

Official Journal

of the European Communities

ISSN 0378-6978

L 36

Volume 33

8 February 1990

English edition

Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 320/90

of 5 February 1990

**laying down certain technical measures for the conservation of fishery resources
in the regulatory area as defined in the Convention on Future Multilateral
Cooperation in the Northwest Atlantic Fisheries**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources ⁽¹⁾, as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 2 of Regulation (EEC) No 170/83, it falls to the Council to formulate, in the light of the available scientific advice, the conservation measures necessary to achieve the aims set out in Article 1 of the said Regulation;

Whereas the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, hereinafter referred to as the 'NAFO Convention', was approved by the Council in its Regulation (EEC) No 3179/78 ⁽²⁾ and entered into force on 1 January 1979;

Whereas, in the framework of its wider international obligations, the Community participates in efforts to conserve fish stocks arising in international waters;

Whereas such conservation efforts should be assessed on the basis of relevant scientific data so as to permit the implementation of conservation measures suited to the biological situation of the stocks concerned;

Whereas the NAFO Fisheries Commission is responsible for the management and conservation of the fishery resources in the regulatory area;

Whereas that Commission adopted at the 11th Annual NAFO Meeting in September 1989 certain proposals

based on recommendations of the NAFO Scientific Council, concerning incidental catch limits as well as information on nominal catch, discards and length sampling in certain fisheries in the NAFO regulatory area;

Whereas it is for the Contracting Parties to take such action as may be necessary to implement any measures which become binding according to the provisions of the NAFO Convention and in particular to furnish to the scientific council statistical and scientific information;

Whereas Regulation (EEC) No 4055/89 ⁽³⁾ has fixed catch possibilities for 1990 for certain fish stocks and groups of fish stocks in the NAFO regulatory area, subject to the control measures provided for by Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities ⁽⁴⁾, as amended by Regulation (EEC) No 3483/88 ⁽⁵⁾ and by Council Regulation (EEC) No 1956/88 of 9 June 1988 adopting provisions for the application of the scheme of joint international inspection adopted by the Northwest Atlantic Fisheries Organization ⁽⁶⁾, and contains certain obligations concerning information to be entered into the logbook,

HAS ADOPTED THIS REGULATION:

Article 1

1. By-catches of the species set out in Annex I to Regulation (EEC) No 4055/89, taken in areas in which no allocation for directed fishing is provided for by that Regulation shall not exceed, for each of such species on board 2 500 kilograms of 10 % by weight of the total catch retained on board, whichever is the greater.

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 1.

⁽²⁾ OJ No L 378, 31. 12. 1978, p. 1.

⁽³⁾ OJ No L 389, 30. 4. 1989, p. 67.

⁽⁴⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 306, 11. 11. 1988, p. 2.

⁽⁶⁾ OJ No L 175, 6. 7. 1988, p. 1.

2. By-catches of the species set out in Annex I referred to in paragraph 1, taken in areas in which a ban on fishing is in force shall not exceed, for each of such species on board, 1 250 kilograms or 5 % by weight of the total catch retained on board, whichever is the greater.

Article 2

In order to secure advice on areal and seasonal concentrations of juvenile American plaice and yellowtail flounder in Division 3LNO in the regulatory area :

1. Member States shall provide, based upon the relevant entries in the logbook, as provided for by Article 2 of Regulation (EEC) No 4055/89, nominal catch and discard statistics, broken down by unit areas no larger than 1 ° latitude and 1 ° longitude, summarized on a monthly basis.
2. Length sampling shall be provided for both nominal catches and discards, with a sampling intensity on the same scale as adopted in (1) and summarized on a monthly basis.

Article 3

In order to assess the effects of cod by-catches in the redfish and flatfish fisheries on the Flemish Cap :

1. Member States shall provide, based upon the relevant entries in the logbook, as provided for by Article 2 of Regulation (EEC) No 4055/89 statistics on discards of

cod taken in the redfish and flatfish fisheries in the above area, in addition to the normal reports, summarized on a monthly basis.

2. Length sampling of cod taken in the redfish and flatfish fisheries in the above area, shall be provided for the two components separately, with depth information accompanying each sample, summarized on a monthly basis.

Article 4

1. Length samples shall be taken from all parts of the respective catch of each species concerned in such a manner that at least one statistically significant sample is taken from the first haul taken each day. The size of a fish shall be measured from the tip of the snout to the end of the tail fin.

2. For the purposes set out in Articles 2 and 3, length samples taken as described in this Regulation shall be deemed to be representative of all catches of the species concerned.

Article 5

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

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

Done at Brussels, 5 February 1990.

