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## Legislation

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## I

(Acts whose publication is obligatory)

## COMMISSION REGULATION (EEC) No 1429/91

of 30 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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(4)</sup>, 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<sup>(5)</sup> 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 29 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 31 May 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 201, 31. 7. 1990, p. 9.

<sup>(5)</sup> OJ No L 59, 6. 3. 1991, p. 1.

## ANNEX

to the Commission Regulation of 30 May 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

| CN code    | Levy                                 |
|------------|--------------------------------------|
| 0709 90 60 | 133,45 <sup>(2)</sup> <sup>(3)</sup> |
| 0712 90 19 | 133,45 <sup>(2)</sup> <sup>(3)</sup> |
| 1001 10 10 | 198,13 <sup>(1)</sup> <sup>(3)</sup> |
| 1001 10 90 | 198,13 <sup>(1)</sup> <sup>(3)</sup> |
| 1001 90 91 | 162,36                               |
| 1001 90 99 | 162,36                               |
| 1002 00 00 | 154,12 <sup>(6)</sup>                |
| 1003 00 10 | 148,34                               |
| 1003 00 90 | 148,34                               |
| 1004 00 10 | 138,18                               |
| 1004 00 90 | 138,18                               |
| 1005 10 90 | 133,45 <sup>(2)</sup> <sup>(3)</sup> |
| 1005 90 00 | 133,45 <sup>(2)</sup> <sup>(3)</sup> |
| 1007 00 90 | 144,84 <sup>(4)</sup>                |
| 1008 10 00 | 41,52                                |
| 1008 20 00 | 135,22 <sup>(4)</sup>                |
| 1008 30 00 | 51,16 <sup>(3)</sup>                 |
| 1008 90 10 | <sup>(7)</sup>                       |
| 1008 90 90 | 51,16                                |
| 1101 00 00 | 242,00 <sup>(8)</sup>                |
| 1102 10 00 | 230,88 <sup>(8)</sup>                |
| 1103 11 10 | 320,74 <sup>(8)</sup>                |
| 1103 11 90 | 259,54 <sup>(8)</sup>                |

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

<sup>(2)</sup> 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'.

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

<sup>(4)</sup> 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.

<sup>(5)</sup> 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.

<sup>(6)</sup> 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).

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

<sup>(8)</sup> 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 1430/91

of 30 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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(4)</sup>, 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<sup>(5)</sup> 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 29 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 31 May 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 201, 31. 7. 1990, p. 9.

<sup>(5)</sup> OJ No L 367, 29. 12. 1990, p. 10.

## ANNEX

to the Commission Regulation of 30 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<br>5 | 1st period<br>6 | 2nd period<br>7 | 3rd period<br>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<br>5 | 1st period<br>6 | 2nd period<br>7 | 3rd period<br>8 | 4th period<br>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 1431/91

of 30 May 1991

## fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, and in particular Article 16 (2) thereof,Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria<sup>(3)</sup>, as last amended by Regulation (EEC) No 728/91<sup>(4)</sup>, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco<sup>(5)</sup>, as last amended by Regulation (EEC) No 729/91<sup>(6)</sup>, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia<sup>(7)</sup>, as last amended by Regulation (EEC) No 413/86<sup>(8)</sup>, and in particular Article 5 thereof,Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey<sup>(9)</sup>, as last amended by Regulation (EEC) No 730/91<sup>(10)</sup>, and in particular Article 10 (2) thereof,Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon<sup>(11)</sup>;Whereas by Regulation (EEC) No 3131/78<sup>(12)</sup>, as amended by the Act of Accession of Greece, the Commission decided to use the tendering procedure to fix levies on olive oil;Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender<sup>(13)</sup> specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas, in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed, taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 27 and 28 May 1991 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within 29 codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The minimum levies on olive oil imports are fixed in Annex I.

*Article 2*

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

*Article 3*

This Regulation shall enter into force on 31 May 1991.

<sup>(13)</sup> OJ No L 331, 28. 11. 1978, p. 6.<sup>(1)</sup> OJ No 172, 30. 9. 1966, p. 3025/66.<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.<sup>(3)</sup> OJ No L 169, 28. 6. 1976, p. 24.<sup>(4)</sup> OJ No L 80, 27. 3. 1991, p. 1.<sup>(5)</sup> OJ No L 169, 28. 6. 1976, p. 43.<sup>(6)</sup> OJ No L 80, 27. 3. 1991, p. 2.<sup>(7)</sup> OJ No L 169, 28. 6. 1976, p. 9.<sup>(8)</sup> OJ No L 48, 26. 2. 1986, p. 1.<sup>(9)</sup> OJ No L 142, 9. 6. 1977, p. 10.<sup>(10)</sup> OJ No L 80, 27. 3. 1991, p. 3.<sup>(11)</sup> OJ No L 181, 21. 7. 1977, p. 4.<sup>(12)</sup> OJ No L 370, 30. 12. 1978, p. 60.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX I

## Minimum import levies on olive oil

(ECU/100 kg)

| CN code    | Non-member countries  |
|------------|-----------------------|
| 1509 10 10 | 77,00 <sup>(1)</sup>  |
| 1509 10 90 | 77,00 <sup>(1)</sup>  |
| 1509 90 00 | 89,00 <sup>(2)</sup>  |
| 1510 00 10 | 77,00 <sup>(1)</sup>  |
| 1510 00 90 | 122,00 <sup>(3)</sup> |

<sup>(1)</sup> For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

- (a) Lebanon : ECU 0,60 per 100 kg ;
- (b) Tunisia : ECU 12,69 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (c) Turkey : ECU 22,36 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (d) Algeria and Morocco : ECU 24,78 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

<sup>(2)</sup> For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 3,86 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

<sup>(3)</sup> For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 7,25 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

## ANNEX II

## Import levies on other olive oil sector products

(ECU/100 kg)

| CN code    | Non-member countries |
|------------|----------------------|
| 0709 90 39 | 16,94                |
| 0711 20 90 | 16,94                |
| 1522 00 31 | 38,50                |
| 1522 00 39 | 61,60                |
| 2306 90 19 | 6,16                 |

## COMMISSION REGULATION (EEC) No 1432/91

of 27 May 1991

## imposing a provisional countervailing duty on imports of polyester fibres and polyester yarns originating in Turkey

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<sup>(1)</sup> and in particular Article 11 thereof,

After consultation within the Advisory Committee as provided for by Regulation (EEC) No 2423/88,

Whereas :

## A. PROCEDURE

(1) In June 1988 the Comité Internationale de la Rayonne et des Fibres Synthétiques (CIRFS) lodged a complaint with the Commission on behalf of producers of polyester fibres and polyester yarns who produce the majority of the Community production of these products. The complaint contained evidence of subsidization and resultant material injury, which was considered sufficient to warrant the opening of an anti-subsidy investigation. The Commission accordingly announced in a notice published in the *Official Journal of the European Communities*<sup>(2)</sup> the initiation of an anti-subsidy proceeding concerning imports of polyester fibres and polyester yarns originating in Turkey, and commenced an investigation. The products concerned are :

- (a) polyester fibre falling within CN code 5503 20 00 ;
- (b) polyester POY filament yarn falling within CN code 5402 42 00 ;
- (c) polyester textured filament yarn falling within CN codes 5402 33 10 and 5402 33 90, and
- (d) polyester filament yarn falling within CN codes 5102 43 10, 5402 43 90, 5402 52 10, 5402 62 10, 5402 52 90 and 5402 62 90.

(2) The Commission officially notified the Government of Turkey and the exporters and importers known to be concerned, and the complainant, and

gave the interested parties the opportunity to make known their views in writing and to request a hearing.

(3) The Government of Turkey, the majority of the known producers/exporters, most of the Community producers and two importers made their views known in writing. Some of them requested and were granted hearings.

(4) The Commission sought and verified all information it considered necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following :

## (a) Community producers

- Du Pont de Nemours GmbH (Dusseldorf, Germany),
- Enka AG (Arnhem, Netherlands),
- Hoechst AG (Frankfurt, Germany),
- Montefibre SpA (Milan, Italy),
- Rhône-Poulenc Fibres SA (Lyon, France),
- La Seda de Barcelona (Barcelona, Spain),
- Nurel SA (Barcelona, Spain),
- Sociedad Anónima de Fibras Artificiales (Barcelona, Spain),
- ICI Fibres (Harrogate, UK) ;

## (b) Turkish Government and other organizations

- State Planning Organization,
- Under-Secretariat for Treasury and Foreign Trade,
- Central Bank (Headquarters in Ankara and branches in Adana and Bursa),
- Ministry of Finance and Customs,
- Turkish Export Import Bank,
- Tax Office, Bursa ;

## (c) Non-Community producers/exporters

- SASA Artificial & Synthetic Fibres, Inc., Adana,
- Sonmez Filament, Bursa,
- Sonmez ASF, Bursa,
- SIFAS Sentetik Iplik Fabrikalari AS, Bursa,
- Polylen Sentetik Iplik Sanayii AS, Bursa,
- Polyteks Tekstil Sanayi Arastirma ve Egitim AS, Bursa ;

<sup>(1)</sup> OJ No L 209, 2. 8. 1988, p. 1.

<sup>(2)</sup> OJ No C 33, 9. 2. 1989, p. 7.

## (d) Community importers

Coats Viyella plc, UK (trading as India Mills).

(5) The investigation of subsidies covered the period from 1 July 1987 to 31 December 1988.

(6) This investigation has exceeded the normal time period because of the volume and complexity of the data initially gathered and examined.

**B. PREVIOUS ANTI-DUMPING PROCEEDING**

(7) The imports of the products concerned (except polyester filament yarn) have been subject to anti-dumping duties since 18 June 1988<sup>(\*)</sup>.

**C. SUBSIDIES****1. General**

(8) On the basis of the information contained in the complaint and the replies to the Commission's questionnaire, the Commission investigated a total of 11 subsidy schemes. Five subsidy schemes investigated are contingent upon export performance and are therefore considered to be export subsidies. Five schemes are domestic subsidy schemes. The remaining scheme can be regarded as both an export and a domestic scheme as it can have a part export performance requirement.

