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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1382/91

of 21 May 1991

on the submission of data on the landings of fishery products in Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas, in particular, the management of the market in fishery products, as provided for in Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products ⁽³⁾, as last amended by Regulation (EEC) No 2886/89 ⁽⁴⁾, would be enhanced by the existence of harmonized Community statistics on the total landings of fishery products,

HAS ADOPTED THIS REGULATION:

Article 1

Each Member State shall submit to the Commission data on the quantity and average price of fishery products landed by Community fishing vessels in each calendar month in that Member State.

For the purposes of this Regulation, landings of fishery products shall be:

- the products discharged by fishing vessels or other components of the fishing fleet,
 - the products discharged by vessels of Member States in non-Community ports and covered by Document T2M of Commission Regulation (EEC) No 137/79 ⁽⁵⁾
- and
- the products trans-shipped to vessels of third countries from Community fishing vessels and other com-

ponents of the Community fishing fleet within the territory of that Member State.

The Member States shall ensure that except where derogations and exclusions are granted under Article 5 (4) and (6) respectively, the data submitted shall cover all landings of the fishery products listed in Annex I in that calendar month. However, sampling techniques may be used to estimate up to 10 % by weight of the fishery products landed in that month. These sampling techniques shall be reported under the provisions of Articles 5 (1) and (2).

Article 2

The data referred to in Article 1 shall be submitted to the Commission within six months of the end of the month covered.

Article 3

1. The fishery products for which data submissions are required under Article 1 are listed in Annex I. However Member States may submit data for additional individually identified fishery products.

The data for products of minor importance in a Member State need not be individually identified in the submissions but may be included in an aggregated item provided that the weight of the products thus recorded does not exceed 10 % by weight of the total landings in that Member State in that month.

2. Definitions to be used for the units of weight and average price, the destination and presentation of the products are given in Annex II.

3. The list of products in Annex I and the definitions in Annex II may be amended in accordance with the procedure laid down in Article 6.

Article 4

1. Member States shall submit the data to the Commission referred to in Articles 1 and 2 in the form shown in Annex III.

2. The data may be submitted on magnetic medium, the format of such submissions being agreed between the Member States and the Commission.

⁽¹⁾ OJ No C 214, 21. 8. 1989, p. 21.

⁽²⁾ OJ No C 113, 7. 5. 1990, p. 216.

⁽³⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽⁴⁾ OJ No L 282, 2. 10. 1989, p. 1.

⁽⁵⁾ OJ No L 20, 27. 1. 1979, p. 1.

Article 5

1. Within 12 months of the entry into force of this Regulation, Member States shall submit a report to the Commission describing how the data on landings are derived and shall indicate the representativity and reliability of these data. The Commission, in collaboration with the Member States, shall draw up a summary of these reports.

2. Member States shall inform the Commission of any modifications to the information provided under paragraph 1 within three months of their introduction.

3. In the event that the methodological reports referred to in paragraph 1 show that a Member State cannot immediately meet the requirements of this Regulation and that changes in survey techniques and methodology are necessary, the Commission can fix, in cooperation with the Member State concerned, a transitional period up to a maximum of three years from the date of entry into force of this Regulation, during which the programme of this Regulation is to be achieved; during this transitional period, temporary derogations exempting a Member State from the provisions of this Regulation may be accorded for up to a maximum of three years. The Commission shall inform all Member States of these derogations using the procedure laid down in paragraph 7.

4. In cases where the inclusion of a particular sector of the fisheries of a Member State would cause difficulties to the national authorities incommensurate with the importance of that sector, a derogation may be granted, in accordance with the procedure laid down in Article 6, permitting that Member State to exclude data for that sector from the national data submissions.

5. The derogations granted pursuant to paragraph 4 shall be for a maximum of three years but may, however, be extended by further three-year periods. In submitting a request for an extension, the Member State shall forward to the Commission the results of a sample survey showing the problems encountered in the application of the Regulation to the total landings of that Member State. The requests shall then be subject to the procedure laid down in Article 6.

6. Data on landings in small ports can, at the reasoned request of a Member State to be addressed to the Commission within 12 months of the entry into force of this Regulation, be excluded from national data submissions under the following conditions.

The exclusion shall be granted if the submission of the requested data would cause difficulties for the national authorities incommensurate with the importance of overall landings and if the corresponding products landed are only locally marketed. A list of the ports concerned shall be drawn up for each relevant Member State in accordance with the procedure laid down in Article 6.

Member States concerned will submit to the Commission every three years from the entry into force of the Regulation a report containing all relevant information, so as to permit the Standing Committee on Agricultural Statistics set up by Decision 72/279/EEC⁽¹⁾ to examine and, if need be, to revise, in accordance with the procedure laid down in Article 6, the criteria and lists mentioned in the second subparagraph hereof.

7. Methodological reports, transitional arrangements, data availability, data reliability and other relevant issues connected with the application of this Regulation shall be examined once a year within the competent Working Group of the Agricultural Statistics Committee.

Article 6

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the Standing Committee on Agricultural Statistics, hereinafter referred to as the 'Committee' either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the EEC Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

(b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 7

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

It shall apply with effect from 1 January 1992.

⁽¹⁾ OJ No L 179, 7. 8. 1972, p. 1.

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

Done at Brussels, 21 May 1991.

For the Council

The President

R. STEICHEN

ANNEX I

LIST OF FISHERY PRODUCTS FOR WHICH DATA SUBMISSIONS ARE REQUIRED

Code	Species	Presentation
CDZ	Cod (<i>Gadus morhua</i> , <i>Boreogadus saida</i> , <i>Gadus ogac</i>)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets Salted
HAD	Haddock (<i>Melanogrammus aeglefinus</i>)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets
POK	Saithe (Coalfish) (<i>Pollachius virens</i>)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets
HKE	Hake (<i>Merluccius</i> spp.)	Fresh whole Fresh gutted Frozen whole Frozen headed and gutted Frozen fillets Frozen, other
WHG	Whiting (<i>Merlangius merlangus</i>)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets
LNZ	Ling (<i>Molva</i> spp.)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets
POL	Pollack (<i>Pollachius pollachius</i>)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets
BIB	Pouting (<i>Trisopterus luscus</i>)	Fresh
NOP	Norway pout (<i>Trisopterus esmarkii</i>)	Fresh
WHB	Blute whiting (<i>Micromesistius poutassou</i>)	Fresh
PLE	Plaice (<i>Pleuronectes platessa</i>)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets
SOL	Sole (<i>Solea vulgaris</i>)	Fresh whole Fresh gutted Frozen unfiletated Frozen fillets
MEG	Megrim (<i>Lepidorhombus</i> spp.)	Fresh Frozen unfiletated
DAB	Dab (<i>Limanda limanda</i>)	Fresh Frozen
LEM	Lemon sole (<i>Microstomus kitt</i>)	Fresh Frozen