For the Council
The President
G. COLLINS

COMMISSION REGULATION (EEC) No 321/90

of 7 February 1990

fixing the import levies on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 201/90⁽²⁾, and in particular Article 13 (5) thereof,Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 1915/89⁽⁵⁾ and subsequent amending Regulations;

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

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

- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 6 February 1990;

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

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1915/89 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 8 February 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 22, 27. 1. 1990, p. 7.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 187, 1. 7. 1989, p. 1.

ANNEX

to the Commission Regulation of 7 February 1990 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levies	
	Portugal	Third country
0709 90 60	34,06	137,23 ^(?) ^(?)
0712 90 19	34,06	137,23 ^(?) ^(?)
1001 10 10	41,81	183,21 ^(?) ^(?)
1001 10 90	41,81	183,21 ^(?) ^(?)
1001 90 91	34,84	142,97
1001 90 99	34,84	142,97
1002 00 00	59,97	129,68 ^(?)
1003 00 10	51,14	119,72
1003 00 90	51,14	119,72
1004 00 10	42,54	123,92
1004 00 90	42,54	123,92
1005 10 90	34,06	137,23 ^(?) ^(?)
1005 90 00	34,06	137,23 ^(?) ^(?)
1007 00 90	51,14	142,27 ^(?)
1008 10 00	51,14	32,02
1008 20 00	51,14	85,57 ^(?)
1008 30 00	51,14	0,00 ^(?)
1008 90 10	(?)	(?)
1008 90 90	51,14	0,00
1101 00 00	62,80	214,18
1102 10 00	97,98	195,58
1103 11 10	79,49	298,66
1103 11 90	66,72	230,21

(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 486/85 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

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

(⁴) Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is reduced by 50 %.

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

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

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

COMMISSION REGULATION (EEC) No 322/90

of 7 February 1990

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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 201/90⁽²⁾, and in particular Article 15 (6) thereof,Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 1636/87⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1916/89⁽⁵⁾ and subsequent amending Regulations;

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

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

- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 6 February 1990;

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

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 Portugal shall be zero.
2. 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 8 February 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 22, 27. 1. 1990, p. 7.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.⁽⁵⁾ OJ No L 187, 1. 7. 1989, p. 4.

ANNEX

to the Commission Regulation of 7 February 1990 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 2	1st period 3	2nd period 4	3rd period 5
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	3,95
1001 10 90	0	0	0	3,95
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	1,44
1003 00 90	0	0	0	1,44
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	3,56
1008 90 90	0	0	0	3,56
1101 00 00	0	0	0	0

B. Malt

CN code	(ECU/tonne)				
	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	2,56	2,56
1107 10 99	0	0	0	1,92	1,92
1107 20 00	0	0	0	2,23	2,23

COMMISSION REGULATION (EEC) No 323/90

of 6 February 1990

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 3845/89⁽²⁾, and in particular Article 9 (1) (a) thereof,

Whereas Regulation (EEC) No 2658/87 established a goods nomenclature, hereinafter called the 'combined nomenclature', to meet, at one and the same time, the requirements both of the Common Customs Tariff and of the external trade statistics of the Community;

Whereas it has been found that application of Note 2 to Chapter 16 of the combined nomenclature could lead to classification problems for preparations containing liver; whereas generally in such preparations liver gives them their essential character without, however, predominating in terms of weight, whereas it is necessary, to ensure uniform interpretation and application of the combined nomenclature, to specify the rules for applying Note 2 to Chapter 16 by including an additional note;

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

HAS ADOPTED THIS REGULATION:

Article 1

The combined nomenclature annexed to Regulation (EEC) No 2658/87 is amended as follows: The following text is added in italics to Note 2 to Chapter 16:

'For preparations containing liver, the provisions of the second sentence shall not apply in determining the subheadings within codes 1601 and 1602.'

Article 2

This Regulation shall enter into force six weeks 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, 6 February 1990.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 374, 22. 12. 1989, p. 2.

COMMISSION REGULATION (EEC) No 324/90

of 7 February 1990

repealing Regulation (EEC) No 643/77 laying down rules for coupage and wine-making in free zones on the geographical territory of the Community in respect of wine products originating in third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine⁽¹⁾, as last amended by Regulation (EEC) No 1236/89⁽²⁾, and in particular Article 70 (8) thereof,Whereas since the Council has by Regulation (EEC) No 3885/89⁽³⁾ repealed with effect from 1 January 1990 Council Regulation (EEC) No 353/79 of 5 February 1979 laying down the conditions for coupage and wine-making in the free zones on Community territory for wine products originating in third countries⁽⁴⁾, which is no longer of practical value, Commission Regulation (EEC) No 643/77⁽⁵⁾ should also be repealed;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 643/77 is hereby repealed.

