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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 979/90**of 19 April 1990****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 201/90 ⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 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 754/90 ⁽⁵⁾ and subsequent amending Regulations;

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

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

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

- for 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 18 April 1990;

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 754/90 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 20 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 22, 27. 1. 1990, p. 7.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 83, 30. 3. 1990, p. 4.

ANNEX

to the Commission Regulation of 19 April 1990 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	38,43	131,94 ^(?) ^(?)
0712 90 19	38,43	131,94 ^(?) ^(?)
1001 10 10	47,93	185,74 ⁽¹⁾ ^(?)
1001 10 90	47,93	185,74 ⁽¹⁾ ^(?)
1001 90 91	39,41	137,47
1001 90 99	39,41	137,47
1002 00 00	64,09	134,69 ⁽⁹⁾
1003 00 10	55,34	130,25
1003 00 90	55,34	130,25
1004 00 10	46,74	126,09
1004 00 90	46,74	126,09
1005 10 90	38,43	131,94 ^(?) ^(?)
1005 90 00	38,43	131,94 ^(?) ^(?)
1007 00 90	55,34	138,97 ^(*)
1008 10 00	55,34	33,74
1008 20 00	55,34	105,39 ^(*)
1008 30 00	55,34	0,00 ^(?)
1008 90 10	^(?)	^(?)
1008 90 90	55,34	0,00
1101 00 00	69,49	206,78
1102 10 00	104,04	202,88
1103 11 10	89,07	302,68
1103 11 90	73,63	221,90

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 980/90

of 19 April 1990

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 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 201/90 ⁽²⁾, and in particular Article 15 (6) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 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 1916/89 ⁽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 18 April 1990;

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 20 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 22, 27. 1. 1990, p. 7.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 187, 1. 7. 1989, p. 4.

ANNEX

to the Commission Regulation of 19 April 1990 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 4	1st period 5	2nd period 6	3rd period 7
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	2,16	2,16	10,55
1001 90 99	0	2,16	2,16	10,55
1002 00 00	0	0	0	0
1003 00 10	0	1,43	1,43	1,43
1003 00 90	0	1,43	1,43	1,43
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	0,50	0,50	0,50
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	3,02	3,02	14,75

B. Malt

CN code	(ECU/tonne)				
	Current 4	1st period 5	2nd period 6	3rd period 7	4th period 8
1107 10 11	0	3,84	3,84	18,78	18,78
1107 10 19	0	2,87	2,87	14,03	14,03
1107 10 91	0	2,55	2,55	2,55	2,55
1107 10 99	0	1,90	1,90	1,90	1,90
1107 20 00	0	2,22	2,22	2,22	2,22

COMMISSION REGULATION (EEC) No 981/90

of 19 April 1990

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2902/89⁽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 16 and 17 April 1990 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 20 April 1990.

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.⁽²⁾ OJ No L 280, 29. 9. 1989, p. 2.⁽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, 19 April 1990.

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	75,00 ⁽¹⁾
1509 10 90	75,00 ⁽¹⁾
1509 90 00	87,00 ⁽²⁾
1510 00 10	77,00 ⁽¹⁾
1510 00 90	122,00 ⁽²⁾

⁽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	16,50
0711 20 90	16,50
1522 00 31	37,50
1522 00 39	60,00
2306 90 19	6,16

**COMMISSION REGULATION (EEC) No 982/90
of 19 April 1990**

adjusting the agricultural conversion rates for the pigmeat sector in Greece

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

as to avoid the creation of new monetary compensatory amounts ;

Having regard to the Treaty establishing the European Economic Community,

Having regard to Commission Regulation (EEC) No 3578/88 of 17 November 1988 laying down detailed rules for the application of the system for the automatic dismantlement of negative monetary compensatory amounts ⁽¹⁾, as last amended by Regulation (EEC) No 747/90 ⁽²⁾, and in particular Article 7 (1) thereof,

Whereas Article 6a of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽³⁾, as last amended by Regulation (EEC) No 1889/87 ⁽⁴⁾, lays down that the agricultural conversion rates of a Member State should be adjusted so

Whereas the movement of the market rate for the Greek drachma during the reference period 11 to 17 April 1990 should, given the adjustment of the agricultural conversion rate determined by Council Regulation (EEC) No 1678/85 ⁽⁵⁾, as last amended by Commission Regulation (EEC) No 933/90 ⁽⁶⁾, entail, in accordance with Article 2 of Commission Regulation (EEC) No 3153/85 ⁽⁷⁾, as last amended by Regulation (EEC) No 3672/89 ⁽⁸⁾, an increase in the monetary compensatory amounts applicable in the pigmeat sector in Greece effective from 23 April 1990 ; whereas in order to prevent this it is necessary to adjust the agricultural conversion rate so as to prevent the creation of these new monetary compensatory amounts having regard to the criteria in Article 7 of Regulation (EEC) No 3578/88,

HAS ADOPTED THIS REGULATION :

Article 1

In Annex IV to Regulation (EEC) No 1678/85, the line relating to pigmeat is hereby replaced by the following :

Products	Agricultural conversion rates			
	ECU 1 = Dr...	Applicable until	ECU 1 = Dr...	Applicable from
'Pigmeat'	219,777	22 April 1990	220,221	23 April 1990'

Article 2

This Regulation shall enter into force on 23 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 312, 18. 11. 1988, p. 16.

⁽²⁾ OJ No L 82, 29. 3. 1990, p. 24.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽⁴⁾ OJ No L 182, 3. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁶⁾ OJ No L 96, 12. 4. 1990, p. 30.

⁽⁷⁾ OJ No L 310, 21. 11. 1985, p. 4.

⁽⁸⁾ OJ No L 358, 8. 12. 1989, p. 28.

COMMISSION REGULATION (EEC) No 983/90**of 19 April 1990****on a standing invitation to tender to determine levies and/or refunds on exports
of white sugar**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 1069/89⁽²⁾, and in particular Articles 13 (2), 18 (5), 19 (4) and (7) and the second subparagraph of Article 39 thereof,

Having regard to Council Regulation (EEC) No 608/72 of 23 March 1972 laying down rules to be applied in the case of considerable price rises on the world sugar markets⁽³⁾, and in particular Article 1 (1) thereof,

Whereas, in view of the situation on the Community and world sugar markets, a standing invitation to tender should be issued as soon as possible for the export of white sugar in respect of the 1990/91 marketing year which, having regard to possible fluctuations in world prices for sugar, must provide for the determination of export levies and/or export refunds;

Whereas the general rules governing invitations to tender for the purpose of determining export refunds for sugar were laid down in Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar⁽⁴⁾, as last amended by Regulation (EEC) No 1489/76⁽⁵⁾;

Whereas, in view of the specific nature of the transactions involved, special detailed rules should be laid down in this Regulation, and those provided for in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar⁽⁶⁾, as last

amended by Regulation (EEC) No 1714/88⁽⁷⁾, should not apply; whereas, for the same reasons, appropriate provisions should be laid down with regard to export licences issued in connection with the standing invitation to tender and there should be a derogation from Commission Regulation (EEC) No 2630/81 of 10 September 1981 on special detailed rules for the application of the system of import and export licences for sugar⁽⁸⁾, as last amended by Regulation (EEC) No 1714/88; whereas, however, the provisions of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products⁽⁹⁾, as last amended by Regulation (EEC) No 154/90⁽¹⁰⁾, and those of Commission Regulation (EEC) No 120/89 of 19 January 1989 laying down common detailed rules for the application of the export levies and charges on agricultural products⁽¹¹⁾, should remain applicable;

Whereas the second subparagraph of Article 3 (1) of Commission Regulation (EEC) No 3155/85 of 11 November 1985 providing for the advance fixing of monetary compensatory amounts⁽¹²⁾, as last amended by Regulation (EEC) No 3521/88⁽¹³⁾, provides that, where the levy or refund is fixed in advance by means of tenders, applications to fix the monetary compensatory amount in advance shall be accepted only if the party concerned has declared in writing at the time of submission of the tender that he will also apply to fix the monetary compensatory amount in advance if the tender is accepted in whole or in part; whereas, in such cases, the obligation to lodge an application to fix the levy or refund in advance following acceptance of the tender involves an obligation to request at the same time advance fixing of the monetary compensatory amount; whereas, for reasons peculiar to the market in sugar, when an operator intends to make use of the facility of fixing a monetary compensatory amount in advance in connection with an export levy or refund fixed in advance under a tendering procedure he only makes up his mind to do so at the moment when the application for the export licence is made; whereas it is only after he has been declared successful in respect of a levy or refund for the quantity of sugar indicated in his tender that the said monetary compensatory amount can be fixed in advance; whereas, in consequence, a derogation should be made from the said provision in the case of this tendering procedure, so that appli-

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 75, 28. 3. 1972, p. 5.

