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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 30/91

of 7 January 1991

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 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 3577/90⁽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 3844/90⁽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 4 January 1991;

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 3844/90 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 8 January 1991.

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

Done at Brussels, 7 January 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 367, 29. 12. 1990, p. 13.

ANNEX

to the Commission Regulation of 7 January 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levies
	Third country
0709 90 60	142,69 ⁽²⁾ ⁽³⁾
0712 90 19	142,69 ⁽²⁾ ⁽³⁾
1001 10 10	199,84 ⁽¹⁾ ⁽⁵⁾
1001 10 90	199,84 ⁽¹⁾ ⁽⁵⁾
1001 90 91	191,66
1001 90 99	191,66
1002 00 00	157,07 ⁽⁶⁾
1003 00 10	149,38
1003 00 90	149,38
1004 00 10	146,78
1004 00 90	146,78
1005 10 90	142,69 ⁽²⁾ ⁽³⁾
1005 90 00	142,69 ⁽²⁾ ⁽³⁾
1007 00 90	149,59 ⁽⁴⁾
1008 10 00	63,89
1008 20 00	125,50 ⁽⁴⁾
1008 30 00	74,77 ⁽⁷⁾
1008 90 10	⁽⁷⁾
1008 90 90	74,77
1101 00 00	282,34 ⁽⁸⁾
1102 10 00	233,92 ⁽⁸⁾
1103 11 10	322,73 ⁽⁸⁾
1103 11 90	303,83 ⁽⁸⁾

⁽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).

⁽⁸⁾ On importation into Portugal the levy is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3808/90.

COMMISSION REGULATION (EEC) No 31/91

of 7 January 1991

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 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 3577/90 ⁽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 3845/90 ⁽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 4 January 1991;

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

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 8 January 1991.

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

Done at Brussels, 7 January 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 367, 29. 12. 1990, p. 10.

ANNEX

to the Commission Regulation of 7 January 1991 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 1	1st period 2	2nd period 3	3rd period 4
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	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	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	3,27	3,20	3,19
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 1	1st period 2	2nd period 3	3rd period 4	4th period 5
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 32/91

of 7 January 1991

on the supply of various consignments of cereals as food aid

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

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1930/90 ⁽²⁾, and in particular Article 6 (1) (c) thereof,

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

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated to certain countries and beneficiary organizations 36 344 tonnes of cereals;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community

food aid ⁽⁴⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

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

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 7 January 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

ANNEX I**LOTS A and B**

1. **Operation Nos** ⁽¹⁾: 792/89 to 794/89 and 1008/90
2. **Programme**: Operation 792/89 to 794/89: 1989; Operation 1008/90: 1990
3. **Recipient** ⁽⁷⁾: Euronaid, Rhijngeesterstraatweg 40, PO Box 77, NL-2340 AB Oegstgeest
4. **Representative of the recipient** ⁽²⁾: see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: see Annex II
6. **Product to be mobilized**: milled rice (product code 1006 30 92 900)
7. **Characteristics and quality of the goods** ⁽³⁾ ⁽⁵⁾ ⁽⁶⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II.A.10)
8. **Total quantity**: 3 060 tonnes (7 344 tonnes of cereals)
9. **Number of lots**: 2 (A: 2 880 tonnes; B: 180 tonnes)
10. **Packaging and marking** ⁽⁸⁾ ⁽¹⁰⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II.B.1 (c))
Marking on the bags in letters at least 5 cm high: see Annex II
11. **Method of mobilization** ⁽¹¹⁾: the Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 1. — 28. 2. 1991
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 22. 1. 1991 at 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 29. 1. 1991 at 12 noon
 - (b) period for making the goods available at the port of shipment: 8. 2. — 10. 3. 1991
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽⁹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles; telex AGREC 22037 B or 25670 B
25. **Refund payable on request by the successful tenderer** ⁽⁹⁾: refund applicable on 1. 12. 1990, fixed by Commission Regulation (EEC) No 3459/90 (OJ No L 336, 1. 12. 1990, p. 16)

LOT C

1. **Operation No (¹):** 1047/90
2. **Programme:** 1990
3. **Recipient (²):** Mozambique
4. **Representative of the recipient (³):** COGROPA, Av. 25 de setembro 916 r/c, PO Box 308, Maputo, Mozambique (tel. 40 66 18; telex: 6370; fax: 20135).
5. **Place or country of destination:** Mozambique
6. **Product to be mobilized:** milled rice (product code 1006 30 92 900)
7. **Characteristics and quality of the goods (⁴) (⁵) (⁶):**
see list published in OJ No C 216, 14. 8. 1987, p. 3 (under IIA.10)
8. **Total quantity:** 6 000 tonnes (14 400 tonnes of cereals)
9. **Number of lots:** 1
10. **Packaging and marking (⁷):**
see list published in OJ No C 216, 14. 8. 1987, p. 3 (under IIB.1 (a))
marking on the bags in letters at least 5 cm high:
'ACÇÃO Nº 1047/90 / ARROZ BRANCO / COMUNIDADE EUROPEIA'
11. **Method of mobilization:** the Community market
12. **Stage of supply:** free at port of landing — landed
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:** Maputo
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage:** 1. to 28. 2. 1991
18. **Deadline for the supply:** 31. 3. 1991
19. **Procedure for determining the costs of supply:** tendering
20. **Date of expiry of the period allowed for submission of tenders:** 22. 1. 1991 at 12 noon
21. **In the case of a second invitation to tender:**
 - (a) deadline for the submission of tenders: 29. 1. 1991 at 12 noon
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 8. 2 to 10. 3. 1991
 - (c) deadline for the supply: 10. 4. 1991
22. **Amount of the tendering security:** ECU 5 per tonne
23. **Amount of the delivery security:** 10 % of the amount of the tender in ecus
24. **Address for submission of tenders (⁸):**
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles, telex AGREC 22037 B or 25670 B
25. **Refund payable on request by the successful tenderer (⁹):**
Refund applicable on 1. 12. 1990 fixed by Commission Regulation (EEC) No 3459/90 (OJ No L 336, 1. 12. 1990, p. 16)

LOT D

1. **Operation No⁽¹⁾**: 1046/90
2. **Programme**: 1990
3. **Recipient⁽²⁾**: Mozambique
4. **Representative of the recipient⁽²⁾**: COGROPA, Av. 25 de Setembro 916 r/c, PO Box 308; Maputo, Mozambique. tel. 4066/8; telex 6370; telefax 20135
5. **Place or country of destination**: Mozambique
6. **Product to be mobilized**: broken rice
7. **Characteristics and quality of the goods⁽³⁾⁽⁴⁾⁽⁵⁾**:
see list published in OJ No C 216 of 14. 8. 1987, p. 3 (under II.A.11)
8. **Total quantity**: 7 000 tonnes (14 000 tonnes of cereals)
9. **Number of lots**: 1
10. **Packaging and marking⁽⁶⁾**:
see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II.B.1 (a))
marking on the bags in letters at least 5 cm high:
'ACÇÃO Nº 1046/90 / ARROZ QUEBRADO / COMUNIDADE EUROPEIA'
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Maputo
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 1 — 28. 2. 1991
18. **Deadline for the supply**: 31. 3. 1991
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 22. 1. 1991
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 29. 1. 1991
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 8. 2 — 10. 3. 1991
 - (c) deadline for the supply: 10. 4. 1991
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders⁽⁷⁾**:
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, 200 rue de la Loi, B-1049 Bruxelles, telex AGREC 22037 B or 25670 B
25. **Refund payable on request by the successful tenderer⁽⁸⁾**:
Refund applicable on 4. 1. 1991

