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Commission

91/507/EEC :

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2799/91**of 25 September 1991****fixing the import levies on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 3577/90⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2661/91⁽⁵⁾ and subsequent amending Regulations;

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

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

the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 24 September 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 2661/91 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 26 September 1991.

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

Done at Brussels, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 250, 7. 9. 1991, p. 1.

ANNEX

to the Commission Regulation of 25 September 1991 fixing the import levies on cereals
and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levy
0709 90 60	133,94 ⁽²⁾ ⁽³⁾
0712 90 19	133,94 ⁽²⁾ ⁽³⁾
1001 10 10	176,93 ⁽¹⁾ ⁽³⁾
1001 10 90	176,93 ⁽¹⁾ ⁽³⁾
1001 90 91	154,06
1001 90 99	154,06
1002 00 00	160,11 ⁽⁶⁾
1003 00 10	138,01
1003 00 90	138,01
1004 00 10	119,80
1004 00 90	119,80
1005 10 90	133,94 ⁽²⁾ ⁽³⁾
1005 90 00	133,94 ⁽²⁾ ⁽³⁾
1007 00 90	142,98 ⁽⁴⁾
1008 10 00	50,12
1008 20 00	120,92 ⁽⁴⁾
1008 30 00	50,30 ⁽⁷⁾
1008 90 10	⁽⁷⁾
1008 90 90	50,30
1101 00 00	228,69 ⁽⁸⁾
1102 10 00	238,17 ⁽⁸⁾
1103 11 10	287,37 ⁽⁸⁾
1103 11 90	246,65 ⁽⁸⁾

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

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 2800/91

of 25 September 1991

fixing the premiums to be added to the import levies on cereals, flour and malt

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 3577/90 ⁽²⁾, and in particular Article 15 (6) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1845/91 ⁽⁵⁾ and subsequent amending Regulation;

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

— in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Regulation (EEC) No 1676/85,

— for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 24 September 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 26 September 1991.

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

Done at Brussels, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 168, 29. 6. 1991, p. 4.

ANNEX

to the Commission Regulation of 25 September 1991 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 9	1st period 10	2nd period 11	3rd period 12
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0,18	0,18	0
1001 10 90	0	0,18	0,18	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	2,16	2,16	3,59
1004 00 90	0	2,16	2,16	3,59
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

CN code	(ECU/tonne)				
	Current 9	1st period 10	2nd period 11	3rd period 12	4th period 1
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 2801/91**of 24 September 1991****establishing unit values for the determination of the customs value of certain perishable goods**

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

Having regard to Commission Regulation (EEC) No 1577/81 of 12 June 1981 establishing a system of simplified procedures for the determination of the customs value of certain perishable goods ⁽¹⁾, as last amended by Regulation (EEC) No 3334/90 ⁽²⁾, and in particular Article 1 thereof,

Whereas Article 1 of Regulation (EEC) No 1577/81 provides that the Commission shall periodically establish unit values for the products referred to in the classification in the Annex;

Whereas the result of applying the rules and criteria laid down in that same Regulation to the elements communicated to the Commission in accordance with Article 1 (2)

of that Regulation is that the unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 1 (1) of Regulation (EEC) No 1577/81 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 September 1991.

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

Done at Brussels, 24 September 1991.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 154, 13. 6. 1981, p. 26.

⁽²⁾ OJ No L 321, 21. 11. 1990, p. 6.

ANNEX

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ IrI	Lit	Fl	£
1.10	0701 90 51 0701 90 59	New potatoes	56,54	2 391	448,47	116,16	393,69	12 706	43,41	86 438	130,84	39,51
1.20	0702 00 10 0702 00 90	Tomatoes	38,45	1 623	304,23	78,80	268,45	8 752	29,49	58 977	88,81	26,93
1.30	0703 10 19	Onions (other than seed)	18,15	766	143,60	37,19	126,72	4 131	13,92	27 839	41,92	12,71
1.40	0703 20 00	Garlic	241,92	10 217	1 914,10	495,81	1 689,03	55 070	185,56	371 064	558,79	169,44
1.50	ex 0703 90 00	Leeks	31,69	1 342	249,61	65,25	221,05	7 103	24,39	48 368	73,54	22,07
1.60	ex 0704 10 10 ex 0704 10 90	Cauliflowers	111,88	4 727	881,91	229,55	781,19	24 749	86,13	171 354	258,72	78,54
1.70	0704 20 00	Brussels sprouts	53,72	2 267	423,88	110,06	374,08	11 735	41,29	82 719	124,09	37,72
1.80	0704 90 10	White cabbages and red cabbages	23,05	975	182,88	47,36	160,54	5 181	17,70	35 248	53,35	16,11
1.90	ex 0704 90 90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> var. <i>italica</i>)	65,16	2 755	516,83	133,86	453,71	14 643	50,03	99 614	150,79	45,53
1.100	ex 0704 90 90	Chinese cabbage	48,42	2 050	382,57	99,63	337,79	10 913	37,24	73 939	112,24	33,73
1.110	0705 11 10 0705 11 90	Cabbage lettuce (head lettuce)	65,45	2 767	519,12	134,46	455,72	14 708	50,25	100 055	151,46	45,73
1.120	ex 0705 29 00	Endives	45,32	1 923	357,88	93,59	315,84	10 133	34,99	69 174	105,45	31,22
1.130	ex 0706 10 00	Carrots	32,74	1 384	259,75	67,27	228,02	7 359	25,14	50 064	75,78	22,88
1.140	ex 0706 90 90	Radishes	54,33	2 302	429,62	111,96	379,00	12 152	41,89	83 107	126,19	37,58
1.150	0707 00 11 0707 00 19	Cucumbers	48,95	2 067	387,32	100,33	341,78	11 143	37,55	75 086	113,07	34,28
1.160	0708 10 10 0708 10 90	Peas (<i>Pisum sativum</i>)	177,91	7 514	1 407,65	364,62	1 242,13	40 499	136,46	272 885	410,94	124,61
1.170		Beans :										
1.170.1	0708 20 10 0708 20 90	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.)	110,44	4 671	877,75	227,02	769,50	24 775	84,86	168 853	255,66	76,95
1.170.2	0708 20 10 0708 20 90	Beans (<i>Phaseolus</i> ssp., <i>vulgaris</i> var. <i>Compressus Savi</i>)	86,96	3 672	688,79	178,47	606,54	19 724	66,72	133 437	201,07	60,90
1.180	ex 0708 90 00	Broad beans	40,17	1 701	317,44	82,67	280,28	9 055	30,90	61 351	93,13	27,99
1.190	0709 10 00	Globe artichokes	76,11	3 221	598,42	156,61	531,31	17 132	58,50	116 646	176,44	52,84
1.200		Asparagus :										
1.200.1	ex 0709 20 00	— green	502,37	21 217	3 974,78	1 029,59	3 507,40	114 357	385,34	770 543	1 160,37	351,85
1.200.2	ex 0709 20 00	— other	302,03	12 787	2 386,34	621,48	2 107,02	68 076	232,31	461 204	700,14	210,44
1.210	0709 30 00	Aubergines (egg-plants)	60,41	2 551	477,97	123,80	421,77	13 751	46,33	92 658	139,53	42,31
1.220	ex 0709 40 00	Ribbed celery (<i>Apium graveolens</i> var. <i>dulce</i>)	63,90	2 705	504,88	131,48	445,78	14 403	49,15	97 577	148,13	44,52
1.230	0709 51 30	Chantarelles	453,04	19 134	3 584,48	928,49	3 162,98	103 128	347,50	694 879	1 046,43	317,30
1.240	0709 60 10	Sweet peppers	68,57	2 896	542,54	140,53	478,75	15 609	52,59	105 177	158,38	48,02
1.250	0709 90 50	Fennel	151,15	6 399	1 194,24	311,01	1 054,46	34 069	116,26	230 809	350,38	105,31
1.260	0709 90 70	Courgettes	59,97	2 536	475,68	123,20	417,58	13 477	46,05	91 683	138,78	41,91
1.270	ex 0714 20 10	Sweet potatoes, whole, fresh (intended for human consumption)	72,78	3 080	573,11	149,64	502,35	15 180	55,82	112 490	168,76	50,99
2.10	ex 0802 40 00	Chestnuts (<i>Castanea</i> spp.), fresh	87,98	3 716	694,15	180,34	612,04	18 967	67,47	135 667	203,31	61,65
2.20	ex 0803 00 10	Bananas (other than plantains), fresh	37,46	1 582	296,43	76,78	261,57	8 528	28,73	57 466	86,54	26,24
2.30	ex 0804 30 00	Pineapples, fresh	33,61	1 419	265,95	68,88	234,68	7 651	25,78	51 557	77,64	23,54
2.40	ex 0804 40 10 ex 0804 40 90	Avocados, fresh	123,16	5 202	974,52	252,43	859,93	28 037	94,47	188 918	284,49	86,26

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
2.50	ex 0804 50 00	Guavas and mangoes, fresh	119,64	5053	946,62	245,20	835,31	27 235	91,77	183 511	276,35	83,79
2.60		Sweet oranges, fresh :										
2.60.1	0805 10 11 0805 10 21 0805 10 31 0805 10 41	— Sanguines and semi-sanguines	33,11	1 399	262,75	67,94	231,20	7 461	25,42	50 719	76,60	23,11
2.60.2	0805 10 15 0805 10 25 0805 10 35 0805 10 45	— Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovalis, Trovita and Hamlins	42,35	1 788	335,11	86,80	295,70	9 641	32,48	64 963	97,83	29,66
2.60.3	0805 10 19 0805 10 29 0805 10 39 0805 10 49	— Others	31,71	1 339	250,92	64,99	221,41	7 219	24,32	48 642	73,25	22,21
2.70		Mandarins (including tangerines and satsumas), fresh ; clementines, wilkings and similar citrus hybrids, fresh :										
2.70.1	ex 0805 20 10	— Clementines	52,29	2 207	414,15	107,31	364,70	11 860	40,12	80 233	120,90	36,61
2.70.2	ex 0805 20 30	— Monreales and Satsumas	89,26	3 774	707,98	183,37	621,51	20 059	68,53	136 456	206,56	62,37
2.70.3	ex 0805 20 50	— Mandarins and wilkings	100,89	4 271	797,16	207,60	703,86	22 741	77,60	154 067	233,88	70,29
2.70.4	ex 0805 20 70 ex 0805 20 90	— Tangerines and others	52,98	2 237	419,23	108,59	369,93	12 061	40,64	81 271	122,38	37,11
2.80	ex 0805 30 10	Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>), fresh	49,12	2 074	388,70	100,68	342,99	11 183	37,68	75 353	113,47	34,40
2.85	ex 0805 30 90	Limes (<i>Citrus aurantifolia</i>), fresh	109,40	4 620	865,64	224,22	763,85	24 905	83,92	167 811	252,71	76,62
2.90		Grapefruit, fresh :										
2.90.1	ex 0805 40 00	— white	67,20	2 838	531,69	137,72	469,17	15 297	51,54	103 073	155,22	47,06
2.90.2	ex 0805 40 00	— pink	77,21	3 261	610,96	158,25	539,12	17 577	59,23	118 440	178,36	54,08
2.100	0806 10 11 0806 10 15 0806 10 19	Table grapes	68,88	2 909	545,04	141,18	480,95	15 681	52,83	105 660	159,11	48,24
2.110	0807 10 10	Water-melons	13,48	569	106,69	27,63	94,15	3 069	10,34	20 684	31,14	9,44
2.120		Melons (other than water-melons) :										
2.120.1	ex 0807 10 90	— Amarillo, Cuper, Honey dew (including Cantalene), Onteniente, Piel de Sapo (including Verde Liso), Rochet, Tendral, Futuro	32,74	1 382	259,04	67,10	228,58	7 452	25,11	50 218	75,62	22,93
2.120.2	ex 0807 10 90	— other	78,00	3 294	617,17	159,86	544,60	17 756	59,83	119 644	180,17	54,63
2.130	0808 10 91 0808 10 93 0808 10 99	Apples	71,94	3 038	569,23	147,44	502,29	16 377	55,18	110 349	166,17	50,39
2.140		Pears										
2.140.1	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Pears — Nashi (<i>Pyrus pyrifolia</i>)	91,95	3 889	730,80	189,02	640,67	20 627	70,66	140 584	212,85	64,07
2.140.2	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Other	79,55	3 360	629,46	163,05	555,44	18 110	61,02	122 026	183,76	55,72
2.150	0809 10 00	Apricots	25,50	1 078	202,14	52,37	177,93	5 786	19,58	39 065	58,99	17,80
2.160	0809 20 10 0809 20 90	Cherries	90,53	3 825	718,45	185,77	632,16	20 401	69,52	138 679	209,44	63,20
2.170	ex 0809 30 00	Peaches	70,90	2 997	562,03	145,62	494,72	16 089	54,45	108 614	164,02	49,49