⁽⁴⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁵⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 152, 18. 6. 1988, p. 23.

⁽⁸⁾ OJ No L 258, 11. 9. 1981, p. 16.

⁽⁹⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽¹⁰⁾ OJ No L 18, 23. 1. 1990, p. 26.

⁽¹¹⁾ OJ No L 16, 20. 1. 1989, p. 19.

⁽¹²⁾ OJ No L 310, 21. 11. 1985, p. 22.

⁽¹³⁾ OJ No L 307, 12. 11. 1988, p. 28.

cation for advance fixing of the monetary compensatory amount at the time when the application for the export licence is made should be possible;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A standing invitation to tender shall be issued in order to determine export levies and/or export refunds on white sugar. During the period of validity of this standing invitation, partial invitations to tender shall be issued.

2. The standing invitation to tender shall remain open until 15 May 1991.

Article 2

The standing invitation to tender and the partial invitations shall be conducted in accordance with Regulation (EEC) No 766/68 and with the following provisions. Regulation (EEC) No 394/70 shall not apply.

Article 3

1. The notice of the invitation to tender shall be published in the *Official Journal of the European Communities*. Member States may also publish the notice, or have it published, elsewhere.

2. The notice shall indicate in particular the terms of the invitation to tender.

3. The notice may be amended during the period of validity of the standing invitation to tender. It shall be so amended if the terms of the invitation to tender are modified during that period.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation to tender:

(a) shall begin on 21 April 1990;

(b) shall end on 3 May 1990 at 10.30 a.m.

2. The periods during which tenders may be submitted in response to the second and subsequent partial invitations:

(a) shall begin on the first working day following the end of the preceding period;

(b) shall end at 10.30 a.m. on the Wednesday of the following week.

3. Notwithstanding paragraph 2 (b), the period for the submission of tenders which was to end on

— Wednesday, 9 May 1990 shall end on Thursday, 10 May 1990 at 10.30 a.m.,

— Wednesday, 25 July 1990 shall end on Tuesday, 24 July 1990 at 10.30 a.m.,

— Wednesday, 15 August 1990 shall end on Tuesday, 14 August 1990 at 10.30 a.m.,

— Wednesday, 21 November 1990 shall end on Tuesday 20 November 1990 at 10.30 a.m.,

— Wednesday, 2 January 1991 shall end on Thursday, 3 January 1991 at 10.30 a.m.

4. Notwithstanding paragraph 2, no partial invitations to tender will be issued on Wednesday, 26 December 1990.

5. The time-limits laid down in this Regulation are expressed in Belgian time.

Article 5

1. Offers in connection with this tender must be in writing, and must be either delivered by hand, against a receipt, to the competent authority in a Member State, or addressed to that authority by registered letter, telex, telegram or fax message.

2. An offer must indicate:

(a) the reference number of the invitation to tender to which the offer relates;

(b) the name and address of the tenderer;

(c) the quantity of white sugar to be exported;

(d) the amount of the export levy or, where applicable, of the export refund, per 100 kilograms of white sugar, expressed in the currency of the Member State in which the tender is submitted;

(e) the minimum amount of the security to be lodged covering the quantity of sugar indicated in (c), expressed in the currency of the Member State in which the tender is submitted.

3. An offer shall be valid only if:

(a) the quantity to be exported is not less than 250 tonnes of white sugar;

(b) proof is furnished before expiry of the time-limit for the submission of tenders that the tenderer has lodged the security indicated in the tender;

(c) it includes a declaration by the tenderer that if his tender is successful he will, within the period laid down in Article 12 (b), apply for an export licence or licences in respect of the quantities of white sugar to be exported;

(d) it includes a declaration by the tenderer that if his tender is successful he will:

— where the obligation to export resulting from the export licence referred to in Article 12 (b) is not fulfilled, supplement the security by payment of the amount referred to in Article 13 (4), and

— within 30 days following the expiry of the export licence in question, notify the agency which issued the licence of the quantity or quantities in respect of which the licence was not used;

(e) it contains all the information required under paragraph 2.

4. A tender may stipulate that it is to be regarded as having been submitted only if:

- (a) the minimum export levy or, where applicable, the maximum export refund is fixed on the day of the expiry of the period for the submission of the tenders in question;
- (b) the tender, if successful, relates to all or a specified part of the tendered quantity.

5. A tender which is not submitted in accordance with the provisions of this Regulation, or which contains terms other than those indicated in the present invitation to tender, shall not be considered.

6. Once submitted, a tender may not be withdrawn.

Article 6

1. A security of ECU 9 per 100 kilograms of white sugar to be exported under this invitation to tender must be lodged by each tenderer. Without prejudice to Article 13 (3), this security shall in the case of successful tenderers and at the time of the application referred to in Article 12 (b) become the security for the export licence.

2. The security may be lodged at the tenderer's choice, either in cash or in the form of a guarantee given by an establishment complying with criteria laid down by the Member State in which the tender is submitted.

3. Except in cases of *force majeure* the security referred to in paragraph 1 will be released:

- (a) to unsuccessful tenderers in respect of the quantity for which no award has been made;
- (b) to successful tenderers who have not applied for the relevant export licence within the period referred to in Article 12 (b), to the extent of ECU 8 per 100 kilograms of white sugar.

However, this part of the releasable security shall be reduced by the amount representing the difference existing, as applicable:

— between the maximum amount of the export refund fixed for the partial invitation concerned and the maximum amount of the export refund fixed for the following partial invitation when the latter amount is higher than the former,

or

— between the minimum amount of the export levy fixed for the partial invitation concerned and the minimum amount of the export levy fixed for the following partial invitation when the latter amount is lower than the former;

- (c) to successful tenderers for the quantity for which they have fulfilled, within the meaning of Article 29 (b) and the first subparagraph of Article 30 (1) (b) (i) of Regulation (EEC) No 3719/88, the export obligation

resulting from the licence referred to under Article 12 (b) in accordance with the terms of Article 33 of that Regulation.

The part of the security or the security which is not released shall be forfeit in respect of the quantity of sugar for which the corresponding obligations have not been fulfilled.

4. In case of *force majeure*, the competent authority of the Member State concerned shall take such action as it considers necessary having regard to the circumstances invoked by the party concerned.

Article 7

1. Tenders shall be examined in private by the competent authority concerned. The persons present at the examination shall be under an obligation not to disclose any particulars relating thereto.

2. Tenders shall be communicated to the Commission forthwith and in such a manner that the tenderers remain anonymous.

Article 8

1. After the tenders received have been examined, a maximum quantity may be fixed for the partial invitation concerned.

2. A decision may be taken to make no award under a specific partial invitation to tender.

Article 9

1. In the light of the current state and foreseeable development of the Community and world sugar markets, there shall be fixed either:

— a minimum export levy,

or

— a maximum export refund.

2. Subject to Article 10, where a minimum export levy is fixed, a contract shall be awarded to every tenderer whose tender quotes a rate of refund equal to or greater than such minimum levy.

3. Subject to Article 10, where a maximum export refund is fixed, a contract shall be awarded to every tenderer whose tender quotes a rate of refund equal to or less than such maximum refund and to every tenderer who has tendered for an export levy.

Article 10

1. Where a maximum quantity has been fixed for a partial invitation to tender:

— if a minimum levy is fixed, a contract shall be awarded to the tenderer whose tender quotes the highest levy; if the maximum quantity is not fully

covered by that award, awards shall be made to other tenderers in descending order of levies quoted until the entire maximum quantity has been accounted for,

- if a maximum refund is fixed, contracts shall be awarded in accordance with the first indent; if after such awards a quantity is still outstanding, or if there are no tenders quoting an export levy, contracts shall be awarded in ascending order of refunds quoted until the entire maximum quantity has been accounted for, to tenderers quoting a refund.