**2. Export subsidy schemes***Resource utilization support fund (RUSF)*

(9) This fund came into effect on 1 January 1985 and was designed to support the utilization of domestic resources in products for export. On the basis of an export incentive certificate delivered by the State Planning Organization 2 to 4 % of the volume of net foreign exchange income corresponding to exports realized, is paid as a premium to the exporter. This scheme was abolished in November 1986. However, some payments were made to the companies concerned during the investigation period for exports realized before November 1986 or when the incentive certificate was due to expire after November 1986. As this scheme ended before the start of the investigation period, and as no benefits are due to accrue in the future under this scheme, the Commission has decided not to take

into account the benefits received from this scheme in determining the levels of provisional countervailing duties.

*Rebate of indirect taxes*

(10) The tax rebate system was based primarily on the indirect taxes paid on goods used in the manufacture of products intended for export. This system was officially terminated at the end of 1988.

(11) With effect from 1 January 1987, exports of the products concerned were not eligible for tax rebates, but they were eligible for a supplementary tax rebate (which was a separate sub-scheme). The basis on which the supplementary tax rebate was granted was not directly related to the amounts of indirect taxes paid but was that of a grant which was paid at various rates depending on the level of foreign exchange repatriated. The supplementary tax rebate programme was officially terminated at the end of 1988. As the termination of this scheme coincided with the end of the investigation period and as no benefits are due to accrue in the future under this scheme, the Commission has decided not to take into account the benefits received from this programme in determining the levels of provisional countervailing duties.

*Corporate tax exemption*

(12) The corporate tax exemption scheme exempts from corporate taxation 20 % of the export earnings of manufacturing companies. Where an exporting company does not produce the goods itself, a 5 % exemption is granted to the exporter on top of the 20 % granted to the producer. This scheme is available only after minimum annual export earnings of US\$ 1 000 000 have been reached.

(13) Under Turkish tax legislation, a corporate tax rate of 46 % is normally payable by Turkish companies. Where a company is eligible to benefit from this scheme, 20 % of export earnings are exempt from this tax. However, a 10 % income tax is payable on the exempt export earning. Similarly, for a company exporting products which it has not produced, 5 % of export earnings are exempted from corporate tax. The 10 % income tax is, however, payable on the exempt export earnings. A further small benefit accrues to companies availing of this scheme through reduced payments to various funds which are levied on the corporate tax amount due.

(14) The benefits received by each of the Turkish companies have been calculated on the basis of the difference between the amount of taxes which would normally have to be paid and the reduced amounts paid under this scheme. Account has also been taken of reduced contributions to various funds and of the benefit to the exporting compa-

(\*) Provisional duty: OJ No L 151, 17. 6. 1988, pp. 39 and 47;  
Definitive duty: OJ No L 347, 16. 12. 1988, p. 10 and OJ No L 348, 17. 12. 1988, p. 49.

nies. The benefit received in 1988 by each company is then expressed as a percentage of total export sales for 1988 (being a full financial year falling in the investigation period.)

### *Export credits*

- (15) Export credit programmes were introduced in 1987/88. There are two types:

- (a) the export rediscount credit programme, which is implemented by the Central Bank;
- (b) the post-shipment credit programme, which is implemented by the Export Import Bank of Turkey.

The interest rates paid by the companies on credits used during the investigation period were from 36 to 37 %. However, the interest rates on bonds issued by the Turkish Government during the investigation period ranged from 44 to 58 %. It is clear that there is a cost to the Turkish Government in terms of revenue foregone in granting these credits which constitutes a countervailable subsidy.

- (16) The amount of subsidy was calculated as the difference between the rate of interest charged to the companies and the rate of interest paid on government bonds (on a quarterly basis). The subsidy amount is expressed as a percentage of export sales of the products concerned.

### *Support and price stabilization fund*

- (17) Premiums are only paid from this fund for exports of certain goods and the rate varies according to the goods concerned. Payments are based on the weight or volume of goods exported. This scheme is intended to make the export of certain goods attractive and to make them competitive on the international market.

Exports to the Community of the products concerned are not eligible for payments from this fund. Thus the Commission provisionally determines that no countervailing duty will be imposed in respect of this scheme.

### *Low-interest credits for investment purposes*

- (18) Applications for these credits are submitted through a commercial bank which submits them to the Central Bank. A portion of the investment cost must be provided by the company from its own resources. The remaining portion is provided by the Central Bank (50 %) and a commercial bank

(50 %). Where a company gives on export commitment, as the companies did for some credits received in this case, the Central Bank provides 70 % of the remaining portion and the commercial bank 30 %. The additional credits received from the Central Bank in cases where an export commitment was given, are regarded as export credits. Otherwise the credits are treated as domestic subsidies (see recital 24 below).

- (19) Interest rates for these investment credits vary from 33 to 45 %. As with the export credits above (recital 15), there is a cost to the Turkish Government in granting these credits as the interest rates on bonds issued by the Government are greater than the interest rates paid on the credits by the companies. The basis of the calculation is the same as for export credits above.

## **3. Domestic subsidy schemes**

- (20) To avail of domestic subsidy schemes, companies must be in receipt of an incentive certificate from the State Planning Organization. To obtain an incentive certificate, companies must apply to the State Planning Organization giving details of proposed investments. Applications are examined on a case-by-case basis by the State Planning Organization and the certificate is not granted to certain types of investments which are specifically not encouraged. Investments in the synthetic fibres industry involved in this case are encouraged. The incentive certificate, when granted, specifies which subsidy schemes can be availed of.

- (21) In availing of certain subsidy schemes, amount must be taken of the region in which industries are located. In this regard, Turkey is divided into four regions: first priority development regions, second priority development regions, normal regions and developed regions. The companies concerned by this case are all located in developed regions.

- (22) Article 3 (4) (c) of Regulation (EEC) No 2423/88 requires that 'where the subsidy is not granted by reference to the quantities manufactured, produced, ... the amount shall be determined by allocating the value of the subsidy ... over the level of production ...'. In the case of domestic subsidies, however, the amounts of subsidy have been provisionally determined by allocating the value of the subsidy over the level of sales as production figures were not available. The Commission considers that the sales and production volumes would not differ substantially over the period required under recital 23 below and, consequently, would not result in a significant differential in the calculation of the benefits received from the various schemes.

- (23) For the allocation of the capital subsidies based on the acquisition or future acquisition of fixed assets (resource utilization support premium; incentive premium; investment incentive allowance and customs exemption), Article 3 (4) (c) of Regulation (EEC) No 2423/88 requires the use of a period reflecting normal depreciation of such assets in the industry concerned. It has been established that the depreciation period in Turkish textile industries is four years. The Commission considers this is an appropriate period of time for the purposes of Article 3 (4) (c) of Council Regulation (EEC) No 2423/88. The subsidies have accordingly been allocated over this period.

*Low-interest credits for investment purposes*

- (24) This is the same scheme referred to in recital 18 above. However, where no export commitments were given by the companies, the benefits received are regarded as domestic subsidies. The basis of calculation is the same as for the export credits above (recitals 15 and 16) except that the benefit is spread over total sales to arrive at the percentage subsidy.

*Resource utilization support premium*

- (25) This incentive, comprising a cash premium, came into effect on 1 January 1985. In 1985, 1986 and 1987, the premium was based on the credit used for total fixed investments or on the total fixed investment realized. From 5 April 1988 the premium was based on the level of a company's own resources used for total fixed investments. The Commission has provisionally determined the benefits received under this scheme by each company. These benefits are expressed as a percentage of total sales to arrive at the subsidy amount for each company.

*Incentive premium*

- (26) The incentive premium is a cash grant, available to all sectors where an incentive certificate has been granted, based on a percentage of the value of purchases of locally produced machinery and equipment. The rate is fixed annually — 20 % in 1987, 25 % in 1988. The Commission has provisionally determined the benefits received under this scheme by each company. These benefits are expressed as a percentage of total sales to arrive at the subsidy amount for each company.

*Investment incentive allowance*

- (27) A tax deduction based on a percentage of the total fixed investment may be granted to investors by

the Ministry of Finance and Customs jointly with the State Planning Organization. An allowance is deducted from the taxable profits until it has been used up. This allowance is based both on industry sector and region in such a way that only specific sectors benefit from this allowance. In 1987, the percentage was 30 % for investments in developed regions. It was 40 % in 1988 in organized industrial sites in developed regions. The unused portion of this allowance, if any, may be carried forward from year to year. The Commission has provisionally determined the benefit received under this scheme by each company. The benefit accruing to each company is expressed as a percentage of total sales of all products produced.

*Customs duty exemption*

- (28) A complete exemption of customs duty is granted on imports of machinery and equipment of qualifying investors (which includes the industry investigated). Normal duty rate during the investigation period was 30 % *ad valorem*. By virtue of not having paid customs duties on certain machinery, the cost of production is accordingly lower for the products concerned. The benefit determined for each company has been allocated over total sales of the products concerned.

*Low-interest credit for operational phase*

- (29) This subsidy scheme is intended to assist the operations phase of an investment in the sector concerned during the first three months of production. 50 % of the credit is provided by the Central Bank and 50 % by a commercial bank. The interest rates vary between 48 and 60 %. Only one company has been using this scheme and its effect was considered negligible as a subsidy (0,001 %).

#### 4. Termination of schemes

- (30) During consultations held in December 1988 pursuant to Article 3 of the GATT Subsidies Code (Agreement on interpretation and application of Articles VI, XVI and XXIII of the GATT), the Turkish Government stated that a commitment had been given to the GATT to terminate the corporate tax exemption of 20 % contingent upon export performance. Nevertheless, the corporate tax-exemption scheme was still in force in 1990.
- (31) Some other schemes were ended before or during the investigation period (i.e. Resource utilization support fund and the supplementary tax rebate).

The Commission found, moreover, that no benefits are due to accrue in the future under these schemes. Under these circumstances the Commission does not impose countervailing duties against those schemes.

- (32) All other schemes investigated are considered countervailable. Subsidy schemes implemented at the end or after the end of the investigation period and subsidy schemes where benefits will accrue after the end of the investigation period and which cannot be considered in the context of this investigation, can only be considered in the context of a review pursuant to Article 14 of Regulation (EEC) No 2423/88.

