

Official Journal

of the European Communities

ISSN 0378-6978

L 60

Volume 34

7 March 1991

English edition

Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 541/91

of 4 March 1991

imposing a definitive anti-dumping duty on imports of barium chloride originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 12 thereof,

Having regard to the proposal from the Commission, submitted after consultation within the Advisory Committee as provided for in the above Regulation,

Whereas :

I. PROCEDURE

A. Provisional measures

- (1) By Regulation (EEC) No 2402/89 the Commission imposed a provisional anti-dumping duty on imports of barium chloride originating in the People's Republic of China and the German Democratic Republic⁽²⁾. This duty was extended for a period not exceeding two months by Council Regulation (EEC) No 3555/89⁽³⁾.

B. Subsequent procedure

- (2) Following imposition of the provisional anti-dumping duty, the exporters of the product in question requested, and were granted, an opportunity to present their case. They also made written submissions.

- (3) The parties were afforded, and made use of, every possibility of exercising the rights provided for in Article 7 (4) of Regulation (EEC) No 2423/88.

- (4) The Commission took into consideration all the views put forward before arriving at its final conclusions, which are endorsed by the Council.

C. Situation concerning the territory of the former German Democratic Republic

- (5) On 3 October 1990, the territory of the German Democratic Republic formally became part of the Federal Republic of Germany and, as a result, became an integral part of the Community. Since Regulation (EEC) No 2423/88 lays down provisions for protection against dumped or subsidized imports from countries not members of the Community, it follows that the anti-dumping proceeding concerning imports of barium chloride originating in the abovementioned territory no longer has any legal basis and is therefore without object.

D. Product covered by the investigation and like products

- (6) In Regulation (EEC) No 2402/89 the Commission drew a distinction between the Crystallized and anhydrous forms of barium chloride but further investigation after the imposition of the provisional duty has caused this distinction to be dropped.

- (7) Examination of the physical characteristics of the two forms of the product shows that the differences are negligible. Their chemical formula is the same, apart from the presence of water molecules in the crystallized form, which can be changed to the other form simply by drying. The two forms even look similar : the colour is the same, the crystals are the size of grains of sand while the anhydrous product is a powder, and the packing is almost identical.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 227, 4. 8. 1989, p. 24.

⁽³⁾ OJ No L 349, 30. 11. 1989, p. 1.

- (8) The numerous applications of crystallized barium chloride do not allow any final conclusions on this factor. While anhydrous barium chloride has more specific applications, this can hardly lead to the conclusion that there is a distinct market for this product since it is so easily manufactured from the crystallized form. The market for the anhydrous product is thus also an outlet for producers of the crystallized product. This being so, anhydrous and crystallized forms of barium chloride constitute one product for the purposes of this proceeding.
- (9) The barium chloride produced by the Community industry is identical to that originating in the People's Republic of China.

E. Dumping

(a) Normal value

- (10) Since the People's Republic of China is a non-market economy, the normal value was established in the preliminary investigation, in accordance with Article 2 (5) of Regulation (EEC) No 2423/88, by using the price at which a like product is sold in a third country having a market economy. The United States of America was chosen for this purpose for the reasons and under the conditions set out in recitals 10 to 13 of Regulation 2402/89.
- (11) However, since it was not possible, for reasons beyond the Commission's control, to verify US market prices on the spot, another solution had to be found. The numerous efforts to do so included contacts with a great number of barium chloride producers of a certain size in other countries as well as with local authorities which were approached to obtain the cooperation of the firms contacted. These efforts, however, bore no fruit within a reasonable period of time.
- (12) In view of these difficulties, the Commission was obliged to establish the normal value by using the price payable in the Community, duly adjusted to include a profit margin of less than 10 % corresponding to that of the most efficient company in the sector, in accordance with Article 2 (5) of Regulation (EEC) No 2423/88. The two exporters concerned were notified of this decision. While the Chinese exporter had objected to the choice of the United States as a reference country, no objection was raised against the use of Community prices as a basis for establishing the normal value.

(b) Export price

- (13) Since the Chinese exporter failed to reply, the export price for the purpose of applying the provisional measures was established on the basis of information published by Eurostat.

- (14) In the final stage of the investigation, the Commission received some information on the prices and terms of payment of this exporter. Although incomplete, it supported the conclusions drawn at the time the provisional measures were imposed, notably those set out in recital 14 of Regulation 2402/89.

(c) Comparison

- (15) In comparing normal value with export prices in the case of the Chinese exporter, the Commission took account, where this seemed appropriate, of differences affecting price comparability, in particular terms of payment and the cost of transport from the exporter's works to the Community frontier. These adjustments were calculated on the basis of information obtained in the preliminary investigation and confirmed in the final stage of the investigation.

- (16) All comparisons were made at the ex-works stage.

- (17) The margin was established by comparing the relevant monthly normal value with export prices as established by Eurostat by month and by member State.

(d) Dumping margin

- (18) The conclusions of the preliminary investigation, showing that exports to the Community of barium chloride originating in the People's Republic of China were being dumped, were confirmed. The dumping margin corresponds to the difference between the normal value established and the export price to the Community.
- (19) On the basis of the free-at-frontier price, the dumping margin is 50,13 % for imports originating in the People's Republic of China.
- (20) The Council endorses the Commission's conclusions with reference to the People's Republic of China set out in recitals 10 to 19.

F. Injury

- (21) As the proceeding with regard to the former German Democratic Republic has become without object for the reasons stated in recital 5, the Commission has examined whether the imports of barium chloride originating in the People's Republic of China were, taken in isolation, causing, or threatening to cause, injury to the Community industry.

(22) In this connection, particular consideration has been given to the volume and evolution of these imports, the degree by which they undercut the prices charged by Community producers as well as to the production capacity in the People's Republic of China and the Chinese export policy towards other third country markets. The findings made in this regard (recitals 20 to 33 and 35 to 44 of Regulation (EEC) No 2402/89), which are not contested by the exporter, lead to the conclusion that even when the imports from the former German Democratic Republic are disregarded, the imports of barium chloride originating in the People's Republic of China must be considered as causing, and threatening to cause, injury to the Community industry.

(23) The Chinese exporter has continued to deny that it is the source of injury or threat of injury in this matter. Its arguments, however, cannot be accepted for the following reasons.

(24) With regard to the argument that the prices of Chinese exports have rarely been below the minimum price laid down by Council Regulation (EEC) No 2370/83⁽¹⁾ and regardless of the lack of complete and fully reliable documentation on the subject, the Commission notes that compliance with a measure is not in itself a guarantee that dumping is not taking place nor that injury is not being caused by such dumping.

(25) With regard to the cost of raw materials and labour, cited as grounds for low export prices, the Commission points out that this argument is not pertinent to the establishment of injury and does not obviate the undercutting referred to in recital 24 of Regulation No 2402/89.

(26) As to the Chinese exporter's argument that the volume of exports had fallen since the imposition of definitive anti-dumping duties in 1983, it should be noted that, while this is a normal consequence of trade protection measures, the exporter was, nevertheless, able to retain a sizeable share of the Community market despite these measures.

(27) Under these conditions, the Council confirms the above conclusions and those set out in Regulation 2402/89 concerning injury (see recitals 20 to 39,

with the exception of recital 34) and threat of injury (see recitals 40 to 44).

G. Community interest

(28) The Council confirms the findings and conclusions set out in recitals 45, 46, 47, 49, 51 and 52 of Regulation (EEC) No 2402/89. The Council considers that ensuring the survival of the Community firms will be beneficial for competition on the Community market and that the disappearance of a major part of Community production would pose a threat to the supplies of Community consumers. The interests of the Community therefore call for intervention.

II. DEFINITIVE DUTY

(29) In view of the injury caused and the threat of injury to the Community industry as a result of imports originating in the People's Republic of China since the lapsing of measures in August 1988, the Council concludes that a definitive *ad valorem* antidumping duty must be imposed.

(30) With regard to the amount of duty necessary to remove the injury and the threat thereof, the Commission has taken account of both the price of the imports concerned and the minimum selling price which would enable Community producers to cover production costs during the investigation period, plus a reasonable profit margin that is calculated on the basis of the profit margin of the most efficient producer before increased penetration of dumped exports. These two prices, duly adjusted to allow for the importer's commission and customs duty, were compared. The difference between the two prices, expressed as a percentage of the cif value of export prices, is the percentage by which the prices have to be raised to remove the injury and the threat thereof and stands at 25,8 % of the net free-at-Community-frontier price before duty. The Council agrees with these considerations.

III. COLLECTION OF THE PROVISIONAL DUTY

(31) In view of the difficulties encountered in establishing the normal value, the final investigation was not completed within the time limits laid down in Article 11 (5) of Regulation (EEC) No 2423/88. The Council therefore notes that the amounts secured by the anti-dumping duty are released,

⁽¹⁾ OJ No L 278, 20. 8. 1983, p. 28, amended by Commission Regulation (EEC) No 486/88 (OJ No L 50, 24. 2. 1988, p. 5.

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of barium chloride falling within CN code 2827 38 00 and originating in the People's Republic of China.

2. The amount of the duty shall be equal to 25,8 % of the net free-at-Community-frontier price before duty.

3. The provisions in force with regard to customs duties shall apply.

Article 2

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, 4 March 1991.

For the Council

The President

J. F. POOS

COUNCIL REGULATION (EEC) No 542/91**of 4 March 1991****amending Regulations (EEC) No 2340/90 and (EEC) No 3155/90 preventing trade
by the Community as regards Iraq and Kuwait**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Whereas, following the Resolutions by the Security Council of the United Nations imposing an embargo on Iraq and Kuwait after the invasion and occupation of Kuwait by Iraqi troops, Regulations (EEC) No 2340/90 ⁽¹⁾ and (EEC) No 3155/90 ⁽²⁾ prohibited trade by the Community with Iraq and Kuwait;

Whereas the liberation of Kuwait has now taken place;

Whereas, on 2 March 1991, the Security Council of the United Nations adopted Resolution 686 (1991) recalling, *inter alia*, paragraph 9 of Resolution 661 (1990) regarding assistance to the Government of Kuwait, and requesting, in paragraph 6, all Member States, as well as the United Nations Organization, the specialized agencies and other international organizations in the United Nations system, to take all appropriate action to cooperate with the Government and people of Kuwait in the reconstruction of their country;

Whereas the Community and its Member States, meeting in the framework of political cooperation, consider there is no reason to maintain the embargo measures imposed by the Community with regard to Kuwait;

Whereas the Community and its Member States have decided to lift the said measures;

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

HAS ADOPTED THIS REGULATION:

Article 1

The prohibitions imposed by Regulations (EEC) No 2340/90 and (EEC) No 3155/90 are hereby lifted as regards Kuwait from 2 March 1991.

Article 2

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

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

Done at Brussels, 4 March 1991.

For the Council

The President

J. F. POOS

⁽¹⁾ OJ No L 213, 9. 8. 1990, p. 1.

⁽²⁾ OJ No L 304, 1. 11. 1990, p. 1.

COMMISSION REGULATION (EEC) No 543/91

of 6 March 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 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 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 533/91 ⁽⁵⁾;

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 5 March 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 533/91 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 7 March 1991.

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

Done at Brussels, 6 March 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 59, 6. 3. 1991, p. 1.

ANNEX

to the Commission Regulation of 6 March 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levy
0709 90 60	138,08 ⁽²⁾ ⁽¹⁾
0712 90 19	138,08 ⁽²⁾ ⁽¹⁾
1001 10 10	200,63 ⁽¹⁾ ⁽¹⁾
1001 10 90	200,63 ⁽¹⁾ ⁽¹⁾
1001 90 91	185,71
1001 90 99	185,71
1002 00 00	159,26 ⁽⁶⁾
1003 00 10	154,17
1003 00 90	154,17
1004 00 10	147,90
1004 00 90	147,90
1005 10 90	138,08 ⁽²⁾ ⁽¹⁾
1005 90 00	138,08 ⁽²⁾ ⁽¹⁾
1007 00 90	146,12 ⁽¹⁾
1008 10 00	65,24
1008 20 00	143,03 ⁽¹⁾
1008 30 00	74,53 ⁽¹⁾
1008 90 10	(¹)
1008 90 90	74,53
1101 00 00	274,35 ⁽⁸⁾
1102 10 00	236,54 ⁽⁸⁾
1103 11 10	325,36 ⁽⁸⁾
1103 11 90	294,84 ⁽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 544/91
of 6 March 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 5 March 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 7 March 1991.

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

Done at Brussels, 6 March 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 6 March 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 3	1st period 4	2nd period 5	3rd period 6
0709 90 60	0	5,62	5,62	5,62
0712 90 19	0	5,62	5,62	5,62
1001 10 10	0	0,53	0,53	0,53
1001 10 90	0	0,53	0,53	0,53
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	5,62	5,62	5,62
1005 90 00	0	5,62	5,62	5,62
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

CN code	(ECU/tonne)				
	Current 3	1st period 4	2nd period 5	3rd period 6	4th period 7
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 545/91**of 6 March 1991****altering the export refunds on white sugar and raw sugar exported in the natural state**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 305/91 ⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 460/91 ⁽³⁾, as amended by Regulation (EEC) No 491/91 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 460/91 to the information known to the Commission that the export refunds at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to amended Regulation (EEC) No 460/91 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 March 1991.

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

Done at Brussels, 6 March 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 37, 9. 2. 1991, p. 1.

⁽³⁾ OJ No L 54, 28. 2. 1991, p. 13.

⁽⁴⁾ OJ No L 55, 1. 3. 1991, p. 44.

ANNEX

to the Commission Regulation of 6 March 1991 altering the export refunds on white sugar
and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	35,30 ⁽¹⁾	
1701 11 90 910	33,94 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	35,30 ⁽¹⁾	
1701 12 90 910	33,94 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3837
1701 99 10 100	38,37	
1701 99 10 910	36,90	
1701 99 10 950	36,90	
1701 99 90 100		0,3837

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

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

COMMISSION REGULATION (EEC) No 546/91
of 5 March 1991
concerning the classification of certain goods in the combined nomenclature

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

Having regard to Council Regulation (EEC) No 2658/87 ⁽¹⁾ on the tariff and statistical nomenclature and on the Common Customs Tariff, as last amended by Regulation (EEC) No 315/91 ⁽²⁾, and in particular Article 9,

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on the 21st day after its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 5 March 1991.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 37, 9. 2. 1991, p. 24.

ANNEX

Description of goods	Classification CN code	Reasons
(1)	(2)	(3)
1. Set comprising of : — a rectangular article (183 × 274 cm) made up of woven fabric (100 % cotton), with well finished scalloped edging. In its central section and in each corner it has decorations in the form of inlaid crocheted lace, and appliqué and embroidery of different colours (tablecloth); — 12 square articles (46 × 46 cm) made up of the same woven fabric. These articles are hemmed and an embroidery design, as seen in the tablecloth, appears in one corner (napkins).	6302 51 90	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, by Note 7 of Section XI, Note 1 of Chapter 63 and by the texts of CN codes 6302, 6302 51 and 6302 51 90.
2. Set comprising of : — a rectangular article (243 × 279 cm) made up of woven fabric (100 % linen), with well finished scalloped edging. It has embroidery over its entire surface a large proportion of which is open work (tablecloth); — 12 square articles (41 × 41 cm) made up of the same woven fabric. They have well finished scalloped edging and open worked embroidery, as seen in the tablecloth, in one corner (napkins).	6302 52 00	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, by Note 7 of Section XI, Note 1 of Chapter 63 and by the texts of CN codes 6302 and 6302 52 00.

COMMISSION REGULATION (EEC) No 547/91
of 6 March 1991

fixing the maximum export refund for white sugar for the 44th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 983/90

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 305/91⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 983/90 of 19 April 1990 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, as amended by Regulation (EEC) No 2786/90⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 983/90, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 44th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 44th partial invitation to tender for white sugar issued pursuant to amended Regulation (EEC) No 983/90 the maximum amount of the export refund is fixed at ECU 39,851 per 100 kilograms.

Article 2

This Regulation shall enter into force on 7 March 1991.

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

Done at Brussels, 6 March 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 37, 9. 2. 1991, p. 1.

⁽³⁾ OJ No L 100, 20. 4. 1990, p. 9.

⁽⁴⁾ OJ No L 265, 28. 9. 1990, p. 15.

II

(Acts whose publication is not obligatory)

COUNCIL

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE
MEMBER STATES, MEETING WITHIN THE COUNCIL

of 4 March 1991

amending Decision 90/414/ECSC preventing trade as regards Iraq and Kuwait

(91/125/ECSC)

THE REPRESENTATIVES OF THE GOVERNMENTS OF
THE MEMBER STATES OF THE EUROPEAN COAL AND
STEEL COMMUNITY, MEETING WITHIN THE COUNCIL,

Whereas, by Decision 90/414/ECSC⁽¹⁾, trade in
commodities and products covered by the ECSC Treaty
was prevented as regards Iraq and Kuwait following the
Resolutions by the Security Council of the United
Nations imposing an embargo on Iraq and Kuwait after
the invasion and occupation of Kuwait by Iraqi troops ;

Whereas the liberation of Kuwait has now taken place ;

Whereas, on 2 March 1991, the Security Council of the
United Nations adopted Resolution 686 (1991) recalling,
inter alia, paragraph 9 of Resolution 661 (1990) regarding
assistance to the Government of Kuwait, and requesting,
in paragraph 6, all Member States, as well as the United
Nations Organization, the specialized agencies and other
international organizations in the United Nations system,
to take all appropriate action to cooperate with the
Government and people of Kuwait in the reconstruction
of their country ;

Whereas the Community and its Member States, meeting
in the framework of political cooperation, consider there
is no reason to maintain the embargo measures imposed
by the Community with regard to Kuwait ;

Whereas the Community and its Member States have
decided to lift the said measures ; whereas, in order to do
so, the Council adopted Council Regulation (EEC) No

542/91⁽²⁾ lifting the Community embargo measures
concerning commodities and products other than those
covered by the ECSC Treaty ; whereas it is necessary to
adopt a decision lifting also the said measures for these
last mentioned products ;

In agreement with the Commission,

HAVE DECIDED AS FOLLOWS :

Article 1

The prohibitions imposed by Decision 90/414/ECSC are
hereby lifted as regards Kuwait as from 2 March 1991.

Article 2

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

Done at Brussels, 4 March 1991.

The President

J. F. POOS

⁽¹⁾ OJ No L 213, 9. 8. 1990, p. 3.

⁽²⁾ See page 5 of this Official Journal.

COMMISSION

COMMISSION DIRECTIVE

of 13 February 1991

amending the Annexes to Council Directive 74/63/EEC on undesirable substances and products in animal nutrition

(91/126/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 74/63/EEC of 17 December 1973 on undesirable substances and products in animal nutrition⁽¹⁾, as last amended by Directive 87/519/EEC⁽²⁾, and in particular Article 7 thereof,

Whereas Directive 74/63/EEC provides for a regular amendment of the content of its Annexes to take account of advances in scientific and technical knowledge;

Whereas there are grounds to reduce the level of aflatoxin in certain straight feedingstuffs and complementary feedingstuffs for dairy cattle, with the aim of limiting as far as possible the transfer of this mycotoxin in milk;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee for Feedingstuffs,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Annex I to Directive 74/63/EEC is hereby amended as set out in the Annex hereto.

Article 2

Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with Article 1 by 30 November 1991. They shall immediately inform the Commission thereof.

When Member States adopt these measures, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 13 February 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 38, 11. 2. 1974, p. 31.

⁽²⁾ OJ No L 304, 27. 10. 1987, p. 38.

ANNEX

In Annex I part B 'Products', against item 1 'Aflatoxin B₁':

1. The words 'Straight feedingstuffs' shown in the column 2 and the figure '0,05' shown in the column 3 are replaced by the following:

Substances, products	Feedingstuffs	Maximum content in mg/kg (ppm) of feedingstuff, at a moisture content of 12 %
(1)	(2)	(3)
	Straight feedingstuffs with the exception of: — Groundnut, copra, palm-kernel, cotton seed, babassu, maize and products derived from the processing thereof	0,05 0,02

2. The figure '0,01' shown in column 3 for 'Other complementary feedingstuffs' in column 2 is replaced by the figure '0,005'.

COMMISSION DIRECTIVE
of 14 February 1991
amending Directive 66/403/EEC on the marketing of seed potatoes
(91/127/EEC)

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

Having regard to Council Directive 66/403/EEC⁽¹⁾ of 14 June 1966 on the marketing of seed potatoes, as last amended by Council Directive 90/654/EEC⁽²⁾, and in particular Article 15 (2a) thereof,

Whereas in principle, with effect from certain dates, Member States may no longer determine for themselves the equivalence of seed potatoes harvested in third countries with seed potatoes harvested within the Community and complying with that Directive;

Whereas, however, since work to establish Community equivalence for all the third countries concerned had not been completed, Article 15 (2a) of that Directive permitted Member States to extend to 31 March 1990 the period of validity of equivalence which they had already determined in respect of certain countries not covered by the Community equivalences;

Whereas the said work is still incomplete;

Whereas the authorization may only be extended in accordance with Member States' obligations under the common rules on plant health, laid down by Council Directive 77/93/EEC⁽³⁾;

Whereas by Commission Decisions 89/599/EEC⁽⁴⁾ and 90/613/EEC⁽⁵⁾ derogations provided for by certain Member States from certain provisions of Directive 77/93/EEC in respect of seed potatoes originating in Canada and Poland respectively have been approved until 31 March 1991;

Whereas the authorization granted to Member States by Article 15 (2a) should accordingly be extended;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing

Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Article 15 (2a) of Directive 66/403/EEC, '31 March 1990' is replaced by '31 March 1991'.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive.

When Member States adopt these measures, these shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The procedure for such reference shall be adopted by Member States.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 14 February 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No 125, 11. 7. 1966, p. 2320/66.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 48.

⁽³⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽⁴⁾ OJ No L 344, 25. 11. 1989, p. 31.

⁽⁵⁾ OJ No L 328, 28. 11. 1990, p. 20.

COMMISSION DECISION

of 15 February 1991

relating to a proceeding under Article 85 of the EEC Treaty

(IV/31.559 — Sippa)

(Only the French text is authentic)

(91/128/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the EEC Treaty⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 6 and 8 thereof,

Having regard to the application submitted on 12 June 1985 by the 'Comité du Salon de la Papeterie' for negative clearance or, alternatively, exemption of the general regulations governing the 'Salon International Professionnel de la Papeterie et de la Bureautique' (Sippa),

Having published a summary of Sippa's regulations⁽²⁾ in accordance with Article 19 (2) of Regulation No 17,

Having consulted the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

A. Organization of the Salon

(1) The 'Comité du Salon de la Papeterie' is a registered association under the French Law of 1 July 1901 and was set up on 13 March 1972. Under Article 2 of its articles of associations, its purpose is to group together the paper industry, particularly in connection with trade events ('Salon de la Papeterie'). All exhibitors at the Salon who have paid their contribution are members of the Comité as of right.

(2) Every year, at the beginning of February, the Comité organizes the 'Salon International Professionnel de la Papeterie et de la Bureautique' (Sippa)

in Paris. The Salon is reserved for the trade and is the largest trade event of its kind in France. At the 1990 Salon, which was held from 1 to 5 February, the exhibition area covered about 45 000 square metres, and there were some 600 exhibitors, including 70 foreign exhibitors among which 50 from other Member States; some 40 000 articles were exhibited.

- (3) Admission request forms are sent automatically in May to all exhibitors at the previous Salon. Applications for the recent Salon were registered at the following rates :

	French exhibitors	Foreign exhibitors	Total
June 1989	113	11	124
July 1989	130	16	146
September 1989	76	3	79
October 1989	94	11	105
November 1989	56	9	65
December 1989	32	16	48
January 1990	31	5	36
	532	71	603

- (4) Other paper industry trade fairs are held in France, but they are either sectoral or regional. Of the 300 such fairs, a good many are held in the weeks following the Sippa.

There are also several international paper trade fairs comparable to Sippa, for example in Frankfurt, Germany, or those organized in the Netherlands by Vifka, whose regulations were exempted by Commission Decision 86/499/EEC⁽³⁾ (but which also cover office equipment).

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 226, 11. 9. 1990, p. 3.

⁽³⁾ OJ No L 291, 15. 10. 1986, p. 46.

B. The paper industry in France

- (5) Sippa has submitted a study on the paper sector carried out in 1988 by a firm of consultants.

There are three main categories of consumers :

- households (30 %) and one-man businesses (12 %),
- companies (41 %),
- administrations (17 %).

- (6) Some 45 000 firms are involved in the retail trade (gross turnover in 1987: FF 18 300 million) and generally market paper as a sideline. Sales to companies and administrations are generally carried out by suppliers ('suppliers' are firms achieving over 40 % of their paper sales to companies and administrations), of which there are some 1 000 accounting for 43 % of the turnover of the retail trade. Sales to households and one-man businesses involve two forms of distribution :

- large-scale distribution, involving 7 500 firms and 21 % of the total turnover of the retail trade,
- retailers, of which there are 36 000 accounting for 36 % of turnover.

The wholesale trade (gross turnover in 1987: approximately FF 2 000 million) is represented by approximately 100 firms.

- (7) Production is carried out by some 500 companies. Total sales of paper products by manufacturers and importers on the French domestic market represented a total gross turnover of FF 12 400 million in 1987. Direct distribution patterns are typical of the market and account for 88 % of sales (against 12 % to wholesalers), broken down as follows: suppliers: 37 %; retailers: 19 %; large-scale distribution: 17 %; direct sales: 15 %. A breakdown of foreign manufacturers' sales by origin shows that the share of imports is in the region of 23 %.

C. Sippa's general regulations

- (8) Sippa's regulations, in the version notified in 1985, were endorsed in a comfort letter sent on 20 February 1986. However, the comfort letter was revoked, without retroactive effect, on 7 February 1989, the situation in law and in fact having changed in the meantime. The regulations notified in 1985 provided that the principle to be observed

was that one and the same product presented in the same way could not be displayed at two different stands. In Decision 87/509/EEC on the Internationale Dentalschau⁽¹⁾, however, the Commission laid down the principle that this rule prohibiting a product from being exhibited twice could be allowed only in exceptional circumstances, where there was a lack of space. In addition, difficulties which Sippa encountered with one exhibitor (who has since lodged a complaint with the Commission) highlighted the need to improve the operation of the arbitration system.

- (9) New drafts of the articles of association and regulations submitted by Sippa have been the subject of discussions with the Commission's Directorate-General for Competition and were amended so as to take account of observations made by the Commission's staff. The articles of association of the Comité were amended at the extraordinary general meeting held on 10 April 1990. Sippa's general regulations, which according to the Comité's articles have to be adopted by the Comité's administrative board, apply in their new version from the 1991 Salon.

- (10) The main provisions of the new regulations may be summarized as follows :

- (a) Applications for admission are processed in chronological order. The following are accepted immediately if they are complete and relate to products included in the nomenclature :

- (i) applications submitted direct by manufacturers and/or designers of products marketed under their brand name ;

- (ii) applications by dealers or sales agents who submit a delegation of authority by the manufacturer of the products concerned ;

- (iii) applications by dealers or sales agents in respect of new, original products not already shown by a manufacturer or an agent, where the dealer or sales agent does not have any delegation of authority from the manufacturer ;

- (iv) applications by dealers or sales agents in respect of products already shown by the manufacturer himself or his agent, where the dealer or sales agent has a secondary delegation or authority from the manufacturer. Such secondary delegations are not exclusive and may be multiple.

⁽¹⁾ OJ No L 293, 16. 10. 1987, p. 58.

Applications from other dealers or sales agents not falling within the above categories are held over. A decision is taken on them at least two months before the Salon on the basis of the space available and the registration number of the application. Any decisions refusing admission are notified immediately.

Any stands which subsequently become available through cancellation are allocated on the basis of the order of priority described above,

- (b) in contrast to a number of exhibition regulations exempted by the Commission, Sippa's regulations do not lay down any 'prohibition period' during which exhibitors may not take part in other exhibitions of the same kind;
- (c) The documents and prices displayed at the stands and the canvassing of visitors must relate only to the products admitted for exhibition;
- (d) Any infringement of the rules laid down in the general regulations could result in the exhibitor being excluded from the Salon taking place and the following one. The old regulations were more restrictive since they provided for exclusion from the two Salons and, in the case of a relapse, exclusion for a period of five years;
- (e) Any decision taken by the administrative board of the Comité to refuse an exhibitor admission or to exclude an exhibitor may be referred to arbitration, the arrangements for which have been substantially amended. The previous articles of association laid down the composition of the arbitration board, which consisted of five members, only one of whom was designated by the exhibitor. Now, the arbitration procedure is laid down in the general regulations;

Within eight days of the notification of the decision, the applicant refused admission or the exhibitor excluded appoints an arbitrator. The administration board does likewise within the same time limit. The two arbitrators thus appointed, having accepted their appointment as rapidly as possible, jointly appoint a third arbitrator within eight days of having accepted their appointment. If they cannot agree on the third arbitrator, he is appointed by the 'Président du Tribunal de Grande Instance de Paris' acting in summary proceedings. The arbitration decision is given within 15 days of the third arbitrator having accepted his appointment.

D. Comments of third parties

- (11) Following the publication of the communication made in accordance with Article 19 (3) of Regulation No 17, the Commission has received the observations of the complainant referred to in recital 8. The complainant contests the clause set out in recital 10 point c which prevents exhibitors from carrying out active commercial promotion in respect of products not exhibited. The observations made by the complainant together with the arguments put forward in its complaint do not alter the Commission's legal evaluation of the clause in question which is set out in recitals 18 (third paragraph), 19 (third paragraph), 20 (third paragraph) and 21.

II. LEGAL ASSESSMENT

A. Article 85 (1)

- (12) Article 85 (1) of the Treaty prohibits as incompatible with the common market, all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market.
- (13) The Comité du Salon de la Papeterie is an association of undertakings within the meaning of Article 85. The general regulations it has adopted governing the operation of the Sippa constitute a decision by an association of undertakings.
- (14) The general regulations of the Sippa comprise the following restrictions of competition :
 - firstly, applications for admission are not all dealt with in the same way. Priority is given, in the following order, to manufacturers, the distributors to whom they have delegated authority, distributors without delegation of authority but showing new products not already exhibited, and distributors showing products already exhibited but having a secondary delegation of authority from the manufacturer.

Applications for admission from exhibitors not falling into one of these four categories are held over and may be rejected for lack of space,

- secondly, exhibitors may display documents and prices and canvass visitors only in connection with the products shown on the stand.

- (15) Such restrictions of competition are liable to affect trade between Member States since Sippa is, as its name indicates, an international Salon attended by a number of foreign exhibitors (see recital 2).

Exhibitors from other Member States may, like French exhibitors, be refused admission on grounds of lack of space. The limiting of 'active' canvassing solely to products exhibited on the stand is also liable to affect trade between Member States because of the significantly international nature (see recital 11) of the paper industry at the manufacturing, wholesale and retail levels. An exhibitor cannot thus actively canvass at the Salon all the products, including those from other Member States, which he distributes (if he is a distributor) or manufactures (if he is a manufacturer from another Member State).

B. Article 85 (3)

- (16) Under Article 85 (3), the provisions of Article 85 (1) may be declared inapplicable in the case of any decision by an association of undertakings which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

- (17) The Commission has stated on a number of occasions, in particular in its decisions in the aforementioned cases of Vifka and Internationale Dentschau and in Decision 88/877/EEC⁽¹⁾ that its policy with regard to exhibitions or trade fairs is to allow agreements or arrangements which result in rationalization or cost savings and which at the same time contain advantages for consumers, the benefits of which outweigh the restrictive elements.

- (18) The provisions of Sippa's regulations concerning the order of registration of applications for admission and the limiting of active canvassing to

products exhibited on the stand form part of a whole (Sippa's general regulations), which is aimed at improving the distribution of paper goods and promoting economic progress by informing consumers about as complete a range as possible of products available on the market. Each of the provisions, in itself, satisfies the first condition of Article 85 (3).

On the question of admission, the Commission stated in its 'Internationale Dentschau' Decision (recital 23):

'The purpose of the restriction which may be imposed on the admission of exhibitors wishing to exhibit the same article is [...] to ensure that the range of articles exhibited is as complete as possible [...]. Such restrictions ensure that the multiple display of certain articles does not prevent a complete range of articles from being presented'.

Because active canvassing is limited only to the products exhibited, information for visitors can be concentrated solely on the product on the stand without covering other articles already shown on other stands: the purpose of the Salon is primarily to make a product known and not its various outlets.

- (19) The consumer, i.e. the professionals visiting the Sippa, obtain a fair share of the benefit resulting from these restrictions of competition.

By restricting the number of exhibitors on grounds of shortage of space, it becomes possible to avoid accepting every application for admission and thus ensure that the Salon does not occupy an excessively and unnecessarily large area with the same products being displayed several times; it is thus possible to rationalize the costs of organizing the Salon and the exhibitors' general costs which are reflected in the cost of the products being sold.

By concentrating active canvassing solely on the products exhibited, visitors avoid confusing the products exhibited with their different modes of distribution: the Salon enables visitors to learn about the existence of a given article and it is then up to them to choose their preferred channel of distribution.

- (20) The provisions relating to the admission of exhibitors and active canvassing do not impose any restrictions which are not indispensable.

⁽¹⁾ OJ No L 233, 23. 8. 1988, p. 15.

In contrast to Sippa's previous regulations which provided that one and the same product presented in the same way could not be displayed at two different stands, this possibility now exists. It is only if there is a lack of available space that an exhibitor may, under conditions defined in the regulations, be refused admission. In addition, the rules concerning arbitration in the event of an application being rejected have been greatly improved and are now as objective and effective as possible.

The restriction which confines active canvassing solely to the products exhibited does not rule out 'passive' canvassing; whilst an exhibitor may not make use of the Salon to canvass actively all the products in his range, he is not prohibited from answering any questions visitors may ask.

- (21) The provisions concerning admission and active canvassing do not eliminate competition between exhibitors in respect of a substantial part of the products in question.

The same comments made by the Commission on the question of admission in its 'Internationale Dentalschau' Decision (recital 29) may be made here :

'Participation [in the Sippa] is not the only means by which manufacturers, importers and dealers can present their products and their form of distribution and service [...]. They can participate in other exhibitions and pursue other forms of advertising'.

The active promotion of all the products manufactured or distributed by an exhibitor but not displayed on the stand can equally be pursued in various forms outside the Salon.

C. Articles 6 and 8 of Regulation No 17

- (22) Under Article 6 (1) of Regulation No 17, decisions by the Commission pursuant to Article 85 (3) must specify the date from which the decision shall take effect. Under Article 8 (1) of Regulation No 17, the decision must be issued for a specific period, and conditions and obligations may be attached thereto.

- (23) This Decision should apply from 19 April 1990, the date on which the Commission received the new version of Sippa's general regulations adopted by the Comité du Salon de la Papeterie at its extraordinary general meeting on 10 April 1990.

- (24) In view of the fact that the scope of the restrictions of competition contained in Sippa's general regulations is not considerable and in particular that there is no 'prohibition period' during which a Sippa exhibitor may not participate in another trade fair in the sector, exemption can be granted for a period of 10 years.

- (25) To enable the Commission to verify whether the conditions for the application of Article 85 (3) continue to be satisfied during the period of exemption, the Comité du Salon de la Papeterie should be required to inform the Commission of any changes in, or additions to, Sippa's general regulations and to inform it immediately of any decision refusing admission or excluding an exhibitor from Sippa. Likewise it should be requested to send a copy of any arbitration award refusing an application for participation or excluding an exhibitor from Sippa,

HAS ADOPTED THIS DECISION :

Article 1

The provisions of Article 85 (1) of the EEC Treaty are, pursuant to Article 85 (3), hereby declared inapplicable to Sippa's general regulations for the period from 19 April 1990 to 18 April 2000.

Article 2

The following obligations shall be attached to this Decision :

1. The Comité du Salon de la Papeterie shall inform the Commission immediately of any changes in or addition to Sippa's general regulations.
2. The Comité du Salon de la Papeterie shall inform the Commission of any decision to refuse an exhibitor admission or to exclude an exhibitor from Sippa and

shall send the Commission immediately a copy of any arbitration award refusing an exhibitor's application for admission or excluding an exhibitor from Sippa.

Done at Brussels, 15 February 1991.

Article 3

This Decision is addressed to the Comité du Salon de la Papeterie, 14, boulevard Montmartre, F-75009 Paris.

For the Commission

Leon BRITTAN

Vice-President