*Article 2*This Regulation shall enter into force on the first day following its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 January 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.⁽²⁾ OJ No L 128, 11. 5. 1989, p. 31.⁽³⁾ OJ No L 378, 27. 12. 1989, p. 11.⁽⁴⁾ OJ No L 54, 5. 3. 1979, p. 94.⁽⁵⁾ OJ No L 81, 30. 3. 1977, p. 7.

COMMISSION REGULATION (EEC) No 325/90

of 7 February 1990

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾,Having regard to Commission Regulation (EEC) No 1633/84 of 8 June 1984 laying down detailed rules for applying the variable slaughter premium for sheep and repealing Regulation (EEC) No 2661/80⁽²⁾, as last amended by Regulation (EEC) No 1075/89⁽³⁾, and in particular Articles 3 (1) and 4 (1) thereof,

Whereas the United Kingdom is the only country which grants the variable slaughter premium, in region 5, within the meaning of Article 22 (2) of Regulation (EEC) No 3013/89 whereas it is necessary therefore for the Commission to fix, for the week beginning 15 January 1990, the level of the premium and the amount to be charged on products leaving that region;

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

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

Whereas in the Annex to Commission Regulation (EEC) No 3618/89 of 1 December 1989 on the application of the guarantee limitation arrangements for sheepmeat and goatmeat⁽⁴⁾ the weekly amounts of the guide level are set out pursuant to Article 25 of Regulation (EEC) No 3013/89;

Whereas, pursuant to the provisions of Article 24 (2) and (3) of Regulation (EEC) No 3013/89, for the week beginning 15 January 1990, the variable slaughter premium for

sheep certified as eligible in the United Kingdom is to be in accordance with the amounts fixed in the Annexes hereto; whereas, for that week, in the light of the Judgment of the Court of Justice of 2 February 1988 in Case 61/86, the provisions of Article 9 (5) of Regulation (EEC) No 3013/89 and of Article 4 of Regulation (EEC) No 1633/84 lead to the amounts to be charged on products, leaving region 12, being fixed in accordance with those Annexes;

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

HAS ADOPTED THIS REGULATION:

Article 1

For sheep or sheepmeat certified as eligible in the United Kingdom in region 1, within the meaning of Article 22 (2) of Regulation (EEC) No 3013/89, for the variable slaughter premium during the week beginning 15 January 1990, the level of the premium is fixed at ECU 51,951 per 100 kilograms of estimated or actual dressed carcase weight within the limits laid down by Article 1 (1) (b) of Regulation (EEC) No 1633/84.

Article 2

For products referred to in Article 1 (a) and (c) of Regulation (EEC) No 3013/89 which left the territory of region 1 during the week beginning 15 January 1990, the amounts to be charged shall be equivalent to those fixed in the Annexes hereto.

Article 3

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

It shall apply with effect from 15 January 1990.

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 154, 9. 6. 1984, p. 27.

⁽³⁾ OJ No L 114, 27. 4. 1989, p. 13.

⁽⁴⁾ OJ No L 351, 2. 12. 1989, p. 18.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 7 February 1990 fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 1

(ECU/100 kg)

CN code	Amounts	
	A. Products qualifying for the premium specified in Article 24 of Regulation (EEC) No 3013/89	B. Products specified in Article 4 (4) of Regulation (EEC) No 1633/84 ⁽¹⁾
	Live weight	Live weight
0104 10 90	24,417	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	51,951	0
0204 21 00	51,951	0
0204 50 11		0
0204 22 10	36,366	
0204 22 30	57,146	
0204 22 50	67,536	
0204 22 90	67,536	
0204 23 00	94,551	
0204 30 00	38,963	
0204 41 00	38,963	
0204 42 10	27,274	
0204 42 30	42,859	
0204 42 50	50,652	
0204 42 90	50,652	
0204 43 00	70,913	
0204 50 13		0
0204 50 15		0
0204 50 19		0
0204 50 31		0
0204 50 39		0
0204 50 51		0
0204 50 53		0
0204 50 55		0
0204 50 59		0
0204 50 71		0
0204 50 79		0
0210 90 11	67,536	
0210 90 19	94,551	
1602 90 71 :		
— unboned (bone-in)	67,536	
— boned or boneless	94,551	

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

COMMISSION REGULATION (EEC) No 326/90
of 7 February 1990
altering the export refunds on white sugar and raw sugar exported in the natural state

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular the second subparagraph of Article 19 ⁽⁴⁾ thereof,

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 259/90 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 259/90 to the information known to the Commission that the export refunds at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EEC) No 259/90 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 February 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 30, 1. 2. 1990, p. 14.

