

Official Journal

of the European Communities

ISSN 0378-6978

L 119

Volume 34

14 May 1991

English edition

Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1233/91

of 13 May 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 10 May 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 14 May 1991.

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

Done at Brussels, 13 May 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 13 May 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy
0709 90 60	136,05 ⁽²⁾ ⁽³⁾
0712 90 19	136,05 ⁽²⁾ ⁽³⁾
1001 10 10	193,20 ⁽¹⁾ ⁽³⁾
1001 10 90	193,20 ⁽¹⁾ ⁽³⁾
1001 90 91	159,19
1001 90 99	159,19
1002 00 00	153,45 ⁽⁶⁾
1003 00 10	147,13
1003 00 90	147,13
1004 00 10	138,04
1004 00 90	138,04
1005 10 90	136,05 ⁽²⁾ ⁽³⁾
1005 90 00	136,05 ⁽²⁾ ⁽³⁾
1007 00 90	144,11 ⁽⁴⁾
1008 10 00	46,01
1008 20 00	134,33 ⁽⁴⁾
1008 30 00	53,88 ⁽⁵⁾
1008 90 10	⁽⁷⁾
1008 90 90	53,88
1101 00 00	237,57 ⁽⁶⁾
1102 10 00	229,90 ⁽⁶⁾
1103 11 10	313,10 ⁽⁶⁾
1103 11 90	254,76 ⁽⁶⁾

⁽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 1234/91

of 13 May 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 10 May 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 14 May 1991.

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

Done at Brussels, 13 May 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 13 May 1991 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 5	1st period 6	2nd period 7	3rd period 8
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	1,32	1,32	1,32
1001 10 90	0	1,32	1,32	1,32
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

(ECU/tonne)

CN code	Current 5	1st period 6	2nd period 7	3rd period 8	4th period 9
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 1235/91

of 13 May 1991

reintroducing the preferential customs duty on imports of small-flowered roses
originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as amended by Regulation (EEC) No 3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EEC) No 728/90⁽³⁾ opens and provides for the administration of Community tariff quotas for cut flowers and 3129/90 buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas, Article 2 (3) of that Regulation stipulates that in the absence of available price quotations, the preferential customs duty shall be reintroduced if there are no prices for six successive working days from the date the measure was applied;

Whereas Commission Regulation (EEC) No 3129/90⁽⁴⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as amended by Regulation (EEC) No 3556/88⁽⁶⁾, laid down detailed rules for the application of these arrangements;

Whereas to permit the import arrangements to function in the normal manner, prices on importation should be calculated using:

- for currencies maintained against each other within a maximum spread at any given moment for spot rate transactions of 2,25 % a conversion rate based on their central rate multiplied by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- 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 the preferential customs duty fixed for small-flowered roses originating in Israel by Regulation (EEC) No 728/90 was suspended by Commission Regulation (EEC) No 835/91⁽⁹⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the first paragraph of Article 2 (3) of Regulation (EEC) No 4088/87 is met for small-flowered roses originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of small-flowered roses (CN codes ex 0603 10 11 and ex 0603 10 51) originating in Israel the preferential customs duty set by Regulation (EEC) No 728/90 is reintroduced.

Article 2

This Regulation shall enter into force on 14 May 1991.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 81, 28. 3. 1990, p. 7.

⁽⁴⁾ OJ No L 299, 30. 10. 1990, p. 26.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁹⁾ OJ No L 85, 5. 4. 1991, p. 11.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1236/91

of 13 May 1991

reintroducing the preferential customs duty on imports of large-flowered roses
originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as amended by Regulation (EEC) No 3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EEC) No 728/90⁽³⁾ opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas, Article 2 (3) of that Regulation stipulates that in the absence of available price quotations, the preferential customs duty shall be reintroduced if there are no prices for six successive working days from the date the measure was applied.

Whereas Commission Regulation (EEC) No 3129/90⁽⁴⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as amended by Regulation (EEC) No 3556/88⁽⁶⁾, laid down detailed rules for the application of these arrangements;

Whereas to permit the import arrangements to function in the normal manner, prices on importation should be calculated using:

- for currencies maintained against each other within a maximum spread at any given moment for spot rate transactions of 2,25 % a conversion rate based on their central rate multiplied by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- 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 the preferential customs duty fixed for large-flowered roses originating in Israel by Regulation (EEC) No 728/90 was suspended by Commission Regulation (EEC) No 2977/90⁽⁹⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the first paragraph of Article 2 (3) of Regulation (EEC) No 4088/87 is met for large-flowered roses originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of large-flowered roses (CN codes ex 0603 10 11 and ex 0603 10 51) originating in Israel the preferential customs duty set by Regulation (EEC) No 728/90 is reintroduced.

Article 2

This Regulation shall enter into force on 14 May 1991.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 81, 28. 3. 1990, p. 7.

⁽⁴⁾ OJ No L 299, 30. 10. 1990, p. 26.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁹⁾ OJ No L 283, 16. 10. 1990, p. 19.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1237/91

of 13 May 1991

re-establishing the preferential customs duty on imports of multiflorous (spray)
carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as amended by Regulation (EEC) No 3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EEC) No 728/90⁽³⁾ opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets; not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EEC) No 3129/90⁽⁴⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as amended by Regulation (EEC) No 3556/88⁽⁶⁾, laid down detailed rules for the application of these arrangements;

Whereas to permit the import arrangements to function in the normal manner prices on importation should be calculated using:

- for currencies maintained against each other within a maximum spread at any given moment for spot rate transactions of 2,25 % a conversion rate based on their central rate multiplied by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- 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 the preferential customs duty fixed for multiflorous (spray) carnations originating in Israel by Regulation (EEC) No 728/90 was suspended by Commission Regulation (EEC) No 896/91⁽⁹⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the last indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for multiflorous (spray) carnations originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of multiflorous (spray) carnations (CN codes ex 0603 10 13 and ex 0603 10 53) originating in Israel the preferential customs duty set by Regulation (EEC) No 728/90 is reintroduced.

Article 2

This Regulation shall enter into force on 14 May 1991.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 81, 28. 3. 1990, p. 7.

⁽⁴⁾ OJ No L 299, 30. 10. 1990, p. 26.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁹⁾ OJ No L 90, 11. 4. 1991, p. 30.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1238/91

of 13 May 1991

re-establishing the preferential customs duty on imports of large-flowered roses
originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as amended by Regulation (EEC) No 3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EEC) No 728/90⁽³⁾ opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas, Article 2 (3) of that Regulation stipulates that in the absence of available price quotations, the preferential customs duty shall be reintroduced if there are no prices for six successive working days from the date the measure was applied;

Whereas Commission Regulation (EEC) No 3129/90⁽⁴⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as amended by Regulation (EEC) No 3556/88⁽⁶⁾, laid down detailed rules for the application of these arrangements;

Whereas to permit the import arrangements to function in the normal manner prices on importation should be calculated using:

- for currencies maintained against each other within a maximum spread at any given moment for spot rate transactions of 2,25 % a conversion rate based on their central rate multiplied by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- 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 the preferential customs duty fixed for large-flowered roses originating in Morocco by Regulation (EEC) No 728/90 was suspended by Commission Regulation (EEC) No 930/91⁽⁹⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the first indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for large-flowered roses originating in Morocco; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of large-flowered roses (CN codes 0603 10 11 and ex 0603 10 51) originating in Morocco the preferential customs duty set by Regulation (EEC) No 728/90 is reintroduced.

Article 2

This Regulation shall enter into force on 14 May 1991.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 81, 28. 3. 1990, p. 7.

⁽⁴⁾ OJ No L 299, 30. 10. 1990, p. 26.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁹⁾ OJ No L 94, 16. 4. 1991, p. 10.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1239/91

of 13 May 1991

on the supply of various consignments of cereals as food aid

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

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

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

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated to certain countries and beneficiary organizations 25 000 tonnes of cereals;

Whereas it is necessary to provide for the carrying-out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽⁴⁾, as amended by Regulation (EEC) No 790/91 ⁽⁵⁾;

Whereas it should be pointed out that the provisions of Commission Regulation (EEC) No 1385/89 of 22 May

1989 laying down detailed rules applicable on the purchase of cereals held by intervention agencies for the supply of community food aid ⁽⁶⁾, also apply to the products to be mobilized at intervention stocks;

Whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

Article 2

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

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

⁽⁶⁾ OJ No L 139, 23. 5. 1989, p. 10.