LOT E

1. **Operation No** ⁽¹⁾: 152/90
2. **Programme**: 1989
3. **Recipient** ⁽²⁾: League of Red Cross and Red Crescent Societies, Logistic Service, PO Box 372, CH-1211 Genève 19; telex 22555 LRCS CH, tel. 734 55 80, telefax 733-0395
4. **Representative of the recipient** ⁽²⁾: Délégation de la Ligue des sociétés de la Croix-Rouge et du Croissant-Rouge, c/o délégation régionale — 04, BP 2090, Abidjan 04
5. **Place or country of destination**: Ivory Coast
6. **Product to be mobilized**: milled rice (product code 1006 30 92 900)
7. **Characteristics and quality of the goods** ⁽³⁾ ⁽⁴⁾ ⁽¹²⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (under II.A.10)
8. **Total quantity**: 250 tonnes (600 tonnes of cereals)
9. **Number of lots**: 1
10. **Packaging and marking** ⁽⁵⁾: see list published in OJ No C 216, 14. 8. 1987, p. 3 (II.B.1 (c))
In 20-foot containers.
Marking on the bags in letters at least 5 cm high:
'ACTION N° 152/90 / a red cross / RIZ / DON DE LA COMMUNAUTÉ ÉCONOMIQUE EUROPÉENNE / ACTION DE LA LIGUE DES SOCIÉTÉS DE LA CROIX ROUGE, LICROSS / POUR DISTRIBUTION GRATUITE / DANANE'
11. **Method of mobilization**: Community market
12. **Stage of supply**: free at destination
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**:
Entrepôt de la Croix Rouge, Danane, Côte d'Ivoire
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 1 — 15. 2. 1991
18. **Deadline for the supply**: 31. 3. 1991
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 22. 1. 1991, at 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 29. 1. 1991, at 12 noon
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 8 — 22. 2. 1991
 - (c) deadline for the supply: 10. 4. 1991
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽⁶⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/58, rue de la Loi 200, B-1049 Bruxelles; telex: AGREC 22037 B or 25670 B
25. **Refund payable on request by the successful tenderer** ⁽⁷⁾: refund applicable on 1. 12. 1990 fixed by Commission Regulation (EEC) No 3459/90 (OJ No L 336, 1. 12. 1990, p. 16)

Notes:

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer:
- Lots A, B and E: see list published in OJ No C 227 of 7 September 1985, page 4,
 - Lots C and D: FSC DA CÂMARA, CP 1306, Maputo; tel. 74 40 93; telex 6-146 CCE-MO.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
- The radioactivity certificate must indicate the caesium-134 and -137 levels.
- The radioactivity certificate must be endorsed by the Egyptian Embassy in the country of origin. (Lot B)
- (⁴) In order not to overload the telex, tenders are requested to provide, before the date and time laid down in point 20 of the Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably:
- either by porter at the office referred to in point 24 of the Annex,
 - or by telecopier on one of the following numbers in Brussels:
 - 235 01 32,
 - 236 10 97,
 - 235 01 30,
 - 236 20 05.
- (⁵) The successful tenderer shall give the beneficiaries' representatives a health certificate at the time of delivery.
- (⁶) The successful tenderer shall give the beneficiaries' representatives a certificate of origin at the time of delivery.
- (⁷) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required and how they are to be distributed.
- (⁸) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 24. 7. 1989, p. 10) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of the Annex.
- (⁹) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (¹⁰) The successful tenderer has to submit to the recipient's agent a complete packing list of each container, specifying the number of bags belonging to each shipping number as specified in the invitation to tender.
- The successful tenderer has to seal each container with a numbered locktainer, the number of which is to be provided to the beneficiary's forwarder.
- Shipment to take place in 20-foot containers, conditions FCL/LCL. The supplier shall be responsible for the cost of making the containers available to the stack position of the container terminal at the port of shipment. The recipient shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal. The provision of the second subparagraph of Article 13 (2) of Regulation (EEC) No 2200/87 shall not apply.
- (¹¹) The supplier should send a duplicate of the original invoice to:
- MM De Keyzer & Schütz BV,
Postbus 1438,
Blaak 16,
NL-3000 BK Rotterdam.
- (¹²) The successful tenderer shall supply to the beneficiary or its representative a fumigation certificate at the time of delivery.

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

Designación del lote Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation du lot Designazione della partita Aanduiding van de partij Designação do lote	Cantidad total del lote (en toneladas) Totalmængde (tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale du lot (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Beneficiario Modtager Empfänger Δικαιούχος Beneficiary Bénéficiaire Beneficiario Begunstigde Beneficiário	País destinatario Modtagerland Bestimmungsland Χώρα προορισμού Recipient country Pays destinataire Paese destinatario Bestemmingsland País destinatário	Inscripción en el embalaje Emballagens påtegnig Aufschrift auf der Verpackung Ένδειξη επί της συσκευασίας Markings on the packaging Inscription sur l'emballage Iscrizione sull'imballaggio Aanduiding op de verpakking Inscrição na embalagem
A	2 880	A1 : 960	Euronaïd	Algérie	Action n° 792/89 / Riz / Algérie / Caritas B / 90289 / Alger / Don de la Communauté économique européenne / Pour distribution gratuite
		A2 : 960	Euronaïd	Algérie	Action n° 793/89 / Riz / Algérie / WCC / 90717 / Tindouf via Alger / Don de la Communauté économique européenne / Pour distribution gratuite
		A3 : 960	Euronaïd	Algérie	Action n° 794/89 / Riz / Algérie / OXFAM B / 90827 / Tindouf via Alger / Don de la Communauté économique européenne / Pour distribution gratuite
B	180		Euronaïd	Egypt	Action No 1008/90 / Rice / Egypt / Caritas Germany / 900445 / Cairo via Alexandria / Gift of the European Economic Community / For free distribution

COMMISSION REGULATION (EEC) No 33/91
of 7 January 1991
fixing the amount of the subsidy on oil seeds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 3577/90⁽²⁾, and in particular Article 27 (4) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture⁽³⁾, as last amended by Regulation (EEC) No 3709/90⁽⁴⁾,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed⁽⁵⁾, as last amended by Regulation (EEC) No 2206/90⁽⁶⁾, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 3866/90⁽⁷⁾, as amended by Regulation (EEC) No 6/91⁽⁸⁾;

Whereas it follows from applying the detailed rules contained in amended Regulation (EEC) No 3866/90 to the information known to the Commission that the amount of the subsidy at present in force should be altered to the amount set out in the Annexes hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The amount of the subsidy and the exchange rate referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83⁽⁹⁾ are as set out in the Annexes hereto.

Article 2

This Regulation shall enter into force on 8 January 1991.

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

Done at Brussels, 7 January 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 11.

⁽⁴⁾ OJ No L 358, 21. 12. 1990, p. 13.

⁽⁵⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 11.

⁽⁷⁾ OJ No L 367, 29. 12. 1990, p. 80.

⁽⁸⁾ OJ No L 1, 3. 1. 1991, p. 13.

⁽⁹⁾ OJ No L 266, 28. 9. 1983, p. 1.

