliance with the limits provided for in the last subparagraph of Article 3 (4) and in Article 4 of that Regulation and the following conditions:

(1) as regards stock farms fattening piglets from other holdings:

(a) the holding shall be located in an area covered by a swine fever eradication plan;

(b) the pig farming system shall be converted into closed-circuit breeding, that is a farrow-to-finish system; it shall entail clear, effective separation between the breeding and fattening units;

(c) the aid shall relate only to investments actually concerning the conversion of places for fattening pigs into places for breeding sows and to investments enabling contact to be prevented between the herd with neighbouring herds or with other sources of contamination; such investments must comprise measures to refurbish existing pig housing installations with a view to effective animal health protection;

(d) the total number of pig places after the investments are made shall not exceed the number of places before conversion;

(2) as regards pig farms situated in Greece, Spain and Portugal and not offering sufficient health guarantees, in particular farms with pigs running free outside or in old buildings:

(a) the farm shall be located in an area a feature of which is small holdings or low-yield production land;

⁽¹⁾ Opinion delivered on 14 April 1989 (not yet published in the Official Journal).

⁽²⁾ OJ No L 93, 30. 3. 1985, p. 1.

⁽³⁾ OJ No L 65, 9. 3. 1989, p. 1.

- (b) the aid shall relate only to investments for constructing or renovating buildings to improve the existing herd situation as regards health, production quality, working conditions and environmental protection;
- (c) the total number of pig places after the investments are made shall not exceed the number of places required for housing the herd existing previously on the holding;
- (3) in the cases referred to in 1 and 2 above, the holding shall have at least one hectare of agricultural area for each 100 places for fattening pigs.

Article 2

The authorizations referred to in Article 1 shall cease to be applicable at the latest after 31 December 1990.

Article 3

This Regulation shall enter into force on the day following 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 Luxembourg, 27 April 1989.

For the Council

The President

J. BARRIONUEVO PEÑA

COMMISSION REGULATION (EEC) No 1192/89

of 3 May 1989

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 166/89⁽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 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2401/88⁽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 other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 2 May 1989;

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 2401/88 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 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 20, 25. 1. 1989, p. 16.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 205, 30. 7. 1988, p. 96.

ANNEX

to the Commission Regulation of 3 May 1989 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levies	
	Portugal	Third country
0709 90 60	25,25	130,75
0712 90 19	25,25	130,75
1001 10 10	59,60	189,64 ⁽¹⁾ ⁽²⁾
1001 10 90	59,60	189,64 ⁽¹⁾ ⁽²⁾
1001 90 91	35,73	119,39
1001 90 99	35,73	119,39
1002 00 00	63,32	122,74 ⁽³⁾
1003 00 10	53,90	122,72
1003 00 90	53,90	122,72
1004 00 10	44,96	91,24
1004 00 90	44,96	91,24
1005 10 90	25,25	130,75 ⁽²⁾ ⁽³⁾
1005 90 00	25,25	130,75 ⁽²⁾ ⁽³⁾
1007 00 90	48,56	139,60 ⁽⁴⁾
1008 10 00	53,90	24,26
1008 20 00	53,90	14,81 ⁽⁴⁾
1008 30 00	53,90	0,00 ⁽⁵⁾
1008 90 10	(7)	(7)
1008 90 90	53,90	0,00
1101 00 00	64,72	181,84
1102 10 00	103,35	186,53
1103 11 10	106,02	307,58
1103 11 90	68,09	194,58

(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 486/85 the levies are not applied to imports into the French overseas departments of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

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

(⁴) Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is reduced by 50 %.

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

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

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

COMMISSION REGULATION (EEC) No 1193/89

of 3 May 1989

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 the Act of Accession of Spain and Portugal,

Having regard to Regulation (EEC) No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 166/89⁽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 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 2402/88⁽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 other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 2 May 1989;

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

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 Portugal shall be zero.
2. 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 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 20, 25. 1. 1989, p. 16.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 205, 30. 7. 1988, p. 99.

ANNEX

to the Commission Regulation of 3 May 1989 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 5	1st period 6	2nd period 7	3rd period 8
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	4,40	4,40	4,85
1001 10 90	0	4,40	4,40	4,85
1001 90 91	0	1,31	1,31	6,23
1001 90 99	0	1,31	1,31	6,23
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	1,84	1,84	8,73

B. Malt

CN code	(ECU/tonne)				
	Current 5	1st period 6	2nd period 7	3rd period 8	4th period 9
1107 10 11	0	2,33	2,33	11,09	11,09
1107 10 19	0	1,74	1,74	8,29	8,29
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 1194/89**of 3 May 1989****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 2229/88 ⁽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 amended by Regulation (EEC) No 1546/87 ⁽⁴⁾, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2699/88 ⁽⁵⁾, as last amended by Regulation (EEC) No 1135/89 ⁽⁶⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2699/88 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 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 8 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.
⁽²⁾ OJ No L 197, 26. 7. 1988, p. 30.
⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.
⁽⁴⁾ OJ No L 144, 4. 6. 1987, p. 10.
⁽⁵⁾ OJ No L 241, 1. 9. 1988, p. 27.
⁽⁶⁾ OJ No L 119, 29. 4. 1989, p. 32.

ANNEX

to the Commission Regulation of 3 May 1989 fixing the import levies on rice and broken rice

(ECU/tonne)				
CN code	Portugal	Arrangement in Regulation (EEC) No 3877/86	ACP or OCT (⁽¹⁾)(⁽²⁾)	Third countries (except ACP or OCT) (⁽³⁾)
1006 10 21	—	—	148,14	303,48
1006 10 23	—	211,85	137,63	282,46
1006 10 25	—	211,85	137,63	282,46
1006 10 27	—	211,85	137,63	282,46
1006 10 92	—	—	148,14	303,48
1006 10 94	—	211,85	137,63	282,46
1006 10 96	—	211,85	137,63	282,46
1006 10 98	—	211,85	137,63	282,46
1006 20 11	—	—	186,07	379,35
1006 20 13	—	264,80	172,93	353,07
1006 20 15	—	264,80	172,93	353,07
1006 20 17	—	264,80	172,93	353,07
1006 20 92	—	—	186,07	379,35
1006 20 94	—	264,80	172,93	353,07
1006 20 96	—	264,80	172,93	353,07
1006 20 98	—	264,80	172,93	353,07
1006 30 21	13,05	—	240,35	504,55
1006 30 23	12,97	421,37	269,02	561,82
1006 30 25	12,97	421,37	269,02	561,82
1006 30 27	12,97	421,37	269,02	561,82
1006 30 42	13,05	—	240,35	504,55
1006 30 44	12,97	421,37	269,02	561,82
1006 30 46	12,97	421,37	269,02	561,82
1006 30 48	12,97	421,37	269,02	561,82
1006 30 61	13,90	—	256,32	537,35
1006 30 63	13,90	451,71	288,79	602,28
1006 30 65	13,90	451,71	288,79	602,28
1006 30 67	13,90	451,71	288,79	602,28
1006 30 92	13,90	—	256,32	537,35
1006 30 94	13,90	451,71	288,79	602,28
1006 30 96	13,90	451,71	288,79	602,28
1006 30 98	13,90	451,71	288,79	602,28
1006 40 00	0	—	39,87	85,74

(⁽¹⁾) Subject to the application of the provisions of Articles 10 and 11 of Regulation (EEC) No 486/85 and of Regulation No 551/85.

(⁽²⁾) In accordance with Regulation (EEC) No 486/85, the levies are not applied to imports into the overseas department of Réunion of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

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

NB: The levies are to be converted into national currencies using the specific agricultural conversion rates fixed in Commission Regulation (EEC) No 3294/86 (OJ No L 304, 30. 10. 1986, p. 25).

COMMISSION REGULATION (EEC) No 1195/89

of 3 May 1989

fixing the premiums to be added to the import levies on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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 2229/88 ⁽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 2700/88 ⁽³⁾, as last amended by Regulation (EEC) No 1136/89 ⁽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,

Article 1

1. The premiums to be added to the import levies fixed in advance in respect of rice and broken rice originating in Portugal shall be zero.

2. 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 8 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 30.

⁽³⁾ OJ No L 241, 1. 9. 1988, p. 30.

⁽⁴⁾ OJ No L 119, 29. 4. 1989, p. 34.

ANNEX

to the Commission Regulation of 3 May 1989 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 5	1st period 6	2nd period 7	3rd period 8
1006 10 21	0	0	0	—
1006 10 23	0	0	0	—
1006 10 25	0	0	0	—
1006 10 27	0	0	0	—
1006 10 92	0	0	0	—
1006 10 94	0	0	0	—
1006 10 96	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 13	0	0	0	—
1006 20 15	0	0	0	—
1006 20 17	0	0	0	—
1006 20 92	0	0	0	—
1006 20 94	0	0	0	—
1006 20 96	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 23	0	0	0	—
1006 30 25	0	0	0	—
1006 30 27	0	0	0	—
1006 30 42	0	0	0	—
1006 30 44	0	0	0	—
1006 30 46	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 63	0	0	0	—
1006 30 65	0	0	0	—
1006 30 67	0	0	0	—
1006 30 92	0	0	0	—
1006 30 94	0	0	0	—
1006 30 96	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0

COMMISSION REGULATION (EEC) No 1196/89

of 28 April 1989

concerning the stopping of fishing for horse mackerel by vessels flying the flag of a Member State

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities ⁽¹⁾, as amended by Regulation (EEC) No 3483/88 ⁽²⁾, and in particular Article 11 (3) thereof,Whereas Council Regulation (EEC) No 4194/88 of 21 December 1988 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1989 and certain conditions under which they may be fished ⁽³⁾, as amended by Regulation (EEC) No 295/89 ⁽⁴⁾, provides for horse mackerel quotas for 1989;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to total allowable catches, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota available for Member States;

Whereas, according to the information communicated to the Commission, catches of horse mackerel in the waters of ICES division VIII a, b, d and e by vessels flying the flag of a Member State or registered in a Member State

have reached the quota available for Member States for 1989 ⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

*Article 1*Catches of horse mackerel in the waters of ICES division VIII a, b, d and e by vessels flying the flag of a Member State or registered in a Member State are deemed to have exhausted the quota available for Member States for 1989 ⁽⁵⁾.Fishing for horse mackerel in the waters ICES division VIII a, b, d and e by vessels flying the flag of a Member State or registered in a Member State ⁽⁵⁾ is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of entry into force of this Regulation.*Article 2*This Regulation shall enter into force on the 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, 28 April 1989.

For the Commission

António CARDOSO E CUNHA

Member of the Commission⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.⁽²⁾ OJ No L 306, 11. 11. 1988, p. 2.⁽³⁾ OJ No L 369, 31. 12. 1988, p. 3.⁽⁴⁾ OJ No L 33, 4. 2. 1989, p. 38.⁽⁵⁾ Except Spain and Portugal.

