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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2889/91

of 1 October 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 30 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 2 October 1991.

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

Done at Brussels, 1 October 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 1 October 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy
0709 90 60	125,33 ⁽²⁾ ⁽³⁾
0712 90 19	125,33 ⁽²⁾ ⁽³⁾
1001 10 10	179,50 ⁽¹⁾ ⁽³⁾
1001 10 90	179,50 ⁽¹⁾ ⁽³⁾
1001 90 91	154,91
1001 90 99	154,91
1002 00 00	164,02 ⁽⁴⁾
1003 00 10	139,91
1003 00 90	139,91
1004 00 10	125,93
1004 00 90	125,93
1005 10 90	125,33 ⁽²⁾ ⁽³⁾
1005 90 00	125,33 ⁽²⁾ ⁽³⁾
1007 00 90	134,74 ⁽⁴⁾
1008 10 00	52,45
1008 20 00	123,60 ⁽⁴⁾
1008 30 00	52,69 ⁽³⁾
1008 90 10	⁽⁷⁾
1008 90 90	52,69
1101 00 00	229,88 ⁽⁸⁾
1102 10 00	242,63 ⁽⁸⁾
1103 11 10	291,41 ⁽⁸⁾
1103 11 90	247,77 ⁽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 2890/91

of 1 October 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 30 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 2 October 1991.

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

Done at Brussels, 1 October 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 1 October 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 10	1st period 11	2nd period 12	3rd period 1
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

CN code	(ECU/tonne)				
	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
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 2891/91**of 1 October 1991****amending Regulation (EEC) No 910/91 on the sale by the procedure laid down in Regulation (EEC) No 2539/84 of beef held by certain intervention agencies and intended for export to Brazil**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 1628/91 ⁽²⁾, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 910/91 of 11 April 1991 ⁽³⁾, as last amended by Regulation (EEC) No 2345/91 ⁽⁴⁾, provides for the sale of intervention beef held in several Member States ;

Whereas, in respect of the quantity put up for sale in Germany, the time limit for taking over from intervention stocks should be extended in order to facilitate the sale ;

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

HAS ADOPTED THIS REGULATION :

Article 1

The date '1 March 1991' referred to in the third indent of Article 1 (1) of Regulation (EEC) No 910/91 is replaced by '1 June 1991'.

Article 2

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

It shall apply with effect from 9 September 1991.

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

Done at Brussels, 1 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 16.

⁽³⁾ OJ No L 91, 12. 4. 1991, p. 45.

⁽⁴⁾ OJ No L 214, 2. 8. 1991, p. 29.

COMMISSION REGULATION (EEC) No 2892/91**of 1 October 1991****on the sale by the procedure laid down in Regulation (EEC) No 2539/84 of beef held by certain intervention agencies and intended for export to the Soviet Union, amending Regulation (EEC) No 569/88 and repealing Regulation (EEC) No 1933/91**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EEC) No 1628/91⁽²⁾, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 2539/84 of 5 September 1984 laying down detailed rules for certain sales of frozen beef held by the intervention agencies⁽³⁾, as amended by Regulation (EEC) No 1809/87⁽⁴⁾, has provided for the possibility of applying a two-stage procedure when selling beef from intervention stocks;

Whereas certain intervention agencies hold large stocks of intervention meat; whereas an extension of the period of storage for the meat bought in should be avoided on account of the ensuing high costs; whereas in view of the supply needs in the Soviet Union part of that meat should be put up for sale in accordance with Regulations (EEC) No 2539/84;

Whereas, in view of the urgency and the specific nature of the operation and of the need for controls, special detailed rules must be laid down in particular as regards the minimum quantity which may be purchased;

Whereas quarters from intervention stocks may in certain cases have been handled a number of times; whereas, in order to help with the presentation and marketing of such meat, its repackaging should be authorized, subject to the observance of precise conditions;

Whereas it is necessary to lay down a time limit for export of the said meat; whereas this time limit should be fixed by taking into account Article 5 (b) of Commission Regulation (EEC) No 2377/80 of 4 September 1980 on special detailed rules for the application of the system of import and export licences in the beef and veal sector⁽⁵⁾, as last amended by Regulation (EEC) No 815/91⁽⁶⁾;

Whereas in order to ensure that beef sold is exported to the intended destination the lodging of security, as specified in Article 5 (2) (a) of Regulation (EEC) No 2539/84, should be required;

Whereas products held by intervention agencies and intended for export are subject to the provision of Commission Regulation (EEC) No 569/88⁽⁷⁾, as last amended by Regulation (EEC) No 2742/91⁽⁸⁾; whereas the Annex to the said Regulation setting out the entries to be made should be expanded;

Whereas Commission Regulation (EEC) No 1933/91⁽⁹⁾ should be repealed;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A sale shall be organized of approximately 50 000 tonnes of bone-in beef held by the German intervention agency and bought in before 1 September 1991;
2. This meat must be imported into the Soviet Union.
3. Subject to the provisions of this Regulation, the sale shall take place in accordance with the provisions of Regulation (EEC) No 2539/84.

The provisions of Commission Regulation (EEC) No 985/81⁽¹⁰⁾ shall not apply to this sale. However, the competent authorities may allow bone-in forequarters and hindquarters the packaging material of which is torn or soiled, to be placed in new packaging of the same type under their supervision before presentation for consignment at the customs office of departure.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 16.

⁽³⁾ OJ No L 238, 6. 9. 1984, p. 13.

⁽⁴⁾ OJ No L 170, 30. 6. 1987, p. 23.

⁽⁵⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁶⁾ OJ No L 83, 3. 4. 1991, p. 6.

⁽⁷⁾ OJ No L 55, 1. 3. 1988, p. 1.

⁽⁸⁾ OJ No L 262, 19. 9. 1991, p. 13.

⁽⁹⁾ OJ No L 174, 3. 7. 1991, p. 13.

⁽¹⁰⁾ OJ No L 99, 10. 4. 1981, p. 38.

4. The qualities and the minimum prices referred to in Article 3 (1) of Regulation (EEC) No 2539/84 are given in Annex I hereto.

5. An offer shall be valid only if:

- it relates to a total minimum quantity of 10 000 tonnes expressed in product weight,
- it relates to an equal weight of forequarters and hind-quarters and shall contain a single price per tonne expressed in ecus for the whole quantity specified in the offer.

6. Immediately after submitting tenders or purchase applications the operator shall send a copy hereof to the Commission of the European Communities, Division VI/D.2, 130 rue de la Loi, B-1049 Brussels (telex 220 37 B AGREC).

7. Intervention agencies shall only conclude selling contracts upon verification, in collaboration with the Commission's services, that the conditions referred to in paragraphs 5 and 6 have been met.

8. Only those tenders shall be taken into consideration which reach the intervention agencies concerned not later than 12 noon on 11 October 1991.

9. Particulars of the qualities and the places where the products are stored may be obtained by interested parties at the address given in Annex II.

Article 2

1. Notwithstanding Article 6 of Regulation (EEC) No 2539/84, the time limit for taking over meat as defined in that Article shall be increased to three months.

2. The products referred to in Article 1 must be exported within five months from the date of conclusion of the contract of sale.

Article 3

1. The security provided for in Article 5 (1) of Regulation (EEC) No 2539/84 shall be ECU 30 per 100 kilograms.

2. The security provided for in Article 5 (2) (a) of Regulation (EEC) No 2539/84 shall be ECU 300 per 100 kilograms of bone-in beef.

Article 4

In respect of meat sold under this Regulation no export refund shall be granted.

In the removal order referred to in Article 3 of Regulation (EEC) No 569/88, the export declaration, and, where appropriate, the T 5 control copy shall be entered:

'Sin restitución [Reglamento (CEE) n° 2892/91];
Uden restitution [Forordning (EØF) nr. 2892/91];
Keine Erstattung [Verordnung (EWG) Nr. 2892/91];
χωρίς επιστροφή [κανονισμός (ΕΟΚ) αριθ. 2892/91];
Without refund [Regulation (EEC) No 2892/91];
Sans restitution [Règlement (CEE) n° 2892/91];
Senza restituzione [Regolamento (CEE) n. 2892/91];
Zonder restitutie [Verordening (EEG) nr. 2892/91];
Sem restituição [Regulamento (CEE) n° 2892/91].'

