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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2027/90

of 17 July 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 1340/90⁽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 1801/90⁽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 16 July 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 1801/90 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 18 July 1990.

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

Done at Brussels, 17 July 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 134, 28. 5. 1990, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 167, 30. 6. 1990, p. 8.

ANNEX

to the Commission Regulation of 17 July 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	36,66	137,57 ⁽²⁾ ⁽³⁾
0712 90 19	36,66	137,57 ⁽²⁾ ⁽³⁾
1001 10 19	11,90	162,19 ⁽¹⁾ ⁽³⁾
1001 10 90	11,90	162,19 ⁽¹⁾ ⁽³⁾
1001 90 91	20,22	146,22
1001 90 99	20,22	146,22
1002 00 00	45,72	119,30 ⁽⁶⁾
1003 00 10	36,95	120,82
1003 00 90	36,95	120,82
1004 00 10	28,59	106,60
1004 00 90	28,59	106,60
1005 10 90	36,66	137,57 ⁽²⁾ ⁽³⁾
1005 90 00	36,66	137,57 ⁽²⁾ ⁽³⁾
1007 00 90	53,63	144,00 ⁽⁴⁾
1008 10 00	36,95	40,78
1008 20 00	36,95	94,74 ⁽⁴⁾
1008 30 00	36,95	0,00 ⁽⁵⁾
1008 90 10	(7)	(7)
1008 90 90	36,95	0,00
1101 00 00	41,31	217,71
1102 10 00	77,01	179,20
1103 11 10	31,45	264,40
1103 11 90	44,61	235,12

(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 2028/90

of 17 July 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 1340/90⁽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 1802/90⁽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 16 July 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 18 July 1990.

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

Done at Brussels, 17 July 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 134, 28. 5. 1990, p. 1.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 167, 30. 6. 1990, p. 11.

ANNEX

to the Commission Regulation of 17 July 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 7	1st period 8	2nd period 9	3rd period 10
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	7,04
1001 10 90	0	0	0	7,04
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0,70	0,70	0,70
1004 00 90	0	0,70	0,70	0,70
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	0

B. Malt

CN code	(ECU/tonne)				
	Current 7	1st period 8	2nd period 9	3rd period 10	4th period 11
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 2029/90

of 16 July 1990

amending Regulation (EEC) No 1729/78 laying down detailed rules of application in respect of the production refund for sugar used in the chemical industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular Article 9 (6) thereof,Whereas Council Regulation (EEC) No 1010/86 ⁽³⁾, as amended by Regulation (EEC) No 1771/90 ⁽⁴⁾, provides that from the 1990/91 marketing year, production refunds granted for products in the sugar sector used in the chemical industry are to be established exclusively by reference to the price for sugar on the world market; whereas the detailed rules of application laid down by Commission Regulation (EEC) No 1729/78 ⁽⁵⁾, as last amended by Regulation (EEC) No 748/89 ⁽⁶⁾, must be adapted accordingly;

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

Article 1 of Regulation (EEC) No 1729/78 is hereby amended as follows:

1. Paragraph 2 is replaced by the following:

'2. For the purposes of the fixing referred to in paragraph 1, "reference period" means, for the recording of export refunds for white sugar used to determine the price of sugar on the world market as referred to in Article 4 (4) (a) of Regulation (EEC) No 1010/86, the period beginning on the first day of the quarter immediately preceding each of the dates referred to in paragraph 1 and ending on the 15th day of the last month of the same quarter.'

2. Paragraphs 4, 5 and 6 are replaced by the following paragraph 4:

'4. The production refund applicable per 100 kilograms of white sugar during each of the quarters referred to in paragraph 1 shall be equal to the difference between the price of Community sugar applicable during the quarter for which the refund is fixed and the price of sugar on the world market determined for the reference period in question.'

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

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

Done at Brussels, 16 July 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 94, 9. 4. 1986, p. 9.⁽⁴⁾ OJ No L 163, 29. 6. 1990, p. 1.⁽⁵⁾ OJ No L 201, 25. 7. 1978, p. 26.⁽⁶⁾ OJ No L 80, 23. 3. 1989, p. 51.

COMMISSION REGULATION (EEC) No 2030/90

of 17 July 1990

laying down detailed rules for the application of Council Regulation (EEC) No 386/90 as regards physical checks carried out at the time of export of agricultural products attracting refunds or other amounts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts ⁽¹⁾, and in particular Articles 6 and 7 (1) thereof,

Whereas, having regard to the importance of agricultural refunds within the Community budget and the short-coming detected as regards physical checks on products for which refunds of other amounts are granted at the time of export, Regulation (EEC) No 386/90 establishes Community framework arrangements designed to increase the number of physical checks in order to ensure that the operations in question have actually been carried out and executed properly; whereas, however, those minimum requirements established at Community level do not affect the responsibility of the national authorities for carrying out physical checks on the agricultural products concerned so as to avoid undue payments as far as possible by taking into account all the concrete circumstances of the export operations, and in particular the quantities of products and the level of the refund involved, the risk of fraud attaching thereto and the reliability of the exporter;

Whereas the detailed rules for the application of Regulation (EEC) No 386/90 should include transitional measures concerning in particular the minimum rate of 5 % of export declarations which should in principle be subjected to physical checks; whereas, in view of the difficulties of some Member States in achieving this rate, there should be a transitional period up to the end of 1991 during which the above-mentioned minimum rate is to be attained progressively;