#### 5. Specific arguments from the Turkish Government and the exporting companies

- (33) The Turkish Government and/or exporting companies have raised a number of issues regarding the countervailability of admitted subsidies.

#### *The additional protocol to the EEC-Turkey Association Agreement*

- (34) According to the Turkish Government, Article 43 (2) of the Additional Protocol to the EEC-Turkey Association Agreement of 23 November 1970<sup>(1)</sup> allows Turkey to use aids to promote its economic development until the end of the 'transitional period' of the Association Agreement. This transitional period has not yet been terminated. It should however be noted that Article 43 (2) which allows Turkey to be considered as being in a situation specified in Article 92 (3) (a) of the EEC Treaty, considers such aid compatible with the proper functioning of the Association only if it does not alter the conditions of trade to an extent inconsistent with the mutual interest of the contracting parties. In the light of the increases of Turkish market-shares of yarns and fibres and of the findings of injury (section D), the Commission is of the opinion that this last condition is not satisfied.
- (35) In addition, Article 46 of the Additional Protocol allows parties to take safeguard measures which they feel appropriate in order to overcome difficulties due to the absence of a decision by the Council of Association on the rules and conditions for the application of the principles laid down in Article

92 of the EEC Treaty, as provided for in Article 43 (1) of the Protocol. No such decision having been taken, the Community is fully entitled to take measures which will remedy the material injury caused to the Community industry, resulting from the subsidized exports originating in Turkey.

#### *Compliance with GATT obligations*

- (36) The Turkish Government has further put forward that the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (GATT Code on Subsidies and Countervailing Measures) to which both the Community and Turkey are signatories provides for a special and differential treatment for less-developed countries.
- (37) The Commission took fully into account the requirements of the GATT Subsidies Code and in particular Article 14.

#### *Domestic subsidies and the issue of specificity*

- (38) The Turkish Government stated that domestic subsidies available in Turkey are not countervailable since they are not sector-specific.
- (39) Domestic incentives are not generally available in Turkey. They are restricted in terms of sectors of industry and region. There exists a 'negative list' of sectors of activity not benefiting from those grants.
- (40) The Commission therefore concludes that the domestic subsidies investigated have been granted in a specific manner because they are granted to specific sectors and/or designated regions and are accordingly considered countervailable.

#### 6. Total amounts of subsidies found

- (41) The total amounts of countervailable subsidies found by the Commission were as follows:

##### *Company*

|                 |         |
|-----------------|---------|
| SASA            | 11,48 % |
| Sonmez Filament | 10,73 % |
| Sonmez AŞF      | 19,03 % |
| SİFAŞ           | 12,54 % |
| Polylen         | 9,52 %  |
| Polyteks        | 10,84 % |

The individual amounts of countervailable subsidies found by scheme have been notified to each of the companies concerned. For reasons of confidentiality they are not published here.

<sup>(1)</sup> OJ No L 293, 29. 12. 1972, p. 4.

### D. INJURY

- (42) In examining the relevant factors to determine the impact of the subsidized imports on the Community industry, the Commission took account of the fact that the anti-dumping duties were in effect on imports of the products concerned during the last six months of the investigation period.

- (43) In accordance with Article 4 (4) of Regulation (EEC) No 2423/88 separate figures have been used for fibres and for the three yarn products in assessing injury. For some statistical data the Turkish exporters and Community producers could not supply sufficiently detailed figures of the yarn products.

The Commission has used separate data, where available, but in other cases has used global data, which it considers nevertheless to be sufficiently representative.

#### *Like product*

- (44) The Commission has determined for each of the four products under investigation, the like product in the Community. The like products have the same physical characteristics and end uses as the Turkish imported products. Turkish exporters have challenged the validity of the comparisons made, claiming that these products do not have exactly the same physical characteristics, are not of the same quality and are not used for the same purpose.
- (45) Differences in quality, however, are not a sufficient reason for considering the imported fibres and yarns and the corresponding Community products as not being like products. While the Commission accepts that there are minor differences in quality between the Turkish products and the Community products, minor differences are not such as to make a product distinction between the Turkish products and the like products. This is also supported by the end uses of these products.

#### *Volume and market shares of imports*

- (46) Fibres: From 1984 to 1987, subsidized imports of Turkish polyester fibres increased from 12 514 to 17 271 tonnes, a 38 % increase. In 1988, the figure went down to the level of 1984. The Turkish share of the Community market was 4 % in 1984 and increased to over 5 % in 1987. In 1988 their share decreased to 3,3 %.
- (47) Yarns: Imports of textured yarns increased from 185 to 8 686 tonnes between 1984 and 1988. POY imports increased from zero in 1984 to 3 182

tonnes in 1988 while polyester filament yarns increased from 48 to 1 447 tonnes over the same period. The total imports of the three yarn products represent a growth in Turkish market share in the Community from 0 % in 1984 to over 5 % in 1987 and 1988. Turkey is the second largest exporter of yarns to the Community.

#### *Price undercutting*

- (48) Fibres: The sharp fall in prices of Turkish imported fibres started in 1985 and continued through to 1988. During the investigation period the prices of fibre imports were lower than the prices charged by the Community producers by 18 to 22 %. As quality differences of fibres had no material impact on consumer prices, price adjustments based on quality are not warranted.
- (49) Yarns: For polyester filament yarn, import prices during the investigation period were lower than Community prices by 65 %, for POY by 30 %. Turkish textured yarn prices were between 25 to 43 % lower than Community prices during the investigation period. As for fibres above, price adjustments for quality differences are not warranted.

#### *Situation of the Community industry*

##### *(a) Market shares*

- (50) Total sales of fibre and yarns by the Community industry increased modestly during the period 1984 to 1988. For fibre, the quantity sold in 1984 was 247 000 tonnes and increased to 272 000 tonnes in 1988. However, these figures should be seen against the continuously rising consumption in the Community of fibre between 1984 and 1988. For fibre, the Community industry gradually lost market share: from 79 % in 1984 to a low of 72 % in 1987 with an increase to 75,5 % in 1988.

For the three yarn products, the same trend is visible with sales of 165 000 tonnes in 1984, increasing to 166 000 tonnes in 1987 and 178 000 tonnes in 1988. The market share of the Community industry fell, however, continuously from 81 % in 1984 to 70 % in 1987 with a further decrease to 69,8 % in 1988.

##### *(b) Prices*

- (51) The average selling prices of Community producers fell considerably between 1985 and the investigation period. The average decreases varied from 5 % for textured yarn to 12 % for polyester filament yarn, 20 % for fibre and 26 % for POY.

## (c) Profitability

- (52) The profitability of the Community producers for both fibres and yarns deteriorated dramatically in the period 1984 to 1988 with its lowest point in 1987. The figures show the same picture for fibres as for yarns. In 1987 almost all producers in the Community had come down to almost a breakeven point or (the majority) to a loss-making situation. Some major companies have, for some years, been in an increasingly loss-making situation.

The current losses, or sometimes very modest profits, are clearly preventing the Community industry from financing the expenses required to keep the Community industry competitive. The profit/loss situation of the Community producers for the products concerned is shown below:

| Company | Fibre     |       | Yarns     |       |
|---------|-----------|-------|-----------|-------|
|         | 1987      | 1988  | 1987      | 1988  |
|         | %         | %     | %         | %     |
| A       | - 3,0     | - 3,8 | - 4,0     | - 4,0 |
| B       | -19,5     | -26,0 | 0,8       | - 3,4 |
| C       | 6,5       | 6,8   | -10,4     | - 7,2 |
| D       | Breakeven |       | Breakeven | - 1,2 |
| E       | 1,7       | -15,6 | - 1,7     | - 3,1 |
| F       | -15,0     | -10,3 | 1,6       | 0,8   |
| G       | - 1,3     | 1,9   | -18,0     | -15,0 |
| H       | 7,3       | 4,5   | -24,0     | - 3,0 |
| I       | -26,2     | -15,2 | - 7,4     | - 4,6 |
| J       | - 1,4     | 1,6   | -17,5     | -10,0 |
| K       | —         | —     | 1,0       | 4,1   |

*Determination of injury*

- (53) From an examination of the factors enumerated above, the Commission provisionally considers that the Community industry has suffered material injury in this case through the gradual but persistent loss in market share for fibre as well as for the three yarn products. This material injury was suffered despite the fact that anti-dumping duties were in force during part of the investigation period. The Community industry has only partly benefited from the increased EC consumption and prices for Community products have been depressed throughout the investigation period.

The Community industry did not expand its production facilities and only very modestly increased its sales; therefore the utilization rate stagnated at an unsatisfactorily low level. The profitability of this industry has reached a very poor state and has continuously deteriorated in recent

years. Consequently, the viability of the industry is at risk.

*Causation of injury*

- (54) As regards causality, it should be considered that each of the products investigated is in direct competition with the like Community product on the Community market. Since the products concerned are price sensitive and allowing for the transparency of the Community market, the price cutting effect of subsidised Turkish fibre, POY, textured yarn and polyester filament yarn has had a direct depressing effect on the prices of the Community produced like products.
- (55) This can be shown in the combined impact of import increases and falling selling prices of Turkish products which coincided exactly with the losses in market share and deteriorating profitability of the Community industry.
- (56) Considering whether the injury suffered by the Community producers had been caused by other factors, the Commission found that the percentage of market share of third country imports of fibre did not change since 1986, and for all yarns, showed an increase of 20 % between 1985 and 1988. For each of the three yarns the proportionate increase from Turkey is much larger (see recital 47) whilst for fibre the imports fluctuate considerably. At the same time prices were continually decreasing during the period 1985 to 1988.
- (57) For some of the products concerned, the anti-dumping duties have reduced partly or totally injury suffered by the Community industry. For some products there is remaining injury, while additional injury has been caused to Community producers by the imports benefiting from the Turkish subsidy schemes.

- (58) The conclusion is that the subsidized imports from Turkey have on their own caused material injury to the Community industry.

**E. COMMUNITY INTEREST**

- (59) The purpose of anti-dumping and/or countervailing duties is to remedy unfair competition which injures Community industry. The remedy should result in the re-establishment of a fair competitive situation which, as such, is in the Community's interest. In this case, the viability of a large Community industry is seriously affected. It is in the Community's interest to keep such a Community industry viable, which provided important

products for many uses while numerous other industries depend on a continuous supply of these products by the Community industry. Furthermore, a large labour force is employed in this industry. It is therefore in the Community's interest to provide measures to eliminate the injury caused to Community producers of fibres and yarns.

- (60) A large Community consumer of fibre from Turkey stated that it would be in great difficulties due to duties from the anti-dumping proceeding and possible countervailing duties. This company also claims that the coloured fibres which it uses are not readily available in the range which they require from Community producers. Contrary to the latter claim, it has been determined that the like product (melt-dyed) is produced by Community industry and has been offered to textile weavers several times. The interests of this company have to be considered against the interests of Community producers who are suffering from unfair competition. The Commission considers that it is more in the Community's interest to provide measures to eliminate injury caused to Community producers than to allow users of the products to continue to benefit from the effects of unfair trade practices.
- (61) The Commission further found that the measures proposed would have a relatively small impact on the production costs of the users of the products concerned. Since fibres and yarns form only a small part of the costs for the transforming industry, it can be expected that, generally, only a very modest price increase will be passed on to the processing industry regardless of the origin of the yarns and fibres concerned. The measures should, therefore, result in removing the injury by a price increase of fibres and yarns equally to Community as to Turkish products. Consequently, this effect should equally be felt by all European processing industries.
- (62) As far as the end consumer is concerned, the final impact on consumer prices would probably be insignificant.
- (63) The Commission considers, having taken account of all the interests involved, that the application of provisional countervailing duties is in the Community interest in order to prevent further injury to the Community during the proceeding.

#### F. INJURY THRESHOLD

- (64) For the purposes of establishing the level of the provisional duties, the Commission took account,

on the one hand, of the countervailable subsidies found and, on the other, of the level of duty necessary to eliminate injury. To that end, the Commission compared, for each of the four products, Turkish export prices during the investigation period with the production costs for each product of representative Community producers plus a reasonable profit margin. The profit margin was that previously used in the anti-dumping cases and was based on producers' profits in the period 1985 to 1986 (6 % for fibre and 7 % for yarns) when the impact of Turkish imports was still moderate. The injury threshold thus calculated has been reduced by the rate of the anti-dumping duty already applying (since June 1988) to each product in order to determine the remaining injury threshold. In two cases (polyester filament yarn from Sonmez Filament and POY from Sonmez ASF), this injury threshold was less than the level of countervailable subsidies found.

- (65) Sonmez ASF and Polylen are both strongly related to Sonmez Filament and Sifas respectively (i.e. directors and shareholders are common to both companies and/or are members of the same family, the companies share the same offices and Sifas has a considerable shareholding in Polylen). In order to prevent circumvention of duties, average countervailing duties should be imposed on both Sonmez companies as well as on Sifas and Polylen.

#### Form

- (66) The Commission considered that, to ensure the efficiency of the protective measures and to ease customs clearance, the provisional duty should take the form of an *ad valorem* duty.

#### G. CUMULATION OF ANTI-DUMPING DUTIES AND COUNTERVAILING DUTIES

- (67) Anti-dumping duties were imposed on the products concerned (except polyester filament yarn) in June 1988. Article 13 (9) of Regulation (EEC) No 2423/88 states that no products shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from the granting of any subsidy. It is therefore necessary to consider whether a countervailing duty can be imposed in addition to the anti-dumping duties.
- (68) In order to determine this, the impact of the countervailable subsidies (both domestic subsidies and export subsidies) on the domestic prices and on the export prices of the products concerned has to be examined.

*Domestic subsidies*

- (69) All domestic subsidies have to be considered as production subsidies (with adverse trade effects), which reduce the production costs of the products investigated. The reduction in production costs allows an equal drop in domestic prices and export prices. The domestic subsidies can therefore not have influenced the dumping margins previously found. The domestic subsidies should be considered to be neutral in their effect on the dumping margin. Article 13 (9) of Regulation (EEC) No 2423/88 does not therefore preclude in these circumstances the imposition of both anti-dumping and countervailing duties.

*Export subsidies*

- (70) The Commission found two export subsidy schemes (corporate tax exemption and the export credit programme) which are, in principle, countervailable since they are granted on condition that the products are exported. Therefore, these types of subsidies must be assumed to have the effect of reducing the export price. However, since they are not granted on domestic sales, they can have no effect no normal value, which was calculated on the basis of domestic prices.

Consequently, these export subsidies, reducing export prices while leaving normal value unchanged, will have led to an equivalent amount of dumping being found in the anti-dumping investigation. Therefore, the imposition of a countervailing duty covering such export subsidies up to the level of the anti-dumping duty would be contrary to Article 13 (9) of Regulation (EEC) No 2423/88.

It is therefore appropriate to collect countervailing duty only to the extent to which the rate of export subsidies exceeds the dumping margin in force, where this rate (of export subsidies) does not exceed the injury threshold found.

This only applies, however, to those export subsidies which were in force during the investigation period of the anti-dumping cases, (January 1987 to June 1987), i.e. the corporate tax exemption and low-interest credits for investment purposes. The companies concerned first availed of the export credit programme in 1988 and consequently this scheme cannot have influenced the anti-dumping margins. The duty to countervail this export subsidy need not be suspended.

**H. FINAL PROVISION**

- (71) In the interests of sound administration, a reasonable period should be allowed for the interested parties which have cooperated fully in the investi-

gation to make their point of view on the findings contained in this Regulation and to request a hearing,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A provisional countervailing duty is hereby imposed on imports of polyester fibre falling within CN code 5503 20 00 and originating in Turkey.

The vote of the duty, based on the free-at-Community frontier price, not cleared through customs, shall be 15,18%, (Taric additional code : 8517).

For the company hereunder, the following duty shall apply:

SASA Artificial & Synthetic Fibres Inc., Adana = 11,48%, (Taric additional code : 8516).

2. A provisional countervailing duty is hereby imposed on imports of polyester textured filament yarn falling within CN codes 5402 33 10 and 5402 33 90 and originating in Turkey.

The rate of the duty, based on the free-at-Community frontier price, not cleared through customs, shall be 15,18%.

(Taric additional code : 8521)

For the companies hereunder, the following duties shall apply:

- SASA Artificial & Synthetic Fibres, Inc., Adana : 11,48%  
(Taric additional code : 8518)
- SİFAŞ Sentetik İplik Fabrikalari AŞ, Bursa : 11,57%  
(Taric additional code : 8519)
- Polylen Sentetik İplik Sanayii AŞ, Bursa : 11,57%  
(Taric additional code : 8519)
- Polyteks Tekstil Sanayi Arastirma ve Egitim AŞ, Bursa : 10,84%  
(Taric additional code : 8520).

3. A provisional countervailing duty is hereby imposed on imports of polyester filament yarn falling within CN Codes 5402 43 10, 5402 43 90, 5402 52 10, 5402 52 90, 5402 62 10 and 5402 62 90 and originating in Turkey.

The amount of the duty based on the free-at-Community frontier price, not cleared through customs, shall be 11,48%, (Taric additional code : 8523).

The following company is exempted from this duty:

Sonmez Filament, Bursa  
(Taric additional code : 8522)

4. A provisional countervailing duty is hereby imposed on imports of partially-oriented polyester yarn (POY) falling within CN code 5402 42 00 and originating in Turkey.

The vote of the duty, based on the free-at-Community frontier price, not cleared through customs, shall be 11,48%.

(Taric additional code : 8525)

The following company is exempted from this duty :

Sonmez ASF, Bursa  
(Taric additional code : 8524).

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

6. The release for free circulation in the Community of the products referred to in paragraphs 1, 2, 3 and 4 and originating in Turkey shall be subject to the provision of a security equivalent to the amount of the provisional duty.

#### Article 2

Part of the provisional countervailing duties imposed by Article 1 is hereby suspended in view of anti-dumping duties imposed by Council Regulation (EEC) No 3905/88 <sup>(1)</sup> and 3946/88 <sup>(2)</sup>. Consequently the net provisional countervailing duties imposed shall, for the period during which these Regulations apply, be as follows :

- |                                 |       |
|---------------------------------|-------|
| (i) polyester fibre             | 4,68% |
| (Taric additional code : 8527); |       |

for the Company hereunder, the following duty shall apply :

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

Done at Brussels, 27 May 1991.

|                                 |       |
|---------------------------------|-------|
| Sonmez Filament                 | 3,85% |
| (Taric additional code : 8526); |       |

- |                                       |       |
|---------------------------------------|-------|
| (ii) Polyester textured filament yarn | 4,37% |
| (Taric additional code : 8532);       |       |

for the companies hereunder, the following duties shall apply :

|                                |       |
|--------------------------------|-------|
| — SASA                         | 1,93% |
| (Taric additional code : 8531) |       |

|                                |       |
|--------------------------------|-------|
| — Sonmez Filament              | 3,85% |
| (Taric additional code : 8530) |       |

|                                |       |
|--------------------------------|-------|
| — Sonmez ASF                   | 3,85% |
| (Taric additional code : 8529) |       |

|                                 |       |
|---------------------------------|-------|
| — Polyteks                      | 1,48% |
| (Taric additional code : 8528); |       |

- |                                 |        |
|---------------------------------|--------|
| (iii) polyester filament yarn   | 11,48% |
| (Taric additional code : 8534). |        |

The following company is exempted from this duty :

Sonmez Filament  
(Taric additional code : 8533);

- |                                              |       |
|----------------------------------------------|-------|
| (iv) Partially-oriented polyester yarn (POY) | 8,78% |
| (Taric additional code : 8536);              |       |

the following company is exempted from this duty :

Sonmez ASF  
(Taric additional code : 8535).

#### Article 3

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 by the Commission within one month of the entry into force of this Regulation.

#### Article 4

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 14 of Regulation (EEC) No 2423/88, it shall apply for a period of four months, unless the Council adopts definitive measures before that period has elapsed.

For the Commission

Frans ANDRIESEN

Vice-President

<sup>(1)</sup> OJ No L 347, 16. 12. 1988, p. 10.

<sup>(2)</sup> OJ No L 348, 17. 12. 1988, p. 49.

## COMMISSION REGULATION (EEC) No 1433/91

of 28 May 1991

concerning the stopping of fishing for saithe by vessels flying the flag of Germany

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

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities <sup>(1)</sup>, as amended by Regulation (EEC) No 3483/88 <sup>(2)</sup>, and in particular Article 11 (3) thereof,

Whereas Council Regulation (EEC) No 3926/90 of 20 December 1990 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1991 and certain conditions under which they may be fished <sup>(3)</sup>, as amended by Regulation (EEC) No 793/91 <sup>(4)</sup>, provides for saithe quotas for 1991;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of saithe in the waters of ICES divisions V b (EC zone), VI, XII, XIV by vessels flying the flag of Germany or registered in Germany have reached the quota allocated for 1991; whereas Germany has

prohibited fishing for this stock as from 20 May 1991; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

*Article 1*

Catches of saithe in the waters of ICES divisions V b (EC zone) VI, XII, XIV by vessels flying the flag of Germany or registered in Germany are deemed to have exhausted the quota allocated to Germany for 1991.

Fishing for saithe in the waters of ICES divisions V b (EC zone), VI, XII, XIV by vessels flying the flag of Germany or registered in Germany is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

*Article 2*

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 20 May 1991.

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

Done at Brussels, 28 May 1991.

*For the Commission*

Manuel MARÍN

*Vice-President*

<sup>(1)</sup> OJ No L 207, 29. 7. 1987, p. 1.

<sup>(2)</sup> OJ No L 306, 11. 11. 1988, p. 2.

<sup>(3)</sup> OJ No L 378, 31. 12. 1990, p. 1.

<sup>(4)</sup> OJ No L 82, 28. 3. 1991, p. 2.

## COMMISSION REGULATION (EEC) No 1434/91

of 28 May 1991

concerning the stopping of fishing for mackerel by vessels flying the flag of Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities<sup>(1)</sup>, as amended by Regulation (EEC) No 3483/88<sup>(2)</sup>, and in particular Article 11 (3) thereof,Whereas Council Regulation (EEC) No 3926/90 of 20 December 1990 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1991 and certain conditions under which they may be fished<sup>(3)</sup>, as amended by Regulation (EEC) No 793/91<sup>(4)</sup>, provides for mackerel quotas for 1991;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of mackerel in the waters of ICES-divisions VII (excluding EC zone), V b (EC zone),

VI, VII, VIII A, b, d, e, XII, XIV by vessels flying the flag of Spain or registered in Spain have reached the quota allocated for 1991,

HAS ADOPTED THIS REGULATION:

*Article 1*

Catches of mackerel in the waters of ICES divisions II (excluding EC zone) V b (EC zone), VI, VII, VIII a, b, d, e, XII, XIV by vessels flying the flag of Spain or registered in Spain are deemed to have exhausted the quota allocated to Spain for 1991.

Fishing for mackerel in the waters of ICES divisions II (excluding EC zone), V b (EC zone), VI, VII, VIII a, b, d, e, XII, XIV by vessels flying the flag of Spain or registered in Spain is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of entry into force of this Regulation.

*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, 28 May 1991.

*For the Commission*

Manuel MARÍN

*Vice-President*

<sup>(1)</sup> OJ No L 207, 29. 7. 1987, p. 1.

<sup>(2)</sup> OJ No L 306, 11. 11. 1988, p. 2.

<sup>(3)</sup> OJ No L 378, 31. 12. 1990, p. 1.

<sup>(4)</sup> OJ No L 82, 28. 3. 1991, p. 2.

**COMMISSION REGULATION (EEC) No 1435/91****of 30 May 1991****amending Regulation (EEC) No 899/87 laying down quality standards for cherries and strawberries as regards the sizing of strawberries**

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3920/90<sup>(2)</sup>, and in particular Article 2 (2) thereof,Whereas Annex II to Commission Regulation (EEC) No 899/87<sup>(3)</sup>, as amended by Regulation (EEC) No 3594/89<sup>(4)</sup>, lays down the quality standards for strawberries;

Whereas the sizing requirements applying to strawberries have been changed to take account of the development of production techniques and marketing needs; whereas the special characteristics of the Primella variety have been taken into consideration; whereas an examination of the agronomic characteristics of the Gariguette variety enables it to be concluded that that variety also deserves special treatment; whereas Regulation (EEC) No 899/87 should be amended accordingly;

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*

Annex II to Regulation (EEC) No 899/87 is hereby amended as follows:

1. In Part III ('Provisions concerning sizing'), the second indent of the second paragraph is replaced by:  
'— Classes I and II (except for the Primella and Gariguette varieties): 22 mm; Primella and Gariguette varieties: 18 mm.'
2. In Part VI ('Provisions concerning marking'), under B ('Nature of produce'), the second indent is replaced by:  
'— name of the variety (optional, except for the Primella and Gariguette varieties for which this information is compulsory).'

*Article 2*

This Regulation shall enter into force on 1 June 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.<sup>(2)</sup> OJ No L 375, 31. 12. 1990, p. 17.<sup>(3)</sup> OJ No L 88, 31. 3. 1987, p. 17.<sup>(4)</sup> OJ No L 350, 1. 12. 1989, p. 61.

**COMMISSION REGULATION (EEC) No 1436/91****of 30 May 1991****amending Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds**

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, and in particular Article 16 thereof,

Whereas a nomenclature for refunds was introduced by Commission Regulation (EEC) No 3846/87<sup>(3)</sup>, as last amended by Regulation (EEC) No 1255/91<sup>(4)</sup>; whereas the nomenclature should be amended to adjust the minimum content of native starch (CN code 1108) eligible for export refunds;

Whereas experience has shown, that for the sake of simplifying control procedures, the minimum content of native starch eligible for an export refund listed in the nomenclature should be aligned with the minimum content of native starch benefiting from a production refund, established in Commission Regulation (EEC) No 2169/86 of 10 July 1986 laying down detailed rules for

the control and payment of the production refunds in the cereals and rice sectors<sup>(5)</sup>, as last amended by Regulation (EEC) No 3056/90<sup>(6)</sup>;

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*

The description of CN code 1108 of the agricultural product nomenclature for export refunds, as shown in sector 3 of the Annex to Regulation (EEC) No 3846/87, is hereby replaced by that in the Annex to this Regulation.

The new footnote<sup>(6)</sup> is added at the end of sector 3.

*Article 2*

This Regulation shall enter into force on 1 June 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 366, 24. 12. 1987, p. 1.

<sup>(4)</sup> OJ No L 120, 15. 5. 1991, p. 7.

<sup>(5)</sup> OJ No L 189, 11. 7. 1986, p. 12.

<sup>(6)</sup> OJ No L 294, 25. 10. 1990, p. 13.

## ANNEX

| CN code    | Description of goods                                                                                 | Product code   |
|------------|------------------------------------------------------------------------------------------------------|----------------|
| 1108       | Starches ; inulin :                                                                                  |                |
|            | – Starches :                                                                                         |                |
| 1108 11 00 | – – Wheat starch :                                                                                   |                |
|            | – of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % | 1108 11 00 200 |
|            | – other <sup>(e)</sup>                                                                               | 1108 11 00 800 |
| 1108 12 00 | – – Maize starch :                                                                                   |                |
|            | – of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % | 1108 12 00 200 |
|            | – other <sup>(e)</sup>                                                                               | 1108 12 00 800 |
| 1108 13 00 | – – Potato starch :                                                                                  |                |
|            | – of a dry matter content of not less than 80 % and a purity in the dry matter of not less than 97 % | 1108 13 00 200 |
|            | – other <sup>(e)</sup>                                                                               | 1108 13 00 800 |
| 1108 14 00 | – – Manioc starch :                                                                                  |                |
|            | – of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % | 1108 14 00 200 |
|            | – other <sup>(e)</sup>                                                                               | 1108 14 00 800 |
| 1108 19    | – – Other starches :                                                                                 |                |
| 1108 19 10 | – – – Rice starch :                                                                                  |                |
|            | – of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % | 1108 19 10 200 |
|            | – – other <sup>(e)</sup>                                                                             | 1108 19 10 800 |
| 1108 19 90 | – – Other :                                                                                          |                |
|            | – of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 % | 1108 19 90 200 |
|            | – other <sup>(e)</sup>                                                                               | 1108 19 90 800 |

<sup>(e)</sup> The export refund payable for a basic starch of a lower dry matter, down to a minimum dry matter of 77 % for potato starch and 84 % for all other types of starch and with a minimum purity in the dry matter of 97 %, shall be adjusted by using the following formula :

1. Potato starch :

$$\frac{\text{Actual \% dry matter}}{80} \times \text{Export refund ;}$$

2. All other types of starch :

$$\frac{\text{Actual \% dry matter}}{87} \times \text{Export refund.}$$

When a product falling within these subheadings has a dry matter content of less than 77 % for potato starch and less than 84 % for all other types of starch, no export refund shall be paid.

When completing customs formalities, the applicant shall state on the declaration provided for this purpose the dry matter content of the product.

The dry matter content of starch is determined by the method laid down in Annex II to Commission Regulation (EEC) No 1908/84 (OJ No L 178, 5. 7. 1984 p. 22). The purity of starch is determined using the Ewers modified polarimetric method, as published in Annex I of the Third Commission Directive 72/199/EEC. (OJ No L 123, 29. 5. 1972, p. 6).

## COMMISSION REGULATION (EEC) No 1437/91

of 30 May 1991

laying down certain indicative ceilings and certain additional detailed rules for the application of the supplementary trade mechanism to trade in fruit and vegetables between Portugal and the other Member States

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 251 (1) thereof,

Having regard to Council Regulation (EEC) No 3651/90 of 11 December 1990 laying down general rules for applying the supplementary trade mechanism to trade in fresh fruit and vegetables between Portugal and the other Member States<sup>(1)</sup>, and in particular Article 8 thereof,

Whereas pursuant to Council Regulation (EEC) No 3659/90 of 11 December 1990 on products subject to the supplementary trade mechanism during the second stage of Portuguese accession<sup>(2)</sup>, onions and garlic are subject to the supplementary trade mechanism (STM) from 1 January 1991;

Whereas Commission Regulation (EEC) No 3819/90<sup>(3)</sup>, amended by Regulation (EEC) No 172/91<sup>(4)</sup>, lays down detailed rules for the application of the supplementary trade mechanism to trade in fresh fruit and vegetables between Portugal and the other Member States;

Whereas, in accordance with Article 3 of Regulation (EEC) No 3651/90, the indicative ceilings provided for in Article 252 (1) of the Act of Accession should be laid down, for the products in question, for the periods during which the Portuguese market is to be considered sensitive within the meaning of Article 2 of that Regulation; whereas these ceilings must reflect a gradual increase in

trade flows between the Community as constituted at 31 December 1985 and Spain on the one hand and Portugal on the other;

Whereas the amount of the security relating to STM licences referred to in Article 4 of Regulation (EEC) No 3651/90 should be fixed so as to ensure the proper functioning of these arrangements;

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 onions and garlic falling within the codes listed in the Annex hereto the indicative ceilings provided for in Article 251 (1) of the Act of Accession and the sensitive periods for the Portuguese market, within the meaning of Article 2 of Regulation (EEC) No 3651/90 shall be as fixed in that Annex.

*Article 2*

The amount of the security for STM licences referred to in Article 4 (3) of Regulation (EEC) No 3651/90 is hereby fixed at ECU 8 per 100 kilograms net of the products referred to in Article 1.

*Article 3*

This Regulation shall enter into force on 1 June 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 362, 27. 12. 1990, p. 24.

<sup>(2)</sup> OJ No L 362, 27. 12. 1990, p. 38.

<sup>(3)</sup> OJ No L 366, 29. 12. 1990, p. 41.

<sup>(4)</sup> OJ No L 19, 25. 1. 1991, p. 13.

*ANNEX***Indicative ceilings provided for in Article 251 (3) of the Act of Accession**

| CN code    | Description of goods | Sensitive period     | Target ceiling<br>(tonnes) |
|------------|----------------------|----------------------|----------------------------|
| 0703 10 19 | Onions               | 1. 6. — 31. 10. 1991 | 5 700                      |
| 0703 20 00 | Garlic               | 1. 8. — 31. 12. 1991 | 1 000                      |

## COMMISSION REGULATION (EEC) No 1438/91

of 30 May 1991

fixing for the 1991/92 marketing year the reference prices for lemons

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3920/90<sup>(2)</sup>, 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 lemons are produced in such quantities in the Community that reference prices should be fixed for them;

Whereas lemons harvested during a given crop year are marketed from June to May of the next year; whereas reference prices should therefore be fixed for the period 1 June to 31 May of the following 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 Article 23 (2) (b) of the abovementioned Regulation 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 with regard to Article 23 (2) 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 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 1991/92 marketing year, the reference prices for fresh lemons (CN code 0805 30 10), expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

|                      |        |
|----------------------|--------|
| — June:              | 54,59, |
| — July and August:   | 60,82, |
| — September:         | 56,33, |
| — October:           | 50,57, |
| — November to April: | 47,15, |
| — May:               | 47,73. |

*Article 2*

This Regulation shall enter into force on 1 June 1991.

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 375, 31. 12. 1990, p. 17.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## COMMISSION REGULATION (EEC) No 1439/91

of 30 May 1991

fixing for the 1991/92 marketing year the Community offer prices for lemons  
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 <sup>(1)</sup> and (EEC) No 3648/90 <sup>(2)</sup> 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 <sup>(3)</sup>, lays down detailed rules for the application of the compensation mechanism to imports of fruit and vegetables from Spain;

Whereas, pursuant to Articles 152 and 318 of the Act of Accession, a compensation mechanism is to be introduced 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 lemons coming from Spain and Portugal should be fixed only during the period where reference prices are fixed with regard to third countries, this means from 1 June up to and including 31 May of the following year;

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 Community and bearing in mind developments in the costs of production in the fruit and vegetable sector; whereas the abovementioned producer prices correspond to the average prices recorded during the three years preceding the date of fixing of the Community offer price; whereas, however, the annual Community offer price cannot exceed the reference price applied for third countries;

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 Regulation (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 representative 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 established 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 fluctuations, it shall not be taken into account;

Whereas the application of the abovementioned criteria results in Community offer prices being fixed for lemons for the period 1 June 1991 to 31 May 1992 at the levels set out hereinafter;

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 1991/92 marketing year, the Community offer prices for lemons (CN code 0805 30 10) applicable with regard to Spain and Portugal, expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

|                      |        |
|----------------------|--------|
| — June:              | 40,82  |
| — July and August:   | 50,65  |
| — September:         | 56,23  |
| — October:           | 48,55  |
| — November to April: | 38,93  |
| — May:               | 36,37. |

## Article 2

This Regulation shall enter into force on 1 June 1991.

<sup>(1)</sup> OJ No L 363, 13. 12. 1989, p. 3.

<sup>(2)</sup> OJ No L 362, 27. 12. 1990, p. 16.

<sup>(3)</sup> OJ No L 366, 29. 12. 1990, p. 43.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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**COMMISSION REGULATION (EEC) No 1440/91****of 30 May 1991****amending Regulation (EEC) No 879/91 laying down detailed rules for urgent action for the supply of butter and skimmed-milk powder to Bulgaria and Romania and amending Regulation (EEC) No 569/88**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 597/91 of 5 March 1991 on urgent action for the supply of agricultural and medical products intended for the people of Romania and Bulgaria<sup>(1)</sup>, and in particular Article 5 thereof,

Whereas Commission Regulation (EEC) No 879/91<sup>(2)</sup> provides for certain time limits for effecting the supply of skimmed-milk powder and butter to Bulgaria; whereas, in order to make it easier for the recipient to take delivery of the products, the deadlines for the delivery of the products should be extended by 30 days;

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

*Article 1*

As regards the supply of skimmed-milk powder and butter to Bulgaria provided for in Article 1 (1) and (2) of Regulation (EEC) No 879/91, the dates '1 June 1991' and '1 July 1991' in Articles 2 (2) (e) and 5 (4) of that Regulation are hereby replaced by '1 July 1991' and '31 July 1991' respectively.

*Article 2*

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

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 67, 14. 3. 1991, p. 17.

<sup>(2)</sup> OJ No L 89, 10. 4. 1991, p. 28.

## COMMISSION REGULATION (EEC) No 1441/91

of 30 May 1991

reducing the basic price and buying-in price for peaches, nectarines and lemons  
for the period 1 to 16 June 1991 following the overrun of the intervention  
threshold for 1990/91

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<sup>(1)</sup>, as last amended by  
Regulation (EEC) No 3920/90<sup>(2)</sup>, and in particular Article  
16b (4) thereof,

Whereas Commission Regulation (EEC) No 1388/90<sup>(3)</sup>  
fixed the intervention thresholds for the 1990/91 market-  
ing year at 336 900 tonnes for peaches, 53 900 tonnes for  
nectarines and 390 400 tonnes for lemons;

Whereas Article 3 of Council Regulation (EEC) No  
1197/90 of 7 May 1990 laying down specific measures for  
the application of certain intervention thresholds in the  
fruit and vegetables sector for the 1990/91 marketing  
year<sup>(4)</sup> lays down that where the sum of the quantities of  
peaches, nectarines or lemons bought in in Portugal, on  
the one hand, and in the Community with the exception  
of Portugal, on the other hand, pursuant to Articles 15,  
15a, 15b, 19 and 19a of Regulation (EEC) No 1035/72  
during the 1990/91 marketing year exceeds the sum of  
the intervention thresholds fixed for that product, for all  
or part of the marketing year, the basic and buying-in  
prices fixed for that product for the 1991/92 marketing  
year are to be reduced in the case of peaches, nectarines  
and lemons by 1 % for every 23 000 tonnes, 3 000 tonnes  
and 11 200 tonnes respectively by which the intervention  
threshold is exceeded;

Whereas, pursuant to Article 2 (2) of Regulation (EEC) No  
1388/90, the overrun of the intervention threshold fixed  
for lemons for the 1990/91 marketing year is to be  
assessed on the basis of quantities bought in between 1  
March 1990 and 28 February 1991;

Whereas, pursuant to Article 2 of Council Regulation  
(EEC) No 1199/90 of 7 May 1990 amending Regulation  
(EEC) No 1035/77 laying down special measures to  
encourage the marketing of products processed from  
lemons and amending the rules for applying the interven-

tion threshold for lemons<sup>(5)</sup>, the quantities of lemons  
delivered for processing pursuant to Council Regulation  
(EEC) No 1035/77<sup>(6)</sup> are to be added to the quantities  
bought in for the purposes of assessing the overrun of the  
intervention threshold fixed for that product pursuant to  
Article 16b of Regulation (EEC) No 1035/72;

Whereas, on the basis of information supplied by the  
Member States, the intervention measures taken by the  
Community for the 1990/91 marketing year related to  
505 229 tonnes for peaches, 128 830 tonnes for nectarines  
and 466 744 tonnes for lemons; whereas the Commission  
therefore notes an overrun of the intervention thresholds  
fixed for that marketing year of 168 329 tonnes for  
peaches, 74 930 tonnes for nectarines and 76 344 tonnes  
for lemons;

Whereas consequently the basic and buying-in prices for  
peaches, nectarines and lemons for the period 1 to 16  
June 1991, as fixed by Council Regulation (EEC) No  
1355/91<sup>(7)</sup>, must be reduced for peaches by 7 %, for  
nectarines by 20 % and for lemons by 6 %;

Whereas, pursuant to Article 18b (2) of Regulation (EEC)  
No 1035/72, withdrawals in the territory of the former  
German Democratic Republic before the end of the  
1991/92 marketing year are not taken into consideration  
in assessing whether intervention thresholds have been  
exceeded;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The basic and buying-in prices for peaches, nectarines  
and lemons for the period 1 to 16 June 1991, as fixed by  
Regulation (EEC) No 1355/91, shall be reduced by 7 %  
for peaches, 20 % for nectarines and 6 % for lemons and  
shall be, in ecus per 100 kilograms net, as follows:

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 375, 31. 12. 1990, p. 17.

<sup>(3)</sup> OJ No L 133, 24. 5. 1990, p. 39.

<sup>(4)</sup> OJ No L 119, 11. 5. 1990, p. 57.

<sup>(5)</sup> OJ No L 119, 11. 5. 1990, p. 61.

<sup>(6)</sup> OJ No L 125, 19. 5. 1977, p. 3.

<sup>(7)</sup> OJ No L 130, 25. 5. 1991, p. 4.

for peaches :

- basic price : ECU 40,58 in Spain and ECU 42,26 in the other Member States,
- buying-in price : ECU 22,54 in Spain and ECU 23,47 in the other Member States ;

for nectarines :

- basic price : ECU 47,84,
- buying-in price : ECU 22,96 ;

for lemons :

- basic price : ECU 28,24 in Spain, ECU 30,68 in Portugal and ECU 40,18 in the other Member States,
- buying-in price : ECU 16,61 in Spain, ECU 17,96 in Portugal and ECU 23,59 in the other Member States.

These prices shall relate to :

- peaches of the following varieties : Amsden, Cardinal, Charles Ingouf, Dixired, Jeronimo, J.H. Hale, Merrill

Gemfree, Michelini, Red Haven, San Lorenzo, Springcrest and Springtime, quality class I, size 61 to 67 mm, put up in packages,

- nectarines of the following varieties : Armking, Crimsongold, Early Sun Grand, Fantasia, Independence, May Grand, Nectared, Snow Queen and Stark Red Gold, quality class I, size 61 to 67 mm, put up in packages,
- lemons of quality class I, size 53 to 62 mm, put up in packages.

These prices do not include the cost of the packaging in which the products are put up.

#### *Article 2*

This Regulation shall enter into force on 1 June 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

## COMMISSION REGULATION (EEC) No 1442/91

of 30 May 1991

fixing the minimum purchase price for lemons delivered to the processing industry and the financial compensation payable after processing thereof for the period 1 to 16 June 1991

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

*Article 1*

Having regard to Council Regulation (EEC) No 1035/77 of 17 May 1977 laying down special measures to encourage the marketing of products processed from lemons <sup>(1)</sup>, as last amended by Regulation (EEC) No 1199/90 <sup>(2)</sup>, and in particular Article 3 thereof,

For the period 1 to 16 June 1991, the minimum price referred to in Article 1 (3) of Regulation (EEC) No 1035/77 shall be as follows :

(ECU/100 kg net)

| Spain | Portugal | Other Member States |
|-------|----------|---------------------|
| 12,31 | 10,13    | 13,82               |

The minimum price shall refer to products ex-producers' packaging stations.

*Article 2*

Whereas, pursuant to Article 1 (3) of Regulation (EEC) No 1035/77, the minimum price which processors must pay to producers is fixed, as from the 1991/92 marketing year at 105 % of the average withdrawal price calculated in accordance with the first indent of Article 18 (1) (a) of Council Regulation (EEC) No 1035/72 <sup>(3)</sup>, as last amended by Regulation (EEC) No 3920/90 <sup>(4)</sup>; whereas the minimum prices for Spain and Portugal are fixed at 130 % and 105 % respectively of the average withdrawal prices applying in those Member States for the marketing year in question; whereas the minimum price must be fixed on the basis of the basic and buying-in prices fixed for the period 1 to 16 June 1991 by Council Regulation (EEC) No 1355/91 <sup>(5)</sup> and reduced by Commission Regulation (EEC) No 1441/91 <sup>(6)</sup>;

For the period 1 to 16 June 1991, the financial compensation referred to in Article 2 of Regulation (EEC) No 1035/77 shall be as follows :

(ECU/100 kg net)

| Spain | Portugal | Other Member States |
|-------|----------|---------------------|
| 6,29  | 4,11     | 7,8                 |

Whereas, pursuant to Article 2 of Regulation (EEC) No 1035/77, financial compensation cannot exceed the difference between the minimum purchase price referred to in Article 1 of that Regulation and the prices obtained for the raw material in producer third countries ;

Whereas the provisions applicable where a product harvested in Spain or Portugal is processed in another Member State should be specified on account of the different amounts fixed for those Member States ;

*Article 3*

The minimum price and the financial compensation applicable shall be those in force in the Member State where the product is harvested.

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

*Article 4*

This Regulation shall enter into force on 1 June 1991.

<sup>(1)</sup> OJ No L 125, 19. 5. 1977, p. 3.

<sup>(2)</sup> OJ No L 119, 11. 5. 1990, p. 61.

<sup>(3)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(4)</sup> OJ No L 375, 31. 12. 1990, p. 17.

<sup>(5)</sup> OJ No L 130, 25. 5. 1991, p. 4.

<sup>(6)</sup> See page 30 of this Official Journal.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## COMMISSION REGULATION (EEC) No 1443/91

of 30 May 1991

fixing for the period 11 to 16 June 1991 the maximum levels of the withdrawal price for tomatoes grown under glass

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 3920/90<sup>(2)</sup>, and in particular the last subparagraph of Article 18 (1) thereof,

Whereas the market in tomatoes grown under glass has different characteristics from those of the market in open-grown tomatoes; whereas tomatoes grown under glass are mainly 'Extra' class and class I products, the prices for which are considerably higher than those for open-grown products;

Whereas, in order to provide more effective support for the market in tomatoes grown under glass, producers' organizations or associations of such organizations should be allowed to fix their withdrawal price at a level higher than the Community withdrawal price; whereas, in accordance with the last subparagraph of Article 18 (1) of Regulation (EEC) No 1035/72, it appears that the maximum level of the withdrawal price for these products in the Community as constituted on 31 December 1985 can justifiably be fixed by applying to the prices fixed for the 1990 marketing year a variation of the same order as that applied by the Council when fixing the basic and buying-in prices for tomatoes for the period 11 to 16 June 1991;

Whereas a maximum withdrawal price must be fixed for Spain and Portugal for tomatoes grown under glass for the 1991 marketing year; whereas this maximum price can justifiably be fixed at 64,4 % and 82,1 % respectively of the maximum price applicable in the Community as

constituted on 31 December 1985 to produce a difference equal to that existing between the basic and buying-in prices applicable therein and those applicable in Spain and Portugal for the 1991 marketing year;

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 period 11 to 16 June 1991, producers' organizations or associations of such organizations may fix withdrawal prices not exceeding the following maxima, in ecus per 100 kilograms net, for tomatoes grown under glass:

|                               |            |
|-------------------------------|------------|
| — in Spain:                   | ECU 19,46, |
| — in Portugal:                | ECU 24,80, |
| — in the other Member States: | ECU 0,21.  |

*Article 2*

The producers' organizations shall supply the following information to the national authorities, who shall communicate it to the Commission:

- the period during which the withdrawal prices are applicable,
- the levels of the withdrawal prices proposed and applied.

*Article 3*

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, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 375, 31. 12. 1990, p. 17.

## COMMISSION REGULATION (EEC) No 1444/91

of 30 May 1991

opening invitations to tender for the fixing of aid for the private storage of  
carcasses and half-carcasses of lamb

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

Having regard to Council Regulation (EEC) No 3013/89  
of 25 September 1989 on the common organization of  
the market in sheepmeat and goatmeat <sup>(1)</sup>, as amended by  
Regulation (EEC) No 3577/90 <sup>(2)</sup>, and in particular Article  
7 (5) thereof,

Whereas Commission Regulation (EEC) No 3446/90 of  
27 November 1990 laying down detailed rules for grant-  
ing private storage aid for sheepmeat and goatmeat <sup>(3)</sup>  
provides in particular for detailed rules on the invitation  
to tender;

Whereas Commission Regulation (EEC) No 3447/90 of  
28 November 1990 on special conditions for the granting  
of private storage aid for sheepmeat and goatmeat <sup>(4)</sup>  
provides in particular the minimum quantities in respect  
of which a tender may be submitted;

Whereas the application of Article 7 (3) of Regulation  
(EEC) No 3013/89 results in the opening of invitations to  
tender for private storage aid;

Whereas that Article provides for the application of these  
measures on the basis of the situation of each quotation  
zone; whereas it is appropriate consequently to open  
tenders separately for each of the zones where the condi-  
tions are fulfilled;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Separate invitations to tender are opened in Great Britain,  
Denmark, Ireland, Northern Ireland, Germany, Spain and  
Portugal for aid to private storage for carcasses and half-  
carcasses of lamb.

Subject to the provisions of Regulation (EEC) No 3447/90  
tenders may be made to the intervention agencies of the  
Member States concerned.

*Article 2*

Tenders must be submitted not later than 2 p.m. on 17  
June 1991 to the relevant intervention agency.

*Article 3*

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, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 289, 7. 10. 1989, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 333, 30. 11. 1990, p. 39.

<sup>(4)</sup> OJ No L 333, 30. 11. 1990, p. 46.

## COMMISSION REGULATION (EEC) No 1445/91

of 30 May 1991

abolishing the corrective amount on the import of courgettes 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 <sup>(1)</sup>, 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 <sup>(2)</sup> lays down  
detailed rules for applying the said compensatory  
mechanism;

Whereas Commission Regulation (EEC) No 1375/91 <sup>(3)</sup>,  
introduces a corrective amount on imports of courgettes  
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; adjusted; whereas the said  
conditions require abolition of the corrective amount on  
imports of courgettes into the Community of Ten from  
Spain (except the Canary Islands),

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 1375/91 is hereby repealed.

*Article 2*

This Regulation shall enter into force on 31 May 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 363, 13. 12. 1989, p. 3.

<sup>(2)</sup> OJ No L 371, 20. 12. 1989, p. 28.

<sup>(3)</sup> OJ No L 130, 25. 5. 1991, p. 55.

## COMMISSION REGULATION (EEC) No 1446/91

of 30 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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 464/91 <sup>(2)</sup>, 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 <sup>(3)</sup>, as last amended by Regulation (EEC) No 1376/91 <sup>(4)</sup>;

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 <sup>(5)</sup>, as last amended by Regulation (EEC) No 2205/90 <sup>(6)</sup>,

- 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 29 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 31 May 1991.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 177, 1. 7. 1981, p. 4.

<sup>(2)</sup> OJ No L 54, 28. 2. 1991, p. 22.

<sup>(3)</sup> OJ No L 350, 14. 12. 1990, p. 68.

<sup>(4)</sup> OJ No L 130, 25. 5. 1991, p. 56.

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(6)</sup> OJ No L 201, 31. 7. 1990, p. 9.

## ANNEX

to the Commission Regulation of 30 May 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

| CN code    | Levy                 |
|------------|----------------------|
| 1701 11 10 | 40,46 <sup>(1)</sup> |
| 1701 11 90 | 40,46 <sup>(1)</sup> |
| 1701 12 10 | 40,46 <sup>(1)</sup> |
| 1701 12 90 | 40,46 <sup>(1)</sup> |
| 1701 91 00 | 42,85                |
| 1701 99 10 | 42,85                |
| 1701 99 90 | 42,85 <sup>(2)</sup> |

<sup>(1)</sup> 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).

<sup>(2)</sup> 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 1447/91

of 30 May 1991

fixing the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 3577/90<sup>(2)</sup>, and in particular the fourth subparagraph of Article 16 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds<sup>(3)</sup> provides that when refunds are being fixed, account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand, and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market;

Whereas Article 3 of Regulation (EEC) No 2746/75 defines the specific criteria to be taken into account when the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC<sup>(4)</sup>, as amended by Regulation (EEC) No 1607/71<sup>(5)</sup>;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to

vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas, if the refund system is to operate normally, refunds 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 Council Regulation (EEC) No 1676/85<sup>(6)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(7)</sup>;
- 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 it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

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

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

#### Article 2

This Regulation shall enter into force on 31 May 1991.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 353, 17. 12. 1990, p. 23.

<sup>(3)</sup> OJ No L 281, 1. 11. 1975, p. 78.

<sup>(4)</sup> OJ No 128, 27. 6. 1967, p. 2574/67.

<sup>(5)</sup> OJ No L 168, 27. 7. 1971, p. 16.

<sup>(6)</sup> OJ No L 94, 7. 4. 1989, p. 13.

<sup>(7)</sup> OJ No L 355, 18. 12. 1990, p. 10.

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

Done at Brussels, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX

to the Commission Regulation of 30 May 1991 fixing the export refunds on cereals fixing  
and on wheat or rye flour, groats and meal

| (ECU/tonne)    |                 |                  |
|----------------|-----------------|------------------|
| Product code   | Destination (°) | Amount of refund |
| 0709 90 60 000 | —               | —                |
| 0712 90 19 000 | —               | —                |
| 1001 10 10 000 | —               | —                |
| 1001 10 90 000 | 04              | 25,00            |
|                | 06              | 30,00            |
|                | 02              | 20,00            |
| 1001 90 91 000 | —               | —                |
| 1001 90 99 000 | 04              | 25,00            |
|                | 05              | 24,00            |
|                | 06              | 30,00            |
|                | 02              | 20,00            |
| 1002 00 00 000 | 03              | 25,00            |
|                | 05              | 24,00            |
|                | 02              | 20,00            |
| 1003 00 10 000 | —               | —                |
| 1003 00 90 000 | 04              | 25,00            |
|                | 06              | 30,00            |
|                | 02              | 20,00            |
| 1004 00 10 000 | —               | —                |
| 1004 00 90 000 | —               | —                |
| 1005 10 90 000 | —               | —                |
| 1005 90 00 000 | 03              | 65,00            |
|                | 02              | 0                |
| 1007 00 90 000 | —               | —                |
| 1008 20 00 000 | —               | —                |
| 1101 00 00 100 | 01              | 119,00           |
| 1101 00 00 130 | 01              | 105,00           |
| 1101 00 00 150 | 01              | 97,00            |
| 1101 00 00 170 | 01              | 90,00            |
| 1101 00 00 180 | 01              | 80,00            |
| 1101 00 00 190 | —               | —                |
| 1101 00 00 900 | —               | —                |
| 1102 10 00 600 | 01              | 119,00           |
| 1102 10 00 900 | —               | —                |
| 1103 11 10 100 | 01              | 150,00           |
| 1103 11 10 200 | 01              | 150,00           |
| 1103 11 10 500 | 01              | 0                |
| 1103 11 10 900 | 01              | 0                |
| 1103 11 90 100 | 01              | 119,00           |
| 1103 11 90 900 | —               | —                |

(<sup>1</sup>) The destinations are identified as follows :

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 05 Zone II (b),
- 06 The Soviet Union.

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*NB* : The zones are those defined in Commission Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977, p. 53), as last amended by Regulation (EEC) No 3049/89 (OJ No L 292, 11. 10. 1989, p. 10).

## COMMISSION REGULATION (EEC) No 1448/91

of 30 May 1991

## fixing the export refunds on rice and broken rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice<sup>(1)</sup>, as last amended by Regulation (EEC) No 1806/89<sup>(2)</sup>, and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 17 of Regulation (EEC) No 1418/76 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 1431/76 of 21 June 1976 laying down general rules for granting export refunds on rice and criteria for fixing the amount of such refunds<sup>(3)</sup>, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market;

Whereas Commission Regulation (EEC) No 1361/76<sup>(4)</sup> lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum;

Whereas Article 3 of Regulation (EEC) No 1431/76 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas a separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets;

Whereas the refund must be fixed at least once a month; whereas it may be altered in the intervening period;

Whereas, if the refund system is to operate normally, refunds 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 Council Regulation (EEC) No 1676/85<sup>(5)</sup>, as last amended by Regulation (EEC) No 2205/90<sup>(6)</sup>;
- 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 it follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto;

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*

The export refunds on the products listed in Article 1 of Regulation (EEC) No 1418/76 with the exception of those listed in paragraph 1 (c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 1 June 1991.

<sup>(1)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(2)</sup> OJ No L 177, 24. 6. 1989, p. 1.

<sup>(3)</sup> OJ No L 166, 25. 6. 1976, p. 36.

<sup>(4)</sup> OJ No L 154, 15. 6. 1976, p. 11.

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(6)</sup> 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, 30 May 1991.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX

to the Commission Regulation of 30 May 1991 fixing the export refunds on rice and broken rice

| Product code   | Destination (1) | (ECU/tonne)<br>Amount of refunds |
|----------------|-----------------|----------------------------------|
| 1006 20 11 000 | —               | —                                |
| 1006 20 13 000 | 01              | 188,32                           |
| 1006 20 15 000 | 01              | 188,32                           |
| 1006 20 17 000 | —               | —                                |
| 1006 20 92 000 | —               | —                                |
| 1006 20 94 000 | 01              | 188,32                           |
| 1006 20 96 000 | 01              | 188,32                           |
| 1006 20 98 000 | —               | —                                |
| 1006 30 21 000 | —               | —                                |
| 1006 30 23 000 | 01              | 188,32                           |
| 1006 30 25 000 | 01              | 188,32                           |
| 1006 30 27 000 | —               | —                                |
| 1006 30 42 000 | —               | —                                |
| 1006 30 44 000 | 01              | 188,32                           |
| 1006 30 46 000 | 01              | 188,32                           |
| 1006 30 48 000 | —               | —                                |
| 1006 30 61 000 | —               | —                                |
| 1006 30 63 100 | 01              | 235,40                           |
|                | 05              | 241,49                           |
|                | 06              | 246,40                           |
|                | 09              | 241,49                           |
|                | 12              | 246,40                           |
|                | 13              | 235,40                           |
|                |                 |                                  |
| 1006 30 63 900 | 01              | 235,40                           |
|                | 13              | 235,40                           |
| 1006 30 65 100 | 01              | 235,40                           |
|                | 05              | 241,49                           |
|                | 06              | 246,40                           |
|                | 09              | 241,49                           |
|                | 12              | 246,40                           |
|                | 13              | 235,40                           |
|                |                 |                                  |
| 1006 30 65 900 | 01              | 235,40                           |
|                | 13              | 235,40                           |
| 1006 30 67 100 | —               | —                                |
| 1006 30 67 900 | —               | —                                |
| 1006 30 92 000 | 07              | —                                |

(ECU / tonne)

| Product code   | Destination (1) | Amount of refunds |
|----------------|-----------------|-------------------|
| 1006 30 94 100 | 01              | 235,40            |
|                | 05              | 241,49            |
|                | 06              | 246,40            |
|                | 09              | 241,49            |
|                | 12              | 246,40            |
|                | 13              | 235,40            |
| 1006 30 94 900 | 01              | 235,40            |
|                | 07              | —                 |
|                | 13              | 235,40            |
| 1006 30 96 100 | 01              | 235,40            |
|                | 05              | 241,49            |
|                | 06              | 246,40            |
|                | 09              | 241,49            |
|                | 12              | 246,40            |
|                | 13              | 235,40            |
| 1006 30 96 900 | 01              | 235,40            |
|                | 07              | —                 |
|                | 13              | 235,40            |
| 1006 30 98 100 | —               | —                 |
| 1006 30 98 900 | —               | —                 |
| 1006 40 00 000 | —               | —                 |

(1) The destinations are identified as follows:

- 01 Austria, Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italia,
- 02 Third countries other than Austria, Liechtenstein, Switzerland and the communes of Livigno and Campione d'Italie,
- 03 Zone I,
- 04 Third countries other than Austria, Liechtenstein, Switzerland, the communes of Livigno and Campione d'Italie and countries of zone I,
- 05 Zones I, II, III and VI,
- 06 Zones IV a), IV b), V a), VII a) and VIII excluding Surinam, de Guyana and Madagascar,
- 07 Bulgaria and Romania,
- 08 Zone VI,
- 09 Canary Islands, Ceuta and Melilla,
- 10 Zone V a),
- 11 Zone VII c),
- 12 Canada,
- 13 Destinations mentioned in Article 34 of Commission Regulation (EEC) No 3665/87 (OJ No L 351, 14. 12. 1987, p. 1),
- 14 Zone VIII, except Surinam, Guyana and Madagascar,
- 15 Zones I, II, III, IV, V, VI and VIII, except Surinam, Guyana and Madagascar.

NB: The zones are those defined in the Annex to Commission Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977, p. 35), as last amended by Regulation (EEC) No 3049/89 (JO No L 292, 11. 10. 1989, p. 10).