Code	Species	Presentation
RED	Redfish (<i>Sebastes</i> spp.)	Fresh Frozen unfiletated Frozen fillets
MNZ	Monkfish (<i>Lophius</i> spp.)	Fresh whole Fresh tails Frozen tails
BOZ	Bogue (<i>Boops</i> spp.)	Fresh Frozen
PIC	Picarel (<i>Spicara</i> (= <i>Maena</i>) spp.)	Fresh Frozen
CGZ	Conger eel (<i>Conger</i> spp.)	Fresh Frozen
GUX	Gurnard (<i>Triglidae</i>)	Fresh Frozen
MUL	Mullet (<i>Mugilidae</i>)	Fresh Frozen
HER	Herring (<i>Clupea harengus</i>)	Fresh Frozen unfiletated Frozen fillets
PIL	Sardine (<i>Sardina pilchardus</i>)	Fresh Frozen
ANE	Anchovy (<i>Engraulis</i> spp.)	Fresh Frozen
SPR	Sprat (<i>Sprattus sprattus</i>)	Fresh
ALB	Albacore (<i>Thunnus alalunga</i>)	Fresh Frozen
YFT	Yellowfin tuna (<i>Thunnus albacares</i>)	Fresh Frozen
SKJ	Skipjack tuna (<i>Katsuwonus pelamis</i>)	Fresh Frozen
BET	Big-eye tuna (<i>Thunnus obesus</i>)	Fresh Frozen
BFT	Bluefin tuna (<i>Thunnus thynnus</i>)	Fresh Frozen
SWO	Swordfish (<i>Xiphius gladius</i>)	Fresh Frozen
TUN	Other tuna (<i>Thunnini</i>)	Fresh Frozen
MAC	Atlantic mackerel (<i>Scomber scombrus</i>)	Fresh Frozen
MAZ	Other mackerel (<i>Scomber japonicus</i> , <i>Scomber australasicus</i>)	Fresh Frozen
JAX	Horse mackerel (<i>Trachurus</i> spp.)	Fresh Frozen
SRX	Skate and ray (<i>Rajiformes</i>)	Fresh Frozen
DGZ	Dogfish (<i>Squalus acanthias</i> , <i>Scyliorhinus</i> spp.)	Fresh Frozen
NEP	Norway lobster (<i>Nephrops norvegicus</i>)	Fresh whole Fresh tails Frozen tails
CNZ	Shrimps (<i>Crangon</i> spp.)	Fresh Frozen

Code	Species	Presentation
PDZ	Prawns (<i>Pandalidae</i>)	Fresh Frozen
CRE	Edible crab (<i>Cancer pagurus</i>)	Fresh Frozen
CRS	Swimcrab (<i>Portunus</i> spp.)	Fresh
LBE	European lobster (<i>Homarus gammarus</i>)	Fresh Frozen tails
SCE	Common scallop (<i>Pecten maximus</i>)	Fresh
SQC	Common squid (<i>Loligo</i> spp.)	Fresh Frozen, cleaned Frozen, not cleaned
SQX	Shortfin and flying squid (<i>Todarodes sagittatus</i> , <i>Illex</i> spp.)	Fresh Frozen, cleaned Frozen, not cleaned
OMZ	Squid (other) (<i>Omnastrephidae</i>)	Fresh Frozen, cleaned Frozen, not cleaned
OCZ	Octopus (<i>Octopus</i> spp.)	Fresh Frozen
CTL	Cuttlefish (<i>Sepia officinalis</i> , <i>Rossia macrosoma</i> , <i>Sepiola rondeleti</i>)	Fresh Frozen
FIN	Other fish	Fresh Frozen
CRU	Other crustaceans	Fresh Frozen
MOL	Other molluscs	Fresh Frozen

ANNEX II

DEFINITIONS TO BE USED IN THE SUBMISSION OF DATA ON LANDINGS OF FISHERY PRODUCTS

Units

Weight: The weight recorded shall be the weight of the product as landed.

The weight should be recorded in tonnes with one place of decimals.

Average price: The average price is to be reported in national currency per tonne. For products not immediately sold the average price should be estimated, using an appropriate method.

Destination

Human consumption: Included here are all products which are sold at first sale for human consumption or which are landed under contract or other agreement for human consumption. Excluded are quantities destined for human consumption but which, at the moment of first sale, due to market conditions, hygiene regulations or similar causes, are withdrawn from the market for human consumption.

Industrial uses: Included here are all products specifically landed for reduction to meal and oil or for consumption by animals plus quantities which, although originally destined for human consumption, are not sold for this purpose at first sale.

Presentation

Fillets refers to strips of flesh cut parallel to the backbone of the fish and consisting of the right or left side of the fish, provided that the head, viscera, fins (dorsal, anal, caudal, ventral, pectoral) and bones (vertebrae or large backbone, ventral or costal, bronchial or stirrup bones, etc.) have been removed and the two sides are not connected, for example by the back or stomach.

Whole fish refers to ungutted fish.

Cleaned refers to squid where the arms, head and internal organs have been removed from the body.

Frozen fish are fish that have been subjected to freezing in a manner to preserve the inherent quality of the fish by reducing the average temperature to -18°C or lower and which are then kept at a temperature of -18°C or lower.

Fresh fish are fish that have not been preserved, cured, frozen or otherwise treated other than chilled. They are generally presented whole or gutted.

Salted fish are fish often in gutted and headed form, that are preserved in salt or brine.

Nationality and coverage

The data are to include all products landed by Community fishing vessels in ports of the reporting Member State. The reporting Member State is not required, under the provisions of this Regulation, to report the landings of its vessels in ports other than the national ports.

The data are to include products discharged within the territory of the Member State and covered by document T2M referred to in Commission Regulation (EEC) No 137/79. Also to be included are products transhipped to vessels of third countries from Community fishing vessels and other components of the Community fishing fleet and which are discharged within the territory of that Member State.

Community vessels are vessels flying the flag of, or registered in, a Community Member State.

ANNEX III

FORMAT FOR THE SUBMISSION OF DATA PURSUANT TO ARTICLE 1

LANDING STATISTICS

Landings for the month of 19..

Country

Species	Quantity	Price
For human consumption :		
Cod (CDZ)		
Fresh whole		
Fresh gutted		
Frozen unfilleted		
Frozen fillets		
Salted		
Haddock (HAD)		
Fresh whole		
Fresh gutted		
Frozen unfilleted		
Frozen fillets		
Saithe (POK)		
Fresh whole		
Fresh gutted		
Frozen unfilleted		
Frozen fillets		
Hake (HKE)		
Fresh whole		
Fresh gutted		
Frozen whole		
Frozen fillets		
Frozen gutted & headed		
Frozen, other		
Whiting (WHG)		
Fresh whole		
Fresh gutted		
Frozen unfilleted		
Frozen fillets		
Ling (LNZ)		
Fresh whole		
Fresh gutted		
Frozen unfilleted		
Frozen fillets		
Pollack (POL)		
Fresh whole		
Fresh gutted		
Frozen unfilleted		
Frozen fillets		
Plaice (PLE)		
Fresh whole		
Fresh gutted		
Frozen unfilleted		
Frozen fillets		