Whereas, in these circumstances, those detailed rules should be confined to the specifications strictly necessary for the Community system to be applied rapidly, subject to subsequent additions in the light of experience gained, in particular as regards the quality aspects of the physical checks in question and the fixing of higher scrutiny rates provided for in the second subparagraph of Article 3 (2) of Regulation (EEC) No 386/90 for specific cases and periods, on the basis of objective findings of an increased risk or fraud;

Whereas, it should be specified at this stage which operations are subject to the monitoring rules in question and

which may be exempted, having regard, on the one hand, to the monitoring systems already in existence for such operations and, on the other hand, to the limited quantity of certain exports; whereas, in certain cases, the physical checks carried out prior to export may be taken into account where they appear equivalent and the identity of the products is ensured; whereas in the interests of efficiency and consistency, it is basically a matter of synchronizing the arrangements provided for in Regulation (EEC) No 386/90 with the checks already in existence under the following provisions:

- 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 ⁽²⁾,
- Commission Regulation (EEC) No 2823/87 of 18 September 1987 on the documents to be used for the purpose of implementing Community measures entailing verification of the use and/or destination of goods ⁽³⁾,
- Commission Regulation (EEC) No 3665/87 of 27 November laying down common detailed rules for the application of the system of export refunds on agricultural products ⁽⁴⁾, as last amended by Regulation (EEC) No 1615/90 ⁽⁵⁾;

Whereas it should be stipulated that where an export declaration covers several agricultural products the particulars relating to each product are to be regarded as a separate declaration for the purposes of determining the representative selection referred to in Article 3 (1) and (2) of Regulation (EEC) No 386/90; whereas special provisions must be adopted for goods exported under the simplified procedures referred to in Articles 17, 18 and 19 of Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods ⁽⁶⁾, as amended by Regulation (EEC) No 1854/89 ⁽⁷⁾;

Whereas it may prove necessary to aggregate the data to be used for determining the basis for calculation of the minimum rate of checks to be carried out where one or more customs offices do not achieve, individually, a significant number of export declarations to be taken into consideration;

⁽¹⁾ OJ No L 42, 16. 2. 1990, p. 6.

⁽²⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽³⁾ OJ No L 270, 23. 9. 1987, p. 1.

⁽⁴⁾ OJ No L 351, 14. 12. 1987, p. 1.

⁽⁵⁾ OJ No L 152, 16. 6. 1990, p. 33.

⁽⁶⁾ OJ No L 83, 30. 3. 1981, p. 40.

⁽⁷⁾ OJ No L 186, 30. 6. 1989, p. 1.

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant Management Committees,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down rules for the implementation of the physical checks referred to in Article 2 (a) of Regulation (EEC) No 386/90.

2. The provisions of Regulation (EEC) No 386/90 and of this Regulation relating to physical checks:

(a) shall apply to exports to third countries and save where paragraph 3 is applied, to similar operations as referred to in Articles 34 and 42 of Regulation (EEC) No 3665/87 in respect of which refunds, monetary compensatory amounts or accession compensatory amounts due are applied for, including those in respect of which the negative monetary compensatory amount is equal to or greater than the refund;

(b) notwithstanding other Community provisions, shall not apply, however, to exports involving Community aid as referred to in Regulation (EEC) No 2200/87.

3. Without prejudice to the control measures referred to in Articles 35 (4) and 42 (4) of Regulation (EEC) No 3665/87, Member States shall be authorized not to apply the physical checks to the deliveries referred to in Articles 34 and 42 of Regulation (EEC) No 3665/87 in the case of exporters qualifying for the procedures referred to in Article 35 of Regulation (EEC) No 3665/87 and where applicable, Articles 17 and 19 of Regulation (EEC) No 2823/87.

4. When calculating the minimum rate of checks to be carried out in accordance with Article 3 of Regulation (EEC) No 386/90 and the provisions of this Regulation, Member States shall be authorized not to take into account export declarations relating to export operations involving quantities not exceeding 5 000 kg in the case of cereals and rice or quantities not exceeding 500 kg in the case of other products.

5. Member States which make use of such authorization as provided for in paragraphs 3 and 4 shall adopt the necessary provisions to prevent deflection and abuses; they shall inform the Commission as soon as possible of measures adopted in this respect.

Article 2

1. With a view to determining the basis for calculating the percentage for the checks provided for in Article 2 (a) of Regulation (EEC) No 386/90, for the purposes of the first indent of Article 3 (2) of Regulation (EEC) No 386/90 'customs office' means all offices competent to accept an export declaration for the products in question.

2. However, Member States shall be authorized to aggregate in specific cases the data concerning several

customs offices where the number of export operations and the quantities involved dealt with by one or each of them does not attain a significant level for a given calendar year, either by product sector or for all product sectors taken together.

Member States which make use of such authorization shall inform the Commission thereof as soon as possible and provide it with data on actual exports dealt with by the customs offices concerned.

3. Member States shall take the necessary measures so that it may be shown, where appropriate, that the customs offices have carried out the physical checks referred to in Article 3 (1) and (2) of Regulation (EEC) No 386/90.

Article 3

For the purposes of the third indent of Article 3 (2) of Regulation (EEC) No 386/90:

(a) products covered by the same market organization shall be considered as coming under one product sector;

(b) however,

— products covered by Council Regulations (EEC) No 2727/75 ⁽¹⁾ (cereals) and (EEC) No 1418/76 ⁽²⁾ (rice) shall constitute one product sector;

— products exported in the form of processed goods listed in Annexes B and C to Council Regulation (EEC) No 3035/80 ⁽³⁾ shall constitute one product sector.

Article 4

1. For the purposes of determining the representative selection required under Article 3 (1) (b) of Regulation (EEC) No 386/90:

(a) where export declarations relate to several different codes of the refund nomenclature, the particulars for each code shall be deemed to the separate declarations;

(b) in the case of the simplified procedures referred to in Articles 17, 18 and 19 of Directive 81/177/EEC, each consignment of goods covered by a separate code of that nomenclature shall be deemed to be a separate export declaration.

2. In the case of products without a refund nomenclature code, and in particular those referred to in the second indent of Article 3 (b), paragraph 1 shall apply, the tariff codes of the combined nomenclature of goods being used as a basis. However, the Member States may lay down a more detailed distinction depending on the composition of the goods.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽³⁾ OJ No L 323, 29. 11. 1980, p. 27.

Article 5

1. The physical checks shall be carried out :
 - (a) during the period between the lodging of the export declaration and authorization to export the goods ; and
 - (b) under the conditions laid down in Article 3 of Regulation (EEC) No 3665/87.
2. However :
 - (a) in the case of authorization as referred to in Article 18 (1) of Directive 81/177/EEC the physical checks shall be carried out in the period between the lodging of the commercial and administrative documents referred to in paragraph 2 of that Article and the authorization to export, depending on the particulars in the commercial or administrative document accompanying the export declaration ;
 - (b) in the case of export operations authorized pursuant to Article 19 (1) of Directive 81/177/EEC the physical checks shall be carried out before the authorization to export is granted on the basis of the particulars contained in the records referred to in paragraph 4 of that Article or, where applicable, in the formalities referred to in paragraph 7 of that Article.
3. In the case of the simplified procedure referred to in Article 19 (3) of Directive 81/177/EEC the physical checks shall be carried out after the particulars of the goods have been entered in the records or by a similar formality.

When authorization to make use of the procedure provided for in the first subparagraph is granted, the competent authorities shall lay down the detailed rules required for carrying out such physical checks.

Article 6

1. In cases where the refund is paid in advance in accordance with Articles 24 to 29 of Regulation (EEC) No 3665/87, the physical checks carried out at the time of or during storage and, where appropriate, at the time of

processing may be taken into account for calculating the minimum rate of checks referred to in Article 3 of Regulation (EEC) No 386/90 provided the following conditions are fulfilled :

- (a) the physical checks carried out prior to the completion of the customs export formalities meet the same criteria of intensity as those to be carried out normally during the periods referred to in Article 5, and.
- (b) the products and goods which have been the subject of previous physical checks are identical to those which are the subject of the export declaration.

2. In the case of analyses and other physical checks carried out prior to the completion of the customs export formalities under Community or national provisions governing the customs arrangements in question or manufacturing processes which the products and goods have undergone, paragraph 1 shall apply *mutatis mutandis* as regards calculation of the minimum rate of physical checks.

Article 7

1. The 5 % scrutiny rate referred to in Article 3 (1) (b) of Regulation (EEC) No 386/90 :
 - (a) shall not apply for the period from the entry into force of Regulation (EEC) No 386/90 until 30 September 1990 ;
 - (b) shall be reduced to 3 % for the rest of 1990 and to 4 % in 1991.
2. The reduced rates referred to in paragraph 1 (b) shall apply to all sectors taken together for each customs office, or for all the customs offices in one region where Article 2 (2) is applied.

Article 8

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

It shall apply from 1 October 1990.

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

Done at Brussels, 17 July 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2031/90

of 17 July 1990

on the adjustment of the entry price for table grapes originating in Cyprus

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3488/89 of 21 November 1989 laying down the method of decision for certain provisions laid down for agricultural products in the framework of Mediterranean agreements⁽¹⁾, and in particular Article 2 thereof,

Whereas, in accordance with the agreements concluded with various Mediterranean third countries, the Commission may decide to adjust the entry price of certain fruit and vegetables originating in those countries taking account of the annual reviews of trade flows by product and country pursuant to Council Regulation (EEC) No 451/89 of 20 February 1989 concerning the procedure to be applied to certain agricultural products originating in various Mediterranean third countries⁽²⁾;

Whereas an examination of the outlook for export flows of table grapes originating in Cyprus in the light of the overall trend on the Community market effectively results in the entry price for those products being adjusted;

Whereas the adjustment of the entry price must relate to the amount to be deducted for customs duties from the representative prices recorded in the Community for the calculation of the entry price for table grapes referred to in Article 24 of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽³⁾, as last amended by Regulation (EEC) No 1193/90⁽⁴⁾; whereas a reduction of one-sixth is likely to meet the desired objective; whereas that reduction for the period 4 June to 4 August within the limit of given quantities pursuant to the Mediterranean agreements must only apply, however, from 21 July, the date of entry into force of the reference price for table grapes;

Whereas, in order to ensure that this system is effective, the trend in imports of such products must be monitored; whereas, in this respect, quantities of table grapes imported within the 1990 tariff quota are to be the subject of statistical monitoring under the administration of the latter pursuant to Council Regulation (EEC) No 3410/89⁽⁵⁾; whereas quantities imported outside that

quota and up to 10 500 tonnes should be made subject to Community surveillance;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of calculating the entry price referred to in Article 24 (3) of Regulation (EEC) No 1035/72 for table grapes originating in Cyprus and falling within CN code 0806 10 19 (serial number 190040), the amount to be deducted for customs duties from the representative prices recorded shall be reduced by one-sixth during the period 21 July to 4 August 1990. That reduction shall apply to up to 10 500 tonnes.

Article 2

1. Imports of table grapes originating in Cyprus outside the tariff quota of 8 900 tonnes fixed by Regulation (EEC) No 3410/89 and up to the maximum of 10 500 tonnes referred to in Article 1 shall be subject to Community surveillance.

2. As and when the products are presented to customs under cover of declarations of release for free circulation together with a movement certificate for the goods, they shall be charged against the quantities concerned.

Goods may only be charged against that quantity if the goods movement certificate is presented before the date from which those preferential arrangements cease to apply.

The extent to which a quantity is used up shall be determined at Community level on the basis of imports charged against it under the conditions laid down in the first and second subparagraphs.

Member States shall inform the Commission of imports effected in accordance with the detailed rules set out above, at the intervals and within the time limits indicated in paragraph 4.

3. Once the quantities in question are attained, the Commission shall inform the Member States of the date from which those preferential arrangements cease to apply.

⁽¹⁾ OJ No L 340, 23. 11. 1989, p. 2.

⁽²⁾ OJ No L 52, 24. 2. 1989, p. 7.

⁽³⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁴⁾ OJ No L 119, 11. 5. 1990, p. 43.

⁽⁵⁾ OJ No L 329, 15. 11. 1989, p. 5.

4. Member States shall forward to the Commission statements of quantities charged for periods of 10 days, to be forwarded within five days from the end of each 10-day period.

5. The Commission may take the requisite administrative measures to adapt the administrative procedure set out in this Article.

Article 3

Member States and the Commission shall cooperate closely together to ensure that this Regulation is implemented.

Article 4

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

It shall apply from 21 July 1990. However, should the tariff quota be used up before that date, the Commission shall inform the Member States of the date prior thereto from which Articles 2 and 3 shall apply.

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

Done at Brussels, 17 July 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2032/90
of 17 July 1990
fixing the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Regulation (EEC) No 2777/75 of the Council of 29 October 1975 on the common organization of the market in poultrymeat⁽¹⁾, as last amended by Regulation (EEC) No 1235/89⁽²⁾, and in particular the first sentence of the fifth subparagraph of Article 9 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 9 of Regulation (EEC) No 2777/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 2779/75 of the Council of 29 October 1975⁽³⁾, lays down general rules for granting export refunds and criteria for fixing the amount of such refunds;

Whereas it follows from applying these rules and criteria to the present situation on the market in poultrymeat that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time;

Whereas the present market situation in certain third countries and that regarding competition on particular third country markets make it necessary to fix a refund differentiated by destination for certain products in the poultrymeat sector;

Whereas, in view of the present circumstances in the German Democratic Republic and their effects on the market situation, no refund should be fixed for products to be exported to that destination;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band

of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁴⁾, as last amended by Regulation (EEC) No 1636/87⁽⁵⁾;

— 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 Commission Regulation (EEC) No 634/86 of 28 February 1986 laying down specific rules on export refunds in the poultrymeat sector following the accession of Portugal and amending Regulation (EEC) No 189/86⁽⁶⁾ established the principle that no Community refund should be granted on poultrymeat products originating in Portugal;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The list of products for which, when they are exported, the export refund referred to in Article 9 of Regulation (EEC) No 2777/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.
2. The refund referred to in paragraph 1 shall not be granted in respect of exports to Portugal from 1 March 1986.
3. The refund referred to in paragraph 1 shall not be granted in respect of exports of products originating in Portugal.

Article 2

This Regulation shall enter into force on 18 July 1990.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 77.

⁽²⁾ OJ No L 128, 11. 5. 1989, p. 29.

⁽³⁾ OJ No L 282, 1. 11. 1975, p. 90.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁶⁾ OJ No L 60, 1. 3. 1986, p. 15.

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

Done at Brussels, 17 July 1990.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX
to the Commission Regulation of 17 July 1990 fixing the export refunds on
poultrymeat

Product code	Destination of refund (1)	Amount of refund
		ECU/100 units
0105 11 00 000	01	4,20
0105 19 10 000	01	8,40
0105 19 90 000	01	4,20
		ECU/100 kg
0105 91 00 000	01	17,00
0207 10 11 000	01	15,00
0207 10 15 000	04	34,00
	05	29,00
	06	25,00
0207 10 19 100	04	38,00
	05	33,00
	06	25,00
0207 10 19 900	01	25,00
0207 10 31 000	01	28,00
0207 10 39 000	01	28,00
0207 10 51 000	07	30,00
	08	35,00
0207 10 55 000	07	30,00
	08	40,00
0207 10 59 000	07	30,00
	08	40,00
0207 21 10 000	04	34,00
	05	29,00
	06	25,00
0207 21 90 100	04	38,00
	05	33,00
	06	25,00
0207 21 90 900	01	25,00
0207 22 10 000	01	28,00
0207 22 90 000	01	28,00
0207 23 11 000	07	30,00
	08	40,00
0207 23 19 000	07	30,00
	08	40,00
0207 39 11 110	01	8,00
0207 39 11 190	—	—
0207 39 11 910	—	—
0207 39 11 990	01	50,00
0207 39 13 000	02	30,00
	03	28,00
0207 39 15 000	01	10,00
0207 39 21 000	01	37,00
0207 39 23 000	02	39,00
	03	36,00
0207 39 25 100	02	30,00
	03	28,00
0207 39 25 200	02	30,00
	03	28,00
0207 39 25 300	02	30,00
	03	28,00
0207 39 25 400	01	5,00
0207 39 25 900	—	—
0207 39 31 110	01	8,00
0207 39 31 190	—	—
0207 39 31 910	—	—
0207 39 31 990	01	50,00
0207 39 33 000	01	28,00

Product code	Destination of refund (1)	Amount of refund
		ECU/100 kg
0207 39 35 000	01	13,00
0207 39 41 000	01	37,00
0207 39 43 000	01	18,00
0207 39 45 000	01	36,00
0207 39 47 100	01	13,00
0207 39 47 900	—	—
0207 39 55 110	01	8,00
0207 39 55 190	—	—
0207 39 55 910	—	—
0207 39 55 990	01	54,00
0207 39 57 000	01	44,00
0207 39 65 000	01	15,00
0207 39 73 000	01	44,00
0207 39 77 000	01	43,00
0207 41 10 110	01	8,00
0207 41 10 190	—	—
0207 41 10 910	—	—
0207 41 10 990	01	50,00
0207 41 11 000	02	30,00
	03	28,00
	01	10,00
0207 41 21 000	01	37,00
0207 41 51 000	02	39,00
	03	36,00
	02	30,00
0207 41 71 100	03	28,00
	02	30,00
0207 41 71 200	03	28,00
	02	30,00
0207 41 71 300	03	28,00
	01	5,00
0207 41 71 400	—	—
0207 41 71 900	—	—
0207 42 10 110	01	8,00
0207 42 10 190	—	—
0207 42 10 910	—	—
0207 42 10 990	01	50,00
0207 42 11 000	01	28,00
0207 42 21 000	01	13,00
0207 42 41 000	01	37,00
0207 42 51 000	01	18,00
0207 42 59 000	01	36,00
0207 42 71 100	01	13,00
0207 42 71 900	—	—
0207 43 15 110	01	8,00
0207 43 15 190	—	—
0207 43 15 910	—	—
0207 43 15 990	01	54,00
0207 43 21 000	01	44,00
0207 43 31 000	01	15,00
0207 43 53 000	01	44,00
0207 43 63 000	01	43,00
1602 39 11 100	01	19,00
1602 39 11 900	—	—

(¹) The destinations are as follows :

- 01 All destinations except the United States of America and the German Democratic Republic,
- 02 Egypt, Iraq, the Canary Islands, Ceuta and Melilla, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman and the United Arab Emirates,
- 03 All destinations except the United States of America, the German Democratic Republic and those of 02 above,
- 04 Egypt, Iraq, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, the United Arab Emirates, Jordan and Singapore,
- 05 Canary Islands, Ceuta and Melilla,
- 06 All destinations except the United States of America, the German Democratic Republic and those of 04 and 05 above,
- 07 Hungary, Poland, Romania and Yugoslavia,
- 08 All destinations except the United States of America, the German Democratic Republic and those of 07 above.

NB : The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EEC) No 2033/90**of 17 July 1990****fixing the maximum export refunds on olive oil for the 16th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3246/89**

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

Having regard to Council Regulation (EEC) No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EEC) No 2902/89 ⁽²⁾,

Having regard to Council Regulation (EEC) No 1650/86 of 26 May 1986 on the refunds and levies applicable to exports of olive oil ⁽³⁾, and in particular Article 7 thereof,

Whereas Commission Regulation (EEC) No 3246/89 ⁽⁴⁾, issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Article 7 of Regulation (EEC) No 3246/89 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, in view of the present circumstances in the German Democratic Republic and their effects on the market situation, no refund should be fixed for products exported to that destination;

Whereas, for the purposes of applying the above-mentioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. The maximum export refunds for olive oil for the 16th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3246/89 are hereby fixed in the Annex, on the basis of the tenders submitted by 9 July 1990.

2. No refund shall be fixed for such products exported to the German Democratic Republic.

Article 2

This Regulation shall enter into force on 18 July 1990.

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

Done at Brussels, 17 July 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

⁽²⁾ OJ No L 280, 29. 9. 1989, p. 2.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 314, 28. 10. 1989, p. 48.

ANNEX

to the Commission Regulation of 17 July 1990 fixing the maximum export refunds on olive oil for the 16th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3246/89

(ECU/100 kg)	
Product code	Amount of refund
1509 10 90 100	65,00
1509 10 90 900	104,50
1509 90 00 100	74,20
1509 90 00 900	110,09
1510 00 90 100	17,00
1510 00 90 900	—

NB: The products codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EEC) No 2034/90
of 17 July 1990
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1812/90 ⁽³⁾, as last amended by Regulation (EEC) No 2005/90 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1812/90 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 18 July 1990.

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

Done at Brussels, 17 July 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 167, 30. 6. 1990, p. 41.

⁽⁴⁾ OJ No L 180, 13. 7. 1990, p. 19.

ANNEX

to the Commission Regulation of 17 July 1990 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	34,87 ⁽¹⁾
1701 11 90	34,87 ⁽¹⁾
1701 12 10	34,87 ⁽¹⁾
1701 12 90	34,87 ⁽¹⁾
1701 91 00	37,44
1701 99 10	37,44
1701 99 90	37,44 ⁽²⁾

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

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

COMMISSION REGULATION (EEC) No 2035/90
of 17 July 1990
abolishing the countervailing charge on cherries originating in Iran

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 1193/90 ⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 1993/90 ⁽³⁾ introduced a countervailing charge on cherries originating in Iran;

Whereas the present trend of prices for products originating in Iran 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, indicated that entry prices have been at least equal to the reference price for two consecutive market days; whereas the conditions specified in the second indent of Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of these products originating in Iran can be abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1993/90 is hereby repealed.

Article 2

This Regulation shall enter into force on 18 July 1990.

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

Done at Brussels, 17 July 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 119, 11. 5. 1990, p. 43.

⁽³⁾ OJ No L 179, 12. 7. 1990, p. 36.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 31 January 1990

on State aid to SA Sucrerie Couplet, Brunehaut-Wez, Belgium — specific case

(Only the Dutch and French texts are authentic)

(90/379/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 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular Article 44 thereof,

Having given formal notice ⁽³⁾ to the parties concerned, in accordance with Article 93 (2) of the Treaty, to submit their comments,

Whereas :

I

By letter of 22 February 1989, the Belgian Permanent Representative notified the Commission, pursuant to Article 93 (3) of the Treaty, of a proposed aid measure in accordance with the Belgian Law of 17 July 1959 on economic growth, in favour of SA Sucrerie couplet, Brunehaut-Wez, for the construction of a 'pearl' sugar production unit (amount concerned : Bfrs 9 630 000, i.e. (ECU 221 006).

By a telex message of 21 March 1989 the Commission asked the Belgian authorities for additional information. The Belgian authorities replied by letter of 7 April 1989.

The measure is as follows :

The investment concerns the construction of a 'pearl' sugar production unit, a new type of production, and is intended for the manufacture of sugar products : 'pearl' sugar (sugar in a bead-like form) and 'fondant' sugar (icing sugar) used in the food industry (pastry-making and confectionery).

The manufacture of icing sugar follows on directly from that of 'pearl' sugar and constitutes an integral part of the 'pearl' sugar production unit.

According to the Belgian authorities, there is a growing demand for this type of product in the food industry (Liège waffles, gingerbread, sugar-coated bread, brioches, 'gateaux de Verviers', etc.). The recipient of the aid is SA Sucrerie couplet, Brunehaut-Wez, a family-owned factory with A and B quotas for the production of 21 796 100 kilograms of white sugar. It also markets by-products of the sugar manufacturing process, namely pulp, molasses, skimmings, etc. The investment will not affect production levels but will enable the company to diversify by marketing annually 2 000 tonnes of 'pearl' sugar and from this, with the addition of an anti-caking agent, 2 000 tonnes of 'fondant' sugar and 700 tonnes of icing sugar.

The manufacture of these new products requires the construction of new buildings and the purchase of new equipment.

The investment scheme concerns a total sum of Bfrs 80 278 446, broken down as follows :

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No C 297, 25. 11. 1989, p. 6.

	Bfrs	ECU
Buildings	15 065 802	345 727
Equipment	65 212 644	1 496 489
Total	80 278 446	1 842 216

The new premises are to be erected on land already owned by the company near the existing refinery; the value of the land is not therefore included in the 'buildings' part of the investment.

The investments in new equipment amount to Bfrs 48 762 644 (ECU 1 118 997) for the manufacture of 'pearl' sugar and to Bfrs 16 450 000 (ECU 377 492) for the manufacture of icing sugar.

The aid, in the form of a capital grant, is equivalent to 12 % of the cost of the investment. It is supplemented by a three-year period of exemption from property tax.

The Belgian authorities state that the investment will not lead to any increase in basic sugar production. It is simply a means of disposing of that sugar in the form of products which they believe to be in growing demand. In addition, the Belgian authorities consider that this measure will help the refinery to adapt to new technologies and to diversify into the production of a technically more advanced product in a sector which is currently experiencing serious outlet difficulties.

II

1. The Commission considered that:

- the investment in question must be regarded as a means of achieving a more advanced stage in the sugar-manufacturing process: it is intended to enable the sugar refinery to manufacture a specific end product, in this case, 'pearl' sugar,
- the aid is earmarked for a sector in which, generally speaking, there is overproduction,
- investment by sugar undertakings for the production of sugar (in whatever form) must normally be financed by those undertakings from the processing margin of which all community sugar manufacturers are assured when Community prices are fixed each year, in the light of consumer prices for the various types of sugar,
- accordingly, any investment subsidy granted at any stage of sugar production would confer an unwarranted advantage on the recipients and discriminate against those who do not receive it,
- in the light of the above, the granting of fresh investment aid in this sector is regarded in principle as both

unnecessary and unlikely to help the development or operation of the sugar sector,

- this measure does not, therefore, qualify under any of the exceptions provided for in Article 92 (3) and is incompatible with the common market.

2. Therefore, by letter of 4 July 1989, the Commission informed the Belgian Government that it had decided to initiate, in respect of the aid in question, the procedure provided for in Article 93 (2).

Under this procedure, the Commission gave the Belgian Government notice to submit its comments.

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

III

By letter of 17 July 1989, the Belgian Government replied to the Commission's letter of notice. It submitted the following comments:

- the investment in question has absolutely no bearing on the sugar manufacturing process, but is simply intended to enable basic sugar to be processed into more advanced products. Sugar production will therefore not be increased, since that would aggravate overproduction in the sector as a whole,
- although the sector in question does, generally speaking, suffer from overproduction, this is not true in the case of the two specific applications targeted by the investment in question. On the contrary, the investment is for products intended to fill gaps in the market where demand is not satisfied. Therefore, by enabling the refinery to manufacture more advanced products the supply of which is insufficient, the investment should contribute to a reduction in the overall surplus in the sugar sector,
- it should be pointed out that the 'pearl' sugar hitherto supplied to firms by the sugar industry is manufactured by a caking process identical to the manufacture of lump sugar for direct human consumption. This process does not fully meet the technical specifications fixed by the industries using 'pearl' sugar,
- the process used by the company in question is quite new and represents a technological breakthrough in the manufacture of this product. With this newly developed process, the company will be able to supply a product which meets the quality standards required by the user industries as none of the traditional products currently on the market can,
- in addition, the physical hardness characteristics of the product which has been developed are such that it cannot be used for normal consumption and can be disposed of only through a very specific outlet which the market has to date been unable to supply satisfactorily,

- since the company can be classified as an SME (small or medium-sized enterprise) and given that, at national level, an almost monopolistic position is held by an integrated industrial group with a financial structure which cannot be compared to that of the promoter of the project in question, the investment will enable an independent producer to develop a specific product for a growing market outlet, achieving a qualitative improvement which will benefit the food industry throughout Europe.

IV

The arguments that :

- there will be no increase in the production of sugar products,
- the specialized product in question is not in surplus, and
- the product meets the technical requirements of the user industries, are not pertinent to the case in point.

The Commission does not argue that there will be an increase in the production of sugar products. Sugar production is regulated by the quota system and clearly the measure in question is not likely to alter that system. Nevertheless, the existence of strong specific demand for the products in question, which are so specialized, does not mean that granting the aid in question would lead to a lasting reduction in the existing sugar surplus ; there are many possibilities for substitution among the various types and presentations of sugar at consumer level.

In addition, if the company in question realizes this investment, it will be in a position to satisfy existing demand. This fact should guarantee the profitability of the investment even without the aid, since outlets for the new product are assured and it is therefore in the interest of the company to make the investment, if it considers it expedient.

Regarding the company's status as an SME, it should be noted that the product in question is part of the sugar sector. The fact that the company is a small business and that the process it will be using is technologically new and advanced cannot alter the position which the Commission has held consistently since 1972 regarding investment aids in the sugar sector.

Accordingly, the Commission finds no new factor enabling it to make an exception in this case to its consistent position not to authorize investment aids in the sugar sector ; this position was communicated to the Member States by letter of 1 February 1972 concerning its proposals for measures in the sugar sector. In that letter, the Commission advised the Member States of its view that investment aids in the sector could no longer be con-

sidered compatible with the common market. Its position was restated in a letter of 28 January 1977 to the Member States concerning the ban on aid for isoglucose. The Member States did not contest the Commission's position.

V

The Community market in sugar suffers from structural surpluses. In 1987/88, self-sufficiency was at 113,7 % ⁽¹⁾.

Total production in Belgium amounted to 805 000 tonnes in 1987/88, and could reach an estimated 925 000 tonnes in 1988/89.

In the 1987/88 marketing year, total intra-Community trade in unprocessed sugar (white or raw) amounted to :

(tonnes)		
	intra-Community	to/from Belgium
Imports	1 800 000	175 000
Exports	1 800 000	376 000

Trade between Belgium and the other Member States therefore constitutes a significant proportion of all intra-Community trade ; imports account for 22 % of Belgian production and exports for 47 %.

'Pearl' sugar and icing sugar as finished products are produced in most Member States.

The effect of the proposed aid measure would be to compound the pressures already exerted on intra-Community trade by the fact that Belgium is situated in an overproducing area of the Community ; it is the sixth largest sugar producer.

The company in question is a family-owned sugar refinery which is independent from the large sugar groups dominating the market.

The company's chief outlets and its sales in 1987/88 are summarized in the following table :

Sugar

	Quantity (kg)	Value (Bfrs)
National	7 510 755	227 340 497
EEC	267 860	8 079 107
Outside EEC	14 096 050	401 970 491
Total	21 874 665	637 390 095

⁽¹⁾ The agricultural situation in the Community — 1988 report.

VI

By virtue of Article 44 of Regulation (EEC) No 1785/81, Articles 92, 93 and 94 of the EEC Treaty apply to the production of and trade in the products covered by the aid in question.

The aid which is the subject of this Decision would give the company in question a special advantage as it would receive financial support from the Belgian Government, placing it in a more favourable position than operators not receiving it.

The aid would therefore distort competition between the recipient of the aid and other operators, both in the Belgian sugar sector and in the other Member States, who do not receive it.

It could adversely affect the quantities of these products imported into Belgium thereby affecting trade between Member States and distorting or being likely to distort competition.

The measure accordingly fulfils the criteria laid down in Article 92 (1), which provides that such aid is incompatible in principle with the common market.

VII

The exceptions to that rule, which are set out in Article 92 (2), are clearly not applicable in this case. In addition, the Belgian Government did not invoke these exceptions under the procedure provided for in Article 93 (2). The exceptions provided for in Article 93 (2). The exceptions provided for in Article 92 (3) refer specifically to the common European interest and not to the interest of individual sectors of the national economy. Such exceptions must be strictly interpreted when scrutinizing any regional or sectoral aid scheme or any individual case of application of general aid schemes.

They may be allowed only in cases where the Commission is able to establish that the aid is required in order to achieve one of the objectives set out in those provisions. To allow such exceptions in respect of aid which does not offer such guarantees would amount to allowing trade between the Member States to be affected and competition to be distorted without any justification from the

point of view of Community interest and would result in unfair advantage for certain Member States.

In the case in point the aid scheme does not offer such guarantees. The Belgian Government was unable to provide any justification, and the Commission could find none, showing that the aid in question fulfils the conditions required for the application of one of the exceptions set out in Article 92 (3).

It is not a measure intended to promote a project of common European interest as referred to in Article 92 (3) (b) in that, by virtue of its possible effect on trade, it is contrary to the common interest.

Nor is it a measure intended to remedy a serious disturbance in the economy of the Member State concerned, within the meaning of that provision.

As regards the exceptions provided for in Article 92 (3) (a) and (c) in the case of aid intended to encourage or facilitate the development of certain economic areas and certain economic activities, it should be pointed out that the aid cannot palliate existing difficulties caused by over-production in the sector. The granting of any investment aid in this sector would be detrimental to the smooth operation of the common organization of the markets in the sugar sector, since the organization does not distinguish between the different types and presentations of sugar, including those concerned in this case.

The fact that, according to the Belgian authorities, the product which is the subject of the aid, 'pearl' sugar, could at the present time supply unsatisfied demand cannot induce the Commission to make an exception to its practice regarding aid in this sector. As the Commission made clear when it initiated the procedure provided for in Article 93 (2), the fact that demand for the product is unsatisfied should in itself make the investment profitable without the help of State aid.

The aid in question is not likely to facilitate the development of an activity without affecting trade to an extent contrary to the common interest.

The aid cannot therefore be considered as meeting the conditions under which one of the exceptions provided for in Article 92 (3) (a) and (c) could be applied.

This measure is all the more incompatible because the investment aid in question would be granted alongside Community measures currently in force which require

that investment by sugar undertakings which is intended for the production of sugar (in any form) must in principle be financed by those undertakings from the processing margin of which all Community sugar manufacturers are assured when Community prices are fixed annually, in the light of consumer prices for the various types of sugar.

Accordingly, any investment subsidy granted at any stage of sugar production would constitute an unwarranted advantage to the recipients and discriminate against those who do not receive it.

The aid in question is therefore incompatible with the common market within the meaning of Article 92 of the EEC Treaty,

HAS ADOPTED THIS DECISION :

Article 1

The proposed aid measure, in accordance with the Belgian Law of 17 July 1959, in favour of SA Sucrerie

Couplet, Brunehaut-Wez, for the construction of a 'pearl' sugar production unit (amount concerned: Bfrs 9 630 000) is incompatible with the common market within the meaning of Article 92 of the EEC Treaty and the aid cannot be granted.

Article 2

The Belgian Government shall inform the Commission, within two months from notification of this Decision, of the measures taken to ensure compliance therewith.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 31 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 1561/90 of 7 June 1990 amending Regulation (EEC) No 3540/85 laying down detailed rules for the application of the special measures for peas, field beans and sweet lupins

(Official Journal of the European Communities No L 148 of 12 June 1990)

On page, Article 1, point 21, quoted matter, third indent of new Article 31b:

for: 'Zur Verwendung gemäß Artikel 16 Absatz 3 der Verordnung (EWG) Nr. 3540/85 in eine Eingangserklärung einzutragen oder zur Ausfuhr nach Drittländern',

read: 'Dazu bestimmt, Gegenstand einer Eingangserklärung zur Verwendung im Sinne von Artikel 16 Absatz 3 der Verordnung (EWG) Nr. 3540/85 zu sein oder in Drittländer ausgeführt zu werden'.

Corrigendum to Commission Decision No 1796/90/ECSC of 29 June 1990 on the suspension of customs duties and quantitative restrictions for products falling with the ECSC Treaty coming from the German Democratic Republic

(Official Journal of the European Communities No L 166 of 29 June 1990)

On page 6 Article 4 should read:

'Article 4

The measures set out in this Decision and any other necessary implementing rules shall be adopted according to the procedure provided for in Article 4 of Council Regulation (EEC) No 1794/90 (').

(') See page 1 of this Official Journal.'
