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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3016/91

of 16 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 15 October 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 17 October 1991.

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

Done at Brussels, 16 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 16 October 1991 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy
0709 90 60	122,91 ⁽²⁾ ⁽³⁾
0712 90 19	122,91 ⁽²⁾ ⁽³⁾
1001 10 10	172,43 ⁽¹⁾ ⁽³⁾
1001 10 90	172,43 ⁽¹⁾ ⁽³⁾
1001 90 91	149,89
1001 90 99	149,89
1002 00 00	163,29 ⁽⁴⁾
1003 00 10	137,17
1003 00 90	137,17
1004 00 10	123,76
1004 00 90	123,76
1005 10 90	122,91 ⁽²⁾ ⁽³⁾
1005 90 00	122,91 ⁽²⁾ ⁽³⁾
1007 00 90	132,58 ⁽⁴⁾
1008 10 00	48,31
1008 20 00	121,60 ⁽⁴⁾
1008 30 00	48,26 ⁽⁵⁾
1008 90 10	⁽⁷⁾
1008 90 90	48,26
1101 00 00	222,85 ⁽⁶⁾
1102 10 00	240,76 ⁽⁶⁾
1103 11 10	280,46 ⁽⁶⁾
1103 11 90	240,17 ⁽⁶⁾

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

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 3017/91

of 16 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 15 October 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 17 October 1991.

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

Done at Brussels, 16 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 16 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 3018/91

of 16 October 1991

fixing the maximum export refunds on olive oil for the 21st partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3192/90

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

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the 21st partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3192/90 are hereby fixed in the Annex, on the basis of the tenders submitted by 9 October 1991.

Article 2

This Regulation shall enter into force on 17 October 1991.

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

Done at Brussels, 16 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 304, 1. 11. 1990, p. 96.

⁽⁵⁾ OJ No L 151, 15. 6. 1991, p. 62.

ANNEX

to the Commission Regulation of 16 October 1991 fixing the maximum export refunds on olive oil for the 21st partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3192/90

<i>(ECU/100 kg)</i>	
Product code	Amount of refund
1509 10 90 100	16,00
1509 10 90 900	—
1509 90 00 100	31,00
1509 90 00 900	—
1510 00 90 100	3,00
1510 00 90 900	—

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

COMMISSION REGULATION (EEC) No 3019/91
of 15 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 2363/91

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 3001/91 ⁽⁸⁾; whereas the Annex to the said Regulation setting out the entries to be made should be expanded;

Whereas Commission Regulation (EEC) No 2363/91 ⁽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 40 000 tonnes of bone-in beef held by the French 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 286, 16. 10. 1991, p. 6.

⁽⁹⁾ OJ No L 216, 3. 8. 1991, p. 17.

⁽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 thereof to the Commission of the European Communities, Division VI/D.2, 130 rue de la Loi, B-1049 Bruxelles (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 24 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 of bone-in beef.

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° 3019/91];
Uden restitution [Forordning (EØF) nr. 3019/91];
Keine Erstattung [Verordnung (EWG) Nr. 3019/91];
χωρίς επιστροφή [κανονισμός (ΕΟΚ) αριθ. 3019/91];
Without refund [Regulation (EEC) No 3019/91];
Sans restitution [Règlement (CEE) n° 3019/91];
Senza restituzione [Regolamento (CEE) n. 3019/91];
Zonder restitutie [Verordening (EEG) nr. 3019/91];
Sem restituição [Reglamento (CEE) n° 3019/91].'

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:

'108. Commission Regulation (EEC) No 3019/91 of 15 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 ⁽¹⁰⁸⁾.

⁽¹⁰⁸⁾ OJ No L 287, 17. 10. 1991, p. 7.'

Article 6

Regulation (EEC) No 2363/91 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, 15 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 πώλησως 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
FRANCE	— Quartiers avant, provenant de : Catégorie A/C	20 000	485
	— Quartiers arrière, provenant de : Catégorie A/C	20 000	485

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

Dirección del organismo de intervención — Interventionsorganets adresse — Anschrift der Interventionsstelle — Διευθύνσεις των οργανισμών παρεμβάσεως — Address of the intervention agency — Adresse de l'organisme d'intervention — Indirizzo dell'organismo d'intervento — Adres van het interventiebureau — Endereço do organismo de intervenção

FRANCE : OFIVAL
Tour Montparnasse
33, avenue du Maine
F-75755 Paris Cedex 15
(tél. : 45 38 84 00 ; télex : 20 54 76)

COMMISSION REGULATION (EEC) No 3020/91

of 16 October 1991

amending Regulation (EEC) No 2665/91 on the issuing of a standing invitation of tender for the resale on the internal market of 58 000 tonnes of barley wheat held by the Greek intervention agency

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 7 (6) thereof,

Having regard to Council Regulation (EEC) No 1836/82 of 7 July 1982 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies⁽³⁾, as last amended by Regulation (EEC) No 2619/90⁽⁴⁾,

Whereas the last partial invitation to tender pursuant to Commission Regulation (EEC) No 2665/91⁽⁵⁾, as amended by Regulation (EEC) No 2927/91⁽⁶⁾, should be postponed;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 (2) of Regulation (EEC) No 2665/91 is replaced by the following:

'2. The final date for the submission of tenders for the last partial invitation to tender shall expire on 27 November 1991.'

Article 2

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

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

Done at Brussels, 16 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 202, 9. 7. 1982, p. 23.
⁽⁴⁾ OJ No L 249, 12. 9. 1990, p. 8.
⁽⁵⁾ OJ No L 250, 7. 9. 1991, p. 10.
⁽⁶⁾ OJ No L 278, 5. 10. 1991, p. 9.

COMMISSION REGULATION (EEC) No 3021/91

of 16 October 1991

amending Regulation (EEC) No 3885/90 laying down detailed rules for the application of the import arrangements provided for in Council Regulation (EEC) No 3838/90 for frozen meat of bovine animals falling within CN code 0202 and products falling within CN code 0206 29 91

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3838/90 of 20 December 1990 opening, allocating and providing for the administration of a Community tariff quota for frozen meat of bovine animals falling within CN code 0202 and products falling within CN code 0206 29 91 (1991)(¹), and in particular Article 4 thereof,

Whereas, pursuant to Article 1 (1) of Commission Regulation (EEC) No 3885/90 of 27 December 1990 laying down detailed rules for the application of the import arrangements provided for in Council Regulation (EEC) No 3838/90 for frozen meat of bovine animals falling within CN code 0202 and products falling within CN code 0206 29 91 (²), the entitlement to the GATT quota of frozen beef in 1990 was based on the quantities imported in 1987, 1988 and 1989;

Whereas, by decision of 9 July 1991, the Irish High Court declared that the companies considered by the Irish authorities to be importers of certain quantities of meat under the GATT quota in 1987 and 1988 were not the real importers;

Whereas therefore the entitlements of those companies to the GATT quota in 1990 and the imports eligible pursuant to Council Regulation (EEC) No 3889/89 of 11 December 1989 opening and providing for the administration of a Community tariff quota for meat of bovine animals, frozen, falling within CN code 0202 and

products falling within CN code 0206 29 91 (1990)(³), should be revised by the Irish authorities;

Whereas the revised figures are to be regarded as the reference quantity for 1990 for the importers concerned pursuant to Article 1 (1) of Regulation (EEC) No 3885/90;

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

Article 1 (a) is inserted in Regulation 3885/90:

'Article 1 (a)

The Irish authorities shall revise the entitlements to the GATT quota in 1990 and the imports eligible pursuant to Regulation (EEC) No 3889/89 in the light of the judgment of the Irish High Court of 9 July 1991. They shall communicate their decision to the Commission and to the other Member States.

Notwithstanding Article 1 (1) and (3), that decision shall determine the reference quantity for 1990 for the importers concerned pursuant to Article 1 (1).'

Article 2

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

It shall be applicable from 9 July 1991.

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

Done at Brussels, 16 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

(¹) OJ No L 367, 29. 12. 1990, p. 3.

(²) OJ No L 367, 29. 12. 1990, p. 137.

(³) OJ No L 378, 27. 12. 1989, p. 16.

COMMISSION REGULATION (EEC) No 3022/91

of 16 October 1991

granting an export refund on carp originating in the former territory of the German Democratic Republic and fixing the amount of that refund

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products ⁽¹⁾, as last amended by Regulation (EEC) No 3571/90 ⁽²⁾, and in particular Article 25 thereof,

Whereas, pursuant to Article 25 of Regulation (EEC) No 3796/81, to the extent necessary to allow economically important exports of the products specified in Article 1 (2) of that Regulation to be effected on the basis of the prices for those products on the world market, the difference between those prices and the prices within the Community may be covered by an export refund; whereas Article 25 (2) also provides that the refund is to be the same for the whole Community;

Whereas Article 4 of Regulation (EEC) No 3571/90 lays down that up to 31 December 1992 a decision may be taken in accordance with the procedure in Article 33 of Regulation (EEC) No 3796/81 to adopt measures involving adaptations of the measures covered by Regulation (EEC) No 3796/81, the application of which is to be limited to the same date; whereas these measures must be designed to ensure the consistent application of the abovementioned Regulation in the territory of the former German Democratic Republic, taking into account the specific situation obtaining in that territory and the particular difficulties attending implementation of the Regulation in question;

Whereas a major part of the annual production of carp originating in that territory, estimated at 6 000 tonnes, can find an outlet, in the current state of the market, only as exports to certain third countries; whereas the prices for the product in question recorded on the markets of those countries are generally lower than the production costs for the product, to which the packaging and transport costs have still to be added;

Whereas it is desirable, in order to prevent the Community market in carp from being destabilized and to ensure

a fair income to the producers concerned, that the application of Article 25 of Regulation (EEC) No 3796/81 be adapted for a limited period to the situation of those producers by granting a refund on their exports of carp to certain third countries;

Whereas, pursuant to Article 2 of Council Regulation (EEC) No 110/76 of 19 January 1976 ⁽³⁾ laying down general rules for granting export refunds on fishery products and criteria for fixing the amount of such refunds, the refunds must be fixed taking into account the existing situation and the future trend with regard, on the one hand, to prices and availabilities of fishery products on the Community market, and prices for fishery products on the world market on the other; whereas account should also be taken, pursuant to (b) of the said Article, of the aims of the common organization of the market in fishery products, and of the costs as referred to in (c) and the economic significance of the proposed exports as mentioned in (d);

Whereas, pursuant to Article 3 of Regulation (EEC) No 110/76, prices on the Community market are to be determined taking into account the ruling prices which are most favourable from the exportation point of view; whereas prices on the world market must be established taking into account the prices referred to in paragraph 2 of the said Article;

Whereas the application of the abovementioned rules to the current situation on the carp market and to the future trend of that market, and in particular to the prices for that product in the Community and on the markets of the third countries concerned, leads to the fixing of the amount of the refund at ECU 780 per tonne;

Whereas, pursuant to Article 5 of Regulation (EEC) No 110/76, the amount of the refund is to be fixed for a period of three months; whereas the possible quantity likely to be exported over this period should not exceed 2 500 tonnes;

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

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 10.

⁽³⁾ OJ No L 20, 28. 1. 1976, p. 48.

HAS ADOPTED THIS REGULATION:

Article 1

1. A refund on the export of carp originating in the territory of the former German Democratic Republic, falling within CN codes 0302 69 11 and 0303 79 11 and intended for certain third countries shall be granted for a period ending on 31 December 1992 at the latest.

2. The refund shall be fixed for a period of three months beginning on the entry into force of this Regulation at ECU 780 per tonne for a maximum quantity of 2 500 tonnes.

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 from 15 October 1991.

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

Done at Brussels, 16 October 1991.

/

For the Commission

Manuel MARÍN

Vice-President

COMMISSION REGULATION (EEC) No 3023/91

of 16 October 1991

providing for the grant of compensation to producers' organizations in respect of tuna delivered to the canning industry during the period 1 January to 31 March 1991

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products⁽¹⁾, as last amended by Regulation (EEC) No 3571/90⁽²⁾, and in particular Article 17a (10) thereof,

Whereas the compensation referred to in Article 17a of Regulation (EEC) No 3796/81 is granted, under certain conditions, to Community tuna producers' organizations in respect of quantities of tuna delivered to the canning industry, during the calendar quarter for which prices were recorded, where the average quarterly price recorded on the Community market and the free-at-frontier price are both lower than 93 % of the Community producer price for the product in question;

Whereas examination of the situation on the Community market has shown that for some species and presentations of the product in question, for the period 1 January to 31 March 1991, both the average quarterly market price and the free-at-frontier price referred to in Article 17a of Regulation (EEC) No 3796/81 were lower than 93 % of the Community producer price in force as laid down in Council Regulation (EEC) No 3551/90 of 20 November 1990 fixing the Community producer price for tuna intended for the industrial manufacture of products falling within CN code 1604⁽³⁾, as amended by Commission Regulation (EEC) No 3896/90⁽⁴⁾;

Whereas the quantities eligible for compensation, within the meaning of Article 17a (2) of Regulation (EEC) No 3796/81, may not under any circumstances exceed, for the quarter concerned, the limits laid down in paragraph 4 of that Article;

Whereas during the quarter concerned the quantities sold and delivered to canning industries established in Community customs territory are, in the case of yellowfin weighing more than 10 kg, higher than 110 % of those sold and delivered during the same quarter of the fishing years 1984 to 1986 and for yellowfin weighing not more than 10 kg, and skipjack higher than the quantities resulting from the application to each of the species of the

ratio between the total quantities delivered to the Community industry by the Community producers and the total quantities used by this industry; whereas these quantities exceed the limits set in Article 17a, third indent of paragraph 4 of Regulation (EEC) No 3796/81 for one species and the first indent for the other two species, the total quantities of these products should therefore be limited to those eligible for compensation and the quantities granted to each producers' organization concerned should be determined in accordance with their respective output during the same quarter of the 1984 to 86 fishing years;

Whereas, in accordance with Commission Regulation (EEC) No 2381/89 of 2 August 1989 laying down detailed rules for granting compensation for tuna for the canning industry⁽⁵⁾, the granting of compensation for the products in question should be decided for the period from 1 January to 31 March 1991;

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

HAS ADOPTED THIS REGULATION:

Article 1

The compensation referred to in Article 17a of Regulation (EEC) No 3796/81 shall be granted for the period 1 January to 31 March 1991, in respect of the products listed and within the limits set out below:

Products	Maximum amount of allowance within the meaning of the first and second indents of Article 17a (3) of Regulation (EEC) No 3796/81 (ecu/tonne)
Yellowfin tuna, whole, weighing more than 10 kg	128
Yellowfin tuna, whole, weighing not more than 10 kg	103
Skipjack or stripe-bellied tuna, whole	80

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 10.

⁽³⁾ OJ No L 346, 11. 12. 1990, p. 6.

⁽⁴⁾ OJ No L 371, 31. 12. 1990, p. 1.

⁽⁵⁾ OJ No L 225, 3. 8. 1989, p. 33.

Article 2

1. The total quantities of products set out below that may be eligible for the allowance are hereby limited as follows :

Yellowfin tuna, whole, weighing more than 10 kg : 24 780 tonnes,

Yellowfin tuna, whole, weighing not more than 10 kg : 3 498 tonnes,

Skipjack or stripe-bellied tuna, whole : 10 003 tonnes.

2. These quantities shall be allocated among the producers' organizations concerned in accordance with the Annex hereto.

Article 3

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

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

Done at Brussels, 16 October 1991.

For the Commission

Manuel MARÍN

Vice-President

ANNEX

Allocation among the producers' organizations of the quantities of certain species and presentations of tuna that may be eligible for compensation and calculation of the maximum amount thereof in accordance with Article 17a (6) of Regulation (EEC) No 3796/81

1. Yellowfin tuna weighing more than 10 kg

(tonnes)

Producers' organization	Quantities that may be eligible for the allowance			Total quantities
	100 % Article 17a (6), first indent	95 % Article 17a (6), second indent	90 % Article 17a (6), third indent	
Organización de productores asociados de grandes congeladores (Opagac)	5 138	514	136	5 788
Organización de productores de túnidos congelados (Optuc)	8 327	459	—	8 786
Organisation de producteurs de thon congelé (Orthongel)	9 061	906	239	10 206
Total	22 526	1 879	375	24 780

2. Yellowfin tuna weighing not more than 10 kg

(tonnes)

Producers' organization	Quantities that may be eligible for the allowance			Total quantities
	100 % Article 17a (6), first indent	95 % Article 17a (6), second indent	90 % Article 17a (6), third indent	
Organización de productores asociados de grandes congeladores (Opagac)	1 172	117	188	1 477
Organización de productores de túnidos congelados (Optuc)	1 601	160	12	1 773
Organisation de producteurs de thon congelé (Orthongel)	248	—	—	248
Total	3 021	277	200	3 498

3. Skipjack or stripe-bellied tuna

(tonnes)

Producers' organization	Quantities that may be eligible for the allowance			Total quantities
	100 % Article 17a (6), first indent	95 % Article 17a (6), second indent	90 % Article 17a (6), third indent	
Organización de productores asociados de grandes congeladores (Opagac)	4 284	428	422	5 134
Organización de productores de túnidos congelados (Optuc)	3 684	368	363	4 415
Organisation de producteurs de thon congelé (Orthongel)	454	—	—	454
Total	8 422	796	785	10 003

COMMISSION REGULATION (EEC) No 3024/91
of 16 October 1991

amending Regulation (EEC) No 2349/91 laying down detailed rules for the application of Regulation (EEC) No 1637/91 fixing compensation with regard to the reduction of the reference quantities referred to in Article 5c of Regulation (EEC) No 804/68 and compensation for the definitive discontinuation of milk production

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

Having regard to Council Regulation (EEC) No 1637/91 of 13 June 1991 fixing compensation with regard to the reduction of the reference quantities referred to in Article 5c of Regulation (EEC) No 804/68 and compensation for the definitive discontinuation of milk production⁽¹⁾, and in particular Article 5 thereof,

Whereas Title II of Commission Regulation (EEC) No 2349/91⁽²⁾ lays down the detailed rules for applying the compensation for the definitive discontinuation of milk production; whereas the conversion rate to be used to express in national currency amounts fixed in ecus should be specified and Article 3 of that Regulation should be supplemented accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph is hereby added to Article 3 of Regulation (EEC) No 2349/91:

'The maximum compensation laid down in Article 2 (3) of Regulation (EEC) No 1637/91 and the amounts fixed in the Annex thereto shall be converted into national currency using the agricultural conversion rate in force on 17 June 1991.'

Article 2

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

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

Done at Brussels, 16 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 150, 15. 6. 1991, p. 30.

⁽²⁾ OJ No L 214, 2. 8. 1991, p. 44.

COMMISSION REGULATION (EEC) No 3025/91

of 16 October 1991

fixing the amount of aid for peas, field beans and sweet lupins

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 1431/82 of 18 May 1982 laying down special measures for peas, field beans and sweet lupins ⁽¹⁾, as last amended by Regulation (EEC) No 1624/91 ⁽²⁾, and in particular Article 3 (6) (a) thereof,

Having regard to Commission Regulation (EEC) No 3540/85 of 5 December 1985 laying down detailed rules for the application of the special measures for peas, field beans and sweet lupins ⁽³⁾, as last amended by Regulation (EEC) No 1906/91 ⁽⁴⁾, and in particular Article 26a (7) thereof,

Whereas, as provided for in Article 3 (1) of Regulation (EEC) No 1431/82, aid is granted for peas, field beans and sweet lupins harvested in the Community and used in the manufacture of feedingstuffs where the world market price of soya cake is lower than the activating price; whereas this aid is equal to a proportion of the difference between these prices; whereas this proportion of the price difference was fixed in Article 3a of Council Regulation (EEC) No 2036/82 ⁽⁵⁾, as last amended by Regulation (EEC) No 2206/90 ⁽⁶⁾;

Whereas, in accordance with Article 3 (2) of Regulation (EEC) No 1431/82, aid is granted for peas and field beans harvested in the Community where the world market price for these products is lower than the guide price; whereas this aid is equal to the difference between the two prices;

Whereas the threshold price activating the aid for peas, field beans and sweet lupins for the 1991/92 marketing year was fixed by Council Regulation (EEC) No 1625/91 ⁽⁷⁾; whereas, as provided for in Article 2a of Regulation (EEC) No 1431/82, the activating price for the aid for peas, field beans and sweet lupins is increased

monthly as from the beginning of the third month of the marketing year; whereas the amount of the monthly increases in the threshold price was fixed by Council Regulation (EEC) No 1626/91 ⁽⁸⁾;

Whereas the abatement of the subsidy which arises, where appropriate, from the system of maximum guaranteed quantities for the 1991/92 year, has been fixed by Commission Regulation (EEC) No 2607/91 ⁽⁹⁾;

Whereas, pursuant to Article 4 of Regulation (EEC) No 1431/82, the world market price for soya cake must be determined on the basis of the most favourable purchase possibilities, excepting offers and quotations which cannot be considered representative of the real market trend; whereas account must be taken both of all offers on the world market and of the prices quoted on exchanges that are important for international trade;

Whereas, pursuant to Article 1 of Commission Regulation (EEC) No 2049/82 ⁽¹⁰⁾, as last amended by Regulation (EEC) No 1238/87 ⁽¹¹⁾, the price must be determined per 100 kilograms of bulk soya cake of the standard quality defined in Article 1 (2) of Council Regulation (EEC) No 1464/86 ⁽¹²⁾ delivered to Rotterdam; whereas the necessary adjustments, notably those referred to in Article 2 of Regulation (EEC) No 2049/82, must be made for offers and quotations not of the type referred to above;

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

- in the case of currencies which are maintained in relation to each other at any moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the correcting factor provided for in Article 6 (1) of Council Regulation (EEC) No 1677/85 ⁽¹³⁾, as last amended by Regulation (EEC) No 2205/90 ⁽¹⁴⁾,
- 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;

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 10.

⁽³⁾ OJ No L 342, 19. 12. 1985, p. 1.

⁽⁴⁾ OJ No L 169, 29. 6. 1991, p. 46.

⁽⁵⁾ OJ No L 219, 28. 7. 1982, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 11.

⁽⁷⁾ OJ No L 150, 15. 6. 1991, p. 11.

⁽⁸⁾ OJ No L 150, 15. 6. 1991, p. 13.

⁽⁹⁾ OJ No L 243, 31. 8. 1991, p. 55.

⁽¹⁰⁾ OJ No L 219, 28. 7. 1982, p. 36.

⁽¹¹⁾ OJ No L 117, 5. 5. 1987, p. 9.

⁽¹²⁾ OJ No L 133, 21. 5. 1986, p. 21.

⁽¹³⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽¹⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

Whereas pursuant to Articles 121 (2) and 307 (2) of the Act of Accession the amount of the aid for products harvested and processed in either of these Member States should be reduced by the customs duty charged on importation of products from third countries;

Whereas the world market price for peas and field beans and the amount of aid referred to in Article 3 (2) of Regulation (EEC) No 1431/82 were fixed by Commission Regulation (EEC) No 1899/91⁽¹⁾; whereas in terms of Article 2a of Regulation (EEC) No 1431/82 the guide price is increased monthly as from the beginning of the third month of the marketing year;

Whereas, pursuant to Article 26a of Regulation (EEC) No 3540/85, the gross aid expressed in ecus that results from Article 3 of Regulation (EEC) No 1431/82 shall be weighted by the differential amount referred to in Article 12a of Regulation (EEC) No 2036/82 and then converted into the final aid in the currency of the Member State in which the products are harvested using the agricultural conversion rate of that Member State;

Whereas, owing to a technical difficulty it was not possible to fix the aid applicable from 16 October 1991;

whereas that aid should therefore be fixed retroactively from that date,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts of aid provided for in Article 3 (1) of Regulation (EEC) No 1431/82 is indicated in the Annexes hereto.

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 16 October 1991.

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

Done at Brussels, 16 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 169, 29. 6. 1991, p. 29.

ANNEX I

Gross aid

Products intended for human consumption :

(ECU per 100 kg)

	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2	5th period 3	6th period 4
Peas used :							
— in Spain	7,402	7,560	7,718	7,876	8,034	8,192	8,350
— in Portugal	7,419	7,577	7,735	7,893	8,051	8,209	8,367
— in another Member State	7,546	7,704	7,862	8,020	8,178	8,336	8,494
Field beans used :							
— in Spain	7,546	7,704	7,862	8,020	8,178	8,336	8,494
— in Portugal	7,419	7,577	7,735	7,893	8,051	8,209	8,367
— in another Member State	7,546	7,704	7,862	8,020	8,178	8,336	8,494

Products used in animal feed :

(ECU per 100 kg)

	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2	5th period 3	6th period 4
A. Peas used :							
— in Spain	8,765	8,823	8,914	8,840	8,998	9,155	9,710
— in Portugal	8,818	8,877	8,969	8,897	9,054	9,212	9,763
— in another Member State	8,818	8,877	8,969	8,897	9,054	9,212	9,763
B. Field beans used :							
— in Spain	8,765	8,823	8,914	8,840	8,998	9,155	9,710
— in Portugal	8,818	8,877	8,969	8,897	9,054	9,212	9,763
— in another Member State	8,818	8,877	8,969	8,897	9,054	9,212	9,763
C. Sweet lupins harvested in Spain and used :							
— in Spain	11,354	11,222	11,134	10,825	10,825	10,825	11,354
— in Portugal	11,425	11,294	11,206	10,900	10,900	10,900	11,425
— in another Member State	11,425	11,294	11,206	10,900	10,900	10,900	11,425
D. Sweet lupins harvested in another Member State and used :							
— in Spain	11,354	11,222	11,134	10,825	10,825	10,825	11,354
— in Portugal	11,425	11,294	11,206	10,900	10,900	10,900	11,425
— in another Member State	11,425	11,294	11,206	10,900	10,900	10,900	11,425

[illegible]

[illegible]

[illegible]

ANNEX VIII

Corrective amount to be added to amounts in Annex VII

(in national currency per 100 kg)

Use of products :	BLEU	DK	DE	EL	ES	FR	IRL	IT	NL	PT	UK
Products harvested in :											
— BLEU (Bfrs/Lfrs)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Denmark (Dkr)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Federal Republic of Germany (DM)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Greece (Dr)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Spain (Pta)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— France (FF)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Ireland (£ Irl)	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
— Italy (Lit)	0	0	0	0	0	0	0	0	0	0	0
— Netherlands (Fl)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— United Kingdom (£)	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000

ANNEX IX

Exchange rate of the ecu to be used

	BLEU	DK	DE	EL	ES	FR	IRL	IT	NL	PT	UK
In national currency, ECU 1 =	42,4032	7,84195	2,05586	226,700	129,571	6,89509	0,767417	1 538,24	2,31643	177,382	0,700718

COMMISSION REGULATION (EEC) No 3026/91

of 14 October 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

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

Having regard to Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources⁽¹⁾, as last amended by Regulation (EEC) No 4056/89⁽²⁾,

Having regard to Commission Regulation (EEC) No 3554/90 of 10 December 1990 adopting provisions for the establishment of the list of vessels exceeding eight metres length overall which are permitted to fish for sole within certain areas of the Community using beam trawls of an aggregate length exceeding nine metres⁽³⁾, and in particular Article 2 thereof;

Whereas Commission Regulation (EEC) No 3664/90⁽⁴⁾, as last amended by Regulation (EEC) No 2740/91⁽⁵⁾, establishes 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 of aggregate length exceeding nine metres;

Whereas the Dutch authorities have requested withdrawal from the list annexed to Regulation (EEC) No 3664/90 of

one vessel that no longer meets the requirements laid down in Article 1 (2) of Regulation (EEC) No 3554/90; whereas the national authorities have provided all the information in support of the request required pursuant to Article 2 of Regulation (EEC) No 3554/90; whereas scrutiny of this information shows that the requirements of the Regulation are met; whereas the vessel in question should be withdrawn from the list,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 3664/90 is amended as indicated in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 14 October 1991.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 288, 11. 10. 1986, p. 1.

⁽²⁾ OJ No L 389, 30. 12. 1989, p. 75.

⁽³⁾ OJ No L 346, 11. 12. 1990, p. 11.

⁽⁴⁾ OJ No L 356, 19. 12. 1990, p. 6.

⁽⁵⁾ OJ No L 262, 19. 9. 1991, p. 9.

ANNEX

Following vessel is deleted from the list of Regulation (EEC) No 3664/90 :

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS BR 30	La Esperanza	PFMI	Oostburg-Breskens	221

COMMISSION REGULATION (EEC) No 3027/91**of 14 October 1991****amending the list annexed to Regulation (EEC) No 55/87 establishing the list of vessels exceeding eight metres length overall permitted to use beam trawls within certain areas of the Community**

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

Having regard to Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources⁽¹⁾, as last amended by Regulation (EEC) No 4056/89⁽²⁾,

Having regard to Commission Regulation (EEC) No 55/87 of 30 December 1986 establishing the list of vessels exceeding eight metres length overall permitted to use beam trawls within certain areas of the Community⁽³⁾, as last amended by Regulation (EEC) No 2962/91⁽⁴⁾, and in particular Article 3 thereof,

Whereas the Dutch and German authorities have requested replacement in the list annexed to Regulation (EEC) No 55/87 of 2 vessels that no longer meet the requirements laid down in Article 1 (2) of that Regulation; whereas the national authorities have provided all

the information in support of the request required pursuant to Article 3 of Regulation (EEC) No 55/87; whereas scrutiny of this information shows that the requirements of the Regulation are met; whereas the vessels in question should be replaced in the list,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 55/87 is amended as indicated in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 14 October 1991.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 288, 11. 10. 1986, p. 1.

⁽²⁾ OJ No L 389, 30. 12. 1989, p. 75.

⁽³⁾ OJ No L 8, 10. 1. 1987, p. 1.

⁽⁴⁾ OJ No L 282, 10. 10. 1991, p. 11.

ANNEX

The Annex to Regulation (EEC) No 55/87 is amended as follows:

— Vessels to be replaced:

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS ZX 8 UK 6	Aaltje van Ente	PCAP	Kortgene Urk	221

— Vessels replacing the abovementioned vessels:

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS KG 15	Hendrik		Kortgene	221
GERMANY NC 320	Aaltje van Ente	DFMD	Cuxhaven	220

COMMISSION REGULATION (EEC) No 3028/91

of 16 October 1991

introducing a countervailing charge on fresh lemons originating in Uruguay

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Whereas Article 25 (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a third country remains at least ECU 0,6 below the reference price for two consecutive market days, a countervailing charge must be introduced in respect of the exporting country concerned, save in exceptional circumstances; whereas this charge is equal to the difference between the reference price and the arithmetic mean of the last two entry prices available for that exporting country;

Whereas Commission Regulation (EEC) No 1438/91 of 30 May 1991 fixing for the 1991/92 marketing year the reference prices for fresh lemons⁽³⁾ fixed the reference price for products of class I for the month of October 1991 at ECU 50,57 per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative prices recorded for at least 30 % of the quantities from the exporting country concerned which are marketed on all representative markets for which prices are available less the duties and the charges indicated in Article 24 (3) of Regulation (EEC) No 1035/72; whereas the meaning of representative price is defined in Article 24 (2) of Regulation (EEC) No 1035/72;

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74⁽⁴⁾, as last amended by

Regulation (EEC) No 3811/85⁽⁵⁾, the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

Whereas, for fresh lemons originating in Uruguay, the entry price calculated in this way has remained at least ECU 0,6 below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these fresh lemons;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁶⁾, as last amended by Regulation (EEC) No 2205/90⁽⁷⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 7,33 per 100 kilograms net is applied to fresh lemons (CN code ex 0805 30 10) originating in Uruguay.

Article 2

This Regulation shall enter into force on 18 October 1991.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 8.

⁽³⁾ OJ No L 137, 31. 5. 1991, p. 25.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 16 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3029/91

of 16 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 2976/91⁽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 15 October 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 17 October 1991.

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

Done at Brussels, 16 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 281, 9. 10. 1991, p. 15.⁽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 16 October 1991 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	37,48 ⁽¹⁾
1701 11 90	37,48 ⁽¹⁾
1701 12 10	37,48 ⁽¹⁾
1701 12 90	37,48 ⁽¹⁾
1701 91 00	43,10
1701 99 10	43,10
1701 99 90	43,10 ⁽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 3030/91**of 16 October 1991****fixing the maximum export refund for white sugar for the 25th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 963/91**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

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

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

Whereas, following an examination of the tenders submitted in response to the 25th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 25th partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 963/91 the maximum amount of the export refund is fixed at ECU 39,453 per 100 kilograms.

Article 2

This Regulation shall enter into force on 17 October 1991.

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

Done at Brussels, 16 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 100, 20. 4. 1991, p. 9.

COMMISSION REGULATION (EEC) No 3031/91
of 16 October 1991
altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 2961/91 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2961/91 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EEC) No 2961/91 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 October 1991.

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

Done at Brussels, 16 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 282, 10. 10. 1991, p. 9.

ANNEX

to the Commission Regulation of 16 October 1991 altering the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	33,71 ⁽¹⁾	
1701 11 90 910	33,90 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	33,71 ⁽¹⁾	
1701 12 90 910	33,90 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3664
1701 99 10 100	36,64	
1701 99 10 910	36,85	
1701 99 10 950	36,85	
1701 99 90 100		0,3664

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

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

COMMISSION REGULATION (EEC) No 3032/91
of 16 October 1991
fixing the aid for soya beans

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

Article 1

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

Having regard to Council Regulation (EEC) No 1491/85 of 23 May 1985 laying down special measures in respect of soya beans ⁽¹⁾, as last amended by Regulation (EEC) No 1724/91 ⁽²⁾, and in particular Article 2 (7) thereof,

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

Whereas the amount of the aid referred to in Article 2 (1) of Regulation (EEC) No 1491/85 was fixed by Commission Regulation (EEC) No 2795/91 ⁽³⁾, as amended by Regulation (EEC) No 2864/91 ⁽⁴⁾;

2. However, the amount of the aid for the 1991/92 marketing year for soya seed shall be confirmed or replaced with effect from 17 October 1991 to take account of the consequences of the maximum guaranteed quantity arrangements for the 1991/92 marketing year.

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2795/91 to the information at present available to the Commission that the amount of the aid at present in force should be altered as set out in this Regulation,

Article 2

This Regulation shall enter into force on 17 October 1991.

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

Done at Brussels, 16 October 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 16 October 1991 fixing the aid for soya beans

(ECU/100 kg)

	Current period 10 ⁽¹⁾	First period 11 ⁽¹⁾	Second period 12 ⁽¹⁾	Third period 1 ⁽¹⁾	Fourth period 2 ⁽¹⁾	Fifth period 3 ⁽¹⁾
Seed harvested :	21,040	21,058	21,152	20,758	20,838	20,498

⁽¹⁾ Amount fixed provisionally, pending and subject to the application of the maximum guaranteed quantity arrangements for the 1991/92 marketing year, conforming to the adjustment resulting from the maximum guaranteed quantity arrangements applied for the 1990/91 marketing year for Member States other than Spain.

⁽¹⁾ OJ No L 151, 10. 6. 1985, p. 15.

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 35.

⁽³⁾ OJ No L 269, 25. 9. 1991, p. 22.

⁽⁴⁾ OJ No L 274, 1. 10. 1991, p. 4.

COMMISSION REGULATION (EEC) No 3033/91**of 14 October 1991****amending the list annexed to Regulation (EEC) No 55/87 establishing the list of vessels exceeding eight metres length overall permitted to use beam trawls within certain areas of the Community**

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

Having regard to Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources⁽¹⁾, as last amended by Regulation (EEC) No 4056/89⁽²⁾,

Having regard to Commission Regulation (EEC) No 55/87 of 30 December 1986 establishing the list of vessels exceeding eight metres length overall permitted to use beam trawls within certain areas of the Community⁽³⁾, as last amended by Regulation (EEC) No 3027/91⁽⁴⁾, and in particular Article 3 thereof,

Whereas the Dutch authorities have requested withdrawal from the list annexed to Regulation (EEC) No 55/87 of one vessel that no longer meets the requirements laid down in Article 1 (2) of that Regulation; whereas the national authorities have provided all the information in

support of the request required pursuant to Article 3 of Regulation (EEC) No 55/87; whereas scrutiny of this information shows that the requirements of the Regulation are met; whereas the vessel in question should be withdrawn from the list,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 55/87 is amended as indicated in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 14 October 1991.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 288, 11. 10. 1986, p. 1.

⁽²⁾ OJ No L 389, 30. 12. 1989, p. 75.

⁽³⁾ OJ No L 8, 10. 1. 1987, p. 1.

⁽⁴⁾ See page 27 of this Official Journal.

ANNEX

Following vessel is deleted from the list of Regulation (EEC) No 55/87 :

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS BR 30	La Esperanza	PFMI	Oostburg-Breskens	221

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 5 June 1991

relating to a proceeding under Article 85 of the EEC Treaty

(Case No IV/32.879 — Viho/Toshiba)

(Only the English text is authentic)

(91/532/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Article 85 and 86 of the Treaty⁽¹⁾ as last amended by the Act of Accession of Spain and Portugal, and in particular Article 15 (2) thereof,

Having regard to the application for a finding of an infringement submitted on 6 September 1988, pursuant to Article 3 (1) of Regulation No 17, by Viho Europe BV,

Having regard to the Commission Decision of 21 March 1990 to initiate proceedings in this case,

Having given the undertaking concerned the opportunity to make known its views on the objections raised by the Commission, pursuant to Article 19 (1) of Regulation No 17 and Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17⁽²⁾,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. FACTS

Nature of the proceeding

- (1) This proceeding concerns the existence of an export prohibition in agreements between Toshiba

Europa (I.E) GmbH (TEG) and some of its exclusive distributors of photocopiers in the EEC, and certain behaviour of TEG in impeding parallel trade in the EEC. The proceeding began with a complaint lodged by Viho Europe BV on 6 September 1988.

The parties

- (2) 1. Toshiba Corporation of Japan (Toshiba) is a leading manufacturer of a wide variety of electronic products, with a consolidated turnover in 1989 exceeding \$26 900 million ;
2. Toshiba Europa (IE) GmbH (TEG) of Germany is a wholly owned subsidiary of Toshiba Corporation set up initially to distribute Toshiba's 'Information and Communication Systems' products in Germany. These products consist principally of electronic office products, notably photocopiers, with which the business in the common market began, lap-top personal computers, printers, and facsimile machines.

In 1989 the consolidated turnover of TEG was [...]⁽³⁾, of which photocopiers accounted for [...];

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

⁽³⁾ In the published version of the Decision, some information has hereinafter been omitted, pursuant to the provisions of Article 21 of Regulation No 17 concerning non-disclosure of business secrets.

3. Viho Europe BV of the Netherlands distributes office equipment and related products, especially within the EEC.

The product

- (3) The products to which this Decision refers are electrostatic and plain paper copying machines (hereafter referred to as photocopiers) distributed by TEG.

The market

- (4) As outlined in the Commission's Olivetti-Canon Decision⁽¹⁾, because not all photocopiers are sufficiently interchangeable to compete with each other in terms of price, speed (copies per minute), physical characteristics, and other facilities, manufacturers and suppliers use some form of market segmentation.

The market principally concerned by this case is the low-end range of photocopiers, usually defined as machines capable of producing up to 30 copies per minute.

- (5) In the low-end range market detailed figures for 1988⁽²⁾ show Toshiba to have the fifth-largest market share in Western Europe at 6,9 % with 65 900 units sold. Canon was the clear market leader with a 24 % market share; there were many other competitors.

Distribution of Toshiba photocopiers in the European Communities

The agreements

- (6) With the exception of Greece, where Toshiba has directly concluded an exclusive distribution agreement with an independent distributor, and Germany, where TEG itself undertakes distribution, TEG concluded exclusive distribution agreements for individual Member States with independent distributors between 1975 and 1986. Some of these agreements were terminated as distributors were replaced by TEG sales subsidiaries.
- (7) The initial distribution agreements drawn up by TEG included an export prohibition stating that the distributor 'shall not sell nor export, whether directly or not, the products to other countries than the territory without Toshiba's consent in writing', or a substantially similar wording.
- (8) In 1982, a revised model exclusive distribution agreement was drawn up in which the export prohibition was eliminated. Agreements concluded from 1982 were in this revised form. The agreements which already existed at this time however were not modified.
- (9) It has been established that the following distribution agreements of TEG contained an export prohibition clause:

Country	Distributor	Date of agreement	Date of termination
Belgium	Eres NV	1. 5. 1976	—
Ireland	Magnus Office Equipment Ltd	27. 5. 1980	—
Netherlands	Handelsondernehmng Reprotechniek BV	1. 1. 1975	—
Portugal	Hoechst Portuguesa SARL	1. 2. 1981	—
Denmark	Møller & Landschulz Aktieselskab	4. 2. 1980	18. 12. 1986
Italy	Tiber SpA	1. 3. 1977	30. 4. 1987
United Kingdom	International Office Products Ltd	28. 7. 1975	18. 7. 1984

The implementation of the agreements and other practices

- (10) TEG claimed initially that there seemed to have been no course of conduct implementing the export prohibition contained in the agreement and that TEG and its distributors never engaged in a policy or acts to apply or use these provisions. However, subsequently, an internal review of its files dating between 1982 and 1989 carried out by TEG revealed a small number of instances where it

was clear that an export prohibition was put into effect by some distributors, with TEG being aware of this. There is also some evidence of TEG itself querying parallel trade. The evidence found by TEG in its files is described below.

- (11) In a letter in December 1984, TEG's Belgian distributor Eres NV (Eres) intervened with one of its dealers in Arlon to stop it exporting to Luxembourg, stating that Eres is forbidden to export machines to Luxembourg. Eres goes on to ask the dealer to stop delivering to Luxembourg, or otherwise they would be obliged to terminate the business relationship.

⁽¹⁾ OJ No L 52/31, 26. 2. 1988, p. 51.

⁽²⁾ Source: Dataquest. Statistics for Western Europe are considered to be indicative of the market shares held in the EC.

A copy of this was sent to TEG, with a letter declaring that Eres was prepared to stop selling to the dealer concerned. Eres goes on to say that care has to be taken in writing to the dealer because of EEC law.

- (12) In July 1985, the Dutch distributor Reprotechniek informed TEG that it had refused to supply quantities of toner to the complainant, Viho, stating that it was important that TEG informed 'all importers in Europe of this man and his company'. TEG immediately complied with this request by sending a copy of Reprotechniek's telex to at least some of the other distributors, adding that cooperation would be appreciated.

- (13) In September 1986, TEG received a complaint from the Danish distributor appointed in 1986, Esselte A/S (Esselte) about a copier 'imported by a pirate'. In it Esselte hoped that TEG could stop the traffic of private importing of Toshiba machines, because it was inconvenient for both Esselte and its dealers. The letter refers to a previous meeting between TEG and Esselte in which the matter had been discussed. There is evidence that TEG was able to identify the machine as having originally been sold to a dealer in Hamburg, but it is not known whether this was further followed-up.

- (14) In October 1988, Esselte, apparently referring to a complaint received about a sale in Germany of a copier originally sold to Esselte, informed TEG of the circumstances of the sale. A letter from Esselte to the dealer concerned was enclosed. This states that Esselte had been informed by TEG that the dealer had sold a copier to Germany. 'We are fighting very hard against the pirate importing of Toshiba machines to Denmark, and as it is of interest to all the dealers, we suggest that it does not take place in the future. If you wish to sell to Germany, please inform us about it and we will be able to arrange service contact for you. In that way, Toshiba Germany and Toshiba's dealers will be informed of it'.

In November 1988, TEG wrote to Esselte referring to the earlier correspondence, complaining about four copiers which were offered to German dealers from Denmark at apparently low prices. The letter asked Esselte to intervene with the dealer in question.

- (15) In July 1987, the former Italian distributor, Tiber SpA (Tiber), approached the Spanish distributor Otesa SA (Otesa), appointed in April 1983, with a request for spare parts. Tiber's distribution agreement had been terminated in April 1987, and is

subject to dispute which continues. Otesa refused to supply stating that the contract it had with TEG specifically forbade it to send goods to other countries.

Otesa sent TEG a copy of this exchange, and referred to a telephone conversation on the subject.

Whilst it is true that the written agreement with Otesa did not contain an export prohibition clause, Otesa nevertheless understood their contract to contain such a clause and TEG knew that it had this understanding. This contract was terminated in December 1988.

Price variation between the Member States

- (16) From information provided by TEG, there exists a degree of price variation between the Member States.

In 1988 for example, based on TEG's estimates there was a variance of [...] between the highest and lowest prices to dealers in the various Member States on model BD 3110, [...] for model BD 5110, and [...] for model BD 8412.

Comparative figures for price differentials for these models⁽¹⁾ were [...] respectively for 1987, and [...] respectively for 1986. There was no fixed pattern as to which Member States had the lowest or highest prices, except in 1987 when the prices in France were consistently the lowest, and prices, in Luxembourg were consistently the highest.

The prices to dealers in adjoining Member States also showed significant variations. Prices to dealers in Luxembourg were higher than to dealers in Belgium for the models noted for example, the differences ranging from [...] in 1988, and similar figures for the previous two years examined.

Termination of the infringement

- (17) TEG acknowledges that the wording of the agreements infringes Article 85 (1), and accordingly on 2 June 1989 wrote to the Belgian, Dutch and Portuguese distributors which continued to have agreements containing an infringing provision, proposing appropriate modifications. On 25 January 1990 TEG similarly wrote to the Irish distributor. By 29 January 1990 all four distributors had acknowledged the modification to their agreements, which eliminated the infringing provision.

⁽¹⁾ Figures for model BD 5610 instead of BD 5110, a similar model which went out of production in 1988.

On 26 January 1990 TEG also wrote to its Danish distributor clarifying what its contractual obligations were with regard to sales outside Denmark so as to avoid any misunderstanding.

- (18) Furthermore, Toshiba Corporation has drawn up a wide-ranging EEC competition law compliance programme for its EC subsidiaries in order to help ensure future compliance with the competition rules.

II. LEGAL ASSESSMENT

A. Article 85 (1)

- (19) TEG and its exclusive distributors in the Community are undertakings within the meaning of Article 85, and the contracts between them are agreements within the meaning of that provision.
- (20) An export prohibition clause was inserted in seven agreements, four of which continued in force until after the review prompted by the Commission. The object was to restrict competition by preventing parallel imports and to give territorial protection to the distributors within the particular Member States allocated to them, and to TEG or the exclusive distributor appointed directly by Toshiba elsewhere in the common market.

Such clauses in themselves infringe Article 85 (1). The Court of Justice has held in several judgments⁽¹⁾ that agreements which prohibit exports within the common market by their very nature restrict competition within the meaning of Article 85 (1), and that once it has been shown that this is the object of an agreement, it is not necessary to prove that the restriction has actually been put into effect.

As is noted above, there is also some evidence of an export prohibition being put into effect.

- (21) Article 85 (1) therefore applies to those agreements between TEG and its exclusive distributors which contained an export prohibition.
- (22) Similarly, notwithstanding that the written agreements between TEG and the Danish distributor Esselte and the Spanish distributor Otesa did not contain an export prohibition clause, the evidence demonstrates that there was an understanding that such an export prohibition should apply. Whilst there was such an understanding, these therefore also constitute agreements to which Article 85 (1) applies.
- (23) Toshiba's products have a not insignificant part of the market in the EEC for the low-end range of copiers. Differences in prices for these products

exist between Member States, thereby leading to conditions in which parallel trading might take place. In these circumstances, it is concluded that the restrictions in question are capable of appreciably affecting trade between Member States.

B. Article 85 (3)

- (24) The agreements in question between TEG and its exclusive distributors which contained an export prohibition were not notified to the Commission, and such a restriction on exports does not come within the exceptions envisaged in Article 4 (2) of Regulation 17. No exemption decision in application of Article 85 (3) may therefore be taken.

In any event, even had there been a notification, these agreements could not have been declared exempt from the application of Article 85 (1) since the restriction on exports does not appear to be indispensable to any improvement in distribution, and is likely to be detrimental to consumers.

C. Article 15 (2) of Regulation No 17

- (25) In the light of the considerations set out above, the Commission considers there are grounds for finding that TEG has infringed Article 85 (1).
- (26) Under Article 15 (2) of Regulation No 17, the Commission may impose fines of from ECU 1 000 to ECU 1 million or a sum in excess thereof but not exceeding 10 % of the turnover in the preceding business year of each of the undertakings participating in the infringement, where, either intentionally or negligently, they infringe Article 85 (1) of the EEC Treaty. In fixing the amount of the fine, regard must be had both to the gravity and to the duration of the infringement.

The Commission considers that the imposition of a fine on TEG is justified in the present case. There is no evidence that the exclusive distributors had any input into the drafting of the agreements which they entered into with TEG, and on the basis of the facts it is considered that TEG stands largely responsible for the behaviour which resulted.

- (27) The Commission considers that TEG infringed Article 85 (1) in including export prohibition clauses in its agreements concluded with distributors between 1975 and 1981, and was at least negligent in not removing these clauses from agreements which then existed when a new, non-infringing, model agreement was drawn up in 1983.

Furthermore, even after the drawing up of a non-infringing model agreement based, it would seem, partly on the realization by Toshiba that the export prohibitions were not in conformity with EC law,

⁽¹⁾ In particular, Joined Cases 56 and 58/64 — Consten and Grundig [1966] ECR 299, Miller [1978] ECR 131.

there is evidence of a small number of instances between 1984 and 1988 where an export prohibition was put into effect, in one instance notwithstanding that the distribution agreement in question contained no such clause. TEG was aware of this, and as late as November 1988 is known to have itself queried parallel trade between Germany and Denmark. These instances would seem to have been at variance with the Toshiba group policy on parallel trade during this period and thereafter.

(28) In determining the amount of the fine to be imposed on TEG, the Commission has taken into account, in particular, the following factors:

1. The infringement relates to the obstruction of the achievement of a fundamental objective of the Treaty, the integration of the common market.
2. Community law is very clear in this area.
3. The infringements are of long duration. The longest infringing provision, that contained in the agreement with Reprotechnik, dated from 1 January 1975. The infringements were only brought to an end following the Commission's investigation of the allegations in Viho's complaint.
4. TEG is part of a large group of companies, with a large turnover, and is a significant player in the market for photocopiers in the EEC.
5. TEG was extremely cooperative during the investigation of the case.
6. Toshiba has now drawn up, and introduced from October 1989, a wide-ranging EEC competition law compliance programme for its EC subsidiaries, including TEG, in order to help ensure future compliance with the competition rules.

(29) Implementation of this compliance programme is designed, *inter alia*, to familiarize relevant employees with the group's policy to comply with the letter and the spirit of EEC competition law, and to make sure that they are adequately motivated to adhere to the policy.

The Commission considers that Toshiba's action in this direction has been very constructive.

(30) In general terms, the Commission considers that management has the responsibility to establish

effective internal rules for compliance with EEC competition law. The nature and extent of such rules will vary from enterprise to enterprise, and also from one part of an enterprise to another. Effective implementation and monitoring is essential to achieve a stated compliance objective,

HAS ADOPTED THIS DECISION:

Article 1

Toshiba Europa (IE) GmbH (TEG) has infringed Article 85 (1) of the EEC Treaty by including an export prohibition in agreements with its exclusive distributors.

Article 2

A fine of ECU 2 million is hereby imposed on TEG.

This fine shall be paid within three months of the date of notification of this Decision to the account of the Commission of the European Communities, No 310-0933000-43, Banque Bruxelles-Lambert, Agence Européenne, 5 Rond-Point Robert Schuman, B-1040 Brussels.

After three months, interest shall automatically be payable at the rate charged by the European Monetary Cooperation Fund on its ECU operations on the first working day of the month in which this Decision was adopted, plus 3,5 percentage points, that is 13,25 %.

Article 3

This Decision is addressed to:

Toshiba Europa (IE) GmbH,
Hammer Landstraße 115,
D-4040 Neuss.

This Decision is enforceable pursuant to Article 192 of the EEC Treaty.

Done at Brussels, 5 June 1991.

For the Commission

Leon BRITTAN

Vice-President

CORRIGENDA

Corrigendum to Commission Directive 91/248/EEC of 12 April 1991 amending the Annexes to Council Directive 70/524/EEC concerning additives in feedingstuffs

(Official Journal of the European Communities No L 124 of 18 May 1991)

On page 23 in Annex I against entry 'E240' aligned with 'all species or categories of animals':
in the columns: 'Maximum age', 'Minimum content' and 'Maximum content' insert: '— — —';
in the column: 'Other provisions' insert: 'For silage only'.
