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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1004/90

of 23 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 20 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 24 April 1990.

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

Done at Brussels, 23 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 23 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 ⁽²⁾ ⁽³⁾
0712 90 19	38,43	131,94 ⁽²⁾ ⁽³⁾
1001 10 10	47,93	185,74 ⁽¹⁾ ⁽³⁾
1001 10 90	47,93	185,74 ⁽¹⁾ ⁽³⁾
1001 90 91	39,41	139,53
1001 90 99	39,41	139,53
1002 00 00	64,09	134,69 ⁽³⁾
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 ⁽²⁾ ⁽³⁾
1005 90 00	38,43	131,94 ⁽²⁾ ⁽³⁾
1007 00 90	55,34	138,97 ⁽³⁾
1008 10 00	55,34	33,74
1008 20 00	55,34	105,39 ⁽³⁾
1008 30 00	55,34	0,00 ⁽³⁾
1008 90 10	(7)	(7)
1008 90 90	55,34	0,00
1101 00 00	69,49	209,66
1102 10 00	104,04	202,88
1103 11 10	89,07	302,68
1103 11 90	73,63	225,01

(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 1005/90

of 23 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 20 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 24 April 1990.

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

Done at Brussels, 23 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 23 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	0	0	8,64
1001 90 99	0	0	0	8,64
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	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	12,10

B. Malt

CN code	(ECU/tonne)				
	Current 4	1st period 5	2nd period 6	3rd period 7	4th period 8
1107 10 11	0	0	0	15,38	15,38
1107 10 19	0	0	0	11,49	11,49
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 1006/90

of 23 April 1990

fixing the maximum buying-in price and the quantities of beef bought in for the
20th partial invitation to tender under Regulation (EEC) No 1627/89

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EEC) No 571/89⁽²⁾, and in particular Article 6 (7) thereof,Whereas, pursuant to Commission Regulation (EEC) No 859/89 of 29 March 1989 laying down detailed rules for the application of intervention measures in the beef and veal sector⁽³⁾, an invitation to tender was opened by Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying-in of beef by invitation to tender⁽⁴⁾, as last amended by Regulation (EEC) No 882/90⁽⁵⁾;

Whereas, in accordance with Article 11 (1) of Regulation (EEC) No 859/89, a maximum buying-in price is to be fixed for quality R3, where appropriate, for each partial invitation to tender in the light of the tenders received; whereas, in accordance with Article 12 of that Regulation, only tenders lower than or equal to the maximum price are to be accepted;

Whereas, after the tenders submitted for the 20th partial invitation to tender have been examined and taking account, pursuant to Article 6 (1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market and the seasonal trend in slaughterings, the maximum buying-in price and the quantities which may be accepted into intervention should be fixed;

Whereas the price difference recorded results in a different maximum buying-in price being set in Spain in

accordance with Article 11 (1) of Regulation (EEC) No 859/89;

Whereas the Management Committee for Beef and Veal has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the 20th partial invitation to tender opened by Regulation (EEC) No 1627/89:

(a) For category A:

- the maximum buying-in price is hereby fixed at ECU 276,5 per 100 kilograms of carcasses or half-carcasses of quality R3 and at ECU 283 per 100 kilograms of carcasses or half-carcasses of quality R3 offered in Spain;
- the maximum quantity of carcasses or half-carcasses accepted is hereby fixed at 1 478 tonnes;

(b) For category C:

- the maximum buying-in price is hereby fixed at ECU 278 per 100 kilograms of carcasses or half-carcasses of quality R3;
- the maximum quantity accepted is hereby fixed at 5 231 tonnes.

Article 2

This Regulation shall enter into force on 24 April 1990.

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

Done at Brussels, 23 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.⁽²⁾ OJ No L 61, 4. 3. 1989, p. 43.⁽³⁾ OJ No L 91, 4. 4. 1989, p. 5.⁽⁴⁾ OJ No L 159, 10. 6. 1989, p. 36.⁽⁵⁾ OJ No L 92, 7. 4. 1990, p. 10.

COMMISSION REGULATION (EEC) No 1007/90
of 23 April 1990
on the supply of refined rape seed oil as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1750/89 ⁽²⁾, and in particular Article 6 (1) (c) thereof,

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

Whereas, following the taking of a number of decisions on the allocation of food aid the Commission has allocated to certain countries and beneficiary organizations 820 tonnes of refined rape seed oil;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

Refined rape seed oil shall be mobilized in the Community as Community food aid for supply to the recipients listed in the Annexes in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. Supplies shall be awarded by the tendering procedure.