ANNEX I

LOT A

1. **Operation No⁽¹⁾**: 1314/90
2. **Programme**: 1990
3. **Recipient**: Ethiopia
4. **Representative of the recipient⁽²⁾**
 - Europe: Ambassade de l'Ethiopie, Bd. St Michel 32, B-1040 Brussels; telex 62285 ETH BRU B
 - Ethiopia: Agricultural Marketing Corporation PO Box 3321 Addis Ababa; tel. 65 24 36 / 16 64 38; telex 21165
5. **Place or country of destination**: Ethiopia
6. **Product to be mobilized**: common wheat
7. **Characteristics and quality of the goods⁽³⁾**: see OJ No C 216, 14. 8. 1987, p. 3 (under II.A.1)
8. **Total quantity**: 10 000 tonnes
9. **Number of lots**: one
10. **Packaging⁽⁴⁾**: see OJ No C 216, 14. 8. 1987, p. 3 (under II.B.1.a)
 - marking on the bags, in letters at least 5 cm high, the month and the year of shipment, followed by:
'ACTION No 1314/90 / WHEAT / FOOD AID OF THE EUROPEAN ECONOMIC COMMUNITY TO THE PEOPLE OF ETHIOPIA'
11. **Method 134/90 mobilization⁽⁵⁾**: purchase from: Bundesanstalt für landwirtschaftliche Marktordnung (BALM), D-6000, Frankfurt am Main, Adickesallee 40; telex 4-11475, 4-16044, telefax 1564-651
The addresses of the places of storage are given in Annex II
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Assab
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 1 — 20. 6. 1991
18. **Deadline for the supply**: 20. 7. 1991
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 28. 5. 1991
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 11. 6. 1991
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 15. 6 — 4. 7. 1991
 - (c) deadline for the supply: 4. 8. 1991
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders⁽⁶⁾**: Bureau de l'aide alimentaire, à l'attention de Monsieur N, Arend, bâtiment Loi 120, bureau 7/46, 200 rue de la Loi, B-1049 Brussels; telex AGREC 22037 B or 25670 B
25. **Refund payable on request by the successful tenderer⁽⁶⁾**: refund applicable on 27. 5. 1991, fixed by Commission Regulation (EEC) No 1111/91 (OJ No L 110, 1. 5. 1991, p. 73)

LOT B

1. **Operation No** ⁽¹⁾: 69/91
2. **Programme**: 1991
3. **Recipient** ⁽²⁾: UNHCR (Mr Gaude), CP 2500, CH-1211 Genève 2 Dépôt; tel (22)739 84 80, telex 412404 CH HCR
4. **Representative of the recipient** ⁽³⁾: The Representative UNHCR Branch Office in the Sudan, Mohammed Nageeb Road (North of Farouk Cemetery), Khartoum No 2, Soudan; (tel (249)11 81 243; telex 22431 SD HCR)
5. **Place or country of destination**: Sudan
6. **Product to be mobilized**: common wheat
7. **Characteristics and quality of the goods** ⁽⁴⁾ ⁽¹⁰⁾ ⁽¹¹⁾: see OJ No C 216, 14. 8. 1987, p. 3 (under IIA.1)
8. **Total quantity**: 15 000 tonnes
9. **Number of lots**: one
10. **Packaging and marking** ⁽⁵⁾: see OJ No C 216, 14. 8. 1987, p. 3 (under IIB.1.c)
Marking on the bags in letters at least 5 cm high:
'ACTION No 69/91 / COMMON WHEAT / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY TO UNHCR PROGRAMME / FOR REFUGEES / PORT SUDAN'
11. **Method of mobilization**: purchase from:
Office national interprofessionnel des céréales, 21 avenue Bosquet, F-75326, Paris Cedex 07; telex OFIBLE A 27807 F, telefax 45 51 90 99
The addresses of the places of storage are given in Annex II
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Port Sudan
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 1 — 20. 6. 1991
18. **Deadline for the supply**: 20. 7. 1991
19. **Procedure for determining the costs of supply**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 28. 5. 1991, at 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 11. 6. 1991, at 12 noon
 - (b) period for making the goods available at the port of shipment where the supply is awarded in the port of shipment stage: 15. 6 — 4. 7. 1991
 - (c) deadline for the supply: 4. 8. 1991
22. **Amount of the tendering security**: ECU 5 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽⁶⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/46, 200 rue de la Loi, B-1049 Brussels; telex AGREC 22037 B or 25670 B
25. **Refund payable on request by the successful tenderer** ⁽⁷⁾: refund applicable on 27. 5. 1991, fixed by Commission Regulation (EEC) No 1111/91 (OJ No L 110, 1. 5. 1991, p. 73)

Notes:

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer: M. Haffner, P.O. Box 5570, Addis Ababa; telex 21135 DELEGEUR.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.

The radioactivity certificate must indicate the caesium-134 and -137 levels.

- (⁴) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁵) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably:
 - either by porter at the office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels:

235 01 32
236 10 97
235 01 30
236 20 05.

- (⁶) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of the Annex.
- (⁷) The following should be included in the charter party: 'Food-aid consignment from the European Economic Community: since the freight charges do not include coordination or supervision costs, the US \$ 1,50 tax normally paid must not be applied in the case of this ship.'
- (⁸) Commission delegate to be contacted by the successful tenderer:
 - see list published in OJ No C 227, 7. 9. 1985, p. 4.
- (⁹) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.

The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.

- (¹⁰) The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents:
 - phytosanitary certificate,
 - certificate of origin.
- (¹¹) Radiation certificate legalized by a consulate of Sudan.
- (¹²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required and how they are to be distributed.

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

Número de la partida	Cantidad total del lote (en toneladas)	Nombre y dirección del almacenista
Partiets nummer	Totalmængde (tons)	Lagerindehaverens navn og adresse
Nummer der Partie	Gesamtmenge der Partie (in Tonnen)	Name und Adresse des Lagerhalters
Αριθμός παρτίδων	Συνολική ποσότητα της παρτίδας (σε τόνους)	Όνομα και διεύθυνση εναποθηκευτού
Number of lot	Total quantity (in tonnes)	Address of store
Numéro du lot	Quantité totale du lot (en tonnes)	Nom et adresse du stockeur
Numero della partita	Quantità totale della partita (in tonnellate)	Nome e indirizzo del detentore
Nummer van de partij	Totale hoeveelheid van de partij (in ton)	Naam en adres van de depothouder
Número do lote	Quantidade total (em toneladas)	Nome e endereço do armazemista
A	10 000	6 432 : Emder Lagerhaus GmbH (Elag) Nesserlanderstr. 150 D-2970 Emden-Außenhafen Lager Nr. 067 601 ; Partie Nr. 190 200 3 568 : Emder Lagerhaus GmbH (Elag) Nesserlanderstr. 150 D-2970 Emden-Außenhafen Lager Nr. 067 603 ; Partie Nr. 188 586
B	15 000	Sonastock 44, boulevard de Strasbourg F-44000 Nantes (tél. : 40 89 46 75)

COMMISSION REGULATION (EEC) No 1240/91

of 13 May 1991

amending Regulation (EEC) No 809/91 on a protective measure applicable to imports of provisionally preserved cultivated mushrooms

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables ⁽¹⁾, as last amended by Regulation (EEC) No 2201/90 ⁽²⁾, and in particular Article 18 (2) thereof,

Whereas Commission Regulation (EEC) No 809/91 ⁽³⁾ limits the issue of import licences to a given quantity in the period 1 April to 31 July 1991; whereas, in accordance with Article 5 of that Regulation, the licences concerned are to be issued on 8 April 1991 with a normal term of validity of three months expiring on 7 July 1991;

Whereas this situation may have a negative impact on the processing industry, which uses the mushrooms concerned, since such products can only be stored for a very limited period; whereas such a consequence over-

steps the objective of the protective measure; whereas, as a consequence, the term of validity of the import licences should be permitted to cover the whole four-month period provided for in Regulation (EEC) No 809/91,

HAS ADOPTED THIS REGULATION:

Article 1

The following sentence is hereby added to Article 5 of Regulation (EEC) No 809/91:

'They shall be valid until 31 July 1991.'

Article 2

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, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽²⁾ OJ No L 201, 31. 7. 1990, p. 1.

⁽³⁾ OJ No L 82, 28. 3. 1991, p. 47.

COMMISSION REGULATION (EEC) No 1241/91

of 13 May 1991

fixing for the 1991 marketing year the reference prices for peaches including nectarines

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 3920/90⁽²⁾, and in particular Article 27 (1) thereof,

Whereas, pursuant to Article 23 (1) of Regulation (EEC) No 1035/72, reference prices valid for the whole Community are to be fixed at the beginning of the marketing year;

Whereas peaches are produced in such quantities in the Community that reference prices should be fixed for them and be operative also for nectarines;

Whereas, however, both on the Community market and for imports, prices for both types of nectarine run parallel at different levels to those for peaches; whereas, moreover, quotations for nectarines are not regularly recorded on these markets; whereas there is no need, therefore, to take producer prices for nectarines into consideration for the application of Article 23 (2) of Regulation (EEC) No 1035/72;

Whereas peaches harvested during a given crop year are marketed from May to October; whereas the quantities harvested in May, during the first 10 days of June and in October are so small that there is no need to fix reference prices for these periods; whereas reference prices should be fixed only for the period 11 June to 30 September inclusive;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Community products between production areas and

Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas, to take seasonal variations into account, the year should be divided into several periods and a reference price fixed for each of these periods;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1991 marketing year, the reference prices for peaches including nectarines, falling within CN code 0809 30 00, expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 375, 31. 12. 1990, p. 17.