2. However, where an award to a particular tenderer in accordance with the provisions of paragraph 1 would result in the maximum quantity being exceeded, that award shall be limited to such quantity as is still available. Where two or more tenderers quote the same levy or the same refund and awards to all of them would result in the maximum quantity being exceeded, then the quantity available shall be awarded as follows:

- by being divided among the tenderers concerned in proportion to the total quantities in each of their tenders, or
- by being apportioned among the tenderers concerned by reference to a maximum tonnage to be fixed for each of them, or
- by the drawing of lots.

Article 11

1. The competent authority of the Member State concerned shall immediately notify applicants of the result of their participation in the invitation to tender. In addition, that authority shall send successful tenderers a statement of award.

2. The statement of award shall indicate:

- (a) the reference number of the invitation to which the tender relates;
- (b) the quantity of white sugar to be exported;
- (c) the export levy to be charged, or where applicable the export refund to be granted, per 100 kilograms of white sugar of the quantity referred to in (b).

Article 12

Every successful tenderer shall have:

- (a) the right to receive in the circumstances referred to under (b), in respect of the quantity awarded, an export licence indicating, as appropriate, the export levy or the export refund quoted in his tender;
- (b) the obligation to lodge, in accordance with the relevant provisions of Regulation (EEC) No 3719/88, an application for an export licence in respect of that

quantity, the application not being revocable and Article 12 of Regulation (EEC) No 120/89 not applying in such a case. The application shall be lodged in accordance with the relevant provisions of Regulation (EEC) No 3719/88, not later than:

- the last working day preceding the date of the partial invitation to tender to be held the following week,

or

- if no partial invitation to tender is due to be held that week, the last working day of the following week;

- (c) the obligation to export the tendered quantity and, if this obligation is not fulfilled, to pay, where necessary, the amount referred to in Article 13 (4).

This right and these obligations are not transferable.

Article 13

1. The first paragraph of Article 9 of Regulation (EEC) No 2630/81 shall not apply to the white sugar to be exported in accordance with this Regulation.

2. Export licences issued in connection with a partial invitation to tender shall be valid from the day of issue until the end of the fifth calendar month following that in which the partial invitation was issued.

However, export licences issued in respect of the partial invitations held after 1 May 1991 will be valid only until 30 September 1991.

3. The export licences issued in respect of the partial invitations held between 3 May 1990 and 12 September 1990 will be usable only from 13 September 1990.

4. Except in cases of *force majeure*, if the obligation to export resulting from the export licence referred to under Article 12 (b) has not been fulfilled and if the security referred to in Article 6 is less than:

- (a) the export levy indicated on the licence reduced by the levy referred to in the second subparagraph of Article 18 (1) of Regulation (EEC) No 1785/81 in force on the last day of validity of the said licence,

or

- (b) the sum of the export levy indicated on the licence and the refund referred to in Article 2 of Regulation (EEC) No 766/68 in force on the last day of validity of the said licence,

or

- (c) the export refund referred to in Article 2 of Regulation (EEC) No 766/68 in force on the last day of validity of the licence reduced by the refund indicated on the said licence,

then, for the quantity in respect of which the said obligation was not fulfilled, the licence holder shall be charged an amount equal to the difference between the result of the calculation made under (a), (b) or (c), as the case may be, and the security referred to in Article 6 (1).

Article 14

If the tenderer intends to apply for advance fixing of the monetary compensatory amount under this standing invitation to tender, the provisions of the second paragraph of Article 3 (1) of Regulation (EEC) No 3155/85 shall not apply.

Article 15

1. If the terms of Article 12 of Regulation (EEC) No 766/68 apply, the export refunds and export levies fixed in advance under the terms of the present invitation to tender:

- (a) before 1 July 1990 for the sugar exported as from that date;
- (b) before 1 July 1991, for the sugar exported as from that date,

shall be adjusted.

2. For the adjustment referred to in paragraph 1 (a):

- (a) in the event of the fixing of an intervention price for white sugar applicable with effect from 1 July 1990 which is greater than that in force on 30 June 1990, the export refund and the export levy shall be adjusted by an amount equal to the difference expressed in ecus per 100 kilograms existing between the intervention price for white sugar applicable with effect from 1 July 1990 and the intervention price for that sugar in force on 30 June 1990;
- (b) in the event of the fixing of an intervention price for white sugar applicable with effect from 1 July 1990

which is lower than that in force on 30 June 1990, the export refund and the export levy shall be adjusted by an amount equal to the difference expressed in ecus per 100 kilograms existing between the intervention price for white sugar in force on 30 June 1990 and the intervention price for that sugar applicable with effect from 1 July 1990

3. For the calculation of the differences referred to in paragraph 2, the intervention prices in question shall be increased by the corresponding storage levy referred to in the second subparagraph of Article 8 (2) of Regulation (EEC) No 1785/81.

4. For the purpose of applying this Article, the Member State issuing the relevant export licence shall at the time of issue complete section 'special particulars' by adding the following:

'to be adjusted in accordance with adjudication Regulation (EEC) No 983/90 for exports which take place after 30 June ...' (1990 or 1991 as applicable).

5. Upon presentation by the holder of the export licence concerned, or by the assignee when the licence has been transferred, to the Member State that issued it and before the customs formalities for the quantities concerned have been carried out, that Member State shall enter the adjustment to be made in section 'special particulars' and shall duly certify and stamp that section.

6. For the adjustment referred to in paragraph 1 (b) the provisions of paragraphs 2 to 5 shall be applicable *mutatis mutandis*.

7. The Member States shall inform the Commission as quickly as possible of the quantities of sugar for which an adjustment under this Article has been made.

Article 16

This Regulation shall enter into force on 21 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 984/90
of 19 April 1990

**determining the extent to which applications lodged in April 1990 for import
licences for certain poultrymeat products can be accepted**

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

Having regard to Council Regulation (EEC) No 3899/89
of 18 December 1989 reducing for 1990 the levies on
certain agricultural products originating in developing
countries ⁽¹⁾,

Whereas Commission Regulation (EEC) No 3920/89 ⁽²⁾,
as last amended by Regulation (EEC) No 684/90 ⁽³⁾, set
the quantity of poultrymeat that can be imported at a
reduced levy during the second quarter of 1990;

Whereas Article 4 (5) of that Regulation stipulates that the
quantities applied for can be reduced; whereas applica-
tions for import licences for duckmeat lodged pursuant to
the said Regulation are for total quantities in excess of
those available pursuant to Article 2 thereof; whereas in
order to ensure a fair distribution of these quantities those
applied for should be reduced by a fixed percentage;

Whereas the applications made for licences for goose
meat are for quantities lower than those available;
whereas these applications can therefore be met in full;

Whereas Article 4 (5) of the abovementioned Regulation
stipulates that if the total quantity for which applications
have been submitted is less than that available the
Commission shall calculate the quantity remaining,
which is to be added to that available for the following

quarter; whereas the quantity available for the third
quarter of 1990 of the products named against serial
number 51.0030 in Regulation (EEC) No 3899/89 should
therefore be determined,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1
April to 30 June 1990 submitted pursuant to Regulation
(EEC) No 3920/89 shall be met:

- (a) for 8,430 % of the quantity applied for, in the case of
products named against serial number 51.0020 in
Regulation (EEC) No 3899/89;
- (b) in full, for products named against serial number
51.0030 in that Regulation.

2. During the first ten days of the third quarter of 1990
applications may be lodged pursuant to Regulation (EEC)
No 3920/89 for import licences for a total quantity of
13 856 tonnes of the products named against serial
number 51.0030 in Regulation (EEC) No 3899/89.

Article 2

This Regulation shall enter into force on 21 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 383, 30. 12. 1989, p. 125.

⁽²⁾ OJ No L 375, 23. 12. 1989, p. 45.

⁽³⁾ OJ No L 76, 22. 3. 1990, p. 11.