**COMMISSION REGULATION (EEC) No 1197/89
of 2 May 1989**

on the supply of various lots of skimmed-milk powder as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1870/88 ⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management ⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a decision on the allocation of food aid, the Commission has allocated to Sierra Leone 400 tonnes of skimmed-milk powder;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July

1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽⁴⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Milk products shall be mobilized in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

Article 2

This Regulation shall enter into force on the 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, 2 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 168, 1. 7. 1988, p. 7.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX

LOT A

1. **Operation No⁽¹⁾**: 83/89 (Commission Decision of 26. 7. 1988)
2. **Programme**: 1988
3. **Recipient**: Sierra Leone (National Authorizing Officer)
4. **Representative of the recipient⁽²⁾**: Dr F. MacBailey, National Authorizing Officer, Office of the President, PO Box 1402, Freetown, Sierra Leone
5. **Place or country of destination**: Sierra Leone
6. **Product to be mobilized**: vitaminized skimmed-milk powder
7. **Characteristics and quality of the goods⁽²⁾**: see OJ No C 216, 14. 8. 1987, p. 4 (I.1.B.1 to 3)
8. **Total quantity**: 400 tonnes
9. **Number of lots**: one
10. **Packaging and marking**: 25 kg and see OJ No C 216, 14. 8. 1987, pp. 4, 5 and 6 (I.1.B.4.3)
Supplementary markings on the packaging:
'ACTION No 83/89 / SKIMMED-MILK POWDER / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY TO SIERRA LEONE / FOR FREE DISTRIBUTION'
and OJ No C 216, 14. 8. 1987, p. 6 (I.1.B.5)
11. **Method of mobilization of the product**: Community market — The manufacture of the skimmed-milk powder and the incorporation of vitamins must be carried out after the award of the tender
12. **Stage of supply**: free at port of landing — Freetown — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Freetown, Sierra Leone
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 5 to 15. 6. 1989
18. **Deadline for the supply**: 30. 7. 1989
19. **Procedure for determining the costs of supply**: invitation to tender
20. **In the case of an invitation to tender, date of expiry of the period allowed for submission of tenders⁽⁴⁾**: 22. 5. 1989 at 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 5. 6. 1989 at 12 noon
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 19 to 29. 6. 1989
 - (c) deadline for the supply: 15. 8. 1989
22. **Amount of the tendering security**: ECU 20 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders**:
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, Bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles; telex AGREC 22037 B
25. **Refund payable on request by the successful tenderer⁽⁵⁾**:
Refund applicable on 14. 4. 1989 fixed by Commission Regulation (EEC) No 956/89 (OJ No L 102, 14. 4. 1989, p. 8)

Notes

- (¹) The operation number is to be quoted in all correspondence.
- (²) At the request of the beneficiary, the successful tenderer shall deliver a certificate from an official entity certifying that for the product to be delivered the standards applicable relative to nuclear radiation, in the Member State concerned, have not been exceeded.
- (³) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 227, 7. 9. 1985, p. 4.
- (⁴) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
- either by porter at the Office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels :
- 235 01 32
 - 236 10 97
 - 235 01 30
 - 236 20 05
- (⁵) Commission Regulation No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of this Annex.
-

COMMISSION REGULATION (EEC) No 1198/89**of 3 May 1989****repealing Regulation (EEC) No 908/89 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 571/89⁽²⁾, and in particular Article 6 (7) thereof,

Whereas Article 6 of Regulation (EEC) No 805/68 lays down the conditions, in particular those relating to prices, under which buying-in of beef may be decided by invitation to tender; whereas Commission Regulation (EEC) No 859/89 of 29 March 1989 laying down detailed rules for the application of intervention measures in the beef and veal sector⁽³⁾ lays down in particular detailed rules on invitations to tender and the list of products eligible;

Whereas Commission Regulation (EEC) No 908/89 of 7 April 1989 on the buying-in of beef by invitation to tender⁽⁴⁾ opens buying-in by invitation to tender pursuant to the transitional provisions of Regulation (EEC) No

859/89 applicable only to the first partial invitation to tender;

Whereas the conditions laid down for subsequent partial invitations to tender in Article 6 (2) of Regulation (EEC) No 805/68 are not met;

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

Regulation (EEC) No 908/89 is hereby repealed.

Article 2

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

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 61, 4. 3. 1989, p. 43.

⁽³⁾ OJ No L 91, 4. 4. 1989, p. 5.

⁽⁴⁾ OJ No L 95, 8. 4. 1989, p. 22.

COMMISSION REGULATION (EEC) No 1199/89

of 3 May 1989

on the sale by the procedure laid down in Regulation (EEC) No 2539/84 of beef held by certain intervention agencies and intended for processing within the Community and amending Regulation (EEC) No 3815/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Article 1

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 571/89 ⁽²⁾, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 2539/84 of 5 September 1984 laying down detailed rules for certain sales of frozen beef held by the intervention agencies ⁽³⁾, as amended by Regulation (EEC) No 1809/87 ⁽⁴⁾, has provided for the possibility of applying a two-stage procedure when selling beef from intervention stocks;

Whereas certain intervention agencies hold substantial stocks of intervention meat; whereas certain quantities of hindquarters were put up for sale by Commission Regulation (EEC) No 3815/87 ⁽⁵⁾, as last amended by Regulation (EEC) No 3054/88 ⁽⁶⁾, whereas an extension of the period of storage should be avoided on account of the ensuing high costs; whereas, in the present market situation, there are outlets for such meat for processing in the Community;

Whereas such sales should be made in accordance with Commission Regulations (EEC) No 2539/84, (EEC) No 569/88 ⁽⁷⁾, as last amended by Regulation (EEC) No 1045/89 ⁽⁸⁾ and (EEC) No 2182/77 ⁽⁹⁾, as last amended by Regulation (EEC) No 3988/87 ⁽¹⁰⁾ subject to certain special exceptions on account of the particular use to which the products in question are to be put;

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

1. The following approximate quantities of beef shall be put up for sale for processing within the Community:

Bone-in hindquarters:

- 860 tonnes of bone-in beef held by the Belgian intervention agency and bought in before 1 June 1987,
- 3 000 tonnes of bone-in beef held by the German intervention agency and bought in before 1 April 1987,
- 2 000 tonnes of bone-in beef held by the Irish intervention agency and bought in before 1 January 1988,
- 3 000 tonnes of bone-in beef held by the Dutch intervention agency and bought in before 1 February 1987;

2. The intervention agencies referred to in paragraph 1 shall sell first the meat which has been stored the longest.

3. The sales shall be conducted in accordance with the provisions of Regulations (EEC) No 2539/84, (EEC) No 569/88, (EEC) No 2182/77 and this Regulation.

4. The qualities and the minimum prices referred to in Article 3 (1) of Regulation (EEC) No 2539/84 are given in Annex I hereto.

5. Only those tenders shall be taken into consideration which reach the intervention agencies concerned no later than 12 noon of 10 May 1989.

6. Particulars relating to the quantities and the places where the products are stored may be obtained by interested parties at the addresses given in Annex II.

Article 2

1. Notwithstanding Article 3 (1) and (2) of Regulation (EEC) No 2182/77, the tender or application to purchase:

- (a) shall be valid only if presented by a natural or legal person who, for at least 12 months, has been engaged in the processing of products containing beef and who is entered in a public register of a Member State;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 61, 4. 3. 1989, p. 43.

⁽³⁾ OJ No L 238, 6. 9. 1984, p. 13.

⁽⁴⁾ OJ No L 170, 30. 6. 1987, p. 23.

⁽⁵⁾ OJ No L 357, 19. 12. 1987, p. 24.

⁽⁶⁾ OJ No L 272, 4. 10. 1988, p. 19.

⁽⁷⁾ OJ No L 55, 1. 3. 1988, p. 1.

⁽⁸⁾ OJ No L 111, 22. 4. 1989, p. 12.

⁽⁹⁾ OJ No L 251, 1. 10. 1977, p. 60.

⁽¹⁰⁾ OJ No L 376, 31. 12. 1987, p. 31.

(b) must be accompanied by:

- a written undertaking by the applicant to process the meat purchased into products specified in Article 1 (1) of Regulation (EEC) No 2182/77 within the period referred to in Article 5 (1) of the abovementioned Regulation,
- a precise indication of the establishment or establishments where the meat which has been purchased will be processed.

2. The applicants referred to in paragraph 1 may instruct an agent to take delivery, on their behalf, of the products which they purchase. In this case the agent shall submit the tenders or applications to purchase of the purchasers whom he represents.

3. The purchasers and agents referred to in the foregoing paragraphs shall maintain and keep up to date an accounting system which permits the destination and use of the products to be ascertained with a view particularly to checking to ensure that the quantities of products purchased and manufactured tally.

Article 3

1. The security provided for in Article 5 (1) of Regulation (EEC) No 2539/84 shall be ECU 10 per 100 kilograms.

2. The security provided for in Article 5 (3) (a) of Regulation (EEC) No 2539/84 shall be ECU 200 per 100 kilograms for bone-in hindquarters.

Article 4

For the purpose of this Regulation, 100 kilograms of bone-in hindquarters equals 64 kilograms of boneless meat after removal of the fillet and the striploin.

Article 5

Regulation (EEC) No 3815/87 is hereby amended as follows:

1. the fourth and fifth indents of Article 1 (1) are deleted;
2. in Annex I, the qualities and relevant prices relating to 'Belgique/België' and 'Nederland' are deleted;
3. in Annex II, the addresses for 'Belgique/België' and 'Nederland' are deleted.

Article 6

This Regulation shall enter into force on 10 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lid-Staat Estado-membro	Productos Produkter Erzeugnisse Προϊόντα Produits Prodotti Produkten Produtos	Cantidades (toneladas) Mængde (tons) Mengen (Tonnen) Ποσότητες (τόνοι) Quantities (tonnes) Quantités (tonnes) Quantità (tonnellate) Hoeveelheid (ton) Quantidade (toneladas)	Precio mínimo expresado en ecus por tonelada Mindstepriser i ECU/ton Mindestpreise, ausgedrückt in ECU/Tonne Ελάχιστες τιμές πώλησεως εκφραζόμενες σε Ecu ανά τόνο Minimum prices expressed in ecus per tonne Prix minimaux exprimés en écus par tonne Prezzi minimi espressi in ECU per tonnellata Minimumprijzen uitgedrukt in ecu per ton Preço mínimo expresso em ecus por tonelada
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Cuartos traseros con hueso — Bagfjerdinger, ikke udbenet — Hinterviertel mit Knochen — Οπίσθια τέταρτα μη αποστεωμένα —
Unboned hindquarters — Quartiers arrière avec os — Quarti posteriori non disossati — Achtervoeten met been — Quartos
traseiros com osso

Belgique/België	— <i>Quartiers arrière</i> , provenant de : <i>Achtervoeten</i> , afkomstig van : Catégorie A / Categoria A	860	2 000
Bundesrepublik Deutschland	— <i>Hinterviertel</i> , stammend von : Kategorie A, Klassen U und R, Kategorie C, Klassen U und R	3 000	2 000
Ireland	— <i>Hindquarters</i> , from : Category C	2 000	2 000
Nederland	— <i>Achtervoeten</i> , afkomstig van : Categorie A	3 000	2 000

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

**Direcciones de los organismos de intervención — Interventionsorganernes adresser —
Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses
of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli
organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos de
intervenção**

BELGIQUE/BELGIË: Office belge de l'économie et Belgische Dienst voor Bedrijfs-
de l'agriculture leven en Landbouw
rue de Trèves 82 Trierstraat 82
1040 Bruxelles 1040 Brussel
Tél. 02 / 230 17 40, téléx 24076 OBEA BRU B, 65567 OBEA BRU B, téléfax
02 / 230 25 33

**BUNDESREPUBLIK
DEUTSCHLAND** Bundesanstalt für landwirtschaftliche Marktordnung (BALM)
Referat 313 — Adickesallee 40
D-6000 Frankfurt am Main 18
Tel. (06 11) 55 04 61 / 55 05 41, Telex 411 156 / 411 727
Tel. 0 69 / 15 64 (0) 7 04 / 7 05, Telefax 069-1 564 651, Teletext 6 990 732

IRELAND: Department of Agriculture and Food
Agriculture House
Kildare Street
Dublin 2
Tel. (01) 78 90 11, ext. 22 78
Telex 4280 and 5118

NEDERLAND: Ministerie van Landbouw en Visserij
Voedselvoorzieningsin- en verkoopbureau (VIB)
Burg. Kessenplein 3
Postbus 960
6430 AZ Hoensbroek
Tel. 045 / 23 83 83, telefax 045 / 22 27 35, telex 56396

COMMISSION REGULATION (EEC) No 1200/89

of 3 May 1989

fixing for the 1988/89 marketing year the average world market price and the indicative yield for linseed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 569/76 of 15 March 1976 laying down special measures for linseed⁽¹⁾, as amended by Regulation (EEC) 4003/87⁽²⁾, and in particular Article 2 (4) thereof,Whereas an average world market price for linseed must be determined each year according to the criteria laid down in Council Regulation (EEC) No 1774/76 of 20 July 1976 on special measures for linseed⁽³⁾;Whereas Article 4 of Commission Regulation (EEC) No 1799/76 of 22 July 1976 laying down detailed rules for the application of special measures in respect of linseed⁽⁴⁾, as last amended by Regulation (EEC) No 1208/87⁽⁵⁾, provides that this average price is to be the arithmetic mean of the world market prices as referred to in that Article and recorded each week over a representative period;

Whereas the most representative period for the marketing of Community linseed may be taken to be that from 5 September 1988 to 3 March 1989; whereas this is therefore the period to be taken into account;

Whereas the application of all these provisions produces the average world market price for linseed specified below;

Whereas Article 2 (2) of Regulation (EEC) No 569/76 provides that the subsidy is to be granted for a production figure obtained by applying an indicative yield to the areas sown and harvested; whereas that yield must be

determined by applying the criteria laid down in Regulation (EEC) No 569/76 and (EEC) No 1774/76;

Whereas, in accordance with Article 17 (1) of Regulation (EEC) No 1799/76, the producer Member States have supplied the Commission with the results of the sampling, carried out pursuant to Article 2a (2) of that Regulation, regarding the yields per hectare of seed harvested from each of the types of flax referred to in Articles 7a and 10a of the said Regulation in the homogeneous production areas; whereas, on the basis of those results, the indicative yield for linseed should be that specified below;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1988/89 marketing year, the average world market price for linseed shall be ECU 28,516 per 100 kilograms.