ANNEX

to the Commission Regulation of 7 February 1990 altering the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	24,61 ⁽¹⁾	...
1701 11 90 910	24,79 ⁽¹⁾	...
1701 11 90 950	⁽²⁾	...
1701 12 90 100	24,61 ⁽¹⁾	...
1701 12 90 910	24,79 ⁽¹⁾	...
1701 12 90 950	⁽²⁾	...
1701 91 00 000		0,2675
1701 99 10 100	26,75	
1701 99 10 910	26,95	
1701 99 10 950	26,95	
1701 99 90 100		0,2675

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

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

COMMISSION REGULATION (EEC) No 327/90
of 7 February 1990

fixing the maximum export refund for white sugar for the 40th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 999/89

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

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 1069/89⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 999/89 of 17 April 1989 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, as amended by Regulation (EEC) No 1381/89⁽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 999/89, 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 40th partial invitation to tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 40th partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 999/89 the maximum amount of the export refund is fixed at ECU 29,755 per 100 kilograms.

Article 2

This Regulation shall enter into force on 8 February 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 107, 19. 4. 1989, p. 6.

⁽⁴⁾ OJ No L 139, 23. 5. 1989, p. 5.

COMMISSION REGULATION (EEC) No 328/90

of 7 February 1990

abolishing the countervailing charge on cabbage lettuce originating in the
United States of America

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

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

Having regard to Council Regulation (EEC) No 1035/72
of 18 May 1972 on the common organization of the
market in fruit and vegetables ⁽¹⁾, as last amended by
Regulation (EEC) No 1119/89 ⁽²⁾, and in particular the
second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 293/90 ⁽³⁾
introduced a countervailing charge on cabbage lettuce
originating in the United States of America;

Whereas the present trend of prices for products origina-
ting in the United States of America on the representative
markets referred to in Commission Regulation (EEC) No
2118/74 ⁽⁴⁾, as last amended by Regulation (EEC) No

3811/85 ⁽⁵⁾, recorded or calculated in accordance with the
provisions of Article 5 of that Regulation, indicated that
entry prices have been at least equal to the reference price
for two consecutive market days; whereas the conditions
specified in the second indent of Article 26 (1) of Regula-
tion (EEC) No 1035/72 are therefore fulfilled and the
countervailing charge on imports of these products origi-
nating in the United States of America can be abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 293/90 is hereby repealed.

Article 2

This Regulation shall enter into force on 8 February 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽³⁾ OJ No L 31, 2. 2. 1990, p. 24.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

COMMISSION REGULATION (EEC) No 329/90
of 7 February 1990
applying the duty in the Common Customs Tariff to fresh lemons originating in
Cyprus

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1252/73 of 14 May 1973 on imports of citrus fruits originating in Cyprus⁽¹⁾, and in particular Article 5 thereof;

Whereas Article 5 (2) and (3) of Annex I to the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus provides for a reduced rate of duty on imports into the Community of fresh lemons originating in Cyprus; whereas, during the period in which reference prices are applied, this reduction is dependent on the observance of a specified price on the Community market; whereas detailed rules for the application of this system are contained in Regulation (EEC) No 1252/73; whereas, in certain respects, these rules refer to provisions of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽²⁾ as last amended by Regulation (EEC) No 1119/89⁽³⁾;

Whereas Regulation (EEC) No 1252/73 provides that, where products are imported, the duty in the Common Customs Tariff is applied where quotations for that product, in accordance with the provisions of Article 24 (2) of Regulation (EEC) No 1035/72 recorded on the representative Community markets at the importer/wholesaler stage or converted to that stage, adjusted by the conversion factors and following deduction of import charges other than customs duties, remain lower than the reference price in force, plus the incidence of the Common Customs Tariff on that price and a standard amount fixed at 1,2 units of account (1,44 ECU) per 100 kilograms, for three consecutive market days on the representative markets of the Community with the lowest quotations;

Whereas the conversion factors and import charges other than customs duties are those used for the purpose of calculating the entry price referred to in Regulation (EEC) No 1035/72; whereas the method of calculating import charges other than customs duties is, for certain cases, defined in Article 2 of Regulation (EEC) No 1252/73;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁴⁾, as last amended by Regulation (EEC) No 1636/87⁽⁵⁾,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent and the aforesaid coefficient;

Whereas application of these rules to quotations recorded for lemons imported into the Community and originating in Cyprus indicates that the conditions set out in the first paragraph of Article 4 of Regulation (EEC) No 1252/73 are fulfilled; whereas the duty in the Common Customs Tariff should, therefore, be applied to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

As from 9 February 1990, the duty in the Common Customs Tariff shall be applied to fresh lemons CN code ex 0805 30 10 imported into the Community and originating in Cyprus.