ANNEX I

Aids to colza and rape seed other than 'double zero'

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
1. Gross aids (ECU):						
— Spain	0,000	0,000	0,000	0,000	0,000	0,000
— Portugal	29,100	28,668	28,747	29,025	28,748	28,748
— Other Member States	22,130	21,698	21,777	22,055	21,778	21,778
2. Final aids:						
Seed harvested and processed in:						
— Federal Republic of Germany (DM)	52,10	51,08	51,27	51,92	51,27	51,31
— Netherlands (Fl)	58,70	57,56	57,76	58,50	57,77	57,83
— BLEU (Bfrs/Lfrs)	1 074,55	1 053,57	1 057,41	1 070,91	1 057,46	1 057,46
— France (FF)	174,73	171,32	171,94	174,14	171,95	171,95
— Denmark (Dkr)	198,72	194,85	195,56	198,05	195,56	195,56
— Ireland (£ Irl)	19,447	19,068	19,137	19,381	19,138	19,138
— United Kingdom (£)	16,887	16,529	16,586	16,789	16,556	16,520
— Italy (Lit)	38 981	38 220	38 359	38 849	38 361	38 292
— Greece (Dr)	4 681,23	4 556,02	4 559,71	4 577,99	4 502,13	4 401,01
— in Spain (Pta)	44,15	0,00	0,00	26,59	0,00	0,00
— in Portugal (Esc)	6 081,48	5 991,90	6 008,52	6 061,72	6 004,14	5 979,39

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
1. Gross aids (ECU):						
— Spain	2,440	2,008	2,087	2,365	2,088	2,088
— Portugal	31,600	31,168	31,247	31,525	31,248	31,248
— Other Member States	24,630	24,198	24,277	24,555	24,278	24,278
2. Final aids:						
Seed harvested and processed in:						
— Federal Republic of Germany (DM)	57,98	56,97	57,15	57,81	57,15	57,20
— Netherlands (Fl)	65,33	64,19	64,40	65,13	64,40	64,46
— BLEU (Bfrs/Lfrs)	1 195,94	1 174,97	1 178,80	1 192,30	1 178,85	1 178,85
— France (FF)	194,47	191,06	191,68	193,88	191,69	191,69
— Denmark (Dkr)	221,17	217,30	218,00	220,50	218,01	218,01
— Ireland (£ Irl)	21,644	21,265	21,334	21,578	21,335	21,335
— United Kingdom (£)	18,836	18,478	18,535	18,738	18,505	18,469
— Italy (Lit)	43 385	42 624	42 763	43 252	42 764	42 695
— Greece (Dr)	5 238,49	5 113,29	5 116,98	5 135,25	5 059,39	4 958,27
— Spain (Pta)	426,39	362,82	372,78	408,83	368,08	347,29
— Portugal (Esc)	6 603,17	6 513,59	6 530,21	6 583,41	6 525,83	6 501,08

ANNEX III

Aids to sunflower seed

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
1. Gross aids (ECU):					
— Spain	29,659	29,787	29,914	29,889	30,212
— Portugal	38,584	38,715	38,846	38,837	39,151
— Other Member States	26,344	26,475	26,606	26,597	26,911
2. Final aids:					
(a) Seed harvested and processed in (1):					
— Federal Republic of Germany (DM)	62,02	62,33	62,64	62,61	63,35
— Netherlands (Fl)	69,88	70,23	70,57	70,55	71,38
— BLEU (Bfrs/Lfrs)	1 279,17	1 285,53	1 291,89	1 291,45	1 306,70
— France (FF)	208,00	209,04	210,07	210,00	212,48
— Denmark (Dkr)	236,57	237,74	238,92	238,84	241,66
— Ireland (£ Irl)	23,150	23,266	23,381	23,373	23,649
— United Kingdom (£)	20,081	20,178	20,275	20,241	20,486
— Italy (Lit)	46 404	46 634	46 865	46 849	47 402
— Greece (Dr)	5 557,38	5 566,06	5 579,51	5 516,17	5 586,87
— Portugal (Esc)	8 062,44	8 089,91	8 117,38	8 110,12	8 175,63
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	4 587,91	4 607,96	4 625,40	4 617,89	4 665,77
— in another Member State (Pta)	4 645,29	4 665,90	4 683,96	4 677,56	4 725,49

(1) For seed harvested in Member States other than Spain and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,0186140.

ANNEX IV

Exchange rate of the ecu to be used for converting final aids into the currency of the processing country when the latter is a country other than the country of production

(value of ECU 1)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
DM	2,042740	2,039870	2,037920	2,035930	2,035930	2,029730
Fl	2,303540	2,300540	2,297720	2,295470	2,295470	2,288120
Bfrs/Lfrs	42,315900	42,290100	42,255600	42,228700	42,228700	42,108200
FF	6,940460	6,937620	6,934610	6,931210	6,931210	6,926050
Dkr	7,888220	7,881520	7,877230	7,872720	7,872720	7,865100
£Irl	0,768947	0,768710	0,768758	0,768882	0,768882	0,769464
£	0,707806	0,709746	0,711313	0,712417	0,712417	0,714947
Lit	1 539,60	1 541,20	1 543,15	1 544,56	1 544,56	1 551,97
Dr	213,72900	215,91400	216,69900	220,13500	220,13500	227,62300
Esc	183,02300	183,39500	183,65900	184,30200	184,30200	186,10400
Pta	130,41200	130,86500	131,21500	131,56700	131,56700	132,68700

COMMISSION REGULATION (EEC) No 34/91**of 7 January 1991****concerning applications for STM licences for cereals submitted from 1 January 1991 onwards for imports of common wheat into Spain**

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, and in particular Article 85 (1) thereof,

Whereas Commission Regulation (EEC) No 598/86 of 28 February 1986 on the application of the supplementary trade mechanism to imports into Spain of common wheat of bread-making quality from the Community as constituted at 31 December 1985 ⁽¹⁾, as last amended by Regulation (EEC) No 3689/90 ⁽²⁾, sets a target ceiling for 1991 of 352 000 tonnes;

Whereas, pursuant to Article 6 (2) of Commission Regulation (EEC) No 574/86 of 28 February 1986 laying down detailed rules for the application of the supplementary trade mechanism (STM) ⁽³⁾, the Commission has been notified of applications received in the first two days of January 1991 for STM licences for imports of common

wheat of bread-making quality into Spain which are well in excess of the ceiling set; whereas measures should be taken to deal with this situation,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for STM licences for common wheat of bread-making quality falling within CN code 1001 90 99 which were submitted on 2 and 3 January 1991 and notified to the Commission shall be accepted for the tonnages applied for, adjusted by a coefficient of 0,03446.

2. The issue of STM licences for applications received from 4 January 1991 onwards is hereby suspended.

Article 2

This Regulation shall enter into force on 8 January 1991.

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

Done at Brussels, 7 January 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 58, 1. 3. 1986, p. 16.

⁽²⁾ OJ No L 357, 20. 12. 1990, p. 26.

⁽³⁾ OJ No L 57, 1. 3. 1986, p. 1.

COMMISSION REGULATION (EEC) No 35/91**of 7 January 1991****on the issuing and suspension of issuing of import licences for certain processed products obtained from sour cherries originating in Yugoslavia**

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

Having regard to Council Regulation (EEC) No 1201/88 of 28 April 1988 establishing import mechanisms for certain processed products obtained from sour cherries and originating in Yugoslavia ⁽¹⁾, as amended by Regulation (EEC) No 2781/90 ⁽²⁾, and in particular Articles 4 and 5 thereof,

Whereas Article 1a (1) of Commission Regulation (EEC) No 4061/88 of 21 December 1988 laying down further detailed rules of application as regards import licences for certain processed products obtained from sour cherries originating in Yugoslavia ⁽³⁾, as last amended by Regulation (EEC) No 3717/90 ⁽⁴⁾, has allocated 2 950 tonnes of the available quantity of 19 900 tonnes to new importers; whereas Article 2 (1) of this Regulation states that if the quantities for which licences have been applied for exceed those available, the Commission shall set a percentage reduction in the quantities applied for;

Whereas the quantities applied for by new importers on 2 and 3 January 1991 exceed those available; whereas a percentage reduction should be set for each application according to the quantities still available;

Whereas quantities for which import licences have been issued have reached the volume of 2 950 tonnes; whereas

import licences for the products in question should be suspended in the framework of the regime in question for the new importers,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences made under Article 1a (1) (b) of Regulation (EEC) No 4061/88 on 2 and 3 January 1991 and transmitted to the Commission on 4 January 1991 for processed products obtained from sour cherries falling within CN codes ex 0811 90 10, ex 0811 90 30, ex 0811 90 90, ex 0812 10 00, 2008 60 51, 2008 60 61, 2008 60 71 and 2008 60 91 originating in Yugoslavia shall be accepted for 26 % of the quantity applied for.