Article 2

For the 1988/89 marketing year, the indicative yields for linseed and the relevant production zones shall be as specified in the Annex.

*Article 3*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, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 67, 15. 3. 1976, p. 29.⁽²⁾ OJ No L 377, 31. 12. 1987, p. 46.⁽³⁾ OJ No L 199, 24. 7. 1976, p. 1.⁽⁴⁾ OJ No L 201, 27. 7. 1976, p. 14.⁽⁵⁾ OJ No L 115, 1. 5. 1987, p. 26.

ANNEX

Indicative yields (kilograms per hectare) and relevant production areas

I. FIBRE FLAX

	Retted but not de-seeded	Other
Area I:	1 185	1 580
The following Dutch areas: IJsselmeerpolders, Droogmakerijen Noord-Holland and Noordelijk Kleigebied		
Area II:	1 120	1 495
1. Other areas of the Netherlands		
2. The following Belgian communes:		
Assenede, Beveren-Waas, Blankenberge, Bredene, Brugge, Damme, De Haan, De Panne, Diksmuide (with the exception of Vladslo and Woumen), Gistel, Jabbeke, Knokke-Heist, Koksijde, Lo-Reninge, Middelkerke, Nieuwpoort, Oostende, Oudenburg, Sint-Gillis-Waas (only Meerdonk), Sint-Laureins, Veurne and Zuienkerke		
Area III:	962	1 103
1. Other areas of Belgium		
2. The following French areas:		
— the departement of Nord,		
— the arrondissements of Béthune, Lens, Calais, St Omer and the canton of Marquise in the departement of Pas-de-Calais,		
— the arrondissements of Saint-Quentin and Vervins in the departement of Aisne,		
— the arrondissement of Charleville-Mézières in the departement of Ardennes		
3. The Federal Republic of Germany	—	
Area IV:	906	1 043
The following French areas:		
— the arrondissements of Arras, Boulogne-sur-Mer with the exception of the canton of Marquise, Montreuil in the departement of Pas-de-Calais,		
— the departement of Somme,		
— the arrondissements of Beauvais, Clermont and Compiègne in the departement of Oise		
Area V:	847	—
1. Denmark		—
2. The Federal Republic of Germany		—
Area VI:	956	1 020
The following French areas:		
— the arrondissements of Rethel, Sedan, Vouziers, in the departement of Ardennes,		
— the arrondissements of Laon, Soissons, Château-Thierry in the departement of Aisne,		
— the departement of Marne,		
— the arrondissement of Senlis in the departement of Oise,		
— the departements of Seine-et-Marne, Essonne, Yvelines, Val-d'Oise, Hauts-de-Seine, Seine-St-Denis, Val-de-Marne, Eure-et-Loir, Loir-et-Cher, Sarthe,		
— the arrondissements of Alençon and Mortagne-au-Perche in the departement of Orne		
Area VII:	774	933
1. Other areas of France		
2. United Kingdom	—	
Area VIII:	245	245
1. United Kingdom		—
2. Other areas of the Community		

II. SEED FLAX

Area I:	1 856
1. United Kingdom	
2. Ireland	
Area II:	1 593
France	
Area III:	1 524
The Federal Republic of Germany	
Area IV	950
Italy	
Area V:	1 022
Other areas of the Community	

COMMISSION REGULATION (EEC) No 1201/89

of 3 May 1989

laying down rules implementing the system of 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 Protocol 4 on cotton, as last amended by Regulation (EEC) No 4006/87 ⁽¹⁾,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 fixing general rules with regard to the system of aid for cotton ⁽²⁾, as last amended by Regulation (EEC) No 791/89 ⁽³⁾, and in particular Article 11 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽⁴⁾, as last amended by Regulation (EEC) No 1636/87 ⁽⁵⁾, and in particular Article 12 thereof,

Whereas, in view of the fluctuations which normally occur in world market prices, the average world market price for unginned cotton should be determined at least once a month;

Whereas, if there are no representative offers or quotations for unginned cotton, the world market price for this product should be determined on the basis of the value of the products resulting from the ginning thereof;

Whereas provision should be made for the adjustment of offers and quotations in order to compensate for any deviation from the presentation, quality, terms and place of delivery normally to be used for fixing the world market price; whereas account should also be taken of any compensatory amount levied on imports pursuant to Regulation (EEC) No 143/67/EEC of the Council of 21 June 1967 on the compensatory amount applicable to certain vegetable oils ⁽⁶⁾, as amended by Regulation (EEC) No 2077/71 ⁽⁷⁾;

Whereas, in order to facilitate checks on entitlement to aid, and in particular on compliance with the minimum price, the conditions to be satisfied by the contracts

provided for in Article 6 of Regulation (EEC) No 2169/81 should be specified;

Whereas Article 5 of Regulation (EEC) No 2169/81 provides that aid is to be paid in respect of quantities of unginned cotton provided they are actually ginned, and whereas Article 10 provides that Member States are to check the entry of the products to the ginning plant and the ginning thereof; whereas, to ensure the effectiveness of such checks, the term 'ginning plant' should be defined and the checking procedure laid down;

Whereas the stock records of the processors should be used as a basis for this check;

Whereas, in order to facilitate the marketing of unginned cotton, the amount of aid applicable should be the amount in force on the day when the ginning plant lodges the application for aid;

Whereas in accordance with Article 8 of Regulation (EEC) No 2169/81 the Member States are to introduce a system of declarations of areas sown; whereas the procedures relating to this system and the relevant checks should be specified;

Whereas, to ensure the efficient functioning of the aid system, provision should be made for the Member States to issue a certificate stating the quantity of cotton qualifying for aid and the amount of such aid; whereas, for administrative reasons, it should be laid down that the cotton be ginned within a certain period;

Whereas, pursuant to Article 8 of Regulation (EEC) No 2169/81, in order to palliate the adverse consequences for beneficiaries of a delay in the payment of aid, provision should be made for a proportion of the aid to be paid in advance;

Whereas, to ensure the uniform application of the aid system, detailed rules for payment of the aid should be laid down;

Whereas the minimum frequency of fixings of the aid should be specified; whereas it will be sufficient to fix the aid at least once a month, subject to possible adjustments in the interim;

Whereas the rate for converting the minimum price into national currency should be the representative rate applicable on the day the contract is concluded and the amount of aid should be the amount which is applicable on the day the application is lodged;

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 85, 30. 3. 1989, p. 7.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁶⁾ OJ No 125, 26. 6. 1967, p. 2463/67.

⁽⁷⁾ OJ No L 220, 30. 9. 1971, p. 1.

Whereas, to facilitate administration of the aid system, it is desirable that the Member States provide the Commission with regular information on the production and ginning of unginning cotton ;

Whereas in the interests of clarity Commission Regulation (EEC) No 2183/81 ⁽¹⁾, as last amended by Regulation (EEC) No 2993/88 ⁽²⁾ should be repealed and replaced by this Regulation ;

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

HAS ADOPTED THIS REGULATION :

TITLE I

World price

Article 1

1. The world market price for unginning cotton shall be determined once a month. However, if the market situation changes significantly, the said price may be changed during the intervening period.

2. The price shall be fixed per 100 kilograms and shall be equal to the sum of the value of 32 kilograms of ginned cotton and the value of 54 kilograms of cotton seed, less ginning costs evaluated at ECU 13,25 per 100 kilograms.

These values shall be fixed on the basis of prices determined in accordance with Articles 2, 3 and 4.

Article 2

1. In determining the world market price for ginned cotton the Commission shall refer to the offers and quotations most representative of the world market situation for unginning cotton, in particular those obtaining at the Liverpool Cotton Exchange for shipments to be made during the months nearest in date and concerning the marketing year for which the price is determined.

For the purposes of determining such price, the Commission may establish an average of the offers and quotations obtaining on one or more European exchanges

⁽¹⁾ OJ No L 211, 31. 7. 1981, p. 35.

⁽²⁾ OJ No L 270, 30. 9. 1988, p. 61.

for cotton originating in various supplier countries regarded as the most representative in international trade.

2. Where the offers and quotations relate to :

- (a) ginned cotton of a quality other than the quality for which the guide price was fixed, they shall be adjusted as shown in Annex A ;
- (b) cotton delivered cif to a frontier crossing point other than Piraeus, they shall be adjusted on the basis of the difference in transport and insurance costs as against cotton delivered cif Piraeus, except in the case referred to in the second subparagraph of paragraph 1 ;
- (c) cotton delivered c and f, they shall be increased by 0,2 % to take insurance costs into account ;
- (d) cotton delivered fas, fob or otherwise, they shall be increased, as appropriate, by loading, transport and insurance costs from the point of shipment or loading to the frontier crossing point ;
- (e) cotton delivered cif, they shall be increased by ECU 1 per 100 kilograms to take account of unloading and forwarding costs at Piraeus.

3. For the purposes of paragraph 2, only the lowest costs shall be taken into account.

Article 3

1. In determining the world market price for cotton seed, the Commission shall refer to the offers and quotations obtaining for the shipments nearest in date.

2. Where the offers and quotations relate to :

- (a) cotton seed of a quality other than defined in Article 4 (3) of Regulation (EEC) No 2169/81, they shall be adjusted upward or downward by 2 % for each oil content point below or above the standard quality ;
- (b) cotton seed delivered c and f, they shall be increased by 0,2 % to take insurance costs into account ;
- (c) cotton seed delivered cif to a frontier crossing point other than Piraeus, they shall be adjusted on the basis of the difference in transport and insurance costs as against cotton seed delivered cif Piraeus ;
- (d) cotton seed delivered fas, fob or otherwise, they shall be increased, as appropriate, by loading, transport and insurance costs from the point of shipment or loading to the frontier crossing point ;
- (e) cotton seed delivered cif, they shall be increased by ECU 0,3 per 100 kilograms to take account of unloading and forwarding costs at Piraeus ;

3. For the purposes of paragraph 2, only the lowest loading, transport and insurance costs shall be taken into account.

Article 4

1. Where Article 4 (4) of Regulation (EEC) No 2169/81 is applied, the world market price for cotton seed shall be equal to the sum of the value of 12 kilograms of unprocessed cotton-seed oil and the value of 75 kilograms of oil-cake, less crushing costs which are calculated at ECU 7,45 per 100 kilograms. These values shall be fixed on the basis of prices determined in accordance with paragraph 2.