COMMISSION REGULATION (EEC) No 985/90

of 19 April 1990

fixing the amounts by which import duties on beef and veal originating in the African, Caribbean and Pacific States (ACP) are to be reduced

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP) or in the overseas countries and territories (OCT) ⁽¹⁾, and in particular Article 3 thereof,

Whereas Article 3 of Regulation (EEC) No 715/90 provides for a 90 % reduction in the import duties on beef and veal ; whereas the amount of this reduction must

be calculated in conformity with Article 3 of Commission Regulation (EEC) No 970/90 ⁽²⁾,

HAS ADOPTED THIS REGULATION :

Article 1

The amounts by which import duties on beef and veal are to be reduced pursuant to Article 3 of Regulation (EEC) No 715/90 shall, in respect of importations during the second quarter of 1990, be as shown in the Annex hereto.

Article 2

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

It shall apply with effect from 1 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽²⁾ OJ No L 99, 19. 4. 1990, p. 8.

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

Código NC KN-code Κωδικός ΣΟ CN code Codice NC GN-code Código NC	Belgique Luxembourg FB/Flux/100 kg	Danmark dkr/100 kg	Deutschland DM/100 kg	Ελλάδα Δρχ/100 χγρ	España Pts/100 kg	France FF/100 kg	Ireland £ Ir/100 kg	Italia Lit/100 kg	Nederland Fl/100 kg	United Kingdom £/100 kg
0102 90 10	5 358,5	990,99	260,85	18 773,46	17 354,30	871,34	96,979	189 320	292,73	79,428
0102 90 31	5 358,5	990,99	260,85	18 773,46	17 354,30	871,34	96,979	189 320	292,73	79,428
0102 90 33	5 358,5	990,99	260,85	18 773,46	17 354,30	871,34	96,979	189 320	292,73	79,428
0102 90 35	5 358,5	990,99	260,85	18 773,46	17 354,30	871,34	96,979	189 320	292,73	79,428
0102 90 37	5 358,5	990,99	260,85	18 773,46	17 354,30	871,34	96,979	189 320	292,73	79,428
0201 10 10	10 181,2	1 882,88	495,60	35 669,70	32 973,33	1 655,54	184,260	359 709	556,18	150,913
0201 10 90	10 181,2	1 882,88	495,60	35 669,70	32 973,33	1 655,54	184,260	359 709	556,18	150,913
0201 20 21	10 181,2	1 882,88	495,60	35 669,70	32 973,33	1 655,54	184,260	359 709	556,18	150,913
0201 20 29	10 181,2	1 882,88	495,60	35 669,70	32 973,33	1 655,54	184,260	359 709	556,18	150,913
0201 20 31	8 144,9	1 506,29	396,48	28 535,56	26 378,52	1 324,42	147,407	287 765	444,94	120,729
0201 20 39	8 144,9	1 506,29	396,48	28 535,56	26 378,52	1 324,42	147,407	287 765	444,94	120,729
0201 20 51	12 217,4	2 259,46	594,72	42 803,65	39 567,99	1 986,64	221,112	431 651	667,42	181,095
0201 20 59	12 217,4	2 259,46	594,72	42 803,65	39 567,99	1 986,64	221,112	431 651	667,42	181,095
0201 20 90	15 271,7	2 824,32	743,40	60 851,84	48 865,71	2 483,31	276,389	542 525	834,27	243,526
0201 30 00	17 468,7	3 230,62	850,35	64 847,66	56 280,33	2 840,55	316,150	618 634	954,30	267,448
0202 10 00	8 988,7	1 662,35	437,55	31 422,51	29 116,85	1 461,63	162,678	317 550	491,04	133,075
0202 20 10	8 988,7	1 662,35	437,55	31 422,51	29 116,85	1 461,63	162,678	317 550	491,04	133,075
0202 20 30	7 190,9	1 329,88	350,05	25 138,01	23 293,48	1 169,31	130,142	254 039	392,83	106,459
0202 20 50	11 235,9	2 077,94	546,95	39 278,26	36 396,10	1 827,04	203,348	396 937	613,80	166,343
0202 20 90	13 483,0	2 493,51	656,33	53 668,97	43 146,67	2 192,45	244,016	478 958	736,56	214,872
0202 30 10	11 235,9	2 077,94	546,95	39 278,26	36 396,10	1 827,04	203,348	396 937	613,80	166,343
0202 30 50	11 235,9	2 077,94	546,95	39 278,26	36 396,10	1 827,04	203,348	396 937	613,80	166,343
0202 30 90	15 460,5	2 859,23	752,59	58 434,54	49 725,95	2 514,00	279,805	547 952	844,59	239,135
0206 10 95	17 468,7	3 230,62	850,35	64 847,66	56 280,33	2 840,55	316,150	618 634	954,30	267,448
0210 20 10	15 271,7	2 824,32	743,40	60 851,84	48 865,71	2 483,31	276,389	542 525	834,27	243,526
0210 20 90	17 468,7	3 230,62	850,35	67 223,12	56 088,22	2 840,55	316,150	619 611	954,30	272,994
0210 90 41	17 468,7	3 230,62	850,35	67 223,12	56 088,22	2 840,55	316,150	619 611	954,30	272,994
0210 90 90	17 468,7	3 230,62	850,35	67 223,12	56 088,22	2 840,55	316,150	619 611	954,30	272,994
1602 50 10	17 468,7	3 230,62	850,35	67 223,12	56 088,22	2 840,55	316,150	619 611	954,30	272,994
1602 90 61	17 468,7	3 230,62	850,35	74 404,76	55 507,41	2 840,55	316,150	622 508	954,30	289,765

NB: Los códigos NC, incluidas las notas a pie de página, se definen en el Reglamento (CEE) n° 2658/87 modificado.

NB: KN-kode, berunder henvisninger til fodnoter, er fastsat i den ændrede forordning (EØF) nr. 2658/87.

NB: Die KN-Code sowie die Verweisungen und Fußnoten sind durch die geänderte Verordnung (EWG) Nr. 2658/87 bestimmt.

NB: Οι κωδικοί της συνδυασμένης ονοματολογίας, συμπεριλαμβανομένων των υποσημειώσεων, καθορίζονται στον τροποποιημένο κανονισμό (ΕΟΚ) αριθ. 2658/87.

NB: The CN codes and the footnotes are defined in amended Regulation (EEC) No 2658/87.

NB: Les codes NC ainsi que les renvois en bas de page sont définis au règlement (CEE) n° 2658/87 modifié.

NB: I codici NC e i relativi richiami in calce sono definiti dal regolamento (CEE) n. 2658/87 modificato.

NB: GN-codes en voetnoten : zie de gewijzigde Verordening (EEG) nr. 2658/87.

NB: Os códigos NC, incluindo as remissões em pé-de-página são definidos no Regulamento (CEE) n° 2658/87 alterado.

COMMISSION REGULATION (EEC) No 986/90

of 19 April 1990

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾,

Having regard to Commission Regulation (EEC) No 1633/84 of 8 June 1984 laying down detailed rules for applying the variable slaughter premium for sheep and repealing Regulation (EEC) No 2661/80⁽²⁾, as last amended by Regulation (EEC) No 1075/89⁽³⁾, and in particular Articles 3 (1) and 4 (1) thereof,

Whereas the United Kingdom is the only country which grants the variable slaughter premium, in region 5, within the meaning of Article 22 (2) of Regulation (EEC) No 3013/89 whereas it is necessary therefore for the Commission to fix, for the week beginning 26 March 1990, the level of the premium and the amount to be charged on products leaving that region;

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

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

Whereas in the Annex to Commission Regulation (EEC) No 3618/89 of 1 December 1989 on the application of the guarantee limitation arrangements for sheepmeat and goatmeat⁽⁴⁾ the weekly amounts of the guide level are set out pursuant to Article 25 of Regulation (EEC) No 3013/89;

Whereas, pursuant to the provisions of Article 24 (2) and (3) of Regulation (EEC) No 3013/89, for the week beginning 26 March 1990, the variable slaughter premium for

sheep certified as eligible in the United Kingdom is to be in accordance with the amounts fixed in the Annexes hereto; whereas, for that week, in the light of the Judgment of the Court of Justice of 2 February 1988 in Case 61/86, the provisions of Article 9 (5) of Regulation (EEC) No 3013/89 and of Article 4 of Regulation (EEC) No 1633/84 lead to the amounts to be charged on products, leaving region 12, being fixed in accordance with those Annexes;

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

HAS ADOPTED THIS REGULATION:

Article 1

For sheep or sheepmeat certified as eligible in the United Kingdom in region 1, within the meaning of Article 22 (2) of Regulation (EEC) No 3013/89, for the variable slaughter premium during the week beginning 26 March 1990, the level of the premium is fixed at ECU 8,758 per 100 kilograms of estimated or actual dressed carcass weight within the limits laid down by Article 1 (1) (b) of Regulation (EEC) No 1633/84.