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
2.180	ex 0809 30 00	Nectarines	82,65	3 490	653,93	169,38	577,04	18 814	63,39	126 770	190,90	57,88
2.190	0809 40 11 0809 40 19	Plums	50,76	2 143	401,62	104,03	354,39	11 555	38,93	77 858	117,24	35,55
2.200	0810 10 10 0810 10 90	Strawberries	112,79	4 769	894,61	231,71	785,35	25 346	86,60	172 427	261,01	78,82
2.205	0810 20 10	Raspberries	1 336,1	56 503	10 597,8	2 745,00	9 303,49	300 265	1 025,9	2 042 614	3 092,02	933,75
2.210	0810 40 30	Fruit of the species <i>Vaccinium myrtillus</i>	136,31	5 755	1 079,64	279,74	950,71	30 917	104,59	209 154	315,16	95,45
2.220	0810 90 10	Kiwi fruit (<i>Actinidia chinensis</i> Planch.)	166,22	7 020	1 315,17	340,66	1 160,52	37 838	127,50	254 956	383,94	116,42
2.230	ex 0810 90 80	Pomegranates	59,47	2 511	470,56	121,88	415,22	13 538	45,61	91 221	137,37	41,65
2.240	ex 0810 90 80	Khakis (including Sharon fruit)	295,15	12 465	2 335,24	604,90	2 060,65	67 186	226,39	452 705	681,74	206,72
2.250	ex 0810 90 30	Lychees	329,14	13 901	2 604,20	674,56	2 297,98	74 924	252,46	504 846	760,25	230,53

COMMISSION REGULATION (EEC) No 2802/91

of 25 September 1991

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 464/91 ⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar ⁽³⁾, as last amended by Regulation (EEC) No 1489/76 ⁽⁴⁾, provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 3 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar ⁽⁵⁾; whereas, furthermore, this refund should be fixed in accordance with Article 5 (2) of Regulation (EEC) No 766/68; whereas candy sugar is defined in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar ⁽⁶⁾, as last amended by Regulation (EEC) No 1714/88 ⁽⁷⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

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 subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁸⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁹⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

Whereas it follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund 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 Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 September 1991.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 152, 18. 6. 1988, p. 23.

⁽⁸⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁹⁾ 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, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 25 September 1991 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	33,62 ⁽¹⁾	
1701 11 90 910	33,44 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	33,62 ⁽¹⁾	
1701 12 90 910	33,44 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3655
1701 99 10 100	36,55	
1701 99 10 910	36,64	
1701 99 10 950	34,14	
1701 99 90 100		0,3655

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

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

COMMISSION REGULATION (EEC) No 2803/91

of 25 September 1991

fixing the export refunds on olive oil

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1720/91⁽²⁾,

Having regard to Council Regulation (EEC) No 1650/86 of 26 May 1986 on export refunds and levies on olive oil⁽³⁾, and in particular the first sentence of Article 3 (1) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 20 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Regulation (EEC) No 1650/86 and Commission Regulation (EEC) No 616/72⁽⁴⁾, as last amended by Regulation (EEC) No 2962/77⁽⁵⁾;

Whereas the first indent of Article 2 of Regulation (EEC) No 1650/86 provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 4 of Regulation (EEC) No 1650/86, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market;

Whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period;

Whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 5 of Regulation (EEC) No 1650/86, it may be decided that the refund shall be fixed by tender;

Whereas the tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 2 of Regulation (EEC) No 1650/86 provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas Article 3 (1) of Regulation (EEC) No 1650/86 provides that the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

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⁽⁶⁾, as last amended by Regulation (EEC) No 2205/90⁽⁷⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 October 1991.

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 78, 31. 3. 1972, p. 1.

⁽⁵⁾ OJ No L 348, 30. 12. 1977, p. 53.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ 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, 25 September 1991.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX

to the Commission Regulation of 25 September 1991 fixing the export refunds on olive oil

(ECU/100 kg)

Product code	Amount of refund ⁽¹⁾
1509 10 90 100	11,00
1509 10 90 900	0,00
1509 90 00 100	24,00
1509 90 00 900	0,00
1510 00 90 100	1,50
1510 00 90 900	0,00

⁽¹⁾ For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ No L 351, 14. 12. 1987, p. 1), as well as for exports to third countries.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EEC) No 2804/91

of 25 September 1991

fixing the maximum export refunds on olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3192/90

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

Having regard to Council Regulation (EEC) No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EEC) No 1720/91 ⁽²⁾,

Having regard to Council Regulation (EEC) No 1650/86 of 26 May 1986 on the refunds and levies applicable to exports of olive oil ⁽³⁾, and in particular Article 7 thereof,

Whereas Commission Regulation (EEC) No 3192/90 ⁽⁴⁾, as amended by Regulation (EEC) No 1665/91 ⁽⁵⁾, issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Article 6 of Regulation (EEC) No 3192/90 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the above-mentioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3192/90 are hereby fixed in the Annex, on the basis of the tenders submitted by 23 September 1991.

Article 2

This Regulation shall enter into force on 26 September 1991.

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

Done at Brussels, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 304, 1. 11. 1990, p. 96.

⁽⁵⁾ OJ No L 151, 15. 6. 1991, p. 62.

ANNEX

to the Commission Regulation of 25 September 1991 fixing the maximum export refunds on olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3192/90

<i>(ECU/100 kg)</i>	
Product code	Amount of refund
1509 10 90 100	15,00
1509 10 90 900	—
1509 90 00 100	30,00
1509 90 00 900	—
1510 00 90 100	3,00
1510 00 90 900	—

NB: The products codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1).

COMMISSION REGULATION (EEC) No 2805/91

of 23 September 1991

imposing a provisional anti-dumping duty on imports into the Community of
certain thermal paper originating in Japan

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Whereas :

A. PROCEDURE

- (1) In October 1990, the Commission received a written complaint lodged by Wiggins Teape Thermal Papers Limited which represents a major proportion of the Community production of thermal paper. The complaint contained evidence of dumping of the product concerned originating in Japan and of material injury resulting therefrom. This evidence was considered sufficient to justify the initiation of a proceeding.
- (2) The Commission accordingly announced by means of a notice published in the *Official Journal of the European Communities*⁽²⁾ the initiation of an anti-dumping proceeding concerning imports into the Community of certain thermal paper originating in Japan, falling within CN codes ex 3703 90 90 and ex 4810 11 90, and commenced an investigation.
- (3) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainants. Parties directly concerned were given the opportunity to make their views known in writing and to request a hearing.
- (4) Several known importers, exporters and producers in Japan made their views known in writing. Renker GmbH & Co. KG, a Community producer, also made its views known in writing. However, this information could not be taken into considera-

tion because it was submitted outside the deadline set in the notice of initiation and thus to do so would have unduly delayed the conduct of the investigation.

Moreover, five out of nine known producers in Japan did not provide the necessary information requested by the Commission. Submissions and representations were also made by some Community processors of the product concerned.

Several producers/exporters requested and were granted hearings.

- (5) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following :

(a) *Community producer*

— Wiggins Teape Thermal Papers Ltd,
Lincoln, United Kingdom ;

(b) *Producers/exporters in Japan*

— Producers

Jujo Paper Co. Ltd, Tokyo,
Kanzaki Paper Manufacturing Co. Ltd,
Tokyo,
Mitsubishi Paper Mills Ltd, Tokyo,
Tomoegawa Paper Co. Ltd, Tokyo,

— Exporters

Japan Pulp and Paper Company Ltd, Tokyo,
Marubeni Corporation, Tokyo,
Mitsubishi Corporation, Tokyo,
Mitsui and Company Ltd, Toyko ;

(c) *Importers in the Community*

— Germany Mitsubishi International
GmbH, Düsseldorf,
Japan Pulp and Paper
GmbH, Düsseldorf,
— Netherlands Tomoegawa Europe BV,
Amsterdam,
— United Kingdom Mitsubishi Corporation,
London.

- (6) The Commission requested and received detailed written and oral submissions from the complainant Community producer, from four out of nine known producers in Japan and from the exporters and

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No C 16, 24. 1. 1991, p. 3.

importers mentioned above. The other five known producers in Japan chose not to reply to the Commission's questionnaire, although one of them asked for, and was granted, a hearing.

- (7) The investigation concerning dumping covered the period from 1 April to 31 December 1990 (investigation period).

B. PRODUCT UNDER CONSIDERATION, LIKE PRODUCT

- (8) The notice of initiation of this proceeding referred to 'thermal paper coated with chemicals which react to the application of heat by displaying an image and is destined to be used in machines which transmit and receive documents electronically and which print facsimiles of the documents'. The investigation showed, however, that thermal paper other than that destined to be used in telefax machines is also capable of being used in such machines since the basic physical characteristics of this paper are identical to the paper destined for telefax machines. Nevertheless, for the purposes of the imposition of a provisional anti-dumping duty the product concerned is taken to be thermal paper destined to be used in telefax machines (hereinafter called 'fax paper').

- (9) Fax paper can be presented in two different forms, namely 'jumbo reels' and 'coils'. In general, jumbo reels are large bulk rolls which ultimately are 'converted' (i.e. slit, cut, etc.) into smaller sizes (coils). The coils are then capable of being used directly in fax machines.

Both jumbo reels and coils are available in different grades. All grades are considered to be like products.

- (10) One Japanese producer claimed that jumbo reels are different from coils and they should therefore be considered as constituting two separate products.

The investigation, however, showed that the only differences between fax paper in coils and in jumbo reels is the result of the splitting and cutting process and that the jumbo reels are therefore already at a very late stage of the production process of thermal paper. Moreover, the thermal paper does not undergo any change to its basic technical characteristics. The product itself, as fax paper, remains the same. Therefore, both presentations of thermal paper should be considered as forming one product for the purpose of the provisional proceeding.

- (11) The product produced and sold by the Community industry has the same characteristics, same difference in grades and is in all its properties equivalent to the product originating in Japan.

- (12) The Commission considered, therefore, that the fax paper produced and sold by the Community manufacturers either in jumbo reels or in coils forms one single category of product and, within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88, constitutes a product alike in all respects to the product imported from Japan.

C. DUMPING

1. General

- (13) The Japanese producers/exporters of fax paper use a variety of sales and distribution channels for domestic sales as well as for exports.

On the domestic market most producers sell through related companies. For exports, however, so-called 'trading houses' often serve as intermediate companies, although the producers almost always know the foreign destination of the goods.

2. Normal value

- (14) Normal value was provisionally determined for the product sold on the Japanese market on the basis of fax paper which was identical to the best-selling grades (i.e. those accounting for at least 70 % by volume of each company's exports), shipped to the Community during the investigation period.

The normal value for the production companies was determined on the basis of the weighted average prices of sales of fax paper on the domestic market to the first unrelated buyer, net of all discounts and rebates directly linked to such sales. It was established whether these sales were made in the normal course of trade and whether the volume of such sales was equivalent to at least 5 % of the export volume to the Community for the type concerned.

Where the volume of domestic sales of a particular type was less than 5 % of the volume exported to the Community, the Japanese domestic selling price of a comparable type was, wherever possible, taken as the basis for normal value.

- (15) However, where :

— the Japanese domestic selling price of an identical or comparable type was less than the cost of production of the identical type, or

- the quantity of the comparable type sold on the Japanese market was less than 5 % of the quantity of the type exported to the Community,

normal value was constructed on the basis of the cost of manufacture of the type sold domestically plus an amount for selling, general and administrative expenses calculated by reference to the expenses incurred by the producer, plus an average actual profit of 18 % calculated by reference to the profitable sales of like products by the producer or, where warranted, by other producers in the country of origin. This profit was considered reasonable since it was based on actual profit achieved by the Japanese producers investigated.

3. Export price

- (16) In the case of sales made by the producers (or their related trading houses in Japan) to related subsidiaries in the Community, export prices were constructed on the basis of resale prices to the first independent buyer in the Community, adjusted to take account of all costs incurred between importation and resale, including customs duties and a profit margin of 6 %. For the purpose of provisional findings and in the light of profits achieved for similar products, this percentage was considered reasonable.
- (17) In the case of sales made by the producers (or their related trading houses in Japan) directly to unrelated customers in the Community, export prices were established on the basis of the prices paid or payable by the importer net of all taxes, discounts and rebates.
- (18) Allowances for transport, packing and handling necessary for constructing exporters' prices were, in view of the nature of the product, made on a quantity basis. Allowances for selling, general and administrative costs (SGA) were based on turnover. Discounts or rebates, given by the related importer to an independent buyer, were also taken into account when constructing export prices.

4. Comparison

- (19) For the purpose of a fair comparison between normal value and export price and in accordance with Article 2 (10) (c) of Regulation (EEC) No

2423/88, adjustments have been made to both normal values and export prices in order to take account of selling expenses mentioned in Article 2 (10) and enable them to be compared at the same level of trade. Certain companies claimed allowances for general overheads and expenses. Consistent with the provisions of Article 2 (9) of the abovementioned Regulation, no allowance was made for such expenses if a direct relationship to the sales under consideration could not be satisfactorily demonstrated.

Normal value for the domestically sold types were compared with the export price of comparable types on a transaction-by-transaction basis.

5. Dumping margins

- (20) The dumping margins were calculated as being the total amount by which the normal values exceeded the prices for exports to the Community.
- (21) The margins of dumping established and expressed as a percentage of the total cif value of the imports were as follows :

Jujo Paper Co. Ltd, Tokyo	0,0 %,
Kanzaki Paper Manufacturing Co. Ltd, Tokyo	10,3 %,
Mitsubishi Paper Mills Ltd, Tokyo	24,7 %,
Tomoegawa Paper Co. Ltd, Tokyo	24,8 %.
- (22) This case has been characterized by the non-cooperation of a significant proportion of the Japanese companies concerned. The Commission has therefore had serious doubts as to whether the results of the dumping investigation for the four producers who cooperated were really representative for the other production companies. In these circumstances, the Commission considered that it would not be appropriate to apply the dumping margins found for the cooperating firms to those companies which did not cooperate.
- (23) Therefore, for those producers which did not reply to the Commission's questionnaire, in accordance with Article 7 (7) of Regulation (EEC) No 2423/88 the Commission established the dumping margin on the basis of the facts available.

In this case, for the provisional findings, it was considered that the data contained in the complaint provided the most reasonable basis for establishing the dumping margin, and is therefore fixed at 55,3 %.

D. INJURY**1. Volume of Community market and market shares of dumped imports**

- (24) In view of the high degree of non-cooperation by the Japanese companies, all figures such as import volumes, values and market share are, by necessity, estimates. To arrive at these estimated figures, the Commission has taken into account the results of independent market studies.
- (25) As regards market volume, estimated consumption of fax paper in the Community showed a rapid rise from 5 500 tonnes in 1987 to 35 000 tonnes in 1990 (six-month figure projected to a full year), an increase of 536 %.
- (26) Estimated dumped imports of fax paper of Japanese origin rose from 1 725 tonnes in 1987 to 23 750 tonnes in 1990, an increase of 1 276 %. It should be noted, however, that approximately half of this increase occurred between 1989 and the investigation period. This development represents a rise in market share held by the dumped imports from 31 % in 1987 to 68 % in 1990, an increase of 119 %.

2. Resale prices of imports and undercutting

- (27) As regards the prices of dumped imports in the Community, the Commission noted that these dropped by approximately 30 % during the period January to December 1990.
- (28) With regard to price undercutting, the Commission compared the exporters' and the Community producers' weighted average selling prices, free of all rebates and taxes, calculated on the basis of sales to the first unrelated customer. The Community average selling price was then compared to the corresponding figures for each exporter concerned on the basis of their resale prices in the Community and weighted in respect of sales volume.
- (29) One exporter raised the question of price comparison at resale level to the first independent buyer in the Community. It was argued that its sales (coils of fax paper) were not made at the same level of trade as that of the complainant (jumbo reels). The Commission, in order to ensure a fair comparison, adjusted the sales price of coils to those of the level of jumbo reels by taking into account all the conversion related costs and profits. Also, the diffe-

rence in level of trade has been taken into account in the adjustments.

Using these methods of comparison, the Commission found that during the investigation period sales prices of fax paper of Japanese origin undercut those of the Community industry by up to 22,8 %.

3. Situation of Community industry**(a) Production, capacity, utilization rate and stocks**

- (30) The Commission established that the Community output of fax paper increased overall between 1987 and 1990, however, taking 1989 and the investigation period in isolation, it dropped by 8,5 %.
- (31) The total capacity of the Community industry between 1987 and the investigation period showed an increase. Total capacity utilization, however, dropped considerably.
- (32) No major changes in stock levels were observed between 1987 and the investigation period.

(b) Sales

- (33) Between 1987 and the investigation period, the sales volume of the Community industry rose by 255 %. However, this increase was not in line with the much higher growth rate of the Community market (see recital 25). Moreover, between 1989 and the investigation period, the sales increase by volume of the Community industry was only 3 % whereas the total Community market showed a growth of 39 %.

(c) Market share

- (34) The absence in the investigation of the relevant data from the majority of Japanese producers made estimates of the total size of the Community market necessary. On this basis, the market share of the complainant dropped by approximately 4 % between 1989 and the investigation period.

(d) Prices

- (35) Sales prices of the Community industry went steadily downwards between 1989 and the end of 1990. The Community industry was only able to limit its loss of market share by matching the prices being set in the market by the dumped imports. Using the index 1989 — 100 as a basis, prices of the Community products in question were 71 during the investigation period.

(e) Profitability

- (36) The Commission found that the financial results of the Community industry deteriorated between 1989 and the investigation period. Until the end of 1989, the Community industry was running at profit levels which were considered reasonable. However, the severe drop in prices which started at the end of 1989 led to substantial losses being sustained during the investigation period.

4. Conclusion on injury

- (37) In view of the above factors, the Commission considers that the Community industry has suffered material injury within the meaning of Article 4 (1) of Regulation (EEC) No 2423/88, mainly in the form of reduced profits and loss of market share caused by price depression and undercutting.

E. CAUSALITY**1. Effects of dumped imports**

- (38) The Commission's investigation showed that growth of dumped imports at continuously decreasing prices coincided with the deterioration of the Community industry's prices. Given the price transparency of the market, these low prices of the Japanese exports clearly had a depressive effect on the price levels of the Community industry. In addition, as the Community industry was unable to lower its prices further in order to match those being set in the market by the dumped imports in question, it lost market share. It was thus further deprived of the benefit of the boom in demand which occurred between 1987 and 1990 and the economies of scale which would have resulted from increased sales volume. All these elements put the Community industry into an increasingly disadvantageous position.
- (39) One exporter argued that the drop in price was due to better technology and know-how being used, thus leading to a reduction in production costs.

In addition, some Japanese exporters argued that the productivity of the Community industry is lower and claimed that this element should be taken into consideration when assessing injury. The Commission disagrees with this opinion. It should be recalled that the Community industry was prevented by the dumped imports from benefitting from cost advantages due to economies of scale in view of the booming thermal paper market. In addition, cost advantages of an exporter, if any, are relevant in an anti-dumping proceeding only in so far as they are reflected in export as well as in

domestic prices without any discrimination between the two. Indeed, if they had not practised dumping, Japanese exporters, whose prices in the Community are below production costs, would have charged considerably more. Accordingly, the Community industry would then have been able to sell at prices which allowed them to make a reasonable profit.

2. Other factors

- (40) With regard to other factors, it appeared that the volume and prices of imports originating in other third countries could not be considered responsible for the injury found since such imports were negligible in terms of the overall size of the Community market for fax paper. No indication of price undercutting by these imports has been found.

F. COMMUNITY INTEREST**1. General considerations**

- (41) Elimination of unfair business practices through anti-dumping measures will re-establish fair competition in the Community. In the present circumstances, indeed, the Japanese companies sell below cost and are found to be dumping. If the rapid price decrease of dumped imports from Japan is not halted and if profitable price levels are not restored, the Community fax paper industry will face a further deterioration of its already weakened position with the strong possibility of total shutdown. The negative results of such an eventuality would leave the Community without a high-tech industry and with the consequent loss of research, development and employment. When these negative consequences are balanced with the short-term interests of end-users who would benefit from supplies of fax paper at lower prices, it is evident that the Community interest lies more in sustaining over the long term a viable industry in this sector. Moreover, a price increase for fax paper would normally have a negligible effect on the total operational costs incurred by companies and public bodies (who form the major end-users for fax paper).

2. Converters

- (42) Some of the importers concerned alleged that the imposition of measures and the consequent price increases on the Community market would force converters out of business. However, it was found that the converters, as an intermediary, would be able to pass on the price increases resulting from anti-dumping duties to the next company in the chain and then all the way through to end-user/consumer level.

- (43) Taking into account all the elements involved, it is in the best interest of the Community to protect the industry concerned.

G. PROVISIONAL DUTY

- (44) In order to eliminate the injury being suffered by the Community industry during the proceeding, their profitability must be restored. Consequently, the Community industry should be put in a position where it is able to increase its selling prices in order to achieve this.
- (45) The Commission has therefore calculated a target price for the most representative types of fax paper produced by the Community industry based on the actual weighted average costs of production of the types in question plus a reasonable profit margin.
- (46) The Commission considers that an 18 % profit before tax is, in view of the relatively short technical life cycle of fax paper, the minimum necessary to cover, *inter alia*, investments in manufacturing facilities and research and development. This profit margin is also in line with that realized by the Japanese producers on their domestic market.
- (47) The Commission has calculated the difference between the actual selling prices of the Japanese imports in the Community and the injury threshold of the Community industry, i.e. cost of production plus a reasonable profit margin.
- (48) Using this method, the greatest difference expressed on a cif Community-frontier basis calculated for the companies which cooperated with the Commission's investigation was 54,9 %. The individual differences calculated for each Japanese company exceeded the dumping margins found for those companies. Consequently, the duty to be imposed for these companies should correspond to the dumping margins found, i.e.:

Jujo Paper Co. Ltd, Tokyo	0 %
Kanzaki Paper Manufacturing Co. Ltd, Tokyo	10,3 %
Mitsubishi Paper Mills Ltd, Tokyo	24,7 %
Tomoegawa Paper Co. Ltd, Tokyo	24,8 %

- (49) As mentioned in recital 4, a feature in this case has been the non-cooperation of several Japanese producers who account for approximately 30 % of imports into the Community of fax paper originating in Japan.

As far as these non-cooperating companies are concerned, the Commission considered that the duty to be imposed on these companies should be based on the facts available. In this case it is the highest difference found between Japanese selling

prices in the Community and the injury threshold of the Community industry established, i.e. 54,9 %, which is less than the dumping margin calculated for these companies (see recital 23).

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of thermal paper destined to be used in facsimile machines, originating in Japan and falling within CN codes: ex 3703 90 90 (Taric code 3703 90 90* 10), ex 4810 11 90 (Taric code 4810 11 90* 10).

2. The rate of anti-dumping duty for products specified in paragraph 1 shall be 54,9 % (Taric additional code: 8602) expressed as a percentage of the net free-at-Community-frontier price before duty, except when manufactured by the following companies for whom the rate of anti-dumping duty expressed as a percentage of the net free-at-Community-frontier price before duty is set out below:

— Kanzaki Paper Manufacturing Co. Ltd, Tokyo (Taric additional code 8598)	10,3 %
— Mitsubishi Paper Mills Ltd, Tokyo (Taric additional code 8599)	24,7 %
— Tomoegawa Paper Co. Ltd, Tokyo (Taric additional code 8600)	24,8 %

No anti-dumping duties will apply to Jujo Paper Co Ltd, Tokyo, (Taric additional code 8601).

Article 2

Without prejudice to Article 7 (4) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and apply to be heard orally by the Commission within 30 days from the date of entry into force of the Regulation.

Article 3

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

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

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

Done at Brussels, 23 September 1991.

For the Commission

Frans ANDRIESSEN

Vice-President

COMMISSION REGULATION (EEC) No 2806/91**of 25 September 1991****fixing for Great Britain the level of the variable slaughter premium for sheep
and the amounts to be charged on products leaving region 1**

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 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EEC) No 1741/91⁽²⁾,

Having regard to Commission Regulation (EEC) No 1633/84 of 8 June 1984 laying down detailed rules for applying the variable slaughter premium for sheep and repealing Regulation (EEC) No 2661/80⁽³⁾, as last amended by Regulation (EEC) No 1075/89⁽⁴⁾, and in particular Articles 3 (1) and 4 (1) thereof,

Whereas the United Kingdom is the only country which grants the variable slaughter premium, in region 5, within the meaning of Article 22 (2) of Regulation (EEC) No 3013/89 whereas it is necessary therefore for the Commission to fix, for the week beginning the 2 September 1991, the level of the premium and the amount to be charged on products leaving that region;

Whereas Article 3 (1) of Regulation (EEC) No 1633/84 stipulates that the level of the variable slaughter premium is to be fixed each week by the Commission;

Whereas Article 4 (1) of Regulation (EEC) No 1633/84 lays down that the amount to be charged on products leaving region 1 shall be fixed weekly by the Commission;

Whereas in the Annex to Commission Regulation (EEC) No 3618/89 of 1 December 1989 on the application of the guarantee limitation arrangements for sheepmeat and goatmeat⁽⁵⁾ the weekly amounts of the guide level are set out pursuant to Article 25 of Regulation (EEC) No 3013/89;

Whereas, pursuant to the provisions of Article 24 (2) and (3) of Regulation (EEC) No 3013/89, for the week beginning the 2 September 1991, the variable slaughter premium for sheep certified as eligible in the United Kingdom is to be in accordance with the amounts fixed in the Annexes hereto; whereas, for that week, in the light of the Judgment of the Court of Justice of 2 February 1988 in Case 61/86, the provisions of Article 9 (5) of Regulation (EEC) No 3013/89 and of Article 4 of Regulation (EEC) No 1633/84 lead to the amounts to be charged on products, leaving region 1, being fixed in accordance with those Annexes;

Whereas, as regards the controls necessary for the application of the provisions relating to the said amounts, the system of controls provided for by Regulation (EEC) No 1633/84 should be maintained without prejudice to the preparation of any more specific provisions;

HAS ADOPTED THIS REGULATION:

Article 1

For sheep or sheepmeat certified as eligible in the United Kingdom in region 1, within the meaning of Article 22 (2) of Regulation (EEC) No 3013/89, for the variable slaughter premium during the week beginning the 2 September 1991, the level of the premium is fixed at ECU 81,025 per 100 kilograms of estimated or actual dressed carcase weight within the limits laid down by Article 1 (1) (b) of Regulation (EEC) No 1633/84.

Article 2

For products referred to in Article 1 (a) and (c) of Regulation (EEC) No 3013/89 which left the territory of region 1 during the week beginning the 2 September 1991, the amounts to be charged shall be equivalent to those fixed in the Annexes hereto.

Article 3

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

It shall apply with effect from 2 September 1991.

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 163, 26. 6. 1991, p. 41.

⁽³⁾ OJ No L 154, 9. 6. 1984, p. 27.

⁽⁴⁾ OJ No L 114, 27. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 351, 2. 12. 1989, p. 18.

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

Done at Brussels, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 25 September 1991 fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 1

(ECU/100 kg)

CN code	Amounts	
	A. Products qualifying for the premium specified in Article 24 of Regulation (EEC) No 3013/89	B. Products specified in Article 4 (4) of Regulation (EEC) No 1633/84 ⁽¹⁾
	Live weight	Live weight
0104 10 90	38,082	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	81,025	0
0204 21 00	81,025	0
0204 50 11		0
0204 22 10	56,718	
0204 22 30	89,128	
0204 22 50	105,333	
0204 22 90	105,333	
0204 23 00	147,466	
0204 30 00	60,769	
0204 41 00	60,769	
0204 42 10	42,538	
0204 42 30	66,846	
0204 42 50	79,000	
0204 42 90	79,000	
0204 43 00	110,600	
0204 50 13		0
0204 50 15		0
0204 50 19		0
0204 50 31		0
0204 50 39		0
0204 50 51		0
0204 50 53		0
0204 50 55		0
0204 50 59		0
0204 50 71		0
0204 50 79		0
0210 90 11	105,333	
0210 90 19	147,466	
1602 90 71 :		
— unboned (bone-in)	105,333	
— boned or boneless	147,466	

⁽¹⁾ Eligibility for these reduced amounts is subject to compliance with the conditions laid down in the second subparagraph of Article 5 (3) of Regulation (EEC) No 1633/84.

COMMISSION REGULATION (EEC) No 2807/91

of 25 September 1991

fixing the sluice-gate prices and levies for pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organization of the market in pigmeat⁽¹⁾, as last amended by Regulation (EEC) No 1249/89⁽²⁾, and in particular Articles 8 and 12 (1) thereof,

Whereas sluice-gate prices and levies for the products specified in Article 1 (1) of Regulation (EEC) No 2759/75, must be fixed in advance for each quarter in accordance with the methods of calculation laid down in Commission Regulation (EEC) No 1611/90 of 15 June 1990 fixing the sluice-gate prices and levies on pigmeat⁽³⁾;

Whereas, since sluice-gate prices and levies for pigmeat were last fixed by Commission Regulation (EEC) No 1817/91⁽⁴⁾, for the period 1 July to 30 September 1991, they must be fixed anew for the period 1 October to 31 December 1991; whereas such prices and levies should in principle be fixed by reference to feed grain prices for the period 1 April to 31 August 1991;

Whereas, when the sluice-gate price applicable from 1 October, 1 January and 1 April is being fixed, trends in world market prices for feed grain are to be taken into account only if the value of the quantity of feed grain required varies by at least a specified minimum in relation to that used in calculating the sluice-gate price for the preceding quarter; whereas this minimum was fixed by Regulation (EEC) No 2766/75 of the Council⁽⁵⁾, as last amended by Regulation (EEC) No 3906/87⁽⁶⁾, at 3 %;

Whereas the value of the quantity of feed grain varies by more than 3 % from that used for the preceding quarter; whereas trends in world market prices for feed grain must therefore be taken into account when fixing sluice-gate prices for the period 1 October to 31 December 1991;

Whereas, when the levies applicable from 1 October, 1 January and 1 April are being fixed, trends in world market prices for feed grain should be taken into account only if at the same time a new sluice-gate price is being fixed;

Whereas, since a new sluice-gate price has been fixed trends in world market prices for feed grain must be taken into account in fixing the levies;

Whereas, in the case of pigment products, in respect of which the rate of duty has been bound within GATT, the levies should be limited to the amounts resulting from that binding;

Whereas, by Council Regulation (EEC) No 3834/90 of 20 December 1990 reducing for 1991 the levies on certain agricultural products originating in developing countries⁽⁷⁾ and Council Regulation (EEC) No 715/90 of 5 March 1990 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) or the overseas countries and territories (OCT)⁽⁸⁾, as amended by Regulation (EEC) No 523/90⁽⁹⁾, special import arrangements were introduced involving a reduction to 50 % in levies within the framework of fixed amounts or annual quotas, in particular for certain pigmeat products;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period 1 October to 31 December 1991, the sluice-gate prices and the levies provided for in Articles 12 and 8 respectively of Regulation (EEC) No 2759/75 for

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 129, 11. 5. 1989, p. 12.

⁽³⁾ OJ No L 152, 16. 6. 1990, p. 18.

⁽⁴⁾ OJ No L 166, 28. 6. 1991, p. 19.

⁽⁵⁾ OJ No L 282, 1. 11. 1975, p. 25.

⁽⁶⁾ OJ No L 370, 30. 12. 1987, p. 11.

⁽⁷⁾ OJ No L 370, 31. 12. 1990.

⁽⁸⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽⁹⁾ OJ No L 58, 5. 3. 1991, p. 1.

the products specified in Article 1 (1) of that Regulation shall be as shown in the Annex.

1602 20 90 or 1602 90 10, in respect of which the rate of duty has been bound within GATT, the levy shall not exceed the amount resulting from that binding.

2. Provided that, in the case of products falling within CN codes 0206 30 21, 0206 30 31, 0206 41 91, 0206 49 91, 1501 00 11, 1601 00 10, 1602 10 00,

Article 2

This Regulation shall enter into force on 1 October 1991.

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

Done at Brussels, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 25 September 1991 fixing the sluice-gate prices and levies on pigmeat

CN code	Sluice-gate price (ECU/100 kg)	Amount of levies (ECU/100 kg)	Conventional rate of duty bound within GATT (%)
0103 91 10	71,91	49,97	—
0103 92 11	61,16	42,49	—
0103 92 19	71,91	49,97	—
0203 11 10	93,51	64,98	—
0203 12 11	135,59	94,21	—
0203 12 19	104,73	72,77	—
0203 19 11	104,73	72,77	—
0203 19 13	151,49	105,26	—
0203 19 15	81,35	56,53	—
0203 19 55	151,49	105,26	—
0203 19 59	151,49	105,26	—
0203 21 10	93,51	64,98	—
0203 22 11	135,59	94,21	—
0203 22 19	104,73	72,77	—
0203 29 11	104,73	72,77	—
0203 29 13	151,49	105,26 (1)	—
0203 29 15	81,35	56,53	—
0203 29 55	151,49	105,26 (1)	—
0203 29 59	151,49	105,26	—
0206 30 21	113,15	78,62	7
0206 30 31	82,29	57,18	4
0206 41 91	113,15	78,62	7
0206 49 91	82,29	57,18	4
0209 00 11	37,40	25,99	—
0209 00 19	41,14	28,59	—
0209 00 30	22,44	15,59	—
0210 11 11	135,59	94,21 (1)	—
0210 11 19	104,73	72,77	—
0210 11 31	263,70	183,23	—
0210 11 39	207,59	144,24	—
0210 12 11	81,35	56,53 (1)	—
0210 12 19	135,59	94,21	—
0210 19 10	119,69	83,17	—
0210 19 20	130,91	90,97	—
0210 19 30	104,73	72,77	—
0210 19 40	151,49	105,26 (1)	—
0210 19 51	151,49	105,26	—
0210 19 59	151,49	105,26	—
0210 19 60	207,59	144,24	—
0210 19 70	260,89	181,28	—
0210 19 81	263,70	183,23	—
0210 19 89	263,70	183,23	—
0210 90 31	113,15	78,62	—
0210 90 39	82,29	57,18	—
1501 00 11	29,92	20,79	3
1501 00 19	29,92	20,79	—
1601 00 10	130,91	106,70 (2)	24
1601 00 91	219,75	190,64 (1) (2)	—

CN code	Sluice-gate price (ECU/100 kg)	Amount of levies (ECU/100 kg)	Conventional rate of duty bound within GATT (%)
1601 00 99	149,62	125,85 ⁽¹⁾ ⁽²⁾	—
1602 10 00	104,73	100,59	26
1602 20 90	121,56	111,59	25
1602 41 10	229,10	193,33	—
1602 42 10	191,70	157,95	—
1602 49 11	229,10	205,43	—
1602 49 13	191,70	165,52	—
1602 49 15	191,70	151,26 ⁽¹⁾	—
1602 49 19	126,24	106,63 ⁽¹⁾	—
1602 49 30	104,73	89,40	—
1602 49 50	62,65	64,78	—
1602 90 10	121,56	105,73	26
1602 90 51	126,24	104,00	—
1902 20 30	62,65	56,02	—

⁽¹⁾ The levy on products originating in the developing countries and listed in the Annex to Regulation (EEC) No 3834/90 is reduced by 50 % within the limits of the fixed amounts referred to in that Annex.

⁽²⁾ The levy on products originating in the ACP States/OCT countries and listed in Article 8 of amended Regulation (EEC) No 715/90 reduced by 50 % within the limits of the quotas referred to in that Regulation.

NB: The CN codes and the footnotes are defined in amended Commission Regulation (EEC) No 2658/87 (OJ No L 256, 7. 9. 1987, p. 1).

COMMISSION REGULATION (EEC) No 2808/91

of 25 September 1991

fixing the import levies on white sugar and raw sugar

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 464/91 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1849/91 ⁽³⁾, as last amended by Regulation (EEC) No 2797/91 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 1849/91 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

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

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

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

- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 24 September 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 26 September 1991.

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

Done at Brussels, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 168, 29. 6. 1991, p. 16.

⁽⁴⁾ OJ No L 269, 25. 9. 1991, p. 26.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 25 September 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	36,89 ⁽¹⁾
1701 11 90	36,89 ⁽¹⁾
1701 12 10	36,89 ⁽¹⁾
1701 12 90	36,89 ⁽¹⁾
1701 91 00	42,95
1701 99 10	42,95
1701 99 90	42,95 ⁽²⁾

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

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

COMMISSION REGULATION (EEC) No 2809/91**of 25 September 1991****fixing the maximum export refund for white sugar for the 22nd partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 963/91**

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 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 464/91 ⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 963/91 of 18 April 1991 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾ requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 963/91, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 22nd partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 22nd partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 963/91 the maximum amount of the export refund is fixed at ECU 39,259 per 100 kilograms.

Article 2

This Regulation shall enter into force on 26 September 1991.

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

Done at Brussels, 25 September 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.
⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.
⁽³⁾ OJ No L 100, 20. 4. 1991, p. 9.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE

of 19 July 1991

modifying the Annex to Council Directive 75/318/EEC on the approximation of the laws of Member States relating to analytical, pharmacotoxicological and clinical standards and protocols in respect of the testing of medicinal products

(91/507/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 75/318/EEC of 20 May 1975 on the approximation of the laws of Member States relating to analytical, pharmacotoxicological and clinical standards and protocols in respect of the testing of medicinal products⁽¹⁾, as last amended by Directive 89/341/EEC⁽²⁾,

Having regard to Council Directive 89/342/EEC of 3 May 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for immunological medicinal products consisting of vaccines, toxins or serums and allergens⁽³⁾, and in particular Article 5 thereof,

Having regard to Council Directive 89/343/EEC of 3 May 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for radiopharmaceuticals⁽⁴⁾, and in particular Article 7 thereof,

Having regard to Council Directive 89/381/EEC of 14 June 1989 extending the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulations or administrative action relating to proprietary medicinal products and laying down special

provisions for medicinal products derived from human blood or human plasma⁽⁵⁾, and in particular Article 6 thereof,

Whereas following the adoption of Directives 89/342/EEC, 89/343/EEC and 89/381/EEC, it is necessary to amend the Annex to Directive 75/318/EEC in order to lay down special requirements for the testing of immunological medicinal products, radiopharmaceuticals and medicinal products derived from human blood or human plasma;

Whereas it is further necessary to adapt to technical progress the existing requirements laid down in the Annex to Directive 75/318/EEC, in particular with regard to the special nature of medicinal products obtained through processes mentioned in list A and in the first indent of list B of the Annex of Council Directive 87/22/EEC⁽⁶⁾;

Whereas the provisions of this Directive are in accordance with the opinion of the Committee on the Adaptation to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in the Medicinal Products Sector established pursuant to Article 2b of Directive 75/318/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The text of the Annex to Directive 75/318/EEC is hereby replaced by the text of the Annex to this Directive.

⁽¹⁾ OJ No L 147, 9. 6. 1975, p. 1.

⁽²⁾ OJ No L 142, 25. 5. 1989, p. 11.

⁽³⁾ OJ No L 142, 25. 5. 1989, p. 14.

⁽⁴⁾ OJ No L 142, 25. 5. 1989, p. 16.

⁽⁵⁾ OJ No L 181, 28. 6. 1989, p. 44.

⁽⁶⁾ OJ No L 15, 17. 1. 1987, p. 38.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive, save Part 2, paragraph A, point 3.3 of the Annex, no later than 1 January 1992 ; they shall bring into force the provisions necessary to comply with Part 2, paragraph A, point 3.3 of the Annex no later than 1 January 1995. They shall forthwith inform the Commission thereof.

2. When the Member States adopt these provisions, the provisions shall contain a reference to this Directive or shall be accompanied by such a reference when they are

published in official form. The arrangements for this reference shall be decided by the Member States.

Article 3

This Directive is addressed to Member States.

Done at Brussels, 19 July 1991.

For the Commission

Martin BANGEMANN

Vice-President

ANNEX

INTRODUCTION

The particulars and documents accompanying an application for marketing authorization pursuant to Article 4 of Council Directive 65/65/EEC ⁽¹⁾ shall be presented in four parts, in accordance with the requirements set out in this Annex and taking account of the guidance published by the Commission in *The rules governing medicinal products in the European Community*, Volume II : *Notice to applicants for marketing authorizations for medicinal products for human use in the Member States of the European Community*.

In assembling the dossier for application for marketing authorization, applicants shall take into account the Community guidelines relating to the quality, safety and efficacy of medicinal products published by the Commission in *The rules governing medicinal products in the European Community*, Volume III and its supplements : *Guidelines on the quality, safety and efficacy of medicinal products for human use*.

All information which is relevant to the evaluation of the medicinal product concerned shall be included in the application, whether favourable or unfavourable to the product. In particular, all relevant details shall be given of any incomplete or abandoned pharmacotoxicological or clinical test or trial relating to the medicinal product. Moreover, in order to monitor the benefit/risk assessment after marketing authorization has been granted, any change to the data in the dossier, any new information not in the original application and all pharmacovigilance reports, shall be submitted to the competent authorities.

The general sections of this Annex give the requirements for all categories of medicinal products ; they are supplemented by sections containing additional special requirements for radiopharmaceuticals and for biological medicinal products, such as vaccines, serums, toxins, allergen products, medicinal products derived from human blood or plasma. The additional special requirements for biological medicinal products are also applicable to medicinal products obtained through processes mentioned in List A and the first indent of List B of the Annex to Directive 87/22/EEC.

Member States shall also ensure that all tests on animals are conducted in accordance with Council Directive 86/609/EEC ⁽²⁾.

⁽¹⁾ OJ No 22, 9. 2. 1965, p. 369/65.

⁽²⁾ OJ No L 358, 18. 12. 1986, p. 1.

PART 1

SUMMARY OF THE DOSSIER

A. Administrative data

The medicinal product which is the subject of the application shall be identified by name and name of the active ingredient(s), together with the pharmaceutical form, the method of administration, the strength and the final presentation, including packaging.

The name and address of the applicant shall be given, together with the name and address of the manufacturers and the sites involved in the different stages of the manufacture (including the manufacturer of the finished product and the manufacturer(s) of the active ingredient(s)), and where relevant the name and address of the importer.

The applicant shall identify the number of volumes of documentation submitted in support of the application and indicate what samples, if any, are also provided.

Annexed to the administrative data shall be copies of the manufacturing authorization as defined in Article 16 of Council Directive 75/319/EEC⁽¹⁾, together with a list of countries in which authorization has been granted, copies of all the summaries of product characteristics in accordance with Article 4a of Directive 65/65/EEC as approved by Member States and a list of countries in which an application has been submitted.

B. Summary of product characteristics

The applicant shall propose a summary of the product characteristics, in accordance with Article 4a of Directive 65/65/EEC.

In addition the applicant shall provide samples or mock-ups of the packaging, labels and package leaflets for the medicinal product concerned.

C. Expert reports

In accordance with Article 2 of Directive 75/319/EEC, expert reports must be provided on the chemical, pharmaceutical and biological documentation, the pharmacotoxicological documentation and the clinical documentation respectively.

The expert report shall consist of a critical evaluation of the quality of the product and the investigations carried out on animals and human beings and bring out all the data relevant for evaluation. It shall be worded so as to enable the reader to obtain a good understanding of the properties, quality, the proposed specifications and control methods, the safety, the efficacy, the advantages and disadvantages of the product.

All important data shall be summarized in an appendix to the expert report, whenever possible including report formats in tabular or in graphic form. The expert report and the summaries shall contain precise cross references to the information contained in the main documentation.

Each expert report shall be prepared by a suitably qualified and experienced person. It shall be signed and dated by the expert, and attached to the report shall be brief information about the educational background, training and occupational experience of the expert. The professional relationship of the expert to the applicant shall be declared.

⁽¹⁾ OJ No L 147, 9. 6. 1975, p. 13.

PART 2

CHEMICAL, PHARMACEUTICAL AND BIOLOGICAL TESTING OF MEDICINAL PRODUCTS

All the test procedures shall correspond to the state of scientific progress at the time and shall be validated procedures; results of the validation studies shall be provided.

All the test procedure(s) shall be described in sufficiently precise detail so as to be reproducible in control tests, carried out at the request of the competent authority; any special apparatus and equipment which may be used shall be described in adequate detail, possibly accompanied by a diagram. The formulae of the laboratory reagents shall be supplemented, if necessary, by the method of preparation. In the case of test procedures included in the *European Pharmacopoeia* or the pharmacopoeia of a Member State, this description may be replaced by a detailed reference to the pharmacopoeia in question.

A. Qualitative and quantitative particulars of the constituents

The particulars and documents which must accompany applications for marketing authorization, pursuant to point 3 of Article 4 (2) of Directive 65/65/EEC shall be submitted in accordance with the following requirements.

1. *Qualitative particulars*

1.1. 'Qualitative particulars' of all the constituents of the medicinal product shall mean the designation or description of:

- the active ingredient(s),
- the constituent(s) of the excipients, whatever their nature or the quantity used, including colouring matter, preservatives, adjuvants, stabilizers, thickeners, emulsifiers, flavouring and aromatic substances, etc.,
- the constituents, intended to be ingested or otherwise administered to the patient, of the outer covering of the medicinal products — capsules, gelatine capsules, rectal capsules, etc.

These particulars shall be supplemented by any relevant data concerning the container and, where appropriate, its manner of closure, together with details of devices with which the medicinal product will be used or administered and which will be delivered with the product.

1.2. In the context of a radiopharmaceutical kit, which is to be radiolabelled after supply by the manufacturer, the active ingredient is considered to be that part of the formulation which is intended to carry or bind the radionuclide. Details of the source of the radionuclide shall be stated. In addition, any compounds essential for the radiolabelling shall be stated.

In a generator, both mother and daughter radionuclides are to be considered as active ingredients.

2. The 'usual terminology', to be used in describing the constituents of medicinal products, shall mean, notwithstanding the application of the other provisions of point 3 of Article 4 (2) of Directive 65/65/EEC:

- in respect of substances which appear in the *European Pharmacopoeia* or, failing this, in the national pharmacopoeia of one of the Member States, the main title at the head of the monograph in question, with reference to the pharmacopoeia concerned,
- in respect of other substances, the international non-proprietary name recommended by the World Health Organization, which may be accompanied by another non-proprietary name, or, failing these, the exact scientific designation; substances not having an international non-proprietary name or an exact scientific designation shall be described by a statement of how and from what they were prepared, supplemented, where appropriate, by any other relevant details,
- in respect of colouring matter, designation by the 'E' code assigned to them in Council Directive 78/25/EEC⁽¹⁾ of 12 December 1977 on the approximation of the rules of the Member States concerning the colouring matters authorized for use in medicinal products.

⁽¹⁾ OJ No L 11, 14. 1. 1978, p. 18.

3. *Quantitative particulars*

- 3.1. In order to give 'quantitative particulars' of the active ingredients of the medicinal products, it is necessary, depending on the pharmaceutical form concerned, to specify the mass, or the number of units of biological activity, either per dosage-unit or per unit of mass or volume, of each active ingredient.

Units of biological activity shall be used for substances which cannot be defined chemically. Where an International Unit of biological activity has been defined by the World Health Organization, this shall be used. Where no International Unit has been defined, the units of biological activity shall be expressed in such a way as to provide unambiguous information on the activity of the substances.

Whenever possible, biological activity per units of mass shall be indicated.

This information shall be supplemented :

- in respect of injectable preparations, by the mass or units of biological activity of each active ingredient in the unit container, taking into account the usable volume of the product, after reconstitution, where appropriate,
 - in respect of medicinal products to be administered by drops, by the mass or units of biological activity of each active ingredient contained in the number of drops corresponding to 1 ml or 1 g of the preparation,
 - in respect of syrups, emulsions, granular preparations and other pharmaceutical forms to be administered in measured quantities, by the mass or units of biological activity of each active ingredient per measured quantity.
- 3.2. Active ingredients present in the form of compounds or derivatives shall be described quantitatively by their total mass, and if necessary or relevant, by the mass of the active entity or entities of the molecule.
- 3.3. For medicinal products containing an active ingredient which is the subject of an application for marketing authorization in any Member State for the first time, the quantitative statement of an active ingredient which is a salt or hydrate shall be systematically expressed in terms of the mass of the active entity or entities in the molecule. All subsequently authorized medicinal products in the Member States shall have their quantitative composition stated in the same way for the same active ingredient.
- 3.4. For allergen products, the quantitative particulars shall be expressed by units of biological activity, except for well defined allergen products for which the concentration may be expressed by mass/unit of volume.
- 3.5. The requirement to express the content of active ingredients in terms of the mass of active entities, as in point 3.3. above, may not apply to radiopharmaceuticals. For radionuclides, radioactivity shall be expressed in becquerels at a given date and, if necessary, time with reference to time zone. The type of radiation shall be indicated.

4. *Development pharmaceuticals*

- 4.1. An explanation should be provided with regard to the choice of composition, constituents and container and the intended function of the excipients in the finished product. This explanation shall be supported by scientific data on development pharmaceuticals. The overage, with justification thereof, should be stated.
- 4.2. For radiopharmaceuticals, this should include a consideration of chemical/radiochemical purity and its relationship to biodistribution.

B. *Description of method of preparation*

1. The description of the method of preparation accompanying the application for marketing authorization pursuant to point 4 of Article 4 (2) of Directive 65/65/EEC, shall be drafted in such a way as to give an adequate synopsis of the nature of the operations employed.

For this purpose it shall include at least :

- mention of the various stages of manufacture, so that an assessment can be made of whether the processes employed in producing the pharmaceutical form might have produced an adverse change in the constituents,
- in the case of continuous manufacture, full details concerning precautions taken to ensure the homogeneity of the finished product,
- the actual manufacturing formula, with the quantitative particulars of all the substances used, the quantities of excipients, however, being given in approximate terms in so far as the pharmaceutical form makes this necessary ; mention shall be made of any substances that may disappear in the course of manufacture ; any overage shall be indicated and justified,

- a statement of the stages of manufacture at which sampling is carried out for in-process control tests, where other data in the documents supporting the application show such tests to be necessary for the quality control of the finished product,
 - experimental studies validating the manufacturing process, where a non-standard method of manufacture is used or where it is critical for the product,
 - for sterile products, details of the sterilization processes and/or aseptic procedures used.
2. For radiopharmaceutical kits, the description of the method of preparation shall also include details of the manufacture of the kit and details of its recommended final processing to produce the radioactive medicinal product.

For radionuclides, the nuclear reactions involved shall be discussed.

C. Controls of starting materials

1. For the purposes of this paragraph, 'starting materials' shall mean all the constituents of the medicinal product and, if necessary, of its container, as referred to in paragraph A, point 1, above.

In the case of:

- an active ingredient not described in the *European Pharmacopoeia* or in the pharmacopoeia of a Member State, or
- an active ingredient described in the *European Pharmacopoeia* or in the pharmacopoeia of a Member State when prepared by a method liable to leave impurities not mentioned in the pharmacopoeial monograph and for which the monograph is inappropriate to adequately control its quality,

which is manufactured by a person different from the applicant, the latter may arrange for the detailed description of the manufacturing method, quality control during manufacture and process validation to be supplied directly to the competent authorities by the manufacturer of the active ingredient. In this case, the manufacturer shall however provide the applicant with all the data which may be necessary for the latter to take responsibility for the medicinal product. The manufacturer shall confirm in writing to the applicant that he shall ensure batch to batch consistency and not modify the manufacturing process or specifications without informing the applicant. Documents and particulars supporting the application for such a change shall be supplied to the competent authorities.

The particulars and documents accompanying the application for marketing authorization pursuant to points 7 and 8 of Article 4 (2) of Directive 65/65/EEC shall include the results of the tests, including batch analyses particularly for active ingredients, relating to quality control of all the constituents used. These shall be submitted in accordance with the following provisions.

1.1. Starting materials listed in pharmacopoeias

The monographs of the *European Pharmacopoeia* shall be applicable to all substances appearing in it.

In respect of other substances, each Member State may require observance of its own national pharmacopoeia with regard to products manufactured in its territory.

Constituents fulfilling the requirements of the *European Pharmacopoeia* or the pharmacopoeia of one of the Member States shall be deemed to comply sufficiently with point 7 of Article 4 (2) of Directive 65/65/EEC. In this case the description of the analytical methods may be replaced by a detailed reference to the pharmacopoeia in question.

However, where a starting material in the *European Pharmacopoeia* or in the pharmacopoeia of a Member State has been prepared by a method liable to leave impurities not controlled in the pharmacopoeia monograph, these impurities and their maximum tolerance limits must be declared and a suitable test procedure must be described.

Colouring matter shall, in all cases, satisfy the requirements of Directive 78/25/EEC.

The routine tests carried out on each batch of starting materials must be as stated in the application for marketing authorization. If tests other than those mentioned in the pharmacopoeia are used, proof must be supplied that the starting materials meet the quality requirements of that pharmacopoeia.

In cases where a specification contained in a monograph of the *European Pharmacopoeia* or in the national pharmacopoeia of a Member State might be insufficient to ensure the quality of the substance, the competent authorities may request more appropriate specifications from the person responsible for placing the product on the market.

The competent authorities shall inform the authorities responsible for the pharmacopoeia in question. The person responsible for placing the product on the market shall provide the authorities of that pharmacopoeia with the details of the alleged insufficiency and the additional specifications applied.

In cases where a starting material is described neither in the *European Pharmacopoeia* nor in the pharmacopoeia of a Member State, compliance with the monograph of a third country pharmacopoeia can be accepted; in such cases, the applicant shall submit a copy of the monograph accompanied where necessary by the validation of the test procedures contained in the monograph and by a translation where appropriate.

1.2. *Starting materials not in a pharmacopoeia*

Constituents which are not given in any pharmacopoeia shall be described in the form of a monograph under the following headings:

- (a) The name of the substance, meeting the requirements of paragraph A, point 2, shall be supplemented by any trade or scientific synonyms;
- (b) the definition of the substance, set down in a form similar to that used in the *European Pharmacopoeia*, shall be accompanied by any necessary explanatory evidence, especially concerning the molecular structure where appropriate; it must be accompanied by an appropriate description of the method of synthesis. Where substances can only be described by their method of preparation, the description should be sufficiently detailed to characterize a substance which is constant both in its composition and in its effects;
- (c) methods of identification may be described in the form of complete techniques as used for production of the substance, and in the form of tests which ought to be carried out as a routine matter;
- (d) purity tests shall be described in relation to the sum total of predictable impurities, especially those which may have a harmful effect, and, if necessary, those which, having regard to the combination of substances to which the application refers, might adversely affect the stability of the medicinal product or distort analytical results;
- (e) with regard to complex substances of plant or animal/human origin, a distinction must be made between the case where multiple pharmacological effects render chemical, physical or biological control of the principal constituents necessary, and the case of substances containing one or more groups of principles having similar activity, in respect of which an overall method of assay may be accepted;
- (f) when materials of animal/human origin are used, measures to ensure freedom from potentially pathogenic agents shall be described;
- (g) for radionuclides, the nature of the radionuclide, the identity of the isotope, likely impurities, the carrier, the use and the specific activity shall be given;
- (h) any special precautions that may be necessary during storage of the starting material and, if necessary, the maximum period of storage before retesting shall be given.

1.3. *Physico-chemical characteristics liable to effect bio-availability*

The following items of information concerning active ingredients, whether or not listed in the pharmacopoeias, shall be provided as part of the general description of the active ingredients if the bio-availability of the medicinal product depends on them:

- crystalline form and solubility coefficients,
- particle size, where appropriate after pulverization,
- state of solvation,
- oil/water coefficient of partition ⁽¹⁾.

The first three indents are not applicable to substances used solely in solution.

⁽¹⁾ The competent authorities may also request the pK and pH values if they think this information is essential.

2. For biological medicinal products, such as vaccines, serums, toxins, allergen products and medicinal products derived from human blood or plasma, the requirements of this paragraph shall apply.

For the purposes of this paragraph, starting materials shall mean any substance used in the manufacture of the medicinal product; this includes the constituents of the medicinal product, and, if necessary, of its container, as referred to in paragraph A, point 1 above, as well as source materials such as microorganisms, tissues of either plant or animal origin, cells or fluids (including blood) of human or animal origin, and biotechnological cell constructs. The origin and history of starting materials shall be described and documented.

The description of the starting material shall include the manufacturing strategy, purification/inactivation procedures with their validation and all in-process control procedures designed to ensure the quality, safety and batch to batch consistency of the finished product.

- 2.1. When cell banks are used, the cell characteristics shall be shown to have remained unchanged at the passage level used for the production and beyond.

- 2.2. Seed materials, cell banks, pools of serum or plasma and other materials of biological origin and, whenever possible, the source materials from which they are derived shall be tested for adventitious agents.

If the presence of potentially pathogenic adventitious agents is inevitable, the material shall be used only when further processing ensures their elimination and/or inactivation, and this shall be validated.

- 2.3. Whenever possible, vaccine production shall be based on a seed lot system and on established cell banks; for serums, defined pools of starting materials shall be used.

For bacterial and viral vaccines, the characteristics of the infectious agent shall be demonstrated on the seed. In addition, for live vaccines, the stability of the attenuation characteristics shall be demonstrated on the seed; if this proof is not sufficient, the attenuation characteristics shall also be demonstrated at the production stage.

- 2.4. For allergen products, the specifications and control methods for the source materials shall be described. The description shall include particulars concerning collection, pretreatment and storage.

- 2.5. For medicinal products derived from human blood or plasma, the origin and the criteria and procedures for collection, transportation and storage of the source material shall be described and documented.

Defined pools of source material shall be used.

3. For radiopharmaceuticals, starting materials include irradiation target materials.

D. Control tests carried out at intermediate stages of the manufacturing process

1. The particulars and documents accompanying an application for marketing authorization, pursuant to points 7 and 8 of Article 4 (2) of Directive 65/65/EEC, shall include particulars relating to the product control tests that may be carried out at an intermediate stage of the manufacturing process, with a view to ensuring the consistency of the technical characteristics and the production process.

These tests are essential for checking the conformity of the medicinal product with the formula when, exceptionally, an applicant proposes an analytical method for testing the finished product which does not include the assay of all the same requirements as the active ingredients).

The same applies where the quality control of the finished product depends on in-process control tests, particularly if the substance is essentially defined by its method or preparation.

2. For biological medicinal products, such as vaccines, serums, toxins, allergen products and medicinal products derived from human blood or plasma, the procedures and the criteria of acceptability published as recommendations of the WHO (*Requirements for Biological Substances*) shall serve as guidelines for all controls of production stages which are not specified in the *European Pharmacopoeia*, or falling this, in the national pharmacopoeia of a Member State.

For inactivated or detoxified vaccines, effective inactivation or detoxification shall be verified during each production run, unless this control is dependent upon a test for which the availability of susceptible animals is limited. In this case, the test shall be carried out until consistency of production and correlation with appropriate in process controls have been established and thereafter compensated by appropriate in-process controls.

3. For modified or adsorbed allergens, the allergen products shall be qualitatively and quantitatively characterized at an intermediate stage, as late as possible in the manufacturing process.

E. Control tests on the finished product

1. For the control of the finished product, a batch of a finished product comprises all the units of a pharmaceutical form which are made from the same initial quantity of material and have undergone the same series of manufacturing and/or sterilization operations or, in the case of a continuous production process, all the units manufactured in a given period of time.

The application for marketing authorization shall list those tests which are carried out routinely on each batch of finished product. The frequency of the tests which are not carried out routinely shall be stated. Release limits shall be indicated.

The particulars and documents accompanying the application for marketing authorization pursuant to points 7 and 8 of Article 4 (2) of Directive 65/65/EEC, shall include particulars relating to control tests on the finished product at release. They shall be submitted in accordance with the following requirements.

The provisions of the monographs for pharmaceutical forms, immunosera, vaccines and radiopharmaceutical preparations of the *European Pharmacopoeia* or failing that, of a Member State, shall be applicable to all products such as vaccines, serums, toxins, allergen products and medicinal products derived from human blood or plasma which are not specified in the *European Pharmacopoeia* or failing this, in the pharmacopoeia of a Member State, the procedures and the criteria of acceptability published as recommendations in the WHO (*Requirements for Biological Substances*) shall serve as guidelines.

If test procedures and limits other than those mentioned in the monographs of the *European Pharmacopoeia*, or failing this, in the national pharmacopoeia of a Member State, are used, proof shall be supplied that the finished product would, if tested in accordance with those monographs, meet the quality requirements of that pharmacopoeia for the pharmaceutical form concerned.

1.1. General characteristics of the finished product

Certain tests of the general characteristics of a product shall always be included among the tests on the finished product. These tests shall, wherever applicable, relate to the control of average masses and maximum deviations, to mechanical, physical or microbiological tests, organoleptic characteristics, physical characteristics such as density, pH, refractive index, etc. For each of these characteristics, standards and tolerance limits shall be specified by the applicant in each particular case.

The conditions of the tests, where appropriate, the equipment/apparatus employed and the standards shall be described in precise details whenever they are not given in the *European Pharmacopoeia* or the pharmacopoeia of the Member States; the same shall apply in cases where the methods prescribed by such pharmacopoeias are not applicable.

Furthermore, solid pharmaceutical forms having to be administered orally shall be subjected to *in vitro* studies on the liberation and dissolution rate of the active ingredient or ingredients; these studies shall also be carried out where administration is by another means if the competent authorities of the Member State concerned consider this necessary.

1.2. Identification and assay of active ingredient(s)

Identification and assay of the active ingredient(s) shall be carried out either in a representative sample from the production batch or in a number of dosage-units analysed individually.

Unless there is appropriate justification, the maximum acceptable deviation in the active-ingredient content of the finished product shall not exceed $\pm 5\%$ at the time of manufacture.

On the basis of the stability tests, the manufacturer must propose and justify maximum acceptable tolerance limits in the active-ingredient content of the finished product up to the end of the proposed shelf-life.

In certain exceptional cases of particularly complex mixtures, where assay of active ingredients which are very numerous or present in very low amounts would necessitate an intricate investigation difficult to carry out in respect of each production batch, the assay of one or more active ingredients in the finished product may be omitted, on the express condition that such assays are made at intermediate stages in the production process. This relaxation may not be extended to the characterization of the substances concerned. This simplified technique shall be supplemented by a method of quantitative evaluation, enabling the competent authority to have the conformity of the medicinal product with its specification verified after it has been placed on the market.

An *in vivo* or *in vitro* biological assay shall be obligatory when physico-chemical methods cannot provide adequate information on the quality of the product. Such an assay shall, whenever possible, include reference materials and statistical analysis allowing calculation of confidence limits. Where these tests cannot be carried out on the finished product, they may be performed at an intermediate stage, as late as possible in the manufacturing process.

Where the particulars given in section B show that a significant overage of an active ingredient is employed in the manufacture of the medicinal product, the description of the control tests on the finished product shall include, where appropriate, the chemical and, if necessary, the toxico-pharmacological investigation of the changes that this substance has undergone, and possibly the characterization and/or assay of the degradation products.

1.3. *Identification and assay of excipient constituents*

In so far as is necessary, the excipient(s) shall be subject at least to identification tests.

The test procedure proposed for identifying colouring matters must enable a verification to be made that such matters appear in the list annexed to Directive 78/25/EEC.

An upper and lower limit test shall be obligatory in respect of preserving agents and an upper limit test for any other excipient constituent liable to affect adversely physiological functions; an upper and lower limit test shall be obligatory in respect of the excipient if it is liable to affect the bio-availability of an active substance, unless bio-availability is guaranteed by other appropriate tests.

1.4. *Safety tests*

Apart from the toxico-pharmacological tests submitted with the application for marketing authorization, particulars of safety tests, such as sterility, bacterial endotoxin, pyrogenicity and local tolerance in animals shall be included in the analytical particulars wherever such tests must be undertaken as a matter of routine in order to verify the quality of the product.