2. In determining the world market price for cotton-seed oil and oil-cake, the Commission shall refer to:

(a) the most favourable offers and quotations for a bulk product of Community origin or imported, delivered Piraeus;

(b) offers and quotations relating to:

- the shipments nearest in date, and
- as regards oil, a raw product and, as regards oil-cake, a product with a fat and protein content of 27 %.

3. Where the offers and quotations relate to oil other than raw or oil-cake with a fat and protein content other than 27 % they shall be adjusted on the basis of the difference in price from the quality referred to in paragraph 2 recorded on the market during a reference period.

4. For imported products, where the offers and quotations do not relate to a product delivered Piraeus, adjustments shall be made in accordance with the detailed rules laid down for seeds, having regard to the nature of the product.

In making such adjustments the Commission shall take into account the lowest costs.

Offers and quotations for oil shall be increased by the customs duties applied in the Community and any compensatory amount levied on imports pursuant to Regulation (EEC) No 143/67/EEC.

5. For products of Community origin, where there are no offers or quotations for a product delivered in bulk at Piraeus, the most favourable offers and quotations recorded on the other principal markets of the Community shall be taken into consideration.

TITLE II

Aid

Article 5

1. The Commission shall fix the amount of aid for unginned cotton once a month so that it may be brought into effect on the first day of the month following the date of fixing. However, if the market situation changes

significantly, the said amount may be changed during the intervention period.

2. The Commission shall communicate to the Member States the amount of aid for 100 kilograms of unginned cotton, as soon as that amount is fixed, and in any case before the date of its entry into effect.

3. Without prejudice to Articles 5 (2) and 7 (2) of Regulation (EEC) No 2169/81, the aid to be granted shall be that which is valid on the day of application for aid provided for in Article 6 of Regulation (EEC) No 2169/81 is lodged in accordance with Article 7 of this Regulation.

Article 6

Where, for a given marketing year, there is a difference between the actual production and the estimated production, the maximum quantity fixed by the Council for the following marketing year shall be:

- increased by that difference if actual production is less than estimated production,
- reduced by that difference in the contrary case.

However, for the calculation of the difference, actual and estimated production shall be taken into account within the following limits:

- a minimum equal to the maximum guaranteed quantity of the marketing year to which it refers, adjusted where necessary in accordance with the first subparagraph of this Article,

and, for the 1987/88, 1988/89 and 1989/90 marketing years:

- a maximum equal to the abovementioned maximum guaranteed quantity plus 225 000, 300 000 and 375 000 tonnes respectively.

Article 7

1. The application for aid shall be made in writing, it shall be lodged by the ginning plant with the agency appointed to inspect ginning plants by the producer Member State concerned. It shall be lodged, in respect of each harvest, between 1 May preceding the marketing year for which the aid is applied for and 30 April following, and on or before the date on which the application for supervised storage of the cotton is made.

2. Where an application for aid is lodged before the application for supervised storage is made, it shall be valid only if a security of ECU 10 per 100 kilograms is given.

3. The security referred to in paragraph 2 shall be given in one of the forms provided for in Article 8 of Commission Regulation (EEC) No 2220/85 (1).

(1) OJ No L 205, 3. 8. 1985, p. 5.

The security shall be released *pro rata* to the quantities for which the obligation provided for in Article 9 (1) is fulfilled. The security shall be forfeited *pro rata* to the quantities for which the obligation provided for in Article 9 (1) is not fulfilled.

4. The application for aid shall contain the following information :

- the name, forenames, address and signature of the applicant,
- the date of the application,
- quantity of unginned cotton for which aid is requested.

Article 8

1. All cotton growers shall, before a date set by the Member State concerned and, except in cases of *force majeure*, not later than 1 July, send an annual declaration of the areas sown.
2. If the areas declared differ from those found during the inspections referred to in Article 12 (1) (a), the Member States shall adjust the declarations concerned. They shall take such adjustments into account in determining the total area declared.

Article 9

1. All ginning plants shall lodge an application for supervised storage when the unginned cotton enters the ginning plant.
2. The application for supervised storage shall be made in writing. It shall be lodged with the agency authorized to inspect ginning plants, appointed by the producer Member State in question, not later than 30 April following the year of sowing. It may be presented for one or more consignments.

A 'consignment' shall mean a given quantity of unginned cotton, numbered on entry to the ginning plant and analysed in accordance with Article 12 (5).

3. The application for supervised storage shall contain :

- the name, forenames, address and signature of the applicant,
- the date of application,
- the quantity of unginned cotton in respect of which the application is made,
- the number(s) of the consignment(s) concerned,
- a reference to the aid application.

4. The quantities taken into supervised storage shall be set off against the aid applications, in chronological order of the lodging of applications.

5. The quantity taken into supervised storage under an aid application may not :

- exceed the quantity specified in the application by more than 10 %,

— be less than the quantity specified in the application by more than 2 %.

6. The weight of the quantity taken into supervised storage shall be determined after adjustment in accordance with the method set out in Annex C.

7. Where the quantity taken into supervised storage is less than the quantity specified in the application, the competent agency shall reduce the quantity specified in the application to the quantity taken into supervised storage.

Where the quantity taken into supervised storage exceeds the quantity resulting from the application of paragraph 5, the competent authority shall allow the excess to qualify for the aid applying on the day it is taken into supervised storage.

8. As soon as the application for supervised storage is lodged, Member States shall, on request, grant those concerned an advance on the aid equal to the amount of the aid, provided a security at least equal to the advance is lodged. The security shall take one of the forms provided for in Article 8 of Regulation (EEC) No 2220/85. The security shall be released *pro rata* to the quantities for which the obligation provided for in paragraph 9 is fulfilled. The security shall be forfeited *pro rata* to the quantities for which the obligation provided for in paragraph 9 is not fulfilled.

9. Except in cases of *force majeure*, the quantity taken into supervised storage must be ginned within a period laid down by the Member State concerned and in any case within 180 days of its entry into supervised storage.

10. The obligation referred to in paragraph 9 shall be considered to be fulfilled when the quantity ginned, as determined in accordance with the method set out in Annex C, is not more than 2 % below the quantity indicated.

This quantity shall refer to a product with moisture and impurity contents corresponding to those in respect of which the aid is fixed.

Article 10

1. Not later than when a quantity is taken into supervised storage, one or more contracts and/or declarations drawn up in accordance with paragraphs 2 and 3 shall be submitted for each aid application to the agency referred to in Article 7 (1).

2. A contract as provided for in paragraph 1 shall contain the following information :

- (a) name, signature and address of the contracting parties ;
- (b) the date on which it is concluded ;
- (c) the year of sowing ;
- (d) the quantity covered by the contract ; the total quantity given in a number of contracts referring to a single aid application may not be less than that given in the aid application concerned.

If the contract is concluded before the harvest, this information shall be replaced by undertakings by the producer to deliver and by the buyer to take delivery of the quantity harvested on the area in question; in such cases the quantity shall be determined by the Member State on the basis of the yields recorded in the region concerned and any other relevant information supplied by the interested party;

- (e) the area, in hectares and ares, with the necessary particulars enabling the land to be identified;
- (f) the selling price of the unginned cotton by unit of weight, with the specification that:

1. the price is fixed for cotton of standard quality, ex holding;
2. the price is variable only for the increases or reductions in relation to the standard quality given in Annex B;

- (g) a clause providing that, should Article 7 (2) of Regulation (EEC) No 2169/81 be applied, the agreed price will be reduced by the amount by which the aid will be reduced;

- (h) a reference to the declaration of areas sown provided for in Article 8; however, if the declaration is not available when the contract is concluded, a reference to it shall be added to the contract as soon as the declaration is received.

3. Where the cotton is to be ginned on the grower's own premises or at another ginning plant on behalf of an individual or cooperative grower, or at a plant belonging to a growers' cooperative, a declaration shall be submitted indicating the following, as appropriate:

- a statement to the effect that the cotton will be ginned on the grower's own premises, or
- a statement to the effect that the cotton will be ginned on behalf of the grower; this statement shall contain the undertaking that the benefit of the aid shall be passed on to the grower. It shall be signed by the two parties concerned.

Paragraph 2 (h) shall apply *mutatis mutandis*.

Article 11

The aid shall be paid after it is established that the conditions laid down in this Regulation have been satisfied and, in particular, that the cotton taken into supervised storage was ginned during the period referred to in Article 9 (9).

If the total quantity ginned during the period in question, reconstituted if necessary by applying the yields referred to in Article 1 (2), is less than 98 % of the quantity taken into supervised storage, aid shall be paid *pro rata* to the quantities actually ginned.

Article 12

1. The agency appointed by the producer Member State shall verify:

- (a) the accuracy of the declarations of areas sown, on the basis of random inspections relating to not less than 5 % of the declarations;
- (b) that the contracts lodged fulfil the conditions laid down in Article 10, in particular compliance with the minimum price;
- (c) that the quantity of cotton for which aid is being applied for corresponds to the quantity of unginned cotton of Community origin produced on the area indicated in the contract(s);
- (d) that the quantity of cotton for which aid is paid corresponds to the quantity of Community cotton actually ginned;
- (e) that the stock records provided for in Article 6 of Regulation (EEC) No 2169/81 have been kept in accordance with Article 13 of this Regulation. In particular, it shall verify that the invoices and other documents referred to in the second indent of Article 13 have been signed by the growers and indicate a price at least equal to the minimum price, corrected where appropriate in accordance with Annex B to take account of the quality delivered.

2. The competent agency shall allow as qualifying for aid only the quantity of cotton in respect of which all the conditions are fulfilled.

3. Except in cases of *force majeure*, unginned cotton whose entry into the ginning plant has been verified pursuant to paragraph 1 may not leave the plant unginned, save on prior authorization by the competent agency; otherwise, the entitlement to aid will be forfeited.

Prior authorization may be granted, in particular, for quantities which are to be ginned on behalf of the grower.

4. For the purposes of this Regulation 'ginning plant' shall mean:

- (a) any building or other place within the precincts of a cotton ginning establishment;
- (b) if the products concerned cannot be stored within those precincts, any place of storage situated outside them which is sufficiently secure for the purposes of control of the stored products and which has been approved in advance by the agency responsible for inspection.

5. The taking of samples, the reduction of laboratory samples to samples for analysis and the determination of cotton quality, of moisture content and of impurities shall be carried out by a uniform method for the whole Community. However, until a Community method is adopted, the Member States may continue to use the methods of their choice.

Article 13

The stock records provided for in Article 6 (2) of Regulation (EEC) No 2169/81 shall contain the following information, separately in respect of unginned cotton harvested inside the Community and unginned cotton harvested outside the Community:

- the quantities of unginned cotton, ginned cotton, seed, oil and cotton linters in stock on the first day of each month,
- in respect of each consignment of such products received, the number of the invoice or, where appropriate, the number of the receipt or any other equivalent document issued per consignment, with an indication of the quantity concerned,
- in respect of each consignment of such products sent out, the number of the invoice, or, where appropriate, the number of the dispatch note or any other document issued per consignment, with an indication of the quantity concerned.

TITLE III**General provisions***Article 14*

1. The producer Member States shall communicate to the Commission:
 - (a) the name and address of the agencies appointed to implement the provisions of this Regulation, as soon as those agencies are appointed;
 - (b) not later than the 15th of each month, the quantities for which aid was requested during the preceding month;
 - (c) not later than the 15th of each month, the quantities taken into supervised storage during the preceding month;
 - (d) not later than 15 August each year:
 - the areas sown with cotton during the current year, where necessary adjusted in accordance with Article 8 (2),

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

Done at Brussels, 3 May 1989.

- the average quality of ginned cotton and average yields of ginned cotton and cotton seed, recorded during the current marketing year,
- a summary of the quantities for which aid was approved in respect of the current marketing year.

2. Where significant irregularities are uncovered by 6 % or more of the inspections carried out in accordance with Article 12 (1) (a), the Member States shall so inform the Commission without delay, stating what measures have been adopted.

