

Official Journal

of the European Communities

ISSN 0378-6978

L 105

Volume 33

25 April 1990

English edition

Legislation

Contents

I *Acts whose publication is obligatory*

Commission Regulation (EEC) No 1010/90 of 24 April 1990 fixing the import levies on cereals and on wheat or rye flour, groats and meal	1
Commission Regulation (EEC) No 1011/90 of 24 April 1990 fixing the premiums to be added to the import levies on cereals, flour and malt	3
* Commission Regulation (EEC) No 1012/90 of 20 April 1990 concerning the classification of certain goods in the combined nomenclature	5
* Commission Regulation (EEC) No 1013/90 of 23 April 1990 by vessels flying the flag of Germany	8
* Commission Regulation (EEC) No 1014/90 of 24 April 1990 laying down detailed implementing rules on the definition, description and presentation of spirit drinks	9
Commission Regulation (EEC) No 1015/90 of 24 April 1990 abolishing the countervailing charge on tomatoes originating in Israel	11
Commission Regulation (EEC) No 1016/90 of 24 April 1990 fixing the export refunds on white sugar and raw sugar exported in its unaltered state	12
Commission Regulation (EEC) No 1017/90 of 24 April 1990 fixing the maximum export refund for white sugar for the 51st partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 999/89	14

II *Acts whose publication is not obligatory*

Commission

90/197/EEC:

* Commission Decision of 4 October 1989 on an aid granted in France to cereal farmers and producers, financed by the reimbursement of specific fiscal and parafiscal charges	15
--	----

Contents (continued)

90/198/ECSC :

- * **Commission Decision of 20 December 1989 ruling on a financial measure taken by Spain in respect of the coal industry during 1989 and a supplementary financial measure in respect of the coal industry in 1988 and 1987** 19

90/199/ECSC :

- * **Commission Decision of 28 February 1990 on aid from the Federal Republic of Germany to the coal industry in 1989** 21

90/200/EEC :

- * **Commission Decision of 9 April 1990 concerning additional requirements for some tissues and organs with respect to Bovine Spongiform Encephalopathy (BSE)** 24

90/201/EEC :

Commission Decision of 17 April 1990 on applications for import licences for Basmati rice submitted during the first five working days of the month of April 1990 under the arrangements provided for in Council Regulation (EEC) No 3877/86 26

90/202/Euratom :

- * **Commission opinion of 18 April 1990 concerning the facility for intermediate storage of spent fuel in Ahaus (Federal Republic of Germany)** 27

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1010/90

of 24 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 23 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 25 April 1990.

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

Done at Brussels, 24 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 24 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	129,59 ⁽²⁾ ⁽³⁾
0712 90 19	38,43	129,59 ⁽²⁾ ⁽³⁾
1001 10 10	47,93	184,23 ⁽¹⁾ ⁽³⁾
1001 10 90	47,93	184,23 ⁽¹⁾ ⁽³⁾
1001 90 91	39,41	138,44
1001 90 99	39,41	138,44
1002 00 00	64,09	133,68 ⁽⁴⁾
1003 00 10	55,34	130,25
1003 00 90	55,34	130,25
1004 00 10	46,74	125,08
1004 00 90	46,74	125,08
1005 10 90	38,43	129,59 ⁽²⁾ ⁽³⁾
1005 90 00	38,43	129,59 ⁽²⁾ ⁽³⁾
1007 00 90	55,34	138,20 ⁽⁴⁾
1008 10 00	55,34	31,74
1008 20 00	55,34	104,05 ⁽⁴⁾
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	208,13
1102 10 00	104,04	201,47
1103 11 10	89,07	300,34
1103 11 90	73,63	223,36

⁽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 1011/90

of 24 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 23 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 25 April 1990.

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

Done at Brussels, 24 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 24 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	9,47
1001 90 99	0	0	0	9,47
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	13,26

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	16,86	16,86
1107 10 19	0	0	0	12,60	12,60
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 1012/90

of 20 April 1990

concerning the classification of certain goods in the combined nomenclature

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

Having regard to Council Regulation (EEC) No 2658/87 ⁽¹⁾ on the tariff and statistical nomenclature and on the Common Customs Tariff, as last amended by Regulation (EEC) No 323/90 ⁽²⁾, and in particular Article 9,

Whereas in order to ensure uniform application of the combined nomenclature annexed to the said Regulation, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation;

Whereas Regulation (EEC) No 2658/87 has set down the general rules for the interpretation of the combined nomenclature and these rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivisions to it and which is established by specific Community provisions, with a view to the application of tariff or other measures relating to trade in goods;

Whereas, pursuant to the said general rules, the goods described in column 1 of the table annexed to the present

Regulation must be classified under the appropriate CN codes indicated in column 2, by virtue of the reasons set out in column 3;

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

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the annexed table are now classified within the combined nomenclature under the appropriate CN codes indicated in column 2 of the said table.

Article 2

This Regulation shall enter into force on the 21st day after 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, 20 April 1990.

For the Commission

Christiane SCRIVENER

Member of the Commission

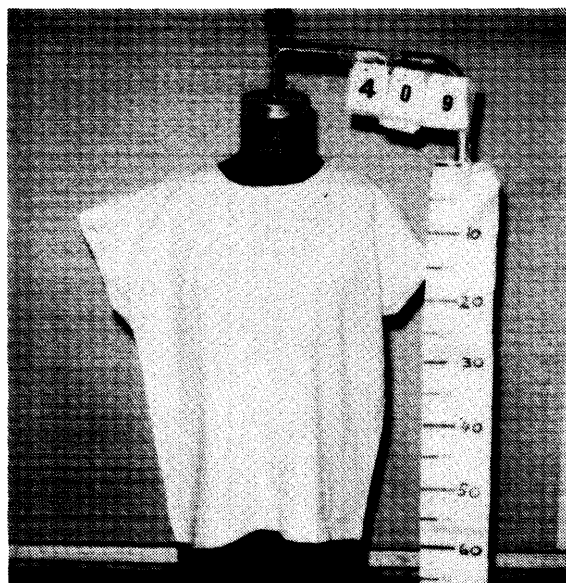
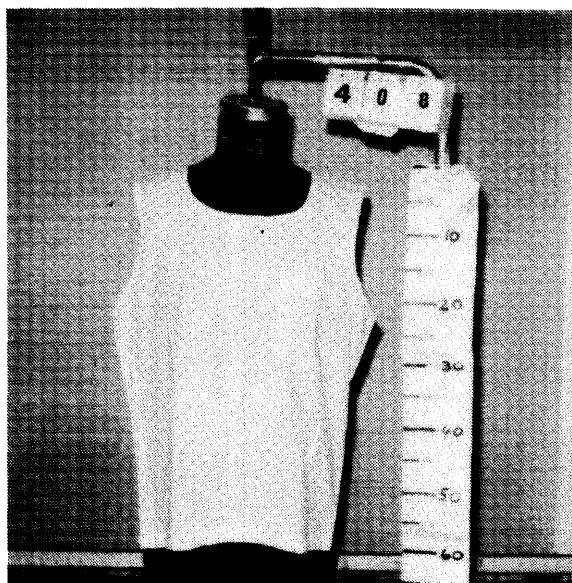
⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

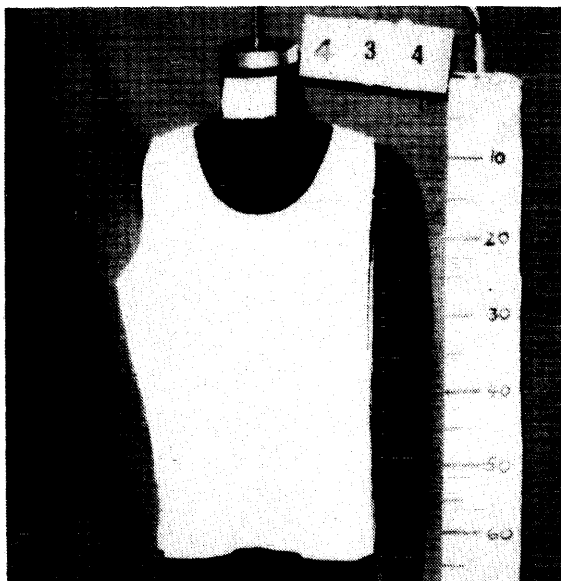
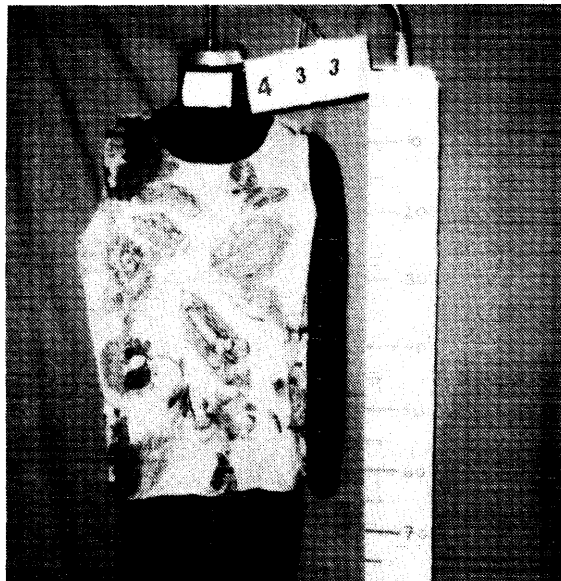
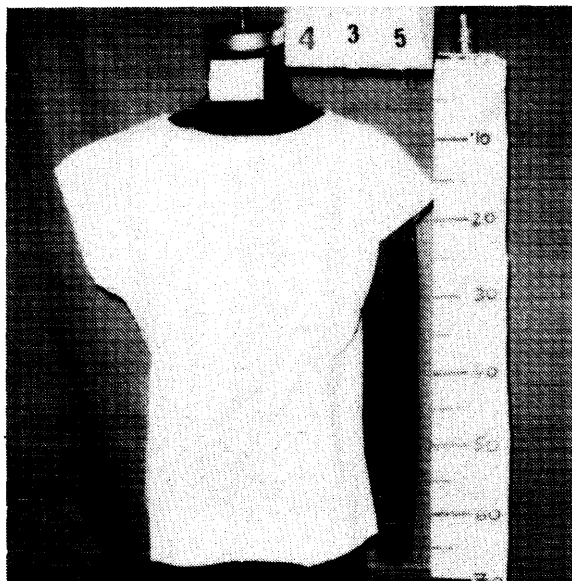
⁽²⁾ OJ No L 36, 8. 2. 1990, p. 7.

ANNEX

Description of goods	Classification CN code	Reasons
(1)	(2)	(3)
1. Lightweight, sleeveless woven garment (100 % cotton) intended to cover the upper part of the body reaching down to below the waist, of a fancy design and manufactured from a single coloured fabric. It has a rounded neckline without an opening and an exterior pocket at the level of the chest (see photograph No 408) (*)	6206 30 00	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the combined nomenclature and by the texts of CN codes 6206 and 6206 30 00. See also the Explanatory Note to CN code 6206 concerning blouses, shirts and shirt-blouses.
2. Lightweight woven garment (100 % cotton) with very short sleeves, intended to cover the upper part of the body reaching down to below the waist, of a fancy design and manufactured from a single coloured fabric. It has a rounded neckline with a partial opening on the left shoulder which is closed with a button fastening (see photograph No 409) (*)	6206 30 00	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the combined nomenclature and by the texts of CN codes 6206 and 6206 30 00. See also the Explanatory Note to CN code 6206 concerning blouses, shirts and shirt-blouses.
3. Lightweight woven garment (100 % cotton) with very short sleeves, intended to cover the upper part of the body reaching down to below the waist, of a fancy design and manufactured from a single coloured fabric. It has a rounded neckline without opening and a series of decorative pleats made by stitching on a front (see photograph No 435) (*)	6206 30 00	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the combined nomenclature and by the texts of CN codes 6206 and 6206 30 00. See also the Explanatory Note to CN code 6206 concerning blouses, shirts and shirt-blouses.
4. Lightweight, sleeveless woven garment (100 % artificial fibres) intended to cover the upper part of the body reaching down to below the waist, of a fancy design and made of fabric with printed motifs in different colours. It has a round neckline without an opening (see photograph No 433) (*)	6206 40 00	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the combined nomenclature and by the texts of CN codes 6206 and 6206 40 00. See also the Explanatory Note to CN code 6206 concerning blouses, shirts and shirt-blouses.
5. Lightweight, sleeveless woven garment (100 % artificial fibres) intended to cover the upper part of the body reaching down to below the waist, of a fancy design and manufactured from a single coloured fabric. It has a rounded neckline without an opening and has two side vents at the base (see photograph No 434) (*)	6206 40 00	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the combined nomenclature and by the texts of CN codes 6206 and 6206 40 00. See also the Explanatory Note to CN code 6206 concerning blouses, shirts and shirt-blouses.

(*) Photographs are of a purely illustrative nature.





COMMISSION REGULATION (EEC) No 1013/90
of 23 April 1990
by vessels flying the flag of Germany

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

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities ⁽¹⁾, as amended by Regulation (EEC) No 3483/88 ⁽²⁾, and in particular Article 11 (3) thereof,

Whereas Council Regulation (EEC) No 4047/89 of 19 December 1989 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1990 and certain conditions under which they may be fished ⁽³⁾, as amended by Regulation (EEC) No 738/90 ⁽⁴⁾, provides for cod quotas for 1990;

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

Whereas, according to the information communicated to the Commission, catches of cod in the waters of ICES divisions V b (EC-zone), VI, XII and XIV by vessels flying the flag of Germany or registered in Germany have reached the quota allocated for 1990; whereas Germany

has prohibited fishing for this stock as from 11 April 1990; whereas it is therefore necessary to abide by that date;

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in the waters of ICES divisions V b (EC-zone), VI, XII and XIV by vessels flying the flag of Germany or registered in Germany are deemed to have exhausted the quota allocated to Germany for 1990.

Fishing for cod in the waters of ICES divisions V b (EC-zone), VI, XII and XIV by vessels flying the flag of Germany or registered in Germany is prohibited as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 11 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

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 306, 11. 11. 1988, p. 2.

⁽³⁾ OJ No L 389, 30. 12. 1989, p. 1.

⁽⁴⁾ OJ No L 82, 29. 3. 1990, p. 7.

COMMISSION REGULATION (EEC) No 1014/90

of 24 April 1990

laying down detailed implementing rules on the definition, description and presentation of spirit drinks

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks⁽¹⁾, and in particular Article 1 (4) (f) (1) (a), (g), (i) (1) (d), (i) (2), (i) (1) and (i) (1) (b) and (r) (1) thereof,

Whereas detailed rules of application of Regulation (EEC) No 1576/89 must be adopted to provide essential clarifications of the principles laid down in the abovementioned Regulation and supplementary rules thereto;

Whereas these clarifications and additional rules should in the first instance take account of the criteria followed when Regulation (EEC) No 1576/89 itself was adopted; whereas it is also appropriate to use as a basis the traditions and customs of the various Community regions, at least insofar as these are compatible with the single market; whereas another criterion should be that of avoiding all possible sources of confusion in the information given on labels and guaranteeing that the consumer is given the fullest and clearest information possible where labelling is concerned;

Whereas this Regulation should apply without prejudice to the transitional provisions provided for in Commission Regulation (EEC) No 3773/89 of 14 December 1989 laying down transitional measures relating to spirituous beverages⁽²⁾;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Implementation Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of Article 1 (4) (f) (1) (a) of Regulation (EEC) No 1576/89 the quantity of lees that may be added to grape marc in the preparation of grape marc spirit may not exceed 25 kg of lees per 100 kg of grape marc used.

⁽¹⁾ OJ No L 160, 12. 6. 1989, p. 1.

⁽²⁾ OJ No L 365, 15. 12. 1989, p. 48.

The quantity of alcohol derived from the lees may not exceed 35 % of the total quantity of alcohol in the finished product.

Article 2

For the purpose of Article 1 (4) (g) of Regulation (EEC) No 1576/89 fruit marc spirit is the spirit drink obtained solely by fermentation and distillation at less than 86 % vol. of fruit marc except grape marc. Redistillation at the same alcoholic strength is authorized.

The minimum quantity of volatile substances shall be 200 g per hectolitre of alcohol at 100 % vol.

The maximum methyl alcohol content shall be 1 500 g per hectolitre of alcohol at 100 % vol.

The maximum hydrocyanic acid content shall be 10 g per hectolitre of alcohol at 100 % vol. in the case of stone-fruit marc spirit.

The sales designation shall be the name of the fruit followed by 'marc spirit'. If marcs of several different fruits are used, the sales designation shall be 'fruit marc spirit'.

Article 3

For the purpose of Article 1 (4) (i) (1) (d) of Regulation (EEC) No 1576/89 the name of the fruit may replace 'spirit' preceded by the name of the fruit solely in the case of the following fruits:

- mirabelle (*Prunus domestica* L. var. *syriaca*),
- plum (*Prunus domestica* L.),
- quetsch (*Prunus domestica* L.),
- arbutus (*Arbutus unedo* L.),
- Golden Delicious apple.

Should there be a risk that the final consumer does not easily understand one of these designations, the labelling shall include the word 'spirit', possibly supplemented by an explanation.

Article 4

Spirit drinks as referred to in Article 1 (4) (i) (2) of Regulation (EEC) No 1576/89 may be designated by 'spirit' preceded by the name of the fruit if the label also bears the words 'produced by 'maceration and distillation'.

The preceding paragraph covers spirit drinks obtained from the following fruits:

- blackberry (*Rubus fruticosus* L.),
- strawberry (*Fragaria* L.),
- bilberry (*Vaccinium myrtillus* L.),
- raspberry (*Rubus idaeus* L.),
- redcurrant (*Ribes vulgare* Lam.),
- sloe (*Prunus spinosa* L.),
- rowanberry (*Sorbus domestica* L.),
- service-berry (*Sorbus domestica* L.),
- hollyberry (*Ilex cassine* L.),
- checkerberry (*Sorbus turterminalis* L.),
- elderberry (*Sambucus nigra* L.),
- rosehip (*Rosa canina* L.),
- blackcurrant (*Ribes nigrum* L.).

Article 5

For the purpose of Article 1 (4) (i) (1) of Regulation (EEC) No 1576/89 the quantity of fruit used shall be a minimum of five kg per 20 litres of alcohol at 100 % vol., used.

Article 6

1. The derogations referred to in Article 1 (4) (i) (1) (b) of Regulation (EEC) No 1576/89 shall relate to the maximum methyl alcohol content of fruit spirits, which

shall be raised to 1 500 g per hectolitre of alcohol at 100 % vol., in the case of spirits obtained by individual fruit producers in distilleries with a total annual production of the spirit in question not exceeding 500 hectolitres of alcohol at 100 % vol., obtained from the following fruits:

- plum (*Prunus domestica* L.),
- mirabelle (*Prunus domestica* L. var *syriaca*),
- quetsch (*Prunus domestica* L.),
- apple (*Malus domestica* Borkh.),
- arbutus (*Arbutus unedo* L.).

2. Paragraph 1 shall also apply until 31 December 1992, to spirit obtained from pears (*Pyrus communis*) without any limit on the annual production of distilleries.

Article 7

By way of derogation from Article 1 (4) (r) (1) of Regulation (EEC) No 1576/89, the minimum sugar content of 100 g per litre laid down for liqueurs is hereby reduced to:

- 80 g per litre for gentian liqueurs prepared with gentian as the sole aromatic substance;
- 70 g per litre per cherry liqueurs the ethyl alcohol of which consists solely of cherry spirit.

Article 8

This Regulation shall enter into force on 1 May 1990.

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

Done at Brussels, 24 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1015/90

of 24 April 1990

abolishing the countervailing charge on tomatoes originating in Israel

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 966/90⁽³⁾ introduced a countervailing charge on tomatoes originating in Israel;

Whereas the present trend of prices for these products on the representative markets referred to in Commission Regulation (EEC) No 2118/74⁽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, indicates that the application of the first subparagraph of Article 26 (1) of Regulation (EEC) No 1035/72 would result in the countervailing charge being fixed at zero; 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 Israel can be abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 966/90 is hereby repealed.

Article 2

This Regulation shall enter into force on 25 April 1990.

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

Done at Brussels, 24 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 98, 18. 4. 1990, p. 16.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

COMMISSION REGULATION (EEC) No 1016/90

of 24 April 1990

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Having regard to the opinion of the Monetary Committee,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar⁽³⁾, as last amended by Regulation (EEC) No 1489/76⁽⁴⁾, provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 3 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽⁵⁾; whereas, furthermore, this refund should be fixed in accordance with Article 5 (2) of Regulation (EEC) No 766/68; whereas candy sugar is defined in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar⁽⁶⁾, as last amended by Regulation (EEC) No 1714/88⁽⁷⁾; whereas the refund thus calculated for

sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

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

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

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81 undenatured and exported in their unaltered state shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 25 April 1990.

(¹) OJ No L 177, 1. 7. 1981, p. 4.
(²) OJ No L 114, 27. 4. 1989, p. 1.
(³) OJ No L 143, 25. 6. 1968, p. 6.
(⁴) OJ No L 167, 26. 6. 1976, p. 13.
(⁵) OJ No L 89, 10. 4. 1968, p. 3.
(⁶) OJ No L 50, 4. 3. 1970, p. 1.
(⁷) OJ No L 152, 18. 6. 1988, p. 23.

(⁸) OJ No L 164, 24. 6. 1985, p. 1.
(⁹) OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 24 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 24 April 1990 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	23,34 ⁽¹⁾	
1701 11 90 910	23,84 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	23,34 ⁽¹⁾	
1701 12 90 910	23,84 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,2538
1701 99 10 100	25,38	
1701 99 10 910	25,92	
1701 99 10 950	25,92	
1701 99 90 100		0,2538

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

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

COMMISSION REGULATION (EEC) No 1017/90

of 24 April 1990

fixing the maximum export refund for white sugar for the 51st partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 999/89

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

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

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

Whereas Commission Regulation (EEC) No 999/89 of 17 April 1989 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, as last amended by Regulation (EEC) No 653/90⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 999/89, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 51st partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 51st partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 999/89 the maximum amount of the export refund is fixed at ECU 28,486 per 100 kilograms.

Article 2

This Regulation shall enter into force on 25 April 1990.

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

Done at Brussels, 24 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 107, 19. 4. 1989, p. 6.

⁽⁴⁾ OJ No L 71, 17. 3. 1990, p. 15.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 4 October 1989

on an aid granted in France to cereal farmers and producers, financed by the reimbursement of specific fiscal and parafiscal charges

(Only the French text is authentic)

(90/197/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat⁽¹⁾, as last amended by Regulation (EEC) No 1249/89⁽²⁾, and in particular Article 21 thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽³⁾, as last amended by Regulation (EEC) No 571/89⁽⁴⁾, and in particular Article 24 thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat⁽⁵⁾, as last amended by Regulation (EEC) No 1235/89⁽⁶⁾, and in particular Article 23 thereof,

Having given notice to the parties concerned, in accordance with Article 93 (2) of the Treaty, to submit their comments⁽⁷⁾,

Whereas :

I

Following a complaint, the Commission learned of a system under which French livestock farmers who also

grow cereals can obtain the reimbursement of specific fiscal charges (solidarity contributions, Bapsa (supplementary budget for agricultural social benefits) contributions) paid on the delivery of cereals to a recognized collector (amending financial law for 1982 of 30 December 1982); whereas two decrees of 26 October 1983 extended the arrangements to cover parafiscal charges (FASC and FNDA (National Agricultural Development Fund) contributions).

The system allows French livestock farmers who also grow cereals to obtain the reimbursement of the charges paid on a quantity of cereals, not exceeding 300 tonnes par marketing year, corresponding to the amount of products of the same type contained in feedingstuffs purchased for their holding.

II

1. By letter of 29 November 1988 addressed to the French Government the Commission stated that it had decided, in regard to the aid, to initiate the procedure provided of in Article 93 (2) of the EEC Treaty.

2. In that letter the Commission informed the French authorities that it considered the aid to be an operating aid with no lasting effect on the development of the sector concerned, the effects of which would disappear with the measure itself. The Commission considers such measures to be as a matter of principle incompatible with the common market.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 129, 11. 5. 1989, p. 12.

⁽³⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽⁴⁾ OJ No L 61, 4. 3. 1989, p. 43.

⁽⁵⁾ OJ No L 282, 1. 11. 1975, p. 77.

⁽⁶⁾ OJ No L 128, 11. 5. 1989, p. 29.

⁽⁷⁾ OJ No C 35, 11. 2. 1989, p. 17.

There is in any case already a complete and exhaustive set of Community rules for the livestock sectors that debars the Member States from additional action to support producers' incomes.

This aid is therefore an infringement of the Community provisions in question.

3. Under the procedure the Commission gave notice to the French Government to submit its comments.

The Commission also gave the other Member States and other interested parties notice to submit their comments.

III

By letter of 1 March 1989 the French Government replied to the Commission's letter of notice.

According to the French authorities the system does not provide an aid but merely livestock/cereal farmers who do not have the necessary processing equipment from being treated differently from those who process their own crops and so do not pay the charges levied on the marketing of cereals, and so affords equality of treatment to all French livestock/cereal farmers.

These authorities consider that the system is covered by the Court of Justice's finding on respect for the general principle of equality, as for instance in Case 300/86 ⁽¹⁾.

Moreover they consider that the position of livestock farmers who grow cereals cannot be compared with that of livestock farmers not growing cereals.

These points were argued and developed by the French authorities at a meeting with the Commission on 25 April 1989.

IV

The following points must be made in response to the arguments advanced by the French authorities:

- the reimbursement of these charges to livestock/cereal producers must be considered aid granted through State resources as mentioned in Article 92 of the EEC Treaty, the Court having found that 'a measure adopted by the public authority and favouring certain undertakings or products so as not to lose the character of a gratuitous advantage by the fact that it is wholly

or partially financed by contributions imposed by the public authority and levied on the undertakings concerned' ⁽¹⁾;

- whilst it is true that in Case 300/86 the Court of Justice invalidated the second subparagraph of Article 1 (2) of Commission Regulation No 2040/80 ⁽²⁾, as amended by Commission Regulation No 2512/86 ⁽³⁾, 'in so far as it exempts from the co-responsibility levy the first-stage processing of cereals carried out on the producer's own agricultural holding by means of the machinery of the farm, provided that the products of the processing are used on that holding, but does not provide for such exemption for first-stage processing carried out off the producer's agricultural holding or by means of machinery which does not form part of the agricultural installations of the farm, where the products of the processing are used on that farm', the principle does not apply to the case in hand since a Community arrangement for exemption under certain conditions from a charge of compulsory and uniform application throughout the Community cannot properly be compared with a national arrangement for reimbursement of national charges in a Member State. Moreover, the purpose of the Community rules on the co-responsibility levy is to restrict structural surpluses of cereals on the market, which is not the case with the French measure;

- lastly, livestock/cereal farmers and livestock farmers not producing cereals are in competition as regards the products of stockfarming.

Given the foregoing the arguments put forward by the French authorities cannot be accepted.

V

1. Articles 92, 93 and 94 of the EEC Treaty apply to the production and marketing of the products covered by the aid in question, under the terms of the various common organizations of markets mentioned above.

The aid affords a specific advantage to certain French livestock farmers who also grow cereals, *viz.* a reduction in their livestock production costs. The significant proportion (50 to 70 %) of the selling price of meat accounted for by feed costs should be noted. In consequence competition between these farmers and others, in both France and the other Member States, who do not receive the reimbursement is distorted.

⁽²⁾ Case 78/76, *Steinike und Weinlig v. Germany*, [1977] ECR 595.

⁽³⁾ OJ No L 173, 1. 7. 1986, p. 65.

⁽⁴⁾ OJ No L 229, 15. 8. 1986, p. 25.

⁽¹⁾ *Landschoot v. Mera*: Judgment of the Court of 29 June 1988 (not yet published in the Official Journal).

By its nature the measure is, since it reduces production costs and relates to products in which there is substantial trade, liable to affect intra-Community trade. The figures (in thousands of tonnes) for trade in the products in question between France and the other countries of the Community in 1987 may be summarized as follows:

(in thousand tonnes)

	Imports from EEC	Export from EEC	Self-sufficiency
Beef/veal	294	209	121,24 %
Pigmeat	424	97	81 %
Poultrymeat	40	138	136,57 %

Because of the measure operators in other Member States see their exports curbed since merchants have a wider offer of animals of French origin as a result of the granting of the aid, and, moreover, the quantities offered for export are increased.

The aid therefore satisfies the criteria of Article 92 (1) of the EEC Treaty and is therefore incompatible with the common market.

2. The exceptions to such incompatibility set out in Article 92 (2) are clearly not applicable to the aid in question, nor have they been invoked by the French authorities. Those set out in Article 92 (3) relate to objectives pursued in the Community's interest and not only in the interest of individual sectors of the national economy. These exceptions are to be strictly interpreted when examining any regional or sectoral aid or any case of individual application of general aid schemes.

Exceptions can be granted only in cases where the Commission can establish that the aid is necessary for achievement of one of the objectives set out in these provisions. To allow such exceptions in respect of aid which does not offer such guarantees would amount to allowing trade between Member States to be affected and competition to be distorted without justification from the point of view of the Community interest and would give an unfair advantage to certain Member States.

In the case in point, the aid does not offer such guarantees. The French Government was unable to provide any

justification, and the Commission could find none, showing that the aid in question met the conditions required for the application of one of the exceptions set out in Article 92 (3) of the Treaty.

This is not a measure intended to promote a project of common European interest as mentioned in Article 92 (3) (b) nor a measure intended to remedy a serious disturbance in the economy of the Member State in question, as also mentioned in that provision.

As far as the derogations provided for in Article 92 (3) (a) and (c) in the case of aid to promote or facilitate the economic development of areas or to facilitate the development of certain activities mentioned in the said point (c) are concerned, it should be noted that the aid cannot durably improve the conditions pertaining in the economic sector in which it is granted.

By possibly bringing about an increase in deliveries of meat to intervention, the aid may also bring about an increase in European Agricultural Guidance and Guarantee Fund expenditure. On that account it must be considered as against the common interest.

In consequence, the aid is to be considered as an operational aid, a type which the Commission has always opposed as a matter of principle since the terms of such aid do not bring it within the scope of one of the exceptions provided for in Article 92 (3) (a) and (c) of the Treaty.

3. In the case of livestock products the market in which is subject to a common organization there are restrictions of the right of Member States to intervene directly in the operation of those organizations with a common price structure, which fall within the exclusive competence of the Community.

The granting of aid of this type ignores the principle that Member States no longer have the right to act independently in the matter of farmers' incomes within the framework of a common organization of the market by the granting of such aid.

Even if it had been possible to envisage an exception under Article 92 (3) of the Treaty, the fact that the aid infringes the common organizations of the markets in question makes it impossible to apply any such exception.

4. In consequence, the aid is incompatible with the common market within the meaning of Article 92 of the Treaty and may no longer be granted,

HAS ADOPTED THIS DECISION:

Article 3

Article 1

The French Government shall discontinue the aid to livestock farmers who also grow cereals in the form of reimbursement of specific fiscal and parafiscal charges paid on a quantity of cereals, not exceeding 300 tonnes per marketing year, corresponding to the amount of products of the same type contained in feedingstuffs purchased for their holding.

This Decision is addressed to the French Republic.

Done at Brussels, 4 October 1989.

Article 2

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

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION DECISION

of 20 December 1989

ruling on a financial measure taken by Spain in respect of the coal industry during 1989 and a supplementary financial measure in respect of the coal industry in 1988 and 1987

(Only the Spanish text is authentic)

(90/198/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2064/86/ECSC of 30 June 1986, establishing Community rules for State aid to the coal industry⁽¹⁾, and in particular Article 10 thereof,

Whereas :

I

By letters of 22 September and 13 October 1988, the Spanish Government informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the financial measures it intended to take during 1989 in order to give direct or indirect support to the coal industries.

The measures included compensatory payments to electricity producers using Spanish coal produced by undertakings that have negotiated contracts with the said electricity producers under the NSCCT (new system of public contracts for coal used in power stations), a system to be financed by a compensation fund managed by Ofico (Electricity Compensation Office).

By letters of 23 May, 26 September and 9 November 1989, at the Commission's request, the Spanish Government also communicated further information concerning 1989.

In those letters, pursuant to the provisions of Article 9 (3) of Decision No 2064/86/ECSC, the Spanish Government also notified the Commission of an increase in the compensatory amounts that were to be paid to electricity producers in respect of 1987 and 1988 under the new public contracts system, and provided further data on this measure.

The amounts in question, financed by the compensation fund, amount to :

- Pta 12 625 million in 1989,
- Pta 2 782 million in addition to the sum already authorized in respect of 1988,

- Pta 3 370 million in addition to the sum already authorized in respect of 1987.

II

The aim of the Ofico financial measure is to refund to the electricity generating companies any sums over and above the reference price which those companies have to pay the coal mining undertakings to cover almost the full amount of the latter's operating losses. The system applies to those mining undertakings that have concluded coal supply contracts with the electricity producers under the NSCCT system.

The measure covers some 3 million tce (tonnes of coal equivalent) of Spanish coal a year.

This is a measure linked to coal sales which, even if not borne directly by public authority budgets, is nevertheless financed from levies imposed through a measure introduced by the State.

It also gives coal industry undertakings an economic advantage and therefore represents an indirect aid to this industry within the meaning of Article 1 (1) of Decision No 2064/86/ECSC.

It must therefore be submitted for a Commission opinion pursuant to the provisions of Article 10 (2) of that Decision.

III

In Decisions 87/454/ECSC⁽²⁾ and 88/505/ECSC⁽³⁾, the Commission authorized Ofico financial measures amounting to Pta 8 400 million in 1987 and Pta 8 400 million for 1988. The Commission authorized this aid in view of the fact that the new system was intended to make the industry more competitive and that the precipitate closure of uneconomic installations was likely to cause major social and regional problems. To this extent the measure was also calculated to attenuate the social and regional problems encountered in this industry.

⁽²⁾ OJ No L 241, 25. 8. 1987, p. 16.

⁽³⁾ OJ No L 274, 6. 10. 1988, p. 41.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

The increases now notified for 1987 and 1988 mean that the total sums set aside for these two years are Pta 11 770 and 11 182 million respectively.

IV

The trend during the first few years in which the system has been in operation has to be evaluated in the light of the aims of Decision No 2064/86/ECSC, particularly those set out in Article 2 (1).

In this connection it should be emphasized that the intended aim of this instrument is to bring about some improvement in the competitiveness of the coal industry through the financial reorganization of the undertakings, a lowering of production costs and the shutting down of those production capacities which have no prospect of becoming economically viable in the long term.

However, the provisions introduced under the system do not indicate that there is any likelihood of a reduction in overall levels of aid. In fact, the sum notified for 1989, i. e. Pta 12 625 million, represents an increase of some 13 % over 1988.

V

In view of the transitional nature of Decision No 2064/86/ECSC which expires on 31 December 1993, and the need to ensure the economic viability of the Community's coal industry in the long term, it is necessary to ensure that Community aid is sufficiently degressive and goes hand in hand with the kind of restructuring, rationalization and modernization plans listed among the conditions subject to which the provisions of Decision No 2064/86/ECSC may be applied.

To enable the Commission to check whether these conditions are respected, the Spanish authorities should be requested to submit, by 30 June 1990, a plan for reducing, by 31 December 1993, the compensatory payments made under the said system or under any other measure having equivalent effect.

This Decision does not call into question the compatibility of the NSCCT with the provisions of the EEC and ECSC Treaties,

HAS ADOPTED THIS DECISION :

Article 1

The compensatory payments to be made to electricity producers under the Ofico financial measure, notified in the letters dated 22 September and 13 October 1988 and 23 May, 26 September and 9 November 1989 shall be regarded as Community aid to the coal industry under Article 2 (1) of Decision No 2064/86/ECSC, and therefore compatible with the smooth functioning of the common market, because :

- putting an immediate stop to this aid would aggravate the social and regional problems linked with changes in this industry, and
- if the industry is to be made more competitive, the aid should be reduced gradually and this reduction should go hand in hand with the restructuring, modernization and rationalization of the Spanish coal industry.

Article 2

The Government of Spain shall submit to the Commission by 30 June 1990 a plan for reducing between now and 31 December 1993 at the latest the compensatory payments made under this system or any other measures having equivalent effect.

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 20 December 1989.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

COMMISSION DECISION

of 28 February 1990

on aid from the Federal Republic of Germany to the coal industry in 1989

(Only the German text is authentic)

(90/199/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2064/86/ECSC of 30 June 1986 establishing Community rules for State aid to the coal industry⁽¹⁾,

Whereas :

I

In its communications of 11 October and 1 December 1988, the Government of the Federal Republic of Germany informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the financial measures it intends to take in 1989 in order to support the coal industry.

In its communications of 24 April, 8 September and 16 November 1989, the Government of the Federal Republic of Germany provided further information as requested by the Commission on 3 March and 21 June 1989.

Under the above Decision, the Commission hereby expresses its opinion on the following aid measures :

- DM 2 865 million of aid for supplying coal and coke to the Community's iron and steel industry, pursuant to Article 4 of the Decision,
- DM 160 million of aid granted under a scheme to maintain the underground labour force in deep mines (Bergmannsprämie), pursuant to Article 6 of the Decision,
- DM 20 million of aid for special depreciation,
- DM 216 million of aid to finance social grant schemes specific to the coal industry, intended to cover the difference between actual and standard social charges.

The aid which the Government of the Federal Republic of Germany intends to grant to its coal industry conforms to the provisions of Article 1 (1) of Decision No 2064/

86/ECSC. The Commission must therefore decide, pursuant to Article 10 of the Decision, whether the aid conforms to the objectives and criteria set out in the Decision and whether it is compatible with the proper functioning of the common market.

II

In accordance with Articles 4 and 12 of the Decision, coal undertakings are authorized, where necessary, to grant rebates on their list prices or production costs for deliveries of coking coal, blast furnace coke and coal for injection into blast furnaces for the iron and steel industry of the Community under long-term contract. These rebates must not cause the delivered prices of Community coal and coke to work out lower than those which would be charged for coal from non-member countries and coke made from non-member country coking coal.

The Government of the Federal Republic of Germany has informed the Commission of the principles underlying a new system of aid for supplying coal and coke to the Community's iron and steel industry, the purpose of which is to set a ceiling on the amount of aid granted in respect of 1989, 1990 and 1991. The total amount of aid which it is intended to grant for the period from 1 January 1989 to 31 December 1991 is DM 10 960 million. The total quantities covered by this aid should amount to 69,8 million tonnes.

Under this system, the Government proposes to pay approximately DM 2 865 million of aid to coal producers for 1989.

This amount, provided for in the 1989 budget, will not be sufficient to cover all the aid required for 1989 in respect of an estimated quantity of 24,5 million tonnes of coal and coke supplied to the Community's iron and steel industry.

Any plan subsequently to modify the sum specified in this Decision will have to be notified at a later stage, in accordance with Article 9 (3) of Decision No 2064/86/ECSC so that the Commission can express an opinion in accordance with the procedures defined in Article 10 of the said Decision.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

The Commission welcomes the principle of setting a ceiling on aid, as this should further encourage the restructuring of the coal industry and thus improve its competitiveness in accordance with the first indent of Article 2 (1) of Decision No 2064/86/ECSC.

Pursuant to Article 11 (1) of Decision No 2064/86/ECSC, steps must be taken to ensure that this aid does not lead to discrimination, within the meaning of the ECSC Treaty, as between Community buyers or users of coal or coke.

After the end of 1989, the Government of the Federal Republic of Germany will inform the Commission of any changes in the quantities delivered and will provide data on production costs and the guide price so that the Commission can verify that all the abovementioned provisions have been complied with.

III

The aid of DM 160 million to finance the mineworkers' bonuses ('Bergmannsprämie' of DM 10 per shift worked underground) helps the coal industry to maintain a skilled underground workforce. This aid, which makes it possible to improve productivity, is specifically provided for in Article 6 of Decision No 2064/86/ECSC and helps improve the competitiveness of the coal industry in accordance with the first indent of Article 2 (1) of the Decision.

The aid for special depreciation helps improve the competitiveness of the German coal industry in that it enables the restructuring process to be speeded up. Since it amounts to only 0,1 % of the production cost, this aid measure will not give the German industry any significant competitive advantage over other Community coal producers, particularly since the amounts paid do not cover the production costs. In view of its intended effect, the measure helps to achieve the objective specified in the first indent of Article 2 (1) of Decision No 2064/86/ECSC.

The information provided by the Government of the Federal Republic of Germany regarding aid to finance social grant schemes specific to the coal industry shows that the aid which the German Government intends to grant for these purposes makes the ratio between the burden per mine worker in employment and the benefits per person in receipt of benefit lower than the corresponding ratio in other industries.

For 1989 the difference is DM 216 million. Since this exceeds the limits set in Article 7 of Decision No 2064/86/ECSC, this measure must be considered as indirect aid for current production and must be examined in accordance with Article 10 (2) of the Decision. The reduction of about 1 % in production costs which it entails does

not give the German coal industry and significant competitive advantage over other Community coal producers. Since this measure reduces the industry's operating costs, it helps solve the social and regional problems related to developments in the coal industry by enabling restructuring, rationalization and modernization measures to be implemented more gradually. It thus helps to achieve the objective referred to in the third indent of Article 2 (1) of the Decision.

IV

Consequently, the aid measures referred to in this Decision are compatible with the proper functioning of the common market.

This decision is without prejudice to the compatibility with Decision No 2064/86/ECSC of the amounts of aid foreseen by the Government of the Federal Republic of Germany for the years following 1989 within the framework of the system established in that Member State for aid for the supply of coal and steel to the Community's iron and steel industry.

HAS ADOPTED THIS DECISION :

Article 1

The Government of the Federal Republic of Germany is hereby authorized to grant aid totalling DM 3 261 million to the coal industry in the Federal Republic of Germany, for the 1989 calendar year. The total amount shall be made up of the following aids :

1. an amount of DM 2 865 million in aid for supplying coal and coke to the Community's iron and steel industry ;
2. an amount of DM 160 million in aid under the scheme to maintain the underground labour force in deep mines (Bergmannsprämie) ;
3. an amount of DM 20 million in aid to cover special depreciation ;
4. an amount of DM 216 million in aid to finance social grant schemes specific to the coal industry, covering the difference between actual and standard social charges.

Article 2

Pursuant to Article 9 (3) of Decision 2064/86/ECSC, the Government of the Federal Republic of Germany shall notify the Commission of any additional aid it may

intend to grant, in respect of 1989, for sales of coal and coke to the iron and steel industry of the Community.

Article 3

The Government of the Federal Republic of Germany shall notify the Commission by 30 June 1990, of the actual amounts of aid paid in 1989.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 28 February 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

COMMISSION DECISION

of 9 April 1990

concerning additional requirements for some tissues and organs with respect to
Bovine Spongiform Encephalopathy (BSE)

(90/200/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat⁽¹⁾, as last amended by Directive 89/662/EEC⁽²⁾, and in particular Article 13 thereof,

Having regard to Council Directive 72/461/EEC of 12 December 1972 on health problems affecting intra-Community trade in fresh meat⁽³⁾, as last amended by Directive 89/662/EEC, and in particular Article 8 (3) thereof,

Whereas, according to Article 13 of Directive 64/433/EEC, additional requirements adapted to the specific situation of Member States with respect to certain diseases likely to endanger human health may be decided on in accordance with the procedure referred to in Article 16;

Whereas according to Article 8 (3) of Directive 72/461/EEC it may be decided, in accordance with the procedure referred to in Article 9, that the measures taken by Member States where there is a danger that animal diseases may be spread by the introduction into its territory of fresh meat from another Member State, should be amended, mainly to ensure coordination with those adopted by other Member States, or abolished;

Whereas several cases of bovine spongiform encephalopathy have occurred among cattle in the United Kingdom; whereas on 28 July 1989, in order to prevent any risk for bovine animals of other Member States, the Commission adopted Decision 89/469/EEC concerning certain protection measures relating to bovine spongiform encephalopathy in the United Kingdom⁽⁴⁾, as amended by Decision 90/59/EEC⁽⁵⁾;

Whereas some Member States have taken measures concerning fresh meat originating from the United Kingdom in order to avoid the risk of spreading of BSE;

Whereas the authorities of the United Kingdom, in order in addition to avoid the minimal risk for consumers, have taken some measures including banning the use for

human consumption of certain tissues and organs of bovine origin; whereas it is opportune to take measures for tissues and organs for uses other than human consumption;

Whereas in order to take into account the development of the situation in the United Kingdom concerning BSE, it is opportune to harmonize the measures taken by the Member States;

Whereas the Commission will follow developments in the situation; this Decision may be amended in the light of such developments;

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

HAS ADOPTED THIS DECISION:

Article 1

All bovine animals which, at *ante mortem* examination performed in accordance with Chapter V of Annex I to Directive 64/433/EEC, show clinical suspicion of BSE shall be retained and slaughtered separately, and their brain shall be examined histologically for evidence of BSE. If BSE is confirmed their carcasses and offal shall be destroyed.

Article 2

1. The United Kingdom shall not send from its territory to that of other Member States:

(a) the following tissues and organs derived from bovine animals aged more than six months at slaughter:

— brains, spinal cord, thymus, tonsils, spleen, intestines.

(b) the following tissues and organs derived from bovine animals for uses other than human consumption:

— tissues and organs referred to in point a,
— placental tissue,
— cell cultures of bovine origin,
— serum and foetal calf serum,
— pancreas, surrenal glands, testicles, ovaries and hypophysis.
— other lymphoid tissues.

⁽¹⁾ OJ No 121, 29. 7. 1964, p. 2012/64.

⁽²⁾ OJ No L 395, 30. 12. 1989, p. 13.

⁽³⁾ OJ No L 302, 31. 12. 1972, p. 24.

⁽⁴⁾ OJ No L 225, 3. 8. 1989, p. 51.

⁽⁵⁾ OJ No L 41, 15. 2. 1990, p. 23.

2. However, the provisions of paragraph 1 (b) shall not apply to cattle born outside the United Kingdom and subsequently introduced into the United Kingdom after 18 July 1988 or to tissues and organs derived from cattle slaughtered outside the United Kingdom.

Article 3

Member States shall amend the measures which apply to trade so as to bring them into compliance with this Decision. They shall inform the Commission thereof.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 9 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION DECISION

of 17 April 1990

on applications for import licences for Basmati rice submitted during the first five working days of the month of April 1990 under the arrangements provided for in Council Regulation (EEC) No 3877/86

(90/201/EEC)

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

Having regard to Council Regulation (EEC) No 3877/86 of 16 December 1986 on imports of rice of the long-grain aromatic Basmati variety falling within subheading ex 10.06 B I and II of the Common Customs Tariff ⁽¹⁾,

Having regard to Commission Regulation (EEC) No 833/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports of rice of the long-grain aromatic Basmati variety falling within subheading ex 10.06 B I or II of the Common Customs Tariff ⁽²⁾, as amended by Regulation (EEC) No 1546/87 ⁽³⁾, and in particular Article 5 (1) thereof,

Whereas under Article 5 (1) of Regulation (EEC) No 833/87 the Commission must, not later than the 13th day after the expiry of the time limit for submitting applications for licences, notify the Member States:

- that licences may be issued in respect of all the quantities applied for, or
- that the standard percentage reduction should be applied to those quantities, or
- that the conditions for applying the reduced levy have not been met;

Whereas, in the light of the quantities for which applications have been submitted, the quantities available and Basmati rice price during the first five working days

of the month of April 1990, licences may be issued subject to the application of a percentage reduction,

HAS ADOPTED THIS DECISION:

Article 1

Import licences for Basmati rice falling within CN code 1006 may be issued, subject to the application, to the quantities applied for, of a standard reduction of 93,922 %, in cases where the applications for import licences were submitted, under the arrangements provided for in Regulation (EEC) No 3877/86, during the first five working days of the month of April 1990 and were the subject of the communication to the Commission provided for in Article 7 of Regulation (EEC) No 833/87.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 17 April 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 361, 20. 12. 1986, p. 1.

⁽²⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽³⁾ OJ No L 144, 4. 6. 1987, p. 10.

COMMISSION OPINION**of 18 April 1990****concerning the facility for intermediate storage of spent fuel in Ahaus (Federal Republic of Germany)****(Only the German text is authentic)****(90/202/Euratom)**

The general data concerning the plan for the discharge of radioactive effluents from the facility for intermediate storage of spent fuel in Ahaus were provided by the German Government, in accordance with Article 37 of the Euratom Treaty, to the Commission by letter dated 18 October 1989, received 24 October 1989.

On the basis of the data thus obtained for this facility, which is located at some 14 km from the frontier with The Netherlands, and having consulted for group of experts, the Commission is of the opinion that the implementation of the plan is not liable, either in normal operation or in case of accident, to result in the radioactive contamination, significant from the point of view of health, of the water, soil or airspace of another Member State.

This opinion is addressed to the Federal Republic of Germany.

Done at Brussels, 18 April 1990.

For the Commission

Carlo RIPA DI MEANA

Member of the Commission
