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## Legislation

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## I

*(Acts whose publication is obligatory)*

# COMMISSION REGULATION (EEC) No 445/90

of 22 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<sup>(1)</sup>, as last amended by Regulation (EEC) No 201/90<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 1636/87<sup>(4)</sup>, 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<sup>(5)</sup> 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 21 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 23 February 1990.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 22, 27. 1. 1990, p. 7.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 153, 13. 6. 1987, p. 1.

<sup>(5)</sup> OJ No L 187, 1. 7. 1989, p. 1.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

# ANNEX

to the Commission Regulation of 22 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    | 134,83 <sup>(2)</sup> <sup>(3)</sup> |
| 0712 90 19 | 34,06    | 134,83 <sup>(2)</sup> <sup>(3)</sup> |
| 1001 10 10 | 41,81    | 181,78 <sup>(1)</sup> <sup>(3)</sup> |
| 1001 10 90 | 41,81    | 181,78 <sup>(1)</sup> <sup>(3)</sup> |
| 1001 90 91 | 34,84    | 143,87                               |
| 1001 90 99 | 34,84    | 143,87                               |
| 1002 00 00 | 59,97    | 131,51 <sup>(4)</sup>                |
| 1003 00 10 | 51,14    | 116,45                               |
| 1003 00 90 | 51,14    | 116,45                               |
| 1004 00 10 | 42,54    | 122,91                               |
| 1004 00 90 | 42,54    | 122,91                               |
| 1005 10 90 | 34,06    | 134,83 <sup>(2)</sup> <sup>(3)</sup> |
| 1005 90 00 | 34,06    | 134,83 <sup>(2)</sup> <sup>(3)</sup> |
| 1007 00 90 | 51,14    | 140,07 <sup>(4)</sup>                |
| 1008 10 00 | 51,14    | 31,01                                |
| 1008 20 00 | 51,14    | 84,80 <sup>(4)</sup>                 |
| 1008 30 00 | 51,14    | 0,00 <sup>(3)</sup>                  |
| 1008 90 10 | (7)      | (7)                                  |
| 1008 90 90 | 51,14    | 0,00                                 |
| 1101 00 00 | 62,80    | 216,31                               |
| 1102 10 00 | 97,98    | 198,14                               |
| 1103 11 10 | 79,49    | 297,56                               |
| 1103 11 90 | 66,72    | 232,51                               |

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

<sup>(2)</sup> 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'.

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

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

<sup>(5)</sup> 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.

<sup>(6)</sup> 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).

<sup>(7)</sup> 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 446/90

of 22 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<sup>(1)</sup>, as last amended by Regulation (EEC) No 201/90<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 1636/87<sup>(4)</sup>, 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<sup>(5)</sup> 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 21 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 23 February 1990.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 22, 27. 1. 1990, p. 7.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 153, 13. 6. 1987, p. 1.

<sup>(5)</sup> OJ No L 187, 1. 7. 1989, p. 4.

## ANNEX

to the Commission Regulation of 22 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<br>2 | 1st period<br>3 | 2nd period<br>4 | 3rd period<br>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               | 4,30            |
| 1003 00 90 | 0            | 0               | 0               | 4,30            |
| 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               | 1,15            |
| 1008 10 00 | 0            | 0               | 0               | 0               |
| 1008 20 00 | 0            | 3,61            | 3,61            | 3,61            |
| 1008 30 00 | 0            | 0               | 0               | 3,61            |
| 1008 90 90 | 0            | 0               | 0               | 3,61            |
| 1101 00 00 | 0            | 0               | 0               | 0               |