Article 5

In part I of the Annex to Regulation (EEC) No 569/88, 'Products to be exported in the same state as that in which they were when removed from intervention stock' the following item and footnote are added:

'105. Commission Regulation (EEC) No 2892/91 of 1 October 1991 on the sale by procedure laid down in Regulation (EEC) No 2539/84 of beef held by certain intervention agencies and intended for export to the Soviet Union ⁽¹⁰⁵⁾.

⁽¹⁰⁵⁾ OJ No L 275, 2. 10. 1991, p. 6.'

Article 6

Regulation (EEC) No 1933/91 is hereby repealed.

Article 7

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

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

Done at Brussels, 1 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

Estado miembro Medlemsstat Mitgliedstaat Κράτος μέλος Member State État membre Stato membro Lid-Staat Estado-membro	Productos Produkte Erzeugnisse Προϊόντα Products Produits Prodotti Produkten Produtos	Cantidades (toneladas) Mængde (tons) Mengen (Tonnen) Ποσότητες (τόνοι) Quantities (tonnes) Quantités (tonnes) Quantità (tonnellate) Hoeveelheid (ton) Quantidade (toneladas)	Precio mínimo expresado en ecus por tonelada Mindstepriser i ECU/ton Mindestpreise, ausgedrückt in ECU/Tonne Ελάχιστες τιμές πώλησεως εκφραζόμενες σε Ecu ανά τόνο Minimum prices expressed in ecus per tonne Prix minimaux exprimés en écus par tonne Prezzi minimi espressi in ecu per tonnellata Minimumprijzen uitgedrukt in ecu per ton Preço mínimo expresso em ecus por tonelada
Deutschland	— Vorderviertel, stammend von : Kategorien A/C	25 000	485
	— Hinterviertel, stammend von : Kategorien A/C	25 000	485

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

Direcciones de los organismos de intervención — Interventionsorganernes adresser —
 Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses
 of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli
 organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos de
 intervenção

DEUTSCHLAND : Bundesanstalt für landwirtschaftliche Marktordnung (BALM)
 Geschäftsbereich 3 (Fleisch und Fleischerzeugnisse)
 Postfach 180 107 — Adickesallee 40
 D-6000 Frankfurt am Main 18
 Tel. (069) 1 56 4772/3
 Telex : 04 11 156
 Telefax : (069) 156 47 91

COMMISSION REGULATION (EEC) No 2893/91**of 1 October 1991****fixing for the 1991/92 marketing year the Community offer price for mandarins, including tangerines and satsumas, wilkings and other similar citrus hybrids, with the exception of clementines applicable with regard to Spain and Portugal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 3709/89 ⁽¹⁾ and (EEC) No 3648/90 ⁽²⁾ laying down general rules for implementing the Act of Accession of Spain and Portugal as regards the compensation mechanism on imports of fruit and vegetables originating respectively in Spain and Portugal, and in particular Article 4 (1) thereof,

Whereas, Commission Regulation (EEC) No 3820/90 ⁽³⁾, lays down detailed rules for the application of the compensation mechanism to imports of fruit and vegetables from Spain,

Whereas, pursuant to Articles 152 and 318 of the Act of Accession, a compensation mechanism is to be introduced on imports into the Community as constituted at 31 December 1985, hereinafter referred to as the 'Community of Ten', of fruit and vegetables from Spain and Portugal for which a reference price is fixed with regard to third countries; whereas, the Community offer price for mandarins, including tangerines and satsumas, wilkings and other similar citrus hybrids, with the exception of clementines coming from Spain and Portugal should be fixed only during the period where the reference price is fixed with regard to third countries, this means from 1 November to the last day of February of the following year;

Whereas, in accordance with Articles 152 (2)(a) and 318 (1)(a) of the Act of Accession, a Community offer price is to be calculated annually on the basis of the arithmetic mean of the producer prices in each Member State of the Community of Ten, plus transport and packaging costs incurred by the products from the production regions to the representative consumption centres of the Community and bearing in mind developments in the cost of production in the fruit and vegetable sector; whereas the abovementioned producer prices correspond to the average prices recorded during the three years preceding the date of fixing of the Community offer price; whereas, however, the annual Community offer

price cannot exceed the reference price applied for third countries;

Whereas, in accordance with Article 1 of Regulation (EEC) No 3709/89 and (EEC) No 3648/90, the producer prices to be used for the determination of the Community offer price are to be those of a domestic product defined by its commercial characteristics recorded on the representative market or markets located in the production areas where prices are lowest for products or varieties representing a considerable proportion of production marketed throughout the year or during a part of the latter and which meet quality Class I requirements and conditions laid down as regards packaging; whereas the average price for each representative market must be established after disregarding prices which may be considered excessively high or excessively low compared with the normal fluctuations recorded on the market; whereas, moreover, if the average price for a Member State shows excessive variations with respect of normal price fluctuations, it shall not be taken into account;

Whereas the application of the abovementioned criteria results in a Community offer price being fixed for mandarins, including tangerines and satsumas, wilkings and other similar citrus hybrids, with the exception of clementines for the period 1 November 1991 to 29 February 1992;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1991/92 marketing year, the Community offer price for mandarins, including tangerines and satsumas, wilkings and other similar citrus hybrids, with the exception of clementines (CN codes 0805 20 30, 50, 70 and 90) applicable with regard to Spain and Portugal, expressed in ecus per 100 kilograms net of packed products of Class I, of all sizes, shall be as follows:

From 1 November 1991 to 29 February 1992: 27,59.

Article 2

This Regulation shall enter into force on 1 November 1991.

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.

⁽²⁾ OJ No L 362, 27. 12. 1990, p. 16.

⁽³⁾ OJ No L 366, 29. 12. 1990, p. 43.

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

Done at Brussels, 1 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2894/91**of 1 October 1991****fixing for the 1991/92 marketing year the reference price for mandarins,
including tangerines and satsumas, wilkings and other similar citrus hybrids,
with the exception of clementines**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1623/91⁽²⁾, and in particular Article 27 (1) thereof,

Whereas Article 23 (1) of Regulation (EEC) No 1035/72 provides that reference prices for the whole Community are to be fixed each year before the beginning of the marketing year;

Whereas the importance of mandarin production in the Community is such that a reference price must be fixed for that product, such price to be operative also for tangerines, satsumas, wilkings and other similar citrus hybrids, with the exception of clementines;

Whereas the period during which mandarins harvested during a given crop year are marketed extends from October to 15 May of the following year; whereas the quantity put on the market during October and from 1 March to 15 May of the following year represents only a small percentage of that marketed over the whole marketing year; whereas the reference price should therefore be fixed only for the period running from 1 November to the last day of February of the following year;

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

— the increase in production costs for fruit and vegetables, less productivity growth, and

— the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State with regard to Article 23 (2) plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 1991/92 marketing year, the reference price for fresh mandarins including tangerines and satsumas, wilkings and other similar citrus hybrids, with the exception of clementines (CN codes 0805 20 30, 50, 70, 90), expressed in ecus per 100 kilograms net of packed products quality class I, of all sizes, shall be:

from 1 November 1991 to 29 February 1992: 27,64.

Article 2

This Regulation shall enter into force on 1 November 1991.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.⁽²⁾ OJ No L 150, 15. 6. 1991, p. 8.

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

Done at Brussels, 1 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2895/91
of 1 October 1991
altering the export refunds on milk and milk products

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

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 1630/91 ⁽²⁾, and in particular Article 17 ⁽⁵⁾ thereof,

Whereas the export refunds on milk and milk products were fixed by Commission Regulation (EEC) No 2841/91 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2841/91 to the infor-

mation known to the Commission that the export refunds should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex I to Regulation (EEC) No 2841/91 the amount of '195,00 ("")' given for destination 056 for product code 0405 00 10 700 is replaced by '201,00 ("")'.

Article 2

This Regulation shall enter into force on 2 October 1991.

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

Done at Brussels, 1 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 19.

⁽³⁾ OJ No L 272, 28. 9. 1991, p. 27.

COMMISSION REGULATION (EEC) No 2896/91
of 1 October 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 2808/91 ⁽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 30 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 2 October 1991.

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

Done at Brussels, 1 October 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 270, 26. 9. 1991, p. 29.

⁽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 1 October 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	37,44 ⁽¹⁾
1701 11 90	37,44 ⁽¹⁾
1701 12 10	37,44 ⁽¹⁾
1701 12 90	37,44 ⁽¹⁾
1701 91 00	43,36
1701 99 10	43,36
1701 99 90	43,36 ⁽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 2897/91

of 1 October 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 Commis-
sion to fix, for the week beginning the 9 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 Commis-
sion;

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 begin-
ning the 9 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 appli-
cation 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 9
September 1991, the level of the premium is fixed at
ECU 87,635 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 Regu-
lation (EEC) No 3013/89 which left the territory of region 1
during the week beginning the 9 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 9 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, 1 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 1 October 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	41,188	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	87,635	0
0204 21 00	87,635	0
0204 50 11		0
0204 22 10	61,345	
0204 22 30	96,399	
0204 22 50	113,926	
0204 22 90	113,926	
0204 23 00	159,496	
0204 30 00	65,726	
0204 41 00	65,726	
0204 42 10	46,008	
0204 42 30	72,299	
0204 42 50	85,444	
0204 42 90	85,444	
0204 43 00	119,621	
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	113,926	
0210 90 19	159,496	
1602 90 71 :		
— unboned (bone-in)	113,926	
— boned or boneless	159,496	

⁽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.

COUNCIL REGULATION (EEC) No 2898/91**of 1 October 1991****temporarily suspending the autonomous Common Customs Tariff duty on three industrial products (in the microelectronics sector)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Having regard to the proposal from the Commission,

Whereas production of the products referred to in this Regulation is at present inadequate or non-existent within the Community and producers are thus unable to meet the needs of user industries in the Community;

Whereas it is in the Community's interest in certain cases to suspend the autonomous Common Customs Tariff duties only partially, particularly because of the existence of Community production, and in other cases to suspend them completely;

Whereas, taking account of the difficulties involved in accurately assessing the development of the economic situation in the sectors concerned in the near future, these

suspension measures should be taken only temporarily, by fixing their period of validity by reference to the interests of Community production,

HAS ADOPTED THIS REGULATION:

Article 1

The autonomous Common Customs Tariff duties for the products listed in the tables appearing in the Annexes shall be suspended at the level indicated in respect of each of them.

These suspensions shall apply from 1 October to 31 December 1991.

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, 1 October 1991.

For the Council

The President

H. VAN DEN BROEK

ANNEX

CN code	Description	Rate of autonomous duty (%)
ex 8542 11 72	Electrically erasable, programmable, read only memory (E²PROM), excluding Flash E²PROM, with a storage capacity of 1 Mbit, in the form of a monolithic circuit, contained in a housing the exterior dimensions of which do not exceed 17 × 52 mm, with not more than 44 connecting pins and bearing : — an identification marking consisting of or including the following combination of figures and letters : AT 28C1024 — other identification markings relating to devices complying with the abovementioned description	0
ex 8542 11 72	Flash electrically erasable, programmable, read only memory (Flash E²PROM), with a storage capacity of 1 Mbit, in the form of a monolithic circuit, contained in a housing the exterior dimensions of which do not exceed 17 × 42 mm, with not more than 32 connecting pins and bearing : — an identification marking consisting of or including the following combination of figures and letters : 48 F 010 — other identification markings relating to devices complying with the abovementioned description	0
ex 8542 11 72	Electrically erasable, programmable, read only memory (Flash E²PROM), with a storage capacity of 2 Mbits, in the form of a monolithic circuit, contained in a housing the exterior dimensions of which do not exceed 17 × 42 mm, with not more than 32 connecting pins or contact areas and bearing : — an identification marking consisting of or including the following combination of figures and letters : 28 F 020 — other identification markings relating to devices complying with the abovementioned description	0

COUNCIL REGULATION (EEC) No 2899/91

of 1 October 1991

amending Regulation (EEC) No 3905/88 and repealing the definitive anti-dumping duty imposed on imports into the Community of polyester yarn originating in Mexico

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾ and in particular Article 14 thereof,

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

Whereas,

A. PROCEDURE

- (1) In November 1990 the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽²⁾, the initiation of a review of anti-dumping measures concerning imports of polyester yarn originating in Mexico, in accordance with Article 14 of Regulation (EEC) No 2423/88, and commenced an investigation. The measures in question consisted of definitive duties on imports of polyester yarn originating in Mexico imposed by Regulation (EEC) No 3905/88⁽³⁾.
- (2) The proceeding was initiated as a result of a request lodged in September 1990 by several exporters in Mexico. The request alleged changed circumstances since the imposition of the definitive anti-dumping duty. In particular, it was alleged that imports of polyester yarn from Mexico to the Community were now being made at non-dumped prices. The evidence contained in this request was considered sufficient to justify opening a proceeding.
- (3) The Commission officially advised the exporters known to be concerned, the representatives of the exporting country and the complainant in the original proceeding, the Comité international de la rayonne et des fibres synthétiques (CIRFS) representing the Community industry, and gave the

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

- (4) The exporters and CIRFS made their views known in writing.
- (5) The Commission sought and verified all information it deemed necessary for the purposes of this proceeding and carried out investigations at the premises of the following Mexican producers/exporters :
Fibras Químicas SA, Monterrey, Mexico,
Nylon de Mexico SA, Monterrey, Mexico,
Kimex SA, Mexico City,
Fibras Sintéticas SA, Mexico City,
Celanese Mexicana SA, Mexico City.
- (6) The investigation of dumping covered the period 1 January to 30 September 1990 (the investigation period).

B. PRODUCTS UNDER CONSIDERATION

1. Definition of products

- (7) The products concerned are non-textured partially oriented filament yarn (POY), falling within CN code 5402 42 00, and textured polyester yarn filament (PTY), falling within CN codes 5402 33 10 and 5402 33 90.

2. Description of products

- (8) POY is used to produce PTY and other types of yarn. PTY of varying quality is produced, and there are several different types.
- (9) Threes qualities of PTY are produced, as follows :
— first quality :
mechanically perfect, guaranteed for dyeing ;
— second quality :
mechanically perfect, not guaranteed for dyeing ('whites only') ;
— third quality :
lower quality yarn.

The proportion of each quality produced depends on the efficiency of the production process. The exporters are producing all three qualities of PTY.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No C 289, 17. 11. 1990, p. 7.

⁽³⁾ OJ No L 347, 16. 12. 1988, p. 10.

- (10) There are different types of PTY. The relative thickness and weight of PTY is expressed in units of 1 dtex, which is equal to the weight in grams of 10 000 metres of yarn. (It is also sometimes expressed in denier, of which 1,1 equals 1 dtex). Therefore the yarn becomes finer as the number of dtex becomes smaller. Furthermore, every type of yarn contains a certain number of constituent filaments, given a certain dtex weight. The greater the number of filaments, the greater is the value of the yarn.

C. DUMPING

1. Normal value

- (11) Normal value was calculated separately for each month (in view of the high inflation rate in Mexico) and for each different type and quality of yarn.
- (12) In general, normal value was established on the basis of the price actually paid or payable for the product sold on the domestic market.
- (13) In the case of two exporters, domestic price was consistently and substantially below cost of production during the investigation period. In these cases it was considered appropriate to establish a constructed normal value in accordance with Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88 using these companies' costs of production plus a profit (6 %), equivalent to that realized by other Mexican exporters on profitable sales in the domestic market, which was considered to be a reasonable level of profit.

