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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 991/93**of 23 April 1993****extending the measures taken under the Agreement between the European Economic Community and the United States of America for the conclusion of negotiations under GATT Article XXIV.6**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas, by an Agreement between the European Economic Community and the United States of America for the conclusion of negotiations under Article XXIV.6 of the General Agreement on Tariffs and Trade (GATT) ⁽¹⁾, which was extended by the conclusion of an exchange of letters ⁽²⁾ complementing that Agreement until 31 December 1991, the Community agreed to take certain measures;

Whereas the Community applied these measures during 1992 by virtue of Regulation (EEC) No 3919/91 ⁽³⁾;

Whereas the reasons for prolonging these measures still exist,

Article 1

The measures referred to in the exchange of letters complementing the Agreement between the European Economic Community and the United States of America for the conclusion of negotiations under GATT Article XXIV.6 shall be applied by the Community until 31 December 1993.

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 1 January 1993.

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

Done at Luxembourg, 23 April 1993.

For the Council

The President

S. AUKEN

⁽¹⁾ OJ No L 98, 10. 4. 1987, p. 1.

⁽²⁾ OJ No L 17, 23. 1. 1991, p. 17.

⁽³⁾ OJ No L 372, 31. 12. 1991, p. 35.

COUNCIL REGULATION (EEC) No 992/93

of 23 April 1993

opening and providing for the administration of Community tariff quotas for certain mixtures of malt sprouts and barley screenings

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Council Regulation (EEC) No 470/93⁽¹⁾, the Council suspended, for the period 1 January to 31 March 1993, customs duties on a number of the products referred to in Article 1 of this Regulation within the limits of a Community tariff quota of 35 000 tonnes;

Whereas it is appropriate to open, for the period 1 April to 31 December 1993, further Community tariff quotas, for a total of 85 000 tonnes, for these and similar products;

Whereas it is necessary, in particular, to ensure for all Community importers equal and uninterrupted access to the said quotas and to guarantee the uninterrupted application of the exoneration from collection of the duties to all imports of the products concerned into all Member States until the quota has been used up;

Whereas the decision to open autonomous tariff quotas should be taken by the Community; whereas, to ensure

the efficiency of a common administration of these quotas, there is, however, no obstacle to authorizing the Member States to draw from the quota-volumes the necessary quantities corresponding to actual imports; whereas this method of administration nevertheless requires close cooperation between the Member States and the Commission and the latter must in particular be able to monitor the rate at which the quotas are used up and inform the Member States accordingly;

Whereas, since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united within, and jointly represented by, the Benelux Economic Union, all transactions concerning the administration of the quotas may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 April to 31 December 1993, the customs duties and the agricultural levies applicable to imports of the products listed below shall be suspended, within the limits of the Community tariff quotas shown below:

(in tonnes)

Order No	CN code (a)	Description	Amount of quota
09.2903	ex 2309 90 31	Preparation consisting of a mixture of malt sprouts and of barley screenings before the malting process (possibly including other seeds) with barley cleanings after the malting process, and containing by weight 15,5 % or more of protein	71 000
	ex 2309 90 41	Preparation consisting of a mixture of malt sprouts and of barley screenings before the malting process (possibly including other seeds) with barley cleanings after the malting process, and containing by weight 15,5 % or more of protein and not more than 23 % of starch	
09.2905	ex 2309 90 31	Preparation consisting of a mixture of malt sprouts and of barley screenings before the malting process (possibly including other seeds) with barley cleanings after the malting process, and containing by weight 12,5 % or more of protein	14 000
	ex 2309 90 41	Preparation consisting of a mixture of malt sprouts and of barley screenings before the malting process (possibly including other seeds) with barley cleanings after the malting process, and containing by weight 12,5 % or more of protein and not more than 28 % of starch	

(a) See Taric codes in the Annex.

⁽¹⁾ OJ No L 50, 2. 3. 1993, p. 1.

Article 2

The tariff quotas referred to in Article 1 shall be managed by the Commission, which may take any appropriate administrative measures to ensure that they are managed efficiently.

Article 3

Where an importer presents a product covered by Article 1 for release for free circulation in a Member State, applying to take advantage of the preferential arrangements, and the entry is accepted by the customs authorities, the Member State concerned shall, by notifying the Commission, draw an amount corresponding to its requirements from the appropriate quota-volume.

Requests for drawings, indicating the date on which the entries for release for free circulation were accepted, must be sent to the Commission without delay.

Drawings shall be granted by the Commission in chronological order of the dates on which the customs authorities of the Member States concerned accepted the entries for release for free circulation, to the extent that the available balance so permits.

If a Member State does not use a drawing in full, it shall return any unused portion to the corresponding quota volume as soon as possible.

If the quantities requested are greater than the available balance of the quota-volume, the balance shall be allocated among applicants pro rata. The Commission shall inform the Member States of the drawings made.

Article 4

Each Member State shall ensure that importers of the products listed in Article 1 have equal and continuous access to the quotas for as long as the balance of the quota-volume so permits.

Article 5

The Member States and the Commission shall cooperate closely to ensure that Articles 1 to 4 are complied with.

Article 6

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

It shall be applicable from 1 April 1993.

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

Done at Luxembourg, 23 April 1993.

For the Council

The President

S. AUKEN

*ANNEX***Taric code**

Order No	CN code	Taric code
09.2903	ex 2309 90 31	*10
	ex 2309 90 41	*60
09.2905	ex 2309 90 31	*05
	ex 2309 90 41	*50

COUNCIL REGULATION (EEC) No 993/93

of 26 April 1993

imposing a definitive anti-dumping duty on imports of certain electronic weighing scales originating in Japan

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Articles 14 and 15 thereof,

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

Whereas :

A. PROCEDURE

- (1) By Regulation (EEC) No 2865/85⁽²⁾, the Commission imposed a provisional anti-dumping duty on imports of certain electronic weighing scales originating in Japan and accepted undertakings in respect of certain imports of such products originating in Japan.
- (2) By Regulation (EEC) No 1058/86⁽³⁾, the Council imposed a definitive anti-dumping duty on imports of certain electronic weighing scales originating in Japan.
- (3) Following a subsequent investigation covering the circumvention of this duty, the Commission, by Decision 88/398/EEC⁽⁴⁾, accepted an undertaking concerning electronic weighing scales assembled or produced in the Community.
- (4) In April 1990, the Commission published a notice⁽⁵⁾ of the impending expiry of the undertakings mentioned in recital 1, in accordance with Article 15 (2) of Regulation (EEC) No 2423/88.
- (5) In June 1990, producers, representing a major proportion of the total Community production of retail electronic weighing scales, submitted to the Commission a request for review of Regulation (EEC) No 2865/85.

(6) In August 1990, a request for review of the definitive anti-dumping duty imposed by Regulation (EEC) No 1058/86 was lodged by the same producers in accordance with Article 14 (1) of Regulation (EEC) No 2423/88.

(7) Consequently, in February 1991, the Commission, after consultation, announced, by a notice published in the *Official Journal of the European Communities*, the initiation of a review of both Regulation (EEC) No 2865/85 and Regulation (EEC) No 1058/86 pursuant to Articles 14 and 15 of Regulation (EEC) No 2423/88, and opened an investigation⁽⁶⁾.

(8) In March 1991, in accordance to Article 15 (4) of Regulation (EEC) No 2423/88, the Commission published a notice⁽⁷⁾ on the continuation in force of the anti-dumping measures during the review proceeding.

(9) The Commission officially notified the exporters and the Community importers and producers known to be concerned and gave them the opportunity to make known their views in writing and to request a hearing.

(10) Most of the Japanese exporters and most of the complainant Community producers made their views known in writing. Submissions were also made by a number of importers. Some of the parties directly concerned requested, and were granted, hearings.

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

(a) Community producers

- Bizerba Werke GmbH, Balingen, Germany,
- GEC Avery, Smethwick, United Kingdom,
- Maatschappij van Berkels Patent NV, Rijswijk, Netherlands,
- Testut, Béthune, France,
- Lutrana, Viry-Châtillon, France,
- Esselte Meto EST, Saint Maur, France,
- Brevetti van Berkel SpA, Milano, Italy,

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 275, 16. 10. 1985, p. 5.

⁽³⁾ OJ No L 97, 12. 4. 1986, p. 1.

⁽⁴⁾ OJ No L 189, 20. 7. 1988, p. 27.

⁽⁵⁾ OJ No C 106, 28. 4. 1990, p. 5.

⁽⁶⁾ OJ No C 50, 26. 2. 1991, p. 3.

⁽⁷⁾ OJ No C 81, 26. 3. 1991, p. 5.

- Santo Stefano SpA, Cassano Magnago, Italy,
- Vandoni SpA, San Donato Milanese, Italy,
- Grupo Campesa, Barcelona, Spain ;

(b) *Japanese exporting producers*

- Ishida Scales Mfg Co. Ltd, Kyoto,
- Teraoka Seiko Co. Ltd, Tokyo,
- Tokyo Electric Co. Ltd, Tokyo,
- Yamato Scales Co. Ltd, Akashi ;

(c) *Related importers*

- TEC Elektronik GmbH, Ratingen, Germany,
- TEC UK Ltd, Watford, United Kingdom ;

(d) *Unrelated importers*

- Biesta BV, Leusden, Netherlands,
- Carrin & Co. NV, Antwerp, Belgium,
- Digi System NV, Antwerp, Belgium,
- Herbert & Sons, Suffolk, United Kingdom.

- (12) The Commission requested, and received, written and oral submissions from the complainants, from the exporters named and from a number of related and unrelated importers and verified the information provided to the extent considered necessary.
- (13) The exporters, related importers and complaining industries were informed of the essential facts and considerations on the basis of which recommendations of the imposition of modified anti-dumping duties was envisaged. Due account was taken of the parties' representations in the findings of the Commission.
- (14) The investigation into dumping practices covered the period 1 January to 31 December 1990 ('the investigation period').
- (15) The investigation exceeded the normal period because of the volume and complexity of the data which had to be gathered and examined and because the completion of the investigation required the examination of new issues which had arisen during the proceeding and which could not have been foreseen at its outset.

B. PRODUCT

Product description

- (16) The products under investigation are electronic weighing scales for use in the retail trade which incorporate a digital display of the weight, unit price and price to be paid (whether or not including a means of printing this data) covered by

CN code 8423 81 50 and hereinafter referred to as 'REWS' (retail, electronic weighing scales).

REWS are produced with different types or levels of performance and technology. In this respect, the industry defines three segments of REWS, namely

- a low-range segment which comprises stand-alone REWS without built-in printer and preset key system,
- a mid-range segment with built-in printer and an additional preset key system,
- a top-range segment having the additional option of being connected to a computer system and of being computer-related.

- (17) Although the potential use and quality of REWS may vary, there is no significant difference in the basic physical characteristics or marketing methods within the various types of REWS. In addition, between these three segments there are no clear dividing lines, models in neighbouring segments being often interchangeable. They have, therefore, to be considered as one product for the purpose of this proceeding.

- (18) The Council confirms the above findings.

Like product

- (19) The investigation has shown that the various REWS sold on the Japanese market, despite differences in size, life-span, voltage or design, are identical to the REWS exported from Japan to the Community, or closely resemble them, and accordingly have to be regarded as like products.

Likewise, apart from minor technical differences, the Community-produced REWS in all three segments are alike in all respects to the REWS exported from Japan to the Community.

- (20) The Council confirms the above findings.

C. EXPORT PRICES

Sales to independent importers

- (21) Where sales were made direct to independent importers in the Community, export prices were determined on the basis of the prices actually paid or payable for the product sold for export to the Community. The Japanese producers identified these sales as being made at the level of importer/distributor or dealer, and the Commission is satisfied, on the evidence presented, that such was the case. In accepting this claim, the Commission took account of the functions of both seller and buyer based on the costs incurred and the quantities sold, on a consistency in the prices charged at this particular level and, finally, on the evidence available on the distribution chain.

- (22) The Council confirms that conclusion.

Sales to related importers

- (23) Where exports were made to related importers in the Community, export prices were constructed in accordance with Article 2 (8) (b) of Regulation (EEC) No 2423/88, on the basis of resale prices to the first independent purchaser, adjusted to take account of all costs incurred between importation and resale together with a 5 % profit margin which was considered reasonable in the light of the information available to the Commission from the unrelated importer which cooperated.