Article 2

For products referred to in Article 1 (a) and (c) of Regulation (EEC) No 3013/89 which left the territory of region 1 during the week beginning 26 March 1990, the amounts to be charged shall be equivalent to those fixed in the Annexes hereto.

Article 3

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

It shall apply with effect from 26 March 1990.

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 154, 9. 6. 1984, p. 27.

⁽³⁾ OJ No L 114, 27. 4. 1989, p. 13.

⁽⁴⁾ OJ No L 351, 2. 12. 1989, p. 18.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 19 April 1990 fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 1

(ECU/100 kg)

CN code	Amounts	
	A. Products qualifying for the premium specified in Article 24 of Regulation (EEC) No 3013/89	B. Products specified in Article 4 (4) of Regulation (EEC) No 1633/84 ⁽¹⁾
	Live weight	Live weight
0104 10 90	4,116	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	8,758	0
0204 21 00	8,758	0
0204 50 11		0
0204 22 10	6,131	
0204 22 30	9,634	
0204 22 50	11,385	
0204 22 90	11,385	
0204 23 00	15,940	
0204 30 00	6,569	
0204 41 00	6,569	
0204 42 10	4,598	
0204 42 30	7,226	
0204 42 50	8,540	
0204 42 90	8,540	
0204 43 00	11,956	
0204 50 13		0
0204 50 15		0
0204 50 19		0
0204 50 31		0
0204 50 39		0
0204 50 51		0
0204 50 53		0
0204 50 55		0
0204 50 59		0
0204 50 71		0
0204 50 79		0
0210 90 11	11,385	
0210 90 19	15,940	
1602 90 71 :		
— unboned (bone-in)	11,385	
— boned or boneless	15,940	

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

COMMISSION REGULATION (EEC) No 987/90**of 19 April 1990****determining the extent to which applications lodged in April 1990 for import
licences for certain pigmeat products can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

numbers 51.0040, 51.0060, 51.0070 and 51.0080 in Regulation (EEC) No 3899/89 should therefore be determined,

Having regard to the Treaty establishing the European Economic Community,

HAS ADOPTED THIS REGULATION:

Having regard to Council Regulation (EEC) No 3899/89 of 18 December 1989 reducing for 1990 the levies on certain agricultural products originating in developing countries⁽¹⁾,*Article 1*Whereas Commission Regulation (EEC) No 3919/89⁽²⁾, as amended by Regulation (EEC) No 683/90⁽³⁾, set the quantities of pigmeat products that can be imported at a reduced levy during the second quarter of 1990;

1. Applications for import licences for the period 1 April to 30 June 1990 submitted under Regulation (EEC) No 3919/89 shall be met:

- (a) for 5,0994 % of the quantity applied for, in the case of products named against serial number 51.0010 in Regulation (EEC) No 3899/89;
- (b) in full, for products named against serial number 51.0040 in Regulation (EEC) No 3899/89;
- (c) in full, for products named against serial number 51.0060 in Regulation (EEC) No 3899/89;
- (d) in full, for products named against serial number 51.0070 in Regulation (EEC) No 3899/89;
- (e) in full, for products named against serial number 51.0080 in Regulation (EEC) No 3899/89.

Whereas Article 4 (5) of Regulation (EEC) No 3919/89 stipulates that the quantities applied for can be reduced; whereas applications for import licences lodged under the said Regulation are for total quantities in excess of those available under Article 2 for products named against serial number 51.0010 in Regulation (EEC) No 3899/89; whereas in order to ensure a fair distribution of these quantities those applied for should be reduced by a fixed percentage,

2. During the first 10 days of the third quarter of 1990 applications may be lodged pursuant to Regulation (EEC) No 3919/89 for import licences for a total quantity of:

- (a) 957,00 tonnes of the products named against serial number 51.0040 in Regulation (EEC) No 3899/89;
- (b) 1 120,00 tonnes of the products named against serial number 51.0060 in Regulation (EEC) No 3899/89;
- (c) 476,50 tonnes of the products named against serial number 51.0070 in Regulation (EEC) No 3899/89;
- (d) 2 474,00 tonnes of the products named against serial number 51.0080 in Regulation (EEC) No 3899/89.

Whereas the applications made for licences for products named against serial numbers 51.0040, 51.0060, 51.0070 and 51.0080 in Regulation (EEC) No 3899/89, are for quantities lower than those available; whereas these applications can therefore be met in full;

Whereas Article 4 (5) of the abovementioned Regulation stipulates that if the total quantity for which applications have been submitted is less than that available the Commission shall calculate the quantity remaining, which is to be added to that available for the following quarter; whereas the quantity available for the third quarter of 1990 of the products named against serial

Article 2

This Regulation shall enter into force on 21 April 1990.

⁽¹⁾ OJ No L 383, 30. 12. 1989, p. 125.⁽²⁾ OJ No L 375, 23. 12. 1989, p. 43.⁽³⁾ OJ No L 76, 22. 3. 1990, p. 9.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 988/90
of 19 April 1990
abolishing the countervailing charge on tomatoes originating in Morocco

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 1035/72 of the Council of 18 May 1972 on the common organization of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EEC) No 1119/89 ⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 953/90 ⁽³⁾ introduced a countervailing charge on tomatoes originating in Morocco;

Whereas the present trend of prices for products originating in Morocco on the representative markets referred to in Regulation (EEC) No 2118/74 of the Commission ⁽⁴⁾, as last amended by Regulation (EEC) No 3811/85 ⁽⁵⁾,

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 the second indent of Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of these products originating in Morocco can be abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 953/90 is hereby repealed.

Article 2

This Regulation shall enter into force on 20 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽³⁾ OJ No L 96, 12. 4. 1990, p. 75.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

COMMISSION REGULATION (EEC) No 989/90
of 19 April 1990
amending Regulation (EEC) No 228/90 introducing a countervailing charge on
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 1119/89⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 228/90⁽³⁾, as last amended by Regulation (EEC) No 873/90⁽⁴⁾, introduced a countervailing charge on fresh lemons originating in Turkey;

Whereas Article 26 (1) of Regulation (EEC) No 1035/72 laid down the conditions under which a charge intro-

duced in application of Article 25 of that Regulation is amended; whereas if those conditions are taken into consideration the countervailing charge on the import of fresh lemons originating in Turkey must be altered,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 228/90, 'ECU 27,63' is hereby replaced by 'ECU 35,52'.

Article 2

This Regulation shall enter into force on 20 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽³⁾ OJ No L 22, 27. 1. 1990, p. 72.

⁽⁴⁾ OJ No L 91, 6. 4. 1990, p. 20.

COMMISSION REGULATION (EEC) No 990/90
of 19 April 1990
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 1920/89 ⁽³⁾, as last amended by Regulation (EEC) No 973/90 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1920/89 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 April 1990.

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

Done at Brussels, 19 April 1990.

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 187, 1. 7. 1989, p. 13.

⁽⁴⁾ OJ No L 99, 19. 4. 1990, p. 14.