2. Export price

- (14) Export prices were determined on the basis of the price actually paid or payable for the product exported to the Community.

3. Comparison

- (15) The normal value per type and quality (calculated on a monthly average basis) was compared with export prices of the same type and quality for the corresponding month on a transaction-by-transaction basis. Requests for allowances were accepted with regard to differences affecting price comparability and bearing a direct relationship to the sales under consideration and for which satisfactory evidence was submitted. All comparisons were made at the ex-factory level.

4. Dumping margins

- (16) With the exception of one exporter of PTY, whose dumping margin (0,53 %) is, according to the consistent practice of the Commission, considered

to be *de minimis*, no dumping was found as regards imports of PTY and POY originating in Mexico.

- (17) The Council confirms the conclusions of the Commission relating to dumping.

D. CONCLUSION

1. Repeal of anti-dumping measures

- (18) The investigation has demonstrated that imports of polyester yarn from Mexico are no longer being dumped. The Council notes that this absence of dumping, in the presence of a significant volume of imports, has continued over a substantial period and has been repeated on export markets outside the Community. The Council therefore concludes that there has been a durable change in the behaviour of the Mexican exporters, particularly in the area of pricing policy. In view of these changed circumstances, the Council considers that the anti-dumping measures concerning imports of polyester yarn originating in Mexico are now neither justified for necessary and should therefore be repealed.
- (19) The exporters and the complainant requested, and were granted, the opportunity to be heard by the Commission.

At their request, the exporters and the complainant were also informed of the essential facts and considerations on the basis of which it was proposed to recommend the repeal of the anti-dumping measures, concerning imports of polyester yarns originating in Mexico.

The parties were granted a period within which to make representation on any of the above matters subsequent to disclosure. Where appropriate, their comments were taken into consideration.

- (20) Since the imports originating in the Republic of Korea, Taiwan and Turkey were on such a scale that they have to be considered to have, by themselves, cumulatively caused material injury during the original investigation period, the repeal of the anti-dumping measures concerning imports of polyester yarn originating in Mexico cannot have any effect on the continuing validity of the anti-dumping measures imposed on imports of the same product originating in the Republic of Korea, Taiwan and Turkey.

2. Amendment to Regulation (EEC) No 3905/88

- (21) Regulation (EEC) No 3905/88 relating to imports of polyester yarn originating in Mexico, the Republic of Korea, Taiwan and Turkey should accordingly be amended in order to repeal the definitive anti-dumping duty imposed by that Regulation on imports originating in Mexico.

(22) The provisions of Regulation (EEC) No 3905/88 which relate to imports of the same product originating in the Republic of Korea, Taiwan and Turkey should remain unchanged.

(23) This amendment, which relates only to imports originating in Mexico, should have no effect on the expiry of the definitive anti-dumping duty imposed on imports of polyester yarn originating in the Republic of Korea, Taiwan and Turkey.

The date on which the measures concerning these countries shall lapse should continue to be based on the date of entry into force of Regulation (EEC) No 3905/88,

HAS ADOPTED THIS REGULATION :

Article 1

In Article 1 (1) of Regulation (EEC) No 3905/88, the reference to 'Mexico' shall be deleted.

In Article 1 (2) of Regulation (EEC) No 3905/88, the following indent shall be deleted :

— 15,8 % for POY originating in Mexico, excluding yarn produced and sold for export to the Community by Celanese Mexicana SA, Mexico City, which shall not be subject to such a duty ;

Article 2

In Article 2 (1) of Regulation (EEC) No 3905/88, the reference to 'Mexico' shall be deleted.

In Article 2 (2) of Regulation (EEC) No 3905/88 the following indent shall be deleted :

— 26,7 % for PTY originating in Mexico. The following duties shall be applicable to PTY produced and sold for export to the Community by the companies listed below :

- Celanese Mexicana SA, Mexico City 15,9 %,
- Fibras Quimicas SA, Monterrey 5,8 %,
- Kimex SA, Mexico City 18,7 % ;

The remainder of Regulation (EEC) No 3905/88 shall remain unchanged.

Article 3

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

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

Done at Brussels, 1 October 1991.

For the Council

The President

H. VAN DEN BROEK

COUNCIL REGULATION (EEC) No 2900/91**of 1 October 1991****amending Regulation (EEC) No 1048/90 with regard to the imposition of a definitive anti-dumping duty on imports of small screen colour television receivers originating in the Republic of Korea**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 14 thereof,

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

in the investigation and who was known to have exported large quantities of the product concerned to the Community, was established on the basis of what were considered to be the most appropriate facts available, i.e. by comparing an export price based on the average cif unit price of imports into the Community from Korea with a normal value based on the average domestic selling price of the cooperating Korean exporters. The margin thus established was 19,6 %.

II. REVIEW PROCEDURE**I. PREVIOUS PROCEDURE****(a) Imposition of definitive anti-dumping duty**

- (1) In February 1988 the Commission initiated an anti-dumping proceeding concerning imports of small screen colour television receivers (hereafter referred to as SCTVs) originating in the Republic of Korea⁽²⁾. This followed a complaint lodged by the European Association of Consumer Electronic Manufacturers (EACEM), representing a major proportion of Community production. Following an investigation, a provisional anti-dumping duty was imposed by Commission Regulation (EEC) No 3232/89⁽³⁾, and a definitive duty was subsequently imposed by Council Regulation (EEC) No 1048/90⁽⁴⁾.

(b) General duty

- (2) Under Regulation (EEC) No 1048/90, duties of between 10,2 and 10,5 % were imposed on imports from three exporters cooperating in the investigation.
- (3) The duty applicable to other Korean exporters (hereafter referred to as the 'general duty') and in particular to one exporter who refused to cooperate

- (4) In November 1990, the Commission received information from the Electronic Industries Association of Korea (EIAK) to the effect that the non-cooperating exporter mentioned above was no longer exporting SCTVs to the European Community. It was alleged that this changed situation removed the justification for the 19,6 % general duty and suggested that it should be reduced to the level of the highest duty imposed on imports of a cooperating exporter (i.e. 10,5 %).
- (5) After consulting the Advisory Committee, the Commission decided that there was sufficient evidence to justify the initiation of a partial review, limited in scope to the question of whether or not to modify the general duty. The partial review was opened on the initiative of the Commission, in accordance with Article 14 of Regulation (EEC) No 2423/88, by a notice published in the *Official Journal of the European Communities*⁽⁵⁾.
- (6) The Commission officially advised EIAK, the exporters who cooperated in the original investigation, the representatives of the exporting country and the complainant in the original proceeding (EACEM), and gave the parties concerned the opportunity to make their views known in writing and to request a hearing.
- (7) EIAK, some exporters and EACEM made their views known in writing.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.⁽²⁾ OJ No C 44, 17. 2. 1988, p. 2.⁽³⁾ OJ No L 314, 28. 10. 1989, p. 1.⁽⁴⁾ OJ No L 107, 27. 4. 1990, p. 56.⁽⁵⁾ OJ No C 18, 26. 1. 1991, p. 3.

- (8) The Commission sought and verified all information it deemed to be necessary for the purposes of this proceeding and in particular received and verified to the extent necessary information from EIAK.

III. RESULTS OF THE INVESTIGATION

(a) Determination of general duty in original anti-dumping investigation

- (9) As is stated by the Commission in recital 33 of Regulation (EEC) No 3232/89 (imposing the provisional duty), for those Korean exporters who did not make themselves known during the course of the original investigation, dumping was determined on the basis of what were considered by the Commission to be the most appropriate facts available, in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88.
- (10) For these non-cooperating exporters, the Commission calculated the dumping margin by comparing an export price based on the average cif unit price of imports into the Community from Korea (according to 1987 Eurostat data) with a normal value based on the average domestic selling price of the cooperating Korean exporters. The resulting dumping margin of 19,6 % became that applicable to the non-cooperating exporters and was imposed as the general duty, while the imports of the three cooperating Korean exporters (Daewoo, Goldstar and Samsung) are subject to definitive anti-dumping duties of 10,2 %, 10,4 % and 10,5 % respectively.
- (11) The major reason why the Commission did not consider the highest duty imposed on imports from a cooperating exporter to be appropriate for the non-cooperating exporters was the behaviour of one particular manufacturer based in Korea. This company was known to be exporting large quantities of SCTVs to the Community, with many of them being transhipped via third countries. It was approached by the Commission during its on-the-spot investigation, with the assistance of EIAK, with a view to securing its cooperation. However, the company refused to cooperate.
- (12) The Commission decided, and the Council confirmed, that, in these circumstances, neither the dumping margins determined for the cooperating

exporters nor the information contained in the complaint provided the most appropriate basis for determining the margin of dumping for non-cooperating exporters.

(b) Changed trade situation

- (13) The 19,6 % general duty was imposed on the basis of the facts available for the original investigation period — 1987. In view of the information received from EIAK and other sources, it is clear that the trade situation concerning the above exporter has now changed considerably.

(i) Information from EIAK

- (14) According to EIAK's internal statistics, and independent data obtained from the Korean Foreign Trade Association, both of which were verified by the Commission, the exporter in question has not exported SCTVs to the Community since 1988. Furthermore, its total exports from Korea of SCTVs to all destinations in 1990 amounted to only 3 % of the 1988 volume.
- (15) EIAK supplied evidence that the exporter involved had shifted its production capacity away from colour TV/receivers to other electronic products.
- (16) The exporter, which is a member of EIAK, had supplied the Association with a signed declaration that it no longer planned to export SCTVs to the Community. Furthermore, it was established that it had converted its production facilities to the manufacture of other electronic products.

(ii) Information from Korean Ministry of Trade and Industry

- (17) In May 1991, the Korean Ministry of Trade and Industry certified to the Commission that the exporter had now ceased all production of SCTVs in Korea, and provided appropriate documentary evidence.

(c) Imports from other non-cooperating exporters

- (18) The Commission also established that the export volumes of other non-cooperating exporters were extremely small, even before the imposition of the anti-dumping duty.

(d) Conclusion

- (19) In view of these changed circumstances, the Council concludes that the situation which justified the use of a different basis from that applied to the cooperating exporters for the purpose of imposing an anti-dumping duty no longer exists. The exporter mentioned in recitals 13 to 17 has now ceased production of SCTVs in Korea and therefore the quantities exported to the Community by non-cooperating exporters can only be very small. In these circumstances, the appropriate level for the general duty should be the highest rate of anti-dumping duty imposed on imports from a co-operating exporter, i.e. 10,5 %.
- (20) This rate of duty does not act as an incentive to circumvention, nor as a reward for non-cooperation, but constitutes an equitable response to the changed trade situation.
- (21) The parties were informed of the essential facts and considerations upon which the findings were based and were granted a period within which to make representations to the Commission. Where appropriate, their comments were taken into consideration. EACEM requested, and was granted, an opportunity to be heard by the Commission with regard to its findings in this proceeding.

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

Done at Brussels, 1 October 1991.

IV. AMENDMENT TO REGULATION (EEC) No 1048/90

- (22) Article 1 of Regulation (EEC) No 1048/90 should therefore be amended to reduce the general anti-dumping duty from 19,6 to 10,5 %, with effect from the date of entry into force of the present Regulation.
- (23) This measure shall lapse on the same day as the definitive anti-dumping measures imposed by Regulation (EEC) No 1048/90,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 (1) of Regulation (EEC) No 1048/90 '19,6 %' shall be replaced by '10,5 %'.

The remainder of Regulation (EEC) No 1048/90 shall remain unchanged.

Article 2

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

For the Council

The President

H. VAN DEN BROEK

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 July 1991

accepting undertakings given in connection with the review of anti-dumping measures concerning imports of artificial corundum originating in the Soviet Union, Hungary, Poland, Czechoslovakia and the People's Republic of China and in connection with the anti-dumping proceeding concerning imports of artificial corundum originating in Brazil and Yugoslavia, and terminating the investigation

(91/512/EEC)

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 10 thereof,

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

Whereas :

A. PROCEDURE

- (1) The Commission received the following requests made by the European Council of Chemical Manufacturers' Federation (Cefic) on behalf of producers representing a major proportion of Community production of artificial corundum :

— a request for review of anti-dumping measures (Article 15 (3) of Regulation (EEC) No 2423/88) concerning imports of artificial corundum from

Czechoslovakia and the People's Republic of China imposed by Commission Decision 84/650/EEC⁽²⁾,

— a request for review of anti-dumping measures (Article 14 (1) of Regulation (EEC) No 2423/88) concerning imports of artificial corundum from the Soviet Union, Hungary and Poland imposed by Commission Decision 86/464/EEC⁽³⁾,

— an anti-dumping complaint concerning imports of artificial corundum from Brazil and Yugoslavia.

Pursuant to Article 15 of Regulation (EEC) No 2423/88 the Commission gave notification of the impending expiry⁽⁴⁾ of the anti-dumping measures concerning Czechoslovakia and the People's Republic of China. Cefic's request, as provided for by Article 15 (3) of Regulation (EEC) No 2423/88, showed that the expiry of the existing anti-dumping measures would lead again to injury or threat of injury. As a result the Commission announced its intention to carry out a review⁽⁵⁾ in accordance with Article 15 (3) of Regulation (EEC) No 2423/88. With regard to the request for review pursuant to Article 14 (1) of Regulation (EEC) No 2423/88 evidence of changed circumstances suffi-

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 340, 28. 12. 1984, p. 82.

⁽³⁾ OJ No L 271, 23. 9. 1986, p. 26.

⁽⁴⁾ OJ No C 163, 30. 6. 1989, p. 5.

⁽⁵⁾ OJ No C 303, 2. 12. 1989, p. 11.

cient to justify the need for such a review was submitted. The Commission accordingly announced, by a notice in the *Official Journal of the European Communities*⁽¹⁾, the initiation of a review of anti-dumping measures concerning imports into the Community of artificial corundum falling within CN code ex 2818 10 00, originating in the Soviet Union, Hungary, Poland, Czechoslovakia and the People's Republic of China and subsequently commenced an investigation.

With respect to the new complaint, evidence was produced of dumping of the product concerned originating in Brazil and Yugoslavia and of contribution to the injurious situation of the Community industry resulting from these imports, which was considered sufficient to justify the initiation of this proceeding. Therefore the Commission announced, by a notice in the *Official Journal of the European Communities*⁽²⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of artificial corundum falling within CN code ex 2818 10 00, originating in Brazil and Yugoslavia and subsequently commenced an investigation.

- (2) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants and gave the parties concerned the opportunity to make known their views in writing and to request a hearing.

All exporters concerned had the opportunity to exercise their rights as provided for in Article 7 (4) of Regulation (EEC) No 2423/88 and most of them availed themselves of this opportunity.

- (3) The majority of the known producers and exporters made their views known in writing.

No submissions were made on behalf of producers and exporters from the People's Republic of China and the Soviet Union. However, Government representatives of both countries made representations on behalf of the exporters concerned and had an opportunity to inspect the information made available to the Commission and to comment thereon.

A considerable number of importers, dealers and an organization representing Community end-users and all complainant Community producers submitted a detailed response to the Commission's questionnaire.

All exporters, Government representatives from the People's Republic of China and the Soviet Union,

some importers and one complainant have requested and have been granted hearings.

- (4) 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 following premises:

Community producers:

- Hüls AG, Germany,
- Rhina Schmelzwerk GmbH, Germany,
- Universal Abrasives Ltd, United Kingdom,
- Pechiney Electrometallurgie, France,
- Samatec SpA, Italy,
- CIA Vascongada de Abrasivas SA, Spain.

These companies were all members of Cefic except for CIA Vascongada de Abrasivas SA, Spain.

Third country exporters:

Brazil

- Elfusa Geral de Eletrofusão Lda., São Paulo, Brazil,
- Carborundum SA, Vinhedo, Brazil,
- Norton SA, São Paulo, Brazil;

Yugoslavia

- Tovarna Dusika Ruse, Ruse, Yugoslavia.

Importers in the Community:

Related to one Brazilian exporter

- Norton GmbH, Wesseling, Germany,
- Norton plc Materials Division, Ipswich, United Kingdom;

Unrelated

- Smyris Abrasivi SRL, Pero, Italy.

The Commission requested and received detailed written submissions from the complainant Community producers, the abovementioned exporters and a number of importers, and verified the information therein to the extent considered necessary.

Because of the large number of interested parties involved, the number of hearings which had to be granted, the prolongation of time limits requested by some exporters and the extension of the investigation to imports from Brazil and Yugoslavia, the time for completion of the investigation exceeded a 12-month period.

⁽¹⁾ OJ No C 67, 17. 3. 1990, p. 7.

⁽²⁾ OJ No C 159, 29. 6. 1990, p. 5.

- (5) The investigation of dumping covered the period from 1 January 1989 to 31 December 1989 (investigation period) as far as the review proceeding is concerned (imports from Czechoslovakia, People's Republic of China, Soviet Union, Hungary and Poland). As regards the proceeding concerning Brazil and Yugoslavia, a prolonged period (1 January 1989 to 30 April 1990) was chosen in order to be in a better position to take account of the effects of extremely high inflation rates in these countries.

B. PRODUCT UNDER CONSIDERATION

- (6) The product concerned by these proceedings is fused aluminium oxide, also known as artificial corundum. Artificial corundum is crystalline aluminium oxide. While there are a number of different kinds of artificial corundum, it is effectively produced in two basic forms:

- brown artificial corundum, consisting of 94 to 97 % aluminium oxide (Al_2O_3),
- white artificial corundum, consisting of 97,5 to 99,5 % aluminium oxide (Al_2O_3).

Artificial corundum is produced by melting in electric-arc furnaces at temperatures above 2000 °C. Raw material for the production of brown artificial corundum is bauxite in natural or calcined form. White artificial corundum is produced from calcined alumina (a processed form of bauxite).

Artificial corundum is a crystalline powder with very specific characteristics (e.g. hardness 9.0 to 9.2), which is predominantly used as abrasive and refractory material by a processing industry for the production of:

- grinding wheels,
- sandpaper, abrasive paper,
- sand-blasting,
- plasma spraying,
- abrasive resistant material for certain floor coverings,
- refractory masses in furnaces and safes.

Artificial corundum is a major component for every kind of grinding, drilling or polishing material with frequent applications in the automobile, steel, energy generating industry etc.

- (7) The production process generates a certain amount of second quality artificial corundum containing

less than the abovementioned content of aluminium oxide (Al_2O_3) and a relatively high content of iron oxide (Fe_2O_3). The use of this by-product of regular artificial corundum is limited to so-called 'resin-bonded products' such as certain types of grinding wheels and to sand-blasting purposes.

The product is sold mainly in form of grains (crystalline powder). However, a certain amount of lumps (grain size 0 to 100 mm) were sold by Chinese, Polish and Yugoslav exporters during the investigation period. The grains are normally sold following international quality standards (FEPA in the Community) and depending on customer requirements they may undergo a special heating treatment (calcination) which improves the product durability.

Since the differences between these different types and qualities of artificial corundum are by far outweighed by their similarities, all these types and qualities are considered to form one product for the purposes of this proceeding.

- (8) The artificial corundum sold on the respective domestic markets by the exporters concerned and that produced by the Community industry is like in all respects to that imported from the countries in question. While there are minor quality differences between different types of the product, they are not such as to render these products unlike.

- (9) Certain exporters, importers, dealers and end-users have forwarded objections as to the comparability of imported and Community produced artificial corundum. They express the view that imported artificial corundum is generally of a poorer quality and that, due to these differences in quality, the Community production cannot be considered to be a like product to the imported artificial corundum.

- (10) The Commission, however, is of the opinion that the arguments advanced are unfounded. Mere quality differences between products which have the same basic physical characteristics and use are not such as to render these products unlike within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88. This is corroborated by the fact that the imported material competes with the comparable material produced in the Community.

- (11) The customs classification under the CN code for both brown and white artificial corundum is ex 2818 10 00 (artificial corundum).

C. NORMAL VALUE

- (12) Czechoslovakia, the People's Republic of China, the Soviet Union, Hungary and Poland are to be considered as non-market economy countries within the meaning of Article 2 (5) of Regulation (EEC) No 2423/88. The Commission therefore had to base its determinations on the normal value in a market economy country.

- (13) The complainants alleged dumping on the basis of a comparison of export prices with the domestic prices of producers in the USA. This choice of an analogue country was not considered reasonable by the Commission services. As a more reasonable alternative, it was decided that normal value should be established on the basis of domestic prices on the Yugoslav market since this market offers close comparability in terms of the basic technical characteristics of the products supplied with those from Czechoslovakia, the People's Republic of China, the Soviet Union, Hungary and Poland. None of the exporters, importers or Community producers objected to this choice.

- (14) The producer of artificial corundum in Yugoslavia was found to operate normal profitability criteria. Sales of brown and white artificial corundum were made at a profit on the domestic Yugoslav market and therefore domestic prices were chosen to determine normal value. However, since there were no domestic sales of brown lumps and no price level could reasonably be established for this product, normal value was constructed in this case by adding a standard domestic market profit margin to the full cost of production.

The domestic sales prices were established on the basis of average sales prices for brown and white quality. For lumps, the constructed value was calculated on the basis of average figures for cost and profit. In both cases normal value was established on a monthly basis in order to take account of the effects of inflation.

- (15) Two of the three Brazilian exporters were found producing and selling profitably representative quantities of brown, and one of them also of white, artificial corundum on the domestic market. Normal value could therefore be determined on the basis of domestic sales prices. These prices were

determined on an average basis for both brown and white artificial corundum. In this case, normal value was also calculated on a monthly basis to take account of the effects of high inflation.

For one Brazilian producer, a substantial amount of domestic sales were made at a loss. In this case normal value was constructed by adding a reasonable profit margin to full cost of production.

D. EXPORT PRICES

- (16) The Czech, Hungarian and Polish export prices for every export transaction to independent customers in the Community were determined on the basis of the prices actually paid or payable.

- (17) With regard to the non-cooperating Chinese exporters, export prices had to be based on best evidence available. For this purpose the Commission used the information made available by importers of the Chinese products in Belgium, Germany and Italy, representing about 90 % of the Chinese exports during the investigation period. The export prices were derived from the purchase prices paid by the importers cif Community frontier adjusted for transport and ancillary costs to arrive at an ex-works level.

- (18) The export prices of the Soviet exporter which had refused to cooperate also had to be established on the basis of the best available evidence. All exports of artificial corundum from the Soviet Union had been made to Germany. Only one German importer accounting for about 25 % of Soviet exports cooperated during the proceeding. The Commission used its purchase prices as shown by export contracts and invoices adjusted by estimated transport cost to ex-works level. These prices were considered to be reasonably accurate in overall terms since official statistics gave similar results.

- (19) The Yugoslav export prices for every single export transaction to independent Community customers were determined on the basis of the prices actually paid or payable.

- (20) With regard to Brazilian export prices, in one case, where the exporter only sold to related Community importers, the export price was reconstructed on the basis of the first sales within the Community to independent purchasers, making due allowance for

all costs between importation and resale and a profit margin considered to be a reasonable operating profit in this branch taking account of independent importers profit experience.

In all other cases, the invoiced prices to independent importers within the Community were taken as a basis. Export prices for every export transaction were determined on the basis of the prices actually paid or payable.

E. COMPARISON

- (21) Normal values and export prices were adjusted to ex-works level in order to take account of conditions and terms of sale. The different normal values were compared with the export prices on a transaction by transaction basis. Allowances for transport, credit terms, ancillary costs, salesmen's salaries and agent's commissions were made, where applicable.

To take account of the effects of inflation on Brazilian and Yugoslav domestic prices, normal values were calculated on a monthly basis and compared to export prices for the corresponding product types transaction by transaction.

- (22) For the Chinese and Soviet exporters the normal values and the export prices were compared ex-works at the same level of trade. Adjustments were made on the basis of the best evidence available in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88.

F. MARGINS

- (23) This comparison revealed, with regard to all exporters, that the prices for most export transactions were below normal value. The dumping amounts (difference between normal value and export price) were aggregated for all export transactions and for brown and white artificial corundum. The total weighted average dumping margins expressed as a percentage of the exporters' 'cif Community-border' export price, are outlined hereunder by exporter:

— Czechoslovak Ceramics Company Ltd, Prague, Czechoslovakia	39,1 %
— Machine Tool and Tool Branch Chamber of China Chamber of Commerce for Machinery and Electronic Products Import and Export, Beijing, China	47,4 %

— V/O Stankoimport, Moscow, USSR	9,8 %
— Hungarian Aluminium Corporation, Budapest, Hungary	31,3 %
— Inter-Vis Co. Ltd, Warsaw, Poland	24,5 %
— Elfusa Geral De Eletrofusão Lda, São Paulo, Brazil	20 %
— Carborundum SA, Vinhedo, Brazil	4,5 %
— Norton SA, São Paulo, Brazil	53,4 %
— Tovarna Dusika Ruse, Ruse, Yugoslavia	28,7 %

G. INJURY

- (24) The evidence available to the Commission shows that the combined imports into the Community from Czechoslovakia, the People's Republic of China, the Soviet Union, Hungary, Poland, Brazil and Yugoslavia of artificial corundum increased from 32 480 tonnes in 1986 to 39 220 tonnes in 1989, i.e. an increase of 20,75 %. The increase in imports for the individual countries ranged between 7,9 % (Soviet Union) and 145,7 % (China) during this period. Only imports from Brazil decreased by 25,2 %. There was a slight increase in the total market share held by all seven exporting countries concerned from 19,5 % in 1986 to 19,7 % in 1989, the individual market shares being increased over that period except for Brazil which shows a decrease from 5,3 % to 3,3 %.

The total sales of the main Community producers increased between 1986 and 1989 by 18,4 % which corresponds to a slight increase in market share from 62,3 % to 63,2 %. At the same time, consumption in the Community of artificial corundum increased by 19,7 % between 1986 and 1989.

- (25) The Commission established price undercutting by comparing the exporters' prices of artificial corundum with the corresponding weighted average prices for artificial corundum sold by the Community producers. Given the existing price transparency on the Community market, it was considered appropriate to carry out the comparison between the prices cif Community border, customs cleared for every transaction made by the exporters during the investigation period and the Community industry's ex-works prices. With regard to the non-cooperating Chinese and Soviet exporters average sales prices were used in accordance with

Article 7 (7) (b) of Regulation (EEC) No 2423/88 which was considered, in the absence of other information, to be the best evidence available.

Since some exporters, importers and the Association of German Producers of Abrasives (*Verein Deutscher Schleifmittelwerke eV*) pointed to quality differences between certain grades of imported artificial corundum and the Community product, the Commission based its undercutting calculation on comparable qualities excluding high priced specialities.

The weighted average price undercutting margins established by exporter are :

— Czechoslovak Ceramics Company Ltd, Prague, Czechoslovakia	25,7 %
— Machine Tool and Tool Branch Chamber of China Chamber of Commerce for Machinery and Electronic Products Import and Export, Beijing, China	30,8 %
— V/O Stankoimport, Moscow, USSR	32,0 %
— Hungarian Aluminium Corporation, Budapest, Hungary	12,0 %
— Inter-Vis Co. Ltd, Warsaw, Poland	29,4 %
— Elfusa Geral De Eletrofusão Ltda., São Paulo, Brazil	10,6 %
— Carborundum SA, Vinhedo, Brazil	27,7 %
— Norton SA, São Paulo, Brazil	14,9 %
— Tovarna Dusika Ruse, Ruse, Yugoslavia	25,9 %.

Cumulation

- (26) The Commission is of the opinion that for the determination of the impact on the Community industry, the cumulative effect of all the imports concerned has to be taken into consideration. In analysing whether cumulation was appropriate in each case, the Commission considered the comparability of the imported products and took further into consideration the extent to which each imported product competed in the Community with the like product of the Community industry. In addition, it was considered that the behaviour on the Community market of all exporters was similar (shown in considerable price undercutting) and that their market position was not negligible. The relatively low market share held by the Chinese product

has to be seen in the light of the measures already in force.

On the basis of this overall analysis, the Commission took the view that all exports from the countries concerned, i.e. Czechoslovakia, the People's Republic of China, the Soviet Union, Hungary, Poland, Brazil and Yugoslavia were made under such conditions, that should the Commission treat any exporter in isolation, it would be acting in a discriminatory manner against the others. Accordingly, the Commission concluded that regard should be paid to the effect of the dumped imports on the Community industry cumulated from all the exporters concerned.

Situation of the Community industry

- (27) (a) Production and sales of Community producers developed almost in line with the increase of apparent Community consumption, thus maintaining their market share at the level reached when anti-dumping measures were first introduced in 1984.
- (b) While no breach of the price undertakings has been found, it has to be borne in mind that production costs in the Community for artificial corundum increased between 1986 and 1989 so that the import prices could still have had a negative effect on prices without infringing the undertakings.
- (c) The continuous presence of low-priced dumped imports in substantial quantities in relation to increased production costs forced Community producers to align their prices downward in order to conserve their market share in a period of increasing demand. In many cases they were, as a consequence, prevented from recovering in full the rise in production cost following a dramatic increase in raw material prices.
- (d) As a result of the price depression combined with increasing costs, the main Community producers suffered financial losses or operated at marginal profit margins over the period 1986 to 1989.

This precarious profit situation persisted despite the increase of sales of the main Community producers by 18,5 % in a growing market with Community consumption being up 19,8 % during that period.

Causality

- (28) (a) The inspection of the Community industry's cost accounts and sales documents revealed that the industry in the investigation period was constantly confronted during sales negotiations with low price offers being made by importers of artificial corundum from all seven countries involved, leaving them the choice of either reducing their prices drastically or losing contracts. The industry produced evidence that, in numerous cases, they lost contracts despite reducing prices below variable production costs due to price offers from Czechoslovakia, the People's Republic of China, the Soviet Union, Hungary, Poland, Brazil and Yugoslavia, which were in no way related to the increased raw material costs and, thus, production costs.

The investigation has shown that the prices of dumped imports have undercut and suppressed the prices of the Community industry and prevented it from generating reasonable profits. The Commission has therefore concluded that the imports under consideration have, through the effects of dumping, considerably impaired the situation of the Community industry and hampered its recovery.

- (b) The Commission has also considered whether this situation might have been caused by factors other than the dumped imports, such as the volume and prices of imports originating in other third countries or by a drop in demand. It was found that imports from other third countries had also increased but distinctly slower than the imports under investigation. In addition these imports were made at considerably higher prices than in the case of Czechoslovakia, the People's Republic of China, the Soviet Union, Hungary, Poland, Brazil and Yugoslavia and there was also no indication of these imports being dumped.

Regarding demand it was found that Community consumption of artificial corundum had increased between 1986 and the investigation period by 19,8 % and that Community producers also extended their production and sales. This was, however, only possible through considerable price concessions and loss of profitability.

Conclusions

- (29) In these circumstances, the Commission considers that the anti-dumping measures in force with regard to the People's Republic of China and

Czechoslovakia cannot be allowed to lapse pursuant to Article 15 of Regulation (EEC) No 2423/88 because the expiry of the measures threatens to seriously aggravate, the injurious effects of these imports and would therefore lead to additional injury. Regarding imports from Poland, Hungary and the Soviet Union, the investigation has shown that in the light of changed circumstances in the market situation the anti-dumping measures taken have been insufficient to prevent further injury and to re-establish a healthy situation for the Community industry.

The Commission therefore considers that the anti-dumping measures in force concerning imports of artificial corundum from the People's Republic of China, Czechoslovakia, Poland, Hungary and the Soviet Union are to be maintained or revised in accordance with the findings of the investigation.

- (30) Concerning imports of artificial corundum from Brazil and Yugoslavia, the Commission is of the opinion that the volume and market share of these imports combined with significant price undercutting have considerably contributed to the injurious situation caused to the Community industry and that these effects cannot be isolated from those generated by the imports from the other five countries without discrimination. It is therefore considered that defensive action should also be taken in respect of the dumped imports in question originating in Brazil and Yugoslavia.

H. COMMUNITY INTEREST

- (31) In assessing whether it is in the interest of the Community to take measures against dumped imports, the Commission considers that because of the unsatisfactory profit situation over a very long period, the future existence of this industry is at risk. The production of artificial corundum with its final applications in vital industries like automobiles, steel etc., is of considerable technological, economic and strategic importance for the Community. Apart from being an important employer, the industry is highly innovative and competitive due to considerable investment (including exemplary investment in anti-pollution installations) in the last few years, this process only being jeopardized by unjustified low import prices from Czechoslovakia, the People's Republic of China, the Soviet Union, Hungary, Poland, Brazil and Yugoslavia.

- (32) The Commission also took account of the interests of users and processors of artificial corundum in the Community whose input prices might increase after the imposition of protective measures. It is considered that the necessary price increases, which are likely to restore the profitability of the Community producers of artificial corundum, will have only limited effects on the total cost of the final processed products.

Based on cost estimates provided by processors of artificial corundum, the Commission is of the opinion that the benefits accruing to Community producers will by far outweigh the disadvantages which in certain instances may occur for users and processors.

- (33) The Commission further notes that anti-dumping measures would remedy the distortion in competition brought about by unfair trading practices and that supplies from other non-dumped sources would not be affected. In this content it should be borne in mind that the price advantages, which certain buyers previously enjoyed, are the result of unfair business practices and that there is no justification for allowing them to persist.

In view of the difficulties facing the Community artificial corundum industry, the Commission has come to the conclusion that it is in the Community's interest that action be taken sufficient to protect the Community industry from unfair competition and to recover from an unhealthy situation.

I. LEVEL OF MEASURES REQUIRED

- (34) The Commission, having established that in the case of the non-existence of anti-dumping measures a recurrence of injury would be likely and that indeed the measures previously in force had been insufficient to eliminate the injurious effects caused by the dumped imports and having established that the dumped imports from Brazil and Yugoslavia contribute to these effects and prevented the recovery of the Community industry, considers that anti-dumping measures should be imposed on imports from all the countries concerned.

However, the measures should not exceed the margins of dumping found. Since the main cause of the injurious situation is the price undercutting of the Community industry's prices by the exporters, it is considered sufficient to eliminate, where possible, these price undercutting margins. Indeed,

without price undercutting the Community industry would be able to regain viability. Therefore, the prices of the exporters should be increased by their price undercutting margin or their dumping margin, whatever is the lower. On this basis the Commission considers that, if anti-dumping duties would have to be imposed, these should amount to the following rates:

Czechoslovakia	25,7 %
People's Republic of China	30,8 %
Soviet Union	9,8 %
Hungary	12,0 %
Poland	24,5 %
Brazil	
Carborundum	4,5 %
Elfusa	10,6 %
Norton	14,9 %
Yugoslavia	25,9 %

J. UNDERTAKINGS

- (35) Having been informed of the essential facts and considerations on the basis of which it was intended to take protective measures, all exporters concerned offered price undertakings.

The Commission regards these undertakings as acceptable because they will have the effect of bringing the prices of exports to the Community up to a level or keeping them at a level which the Commission considers sufficient to eliminate the injury suffered by the Community industry.

Moreover, the Commission notes that, in case of violation of these price undertakings, it can immediately impose provisional duties pursuant to Article 10 (6) of Regulation (EEC) No 2423/88 and the Council can subsequently impose definitive duties based on the facts established in the present investigations concerning dumping and injury resulting therefrom.

- (36) The Advisory Committee has been consulted on this course of action. The Representatives of France and the United Kingdom raised objections as to the proposed course of action. The Commission therefore submitted its proposal to the Council for approval in accordance with Articles 9 (1) and 10 (1) of Regulation (EEC) No 2423/88.

The Commission proposal has been accepted because the Council did not decide otherwise, acting by a qualified majority, within the one month period laid down in Article 9 (1) of Regulation (EEC) No 2423/88,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings offered by:

- Czechoslovak Ceramics Company Ltd, Prague, Czechoslovakia,
- Machine Tool and Tool Branch Chamber of China Chamber of Commerce for Machinery and Electronic Products Import and Export, Beijing, China,
- V/O Stankoimport, Moscow, USSR,
- Hungarian Aluminium Corporation, Budapest, Hungary,
- Inter-Vis Co. Ltd, Warsaw, Poland,
- Elfusa Geral De Eletrofusão Lda, São Paulo, Brazil,
- Carborundum SA, Vinhedo, Brazil,
- Norton SA, São Paulo, Brazil,
- Tovarna Dusika Ruse, Ruse, Yugoslavia,

in connection with the review of anti-dumping measures concerning imports of artificial corundum falling within CN code ex 2818 10 00 and originating in the Soviet Union, Hungary, Poland, Czechoslovakia and the People's

Republic of China and in connection with the anti-dumping proceeding concerning imports of artificial corundum falling within CN code ex 2818 10 00 and originating in Brazil and Yugoslavia are hereby accepted.

Article 2

The investigation in connection with the review of anti-dumping measures concerning imports of artificial corundum originating in the Soviet Union, Hungary, Poland, Czechoslovakia and the People's Republic of China and in connection with the anti-dumping proceeding concerning imports of artificial corundum originating in Brazil and Yugoslavia is hereby terminated.

Done at Brussels, 25 July 1991.

For the Commission

Frans ANDRIESEN

Vice-President

CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 2535/91 of 22 August 1991 amending Regulation (EEC) No 863/91 on the special sale of intervention butter for export to the Soviet Union and amending Regulation (EEC) No 569/88

(Official Journal of the European Communities No L 236 of 24 August 1991)

On page 18, Article 1, paragraph 2, point (a):

for: '... Council Regulation (EEC) No 3665/85 (*) ...

(*) OJ No L 354, 30. 12. 1985, p. 1.';

read: '... Commission Regulation (EEC) No 3665/87 (*) ...

(*) OJ No 351, 14. 12. 1987, p. 1.'

Corrigendum to Commission Regulation (EEC) No 2740/91 of 13 September 1991 amending the list annexed to Regulation (EEC) No 3664/90 establishing, for 1991, the list of vessels exceeding eight metres length overall permitted to fish for sole within certain areas of the Community using beam trawls whose aggregate length exceeds nine metres

(Official Journal of the European Communities No L 262 of 19 September 1991)

On page 10, in the Annex:

for: 'Following vessels are deleted from the list ...';

read: 'Following vessels are added to the list ...'.

Corrigendum to Commission Directive 91/422/EEC of 15 July 1991 adapting to technical progress Council Directive 71/320/EEC on the approximation of the laws of the Member States relating to the braking devices of certain categories of motor vehicles and their trailers

(Official Journal of the European Communities No L 233 of 22 August 1991)

On page 25, in Annex II, item 2.1.1.1.1., in the second part of the table:

for:

d_m	5 m/s^2	5 m/s^2
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read:

d_m	5 m/s^2	4 m/s^2
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