June (11 to 20):	82,44,
(21 to 30):	71,65,
July:	71,22,
August:	56,98,
September:	56,23.

Article 2

This Regulation shall enter into force on 11 June 1991.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1242/91

of 13 May 1991

fixing for the 1991 marketing year the Community offer prices for plums
applicable with regard to 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,Having regard to Council Regulations (EEC) No
3709/89 ⁽¹⁾ and (EEC) No 3648/90 ⁽²⁾ laying down general
rules for implementing the Act of Accession of Spain and
Portugal as regards the compensation mechanism on
imports of fruit and vegetables originating respectively in
Spain and Portugal, and in particular Article 4 (1) thereof,Whereas Commission Regulation (EEC) No 3820/90 ⁽³⁾
lays down detailed rules for the application of the
compensation mechanism to imports of fruit and
vegetables from Spain and Portugal ;Whereas, pursuant to Articles 152 and 318 of the Act of
Accession, a compensation mechanism is to be intro-
duced on imports into the Community as constituted at
31 December 1985, hereinafter referred to as the
'Community of Ten', of fruit and vegetables from Spain
and Portugal for which a reference price is fixed with
regard to third countries ; whereas Community offer
prices for plums coming from Spain and Portugal should
be fixed only during the period where reference prices are
fixed with regard to third countries, namely, the period 11
June up to and including 30 September ;Whereas, in accordance with Articles 152 (2) (a) and 318
(1) (a) of the Act of Accession, a Community offer price is
to be calculated annually on the basis of the arithmetic
mean of the producer prices in each Member State of the
Community of Ten, plus transport and packaging costs
incurred by the products from the production regions to
the representative consumption centres of the Commu-
nity and taking account of developments in the cost of
production in the fruit and vegetable sector ; whereas the
abovementioned producer prices correspond to the
average prices recorded during the three years precedingthe date of fixing of the Community offer price ; whereas,
however, the annual Community offer price cannot
exceed the reference price applied in respect of third
countries ;Whereas, since the varieties of plums are not all com-
parable as regards the estimation of their commercial
value, these varieties should be classified in two groups ;Whereas, in order to take account of seasonal variations in
prices, the marketing year should be divided into one or
more periods and a Community offer price should be
fixed for each of them ;Whereas, in accordance with Article 1 of Regulations
(EEC) No 3709/89 and (EEC) No 3648/90, the producer
prices to be used for the determination of the Community
offer price are to be those of a domestic product defined
by its commercial characteristics recorded on the repre-
sentative market or markets located in the production
areas where prices are lowest for products or varieties
representing a considerable proportion of production
marketed throughout the year or during a part of the
latter and which meet quality class I requirements and
conditions laid down as regards packaging ; whereas the
average price for each representative market must be esta-
blished after disregarding prices which may be considered
excessively high or excessively low compared with the
normal fluctuations recorded on the market ; whereas,
moreover, if the average price for a Member State shows
excessive variations with respect of normal price fluctua-
tions, it shall not be taken into account ;Whereas the application of the abovementioned criteria
results in Community offer prices being fixed for plums
for the period 11 June to 30 September 1991 at the levels
set out hereinafter ;Whereas, for the purpose of calculating the Spanish and
Portuguese offer prices, the varieties imported from Spain
and Portugal, the Spanish and Portuguese offer prices of
which are to be compared with the prices fixed for group
I and with those fixed for group II, respectively, should be
specified ;Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Management
Committee for Fruit and Vegetables,⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.⁽²⁾ OJ No L 362, 27. 12. 1990, p. 16.⁽³⁾ OJ No L 366, 29. 12. 1990, p. 43.

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 1991 marketing year, the Community offer prices for plums falling within CN codes 0809 40 11 and 0809 40 19 applicable with regard to Spain and Portugal, expressed in ecus per 100 kilograms net of packed products of groups I and II of class I, of all sizes, shall be as follows for each of the groups of varieties:

	<i>Group I</i>	<i>Group II</i>
— 11 June to 31 July	65,55	—
— August	65,55	53,03
— September	56,62	47,99

2. The groups of varieties referred to in paragraph 1 shall be composed of the following varieties:

Group I:

Altesse double (Italian quetsch), Précoce favourite, Belle de Louvain, Conducta, Early Rivers, Kirk's Blue, Jefferson Gage, Lützelsachser (early Lützelsachsen quetsch), Anna Späth, Ersinger (early Ersingen quetsch), Zimmers (Zimmer quetsch), Bühler (early Bühl quetsch), Burbank,

Florentina, Coccia d'oro, Reine-Claude, Czar, Victorias, Damsons and Santa Rosa;

Group II:

Altesse simple (common quetsch, Hauszwetschge), Reine-Claude d'Oullins, Sveskeblommer, Ruth Gerstetter and Ontario.

3. The Spanish and Portuguese offer prices of imported products are to be compared:

- (a) with the prices fixed for group I where the imported products belong to varieties other than those shown in (b);
- (b) with the prices fixed for group II where the imported products belong to the following varieties: Altesse simple (common quetsch, Hauszwetschge), Reine-Claude d'Oullins (Ouillins Gage), Sveskeblommer, Ruth Gerstetter, Ontario, Wangenheimer (early Wangenheim quetsch), Pershore (yellow egg), Mirabelle, Bosniche and Ortenauer.

Article 2

This Regulation shall enter into force on 11 June 1991.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1243/91

of 13 May 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 854/91⁽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 11 April 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 922/91 of 12 April 1991 concerning applications for STM licences for cereals submitted from 4 to 11 April 1991 for imports of common wheat into Spain⁽⁶⁾;

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 next harvest is coming shortly, which means that the non-transferability of certificates is no longer necessary;

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

Regulation (EEC) No 598/86 is hereby amended as follows:

1. Article 2 (2) is repealed.
2. In Article 4, '552 000' is replaced by '700 000'.

Article 2

Article 1 (2) of Regulation (EEC) No 922/91 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 after its entry into force.

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

Done at Brussels, 13 May 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 86, 6. 4. 1991, p. 15.

⁽⁵⁾ OJ No L 57, 1. 3. 1986, p. 1.

⁽⁶⁾ OJ No L 92, 13. 4. 1991, p. 26.

COMMISSION REGULATION (EEC) No 1244/91

of 13 May 1991

derogating from Regulation (EEC) No 1738/89 laying down detailed rules on
production aid for durum wheat

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 10 (5) thereof,Whereas Council Regulation (EEC) No 3103/76 of 16
December 1976 on aid for durum wheat ⁽³⁾, as last
amended by Regulation (EEC) No 3656/90 ⁽⁴⁾, lays down
general rules on aid for durum wheat ;Whereas the final date for the submission of applications
for production aid for durum wheat, set at 30 April by
Commission Regulation (EEC) No 1738/89 ⁽⁵⁾, as
amended by Regulation (EEC) No 920/90 ⁽⁶⁾, raises
problems of an administrative nature in Portugal, fol-
lowing the start of the second stage of accession ; whereas,in order to remedy that situation, the period during which
aid applications may be submitted should be extended ;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*By way of derogation from Article 4 (1) of Regulation
(EEC) No 1738/89, the final date for the submission of
applications for production aid for durum wheat in
Portugal for the 1991/92 marketing year shall be 31 May
1991.*Article 2*This Regulation shall enter into force on the third day
following its publication in the *Official Journal of the
European Communities*.

It shall apply with effect from 1 May 1991.

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

Done at Brussels, 13 May 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 351, 21. 12. 1976, p. 1.⁽⁴⁾ OJ No L 362, 27. 12. 1990, p. 34.⁽⁵⁾ OJ No L 171, 20. 6. 1989, p. 31.⁽⁶⁾ OJ No L 94, 11. 4. 1990, p. 15.

COMMISSION REGULATION (EEC) No 1245/91

of 13 May 1991

fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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 464/91⁽²⁾, and in particular Article 16 (8) thereof,Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 3608/90⁽³⁾, as last amended by Regulation (EEC) No 1193/91⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 3608/90 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in

the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90⁽⁶⁾,

- 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 10 May 1991,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 14 May 1991.

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

Done at Brussels, 13 May 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 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 350, 14. 12. 1990, p. 68.