3. The Commission shall send to the Member States regular summaries of the data supplied.

Article 15

The conversion rate to be applied to the minimum price shall be the representative rate in force on the date the contract is concluded.

The conversion rate to be applied to the aid shall be the representative rate in force on the day the aid application is lodged.

Article 16

1. Regulation (EEC) No 2183/81 is hereby repealed.
2. In all Community instruments where reference is made to Regulation (EEC) No 2183/81 or to certain Articles of that Regulation, those references shall be construed as references to this Regulation or to the corresponding Articles hereof.

Article 17

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

It shall apply to cotton harvested from the 1989/90 marketing year onwards.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX A**Coefficients of equivalence for ginned cotton**

Increase or reduction of price by:

- (a) 1 % for each mm more or less than 28 mm ;
- (b) 1,5 % for each half grade higher or lower than grade 5.

ANNEX B**Increases and reductions for unginned cotton**

1. Increase or reduction of price by:

- (a) 1,2 % for each moisture point more or less ;
- (b) 1,2 % for each impurity point more or less ;
- (c) ECU 1,0 per 100 kilograms for each half-point of fibres more or less.

2. Coefficients applicable to the difference in millimetres of ginned cotton in relation to the standard quality.

Length	Percentage of price to be added	Percentage of price to be subtracted
32	4	
31	3	
30	2	
29	1	
28	—	—
27		0,5
26		1
25		1,8

3. Coefficients applicable to ginned cotton obtained differing from the standard quality:

Grade	Percentage of price to be added	Percentage of price to be subtracted
3 und 3,5	7,5	
4	4,5	
4,5	2	
5	—	
5,5		2
6		5
6,5		9
7		14
8		20
9		27

Should the quality of the cotton be lower than grade 9 price of the unginned cotton shall be determined by mutual agreement between the contracting parties.

*ANNEX C***Method for calculating weight of unginned cotton**

$$\frac{100 - (i + h)}{100 - (i_1 + h_1)} \times q = X$$

i = impurity of unginned cotton the weight of which is to be calculated,

h = moisture of unginned cotton the weight of which is to be calculated,

*i*₁ = impurity

*h*₁ = moisture

q = quantity of unginned cotton as such (kilograms) the weight of which is to be calculated,

X = calculated weight of unginned cotton (kilograms).

NB: Only the first two decimal figures are taken into account for moisture and impurity contents.

COMMISSION REGULATION (EEC) No 1202/89

of 3 May 1989

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 Regulation No 136/66/EEC of the Council 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 2210/88 ⁽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 4014/88 ⁽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 4015/88 ⁽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 4016/88 ⁽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 application of the rules recalled above to the levy rates indicated by tenderers on 2 May 1989 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,

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 5 May 1989.

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

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 1.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 358, 27. 12. 1988, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 358, 27. 12. 1988, 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 358, 27. 12. 1988, 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.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Minimum import levies on olive oil

(ECU/100 kg)	
CN code	Non-member countries
1509 10 10	76,00 ⁽¹⁾
1509 10 90	76,00 ⁽¹⁾
1509 90 00	88,00 ⁽²⁾
1510 00 10	76,00 ⁽¹⁾
1510 00 90	120,00 ⁽³⁾

⁽¹⁾ 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.

⁽²⁾ 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.

⁽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 7,25 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

ANNEX II

Import levies on other olive oil sector products

(ECU/100 kg)	
CN code	Non-member countries
0709 90 39	16,72
0711 20 90	16,72
1522 00 31	38,00
1522 00 39	60,80
2306 90 19	6,08

COMMISSION REGULATION (EEC) No 1203/89
of 3 May 1989
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 Spain and Portugal,

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 on cotton annexed thereto, as amended by Protocol 14 annexed to the Act of Accession of Spain and of Portugal, and Regulation (CEE) 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 791/89 ⁽³⁾, and in particular Article 5 (1) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas, under Article 5 of Regulation (EEC) No 2169/81, aid must be granted for unginned cotton harvested in the Community when the world market price for unginned cotton is below the guide price;

Whereas the aid is equal to the difference between these two prices;

Whereas in the absence of the guide price for cotton applicable during the 1989/90 marketing year, the aid amount have been fixed on the basis of the Commission's latest proposals to the Council; whereas this amount must be provisionally applied and confirmed or altered when the 1989/90 marketing year prices are known;

Whereas the abatement of the subsidy which arises, where appropriate, from the system of maximum guaranteed quantities for the 1989/90 year, has not, to date, been fixed; whereas the amount of the subsidy for the 1989/90 year has been provisionally calculated on the basis of an abatement of 24,005 ECU per 100 kilograms;

Whereas the world market price for unginned cotton is determined periodically on the basis of the world market prices recorded for ginned cotton and cotton seed, taking into account the estimated yield of the Community harvest in cotton seed and in ginned cotton and also the net cost of ginning;

Whereas the world market price for ginned cotton and cotton seed is determined in accordance with Article 4 of Regulation (EEC) No 2169/81;

Whereas, if the world market price for unginned cotton cannot be determined as described above, this price shall

be established on the basis of the most recent price determined;

Whereas the world market price for unginned cotton is equal to the sum of the values for ginned cotton and cotton seed defined in Article 1 of Commission Regulation (EEC) No 1201/89 of 3 May 1989 laying down rules implementing the system of aid for cotton ⁽⁴⁾, minus the cost of ginning;

Whereas the above values are established on the basis of the prices determined in accordance with Articles 2 and 3 of Commission Regulation (EEC) No 1201/89; whereas the world market price is determined on the basis of the most favourable offers and quotations recorded, excluding offers and quotations which cannot be regarded as representative of the real market trend;

Whereas the necessary adjustments must be made in cases where the offers and quotations recorded do not satisfy the requirements indicated above;

Whereas, under Article 4 (4) of Regulation (EEC) No 2169/81, if there are no suitable offers or quotations for determining the world market price for cotton seed, that price shall be established on the basis of the most favourable offers and quotations for cotton seed recorded on the Community market or, if those offers and quotations cannot be established on the basis of the value of the products obtained from processing the seed in the Community, less the processing cost; whereas this value is determined in accordance with Article 4 of Regulation (EEC) No 1201/89;

Whereas, if the subsidy system is to operate normally, subsidies 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 ⁽⁵⁾, as last amended by Regulation (EEC) No 1636/87 ⁽⁶⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas the aid must be fixed once a month, and in such a way that it can be applied from the first day of the month following the date of fixing; whereas it may be altered between fixings;

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 48.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 85, 30. 3. 1989, p. 7.

⁽⁴⁾ See page 23 of this Official Journal.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 153, 13. 6. 1987, p. 1.

Whereas it follows from applying these provisions to the offers and quotations known to the Commission that the aid for cotton should be as set out in this Regulation,

of the guide price of cotton adopted in respect of the 1989/90 marketing year and, as the case may be, which appear to have been offered in the largest quantities.

HAS ADOPTED THIS REGULATION:

Article 1

1. The aid for unginned cotton provided for in Article 5 of Regulation (EEC) No 2169/81 shall be 46,839 ECU per 100 kilograms.

2. However, the amounts of the aid will be confirmed or replaced with effect from 4 May 1989 to take account

Article 2

This Regulation shall enter into force on 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1204/89

of 3 May 1989

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1010/89⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Article 25 (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a third country remains at least ECU 0,6 below the reference price for two consecutive market days, a countervailing charge must be introduced in respect of the exporting country concerned, save in exceptional circumstances; whereas this charge is equal to the difference between the reference price and the arithmetic mean of the last two entry prices available for that exporting country;

Whereas Commission Regulation (EEC) No 674/89 of 16 March 1989 fixing the reference price for tomatoes for the 1989 marketing year⁽³⁾ fixed the reference price for products of class I for the month of April 1989 at ECU 197,27 per 100 kilograms net and for the month of May 1989 at ECU 136,75 per 100 kilograms net;

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

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

markets or, in certain circumstances, on other markets; whereas it is necessary to multiply the prices with the coefficient fixed in the first and second indents of Article 1 (2) (a) of Regulation (EEC) No 674/89;

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

Whereas, in Article 1 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey⁽⁶⁾, as amended by Regulation (EEC) No 1555/84⁽⁷⁾, when the Commission introduces a countervailing charge on imports of tomatoes originating in Turkey, at the same time it reintroduces for the product in question the conventional rate of customs duty; whereas, therefore, a rate of customs duty of 11 % should be reintroduced for these tomatoes, with a minimum charge of ECU 2 per 100 kilograms net;

Whereas if the system is to operate normally the entry price should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the coefficient provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁸⁾, as last amended by Regulation (EEC) No 1636/87⁽⁹⁾;
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient,

HAS ADOPTED THIS REGULATION:

Article 1

1. A countervailing charge of ECU 3,73 per 100 kilograms net is applied on imports of tomatoes falling within CN code 0702 00 originating in Turkey.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 109, 20. 4. 1989, p. 3.

⁽³⁾ OJ No L 73, 17. 3. 1989, p. 14.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 367, 23. 12. 1981, p. 3.

⁽⁷⁾ OJ No L 150, 6. 6. 1984, p. 4.

⁽⁸⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁹⁾ OJ No L 153, 13. 6. 1987, p. 1.

2. The rate of customs duty on imports of these products shall be 11 % with a minimum charge of ECU 2 per 100 kilograms net until 14 May 1989 and shall be 18 % with a minimum charge of ECU 3,5 per 100 kilograms net as from 15 May 1989.

Article 2

This Regulation shall enter into force on 5 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1205/89

of 3 May 1989

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 Regulation No 136/66/EEC of the Council 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 2210/88 ⁽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 1132/89 ⁽⁴⁾,

Having regard to Regulation (EEC) No 1569/72 of the Council of 20 July 1972 laying down special measures for colza, rape and sunflower seed ⁽⁵⁾, as last amended by Regulation (EEC) No 2216/88 ⁽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 Commission Regulation (EEC) No 682/89 ⁽⁷⁾, as last amended by Regulation (EEC) No 1168/89 ⁽⁸⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 682/89 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;

Whereas, in the absence of the target price for the 1989/90 marketing year for colza, rape and sunflower seed, the abatement of the subsidy from the system of

maximum guaranteed quantities, the amount of the subsidy in the case of advance fixing for this period for colza, rape and sunflower seed has been obtainable only provisionally on the basis of the latest proposals from the Commission to the Council on price and abatement; whereas this amount may, therefore, be applied on a temporary basis and should be confirmed or replaced to take account of indicative prices for the 1989/1990 marketing year and the application of the system of maximum guaranteed quantities,

HAS ADOPTED THIS REGULATION:

Article 1

1. The amount of the subsidy and the exchange rate referred to in Article 33 ⁽²⁾ and ⁽³⁾ of Commission Regulation (EEC) No 2681/83 ⁽⁹⁾ are as set out in the Annexes hereto.

2. The amount of the compensatory aid referred to in Article 14 of Council Regulation (EEC) No 475/86 ⁽¹⁰⁾ is as set out in Annex III for sunflower seed harvested in Spain.

3. The amount of the special subsidy provided for by Council Regulation (EEC) No 1920/87 ⁽¹¹⁾ for sunflower seed harvested and processed in Portugal is as set out in Annex III.

4. However, the amount of the subsidy in the case of advance fixing for the 1989/90 marketing year for colza, rape and sunflower seed will be confirmed or replaced as from 4 May 1989 to take into account the prices and connected measures, for the 1989/90 marketing year, and the application of the system of maximum guaranteed quantities.

Article 2

This Regulation shall enter into force on 4 May 1989.

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

⁽²⁾ OJ No L 197, 26. 7. 1988, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁴⁾ OJ No L 119, 29. 4. 1989, p. 26.

⁽⁵⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁶⁾ OJ No L 197, 26. 7. 1988, p. 10.

⁽⁷⁾ OJ No L 73, 17. 3. 1989, p. 32.

⁽⁸⁾ OJ No L 121, 29. 4. 1989, p. 27.

⁽⁹⁾ OJ No L 266, 28. 9. 1983, p. 1.

⁽¹⁰⁾ OJ No L 53, 1. 3. 1986, p. 47.

⁽¹¹⁾ OJ No L 183, 3. 7. 1987, p. 18.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

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

(amounts per 100 kg)

	Current 5	1st period 6	2nd period 7 (1)	3rd period 8 (1)	4th period 9 (1)	5th period 10 (1)
1. Gross aids (ECU):						
— Spain	0,580	0,580	1,170	1,170	1,170	1,170
— Portugal	0,000	0,000	0,000	0,000	0,000	0,000
— Other Member States	20,622	20,541	15,975	15,414	14,954	14,594
2. Final aids: —						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	49,09	48,90	38,12	36,81	35,73	35,08
— Netherlands (Fl)	54,77	54,56	42,14	40,66	39,45	38,70
— BLEU (Bfrs/Lfrs)	995,77	991,86	771,38	744,29	722,08	704,70
— France (FF)	151,08	150,44	119,86	115,46	111,85	109,02
— Denmark (Dkr)	180,57	179,85	142,66	137,65	133,54	130,33
— Ireland (£ Irl)	16,803	16,732	13,341	12,850	12,448	12,134
— United Kingdom (£)	12,819	12,759	10,617	10,188	9,852	9,489
— Italy (Lit)	32 369	32 231	26 060	24 981	24 194	23 213
— Greece (Dr)	2 378,92	2 345,18	2 432,26	2 288,17	2 195,08	2 026,00
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	89,44	89,44	178,89	178,89	178,89	178,89
— in another Member State (Pta)	3 267,79	3 256,11	2 592,11	2 501,30	2 434,61	2 347,96
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Esc)	4 445,36	4 429,81	3 711,99	3 588,05	3 499,01	3 376,63

(1) Subject in the case of advance fixing for the 1989/90 marketing year to the adoption of prices and connected measures and the application of the system of maximum guaranteed quantities.

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 5	1st period 6	2nd period 7 (1)	3rd period 8 (1)	4th period 9 (1)	5th period 10 (1)
1. Gross aids (ECU):						
— Spain	3,080	3,080	3,670	3,670	3,670	3,670
— Portugal	2,500	2,500	2,500	2,500	2,500	2,500
— Other Member States	23,122	23,041	18,475	17,914	17,454	17,094
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	54,99	54,80	44,02	42,71	41,63	40,99
— Netherlands (Fl)	61,39	61,17	48,73	47,25	46,04	45,29
— BLEU (Bfrs/Lfrs)	1 116,49	1 112,58	892,10	865,01	842,80	825,42
— France (FF)	170,04	169,40	139,11	134,70	131,09	128,26
— Denmark (Dkr)	202,68	201,95	164,98	159,97	155,87	152,65
— Ireland (£ Irl)	18,912	18,841	15,483	14,992	14,590	14,276
— United Kingdom (£)	14,506	14,447	12,370	11,942	11,605	11,243
— Italy (Lit)	36 457	36 319	30 243	29 164	28 376	27 396
— Greece (Dr)	2 768,97	2 735,23	2 880,73	2 736,63	2 643,55	2 474,47
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	474,98	474,98	561,13	561,13	561,13	561,13
— in another Member State (Pta)	3 653,33	3 641,64	2 974,35	2 883,54	2 816,85	2 730,20
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	470,02	470,02	480,01	480,01	480,01	480,01
— in another Member State (Esc)	4 915,38	4 899,83	4 191,99	4 068,06	3 979,01	3 856,64

(1) Subject in the case of advance fixing for the 1989/90 marketing year to the adoption of prices and connected measures and the application of the system of maximum guaranteed quantities.

ANNEX III

Aids to sunflower seed

(amounts per 100 kg)

	Current 5	1st period 6	2nd period 7	3rd period 8 (1)	4th period 9 (1)
1. Gross aids (ECU):					
— Spain	5,170	5,170	5,170	6,890	6,890
— Portugal	0,000	0,000	0,000	0,000	0,000
— Other Member States	22,793	23,001	23,001	18,167	18,167
2. Final aids:					
(a) Seed harvested and processed in (2):					
— Federal Republic of Germany (DM)	54,27	54,76	54,76	43,34	43,34
— Netherlands (Fl)	60,54	61,09	61,09	47,92	47,92
— BLEU (Bfrs/Lfrs)	1 100,60	1 110,65	1 110,65	877,23	877,23
— France (FF)	166,73	168,36	168,36	136,38	136,38
— Denmark (Dkr)	199,50	201,36	201,36	162,23	162,23
— Ireland (£ Irl)	18,543	18,725	18,725	15,178	15,178
— United Kingdom (£)	14,115	14,267	14,267	12,065	12,065
— Italy (Lit)	35 713	36 067	35 995	29 517	29 517
— Greece (Dr)	2 589,28	2 610,37	2 577,40	2 740,94	2 740,94
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	797,28	797,28	797,28	1 053,45	1 053,45
— in another Member State (Pta)	3 663,61	3 693,62	3 687,74	3 138,36	3 138,36
(c) Seed harvested in Portugal and processed:					
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00
— in Spain (Esc)	6 534,59	6 575,57	6 558,07	5 820,53	5 820,53
— in another Member State (Esc)	6 368,52	6 408,46	6 391,40	5 672,61	5 672,61
3. Compensatory aids:					
— in Spain (Pta)	3 612,52	3 644,94	3 639,06	3 090,10	3 090,10
4. Special aid:					
— in Portugal (Esc)	6 368,52	6 408,46	6 391,40	5 672,61	5 672,61

(1) Subject in the case of advance fixing for the 1989/90 marketing year to the adoption of prices and connected measures and the application of the system of maximum guaranteed quantities.

(2) For seed harvested in the Community as constituted at 31 December 1985 and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,0260760.

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 1 ECU)

	Current 5	1st period 6	2nd period 7	3rd period 8	4th period 9	5th period 10
DM	2,079300	2,075880	2,072450	2,069600	2,069600	2,061010
Fl	2,345910	2,342410	2,339610	2,336540	2,336540	2,325840
Bfrs/Lfrs	43,547400	43,545400	43,540100	43,526699	43,526699	43,475600
FF	7,041490	7,043470	7,044700	7,045330	7,045330	7,049410
Dkr	8,091370	8,093980	8,096580	8,098460	8,098460	8,107870
£Irl	0,779711	0,779740	0,780117	0,780286	0,780286	0,780874
£	0,654680	0,656194	0,657541	0,658794	0,658794	0,663081
Lit	1 524,91	1 529,87	1 535,49	1 540,85	1 540,85	1 556,23
Dr	177,53500	179,43000	181,08000	182,57800	182,57800	186,99100
Esc	172,28700	173,04200	173,86300	174,56000	174,56000	176,79700
Pta	129,16800	129,58400	130,03000	130,42600	130,42600	131,77400

COMMISSION REGULATION (EEC) No 1206/89
of 3 May 1989
fixing the import levy on molasses

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

Having regard to 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 market in sugar ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levy on molasses was fixed by Commission Regulation (EEC) No 2368/88 ⁽³⁾, as last amended by Regulation (EEC) No 1079/89 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2368/88 to

the information at present available to the Commission that the levy at present in force should be altered as shown in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import levy referred to in Article 16 (1) of amended Regulation (EEC) No 1785/81 shall be, in respect of molasses falling within CN codes 1703 10 00 and 1703 90 00, ECU 1,32 per 100 kg.

Article 2

This Regulation shall enter into force on 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 205, 30. 7. 1988, p. 29.

⁽⁴⁾ OJ No L 114, 27. 4. 1989, p. 21.

COMMISSION REGULATION (EEC) No 1207/89
of 3 May 1989
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 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 1069/89 ⁽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 2336/88 ⁽³⁾, as last amended by Regulation (EEC) No 1187/89 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2336/88 to the infor-

mation 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 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 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 203, 28. 7. 1988, p. 22.

⁽⁴⁾ OJ No L 122, 3. 5. 1989, p. 17.

ANNEX

to the Commission Regulation of 3 May 1989 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	32,32 ⁽¹⁾
1701 11 90	32,32 ⁽¹⁾
1701 12 10	32,32 ⁽¹⁾
1701 12 90	32,32 ⁽¹⁾
1701 91 00	38,39
1701 99 10	38,39
1701 99 90	38,39 ⁽²⁾

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the levy applicable is calculated in accordance with the provisions of Article 2 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42).

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

COMMISSION REGULATION (EEC) No 1208/89**of 3 May 1989****altering the basic amount of the import levies on syrups and certain other products in the sugar sector**

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

Having regard to 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 1069/89⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on syrups and certain other sugar products were fixed by Commission Regulation (EEC) No 1141/89⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1141/89 to the infor-

mation known to the Commission that the basic amount of the levy on syrups and certain other sugar products at present in force should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to Regulation (EEC) No 1141/89 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 119, 29. 4. 1989, p. 52.

ANNEX

to the Commission Regulation of 3 May 1989 altering the basic amount of the import
levies on syrups and certain other products in the sugar sector

(ECU)

CN code	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question	Amount of levy per 100 kg of dry matter
1702 20 10	0,3839	—
1702 20 90	0,3839	—
1702 30 10	—	48,93
1702 40 10	—	48,93
1702 60 10	—	48,93
1702 60 90	0,3839	—
1702 90 30	—	48,93
1702 90 60	0,3839	—
1702 90 71	0,3839	—
1702 90 90	0,3839	—
2106 90 30	—	48,93
2106 90 59	0,3839	—

COMMISSION REGULATION (EEC) No 1209/89

of 3 May 1989

abolishing the countervailing charge and re-establishing a preferential customs duty on imports of fresh lemons originating in Turkey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1010/89⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 151/89⁽³⁾, as last amended by Regulation (EEC) No 1088/89⁽⁴⁾, introduced a countervailing charge on fresh lemons originating in Turkey and suspended the preferential customs duty on imports of these products;

Whereas the present trend of prices for Turkish products on the representative markets referred to in Commission Regulation (EEC) No 2118/74⁽⁵⁾, as last amended by Regulation (EEC) No 3811/85⁽⁶⁾, recorded or calculated in accordance with the provisions of Article 5 of that Regulation, indicated that entry prices have been at least

equal to the reference price for two consecutive market days; whereas the conditions specified in Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of fresh lemons originating in Turkey can be abolished;

Whereas, in accordance with Article 2 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey⁽⁷⁾, as amended by Regulation (EEC) No 1555/84⁽⁸⁾, the preferential rate of customs duty should be re-established at the same time as the countervailing charge is abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 151/89 is hereby repealed.

Article 2

This Regulation shall enter into force on 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 109, 20. 4. 1989, p. 3.

⁽³⁾ OJ No L 17, 20. 1. 1989, p. 45.

⁽⁴⁾ OJ No L 114, 27. 4. 1989, p. 42.

⁽⁵⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁶⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁷⁾ OJ No L 367, 23. 12. 1981, p. 9.

⁽⁸⁾ OJ No L 150, 6. 6. 1984, p. 4.

COMMISSION REGULATION (EEC) No 1210/89

of 3 May 1989

altering the export refunds on white sugar and raw sugar exported in the natural state

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 1069/89 ⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 1073/89 ⁽³⁾, as amended by Regulation (EEC) No 1160/89 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1073/89 to the infor-

mation known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to amended Regulation (EEC) No 1073/89 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.⁽³⁾ OJ No L 114, 27. 4. 1989, p. 10.⁽⁴⁾ OJ No L 119, 29. 4. 1989, p. 115.

ANNEX

to the Commission Regulation of 3 May 1989 altering the export refunds on white sugar
and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	29,24 ⁽¹⁾	
1701 11 90 910	28,75 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	29,24 ⁽¹⁾	
1701 12 90 910	28,75 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3179
1701 99 10 100	31,79	
1701 99 10 910	31,25	
1701 99 10 950	31,25	
1701 99 90 100		0,3179

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

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

COMMISSION REGULATION (EEC) No 1211/89

of 3 May 1989

fixing the maximum export refund for white sugar for the 52nd partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 1035/88

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 1069/89⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 1035/88 of 18 April 1988 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾ requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 1035/88, 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 52nd partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 52nd partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 1035/88 the maximum amount of the export refund is fixed at ECU 34,308 per 100 kilograms.

Article 2

This Regulation shall enter into force on 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 102, 21. 4. 1988, p. 14.

COMMISSION REGULATION (EEC) No 1212/89

of 3 May 1989

on a decision to make no award in respect of the first partial invitation to tender for white sugar issued in connection with the standing invitation to tender referred to in Regulation (EEC) No 999/89

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 1069/89 ⁽²⁾, and in particular point (b) of the first subparagraph of Article 19 (4) thereof,...

Whereas Commission Regulation (EEC) No 999/89 of 17 April 1989 on a standing invitation to tender in order to determine levies and/or refunds on exports of white sugar ⁽³⁾ requires that partial invitations to tender be issued for the export of the sugar in question; whereas, pursuant to Article 8 (2) of Regulation (EEC) No 999/89, a decision may be taken to make no award in respect of a specific partial invitation to tender;

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

No award shall be made in respect of the first partial invitation to tender for white sugar issued under Regulation (EEC) No 999/89 for which the time limit for the submission of tenders expired on 3 May 1989.

Article 2

This Regulation shall enter into force on 4 May 1989.

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

Done at Brussels, 3 May 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 107, 19. 4. 1989, p. 6.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 December 1988

concerning aid from the French Government to an undertaking in the motor vehicle sector — Peugeot SA

(Only the French text is authentic)

(89/305/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given the parties concerned notice to submit their comments, in accordance with the above Article, and having regard to those comments,

Whereas :

I

By two letters dated 30 April 1985, received on the same date, the French Government notified the Commission of aid grants to the Peugeot SA-Citroën Group.

The aid was granted in the form of three loans from the Industrial Modernization Fund (FIM) :

- a loan of FF 200 million at 9,75 % granted on 5 July 1984 to the Société Mécanique Automobile de l'Est (SMAE) for the manufacture at Caen of a completely new gearbox, 20 % lighter than existing gearboxes. The investment taken into account for the FIM loan was FF 1 016 million,
- a loan of FF 500 million at 9,75 % granted on 30 May 1984 to the Société Automobile Peugeot for the

construction of a fully automated, polyvalent body assembly unit and automated assembly and sub-assembly lines at Poissy, and the introduction of advanced process technology for the manufacture of the front and rear axles. The investment taken into account for the FIM loan was FF 1 167 000 million,

- a loan of FF 500 million at 8,75 % granted on 12 July 1985 to the Société Automobile Citroën to develop, for a new, small car with low fuel consumption, optimized industrial plant, over 60 % of which uses high-technology materials, and computer-assisted production control techniques ; a considerable degree of flexibility is obtained resulting in productivity gains. The investment taken into account for the FIM loan was FF 1 150 million.

In Decision 85/378/EEC⁽¹⁾, the Commission specified that FIM loans were aid within the meaning of Article 92 (1) of the EEC Treaty and that they could be awarded provided that all significant cases were notified to it in advance.

The loans were initially awarded at various rates of interest for a maximum of 10 years with a grace period of up to two years. Their purpose is to assist innovative investment especially in the installation of high-technology machinery and equipment, the development of office automation and biotechnology.

⁽¹⁾ OJ No L 216, 13. 8. 1985, p. 12.

The Commission therefore considered that the three loans totalling FF 1 200 million comprised aid elements within the meaning of Article 92 (1) and did not *prima facie* satisfy the conditions for exemption under Article 92 (3). It therefore opened the procedure provided for in Article 93 (2) in respect of the aid.

The main reason for initiating the procedure was the lack of information on the extent to which the FIM loans contributed to the development of genuinely innovative products.

By letter dated 29 January 1986, the Commission gave the French Government notice to submit its comments. Comments were also invited from other Member States by letter dated 15 May 1986 and from other interested parties by a notice in the *Official Journal of the European Communities*⁽¹⁾.

At the Commission's request, the French Government informed it by letter dated 9 September 1987 that an FIM loan of FF 500 million had been awarded on 12 March 1986 to the Société Automobile Citroën. This loan should be seen in the same context as the FF 500 million FIM loan awarded to the Société Automobile Citroën in 1985. It concerned the same programme, had the same objectives and duration and was allocated at identical rates (8,75 %). The investment taken into account for the FIM loan was FF 1 136 million.

The Commission considered that the loan of FF 500 million comprised aid elements within the meaning of Article 92 (1) and was not likely to satisfy the conditions for exemption under Article 92 (3). It therefore initiated the procedure provided for in Article 93 (2) in respect of the aid.

The principal reason for initiating the procedure was lack of information concerning the extent to which the FIM loan contributed to the development of genuinely innovative products.

By letter dated 11 December 1987, the Commission gave the French Government notice to submit its comments. Comments were also invited from other Member States by letter dated 29 February 1988 and from other interested parties by a notice in the *Official Journal of the European Communities*⁽²⁾.

By letter dated 31 March 1987, the Commission asked the French authorities for further information to enable it to assess the technological content of the investments in question.

II

The French authorities presented their observations by letters dated 12 August 1986, 14 August and 9 September 1987 and 2 March, 4 July and 1 December 1988.

According to the French authorities, all the investments by the PSA group should be viewed in the context of the reorganization and restructuring of the group's industrial assets. After the takeover in 1978 of Chrysler Europe, followed by a depressed motor vehicle market in 1979, the policy adopted by the PSA group was to reduce surplus production capacity to the level of demand for its products. This led to the closure of factories and therefore to redundancies and violent social disruption in 1982 and 1983, especially at Poissy and Aulnay. Only innovative investment could enable the PSA group to improve productivity and return to a level of profitability in 1985 which is still precarious.

As regards the innovatory nature of the investment financed by the FIM loans, the French authorities regard the loans as supporting investment that is genuinely innovatory and the introduction of manufacturing processes and techniques enabling completely new products to be developed.

As regards the loan to SMAE, the French authorities contended that the innovatory nature of the investment lay in the size of the technological leap taken by SMAE in the design and development of the MA gearbox and also the fact that the gearbox is manufactured under licence by another car manufacturer.

The innovatory nature of the investment financed by the FIM in 1985 and 1986 at the Peugeot and Citroën plants for the launch of two completely redesigned vehicles (the Peugeot 309 and Citroën AX) is, in the view of the French authorities, demonstrated by the fact that the technology was unquestionably among the most advanced at that time, both in Europe and worldwide. The investment in truly innovative technical processes both upstream and downstream of the manufacturing cycle entailed a certain risk for the company which it nevertheless took on with a view to making considerable gains in terms of quality, safety and production management.

The French authorities consider that these investments, which do not involve any increases in capacity, actively helped to improve the competitive position of the European car industry.

They therefore consider that the award of the loans in question to the Peugeot group is compatible with the common market and does not distort competition between undertakings in the other Member States.

⁽¹⁾ OJ No C 144, 11. 6. 1986, p. 3.

⁽²⁾ OJ No C 60, 4. 3. 1988, p. 2.

In 1984 and 1985, the Peugeot group invested a total of FF 9 300 million. Thus the three loans obtained from the FIM in these two years represented 13 % of investment. In order to finance the programme, the firm would have had to rely largely on internally generated funds. It would also have received contributions from its shareholders and obtained various long- and medium-term loans from French banks or on the financial market at various rates, depending on the method of financing.

According to the French authorities, it is necessary, in order to assess objectively the existence, if any, of real difference between the cost of an investment financed on the open market and the cost of an investment financed by the FIM, to take into account all the financing arranged by the group over at least one financial year.

Thus the rates for the FIM loans granted to PLA in 1984, 1985 and 1986 do not appear to differ substantially from the average rates at which PSA obtained, or could have obtained, loans on the national and international markets in the same years. In June 1986, for example, PSA obtained an international loan of FF 1 000 million at 8 % per annum for 10 years, i. e., at a lower rate than the FIM loan obtained the same year. Similarly, PSA had envisaged a variable-rate share issue in autumn 1986 for a period of seven years and at an actuarial cost of under 9 % per annum.

Within the framework of the consultation procedures, the governments of two other Member States submitted observations.

III

On the basis of Decision 85/378/EEC, all FIM loans constitute aid within the meaning of Article 92 (1) of the EEC Treaty to the extent that it affects trade between Member States and distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

The four FIM loans totalling FF 1 700 million which the French Government granted to PSA are aids which enabled the recipient to make investments without bearing all the costs. The aid affects trade between Member States since there is considerable intra-Community trade in the products manufactured by PSA. Trade in passenger vehicles in 1986 between Member

States accounted for 5 030 402 vehicles, of which 17,4 % (878 927 units) was exported from France to other Member States. In 1986, Peugeot and Citroën exported 688 996 vehicles to other Community countries, i. e. 45 % of their total car production in France.

It should be noted that the aid elements of the FIM loans are constituted by the two-year grace period and the difference between the interest rate applied by the Crédit National rate to determine the aid element of low-interest loans in connection with the principles for the coordination of regional aid schemes.

The four FIM loans in question, however, were granted at 9,75 % for the FF 200 million loan to the SMAE and the FF 500 million loan to Peugeot, and at 8,75 % for the two FF 500 million loans to Citroën in 1985 and 1986. The reference rates on the dates the loans were granted were 14,75 % for the SMAE loan and the loan to Peugeot, 13 % for the loan to Citroën in 1985 and 11 % for the loan to Citroën in 1986. The interest subsidy is thus 5 % for the loans to SMAE and Peugeot, 4,25 % for the loan to Citroën and 2,25 % for the loan to Citroën in 1986.

As regards 1986, the year for which the French authorities provided examples to illustrate the lack of any aid element, it is necessary to take into account that the reference rate fell sharply in the first half of the year from 13 % on 1 January 1986 to 9,25 % on 27 May 1986. As a result, it would not be appropriate to compare loans obtained after 27 May 1986 with the FIM loan of 12 March 1986.

IV

Article 93 (3) provides that aid must be notified at the planning stage and granted only after the Commission has reached a final decision (suspensory effect). As the aid in question has already been granted, it is therefore unlawful for breach of the provisions of Article 93 (3).

In view of the mandatory nature of the rules of procedure laid down by Article 93 (3) (see Court of Justice Judgments of 11 December 1973 in Case 120/73 — Lorenz, and 22 March 1977 in Case 78/76 — Steinike), the unlawful nature of the aid may not be rectified *a posteriori*. In addition, the Commission can also require the Member States to recover the aid from the recipients (see Judgment of 12 July 1973 in Case 70/72 — Kohlegesetz).

V

The PSA Group was formed in 1980 as a result of the takeover by Peugeot of Citroën and the car production interests of Chrysler Europe. The new divisions suffered to varying degrees from lack of investment and a dated product range. An attempt to relaunch the Chrysler range by reviving the historic name Talbot, inherited via Simca, was eventually considered unsuccessful and was dropped after full integration into Peugeot. In spite of this, the PSA Group has retained three different traditions, which considerably hampers the organization of production.

The PSA Group has succeeded in overcoming this complication in production organization. This is reflected in the financial recovery of the group which in 1985 started to become increasingly profitable. In 1987, its consolidated cashflow position exceeded investment for the first time for many years. Taken in conjunction with the capital increase carried out the same year and the effect of the steady decline in working capital requirements, it therefore contributed to a remarkable reduction in the group's debts by more than one-third or FF 11 000 million. Its net financial debts were slightly less than own capital in 1987. The recovery was due to the combined efforts of Peugeot and Citroën. The group's net results for 1987 after tax, which is still only partial, represented 4,2 % of turnover. These results would place it ahead of Japanese or German manufacturers, but still below other European and American firms.