Article 2

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

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

Done at Brussels, 23 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 172, 21. 6. 1989, p. 1.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX I

1. **Operation No (1):** 905/89
2. **Programme:** 1989
3. **Recipient:** UNHCR (Mr Pirlot), Case Postale 2500, CH-1211 Genève 2 Dépôt, tel. 739 81 11, telex 415740 HCR CH
4. **Representative of the recipient (2):** Ground Floor, EEC Building, Bole Road, Higher 18, Kebele 26, House No 519/001, Addis Ababa
5. **Place or country of destination:** Ethiopia
6. **Product to be mobilized:** refined rape seed oil
7. **Characteristics and quality of the goods (3):** see list published in OJ No C 216, 14. 8. 1987, p. 3 (under IIIA.1)
8. **Total quantity:** 420 tonnes net
9. **Number of lots:** one
10. **Packaging and marking (4):** see list published in OJ No C 216, 14. 8. 1987, p. 3, I.3.3:
 - Containers of five litres, with four containers per carton
 - the containers and the cartons must carry the following wording:
'ACTION No 905/89 / VEGETABLE OIL / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY TO UNHCR ASSISTANCE PROGRAMME / FOR REFUGEES IN ETHIOPIA / FOR FREE DISTRIBUTION / ADDIS ABABA'
11. **Method of mobilization:** the Community market
12. **Stage of supply:** free at port of landing — landed
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:** Assab
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage:** 19. 6 — 17. 7. 1990
18. **Deadline for the supply:** 7. 8. 1990
19. **Procedure for determining the costs of supply (5):** tendering
20. **Date of expiry of the period allowed for submission of tenders:** 12 noon on 8. 5. 1990. Tenders shall be valid until 12 midnight on 9. 5. 1990
21. **In the case of a second invitation to tender:**
 - (a) deadline for the submission of tenders: 12 noon on 22. 5. 1990. Tenders shall be considered valid until 12 midnight on 23. 5. 1990
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 3. 7 — 31. 7. 1990
 - (c) deadline for the supply: 21. 8. 1990
22. **Amount of the tendering security:** ECU 15 per tonne
23. **Amount of the delivery security:** 10 % of the amount of the tender in ecus
24. **Address for submission of tenders (6):**

Bureau de l'aide alimentaire,
à l'attention de Monsieur N. Arend,
bâtiment Loi 120, bureau 7/58,
200 rue de la Loi,
B-1049 Bruxelles,
telex 22037 AGREC B or 25670 B
25. **Refund payable on request by the successful tenderer:** —

ANNEX II

1. **Operation No** (1): 949/89
2. **Programme**: 1988
3. **Recipient**: Somalia
4. **Representative of the recipient** (2): Mrs Kawo Mohamed Kashi, Director of Foreign Aid Department, Ministry of Finance, PO Box 583, Mogadishu, Tel.: 216 11, Telex: 3612 SOMALIA
5. **Place or country of destination**: Somalia
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** (3): see list published in OJ No C 216, 14. 8. 1987, p. 3 (under III.A.1)
8. **Total quantity**: 200 tonnes net
9. **Number of lots**: one
10. **Packaging and marking** (4): see list published in OJ No C 216, 14. 8. 1987, p. 3 (under I.3.3, III.B):
— the cans and the cartons must carry the following wording:
‘ACTION No 949/89 / RAPE OIL / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY TO THE PEOPLE OF SOMALIA’
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Mogadishu
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 19. 6 — 17. 7. 1990
18. **Deadline for the supply**: 7. 8. 1990
19. **Procedure for determining the costs of supply** (5): tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 8. 5. 1990. Tenders shall be valid until 12 midnight on 9. 5. 1990
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 22. 5. 1990. Tenders shall be considered valid until 12 midnight on 23. 5. 1990
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 3. 7 — 31. 7. 1990
 - (c) deadline for the supply: 21. 8. 1990
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** (6): Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles, telex 22037 AGREC B or 25670 B
25. **Refund payable on request by the successful tenderer**: —

ANNEX III

1. **Operation No** ⁽¹⁾: 850/89
2. **Programme**: 1988
3. **Recipient**: Somalia
4. **Representative of the recipient** ⁽²⁾: Mrs Kawo Mohamed Kashi, Director of Foreign Aid Department, Ministry of Finance, PO Box 583, Mogadishu, Tel.: 216 11, Telex: 3612 SOMALIA
5. **Place or country of destination**: Somalia
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** ⁽³⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under III.A.1)
8. **Total quantity**: 200 tonnes net
9. **Number of lots**: one
10. **Packaging and marking** ⁽⁴⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under I.3.3, III.B):
— the cans and the cartons must carry the following wording:
‘ACTION No 850/89 / RAPE OIL / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY TO THE PEOPLE OF SOMALIA’
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Mogadishu
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 19. 6 — 17. 7. 1990
18. **Deadline for the supply**: 7. 8. 1990
19. **Procedure for determining the costs of supply** ⁽⁵⁾: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 8. 5. 1990. Tenders shall be valid until 12 midnight on 9. 5. 1990
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 22. 5. 1990. Tenders shall be considered valid until 12 midnight on 23. 5. 1990
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 3. 7 — 31. 7. 1990
 - (c) deadline for the supply: 21. 8. 1990
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽⁶⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles, telex 22037 AGREC B or 25670 B
25. **Refund payable on request by the successful tenderer**: —

Notes

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 227, 7. 9. 1985, p. 4.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the products to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
- (⁴) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of the Annexes, evidence that the tendering security referred to in Article 7 (4) (a) of Commission Regulation (EEC) No 2200/87 (OJ No L 204, 25. 7. 1987, p. 1) has been lodged, preferably :
— either by porter at the office referred to in point 24 of this Annex,
— or by telecopier on one of the following numbers in Brussels :
— 235 01 32
— 236 10 97
— 235 01 30
— 236 20 05.
- (⁵) Point (g) of Article 7 (3) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.
- (⁶) Metal cans of 2,5 litres or 2,5 kilograms.
The cans must be packed in cartons, with eight cans per carton.
- (⁷) Commission delegate to be contacted by the successful tenderer : Mr. Chiarini, via Makka Al Mikkarani No Z — A6/17 (km 4 Mogadishu). Tel. : 252-1-21049 or 21118 — Tlx 628 CEC.
- (⁸) Metal cans of five litres or five kilograms.
The cans must be packed in cartons, with four cans per carton.
- (⁹) The following should be included in the charter party : 'Food-aid consignment from the European Economic Community : since the freight charges do not include coordination or supervision costs, the US \$ 1,50 tax normally paid must not be applied in the case of this ship.'
-

COMMISSION REGULATION (EEC) No 1008/90

of 23 April 1990

introducing a countervailing charge on tomatoes originating in the Canary Islands

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

Whereas Commission Regulation (EEC) No 830/90 of 30 March 1990 fixing for the 1990 marketing year the reference prices for tomatoes⁽³⁾ fixed the reference price for products of class I for the month of April 1990 at ECU 197,27 per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative prices recorded for at least 30 % of the quantities from the exporting country concerned which are marketed on all representative markets for which prices are available less the duties and the charges indicated in Article 24 (3) of Regulation (EEC) No 1035/72 the provisions of Regulation (EEC) No 773/90⁽⁴⁾ altering the entry price for tomatoes originating in Morocco and the Canary Islands being applicable; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72;

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74⁽⁵⁾, as last amended by Regulation (EEC) No 3811/85⁽⁶⁾, the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

whereas it is necessary to multiply the prices with the coefficient fixed in the first indent of Article 1 (2) of Regulation (EEC) No 830/90;

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

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 1636/87⁽⁸⁾;
- 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, in accordance with Article 4 of Protocol 2 to the Act of Accession of Spain and Portugal, the products, including tomatoes, specified in Annex A to the Protocol, qualify for preferential arrangements, subject to the tariff quota determined by Council Regulation (EEC) No 1391/87⁽⁹⁾ concerning certain adjustments to the arrangements applicable to the Canary Islands,

HAS ADOPTED THIS REGULATION:

Article 1

When tomatoes falling within CN code 0702 00 and originating in the Canary Islands are imported, a countervailing charge shall be levied, the amount of which shall be fixed at ECU 26,24 per 100 kilograms net weight.

However this charge shall not be levied on quantities imported into Spain within the tariff quotas fixed by Regulation (EEC) No 1391/87.

Article 2

This Regulation shall enter into force on 25 April 1990.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽³⁾ OJ No L 86, 31. 3. 1990, p. 22.

⁽⁴⁾ OJ No L 83, 30. 3. 1990, p. 82.

⁽⁵⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁶⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁹⁾ OJ No L 133, 22. 5. 1987, p. 5.

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

Done at Brussels, 23 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1009/90

of 23 April 1990

abolishing the corrective amount on the import of artichokes into the
Community of Ten from Spain (except the Canary Islands)

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 3709/89
of 4 December 1989 laying down general rules for imple-
menting the Act of Accession of Spain and Portugal as
regards the compensatory mechanism for imports of fruit
and vegetables from Spain ⁽¹⁾, and in particular Article 4
(2) thereof,

Whereas Article 152 of the Act of Accession introduces
from 1 January 1990 a compensatory mechanism for
imports into the Community as constituted on 31
December 1985, hereinafter called 'the Community of
Ten', of fruit and vegetables from Spain (except the
Canary Islands) for which a reference price is fixed with
regard to third countries;

Whereas Regulation (EEC) No 3709/89 of the Council
lays down general rules for applying the said compensa-
tory mechanism and Commission Regulation (EEC) No
3815/89 ⁽²⁾ lays down detailed rules for applying the said
compensatory mechanism;

Whereas Commission Regulation (EEC) No 964/90 ⁽³⁾
introduces a corrective amount on imports of artichokes
into the Community of Ten from Spain (except the
Canary Islands);

Whereas Article 3 (4) of Regulation (EEC) No 3709/89
lays down the conditions under which a corrective
amount introduced pursuant to Article 3 (1) of the said
Regulation is to be abolished; adjusted; whereas the said
conditions require abolition of the corrective amount on
imports of artichokes into the Community of Ten from
Spain (except the Canary Islands),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 964/90 is hereby repealed.

Article 2

This Regulation shall enter into force on 24 April 1990.

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

Done at Brussels, 23 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.
⁽²⁾ OJ No L 371, 20. 12. 1989, p. 28.

⁽³⁾ OJ No L 98, 18. 4. 1990, p. 14.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 10 April 1990

terminating the anti-dumping proceeding concerning imports of methenamine (hexamethylenetetramine) originating in Hungary and Yugoslavia and accepting undertakings offered in connection with the proceeding concerning imports of methenamine (hexamethylenetetramine) originating in Bulgaria, Czechoslovakia, Poland and Romania

(90/196/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Articles 9 and 10 thereof,

After consultation within the Advisory Committee as provided for in Regulation (EEC) No 2423/88,

Whereas :

A. PROCEDURE

- (1) In November 1988 the Commission received a complaint alleging that imports of methenamine (hexamethylenetetramine) originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania and Yugoslavia were dumped and were thereby causing injury to a Community industry.

The complaint was lodged by Conseil Européen des Fédérations de l'Industrie Chimique (CEFIC) on behalf of Community producers representing the majority of Community production of the product in question.

- (2) The complaint contained evidence of dumping and of injury which was considered sufficient to justify the initiation of a proceeding.

The Commission accordingly announced, by notice published in the *Official Journal of the European Communities*⁽²⁾, the initiation of an anti-dumping proceeding concerning imports of methenamine (hexamethylenetetramine) falling within CN code ex 2933 90 10 originating in Bulgaria, Czechoslovakia, Hungary, Poland, Romania and Yugoslavia.

- (3) The Commission officially advised the producer/exporters and importers known by the Commission to be concerned and the complainants, and gave the parties directly concerned the opportunity to make known their views in writing and to request to be heard orally by the Commission.

- (4) In order to establish normal value on the basis of the situation in an appropriate market economy country the Commission had to contact various companies in different countries. The period necessary to complete the investigation therefore exceeded 12 months.

- (5) All complainant Community producers, some of the importers and the producer/exporters from Bulgaria, Czechoslovakia, Hungary, Poland and Romania made known their views in writing. The Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters requested and were granted hearings.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No C 322, 15. 12. 1988, p. 8.

- (6) The Commission sought and verified all information it deemed necessary for the purpose of establishing the facts and, in addition to the investigation carried out in Mexico as reference country, inspections were carried out at the premises of the following:

(a) Community producers:

- Ausind SpA, Castellanza Varese, Italy,
- Blagden Chemicals Ltd, Croydon, United Kingdom,
- Degussa, Frankfurt am Main, Germany,
- Société Nationale des Poudres et Explosifs, Paris, France;

(b) Community importers:

- Bulchimex, Deggendorf, Germany.

- (7) The Commission gave the different parties known to be concerned the opportunity to inspect all information made available to the Commission. Furthermore, exporters and importers of the product under investigation were informed in conformity with Article 7 (4) of Regulation (EEC) No 2423/88 of the essential facts under consideration, on the basis of which it was intended to impose measures.
- (8) The investigation of dumping covered the period from 1 December 1987 to 30 November 1988.

B. PRODUCT UNDER CONSIDERATION / LIKE PRODUCT

- (9) Methenamine is a standardized product which is used for specific applications in the chemical industry. The basic chemical and physical properties of the product necessary for its various applications are guaranteed by the producers for the imported products as well as for the European Community or the Mexican products. There are practically no discernible differences between the products of different origin and they are in competition with one another. Therefore, the product from the European Community, Mexico and the exporting countries can be considered as similar.

C. DUMPING

- (10) As set out in recital (4), Bulgaria, Czechoslovakia, Hungary, Poland and Romania are non-market economy countries within the meaning of Article 2 (5) of Regulation (EEC) No 2423/88. The Commission therefore had to determine normal value on the basis of the price at which the like product of a market economy third country was actually sold for consumption on the domestic market of that country.

The complainants suggested Yugoslavia. When examining whether this country could serve as

reference country, the Commission established that there was no significant production of the product in question in Yugoslavia. It was also not possible to obtain the information necessary to determine a reliable sales price of methenamine on the Yugoslav market. As an alternative the complainants suggested the United States of America or the Japanese markets. Several suitable companies were consulted in the United States and in Japan, however none of these companies was ready to cooperate with the Commission and to supply the information necessary for the determination of normal value.

- (11) Finally the Mexican market was proposed. Having established contacts with a representative Mexican manufacturer of methenamine willing to cooperate, the Commission determined that normal value could be established in an appropriate and not unreasonable manner on the basis of the prices at which the like product was sold for consumption on the Mexican market.

- (12) The Commission is satisfied that:

- the prices charged by the Mexican producer during the reference period allowed a reasonable but not excessive profit, and that sales were made in substantial quantities,
- there was effective competition on the Mexican internal market of methenamine because of the presence of at least three competitors during the investigation period and no restrictions existed for imports of this product.

- (13) Normal value was therefore calculated on the basis of domestic prices in Mexico.

The Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters did not object to this determination.

- (14) Export prices were determined on the basis of prices actually paid or payable for the Bulgarian, Czechoslovakian, Polish or Romanian product sold for export to the Community.
- (15) In comparing normal value with export prices, the Commission services took account, when circumstances permitted and when sufficient evidence was available of differences affecting price comparability, including transport and insurance costs and payment conditions. All comparisons were made on an ex-works basis.
- (16) The comparison showed that Bulgarian, Czechoslovakian, Polish and Romanian imports were being dumped during the reference period. Weighted average dumping margins calculated as a percentage of the cif price of the product at the Community frontier, excluding customs duties, amounted to:

61,20 % for the Bulgarian product,
52,13 % for the Czechoslovakian product,
42,14 % for the Polish product, and
43,22 % for the Romanian product.

- (17) In the view of the finding of no injury in respect of imports from Yugoslavia and Hungary (recital 18) it was not necessary for the Commission to determine whether these imports were dumped.

D. INJURY

- (18) The information available to the Commission services revealed that imports from Hungary amounted to 79 tonnes in 1988 and from Yugoslavia to 20 tonnes during the same year. The market share of these imports was less than 0,3 % and 0,1 % respectively. Given the conditions of the market of the product in question, the Commission considers that such low import volumes cannot have had a discernible impact on the Community industry.

The evidence available to the Commission services also revealed that there is no export capacity in Hungary able to threaten Community production and that there is no representative production in Yugoslavia.

Consequently, the Commission is of the opinion that imports from Yugoslavia and Hungary are not capable of contributing to injury.

- (19) The Commission examined whether it was appropriate to consider the cumulated impact of the imports from Bulgaria, Czechoslovakia, Poland and Romania. The Commission found that the products under investigation originating in each of these countries were sold during the investigation period through comparable channels of distribution. Furthermore, as set out in recital (9), the products originating in these four countries were similar to the Community products. Consequently, the Commission considered that the products concerned competed with each other and with those of the Community producers in the Community market. For these reasons, the Commission considered that the cumulation of the impacts of the dumped imports of methenamine originating in Bulgaria, Czechoslovakia, Poland and Romania was appropriate provided that the exports from these countries all contribute to injury.
- (20) Imports from Bulgaria varied between 1 103 tonnes in 1985 and 722 tonnes in 1988, peaking to 1 127 tonnes in 1987.

Imports from Czechoslovakia varied between 1 509 tonnes in 1985 and 1 493 tonnes in 1988, peaking at 1 832 tonnes in 1986.

Imports from Romania increased from 320 tonnes in 1985 to 370 tonnes in 1987 and to 748 tonnes in 1988.

Imports from Poland increased from 239 tonnes in 1985 to 407 tonnes in 1988.

- (21) The corresponding market shares of imports from Bulgaria and Czechoslovakia varied respectively from 4,3 % and 5,9 % in 1985 to 2,6 % and 5,3 % in 1988. The market shares of imports from Poland and Romania increased respectively from 0,9 % and 1,3 % in 1985 to 1,9 % and 2,6 % in 1988.

- (22) Total cumulated imports from Bulgaria, Czechoslovakia, Poland and Romania increased from 3 171 tonnes in 1985 to 3 370 tonnes in 1988, developing in line with the increase in consumption and in Community production and sales of the products in question.

The corresponding cumulated market shares of the imports concerned remained practically stable at a significant rate of 12 % throughout the period 1985 to 1988.

- (23) The evidence verified by the Commission also indicated that the prices at which the dumped imports from Bulgaria, Czechoslovakia, Poland and Romania were sold in the Community undercut the prices of Community producers during the investigation period significantly.

The price undercutting was calculated in the Member States where Community producers had factories or were selling substantial quantities of methenamine and to which Bulgaria, Czechoslovakia, Poland and Romania were exporting the product concerned. The comparison was made between the price of the dumped product at Community border, duty paid and cleared and the price of the local Community producer adjusted at an ex-works level or the price at which a representative Community producer was selling the product free at the border of the importing country concerned, duty paid and cleared.

The weighted average prices of Bulgarian, Czechoslovakian, Polish and Romanian products were respectively 20,1 %, 22,2 %, 9,8 % and 11,6 % below the prices of comparable products of Community producers.

- (24) The Commission found that during the investigation period, the production costs increased sharply. Methenamine is a condensation product of ammonia and formaldehyde, which itself is obtained from methanol. Over the period concerned, the cost of combined methanol and ammonia increased by about 30 %. At the same

time, the sales prices of Community producers remained practically stable, pegged down by the presence of the low priced dumped products, which led in some cases to substantial losses or to a reduction of profits in others.

- (25) Therefore, the Commission concluded that the dumped imports from Bulgaria, Czechoslovakia, Poland and Romania contributed to injury.
- (26) As far as the causal link between the dumped imports and the material injury is concerned, the Commission noted that, since methenamine is a standardized product as stated in recital (9), the buyers' decisions were mainly orientated by the prices at which the products were offered.

The product cannot be held in stock over a long period because of the risk of degradation of its chemical properties and has to be re-treated if it has been in stock for a certain time. Producers are therefore more inclined to make price concessions than to postpone sales if market prices are low. Under these conditions the presence of substantial quantities of dumped products had a decisive influence on the market price in the Community, forcing Community producers to adjust their prices downwards. In certain cases Community producers had to accept prices in order to meet competition of the dumped imports which did not even permit them to recover their variable costs.

Therefore, the Commission considered that the material injury was caused by the dumped imports originating in Bulgaria, Czechoslovakia, Poland and Romania.

- (27) The Commission examined whether the injury sustained by the producers concerned was caused by factors other than dumped imports and in particular by imports from other third countries.

From 1986 to 1988 these imports have decreased from 989 tonnes to 583 tonnes while consumption was increasing from 26 735 tonnes to 28 240 tonnes. Their combined market share has decreased from 3,7 % in 1986 to 2,1 % in 1988. In addition, the Commission had no indication that these imports have undercut the Community product prices. The injurious impact, if any, of these imports is therefore to be considered negligible.

E. COMMUNITY INTEREST

- (28) Methenamine production in the Community is integrated in large chemical complexes. If the plants are making losses over a long time period there is a strong tendency to abandon this line of production. In the past over-capacity and continuous price depression aggravated by the inflow of dumped products have led to the gradual disappearance of Community production of methenamine. In the absence of protective measures the continuation of production of the four remaining plants in the Community is severely jeopardized in particular in France, Italy and Germany, while the United Kingdom producer seems to be less affected. In consequence, the Community would become more dependent on foreign sources of methenamine, which is used in the production of synthetic resins, rubbers, explosives and pharmaceuticals. Because of the interdependence of certain chemical processes the closure of methenamine plants could, in certain instances, also create considerable problems with regard to dangerous emissions of formaldehyde gas generated in the production of liquid formaldehyde and paraformaldehyde. As formaldehyde gas can be cheaply absorbed in the production of methenamine the closure of these plants would necessitate the installation of separate expensive equipment to remove emissions of formaldehyde and to burn up the waste air.
- (29) The Commission also took into account the interests of the users of Bulgarian, Czechoslovakian, Polish and Romanian methenamine and considered that the secondary effects of the necessary price increases will be insignificant. No submission to the contrary was made by or on behalf of Community purchasers of the methenamine concerned.
- (30) Given the serious difficulties facing the Community industry concerned, the Commission has concluded in view of the above, that it is in the Community interest to impose protective measures against the imports in question.
- (31) Having regard to the injury caused, the Commission intended to impose provisional duties at a rate adequate to remove the injury caused but not exceeding the dumping margins established. A rate equivalent to the price undercuttings found for each exporting country was considered as sufficient to remove the injury caused by imports of methenamine originating in Bulgaria, Czechoslovakia, Poland and Romania.

F. UNDERTAKING

- (32) The Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters offered undertakings concerning exports to the Community originating in Bulgaria, Czechoslovakia, Poland and Romania respectively.

These undertakings will have the effect of bringing the prices of exports to the Community up to a level or keeping them at a level which the Commission, in view of its considerations referred to in recital (31), considers sufficient to eliminate the injury suffered by the Community industry. Moreover the Commission notes that in case of violation of this price undertaking it can impose immediate provisional duties and the Council can then impose definitive duties based on the facts established in the present investigation, without carrying out new investigations concerning dumping and injury resulting therefrom.

G. CONCLUSION

- (33) In the light of the above findings with regard to the imports from Hungary and Yugoslavia, since no injury or threat of injury caused by them was found during the investigation, no action should be taken against the imports concerned and the proceeding should be terminated.
- (34) With regard to the imports from Bulgaria, Czechoslovakia, Poland and Romania and on the basis of the preliminary findings, it is considered that the interests of the Community require the imposition of protective measures.

The Commission is of the opinion that the price undertakings offered can be accepted without anti-

dumping duties being imposed on imports of the product in question originating in Bulgaria, Czechoslovakia, Poland and Romania.

- (35) The Advisory Committee has been consulted with regard to this course of action and has raised no objection to the proposals.

HAS DECIDED AS FOLLOWS:

Article 1

The proceeding concerning imports of methenamine (hexamethylenetetramine) falling within CN code ex 2933 90 10 originating in Hungary and in Yugoslavia is hereby terminated.

Article 2

The undertakings offered by the Bulgarian, Czechoslovakian, Polish and Romanian producer/exporters in the context of an anti-dumping proceeding concerning imports of methenamine (hexamethylenetetramine) falling within CN code ex 2933 90 10, originating in Bulgaria, Czechoslovakia, Poland and Romania are hereby accepted.

Done at Brussels, 10 April 1990.

For the Commission

Frans ANDRIESSEN

Vice-President

CORRIGENDA**Corrigendum to the final adoption of the general budget of the European Communities for the financial year 1990**

(Official Journal of the European Communities No L 24 of 29 January 1990)

Section II, Council, statement of expenditure, in the column headed 'Appropriations 1990':

— on page 176, Chapter 3 7 and Title 3 — Total:

for: '44 431 000',

read: '45 154 000';

— on page 206, Article 3 7 3, Chapter 3 7 — Total and Title 3 — Total:

for: '44 431 000',

read: '45 154 000';

— on page 208, Grand total:

for: '277 254 000',

read: '277 977 000'.