ANNEX

to the Commission Regulation of 19 April 1990 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	29,31 ⁽¹⁾
1701 11 90	29,31 ⁽¹⁾
1701 12 10	29,31 ⁽¹⁾
1701 12 90	29,31 ⁽¹⁾
1701 91 00	32,93
1701 99 10	32,93
1701 99 90	32,93 ⁽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 991/90

of 19 April 1990

altering the import levies on products processed from cereals and 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 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 201/90⁽²⁾, and in particular Article 14 (4) thereof,Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EEC) No 1806/89⁽⁴⁾, and in particular Article 12 (4) 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⁽⁵⁾, as last amended by Regulation (EEC) No 1636/87⁽⁶⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 759/90⁽⁷⁾, as amended by Regulation (EEC) No 962/90⁽⁸⁾;Whereas Council Regulation (EEC) No 1906/87⁽⁹⁾ amended Council Regulation (EEC) No 2744/75⁽¹⁰⁾ as regards products falling within CN codes 2302 10, 2302 20, 2302 30 and 2302 40;

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

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 22, 27. 1. 1990, p. 7.⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.⁽⁴⁾ OJ No L 177, 24. 6. 1989, p. 1.⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁶⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁷⁾ OJ No L 83, 30. 3. 1990, p. 16.⁽⁸⁾ OJ No L 98, 18. 4. 1990, p. 11.⁽⁹⁾ OJ No L 182, 3. 7. 1987, p. 49.⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 65.

— 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 over 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 18 April 1990;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients;

Whereas the levy on the basic product as last fixed differs from the average levy by more than ECU 3,02 per tonne of basic product; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 1579/74⁽¹¹⁾, as last amended by Regulation (EEC) No 1740/78⁽¹²⁾, the levies at present in force must therefore 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 processed from cereals and rice covered by Regulation (EEC) No 2744/75 as fixed in the Annex to amended Regulation (EEC) No 759/90 are hereby altered to the amounts set out in the Annex.

Article 2

This Regulation shall enter into force on 20 April 1990.

⁽¹¹⁾ OJ No L 168, 25. 6. 1974, p. 7.⁽¹²⁾ OJ No L 202, 26. 7. 1978, p. 8.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 19 April 1990 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CN code	Import levies		
	Portugal	ACP or OCT	Third countries (other than ACP or OCT)
0714 10 10 ⁽¹⁾	57,03	127,19	133,84
0714 10 91	54,01	130,82 ⁽²⁾ ⁽⁷⁾	130,82
0714 10 99	57,03	129,01	133,84
0714 90 11	54,01	130,82 ⁽²⁾ ⁽⁷⁾	130,82
0714 90 19	57,03	129,01 ⁽²⁾	133,84
1102 90 10	103,26	235,48	241,52
1103 19 30	103,26	235,48	241,52
1103 29 20	103,26	235,48	241,52
1104 11 10	58,11	133,44	136,46
1104 11 90	114,06	261,64	267,68
1104 21 10	89,44	209,31	212,33
1104 21 30	89,44	209,31	212,33
1104 21 50	141,07	327,05	333,09
1104 21 90	58,11	133,44	136,46
1106 20 10	57,03	127,19 ⁽²⁾	133,84
1107 10 91	107,02	232,86	243,74 ⁽²⁾
1107 10 99	82,71	173,99	184,87
1107 20 00	94,60	202,77	213,65 ⁽²⁾

⁽¹⁾ 6 % *ad valorem*, subject to certain conditions.

⁽²⁾ In accordance with Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10) this levy is reduced by ECU 5,44 per tonne for products originating in Turkey.

⁽²⁾ In accordance with Regulation (EEC) No 715/90 the levy shall not be charged on the following products originating in the African, Caribbean and Pacific States and in the overseas countries and territories:

- products falling within CN code ex 0714 10 91,
- products falling within CN code 0714 90 11 and arrow-root falling within CN code 0714 90 19,
- flours and meal of arrow-root falling within CN code 1106 20,
- arrow-root starch falling within CN code 1108 19 90.

⁽⁷⁾ In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments originating in the African, Caribbean and Pacific States or in the overseas countries and territories.

COMMISSION REGULATION (EEC) No 992/90
of 19 April 1990

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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 201/90⁽²⁾, and in particular the fourth subparagraph of Article 16 (2),

Having regard to the opinion of the Monetary Committee,

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

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

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

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated,

account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC⁽⁴⁾, as amended by Regulation (EEC) No 1607/71⁽⁵⁾;

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

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

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 % a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁶⁾, as last amended by Regulation (EEC) No 1636/87⁽⁷⁾,
- 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 it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas, pursuant to Article 275 of the Act of Accession, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 22, 27. 1. 1990, p. 7.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

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

⁽⁵⁾ OJ No L 168, 27. 7. 1971, p. 16.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 153, 13. 6. 1987, p. 1.

HAS ADOPTED THIS REGULATION:

The refund on export to Portugal has not been fixed.

Article 1

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

Article 2

This Regulation shall enter into force on 20 April 1990.

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

Done at Brussels, 19 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 19 April 1990 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

Product code	Destination (1)	Amount of refund
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 10 000	—	—
1001 10 90 000	01	10,00
1001 90 91 000	—	—
1001 90 99 000	04	64,00
	05	64,00
	02	10,00
1002 00 00 000	03	64,00
	05	64,00
	02	10,00
1003 00 10 000	06	68,00
	02	0
1003 00 90 000	04	61,00
	02	10,00
1004 00 10 000	07	50,00
	02	0
1004 00 90 000	01	0
1005 10 90 000	—	—
1005 90 00 000	03	74,00
	02	0
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 110	01	101,50
1101 00 00 120	01	101,50
1101 00 00 130	01	94,50
1101 00 00 150	01	91,50
1101 00 00 170	01	89,50
1101 00 00 180	01	85,50
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 100	01	101,50
1102 10 00 200	01	101,50
1102 10 00 300	01	101,50
1102 10 00 500	01	101,50
1102 10 00 900	—	—
1103 11 10 100	01	210,00
1103 11 10 200	01	198,00
1103 11 10 500	01	177,00
1103 11 10 900	01	167,00
1103 11 90 100	01	101,50
1103 11 90 900	—	—

(¹) The destinations are identified as follows :

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 05 Zone II (b),
- 06 Hungary, Poland and the USSR,
- 07 Sweden.

NB : The zones are those defined in Commission Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977, p. 53), as last amended by Regulation (EEC) No 3049/89 (OJ No L 292, 11. 10. 1989, p. 10).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 23 March 1990

relating to a proceeding under Article 85 of the EEC Treaty (IV/32.736 —
Moosehead/Whitbread)

(Only the English text is authentic)

(90/186/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal and, in particular, Articles 6 and 8 thereof,

Having regard to the notification dated 2 June 1988 by Whitbread and Company plc and Moosehead Breweries Limited, concerning the grant by Moosehead to Whitbread of an exclusive licence to brew and sell beer under Moosehead's trademarks within the United Kingdom,

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

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

Whereas :

Brunswick, Canada, and Whitbread and Company plc, London, notified to the Commission a number of agreements concluded between them dated 12 May 1987, and 1 May 1988.

- (2) The parties have applied for negative clearance or, failing that, exemption pursuant to Article 85 (3) of the Treaty.

The parties

- (3) Moosehead is a wholly-owned subsidiary of Sevenacres Holding Limited and based in New Brunswick, Canada. Moosehead is principally engaged in the manufacture, sale and distribution of beer, and owns no brewing interests within the Community.

- (4) Whitbread, a company incorporated in England, is a brewer and operates approximately 6 000 managed or tenanted public houses. The turnover of Whitbread in 1987 was £ 1 554 million.

I. FACTS

The notification

- (1) On 2 June 1988, pursuant to Article 4 of Regulation No 17, Moosehead Breweries Limited, New

The product and the market

- (5) The agreements concern the manufacture of a beer in the United Kingdom which is sold by Moosehead in Canada and other countries under the trademark 'Moosehead' (henceforth referred to as 'the Product'). The Product is similar in nature and alcoholic strength to other 'non-premium lagers' presently sold in the United Kingdom, although according to the notifying parties, it has a particular taste typical of Canadian lagers.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 179, 15. 7. 1989, p. 13.

(6) 1. As was explained in Commission Decision 84/381/EEC (Carlsberg)⁽¹⁾ the following factors distinguish the United Kingdom beer market from other European markets:

2. Most beer sold in the United Kingdom is sold in draught form in public houses licenced for the consumption of liquor; 81 % ⁽²⁾ of all beer consumed in the United Kingdom is sold in on-licenced premises and 75 % of all beer sold in the United Kingdom is in draught form. In 1987 lager represented 45 % of the beer consumption in the United Kingdom ⁽³⁾. In order to achieve substantial sales of a new beer in the United Kingdom it is therefore necessary for the seller to have access to a certain number of public houses.