Article 2

This Regulation shall enter into force on 9 February 1990.

⁽¹⁾ OJ No L 133, 21. 5. 1973, p. 113.

⁽²⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽³⁾ OJ No L 118, 29. 4. 1989, p. 12.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 153, 13. 6. 1987, p. 1.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 330/90
of 7 February 1990
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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1920/89 ⁽³⁾, as last amended by Regulation (EEC) No 290/90 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1920/89 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,

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 8 February 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 187, 1. 7. 1989, p. 13.

⁽⁴⁾ OJ No L 31, 2. 2. 1990, p. 19.

ANNEX

to the Commission Regulation of 7 February 1990 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy
1701 11 10	29,78 ⁽¹⁾
1701 11 90	29,78 ⁽¹⁾
1701 12 10	29,78 ⁽¹⁾
1701 12 90	29,78 ⁽¹⁾
1701 91 00	33,86
1701 99 10	33,86
1701 99 90	33,86 ⁽²⁾

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the levy applicable is calculated in accordance with the provisions of Article 2 of Commission Regulation (EEC) No 837/68 (OJ No L 151, 30. 6. 1968, p. 42).

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

COMMISSION REGULATION (EEC) No 331/90
of 7 February 1990
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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the market in sugar ⁽¹⁾, as last amended by Regulation (EEC) No 1069/89 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levy on molasses was fixed by Commission Regulation (EEC) No 1898/89 ⁽³⁾, as last amended by Regulation (EEC) No 276/90 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 1898/89 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,

HAS ADOPTED THIS REGULATION:

Article 1

The import levy referred to in Article 16 (1) of amended Regulation (EEC) No 1785/81 shall be, in respect of molasses falling within CN codes 1703 10 00 and 1703 90 00, ECU 1,62 per 100 kilograms.

Article 2

This Regulation shall enter into force on 8 February 1990.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 114, 27. 4. 1989, p. 1.

⁽³⁾ OJ No L 184, 30. 6. 1989, p. 10.

⁽⁴⁾ OJ No L 30, 1. 2. 1990, p. 56.

COMMISSION REGULATION (EEC) No 332/90

of 7 February 1990

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 the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 201/90⁽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 1806/89⁽⁴⁾, and in particular Article 12 (4) thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽⁵⁾, as last amended by Regulation (EEC) No 1636/87⁽⁶⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 217/90⁽⁷⁾, as last amended by Regulation (EEC) No 319/90⁽⁸⁾;

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

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

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 22, 27. 1. 1990, p. 7.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 177, 24. 6. 1989, p. 1.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁷⁾ OJ No L 22, 27. 1. 1990, p. 48.

⁽⁸⁾ OJ No L 35, 7. 2. 1990, p. 18.

⁽⁹⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 65.

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

— for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded over a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 6 February 1990;

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⁽¹¹⁾, as last amended by Regulation (EEC) No 1740/78⁽¹²⁾, 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 amended Regulation (EEC) No 217/90 are hereby altered to the amounts set out in the Annex.

Article 2

This Regulation shall enter into force on 8 February 1990.

⁽¹¹⁾ OJ No L 168, 25. 6. 1974, p. 7.

⁽¹²⁾ OJ No L 202, 26. 7. 1978, p. 8.

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

Done at Brussels, 7 February 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 7 February 1990 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CN code	Import levies		
	Portugal	ACP or OCT	Third countries (other than ACP or OCT)
1102 90 90	54,58	144,03	147,05
1103 19 90	54,58	144,03	147,05
1103 29 90	54,58	144,03	147,05
1104 19 99	97,03	254,18	260,22
1104 29 19	83,90	225,94	228,96
1104 29 39	83,90	225,94	228,96
1104 29 99	54,58	144,03	147,05

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 17 January 1990

authorizing Member States temporarily to take additional measures as regards Denmark against the dissemination of *Corynebacterium sepedonicum* and repealing Decision 88/36/EEC

(90/52/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products⁽¹⁾, as last amended by Directive 89/439/EEC⁽²⁾, and in particular Article 15 (2) thereof,

Having regard to Council Directive 80/665/EEC of 24 June 1980 on the control of potato ring rot⁽³⁾, and in particular Article 9 (2) thereof,

Whereas, where a Member State considers that there is an imminent danger of the introduction into its territory of potato ring rot from another Member State, it may temporarily take any additional measures necessary to protect itself from that danger;

Whereas a Member State may also take such measures where another Member State informs it of confirmed contamination by potato ring rot;

Whereas France, Ireland, the Netherlands and the United Kingdom had notified the other Member States and the Commission that they maintained or adopted measures

concerning the introduction into their territories of potatoes originating in Denmark, because of potato ring rot known to occur there;

Whereas it was well known that potato ring rot had occurred in Denmark for more than 25 years;

Whereas Denmark implemented an eradication programme;

Whereas, in particular, since 1984 the entire potato stock material was renewed by cleaned and healthy material; whereas since 1986 both seed potatoes may be produced in Denmark only where they derive from such cleaned and healthy stock material;

Whereas, moreover, Denmark set up appropriate production, processing and distribution structures, aimed at preventing reinfections of potatoes produced under the above conditions;

Whereas the results of intensive official surveys, including testing carried out in accordance with the established Community method for the detection and diagnosis of *Corynebacterium sepedonicum*, carried out in Denmark on potatoes harvested there since 1986, justified the conclusion that potatoes produced in Denmark at least since 1986 could be deemed to be free from potato ring rot;

Whereas the Commission, by Decision 88/36/EEC⁽⁴⁾, authorized the aforementioned Member States to take temporarily precautionary measures described therein;

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 212, 22. 7. 1989, p. 106.

⁽³⁾ OJ No L 180, 14. 7. 1980, p. 30.

⁽⁴⁾ OJ No L 20, 26. 1. 1988, p. 33.

Whereas Denmark informed the other Member States and the Commission that samples of the 1988 ware potato production showed a confirmed contamination by potato ring rot, including those of a consignment introduced into another Member State;

Whereas it has not yet been possible to identify the precise source of contamination;

Whereas in that situation Decision 88/36/EEC should be repealed and the necessary measures should be adopted;

Whereas these measures have to take into account the production and distribution structured in Denmark; whereas these measures should complete the control patterns which Denmark has set up under Directive 80/665/EEC in respect of its entire potato production, and they would be without prejudice to the phytosanitary inspections which may be carried out by the introducing Member States under the Community plant health regime;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

1. Denmark shall ensure, until 30 June 1991, that the conditions laid down in paragraph 2 are met, in addition to those laid down in Directive 80/665/EEC and in particular Articles 2, 5 (4) and (5) thereof, if tubers of potatoes (*Solanum tuberosum* L.) originating in Denmark are to be introduced into other Member States.

2. For the purposes of paragraph 1, the following conditions shall be met:

(a) The tubers:

(aa) in the case of seed potatoes:

- shall have derived in direct line from officially approved disease-free tubers obtained under an appropriate programme, and
- shall not have been in contact with potatoes otherwise derived, or with fields, or, unless disinfected, with stores or machinery which have been in contact with such potatoes since 1985, and
- shall have been produced on premises where no potatoes other than seed potatoes have been produced since 1989,
- shall have been subjected to official testing in accordance with the Community established method for the detection and diagnosis of *Corynebacterium sepedonicum*, on a sample of at least 200 tubers per 25 tonnes or less

drawn officially per grower from each lot before any possible blending with tubers from other growers and removal from the premises of the grower or packing station and preferably before cleaning and packing, and shall have been found free, in this testing, from potato ring rot, and

- shall have been officially marked with an official bag identification mark;

(bb) in the case of ware potatoes intended for consumption:

- shall be packed in closed packages that are ready for direct delivery to retailers or to final consumers, and that do not exceed a weight common in the Member State of destination for that purpose, to the maximum of 25 kilograms, and
- shall be intended for such direct delivery, and
- shall not have been in contact with potatoes or with fields, or, unless disinfected, with stores or machinery which have been in contact with potatoes which have shown in 1989 a confirmed contamination by potato ring rot and,
- shall have derived directly from material which has originated from officially approved disease-free tubers obtained under an appropriate programme and shall have been subjected themselves to official testing in accordance with the Community established method for the detection and diagnosis of *Corynebacterium sepedonicum*, on a sample officially drawn of at least 200 tubers per lot of 25 tonnes or less, and which has been found free in this testing from potato ring rot;

(cc) in the case of ware potatoes for industrial processing:

- belong to varieties suitable for that purpose, and
- shall be intended for direct and immediate delivery to a processing plant with officially approved facilities for waste disposal.

(b) The phytosanitary certificate required under Directive 77/93/EEC, shall indicate, under the headings:

— 'Additional declaration':

'Compliance with provisions according to Article 1 (2) of Commission Decision 90/52/EEC assured', completed by the precise reference to the appropriate cases, as well as the name of the variety; in the case of testing of samples drawn from lots intended to be introduced into the other Member States concerned, the reference number of the sample shall also be indicated,

— 'Distinguishing marks':

'Number of the consignment and the related official bag identification mark'.