The group's recovery is also evident in the steady rise from 1985 in passenger and utility car sales in the European market. The upswing was even stronger than that experienced by any other manufacturer. The group thus increased its share of the European market in 1987 and 1988 (eight months) to 12,2 % and 12,7 % respectively, as against 1986 when it held 11,4 % of the market. In 1981, before the restructuring and integration operations, PSA's share of the European market was 13,1 %. The group currently occupies third place on the European market and is gradually reaching its objective: to become market leader in Europe.

VI

Article 92 (1) of the Treaty provides that aid meeting the criteria laid down therein is in principle incompatible with the common market. The exceptions provided for in Article 92 (2) are not applicable in this case because of the

nature of the proposed assistance, which is not directed towards attainment of such objectives.

Article 92 (3) of the Treaty lists aid which may be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not in that of a single Member State. In order to ensure the proper functioning of the common market, and having regard to the principles embodied in Article 3 (f) of the Treaty, the exceptions provided for in Article 92 (3) must be construed narrowly when any aid scheme or any individual aid award is scrutinized.

In particular, they may be invoked only when the Commission is satisfied that, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the objectives of the said exceptions.

To invoke the exceptions in the case of aid that did not serve such an objective would be to give unfair advantages to certain Member States by affecting trading conditions between Member States to an extent contrary to the common interest.

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

As to the exceptions provided for in Article 92 (3) (b), the facts of the case provide no grounds whatsoever for considering that the aid in question is intended to promote a project of common European interest (see Judgment of 8 March 1988 in Cases 62 and 72/87) or to remedy a serious disturbance in the French economy. Furthermore, the French Government has not presented any such arguments to justify the aid in question.

The aid does not satisfy the conditions of paragraph 3 (c) as regards the regional aspect. FIM loans are not generally granted to firms located in regions identified in advance. Their aim is not therefore to facilitate the development of certain economic areas, nor has the French Government given any such justification for granting loans to the PSA Group. The aid does not therefore qualify for the exemption in question.

Finally, as regards the exception in Article 92 (3) (c) in respect of aid to facilitate the development of certain economic activities, according to Decision 85/378/EEC the only investments eligible for FIM loans are those of an innovative nature at Community level.

In its Decision concerning the authorization of FIM loan schemes, the Commission concluded that neither furtherance of the priority industrial interest of France nor industrial modernization as such can be said to be sufficiently in the Community interest to justify application of one of the exceptions in Article 92 (3). On the contrary, such aid was liable to affect trading conditions to an extent contrary to the common interest by strengthening the position of the aided firms in relation to their competitors in the Community. The Court of Justice confirmed the validity of this approach in its Judgment of 13 July 1988 in Case 102/87 — French Republic v. Commission.

The French Government attached to its letters dated 16 June 1987, 2 March and 4 July 1988 and 1 December 1988, technical notes describing the investments partially financed by the FIM loans.

The Commission carried out an exhaustive technical examination of the information in order to determine the extent to which the investment being aided gave rise to genuine innovations at Community level and, as regards the two loans granted to Citroën (totalling FF 1 000 million) and the loan to SMAE (FF 200 million), it has reached the following conclusions:

In the bodybuild area, the traditional concept of panel shops specifically intended for a given vehicle has been abandoned. The aim was to achieve the simultaneous construction in a single body shop of three families of such different products as the Citroën AX, Peugeot 205, Peugeot 309, Citroën BX and Peugeot 405.

The polyvalent system introduced at Poissy in 1985 was considerably improved at the Aulnay plant in 1986 and 1987. At Poissy, the system was achieved by placing manual rectification stations in the middle of the process to cope with any breakdowns in the automation and robotization procedures. This polyvalent (flexible) system, which was only partly successful, had already been introduced by another Community car manufacturer before 1985. At Aulnay, however, the polyvalent system was combined with an audacious process known as 'flux rapide'. This system does away with all manual rectification stations. Welding by robots takes place without back-up and with breakdowns reduced to a minimum. This greatly reduces production time and buffer stocks and improves quality all along the line. Because the slightest breakdown, even well upstream, resulted in production losses. Citroën had to instal an extra manual line at Rennes. The investment in the polyvalent body assembly line with 'flux rapide' totalled FF 747 800

million. It also had high start-up costs, and considerable training costs connected with the 'flux rapide' system. The rapid flow system of flexible bodybuild, based on a Toyota system in Japan, thus proved a costly experiment. It probably constitutes an innovation at European level despite the fact that the body shop at Aulnay is building only one model at present.

As regards the assembly of the AX at Aulnay, PSA decided not to adopt the high-automation approach with which various competitors have experimented (e.g. Volkswagen in their Hall 54 plant). Instead, PSA attempted to avoid the high cost of such an approach by introducing a much greater manual input to achieve flexibility at relatively low investment (FF 82,6 million or 2,5 % of total amount). The flexibility was necessary in view of the huge number of model variants (at least 15 000) of the AX model.

Certain assembly operations were robotized by introducing significant innovations, especially at the stations for fitting roof-linings and windscreens. The alternating manual zones where the car moves along in front of fixed stations at constant speed and automatic assembly zones where the car stops and is released from the body carrier and geometrically aligned called for the development of a new, fully automated body carrier. The carrier, equipped with a microcomputer, is capable of compensating for halts at the automated stations and of using several speeds, including reversing, to give access to the vehicle at certain stations. The development and construction of the carrier system was carried out by an outside sub-contractor at a total cost of FF 150,4 million. This system of automotive carriers is a basic innovation: it has since been used as such or with modifications by other European car manufacturers. Intangible investment by PSA in the innovative concepts of a rapid flow polyvalent body assembly unit and semi-manual assembly unit at the Aulnay factory totalled FF 268 million.

The Caen plant supplies the Aulnay assembly unit with two assembled arms and two vertical link assemblies for the front axle, and a complete rear axle assembly. The technical specifications for the AX called for a radically new design for the production lines for the front and rear suspension. Because of the particularly stringent requirements of the specifications, highly automated production and assembly lines were necessary. The techniques employed rely on the systematic use of robots and similar equipment, e.g. automatic supply, identification and loading of components and electronic conformity control by laser and video prior to designation of sub-assemblies.

Automation of the lines was accompanied by the introduction of just-in-time production, characterized by increased flow, improved production processes and greater availability of resources. The investment in these production and assembly lines was FF 435 million. Certain features of these ultra-modern installations constitute innovations at Community level and represent approximately half of the total investment.

Thus, the above innovations introduced by Citroën with the two FIM loans correspond to approximately two-thirds of the total investment (FF 1 470 million out of FF 2 288 million). Consequently, the Commission considers that most of the investments by Citroën, assisted by the two FIM loans, are not modernization investments proper but investments aimed at developing products and processes which were genuinely innovative at Community level at the time of their implementation.

As regards the investment of FF 895,3 million at the SMAE plant at Borny (a Citroën subsidiary), a technical examination by the Commission concluded that it concerned innovative products and production processes at Community level. The SMAE programme involved the manufacture of a completely new gearbox which is 20 % lighter than existing ones. All the lines involved in the machining of the gearbox components (shafts, gear train, crown gear), i.e. turning, cutting, drifting, grinding, milling, are automated, each part being transferred from station to station by conveyor belt. The assembly operations are also fully automated, which has enabled productivity to reach levels similar to current Japanese performances.

The importance of the technological advance achieved by SMAE in the design and production of the MA gearbox is further emphasized by the fact that another car manufacturer has purchased the licence to manufacture the gearbox.

Consequently, the aid arising out of the FIM loans granted to Citroën totalling FF 1 000 million and to its subsidiary SMAE amounting to FF 200 million which enabled the above innovations to be introduced are compatible with the common market because they satisfy the conditions laid down by the Commission in its decision of 19 December 1984.

In view of the foregoing considerations, the aid elements within the meaning of Article 92 (1) of the EEC Treaty in

the form of interest subsidies and a two-year grace period contained in the three FIM loans of FF 1 200 million can, although awarded illegally in breach of Article 93 (3) of the EEC Treaty, be regarded as aid likely to promote the development of certain economic activities within the meaning of Article 92 (3) (c) of the EEC Treaty without altering trading conditions to an extent contrary to the common interest, and are therefore compatible with the common market.

VII

On the other hand, it emerged from the technical examination that the investments financed by the FIM loan to Peugeot of FF 500 million contributed to the modernization of plant and the rejuvenation of products, but could not be considered innovative at Community level at the time they were introduced. This concerns investments in:

- press shop at Poissy (FF 280,2 million),
- polyvalent body shop at Poissy (FF 505,7 million),
- upholstery and paint shop at Poissy (FF 55,3 million),
- manufacture of front and rear axle assemblies and shock-absorbers at Mulhouse and Bart and their assembly at Poissy (FF 317,2 million),
- steering and engine modifications at Dijon (FF 8,7 million).

The abovementioned investments amount to a total of FF 1 167,1 million.

In particular, the presses, polyvalent bodybuild, upholstery and paint shops and front and rear axle assembly have been automated and modernized to an average technological level in the sector. The presses and assembly units are, however, conventional, whilst the old machinery is partially outdated. As stated above, the polyvalent bodybuild system applied at Poissy had already been used by a Community competitor before 1985 and does not therefore qualify as an innovation as required for an FIM loan. As regards the investment in steering and engine modifications and the manufacture of front and rear axles, the French authorities have not, despite the Commission's letter dated 31 March 1987, provided the supplementary information requested concerning the innovative nature of these investments.

In short, the Peugeot investments assisted by the FIM loan concern modernizations, Peugeot's competitors also had to cope with the demands of new technology and covered their costs without assistance from the State. It is quite normal and in the interest of the producer to use the most efficient techniques and materials enabling production and management costs to be cut whilst modernizing the range of products (see Court of Justice in Cases 102/87 (SEB) of 13 July 1988 and 62/87—72/87 (Glaverbel) of 8 March 1988, and the Commission decisions on FIM loans to Renault of 29 March 1988, and to Valeo, of 23 November 1988).

Consequently, the aid resulting from the FIM loan to Peugeot in support of investment in the abovementioned fields is not compatible with the common market because it does not fulfil the conditions of Article 92 (3) (c) and those laid down by the Commission in its Decision of 19 December 1984. The FIM loan of FF 500 million to Peugeot is thus an aid that is incompatible with the common market under Article 92 of the Treaty and should be recovered.

To this end, it is necessary to withdraw the incompatible aid element contained in the FIM loan to Peugeot by ordering the loan to be recovered or by attaching normal market conditions to it and, in any event, by ordering the recovery of the incompatible interest subsidy from which Peugeot benefited until the abovementioned change in the terms of the loan. The Commission quantified the aid element of the loan by calculating the difference between the market reference rate at the time the loan was granted (14,75 % on 30 May 1984) and the interest rate actually granted (9,75 %); the interest subsidy on the loan in question amounts to FF 107,81 million at the date of this Decision.

This amount should be added to the interest subsidy from which the PSA Group could subsequently benefit in the event of a delay in the implementation of this Decision during the period between the date referred to in Article 3 of this Decision and the actual date of reimbursement or modification of the terms of the incompatible loan in question,

HAS ADOPTED THIS DECISION:

Article 1

The aid in the form of an interest subsidy on the FIM loan of FF 500 million in support of investments totalling FF 1 167,1 million granted to Peugeot SA and notified to the Commission on 30 April 1985 is unlawful for breach of Article 93 (3) of the EEC Treaty. In addition, the aid is incompatible with the common market pursuant to Article 92 (1).

Article 2

The French Government is hereby required to withdraw the aid element contained in the FIM loan referred to in Article 1, either by recovering the loan or by applying market interest rates to it; the rate shall correspond to the Crédit national rate for equipment loans applicable on the date the FIM loan was granted (14,75 %). The French Government shall in any event recover the interest subsidy, amounting to FF 107,81 million, which was granted on the loan and from which PSA has benefited up to the date of adoption of this Decision.

Article 3

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

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 21 December 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission