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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3549/90

of 20 November 1990

fixing the guide prices for the fishery products listed in Annex I (A), (D) and (E)
to Regulation (EEC) No 3796/81 for the 1991 fishing year

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products ⁽¹⁾, as last amended by Regulation (EEC) No 2886/89 ⁽²⁾, and in particular Article 10 (3) thereof,

Having regard to the proposal from the Commission,

Whereas Article 10 (1) and (2) of Regulation (EEC) No 3796/81 provides that a guide price shall be fixed for each of the products listed in Annex I (A), (D) and (E) to the Regulation at a level which will help to stabilize market prices and avoid the formation of surpluses in the Community; whereas that level must also help support producers' income and at the same time take account of consumers' interest;

Whereas the guide price shall be based on the average of prices as defined in Article 10 (2) of the said Regulation and on an assessment of production and demand prospects;

Whereas the application of the criteria laid down in Article 10 of the said Regulation and referred to above involves for the 1991 fishing year an increase for certain

products and the stabilization or decrease of prices for others compared with prices applicable during the current fishing year; whereas, in the absence of certain information concerning price trends for each fishing product with given commercial characteristics, consideration should be given to the relationship between the average weighted market prices recorded when the guide prices were fixed for the previous fishing year for these products, and the average weighted market prices recorded currently;

Whereas in accordance with Articles 169 and 356 of the Act of Accession of Spain and Portugal to the Community, a sixth approximation of guide prices must take place on 1 January 1991 for Atlantic sardines of the species *Sardina pilchardus*,

HAS ADOPTED THIS REGULATION:

Article 1

The guide prices for the fishing year from 1 January to 31 December 1991 for the products listed in Annex I (A), (D) and (E) to Regulation (EEC) No 3796/81 and the categories to which they relate are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 20 November 1990.

For the Council
The President
C. VIZZINI

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 282, 2. 10. 1989, p. 1.

ANNEX

Species	Commercial specifications (1)			Guide price (ECU/tonne)
	Freshness category	Size	Presentation	
1. Herrings of the species <i>Clupea harengus</i>	Extra, A	1	Whole fish	From 1 January to 31 July 1991 and from 1 October to 31 December 1991 } 264 From 1 August to 30 September 1991 } 241
2. Sardines of the species <i>Sardina pilchardus</i>				
(a) Atlantic				
— Member States other than Spain and Portugal	Extra	3	Whole fish	477
— Spain, Portugal	Extra	3	Whole fish	394
(b) Mediterranean	Extra	3	Whole fish	459
3. Piked dogfish (<i>Squalus acanthias</i>)	Extra, A	2	Whole fish Gutted fish with head }	869
4. Catshanks (<i>Scyliorhinus</i> spp.)	Extra, A	1	Whole fish Gutted fish with head }	766
5. Redfish (<i>Sebastes</i> spp.)	A	2	Whole fish	907
6. Cod of the species <i>Gadus morhua</i>	A or A	2 3	Gutted fish with head Gutted fish with head }	1 267
7. Coalfish (<i>Pollachius virens</i>)	A or A	2 3	Gutted fish with head Gutted fish with head }	654
8. Haddock (<i>Melanogrammus aeglefinus</i>)	A or A	2 3	Gutted fish with head Gutted fish with head }	922
9. Whiting (<i>Merlangus merlangus</i>)	A or A	2 3	Gutted fish with head Gutted fish with head }	815
10. Ling (<i>Molva</i> spp.)	Extra, A	1, 2	Gutted fish with head	938
11. Mackerel of the species <i>Scomber scombrus</i>	Extra or A	1 2	Whole fish Whole fish	264
12. Mackerel of the species <i>Scomber japonicus</i>	Extra or A	1 2	Whole fish Whole fish	323
13. Anchovies (<i>Engraulis</i> spp.)	Extra	2	Whole fish	933

Species	Commercial specifications ⁽¹⁾			Guide price (ECU/tonne)
	Freshness category	Size	Presentation	
14. Plaice (<i>Pleuronectes platessa</i>)	A	2	Gutted fish with head	{ From 1 January to 30 April 1991 } 774
	or A	3	Gutted fish with head	{ From 1 May to 31 December 1991 } 1 055
15. Hake of the species <i>Merluccius merluccius</i>	A	1	Gutted fish with head	3 018
16. Megrim (<i>Lepidorhombus</i> spp.)	Extra, A	1, 2	Whole fish, gutted fish with head	1 906
17. Ray's bream (<i>Brama</i> spp.)	Extra, A	1	Whole fish	1 560
18. Monkfish (<i>Lophius</i> spp.)	Extra, A	2, 3	Whole, gutted, with head	2 142
	Extra, A	2, 3	Without head	5 040
19. Shrimps of the species <i>Crangon crangon</i>	A	1	Simply boiled in water	1 639
20. Edible crab (<i>Cancer pagurus</i>)	—	1	Whole	1 500
21. Norway lobster (<i>Nephrops norvegicus</i>)	E, A	1, 2	Whole	4 400
	E, A	2	Tails	8 610

⁽¹⁾ The freshness categories, sizes and presentation are defined pursuant to Article 2 of Regulation (EEC) No 3796/81.

COUNCIL REGULATION (EEC) No 3550/90**of 20 November 1990****fixing the guide prices for the fishery products listed in Annex II to Regulation (EEC) No 3796/81 for the 1991 fishing year**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products⁽¹⁾, as last amended by Regulation (EEC) No 2886/89⁽²⁾, and in particular Article 15 (5),

Having regard to the proposal from the Commission,

Whereas Article 15 (1) of Regulation (EEC) No 3796/81 provides that a guide price shall be fixed annually for each of the products or groups of products listed in Annex II to that Regulation;

Whereas, according to the data available at present concerning prices for the products in question and the

criteria laid down in Article 10 of that Regulation, these prices should be increased, maintained and increased according to the species for the 1991 fishing year,

HAS ADOPTED THIS REGULATION:

Article 1

The guide prices for the fishing year 1 January to 31 December 1991 for the products listed in Annex II to Regulation (EEC) No 3796/81 and the categories to which they relate are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 20 November 1990.

For the Council

The President

C. VIZZINI

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 282, 2. 10. 1989, p. 1.

ANNEX

(ECU/tonne)		
Group of products	Commercial specifications	Guide price
1. Sardines of the species <i>Sardina pilchardus</i>	Frozen, in lots or in original packages containing the same products	389
2. Sea-bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.)	Frozen, in lots or in original packages containing the same products	1 364
3. Squid of the species <i>Loligo patagonica</i>	Frozen, not cleaned, in original packages containing the same products	1 021
4. Squid (<i>Ommastrephes sagittatus</i>)	Frozen, not cleaned, in original packages containing the same products	807
5. <i>Illex argentinus</i>	Frozen, not cleaned, in original packages containing the same products	809
6. Cuttlefish of the species <i>Sepia officinalis</i> , <i>Rossia macrosoma</i> and <i>Sepiola rondeletti</i>	Frozen, in original packages containing the same products	1 642
7. Octopus (<i>Octopus</i> spp.)	Frozen, in original packages containing the same products	1 323

COUNCIL REGULATION (EEC) No 3551/90

of 20 November 1990

fixing the Community producer price for tuna intended for the industrial manufacture of products falling within CN code 1604 for the 1991 fishing year

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products⁽¹⁾, as last amended by Regulation (EEC) No 2886/89⁽²⁾, and in particular Article 17 (3) thereof,

Having regard to the proposal from the Commission,

Whereas Article 17 (4) of Regulation (EEC) No 3796/81 provides that a Community producer price shall be fixed for tunas (of the genus *Thunnus*), skipjack or stripe-bellied bonito (*Euthynnus (Katsuwonus) pelamis*) and other species of the genus *Euthynnus* intended for the industrial manufacture of products falling within CN code 1604;

Whereas, on the basis of the criteria laid down in Article 17 (2) of the abovementioned Regulation, the price for the 1991 fishing year should be decreased,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer price for the fishing year 1 January to 31 December 1991 for tunas (of the genus *Thunnus*), skipjack or stripe-bellied bonito (*Euthynnus (Katsuwonus) pelamis*) and other species of the genus *Euthynnus* for the industrial manufacture of products falling within CN code 1604 and the category to which it relates are hereby fixed as follows:

(ECU/tonne)		
Product	Commercial specifications	Community producer price
Yellowfin tunas (<i>Thunnus albacares</i>)	Whole, weighing more than 10 kg each	1 152

Article 2

This Regulation shall enter into force on 1 January 1991.

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

Done at Brussels, 20 November 1990.

For the Council

The President

C. VIZZINI

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.⁽²⁾ OJ No L 282, 2. 10. 1989, p. 1.

COMMISSION REGULATION (EEC) No 3552/90

of 10 December 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 2205/90 ⁽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 the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 7 December 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 11 December 1990.

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

Done at Brussels, 10 December 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 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 167, 30. 6. 1990, p. 8.

ANNEX

to the Commission Regulation of 10 December 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	29,58	141,44 ⁽²⁾ ⁽³⁾
0712 90 19	29,58	141,44 ⁽²⁾ ⁽³⁾
1001 10 10	24,85	199,74 ⁽¹⁾ ⁽⁵⁾
1001 10 90	24,85	199,74 ⁽¹⁾ ⁽⁵⁾
1001 90 91	29,99	166,71
1001 90 99	29,99	166,71
1002 00 00	55,10	156,16 ⁽⁶⁾
1003 00 10	46,40	148,84
1003 00 90	46,40	148,84
1004 00 10	38,04	145,90
1004 00 90	38,04	145,90
1005 10 90	29,58	141,44 ⁽²⁾ ⁽³⁾
1005 90 00	29,58	141,44 ⁽²⁾ ⁽³⁾
1007 00 90	46,40	145,28 ⁽⁴⁾
1008 10 00	46,40	62,37
1008 20 00	46,40	127,62 ⁽⁴⁾
1008 30 00	46,40	73,25 ⁽⁵⁾
1008 90 10	⁽⁷⁾	⁽⁷⁾
1008 90 90	46,40	73,25
1101 00 00	55,84	247,24
1102 10 00	90,99	232,48
1103 11 10	51,84	323,40
1103 11 90	59,40	266,11

⁽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 3553/90

of 10 December 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 2205/90⁽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 the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 7 December 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 11 December 1990.

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

Done at Brussels, 10 December 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 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 167, 30. 6. 1990, p. 11.