2. For all controls of biological medicinal products, such as vaccines, serums, toxins, allergen products and medicinal products derived from human blood or plasma, which are not specified in the European Pharmacopoeia, or failing this, in the national pharmacopoeia of a Member State, the procedures and the criteria of acceptability published as recommendations in the WHO (*Requirements for Biological Substances*) shall serve as guidelines.
3. For radiopharmaceuticals, radionuclidic purity, radiochemical purity and specific activity shall be described. For content of radioactivity, the deviation from that stated on the label should not exceed $\pm 10\%$.

For generators, details on the testing for mother and daughter radionuclides are required. For generator-eluates, tests for mother radionuclides and for other components of the generator system shall be provided.

For kits, the specifications of the finished product shall include tests on performance of products after radiolabelling. Appropriate controls on radiochemical and radionuclidic purity of the radiolabelled compound shall be included. Any material essential for radiolabelling shall be identified and assayed.

F. Stability tests

1. The particulars and documents accompanying the application for marketing authorization pursuant to points 6 and 7 of Article 4 (2) of Directive 65/65/EEC shall be submitted in accordance with the following requirements.

A description shall be given of the investigations by which the shelf life, the recommended storage conditions and the specifications at the end of the shelf-life proposed by the applicant have been determined.

Where a finished product is liable to give rise to degradation products, the applicant must declare these and indicate characterization methods and test procedures.

The conclusions shall contain the results of analyses, justifying the proposed shelf life under the recommended storage conditions and the specifications of the finished product at the end of the shelf-life under these recommended storage conditions.

The maximum acceptable level of degradation products at the end of shelf-life shall be indicated.

A study of the interaction between product and container shall be submitted wherever the risk of such interaction is regarded as possible, especially where injectable preparations or aerosols for internal use are concerned.

2. Where for biological medicinal products, such as vaccines, serums, toxins, allergen products and medicinal products derived from human blood or plasma, stability tests cannot be carried out on the finished products, it is acceptable to carry out stability indicating tests at an intermediate stage of production as late as possible in the manufacturing process. In addition, there should be an evaluation of the stability of the finished product using other secondary tests.
3. For radiopharmaceuticals, information on stability shall be given for generators, kits and radiolabelled products. The stability during use of radiopharmaceuticals in multi-dose vials shall be documented.

PART 3

TOXICOLOGICAL AND PHARMACOLOGICAL TESTS

I. Introduction

1. The particulars and documents accompanying the application for marketing authorization pursuant to point 8 of Article 4, second paragraph, Directive 65/65/EEC shall be given in accordance with the requirements below.

Member States shall ensure that the safety tests are carried out in conformity with the provisions relating to good laboratory practice laid down by Directives 87/18/EEC⁽¹⁾ and 88/320/EEC⁽²⁾.

The toxicological and pharmacological tests must show :

- (a) the potential toxicity of the product and any dangerous or undesirable toxic effects that may occur under the proposed conditions of use in human beings ; these should be evaluated in relation to the pathological condition concerned ;
- (b) the pharmacological properties of the product, in both qualitative and quantitative relationship to the proposed use in human beings. All results must be reliable and of general applicability. Whenever appropriate, mathematical and statistical procedures shall be used in designing the experimental methods and in evaluating the results.

Additionally, it is necessary for clinicians to be given information about the therapeutic potential of the product.

2. Where a medicinal product is intended for topical use, systemic absorption must be investigated, due account also being taken of the possible use of the product on broken skin and absorption through other relevant surfaces. Only if it is proved that systematic absorption under these conditions is negligible may repeated dose systematic toxicity tests, foetal toxicity tests and studies of reproductive function be omitted.

If, however, systematic absorption is demonstrated during therapeutic experimentation, toxicity tests shall be carried out on animals, including where necessary, foetal toxicity tests.

In all cases, tests of local tolerance after repeated application shall be carried out with particular care and include histological examinations ; the possibility of sensitization shall be investigated and any carcinogenic potential investigated in the cases referred to in paragraph II E of this Part.

3. For biological medicinal products such as vaccines, serums, toxins, allergen products and medicinal products derived from human blood or plasma, the requirements of this Part may have to be adapted for individual products ; therefore the testing programme carried out shall be justified by the applicant.

In establishing the testing programme, the following shall be taken into consideration :

- all tests requiring repeated administration of the product shall be designed to take account of the possible induction of, and interference by, antibodies ;
- examination of reproductive function, of embryo/foetal and perinatal toxicity, of mutagenic potential and of carcinogenic potential shall be considered. Where components other than the active ingredient(s) are incriminated, validation of their removal may replace the study.

4. For radiopharmaceuticals, it is appreciated that toxicity may be associated with a radiation dose. In diagnosis, this is a consequence of the use of radiopharmaceuticals ; in therapy, it is the wanted property. The evaluation of safety and efficacy of radiopharmaceuticals shall, therefore, address requirements for medicinal products and radiation dosimetry aspects. Organ/tissue exposure to radiation shall be documented. Absorbed radiation dose estimates shall be calculated according to a specified, internationally recognized system by a particular route of administration.
5. The toxicology and pharmacokinetics of an excipient used for the first time in the pharmaceutical field shall be investigated.

⁽¹⁾ OJ No L 15, 17. 1. 87, p. 29.

⁽²⁾ OJ No L 145, 11. 6. 88, p. 35.

6. Where there is a possibility of significant degradation during storage of the medicinal product, the toxicology of degradation products must be considered.

II. Performance of tests

A. Toxicity

1. Single dose toxicity

An acute test is a qualitative and quantitative study of the toxic reactions which may result from a single administration of the active substance or substances contained in the medicinal product, in the proportions and physico-chemical state in which they are present in the actual product.

The acute toxicity test must be carried out in two or more mammalian species of known strain unless a single species can be justified. At least two different routes of administration shall normally be used, one being identical with or similar to that proposed for use in human beings and the other ensuring systemic exposure to the substance.

This study will cover the signs observed, including local reactions. The period during which the test animals are observed shall be fixed by the investigator as being adequate to reveal tissue or organ damage or recovery, usually for a period of 14 days but not less than seven days, but without exposing the animals to prolonged suffering. Animals dying during the observation period should be subject to autopsy as also should all animals surviving to the end of the observation period. Histopathological examinations should be considered on any organ showing macroscopic changes at autopsy. The maximum amount of information should be obtained from the animals used in the study.

The single dose toxicity tests should be conducted in such a way that signs of acute toxicity are revealed and the mode of death assessed as far as reasonably possible. In suitable species a quantitative evaluation of the approximate lethal dose and information on the dose effect relationship should be obtained, but a high level of precision is not required.

These studies may give some indication of the likely effects of acute overdosage in man and may be useful for the design of toxicity studies requiring repeated dosing on the suitable animal species.

In the case of active substances in combination, the study must be carried out in such a way as to check whether or not there is enhancement of toxicity or if novel toxic effects occur.

2. Repeated dose toxicity (sub-acute or chronic toxicity)

Repeated dose toxicity tests are intended to reveal any physiological and/or pathological changes induced by repeated administration of the active substance or combination of active substances under examination, and to determine how these changes are related to dosage.

Generally, it is desirable that two tests be performed: one short-term, lasting two to four weeks, the other long-term. The duration of the latter shall depend on the conditions of clinical use. Its purpose shall be to determine by experiment the non-toxic dose range of the product and normally it shall last three to six months.

In respect of medicinal products to be administered once only to humans, a single test lasting two to four weeks shall be performed.

If, however, having regard to the proposed duration of use in human beings, the investigator sees fit to carry out experiments of greater or lesser duration than indicated above, he must give adequate reasons for doing so.

Reasons should also be given for the dosages chosen.

Repeated dose toxicity tests shall be carried out on two species of mammals one of which must be a non-rodent. The choice of route(s) of administration employed shall depend on the intended therapeutic use and the possibilities of systemic absorption. The method and frequency of dosage shall be clearly stated.

The maximum dose should be chosen so as to bring harmful effects to light. The lower doses will then enable the animal's tolerance of the product to be determined.

Wherever possible, and always in experiments on small rodents, the design of the experiment and the control procedures must be suited to the scale of the problem being tackled and enable fiducial limits to be determined.

The evaluation of the toxic effects shall be based on observation of behaviour, growth, haematological and biochemical tests, especially those relating to the excretory mechanism, and also on autopsy reports and accompanying histological data. The choice and range of each group of tests will depend on the species of animal used and the state of scientific knowledge at the time.

In the case of new combinations of known substances that have been investigated in accordance with the provisions of this Directive, the long-term tests may, except where acute and sub-acute toxicity tests have demonstrated potentiation or novel toxic effects, be suitable modified by the investigator who shall submit his reasons for such modification.

B. *Examination of reproductive function*

If the results of other tests reveal anything suggesting harmful effects on progeny or impairment of male or female reproductive function, this shall be investigated by appropriate tests.

C. *Embryo/foetal and perinatal toxicity*

This investigation comprises a demonstration of the toxic and especially the teratogenic effects observed in the issue of conception when the substance under investigation has been administered to the female during pregnancy.

Although up to the present these tests have had only a limited predictive value in regard to the application of the results to human beings, they are thought to provide important information where the results show effects such as resorptions and other anomalies.

Omission of these tests, either because the medicinal product will not normally be used by women capable of child-bearing or for other reasons, must be adequately justified.

Embryo/foetal toxicity studies shall normally be conducted on two mammalian species, one of which should be other than a rodent. Peri- and postnatal studies shall be conducted in at least one species. Where metabolism of a medicinal product in a particular species is known to be similar to that in man, it is desirable to include this species. Also, it is desirable that one of the species is the same as in the repeated dose toxicity studies.

The details of the test (number of animals, amounts administered, timing of administration and criteria for evaluation of results) shall depend on the state of scientific knowledge at the time when the application is lodged, and the level of statistical significance that the results must attain.

D. *Mutagenic potential*

The purpose of the study of mutagenic potential is to reveal the changes which a substance may cause in the genetic material of individuals or cells and which have the effect of making successors permanently and hereditarily different from their predecessors. This study is obligatory for any new substance.

The number and types of results and the criteria for their evaluation shall depend on the state of scientific knowledge at the time when the application is lodged.

E. *Carcinogenic potential*

Tests to reveal carcinogenic effects shall normally be required:

- (a) in respect of substances having a close chemical analogy with known carcinogenic or cocarcinogenic compounds;
- (b) in respect of substances which have given rise to suspicious changes during the long-term toxicological tests;
- (c) in respect of substances which have given rise to suspicious results in the mutagenic-potential tests or in other short-term carcinogenicity tests.

Such tests may also be required in respect of substances to be included in medicinal products likely to be administered regularly over a prolonged period of a patient's life.

The state of scientific knowledge at the time when the application is lodged shall be taken into account when determining the details of the tests.

F. *Pharmacodynamics*

This heading covers the variations caused by the substance in the functions of the physiological systems, whether these functions are normal or experimentally modified.

This study shall follow two distinct lines of approach.

Firstly, the actions on which the recommended application in therapeutic practice is based shall be adequately described. The results shall be expressed in quantitative terms using, for example, dose-effect curves, time-effect curves etc., and wherever possible, compared with data relating to a substance whose activity is known. Where a higher therapeutic potency is being claimed for a substance, the difference shall be demonstrated and shown to be statistically significant.

Secondly, the investigator shall provide a general pharmacological characterization of the substance, with special reference to collateral effects. In general, the main functions of the physiological systems should be investigated. The depth of this investigation must be increased as the doses liable to produce side-effects approach those producing the main effect for which the substance is being proposed.

The experimental techniques, unless they are standard procedures, must be described in such detail as to allow them to be reproduced, and the investigator must establish their validity. The experimental results shall be set out clearly and, when relevant to the test, their statistical significance quoted.

Unless good reasons are given to the contrary, any quantitative modification of responses resulting from repeated administration of the substance shall be investigated.

Tests on combinations of active substances may be prompted either by pharmacological premisses or by indications of therapeutic effect.

In the first case, the pharmacodynamic study shall demonstrate those interactions which might make the combination of value in therapeutic use.

In the second case, where scientific justification for the combination is sought through therapeutic experimentation, the investigation shall determine whether the effects expected from the combination can be demonstrated in animals, and the importance of any collateral effects shall at least be investigated.

If a combination includes a novel active substance, the latter must previously have been studied in depth.

G. *Pharmacokinetics*

Pharmacokinetics means the study of the fate of the active substance within the organism, and covers the study of the absorption, distribution, biotransformation and excretion of the substance.

The study of these different phases may be carried out both by means of physical, chemical or biological methods, and by observation of the actual pharmacodynamic activity of the substance itself.

Information on distribution and elimination (i.e. biotransformation and excretion) shall be necessary in all cases where such data are indispensable to determine the dosage for humans, and in respect of chemotherapeutic substances (antibiotics, etc.) and substances whose use depends on their non-pharmacodynamic effects (e.g. numerous diagnostic agents, etc.).

Pharmacokinetic investigation of pharmacologically active substances is necessary.

In the case of new combinations of known substances which have been investigated in accordance with the provisions of this Directive pharmacokinetic studies may not be required, if the toxicity tests and therapeutic experimentation justify their omission.

H. *Local tolerance*

The purpose of local tolerance studies is to ascertain whether medicinal products (both active ingredients and excipients) are tolerated at sites in the body which may come into contact with the products as a result of its administration in clinical use. The testing strategy shall be such that any mechanical effects of administration or purely physico-chemical actions of the product can be distinguished from toxicological or pharmacodynamic ones.

PART 4

CLINICAL DOCUMENTATION

The particulars and documents accompanying applications for marketing authorizations pursuant to point 8 of Article 4 (2) of Directive 65/65/EEC shall be submitted in accordance with the provisions below.

A clinical trial is any systematic study of medicinal products in human subjects whether in patients or non-patient volunteers in order to discover or verify the effects of and/or identify any adverse reaction to investigational products, and/or study their absorption, distribution, metabolism and excretion in order to ascertain the efficacy and safety of the products.

Evaluation of the application for marketing authorization shall be based on clinical trials including clinical pharmacological trials designed to determine the efficacy and safety of the product under normal conditions of use, having regard to the therapeutic indications for use in human beings. Therapeutic advantages must outweigh potential risks.

A. General requirements

The clinical particulars to be provided pursuant to point 8 of Article 4 (2) of Directive 65/65/EEC must enable a sufficiently well-founded and scientifically valid opinion to be formed as to whether the medicinal product satisfies the criteria governing the granting of a marketing authorization. Consequently, an essential requirement is that the results of all clinical trials should be communicated, both favourable and unfavourable.

Clinical trials must always be preceded by adequate pharmacological and toxicological tests, carried out on animals in accordance with the requirements of Part 3 of this Annex. The investigator must acquaint himself with the conclusions drawn from the pharmacological and toxicological studies and hence the applicant must provide him at least with the investigator's brochure, consisting of all the relevant information known prior to the onset of a clinical trial including chemical, pharmaceutical and biological data, toxicological, pharmacokinetic and pharmacodynamic data in animals and the results of earlier clinical trials, with adequate data to justify the nature, scale and duration of the proposed trial; the complete pharmacological and toxicological reports shall be provided on request. For materials of human or animal origin, all available means shall be employed to ensure safety from transmission of infectious agents prior to the commencement of the trial.

B. Conduct of trials**1. *Good clinical practice***

- 1.1. All phases of clinical investigation, including bioavailability and bioequivalence studies, shall be designed, implemented and reported in accordance with good clinical practice.
- 1.2. All clinical trials shall be carried out in accordance with the ethical principles laid down in the current revision of the Declaration of Helsinki. In principle, the freely given informed consent of each trial subject shall be obtained and documented.

The trial protocol, procedures (including statistical design) and documentation shall be submitted by the sponsor and/or investigator for an opinion to the relevant ethics committee. The trials shall not begin before the opinion of this committee has been received in writing.

- 1.3. Pre-established, systematic written procedures for the organization, conduct, data collection, documentation and verification of clinical trials shall be required.
- 1.4. In the case of radiopharmaceuticals, clinical trials shall be carried out under the responsibility of a medical doctor authorized to use radionuclides for medical purposes.

2. *Archiving*

The person responsible for placing the medicinal product on the market shall make arrangements for archiving of documentation.

- (a) The investigator shall arrange for the retention of the patient identification codes for at least 15 years after the completion or discontinuation of the trial.

- (b) Patient files and other source data shall be kept for the maximum period of time permitted by the hospital, institution or private practice.
- (c) The sponsor or other owner of the data shall retain all other documentation pertaining to the trial as long as the product is authorized. These procedures shall include :
 - the protocol including the rationale, objectives and statistical design and methodology of the trial, with conditions under which it is performed and managed, and details of the investigational product, the reference medicinal product and/or the placebo used,
 - standard operating procedures,
 - all written opinions on the protocol and procedures,
 - the investigator's brochure,
 - case report forms on each trial subject,
 - final report,
 - audit certificate(s), if available.
- (d) The final report shall be retained by the sponsor or subsequent owner, for five years after the product is no longer authorized.

Any change of ownership of the data shall be documented. All data and documents shall be made available if requested by relevant authorities.

C. Presentation of results

1. The particulars of each clinical trial must contain sufficient detail to allow an objective judgement to be made :
 - the protocol, including the rationale, objectives and statistical design and methodology of the trial, with conditions under which it is performed and managed, and details of the investigational product used,
 - audit certificate(s), if available,
 - the list of investigator(s), and each investigator shall give his name, address, appointments, qualifications and clinical duties, state where the trial was carried out and assemble the information in respect of each patient individually, including case report forms on each trial subject,
 - final report signed by the investigator and for multicentre trials, by all the investigators or the coordinating (principal) investigator.
2. The particulars of clinical trials referred to above shall be forwarded to the competent authorities. However, in agreement with the competent authorities, the applicant may omit part of this information. Complete documentation shall be provided forthwith upon request.
3. The clinical observations shall be summarized for each trial indicating :
 - (a) the number and sex of patients treated ;
 - (b) the selection and age-distribution of the groups of patients being investigated and the control groups ;
 - (c) the number of patients withdrawn prematurely from the trials and the reasons for such withdrawal ;
 - (d) where controlled trials were carried out under the above conditions, whether the control group :
 - received no treatment,
 - received a placebo,
 - received another medicinal product of known effect,
 - received treatment other than therapy using medicinal products ;
 - (e) the frequency of observed side-effects ;
 - (f) details concerning patients who may be at increased risk, e.g. elderly people, children, women during pregnancy or menstruation, or whose physiological or pathological condition requires special consideration ;
 - (g) parameters or evaluation criteria of efficacy and the results in terms of these parameters ;
 - (h) a statistical evaluation of the results when this is called for by the design of the trials and the variable factors involved.

4. The investigator shall, in his conclusions on the experimental evidence, express an opinion on the safety of the product under normal conditions of use, its compatibility, its efficacy and any useful information relating to indications and contra-indications, dosage and average duration of treatment as well as any special precautions to be taken during treatment and the clinical symptoms of overdosage. In reporting the results of a multi-centre study, the principal investigator shall, in his conclusions, express an opinion on the safety and efficacy of the investigational product on behalf of all centres.
5. In addition, the investigator shall always indicate his observations on :
 - (a) any signs of habituation, addiction or difficulty in weaning patients from the medicinal product ;
 - (b) any interactions that have been observed with other medicinal products administered concomitantly ;
 - (c) the criteria determining exclusion of certain patients from the trials ;
 - (d) any deaths which occurred during the trial or within the follow-up period.
6. Particulars concerning a new combination of medicinal substances must be identical to those required for new medicinal products and must substantiate the safety and efficacy of the combination.
7. Total or partial omission of data must be explained. Should unexpected results occur during the course of the trials, further preclinical toxicological and pharmacological tests must be undertaken and reviewed.

If the medicinal product is intended for long-term administration, particulars shall be given of any modification of the pharmacological action following repeated administration, as well as the establishment of long-term dosage.

D. Clinical pharmacology

1. *Pharmacodynamics*

The pharmacodynamic action correlated to the efficacy shall be demonstrated including :

- the dose-response relationship and its time course,
- justification for the dosage and conditions of administration,
- the mode of action, if possible.

The pharmacodynamic action not related to efficacy shall be described.

The demonstration of pharmacodynamic effects in human beings shall not in itself be sufficient to justify conclusions regarding any particular potential therapeutic effect.

2. *Pharmacokinetics*

The following pharmacokinetic characteristics shall be described :

- absorption (rate and extent),
- distribution,
- metabolism,
- excretion.

Clinically significant features including the implication of the kinetic data for the dosage regimen especially for patients at risk, and differences between man and animal species used in the preclinical studies, shall be described.

3. *Interactions*

If the product is normally to be administered concomitantly with other medicinal products, particulars shall be given of joint administration tests performed to demonstrate possible modification of the pharmacological action.

If pharmacodynamic/pharmacokinetic interactions exist between the substance and other medical products or substances like alcohol, caffeine, tobacco or nicotine, likely to be taken simultaneously, or if such interactions are likely, they should be described and discussed ; particularly from the point of view of clinical relevance and the relationship to the statement concerning interactions in the summary of product characteristics presented in accordance with Article 4a, point 5.6 of Directive 65/65/EEC.

E. Bioavailability/bioequivalence

The assessment of bioavailability must be undertaken in all cases where it is necessary, e.g. where the therapeutic dose is near the toxic dose or where the previous tests have revealed anomalies which may be related to pharmacokinetic properties, such as variable absorption.

In addition, an assessment of bioavailability shall be undertaken where necessary to demonstrate bioequivalence for the medicinal products referred to in Article 4 (2) point 8 (i) (ii) and (iii) of Directive 65/65/EEC.

F. Clinical efficacy and safety

1. In general, clinical trials shall be done as 'controlled clinical trials' and if possible, randomized; any other design shall be justified. The control treatment of the trials will vary from case to case and also will depend on ethical considerations; thus it may, in some instances, be more pertinent to compare the efficacy of a new medicinal product with that of an established medicinal product of proven therapeutic value rather than with the effect of a placebo.

As far as possible, and particularly in trials where the effect of the product cannot be objectively measured, steps shall be taken to avoid bias, including methods of randomization and blinding.

2. The protocol of the trial must include a thorough description of the statistical methods to be employed, the number and reasons for inclusion of patients (including calculations of the power of the trial), the level of significance to be used and a description of the statistical unit. Measures taken to avoid bias, particularly methods of randomization, shall be documented. Inclusion of a large number of subjects in a trial must not be regarded as an adequate substitute for a properly controlled trial.
3. Clinical statements concerning the efficacy or safety of a medicinal product under normal conditions of use which are not scientifically substantiated cannot be accepted as valid evidence.
4. The value of data on the efficacy and safety of a medicinal product under normal conditions of use will be very greatly enhanced if such data come from several competent investigators working independently.
5. For vaccines and serums, the immunological status and age of the trial population and the local epidemiology are of critical importance and shall be monitored during the trial and fully described.

For live attenuated vaccines, clinical trials shall be so designed as to reveal potential transmission of the immunizing agent from vaccinated to non-vaccinated subjects. If transmission is possible, the genotypic and phenotypic stability of the immunizing agent shall be studied.

For vaccines and allergen products, follow-up studies shall include appropriate immunological tests, and where applicable, antibody assays.

6. The pertinence of the different trials to the assessment of safety and the validity of methods of evaluation shall be discussed in the expert report.
7. All adverse events including abnormal laboratory values shall be presented individually and discussed, especially:
 - in terms of overall adverse experience and
 - as a function of the nature, seriousness and causality of effects.
8. A critical assessment of relative safety, taking into account adverse reactions, shall be made in relation to:
 - the disease to be treated,
 - other therapeutic approaches,
 - particular characteristics in sub-groups of patients,
 - preclinical data on toxicology and pharmacology.
9. Recommendations shall be made for the conditions of use, with the intention of reducing the incidence of adverse reactions.

G. Documentation for applications in exceptional circumstances

When, in respect of particular therapeutic indications, the applicant can show that he is unable to provide comprehensive data on the quality, efficacy and safety under normal conditions of use, because:

- the indications for which the product in question is intended are encountered so rarely that the applicant cannot reasonably be expected to provide comprehensive evidence, or

- in the present state of scientific knowledge comprehensive information cannot be provided, or
- it would be contrary to generally accepted principles of medical ethics to collect such information,

marketing authorization may be granted on the following conditions:

- (a) the applicant completed an identified programme of studies within a time period specified by the competent authority, the results of which shall form the basis of a reassessment of the benefit/risk profile,
- (b) the medicinal product in question may be supplied on medical prescription only and may in certain cases be administered only under strict medical supervision, possibly in a hospital and for a radiopharmaceutical, by an authorized person,
- (c) the package leaflet and any medical information shall draw the attention of the medical practitioner to the fact that the particulars available concerning the medicinal product in question are as yet inadequate in certain specified respects.

H. Post-marketing experience

1. If the medicinal product is already authorized in other countries, information shall be given in respect of adverse drug reactions of the medicinal product concerned and medicinal products containing the same active ingredient(s), in relation to the usage rates if possible. Information from worldwide studies relevant to the safety of the medicinal product shall be included.

For this purpose, an adverse drug reaction is a reaction which is noxious and unintended and which occurs at doses normally used in man for prophylaxis, diagnosis or therapy of disease or for the modification of physiological function.

2. In the case of vaccines already authorized in other countries, information on the monitoring of vaccinated subjects to evaluate the prevalence of the disease in question as compared to non-vaccinated subjects shall be submitted, when available.
 3. For allergen products, response in periods of increased antigen exposure shall be identified.
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