Species	Quantity	Price
Sole (SOL)		
Fresh whole		
Fresh gutted		
Frozen whole		
Frozen fillets		
Megrim (MEG)		
Fresh		
Frozen		
Dab (DAB)		
Fresh		
Frozen		
Lemon sole (LEM)		
Fresh		
Frozen		
Redfish (RED)		
Fresh		
Frozen whole		
Frozen fillets		
Monkfish (MNZ)		
Fresh whole		
Fresh tails		
Frozen tails		
Bogue (BOZ)		
Fresh		
Frozen		
Picarel (PIC)		
Fresh		
Frozen		
Conger eel (CGZ)		
Fresh		
Frozen		
Gurnard (GUX)		
Fresh		
Frozen		
Mullet (MUL)		
Fresh		
Frozen		
Herring (HER)		
Fresh		
Frozen whole		
Frozen fillets		
Sardine (PIL)		
Fresh		
Frozen		
Anchovy (ANE)		
Fresh		
Frozen		

Species	Quantity	Price
Albacore (ALB)		
Fresh		
Frozen		
Yellowfin tuna (YFT)		
Fresh		
Frozen		
Skipjack tuna (SKJ)		
Fresh		
Frozen		
Bigeye tuna (BET)		
Fresh		
Frozen		
Bluefin tuna (BFT)		
Fresh		
Frozen		
Swordfish (SWO)		
Fresh		
Frozen		
Other tuna (TUN)		
Fresh		
Frozen		
Atlantic mackerel (MAC)		
Fresh		
Frozen		
Other mackerel (MAZ)		
Fresh		
Frozen		
Horse mackerel (JAX)		
Fresh		
Frozen		
Skate and ray (SRX)		
Fresh		
Frozen		
Dogfish (DGZ)		
Fresh		
Frozen		
Norway lobster (NEP)		
Fresh whole		
Fresh tails		
Frozen tails		
Shrimps (CNZ)		
Fresh		
Frozen		
Prawns (PDZ)		
Fresh		
Frozen		
Edible crab (CRE)		
Fresh		
Frozen		

Species	Quantity	Price
Swimcrab (CRS)		
Fresh		
European lobster (LBE)		
Fresh		
Frozen tails		
Common scallop (SCE)		
Fresh		
Common squid (SQC)		
Fresh		
Frozen clean		
Frozen not clean		
Shortfin and Flying squid (SQX)		
Fresh		
Frozen clean		
Frozen not clean		
Squid (other) (OMZ)		
Fresh		
Frozen clean		
Frozen not clean		
Octopus (OCZ)		
Fresh		
Frozen		
Cuttlefish (CTL)		
Fresh		
Frozen		
Other fish (FIN)		
Fresh		
Frozen		
Other molluscs (MOL)		
Fresh		
Frozen		
Other crustaceans (CRU)		
Fresh		
Frozen		
For industrial uses :		
Cod (CDZ)		
Haddock (HAD)		
Saithe (POK)		
Whiting (WHG)		
Pouting (BIB)		
Norway pout (NOP)		
Blue whiting (WHB)		
Herring (HER)		
Sprat (SPA)		
Other species		

COMMISSION REGULATION (EEC) No 1383/91

of 27 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 24 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 28 May 1991.

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

Done at Brussels, 27 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 27 May 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy
0709 90 60	135,96 ⁽²⁾ ⁽³⁾
0712 90 19	135,96 ⁽²⁾ ⁽³⁾
1001 10 10	196,19 ⁽¹⁾ ⁽⁵⁾
1001 10 90	196,19 ⁽¹⁾ ⁽⁵⁾
1001 90 91	160,01
1001 90 99	160,01
1002 00 00	154,12 ⁽⁶⁾
1003 00 10	148,38
1003 00 90	148,38
1004 00 10	137,12
1004 00 90	137,12
1005 10 90	135,96 ⁽²⁾ ⁽³⁾
1005 90 00	135,96 ⁽²⁾ ⁽³⁾
1007 00 90	142,83 ⁽⁴⁾
1008 10 00	40,49
1008 20 00	135,22 ⁽⁴⁾
1008 30 00	50,15 ⁽⁵⁾
1008 90 10	(7)
1008 90 90	50,15
1101 00 00	238,71 ⁽⁸⁾
1102 10 00	230,88 ⁽⁸⁾
1103 11 10	317,73 ⁽⁸⁾
1103 11 90	255,99 ⁽⁸⁾

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

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

⁽³⁾ Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by ECU 1,81/tonne.

⁽⁴⁾ Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

⁽⁶⁾ The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 (OJ No L 142, 9. 6. 1977, p. 10) and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22).

⁽⁷⁾ The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

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

COMMISSION REGULATION (EEC) No 1384/91

of 27 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 24 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 28 May 1991.

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

Done at Brussels, 27 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 27 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	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(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 1385/91

of 27 May 1991

on the supply of refined rape seed oil 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 1 100 tonnes of refined rape seed oil;

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 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

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

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

Article 2

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

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

Done at Brussels, 27 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.

ANNEX

LOT A

1. **Operation No** (1): 1315/90
2. **Programme**: 1990
3. **Recipient** (2): Ligue des Sociétés de la Croix-Rouge et du Croissant-Rouge, Service logistique, BP 372, CH-1211 Geneva 19; tel. 734 55 80, telex: 412 133 LRCS CH; fax 733 03 95
4. **Representative of the recipient** (2): Sudanese Red Crescent, League Delegation, PO Box 235, Khartoum, Republic of Sudan; tel. 72 011 / 72 877, telex 23 006 LCRS Sd
5. **Place or country of destination**: Sudan
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** (3) (6) (7): see list published in OJ No C 114, 29. 4. 1991, p. 1 (under III.A.1.(a))
8. **Total quantity**: 100 tonnes net
9. **Number of lots**: one
10. **Packaging and marking** (10) (11): see list published in OJ No C 114, 29. 4. 1991, p. 1 (under III.A.2.1 and III.A.3):
 - metal cans of five litres
 - Markings in English
 - Supplementary markings on packaging:
'a red crescent with the points facing to the right / ACTION OF THE LEAGUE OF RED CROSS AND RED CRESCENT SOCIETIES (LICROSS) / FOR FREE DISTRIBUTION / PORT SUDAN'
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: 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 — 21. 7. 1991
18. **Deadline for the supply**: 15. 8. 1991
19. **Procedure for determining the costs of supply** (9): tendering
20. **Date of expiry of the period allowed for submission of tenders**: 11. 6. 1991, at 12 noon
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 25. 6. 1991, at 12 noon
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 15. 7 — 10. 8. 1991
 - (c) deadline for the supply: 31. 8. 1991
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** (8):

Bureau de l'aide alimentaire,
à l'attention de Monsieur N. Arend,
bâtiment Loi 120, bureau 7/46,
200 rue de la Loi,
B-1049 Bruxelles;
telex 22037 AGREC B or 25670 AGREC B
25. **Refund payable on request by the successful tenderer**: —

LOT B

1. **Operation No** ⁽¹⁾: 72/91
2. **Programme**: 1991
3. **Recipient** ⁽²⁾: UNHCR (Mr Gaudé), Case Postale 2500, CH-1211 Geneva 2 Dépôt; tel. 739 84 80, telex 412404 HCR CH
4. **Representative of the recipient** ⁽³⁾: The Representative, UNHCR Branch Office in the Sudan, Mohammed Nageeb Road (North of Farouk Cemetery), Khartoum No 2, Sudan; tel. (249) 118 12 43, telex 22 431 SD HCR
5. **Place or country of destination**: Sudan
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** ⁽⁴⁾ ⁽⁵⁾ ⁽⁷⁾: see list published in OJ No C 114, 29. 4. 1991, p. 1 (under III.A.1.a))
8. **Total quantity**: 1 000 tonnes net
9. **Number of lots**: one
10. **Packaging and marking** ⁽⁴⁾ ⁽¹⁰⁾: see list published in OJ No C 114, 29. 4. 1991, p. 1 (under III.A.2.1 and III.A.3)
metal cans of five litres
Markings in English
Supplementary markings on packaging:
'UNHCR PROGRAMME FOR REFUGEES / PORT SUDAN / DATE OF PRODUCTION: ... /
DATE OF EXPIRY: ... (PRODUCTION DATE PLUS YEARS)'
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: 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 — 21. 7. 1991
18. **Deadline for the supply**: 15. 8. 1991
19. **Procedure for determining the costs of supply** ⁽⁹⁾: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 11. 6. 1991
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 25. 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. 7 — 10. 8. 1991
 - (c) deadline for the supply: 31. 8. 1991
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽⁸⁾:
Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/46, 200 rue de la Loi, B-1049 Bruxelles; telex 22037 AGREC B or 25670 AGREC B
25. **Refund payable on request by the successful tenderer**: —

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 114, 29. 4. 1991, p. 1.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the products to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.

Radiation certificate Sudan should contain the following information :

- (a) the amount of radiation of caesium-134 and -137 ;
- (b) iodine-131.

Radiation certificate must be issued by authorities and be legalized for : Sudan.

- (⁴) Shipment to take place in 20-foot containers, condition FLC/LCL. The supplier shall be responsible for the cost of making the containers available in the stack position at the container terminal at the port of shipment. The recipient shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal. The provisions of Article 13 (2), second subparagraph, of Regulation (EEC) No 2200/87 shall not apply.

The successful tenderer has to submit to the recipient's agent a complete packing list of each container, specifying the number of cartons belonging to each shipping number as specified in the invitation to tender.

The successful tenderer has to seal each container with a numbered locktainer, the number of which is to be provided to the beneficiary's forwarder.

The free holding period for container must be at least 15 days.

- (⁵) The successful tenderer is to contact the recipients as soon as possible to establish which consignment documents are required and how they are to be distributed.
- (⁶) The successful tenderer shall give the beneficiaries' representative a health certificate at the time of delivery.
- (⁷) The successful tenderer shall give the beneficiaries' representative a certificate of origin at the time of delivery.
- (⁸) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of these Annexes, 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 these Annexes,
 - or by telecopier on one of the following numbers in Brussels :
 - 235 01 32,
 - 236 10 97,
 - 235 01 30,
 - 236 20 05.

- (⁹) Point (g) of Article 7 (3) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.

- (¹⁰) To be delivered on standard pallets — wrapped in shrunk plastic cover.

- (¹¹) The cartons shall be stacked on wooden pallets (made of pine, fir or poplar wood) measuring not more than 1 200 × 1 400 mm, and with the following features :

four-way entry, non-reversible, with wings ;

a top deck consisting of a minimum of seven planks measuring 100 mm in width and of a thickness of 22 mm ;

a bottom deck consisting of three planks measuring 100 mm in width and of a thickness of 22 mm ;

three bearers measuring 100 mm in width and of a thickness of 22 mm ;

nine dowels : 100 × 100 × 78 mm minimum.

The palletized cartons shall be covered by a shrink film of a thickness of at least 150 mm.

The cartons must have reinforced protection consisting of four angles (35 × 35 mm) made of cardboard at least 3 mm thick placed on the four upper edges.

The whole of the above must be bound, in each direction, by three nylon straps of a width of not less than 16 mm with plastic buckles.

COMMISSION REGULATION (EEC) No 1386/91

of 23 May 1991

imposing a provisional anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

After consultations within the Advisory Committee as provided for under the above Regulation,

WHEREAS:

A. PROCEDURE

- (1) In November 1989, the Commission received a complaint lodged by the European Federation of Lighter Manufacturers on behalf of producers representing the major proportion of the Community production of the product in question. The complaint contained evidence of dumping of the product originating in the People's Republic of China, the Republic of Korea and Thailand and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (2) The Commission accordingly announced by a notice published in the *Official Journal of the European Communities*⁽²⁾ the initiation of an anti-dumping proceeding concerning imports into the Community of gas-fuelled, non-refillable pocket lighters, falling within CN code 9613 10 00 originating in the People's Republic of China, the Republic of Korea and Thailand and commenced an investigation.
- (3) In May 1990 the Commission received a complaint lodged by BIC SA and Swedish Match SA, representing the major proportion of the Community production of the product in question. The complaint contained evidence of dumping of these products originating in Japan and of material

injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

- (4) The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of gas-fuelled, non-refillable pocket lighters falling within CN code 9613 10 00 originating in Japan and commenced an investigation.
- (5) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants and gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (6) All the known importers, the majority of exporters and two Community producers, BIC SA and Swedish Match SA, made their views known in writing. Submissions and representations were also made by the China Association of Enterprises with Foreign investment. However, given the fact that a number of Chinese exporters submitted their views almost five months after the time limit set, no account was taken of their submissions, since to do so would have unduly delayed the conduct of the investigation. Only one Chinese exporter Gao Yao, Hua Fa Industrial Co., Guangdong, submitted a complete reply to the questionnaire within the time limit fixed.
- (7) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following:

Several producers/exporters requested and were granted hearings.

(a) Community producers:

- BIC SA, Rennes, France,
- BIC — Violex SA, Athens, Greece,
- BIC — Laforest SA, Tarragona, Spain,

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No C 89, 7. 4. 1990, p. 3.

⁽³⁾ OJ No C 206, 18. 8. 1990, p. 7.

- Swedish Match SA, Rillieux-la-Pape, France,
- Swedish Match NV, Assen, Netherlands;

(b) Community producers' sales offices:

- BIC SA, Clichy, France,
- BIC SA, Ettlingen, Germany,
- Swedish Match SA, Hochheim, Germany,
- Swedish Match NV, Amsterdam, Netherlands;

(c) non-Community producers/exporters:

Japan:

- Tokai Corporation, Yokohama;

People's Republic of China:

- Gao Yao, Hua Fa Industrial Co., Guangdong (not visited);

Republic of Korea:

- Samji Industrial Co., Ltd, Inchon;

Thailand:

- Politop Co., Ltd, Bangkok,
- Thai Merry Co., Ltd, Samutsakorn;

(d) unrelated importers:

- Polyflame International BV, Roelefarentveen, Netherlands,
- Tröber GmbH, Hamburg, Germany;

(e) related importers to the Japanese producer/exporter:

- Tokai Seiki GmbH, Mönchengladbach, Germany,
- Tokai Vespa Hispanica SA, Madrid, Spain,
- Tokai France SA, Le-Blanc-Mesnil, France.

- (8) The Commission requested and received detailed written and oral submissions from the complainant Community producers, the exporters and the importers mentioned above, and verified the information provided to the extent considered necessary.
- (9) The investigation of dumping covered the period 1 January to 31 December 1989 in the cases of People's Republic of China, the Republic of Korea and Thailand and the period 1 January 1989 to 30 June 1990 in the case of Japan.

B. PRODUCT UNDER CONSIDERATION, LIKE PRODUCT

- (10) The product concerned is gas-fuelled, non-refillable pocket flint lighters (hereinafter referred to as lighters).

(11) While there are other gas-fuelled pocket lighters on the market (piezo lighters) their technical characteristics are quite different from the abovementioned product. Therefore, they are not covered by the product which is the subject of the present procedure.

(12) The Community industry produces the product in question in models presenting certain differences. However, all these models have the same basic technical and physical characteristics, the same basic application, perform the same basic function and are interchangeable. Therefore, the whole range of models has to be considered as forming one single product. It was found that the imports in question offer a similar range of models and their basic technical and physical characteristics are identical with those produced by the Community industry.

(13) A number of exporters and importers of the products in question argued that the imported lighters and Community producers' lighters are not like product because certain of the Community models produce more ignitions.

Commission services examined this argument. It was found during the investigation that the difference in the number of ignitions is by far outweighed by the similarities in the physical characteristics of all lighters concerned.

The Commission considered therefore that the lighters produced and sold by the Community manufacturers form one single category of product and constitute a product alike in all respects to the product imported from Japan, the People's Republic of China, the Republic of Korea and Thailand within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88.

C. DUMPING

(a) Normal value

(i) Japan

- (14) Normal value was provisionally determined on the basis of the domestic prices of the sole exporter, Tokai Corporation, which exported to the Community during the reference period and whose domestic sales were considered to be representative.

As far as lighters for advertisement are concerned, the Commission found that such lighters had a higher price due to a higher cost of production. These lighters were not exported. Therefore they were excluded from the establishment of normal value. No objection was raised by Tokai Corporation.

(ii) *Republic of Korea*

- (15) Normal value was provisionally determined on the basis of the domestic prices of Samji, the sole exporter that cooperated, who exported to the Community during the reference period, provided sufficient evidence and whose sales were considered to be representative of the domestic market concerned.

(iii) *Thailand*

- (16) In seeking to determine normal value for the two Thai exporters, Politop Co. Ltd and Thai Merry Co. Ltd, the Commission had to take account of the fact that the sales of the like product on the domestic market do not permit a proper comparison.

All domestic sales for Thai Merry Co. Ltd, were found to have been made at a loss and domestic sales of Politop Co. Ltd accounted for less than 5 % of total exports.

The Commission determined therefore that the normal value of these companies should be established on the basis of its constructed value.

- (17) The constructed value was determined by adding cost of production and a reasonable profit margin. The cost of production was computed on the basis of all costs, in the ordinary course of trade, both fixed and variable, in the country of origin, of materials and manufacture, plus a reasonable amount of selling, administrative and other general expenses. A profit margin of 8 % was added to these costs. As regards the profit margin the data could neither be based on the profit realized by the producers on the profitable sales of like products on the domestic market nor on the basis of other producers or exporters in the country of origin or export of profitable sales of the like products. The Commission, therefore, considered a margin of 8 % reasonable in view of the higher profit realized by other exporters from other countries that cooperated in this procedure and in view of the fact that the research and development costs incurred in Thailand were very low.

(iv) *People's Republic of China*

- (18) In order to establish normal value for the People's Republic of China, the Commission had to take account of the fact that this country does not have a market economy and the Commission therefore had to base its determinations on the normal value in a market economy country. In this connection, the complainants had suggested the Korean market. The China Association of Enterprises with

Foreign Investments and one importer objected to this suggestion because the Korean market is protected by import duties.

- (19) The China Association of Enterprises with Foreign Investments proposed that Thailand should be used as the analogue country. The importer concerned proposed that normal value should be established either on the basis of the export prices of Chinese lighters to third countries or on the basis of export prices of Philippines produced lighters to third countries.

- (20) The latter proposal was not accepted because the Commission would have no guarantee that these export prices either from the People's Republic of China or from the Philippines were not equally dumped.

- (21) Under these circumstances, the Commission provisionally determined that it was appropriate and not unreasonable to use the constructed value in Thailand as the basis for calculating normal value concerning the exports from the People's Republic of China for the following reasons:

- the products originating in Thailand were similar to those originating in the People's Republic of China,
- on the basis of the facts available there are no significant differences in technology and production processes of lighters between the two countries,
- the fact that normal value in Thailand was established on the basis of the cost of production of the two Thai producers eliminates the risk of comparing Chinese prices with prices which might be high because of certain market conditions such as import duties or monopolies.

(b) *Export price*

- (22) With regard to exports by Chinese, Korean and Thai producers directly to independent importers in the Community, export prices were determined on the basis of the prices actually paid or payable for the products sold.

- (23) With regard to the Japanese producer, exports were made to subsidiary companies which imported the product into the Community. In such cases, it was considered appropriate, in view of the relationship between exporter and importer, that export prices be constructed on the basis of prices at which the imported product was first resold to an independent buyer. Discounts and rebates were deducted from the price to the independent customer. Suitable adjustment was made to take account of all costs incurred between importation and resale, including all duties and taxes.

(24) Where cost allocations were necessary in constructing export prices these were made on the basis of turnover. The costs and turnover used for this purpose were generally those of the related importers' last available financial year and accordingly based on audited accounts. On any occasion that an allocation of sales, administrative and other general expenses was not made on the basis of turnover, the amount to be allocated was calculated on the basis of the exporter's available cost accounting data directly related to the sales in question.

(25) To arrive at a constructed export price, adjustments were also made for Community import duties and for a 9 % profit on sales turnover. The Commission based this 9 % profit margin on data asked for and verified at the premises of an independent importer of the product in question.

(c) Comparison

(26) For the purpose of a fair comparison between normal value and export price and in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88, the Commission determined normal values and export prices at the level of the first independent buyer and took account of differences affecting price comparability, such as differences in physical characteristics and terms of sale, where claims of a direct relationship of these differences to the sales under consideration could be satisfactorily demonstrated. This was the case in respect of differences in credit terms, warranties, commissions, salaries paid to salesmen, packing, transport, insurance, handling and ancillary costs.

D. DUMPING MARGINS

(27) The margin of dumping was calculated for each exporter as the amount by which the normal value as established exceeds the price for export to the Community.

(28) The preliminary examination of the facts showed the existence of dumping in respect of all producers/exporters involved in this investigation.

The margins vary according to the exporter, the weighted average margin on a cif basis for each of the exporter investigation being as follows:

Japan

Tokai Corporation, Yokohama 96,56 %,

People's Republic of China

Gao Yao, Hua Fa Industrial Co.,
Guangdong Province 17,84 %,

Republic of Korea

Samji Industrial, Inchon 31,58 %,

Thailand

Politop Co. Ltd, Bangkok 5,87 %,

Thai Merry Co. Ltd, Samutsakorn 15,03 %.

(29) For those producers that neither replied to the Commission's questionnaire, or sent an incomplete reply, nor otherwise made themselves known, dumping was determined on the basis of the facts available in accordance with the provision of Article 7 (7) (b) of Regulation (EEC) No 2423/88. In this connection, the Commission considered that the result of its investigation concerning other companies provided the most appropriate basis for determination of the margin of dumping. Since it could create an opportunity for circumvention of the duty, if the dumping margin for those producers was any lower than the highest dumping margin found in their respective countries determined with regard to those producers who had cooperated in the investigation, it is considered appropriate to use the highest dumping margin found in their respective country for these groups of producers.

E. INJURY

(a) Volume and market shares

(30) As regards market volume, the consumption of lighters in the Community showed a steady increase from 317,5 million pieces in 1986, 363,7 million pieces in 1987, 383,6 million pieces in 1988 to 439,8 million pieces in 1989, that is a 38,5 % rise.

(31) Imports of lighters from Japan, the People's Republic of China and Thailand using the information received from the companies investigated, increased from 11,3 million pieces in 1986 to 92,4 million pieces in 1989. For each of these countries the evolution is as follows:

People's Republic of China from 0 million in 1986 to 6,1 million in 1989,

Japan from 11,3 million in 1986 to 56,6 million in 1989,

Thailand from 0 million in 1986 to 29,7 million in 1989.

(32) As far as the Republic of Korea is concerned, the figures provided did not show accurately the actual Korean presence in the market since only one

exporter cooperated. Based on Eurostat, Korean sales were 10,6 pieces in 1986, 28,9 million in 1987, 24,3 million in 1988 and 7,8 million pieces in 1989.

Regarding these figures, it has to be borne in mind that the trend of Korean exports has been affected by the suspension of the GSP benefit which the Republic of Korea had until the end of 1988.

Based on Eurostat data (i.e. data which aggregates flint disposable gas-fuelled lighters with piezo lighters) imports from the countries concerned increased at the same rate from 35,4 million pieces in 1986 to 152,5 million pieces in 1989.

This development represents a rise in market share held by the dumped imports from 11 % in 1986 to 35 % in 1989.

(b) Prices

- (33) As regards price undercutting, the Commission compared the exporters' and the Community producers' weighted average selling prices free of all rebates and taxes, calculated on the basis of sales to the first unrelated importer or customer duly adjusted to take account of the differences in distribution channels (excluding sales to retailers and sales to the advertising sector) in 1989. The average selling price of the Community producers was weighted in relation to the sales volume of each type of the like products. This Community average selling price was then compared to the corresponding figures for each exporter concerned on the basis of their resale prices in the Community and weighted in respect of sales volume.

- (34) A number of exporters raised the question of price comparison at the resale level to the first independent buyer in the Community. It was argued that a number of lighters produced by the Community industry contained more gas, had the capability of more flames and consequently they had a different appeal to the clients and a higher market price.

The Commission, in order to assure a fair comparison, excluded certain types of lighters from the price undercutting exercise, thus taking into consideration only lighters with similar content of gas.

- (35) By this comparison, the Commission found that during 1989 all lighters originating in Japan, the People's Republic of China, the Republic of Korea

and Thailand undercut the Community producers corresponding lighters by the following margins :

— Tokai Corporation, Japan	11,51 %,
— Samji, Republic of Korea	7,74 %,
— Thai Merry, Thailand	14,76 %,
— Politop, Thailand	11,36 %,
— Gao Yao, People's Republic of China	19,82 %.

(c) Impact on Community industry

(i) Production, capacity, utilization rate and stocks

- (36) In this respect, the Commission found that the production of the Community industry decreased between 1986 and 1989. If an index of 100 was taken in 1986 production was 97 in 1989.

Capacity increased between 1986 and 1989. Using 100 as an index for 1986 capacity was 114 in 1989.

Capacity utilization decreased from the 100 index in 1986 to 85 in 1989. Even if capacity had not increased capacity utilization would have dropped from 100 in 1986 to 97 in 1989.

- (37) No major changes of stocks could be observed between 1986 and 1989. All producers kept their stocks at the same level and it was therefore considered appropriate not to take into account the evolution of such stocks.

(ii) Sales, profitability and employment

- (38) Community producers' sales on the Community market developed as follows :

1986	249,0 million pieces,
1987	256,8 million pieces,
1988	254,0 million pieces,
1989	266,5 million pieces.

This development represents a decrease in market share from 78,4 % in 1986 to 60,5 % in 1989 (70,6 % in 1987, 65,3 % in 1988).

- (39) As far as prices are concerned, those of the Community industry showed a steady downward trend between 1986 and 1989. Community producers were unable (unless taking the risk of accumulating irreversible financial losses) to match the prices set in the market by the dumped imports. The Community producers made an effort to match the prices of the imports. Using the index 1986 = 100 as a basis, prices of the Community products in question were 96 in 1987, 88 in 1988 and 86 in 1989. During the same period prices of the imports in question decreased by 28 %.

As regards profits, it was found that the financial results of the Community industry worsened between 1986 and 1989.

- (40) Employment has decreased substantially between 1986 and 1989. Taking 1986 as a basis (1986 = 100) the number of people employed in the Community industry in 1987 was 81, in 1988 = 78 and in 1989 = 73.

The Commission noted that in 1986 and 1987 one of the two Community producers carried out a restructuring operation which led to a substantial decrease of its employees.

(d) Conclusion

- (41) The Commission thus determined that the Community industry's production, capacity utilization, market share, prices, profits and employment had followed a downwards trend.

On the contrary, imports from the countries concerned steadily increased since 1986 to reach a figure of more than four times higher in 1989. Market share of these imports more than tripled while their prices decreased by at least 28 %.

- (42) The steady decrease of profits, despite strong efforts to reduce production costs, affects the investment and rationalization programme of the Community industry. This loss of profitability endangers not only the continuation of the flint lighter production of the two Community producers but also the further production of other lighters (i.e. piezo).
- (43) As a result, the Commission concluded that the Community industry suffered material injury in the sense of Article 4 (1) of Regulation (EEC) No 2423/88.

F. CAUSATION OF INJURY

(a) Cumulation

- (44) As regards causation, the Commission considered that the effects of the dumped imports had to be analyzed cumulatively. In reaching its conclusions the Commission considered the volumes imported, the increase in volume since 1986, the pricing policy of the exporters concerned and the general market conditions. The Commission also took into account the fact that importers easily and

frequently change sources of supply between these countries.

- (45) In the case of the Republic of Korea no importance was attached to the decrease in 1989 for the reasons explained in recital 32.

Although the market share of the People's Republic of China and Thailand varied and in some cases was fairly low, it was found that these market shares were still significant especially in view of the fact that they were increasing rapidly.

The present market share of Korean imports is significant. In addition, it was found that the prices from all countries significantly undercut the prices of the Community products.

- (46) Finally, the Commission found that the imported products and the Community products are in direct competition in the Community market.