ANNEX

to the Commission Regulation of 10 December 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 12	1st period 1	2nd period 2	3rd period 3
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	24,43	24,43	24,43
1001 90 99	0	24,43	24,43	24,43
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	4,76
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	34,21	34,21	34,21

B. Malt

CN code	(ECU/tonne)				
	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4
1107 10 11	0	43,49	43,49	43,49	43,49
1107 10 19	0	32,49	32,49	32,49	32,49
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 3554/90

of 10 December 1990

adopting provisions for the establishment of the list of vessels exceeding eight metres length overall which are permitted to fish for sole within certain areas of the Community using beam trawls of an aggregate length exceeding nine metres

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Article 1

Having regard to Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources⁽¹⁾, as last amended by Regulation (EEC) No 4056/89⁽²⁾, and in particular Article 15 thereof,

Whereas Article 9 (3) (c) of Council Regulation (EEC) No 3094/86 provides for the establishment of an annual list of vessels exceeding eight metres length overall authorized to fish for sole inside the zones mentioned in part (a) of that paragraph using beam trawls of which the aggregate beam length exceeds nine metres, and paragraph 5 of the said Article 9 provides for the adoption of detailed rules for the implementation of this provision;

Whereas the list is to consist of those vessels which appear on the list provided for in Article 9 (3) (b) of the abovementioned Regulation and for which the basic activity is the fishing for shrimps *Crangon* spp.;

Whereas the list of vessels provided for in Article 9 (3) (b) of the abovementioned Regulation was established by Commission Regulation (EEC) No 55/87 of 30 December 1986 establishing the list of vessels exceeding eight metres length overall authorized to fish using beam trawls within certain areas of the Community⁽³⁾, as last amended by Regulation (EEC) No 3539/90⁽⁴⁾;

Whereas it is necessary to lay down detailed rules for the establishment and modification of the list;

Whereas it is necessary to define the criteria for determining whether the primary activity of a vessel is fishing for shrimps;

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

1. The list of vessels authorized by virtue of Article 9 (3) (c) of Regulation (EEC) No 3094/86 to use beam trawls whose aggregate length exceeds nine metres inside the zones mentioned in part (a) of the said paragraph, shall be established each year by the Commission.

2. The list shall record those vessels exceeding eight metres length overall:

- which appear on the list of vessels authorized to fish using beam trawls in certain areas of the Community, which has been established pursuant to the provisions of Article 9 (3) (b) of Regulation (EEC) No 3094/86, and
- whose primary activity is fishing for shrimps *Crangon* spp.

3. Vessels whose primary activity is fishing for shrimps are those vessels which have permanently installed on board a boiler suitable for the processing of shrimps and a sieve designed to separate juvenile flatfish from shrimps, and:

- which fished for shrimps for more than half of the time spent at sea during a representative period of 12 consecutive months within the two years preceding the date of entry into force of the list concerned, or
- whose income from the sale of shrimps during a representative period of 12 consecutive months within the two years preceding the date of entry into force of the list concerned, calculated as a proportion of the total first-hand sales, constituted 50 % more of their earnings, or
- whose total landings during a representative period of twelve consecutive months within the two years preceding the date of entry into force of the list concerned included 50 % or more by weight of shrimps.

In the case of a vessel replacing another vessel on the list, primary activity may be proved by taking into account the activity of the replaced vessel during the representative period concerned.

4. Member States shall verify that vessels included on the list comply with the conditions set out in paragraphs 2 and 3 and shall, if necessary, notify the Commission of a request for modification of the list in accordance with Article 2.

⁽¹⁾ OJ No L 288, 11. 10. 1986, p. 1.

⁽²⁾ OJ No L 389, 30. 12. 1989, p. 75.

⁽³⁾ OJ No L 8, 10. 1. 1987, p. 1.

⁽⁴⁾ OJ No L 344, 8. 12. 1990, p. 10.

Article 2

1. When it proves necessary to include, exclude or replace a vessel on the list in accordance with the conditions set out in Article 1, or to amend the information concerning a vessel included on the list, the Member State whose flag the vessel concerned flies or in which it is registered shall present a request for modification to the Commission.

However, where the modification involves a change of flag or country of registration the request shall be made by the Member State whose flag the vessel flies or in which it is registered after the change.

2. A request to include, exclude or replace a vessel on the list, shall include all information necessary to evaluate its compliance with the conditions set out in Article 1. It shall also include the name of the vessel, its external identification letters and numbers, its port of registry, its

radio call sign, the make and type of engine and its engine power in kW.

When the Commission establishes that the request is in conformity with the conditions set out in Article 1, it shall modify the list with effect from a date which it shall determine.

3. In the case of a request for an amendment of the information concerning a vessel on the list, including the Member State whose flag the vessel flies or in which it is registered, the Commission shall immediately notify the amendments to all Member States and shall subsequently include the amendment in the list which it establishes for the following year.

Article 3

This Regulation shall enter into force on the day following that 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, 10 December 1990.

For the Commission

Manuel MARÍN

Vice-President

COMMISSION REGULATION (EEC) No 3555/90**of 10 December 1990****on the issue of import licences for high-quality fresh, chilled or frozen beef and veal**

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

Having regard to Council Regulation (EEC) No 3891/89 of 11 December 1989 opening a Community tariff quota for high-quality fresh, chilled or frozen meat of bovine animals falling within CN codes 0201 and 0202 and for products falling within CN codes 0206 10 95 and 0206 29 91 (1990) (1), and in particular Article 2 thereof,

Whereas Commission Regulation (EEC) No 3948/89 of 20 December 1989 laying down detailed rules for the application of import arrangements provided for by Council Regulations (EEC) No 3891/89 and (EEC) No 3892/89 in the beef and veal sector (2) provides in Article 7, that applications for and the issue of import licences for the meat referred to in Article 1 (1) (d) thereof are to be effected in accordance with the provisions of Articles 12 and 15 of Commission Regulation (EEC) No 2377/80 of 4 September 1980 on special detailed rules for the application of the system of import and export licences in the beef and veal sector (3), as last amended by Regulation (EEC) No 2996/90 (4);

Whereas Article 1 (1) (d) of Regulation (EEC) No 3948/89 fixes the amount of high-quality fresh, chilled or frozen

beef and veal originating in and imported from the United States of America and Canada which may be imported on special terms in 1990 at 10 000 tonnes;

Whereas it should be recalled that licences issued pursuant to this Regulation will, throughout the period of validity, be open for use only in so far as provisions on health protection in force permit,

HAS ADOPTED THIS REGULATION:

Article 1

All applications for import licences from 1st until 5th December 1990 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 1 (1) (d) of Regulation (EEC) No 3948/89 shall be met in full.

Article 2

This Regulation shall enter into force on 11 December 1990.

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

Done at Brussels, 10 December 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

(1) OJ No L 378, 27. 12. 1989, p. 19.

(2) OJ No L 379, 28. 12. 1989, p. 32.

(3) OJ No L 241, 13. 9. 1980, p. 5.

(4) OJ No L 286, 18. 10. 1990, p. 17.

COMMISSION REGULATION (EEC) No 3556/90

of 10 December 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 market in sugar⁽¹⁾, as last amended by Regulation (EEC) No 1069/89⁽²⁾, and in particular Article 16 (8) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 (1) of Regulation (EEC) No 1785/81 provides for charging a levy on imports of the products listed in Article 1 (1) of that Regulation;

Whereas the import levy on white sugar and raw sugar must be equal to the threshold price less the cif price; whereas the threshold price for each of these products was fixed by Council Regulation (EEC) No 1313/90 of 14 May 1990 fixing, for the 1990/91 marketing year, the derived intervention prices for white sugar, the intervention price for raw sugar, the minimum prices for A and B beet, the threshold prices, the amount of compensation for storage costs and the prices to be applied in Spain and Portugal⁽³⁾;

Whereas the prices fixed by the Council have been reduced by Commission Regulation (EEC) No 1738/90⁽⁴⁾ establishing the prices and amounts fixed in ecus by the Council in the sugar sector and reduced as a result of the monetary realignment of 5 January 1990;

Whereas the cif price for raw sugar and white sugar is calculated by the Commission for a Community frontier crossing point which was fixed at Rotterdam by Regulation (EEC) No 431/68 of the Council 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 this price must be based on the most favourable purchasing opportunities on the world market established for each product on the basis of quotations or prices on

that market adjusted for any deviation from the standard quality for which the threshold price is fixed; whereas the standard quality for raw sugar was defined by Regulation (EEC) No 431/68 and that for white sugar by Regulation (EEC) No 793/72⁽⁶⁾;

Whereas, when the most favourable purchasing opportunities on the world market are being established, the Commission must take account of all available information on offers on the world market, on quotations on the exchanges which are important for world trade, on prices recorded on important third-country markets, and on sales concluded in international trade of which it has knowledge either directly or through the agency of the Member States;

Whereas, however, pursuant to Regulation (EEC) No 784/68 of the Commission of 26 June 1968 laying down detailed rules for calculating cif prices for white sugar and raw sugar⁽⁷⁾, the Commission must disregard information if the goods concerned are not of sound and fair marketable quality or if the price quoted in an offer relates to small quantities and is not representative of the market; whereas offer prices which can be assumed not to be representative of the actual market trends must also be disregarded;

Whereas any offer or prices taken into consideration which are not for goods delivered in bulk cif Rotterdam must be adjusted; whereas when this adjustment is being made account must be taken of the difference in the cost of transporting the goods between the port of loading and the port of destination and between the port of loading and Rotterdam; whereas, if the price or the offer relates to goods in bags, it must be reduced by ECU 0,73 per 100 kilograms under the terms of Article 4 of Regulation (EEC) No 784/68;

Whereas, if information on sugar of the standard quality is to be comparable, the price increases or reductions fixed pursuant to Article 15 of Regulation (EEC) No 1785/81 must be added to or deducted from the offers taken into consideration in the case of white sugar; whereas, in the case of raw sugar, the corrective factors provided for in Article 5 of Regulation (EEC) No 784/68 must be applied;

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 132, 23. 5. 1990, p. 3.

⁽⁴⁾ OJ No L 161, 27. 6. 1990, p. 27.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 94, 21. 4. 1972, p. 1.

⁽⁷⁾ OJ No L 145, 27. 6. 1968, p. 10.

Whereas, pursuant to Article 7 of Regulation (EEC) No 784/68, a special cif price may be established for sugar which has been specially treated or specially packed if the offer price for such sugar is lower than the cif price established pursuant to the provisions referred to above;

Whereas a cif price may, by way of exception, be left unchanged for a limited period if the offer price which served as a basis for the previous calculation of the cif price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the cif price;

Whereas the levy is altered only if the variation in the elements used to calculate it would entail an increase or a reduction of not less than ECU 0,24 per 100 kilograms in relation to the levy previously fixed;

Whereas, in accordance with Article 21 (1) of Regulation (EEC) No 1785/81, the nomenclature provided for in this Regulation is incorporated in the Common Customs Tariff;

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 subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽¹⁾, as last amended by Regulation (EEC) No 2205/90 ⁽²⁾,

- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 7 December 1990;

Whereas it follows from applying these provisions that the levies for white sugar and raw sugar should be as 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 11 December 1990.

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

Done at Brussels, 10 December 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽²⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 10 December 1990 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	39,37 ⁽¹⁾
1701 11 90	39,37 ⁽¹⁾
1701 12 10	39,37 ⁽¹⁾
1701 12 90	39,37 ⁽¹⁾
1701 91 00	44,97
1701 99 10	44,97
1701 99 90	44,97 ⁽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.

Information on the date of entry into force of an Agreement between the European Economic Community and Mauritius on fishing off Mauritius ⁽¹⁾

This Agreement between the European Economic Community and Mauritius was signed in Brussels on 29 November 1990.

This Agreement therefore enters into force, in accordance with Article 13 thereof, on 1 December 1990.

⁽¹⁾ OJ No L 159, 10. 6. 1989, p. 1.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 February 1990

concerning a financial measure taken by the Federal Republic of Germany in respect of the coal industry in 1989 and a supplementary financial measure in respect of the coal industry in 1988

(Only the German text is authentic)

(90/632/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 2 (1) and 10 thereof,

Whereas :

I

In its letter of 25 July 1989 the Government of the Federal Republic of Germany informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the compensatory amount to be paid in respect of 1989 to electricity generators using Community coal. This compensatory amount is financed through a compensation fund (*Ausgleichsfonds*) set up under the third Electricity-from-coal Law.

The Commission has also been informed that, for 1988 and 1989, the final accounts for the availabilities of the compensation fund based on revenue collected by applying the rate of 7,25 % for 1988 and 8,5 % for 1989 show they will exceed the amounts authorized by Commission Decision 89/296/ECSC⁽²⁾ for 1988 and those notified on 25 July 1989 for 1989.

The sums in question, financed through the 'Kohlepfennig' levy system, amount to :

- DM 5 600 million for the year 1989, of which DM 5 200 million are accounted for by current expenditure in 1989,
- DM 200 million supplementing the sum already authorized for 1988, bringing the total amount accounted for by current expenditure in 1988 to DM 4 900 million.

II

The objective of the compensation fund pursuant to the third Electricity-from-coal Law is partially to offset the price difference, in respect of 11,5 million tce (tonnes of coal equivalent) between Community coal and imported coal and, in respect of 23 million tce, between Community coal and fuel oil.

This compensation system is applied to an annual volume of the order of 34,5 million tce of Community coal.

It is a measure relating to sales of coal which, even if it is not financed directly from public funds, is nevertheless paid for through levies that are obligatory as a result of government action.

The scheme also confers an economic advantage on coal undertakings. It therefore constitutes indirect aid to the coal industry within the meaning of Article 1 (1) of Decision No 2064/86/ECSC.

The Commission must therefore deliver an opinion on the scheme pursuant to Article 10 (2) of that Decision.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 116, 28. 4. 1989, p. 52.

III

The amount of indirect aid to the coal industry since the entry into force of the third Electricity-from-coal Law totalled nearly DM 30 000 million by 31 December 1988.

By Decision 89/296/ECSC the Commission authorized an amount of DM 4 700 million for 1988. According to the latest information, the amount paid out was increased by DM 200 million when the resources of the fund turned out to be greater than originally estimated.

The indirect aid planned for 1989 shows an increase of about 14 % over the preceding year.

IV

The trend observed over recent years must be seen in the light of the objectives of Decision No 2064/86/ECSC, in particular those set out in Article 2 (1) thereof,

It should be noted that the Federal Republic's third Electricity-from-coal Law specifies among its objectives for coal only the stabilization of production, but does not include the objectives stated in Article 2 (1), and notably those of improving competitiveness or creating new capacities that are economically viable.

Automatically granting aid to coal produced in the quantities stipulated by the Law has the effect of stimulating investments to maintain capacities that offer no guarantee of achieving economic viability.

Finally, the declared objectives of the Law do not include as a priority the solution of the social and regional problems stemming from the changes in the coal industry.

The Commission nevertheless considered in the past that such aid should mitigate the social and regional problems of the industry and that its abrupt abolition would merely exacerbate them.

V

As the Decision is a temporary measure expiring on 31 December 1993 and as it is essential to secure an economically viable future for the Community's coal industry, it must be remembered that for 1988 the Commission authorized, under Article 1 of Decision 89/296/ECSC, the compensatory amounts to be paid to the electricity producers, for the following reasons:

- their immediate abolition would aggravate the social and regional problems stemming from changes in the industry,
- and
- so that they can help to improve competitiveness in the industry, they ought to be progressively reduced, and supported by a plan for restructuring, modernizing and rationalizing the coal industry.

VI

It turns out that the *de facto* and *de jure* circumstances which prompted the Commission to adopt Decision 89/296/ECSC for the year 1988 have not changed in 1989 in such a way as to justify any increase in the compensatory payments in 1989.

On the country, compared with the situation on the energy market in the Federal Republic of Germany in 1988, the trend already observed and foreseeable for 1989 on that market is characterized rather by rising prices for reference fuels, namely fuel oil and imported coal.

Moreover, the new level of tax on fuel oil for power stations has reinforced this trend in the Federal Republic of Germany.

Under these circumstances, application of the parameters laid down in the third Electricity-from-coal Law may not give rise to compensatory payment for 1989 in excess of the amount authorized in Decision 89/296/ECSC, which nevertheless includes the additional compensatory amount of DM 200 million to be paid for 1988 as additional aid resulting from bringing the estimate into line with the actual figure based on receipts from application of a levy rate of 7,25 %.

This Decision may not be taken to imply any prior appreciation of the compatibility with the ECSC and EEC Treaties of the purchase contracts for German coal concluded by the electricity generating companies (*Jahrbundertvertrag*).

HAS ADOPTED THIS DECISION:

Article 1

The compensatory payment provided for in the third Electricity-from-coal Law shall be authorized for 1989 up to an amount of DM 4 900 million.

Article 2

An additional compensatory payment of DM 200 million shall be authorized for 1988.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 14 February 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

COMMISSION DECISION

of 14 February 1990

concerning a financial measure taken by the Federal Republic of Germany in respect of the coal industry in 1990

(Only the German text is authentic)

(90/633/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 Articles 2 (1) and 10 thereof,

Whereas :

I

In its letter of 3 January 1990, the Government of the Federal Republic of Germany informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the compensatory amount to be paid in respect of 1990 to the electricity generators using Community coal. This compensatory amount is financed through a compensation fund (*Ausgleichsfonds*) set up under the third Electricity-from-coal Law.

According to the notification from the Government of the Federal Republic of Germany, the sum in question, financed through the 'Kohlenpfennig' levy system, amounts to estimated revenue of DM 5 300 million for 1990, equivalent to a levy rate of 8,25 %, of which DM 4 900 million is for current expenditure in 1990.

II

The objective of the compensation fund pursuant to the third Electricity-from-coal Law is partially to offset the price difference, in respect of 11,5 million tce (tonnes of coal equivalent) between Community coal and imported coal and, in respect of 23 million tce, between Community coal and fuel oil.

This compensation system is applied to an annual volume of the order of 34,5 million tce of Community coal.

It is a measure relating to sales of coal which, even if it is not financed directly from public funds, is nevertheless paid for through levies made obligatory by government action.

In addition, the scheme confers an economic advantage on coal undertakings. It therefore constitutes indirect aid to the coal industry within the meaning of Article 1 (1) of Decision No 2064/86/ECSC. The Commission must therefore deliver an opinion on the scheme pursuant to Article 10 (2) of the Decision.

III

The amount of indirect aid to the coal industry since the entry into force of the third Electricity-from-coal Law totalled nearly DM 35 000 million by 31 December 1989.

By Decision 90/632/ECSC⁽²⁾ the Commission authorized the sum of DM 4 900 million for 1989.

The aid planned for 1990 totals DM 4 900 million.

IV

The trend observed over recent years must be seen in the light of the objectives of Decision No 2064/86/ECSC, in particular those set out in Article 2 (1) thereof,

It should be noted that the Federal Republic's third Electricity-from-coal Law specifies among its objectives for coal only the stabilization of production, but does not include the objectives stated in Article 2 (1), and notably those of improving competitiveness or creating new capacities that are economically viable.

Automatically granting aid to coal produced in the quantities stipulated by the Law has the effect of stimulating investments to maintain capacities that offer no guarantee of achieving economic viability.

Finally, the declared objectives of the Law do not include as a priority the solution of the social and regional problems stemming from the changes in the coal industry.

The Commission nevertheless considered in the past that such aid should mitigate the social and regional problems of the industry and that its abrupt abolition would merely exacerbate them.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

⁽²⁾ See page 18 of this Official Journal.

V

As the Decision is a temporary measure expiring on 31 December 1993 and as it is essential to secure an economically viable future for the Community's coal industry. Community aids must be on a declining scale and must be backed up by the sort of restructuring, rationalizing and modernization plan required as a condition for the application of Decision 89/296/ECSC.

So that it could verify that the conditions for applying Decision No 2064/86/ECSC are met, the Commission, in Decision 89/296/ECSC of 30 March 1989 on financial aid by the Federal Republic of Germany to the coal industry in 1988 and additional financial aid to the coal industry in 1987 ⁽¹⁾, asked the Government of the Federal Republic of Germany to submit to it by 30 September 1989 a plan for reducing, over a period to 31 December 1993 at the latest, the compensatory payments made under the third law on electricity generated from coal and any other measure with equivalent effect.

VI

So far the Government of the Federal Republic of Germany has not submitted to the Commission any such plan for reducing compensatory payments.

As a result, the Commission is unable at this stage to gain an overall view on the course planned up to 31 December 1993 for compensatory payments made under the said law to assist the coal industry in the Federal Republic of Germany.

Nevertheless, the Commission learns from its information for the year 1990 only that whereas the levy rate for 1989 was 8,5 %, the rate adopted by the Federal Republic of Germany for 1990 is 8,25 %, a decline of 0,25 %. Furthermore, it has been decided to enter into the budget the compensation between mining areas (*Revierausgleich*) and the compensation for coal with low volatile matter content (*Niederflüchtige Kohle*).

In view of the foregoing considerations, the Commission considers that a start has been made on giving effect to the scaling-down required in Decision 89/296/ECSC.

Bringing compensation between coalfields and compensation for low-volatile coal into the budget is a step towards the more rational exploitation of resources.

Although the Commission takes note of these favourable trends, application of the parameters laid down in the third Electricity-from-coal Law, on the basis of the available data supplied by the German authorities, means that only a compensatory payment intended to cover content expenditure for 1990 up to an amount of DM 4 600 million can be authorized.

This Decision may not be taken to imply any prior appreciation of the compatibility with the provisions of the ECSC and EEC Treaties of the purchase contracts for German coal concluded by the electricity generating companies (*Jahrhundertvertrag*).

HAS ADOPTED THIS DECISION:

Article 1

The compensatory payment provided for under the third Electricity-from-coal Law is hereby authorized up to an amount of DM 4 600 million for 1990.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 14 February 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

⁽¹⁾ OJ No L 116, 28. 4. 1989, p. 52.

COMMISSION DECISION

of 28 March 1990

concerning financial measures taken by the United Kingdom in respect of the coal industry in the 1987/88, 1988/89 and 1989/90 financial years

(Only the English text is authentic)

(90/634/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 :

— a financial measure totalling £ 2 600 million reflecting the decline in the underlying value of British Coal Corporation's fixed assets.

The measures planned by the United Kingdom Government to support the coal industry comply with Article 1 (1) of the Decision. Consequently, under Article 10 of the Decision, the Commission must determine whether the measures are compatible with the objectives and criteria laid down in the Decision and with the proper fluctuation of the common market.

I

In its letter of 9 February 1990 the United Kingdom Government informed the Commission, in conformity with Decision No 2064/86/ECSC, of the measures it intends to take to give support to the coal industry in 1989/90.

The United Kingdom Government also informed the Commission in this letter of the measures it intends to take in respect of the 1988/89 and 1987/88 financial years.

The following aid is submitted for the approval of the Commission pursuant to the above Decision :

- aid totalling £ 800 million to cover operating losses of British Coal Corporation incurred in 1989/90,
- aid totalling £ 203 million and £ 374 million to cover operating losses of British Coal Corporation incurred in 1988/89 and 1987/88 respectively,
- aid totalling £ 500 million to British Coal Corporation for the constitution of a provision to cover compensation for hearing loss arising from production activities prior to 1989/9,
- aid totalling £ 200 million to British Coal Corporation for the constitution of a provision for concessionary supplies of coal, smokeless fuel or, in certain cases, a payment in kind to mineworkers on retirement, former mineworkers or their beneficiaries, in respect of production activities prior to 1990/91,

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

II

In Decisions 87/452/ECSC⁽²⁾, 88/294/ECSC⁽³⁾, 89/175/ECSC⁽⁴⁾ and 89/584/ECSC⁽⁵⁾, the Commission authorized aid to current production totalling £ 215,9 million, £ 14,5 million and £ 15,5 million for 1987/88, 1988/89 and 1989/90 respectively. The aid for 1987/88 comprised aid of £ 200 million to cover losses and aid of £ 15,9 million for occupational and geographical redeployment of workers. No aid to cover losses was granted for 1988/89 and 1989/90, although the forward financial accounts for the United Kingdom coal industry revealed a significant deficit. The measures notified and authorized in respect of these two financial years concerned exclusively aid for occupational and geographical redeployment of workers.

Considerable restructuring, rationalization and modernization has been carried out in the United Kingdom coal industry over the last five years. These measures have resulted in a reduction in the number of collieries from 169 in March 1985 to 75 in March 1990, and a drop in the British Coal Corporation workforce from 171 000 to 66 000 employees. Productivity in this period increased by over 75 %.

Closure of these pits has led to an appreciable increase in the Corporation's financial burdens in the form of exceptional depreciation. The industry has also had to bear a

⁽²⁾ OJ No L 241, 25. 8. 1987, p. 13.

⁽³⁾ OJ No L 125, 19. 5. 1988, p. 40.

⁽⁴⁾ OJ No L 64, 8. 3. 1989, p. 14.

⁽⁵⁾ OJ No L 326, 11. 11. 1989, p. 32.

growing share of its redundancy costs. As no aid was granted to cover losses during 1988/89 and 1989/90, these losses were covered through borrowings, since the Corporation had no capital or reserves.

The combination of high interest rates, the substantial proportion of short-term loans in overall borrowings and the increase in borrowings contracted has led to an increase in interest costs from £ 368 million in 1987/88 to almost £ 600 million in 1989/90.

The aid to cover operating losses in 1989/90 is granted for production totalling 96,6 million tonnes and does not exceed the difference, for each tonne produced, between foreseeable average costs and the foreseeable average returns, and therefore complies with Article 3 (1) of Decision No 2064/86/ECSC.

The aid to cover the losses notified by the United Kingdom Government in respect of 1987/88 and 1988/89 does not exceed the uncovered difference between the production costs incurred and the returns on the coal produced for the period to which the notification refers and is therefore compatible with Article 3 (4) of Decision No 2064/86/ECSC.

These measures contribute to the process of restructuring, rationalizing and modernizing the United Kingdom coal industry, by improving competitiveness through the closure of production capacities that offer no prospect of long-term economic viability, and the creation of new, economically viable capacities with the aid of new production techniques or new equipment. They are therefore compatible with the objectives specified in Article 2 (1) of the Decision.

III

The aid for a provision for claims for hearing loss arising from production activities prior to 1989/90 results from the obligation incumbent on British Coal Corporation to compensate workers and former workers who have suffered impaired hearing owing to noise at the workplace. In the past, this expenditure was booked on the basis of compensation claimed in the course of the year. In future, a provision will be made annually equal to the compensation to be paid subsequently from loss of hearing attributable to activity in the year in question, and will be an integral part of the production cost.

In order to permit transition to this new system, the United Kingdom Government proposes making a provision, through the grant of aid, totalling £ 500 million to cover potential compensation claims resulting from loss

of hearing prior to 26 March 1989. This sum will cover compensation going back more than 30 years in some cases, to a period where the Corporation employed over 470 000 miners compared with 66 000 miners in 1990.

The financial aid can therefore be divided into two categories:

- aid totalling £ 410 million concerning compensation for former workers made redundant in the course of the restructuring, rationalization and modernization process, and for retired workers from mines closed during this process which cannot therefore be linked to current production,
- aid totalling £ 90 million concerning workers in active employment for noise-induced hearing loss arising from activity prior to 26 March 1989, and retired workers from working mines, on which the Commission must give an opinion pursuant to Article 10 (2) of the Decision.

Pursuant to Article 8 of the Decision, the part of the aid covering compensation regarded as inherited liabilities is compatible with the common market provided that it does not exceed the costs. As the measure concerns making provision in the accounts, the United Kingdom Government will inform the Commission annually of the amount of compensation actually paid and the corresponding volume of aid.

The balance of £ 90 million related to current production facilities the establishment of new accounting practices that will make production costs more transparent and facilitate the implementation of restructuring, rationalization and modernization measures, and hence improve the competitiveness of the coal industry in conformity with the first indent of Article 2 (1) of Decision No 2064/86/ECSC.

IV

The Corporation is obliged to provide concessionary coal, smokeless fuel or, in certain cases, cash-in-lieu to employees, former employees or their beneficiaries under the terms of the 'National Concessionary Fuel Agreement for Mineworkers, Cokeworkers, Weekly Paid Industrial Staff and their Beneficiaries', concluded on 2 March 1984 by British Coal Corporation and the National Union of Mineworkers. For the period up to 31 March 1990, the cost of these supplies was booked as and when they were made. This system will be modified with effect from 1 April 1990 as part of a process of improving accounting practices.

The United Kingdom Government proposes to make a provision, through the grant of aid, totalling £.200 million covering 340 000 beneficiaries in order to take account of the inherited liabilities represented by concessionary fuel supplies to beneficiaries having left the industry, or after they leave the industry, for the period prior to 31 March 1990.

The liabilities this aid covers can be divided into two categories :

- aid totalling £ 300 million covering supply obligations in respect of 200 000 beneficiaries, concerning employees made redundant during the restructuring, rationalization and modernization process, and retired employees or their beneficiaries from mines closed during this process which cannot therefore be regarded as related to current production,
- aid totalling £ 700 million reflecting concessionary fuel obligations towards 50 000 retired employees from working mines and towards 72 000 active employees for that part of the deliveries to be made after their retirement in respect of their activity prior to 31 March 1990, or towards their beneficiaries, on which the Commission must give its opinion pursuant to Article 10 (2) of the Decision.

Pursuant to Article 8 of the Decision, the part of the aid covering compensation regarded as inherited liabilities is compatible with the common market provided that it does not exceed the costs. As the measure concerns making provision in the accounts, the United Kingdom Government will inform the Commission annually of the amount of compensation actually paid and the corresponding volume of aid.

The balance of £ 700 million related to current production facilities the establishment of new accounting practices that will make production costs more transparent and facilitate the implementation of restructuring, rationalization and modernization measures, and hence improve the competitiveness of the coal industry in conformity with the first indent of Article 2 (1) of Decision No 2064/86/ECSC.

V

The continuing decline in the market share of coal produced in the United Kingdom, the prospects for coal prices and the technical problems encountered in

deposits hitherto considered promising, suggest that over half of British Coal Corporation's assets must be written off.

Capital losses of £ 1 800 million on fixed assets are attributable to a drop of over 25 % in real terms in the coal prices obtained by the Corporation, and allowance for technical problems. The balance of £ 800 million has still to be confirmed in the light of technical, economic and geological studies in progress and the medium-term commercial prospects of the Corporation.

It therefore appears that, in the current circumstances, the Corporation cannot meet the break-even target in view of changes in the energy market and the long-term outlook.

The United Kingdom Government plans to make provision of £ 2 600 million to cover the decline in the underlying value of the Corporation's assets, in recognition of the fact that some of these assets will have a shorter life and lower earning power than originally expected, bringing the Corporation's outstanding borrowings more into line with the true value of its assets.

The measure notified by the United Kingdom Government cannot be regarded as provision of risk capital in accordance with standard corporate practice in a market economy, and therefore can be regarded as Community aid compatible with the proper functioning of the common market only if it helps to achieve one of the objectives specified in Article 2 (1) of the Decision.

The proposed aid will not only improve the transparency of the Corporation's accounting system and bring it into line with normal commercial standards, but more particularly it will avoid burdening collieries with good long-term prospects of achieving economic viability with interest costs related to uneconomic production capacities. In this respect the measure is compatible with the objective specified in the first indent of Article 2 (1) of the Decision.

According to the United Kingdom Government, the capital losses on fixed assets cannot be precisely evaluated until the detailed examination in progress on the future prospect of each colliery in the overall corporate strategy is completed.

Pending further information on the above matters, the Commission can rule only on a sum of £ 1 800 million corresponding to the loss of value already firmly established.

Apart from the aid to permit the Corporation to meet the cost of redundancies and other social costs of restructuring, rationalization and modernization of the coal industry, the United Kingdom Government has notified the Commission that it will not grant the Corporation any other type of aid in the coming financial years for as long as Decision No 2064/86/ECSC is applicable.

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The aid which is the subject of this Decision is therefore compatible with the proper functioning of the common market,

HAS ADOPTED THIS DECISION:

Article 1

The United Kingdom Government is hereby authorized to grant aid totalling £ 5 100 million to the United Kingdom coal industry for the 1989/90 financial year. The total amount of aid breaks down as follows:

- aid not exceeding £ 800 million to cover operating losses incurred by British Coal Corporation,
- aid to British Coal Corporation not exceeding £ 500 million for the constitution of a provision to cover compensation for hearing loss arising from production activities prior to the 1989/90 financial year,
- aid to British Coal Corporation not exceeding £ 2 000 million for the constitution of a provision for concessionary supplies of coal, smokeless fuel or, in certain cases, cash-in-lieu to mineworkers on retirement, former mineworkers and their beneficiaries, in respect of production activities prior to the 1990/91 financial year,

- a financial measure not exceeding £ 1 800 million reflecting the decline in the underlying value of British Coal Corporation's fixed assets.

Article 2

The United Kingdom Government is hereby authorized to grant British Coal Corporation aid not exceeding £ 577 million towards the uncovered difference between the coal production costs and returns in respect of the 1987/88 and 1988/89 financial years.

Article 3

The United Kingdom Government shall take steps to ensure that it is reimbursed for any overestimated expenditure or expenditure not effected concerning any of the items that are the subject of this Decision.

Article 4

The United Kingdom Government shall communicate to the Commission by 1 October 1990 the information relating to British Coal Corporation's business strategy.

Article 5

The United Kingdom Government shall notify the Commission annually of the payments made to the beneficiaries under the terms authorized in Article 1 of this Decision.

Article 6

This Decision is addressed to the United Kingdom Government.

Done at Brussels, 28 March 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission