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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 148/93**of 28 January 1993****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 1738/92 ⁽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 Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽⁵⁾, and in particular Article 5 thereof,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission

Regulation (EEC) No 3873/92 ⁽⁶⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 27 January 1993, as regards floating currencies, should be used to calculate the levies;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1820/92 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 29 January 1993.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ No L 390, 31. 12. 1992, p. 118.

ANNEX

to the Commission Regulation of 28 January 1993 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Third countries (*)
0709 90 60	135,74 (*) (*)
0712 90 19	135,74 (*) (*)
1001 10 00	176,59 (*) (*) ⁽¹⁰⁾
1001 90 91	140,35
1001 90 99	140,35 ⁽¹¹⁾
1002 00 00	158,24 (*)
1003 00 10	126,59
1003 00 20	126,59
1003 00 80	126,59 ⁽¹¹⁾
1004 00 00	115,90
1005 10 90	135,74 (*) (*)
1005 90 00	135,74 (*) (*)
1007 00 90	136,78 (*)
1008 10 00	49,86 ⁽¹¹⁾
1008 20 00	81,75 (*)
1008 30 00	40,72 (*)
1008 90 10	(*)
1008 90 90	40,72
1101 00 00	208,91 (*) ⁽¹¹⁾
1102 10 00	234,30 (*)
1103 11 30	285,24 (*) ⁽¹⁰⁾
1103 11 50	285,24 (*) ⁽¹⁰⁾
1103 11 90	224,64 (*)

(*) 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.

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

(4) Where millet and sorghum originating in the ACP 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 and Commission Regulation (EEC) No 2622/71.

(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.

(9) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC, except if paragraph 4 of the same Article applies.

(10) An amount equal to the amount fixed by Regulation (EEC) No 1825/91 is to be levied in accordance with Article 101 (4) of Decision 91/482/EEC.

(11) Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 149/93**of 28 January 1993****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 1738/92 ⁽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 Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽⁵⁾, and in particular Article 5 thereof,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 3874/92 ⁽⁶⁾ and subsequent amending Regulations;

Whereas, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 27 January 1993, as regards floating currencies, should be used to calculate the levies;

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 29 January 1993.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ No L 390, 31. 12. 1992, p. 121.

ANNEX

to the Commission Regulation of 28 January 1993 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 1	1st period 2	2nd period 3	3rd period 4
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 00	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 20	0	0	0	0
1003 00 80	0	0	0	0
1004 00 00	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
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 150/93**of 28 January 1993****fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2046/92⁽²⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 1900/92⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 1901/92⁽⁶⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86⁽⁸⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 1902/92⁽¹⁰⁾, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹¹⁾,

Whereas by Regulation (EEC) No 3131/78⁽¹²⁾, as amended by the Act of Accession of Greece, the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

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

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁴⁾, no levies shall apply on imports of products originating in the overseas countries and territories; whereas, however, pursuant to Article 101 (4) of the abovementioned Decision, a special amount shall be charged on imports of certain products originating in the overseas countries and territories in order to prevent products originating from these countries and territories from receiving more favourable treatment than similar products imported from Spain or Portugal into the Community as constituted on 31 December 1985;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 25 and 26 January 1993 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

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

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 192, 11. 7. 1992, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 192, 11. 7. 1992, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 192, 11. 7. 1992, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

HAS ADOPTED THIS REGULATION:

Article 2

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

Article 1

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

Article 3

This Regulation shall enter into force on 29 January 1993.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX I

Minimum import levies on olive oil ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	79,00 ⁽²⁾
1509 10 90	79,00 ⁽²⁾
1509 90 00	92,00 ⁽²⁾
1510 00 10	77,00 ⁽²⁾
1510 00 90	122,00 ⁽⁴⁾

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3094/92 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

⁽²⁾ For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

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

⁽³⁾ For imports of oil falling within this CN code :

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

⁽⁴⁾ For imports of oil falling within this CN code :

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

ANNEX II

Import levies on other olive oil sector products ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
0709 90 39	17,38
0711 20 90	17,38
1522 00 31	39,50
1522 00 39	63,20
2306 90 19	6,16

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3148/91 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 151/93
of 23 December 1992

amending Regulations (EEC) No 417/85, (EEC) No 418/85, (EEC) No 2349/84 and (EEC) No 556/89 on the application of Article 85 (3) of the Treaty to certain categories of specialization agreements, research and development agreements, patent licensing agreements and know-how licensing agreements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2821/71 of 20 December 1971 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Article 1 thereof,

Having regard to Council Regulation No 19/65/EEC of 2 March 1965 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices⁽²⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular to Article 1 thereof,

Having published a draft of this Regulation⁽³⁾,

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

Whereas :

- (1) Regulation (EEC) No 2821/71 empowers the Commission to apply Article 85 (3) of the Treaty by regulation to certain categories of agreements, decisions and concerted practices falling within the scope of Article 85 (1) which have as their object specialization, including agreements necessary for achieving it, or the research and development of products or processes up to the stage of industrial application, and exploitation of the results, including provisions regarding industrial property rights and confidential technical knowledge ;
- (2) It has made use of this power by adopting Regulations 417/85 of 19 December 1984 on the application of Article 85 (3) of the Treaty to categories of specialization agreements⁽⁴⁾, and (EEC) No 418/85 of 19 December 1984 on the application of Article 85 (3) of the Treaty to categories of research and development agreements⁽⁵⁾, respectively, as

amended by the Act of Accession of Spain and Portugal ;

- (3) Regulation No 19/65/EEC empowers the Commission to apply Article 85 (3) of the Treaty by regulation to certain categories of agreements to which only two undertakings are party and which include restrictions imposed in relation to the acquisition or use of industrial property rights — in particular patents, utility models, designs or trade marks — or to the rights arising out of contracts for assignment of, or the right to use, a method of manufacture or knowledge relating to the use or application of industrial processes ;
- (4) It has made use of this power by adopting Regulations (EEC) No 2349/84 of 23 July 1984 on the application of Article 85 (3) of the Treaty to certain categories of patent licensing agreements⁽⁶⁾, as amended by the Act of Accession of Spain and Portugal, and (EEC) No 556/89 of 30 November 1988 on the application of Article 85 (3) of the Treaty to certain categories of know-how licensing agreements⁽⁷⁾, respectively, as amended in the case of the former by the Act of Accession of Spain and Portugal ;
- (5) It is appropriate to extend the scope of application of the abovementioned group exemption Regulations in order to facilitate the rationalization of production, the exploitation of results of joint research and development and the transfer of technical knowledge ;
- (6) To that end, Regulations (EEC) No 417/85 and (EEC) No 418/85 must be amended so as to extend cover to joint distribution of specialized products or products resulting from joint research and development, provided that the market share of the participating undertakings does not exceed a certain limit. The market share should be limited to 10 % for agreements establishing cooperation which extends to distribution, by reason of the more restrictive effects of such agreements on competi-

⁽¹⁾ OJ No L 285, 29. 12. 1971, p. 46.

⁽²⁾ OJ No 36, 6. 3. 1965, p. 533/65.

⁽³⁾ OJ No C 207, 14. 8. 1992, p. 11.

⁽⁴⁾ OJ No L 53, 22. 2. 1985, p. 1.

⁽⁵⁾ OJ No L 53, 22. 2. 1985, p. 5.

⁽⁶⁾ OJ No L 219, 16. 8. 1984, p. 15. Corrigendum : OJ No L 280, 22. 10. 1985, p. 32.

⁽⁷⁾ OJ No L 61, 4. 3. 1989, p. 1.

tion compared with other cooperation agreements; whereas the market share threshold should be maintained at 20 % for such other cooperation agreements. Under the same conditions, Regulations (EEC) No 2349/84 and (EEC) No 556/89 should no longer exclude exemption agreements by which the parent companies of a joint venture grant the joint venture patent or know-how licences, even where the parent companies are competitors;

- (7) In addition, it is appropriate to enlarge the legal framework for cooperation between undertakings in the areas of production and distribution. The turnover limit laid down for specialization agreements by Regulation (EEC) No 417/85 should therefore be increased to ECU 1 000 million,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 417/85 is hereby amended as follows:

1. in Article 2 (1), the introductory sentence is replaced by the following:

'Article 1 shall also apply to the following restrictions of competition:';

2. in Article 2 (1), point (c) is replaced by the following:

'(c) an obligation to grant other parties the exclusive right, within the whole or a defined area of the common market, to distribute products which are the subject of the specialization, provided that intermediaries and users can also obtain the products from other suppliers and the parties do not render it difficult for intermediaries and users to thus obtain the products;'

3. In Article 2 (1), the following points (d), (e) and (f) are added:

'(d) an obligation to grant one of the parties the exclusive right to distribute products which are the subject of the specialization provided that that party does not distribute products of a third undertaking which compete with the contract products;

(e) an obligation to grant the exclusive right to distribute products which are the subject of the specialization to a joint undertaking or to a third undertaking, provided that the joint undertaking or third undertaking does not manufacture or distribute

products which compete with the contract products;

- (f) an obligation to grant the exclusive right to distribute within the whole or a defined area of the common market the products which are the subject of the specialization to joint undertakings or third undertakings which do not manufacture or distribute products which compete with the contract products, provided that users and intermediaries can also obtain the contract products from other suppliers and that neither the parties nor the joint undertakings or third undertakings entrusted with the exclusive distribution of the contract products render it difficult for users and intermediaries to thus obtain the contract products.';

4. in Article 2, the following paragraph 2a is inserted:

'2a. Article 1 shall not apply if restrictions of competition other than those set out in paragraphs 1 and 2 are imposed upon the parties by agreement, decision or concerted practice.';

5. Article 3 is replaced by the following:

Article 3

1. Article 1 shall apply only if

(a) the products which are the subject of the specialization together with the participating undertakings' other products which are considered by users to be equivalent in view of their characteristics, price and intended use do not represent more than 20 % of the market for all such products in the common market or a substantial part thereof; and

(b) the aggregate turnover of all the participating undertakings does not exceed ECU 1 000 million.

2. If pursuant to point (d), (e) or (f) of Article 2 (1), one of the parties, a joint undertaking, a third undertaking or more than one joint undertaking or third undertaking are entrusted with the distribution of the products which are the subject of the specialization, Article 1 shall apply only if:

(a) the products which are the subject of the specialization together with the participating undertakings' other products which are considered by users to be equivalent in view of their characteristics, price and intended use do not represent more than 10 % of the market for all such products in the common market or a substantial part thereof; and

(b) the aggregate annual turnover of all the participating undertakings does not exceed ECU 1 000 million.

3. Article 1 shall continue to apply if the market shares and turnover referred to in paragraphs 1 and 2 are exceeded during any period of two consecutive financial years by not more than one-tenth.
4. Where the limits laid down in paragraph 3 are also exceeded, Article 1 shall continue to apply for a period of six months following the end of the financial year during which they were exceeded.';
6. in Article 4 (1), 'Article 3 (1) (b) and (2)' is replaced by 'Article 3 (1) (b), (2) (b) and (3)';
7. in the first sentence of Article 6, 'and (2) (b)' is inserted after 'Article 3 (1) (b)';
8. in the second sentence 'or sale' is inserted after 'manufacture';
9. the introductory sentence of Article 7 (1) is replaced by the following:
- 'For the purposes of Article 3 (1) and (2), and Article 6, participating undertakings are:'.

Article 2

Regulation (EEC) No 418/85 is hereby amended as follows:

1. in Article 2, point (e) is deleted;
2. in Article 3, the following paragraph 3a is inserted:

'3a. Where one of the parties, a joint undertaking, a third undertaking or more than one joint undertaking or third undertaking are entrusted with the distribution of the products which are the subject of the agreement under Article 4 (1) (fa), (fb) or (fc), the exemption provided for in Article 1 shall apply only if the parties production of the products referred to in paragraphs 2 and 3 does not exceed 10 % of the market for all such products in the common market or a substantial part thereof.';
3. in Article 3, paragraphs 4 and 5 are replaced by the following:

'4. The exemption provided for in Article 1 shall continue to apply where the market shares referred to in paragraphs 3 and 4 are exceeded during any period of two consecutive financial years by not more than one-tenth.

5. Where the limits laid down in paragraph 5 are also exceeded, the exemption provided for in Article 1 shall continue to apply for a period of six months following the end of the financial year during which they were exceeded.';
4. in Article 4 (1), the following points (fa), (fb) and (fc) are inserted:

- (fa) an obligation to grant one of the parties the exclusive right to distribute the contract products, provided that that party does not distribute products manufactured by a third producer which compete with the contract products;
- (fb) an obligation to grant the exclusive right to distribute the contract products to a joint undertaking or a third undertaking, provided that the joint undertaking or third undertaking does not manufacture or distribute products which compete with the contract products;
- (fc) an obligation to grant the exclusive right to distribute the contract products in the whole or a defined area of the common market to joint undertakings or third undertakings which do not manufacture or distribute products which compete with the contract products, provided that users and intermediaries are also able to obtain the contract products from other suppliers and neither the parties nor the joint undertakings or third undertakings entrusted with the exclusive distribution of the contract products render it difficult for users and intermediaries to thus obtain the contract products.';

5. Article 6 (g) is replaced by the following:

'(g) are required not to grant licences to third parties to manufacture the contract products or to apply the contract processes even though the exploitation by the parties themselves of the results of the joint research and development is not provided for or does not take place.'

Article 3

Regulation (EEC) No 2349/84 is hereby amended as follows:

1. in Article 5, paragraph 2 is replaced by the following:
 - '2. This Regulation shall nevertheless apply:
 - (a) to agreements to which paragraph 1 (2) applies, under which a parent undertaking grants the joint venture a patent licence, provided that the contract products and the other products of the participating undertakings which are considered by users to be equivalent in view of their characteristics, price and intended use represent:
 - in case of a licence limited to production not more than 20 %,
 - in case of a licence covering production and distribution not more than 10 %,
 - of the market for all such products in the common market or a substantial part thereof;

(b) to reciprocal licences within the meaning of point 3 of paragraph 1, provided that the parties are not subject to any territorial restriction within the common market with regard to the manufacture, use or putting on the market of the contract products or on the use of the licensed processes.';

2. in Article 5, the following paragraph 3 is added:

'3. This Regulation shall continue to apply where the market shares referred to in point (a) of paragraph 2 are exceeded during any period of two consecutive financial years by not more than one-tenth.

Where this latter limit is also exceeded, this Regulation shall continue to apply for a period of six months following the end of the financial year during which it was exceeded.'

Article 4

Regulation (EEC) No 556/89 is hereby amended as follows:

1. in Article 5, paragraph 2 is replaced by the following:

'2. This Regulation shall nevertheless apply:

(a) to agreements to which paragraph 1 (2) applies, under which a parent undertaking grants the joint venture a know-how licence, provided that the contract products and the other products of the participating undertakings which are considered by users to be equivalent in view of their characteristics, price and intended use represent:

- in case of an exploitation licence limited to production not more than 20 %,
- in case of an exploitation licence covering production and distribution not more than 10 %,

of the market for all such products in the common market or a substantial part thereof;

(b) to reciprocal licences within the meaning of point 3 of paragraph 1, provided that the parties are not subject to any territorial restriction within the common market with regard to the manufacture, use or putting on the market of the contract products or on the use of the licensed processes.';

2. in Article 5, the following paragraph 3 is added:

'3. This Regulation shall continue to apply where the market shares referred to in point (a) of paragraph 2 are exceeded during any period of two consecutive financial years by not more than one-tenth. Where this latter limit is also exceeded, this Regulation shall continue to apply for a period of six months following the end of the financial year during which it was exceeded.'

Article 5

1. This Regulation shall enter into force on 1 April 1993.

2. Regulations (EEC) No 417/85, (EEC) No 418/85, (EEC) No 2349/84 and (EEC) No 556/89, as amended by this Regulation, shall apply with retroactive effect from the time at which the conditions for the application of the group exemption were fulfilled.

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

Done at Brussels, 23 December 1992.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EEC) No 152/93**of 28 January 1993****adopting definitive measures on the issuing of STM licences for milk and milk products in regard to Spain**

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

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 85 (3) thereof,

Having regard to Council Regulation (EEC) No 569/86 of 25 February 1986 laying down general rules for the application of the supplementary mechanism applicable to trade ⁽¹⁾, as last amended by Regulation (EEC) No 3296/88 ⁽²⁾, and in particular Article 7 (1) thereof,

Whereas Commission Regulation (EEC) No 606/86 of 28 February 1986 laying down detailed rules for applying the supplementary trade mechanism to milk products imported into Spain from the Community of Ten and Portugal ⁽³⁾, as last amended by Regulation (EEC) No 705/92 ⁽⁴⁾, fixes the indicative ceiling for imports into Spain of certain products in the milk and milk products sector for 1992;

Whereas applications for STM licences lodged in the Community of Ten during the period 23 to 27 November 1992 for cheese category 4 and 6 relate to quantities in excess of that fraction of the indicative ceiling set aside for the month of December 1992;

Whereas the Commission adopted, by an emergency procedure, suitable interim protective measures by Regulation (EEC) No 3511/92 ⁽⁵⁾; whereas definitive measures

must be adopted; whereas, in view of the market situation in Spain, an increase in indicative ceilings cannot be contemplated at present;

Whereas, as part of the definitive measures referred to in Article 85 (3) of the Act, the suspension of the issuing of STM licences provided for in the abovementioned Regulation until the end of the month of December 1992 should be confirmed;

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 issuing of STM licences applied for in the Community of Ten for products in the milk and milk products sector as referred to in Regulation (EEC) No 3511/92, definitively suspended for the month of December 1992.

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, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 55, 1. 3. 1986, p. 106.

⁽²⁾ OJ No L 293, 27. 10. 1988, p. 7.

⁽³⁾ OJ No L 58, 1. 3. 1986, p. 28.

⁽⁴⁾ OJ No L 75, 31. 3. 1992, p. 29.

⁽⁵⁾ OJ No L 355, 5. 12. 1992, p. 10.

COMMISSION REGULATION (EEC) No 153/93

of 28 January 1993

**amending Regulation (EEC) No 1302/92 opening a standing invitation to tender
for the export of barley held by the German 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 1738/92 ⁽²⁾, and in particular Article 7 (6) thereof,

Whereas Commission Regulation (EEC) No 1836/82 ⁽³⁾,
as last amended by Regulation (EEC) No 3043/91 ⁽⁴⁾, lays
down the procedure and conditions for the disposal of
cereals held by intervention agencies;

Whereas on 22 January 1993 Germany notified the
Commission that it wished to amend the Annex to Regu-
lation (EEC) No 1302/92 ⁽⁵⁾, as last amended by Regula-
tion (EEC) No 3585/92 ⁽⁶⁾; whereas it is possible to
accede to that request;

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

Annex I to Regulation (EEC) No 1302/92 is replaced by
the Annex hereto.

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, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 288, 18. 10. 1991, p. 21.

⁽⁵⁾ OJ No L 139, 22. 5. 1992, p. 27.

⁽⁶⁾ OJ No L 364, 12. 12. 1992, p. 24.

ANNEX

ANNEX I

(tonnes)	
Place of storage	Quantity
Schleswig-Holstein/Hamburg	26 000
Niedersachsen/Bremen	96 150
Nordrhein-Westfalen	173 943
Hessen	43 741
Rheinland-Pfalz	43 585
Baden-Württemberg	42 676
Saarland	2 445
Bayern	118 406
Berlin/Brandenburg	65 069
Mecklenburg-Vorpommern	89 164
Sachsen	87 594
Sachsen-Anhalt	151 240
Thüringen	159 842

COMMISSION REGULATION (EEC) No 154/93**of 28 January 1993****adopting interim protective measures on applications for STM licences in the beef and veal sector submitted for trade with Spain during the period 18 to 21 January 1993**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 85 (1) and 252 (1) thereof,

Whereas Commission Regulation (EEC) No 3810/91 of 18 December 1991 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted at 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 4026/89 and (EEC) No 3815/90 ⁽¹⁾, as last amended by Regulation (EEC) No 3826/92 ⁽²⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued in January and February 1993;

Whereas Article 85 (1) of the Act of Accession makes provision for the Commission to take the interim protective measures necessary if the indicative ceiling for the year in course or part of it is reached or exceeded;

Whereas the licence applications lodged between 18 and 21 January 1993 are for a quantity in excess of that set for

the months of January and February 1993 for Spain for live animals; whereas as an interim protective measure only a percentage of the amounts applied for in that period should be granted and no further certificates issued for the time being,

HAS ADOPTED THIS REGULATION:

Article 1

For live animals of the bovine species, other than purebred breeding animals and animals for bullfights:

1. applications for STM licences submitted between 18 and 21 January 1993 and notified to the Commission shall be accepted for 77,106 % for Spain;
2. the issuing of STM licences in response to applications submitted from 25 January 1993 onwards is suspended for the time being.

Article 2

This Regulation shall enter into force on 29 January 1993.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 357, 28. 12. 1991, p. 53.

⁽²⁾ OJ No L 387, 31. 12. 1993, p. 40.

COMMISSION REGULATION (EEC) No 155/93

of 28 January 1993

introducing a countervailing charge and suspending the preferential customs duty on imports of fresh lemons originating in Turkey

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 1754/92⁽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 0,6 ECU 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 1413/92 of 27 May 1992 fixing the reference prices for lemons for the 1992/93 marketing year⁽³⁾ fixed the reference price for products of class I for the period from November 1992 to April 1993 at ECU 47,15 per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative price or the arithmetic mean of the lowest 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 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 Turkey, the entry price calculated in this way has remained at least 0,6 ECU below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these fresh lemons;

Whereas, in Article 1 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey⁽⁶⁾, as amended by Regulation (EEC) No 1555/84⁽⁷⁾, a rate of customs duty of 4 % should be re-introduced for these fresh lemons;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁸⁾ are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 3819/92⁽⁹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. A countervailing charge of ECU 3,25 per 100 kilograms net is applied on imports of fresh lemons (CN code ex 0805 30 10) originating in Turkey.
2. The import duty on these products is fixed at 4 %.

Article 2

This Regulation shall enter into force on 30 January 1993.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 146, 28. 5. 1992, p. 71.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 367, 23. 12. 1981, p. 3.

⁽⁷⁾ OJ No L 150, 6. 6. 1984, p. 4.

⁽⁸⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁹⁾ OJ No L 387, 31. 12. 1992, p. 17.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EEC) No 156/93

of 28 January 1993

amending Regulation (EEC) No 1729/92 laying down detailed implementing rules for the specific measures for supplying the Canary Islands with products from the eggs and poultrymeat sectors, regarding the amounts of aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992, introducing, specific measures for the Canary Islands concerning certain agricultural products ⁽¹⁾, as amended by Regulation (EEC) No 3714/92 ⁽²⁾, and in particular Article 3 (4) thereof,Whereas Commission Regulation (EEC) No 1729/92 ⁽³⁾ fixed the amounts of the aid for the supply to the archipelago, on the one hand, of meat and eggs, and on the other hand, of chicks and hatching eggs originating in the rest of the Community; whereas such aid must be fixed taking into account in particular the costs of supply from the world market, conditions due to the geographical situation of the archipelago and the basis of the current prices on export to third countries for the animals or products concerned;

Whereas it follows from applying these rules and criteria to the present situation on the market in poultrymeat that

the amounts of aid for such deliveries should be adjusted, taking account of their current volume and ensuring that the share of supplies from the Community is maintained;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EEC) No 1729/92 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 February 1993.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 13.⁽²⁾ OJ No L 378, 23. 12. 1992, p. 23.⁽³⁾ OJ No L 179, 1. 7. 1992, p. 107.

ANNEX

ANNEX II

Amounts of aid granted for products referred to in Annex I and coming from the Community market

Product code	Amount of aid (ECU/100 kg net)
0207 21 10 000	39
0207 21 90 100	43
0207 21 90 900	25
0207 22 10 000	28
0207 22 90 000	28
0207 41 10 110	8
0207 41 10 990	55
0207 41 11 000	43
0207 41 21 000	10
0207 41 41 000	37
0207 41 51 000	59
0207 41 71 100	43
0207 41 71 200	43
0207 41 71 300	43
0207 41 71 400	5
0207 42 10 110	8
0207 42 10 990	50
0207 42 11 000	28
0207 42 21 000	13
0207 42 41 000	37
0207 42 51 000	18
0207 42 59 000	36
0207 42 71 100	13
0207 43 15 110	8
0207 43 15 990	54
0207 43 21 000	44
0207 43 31 000	15
0207 43 53 000	44
0207 43 63 000	43
0408 11 10 000	96
0408 91 10 000	90

NB: The product codes as well as the footnotes are defined in Commission Regulation (EEC) No 3846/87 (as amended).

COMMISSION REGULATION (EEC) No 157/93
of 28 January 1993
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 3814/92 ⁽²⁾, and in particular Article 16 (8) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, and in particular Article 5 thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 29/93 ⁽⁴⁾, as amended by Regulation (EEC) No 132/93 ⁽⁵⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 29/93 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, in order to make it possible for the levy arrangements to function normally, the representative market rate established during the reference period from 27 January 1993, as regards floating currencies, should be used to calculate the levies,

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 29 January 1993.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 7.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 5, 9. 1. 1993, p. 14.

⁽⁵⁾ OJ No L 18, 27. 1. 1993, p. 16.

ANNEX

to the Commission Regulation of 28 January 1993 fixing the import levies on white sugar and raw sugar

<i>(ECU/100 kg)</i>	
CN code	Levy ⁽¹⁾
1701 11 10	39,87 ⁽¹⁾
1701 11 90	39,87 ⁽¹⁾
1701 12 10	39,87 ⁽¹⁾
1701 12 90	39,87 ⁽¹⁾
1701 91 00	46,00
1701 99 10	46,00
1701 99 90	46,00 ⁽²⁾

⁽¹⁾ The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68.

⁽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.

⁽³⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 1870/91 B to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 158/93
of 28 January 1993
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

— the economic aspect of the proposed exports ;

Having regard to the Treaty establishing the European Economic Community,

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 2071/92 ⁽²⁾, and in particular Article 17 (4) thereof,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund ;

Whereas Council Regulation (EEC) No 876/68 of 28 June 1968 laying down general rules for granting export refunds on milk and milk products and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EEC) No 1344/86 ⁽⁴⁾, provides that when the refunds on the products listed in Article 1 of Regulation (EEC) No 804/68, exported in the natural state, are being fixed account must be taken of :

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organization of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the need to avoid disturbances on the Community market, and

Whereas Article 3(1) of Regulation (EEC) No 876/68 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of :

- (a) prices ruling on third country markets ;
- (b) the most favourable prices in third countries of destination for third country imports ;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries ; and
- (d) free-at-Community-frontier offer prices ;

Whereas Article 4 of Regulation (EEC) No 876/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of Regulation (EEC) No 804/68 according to destination ;

Whereas Article 5(1) of Regulation (EEC) No 876/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks ; whereas the amount of the refund may, however, remain at the same level for more than four weeks ;

Whereas, in accordance with Article 2 of Commission Regulation (EEC) No 1098/68 of 27 July 1968 on detailed rules for the application of export refunds on milk and milk products ⁽⁵⁾, as last amended by Regulation (EEC) No 2767/90 ⁽⁶⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components, one of which is intended to take account of the quantity of milk products and the other is intended to take account of the quantity of added sucrose ; whereas, however, the latter component is applied only if the added sucrose was produced from sugar beet or cane harvested in the Community ;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 64.

⁽³⁾ OJ No L 155, 3. 7. 1968, p. 1.

⁽⁴⁾ OJ No L 119, 8. 5. 1986, p. 36.

⁽⁵⁾ OJ No L 184, 29. 7. 1968, p. 10.

⁽⁶⁾ OJ No L 267, 29. 9. 1990, p. 14.

Whereas, for products falling within CN codes ex 0402 99 11, ex 0402 99 19, ex 0404 90 51, ex 0404 90 53, ex 0404 90 91 and ex 0404 90 93, with a fat content by weight not exceeding 9,5 % and a non-fatty milk content in the dry matter equal to or greater than 15 % by weight, the former abovementioned component is fixed for 100 kilograms of the whole product; whereas, for the other products containing added sugar falling within codes 0402 and 0404, that component is calculated by multiplying the basic amount by the milk products content of the product concerned; whereas that basic amount is equal to the refund to be fixed for one kilogram of milk products contained in the whole product;

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of 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 3814/92⁽²⁾;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽³⁾ are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 3819/92⁽⁴⁾;

Whereas the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 140 per 100 kilograms;

Whereas Commission Regulation (EEC) No 896/84⁽⁵⁾, as last amended by Regulation (EEC) No 222/88⁽⁶⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of

varying refunds according to the date of manufacture of the products;

Whereas for the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account;

Whereas it follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation;

Whereas Council Regulation (EEC) No 1432/92⁽⁷⁾, as last amended by Regulation (EEC) No 3534/92⁽⁸⁾, prohibits trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

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

1. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in the Annex.
2. There shall be no refunds for exports to Zone E for products falling within CN codes 0401, 0402, 0403, 0404, 0405 and 2309.

Article 2

This Regulation shall enter into force on 29 January 1993.

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

Done at Brussels, 28 January 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 387, 31. 12. 1992.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 387, 31. 12. 1992.

⁽⁵⁾ OJ No L 91, 1. 4. 1984, p. 71.

⁽⁶⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽⁷⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁸⁾ OJ No L 358, 8. 12. 1992, p. 16.

ANNEX

to the Commission Regulation of 28 January 1993 fixing the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0401 10 10 000		6,36	0402 21 91 900		159,88
0401 10 90 000		6,36	0402 21 99 100		115,96
0401 20 11 100		6,36	0402 21 99 200		116,87
0401 20 11 500		9,61	0402 21 99 300		118,53
0401 20 19 100		6,36	0402 21 99 400		128,15
0401 20 19 500		9,61	0402 21 99 500		131,43
0401 20 91 100		12,65	0402 21 99 600		143,96
0401 20 91 500		14,67	0402 21 99 700		151,51
0401 20 99 100		12,65	0402 21 99 900		159,88
0401 20 99 500		14,67	0402 29 15 200		0,6500
0401 30 11 100		18,72	0402 29 15 300		0,9972
0401 30 11 400		28,65	0402 29 15 500		1,0600
0401 30 11 700		42,84	0402 29 15 900		1,1500
0401 30 19 100		18,72	0402 29 19 200		0,6500
0401 30 19 400		28,65	0402 29 19 300		0,9972
0401 30 19 700		42,84	0402 29 19 500		1,0600
0401 30 31 100		50,94	0402 29 19 900		1,1500
0401 30 31 400		79,31	0402 29 91 100		1,1596
0401 30 31 700		87,41	0402 29 91 500		1,2815
0401 30 39 100		50,94	0402 29 99 100		1,1596
0401 30 39 400		79,31	0402 29 99 500		1,2815
0401 30 39 700		87,41	0402 91 11 110		6,36
0401 30 91 100		99,57	0402 91 11 120		12,65
0401 30 91 400		146,17	0402 91 11 310		19,53
0401 30 91 700		170,49	0402 91 11 350		24,42
0401 30 99 100		99,57	0402 91 11 370		30,28
0401 30 99 400		146,17	0402 91 19 110		6,36
0401 30 99 700		170,49	0402 91 19 120		12,65
0402 10 11 000		65,00	0402 91 19 310		19,53
0402 10 19 000		65,00	0402 91 19 350		24,42
0402 10 91 000		0,6500	0402 91 19 370		30,28
0402 10 99 000		0,6500	0402 91 31 100		24,60
0402 21 11 200		65,00	0402 91 31 300		35,78
0402 21 11 300		99,72	0402 91 39 100		24,60
0402 21 11 500		106,00	0402 91 39 300		35,78
0402 21 11 900		115,00	0402 91 51 000		28,65
0402 21 17 000		65,00	0402 91 59 000		28,65
0402 21 19 300		99,72	0402 91 91 000		99,57
0402 21 19 500		106,00	0402 91 99 000		99,57
0402 21 19 900		115,00	0402 99 11 110		0,0636
0402 21 91 100		115,96	0402 99 11 130		0,1265
0402 21 91 200		116,87	0402 99 11 150		0,1967
0402 21 91 300		118,53	0402 99 11 310		22,53
0402 21 91 400		128,15	0402 99 11 330		27,52
0402 21 91 500		131,43	0402 99 11 350		37,32
0402 21 91 600		143,96	0402 99 19 110		0,0636
0402 21 91 700		151,51	0402 99 19 130		0,1265

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0402 99 19 150		0,1967	0403 90 59 510		99,57
0402 99 19 310		22,53	0403 90 59 540		146,17
0402 99 19 330		27,52	0403 90 59 570		170,49
0402 99 19 350		37,32	0403 90 61 100		0,0636
0402 99 31 110		0,2663	0403 90 61 300		0,0961
0402 99 31 150		38,94	0403 90 63 000		0,1265
0402 99 31 300		0,5094	0403 90 69 000		0,1872
0402 99 31 500		0,8741	0404 90 11 100		65,00
0402 99 39 110		0,2663	0404 90 11 910		6,36
0402 99 39 150		38,94	0404 90 11 950		19,53
0402 99 39 300		0,5094	0404 90 13 120		65,00
0402 99 39 500		0,8741	0404 90 13 130		99,72
0402 99 91 000		0,9957	0404 90 13 140		106,00
0402 99 99 000		0,9957	0404 90 13 150		115,00
0403 10 02 000		—	0404 90 13 911		6,36
0403 10 04 200		—	0404 90 13 913		12,65
0403 10 04 300		—	0404 90 13 915		18,72
0403 10 04 500		—	0404 90 13 917		28,65
0403 10 04 900		—	0404 90 13 919		42,84
0403 10 06 000		—	0404 90 13 931		19,53
0403 10 12 000		—	0404 90 13 933		24,42
0403 10 14 200		—	0404 90 13 935		30,28
0403 10 14 300		—	0404 90 13 937		35,78
0403 10 14 500		—	0404 90 13 939		37,44
0403 10 14 900		—	0404 90 19 110		115,96
0403 10 16 000		—	0404 90 19 115		116,87
0403 10 22 100		6,36	0404 90 19 120		118,53
0403 10 22 300		9,61	0404 90 19 130		128,15
0403 10 24 000		12,65	0404 90 19 135		131,43
0403 10 26 000		18,72	0404 90 19 150		143,96
0403 10 32 100		0,0636	0404 90 19 160		151,51
0403 10 32 300		0,0961	0404 90 19 180		159,88
0403 10 34 000		0,1265	0404 90 19 900		—
0403 10 36 000		0,1872	0404 90 31 100		65,00
0403 90 11 000		65,00	0404 90 31 910		6,36
0403 90 13 200		65,00	0404 90 31 950		19,53
0403 90 13 300		99,72	0404 90 33 120		65,00
0403 90 13 500		106,00	0404 90 33 130		99,72
0403 90 13 900		115,00	0404 90 33 140		106,00
0403 90 19 000		115,96	0404 90 33 150		115,00
0403 90 31 000		0,6500	0404 90 33 911		6,36
0403 90 33 200		0,6500	0404 90 33 913		12,65
0403 90 33 300		0,9972	0404 90 33 915		18,72
0403 90 33 500		1,0600	0404 90 33 917		28,65
0403 90 33 900		1,1500	0404 90 33 919		42,84
0403 90 39 000		1,1596	0404 90 33 931		19,53
0403 90 51 100		6,36	0404 90 33 933		24,42
0403 90 51 300		9,61	0404 90 33 935		30,28
0403 90 53 000		12,65	0404 90 33 937		35,78
0403 90 59 110		18,72	0404 90 33 939		37,44
0403 90 59 140		28,65	0404 90 39 110		115,96
0403 90 59 170		42,84	0404 90 39 115		116,87
0403 90 59 310		50,94	0404 90 39 120		118,53
0403 90 59 340		79,31	0404 90 39 130		128,15
0403 90 59 370		87,41			

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0404 90 39 150		131,43	0405 00 19 500		166,83
0404 90 39 900		—	0405 00 19 700		171,00
0404 90 51 100		0,6500	0405 00 90 100		171,00
0404 90 51 910		0,0636	0405 00 90 900		220,00
0404 90 51 950		22,53	0406 10 20 100		—
0404 90 53 110		0,6500	0406 10 20 200		—
0404 90 53 130		0,9972	0406 10 20 210		—
0404 90 53 150		1,0600	0406 10 20 230	028	—
0404 90 53 170		1,1500		032	—
0404 90 53 911		0,0636		400	39,03
0404 90 53 913		0,1265		404	—
0404 90 53 915		0,1872		***	47,97
0404 90 53 917		0,2865	0406 10 20 290	028	—
0404 90 53 919		0,4284		032	—
0404 90 53 931		22,53		400	39,03
0404 90 53 933		27,52		404	—
0404 90 53 935		37,32		***	47,97
0404 90 53 937		38,94	0406 10 20 610	028	13,50
0404 90 53 939		—		032	13,50
0404 90 59 130		1,1596		036	—
0404 90 59 150		1,2815		038	—
0404 90 59 930		0,6107		400	87,23
0404 90 59 950		0,8741		404	—
0404 90 59 990		0,9957		***	89,49
0404 90 91 100		0,6500	0406 10 20 620	028	20,00
0404 90 91 910		0,0636		032	20,00
0404 90 91 950		22,53		036	—
0404 90 93 110		0,6500		038	—
0404 90 93 130		0,9972		400	96,18
0404 90 93 150		1,0600		404	—
0404 90 93 170		1,1500		***	98,13
0404 90 93 911		0,0636	0406 10 20 630	028	24,00
0404 90 93 913		0,1265		032	24,00
0404 90 93 915		0,1872		036	—
0404 90 93 917		0,2865		038	—
0404 90 93 919		0,4284		400	109,31
0404 90 93 931		22,53		404	—
0404 90 93 933		27,52		***	110,79
0404 90 93 935		37,32	0406 10 20 640	028	—
0404 90 93 937		38,94		032	—
0404 90 93 939		—		036	—
0404 90 99 130		1,1596		038	—
0404 90 99 150		1,2815		400	130,00
0404 90 99 930		0,6107		404	—
0404 90 99 950		0,8741		***	130,00
0404 90 99 990		0,9957	0406 10 20 650	028	27,50
0405 00 11 100		—		032	27,50
0405 00 11 200		129,29		036	—
0405 00 11 300		162,66		038	—
0405 00 11 500		166,83		400	65,00
0405 00 11 700		171,00		404	—
0405 00 19 100		—		***	135,35
0405 00 19 200		129,29			
0405 00 19 300		162,66			

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 10 20 660		—	0406 30 10 200	028	—
0406 10 20 810	028	—		032	—
	032	—		036	—
	036	—		038	—
	038	—		400	43,52
	400	21,46		404	—
	404	—		***	48,68
	***	21,06	0406 30 10 250	028	—
0406 10 20 830	028	—		032	—
	032	—		036	—
	036	—		038	—
	038	—		400	43,52
	400	37,62		404	—
	404	—		***	48,68
	***	35,97	0406 30 10 300	028	—
0406 10 20 850	028	—		032	—
	032	—		036	—
	036	—		038	—
	038	—		400	63,88
	400	45,81		404	—
	404	—		***	71,42
	***	43,62	0406 30 10 350	028	—
0406 10 20 870		—		032	—
0406 10 20 900		—		036	—
0406 10 80 000		—		038	—
0406 20 90 100		—		400	43,52
0406 20 90 913	028	—		404	—
	032	—		***	48,68
	400	87,74	0406 30 10 400	028	—
	404	—		032	—
	***	84,94		036	—
0406 20 90 915	028	—		038	—
	032	—		400	63,88
	400	116,99		404	—
	404	—		***	71,42
	***	113,25	0406 30 10 450	028	—
0406 20 90 917	028	—		032	—
	032	—		036	—
	400	124,30		038	—
	404	—		400	93,03
	***	120,33		404	—
0406 20 90 919	028	—		***	103,95
	032	—	0406 30 10 500	028	—
	400	138,92	0406 30 10 550	032	—
	404	—		036	—
	***	134,49		038	—
0406 20 90 990		—		400	43,52
0406 30 10 100		—		404	20,00
0406 30 10 150	028	—		***	48,68
	032	—	0406 30 10 600	028	—
	036	—		032	—
	038	—		036	—
	400	20,03		038	—
	404	—		400	63,88
	***	22,83		404	28,00
				***	71,42

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 30 10 650	028	—	0406 30 31 730	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	93,03		400	63,88
	404	—		404	—
	...	103,95		...	71,42
0406 30 10 700	028	—	0406 30 31 910	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	93,03		400	43,52
	404	—		404	—
	...	103,95		...	48,68
0406 30 10 750	028	—	0406 30 31 930	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	113,54		400	63,88
	404	—		404	—
	...	126,87		...	71,42
0406 30 10 800	028	—	0406 30 31 950	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	113,54		400	93,03
	404	—		404	—
	...	126,87		...	103,95
0406 30 10 900	028	—	0406 30 39 100	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	113,54		400	43,52
	404	—		404	20,00
	...	126,87		...	48,68
0406 30 31 100	028	—	0406 30 39 300	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	20,03		400	63,88
	404	—		404	28,00
	...	22,83		...	71,42
0406 30 31 300	028	—	0406 30 39 500	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	20,03		400	63,88
	404	—		404	28,00
	...	22,83		...	71,42
0406 30 31 500	028	—	0406 30 39 700	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	43,52		400	93,03
	404	—		404	—
	...	48,68		...	103,95
0406 30 31 710	028	—	0406 30 39 930	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	43,52		400	93,03
	404	—		404	—
	...	48,68		...	103,95

Product code	Destination (*)	Amount of refund (")	Product code	Destination (*)	Amount of refund (")
0406 30 39 950	028	—	0406 90 23 900	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	113,54		400	65,00
	404	—		404	—
	...	126,87		...	135,35
0406 30 90 000	028	—	0406 90 25 100	028	—
	032	—	0406 90 25 900	032	—
	036	—		036	—
	038	—		038	—
	400	113,54		400	65,00
	404	—		404	—
	...	126,87		...	135,35
0406 40 00 100		—	0406 90 27 100	028	—
0406 40 00 900	028	—	0406 90 27 900	032	—
	032	—		036	—
	038	—		038	—
	400	120,00		400	56,14
	404	—		404	—
	...	126,51		...	114,71
0406 90 13 000	028	—	0406 90 31 111	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	15,00
	400	130,00		400	62,48
	404	—		404	16,00
	...	159,34		...	89,96
0406 90 15 100	028	—	0406 90 31 151	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	130,00		400	58,40
	404	—		404	14,96
	...	159,34		...	83,83
0406 90 15 900		—	0406 90 31 159	028	—
0406 90 17 100	028	—		032	—
	032	—		036	—
	036	—		038	15,00
	038	—		400	62,48
	400	130,00		404	16,00
	404	—		...	89,96
	...	159,34	0406 90 33 111	028	—
0406 90 17 900		—		032	—
0406 90 21 100		—		036	—
0406 90 21 900	028	—		038	—
	032	—		400	58,40
	036	—		404	14,96
	038	—		...	83,83
	400	130,00	0406 90 33 119	028	—
	404	—		032	—
	...	151,68		036	—
0406 90 23 100		—		038	—
				400	58,40
				404	14,96
				...	83,83

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
0406 90 33 159		—	0406 90 69 910	028	—
0406 90 33 911		—		032	—
0406 90 33 919	028	—		036	70,00
	032	—		400	150,00
	036	—		404	80,00
	038	15,00		***	165,00
	400	62,48	0406 90 69 990		—
	404	16,00	0406 90 73 100		—
	***	89,96	0406 90 73 900	028	—
0406 90 33 951	028	—		032	—
	032	—		036	42,66
	036	—		400	160,00
	038	—		404	120,00
	400	58,40		***	151,00
	404	14,96	0406 90 75 100		—
	***	83,83	0406 90 75 900	028	—
0406 90 33 959		—		032	—
0406 90 35 110		—		036	—
0406 90 35 190	028	—		400	65,00
	032	—		404	—
	036	42,66		***	125,96
	400	160,00	0406 90 77 100	028	24,00
	404	90,00		032	24,00
	***	158,54		036	—
0406 90 35 910		—		038	—
0406 90 35 990	028	—		400	58,77
	032	—		404	—
	036	—		***	110,79
	038	—	0406 90 77 300	028	—
	400	130,00		032	—
	404	—		036	—
	***	130,00		038	—
0406 90 61 000	028	—		400	65,00
	032	—		404	—
	036	90,00		***	135,35
	400	190,00	0406 90 77 500	028	—
	404	140,00		032	—
	***	185,00		036	—
0406 90 63 100	028	—		038	—
	032	—		400	75,00
	036	105,03		404	—
	400	220,00		***	135,35
	404	160,00	0406 90 79 100		—
	***	212,12	0406 90 79 900	028	—
0406 90 63 900	028	—		032	—
	032	—		036	—
	036	70,00		038	—
	400	150,00		400	56,14
	404	80,00		404	—
	***	165,00		***	114,71
0406 90 69 100		—	0406 90 81 100		—

Product code	Destination (°)	Amount of refund (°)	Product code	Destination (°)	Amount of refund (°)
0406 90 81 900	028	—	0406 90 89 959	028	—
	032	—		032	—
	036	—		036	—
	038	—		038	—
	400	130,00		400	130,00
	404	—		404	—
	***	130,00		***	130,00
0406 90 85 100		—	0406 90 89 971	028	27,50
0406 90 85 910	028	—		032	27,50
	032	—		036	—
	036	42,67		038	—
	400	160,00		400	74,00
	404	90,00		404	—
	***	158,54		***	135,35
0406 90 85 991	028	—	0406 90 89 972	028	—
	032	—		032	—
	036	—		400	39,03
	038	—		404	—
	400	130,00		404	—
	404	—		***	47,97
	***	130,00			
0406 90 85 995	028	27,50	0406 90 89 979	028	27,50
	032	27,50		032	27,50
	036	—		036	—
	038	—		038	—
	400	65,00		400	74,00
	404	—		404	—
	***	135,35		***	135,35
0406 90 85 999		—	0406 90 89 990		—
0406 90 89 100	028	13,50		0406 90 93 000	—
	032	13,50		0406 90 99 000	—
	036	—		2309 10 15 010	—
	038	—		2309 10 15 100	—
	400	89,49		2309 10 15 200	1,50
	404	—		2309 10 15 300	2,00
	***	89,49		2309 10 15 400	2,50
0406 90 89 200	028	20,00	2309 10 15 500		3,00
	032	20,00		2309 10 15 700	3,50
	036	—		2309 10 15 900	—
	038	—		2309 10 19 010	—
	400	96,18		2309 10 19 100	—
	404	—		2309 10 19 200	1,50
	***	98,13		2309 10 19 300	2,00
0406 90 89 300	028	24,00	2309 10 19 400		2,50
	032	24,00		2309 10 19 500	3,00
	036	—		2309 10 19 600	3,50
	038	—		2309 10 19 700	3,75
	400	109,31		2309 10 19 800	4,00
	404	—		2309 10 19 900	—
	***	110,79		2309 10 70 010	—
0406 90 89 910		—	2309 10 70 100		19,50
0406 90 89 951	028	—		2309 10 70 200	26,00
	032	—		2309 10 70 300	32,50
	036	42,66			
	400	160,00			
	404	90,00			
	***	151,00			

Product code	Destination (*)	Amount of refund (**)	Product code	Destination (*)	Amount of refund (**)
2309 10 70 500		39,00	2309 90 39 300		2,00
2309 10 70 600		45,50	2309 90 39 400		2,50
2309 10 70 700		52,00	2309 90 39 500		3,00
2309 10 70 800		57,20	2309 90 39 600		3,50
2309 10 70 900		—	2309 90 39 700		3,75
2309 90 35 010		—	2309 90 39 800		4,00
2309 90 35 100		—	2309 90 39 900		—
2309 90 35 200		1,50	2309 90 70 010		—
2309 90 35 300		2,00	2309 90 70 100		19,50
2309 90 35 400		2,50	2309 90 70 200		26,00
2309 90 35 500		3,00	2309 90 70 300		32,50
2309 90 35 700		3,50	2309 90 70 500		39,00
2309 90 35 900		—	2309 90 70 600		45,50
2309 90 39 010		—	2309 90 70 700		52,00
2309 90 39 100		—	2309 90 70 800		57,20
2309 90 39 200		1,50	2309 90 70 900		—

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EEC) No 3518/91.

For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by ***.

Where no destination is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1 (2).

(**) Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 November 1992

concerning financial measures by Germany in respect of the coal industry in 1990, 1991 and 1992 and also additional financial aid for the coal industry in 1989 and 1990

(Only the German text is authentic)

(93/66/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2064/86/ECSC of 30 June 1986 establishing Community rules for State aid to the coal industry⁽¹⁾, and in particular Articles 2 (1) and 10 thereof,

Whereas :

I

In letters dated 8 October and 4 December 1990 and 8 January 1992, the German Government informed the Commission, pursuant to Article 9 (2) of Decision No 2064/86/ECSC, of compensatory amounts under the third Electricity-from-coal Law for 1991 and 1992 and compensation between mining areas (Revierausgleich) and for coal with a low volatile matter content (Ausgleich für niederflüchtige Kohle) for 1990, 1991 and 1992.

In letters dated 16 May 1991 and 25 June and 24 July 1992, the German Government provided additional information in reply to letters from the Commission dated 5 and 25 February, and 31 July 1991 and 24 February 1992.

According to the notifications given by the German Government, the aid amounts to :

- compensation fund revenue totalling DM 5 300 million for 1991, corresponding to an 8 % Kohlepennig levy rate, of which DM 5 000 million was for current expenditure in 1991,
- compensation fund revenue totalling DM 5 300 million for 1992, corresponding to a 7,75 % Kohlepennig levy rate, of which DM 5 000 million was for current expenditure in 1992,
- DM 300 million to be added to the compensatory amount already authorized for 1989 by Commission Decision 90/632/ECSC⁽²⁾,
- DM 300 million to be added to the compensatory amount already authorized for 1990 by Commission Decision 90/633/ECSC⁽³⁾,
- DM 454 million for 1990 to cover the compensation between mining areas and the compensation for coal with a low volatile matter content,
- DM 429,9 million for 1991 to cover the compensation between mining areas and the compensation for coal with a low volatile matter content,
- DM 360,2 million for 1992 to cover the compensation between mining areas and the compensation for coal with a low volatile matter content.

⁽¹⁾ OJ No L 177, 1. 7. 1986, p. 1.

⁽²⁾ OJ No L 346, 11. 12. 1990, p. 18.

⁽³⁾ OJ No L 346, 11. 12. 1990, p. 20.

II

The objective of the compensation fund (Ausgleichsfonds) under the third Electricity-from-coal Law is partially to offset the price differential, in respect of 11,5 million tonnes of coal equivalent (tce), between Community coal and imported coal and, in respect of 23 million tce, between Community coal and fuel oil.

The scheme therefore covers an annual volume of around 34,5 million tce of Community coal.

It is measure relating to the marketing of coal which, even if it is not a direct burden on public budgets, is nevertheless financed by charges rendered compulsory by the fact of State intervention.

In addition, this scheme confers an economic advantage on coal undertakings. It therefore constitutes indirect aid to the coal industry within the meaning of Article 1 (1) of Decision No 2064/86/ECSC. The Commission must therefore deliver an opinion on the scheme pursuant to Article 10 (2) of that Decision.

The financial measures relating to compensation between mining areas and for coal with a low volatile matter content are intended partially to cover the loss of revenue for several coal undertakings in the Federal Republic of Germany as a result of certain sales of coal to thermal power stations. According to information provided by the German Government, the compensation between mining areas covers a volume of around 9,3 million tce, while the compensation for the use of coal with a low volatile matter content covers a volume of around 5,1 million tce. These two financial measures were notified by the German Government pursuant to Article 3 of Decision No 2064/86/ECSC as direct aid to the coal industry within the meaning of Article 1 of the Decision.

III

By 31 December 1992 the financial measures under the compensation fund financed through the Kohlepfennig will have exceeded DM 50 billion since the entry into force of the third Electricity-from-coal Law.

As from 1 January 1990, the compensation between mining areas and for coal with a low volatile matter content has no longer been financed by the compensation fund (Ausgleichsfonds) under the third Law but under the Federal budget.

Notwithstanding the change in the financing arrangements, the compensation between mining areas and for

coal with a low volatile matter content should be viewed as measures having equivalent effect to the previous scheme under the third Law, within the meaning of Article 2 of Commission Decision 89/296/ECSC⁽¹⁾.

IV

By Decision 90/632/ECSC the Commission authorized for 1989 a payment amounting to DM 4 900 million. A further sum of DM 300 million is now added to that amount in order to enlarge the compensation fund, thereby raising the total current expenditure for that year to DM 5 200 million.

By Decision 90/633/ECSC, the Commission authorized for 1990 the payment of DM 4 600 million corresponding to the current expenditure of the compensation fund for that year. To that amount the following should now be added: equivalent measures in respect of compensation between mining areas and for coal with a low volatile matter content amounting to DM 454 million for 1990 and DM 300 million to increase the compensation fund, bringing the direct and indirect measures adopted in support of coal-mining pursuant to the third Electricity-from-coal Law up to a total of DM 5 354 million.

For 1991 and 1992, the planned measures in respect of current expenditure under the compensation fund provided for by the third Law amount to DM 5 000 million for each year; the compensation between mining areas and for coal with a low volatile matter content amounts to DM 429,9 million and DM 360,2 million respectively, giving a total of DM 5 429,9 million for 1991 and DM 5 360,2 million for 1992.

Although the aid for 1989 and 1990 is greater than the aid authorized by the Commission in respect of 1988, the aid for 1991 remains virtually the same as for 1990, and in 1992 there is a slight decrease as compared with 1991.

V

The observed trend must be seen in the light of the objectives of Decision No 2064/86/ECSC, and in particular those set out in Article 2 (1) thereof, and in the light of the conditions set out in Decision 89/296/ECSC, and in particular those contained in Article 2 thereof, and the specific aims set out in Articles 2 and 3 of the Treaty.

⁽¹⁾ OJ No L 116, 28. 4. 1989, p. 52.

In this connection, it should be noted that the third Electricity-from-coal Law has the effect of stabilizing production but does not further the objectives of Article 2 (1) of Decision No 2064/86/ECSC, and in particular that of improving competitiveness or creating new capacities that are economically viable.

The parameters laid down in that Law are such as to encourage investment in production capacity with no long-term guarantee of economic viability.

Lastly, the Law is not primarily aimed at resolving social and regional problems connected with changes in the coal industry.

VI

Given the transitional nature of Decision No 2064/86/ECSC, which expired on 31 December 1993, and the need to secure long-term viability for the coal industry, it is necessary to ensure that Community aid is sufficiently degressive and hence that it is accompanied by a restructuring, rationalization and modernization plan as provided for in Decision 89/296/ECSC.

By Decision 89/296/ECSC ruling on a financial measure by Germany in respect of the coal industry for 1988 under the third Law, the Commission had called upon the German Government to submit, as part of a plan for the restructuring, modernization and rationalization of the coal industry, a plan for the reduction of compensatory payments under the third Electricity-from-coal Law or any other measure having equivalent effect; in response to this Decision, the German Government notified the Commission of a plan for the restructuring, rationalization and modernization of the sector providing for a reduction in power-station coal production of around 5,9 millions tonnes of coal equivalent by 1997.

The Commission notes that the social and regional situation characterizing the coal industry in the Federal Republic of Germany, combined with the technical rigidities peculiar to this industry and the difficulties encountered in the negotiations with the social with the social partners, has entailed a delay in the implementation of the plans called for by the Commission in Decision 89/296/ECSC.

Given that the reduction in capacity will be achieved by closing the production units incurring the largest losses, the proposed measures will help to improve the competitiveness of the Community coal industry.

Nevertheless, the fact remains that the reductions in production capacity proposed between now and 1997 at the latest will not help to bring about a significant improvement in the competitiveness of the German coal industry. In the present circumstances production costs will continue to increase. It is therefore necessary to continue with the restructuring of the industry in order to bring about a significant reduction in aid.

The Commission welcomes the entry in the budget of the compensation between mining areas (Revierausgleich) and for coal with a low volatile matter content (Ausgleich für niederflüchtige Kohle), which represents a first step towards greater transparency in the aid schemes for power-station coal. The fact that the aid is degressive will help to strengthen somewhat the financial discipline in the undertakings concerned.

On the basis of the above considerations, the Commission takes the view that the aid proposed by Germany is compatible with the third indent of Article 2 (1) of Decision No 2064/86/ECSC.

This Decision does not prejudice the compatibility of the contracts for the purchase of German coal concluded by the electricity generators (Jahrhundertvertrag) with the provisions of the EEC and ECSC Treaties. Furthermore, this Decision must have no legal effect beyond the expiry date of Decision No 2064/86/ECSC,

HAS ADOPTED THIS DECISION :

Article 1

The compensatory payments provided for under the third Electricity-from-coal Law are hereby authorized up to an amount of DM 5 000 million for each of the two years 1991 and 1992. The additional compensatory payment under the third Law for 1990 is hereby authorized up to an amount of DM 300 million, thus bringing the total authorized for 1989 to DM 5 200 million and for 1990 to DM 4 900 million.

Article 2

The compensation between mining areas (Revierausgleich) and the compensation for coal with a low volatile matter content (Ausgleich für niederflüchtige Kohle) for 1990, 1991 and 1992 are hereby authorized up to an amount of DM 454 million, DM 429,9 million and DM 360,2 million respectively.

Article 3

Done at Brussels, 25 November 1992.

The German Government shall notify the Commission by 30 June 1993 of the amounts of aid actually paid by way of compensation between mining areas and compensation for coal with a low volatile matter content in 1992.

Article 4

This Decision is addressed to the Federal Republic of Germany.

For the Commission

António CARDOSO E CUNHA

Member of the Commission