⁽⁴⁾ OJ No L 115, 8. 5. 1991, p. 35.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 13 May 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	40,50 ⁽¹⁾
1701 11 90	40,50 ⁽¹⁾
1701 12 10	40,50 ⁽¹⁾
1701 12 90	40,50 ⁽¹⁾
1701 91 00	43,25
1701 99 10	43,25
1701 99 90	43,25 ⁽²⁾

⁽¹⁾ The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42).

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

COMMISSION REGULATION (EEC) No 1246/91

of 13 May 1991

altering the basic amount of the import levies on syrups and certain other products in the sugar sector

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 464/91 ⁽²⁾, and in particular Article 16 (8) thereof,Whereas the import levies on syrups and certain other sugar products were fixed by Commission Regulation (EEC) No 1090/91 ⁽³⁾, as amended by Regulation (EEC) No 1128/91 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1090/91 to the information known to the Commission that the basic amount of the levy on syrups and certain other sugar products at present in force should be altered;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central

rate, multiplied by the corrective factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁶⁾,— 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,

HAS ADOPTED THIS REGULATION:

Article 1

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to amended Regulation (EEC) No 1090/91 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 May 1991.

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

Done at Brussels, 13 May 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 54, 28. 2. 1991, p. 22.⁽³⁾ OJ No L 110, 1. 5. 1991, p. 9.⁽⁴⁾ OJ No L 111, 3. 5. 1991, p. 42.⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 13 May 1991 altering the basic amount of the import
levies on syrups and certain other products in the sugar sector

(ECU)

CN code	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question	Amount of levy per 100 kg of dry matter
1702 20 10	0,4325	—
1702 20 90	0,4325	—
1702 30 10	—	52,98
1702 40 10	—	52,98
1702 60 10	—	52,98
1702 60 90	0,4325	—
1702 90 30	—	52,98
1702 90 60	0,4325	—
1702 90 71	0,4325	—
1702 90 90	0,4325	—
2106 90 30	—	52,98
2106 90 59	0,4325	—

COMMISSION REGULATION (EEC) No 1247/91
of 13 May 1991

**abolishing the corrective amount on the import of artichokes into the
Community of Ten from Spain (except the Canary Islands)**

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 3709/89 of 4 December 1989 laying down general rules for implementing the Act of Accession of Spain and Portugal as regards the compensatory mechanism for imports of fruit and vegetables from Spain ⁽¹⁾, and in particular Article 4 (2) thereof,

Whereas Article 152 of the Act of Accession introduces from 1 January 1990 a compensatory mechanism for imports into the Community as constituted on 31 December 1985, hereinafter called 'the Community of Ten', of fruit and vegetables from Spain (except the Canary Islands) for which a reference price is fixed with regard to third countries;

Whereas Regulation (EEC) No 3709/89 lays down general rules for applying the said compensatory mechanism and Commission Regulation (EEC) No 3815/89 ⁽²⁾ lays down detailed rules for applying the said compensatory mechanism;

Whereas Commission Regulation (EEC) No 931/91 ⁽³⁾, as last amended by Regulation (EEC) No 1174/91 ⁽⁴⁾, introduces a corrective amount on imports of artichokes into the Community of Ten from Spain (except the Canary Islands);

Whereas Article 3 (4) of Regulation (EEC) No 3709/89 lays down the conditions under which a corrective amount introduced pursuant to Article 3 (1) of the said Regulation is to be abolished; whereas the said conditions require abolition of the corrective amount on imports of artichokes into the Community of Ten from Spain (except the Canary Islands),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 931/91 is hereby repealed.

Article 2

This Regulation shall enter into force on 14 May 1991.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.
⁽²⁾ OJ No L 371, 20. 12. 1989, p. 28.

⁽³⁾ OJ No L 94, 16. 4. 1991, p. 12.
⁽⁴⁾ OJ No L 114, 7. 5. 1991, p. 25.

COMMISSION REGULATION (EEC) No 1248/91**of 13 May 1991****adjusting the corrective amount on the import of aubergines into the Community of Ten from Spain (except the Canary Islands)**

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 3709/89 of 4 December 1989 laying down general rules for implementing the Act of Accession of Spain and Portugal as regards the compensatory mechanism for imports of fruit and vegetables from Spain ⁽¹⁾, and in particular Article 4 (2) thereof,

Whereas Article 152 of the Act of Accession introduces from 1 January 1990 a compensatory mechanism for imports into the Community as constituted on 31 December 1985, hereinafter called 'the Community of Ten', of fruit and vegetables from Spain (except the Canary Islands) for which a reference price is fixed with regard to third countries;

Whereas Regulation (EEC) No 3709/89 lays down general rules for applying the said compensatory mechanism and Commission Regulation (EEC) No 3815/89 ⁽²⁾ lays down detailed rules for applying the said compensatory mechanism;

Whereas Commission Regulation (EEC) No 1175/91 ⁽³⁾, introduces a corrective amount on imports of aubergines into the Community of Ten from Spain (except the Canary Islands);

Whereas Article 3 (4) of Regulation (EEC) No 3709/89 lays down the conditions under which a corrective amount introduced pursuant to Article 3 (1) of the said Regulation, is to be adjusted; whereas the said conditions require that the corrective amount on imports of aubergines from Spain (except the Canary Islands) into the Community of Ten be adjusted,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 1175/91 'ECU 21,87' is replaced by 'ECU 30,36'.

Article 2

This Regulation shall enter into force on 14 May 1991.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.

⁽²⁾ OJ No L 371, 20. 12. 1989, p. 28.

⁽³⁾ OJ No L 114, 7. 5. 1991, p. 26.

COMMISSION REGULATION (EEC) No 1249/91
of 13 May 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 1232/91⁽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 last amended by Regulation (EEC) No 1163/91⁽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 14 May 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 14 May 1991.

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

Done at Brussels, 13 May 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 118, 13. 5. 1991, p. 53.

⁽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 112, 4. 5. 1991, p. 73.

⁽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 5	1st period 6	2nd period 7 (¹)	3rd period 8 (¹)	4th period 9 (¹)	5th period 10 (¹)
1. Gross aids (ECU):						
— Spain	0,000	0,000	9,139	9,139	9,139	9,139
— Portugal	26,219	26,131	16,109	16,109	16,109	16,109
— Other Member States	19,249	19,161	9,139	9,139	9,139	9,139
2. Final aids:						
Seed harvested and processed in:						
— Federal Republic of Germany (DM)	45,32	45,11	21,51	21,51	21,51	21,51
— Netherlands (Fl)	51,06	50,83	24,24	24,24	24,24	24,24
— BLEU (Bfrs/Lfrs)	934,66	930,39	443,76	443,76	443,76	443,76
— France (FF)	151,98	151,29	72,16	72,16	72,16	72,16
— Denmark (Dkr)	172,85	172,06	82,07	82,07	82,07	82,07
— Ireland (£ Irl)	16,916	16,838	8,031	8,031	8,031	8,031
— United Kingdom (£)	14,739	14,669	6,776	6,776	6,776	6,764
— Italy (Lit)	33 906	33 751	16 098	16 098	16 098	16 022
— Greece (Dr)	3 766,79	3 730,06	1 292,03	1 264,40	1 264,40	1 142,04
— Spain (Pta)	0,00	0,00	1 540,22	1 532,75	1 532,75	1 514,77
— Portugal (Esc)	5 558,17	5 540,33	3 470,87	3 459,51	3 459,51	3 423,64

ANNEX II

Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 5	1st period 6	2nd period 7 (¹)	3rd period 8 (¹)	4th period 9 (¹)	5th period 10 (¹)
1. Gross aids (ECU):						
— Spain	0,000	0,000	11,639	11,639	11,639	11,639
— Portugal	28,719	28,631	18,609	18,609	18,609	18,609
— Other Member States	21,749	21,661	11,639	11,639	11,639	11,639
2. Final aids:						
Seed harvested and processed in:						
— Federal Republic of Germany (DM)	51,20	50,99	27,40	27,40	27,40	27,40
— Netherlands (Fl)	57,69	57,46	30,87	30,87	30,87	30,87
— BLEU (Bfrs/Lfrs)	1 056,05	1 051,78	565,15	565,15	565,15	565,15
— France (FF)	171,72	171,03	91,90	91,90	91,90	91,90
— Denmark (Dkr)	195,30	194,51	104,52	104,52	104,52	104,52
— Ireland (£ Irl)	19,112	19,035	10,228	10,228	10,228	10,228
— United Kingdom (£)	16,688	16,617	8,724	8,724	8,724	8,713
— Italy (Lit)	38 310	38 155	20 502	20 502	20 502	20 426
— Greece (Dr)	4 324,05	4 287,33	1 849,30	1 821,67	1 821,67	1 699,30
— Spain (Pta)	63,68	50,86	1 922,46	1 914,99	1 914,99	1 897,01
— Portugal (Esc)	6 079,86	6 062,02	3 992,56	3 981,20	3 981,20	3 945,33

(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, conforming in particular:

- to 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;
- to the adjustment resulting from the maximum guaranteed quantity arrangements and that of the agricultural conversion rates applied for the 1990/91 marketing year.