On the basis of this analysis the Commission concluded that for the purposes of assessing the injury sustained by the Community industry regard should be paid to the effect of the dumped imports aggregated from all countries subject to this investigation.

(b) Effects of dumped imports

- (47) The Commission found that the decrease of :
- production,
 - capacity utilization,
 - sales volume and market share,
 - prices,
 - profits, and
 - employment

coincide with the sharp increase of imports from the countries in question. While the market volume of disposable lighters increased by 38,5 %, the market share of the imports tripled from 11 % to 35 % when that of the Community industry decreased by 23 %.

Indeed, in a highly price-competitive market, the considerable price undercutting on lighters has a clearly negative effect on sales and accordingly on the profitability of the Community industry.

This price undercutting was only made possible by the dumping as shown by the fact that in all cases but one the margin of dumping is higher than the undercutting.

(c) Other possible causes of injury

- (48) As to the possibility that injury to the Community industry has been due to other factors, it appeared that the volume and prices of imports originating in other third countries could not be considered responsible for the injury found. Imports from these countries have, in general, remained stable and in certain cases decreased.
- (49) The Japanese exporter argued that the productivity of the Community industry is lower and claimed that this element should be taken into consideration for assessing injury. The Commission disagrees with this opinion. Cost advantages of an exporter, if any, are relevant in an anti-dumping proceeding only in so far as they are reflected without any discrimination in export as well as in domestic prices. Indeed, if they had not practised dumping, Japanese exporters, whose prices in the Community are now around breakeven point, would have been obliged to charge considerably higher prices which would have sharply limited their sales volume and increased their costs. Besides, no evidence of such difference in productivity appeared in the investigation. In addition, the Commission, on the basis of its experience considers that there is no difference in productivity between the Japanese producer and the Community industry. The only difference is the higher volume produced, which resulted from the vast quantities exported at highly dumped prices to the Community.
- (50) In conclusion, the volume of the dumped imports, their market penetration, the prices at which they have been sold in the Community, led the Commission to determine that the injury suffered by the Community industry and caused by the dumped lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand has to be qualified as material.
- (52) If the rapid increase of unfairly priced imports from Japan, the People's Republic of China, the Republic of Korea and Thailand is not halted, the Community gas-fuelled, non-refillable pocket flint lighter industry will have to face a deterioration of its already weakened position with a strong possibility of total shutdown.
- Since the structure of the Community industry consists of two sound undertakings, temporary relief of unfair business practices will surely re-establish fair competition among these companies.
- (53) The importers alleged that low-priced imports were beneficial to consumers. The Commission notes, however, that even in a short-term analysis this is only partially true and depends very much on the distribution channels. It is usually the importer who benefits from low-priced imports and not the end user.
- In certain Member States there was a fall in consumer prices of lighters. This was due to a market share war and constitutes only short-term benefit for the consumer.
- The long-term consumers' interest should be the presence in the market of a wide range of products (Community and others) selling at fair market prices and operating under conditions of fair competition.
- Finally, the products concerned are inexpensive and the individual additional charge for the consumer (due to the measures) will be very low.
- (54) Once fair competition is established, the Community industry would be in a position to regain market share in the Community and thus benefit from the same economies of scale as most of the exporters and consequently become more competitive. As long as the return on investment remains weak it is unlikely that the Community industry would increase its marketing efforts or make the new investments required to reduce their manufacturing cost, unless measures are taken to ensure protection against these unfair commercial practices. The Commission consequently considered it necessary and in the interest of the Community that measures should be taken in order to preserve the viability of the Community lighter industry.

G. COMMUNITY INTEREST

- (51) The purpose of the imposition of anti-dumping duties is to eliminate dumping practices which cause injury to an industry in the Community and to re-establish a situation of fair competition on the Community market. This is undoubtedly in the general interest of the Community.

- (55) In considering all the foregoing aspects, the Commission found that Community interest calls for granting protection to the Community industry. The Commission has taken account of the rapidly worsening conditions of the Community industry in recent years and particularly during the reference period. The Commission therefore considers it necessary to take steps to prevent further injury being caused by imposing provisional anti-dumping measures on the importation of gas-fuelled, non-refillable pocket flint lighters originating in Japan, the People's Republic of China, the Republic of Korea and Thailand.

H. PROVISIONAL DUTY

- (56) In order to eliminate the injury suffered by the Community industry, their selling prices must be substantially increased. Such increase should provide the Community industry with the possibility of covering their production costs and provide them with an adequate profit.

- (57) Consequently the Commission calculated a target price for the most representative and comparable (with those imported) models of lighters of the Community industry. This target price was calculated on the basis of the actual weighted average costs of production of the models in question of each Community producer plus a target profit margin. When determining this margin, the Commission considered the necessity of the Community industry to finance additional investments in manufacturing facilities and research and development, without which the deterioration of the situation of the industry would be bound to continue and the damage caused by dumping would not be completely removed. The Commission also considered that the profit achieved by the major world producers, having state-of-the-art technology, historically ranged between 12 and 20 %. In the light of these, the Commission considered it reasonable to use 15 % as a target profit margin.

- (58) Using the same methodology described in recital 34, this price was compared with the weighted average selling price free of all rebates and taxes calculated on the basis of sales to the first unrelated importer or customer duly adjusted to take account of the differences in distribution channels.

- (59) On the basis, the Commission services found the following injury thresholds expressed as a percentage of cif, before duty, value :

— Tokai Corporation, Japan	35,76 %
— Gao Yao, People's Republic of China	45,54 %
— Samji, Republic of Korea	22,74 %
— Thai Merry, Thailand	36,18 %
— Politop, Thailand	31,32 %

- (60) In order to determine the level of the provisional duty the Commission took account of the margin

of dumping established for each exporter and the amount of duty needed to eliminate the injury as it was calculated above.

In the cases of the People's Republic of China (firm Gao Yao) and Thailand (firms Thai Merry and Politop) the dumping margin established is lower than the percentage needed to eliminate the injury. The anti-dumping duty to be imposed should therefore correspond to the margin of dumping established for each company.

In the cases of Japan (Tokai Corporation) and the Republic of Korea (Samji) the percentage needed to eliminate the injury was lower than the dumping established. The anti-dumping duty to be imposed should therefore correspond to the injury margin established.

Accordingly, the following rates of duty should apply :

— Tokai Corporation, Japan	35,7 %
— Samji Industrial, Republic of Korea	22,7 %
— Gao Yao, People's Republic of China	17,8 %
— Thai Merry Co. Ltd, Thailand	15,0 %
— Politop Co. Ltd, Thailand	5,8 %

The highest duty established for each country should be applied for those companies which did not make themselves known during the investigation. Indeed, it would constitute a bonus for non-cooperation to hold that the duties for these producer/exporters were any lower than the highest anti-dumping duties determined in their country with regard to those which cooperated.

- (61) A period should be fixed within which the parties concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of gas-fuelled, non-refillable pocket flint lighters falling within CN code ex 9613 10 00 (Taric code 9613 10 00 * 10) originating in Japan, the People's Republic of China, the Republic of Korea and Thailand.

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

- (a) 35,7 % for the products originating in Japan, (additional code 8540);
- (b) 17,8 % for the products originating in the People's Republic of China, (additional code 8541);
- (c) 22,7 % for the products originating in the Republic of Korea, (additional code 8542);
- (d) 15 % for the products originating in Thailand (additional code 8543) with the exception of imports which are produced and sold for export to the Community by Politop Co. Ltd, Bangkok where the rate shall be 5,8 %, (additional code 8544).

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

4. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to

the provision of security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 23 May 1991.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

COMMISSION REGULATION (EEC) No 1387/91

of 27 May 1991

introducing various transitional measures concerning the implementation of
Council Regulation (EEC) No 4042/89 in the former German Democratic
Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 3571/90
of 4 December 1990 introducing various measures
concerning the implementation of the common fisheries
policy in the former German Democratic Republic ⁽¹⁾,
and in particular Article 4 thereof,

Whereas, by Decision 91/241/EEC ⁽²⁾, the Commission
approved the Community support framework referred to
in Article 3 of Council Regulation (EEC) No 3575/90 of 4
December 1990 concerning the activities of the Structural
Funds in the territory of the former German Democratic
Republic ⁽³⁾, which includes the processing and marketing
sector for fishery and aquaculture products;

Whereas the processing and marketing sector for fishery
products in the territory of the former German Democ-
ratic Republic must be adapted as far as possible in the
short term with a view to its harmonious integration into
the common fisheries policy;

Whereas the structures of the processing and marketing
sector for fishery and aquaculture products in the territory
in question and the information available on the situation
obtaining in this sector do not make it possible at this
stage for the sectoral plan referred to in Articles 2, 3 and
5 of Council Regulation (EEC) No 4042/89 ⁽⁴⁾ to be
drawn up;

Whereas provision should be made up to 31 December
1991 for the Community's financial contribution towards

investments in the processing and marketing sector for
fishery and aquaculture products in the territory of the
former German Democratic Republic without a sectoral
plan having to be previously drawn up for this territory;

Whereas the measures provided for in this Regulation are
in accordance with the opinion of the Standing
Committee on the Fishing Industry,

HAS ADOPTED THIS REGULATION:

Article 1

Germany is hereby authorized, up to 31 December 1991,
to submit to the Commission the applications for assist-
ance referred to in Titles II and III of Regulation (EEC)
No 4042/89 with regard to investments in the territory of
the former German Democratic Republic, without the
sectoral plan referred to in Articles 2, 3, 4 and 5 of Regu-
lation (EEC) No 4042/89 covering the territory having
previously to be drawn up.

Article 2

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

It shall apply with effect from 3 October 1990.

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

Done at Brussels, 27 May 1991.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 353, 17. 12. 1990, p. 10.

⁽²⁾ OJ No L 114, 7. 5. 1991, p. 30.

⁽³⁾ OJ No L 353, 17. 12. 1990, p. 19.

⁽⁴⁾ OJ No L 388, 30. 12. 1989, p. 1.

COMMISSION REGULATION (EEC) No 1388/91

of 27 May 1991

suspending the preferential customs duties and re-introducing the Common Customs Tariff 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 lays down the conditions for applying a preferential 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 into the Community of fresh cut flowers;

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 of Regulation (EEC) No 4088/87 provides, on the one hand, that for a given product of a given origin, the preferential customs duty is to be applicable only if the price of the imported product is at least equal to 85 % of the Community producer price; whereas, on the other hand, the preferential customs duty is, except in exceptional cases, suspended and the Common Customs Tariff duty introduced for a given product of a given origin:

(a) if, on two successive market days, the prices of the imported product are less than 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on representative import markets;

or

(b) if, over a period of five to seven successive market days, the prices of the imported product are alternatively above and below 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on the representative import markets and if, for three days during that period, the prices of the import product have been below that level;

Whereas Commission Regulation (EEC) No 3129/90⁽⁴⁾ fixes the Community producer prices for carnations and roses for the application of the import arrangements;

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

Whereas, in order to enable the arrangements to operate normally, the following should be used for the calculation of the import prices:

— for the currencies which are maintained against one another within a maximum spread at any given moment for spot rate transactions of 2,25 %, a conversion rate based on their central rate adjusted 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, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for large-flowered roses originating in Israel; whereas the Common Customs Tariff 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 fixed by Council Regulation (EEC) No 728/90 is hereby suspended and the Common Customs Tariff duty is hereby reintroduced.

Article 2

This Regulation shall enter into force on 29 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.

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

Done at Brussels, 27 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1389/91

of 27 May 1991

introducing a corrective amount on the import of cabbage lettuce 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 imple-
menting 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;Whereas Commission Regulation (EEC) No 3541/90 ⁽²⁾
fixed, for the 1990/1991 marketing year, the Community
offer price for cabbage lettuces applicable with regard to
Spain (except Canary Islands);Whereas Commission Regulation (EEC) No 3815/89 ⁽³⁾
lays down detailed rules for applying the compensatory
mechanism on imports of fruit and vegetables from Spain
(except the Canary Islands);Whereas, in the case of cabbage lettuces the offer price
for the Spanish product as calculated in accordance with
the provisions of Council Regulation (EEC) No 3709/89has remained for two consecutive market days at a level at
least ECU 0,6 below the Community offer price; whereas
a corrective amount equal to the difference between the
Community offer price and the Spanish offer price must
therefore be introduced for these products from Spain
(except the Canary Islands);Whereas if the system is to operate normally the offer
price of the Spanish product should be calculated on the
following basis:

- in the case of currencies the spot market rates for
which are maintained in relationship to each other
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 ⁽⁴⁾, as last
amended by Regulation (EEC) No 2205/90 ⁽⁵⁾;
- 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 coeffi-
cient referred to in the preceding indent;

HAS ADOPTED THIS REGULATION:

*Article 1*On import into the Community of Ten of cabbage
lettuces (CN code 0705 11 10 and 0705 11 90) from Spain
(except the Canary Islands) a corrective amount of ECU
7,32 per 100 kilograms net shall be levied.*Article 2*

This Regulation shall enter into force on 29 May 1991.

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

Done at Brussels, 27 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 344, 8. 12. 1990, p. 15.⁽³⁾ OJ No L 371, 20. 12. 1989, p. 28.⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁵⁾ OJ No L 201, 31. 7. 1990, p. 9.

COMMISSION REGULATION (EEC) No 1390/91**of 27 May 1991****abolishing the countervailing charge on tomatoes originating in Morocco**

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 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 the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 1292/91⁽³⁾ introduced a countervailing charge on tomatoes originating in Morocco;

Whereas for tomatoes originating in Morocco there were no prices for six consecutive working days; whereas the

conditions specified in Article 26 (1) of Regulation (EEC) No 1035/72 are therefore fulfilled and the countervailing charge on imports of tomatoes originating in Morocco can be abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1292/91 is hereby repealed.

Article 2

This Regulation shall enter into force on 28 May 1991.

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

Done at Brussels, 27 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 375, 31. 12. 1990, p. 17.

⁽³⁾ OJ No L 122, 17. 5. 1991, p. 35.