The Commission, on the same grounds as those outlined above for sales to independent importers, accepted the Japanese producers' claims that the export prices, reconstructed to a cif Community-frontier basis, were made at the level of importer/distributor.

- (24) The Council confirms that conclusion.

D. NORMAL VALUE

1. Inadequate reply to the questionnaire

- (25) In the case of one of the Japanese producers concerned, the Commission was unable to use its reply to the questionnaire as the basis for establishing the normal value. The reply was deemed unreliable because the evidence supplied on costs was incorrect to a substantial degree. The true extent of the falsity or unreliability of the information presented by the company can be gauged from the fact that its claims for deductions from selling, general and administrative costs exceeded the total amount of those costs which the firm claimed were incurred for the product concerned. Consequently, the fact that the cost data could not be used meant that prices also had to be deemed unreliable because it could not be established whether they covered costs and were thus made in the ordinary course of trade.
- (26) In fact, new cost figures were presented during verification at its premises, but they diverged in important respects from those given in the original reply.
- (27) In that respect, the Commission recalls that it is essential for replies to questionnaires, and significant corrections to them, to be submitted within the reasonable period provided for this purpose, as a considerable amount of preparatory work and analysis of replies must be carried out by the inves-

tigating authorities prior to the verification visit. In the present case, however, the Commission attempted to verify the company's revised information, presented during the verification visit, but the fact that it was received during the visit and the confusing nature of the conflicting information precluded an adequately accurate identification and verification of actual costs. Thus, the Commission considered that the company's reply was substantially false or misleading and significantly impeded the investigation process. The Commission was accordingly unable to establish normal value for this company on the basis of the information supplied and established its findings on the basis of the facts available in accordance to Article 7 (7) (b) of Regulation (EEC) No 2423/88 (see recital 63).

- (28) The Council confirms that conclusion.

2. Normal value based on prices in the exporting country

- (29) For the remaining Japanese producers, domestic sales were considered sufficiently representative as a basis for normal value since the Commission established that domestic sales volume exceeded 5 % of the export sales to the Community.

Most models were sold domestically in sufficient quantities and at prices which permitted the recovery of all costs reasonably allocated in the ordinary course of trade on the domestic market in Japan. Normal value was therefore for these models established on the basis of their weighted average domestic prices, net of all discounts and rebates directly related to the sales of REWS.

Selective normal value

- (30) Three Japanese producers claimed that a distinction should be drawn between the several categories of their independent buyers on the domestic market and that the normal value should be established selectively on the basis of the weighted average prices of their sales to one of those categories, i. e. alleged distributors or dealers which they claimed to be at the most appropriate level of trade for comparison with their export sales. They contended, in particular, that this special category of customer had different functions from the other unrelated customers, reflected in the scale and type of costs incurred, the quantities sold and the pattern of prices charged.
- (31) It is the Community institutions' consistent position that a specific level of trade can only be adequately identified if a demonstration is made of

all relevant factors, including the functions of both seller and buyer and the consistency of quantities, costs and prices at the distribution level in question as compared with other levels.

Another important question in identifying a specific category of customer is how that category stands in relation to the distribution system of the market concerned and whether this comparison can indicate that only this category should be compared to export customers holding a similar position in the distribution system of the export market.

- (32) One Japanese producer alleged that its sales were made through three distribution channels and that its normal value should be based on sales to customers alleged to have distribution functions which, this producer claimed, were made through only one channel.

For one of the three distribution channels, a distinction in quantities sold, a clear difference in costs, and prices which reflect different functions of the category of customer within that channel compared with other independent customers, confirmed that sales in the channel in question were made at a level of trade different from the sales to other categories of client and different from the categories of customer to which export sales were made. In addition, the evidence available on the distribution chain for the market concerned supported this producer's claims on customers' functions.

- (33) Regarding the other two distribution channels operated by that exporter, the Commission found that there was no clear distinction in quantities, in product sales costs or in prices charged in one distribution channel in relation to the other.

The Commission therefore concluded that, with respect to sales made within those two channels, no specific and clearly distinguishable category of customers could be identified. Accordingly, the normal value for this producer was established selectively on the basis of the weighted average domestic prices of its sales in those channels which were considered most appropriate for comparison with export sales.

- (34) The Council confirms that conclusion.

- (35) With regard to the claim of one of the other Japanese producers, the Commission found that the

information given in the reply to the questionnaire was misleading. In its reply the company had indicated that only the sales through one channel were made to distributors/dealers and claimed that normal value should be based selectively on those sales. However, on verification it was found that sales through a second channel were also being made to similar customers.

Therefore the claim was rejected, since normal value had to be based on sales made to the same category of independent customers.

- (36) Regarding this other channel, the company also claimed that a small portion of the sales were made to end-users and should be excluded, as they were at a different level of trade from export sales. However, the producer failed to establish adequately a consistency of quantities, costs and prices at one distribution level in relation to other levels.

In fact, the evidence provided on some of these factors for the specific category of customer in question showed that they were largely similar to other categories alleged to be different.

- (37) In those circumstances, the Commission concluded in respect of the producer in question that the evidence presented, which was often conflicting, was insufficient to demonstrate that sales were made to specific and clearly distinguishable categories of customer or that only one of those allegedly different categories was more appropriate than all domestic sales for comparison with the export prices. Thus, normal value for this producer was determined on the basis of all sales to independent customers.

- (38) The Council confirms that conclusion.

- (39) The third Japanese producer requested during the verification that normal value should be restricted to sales to distributors/dealers on the domestic market. This claim was not supported by any evidence concerning differences in costs and prices for such sales and is therefore rejected.

- (40) Normal value for this producer was therefore based on a weighted average of all sales made to independent customers in Japan.

- (41) The Council confirms that conclusion.

Sales to related companies

- (42) One of the Japanese producers also claimed that normal value should be established on the basis of its sales to related sales companies — that is, on the basis of transfer prices within the meaning of Article 2 (7) of Regulation (EEC) No 2423/88 — and not based upon prices charged by those related companies to independent customers.
- (43) The Commission found that the producer in question had divided the tasks of marketing its production in Japan between the manufacturing company, selling direct to distributors or dealers, the sales department of the manufacturing company and two related sales companies which sold to end-users and over which the producer had financial control. The sales functions of those different parts of the group were not essentially different from each other. The division of production and sales activities as arranged within the group can in no way alter the fact that the group is a single economic entity which has thus organized activities which, in other cases, will be carried out by a single legal entity.
- (44) Another producer which made all domestic sales through a related sales company claimed that its normal value should not be based on prices charged by its sales company to independent customers but should be constructed on the basis of cost of production, excluding selling, general and administrative costs, incurred by the sales company. However, the Commission found that the latter performed functions falling into the category of those described in recital 43 and therefore also formed an economic entity with the manufacturing company.
- (45) Consequently, in both cases, and in accordance with the Commission's consistent practice upheld by the Court of Justice, the activities and functions of the various parts of the entity were treated as a whole. Thus, normal value was not established on the basis of transfer prices or of the cost of production of the manufacturing company alone, but on the basis of the prices charged on sales to independent customers.
- (46) The Council confirms those conclusions.

3. Normal value based on constructed value

- (47) Certain models sold domestically were similar but could not be directly compared to models sold for export to the Community, as a result of differences in technical specifications and physical characteristics. Those differences could not be evaluated with any precision, given the different nature of the

technology used and the variety of combinations of features and accessories which form part of the product.

- (48) The Commission, accordingly, refrained from establishing normal value for those models on the basis of domestic prices, since, in order to make domestic and import prices comparable to each other, this method would have required a great many adjustments which would have had to be based on estimations. Consequently, normal value was in these cases determined on the basis of constructed value.
- (49) The constructed values were established, in accordance with Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88, on the basis of the costs in Japan, both fixed and variable, of materials and manufacture for the models sold for export plus a reasonable amount for selling, general and administrative expenses and profit.

As regards the selling, general and administrative expenses, the amounts were calculated by reference to the average expenses actually incurred by each producer concerned on its sales of REWS on the domestic market. The profit rate of each producer was calculated on a weighted-average basis for all domestic sales of the product concerned.

- (50) The Council confirms that finding.

4. Comparison

General

- (51) Japanese exports were made to different Community customers at different prices and in different regions of the Community. Therefore, export prices were compared with normal value on a transaction-by-transaction basis.
- (52) Furthermore, for the purpose of a fair comparison between normal value and export prices, the Commission, in accordance with Article 2 (9) and (10) of Regulation (EEC) No 2423/88, took account, where warranted, of differences affecting price comparability wherever a direct relationship of those differences to the sales under consideration could be satisfactorily substantiated. All comparisons were made at the ex-works stage and at the same level of trade.

Differences in physical characteristics

- (53) As far as differences in physical characteristics were concerned, normal value was adjusted by an amount corresponding to a reasonable estimate of the value of the differences.
- (54) The Council confirms that finding.

Differences in selling expenses

- (55) As far as differences in selling expenses were concerned, normal value and export prices were adjusted in order to take account of differences in credit terms, warranties, commissions, salaries paid to sales personnel, packing, transport, insurance, handling and ancillary costs, wherever evidence was given that these expenses were directly related to the sales under consideration.

(a) *Sales staff salaries*

- (56) As regards salaries for personnel involved in domestic sales, several Japanese producers had requested an allowance for salaried costs for personnel partly engaged selling REWS and partly involved in activities concerning other products. An allowance was granted for the portion of costs incurred in selling the product concerned.

Some of the salaried costs for which allowances were claimed related to administrative and promotional activities. The companies were, however, unable to relate those costs to the product concerned and they were therefore considered to be general overheads which did not affect price comparability. The Commission, consequently, rejected the claim for deduction of such costs.

- (57) The Council confirms that conclusion.

(b) *After-sales servicing*

- (58) Some companies claimed an adjustment for after-sales servicing but were not in a position to link the costs directly to the particular sales transactions regarding the product under consideration.

The Commission therefore concluded that the costs in question had to be considered general overheads for which no adjustment could be made under Article 2 (10) of Regulation (EEC) No 2423/88. The claim was consequently rejected by the Commission.

- (59) The Council confirms that conclusion.

(c) *Credit terms*

- (60) The Commission made adjustments for credit granted to customers, where it received evidence of a fixed credit period agreed with the buyer at the date of sale. Several exporters claimed that such adjustment for credit terms should also be granted

where no fixed credit period had been agreed or where an agreed period had been exceeded and that the cost of credit in such cases should be calculated on the basis of the normal interest in Japan for short-term borrowing.

Those claims were examined in order to establish whether, as required by Article 2 (9) (a) of Regulation (EEC) No 2423/88, the credit costs in question could be considered to have affected price comparability. In principle, price comparability can only be affected by factors known to the buyer when he decides on the purchase. Credit periods which, contrary to the usual practice in Japan, are not agreed at the date of sale do not fall into this category. In addition, the Commission found that such credit periods varied considerably from one customer to another. In such circumstances, the Community institutions would normally have rejected the claims. In this case, however, and in conformity with the line taken in previous proceedings, the Commission estimated the adjustment for these sales on the basis of 30 days of credit. This was considered to represent the usual average period of credit granted to buyers of products in the same business sector on the Japanese market.

- (61) The Council confirms those conclusions.

(d) *'Trade-in allowance'*

- (62) A Japanese producer claimed an allowance for trade-in payments made where a purchaser (in general, distributors or dealers) of new machines 'traded in' old and/or used machines. It was established that the value of the product traded in did not appear on the invoiced amount. The producer, however, argued that this should not be considered to be relevant since trade-in operations were directly related to the sales under consideration and sellers were allowed directly to offset the value of the trade-in against the invoiced sales price. This producer therefore argued that its financial contribution to the activities of their customers should be treated as a rebate and should therefore be deducted from normal value.

- (63) The Commission, however, in conformity with its consistent practice upheld by the Court of Justice, considered that the contribution in question was not a rebate but in fact a payment for which a certain value was obtained.