- (c) If the Danish Plant Protection Service is officially informed of any further circumstances constituting a serious reason to believe that the available guarantees have not been, or are no longer sufficient to prevent the risk referred to in this Decision, that Service shall withhold or withdraw the certificate or certificates until such time as the matter has been fully investigated, and Denmark shall inform the Commission thereof.

3. The Member States of destination:

- shall subject consignments from Denmark to official monitoring to ensure that the packages are not opened before the intended delivery and that the tubers until final delivery will not be in contact with fields, potato stores or any machinery for handling of locally grown potatoes, and, in the case of ware potatoes for industrial processing, to official monitoring to ensure such direct and immediate delivery to the intended processing plant,
- may subject such consignments to a testing as described in paragraph 2 (a) (aa), fourth indent,
- shall notify the other Member States and the Commission of the type of facilities officially approved for the purposes of the second indent of paragraph 2 (a) (cc).

4. Further appropriate steps may be taken to carry out official monitoring to ensure that the conditions laid down in paragraph 2 are met.

Article 2

Member States shall adjust the measures, which they adopted with a view to protecting themselves against the introduction or the spread of *Corynebacterium sepedonicum*, in such a manner that they comply with Article 1.

Article 3

This Decision shall be repealed or amended if and when a case of potato ring rot is detected on potatoes originating in Denmark under Directive 80/665/EEC, or on the potatoes introduced into other Member States pursuant to this Decision.

Article 4

Decision 88/36/EEC is hereby repealed.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 17 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION DECISION

of 17 January 1990

authorizing Member States temporarily to take additional measures against the dissemination of *Corynebacterium sepedonicum* as regards the Federal Republic of Germany and repealing Decision 88/127/EEC

(90/53/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products ⁽¹⁾, as last amended by Directive 89/439/EEC ⁽²⁾, and in particular Article 15 (2) thereof,

Having regard to Council Directive 80/665/EEC of 24 June 1980 on the control of potato ring rot ⁽³⁾, and in particular Article 9 (2) thereof,

Whereas, where a Member State considers that there is an imminent danger of the introduction into its territory of potato ring rot from another Member State, it may temporarily take any additional measures necessary to protect itself from that danger;

Whereas a Member State may also take such measures where another Member State informs it of confirmed contamination by potato ring rot;

Whereas the Federal Republic of Germany informed the other Member States and the Commission on 13 September 1985 that samples of potatoes originating in Niedersachsen were suspected to be contaminated by potato ring rot; whereas complementary reports supplied by Germany indicated that five samples of the 1986 potato production of that Land showed a confirmed contamination by potato ring rot;

Whereas Belgium, France, Ireland, Luxembourg, the Netherlands and the United Kingdom, on the basis of the abovementioned information from Germany, had adopted certain additional measures applicable to potatoes originating in Germany, with a view to strengthening protection against the introduction of potato ring rot from Germany;

Whereas the Commission, by Decision 88/127/EEC ⁽⁴⁾, authorized the aforementioned Member States to take

temporarily certain additional measures described therein;

Whereas Germany informed the other Member States and the Commission that new samples of the 1988 potato production of Niedersachsen und Schleswig-Holstein showed a confirmed contamination by potato ring rot, including those of a consignment introduced into another Member State;

Whereas it has not yet been possible to identify the source of contamination nor to determine the extent thereof in the Länder concerned;

Whereas in that situation Decision 88/127/EEC should be repealed and the necessary measures should be adopted;

Whereas these measures have to take into account the production and distribution structures in Germany, as well as the reduced risk involved in potatoes for which it is ensured that they are not planted and that they do not come directly or indirectly into contact with potatoes to be planted; whereas hitherto no findings of potato ring rot have been confirmed in other Länder of Germany; whereas the measures would be without prejudice to the phytosanitary inspections which may be carried out by the introducing Member States under the Community plant health regime;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

1. The Federal Republic of Germany shall ensure, until 30 June 1991, that the conditions laid down in paragraph 2 are met, in addition to those laid down in Directive 80/665/EEC and in particular Articles 2, 5 (4) and (5) thereof, if tubers of potatoes (*Solanum tuberosum* L.) originating in the Federal Republic of Germany are to be introduced into other Member States.

2. For the purposes of paragraph 1, the following conditions shall be met:

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 212, 22. 7. 1989, p. 106.

⁽³⁾ OJ No L 180, 14. 7. 1980, p. 30.

⁽⁴⁾ OJ No L 63, 9. 3. 1988, p. 13.