3. Brewers largely distribute their beer in the United Kingdom using their own lorries. No large-scale independent distribution facility therefore exists for beer in the United Kingdom.

4. The majority of public houses in the United Kingdom are operated by tenants who are 'tied' by contract to purchase beer from one brewer alone. They are, in fact, owned by the brewer with which they sign such agreements. Since almost all draught beer, which accounts for over 75 % of total beer sales, is sold in public houses and 57 % of all on-licensed premises in the United Kingdom are owned by brewers and 'tied', it is very useful, if not indispensable, for a foreign brewer wishing to enter the United Kingdom market to gain the assistance of a large national brewer.

The number of tenants of on-licensed premises that are required to purchase from one brewer alone is likely to decrease by 1 November 1992 when, as a result of implementation of The Supply of Beer Order, all national brewers with more than 2 000 licensed premises must release from all product ties one half of their premises above the 2 000 threshold. Also, all on-licenced tenants tied by national brewers will be free to choose a guest beer as well as to purchase other non-alcoholic drinks from any source by 1 May 1990. Nevertheless, a substantial part of total United Kingdom beer consumption will continue to pass through 'tied' outlets.

5. The six major United Kingdom brewers ⁽⁴⁾, which in 1987 held approximately 82 % of the United Kingdom beer market, sell between them many different types of beers and also many diffe-

rent brands of lager. Whitbread held 12 % of the United Kingdom retail sales of beer in 1987.

The agreements

General provisions

(7) 1. The agreement in question is set out in three contracts: the Marketing and Technical Agreement; the Trade Mark User Agreement dated 12 May 1987, and the Assignment Agreement dated 1 May 1988. The Commission considers that these three contracts form part of a single agreement, henceforth referred to as 'the Agreement'.

2. Under the Agreement, Moosehead grants to Whitbread the sole and exclusive right to produce and promote, market, and sell beer manufactured for sale under the name 'Moosehead' in the licenced territory (the United Kingdom, the Channel Islands and the Isle of Man, henceforth referred to as 'the Territory'), using Moosehead's secret know-how. Whitbread pays to Moosehead a royalty for this exclusive right.

3. Whitbread agrees that the quality of the beer and the type and quality of the raw materials shall comply with Moosehead specifications.

4. Whitbread agrees that it will neither seek customers, nor establish any branch or maintain any distribution depot for distribution of the Product, outside the Territory. It may, however, fill unsolicited orders from purchasers in the Member States.

5. During the term of the Agreement, Whitbread agrees not to produce or promote within the Territory any other beer identified as a Canadian beer.

Trade mark provisions

(8) 1. Under the Agreement, Whitbread agrees to sell the Product only under the trademark 'Moosehead'. Whitbread also agrees to use the trademark Moosehead only on or in relation to the Product.

The property rights in the trademarks in the United Kingdom are assigned to Whitbread and Moosehead jointly. This assignment is intended, according to the parties, to give Whitbread a stronger guarantee of its right to use the trademarks during the term of the Agreement. Moosehead grants to Whitbread the exclusive licence to use the trademarks in relation to the Product in the Territory during the term of the Agreement.

⁽¹⁾ OJ No L 207, 2. 8. 1984, p. 26.

⁽²⁾ The statistics in this section are estimates of Whitbread.

⁽³⁾ MMC Report p. 10.

⁽⁴⁾ Allied, Bass, Elders, Grand-Metropolitan, Scottish & Newcastle and Whitbread.

2. The Agreement stipulates that Moosehead shall not, without the consent of Whitbread, register or use, nor shall Whitbread apply to register, any trademark which resembles, or may reasonably be confused with, any of Moosehead trademarks in the Territory.

3. Furthermore, Whitbread acknowledges the title of Moosehead to the trademarks and the validity of the registrations of Moosehead as proprietor thereof. Whitbread undertakes to observe all conditions which may be prescribed by the terms of the registration of the trademarks and also not to do any act which would, or may, invalidate such registration or title, nor apply to vary or cancel any registration of the trademarks.

4. The Agreement provides that upon its termination Whitbread shall reassign to Moosehead all its rights, title and interest in the trademarks and in the goodwill associated therewith, and shall join with Moosehead in any application to register Moosehead as sole proprietor of the trademarks. Thereafter Whitbread shall desist from all use of the trademarks.

Know-how provisions

- (9) 1. Moosehead agrees to provide Whitbread with all the relevant know-how necessary to produce the Product, and furthermore agrees to supply Whitbread with all yeast which may be necessary.
2. Whitbread agrees to comply with the directions and specifications of Moosehead in relation to the know-how, and to purchase yeast only from Moosehead or a third party designated by Moosehead.
3. Whitbread agrees to use the know-how only for the manufacture of the Product and agrees to keep all know-how provided by Moosehead confidential.
- (10) The marketing strategy for the promotion of the Product, the brand plans and sales forecast in the Territory must be jointly agreed by the parties. Whitbread, however, is solely responsible for implementing that policy and bearing its costs.

Duration of the Agreement

- (11) The Agreement came into force on 1 May 1987, and operates for an indefinite period unless terminated pursuant to the following provisions:
- either party may terminate by giving notice to the other party varying from one to ten years, if

specified amounts of the Product have not been sold by Whitbread;

- either party may terminate the Agreement by giving a shorter notice if a party commits a breach of any of its contractual obligations or if there is a substantial change in the ownership or control of either party.

- (12) On termination of the Agreement, Whitbread is obliged to cease producing the Product, to return all know-how to Moosehead and not to use this know-how in future. Furthermore, Whitbread may not use the trademarks following termination and must assign to Moosehead any right title and interest that it has acquired in the trademarks. Whitbread is also obliged to keep this know-how secret from any third party.

The parties' submissions

The parties have made the following submissions.

- (13) 1. As Moosehead has no branch in Europe and neither Moosehead nor any of its associate companies has a manufacturing facility in the Community, a distribution network for beer, or any experience of marketing beer in the United Kingdom, it would not, over the short term, be commercially feasible for Moosehead to set up its own manufacturing facility for the product. In view of the nature of the retail market for beer and given the distance and the scale on which sales would be established, it would not be economic for Moosehead to establish its own distribution network or to sell through independent wholesalers.
2. Whitbread has limited experience of Canadian lagers and, in particular, has no access to the unique culture yeast that gives Moosehead lager a particular taste that distinguishes it from the other lagers, nor to the technical information held by Moosehead necessary to manufacture the Product to which the Agreement relates. Whitbread, therefore, lacks the expertise to manufacture the Product for the United Kingdom market without assistance from Moosehead. However, its general brewing facilities and experience mean that it is capable of producing Moosehead beer for sale in the Territory if this assistance is given by Moosehead. Furthermore, Whitbread does not possess a well-known Canadian trademark.

3. The parties argue that as a result of these facts the Agreement contributes towards improving production/distribution of the Product because (i) in the absence of the Agreement, the Product could not have been made available as quickly, or over as wide an area, and would thus have been available to fewer customers and at a later date; and (ii) the Agreement enables the Product to be produced in the Territory, which means it is likely to be fresher and cheaper, since it would be transported over a shorter distance.

The fierce competition in the lager sector of the beer market will ensure that the benefits of the Agreement are passed on to consumers and, furthermore, will prevent the Agreement from eliminating competition in respect of a substantial part of the products in question.

The clauses to the Agreement which are restrictive of competition are indispensable in order to give Whitbread sufficient confidence to invest substantial sums in the launch of a new beer onto an already competitive market, and to enable Moosehead to entrust the brewing and sale of the Product to another brewer in full knowledge that the licensee will concentrate its efforts, concerning the promotion and sale of Canadian lagers, exclusively on the Product.

4. The obligation upon Whitbread not to sell certain competing beers during the Agreement is indispensable to its objective.

- (14) Third parties have made no objections subsequent to the publication made under Article 19 (3) of Regulation No 17.

II. LEGAL ASSESSMENT

Article 85 (1)

- (15) 1. The exclusive trademark licence for the production and marketing of the Product, the prohibition of active sales outside the Territory and the non-competition clause, as listed respectively in the last sentence of (8) 1, and at (7) 2, (7) 4 and (7) 5 above, fall under the prohibition of Article 85 (1) since they have as their object or effect an appreciable restriction of competition within the common market.

In this case, the exclusive character of the licence has, as a consequence, the exclusion of third

parties, namely the five other large brewers in the Territory, from the use, as licensees, of the Moosehead trademark, in spite of their potential interest and their ability to do so.

Likewise, the prohibition of active sales outside the Territory by the licensee and the ban on marketing competing brands of beer are appreciable restrictions of competition since Whitbread, because of its large production capacity, would be able to supply other markets within the Common Market and to distribute other Canadian brands.

These restrictions of competition may affect trade between Member States to an appreciable extent because their effect will be that trade will develop between Member States in conditions different from those which would have prevailed without the restrictions and, given the size of the parties to the Agreement, their influence on market conditions is appreciable. This is the case, in particular, for the prohibition of active sales outside the Territory.

2. The other clauses of the Agreement do not fall within Article 85 (1) because they do not have as their object or effect an appreciable restriction of competition within the common market. This applies to Whitbread's obligation to maintain certain qualitative standards, to the know-how clauses, and to the trademark no-challenge clause.

3. The know-how provisions set out in paragraphs (9) 1, (9) 2 and (9) 3 do not fall under Article 85 (1) because the grant of know-how is not exclusive and the obligations imposed on the licensee are simply ancillary to the grant of the trademark licence and enable the licensee to take effect.

In particular the exclusive purchasing obligation regarding yeast set out in paragraph (9) 2, does not fall under Article 85 (1) because it is necessary to ensure technically satisfactory exploitation of the licenced technology and a similar identity between the lager produced originally by Moosehead and the same lager produced by Whitbread.

4. In relation to the trademark non-challenge clause:

- (a) in general terms, a trademark non-challenge clause can refer to the ownership and/or the validity of the trademark:

— The ownership of a trademark may, in particular, be challenged on grounds of the prior use or prior registration of an identical trademark.

A clause in an exclusive trademark licence agreement obliging the licensee not to challenge the ownership of a trademark, as specified in the above paragraph, does not constitute a restriction of competition within the meaning of Article 85 (1). Whether or not the licensor or licensee has the ownership of the trademark, the use of it by any other party is prevented in any event, and competition would thus not be affected.

- The validity of a trademark may be contested on any ground under national law, and in particular on the grounds that it is generic or descriptive in nature. In such an event, should the challenge be upheld, the trademark may fall the public domain and may thereafter be used without restriction by the licensee and any other party.

Such a clause may constitute a restriction of competition within the meaning of Article 85 (1), because it may contribute to the maintenance of a trademark that would be an unjustified barrier to entry into given market.

Moreover in order for any restriction of competition to fall under Article 85 (1), it must be appreciable. The ownership of a trademark only gives the holder the exclusive right to sell products under that name. Other parties are free to sell the product in question under a different trademark or tradename. Only where the use of a well-known trademark would be an important advantage to any company entering or competing in any given market and the absence of which therefore constitutes a significant barrier to entry, would this clause which impedes the licensee to challenge the validity of the trademark, constitute an appreciable restriction of competition within the meaning of Article 85 (1).

- (b) In the present case Whitbread is unable to challenge both the ownership and the validity of the trademark.

As far as the validity of the trademark is concerned it must be noted that the trademark is comparatively new to the lager market in the Territory. The maintenance of the 'Moosehead' trademark will thus not constitute an appreciable barrier to entry for any other company entering or competing in the beer market in the United Kingdom. Accordingly, the Commission considers that the trademark non-challenge clause included in the Agreement, in so far as it concerns its validity (see the second

indent of point 15.4 above), does not constitute an appreciable restriction of competition and does not fall under Article 85 (1).

Furthermore, in so far as this clause concerns ownership, it does not constitute a restriction of competition within the meaning of Article 85 (1) for the reasons stated in the first indent of point 15.4 above.

Article 85 (3)

- (16) 1. The block exemption provided by Commission Regulation (EEC) No 556/89⁽¹⁾ applies to agreements combining know-how and trademark licenses where, as stated in Article 1 (1), the trademark license is ancillary to that of the know-how. In the present case the principal interest of the parties lies in the exploitation of the trademark rather than of the know-how. The parties view the Canadian origin of the mark as crucial to the success of the marketing campaign, which promotes the Product as a Canadian beer. Under these circumstances, the provision of the agreement relating to the trademarks is not ancillary and Regulation 556/89 therefore does not apply.

- 2. In the light of the particularities of the United Kingdom beer market, described at points 6.1 to 6.5 above, the Commission considers that the Agreement is likely to contribute to the improvement of the production and distribution of the Product in the Territory and to promote economic progress. In particular, the following considerations are pertinent in this regard:

- The turnover presently achieved by Moosehead would not justify the capital costs involved in building custom production facilities for sales in the Territory. Thus, at the Agreement provides for Whitbread to brew the beer in its existing facilities, it is likely to improve the production of the Product in the common market. Furthermore, production will be at the point-of-sale and the beer need no longer be imported from Canada. The Agreement will thereby reduce transport costs and thus contribute to economic progress.

- Through the Agreement, the Product will automatically benefit from Whitbread's comprehensive distribution network. In the light of a market characterized by a paucity of independent distribution facilities, the Commission considers that the Agreement is likely to contribute to the improvement in the distribution of the Product in the Territory.

⁽¹⁾ OJ No L 61, 4. 3. 1989, p. 1.

— Whitbread owns a number of 'tied-houses'. The Agreement will therefore enable Moosehead to guarantee immediate access for the Product to a wider number of retail outlets without expending the time and expense of approaching a large number of independent retailers. The Commission considers that, in this manner, the Agreement is also likely to contribute to the improvement in the distribution of the Product in the Territory.

Consumers will also benefit from the Agreement since they will have a wide choice with the entry of the Product in the market of the Territory.

Taking account of the existence of many similar competing beers and of the ability of the parties to sell the Product to other parties for export to other Member States, the parties to the Agreement will not have the possibility of eliminating competition in respect of a substantial part of the products in question.

In examining the compatibility of the Agreement with these two requirements of Article 85 (3), the Commission has paid particular attention to the liberalizing measures that the United Kingdom Government is implementing in relation to the United Kingdom beer market. These measures are expected to become fully effective during the course of the exemption granted by the presented Decision.

After having considered the favorable effects for the production and marketing of beer resulting from the clauses which are restrictive of competition, and in particular the non-competition clause, the Commission considers that they are deemed to be indispensable to the attainment of the objectives of Article 85 (3). A decision pursuant to Article 85 (3) may, therefore, be adopted.

3. The Agreement remains in force until it is terminated by either party. The Agreement was notified to the Commission on 2 June 1988. It appears appropriate, pursuant to Articles 6 (1) and 8 (1) of Regulation No 17, to adopt such a decision for a period of 10 years.

HAS ADOPTED THIS DECISION :

Article 1

Pursuant to Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) are hereby declared inapplicable for the period from 3 June 1988 to 2 June 1998 to the Agreement notified to the Commission on 2 June 1988 by Moosehead Breweries Limited and by Whitbread and Company plc.

Article 2

This Decision is addressed to :

1. Moosehead Breweries Limited,
89, Main Street,
Saint John West,
New Brunswick, E2M 3M2,
Canada.
2. Whitbread and Company plc,
The Brewery,
Chiswell Street,
London EC1Y 6SD,
United Kingdom.

Done at Brussels, 23 March 1990.

For the Commission

Leon BRITTAN

Vice-President

CORRIGENDA

Corrigendum to Council Regulation (EEC) No 4046/89 of 21 December 1989 on the security to be given to ensure payment of a customs debt

(Official Journal of the European Communities No L 388 of 30 December 1989)

On page 26 in Article 9, second and third lines :

for: '... a customs debt which fails to be paid.';

read: '... a customs debt which falls to be paid.'