Article 2

The issuing of import licences for the products referred to in Article 1, applied for under Article 1a (1) (b) of Regulation (EEC) No 4061/88 from 4 January 1991 is suspended.

Article 3

This Regulation shall enter into force on 8 January 1991.

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

Done at Brussels, 7 January 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 115, 3. 5. 1988, p. 9.

⁽²⁾ OJ No L 265, 28. 9. 1990, p. 3.

⁽³⁾ OJ No L 356, 24. 12. 1988, p. 45.

⁽⁴⁾ OJ No L 358, 21. 12. 1990, p. 49.

COMMISSION REGULATION (EEC) No 36/91**of 7 January 1991****on the issuing of import licences for preserved cultivated mushrooms from third countries**

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

Having regard to Council Regulation (EEC) No 1796/81 of 30 June 1981 on measures applicable to imports of preserved cultivated mushrooms⁽¹⁾,

Having regard to Commission Regulation (EEC) No 1707/90 of 22 June 1990 laying down detailed rules for the application of Regulation (EEC) No 1796/81 on imports of preserved cultivated mushrooms from third countries⁽²⁾, as amended by Regulation (EEC) No 3718/90⁽³⁾, and in particular Article 5 (4) thereof,

Whereas Article 5 (4) of the abovementioned Regulation has allocated 5 200 tonnes of the available quantity of 34 750 tonnes to new importers; whereas Article 5 (8) of that Regulation provides that if the quantities for which licences have been applied for exceed the balance available the Commission is to fix a single percentage figure by which the quantities applied for are to be reduced;

Whereas quantities applied by new importers on 2 and 3 January 1991 exceed the quantities available; whereas the extent to which licences may be issued may accordingly be determined;

Whereas the quantities for which licences have been issued have reached the amount of 5 200 tonnes; whereas

the issuing of licences qualifying for the exemption from the additional amount provided for in Article 2 of Regulation (EEC) No 1796/81 should accordingly be suspended for new importers,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences for preserved cultivated mushrooms falling within CN code 2003 10 10, from third countries, applied for under Article 5 (4) (b) of Regulation (EEC) No 1707/90 on 2 and 3 January 1991 and forwarded to the Commission on 4 January 1991 shall be issued, the endorsement laid down in Article 7 of Regulation (EEC) No 1707/90 being indicated, for up to 31,7 % of the quantity applied for.

The issuing of licences for the products referred to in the first paragraph which may qualify for exemption from the additional amount provided for in Article 2 of Regulation (EEC) No 1796/81 is hereby suspended for applications under Article 5 (4) (b) of Regulation (EEC) No 1707/90 lodged from 4 January 1991.

Article 2

This Regulation shall enter into force on 8 January 1991.

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

Done at Brussels, 7 January 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 183, 4. 7. 1981, p. 1.

⁽²⁾ OJ No L 158, 23. 6. 1990, p. 34.

⁽³⁾ OJ No L 358, 21. 12. 1990, p. 51.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 December 1989

concerning aids in Spain which the central and several autonomous governments have granted to Magefesa, producer of domestic articles of stainless steel, and small electric appliances

(Only the Spanish text is authentic)

(91/1/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 given notice in accordance with the above Article to interested parties to submit their comments and having regard to those comments,

Whereas :

I

Magefesa is the name of a Spanish holding basically formed by four industrial companies with factories in three different Spanish autonomous Communities, namely :

- Indosa : Derio (Vizcaya), — Basque Country,
- Gursa : Guriezo, — Cantabria,
- Cunosa : Limpias, — Cantabria,
- Migma : San Roque (Cadiz), — Andalusia.

Magefesa has been a widely known producer in Spain. In 1983, according to estimates by private consultants, the market shares for its basic product range reached the following figures: pressure cookers (79,1 %), pans (50,7 %), stainless steel cutlery (24,2 %), electric coffee makers (36,6 %) and electric grills (85,5 %). For the same year its consolidated turnover amounted to Pta 12 144 million with an export rate of 26 %. As regards the

exports to other Member States, they accounted for 12 % of the global sales volume.

After 1983 Magefesa started to experience serious financial difficulties. In this respect, suffice to say that its turnover passed from Pta 8 037 million in 1984 to Pta 1 979 million in 1986; in other words its global sales fell by 88 % in three years. On the other hand, the accumulated losses at the end of 1986 exceeded Pta 15 000 million and the group's net worth amounted to — Pta 11 000 million. This situation placed Magefesa on the verge of bankruptcy. According to the explanations put forward at the time, such a glaring decline was caused by significant failures in management. Apparently this process of loss of predominance on national market still became more acute when Magefesa attempted to counter its effects by embarking on high-risk operations abroad that finally proved irrecoverable. Despite those problems Magefesa's labour force stayed practically constant; at the beginning of 1986 it employed 3 200 persons with the following geographic distribution: 1 472 workers in the Basque Country; 1 354 in Cantabria; 123 in Andalusia; the remaining 251 people corresponded to the sales network.

With a view to preventing a standstill at its factories and eventual bankruptcy, in November 1985 Magefesa committed its management to a Spanish private consulting firm, Gestiber. In February 1986 this firm presented an action programme for negotiation with the trade unions, finally accepted in May 1986. For its implementation, this programme relied on the active participation of

the central State and the governments of the autonomous Communities where the industrial sites of Magefesa were located, by the granting of a series of State aids.

As a first step, the autonomous governments concerned created three interposed companies: Ficodesa (Basque Country); Gemacasa (Cantabria) and Manufacturas Damma (Andalusia). These had two main objectives: on the one hand, to enable the public authorities to monitor both the use of the aids to be granted, and the implementation of Gestiber's directives; on the other, to ensure the operation of Magefesa's companies, mostly by preventing the seizure by creditors of their financial resources and inventories. For this latter purpose, on the basis of joint agreements these interposed societies market the entire production of Magefesa previously acquired from the individual companies; at the same time they administer the funds, raw materials and semi-finished goods needed by the companies whom they provide in proportion to work progress or justified expenses.

II

Following a complaint, by letter dated 13 January 1987 to the Spanish authorities, the Commission requested details on the State interventions decided in favour of the companies of Magefesa. In the same letter, the Commission reminded the Spanish authorities of their obligations under Article 93 of the EEC Treaty to notify to it any aid at the proposal stage, drawing their attention to the uncertain status and unlawfulness of the aids granted previously to a formal decision on their compatibility.

After a request for prolongation of the reply deadline, first information was furnished by letter of 15 May 1987. Additional information was provided in the course of a meeting held with Spanish representatives on 16 September 1987, where they tried to clarify the complex structure of interventions; they also announced that the missing information concerning the restructuring of Magefesa would follow. At last, in December 1987 the Commission received a memorandum on the action strategy for Magefesa drawn up by Gestiber. This document was informally transmitted to the Commission by the company. Despite the request of the Commission, the Spanish Permanent Representation declined to transmit it officially.

According to the information provided, at both central and autonomous level the public authorities had awarded an aid package to Magefesa basically aimed to prevent its bankruptcy, and lessen the adverse social consequences of an adjustment in its labour force.

The aids consisted of: loan guarantees amounting to Pta 1 830 million; a loan at other than market conditions of Pta 2 085 million; subsidies totalling Pta 1 095 million; interest subsidies being worth Pta 9 million; and extraordinary subsidies to the workers made redundant

valued at Pta 1 500 million. They are discussed in detail in the fourth recital.

After a first analysis, the Commission considered that the aid in question was caught by the prohibition provided for in Article 92 (1) of the Treaty, and did not *prima facie* satisfy the conditions for exemption under paragraphs 2 and 3 of that Article. Therefore, the Commission decided to initiate the Article 93 (2) procedure in respect of the aid.

The decision was communicated to the Spanish Government by letter dated 28 November 1988, giving it notice to submit its comments. The other Member States were informed by letters dated 6 February 1989. Notice to other third interested parties was given on 15 February 1989 by means of the publication in the *Official Journal of the European Communities*.

III

The Spanish Government answered the Commission's letter by telex dated 15 February 1989.

Concerning the loan at other than market conditions, the Spanish Government stated that it originated in an arrangement made by Fogasa — the national fund for the safeguarding of employees' rights in the event of insolvency of their employers — and Magefesa.

Fogasa had paid, in place of Magefesa within the ceilings established in its regulation, salaries and indemnities pending of payment to the workers made redundant. The loan in question was decided by the fund with Magefesa to recover the said advances. Therefore, the Spanish Government concluded that this loan should not be viewed as an aid to Magefesa but rather an aid to the workers, these latter being the direct beneficiaries of the measure.

As regards the subsidies, the Spanish Government claimed that, like in the previous case, they were aids to the workers and not to Magefesa. The governments of the autonomous Communities had paid that money to Magefesa to enable it to pay off the remaining part of salaries and indemnities due and not advanced by the national fund, because they exceeded the ceilings established under its regulation. In consequence, this State intervention should be seen as a measure for complementary social protection of redundant workers.

As to the assistance granted by one of the autonomous governments concerned, in particular that of the Basque Country in the form of loan guarantees and subsidies, the Spanish Governments claimed that they were awarded under an aid regime existing in Spain before its entry into the Community and notified at the time of the accession without the Commission making any observation. The Spanish Government also argued that the aid regime in question was of a regional nature, for which, according to

the Spanish opinion, the Commission foresees the compatibility of operating aids.

Lastly, concerning the extraordinary subsidies granted in favour of workers accepting dismissal, the Spanish Government stated that, contrary to the Commission's first appraisal, this measure had not had any effect on the negotiations between Magefesa and its workers for the completion of the manning level adjustment. This State intervention should be viewed as a general measure under the social policy of the Spanish Government intended to mitigate the adverse consequences of unemployment for those workers no longer being entitled to unemployment pay.

Following receipt of the comments from the Spanish Government, by letter of 27 February 1989 the Commission drew the attention of the Spanish authorities to the fact that no answer was given to an essential point for reservation raised in the letter communicating the initiation of the Article 93 (2) procedure; the absence of notification of a sound restructuring plan for the companies of Magefesa that, duly endorsed by the public authorities, could serve as a reference for the discussion about the compatibility of the aid.

The Spanish authorities replied by telex dated 31 March 1989, communicating that to that date the administrative authorities concerned had not approved any industrial restructuring plan for the companies of Magefesa.

Within the framework of the consultation of other interested parties, the governments of three other Member States, and two industrial federations, submitted observations, all supporting the Commission's position and underlying the danger of distortion of competition arising from the aid.

The Spanish Government was informed of the abovementioned observations by letter dated 6 September 1989, giving it notice to submit its comments within a one-month period. The Spanish authorities answered by telex of 20 October 1989, reaffirming their former observations submitted to the Commission in the sense of considering all the interventions rightful and compatible with the Treaty.

IV

On its examination of the public interventions in support of Magefesa, the Commission has verified to what extent those measures contain aid elements in the light of Articles 92 to 94 of the Treaty.

According to the information available to the Commission, the Spanish authorities decided the following inter-

ventions in relation to Magefesa — save otherwise indicated, all of them granted in 1986:

(i) *Loan guarantees*

The governments of the autonomous Communities of the Basque Country, Cantabria and Andalusia have awarded to Magefesa, respectively: Pta 972 512 and 96 million worth of guarantees on bank loans.

Such interventions undoubtedly constitute an aid to Magefesa since they have enabled it to arrange credits to continue trading. These credits had been unlikely to obtain otherwise without the State guarantee given its serious financial difficulties.

Previous to the abovementioned grants, in 1985 the Government of Cantabria had awarded guarantees amounting to Pta 250 million. This intervention falls out of the scope of application of Article 92 (1) of the Treaty because it was put into effect before the entry of Spain into the Community.

(ii) *A loan at other than market conditions*

As a result of the insolvency of Magefesa, Fogasa — a social fund dependent upon the central authorities, basically financed by parafiscal levies on the employer's social security contribution — committed itself to pay the redundant workers, in place of Magefesa, salaries due and legal severance payments within the ceilings established in its regulations. The amount committed was of Pta 2 085 million. Simultaneously, at the request of Magefesa, Fogasa arranged with it the possibility of reimbursing the money paid in its place in increasing annual instalments throughout eight years, bearing a 10,5 % annual interest rate. This rate contrasts with the prevailing market rates in 1986. According to the statistics published by the Spanish central bank, the average annual interest rate for guaranteed credits falling due after more than three years was 14,65 % in 1986. On the other hand, the repayment conditions established, with 51 % of the debt principal to be reimbursed over the last two years of postponement and interest accrued to be paid together with the last instalments, have been deliberately decided to facilitate the companies' recovery. None of the abovementioned conditions fits with those normally applicable to credit operations under market conditions, less still when considered the serious financial difficulties experienced by Magefesa.

In consequence, the public intervention in question constitutes aid, inasmuch as it has granted Magefesa a financial advantage derived from the reduced interest rate applied in the postponement and the artificial conditions established for debt principal and interests repayment.

(iii) *Non-refundable subsidies*

The governments of the autonomous Communities of the Basque Country, Cantabria and Andalusia awarded non-repayable subsidies to Magefesa, amounting to Pta 794, 262 and 39 million, respectively. (The aid from the Andalusian Government was granted in 1987.) These subsidies were intended to enable Magefesa to pay off the remaining part of salaries and indemnities due and not advanced by Fogasa to the redundant workers because they surpassed its general ceilings.

These interventions by the autonomous Communities constitute aids to Magefesa, since their award provided Magefesa with money to cancel a part of its current liabilities without any obligation of reimbursement, what ranks these subsidies as a straightforward remission of debt.

(iv) *Interest subsidies on loans*

The Basque Government awarded an additional aid in the form of grants reducing the effective rate of interest on loans contracted by Magefesa. The subsidies were paid for interest surpassing the 11 % annual rate. On this basis, Magefesa has received Pta 9 million.

This intervention constitutes clear operating aid to Magefesa, obtaining a cash compensation for current expenses taken in charge by the State.

(v) *Extraordinary subsidies*

The last public intervention consists of an extraordinary decision by the Spanish Ministry for Labour, granting the redundant workers of Magefesa subsidies equivalent to the extension to the maximum admissible of the benefits of unemployment pay. The estimated cost for the state of this measure is Pta 1 500 million. The workers concerned had already used part of those legal benefits during temporary lay-offs. In Spain the entitlement period to unemployment pay is fixed at a limited portion of time which is progressively reduced as the beneficiary is paid by the State during temporary lay-offs. According to the information available to the Commission, this public intervention was implemented with the objective of ensuring a more suitable unemployment cover for the workers made redundant in view of the adverse prospects of reemployment in the areas where the companies were located. Moreover, the extraordinary decision took place once the workers concerned had resigned their labour relationships with Magefesa. In consequence, this intervention cannot be judged to

have favoured the undertaking and, therefore, does not constitute aid to Magefesa, but an extraordinary assistance having a basic positive effect on the social protection position of the workers.

Once the public interventions in relation to Magefesa have been reviewed, it is important at this point to make certain consideration in connection with the comments by the Spanish Government.

In its present decision, the Commission is in no way objecting to the intervention of Fogasa and the autonomous governments in favour of the workers of Magefesa to safeguard their rights by paying in place of their companies salaries and indemnities that otherwise they would lose. This side of the intervention to protect the rights of the employees and guarantee the payment of their outstanding claims must be deemed justified and necessary taking account of the need for a balanced economic and social development in the Community. In its present decision, the Commission is examining the other side of the intervention instead, that is to say, the decisions taken by the social fund and the autonomous governments in relation to Magefesa after their interventions in favour of the workers. It is here where the elements of aid to the enterprise appear.

V

As previously explained, the abovementioned public interventions in favour of Magefesa have directly and indirectly strengthened its financial position by relieving it of expenses it should have met by its own, and by creating the suitable conditions to obtain credit. These public interventions are also apt to affect trade between Member States; where financial assistance from the State strengthens the position of certain enterprises compared with that of others competing with them in the Community, it must be deemed to affect those other enterprises.

On this score, the products marketed by Magefesa are traded between Member states and there is competition among producers. In 1987 intra-Community exports of stainless steel cutlery, kitchen wares in iron and steel, electric grills and electric coffee or tea makers (NIMEXE codes : 82.14-10, 73.38-21, 85.12-55, 85.12-71) amounted to : ECU 52,1, 36,3, 19,4, and 81,4 million respectively, of which : ECU 1,8, 0,3, 1,3 and 0,2 million originated in Spain. For its part, imports into Spain of the same goods from other Member States amounted to : ECU 5,6, 2,9, 0,7 and 2,9 million respectively.

Moreover, Magefesa has operated on Community markets in the past and used to be one of the largest Spanish producers in the sector. Likewise, according to the estimates of its action programme, Magefesa is planning to

attain an export share of 25 to 30 %, of which its sales to other Member States will account for 50 %.

In view of the abovementioned considerations the aid to Magefesa affects trade between Member States and distorts competition within the meaning of Article 92 (1) of the Treaty.

VI

Concerning the legal status under Community law of the aid to Magefesa, save that granted by the Basque Government, the aid to Magefesa was not awarded under existing regimes, but on the basis of *ad hoc* decisions of the authorities concerned that should have been notified to the Commission at the proposal stage. Therefore, in the light of Community law it is illegal.

As regards the legality of the aid granted by the Basque Government under existing aid regime to which no objections to its implementation were raised, the Commission, on the basis of the information submitted has verified whether, in this particular case, the requirements for aid granting under the said regime have been respected. One of those requirements was the existence of a restructuring plan for both the sector concerned and the beneficiaries, duly endorsed by authorities charged for the follow-up of the aid regime. In this respect, the Spanish Government has confirmed that the authorities concerned have not approved any restructuring plan for the companies of Magefesa, this fact constitutes a misapplication of the aid regime. For this reason, the Commission has therefore to raise the illegality of the Basque intervention.

The illegal character of all aid at issue here results from the failure to respect the rules of procedure as laid down in Article 93 (3) of the Treaty. In cases of aid incompatible with the common market, the Commission — making use of a possibility given to it by the Court of Justice in its Judgment of 12 July 1973 in case 70/72, *Commission v. Federal Republic of Germany*⁽¹⁾, confirmed in the Judgment of 24 February 1987 in case 310/85, *Deufil GmbH & Co. v. Commission*⁽²⁾ — can require Member States to recover aid granted illegally from recipients. In this respect it has to be recalled that — in view of the imperative character of the rules of procedure as laid down in Article 93 (3) of the EEC Treaty which also are of importance as regards public order, the direct effect of which the Court of Justice has recognized in its ruling of 19 June 1973 in case 77/72,

Carmen Capolongo v. Azienda Agrícola Maya⁽³⁾ — the illegality of the aid at issue here cannot be remedied *a posteriori*.

VII

Article 92 (1) of the Treaty provides that aid meeting the criteria laid down therein is in principle incompatible with the common market. The exceptions provided for in Article 92 (2) are not applicable in this case because of the nature of the aid, not directed towards the attainment of such objectives.

Article 92 (3) of the Treaty lists aid which may be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not in that of a single Member State. In order to ensure the proper functioning of the common market, and having regard to the principle embodied in Article 3 (f), the exceptions provided for in Article 92 (3) must be construed narrowly when any aid scheme or individual aid award is scrutinized. In particular, they may be invoked only when the Commission is satisfied that, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the objectives of the said exceptions.

With regards to the exceptions provided for in Article 92 (3) (a) and (c) for aid that promoted or facilitates the development of certain areas, save San Roque (Cádiz), none of the areas where the plants of Magefesa are located — Derio (Vizcaya), Guriezo and Limpías (Cantabria) — presents a standard of living abnormally low, or serious underemployment, within the meaning of Article 92 (3) (a). For its part, even though these latter locations are situated in assisted areas pursuant to Article 92 (3) (c), the assistance to Magefesa does not have the requisite features of aid to facilitate the development of certain economic areas within the meaning of this Article, inasmuch as it was granted in the form of operating aid, that is to say, not conditional on investment or job creation as explained in the 1979 Commission communication on the principles of coordination of regional aid systems⁽⁴⁾. As regards the aid in San Roque (Cádiz), the assistance was not granted under the corresponding regional aid scheme but on the basis of an *ad hoc* decision of the autonomous government. Moreover, operating aid in Article 92 (3) (a) areas can only be covered by this exception when granted under restricted and controlled conditions; in particular, when related to companies in difficulties, the assistance, among other requirements, must be strictly conditional on the implementation by the beneficiaries of restructuring measures which lead to their being truly viable. This requirement is not fulfilled by the aid in question as explained below.

⁽¹⁾ [1973] ECR, p. 813.

⁽²⁾ [1987] ECR, p. 901.

⁽³⁾ [1973] ECR, p. 611.

⁽⁴⁾ OJ No C 31, 3. 2. 1979, p. 9.

As regards the exemptions provided for in Article 92 (3) (b), the aid measures in question were not intended to nor have the features of 'a project of common interest' or of a project likely to 'remedy a serious disturbance' in the Spanish economy. Moreover, the Spanish authorities have not invoked this.

Article 92 (3) (c) also lays down an exemption for 'aid to facilitate the development of certain activities'. The aid to Magefesa falls under aid to companies in difficulties, as the group's financial situation was on the verge of bankruptcy at the moment the aid was awarded.

Aid to firms in difficulties carries the greatest risk of transferring unemployment and industrial problems from one Member State to another; it acts as a means of preserving the status quo by preventing forces at work in the market economy from their normal consequences in terms of disappearance of uncompetitive firms in their process of adaptation to changing conditions in competition; at the same time, such aid may bring about disruptive effects on competition and trade by its induced influence upon the pricing policies of beneficiaries opting for undercutting strategies to stay on the market.

For this reason, the Commission has developed a special approach for the assessment of aid to firms in difficulty. Although the Commission has expressed its reservation in principle as to the compatibility of operating aid with the common market, it however does not condemn all assistance to troubled companies. On numerous occasions the Commission has stated its views on such measures, formulating the basic conditions to be observed. In general, such interventions must be restricted to the aid needed to keep the company in business till the necessary measures to restore viability are put into effect; on the other hand, they must be strictly conditional on the implementation of a sound restructuring or conversion programme capable of restoring the long-term viability of the beneficiary. On its assessment about the compatibility of such aid proposals, the Commission takes into account the conditions giving rise to the State interventions, and judges whether, in return for the aid, the proposals contain a compensatory justification in the form of a contribution by the beneficiary, over and above the normal play of market forces altered by the aid, to the achievement of Community objectives as established in Article 92 (3) of the Treaty.

In the case at issue, the Spanish authorities have even failed to provide the Commission with the evidence that the aid granted to the companies of Magefesa is linked to a restructuring programme aimed to restore their long-term viability.

By its letter communicating the initiation of the Article 93 (2) procedure, the Commission informed the Spanish

Government that the strategy transmitted by Magefesa without official endorsement did not fulfil the necessary requirements to consider it a sound restructuring plan. This strategy, informally transmitted, outlined the measures undertaken to that date to rescue the companies of Magefesa. In particular, it set out the nature and application of the State aid received, as well as the degree of completion in the labour force reduction, where 1 780 out of the 2 027 jobs initially proposed had already been cut back. As regards future actions, on the marketing side the strategy described certain measures to boost the global sales in order to restore them to satisfactory levels; on the industrial side, it only proposed certain investments, improvements in production and exchanges of equipment between factories, whose costs were not even quantified except for the investments estimated at Pta 439 million that could be financed by selling idle properties. The strategy submitted did not contain definite commitments regarding the necessary measures to undertake to scale down the companies' activities in accordance with the new situation after the slump in sales. No undertakings were made as regards definite reductions in production capacity and eventual close-downs of industrial facilities. Furthermore, in the light of the information submitted to the Commission the financial viability and self-sufficiency of the group was in any case seriously endangered because apparently the future draft budget presented had not taken into consideration the reimbursement of a significant part of the liabilities postponed during the rescue phase. According to the explanations to the strategy, Magefesa could only meet these expenses with capital contributions or further postponements that could only be possible in case of State guarantee. In consequence, the Commission concluded that the strategy submitted by Magefesa was not capable of being well and truly viable in the long term.

It should also be noted that the Spanish authorities refused to endorse the abovementioned strategy, for which reason they were not even bound as regards the implementation of the actions proposed.

These reservations were transmitted to the Spanish authorities by the abovementioned letter of 28 November 1988. In its telex dated 15 February 1989 submitting comments under the procedure, the Spanish Government did not make any reference to the abovementioned reservations concerning the viability of Magefesa, but only focussed its attention on formal aspects of the aid granting. For that reason, by letter of 27 February 1989 the Commission once again reminded the Spanish authorities of its reservations and warned them that the eventual compatibility of the aid to Magefesa could only be inferred if such aid formed part of a sound restructuring plan that, duly endorsed by the public authorities concerned, were communicated to the Commission.

The Spanish authorities answered by telex dated 31 March 1989, where they stated that to that date the authorities concerned had not approved any restructuring programme for Magefesa.

This statement proves that the aid to Magefesa was granted regardless of any consideration about the group's future viability and restructuring with the apparent purpose of keeping its companies artificially in operation. Under the current principles of the Community State aid policy, this fact absolutely disqualifies the aid for the application of the Article 2 (3) (c) exemption.

VIII

Accordingly, in conclusion, the aid in question is illegal because the Spanish Government did not fulfil its obligations under Article 93 (3). Moreover, it does not meet the conditions which must be fulfilled in order for one of the exceptions of Article 92 (2) and (3) to apply. For these reasons the aid to Magefesa at issue is incompatible with the EEC Treaty. In consequence, the aid elements therein involved must be withdrawn,

HAS ADOPTED THIS DECISION:

Article 1

The public assistance to the companies of Magefesa consisting of:

- (i) loan guarantees amounting to Pta 1 580 million;
 - (ii) a loan of Pta 2 085 million at other than market conditions;
 - (iii) non-repayable subsidies amounting to Pta 1 095 million;
 - (iv) an interest subsidy estimated at Pta 9 million;
- were granted illegally, and moreover are incompatible with the common market within the meaning of Article 92 of the EEC Treaty.

Article 2

Accordingly, the aid elements therein involved have to be withdrawn. Therefore, the Spanish Government is hereby requested to get the following stipulations complied with:

- (a) the withdrawal of the State loan guarantees given amounting to Pta 1 580 million;
- (b) either the conversion of the soft-loan into a normal credit at both interest and repayment market conditions, or its withdrawal, or any other appropriate measure to ensure that the aid elements are wholly abolished. Whatever measure is adopted, it must take effect from the time the loan was initially granted;
- (c) in case of conversion, the assurance that the instalments related to the abovementioned loan will be recovered in accordance to the schedule fixed;
- (d) the recovery of Pta 1 104 million corresponding to the non-repayable subsidies granted.

Article 3

The Spanish authorities will inform the Commission, within two months of the notification of this Decision, of the measures they have taken to comply therewith. Should the Decision's execution take place later than the said period, the national provisions regarding interest on arrears payable to the State will be applicable.

Article 4

The Decision is addressed to the Kingdom of Spain.

Done at Brussels, 20 December 1989.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 20 June 1990

approving aid from Portugal to the coal industry during 1989

(Only the Portuguese text is authentic)

(91/2/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Whereas :

I

By letters of 15 September and 30 November 1989 the Portuguese Government informed the Commission, in accordance with Article 9 (2) of Decision No 2064/86/ECSC, of the financial measures it intends to take to support the coal industry in 1989.

By letter of 5 March 1990 the Portuguese Government submitted further information following the Commission's request of 6 December 1989. Aid to cover operating losses of the 'Carbonifera do Douro' undertaking totalling Esc 796 400 000 for production of about 0,22 million tonnes is submitted for the approval of the Commission under the abovementioned Decision.

II

The increase in aid compared with 1988 must be viewed in the light of the objectives of Decision No 2064/86/ECSC, in particular those of Article 2 (1) thereof.

For several years, the 'Carbonifera do Douro' undertaking has been implementing a modernization and rationalization plan which has led to some improvement in productivity. However, this has not been fully reflected in the production costs owing to the increase in the cost of certain production factors, such as salaries.

The aid will cover the difference between projected average costs and projected average revenue for each tonne produced. The aid will not exceed expected operating losses and hence complies with the conditions of Article 3 (1) of the Decision.

(¹) OJ No L 177, 1. 7. 1986, p. 1.

The purpose of the aid is to prevent premature closure of the pit and forms part of a regional industrial diversification policy designed to create new employment outside the coal industry. It hence contributes to solving the social and regional problems related to developments in the coal industry, in accordance with the third indent of Article 2 (1).

III

In view of the temporary nature of Decision No 2064/86/ECSC which expires on 31 December 1993, and the need to ensure the economic viability of the Community's coal industry in the long term, Community aid must be scheduled on a declining scale.

To enable the Commission to check whether the conditions of application of Decision No 2064/86/ECSC are fulfilled, Portugal should be requested to submit, by 31 December 1990, information relating to the business strategy of the undertaking 'Carbonifera do Douro'.

In view of the above and of the information supplied by the Portuguese authorities, the aid to be granted to the current production of the Portuguese coal industry in 1989 is compatible with the objectives of Decision No 2064/86/ECSC and with the proper functioning of the common market.

IV

Pursuant to Article 11 (2) of Decision No 2064/86/ECSC, the Commission must ensure that the direct aid to current production which it authorizes is used exclusively for the purposes set out in Articles 3 to 6 thereof. It must therefore be informed of the amounts of the payments and the manner in which they are apportioned,

HAS ADOPTED THIS DECISION :

Article 1

Portugal is hereby authorized to grant aid totalling Esc 796 400 000 to the coal industry to cover operating losses for the 1989 calendar year.

Article 2

Portugal shall provide the Commission by 31 December 1990 with the requested information on the business strategy of the undertaking 'Carbonifera do Douro'.

Article 3

Portugal shall inform the Commission at the latest by 30 September 1990 of the actual amounts of aid paid in 1989.

Article 4

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 20 June 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

COMMISSION DECISION

of 25 July 1990

ruling on financial measures by Spain in respect of the coal industry in 1988,
1989 and 1990

(Only the Spanish text is authentic)

(91/3/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

— aid to promote innovation in 1990 : Pta 280 million.

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

II

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,

The aid of Pta 50 830 million to cover operating losses aims at compensating the difference between average estimated costs and average estimated revenue in respect of production of 4 262 000 tonnes for each tonne of coal produced by the undertakings Hunosa, Figaredo and Minero Siderurgica de Ponferrada (as regards those of its activities concerned with the Camocha mine).

Whereas :

By Decisions 89/102/ECSC ⁽²⁾, 88/505/ECSC ⁽³⁾ and 87/454/ECSC ⁽⁴⁾, the Commission authorized aid to cover operating losses for 1989, 1988 and 1987 on the grounds that it would help the process of restructuring the coal industry, particularly by staggering the dates of closure of certain pits with no prospects of economic viability in the context of regional industrial redevelopment policy. The aid would thus help to solve the social and regional problems related to developments in the coal industry, pursuant to the third subparagraph of Article 2 (1) of Decision No 2064/86/ECSC.

I

By letter of 26 September 1989, the Spanish Government informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of the financial measures it intended to take during 1990 in order to give direct or indirect support to the coal industries.

Contrary to this restructuring objective, the Commission notes that aid to cover operating losses has increased by more than 70 % compared with 1986.

By letter of 15 June 1990, in answer to the Commission's requests of 1 December 1989 and 12 January 1990, the Spanish Government communicated further information.

Developments over the last few years should therefore be judged in accordance with the objectives of Decision No 2064/86/ECSC, particularly those mentioned in Article 2 (1) thereof.

In its letter of 15 June 1990, pursuant to the provisions of Article 9 (2) of Decision No 2064/86/ECSC, the Spanish Government also notified the Commission of new financial measures it intended to take in respect of 1989 and 1988.

In this connection, it is clear that the procedures for granting the undertakings concerned aid to cover operating losses do not encourage the coal industry to become competitive again by means of restructuring, modernization and rationalization measures.

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

- aid to cover operating losses in 1990 : Pta 50 830 million,
- additional aid to cover operating losses in 1989 and 1988 : Pta 2 026,9 million and Pta 369,1 million respectively,
- aid to sales of coal and coke to the Community iron and steel industry in 1990 : Pta 1 400 million,
- aid to the mining environment for 1990 : Pta 268 million,

The fact that the amount of aid is related to the quantity of coal produced encourages the maintenance of production capacity which in the long term has no prospect of becoming profitable.

Moreover, this policy is not designed primarily to help solve the social and regional problems related to developments in the Spanish coal industry in accordance with the criteria and objectives in Decision No 2064/86/ECSC.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 38, 10. 2. 1989, p. 39.

⁽³⁾ OJ No L 274, 6. 10. 1988, p. 41.

⁽⁴⁾ OJ No L 241, 25. 8. 1987, p. 16.

Since there is no prospect of a substantial proportion of production becoming profitable, it is not possible to authorize a continual automatic increase in aid.

In fact, the increases in the price of coal which have already taken place, or are expected, on the Spanish coal market should have resulted in a reduction in aid by reducing the non-competitiveness of this production capacity.

Consequently, the aid to cover operating losses planned for 1991 should not exceed the amount authorized in Decision No 89/102/ECSC, which includes additional aid for 1989 to cover operating losses by the Camocha mine, which is also the subject of this Decision, namely a total of Pta 50 034,8 million.

In view of the transitional nature of Decision No 2064/86/ECSC, which expires on 31 December 1993, and the need to make the Community coal industry profitable in the long term, there must be a phased reduction of Community aid and this must be accompanied by plans for restructuring, rationalization and modernization as mentioned in the conditions for implementing Decision No 2064/86/ECSC.

So that the Commission can check that the implementing conditions of Decision No 2064/86/ECSC have been fulfilled as regards the aid to cover operating losses, the Spanish Government should be asked to provide, before 31 December 1990, a plan, covering the period up to 31 December 1993 at the latest, for reducing the aforementioned aid.

III

The additional aid which the Spanish Government intends to grant in respect of 1988 and 1989 to cover operating losses is intended to make up the deficit of the Camocha mine, which belongs to Minero Siderurgica de Ponferrada, and to prevent immediate closure of this mine and the social and regional consequences which would ensue from sudden termination of production. Since, as was explained above, most of the production from the mine in question has no prospect of long-term profitability, it is essential in the short term to implement a plan to restructure activities.

IV

Under Article 12 of Decision No 2064/86/ECSC, coal undertakings are authorized to grant rebates on their list prices for production costs or deliveries of coking coal, blast furnace coke and coal for injection into blast furnaces for the iron and steel industry of the Community under long-term contract. The rebates allowed must not cause the delivered prices of Community coal and coke to work out lower than those which would be charged for

coal from non-member countries and coke made from non-member country coking coal.

The aid for deliveries of coking coal, coke and coal for injection into blast furnaces of the iron and steel industry of the Community, which totals Pta 1 400 million, which has decreased by 46 % compared with 1989 as the result of a decline in deliveries, helps to make up the difference between the price charged on the world market and the cost of producing Spanish coal for production in the order of 215 000 tonnes. Hence the aid is compatible with the provisions of Article 4 of that Decision.

This aid for deliveries of coking coal, coke and coal for injection into blast furnaces of the iron and steel industry of the Community should help the process of rationalizing the coal industry, particularly by staggering the closure of certain pits as part of regional industry redevelopment policy. It thus helps to solve the social and regional problems related to developments in the coal industry as referred to in the third indent of Article 2 (1) of this Decision.

V

The Spanish Government has informed the Commission of its intention of granting the coal industry aid to the mining environment of Pta 268 million in 1990. This aid is for work on spoil heaps and water purification.

This aid has to be notified to the Commission under point (b) of Annex 2 as referred to in Article 9 (2) of Decision No 2064/86/ECSC and assessed in accordance with Article 10 (2) of that Decision.

In the Commission's opinion, the amount of aid is so small that it will not give the Spanish coal industry a competitive advantage over other coal undertakings in the Community. The aid is designed to improve the environment in the affected areas and thus help to solve the regional problems related to developments in the coal industry as referred to in the third subparagraph of Article 2 (1) of the Decision.

The Spanish Government has informed the Commission of its intention of granting aid to promote innovation in the coal industry in 1990. The aid amounts to Pta 280 million, which is 54 % less than in 1989, and will be divided among the following coalfields: Central Asturiana, Bierzo, Villablino, Narcea, León-Este, Palencia, Aragón, Catalonia and the Balearic Islands.

This aid is intended to ensure that research results find practical application in production as quickly as possible and should thus help to improve the competitiveness of the Spanish coal industry. The aid has to be notified to the Commission under point (b) of Annex 2 as referred to in Article 9 (2) of Decision No 2064/86/ECSC and assessed in accordance with Article 10 (2) of that Decision.

The aid is so small that it will not provide Spanish undertakings with any significant competitive advantage over other coal undertakings in the Community.

The measure will help to improve the competitiveness of the coal industry in accordance with the first subparagraph of Article 2 (1) of the Decision,

HAS ADOPTED THIS DECISION:

Article 1

The Spanish Government is hereby authorized to grant aid totalling Pta 51 982 800 000 to the Spanish coal industry for the 1990 calendar year. The total amount shall be made up of the following items:

1. an amount totalling Pta 50 034 800 000 in aid to cover operating losses;
2. an amount totalling Pta 1 400 000 000 in aid for the sale of coal and coke to the Community iron and steel industry;
3. an amount totalling Pta 268 000 000 in aid to the mining environment;
4. an amount totalling Pta 280 000 000 in aid to promote innovation.

Article 2

The Spanish Government is hereby authorized to grant additional aid totalling Pta 369 100 000 and Pta 2 026 900 000 to cover operating losses for 1988 and 1989 respectively to the Spanish coal industry.

Article 3

The Spanish Government shall submit to the Commission, by 31 December 1990, a plan for reducing, between now and 31 December 1993 at the latest, the aid to cover operating losses as part of a plan for the restructuring, modernization and rationalization of the Spanish coal industry.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 25 July 1990.

For the Commission

António CARDOSO E CUNHA

Member of the Commission