(a) The tubers :

(aa) in the case of seed potatoes originating in Niedersachsen and Schleswig-Holstein :

- shall have derived in direct line from officially approved disease-free tubers obtained under an appropriate programme, and
- shall not have been in contact with potatoes otherwise derived, or with fields, or, unless disinfected, with stores or machinery which have been in contact with such potatoes since 1986, and
- shall not have derived from material of any stage subsequent to the aforementioned disease-free tubers that has failed to meet the requirements specified in the previous indent in the relevant year,
- shall have been produced on premises where no potatoes other than seed potatoes have been produced since 1989,
- shall have been subjected to official or officially supervised independent testing in accordance with the Community established method for the detection and diagnosis of *Corynebacterium sepedonicum*, on a sample of at least 200 tubers per 25 tonnes or less drawn officially per grower from each lot before any possible blending with tubers from other growers and removal from the premises of the grower or the packing station and preferably before cleaning and packing, and shall have been found free, in this testing, from potato ring rot, and
- shall have been officially marked with an official bag identification mark ;

(bb) in the case of seed potatoes originating in Länder other than those referred to in (aa) :

- shall not have derived from, nor been in contact with potatoes originating in the Länder referred to in (aa) or with fields, or, unless disinfected with stores or machinery which have been in contact with potatoes originating in those Länder since 1986, or
- shall have been subjected to official or officially supervised independent testing as described in (aa), and shall have been found free, in this testing, from potato ring rot ;

(cc) in the case of ware potatoes for consumption :

- shall be packed in closed packages that are ready for direct delivery to retailers or to final consumers, and that do not exceed a weight

common in the Member State of destination for that purpose, up to a maximum of 25 kilograms, and

— shall be intended for such direct delivery, and

— if they originate in the Länder referred to in (aa) or if it cannot be established that they either have not derived from, or have not been in contact with potatoes originating in those Länder shall have derived directly from material which has been subjected to official or officially supervised independent testing in accordance with the Community established method for the detection and diagnosis of *Corynebacterium sepedonicum*, on a sample officially drawn of at least 200 tubers per lot of 25 tonnes or less, and which has been found free in this testing from potato ring rot and shall have been subjected themselves to such a testing and found free in this testing, from potato ring rot, and

— in all other cases, shall have been produced and stored in a zone in which samples officially drawn at random have been subjected to such testing and found free, in this testing, from potato ring rot ;

(dd) in the case of ware potatoes for industrial processing :

— belong to varieties suitable for that purpose, and

— shall be intended for direct and immediate delivery to a processing plant with officially approved facilities for waste disposal.

(b) The phytosanitary certificate required under Directive 77/93/EEC, shall indicate, under the headings :

— 'Additional Declaration' :

'Compliance with provisions according to Article 1 (2) of Commission Decision 90/53/EEC assured', completed by the precise reference to the appropriate cases, as well as the name of the variety and the Land of production ; in the case of testing of samples drawn from lots intended to be introduced into the other Member States concerned, the reference number of the sample and the station where the testing was carried out shall also be indicated,

— 'Distinguishing marks' ;

'Number of the consignment and the related official bag identification mark'.

(c) If the organization responsible in the Land of production for the issuing of the phytosanitary certificate is officially informed of any further circumstances constituting a serious reason to believe that the available guarantees have not been, or are no longer sufficient to prevent the risk referred to in this Decision, that organization shall withhold or withdraw the certificate or certificates until such time as the matter has been fully investigated, and Germany shall inform the Commission thereof.

3. The Member States of destination :

- shall subject consignments from Germany to official monitoring to ensure that the packages are not opened before the intended delivery and that the tubers until final delivery will not be in contact with fields, potato stores or any machinery for handling of locally grown potatoes, and, in the case of ware potatoes for industrial processing, to official monitoring to ensure direct and immediate delivery to the intended processing plant ;
- may subject such consignments to a testing as described in paragraph 2 (a) (aa), fifth indent ;
- shall notify the other Member States and the Commission of the type of facilities officially approved for the purposes of the second indent of paragraph 2 (a) (dd).

4. Further appropriate steps may be taken to carry out official monitoring to ensure that the conditions laid down in paragraph 2 are met.

Article 2

The Member States shall adjust the measures, which they adopted with a view to protecting themselves against the introduction or the spread of *Corynebacterium sepedonicum*, in such a manner that they comply with Article 1.

Article 3

This Decision shall be repealed or amended if and when a case of potato ring rot is detected on potatoes originating in Germany either in surveys carried out in Länder other than Niedersachsen and Schleswig-Holstein pursuant to Directive 80/665/EEC or on potatoes introduced into other Member States pursuant to this Decision.

Article 4

Decision 88/127/EEC is hereby repealed.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 17 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission