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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 846/91

of 5 April 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⁾ 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 April 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 6 April 1991.

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

Done at Brussels, 5 April 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 5 April 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy
0709 90 60	136,01 ⁽²⁾ ⁽³⁾
0712 90 19	136,01 ⁽²⁾ ⁽³⁾
1001 10 10	197,26 ⁽¹⁾ ⁽²⁾
1001 10 90	197,26 ⁽¹⁾ ⁽²⁾
1001 90 91	176,82
1001 90 99	176,82
1002 00 00	154,95 ⁽⁶⁾
1003 00 10	151,40
1003 00 90	151,40
1004 00 10	141,26
1004 00 90	141,26
1005 10 90	136,01 ⁽²⁾ ⁽³⁾
1005 90 00	136,01 ⁽²⁾ ⁽³⁾
1007 00 90	142,17 ⁽⁴⁾
1008 10 00	48,69
1008 20 00	137,20 ⁽⁴⁾
1008 30 00	61,86 ⁽²⁾
1008 90 10	⁽⁷⁾
1008 90 90	61,86
1101 00 00	262,08 ⁽⁸⁾
1102 10 00	231,46 ⁽⁸⁾
1103 11 10	318,54 ⁽⁸⁾
1103 11 90	281,41 ⁽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 847/91

of 5 April 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 April 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 6 April 1991.

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

Done at Brussels, 5 April 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 5 April 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 4	1st period 5	2nd period 6	3rd period 7
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	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	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 4	1st period 5	2nd period 6	3rd period 7	4th period 8
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 848/91
of 5 April 1991
fixing the import levies on rice and broken rice

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 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 1806/89 ⁽²⁾, and in particular Article 11 (2) thereof,

Having regard to Commission Regulation (EEC) No 883/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports rice of the long-grain aromatic Basmati variety falling within CN codes 1006 10, 1006 20 and 1006 30 ⁽³⁾, as last amended by Regulation (EEC) No 674/91 ⁽⁴⁾, and in particular Article 8 thereof,

Whereas the import levies on rice 230/91 broken rice were fixed by Commission Regulation (EEC) No 566/91 ⁽⁵⁾, as last amended by Regulation (EEC) No 753/91 ⁽⁶⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on the products listed in Article 1 (1) (a) and (b) of Regulation (EEC) No 1418/76 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 April 1991.

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

Done at Brussels, 5 April 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 177, 24. 6. 1989, p. 1.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 75, 21. 3. 1991, p. 29.

⁽⁵⁾ OJ No L 63, 9. 3. 1991, p. 9.

⁽⁶⁾ OJ No L 81, 28. 3. 1991, p. 6.

ANNEX

to the Commission Regulation of 5 April 1991 fixing the import levies on rice and broken rice

(ECU/tonne)

CN code	Arrangement in Regulation (EEC) No 3877/86	ACP or OCT (⁽¹⁾) (⁽²⁾)	Third countries (except ACP or OCT) (⁽³⁾) (⁽⁴⁾)
1006 10 21	—	152,51	312,22
1006 10 23	217,85	141,63	290,47
1006 10 25	217,85	141,63	290,47
1006 10 27	217,85	141,63	290,47
1006 10 92	—	152,51	312,22
1006 10 94	217,85	141,63	290,47
1006 10 96	217,85	141,63	290,47
1006 10 98	217,85	141,63	290,47
1006 20 11	—	191,54	390,28
1006 20 13	272,32	177,94	363,09
1006 20 15	272,32	177,94	363,09
1006 20 17	272,32	177,94	363,09
1006 20 92	—	191,54	390,28
1006 20 94	272,32	177,94	363,09
1006 20 96	272,32	177,94	363,09
1006 20 98	272,32	177,94	363,09
1006 30 21	—	237,01	497,88 (⁽⁵⁾)
1006 30 23	424,18 (⁽⁵⁾)	270,90	565,57 (⁽⁵⁾)
1006 30 25	424,18 (⁽⁵⁾)	270,90	565,57 (⁽⁵⁾)
1006 30 27	424,18 (⁽⁵⁾)	270,90	565,57 (⁽⁵⁾)
1006 30 42	—	237,01	497,88 (⁽⁵⁾)
1006 30 44	424,18 (⁽⁵⁾)	270,90	565,57 (⁽⁵⁾)
1006 30 46	424,18 (⁽⁵⁾)	270,90	565,57 (⁽⁵⁾)
1006 30 48	424,18 (⁽⁵⁾)	270,90	565,57 (⁽⁵⁾)
1006 30 61	—	252,77	530,25 (⁽⁵⁾)
1006 30 63	454,73 (⁽⁵⁾)	290,80	606,30 (⁽⁵⁾)
1006 30 65	454,73 (⁽⁵⁾)	290,80	606,30 (⁽⁵⁾)
1006 30 67	454,73 (⁽⁵⁾)	290,80	606,30 (⁽⁵⁾)
1006 30 92	—	252,77	530,25 (⁽⁵⁾)
1006 30 94	454,73 (⁽⁵⁾)	290,80	606,30 (⁽⁵⁾)
1006 30 96	454,73 (⁽⁵⁾)	290,80	606,30 (⁽⁵⁾)
1006 30 98	454,73 (⁽⁵⁾)	290,80	606,30 (⁽⁵⁾)
1006 40 00	—	72,20	150,40

(⁽¹⁾) Subject to the application of the provisions of Articles 12 and 13 of Regulation (EEC) No 715/90.

(⁽²⁾) In accordance with Regulation (EEC) No 715/90, the levies are not applied to products imported directly into the overseas department of Réunion of products originating in the African, Caribbean and Pacific States or in the overseas countries and territories.

(⁽³⁾) The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

(⁽⁴⁾) The import levy on rice originating in Bangladesh is specified in Regulation (EEC) No 3491/90.

(⁽⁵⁾) 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 849/91
of 5 April 1991**

fixing the premiums to be added to the import levies on rice and broken rice

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 1418/76
of 21 June 1976 on the common organization of the
market in rice ⁽¹⁾, as last amended by Regulation (EEC)
No 1806/89 ⁽²⁾, and in particular Article 13 (6) thereof,

Whereas the premiums to be added to the levies on rice
and broken rice were fixed by Commission Regulation
(EEC) No 3847/90 ⁽³⁾, as last amended by Regulation
(EEC) No 754/91 ⁽⁴⁾;

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 shown in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The premiums to be added to the import levies fixed in
advance in respect of rice and broken rice originating in
third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 April 1991.

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

Done at Brussels, 5 April 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 177, 24. 6. 1989, p. 1.

⁽³⁾ OJ No L 367, 29. 12. 1990, p. 19.

⁽⁴⁾ OJ No L 81, 28. 3. 1991, p. 8.

ANNEX

to the Commission Regulation of 5 April 1991 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 4	1st period 5	2nd period 6	3rd period 7
1006 10 21	0	0	0	—
1006 10 23	0	0	0	—
1006 10 25	0	0	0	—
1006 10 27	0	0	0	—
1006 10 92	0	0	0	—
1006 10 94	0	0	0	—
1006 10 96	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 13	0	0	0	—
1006 20 15	0	0	0	—
1006 20 17	0	0	0	—
1006 20 92	0	0	0	—
1006 20 94	0	0	0	—
1006 20 96	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 23	0	0	0	—
1006 30 25	0	0	0	—
1006 30 27	0	0	0	—
1006 30 42	0	0	0	—
1006 30 44	0	0	0	—
1006 30 46	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 63	0	0	0	—
1006 30 65	0	0	0	—
1006 30 67	0	0	0	—
1006 30 92	0	0	0	—
1006 30 94	0	0	0	—
1006 30 96	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0

COMMISSION REGULATION (EEC) No 850/91

of 5 April 1991

adopting interim protective measures in so far as concerns Spain in regard to applications for STM licences coming from the Community of Ten for milk and milk products lodged between 25 and 29 March 1991

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 608/86 ⁽¹⁾ laying down detailed rules for applying the supplementary trade mechanism to milk products imported into Spain from the Community of Ten and from Portugal, as last amended by Regulation (EEC) No 334/91 ⁽²⁾, fixes the indicative ceilings for milk sector products for 1991 and splits these up into monthly ceilings;

Whereas applications for STM licences in the Community of Ten for cheese of categories 5 and 6 lodged between 25 and 29 March 1991 relate to quantities higher than the ceiling set for the second quarter;

Whereas Article 85 (1) of the Act of Accession states that the Commission may take interim protective measures necessary by an emergency procedure where the situation indicates that the initiative ceiling will be attained or exceeded; whereas to this it is necessary, as an interim protective measure, in view of the number of requests, for the products concerned and only for the Community of

Ten, to issue licences up to a percentage of the quantities applied for categories 5 and 6 and to suspend all further issuing of licences for the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for STM licences as referred to in Regulation (EEC) No 606/86, lodged between 25 and 29 March 1991 for the Community of Ten and lodged with the Commission, for milk products falling within:

- category 5 of CN code ex 0406 are hereby accepted up to a percentage of 70,76 %,
- category 6 of CN code ex 0406 are hereby accepted up to a percentage of 20,57 %.

2. The issuing of STM licences in the Community of Ten is hereby provisionally suspended for products falling within categories 5 and 6 above the percentages referred to in paragraph 1.

Article 2

This Regulation shall enter into force on 6 April 1991.

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

Done at Brussels, 5 April 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 58, 1. 3. 1986, p. 28.

⁽²⁾ OJ No L 39, 13. 2. 1991, p. 15.

COMMISSION REGULATION (EEC) No 851/91

of 5 April 1991

providing for the grant of compensation to producer's organizations in respect of tuna delivered to the canning industry during the period 1 April to 30 June 1990

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products⁽¹⁾, as last amended by Commission Regulation (EEC) No 2886/89⁽²⁾, and in particular Article 17a (10) thereof,

Whereas the compensation referred to in Article 17a of Regulation (EEC) No 3796/81 is granted, under certain conditions, to Community tuna producers' organizations in respect of quantities of tuna delivered to the canning industry, during the calendar quarter for which prices were recorded, where the average quarterly price recorded on the Community market and the free-at-frontier price are both lower than 93 % of the Community producer price for the product in question;

Whereas examination of the situation on the Community market has shown that for some species and presentations of the product in question, for the period 1 April to 30 June 1990, both the average quarterly market price and the free-at-frontier price referred to in Article 17a of Regulation (EEC) No 3796/81 were lower than 93 % of the Community producer price in force as laid down in Council Regulation (EEC) No 3648/89 of 27 November 1989 fixing the Community producer price for tuna intended for the industrial manufacture of products falling within CN code 1604 for the 1990 fishing year⁽³⁾;

Whereas the quantities eligible for compensation, within the meaning of Article 17a (2) of Regulation (EEC) No 3796/81, may not under any circumstances exceed, for the quarter concerned, the limits laid down in paragraph 4 of that Article;

Whereas, in the case of skipjack, none of these limits is exceeded and, consequently, there is no need to determine the maximum quantities in respect of which the allowance may be granted;

Whereas, on the other hand, during the quarter concerned the quantities sold and delivered to canning

industries established in Community customs territory were, in the case of yellowfin weighing more than 10 kg, higher than 110 % of the quantities sold and delivered during the same quarter of the fishing years 1984 to 1986; whereas since these quantities exceed the limits referred to in the third indent of Article 17a (4) of Regulation (EEC) No 3796/81, the total quantity eligible for compensation should therefore be limited and the allocation granted to each producers' organization concerned should be determined in proportion to their respective output during the same quarter of the 1984 to 1986 fishing years;

Whereas, in accordance with Commission Regulation (EEC) No 2381/89 of 2 August 1989 laying down detailed rules for granting compensation for tuna for the canning industry⁽⁴⁾, the granting of compensation for the products in question should be decided for the period from 1 April to 30 June 1990;

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

HAS ADOPTED THIS REGULATION:

Article 1

The compensation referred to in Article 17a of Regulation (EEC) No 3796/81 shall be granted for the period 1 April to 30 June 1990, in respect of the products listed and within the limits set out below:

(ECU/tonne)	
Product	Maximum amount of allowance within the meaning of the first and second indents of Article 17a (3) of Regulation (EEC) No 3796/81
Yellowfin tuna, whole, weighing more than 10 kg	75
Skipjack	24

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 282, 2. 10. 1989, p. 1.

⁽³⁾ OJ No L 357, 7. 12. 1989, p. 6.

⁽⁴⁾ OJ No L 225, 3. 8. 1989, p. 33.

Article 2

1. The total quantity of yellowfin tuna, whole, weighing more than 10 kg, that may be eligible for the allowance is hereby limited to 27 104 tonnes.

2. The total quantity shall be allocated among the producers' organizations concerned in accordance with the Annex hereto.

Article 3

This Regulation shall enter into force on the third 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, 5 April 1991.

For the Commission

Manuel MARÍN

Vice-President

ANNEX

Allocation among the producers' organizations of the quantities of yellowfin tuna weighing more than 10 kg that may be eligible for compensation and calculation of the maximum amount thereof in accordance with Article 17a (6) of Regulation (EEC) No 3796/81

(in tonnes)

Producers' organization	Quantities that may be eligible for the allowance			Total quantities
	100 % Article 17a (6), first indent	95 % Article 17a (6), second indent	90 % Article 17a (6), third indent	
Organización de Productores Asociados de Grandes Congeladores (OPAGAC)	5 720	572	—	6 292
Organización de Productores de Túnidos Congelados (OPTUC)	8 902	890	—	9 792
Organisation de producteurs de thon congelé (ORTHONGEL)	10 018	1 002	—	11 020
Total quantities	24 640	2 464	—	27 104

COMMISSION REGULATION (EEC) No 852/91

of 5 April 1991

providing for the grant of compensation to producer's organizations in respect of tuna delivered to the canning industry during the period 1 July to 30 September 1990

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products⁽¹⁾, as last amended by Commission Regulation (EEC) No 2886/89⁽²⁾, and in particular Article 17a (10) thereof,

Whereas the compensation referred to in Article 17a of Regulation (EEC) No 3796/81 is granted, under certain conditions, to Community tuna producers' organizations in respect of quantities of tuna delivered to the canning industry, during the calendar quarter for which prices were recorded, where the average quarterly price recorded on the Community market and the free-at-frontier price are both lower than 93 % of the Community producer price for the product in question;

Whereas examination of the situation on the Community market has shown that for some species and presentations of the product in question, for the period 1 July to 30 September 1990, both the average quarterly market price and the free-at-frontier price referred to in Article 17a of Regulation (EEC) No 3796/81 were lower than 93 % of the Community producer price in force as laid down in Council Regulation (EEC) No 3648/89 of 27 November 1989 fixing the Community producer price for tuna intended for the industrial manufacture of products falling within CN code 1604 for the 1990 fishing year⁽³⁾;

Whereas the quantities eligible for compensation, within the meaning of Article 17a (2) of Regulation (EEC) No 3796/81, may not under any circumstances exceed, for the quarter concerned, the limits laid down in paragraph 4 of that Article;

Whereas, in the case of yellowfin weighing not more than 10 kg, skipjack and albacore, none of these limits is exceeded and, consequently, there is no need to determine the maximum quantities in respect of which the allowance may be granted;

Whereas, on the other hand, during the quarter concerned the quantities of yellowfin weighing more than 10 kg, sold and delivered to canning industries established in Community customs territory were higher than the average of the quantities sold and delivered during the

same quarter of the preceding three fishing years; whereas, since these quantities exceed the limits set in the second indent of Article 17a (4) of Regulation (EEC) No 3796/81, the total quantities of these products should therefore be limited to those eligible for compensation and the quantities granted to each producers' organization concerned should be determined in accordance with their respective output during the same quarter of the 1984 to 1986 fishing years;

Whereas, in accordance with Commission Regulation (EEC) No 2381/89 of 2 August 1989 laying down detailed rules for granting compensation for tuna for the canning industry⁽⁴⁾, the granting of compensation for the products in question should be decided for the period from 1 July to 30 September 1990;

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

HAS ADOPTED THIS REGULATION:

Article 1

The compensation referred to in Article 17a of Regulation (EEC) No 3796/81 shall be granted for the period 1 July to 30 September 1990, in respect of the products listed and within the limits set out below:

(ECU/tonne)	
Product	Maximum amount of allowance within the meaning of the first and second indents of Article 17a (3) of Regulation (EEC) No 3796/81
Yellowfin tuna, whole, weighing more than 10 kg	138
Yellowfin tuna, whole, weighing not more than 10 kg	111
Skipjack or stripe-bellied tuna, whole	86
Albacore or longfinned tuna, whole	39

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 282, 2. 10. 1989, p. 1.

⁽³⁾ OJ No L 357, 7. 12. 1989, p. 6.

⁽⁴⁾ OJ No L 225, 3. 8. 1989, p. 33.

*Article 2**Article 3*

1. The total quantity of yellowfin weighing more than 10 kg that may be eligible for the allowance is hereby limited to 17 371 tonnes.

2. The total quantity shall be allocated among the producers' organizations concerned in accordance with the Annex hereto.

This Regulation shall enter into force on the third 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, 5 April 1991.