Indeed, with the removal of traded-in machines from the market, the demand for new machines is maintained at the highest possible level. This higher demand stimulates not only prices but also higher sales volumes and production levels which should normally result in increased economies of scale and commensurately higher profit levels.

In these circumstances, the 'rebates' in question were considered to be the equivalent to the value which the manufacturer attaches to the withdrawal of the old and/or used REWS from the market.

The payments were therefore not deducted from the price actually paid or payable by the buyer, and the full domestic price was retained for the purpose of comparison.

- (64) The Council confirms that finding.

5. Dumping margins

- (65) The weighted-average dumping margins for each Japanese producer concerned, as a percentage of free-at-Community-frontier values, exceeded 60 % in all cases, except for Yamato Scales Co. Ltd, for which the margin was 15,3 %.

- (66) In the case of firms which failed to cooperate or where the Commission was unable to use the producer's submission (see recital 27), the dumping margin should be established on the basis of the facts available, pursuant to Article 7 (7) (b) of Regulation (EEC) No 2423/88.

The Commission considered that the most reasonable elements were those established during the investigation and that to attribute to such firms a dumping margin lower than the highest established for the cooperating companies would act as a bonus for non-cooperation and could lead to circumvention of the anti-dumping measures.

- (67) The Council confirms that finding.

E. RECURRENCE OF INJURY

- (68) In the case under consideration, the Commission had to determine, in accordance with Article 15 (3) of Regulation (EEC) No 2423/88, whether the expiry of the measures in force would lead again to injury or threat of injury.

Therefore it was necessary to examine the present economic situation of the Community industry and

the behaviour of the Japanese exporters on the Community market.

1. Situation of the Community industry

Community market

- (69) The Community market for REWS remained stable in size, rising from some 135 000 units in 1988 to 140 000 units in 1989 and falling to 135 000 units in 1990.

Production capacity, utilization rate and stocks

- (70) Community production of REWS fell from 140 000 units in 1988 to 122 000 units in 1989 and 114 000 units in 1990. Though production capacity also fell from 181 000 units in 1988 to 166 000 units in 1989 and 155 000 units in 1990, the utilization rate decreased from 77 to 73 %.

- (71) Stocks remained at a continuously high level (more than 10 % of the total Community production) between 1988 and 1990.

Sales volume and market share

- (72) The quantity of REWS sold in the Community by the Community industry fell from 113 000 units in 1988 to 105 000 units in 1989 and to 97 000 units in 1990. The Community industry's market share changed as follows: 84 % in 1988, 75 % in 1989 and 72 % in 1990.

Price trends

- (73) Prices of the Community industry decreased between 1988 and 1990 by nearly 6 % on a weighted-average basis. This downward trend coincided with an overall price decrease on imported REWS and considerable price undercutting by Japanese imports (see recitals 78 to 81).

Profits

- (74) The Commission found that, overall, the Community industry has shown poor financial results since 1988. In 1990, a negative return on sales of 5,5 % on a weighted-average basis was recorded. One Community producer, who suffered considerable losses throughout the cited period, discontinued production at the end of 1990.

Employment and investment

- (75) Between 1988 and 1990, the Community industry shed 245 jobs, representing 16 % of its labour force; investments were cut back and two factories closed.

- (76) The Council confirms those findings.

2. Exporters' behaviour on the Community market

Volume and market shares of the dumped imports

- (77) Despite the measures in force, the volume of dumped REWS imported from Japan rose from 13 000 units in 1988 to 17 000 units in 1989 and to approximately 19 000 units in 1990. The market share of Community consumption held by Japanese imports rose from 9,8 % in 1988 to 12,1 % in 1989 and to 14,6 % in 1990.

Price of dumped imports

- (78) The Commission investigated whether price undercutting was practised by the Japanese exporters during the investigation period. To this end, the exporters' sales in six Community markets (United Kingdom, Germany, Netherlands, Belgium, France and Greece) were examined, where nearly all Japanese imports were sold.

- (79) The Commission first selected representative REWS of the various segments (low-range, mid-range, high-range models) marketed by the Community producers. The Commission then considered the Japanese export models in the same segments which were directly comparable with the Community producers' models, so that no adjustments for technical differences had to be made.

Prices for the models concerned were compared on the basis of sales made at the same level of trade (distributor/dealer level).

- (80) The comparison outlined above showed widespread and consistent price undercutting on the part of all exporters, ranging from 20 to 70 %.

- (81) The Council confirms those findings.

3. Conclusions

- (82) On the basis of the above, the Commission concluded that the Community industry is in a precarious situation. Indeed, it suffered substantial price erosion which provoked further financial losses and a reduction in sales volume and market share.

This situation was highly influenced by the fact that the dumped imports were made in an open and transparent market where prices are very well known. Price elasticity and huge price undercutting

therefore had a clear effect on the sales volumes and the financial results of the Community industry.

For those reasons the Community industry could not take advantage of the anti-dumping measures in force.

- (83) The Council confirms that conclusion.

- (84) The Commission has also considered whether factors other than the dumped imports could have prevented the Community industry from regaining economic health.

- (85) In that respect, one exporter alleged that the effects of the increase in volume and the low price of REWS imports from other countries, principally Singapore, the Republic of Korea, Taiwan and Turkey, have been at least partly responsible for the precarious situation of the Community industry.

- (86) The Commission is at present examining the effects of the imports of REWS from Singapore and Korea. However, even if these imports are found to have injured the Community industry, this cannot eliminate the fact that the dumped exports from Japan, because of their high volume and particularly low prices, remained an important factor which prevented the Community industry from improving its economic situation.

As far as imports from Taiwan are concerned, the Commission found that such imported scales from Taiwan were mostly counting scales which are not comparable to the product under consideration.

Finally, no imports from Turkey took place during the investigation period.

- (87) Apart from the above, the Commission did not find any other factors which could explain the difficult economic situation of the Community industry. Indeed, there were no substantial imports other than those mentioned above, nor was there any contraction in demand.

- (88) On the basis of the above, the Commission concludes that, while other imports may also have contributed to the injury, the dumped Japanese imports, taken in isolation, have to be considered an important cause of the unsatisfactory situation of the Community industry.

4. Possible effects of expiry of the measures

- (89) In those circumstances, the Commission is of the opinion that the expiry of the measures would worsen the situation of the Community producers.

- (90) Indeed, if there are no measures, an increase in the undercutting by Japanese imports has to be expected. This would lead to further losses in market share for the Community industry and would negatively affect its sales and market share.
- (91) In that connection, two factors deserve particular attention. On the one hand, the Japanese producers have recently expanded their production capacity. On the other hand, the Community market is at present in a recession. This points to the conclusion that pressure from Japanese dumped imports is likely to increase and that the Community industry is now even more vulnerable to such practices than in previous years.
- (92) That being so, it can be clearly foreseen that the Community industry will suffer material injury from the dumped imports in the event of the expiry of the anti-dumping measures. The Commission therefore concludes that these measures should not be allowed to lapse but should be adjusted in the light of the evidence of dumping and of the economic situation of the Community industry.
- (93) The Council confirms those conclusions.
- (96) Though end-users, which are all professionals, may have to bear an increase in prices, the present low prices were the result of unfair competitive behaviour. They cannot therefore expect to continue to take advantage of the effect of such practices.
- (97) For these reasons, the Commission considers that Community interests call for intervention in order to prevent the continuation of injury and a further deterioration in the economic situation of the Community industry.
- (98) The Council confirms that conclusion.

G. LEVEL OF THE DUTY

- (99) When calculating the amount of duty necessary to enable the Community industry to regain a healthy and non-injurious situation, the Commission had to bear in mind that the Community industry as a whole was not profitable. Accordingly, it is considered necessary for the measures taken to allow the Community industry to increase its prices so as to cover its costs of production and to obtain a reasonable return on sales.

In the circumstances of the industry concerned, it was found that, based on normal market conditions and the industry's ongoing long-term investment requirements, an annual return on sales of 10 % before tax could be regarded as an appropriate minimum.

F. COMMUNITY INTEREST

- (94) With respect to Community interests, the Council recalls that it had already concluded, in its original proceeding, that Community interests called for intervention in order to prevent injurious dumping. The Commission considers that no substantial change in this situation has occurred since then. This applies specifically to the negative influence which the disappearance of the Community industry would have on the supply industry. Indeed, REWS involve increasingly high-level technology and any loss of technological know-how in the REWS sector would mean a loss of competitive edge in the electronic sector as a whole.
- (95) While the Commission recognizes that maintaining anti-dumping measures in force will continue to affect price levels of the exporters concerned in the Community and may subsequently have some influence on the relative competitiveness of their products, those measures are intended to restore normal and fair market conditions. In addition, the removal of the unfair advantages gained by the dumping practices is designed to prevent the further decline of the Community industry and thus help to maintain the availability to the consumer of the widest possible choice of product.
- (100) In order to establish the margin by which the prices of Japanese producers should be increased to allow the Community industry to achieve the abovementioned return on sales, the Commission classified the most representative REWS produced and marketed by the Community producers into three segments (see recital 16), calculated for each segment a weighted-average price on an ex-works basis (see recital 49) and compared these prices to the prices at Community frontier of the similar Japanese export models, duly adjusted. The difference between these prices reflects the price increase at the Community frontier considered necessary to defeat the injurious effects of the dumped imports.
- (101) Except for one company, these price increases were considerably lower than the dumping margins found and therefore determine the level of anti-dumping duties, in accordance with Article 13 (3) of Regulation (EEC) No 2423/88. For the latter company, it is the dumping margin which should be imposed as a duty.

(102) Accordingly, the following duties should be imposed :

— Tokyo Electric Co. Ltd	22,5 %
— Ishida Scales Mfg Ltd	31,6 %
— Teraoka Seiko Co. Ltd	22,6 %
— Yamato Scales Co. Ltd	15,3 %.

(103) In the case of companies which failed to cooperate in the investigation, the Commission considered that the duties should be established on the basis of the facts available in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88. It was considered that the most reasonable elements were those established during the investigation and that to attribute to such firms a duty lower than the highest established for the cooperating companies, namely 31,6 %, would act as a bonus for non-cooperation and could lead to circumvention of the anti-dumping measures.

(104) The Council confirms those findings.

H. PREVIOUS REGULATIONS

(105) Regulations (EEC) No 2865/85 and (EEC) No 1058/86 should accordingly be repealed.

I. ANTI-CIRCUMVENTION MEASURE

(106) By Decision 88/398/EEC, the Commission accepted an undertaking from TEC (UK) Ltd concerning certain electronic weighing scales assembled in the Community.

(107) The Commission considers that, on the basis of the regular and detailed information submitted by the company concerned, no circumvention has taken place since the acceptance of that undertaking. In

these circumstances, the Commission considers that Decision 88/398/EEC should be repealed,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of electronic weighing retail trade scales falling within CN code 8423 81 50 (Taric code 8423 81 50 *10) and originating in Japan.

2. The rate of the duty shall be 31,6 % (Taric additional code 8697) of the net free-at-Community-frontier price before duty, with the exception of retail electronic weighing scales produced by the companies below, to which the following rates shall apply :

— Tokyo Electric Co. Ltd, Tokyo (Additional Taric code 8694)	22,5 %
— Teraoka Seiko Co. Ltd, Tokyo (Additional Taric code 8695)	22,6 %
— Yamato Scales Co. Ltd, Akashi (Additional Taric code 8696)	15,3 %.

3. Regulations (EEC) No 2865/85, (EEC) No 1058/86 and Decision 88/398/EEC are hereby repealed.

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

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 Luxembourg, 26 April 1993.

For the Council

The President

B. WESTH

COMMISSION REGULATION (EEC) No 994/93**of 28 April 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 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 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 cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 762/93 ⁽⁴⁾ 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 April

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 762/93 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 April 1993.

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

Done at Brussels, 28 April 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 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 79, 1. 4. 1993, p. 11.

ANNEX

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

CN code	Third countries ^(*)
0709 90 60	140,21 ^(*) ⁽²⁾
0712 90 19	140,21 ^(*) ⁽²⁾
1001 10 00	182,58 ⁽¹⁾ ⁽²⁾
1001 90 91	147,10
1001 90 99	147,10 ⁽²⁾
1002 00 00	154,87 ⁽²⁾
1003 00 10	140,21
1003 00 20	140,21
1003 00 80	140,21 ⁽²⁾
1004 00 00	115,16
1005 10 90	140,21 ^(*) ⁽²⁾
1005 90 00	140,21 ^(*) ⁽²⁾
1007 00 90	148,07 ^(*)
1008 10 00	57,00 ⁽²⁾
1008 20 00	101,54 ^(*)
1008 30 00	61,54 ⁽²⁾
1008 90 10	61,54 ⁽²⁾
1008 90 90	61,54
1101 00 00	218,58 ⁽²⁾
1102 10 00	229,46
1103 11 30	295,13
1103 11 50	295,13
1103 11 90	234,59

⁽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.

⁽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 (OJ No L 142, 9. 6. 1977, p. 10), as last amended by Regulation (EEC) No 1902/92 (OJ No L 192, 11. 7. 1992, p. 3), and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22), as amended by Regulation (EEC) No 560/91 (OJ No L 62, 8. 3. 1991, p. 26).

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

⁽⁸⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

⁽⁹⁾ 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 995/93
of 28 April 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 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 premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 3874/92 ⁽⁴⁾ 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 April

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 April 1993.

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

Done at Brussels, 28 April 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 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 390, 31. 12. 1992, p. 121.

ANNEX

to the Commission Regulation of 28 April 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 4	1st period 5	2nd period 6	3rd period 7
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	2,01
1001 90 99	0	0	0	2,01
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	2,81

B. Malt

(ECU/tonne)

CN code	Current 4	1st period 5	2nd period 6	3rd period 7	4th period 8
1107 10 11	0	0	0	3,58	3,58
1107 10 19	0	0	0	2,67	2,67
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 996/93

of 28 April 1993

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 3814/92 ⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

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

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

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar ⁽⁵⁾; whereas, furthermore, this refund should be fixed in accordance with Article 5 (2) of Regulation (EEC) No 766/68; whereas candy sugar is defined in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar ⁽⁶⁾, as last amended by Regulation (EEC) No 1684/92 ⁽⁷⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

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

Whereas Council Regulation (EEC) No 1432/92 ⁽⁸⁾, as last amended by Regulation (EEC) No 3534/92 ⁽⁹⁾, 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 representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 ⁽¹⁰⁾ 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 ⁽¹¹⁾;

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 29 April 1993.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 7.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 176, 30. 6. 1992, p. 31.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁹⁾ OJ No L 358, 8. 12. 1992, p. 16.

⁽¹⁰⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽¹¹⁾ 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 April 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 28 April 1993 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund ⁽¹⁾
	— ECU/100 kg —
1701 11 90 100	32,97 ⁽¹⁾
1701 11 90 910	29,64 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	32,97 ⁽¹⁾
1701 12 90 910	29,64 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,3584
	— ECU/100 kg —
1701 99 10 100	35,84
1701 99 10 910	35,73
1701 99 10 950	35,73
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,3584

⁽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).

⁽³⁾ 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.

COMMISSION REGULATION (EEC) No 997/93
of 28 April 1993
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

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

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

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

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

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

Whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appro-

priate, to take account of export costs for the products on the world market;

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

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

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

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

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

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁶⁾ 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⁽⁷⁾;

Whereas Council Regulation (EEC) No 1432/92⁽⁸⁾, as last amended by Regulation (EEC) No 3534/92⁽⁹⁾, 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 Oils and Fats,

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 78, 31. 3. 1972, p. 1.

⁽⁵⁾ OJ No L 348, 30. 12. 1977, p. 53.

⁽⁶⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ No L 387, 31. 12. 1992, p. 17.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁹⁾ OJ No L 358, 8. 12. 1992, p. 16.

HAS ADOPTED THIS REGULATION:

*Article 2**Article 1*

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

This Regulation shall enter into force on 1 May 1993.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

ANNEX

to the Commission Regulation of 28 April 1993 fixing the export refunds on olive oil

<i>(ECU/100 kg)</i>	
Product code	Amount of refund ⁽¹⁾ ⁽²⁾
1509 10 90 100	35,00
1509 10 90 900	60,00
1509 90 00 100	45,00
1509 90 00 900	72,00
1510 00 90 100	5,00
1510 00 90 900	32,00

⁽¹⁾ For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 as well as for exports to third countries.

⁽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.

**COMMISSION REGULATION (EEC) No 998/93
of 28 April 1993**

**fixing the maximum export refunds on olive oil for the 11th partial invitation to
tender under the standing invitation to tender issued by Regulation (EEC) No
3143/92**

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 2046/92 ⁽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 3143/92 ⁽⁴⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Council Regulation (EEC) No 1432/92 ⁽⁵⁾, as last amended by Regulation (EEC) No 3534/92 ⁽⁶⁾, 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 Article 6 of Regulation (EEC) No 3143/92 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 Commu-

nity 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 measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the 11th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92 are hereby fixed in the Annex, on the basis of the tenders submitted by 23 April 1993.

Article 2

This Regulation shall enter into force on 29 April 1993.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 313, 30. 10. 1992, p. 39.

⁽⁵⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁶⁾ OJ No L 358, 8. 12. 1992, p. 16.

ANNEX

to the Commission Regulation of 28 April 1993 fixing the maximum export refunds on olive oil for the 11th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92

(ECU/100 kg)

Product code	Amount of refund (1)
1509 10 90 100	38,85
1509 10 90 900	63,00
1509 90 00 100	48,90
1509 90 00 900	76,00
1510 00 90 100	8,45
1510 00 90 900	—

(1) 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 amended Regulation (EEC) No 1432/92.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1), as last amended by Regulation (EEC) No 252/93 (OJ No L 28, 5. 2. 1993, p. 48).

COMMISSION REGULATION (EEC) No 999/93**of 28 April 1993****fixing the import levies on live sheep and goats and on sheepmeat and goatmeat
other than frozen meat**

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

Having regard to Council Regulation (EEC) No 3013/89
of 25 September 1989 on the common organization of
the market in sheepmeat and goatmeat⁽¹⁾, as last
amended by Regulation (EEC) No 363/93⁽²⁾, and in parti-
cular the Article 10 thereof,

Whereas the import levies on live sheep and goats and on
sheepmeat and goatmeat other than frozen meat were
fixed by Commission Regulation (EEC) No 3857/92⁽³⁾, as
last amended by Regulation (EEC) No 754/93⁽⁴⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 3857/92 to the quota-

tions and other information 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 on live sheep and goats and on sheep-
meat and goatmeat other than frozen meat shall be as set
out in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 May 1993.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 42, 19. 2. 1993, p. 1.

⁽³⁾ OJ No L 390, 31. 12. 1992, p. 73.

⁽⁴⁾ OJ No L 77, 31. 3. 1993, p. 35.

ANNEX

to the Commission Regulation of 28 April 1993 fixing the import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat (*)

(ECU/100 kg)

CN code	Week No 18 from 3 to 9 May 1993	Week No 19 from 10 to 16 May 1993	Week No 20 from 17 to 23 May 1993	Week No 21 from 24 to 30 May 1993	Week No 22 from 31 May to 6 June 1993
0104 10 30 ⁽¹⁾	74,871	73,503	71,680	69,400	67,121
0104 10 80 ⁽¹⁾	74,871	73,503	71,680	69,400	67,121
0104 20 90 ⁽¹⁾	74,871	73,503	71,680	69,400	67,121
0204 10 00 ⁽²⁾	159,300	156,390	152,510	147,660	142,810
0204 21 00 ⁽²⁾	159,300	156,390	152,510	147,660	142,810
0204 22 10 ⁽²⁾	111,510	109,473	106,757	103,362	99,967
0204 22 30 ⁽²⁾	175,230	172,029	167,761	162,426	157,091
0204 22 50 ⁽²⁾	207,090	203,307	198,263	191,958	185,653
0204 22 90 ⁽²⁾	207,090	203,307	198,263	191,958	185,653
0204 23 00 ⁽²⁾	289,926	284,630	277,568	268,741	259,914
0204 50 11 ⁽²⁾	159,300	156,390	152,510	147,660	142,810
0204 50 13 ⁽²⁾	111,510	109,473	106,757	103,362	99,967
0204 50 15 ⁽²⁾	175,230	172,029	167,761	162,426	157,091
0204 50 19 ⁽²⁾	207,090	203,307	198,263	191,958	185,653
0204 50 31 ⁽²⁾	207,090	203,307	198,263	191,958	185,653
0204 50 39 ⁽²⁾	289,926	284,630	277,568	268,741	259,914
0210 90 11 ⁽³⁾	207,090	203,307	198,263	191,958	185,653
0210 90 19 ⁽³⁾	289,926	284,630	277,568	268,741	259,914

⁽¹⁾ The levy applicable is limited in the conditions laid down in Council Regulations (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 3842/92 and Commission Regulations (EEC) No 19/82 and (EEC) No 3943/92.

⁽²⁾ The levy applicable is limited to the amount bound under GATT or in the conditions laid down in Council Regulations (EEC) No 1985/82, (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 3842/92 and Commission Regulations (EEC) No 19/82 and (EEC) No 3943/92.

⁽³⁾ The levy applicable is limited in the conditions laid down in Council Regulation (EEC) No 715/90 and Commission Regulation (EEC) No 19/82.

^(*) No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EEC) No 1000/93
of 28 April 1993
fixing the import levies on frozen sheepmeat and goatmeat

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EEC) No 363/93⁽²⁾, and in particular the Article 10 thereof,

Whereas the import levies on frozen sheepmeat and goatmeat were fixed by Commission Regulation (EEC) No 3858/92⁽³⁾, as last amended by Regulation (EEC) No 755/93⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3858/92 to the quota-

tions and other information known to the Commission that the levies should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies on frozen sheepmeat and goatmeat shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 May 1993.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 42, 19. 2. 1993, p. 1.

⁽³⁾ OJ No L 390, 31. 12. 1992, p. 76.

⁽⁴⁾ OJ No L 77, 31. 3. 1993, p. 37.

ANNEX

to the Commission Regulation of 28 April 1993 fixing the import levies on frozen sheep-meat and goatmeat ⁽¹⁾ ⁽²⁾

(ECU/100 kg)

CN code	Week No 18 from 3 to 9 May 1993	Week No 19 from 10 to 16 May 1993	Week No 20 from 17 to 23 May 1993	Week No 21 from 24 to 30 May 1993	Week No 22 from 31 May to 6 June 1993
0204 30 00	154,475	152,293	149,383	145,745	142,108
0204 41 00	154,475	152,293	149,383	145,745	142,108
0204 42 10	108,133	106,605	104,568	102,022	99,476
0204 42 30	169,923	167,522	164,321	160,320	156,319
0204 42 50	200,818	197,981	194,198	189,469	184,740
0204 42 90	200,818	197,981	194,198	189,469	184,740
0204 43 10	281,145	277,173	271,877	265,256	258,637
0204 43 90	281,145	277,173	271,877	265,256	258,637
0204 50 51	154,475	152,293	149,383	145,745	142,108
0204 50 53	108,133	106,605	104,568	102,022	99,476
0204 50 55	169,923	167,522	164,321	160,320	156,319
0204 50 59	200,818	197,981	194,198	189,469	184,740
0204 50 71	200,818	197,981	194,198	189,469	184,740
0204 50 79	281,145	277,173	271,877	265,256	258,637

⁽¹⁾ The levy applicable is limited to the amount bound under GATT or in the conditions laid down in Council Regulations (EEC) No 1985/82, (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 3842/92 and Commission Regulations (EEC) No 19/82 and (EEC) No 3943/92.

⁽²⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EEC) No 1001/93

of 23 April 1993

amending Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, as last amended by Regulation (EEC) No 697/93⁽²⁾, and in particular Article 9 (1) thereof,

Whereas Commission Regulation (EEC) No 53/91⁽³⁾ amended Regulation (EEC) No 2658/87 by reducing certain autonomous rates of duty until 31 December 1991 in accordance with an exchange of letters between the European Economic Community and the United States of America complementing an Agreement for the conclusion of negotiations under GATT Article XXIV.6⁽⁴⁾;

Whereas Council Regulation (EEC) No 3919/91⁽⁵⁾ provided that the Community should, *inter alia*, apply the same autonomous tariff reductions until 31 December 1992;

Whereas by Commission Regulation (EEC) No 3920/91⁽⁶⁾ these reduced rates were applicable until 31 December 1992;

Whereas Council Regulation (EEC) No 991/93⁽⁷⁾ provides that the Community shall, *inter alia*, apply the same autonomous tariff reductions until 31 December 1993;

Whereas it is appropriate to amend the combined nomenclature to take account of the prolongation of these reduced rates of duty;

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

HAS ADOPTED THIS REGULATION:

Article 1

In the combined nomenclature annexed to Council Regulation (EEC) No 2658/87 the reduced rates of duty set out in Commission Regulation (EEC) No 53/91, as extended by Commission Regulation (EEC) No 3920/91, and which expired on 31 December 1992, shall apply until 31 December 1993.

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 1 January 1993.

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

Done at Brussels, 23 April 1993.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 76, 30. 3. 1993, p. 12.

⁽³⁾ OJ No L 7, 10. 1. 1991, p. 14.

⁽⁴⁾ OJ No L 17, 23. 1. 1991, p. 17.

⁽⁵⁾ OJ No L 372, 31. 12. 1991, p. 35.

⁽⁶⁾ OJ No L 372, 31. 12. 1991, p. 36.

⁽⁷⁾ See page 1 of this Official Journal.

COMMISSION REGULATION (EEC) No 1002/93

of 27 April 1993

re-establishing the levying of customs duties on products falling within CN code 3102 10 10, originating in Latvia and Lithuania, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3831/90 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries⁽¹⁾, extended for 1993 by Regulation (EEC) No 3917/92⁽²⁾, and in particular Article 9 thereof,

Whereas, pursuant to Articles 1 and 6 of Regulation (EEC) No 3831/90, suspension of customs duties shall be accorded for 1993 to each of the countries or territories listed in Annex III other than those listed in column 4 of Annex I, within the framework of the preferential tariff ceilings fixed in column 6 of Annex I;

Whereas, as provided for in Article 7 of that Regulation, as soon as the individual ceilings in question are reached at Community level, the levying of customs duties on imports of the products in question originating in each of the countries and territories concerned may at any time be re-established;

Whereas, in the case of products falling within CN code 3102 10 10, originating in Latvia and Lithuania, the individual ceiling was fixed at ECU 419 000; whereas on 25 March 1993, imports of these products into the Community originating in Latvia and Lithuania reached the ceiling in question after being charged thereagainst;

Whereas, it is appropriate to re-establish the levying of customs duties in respect of the products in question against Latvia and Lithuania,

HAS ADOPTED THIS REGULATION:

Article 1

As from 2 May 1993, the levying of customs duties, suspended for 1993 pursuant to Council Regulation (EEC) No 3831/90, shall be reintroduced on imports into the Community of the following products, originating in Latvia and Lithuania:

Order No	CN code	Description
10.0400	3102 10 10	Urea containing more than 45 % by weight of nitrogen on the dry anhydrous product

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, 27 April 1993.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 1.

⁽²⁾ OJ No L 396, 31. 12. 1992, p. 1.

COMMISSION REGULATION (EEC) No 1003/93

of 27 April 1993

concerning the stopping of fishing for common sole by vessels flying the flag of Belgium

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Whereas Council Regulation (EEC) No 3919/92 of 20 December 1992 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1993 and certain conditions under which they may be fished⁽³⁾, as amended by Regulation (EEC) No 927/93⁽⁴⁾, provides for common sole quotas for 1993;

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

Whereas, according to the information communicated to the Commission, catches of common sole in the waters of ICES divisions VII h, j and k by vessels flying the flag of Belgium or registered in Belgium have reached the quota allocated for 1993; whereas Belgium has prohibited

fishing for this stock as for 7 April 1993; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of common sole in the waters of ICES divisions VII h, j and k by vessels flying the flag of Belgium or registered in Belgium are deemed to have exhausted the quota allocated to Belgium for 1993.

Fishing for common sole in the waters of ICES divisions VII h, j and k by vessels flying the flag of Belgium or registered in Belgium is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 7 April 1993.

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

Done at Brussels, 27 April 1993.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 306, 11. 11. 1988, p. 2.

⁽³⁾ OJ No L 397, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 96, 22. 4. 1993, p. 1.

COMMISSION REGULATION (EEC) No 1004/93

of 28 April 1993

laying down detailed rules for the granting of private storage aid for long-keeping cheeses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 Articles 9 (3) and 28 thereof,

Whereas Council Regulation (EEC) No 508/71⁽³⁾ provides that private storage aid may be granted for certain long-keeping cheeses where there is a serious imbalance of the market which may be eliminated or reduced by seasonal storage;

Whereas the seasonal nature of Emmental and Gruyère cheese production is aggravated by the fact that the seasonal trend in consumption of such cheeses is the opposite of their production; whereas, therefore, provision should be made for recourse to such storage in respect of a quantity corresponding to the difference between summer and winter production;

Whereas the detailed rules for the application of this measure should essentially be the same as those laid down for a similar measure during previous years;

Whereas, in view of experience in controls, the provisions relating thereto should be specified, in particular as regards the documents to be presented and the on-the-spot checks to be conducted; whereas these new requirements on the subject make it necessary to stipulate that the Member States may provide that the costs of controls be fully or in part charged to the contractor;

Whereas it is appropriate to guarantee the continuation of the storage operations in question;

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

Aid shall be granted in respect of the private storage of 16 500 tonnes of Emmental and Gruyère cheeses manufactured in the Community which satisfy the requirements of Articles 2 and 3 hereof.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 64.

⁽³⁾ OJ No L 58, 11. 3. 1971, p. 1.

Article 2

1. The intervention agency may conclude storage contracts only if the following conditions are satisfied:

- (a) the batch of cheeses to which a contract relates must comprise at least five tonnes;
- (b) the cheeses shall be indelibly marked with an indication (which may take the form of a number) of the undertaking in which they were manufactured and of the day and month of manufacture;
- (c) the cheeses must have been manufactured at least 10 days before the date specified in the contract as being the date of commencement of storage;
- (d) the cheeses must have undergone quality tests which establish that their classification after maturing could be expected to be:

- 'Premier choix' in France,
- 'Markenkäse' or 'Klasse fein' in Germany,
- 'first quality' in Denmark,
- 'special grade' in Ireland;

- (e) the storer shall undertake:

- to keep the cheese during the entire period of storage in premises where the maximum temperature is as indicated under paragraph 2,
- not, during the term of the contract, to alter the composition of the batch covered by the contract without authorization from the intervention agency. If the condition concerning the minimum quantity fixed for each batch continues to be met, the intervention agency may authorize an alteration which is limited to the removal or replacement of cheeses which are found to have deteriorated to such an extent that they can no longer be stored.

In the event of release from store of certain quantities:

- (i) if the aforesaid quantities are replaced with the authorization of the intervention agency, the contract is deemed not to have undergone any alteration;
- (ii) if the aforesaid quantities are not replaced, the contract is deemed to have been concluded *ab initio* for the quantity permanently retained.

Any costs of controls arising from an alteration shall be met by the storer,

- to keep stock records and to inform the intervention agency each week of the cheeses put into storage during the previous week and of scheduled withdrawals.

2. The maximum temperature in the storage premises shall be +6 °C for Emmental and +10 °C for Gruyère. In the case of Emmental which has already been matured, Member States may permit a maximum temperature of +10 °C.

3. Storage contracts shall be concluded :

- (a) in writing, stating the date when storage covered by the contract begins ; this date may not be earlier than the day following that on which the operations connected with putting the batch of cheese covered by the contract into storage are completed ;
- (b) after completion of the operations connected with putting the batch of cheese covered by the contract into storage and at the latest 40 days after the date when storage by the contract begins.

Article 3

1. Aid shall be granted only for such cheeses as are put into storage during the storage period. This period shall begin on 1 May 1993 and end on or before 30 September of the same year.

2. Stored cheese may be withdrawn from storage only during the period for withdrawal. This period shall begin on 1 October 1993 and end on 31 March of the following year.

Article 4

1. The amount of the aid shall be ECU 2,00 per tonne per day. Conversion into national currency shall be carried out using the representative rate applicable on the day of withdrawal from storage.

2. No aid shall be granted in respect of storage under contract for less than 90 days. The maximum aid payable shall not exceed an amount corresponding to 180 days' storage under contract.

By way of derogation from the second indent of Article 2 (1) (e), when the period of 90 days specified in the first subparagraph has elapsed and the period for withdrawal referred to in Article 3 (2) has begun, the storer may remove all or part of the batch under contract. The minimum quantity that may be removed shall be 500 kilograms. The Member States may, however, increase this quantity to two tonnes.

The date of the start of operations to remove the batch of cheese covered by the contract shall not be included in the period of storage under contract.

Article 5

The periods, dates and time limits referred to in this Regulation shall be determined in accordance with Council Regulation (EEC, Euratom) No 1182/71 ⁽¹⁾.

However, Article 3 (4) of that Regulation shall not apply in respect of the determination of the periods referred to in this Regulation.

⁽¹⁾ OJ No L 124, 8. 6. 1971, p. 1.

Article 6

1. The Member States shall ensure that the conditions granting entitlement to payment of the aid are fulfilled.

2. The contractor shall make available to the national authorities responsible for verifying execution of the measure any documentation permitting in particular the following particulars of products placed in private storage to be verified :

- (a) ownership at the time of entry into storage ;
- (b) the origin and the date of manufacture of the cheeses ;
- (c) the date of entry into storage ;
- (d) presence in the store ;
- (e) the date of removal from storage.

3. The contractor or, where applicable, the operator of the store shall keep stock accounts available at the store, covering :

- (a) identification, by contract number, of the products placed in private storage ;
- (b) the dates of entry into and removal from storage ;
- (c) the number of cheeses and their weight by batch ;
- (d) the location of the products in the store.

4. Products stored must be easily identifiable and must be identified individually by contract. A special mark shall be affixed to cheeses covered by the contract.

5. On entry into storage, the competent agencies shall conduct checks in particular to ensure that products stored are eligible for the aid and to prevent any possibility of substitution of products during storage under contract, without prejudice to the application of Article 2 (1) (e).

6. The national authorities responsible for controls shall undertake :

- (a) an unannounced check to see that the products are present in the store. The sample concerned must be representative and must correspond to at least 10 % of the overall quantity under contract for a private storage aid measure. Such checks must include, in addition to an examination of the accounts referred to in paragraph 3, a physical check of the weight and type of products and their identification. Such physical checks must relate to at least 5 % of the quantity subject to the unannounced check ;
- (b) a check to see that the products are present at the end of the storage period under contract.

7. Checks conducted pursuant to paragraphs 5 and 6 must be the subject of a report stating:

- the date of the check,
- its duration,
- the operations conducted.

The report on checks must be signed by the official responsible and countersigned by the contractor or, where applicable, by the store operator.

8. In the case of irregularities affecting at least 5 % of the quantities of products subject to the checks the latter shall be extended to a larger sample to be determined by the competent agency.

The Member States shall notify such cases to the Commission within four weeks.

9. The Member States may provide that the costs of controls are to be fully or in part charged to the contractor.

Article 7

The Member States shall forward to the Commission on or before the Tuesday of each week particulars as to the following:

- (a) the quantities of cheese for which storage contracts have been concluded during the preceding week;
- (b) any quantities in respect of which the authorization referred to in the second indent of Article 2 (1) (e) has been given.

Article 8

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

It shall apply with effect from 1 May 1993.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

COMMISSION REGULATION (EEC) No 1005/93

of 28 April 1993

introducing transitional measures regarding the allocation of quotas in the tobacco sector for the 1993 harvest in Greece

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organization of the market in raw tobacco⁽¹⁾, and in particular Article 27 thereof,

Whereas Article 9 of Regulation (EEC) No 2075/92 institutes a system of processing quotas for the various groups of tobacco varieties; whereas the quantities available by group of varieties are allocated among the Member States by Council Regulation (EEC) No 2076/92 of 30 June 1992 fixing the premiums for leaf tobacco by group of tobacco varieties and the processing quotas allocated by group of varieties and by Member State⁽²⁾;

Whereas Commission Regulation (EEC) No 3477/92⁽³⁾, as last amended by Regulation (EEC) No 648/93⁽⁴⁾, lays down the detailed rules for the application of the quota system for the 1993 and 1994 harvests; whereas it appears that quantities of quotas for certain groups of varieties may remain available in Greece after the distribution of the quantities to those who can claim entitlement to same; whereas, on the other hand, the quota for the flue-cured may prove be insufficient; whereas this shortage may nullify the conversion programmes approved before 1 January 1992 but not yet executed on that date;

Whereas pursuant to Article 27 of Council Regulation (EEC) No 2075/92, Greece should be authorized, on a temporary basis and only for the 1993 harvest, to transfer quantities of its quotas which will remain available following allocation, in accordance with the provisions of Article 9 of Regulation (EEC) No 3477/92, to the flue-cured group of varieties;

Whereas the increase in the quota of a group of varieties as a result of this transfer must not lead to additional EAGGF expenditure;

Whereas this Regulation must be applied from the date prescribed by Article 9 of Regulation (EEC) No 3477/92 for the allocation of the quotas;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 1993 harvest, Greece is hereby authorized to transfer tobacco threshold quantities which remain available following distribution of the quotas as provided for in Article 9 of Regulation (EEC) No 3477/92, to the flue-cured group of varieties. The additional quantities thus granted to the flue-cured group of varieties shall be allocated to the producers or groups of producers who committed themselves before 1 January 1992 to an approved programme to convert to flue-cured tobacco, which was implemented after that date.
2. The quantities referred to in paragraph 1 shall be limited to 200 tonnes of Katerini, 600 tonnes of light air-cured and 200 tonnes of sun-cured.
3. Subject to the application of paragraph 4, a one tonne reduction in the threshold quantity of a group of varieties shall give rise to a one tonne increase in the flue-cured group of varieties.
4. The increase in the threshold quantity of the flue-cured group of varieties shall not exceed the quantity giving rise to EAGGF expenditure equivalent to the expenditure saved as a result of the drop in the threshold quantities for the other groups of varieties.

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 31 March 1993.

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 70.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 77.

⁽³⁾ OJ No L 351, 2. 12. 1992, p. 11.

⁽⁴⁾ OJ No L 69, 20. 3. 1993, p. 30.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

**COMMISSION REGULATION (EEC) No 1006/93
of 28 April 1993**

fixing the import levies on live cattle and on beef and veal other than frozen

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 125/93 ⁽²⁾, and in particular Article 12 (8) thereof,

Whereas the import levies on live cattle and on beef and
veal other than frozen were fixed by Commission Regula-
tion (EEC) No 705/93 ⁽³⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 705/93 to the quota-
tions and other information 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 on live cattle and on beef and veal
other than frozen shall be as specified in the Annex
hereto.

Article 2

This Regulation shall enter into force on 3 May 1993.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 18, 27. 1. 1993, p. 1.

⁽³⁾ OJ No L 74, 27. 3. 1993, p. 17.

ANNEX

to the Commission Regulation of 28 April 1993 fixing the import levies on live cattle and on beef and veal other than frozen

(ECU/100 kg)

CN code	Croatia / Slovenia / Bosnia-Herzegovina / the territory of the former Yugoslav Republic of Macedonia ⁽¹⁾	Austria ⁽¹⁾	Sweden/Switzerland	Other third countries ⁽²⁾
— Live weight —				
0102 90 05	—	17,469	27,293	134,374 ⁽¹⁾
0102 90 21	—	17,469	27,293	134,374 ⁽¹⁾
0102 90 29	—	17,469	27,293	134,374 ⁽¹⁾
0102 90 41	—	17,469	27,293	134,374 ⁽¹⁾ ⁽³⁾
0102 90 49	—	17,469	27,293	134,374 ⁽¹⁾ ⁽³⁾
0102 90 51	23,574	17,469	27,293	134,374 ⁽¹⁾
0102 90 59	23,574	17,469	27,293	134,374 ⁽¹⁾
0102 90 61	—	17,469	27,293	134,374 ⁽¹⁾
0102 90 69	—	17,469	27,293	134,374 ⁽¹⁾
0102 90 71	23,574	17,469	27,293	134,374 ⁽¹⁾
0102 90 79	23,574	17,469	27,293	134,374 ⁽¹⁾
— Net weight —				
0201 10 00	44,791	33,190	51,856	255,311 ⁽¹⁾ ⁽³⁾
0201 20 20	44,791	33,190	51,856	255,311 ⁽¹⁾ ⁽³⁾
0201 20 30	35,833	26,552	41,485	204,248 ⁽¹⁾ ⁽³⁾
0201 20 50	53,750	39,828	62,227	306,373 ⁽¹⁾ ⁽³⁾
0201 20 90	—	49,786	77,784	382,966 ⁽¹⁾ ⁽³⁾
0201 30 00	—	56,948	88,975	438,060 ⁽¹⁾ ⁽³⁾
0206 10 95	—	56,948	88,975	438,060 ⁽¹⁾
0210 20 10	—	49,786	77,784	382,966
0210 20 90	—	56,948	88,975	438,060
0210 90 41	—	56,948	88,975	438,060
0210 90 90	—	56,948	88,975	438,060
1602 50 10	—	56,948	88,975	438,060
1602 90 61	—	56,948	88,975	438,060

⁽¹⁾ In accordance with amended Regulation (EEC) No 715/90, levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

⁽²⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

⁽³⁾ This levy is applicable only to products complying with the provisions of Commission Regulation (EEC) No 185/93.

⁽⁴⁾ This levy is applicable only to products complying with the provisions of the Agreement between the EEC and Austria (OJ No L 111, 29. 4. 1992, p. 21).

⁽⁵⁾ Products falling within this code, imported from Poland, the territories of the ex Czech and Slovak Federal Republic 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 Commission Regulation (EEC) No 3589/92 (OJ No L 364, 12. 12. 1992, p. 28) have been presented, are subject to the levies set out in the Annex to that Regulation.

⁽⁶⁾ Products falling within this code, imported from Poland, the territories of the ex Czech and Slovak Federal Republic 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 Commission Regulation (EEC) No 247/93 (OJ No L 28, 5. 2. 1993, p. 39) have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 1007/93
of 28 April 1993
fixing the import levies on frozen beef and veal

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 125/93 ⁽²⁾, and in particular Article 12 (8) thereof,

Whereas the import levies on frozen beef and veal were
fixed by Commission Regulation (EEC) No 706/93 ⁽³⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 706/93 to the quota-
tions and other information known to the Commission

that the levies should be altered to the amounts set out in
the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies on frozen beef and veal shall be as set
out in the Annex hereto.

Article 2

This Regulation shall enter into force on 3 May 1993.

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

Done at Brussels, 28 April 1993.

For the Commission

René STEICHEN

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 18, 27. 1. 1993, p. 1.

⁽³⁾ OJ No L 74, 27. 3. 1993, p. 21.

ANNEX

to the Commission Regulation of 28 April 1993 fixing the import levies on frozen beef and veal ⁽¹⁾ ⁽²⁾

<i>(ECU/100 kg)</i>	
CN code	Levy
	— Net weight —
0202 10 00	193,059 ⁽³⁾
0202 20 10	193,059 ⁽³⁾
0202 20 30	154,447 ⁽³⁾
0202 20 50	241,324 ⁽³⁾
0202 20 90	289,589 ⁽³⁾
0202 30 10	241,324 ⁽³⁾
0202 30 50	241,324 ⁽³⁾
0202 30 90	332,061 ⁽³⁾
0206 29 91	332,061

⁽¹⁾ In accordance with amended Regulation (EEC) No 715/90, levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

⁽²⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

⁽³⁾ Products falling within this code, imported from Poland, the territories of the ex Czech and Slovak Federal Republic 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 Commission Regulation (EEC) No 3589/92 (OJ No L 364, 12. 12. 1992, p. 28) have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 1008/93
of 28 April 1993
fixing the import levy on molasses

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 market in sugar ⁽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 levy on molasses was fixed by Commission Regulation (EEC) No 93/93 ⁽⁴⁾, as last amended by Regulation (EEC) No 871/93 ⁽⁵⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 93/93 to the information at present available to the Commission that the levy at present in force should be altered pursuant to Article 1 of this Regulation ;

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 April 1993 as regards floating currencies, should be used to calculate the levies,

HAS ADOPTED THIS REGULATION :

Article 1

1. The import levy referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be fixed, in respect of molasses falling within CN codes 1703 10 00 and 1703 90 00 to ECU 0,68 per 100 kilograms.
2. However, no import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

Article 2

This Regulation shall enter into force on 29 April 1993.

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

Done at Brussels, 28 April 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 13, 21. 1. 1993, p. 8.

⁽⁵⁾ OJ No L 91, 15. 4. 1993, p. 12.

COMMISSION REGULATION (EEC) No 1009/93
of 28 April 1993

fixing the maximum export refund for white sugar for the 50th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 920/92

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 the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 920/92 of 10 April 1992 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, as last amended by Regulation (EEC) No 634/93⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 920/92, 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 50th partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas Council Regulation (EEC) No 1432/92⁽⁵⁾, as last amended by Regulation (EEC) No 3534/92⁽⁶⁾, 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 Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 50th partial invitation to tender for white sugar issued pursuant to amended Regulation (EEC) No 920/92 the maximum amount of the export refund is fixed at ECU 38,590 per 100 kilograms.
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 Regulation (EEC) No 1432/92.

Article 2

This Regulation shall enter into force on 29 April 1993.

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

Done at Brussels, 28 April 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 98, 11. 4. 1992, p. 11.
⁽⁴⁾ OJ No L 67, 19. 3. 1993, p. 28.
⁽⁵⁾ OJ No L 151, 3. 6. 1992, p. 4.
⁽⁶⁾ OJ No L 358, 8. 12. 1992, p. 16.

COMMISSION REGULATION (EEC) No 1010/93
of 28 April 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 789/93 ⁽⁴⁾, as last amended by Regulation (EEC) No 980/93 ⁽⁵⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 789/93 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 April 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 April 1993.

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

Done at Brussels, 28 April 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 79, 1. 4. 1993, p. 66.

⁽⁵⁾ OJ No L 101, 27. 4. 1993, p. 8.

ANNEX

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

<i>(ECU/100 kg)</i>	
CN code	Levy ⁽¹⁾
1701 11 10	33,39 ⁽¹⁾
1701 11 90	33,39 ⁽¹⁾
1701 12 10	33,39 ⁽¹⁾
1701 12 90	33,39 ⁽¹⁾
1701 91 00	43,01
1701 99 10	43,01
1701 99 90	43,01 ⁽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.

COMMISSION REGULATION (EEC) No 1011/93
of 28 April 1993

altering the import levies on products processed from cereals and rice

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 14 (4) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EEC) No 674/92 ⁽⁴⁾, and in particular Article 12 (4) 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 products processed from cereals and rice were fixed by Commission Regulation (EEC) No 756/93 ⁽⁶⁾, as last amended by Regulation (EEC) No 989/93 ⁽⁷⁾;

Whereas Council Regulation (EEC) No 1906/87 ⁽⁸⁾, amended Council Regulation (EEC) No 2744/75 ⁽⁹⁾, as regards products falling within CN codes 2302 10, 2302 20, 2302 30 and 2302 40;

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 April 1993, as regards floating currencies, should be used to calculate the levies;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients;

Whereas the levy on the basic product as last fixed differs from the average levy by more than ECU 3,02 per tonne of basic product; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 1579/74 ⁽¹⁰⁾, as last amended by Regulation (EEC) No 1740/78 ⁽¹¹⁾, the levies at present in force must therefore 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 processed from cereals and rice covered by Regulation (EEC) No 2744/75 as fixed in the Annex to Regulation (EEC) No 756/93 are hereby altered to the amounts set out in the Annex.

Article 2

This Regulation shall enter into force on 29 April 1993.

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

Done at Brussels, 28 April 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 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽⁵⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ No L 77, 31. 3. 1993, p. 39.

⁽⁷⁾ OJ No L 102, 28. 4. 1993, p. 12.

⁽⁸⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽⁹⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽¹⁰⁾ OJ No L 168, 25. 6. 1974, p. 7.

⁽¹¹⁾ OJ No L 202, 26. 7. 1978, p. 8.

ANNEX

to the Commission Regulation of 28 April 1993 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CN code	Import levies ⁽¹⁾	
	ACP	Third countries (other than ACP)
1102 20 10	251,28	257,32
1102 20 90	142,39	145,41
1103 13 10	251,28	257,32
1103 13 90	142,39	145,41
1103 29 40	251,28	257,32
1104 19 50	251,28	257,32
1104 23 10	223,36	226,38
1104 23 30	223,36	226,38
1104 23 90	142,39	145,41
1104 30 90	104,70	110,74
1106 20 90	221,13 ⁽³⁾	245,31
1108 12 00	224,76	245,31
1108 13 00	224,76	245,31 ⁽⁴⁾
1108 14 00	112,38	245,31
1108 19 90	112,38 ⁽³⁾	245,31
1702 30 51	293,16	389,88
1702 30 59	224,76	291,25
1702 30 91	293,16	389,88
1702 30 99	224,76	291,25
1702 40 90	224,76	291,25
1702 90 50	224,76	291,25
1702 90 75	307,12	403,84
1702 90 79	213,59	280,08
2106 90 55	224,76	291,25
2303 10 11	279,20	460,54

⁽³⁾ In accordance with Regulation (EEC) No 715/90 the levy shall not be charged on the following products originating in the African, Caribbean and Pacific States:

- products falling within CN code ex 0714 10 91,
- products falling within CN code 0714 90 11 and arrow-root falling within CN code 0714 90 19,
- flours and meal of arrow-root falling within CN code 1106 20,
- arrow-root starch falling within CN code 1108 19 90.

⁽⁴⁾ Pursuant to Regulation (EEC) No 3834/90, the levy on importation into the Community of products of CN code 1108 13 00 is reduced by 50 % within the limit of a fixed quantity of 5 000 tonnes.

⁽⁵⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE 93/18/EEC

of 5 April 1993

adapting for the third time to technical progress Council Directive 88/379/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 88/379/EEC of 7 June 1988 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations⁽¹⁾, and in particular Article 15 thereof,

Whereas Council Directive 92/32/EEC⁽²⁾ amending Directive 67/548/EEC⁽³⁾ for the seventh time, replaces the definition 'teratogenic' by 'toxic for reproduction' and introduces this modification into Directive 88/379/EEC;

Whereas Annex VI to Directive 67/548/EEC, as last amended by Commission Directive 92/37/EEC⁽⁴⁾, provides for new criteria and new R type phrases for the category of danger 'toxic for reproduction', as well as new criteria for the use of certain R phrases concerning the nature of particular risks attributed to dangerous substances and preparations and in particular phrases R 33 and R 64;

Whereas the provisions set out in Annex I to Directive 88/379/EEC, as amended by Directive 90/492/EEC⁽⁵⁾, should therefore be revised and supplemented;

Whereas Annex II to Directive 88/379/EEC contains special labelling provisions applicable to certain prepara-

tions; whereas these special labelling provisions apply without distinction to all preparations under consideration whether or not considered dangerous within the meaning of the Directive;

Whereas it is necessary to make special provisions in addition to those relating to labelling in the case of preparations which although they contain at least one substance which is dangerous are not necessarily dangerous within the meaning of Directive 88/379/EEC;

Whereas the special provisions applicable to certain preparations set out in Annex II to Directive 88/379/EEC as amended by Directive 89/178/EEC⁽⁶⁾ should therefore be revised and supplemented;

Whereas the amendments to Annex II result in its restructuring featuring in particular a new presentation by chapter in order to maintain the clarity required in all legislation;

Whereas Article 8a of the Treaty established an area without internal barriers in which the free circulation of goods, of persons, of services and capital is assured;

Whereas, according to the scope and effects of the proposed action, the Community measures envisaged by this regulation are not only necessary but also indispensable for the attainment of the stated objectives and that these objectives cannot be achieved by Member States individually, and that furthermore their attainment at Community level is already provided for by Directive 88/379/EEC;

⁽¹⁾ OJ No L 187, 16. 7. 1988, p. 14.

⁽²⁾ OJ No L 154, 5. 6. 1992, p. 1.

⁽³⁾ OJ No L 196, 16. 8. 1967, p. 1.

⁽⁴⁾ OJ No L 154, 5. 6. 1992, p. 30.

⁽⁵⁾ OJ No L 275, 5. 10. 1990, p. 35.

⁽⁶⁾ OJ No L 64, 8. 3. 1989, p. 18.

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee for the Adaptation to Technical Progress of the Directives on the Removal of Technical Barriers to Trade in Dangerous Substances and Preparations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I and II to Directive 88/379/EEC are replaced by the Annex to this Directive.

Article 2

1. Member States shall adopt and publish the provisions necessary to comply with this Directive by 1 July 1994 at the latest and shall forthwith inform the Commission thereof.

2. These provisions shall take effect by 1 July 1994 at the latest.

3. When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 5 April 1993.

For the Commission

Martin BANGEMANN

Member of the Commission

ANNEX I

**CONCENTRATION LIMITS TO BE USED IN APPLYING THE CONVENTIONAL METHOD
OF ASSESSING HEALTH HAZARDS IN ACCORDANCE WITH ARTICLE 3 (5)**

An assessment must be made of all the health hazards that the use of a substance might entail. For that purpose the dangerous health effects have been subdivided into :

1. acute lethal effects ;
2. non-lethal irreversible effects after a single exposure ;
3. severe effects after repeated or prolonged exposure ;
4. corrosive effects, irritant effects ;
5. sensitizing effects ;
6. carcinogenic effects, mutagenic effects, toxic effects for reproduction.

The systematic assessment of all the dangerous health effects is expressed by means of concentration limits, expressed as a weight/weight percentage except for gaseous preparations (Tables A) where they are expressed as a volume/volume percentage and in conjunction with the classification of a substance.

The classification of the substance is expressed either by a symbol and one or more risk phrases or by categories (category 1, category 2 or category 3) also expressed by risk phrases when substances are shown to be carcinogenic, mutagenic or toxic for reproduction. Therefore it is important to consider, in addition to the symbol, all the phrases denoting specific risks which are assigned to each substance under consideration.

1. Acute lethal effects

1.1. Other than gaseous preparations

The concentration limits fixed in Table I determine the classification of the preparation in relation to the individual concentration of the substance(s) present whose classification is also shown.

TABLE I

Classification of the substance	Classification of the preparation		
	T ⁺	T	X _n
T ⁺ with R 26, R 27, R 28	concentration ≥ 7 %	1 % ≤ concentration < 7 %	0,1 % ≤ concentration < 1 %
T with R 23, R 24, R 25		concentration ≥ 25 %	3 % ≤ concentration < 25 %
X _n with R 20, R 21, R 22			concentration ≥ 25 %

The R phrases denoting risk shall be assigned to the preparation in accordance with the following criteria :

- the label shall include one or more of the abovementioned R phrases according to the classification used,
- in general, the R phrases selected should be those applicable to the substance(s) present in the concentration which gives rise to the most severe classification.

1.2. *Gaseous preparations*

The concentration limits expressed as a volume/volume percentage in Table 1 A below determine the classification of the gaseous preparations in relation to the individual concentration of the gas(es) present whose classification is also shown.

TABLE I A

Classification of the substance (gas)	Classification of the gaseous preparation		
	T ⁺	T	X _n
T ⁺ with R 26, R 27, R 28	concentration $\geq 1\%$	$0,2\% \leq \text{concentration} < 1\%$	$0,02\% \leq \text{concentration} < 0,2\%$
T with R 23, R 24, R 25		concentration $\geq 5\%$	$0,5\% \leq \text{concentration} < 5\%$
X _n with R 20, R 21, R 22			concentration $\geq 5\%$

The R phrases denoting risk shall be assigned to the preparation in accordance with the following criteria:

- the label shall include one or more of the abovementioned R phrases according to the classification used,
- in general, the R phrases selected should be those applicable to the substance(s) present in the concentration which gives rise to the most severe classification.

2. **Non-lethal irreversible effects after a single exposure**2.1. *Other than gaseous preparations*

For substances that produce non-lethal irreversible effects after a single exposure (R 39/route of exposure, R 40/route of exposure), the individual concentration limits specified in Table II determine, when appropriate, the classification of the preparation.

TABLE II

Classification of the substance	Classification of the preparation		
	T ⁺	T	X _n
T ⁺ with R 39/route of exposure	concentration $\geq 10\%$ R 39 (*) obligatory	$1\% \leq \text{concentration} < 10\%$ R 39 (*) obligatory	$0,1\% \leq \text{concentration} < 1\%$ R 40 (*) obligatory
T with R 39/route of exposure		concentration $\geq 10\%$ R 39 (*) obligatory	$1\% \leq \text{concentration} < 10\%$ R 40 (*) obligatory
X _n with R 40/route of exposure			concentration $\geq 10\%$ R 40 (*) obligatory

(*) In order to indicate the route of administration/exposure (r of exp) the combined R phrases listed under points 3.2.1, 3.2.2 and 3.2.3 of the labelling guide (Annex VI to Directive 67/548/EEC) shall be used.

2.2. *Gaseous preparations*

For gases that produce non-lethal irreversible effects after a single exposure (R 39/route of exposure, R 40/route of exposure), the individual concentration limits specified in Table II A, expressed as a volume/volume percentage, determine, when appropriate, the classification of the preparation.

TABLE II A

Classification of the substance (gas)	Classification of the gaseous preparation		
	T ⁺	T	X _n
T ⁺ with R 39/route of exposure	concentration $\geq$ 1 % R 39 (*) obligatory	0,2 % $\leq$ concentration < 1 % R 39 (*) obligatory	0,02 % $\leq$ concentration < 0,2 % R 40 (*) obligatory
T with R 39/route of exposure		concentration $\geq$ 5 % R 39 (*) obligatory	0,5 % $\leq$ concentration < 5 % R 40 (*) obligatory
X _n with R 40/route of exposure			concentration $\geq$ 5 % R 40 (*) obligatory

(*) In order to indicate the route of administration/exposure (r of exp) the combined R phrases listed under points 3.2.1, 3.2.2 and 3.2.3 of the labelling guide (Annex VI to Directive 67/548/EEC) shall be used.

3. Severe effects after repeated or prolonged exposure

3.1. Other than gaseous preparations

For substances that produce severe effects after repeated exposure (R 48/route of exposure), the individual concentration limits specified in Table III determine, when appropriate, the classification of the preparation.

TABLE III

Classification of the substance	Classification of the preparation	
	T	X _n
T with R 48/route of exposure	concentration $\geq$ 10 % R 48 (*) obligatory	1 % $\leq$ concentration < 10 % R 48 (*) obligatory
X _n with R 48/route of exposure		concentration $\geq$ 10 % R 48 (*) obligatory

(*) In order to indicate the route of administration/exposure (r of exp) the combined R phrases listed under points 3.2.1, 3.2.2 and 3.2.3 of the labelling guide (Annex VI to Directive 67/548/EEC) shall be used.

3.2. Gaseous preparations

For gases that produce severe effects after repeated or prolonged exposure (R 48/route of exposure), the individual concentration limits specified in Table III A below, expressed as a volume/volume percentage, determine, when appropriate, the classification of the preparation.

TABLE III A

Classification of the substance (gas)	Classification of the gaseous preparation	
	T	X _n
T with R 48/route of exposure	concentration $\geq$ 5 % R 48 (*) obligatory	0,5 % $\leq$ concentration < 5 % R 48 (*) obligatory
X _n with R 48/route of exposure		concentration $\geq$ 5 % R 48 (*) obligatory

(*) In order to indicate the route of administration/exposure (r of exp) the combined R phrases listed under points 3.2.1, 3.2.2 and 3.2.3 of the labelling guide (Annex VI to Directive 67/548/EEC) shall be used.

4. Corrosive and irritant effects including serious damage to eye

4.1. Other than gaseous preparations

For substances that produce corrosive effects (R 34, R 35) or irritant effects (R 36, R 37, R 38, R 41), the individual concentration limits specified in Table IV determine, when appropriate, the classification of the preparation.

TABLE IV

Classification of the substance	Classification of the preparation			
	C with R 35	C with R 34	X _i with R 41	X _i with R 36, R 37, R 38
C with R 35	concentration $\geq 10\%$ R 35 obligatory	$5\% \leq \text{concentration} < 10\%$ R 34 obligatory	(¹)	$1\% \leq \text{concentration} < 5\%$ R 36/38 obligatory
C with R 34		concentration $\geq 10\%$ R 34 obligatory	(¹)	$5\% \leq \text{concentration} < 10\%$ R 36/38 obligatory
X _i with R 41			concentration $\geq 10\%$ R 41 obligatory	$5\% \leq \text{concentration} < 10\%$ R 36 obligatory
X _i with R 36, R 37, R 38				concentration $\geq 20\%$ R 36, R 37, R 38 are obligatory in the light of the concentration present if they apply to the substances under consideration

(¹) According to the labelling guide (Annex VI to Directive 67/548/EEC), corrosive substances assigned risk phrases R 35 or R 34 must also be considered as assigned phrase R 41. Consequently, if the preparation contains corrosive substances with R 35 or R 34 below the concentration limits for a classification of the preparation as corrosive, such substances can contribute to a classification of the preparation as irritant (R 41) or irritant (R 36).

Therefore when the formulae of Article 3 (5) (f) (ii) and 3 (5) (h) (ii) of the present Directive are applied the following concentration limits must be used, unless different values are fixed in Annex I to Directive 67/548/EEC:

(a) when formula 5 (f) (ii) is applied the limit values for LX_i R 41 are:

- 10 % for the substances X_i R 41,
- 10 % for the substances C R 34,
- 5 % for the substances C R 35;

(b) when formula 5 (h) (ii) is applied the limit values for LX_i R 36 are:

- 20 % for the substances X_i R 36,
- 5 % for the substances X_i R 41,
- 5 % for the substances C R 34,
- 1 % for the substances C R 35.

4.2. Gaseous preparations

For gases that produce such effects (R 34, R 35 or R 36, R 37, R 38, R 41), the individual concentration limits specified in Table IV A below, expressed as a volume/volume percentage determine, when appropriate, the classification of the preparation.

TABLE IV A

Classification of the substance (gas)	Classification of the gaseous preparation			
	C with R 35	C with R 34	X _i with R 41	X _i with R 36, R 37, R 38
C with R 35	concentration $\geq 1\%$ R 35 obligatory	0,2 % $\leq$ concentration $< 1\%$ R 34 obligatory	(*)	0,02 % $\leq$ concentration $< 0,2\%$ R 37 obligatory
C with R 34		concentration $\geq 5\%$ R 34 obligatory	(*)	0,5 % $\leq$ concentration $< 5\%$ R 37 obligatory
X _i with R 41			concentration $\geq 5\%$ R 41 obligatory	0,5 % $\leq$ concentration $< 5\%$ R 36 obligatory
X _i with R 36, R 37, R 38				concentration $\geq 5\%$ R 36, R 37, R 38 obligatory as appropriate

(*) According to the labelling guide (Annex VI to Directive 67/548/EEC), corrosive substances assigned risk phrases R 35 or R 34 must also be considered as assigned phrase R 41. Consequently, if the preparation contains corrosive substances with R 35 or R 34 below the concentration limits for a classification of the preparation as corrosive, such substances can contribute to a classification of the preparation as irritant (R 41) or irritant (R 36).

Therefore when the formulae of Article 3 (5) (f) (ii) and 3 (5) (h) (ii) of the present Directive are applied the following concentration limits must be used, unless different values are fixed in Annex I to Directive 67/548/EEC:

(a) when formula 5 (f) (ii) is applied the limit values for LX, R 41 are:

- 5 % for the substances X_i R 41,
- 5 % for the substances C R 34,
- 0,2 % for the substances C R 35;

(b) when formula 5 (h) (ii) is applied the limit values for LX, R 36 are:

- 5 % for the substances X_i R 36,
- 0,5 % for the substances X_i R 41,
- 0,5 % for the substances C R 34,
- 0,02 % for the substances C R 35.

5. Sensitizing effects

5.1. Other than gaseous preparations

Substances that produce such effects are classified as sensitizing and assigned:

- the symbol X_n and phrase R 42 if this effect can be produced by inhalation,
- the symbol X_i and phrase R 43 if this effect can be produced through contact with the skin,
- the symbol X_n and phrase R 42/43 if this effect can be produced by inhalation and through contact with the skin.

The individual concentration limits specified in Table V determine, when appropriate, the classification of the preparation.

TABLE V

Classification of the substance	Classification of the preparation	
	sensitizing with R 42	sensitizing with R 43
sensitizing with R 42	concentration $\geq 1\%$ R 42 obligatory	
sensitizing with R 43		concentration $\geq 1\%$ R 43 obligatory
sensitizing with R 42/43	concentration $\geq 1\%$ R 42/43 obligatory	

5.2. *Gaseous preparations*

Gases that produce such effects are classified as sensitizing and assigned:

- the symbol X_n and phrase R 42 if this effect can be produced by inhalation,
- the symbol X_n and phrase R 42/43 if this effect can be produced by inhalation and through contact with the skin.

The individual concentration limits specified in Table V A below, expressed as a volume/volume percentage, determine, when appropriate, the classification of the preparation.

TABLE V A

Classification of the substance (gas)	Classification of the gaseous preparation	
	sensitizing with R 42	sensitizing with R 43
sensitizing with R 42	concentration $\geq 0,2\%$ R 42 obligatory	
sensitizing with R 42/43	concentration $\geq 0,2\%$ R 42/43 obligatory	

6. *Carcinogenic/mutagenic/toxic effects for reproduction*6.1. *Other than gaseous preparations*

For substances which produce such effects and for which specific concentration limits do not yet appear in Annex I to Directive 67/548/EEC, concentration limits laid down in Table VI shall determine, where appropriate, the classification of the preparation.

TABLE VI

Classification of the substance	Classification of the preparation	
	Categories 1 and 2	Category 3
carcinogenic substances of category 1 or 2 with R 45 or R 49	$\geq 0,1\%$ carcinogenic R 45, R 49 obligatory as appropriate	
carcinogenic substances of category 3 with R 40		$\geq 1\%$ carcinogenic R 40 obligatory
mutagenic substances of category 1 or 2 with R 46	$\geq 0,1\%$ mutagenic R 46 obligatory	
mutagenic substances of category 3 with R 40		$\geq 1\%$ mutagenic R 40 obligatory
substances 'toxic for reproduction' of category 1 or 2 with R 60 (fertility)	$\geq 0,5\%$ toxic for reproduction (fertility) R 60 obligatory	
substances 'toxic for reproduction' of category 3 with R 62 (fertility)		$\geq 5\%$ toxic for reproduction (fertility) R 62 obligatory
substances 'toxic for reproduction' of category 1 or 2 with R 61 (development)	$\geq 0,5\%$ toxic for reproduction (development) R 61 obligatory	
substances 'toxic for reproduction' of category 3 with R 63 (development)		$\geq 5\%$ toxic for reproduction (development) R 63 obligatory

6.2. *Gaseous preparations*

For gases which produce such effects and for which specific concentration limits do not yet appear in Annex I to Directive 67/548/EEC, the concentration limits laid down in Table VI A, expressed as a volume/volume percentage, shall determine, where appropriate, the classification of the preparation.

TABLE VI A

Classification of the substance (gas)	Classification of the preparation	
	Categories 1 and 2	Category 3
carcinogenic substances of category 1 or 2 with R 45 or R 49	$\geq 0,1 \%$ carcinogenic R 45, R 49 obligatory as appropriate	
carcinogenic substances of category 3 with R 40		$\geq 1 \%$ carcinogenic R 40 obligatory
mutagenic substances of category 1 or 2 with R 46	$\geq 0,1 \%$ mutagenic R 46 obligatory	
mutagenic substances of category 3 with R 40		$\geq 1 \%$ mutagenic R 40 obligatory
substances 'toxic for reproduction' of category 1 or 2 with R 60 (fertility)	$\geq 0,2 \%$ toxic for reproduction (fertility) R 60 obligatory	
substances 'toxic for reproduction' of category 3 with R 62 (fertility)		$\geq 1 \%$ toxic for reproduction (fertility) R 62 obligatory
substances 'toxic for reproduction' of category 1 or 2 with R 61 (development)	$\geq 0,2 \%$ toxic for reproduction (development) R 61 obligatory	
substances 'toxic for reproduction' of category 3 with R 63 (development)		$\geq 1 \%$ toxic for reproduction (development) R 63 obligatory

ANNEX II

PARTICULAR PROVISIONS CONCERNING CERTAIN PREPARATIONS

CHAPTER I

Particular provisions relating to labelling

A. Special provisions for preparations classified dangerous within the meaning of Article 3

1. Preparations sold to the general public

1.1. The labels on packages containing such preparations, in addition to the specific safety advice, must bear the relevant safety advice S 1, S 2, S 45 or S 46 in accordance with the criteria fixed in Annex VI to Directive 67/548/EEC.

1.2. When such preparations are classified as very toxic (T +), Toxic (T) or corrosive (C) and where it is physically impossible to give such information on the package itself, packages containing such preparations must be accompanied by precise and easily understandable instructions for use including, where appropriate, instructions for the destruction of the empty package.

2. Preparations intended for use by spraying

The package label containing such preparations must compulsorily bear the safety advice S 23 accompanied by one of the safety advice S 38 or S 51 assigned to it in accordance with the criteria fixed in Annex VI to Directive 67/548/EEC.

3. Preparations containing a substance affected by phrase R 33 : Danger of cumulative effects

When a preparation contains at least one substance affected by the phrase R 33, the label of the preparation must carry this phrase as it appears in Annex III to Directive 67/548/EEC, when the concentration of this substance present in the preparation is equal to or higher than 1 %, unless different values are fixed by Annex I to Directive 67/548/EEC.

4. Preparations containing a substance affected by phrase R 64 : May cause harm to breastfed babies

When a preparation contains at least one substance affected by the phrase R 64, the label of the preparation must carry this phrase as it appears in Annex III to Directive 67/548/EEC, when the concentration of this substance present in the preparation is equal to or higher than 1 %, unless different values are fixed by Annex I to Directive 67/548/EEC.

B. Special provisions for preparations irrespective of their classification within the meaning of Article 3

1. Preparations containing lead

1.1. Paints and varnishes

Labels of packages of paints and varnishes containing lead in quantities exceeding 0,15 % expressed as weight of metal, of the total weight of the preparation, as determined in accordance with ISO standard 6503/1984, must show the following particulars :

'Contains lead. Should not be used on surfaces liable to be chewed or sucked by children.' In the case of packages the contents of which are less than 125 millilitres, the particulars may be as follows :

'Warning. Contains lead.'

2. Preparations containing cyanocrylates

2.1. Adhesives

The immediate packaging of adhesives based on cyanocrylate must bear the following inscriptions :

'Cyanoacrylate.

Danger.

Bonds skin and eyes in seconds.

Keep out of the reach of children.'

Appropriate advice on safety must accompany the package.

3. Preparations containing isocyanates

The package labels of preparations containing isocyanates (as monomers, oligomers, prepolymers, etc., or as mixtures thereof) must bear the following inscriptions:

'Contains isocyanates.

See information supplied by the manufacturer.'

4. Preparations containing epoxy constituents with an average molecular weight ≤ 700

The package labels of preparations containing epoxy constituents with an average molecular weight ≤ 700 must bear the following inscriptions:

'Contains epoxy constituents.

See information supplied by the manufacturer.'

5. Preparations sold to the general public which contain active chlorine

The packaging of preparations containing more than 1 % of active chlorine must bear the following particular inscriptions:

'Warning! Do not use together with other products. May release dangerous gases (chlorine).'

6. Preparations containing cadmium (alloys) and intended to be used for brazing or soldering

The packaging of the abovementioned preparations must bear the following inscription printed in clearly legible and indelible characters:

'Warning! Contains cadmium.

Dangerous fumes are formed during use.

See information supplied by the manufacturer.

Comply with the safety instructions.'