ANNEX III

Aids to sunflower seed

(amounts per 100 kg)

	Current 5	1st period 6	2nd period 7	3rd period 8 (1)	4th period 9 (1)
1. Gross aids (ECU):					
— Spain	29,318	28,698	28,494	21,708	21,708
— Portugal	38,273	37,664	37,464	28,843	28,843
— Other Member States	26,033	25,424	25,224	16,603	16,603
2. Final aids:					
(a) Seed harvested and processed in (2):					
— Federal Republic of Germany (DM)	61,29	59,85	59,38	39,09	39,09
— Netherlands (Fl)	69,05	67,44	66,91	44,04	44,04
— BLEU (Bfrs/Lfrs)	1 264,07	1 234,50	1 224,78	806,18	806,18
— France (FF)	205,55	200,74	199,16	131,09	131,09
— Denmark (Dkr)	233,77	228,30	226,51	149,09	149,09
— Ireland (£ Irl)	22,877	22,342	22,166	14,590	14,590
— United Kingdom (£)	20,018	19,533	19,373	12,565	12,565
— Italy (Lit)	45 856	44 783	44 431	29 245	29 245
— Greece (Dr)	5 260,91	5 089,46	5 002,74	2 863,86	2 863,86
— Portugal (Esc)	8 072,64	7 949,19	7 904,03	6 121,85	6 121,85
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	4 596,46	4 506,04	4 475,12	3 464,35	3 464,35
— in another Member State (Pta)	4 656,94	4 568,18	4 537,84	3 539,62	3 539,62

(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, conforming in particular with:

— 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 5	1st period 6	2nd period 7	3rd period 8	4th period 9	5th period 10
DM	2,063180	2,061330	2,059900	2,058650	2,058650	2,055210
Fl	2,315020	2,313200	2,311680	2,310350	2,310350	2,306400
Bfrs/Lfrs	42,253600	42,213400	42,189600	42,158800	42,158800	42,081800
FF	6,971510	6,966240	6,961760	6,957380	6,957380	6,943670
Dkr	7,833920	7,832480	7,831830	7,831140	7,831140	7,827050
£Irl	0,770904	0,771056	0,771361	0,771813	0,771813	0,773319
£	0,697203	0,698376	0,698964	0,699646	0,699646	0,701200
Lit	1 526,94	1 528,72	1 530,47	1 532,05	1 532,05	1 537,83
Dr	223,32500	225,35100	227,44700	228,81600	228,81600	234,87900
Esc	176,31700	176,90200	177,45500	177,95200	177,95200	179,52100
Pta	127,07900	127,45300	127,77500	128,08200	128,08200	128,82100

COMMISSION REGULATION (EEC) No 1250/91
of 13 May 1991
fixing the aid for soya beans

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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 1491/85 of 23 May 1985 laying down special measures in respect of soya beans ⁽¹⁾, as last amended by Regulation (EEC) No 3577/90 ⁽²⁾, and in particular Article 2 (7) thereof,

Whereas the amount of the aid referred to in Article 2 (1) of Regulation (EEC) No 1491/85 was fixed by Commission Regulation (EEC) No 771/91 ⁽³⁾, as last amended by Regulation (EEC) No 1099/91 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 771/91 to the information at present available to the Commission that the amount of the aid at present in force should be altered as set out in this Regulation,

Article 1

1. The amount of the aid provided for in Article 2 of Regulation (EEC) No 1491/85 shall be as set out in the Annex hereto.

2. However, the amount of the aid fixed in advance for the 1991/92 marketing year for soya seed shall be confirmed or replaced with effect from 14 May 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 14 May 1991.

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

Done at Brussels, 13 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 13 May 1991 fixing the aid for soya beans

(ECU/100 kg)

	Current period 5	First period 6	Second period 7	Third period 8	Fourth period 9 ⁽¹⁾	Fifth period 10 ⁽¹⁾
Seed harvested:						
— Spain	15,812	15,793	15,849	15,756	15,480	15,480
— another Member State	21,356	21,337	21,393	21,300	19,204	19,204

⁽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, conforming in particular:

- to the Commission's proposals for the 1991/92 marketing year as regards the guide price,
- to the adjustment resulting from the maximum guaranteed quantity arrangements applied for the 1990/91 marketing year.

⁽¹⁾ OJ No L 151, 10. 6. 1985, p. 15.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 81, 28. 3. 1991, p. 60.

⁽⁴⁾ OJ No L 110, 1. 5. 1991, p. 34.

COUNCIL REGULATION (EEC) No 1251/91

of 13 May 1991

imposing a definitive anti-dumping duty on imports of audio tapes in cassettes originating in Japan and the Republic of Korea, collecting definitively the provisional duty and terminating the procedure concerning Hong Kong

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 Articles 9 and 12 thereof,

Having regard to the proposal by the Commission after consultation within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EEC) No 3262/90⁽²⁾, imposed a provisional anti-dumping duty on imports into the Community of audio tapes in cassettes (hereinafter referred to as audio cassettes) originating in Japan, the Republic of Korea and Hong Kong and falling within CN code 8523 11 00. The duty was extended for a maximum period of two months by Council Regulation (EEC) No 578/91⁽³⁾.

B. SUBSEQUENT PROCEDURE

- (2) Following the imposition of the provisional anti-dumping duty, all the exporters mentioned by name in Regulation (EEC) No 3262/90, as well as the representatives of the complainants, requested and were granted an opportunity to be heard by the Commission. They, as well as one importer, also made written submissions making their views known on the findings.
- (3) The Commission continued to seek and verify all information it deemed to be necessary for its determinations. For this purpose, an investigation was carried out at the premises of the following exporter :

— Hitachi Maxell, Tokyo, Japan.

- (4) Upon request, the parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive duties and the definitive collection of amounts secured by way of a provisional duty. They were also granted a period within which to make representations subsequent to these disclosures. Their oral and written comments were considered and, where appropriate, the Commission's findings were modified to take account of them.
- (5) Owing to the complexity of the proceeding, in particular to the detailed verification of the voluminous data involved and the numerous arguments put forward, the investigation could not be concluded within the time limit provided for in Article 7 (9) (a) of Regulation (EEC) No 2423/88.

C. PRODUCT UNDER CONSIDERATION, LIKE PRODUCT, COMMUNITY INDUSTRY

- (6) In its provisional findings (recitals 9 to 12 of Regulation (EEC) No 3262/90) the Commission found that although there are various models of audio cassettes differing in length and coating of tape and design of the cartridge, these models have the same basic physical characteristics, application, use and channels of distribution.
- (7) This finding was questioned by one exporter who requested that audio cassettes whose tapes were coated with a metal pigment (hereinafter referred to as metal audio cassettes) should be excluded from the scope of the proceeding. This exporter submitted that metal audio cassettes are extremely high quality cassettes bought by specialist consumers and require a cassette recorder with a specific key-function to appreciate their true quality. A similar claim was submitted by an importer requesting the exclusion of audio cassettes for answering machines from the scope of the proceeding.
- (8) However, while the Commission accepts that there are minor differences in quality or use of audio cassettes, it considers that these are actually outweighed by the similarity of characteristics and functions which give them a high degree of interchangeability. The Commission notes in this respect that metal audio cassettes can be used on a

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 313, 13. 11. 1990, p. 5.

⁽³⁾ OJ No L 65, 12. 3. 1991, p. 20.

cassette recorder without a specific key-function (giving thus a sound of a lower quality) and that cassettes for answering machines can be used on any other cassette recorder or player to record or play any sound. In these circumstances, the Commission concludes that metal audio cassettes and standard cassettes for answering machines should not be excluded from the scope of the proceeding.

- (9) The Council confirms the above conclusions and confirms that, by way of contrast, audio cassettes which do show important physical differences in size, components and use such as micro cassettes, small endless cassettes for answering machines, computer cassettes or digital audio tapes (DAT) cassettes are not covered by the scope of the present proceeding. In addition, the Council confirms the findings of the Commission with regard to the like product and the Community industry set out in recitals 15 and 16 (on the content of which there was no comment by the interested parties) of Regulation (EEC) No 3262/90.

D. NORMAL VALUE

- (10) For the purpose of definitive findings, normal value was, in general, established on the basis of the same methods as those used in the provisional determination of dumping, after taking into consideration new facts and arguments presented by the parties.

1. Normal value based on prices in the exporting country

- (11) In recital 20 of Regulation (EEC) No 3262/90, the value of giveaway goods (e.g. index cards, photographs, ...) granted by two exporters was disallowed for the purpose of provisional findings as a deduction from domestic sales prices in establishing normal value. The exporters concerned have reacted to the Commission's provisional findings and have argued that the value of these giveaway goods should be treated as a discount and, as such, be deducted from the domestic selling price.

As previously stated in its provisional findings, the Commission considers that these giveaway goods, which, by their nature are unconnected with the product under consideration, do not have the effect of reducing the price of audio cassettes sold on the domestic market but are promotional expenses for which no deduction can be made in conformity

with Article 2 (3) (a) of Regulation (EEC) No 2423/88. This view is confirmed by the Council.

2. Normal value based on constructed value

(a) *Models grouped together in series*

- (12) As explained in recital 22 of Regulation (EEC) No 3262/90, the Commission provisionally established normal value for one exporter on the basis of the weighted average price of series of models of audio cassettes. Subsequent investigation led the Commission to believe that this average price could not be relied upon to form accurate data for the establishment of normal value.
- (13) Since this subsequent investigation established that there were neither sufficient sales on the domestic market of audio cassette models suitable for direct comparison to those sold for export to the Community, nor sales at prices which permitted recovery of all costs reasonably allocated, normal value was determined on the basis of a constructed value of each model concerned. This constructed value was established on the same basis as that described in recital 23 of Regulation (EEC) No 3262/90.

(b) *Original equipment manufacturer (OEM) sales*

- (14) One exporter maintained its claim that there were no comparable prices, since it made no sales to OEM customers on the domestic market, whereas its export sales to the Community were made on an OEM basis; this exporter thus required that the Commission establish a constructed value including a reduced profit margin for the purpose of comparison with its export sales made on an OEM basis and submitted new facts to substantiate its request.

In view of this evidence, the Commission considers that the Community customers of this Korean exporter are buying on an OEM basis: indeed, they are purchasing audio cassettes made to their own specifications (which differ in some aspects from the Korean producer's own specifications) in order to supplement their own production and resell them while assuming the full responsibility of a manufacturer with regard to the product. In addition, the difference claimed was clearly reflected in the quantities sold and the pattern of price charged.

For the purpose of definitive determination, the Commission considers that, given the limited nature of the costs assumed by the importer (for instance absence of after sales service), the profit rate of the manufacturers' own brand sales used for

constructing normal value shall be reduced by 50 % : indeed this constitutes the difference which exists between own-brand and OEM profits if sales of the latter had taken place on the Korean market.

In the light of the Commission's considerations set out above, the Council confirms the Commission's findings and conclusions.

(c) *Profit*

- (15) As explained in recital 30 of Regulation (EEC) No 3262/90, where insufficient profitable sales took place on the domestic market, the addition of profit to be included in the constructed value was based on the weighted average profits realized by other exporters on profitable sales on the domestic market.

- (16) Two Hong Kong exporters contested the profit figure used by the Commission since, according to them, this figure was based on the profits achieved by a fully-integrated producer in Hong Kong, whereas they were not integrated and actually mainly involved in the assembling of audio cassettes. They alleged that a lower profit margin should thus be applied to reflect this difference.

In these circumstances, the Council considers it reasonable to base the profit figure for these Hong Kong exporters on the rate of profit determined for the manufacturing of a product in the same business sector, namely video cassettes, where these exporters performed similar activities (see Council Regulation (EEC) No 1768/89)⁽¹⁾.

E. EXPORT PRICE

- (17) The Council confirms the findings and conclusions of the Commission, as well as those set out in recitals 31 to 39 of Regulation (EEC) No 3262/90 on the content of which recitals there was no substantial comment by the interested parties.

F. COMPARISON

- (18) One exporter contested the amount of credit costs deducted from the domestic selling price for the establishment of normal value and claimed that it was lower than its actual expenses.

The Commission considers that the credit expenses claimed are partly related to sales of products other than audio cassettes and should thus be reduced to the proportion of sales of audio cassettes only, in accordance with Article 2 (11) of Regulation (EEC) No 2423/88.

G. DUMPING MARGIN

- (19) On comparing normal values for domestically sold models of the producers/exporters which were

investigated with the export prices of comparable models on a transaction-by-transaction basis, the final examination of the facts shows the existence of dumping in respect of audio cassettes in Japan, the Republic of Korea and Hong Kong on the part of eight exporters concerned, the margin of dumping being equal to the amount by which the normal value as established exceeds the price for export to the Community.

- (20) The weighted average margins, expressed as a percentage of cif frontier prices, varied according to the exporters as follows :

— Japanese exporters :

— Fuji	64,2 %
— TDK	48,2 %
— Maxell	47 %
— Denon Columbia	44,5 %

— Korean exporters :

— Goldstar	9,2 %
— Sunkyong Magnetics	2,6 %

— Hong Kong exporters :

— Yee Keung	2,4 %
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- (21) As far as Saehan Media, Sungham, Keum Sahn Electronics (Korea), Tomei Magnetics, Swire, Magnetic Enterprise and Forward Electronics (Hong Kong) are concerned, no dumping was found.

- (22) For those exporters who did not make themselves known in the course of investigation, or cooperated only partly with the Commission, a dumping margin was determined on the basis of the facts available as explained in recitals 50 and 51 of Regulation (EEC) No 3262/90 and it is considered appropriate to use the highest dumping margin of 64,2 % for Japan, 9,2 % for Korea and 2,4 % for Hong Kong for these groups of exporters.

The Council confirms the above findings and conclusions.

H. INJURY

1. Cumulation

- (23) In its provisional findings, the Commission considered that the effects of Japanese, Korean and Hong Kong imports had to be analysed cumulatively. The exporters reacted extensively to the Commission's provisional findings. They argued that the difference in consumer recognition, market segment and pricing pattern acknowledged in the provisional findings between Japanese and Korean exports should have led the Commission to rule out the cumulation of imports from Japan, Korea and Hong Kong for the purpose of assessing injury.

⁽¹⁾ OJ No L 174, 22. 6. 1989, p. 1.

- (24) The Commission confirms its finding set out in recital 78 of Regulation (EEC) No 3262/90 that, on the one hand, the Korean exporters compete to a very large extent on price alone, with products of comparatively standard technology and no significant difference in features and quality, while on the other hand, the Japanese exporters now tend also to concentrate on non-price elements, such as brand name, marketing features and styling as their main marketing strategy.

However, it is standard practice for the Community institutions to cumulate imports from several countries when these imported products and the like product of the Community industry meet the following criteria :

- they are interchangeable,
- they are sold or offered for sale in the same geographical markets,
- they have common or similar channels of distribution,
- they are simultaneously present in the market,
- the imports are not negligible as such.

- (25) The application of these criteria does not permit the establishment of a clear dividing line, separating audio cassettes either from Japan or from Korea. Indeed, besides the identity of the basic physical characteristics, application and use of audio cassettes whatever their source, there is, to a very large extent, commercial interchangeability and competition between the various models of audio cassettes ; this is shown by the fact that Japanese exporters are selling in the Community audio cassettes manufactured both in Japan and Korea, with no difference in the consumer's perception of these products by reason of their different sources.

In contrast, given the small amount of audio cassettes imported from Hong Kong which were found to be dumped, they had no discernible impact on the Community industry. Indeed, dumped imports from Hong Kong represented in 1988 a very small share of the Community market and their brand recognition was almost non-existent. Accordingly, since they did not make any contribution to material injury, imports from Hong Kong should not be cumulated.

The Council confirms the above findings and concludes therefore that the effects of Japanese and Korean imports have to be analysed cumulatively.

2. Effect on the dumped imports

- (26) The Commission concluded in its provisional findings that the Community industry had suffered material injury which manifested itself, in particular, by a loss of market share, price erosion, insufficient profitability and employment losses. It based this finding on the following facts :

- imports of audio cassettes from Japan and Korea have increased at a more rapid rate than the rate of Community consumption, from 149 million units in 1985 to 205 million units in 1988, i.e. by 38 %. Imports from Japan increased from 142 million units to 154 million units over this period, while imports from Korea increased from 7 million units to 51 million units,
- imports of audio cassettes from Hong Kong have increased from 4,9 million units in 1985 to 7 million units in 1988,
- the market share of the total dumped imports from Korea and Japan increased by 3 %, namely from 43,5 to 46,4 % from 1985 to 1988. As far as Hong Kong is concerned, its market share remained stable (1,5 % in 1985 ; 1,6 % in 1988),
- the complainant producer's selling prices in the Community suffered a significant erosion between 1985 and 1988,
- Community producers were unable to increase, significantly, their production between 1985 and 1988 and their sales fell by 8,5 % over this period, despite an increase in total consumption of 30 %,
- between 1985 and 1988 return on sales of the Community industry showed a constant negative trend. The slight improvement of its profit in 1988 appears to be the result of the withdrawal of loss-making models, which involves a further shrinking of its sales and presence on the market,
- cost-saving measures involved a decline of employment in the Community of some 23 % of the audio cassettes industry's workforce between 1985 and 1988,
- for a large number of transactions, large price undercutting was found on the part of Korean exporters and significant price undercutting on the part of Japanese exporters on the German market where the Community industry still retained a large market share.

- (27) No new facts concerning these findings were submitted to the Commission but the exporters concerned challenged injury findings on a number of points.
- (28) One exporter argued that the use of average figures for the whole of Community industry was misleading since they mask conflicting underlying trends by the two major Community producers which should have led to a separate determination of injury for each of them. The Council cannot accept this argument since, when determining whether material injury has been caused to the Community industry, this term must be interpreted in accordance with Article 4 (5) of Regulation (EEC) No 2423/88 as referring to the production of the Community producers as a whole.
- (29) One exporter also argued that one of the Community producers was not experiencing material injury and should have been excluded from the injury assessment owing to an alleged healthy profit situation. The Council cannot accept this view and recalls, as noted in recital 28, that the injury suffered by the Community industry is determined globally, on the basis of economic factors relating to its situation as a whole.

In addition, it notes that several factors concerning this Community producer were a clear indication of the existence of material injury, such as a profit rate which was in fact below the average, and a low global profitability achieved at the expense of withdrawing loss-making models from the market.

- (30) It was also argued that the Commission's findings with regard to production, capacity, utilization of capacity, and sales not only referred to production in the Community but also included audio cassettes manufactured by the Community industry in its overseas facilities, and sold in the Community.

As noted in the provisional findings of the Commission, this activity had completely ceased in 1988, which is a further indication of the existence of material injury. Indeed, while in 1985 the Community industry was operating at full capacity and thus decided, in order to meet the demand, to increase its capacity of production in the Community and simultaneously to supply the Community market with products manufactured in overseas facilities, the subsequent decrease of its sales in clear contrast with the buoyancy of the market led it to close these overseas facilities and to bear the costs of increasingly idle production facilities.

- (31) Another exporter argued that the Italian market should have been taken into account in the price

undercutting analysis since it was in Italy that it sold its most important volume of audio cassettes. However, it has to be noted that, as explained in recital 66 of Regulation (EEC) No 3262/90, the Commission selected three major Community markets covering more than 70 % of the Community sales which are the most representative of all sales of audio cassettes in the Community. The Commission found in contrast that the volume of sales and price patterns of the exporters and Community producers on other markets were not representative of the Community market as a whole.

- (32) The above conclusion, in addition to the findings of the Commission set out in Regulation (EEC) No 3262/90, lead the Council to consider that the Community industry is suffering material injury within the meaning of Article 4 (1) of Regulation (EEC) No 2423/88.

3. Causation of injury

(a) *Effect of dumped imports*

- (33) In its provisional findings, the Commission found that the increased influx of dumped imports coincided with a significant loss of market share and reduced profitability on the part of the Community industry, together with price erosion, and price undercutting of the audio cassettes produced by the Community industry. In particular, it was noted that the Community industry was in a dilemma since it had simultaneously to resist the dumped imports from Japan in the higher segment of the market, and the dumped imports from Korea in the lower segment of the market where competition is led mainly by price. As a result, the Commission concluded that dumped imports had, taken in isolation, caused material injury to the Community industry.
- (34) As far as Hong Kong imports are concerned, the Council considers that in view of the small amount of dumped imports from Hong Kong and of the absence of their brand recognition on the Community market, these could not have caused material injury to the Community industry.
- (35) As far as Japanese and Korean imports were concerned, several arguments were raised, mostly by Japanese exporters. These contested the provisional finding of the Commission and argued that their exports could not be held responsible for causing injury since the market share of their

exports decreased from 42 to 35 % between 1985 and 1988 and have been mainly replaced by products manufactured by their subsidiaries in the Community. According to these exporters, material injury could only be attributed to dumped imports from Korea, or to the effect of non-dumped sales in the Community which has been overlooked by the Commission, such as the sales of the audio cassettes manufactured by their production subsidiaries in the Community.

- (36) The Council cannot accept these arguments. If Japanese dumped exports were isolated from the other dumped exports, the arguments raised are not corroborated by the facts. Indeed, while there is a certain decrease of the market share of dumped exports from Japan, the Japanese exporters in 1988 retained a very large share of the Community market (35 %, which is almost double the Community industry's market share) and have increased in absolute terms their volume of dumped imports by 8 %.

In addition, as explained in recital 27, the Council considers that the effect of dumped imports from Japan and Korea should be analysed cumulatively. This analysis shows an increase in volume of the dumped imports by 38 % and in market share by 3 %.

(b) Effects of other factors

- (37) One exporter argued that the Commission did not consider in its provisional findings the effect of the audio cassettes manufactured by the Community industry and sold for export to third countries. The Commission notes that, between 1985 and 1988, while Community sales decreased from 94 million units to 86 million units, export sales of audio cassettes increased from 11 million units to 21 million units: however, this only shows that the Community industry has reacted in an efficient manner to the effect of dumping by developing new markets which were not affected by unfair competition. A further indication of injury is shown by the fact that the production of the Community industry, after deduction of the production destined for export, was actually declining over the period considered.
- (38) It was also argued that the injury suffered by one of the complainants was the result of a wrong commercial decision when it cut its prices in an attempt to sell at the lower end of the market.

The Council cannot accept this argument: the good performances achieved by this Community

producer in other sectors show that, in the absence of contrary proof, its commercial policy was adequate in so far as it decided to decrease its prices in an attempt to retain its market share against the pressure of the dumped imports.

- (39) In conclusion, the Council recognizes that other factors, including the sales of the production subsidiaries of the Japanese exporters, may have had some negative effects on the situation of the Community industry.

However, the injurious effects from the dumped imports have been considered and quantified separately from the effects of these other factors. Indeed, the loss of turnover for the Community industry can be quantified at approximately ECU 42 million; of this, around ECU 22 million can be attributed to dumped imports during the investigation period. Thus, injury cannot be allocated to the value of the Community production of the Japanese exporters which totals approximately ECU 17 million, or the non-dumped imports amounting to ECU 2 million.

Thus these factors do not detract from the fact that the dumped imports had a clear detrimental impact on the situation of the Community industry and that this impact, taken in isolation, has to be considered as material.

Indeed, given the facts described in recitals 30 to 32, the Council confirms the Commission's findings that the Community industry was unable to defend its price, brand image and volume of sales against the Japanese exporters: the latter were able to finance large sales expenditure thanks to high profits on a domestic market without foreign competition and effect a large volume of sales resulting from dumping and thus were in a position to force down the prices of the Community industry in particular in its most important national market where significant price undercutting was found.

The Council also considers that the Community industry had to face the effect of dumped imports from Korea, and was not able to meet the low prices of these imports without definitively undermining its profit situation and jeopardizing any possibility of competition with the Japanese products in the higher segment of the market.

Therefore, the Council adopts the findings of the Commission pertaining to Korean and Japanese imports and concludes that these, taken in isolation, have caused material injury.

I. COMMUNITY INTEREST

- (40) In its provisional findings, the Commission considered and weighed up the interests of the Community industry, of the consumers and of other industries and activities concerned. For the reasons given in recitals 95 to 104 of Regulation (EEC) No 3262/90, it concluded that the interests of the Community call, on balance, for granting protection to the Community industry against unfair competition due to dumped imports.
- (41) One exporter submitted that the withdrawal of one of the complainants, AGFA, from this sector in 1990, and the takeover of its activities by another complainant, BASF, would lead to cost-savings and rationalization which could not fail to improve the profit situation of the Community industry, and thus render protective measures unnecessary and contrary to Community interest.
- (42) The Council considers on the contrary that these facts strengthen the case for the adoption of protective measures in order to prevent other Community producers from disappearing.

Therefore, the Council confirms the Commission's findings that it is in the Community interest to impose anti-dumping measures to eliminate the injurious effects of imports originating in Japan and in Korea.

J. DUTY

- (43) Several exporters contested the methodology applied by the Commission to determine the individual injury margin of each exporter. They argued that the effect of the determination of the price increase of the Community industry was to compensate for past loss of market share and not to eliminate present injury.

In addition, they alleged that this determination took no account of the other factors which may have contributed to the current unsatisfactory state of the Community industry.

The Commission cannot accept these arguments.

Firstly, the Commission recalls that the very purpose of the Community's anti-dumping legislation is to counteract dumping and material injury caused thereby. Consequently, the Community institutions are empowered to impose anti-dumping duties to the extent of the dumping found. There is, however, an additional responsibility on the institutions to avoid measures which can have excessive consequences. Indeed, Article 13 (3)

of Regulation (EEC) No 2423/88 states that the measures 'should be less' than the dumping margin 'if such lesser duties would be adequate to remove the injury'. This entails an assessment and a forecast of the future effects on the Community market of any anti-dumping measures which by its very nature is judgemental. This assessment, for which the legislation gives no guidance, has to be reasonable and take account of the particularities of each case.

In fulfilling this responsibility, the Commission considered that it is reasonable to assess, in this case, that the elimination of the full dumping margin for some exporters would probably be excessive since the consequent price increase would place them at too much of a disadvantage and possibly eliminate them from the market.

The Commission therefore concluded, given the serious injury inflicted on the Community industry over the years and its present weakened situation, that the minimum necessary for its recovery from the injurious effects of dumping would be to ensure that it is able to achieve a reasonable rate of profit in combination with a reasonable quantity of sales.

- (44) As far as this rate of profit is concerned, the Commission, in its preliminary findings, has established 12 % as reasonable.

One exporter contested the rate of the target profit of 12 % determined by the Commission, arguing that an audio cassette is a mature product which does not necessitate large research and development expenditure which has to be financed by profits. The Commission considers that, on the contrary, in view of the importance of the marketing and promotion expenditure on this Community market, and of the need for constantly upgrading the features and styling of audio cassettes to attract consumers, a rate of profit of 12 % is reasonable. This is supported by the fact that profits achieved by several of the exporters concerned on their domestic markets are far higher than this rate. This view is confirmed by the Council.

As far as a reasonable turnover is concerned the Commission considers it inappropriate, as explained in its preliminary findings, to take the turnover of the Community industry in the reference period (i.e. the year 1988) since this turnover was particularly heavily affected by the dumping practices found. Therefore, calculations of the necessary amounts of duty were based on the quantity of sales achieved by the Community industry in 1985, a year which is considered closer to a normal situation, notwithstanding the fact that the sales volume in that period may also have been

adversely affected by dumped imports or other factors and that the market has evolved with the appearance of new suppliers.

(45) Several exporters also contested the use of an adjustment of the injury margin of each exporter according to the relative volume of dumped imports of each exporter in relation to the others. It was argued that the comparative volume of dumped imports bears no relationship to the injury suffered by the Community industry, and that the adjustment was based on an arbitrary factor which does not reflect the real position of each exporter.

(46) The Council cannot accept this view. Indeed, the volume of dumped imports has been identified as one of the critical factors of injury and it had thus to be taken into account when determining which duty, lower than the dumping margin, would be adequate to remove the injury in accordance with Article 13 (3) of Regulation (EEC) No 2423/88. In addition, the factor used for this adjustment, namely a variation of 20 % of the injury margin above and below the average according to the volume of exports of each exporter, far from being unreasonable has been determined by the Commission according to its injury findings (such as evolution of volume and market share of dumped imports and of the community industry) as a reasonable estimate of the effect of the volume of dumped imports on the injury suffered.

(47) It was also submitted that this adjustment should be based on the volume of sales of dumped audio cassettes in the Community rather than the volume of dumped imports. The Council considers however that this adjustment can be based only on the volume of imports, since the volume of sales of these imports in the Community may vary during a period for inventory reasons, or because of transfers between subsidiaries, and thus not be representative of the injurious effect of the volume of dumped imports.

(48) Finally, the Commission considers that, in order to establish the rate of the definitive duties to be imposed, the individual injury margins determined provisionally have to be expressed as a percentage of the cif value of the imports.

To do this, for each exporter the weighted average selling price of its sales to the first unrelated buyer has been converted to the average cif value of these sales. The individual injury threshold was then expressed as a percentage of the weighted average resale price of each exporter at cif level. The result of this calculation is the price increase at the Community frontier necessary to remove the injury caused by each exporter.

(49) The Council confirms the above findings of the Commission, and concludes that on the basis of the injury calculation method described in recitals 105 to 109 of Regulation (EEC) No 3262/90 and for the abovementioned reasons, the duty to be imposed should be at the level of the dumping margin for all exporters mentioned in recital 21, except for the exporters whose dumping margins exceed the injury level and for which the following anti-dumping duties are required to eliminate the injury suffered :

— Fuji	15,2 %
— Denon Columbia	18,7 %
— Maxell	21,8 %
— Sony	23,4 %
— TDK	25,5 %

(50) For other companies which neither replied to the Commission's questionnaire nor otherwise made themselves known or refused full access to information deemed to be necessary by the Commission for its verification of the company's records, the Council considers it appropriate to impose the highest duty calculated, i.e. 25,5 % for products originating in Japan and 9,2 % for products originating in Korea. Indeed, it would constitute a bonus for non-cooperation to hold that the duties for these producers/exporters were any lower than the highest anti-dumping duty determined.

K. COLLECTION OF PROVISIONAL DUTIES

(51) In view of the dumping margins established, and the seriousness of the injury caused to the Community industry, the Council considers it necessary that amounts collected by way of provisional anti-dumping duties should be definitively collected to the extent of the amount of the duty definitively imposed.

(52) In respect of the exporters whose dumping did not cause material injury, the provisional duty collected has to be released entirely. Provisional anti-dumping duties collected or securities received for audio cassettes not covered by the definitive anti-dumping duties should also be released,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of audio tapes in cassettes falling within CN code ex 8523 11 00 (Taric code 8523 11 00*10) and originating in Japan and the Republic of Korea.

2. The rate of the duty applicable to the net free-at-Community-frontier price before duty, is hereby set as follows:

(a) 25,5 % for audio tapes in cassettes originating in Japan (Taric additional code : 8487), with the exception of imports which are manufactured and sold for export to the Community by the following companies. These companies shall be subject to the rate of duty mentioned hereunder:

- Sony: 23,4 % (Taric additional code : 8483)
- Maxell: 21,8 % (Taric additional code : 8484)
- Denon: 18,7 % (Taric additional code : 8486)
- Fuji: 15,2 % (Taric additional code : 8485);

(b) 9,2 % for audio tapes in cassettes originating in the Republic of Korea (Taric additional code : 8488), with the exception of imports which are manufactured and sold for export to the Community by the following company. This company shall be subject to the rate of duty mentioned hereunder:

- Sunkyoung Magnetics Ltd (SKM): 2,6 % (Taric additional code : 8489).

3. None of the duties shall apply to imports of the products specified in paragraph 1 manufactured and sold for export by the following Korean companies:

- Saehan Media Co., Seoul (Taric additional code : 8490),
- Sungnam Electronics Co. Ltd, Seoul (Taric additional code : 8490),
- Keum Sahn Electronics Co. Ltd, Kyung Do (Taric additional code : 8490).

4. For the purpose of this Regulation, audio tapes in cassettes mean audio cassettes of a length of 100 millimetres, a height of 64 millimetres and a depth of 12 millimetres and with a tolerance of approximately ± 2 millimetres.

5. In cases where the exporting company is not the same as the producing company the rate applicable to the producing company shall apply.

6. The provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 3262/90 shall be definitively collected at the duty rate definitively imposed. Amounts secured in excess of the definitive rate of duty shall be released.

Article 3

The anti-dumping proceeding concerning imports of audio tapes in cassettes originating in Hong Kong shall be terminated. The amounts secured by way of provisional anti-dumping duty under Regulation (EEC) No 3262/90 shall be released.

Article 4

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, 13 May 1991.

For the Council

The President

J. F. POOS

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 29 April 1991

appointing a member of the Economic and Social Committee

(91/247/EEC, Euratom)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 193 to 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 165 to 167 thereof,

Having regard to the Convention on certain Institutions common to the European Communities, and in particular Article 5 thereof,

Having regard to Council Decision 90/522/Euratom, EEC of 24 September 1990 appointing the members of the Economic and Social Committee for the period ending on 20 September 1994⁽¹⁾,

Whereas a seat has become vacant on the Economic and Social Committee following the resignation of Dr Alberto Masprone, of which the Council was informed on 11 February 1991 ;

Having regard to the nominations submitted by the Permanent Representation of Italy on 9 April 1991,

Having obtained the favourable opinion of the Commission of the European Communities,

HAS DECIDED AS FOLLOWS :

Sole Article

Dr Giannino Cesare Bernabei is hereby appointed a member of the Economic and Social Committee in place of Dr Alberto Masprone for the remainder of the latter's term of office, which runs until 20 September 1994.

Done at Luxembourg, 29 April 1991.

For the Council

The President

R. GOEBBELS

⁽¹⁾ OJ No L 290, 23. 10. 1990, p. 13.