For the Commission

Manuel MARÍN

Vice-President

ANNEX

Allocation among the producers' organizations of yellowfin weighing more than 10 kg that may be eligible for compensation and calculation of the maximum amount thereof in accordance with Article 17a (6) of Regulation (EEC) No 3796/81

Producers' organization	Quantities that may be eligible for the allowance		Total quantities
	100 % Article 17a (6), first indent	95 % Article 17a (6), second indent	
Organización de Productores Asociados de Grandes Congeladores (OPAGAC)	4 731	451	5 182
Organización de Productores de Túnidos Congelados (OPTUC)	5 691	544	6 235
Organisation de producteurs de thon congelé (ORTHONGEL)	5 434	520	5 954
Total quantities	15 856	1 515	17 371

COMMISSION REGULATION (EEC) No 853/91

of 5 April 1991

on duties applicable in the Community as constituted on 31 December 1985 to
'wild onions' of the species *Muscari comusum* from Spain and Portugal

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 points (b) of the first subpara-
graphs of Articles 75 (4) and 243 (4) thereof,

Whereas Council Regulation (EEC) No 4161/87 ⁽¹⁾ deter-
mined the basic duties to be used in the Community as
constituted on 31 December 1985 for the calculation of
the successive reductions provided for in the Act of
Accession;

Whereas the marketing of 'wild onions' of the species
Muscari comusum from Spain and Portugal should be
promoted in the Community as constituted on 31
December 1985; whereas the customs duty applicable in
the Community as constituted on 31 December 1985 to
the said products meeting the conditions laid down in
Article 9 (2) of the Treaty in Spain and Portugal should
accordingly be reduced at a faster rate than originally laid
down;

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

HAS ADOPTED THIS REGULATION:

Article 1

The customs duty applicable in the Community as consti-
tuted on 31 December 1985 to 'wild onions' of the
species *Muscari comusum* falling within CN code ex
0709 90 90 from Spain and Portugal meeting the condi-
tions laid down in Article 9 (2) of the Treaty is hereby
reduced to 4,8 % during the following periods:

- on import from Spain: from 1 January 1988 to 31
December 1992,
- on import from Portugal: from 1 January 1988 to 31
December 1991.

Article 2

This Regulation shall enter into force on the 15th day
following its publication in the *Official Journal of the
European Communities*.

It shall apply from 1 January 1988.

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

Done at Brussels, 5 April 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 395, 31. 12. 1987, p. 1.

COMMISSION REGULATION (EEC) No 854/91

of 5 April 1991

amending Regulation (EEC) No 598/86 concerning the target ceiling for 1991 for imports into Spain of common wheat of bread-making quality

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 (3) thereof,

Having regard to Council Regulation (EEC) No 569/86 of 25 February 1986 laying down general rules for the application of the supplementary mechanism applicable to trade⁽¹⁾, as last amended by Regulation (EEC) No 3296/88⁽²⁾, and in particular Article 7 (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⁽³⁾, as last amended by Regulation (EEC) No 584/91⁽⁴⁾, sets a target ceiling for 1991 for imports of common wheat of bread-making quality into Spain;

Whereas, on the basis of 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)⁽⁵⁾, as last amended by Regulation (EEC) No 3296/88 the Commission has been notified on 18 March 1991 of applications received for STM licences for imports into Spain of common wheat of bread-making quality which are well in excess of the ceiling set; whereas measures were taken by Commission Regulation (EEC) No 669/91 of 20 March 1991 concerning applications for STM licences for cereals submitted

from 15 March to 18 March 1991 onwards for imports of common wheat into Spain⁽⁷⁾;

Whereas, in the present situation on the market for common wheat of bread-making quality in Spain, a feature of which is limited supply compared with demand, provision should be made for an increase in the target ceiling for the current marketing year in order to ensure normal supply to the market;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 4 of Regulation (EEC) No 598/86, the figure '452 000' is replaced by the figure '552 000'.

Article 2

Article 1 (2) of Regulation (EEC) No 669/91 is hereby deleted.

Article 3

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

This Regulation shall apply to applications for licences submitted from the date of entry into force.

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

Done at Brussels, 5 April 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 55, 1. 3. 1986, p. 106.

⁽²⁾ OJ No L 293, 27. 10. 1988, p. 7.

⁽³⁾ OJ No L 58, 1. 3. 1986, p. 16.

⁽⁴⁾ OJ No L 65, 12. 3. 1991, p. 34.

⁽⁵⁾ OJ No L 57, 1. 3. 1986, p. 1.

⁽⁶⁾ OJ No L 75, 21. 3. 1991, p. 12.

COMMISSION REGULATION (EEC) No 855/91
of 5 April 1991

laying down certain additional detailed rules for the application of the supplementary trade mechanism (STM) to trade in fruit and vegetables between Spain and the Community as constituted on 31 December 1985 as regards tomatoes, lettuce, broad-leaf endives, carrots, artichokes, melons and strawberries

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 3210/89 of 23 October 1989 laying down general rules for applying the supplementary trade mechanism to fresh fruit and vegetables⁽¹⁾, and in particular Article 9 thereof,

Whereas Commission Regulation (EEC) No 816/89⁽²⁾ establishes the list of products subject to the supplementary trade mechanism in the fresh fruit and vegetables sector from 1 January 1990; whereas tomatoes, lettuce, broad-leaf endives, carrots, artichokes, melons and strawberries are included in the list;

Whereas Commission Regulation (EEC) No 3944/89⁽³⁾, as amended by Regulation (EEC) No 245/90⁽⁴⁾, lays down detailed rules for applying the supplementary trade mechanism, hereinafter called the 'STM', to fresh fruit and vegetables;

Whereas Commission Regulation (EEC) No 714/91⁽⁵⁾ lays down that the periods referred to in Article 2 of Regulation (EEC) No 3210/89 shall be up to 11 April 1991 for the above products; whereas in view of expected exports from Spain to the rest of the Community, with the exception of Portugal, and of the Community market situation, a period I should be fixed for the products in question excepting strawberries; whereas, as regards strawberries, on the basis of the abovementioned criteria Regulation (EEC) No 714/91 should be amended and a period III should be determined for that product until 19 May 1991; whereas indicative ceilings should be determined pursuant to Article 3 of Regulation (EEC) No 3210/89 for very short periods given the sensitivity of this product;

Whereas it should be stipulated that the provisions of Regulation (EEC) No 3944/89 relating to statistical monitoring, to the use of exit documents for Spanish consignments and to the various communications from the Member States apply in order to ensure that the STM operates;

Whereas the need for accurate information justifies communications on the statistical monitoring of trade at more frequent intervals;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For tomatoes, cabbage lettuce, lettuce other than cabbage lettuce, broad-leaf endives, carrots, artichokes and melons falling within the CN codes according to the Annex hereto, the periods provided for in Article 2 of Regulation (EEC) No 3210/89 shall be as set out in the Annex hereto.

2. For strawberries falling within CN codes 0810 10 10 and 0810 10 90:

- the indicative ceilings provided for in Article 83 (1) of the Act of Accession, and
- the periods provided for in Article 2 of Regulation (EEC) No 3210/89 shall be as set out in the Annex hereto.

Article 2

1. For consignments from Spain to the rest of the Community market, with the exception of Portugal, of the products referred to in Article 1, the provisions of Regulation (EEC) No 3944/89, with the exception of Articles 5 and 7 thereof, shall apply.

However, the notification provided for in Article 2 (2) of that Regulation shall be made each Tuesday at the latest in respect of quantities consigned during the preceding week.

2. The notification provided for in the first paragraph of Article 9 of Regulation (EEC) No 3944/89 for products mentioned in Article 1 (2) subject to a period II or to a period III shall be forwarded to the Commission on Tuesday each week at the latest in respect of the preceding week.

During the application of a period I, those notifications shall be made once a month, on the fifth day of each month at the latest in respect of data from the preceding month; where appropriate, that notification shall bear the word 'nil'.

Article 3

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

⁽¹⁾ OJ No L 312, 27. 10. 1989, p. 6.

⁽²⁾ OJ No L 86, 31. 3. 1989, p. 35.

⁽³⁾ OJ No L 379, 28. 12. 1989, p. 20.

⁽⁴⁾ OJ No L 27, 31. 1. 1990, p. 14.

⁽⁵⁾ OJ No L 77, 23. 3. 1991, p. 43.

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

Done at Brussels, 5 April 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

Determination of the periods provided for in Article 2 of Regulation (EEC) No 3210/89 and the ceilings provided for in Article 83 of the Act of Accession

Period from 8 April to 19 May 1991

Description of product	CN code	Period
Tomatoes	0702 00 10 and 0702 00 90	I
Cabbage lettuce	0705 11 10	I
Lettuce other than cabbage lettuce	0705 19 00	I
Broad-leaf endives	ex 0705 29 00	I
Carrots	ex 0706 10 00	I
Artichokes	0709 10 00	I
Melons	0807 10 90	I

Description of product	CN code	Indicative ceiling (tonnes)	Period
Strawberries	0810 10 10 and 0810 10 90	8 — 14. 4. 1991 : 12 350	III ⁽¹⁾
		15 — 21. 4. 1991 : 13 500	III
		22 — 28. 4. 1991 : 13 500	III
		29. 4 — 5. 5. 1991 : 14 600	III
		6 — 12. 5. 1991 : 14 600	III
		13 — 19. 5. 1991 : 8 500	III

⁽¹⁾ Modifies during the week from 8 to 14 April the period laid down by Regulation (EEC) No 714/91.

COMMISSION DECISION No 856/91/ECSC

of 4 April 1991

amending Decision No 3599/88/ECSC imposing definitive anti-dumping duties on imports of certain iron or steel sections originating in Yugoslavia and Turkey, definitively collecting the provisional anti-dumping duties imposed on those imports, accepting undertakings given in connection with imports of iron or steel sections originating in Yugoslavia and Turkey and terminating the investigation with regard to the exporters concerned

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to corrected Commission Decision No 2424/88/ECSC of 29 July 1988 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community⁽¹⁾⁽²⁾, and in particular Articles 10 and 12 thereof,

After consultations within the Advisory Committee as provided for by the above Decision,

Whereas :

- (1) By Commission Decision No 3599/88/ECSC⁽³⁾, a definitive anti-dumping duty was imposed on imports of iron or steel sections, originating in Turkey. This duty did not apply for the products concerned produced by Izmir Demir ve Çelik Sanayi, AŞ (IDÇ), Izmir, Turkey and exported by Izdaş Diş Ticaret, AŞ, Istanbul, Turkey. Both companies have offered an undertaking which was accepted by the Commission.
- (2) The Commission has been informed that now the producer IDÇ intends to export also directly to the Community, i.e. without passing via Izdaş, and to respect for these direct exports the conditions of the undertaking given as from 1 January 1991.

(3) It is therefore appropriate to amend Decision No 3599/88/ECSC in order to allow direct exports of the products in question by IDÇ.

(4) The Advisory Committee has been consulted and has raised no objections.

HAS ADOPTED THIS DECISION :

Article 1

The first indent of Article 2 (3) of Decision No 3599/88/ECSC is replaced by the following :

‘— produced by Izmir Demir Çelik Sanayi AŞ, Izmir, Turkey and exported by Izmir Demir ve Çelik Sanayi AŞ, Izmir, Turkey or by Izdaş ve Diş ve Ticaret AŞ, Istanbul, Turkey.’

Article 2

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

It shall apply with effect from 1 January 1991.

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

Done at Brussels, 4 April 1991.

For the Commission

Frans ANDRIESEN

Vice-President

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 18.

⁽²⁾ OJ No L 273, 5. 10. 1988, p. 19.

⁽³⁾ OJ No L 313, 19. 11. 1988, p. 18.

COMMISSION REGULATION (EEC) No 857/91
of 5 April 1991
fixing the aid for cotton

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

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 thereto, as amended by the Act of Accession of Spain and Portugal, and in particular Protocol 14 annexed thereto, and Commission Regulation (EEC) No 4006/87⁽¹⁾,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton⁽²⁾, as last amended by Regulation (EEC) No 791/89⁽³⁾, and in particular Article 5 (1) thereof,

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 3868/90⁽⁴⁾, as last amended by Regulation (EEC) No 770/91⁽⁵⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 3868/90 to the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The aid for unginned cotton referred to in Article 5 of Regulation (EEC) No 2169/81 shall be ECU 40,406 per 100 kilograms.

Article 2

This Regulation shall enter into force on 6 April 1991.

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

Done at Brussels, 5 April 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 85, 30. 3. 1989, p. 7.

⁽⁴⁾ OJ No L 367, 29. 12. 1990, p. 89.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 59.

COMMISSION REGULATION (EEC) No 858/91
of 5 April 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 791/91⁽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 772/91⁽⁷⁾, as amended by Regulation (EEC) No 825/91⁽⁸⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 772/91 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

1. The amounts of the subsidy and the exchange rates referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83⁽⁹⁾ shall be as set out in the Annexes hereto.

2. However, the amount of the aid fixed in advance for the 1991/92 marketing year for colza, rape and sunflower seed shall be confirmed or replaced with effect from 6 April 1991 to take account of the prices and related measures for the 1991/92 marketing year and of the consequences of the maximum guaranteed quantity arrangements.

Article 2

This Regulation shall enter into force on 6 April 1991.

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

Done at Brussels, 5 April 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 81, 28. 3. 1991, p. 110.

⁽⁵⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 11.

⁽⁷⁾ OJ No L 81, 28. 3. 1991, p. 62.

⁽⁸⁾ OJ No L 84, 4. 4. 1991, p. 9.

⁽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 4	1st period 5	2nd period 6	3rd period 7 (1)	4th period 8 (1)	5th period 9 (1)
1. Gross aids (ECU):						
— Spain	0,000	0,000	0,000	10,172	10,246	10,246
— Portugal	26,015	26,549	26,578	17,142	17,216	17,216
— Other Member States	19,045	19,579	19,608	10,172	10,246	10,246
2. Final aids:						
Seed harvested and processed in:						
— Federal Republic of Germany (DM)	44,84	46,09	46,16	23,95	24,12	24,12
— Netherlands (Fl)	50,52	51,93	52,01	26,98	27,18	27,18
— BLEU (Bfrs/Lfrs)	924,75	950,68	952,09	493,91	497,51	497,51
— France (FF)	150,37	154,59	154,82	80,31	80,90	80,90
— Denmark (Dkr)	171,02	175,82	176,08	91,34	92,01	92,01
— Ireland (£ Irl)	16,736	17,206	17,231	8,939	9,004	8,979
— United Kingdom (£)	14,638	15,058	15,081	7,671	7,729	7,694
— Italy (Lit)	33 547	34 487	34 539	17 917	18 048	18 024
— Greece (Dr)	3 746,99	3 864,61	3 839,58	1 546,52	1 565,80	1 455,29
— Spain (Pta)	0,00	0,00	0,00	1 658,42	1 669,34	1 653,48
— Portugal (Esc)	5 453,57	5 564,51	5 570,51	3 599,50	3 614,85	3 572,77

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 4	1st period 5	2nd period 6	3rd period 7 (1)	4th period 8 (1)	5th period 9 (1)
1. Gross aids (ECU):						
— Spain	0,000	0,000	0,000	12,672	12,746	12,746
— Portugal	28,515	29,049	29,078	19,642	19,716	19,716
— Other Member States	21,545	22,079	22,108	12,672	12,746	12,746
2. Final aids:						
Seed harvested and processed in:						
— Federal Republic of Germany (DM)	50,72	51,98	52,05	29,83	30,01	30,01
— Netherlands (Fl)	57,15	58,57	58,64	33,61	33,81	33,81
— BLEU (Bfrs/Lfrs)	1 046,15	1 072,07	1 073,48	615,31	618,90	618,90
— France (FF)	170,11	174,33	174,56	100,05	100,64	100,64
— Denmark (Dkr)	193,47	198,27	198,53	113,79	114,46	114,46
— Ireland (£ Irl)	18,933	19,402	19,428	11,136	11,201	11,176
— United Kingdom (£)	16,587	17,007	17,030	9,619	9,678	9,642
— Italy (Lit)	37 950	38 891	38 942	22 321	22 451	22 428
— Greece (Dr)	4 304,25	4 421,87	4 396,84	2 103,79	2 123,06	2 012,56
— Spain (Pta)	4,04	84,05	88,32	2 040,66	2 051,58	2 035,72
— Portugal (Esc)	5 975,26	6 086,20	6 092,20	4 121,19	4 136,54	4 094,46

(1) Amount fixed provisionally, pending and subject to the setting of the prices and related measures and of the application of the maximum guaranteed quantity arrangements for the 1991/92 marketing year, on the basis in particular:

- of the Commission's proposals for the 1991/92 marketing year as regards the target price, the monthly increases, the reduction for rape seed other than 'double zero' and the arrangements applying to rape seed harvested in Spain;
- the adjustment resulting from the maximum guaranteed quantity arrangements and the agricultural conversion rates applied for the 1990/91 marketing year.

ANNEX III

Aids to sunflower seed

(amounts per 100 kg)

	Current 4	1st period 5	2nd period 6	3rd period 7	4th period 8 (1)
1. Gross aids (ECU):					
— Spain	29,649	29,813	29,640	29,408	23,091
— Portugal	38,592	38,759	38,589	38,361	30,194
— Other Member States	26,352	26,519	26,349	26,121	17,954
2. Final aids:					
(a) Seed harvested and processed in (2):					
— Federal Republic of Germany (DM)	62,04	62,43	62,03	61,49	42,27
— Netherlands (Fl)	69,90	70,34	69,89	69,29	47,62
— BLEU (Bfrs/Lfrs)	1 279,56	1 287,66	1 279,41	1 268,34	871,78
— France (FF)	208,07	209,38	208,04	206,24	141,76
— Denmark (Dkr)	236,64	238,14	236,61	234,56	161,22
— Ireland (£ Irl)	23,158	23,304	23,155	22,955	15,778
— United Kingdom (£)	20,335	20,463	20,329	20,148	13,719
— Italy (Lit)	46 418	46 712	46 412	46 011	31 625
— Greece (Dr)	5 376,90	5 399,11	5 321,93	5 224,26	3 229,90
— Portugal (Esc)	8 076,86	8 111,91	8 076,73	8 022,56	6 323,97
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	4 619,09	4 644,85	4 619,35	4 581,56	3 639,77
— in another Member State (Pta)	4 678,43	4 704,64	4 679,60	4 642,54	3 712,01

(1) Amount fixed provisionally, pending and subject to the setting of the prices and related measures and of the application of the maximum guaranteed quantity arrangements for the 1991/92 marketing year, on the basis in particular:

- of the Commission's proposals for the 1991/92 marketing year as regards the target price, the monthly increases, the reduction for rape seed other than 'double zero' and the arrangements applying to rape seed harvested in Spain;
- the adjustment resulting from the maximum guaranteed quantity arrangements and the agricultural conversion rates applied for the 1990/91 marketing year.

(2) 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 4	1st period 5	2nd period 6	3rd period 7	4th period 8	5th period 9
DM	2,056590	2,054680	2,053240	2,051890	2,051890	2,048620
Fl	2,321130	2,319350	2,317570	2,316120	2,316120	2,311720
Bfrs/Lfrs	42,387100	42,352500	42,321800	42,291500	42,291500	42,207900
FF	6,982600	6,977550	6,972310	6,967960	6,967960	6,956820
Dkr	7,903260	7,898750	7,894570	7,892860	7,892860	7,885240
£Irl	0,770587	0,771000	0,771960	0,772536	0,772536	0,775595
£	0,692057	0,693484	0,694589	0,695511	0,695511	0,697177
Lit	1 533,34	1 534,98	1 536,39	1 537,59	1 537,59	1 542,08
Dr	223,00000	224,83100	226,97800	229,41800	229,41800	235,20200
Esc	180,77400	181,14000	181,54700	182,10000	182,10000	184,10200
Pta	127,74100	128,05500	128,33500	128,56800	128,56800	129,26100

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 July 1990

concerning aid provided for in Italian Law No 120/87 to assist certain areas of the Mezzogiorno affected by natural disasters

(Only the Italian text is authentic)

(91/175/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 the parties concerned the opportunity to submit their comments, in accordance with Article 93,

Whereas :

I

By letter dated 2 May 1988, the Commission asked the Italian authorities for information concerning extension of the deadline for the submission of applications for aid under Article 32 of Law No 219/81 ⁽¹⁾ in respect of industrial investment to be carried out in enterprise zones located in those parts of Campania, Basilicata and Apulia affected by the earthquakes in November 1980 and February 1981 (the deadline expired on 31 December 1982).

By letter dated 19 July 1988, the Italian authorities sent the Commission Decree Law No 8 of 26 January 1987, as amended by Law No 120 of 27 May 1987 ⁽²⁾, Article 8 of which provides for extension of the deadline in question.

By letter dated 15 November 1988, the Commission requested additional information on the various aid measures provided for in Law No 120/87.

By letter dated 6 January 1989, the Italian authorities sent the Commission the information requested.

In view of the fact that the regions referred to above already benefit from aid to assist the Mezzogiorno under Law No 64/86 ⁽³⁾, the Commission considered that, in particular because of their additional nature, the said measures were not compatible with the common market and it therefore initiated, on 18 October 1989, the procedure provided for in Article 93 (2) of the Treaty. The procedure also concerned other aid provided for in Articles 3 (5), 4 (4), 6 (14 ter) and 8 of Law No 120/87.

By letter dated 3 November 1989, the Commission gave the Italian authorities notice to submit their comments and, by a notice published in the *Official Journal of the European Communities* ⁽⁴⁾, gave other interested parties notice to submit their comments.

By letter dated 20 February 1990 from the office of the Italian Permanent Representative, the Italian authorities submitted their comments to the Commission.

One trade organization submitted comments to the Commission, which forwarded them to the Italian authorities.

⁽¹⁾ *Gazzetta Ufficiale* No 134, 18. 5. 1981.

⁽²⁾ *Gazzetta Ufficiale* No 93, 22. 4. 1987.

⁽³⁾ *Gazzetta Ufficiale* No 61, 14. 3. 1986. The aid scheme in question was authorized by Commission Decision 88/318/EEC; OJ No L 143, 10. 6. 1988.

⁽⁴⁾ OJ No C 2, 5. 1. 1990, p. 2.

II

The aid measures to which this procedure relates are as follows:

- (a) measures increasing to 75 % for small and medium-sized enterprises in certain areas of the Mezzogiorno affected by natural disasters in the period 1980-86 the intensity of the subsidies provided for in Article 9 of Law No 64/86 introducing the new Mezzogiorno scheme (Articles 3 (5) and 6 (14 ter) of Law No 120/87)⁽¹⁾;
- (b) measures extending the deadline for the submission of applications for aid pursuant to Article 32 of Law No 219/81 (Article 8 (2) of Law No 120/87);
- (c) measures raising to Lit 50 billion the investment ceiling provided for in Article 32 of Law No 219/81 (Article 8 (2 bis) and (2 ter) of Law No 120/87) and increasing the number of areas in which such aid applies (in particular, Article 8 (7) of Law No 120/87 and Article 10 (3) of Decree Law No 474/87)⁽²⁾;
- (d) measures introducing new aid in the service sector with an intensity of up to 60 % net grant equivalent for investment of less than Lit 45 billion and up to 45 % net grant equivalent for investment above that amount (Article 8 (3) of Law No 120/87);
- (e) measures providing for exemption from VAT for all operations connected with re-industrialization measures in such areas (Article 4 (4) of Law No 120/87).

With regard to the measures referred to at (a), namely the increase in the subsidies provided for in Article 9 of Law No 64/86, the Italian authorities argued that the Commission had not opposed similar aid (grants equivalent to 75 % of investment costs) provided for in Article 32 of Law No 219/81 and that the Minister responsible for special assistance in the Mezzogiorno had accepted that the areas eligible for aid under Article 6 (14 ter) of Law No 120/87 would have to be limited to the municipalities worst hit by the earthquakes that occurred between 1980 and 1986.

In addition, the Italian authorities informed the Commission that the measures in question had not yet been implemented.

With regard to the measures referred to at (b) and (c), the Italian authorities stated that the aim of the provisions was to allow the industrial development programme

⁽¹⁾ Article 9 of Law 64/86 provides for capital grants ranging from 15 % to 30 % or 40 % depending on the size of the investment. Such aid may be combined, within certain limits, with subsidized loans provided for in the same Article.

⁽²⁾ *Gazzetta Ufficiale* No 37, 15. 2. 1988.

embarked on under Article 32 of Law No 219/81 to be completed.

They also stated that, after five years, it was felt necessary to adapt the original investment ceiling by increasing it to Lit 50 billion in order to make the aid provided for in Article 32 of Law No 219/81 sufficiently attractive, the purpose of such aid being to promote a process of forced industrialization that had been made necessary both by the structural nature of the economic depression in the areas in question and by the worsening of the situation after the earthquake.

With regard to the measures referred to at (d), namely those introducing aid for service-sector companies, the Italian authorities stated that the aim of such measures was, in parallel with the process of industrialization in the areas concerned, to promote the development of services connected with such activities and that, in practice, only 30 projects had been accepted for such aid. The projects concerned hotels, restaurants and service stations.

Lastly, with regard to the measures referred to at (e), the Italian authorities pointed out that the exemption from VAT provided for in Article 4 (4) of Law No 120/87 was intended to stimulate the industrialization process in underdeveloped areas affected by a major earthquake and that an identical measure had been adopted following the earthquake which hit Friuli in 1976.

III

These measures taken as a whole constitute State aid within the meaning of Article 92 (1), since they have the effect of reinforcing existing regional aid or of introducing new aid which favours the recipient firms in the Mezzogiorno.

In particular, the aid distorts competition and affects trade between Member States, since the recipient firms export some of their production to other Member States; in addition, to the extent that such firms do not export, national production is favoured in that the scope for firms established in other Member States to export their products to the Italian market is reduced⁽³⁾.

Trade is also affected by the influence which the aid might have on the location decisions of recipient firms. In so far as the aid causes firms to choose a location in the assisted areas or to relocate from one Member State to another, the production at, and the supply of output from, the new location change trade patterns between Member States.

⁽³⁾ See Judgment of the Court of 13 July 1988 in Case 102/87 French Republic v. Commission [1988] ECR 4067.

In view of the above, the aid measures are caught by the general ban laid down in Article 92 (1). Since they were not notified in advance in accordance with Article 93 (3), they are illegal on the grounds that they have infringed procedural rules.

IV

With regard to the exceptions to the abovementioned ban, it should be borne in mind that the aid is intended to favour the industrial development of certain areas in the Mezzogiorno which have been affected by natural disasters; the aid is not therefore intended to make good the damage caused by the natural disasters themselves, other provisions having been adopted for this purpose under Law No 219/81 or other laws.

Consequently, the exemption provided for in Article 92 (2) (b) is not applicable. The aid is regional aid and can be deemed compatible with the common market only if it qualifies for exemption under Article 92 (3) (a) and (c).

Such exemptions may be applied only when the Commission is satisfied that market forces alone would be insufficient to lead the recipients towards behaviour that would serve one of the objectives specified in the exemption clauses provided for in Article 92.

To grant such exemptions in cases where there is no such causal link would be to jeopardize trading conditions between Member States and to allow competition to be distorted without any compensatory benefit to the Community.

In applying the principles set out above to regional aid schemes, the Commission must satisfy itself that the regions concerned are suffering from problems which are serious enough, in comparison with the situation in the rest of the Community, to justify the grant of aid at the level proposed. The scrutiny must show that the aid is necessary to achieve the objectives specified in Article 92 (3) (a) or (c). The Commission can exercise discretion in this area, taking account of economic and social factors in a Community context.

In particular, the exemption provided for in Article 92 (3) (a) is applicable to aid intended to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment.

The Commission considers that the standard of living is abnormally low or that there is serious underemployment

where, in a Level II region, GDP/PPS (gross domestic product/purchasing power standards) amounts to 75 % or less of the Community average⁽¹⁾; in 1988, it accepted in its Decision authorizing Law No 64/86 introducing the new aid scheme for the Mezzogiorno that the areas concerned by the aid measures in question were eligible for regional aid under Article 92 (2) (a).

Under that Decision, the Commission approved maximum aid levels ranging from 28,07 % to 73,78 % net grant equivalent, depending on the circumstances and the region; however, under Articles 3 (5) and 6 (14 ter) of Law No 120/87, which are the subject of this procedure, these levels were all increased without any time-limit to the maximum level of 75 % in the areas of the Mezzogiorno affected by natural disasters between 1980 and 1986.

The Commission takes the view moreover that an increase in regional aid in areas affected by natural disasters may be justified, for limited periods, only if the natural disaster has brought about a major change in the socio-economic situation in the whole of a region or several regions, as was the case with the earthquakes which hit Irpinia in November 1980 and February 1981.

It was for this reason that it did not oppose the measures introduced for this purpose under Article 32 of Law No 219/81 directly after the earthquake took place.

Since the other earthquakes which occurred between 1980 and 1986 and the landslide at Senise were not of the same magnitude and bring about a major change in the socio-economic situation in the regions concerned, the Commission considers that there are no grounds for granting aid in excess of the amounts provided for in Article 9 of Law No 64/86 and that, consequently, the measures introduced under Articles 3 (5) and 6 (14 ter) of Law No 120/87 (see point II (a) above) are incompatible with the common market within the meaning of Article 92 (1) of the Treaty.

However, as regards the provisions of Article 8 of Law No 120/87 relating to Article 32 of Law No 219/81 (see points II (b) and (c) above), the Commission considers that they may be deemed compatible with the common market provided they are intended solely to allow the activities begun under Article 32 of Law No 219/81 to be completed, but not stepped up.

⁽¹⁾ See Commission communication on the method for the application of Article 92 (3) (a) and (c) to regional aid (OJ No C 212, 12. 8. 1988, p. 2).

It should be stressed that, several years after the disaster, the problems of the areas affected by the earthquakes in November 1980 and February 1981 no longer have the seriousness, urgency or specificity to justify the adoption of further extraordinary measures such as those provided for in Law No 219/81.

It should also be pointed out that, in order to take proper account of the special nature of the enterprise zones provided for in Article 32, Law No 219/81 already makes provision for measures that are far more favourable than those established by Law No 64/86, especially as regards the maximum aid levels (e.g. for investments of up to Lit 32 billion, the aid intensity may reach 75 %).

The Commission considers therefore that these measures are sufficiently attractive to promote the development objectives of the 20 enterprise zones initially specified under Article 32 of Law No 219/81; other measures, such as the increase in the investment ceiling from Lit 32 billion to Lit 50 billion, would constitute a further exception to the general aid scheme introduced by Law No 64/86 and would confer additional unjustified advantages on firms in those zones.

Consequently, the Commission considers that extension of the deadline provided for in Article 8 (1) and (2) of Law No 120/87 is compatible with the common market within the meaning of Article 93 (3) (a) provided that, on the one hand, the investment aid granted on the basis of Article 32 of Law No 219/81 is limited to the 20 enterprise zones initially specified⁽¹⁾ without any increase in their size (756 hectares of equipped surface area) and that, on the other, the investment ceiling applied in granting the aid does not exceed Lit 32 billion.

In order to enable the Commission to check that the aid granted under the scheme introduced pursuant to Article 32 of Law No 219/81 following extension of the deadline provided for in Article 8 of Law No 120/87 complies with the conditions laid down, the Italian Government should present it, by 31 March 1991, with a report on the implementation of such aid.

Finally, as regards the aid provided for in Articles 8 (3) and 4 (4) of Law No 120/87 (see point II (d) and (e) above), the Commission considers that the observations of

the Italian authorities are relevant and that the aid may be deemed compatible with the common market pursuant to Article 92 (3) (a).

V

Since the Italian Government did not notify the aid, as it should have done under Article 93 (3) of the EEC Treaty, the Commission was not able to state its position on the measures before their implementation.

Consequently, as the aid in question is illegal and incompatible with the common market pursuant to Article 92 (1), it should be withdrawn and the previous situation restored, in accordance with the case law of the Court of Justice⁽²⁾.

Repayment should be carried out in respect of:

- aid granted pursuant to Articles 3 (5) and 6 (14 ter) of Law No 120/87;
- aid granted pursuant to Article 8 (2) bis and ter of Law No 120/87 as regards investments exceeding Lit 32 billion;
- the difference between the investment aid granted under Article 32 of Law No 219/81 in enterprise zones other than the 20 zones initially specified (or on sites extending such zones) and the amount of aid which would normally have been granted to such firms on the basis of Article 9 of Law No 64/86.

The aid should be recovered in accordance with the procedures and provisions of national law, notably those concerning interest on arrears on State claims if repayment of the aid has not taken place within a period of two months from the date of notification of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The provisions of Articles 3 (5) and 6 (14 ter) of Law No 120/87, which increase to 75 % the grants specified in Article 9 of Law No 64 of 1 March 1986 on assistance for firms in certain areas of the Mezzogiorno affected by natural disasters, are illegal and incompatible with the common market within the meaning of Article 92 (1) of the EEC Treaty.

⁽¹⁾ S. Mango sul Calore, Calaggio, Porrara, Lioni-Nusco-S. Angelo, Conza della Campania, Morra de Sanctis, Calitri, Calabritto, Oliveto Citra, Contursi, Palomonte, Buccino, Nerico, S. Nicola di Melfi, Valle di Vitalba, Baragiano, Balvano, Tito, Isca di Pantanelle, Viggiano.

⁽²⁾ Judgment of the Court of 21 March 1990 in Case C 142/87 *Tubemeuse* (not yet reported).

Any aid awarded on the basis of such provisions shall be repaid.

Article 2

The aid provided for in Article 32 of Law No 219 of 14 May 1981 and granted following extension of the deadline laid down in Article 8 (2) of Law 120/87 is compatible with the common market provided that it is limited to investment carried out in such parcels of the 20 enterprise zones initially specified as had not been allocated on 30 September 1986.

The aid provided for in Article 32 of Law No 219/81 and granted in breach of the conditions referred to above for investment outside the abovementioned 20 zones or on sites extending such zones is illegal and incompatible with the common market under Article 92 (1). However, repayment shall relate only to the difference between the amount of aid received and the amount of aid that would normally have been granted for the same project on the basis of Article 9 of Law No 64/86.

Article 3

The aid granted pursuant to Article 8 (2 bis) and (2 ter) of Law No 120/87 in respect of investment in excess of Lit 32 billion is illegal and incompatible with the common market under Article 92 (1). Such aid shall therefore be repaid.

Article 4

The incompatible aid referred to in Articles 1, 2 and 3 shall be repaid within two months from the date of notification of this Decision.

Article 5

The aid authorized by this Decision shall be granted in compliance with the specific rules in force or yet to be introduced for aid granted in certain sectors.

Article 6

Italy shall present to the Commission by 31 March 1991 a report setting out detailed information on the aid granted on the basis of Article 32 of Law No 219/81 and shall inform the Commission, within two months of the date of notification of this Decision, of the measures it has taken to comply herewith.

Article 7

This Decision is addressed to the Italian Republic.

Done at Brussels, 25 July 1990.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 25 July 1990

on aid granted by the Province of Bolzano to the Bolzano steelworks

(Only the Italian text is authentic)

(91/176/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 4 (c) thereof,

Having regard to Commission Decision No 3484/85/ECSC of 27 November 1985 establishing Community rules for aid to the steel industry⁽¹⁾, and in particular Articles 1, 3, 5 and 6 thereof,

Having given the interested parties notice to submit their observations and having regard to those observations,

Whereas :

I

In December 1987, the authorities of the Province of Bolzano granted the Bolzano steelworks (Falck Group) a subsidized loan of Lit 6 billion (ECU 3,9 million) towards an investment of Lit 23 billion (ECU 15 million) aimed at converting plant in order to produce special steels with high added value.

The 11-year loan carries an interest rate of 3,5 %. On the basis of the 12,8 % reference rate⁽²⁾ established by the Commission for Italy that year, the subsidy therefore amounts to 9,3 percentage points. The legal basis for a subsidized loan of this kind is Provincial Law No 25 of the Province of Bolzano of 8 September 1981 on financial assistance for industry.

By letter dated 26 July 1988, the Commission requested further details on the loan from the Italian authorities. It pointed out that the aid, which had not been notified to the Commission beforehand as required by Article 6 (1) of Decision No 3484/85/ECSC, did not qualify for any of the exemptions listed in that Decision from the basic prohibition on aid to the steel industry contained in Article 4 (c) of the ECSC Treaty.

The Italian authorities replied on 5 November 1988, stressing that the investment in question was part of the restructuring plan for the Bolzano steelworks which had been communicated to the Commission in September 1982 and approved by it in 1983.

They informed the Commission that the loan in question had been decided in principle by the Bolzano provincial authorities on 14 February 1983.

Arguing that the loan had been granted under a provincial law, they considered that the aid could be covered by Article 5 of Decision No 3484/85/ECSC as a regional aid to investment.

II

The Commission does not dispute that it approved the Falck restructuring plan which had been notified under Commission Decision No 2320/81/ECSC⁽³⁾, as amended by Decision No 1018/85/ECSC⁽⁴⁾.

On 25 May 1983, the Commission had approved, under Decision No 2320/81/ECSC, aid for the restructuring of certain Italian firms in the private sector, including an amount of Lit 2 billion for the Bolzano steelworks to be granted under National Law No 675/77.

The Italian Government, however, informed the Commission during its examination of the case that, because of the administrative structure in Italy, which confers considerable autonomy on the Provinces of Trentino and Bolzano in particular, National Law No 675/77 was not applicable in those territories. In the Province of Bolzano, it is replaced by Provincial Law No 25/81, referred to above. This was one of several factors which delayed the granting of aid in connection with the restructuring plan, the aid finally being granted only in December 1987.

⁽¹⁾ OJ No L 340, 18. 12. 1985, p. 1.

⁽²⁾ For the definition of this rate, see OJ No C 31, 3. 2. 1979.

⁽³⁾ OJ No L 228, 13. 8. 1981, p. 14.

⁽⁴⁾ OJ No L 110, 23. 4. 1985, p. 5.

According to the information in the Commission's possession, the restructuring plan provides for total investments of Lit 40 billion (some ECU 26 million). This includes an investment of Lit 22,8 billion (some ECU 15 million) for improving the quality of the wire rod mill products at Bolzano and increasing the final weight of the coils; the Lit 6 billion loan in question appears to be intended for this particular investment. These investment measures were part of the restructuring plan, for which the Commission approved a similar investment aid (subsidized loan) in 1983.

III

The Commission has at no time been informed about subsequent developments with regard to that aid and discovered purely by chance that the loan had been granted in December 1987.

Under the fifth indent of Article 2 of Decision No 2320/81/ECSC, it was essential that the approved subsidized loan should have been granted before the absolute deadline of 31 December 1985.

It transpires that the aid was not paid before that date. It therefore became an illegal aid, since it was not re-notified and approved by the Commission in accordance with the new rules on the granting of aid to the steel industry, which entered into force in 1986 (Decision No 3484/85/ECSC).

IV

Under Decision No 3484/85/ECSC and under Decision No 322/89/ECSC⁽¹⁾, which replaced it on 1 January 1989, the aid in question cannot be considered compatible with the common market. In particular, Article 5 of Decision No 3484/85/ECSC may not be invoked in this case since it is applicable only within the territory of a Member State where no aid has been granted under Decision No 257/80/ECSC⁽²⁾ or No 2320/81/ECSC, and this is not the case with Italy.

On the basis of these considerations, the Commission initiated the procedure provided for in Article 6 (4) of Decision No 3484/85/ECSC and, by letter dated 22 March 1989, gave the Italian authorities notice to submit their observations.

Under that procedure, the Italian authorities sent in their observations by letter dated 30 May 1989.

They pointed out first that, by letters dated 3 November 1982 and 5 November 1986, the authorities of the Province of Bolzano had enquired of the Commission whether or not it was necessary to notify the specific cases

in which Provincial Law No 25 had been applied, starting with four individual cases⁽³⁾ which had arisen at that time. Having received no reply from the Community authorities, they had concluded that notification of individual cases was not necessary.

Second, they drew attention to the stated objectives as regards aid for research and development set out in Decisions No 3484/85/ECSC and No 322/89/ECSC, namely:

- reduction of production costs, particularly through energy conservation;
- improvements in productivity and product quality;
- protection of the environment.

Their aim in so doing was to stress the fact that the investment in question was designed with those very objectives in mind.

Third, they referred to the lack of experience on the part of the Province of Bolzano in distinguishing between the rules of the EEC Treaty and those of the ECSC Treaty. They also stressed that, under the circumstances, the aid had been granted as a matter of urgency, and only after the investment in question had been approved by the Commission under Article 54 of the ECSC Treaty. In addition, they pointed out that the output of the Bolzano steelworks accounted for only around 1 % of national production and that there was, therefore, no justification for claiming that there would be a distortion of competition liable to affect trade between Member States.

Lastly, they contended that, as the investment had an impact on the improvement of the environment, it had been the intention of the provincial authorities in providing assistance to take account of the general interest, in particular as regards the preservation of agricultural and tourist activities in the Province of Bolzano.

This having been said, given the profitability of the enterprise, there was no question at the time of covering operating losses.

In the course of the procedure, comments were received from only one trade association, and not from any Member State. They were forwarded to the Member State in question, which did not make any particular observations.

V

The Bolzano steelworks manufacture special-steel products. These are listed in Annex I to the ECSC Treaty under code No 4.400 and are therefore covered by the rules laid down in that Treaty.

⁽¹⁾ OJ No L 38, 10. 2. 1989, p. 8.

⁽²⁾ OJ No L 29, 6. 2. 1980, p. 5.

⁽³⁾ These cases concern the textiles sector as opposed to the steel sector.

Article 4 (c) of the ECSC Treaty provides that subsidies or aids granted by States, or special charges imposed by States, in any form whatsoever, are recognized as incompatible with the common market for coal and steel and are accordingly to be abolished and prohibited within the Community, as provided in the Treaty.

This prohibition applies both to individual grants specifically provided for and to general, regional or sectoral schemes in the steel industry.

The only exceptions to the above general prohibition which could or can be granted were or are spelt out in the various steel aid codes: Decision No 2320/81/ECSC followed by Decision No 1018/85/ECSC up to 31 December 1985, then Decision No 3484/85/ECSC from 1 January 1986 to 31 December 1988, and, lastly, Decision No 322/89/ECSC as from 1 January 1989.

With regard to the first Decision, investment aid was authorized by the Commission in May 1983 for the Bolzano steelworks in connection with a restructuring plan notified in September 1982.

However, pursuant to the last indent of Article 2 (1) of that Decision, the deadline for payment of the approved aid, i.e. the granting of the subsidized loan, was 31 December 1985. Since the payment deadline was not met, it is not Decision No 2320/81/ECSC nor its amendment No 1018/85/ECSC which is applicable in this case, but Decision No 3484/85/ECSC, namely the steel aid code which was in force at the time the subsidized loan was granted. The code which is now in force (322/89/ECSC) and which extends the original code on the same terms is mentioned here simply for the record.

This distinction is very important inasmuch as, up to 31 December 1985, the Commission's steel policy consisted in authorizing certain aids to promote industrial restructuring and especially the financial viability of companies in this sector. By contrast, after that date, the only aids which could qualify for exemption from the prohibition in Article 4 (c) of the ECSC Treaty are spelt out: aid for research and development, environmental protection aid under certain conditions, certain forms of closure aid and, in cases where the recipient firm is located on the territory of a Member State not authorized to grant aid under Decision No 257/80/ECSC or No 2320/81/ECSC, certain regional investment aids. Since the last clause does not apply to Italy, it is not relevant here.

The same is true of the other clauses referred to above: the aid in question is not for research and development or

for closures, but for investments which are not therefore eligible for exemption under the rules in force.

VI

The Italian authorities invoked a number of arguments mentioned at IV above.

By letter dated 5 July 1982, the Commission informed the Italian authorities of its approval of the regional aid scheme established by Provincial Law No 25 of the Province of Bolzano. Page 2 of that letter states that: 'the Bolzano authorities will also have to comply in full with the Community rules and codes on the award of aid to the steel industry'. This provision is unambiguous; it is therefore not possible in this connection to invoke any misunderstanding or error of interpretation due to the absence of a reply from the Commission.

The second point made by the Italian authorities concerned the objectives to which research and development in the steel industry must be tailored in order to be eligible for aid. As the present case concerns investment in production and not in research, this argument is not relevant. Furthermore, energy conservation and improved product quality are not admissible as reasons for exemption under Decision No 3484/85/ECSC.

Reference is then made to the improvement in working conditions and in the quality of air and water stemming from the investment. The Italian authorities would here have had to comply with the conditions for the application of Article 3 of Decision No 3484/85/ECSC by indicating that the investments were aimed at bringing the firm into line with new standards adopted at least two years after entry into service of the plant and were below the intensity ceiling specified in that Article. The letter initiating the procedure drew their attention to this point. They did not, however, supply any information that would have allowed the Commission to apply the exemption provided for in Article 3.

It has already been stated that a favourable opinion on an investment under Article 54 of the ECSC Treaty cannot be a substitute for an authorization of aid. Similarly, a situation requiring urgent action does not justify the granting of aid without authorization, in breach of Community law and the Commission's long-established policy. Nor can it be claimed that it was necessary to await clarification from the Commission, at least as regards the steel industry, where the rules in force are both explicit and familiar to national administrations by dint of having been published. Ignorance of the law is no defence.

The relatively small output of the Bolzano steelworks and its allegedly limited impact on Community trade cannot be invoked. Under ECSC rules, the fact that trade is affected is not a necessary condition for the incompatibility of aid.

In the case in point, the general interest of the Province of Bolzano cannot be adduced as a valid argument since it is the Community interest which has to be taken into account here, and this is for the Commission to assess, essentially on the basis of whether or not competition is maintained within the common market.

VII

The exceptions to the basic prohibition of aid to the steel industry laid down in Article 4 (c) of the ECSC Treaty are in no way designed to relax Community policy on such aid, which is justified by the serious distortions of competition which could be caused by aid that was incompatible with the common market in an industry which, despite recent restructuring, remains sensitive. Strict compliance with this Community policy must be ensured, and this means that aid to a steel firm may be authorized only after the Commission has been able to check that the conditions spelt out in exhaustive fashion in the aid code have effectively been met.

It is clear from the foregoing that these conditions have not been met and that the arguments advanced by the Italian authorities have not caused the Commission to change its initial assessment. The aid in question must therefore be considered incompatible with the common market.

It is, however, necessary to take account of the special circumstances surrounding the case. As the Italian authorities have pointed out, the aid objected to was originally compatible with the common market and, on 25 May 1983, the Commission approved aid of Lit 2 billion to the Bolzano steelworks under Decision No 2320/81/ECSC. The aid subsequently became incompatible only because of the delay in its being granted due to the rules on the division of responsibility between the Province of Bolzano and the Italian national authorities. The Commission has therefore decided not to require repayment of the aid paid up to the date of notification of this Decision. It considers that the illegal aid in question will effectively be abolished provided that the interest subsidy ceases to be granted after the date of notification and until the loan in question matures. It therefore requests the Italian authorities to align the terms of the loan on the reference rate for

Italy in force at the time the loan was granted, i.e. 12,8 %,

HAS ADOPTED THIS DECISION:

Article 1

The interest subsidy on a loan granted in December 1987 by the Province of Bolzano in Italy to the Bolzano steelworks under Provincial Law No 25 of 8 September 1981 is illegal State aid because it was made available without prior authorization from the Commission and, furthermore, is incompatible with the common market pursuant to Commission Decision No 3484/85/ECSC.

As from the date of notification of this Decision, the authorities of the Province of Bolzano shall refrain from granting an interest subsidy on the annual instalments of the abovementioned loan until the loan matures.

Article 2

The Italian authorities shall apply to the loan in question a rate consistent with the market rate in force when the loan was granted, such rate being defined by the Commission as the average reference rate applicable to interest subsidies paid by central government to credit institutions. The new rate shall apply to each annual instalment of the loan from the date of notification of this Decision until the loan matures.

Article 3

The Italian authorities shall inform the Commission, within two months of the date of notification of this Decision, of the measures it has taken to comply herewith.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 25 July 1990.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 26 March 1991

establishing transitional measures for trade in bovine animals and swine relating to the cessation of vaccination against foot and mouth disease

(91/177/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Economic Community,

Article 1

Having regard to Council Directive 90/423/EEC of 26 June 1990, amending Directive 85/511/EEC introducing Community measures for the control of foot and mouth disease, Directive 64/432/EEC on animal health problems affecting intra-Community trade in bovine animals and swine and Directive 72/462/EEC on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat or meat products from third countries⁽¹⁾, and in particular Article 6 thereof,

1. Member States which practised vaccination against foot and mouth disease on 31 December 1990 and which have ceased vaccination may accept bovine animals vaccinated before the date on which they ceased their vaccination policy, provided that the animals are accompanied by a guarantee confirming that they have not been vaccinated after that date.

2. Those Member States referred to in paragraph 1 which have ceased vaccination before the date of notification of this Decision may accept bovine animals vaccinated before the date of notification of this Decision.

Whereas Commission Decision 91/13/EEC⁽²⁾ has already provided for trade in bovine animals vaccinated more than 12 months previously;

Article 2

Whereas it is now possible to resolve further problems relating to trade in bovine animals vaccinated less than 12 months previously;

1. The following shall be added on the health certificate, as provided for in Annex F, model I or II, to Council Directive 64/432/EEC⁽³⁾, accompanying bovine animals intended for Member States as described in Article 1:

'bovine animals which have not been vaccinated against foot and mouth disease after ...'

Whereas Member States which have ceased vaccination may continue to accept live bovine animals vaccinated before the date on which they ceased vaccination;

2. The data provided for in paragraph 1 shall be the date on which the Member State of destination has officially ceased vaccination, but not earlier than the date of notification of this Decision.

Whereas, however, to avoid difficulties in trade into Member States which have already ceased vaccination, these Member States may continue to accept bovine animals vaccinated before the date of notification of this Decision;

3. Member States shall inform the Commission and the other Member States, within the framework of the Standing Veterinary Committee, as far in advance as possible, about the date of cessation of vaccination.

Whereas furthermore trade problems must be resolved between Member States which practise vaccination and Member States which have ceased vaccination;

Article 3

Whereas such measures should apply to imports of live animals from certain third countries on the list established in Council Decision 79/542/EEC⁽⁴⁾;

Member States which continue to practise vaccination shall accept unvaccinated bovine animals coming from a Member State or a third country which does not practise vaccination and which has been free from foot and mouth disease for at least two years, without prejudice, however, to the bovine animals possibly vaccinated against foot and mouth disease in the country of destination before they are introduced into the herd to which they are being sent.

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

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 13.

⁽²⁾ OJ No L 8, 11. 1. 1991, p. 26.

⁽³⁾ OJ No L 146, 14. 6. 1979, p. 15.

⁽⁴⁾ OJ No 121, 29. 7. 1964, p. 1977/64.

Article 4

Member States shall inform the Commission and the other Member States, in the framework of the Standing Veterinary Committee, about:

- the acceptance of bovine animals in accordance with Article 1,
- the conditions to be applied to the vaccination of bovine animals in accordance with Article 3.

Article 5

The Commission will follow the evolution of the situation and shall review this Decision before 1 January 1992.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 26 March 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 834/91 of 4 April 1991 fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 1

(Official Journal of the European Communities No L 85 of 5 April 1991)

On page 8 in Article 1:

for: 'ECU 87,827',

read: 'ECU 87,825'.