## B. Malt

| CN code    | (ECU/tonne)  |                 |                 |                 |                 |
|------------|--------------|-----------------|-----------------|-----------------|-----------------|
|            | Current<br>2 | 1st period<br>3 | 2nd period<br>4 | 3rd period<br>5 | 4th period<br>6 |
| 1107 10 11 | 0            | 0               | 0               | 0               | 0               |
| 1107 10 19 | 0            | 0               | 0               | 0               | 0               |
| 1107 10 91 | 0            | 0               | 0               | 7,65            | 7,65            |
| 1107 10 99 | 0            | 0               | 0               | 5,72            | 5,72            |
| 1107 20 00 | 0            | 0               | 0               | 6,67            | 6,67            |

## COMMISSION REGULATION (EEC) No 447/90

of 22 February 1990

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EEC) No 2902/89<sup>(2)</sup>, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria<sup>(3)</sup>, as last amended by Regulation (EEC) No 4014/88<sup>(4)</sup>, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco<sup>(5)</sup>, as last amended by Regulation (EEC) No 4015/88<sup>(6)</sup>, and in particular Article 5 thereof,

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

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey<sup>(9)</sup>, as last amended by Regulation (EEC) No 4016/88<sup>(10)</sup>, and in particular Article 10 (2) thereof,

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

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

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

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

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 19 and 20 February 1990 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

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

*Article 3*

This Regulation shall enter into force on 23 February 1990.

<sup>(13)</sup> OJ No L 331, 28. 11. 1978, p. 6.

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

<sup>(2)</sup> OJ No L 280, 29. 9. 1989, p. 2.

<sup>(3)</sup> OJ No L 169, 28. 6. 1976, p. 24.

<sup>(4)</sup> OJ No L 358, 27. 12. 1988, p. 1.

<sup>(5)</sup> OJ No L 169, 28. 6. 1976, p. 43.

<sup>(6)</sup> OJ No L 358, 27. 12. 1988, p. 2.

<sup>(7)</sup> OJ No L 169, 28. 6. 1976, p. 9.

<sup>(8)</sup> OJ No L 48, 26. 2. 1986, p. 1.

<sup>(9)</sup> OJ No L 142, 9. 6. 1977, p. 10.

<sup>(10)</sup> OJ No L 358, 27. 12. 1988, p. 3.

<sup>(11)</sup> OJ No L 181, 21. 7. 1977, p. 4.

<sup>(12)</sup> OJ No L 370, 30. 12. 1978, p. 60.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX I

## Minimum import levies on olive oil

*(ECU/100 kg)*

| CN code    | Non-member countries  |
|------------|-----------------------|
| 1509 10 10 | 75,00 <sup>(1)</sup>  |
| 1509 10 90 | 75,00 <sup>(1)</sup>  |
| 1509 90 00 | 87,00 <sup>(2)</sup>  |
| 1510 00 10 | 77,00 <sup>(1)</sup>  |
| 1510 00 90 | 122,00 <sup>(2)</sup> |

<sup>(1)</sup> For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

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

<sup>(2)</sup> For imports of oil falling within this CN code :

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

<sup>(3)</sup> For imports of oil falling within this CN code :

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

## ANNEX II

## Import levies on other olive oil sector products

*(ECU/100 kg)*

| CN code    | Non-member countries |
|------------|----------------------|
| 0709 90 39 | 16,50                |
| 0711 20 90 | 16,50                |
| 1522 00 31 | 37,50                |
| 1522 00 39 | 60,00                |
| 2306 90 19 | 6,16                 |

**COMMISSION REGULATION (EEC) No 448/90  
of 22 February 1990**

**adjusting the agricultural conversion rates for the pigmeat sector in Greece**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

as to avoid the creation of new monetary compensatory amounts ;

Having regard to the Treaty establishing the European Economic Community,

Having regard to Commission Regulation (EEC) No 3578/88 of 17 November 1988 laying down detailed rules for the application of the system for the automatic dismantlement of negative monetary compensatory amounts <sup>(1)</sup>, as amended by Regulation (EEC) No 3063/89 <sup>(2)</sup>, and in particular Article 7 (1) thereof,

Whereas Article 6a of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture <sup>(3)</sup>, as last amended by Regulation (EEC) No 1889/87 <sup>(4)</sup>, lays down that the agricultural conversion rates of a Member State should be adjusted so

Whereas the movement of the market rate for the Greek drachma during the reference period 14 to 20 February 1990 should, given the adjustment of the agricultural conversion rate determined by Council Regulation (EEC) No 1678/85 <sup>(5)</sup>, as last amended by Regulation (EEC) No 380/90 <sup>(6)</sup>, entail, in accordance with Article 2 of Commission Regulation (EEC) No 3153/85 <sup>(7)</sup>, as last amended by Regulation (EEC) No 3118/89 <sup>(8)</sup>, an increase in the monetary compensatory amounts applicable in the pigmeat sector in Greece effective from 26 February 1990 ; whereas in order to prevent this it is necessary to adjust the agricultural conversion rate so as to prevent the creation of these new monetary compensatory amounts having regard to the criteria in Article 7 of Regulation (EEC) No 3578/88,

HAS ADOPTED THIS REGULATION :

*Article 1*

In Annex IV to Regulation (EEC) No 1678/85, the line relating to pigmeat is hereby replaced by the following :

| Products | Agricultural conversion rates |                  |                  |                  |
|----------|-------------------------------|------------------|------------------|------------------|
|          | ECU 1 =<br>Dr...              | Applicable until | ECU 1 =<br>Dr... | Applicable from  |
| Pigmeat  | 211,260                       | 25 February 1990 | 213,206          | 26 February 1990 |

*Article 2*

This Regulation shall enter into force on 26 February 1990.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 312, 18. 11. 1988, p. 16.

<sup>(2)</sup> OJ No L 293, 12. 10. 1989, p. 34.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 6.

<sup>(4)</sup> OJ No L 182, 3. 7. 1987, p. 1.

<sup>(5)</sup> OJ No L 164, 24. 6. 1985, p. 11.

<sup>(6)</sup> OJ No L 41, 15. 2. 1990, p. 16.

<sup>(7)</sup> OJ No L 310, 21. 11. 1985, p. 4.

<sup>(8)</sup> OJ No L 300, 18. 10. 1989, p. 13.

**COMMISSION REGULATION (EEC) No 449/90**  
**of 22 February 1990**  
**fixing additional amounts for poultrymeat products**

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

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

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat <sup>(1)</sup>, as last amended by the Regulation (EEC) No 1235/89 <sup>(2)</sup>, and in particular Article 8 (4) thereof,

Whereas if, for a given product, the free-at-frontier offer price (hereinafter called the 'offer price') falls below the sluice-gate price, the levy applicable to that product must be increased by an additional amount equal to the difference between the sluice-gate price and the offer price determined in accordance with Article 1 of Commission Regulation No 163/67/EEC of 26 June 1967 on fixing the additional amount for imports of poultry-farming products from third countries <sup>(3)</sup>, as last amended by Regulation (EEC) No 3116/89 <sup>(4)</sup>;

Whereas the offer price must be determined for all imports from all third countries; whereas, if exports from one or more third countries are effected at abnormally low prices, lower than prices ruling for other third coun-

tries, a second offer price must be determined for exports from these other countries;

Whereas the regular review of the information serving as a basis for the determination of average offer prices for poultrymeat products other than slaughtered poultry and halves or quarters indicates that additional amounts corresponding to the figures shown in the Annex hereto should be fixed for the imports specified in that Annex;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The additional amounts provided for in Article 8 of Regulation (EEC) No 2777/75 shall be as set out in the Annex hereto for the products listed in Article 1 (1) of that Regulation which appear in the said Annex.

*Article 2*

This Regulation shall enter into force on 23 February 1990.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 282, 1. 11. 1975, p. 77.

<sup>(2)</sup> OJ No L 128, 11. 5. 1989, p. 29.

<sup>(3)</sup> OJ No 129, 28. 6. 1967, p. 2577/67.

<sup>(4)</sup> OJ No L 300, 18. 10. 1989, p. 10.

*ANNEX*

to the Commission Regulation of 22 February 1990 fixing additional amounts for poultry-meat products

*(ECU/100 kg)*

| CN code    | Origin of imports <sup>(1)</sup> | Additional amount |
|------------|----------------------------------|-------------------|
| 0207 39 23 | 02                               | 15,00             |
| 0207 39 31 | 01                               | 5,00              |
| 0207 41 51 | 02                               | 15,00             |
| 0207 42 10 | 01                               | 5,00              |

<sup>(1)</sup> Origin :

01 Yugoslavia

02 United States of America.

## COMMISSION REGULATION (EEC) No 450/90

of 22 February 1990

fixing additional amounts for egg products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs<sup>(1)</sup>, as last amended by Regulation (EEC) No 1235/89<sup>(2)</sup>, and in particular Article 8 (4) thereof,

Whereas if, for a given product, the free-at-frontier offer price (hereinafter called the 'offer price') falls below the sluice-gate price, the levy applicable to that product must be increased by an additional amount equal to the difference between the sluice-gate price and the offer price determined in accordance with Article 1 of Commission Regulation No 163/67/EEC of 26 June 1967 on fixing the additional amount for imports of poultry-farming products from third countries<sup>(3)</sup>, as last amended by Regulation (EEC) No 3116/89<sup>(4)</sup>;

Whereas the offer price must be determined for all imports from all third countries; whereas, however, if exports from one or more third countries are effected at abnormally low prices, lower than prices ruling for other third countries, a second offer price must be determined for exports from these other countries;

Whereas, pursuant to Article 1 of Commission Regulation (EEC) No 990/69<sup>(5)</sup>, as last amended by Regulation (CEE) No 4155/87<sup>(6)</sup>, the levies on imports of eggs not in shell and egg yolks originating in and coming from Austria are not increased by an additional amount;

Whereas the regular review of the information serving as a basis for the determination of average offer prices for the products listed in Article 1 (1) (b) of Regulation (EEC) No 2771/75 indicates that additional amounts corresponding to the figures shown in the Annex hereto should be fixed for the imports specified in that Annex;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The additional amounts provided for in Article 8 of Regulation (EEC) No 2771/75 shall be as set out in the Annex hereto for the products listed in Article 1 (1) of that Regulation which appear in the said Annex.

*Article 2*

This Regulation shall enter into force on 23 February 1990.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 282, 1. 11. 1975, p. 49.

<sup>(2)</sup> OJ No L 128, 11. 5. 1989, p. 29.

<sup>(3)</sup> OJ No 129, 28. 6. 1967, p. 2577/67.

<sup>(4)</sup> OJ No L 300, 18. 10. 1989, p. 10.

<sup>(5)</sup> OJ No L 130, 31. 5. 1969, p. 4.

<sup>(6)</sup> OJ No L 392, 31. 12. 1987, p. 29.

*ANNEX*

to the Commission Regulation of 22 February 1990 fixing additional amounts for eggs products

| <i>(ECU/100 kg)</i> |                                  |                   |
|---------------------|----------------------------------|-------------------|
| CN code             | Origin of imports <sup>(1)</sup> | Additional amount |
| 0408 19 11          | 01                               | 100,00            |
| 0408 19 19          | 01                               | 100,00            |
| 0408 91 10          | 02                               | 100,00            |

<sup>(1)</sup> Origin :

01 Israel, Canada, Czechoslovakia, Hungary and the German Democratic Republic (with the exception of the German internal trade pursuant to the Protocol on German internal trade and connected problems).

02 Czechoslovakia.

## COMMISSION REGULATION (EEC) No 451/90

of 22 February 1990

laying down transitional measures for the 1989/90 marketing year regarding  
production aid for olive oil in Spain and Portugal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 90 (1) and 257 (1) thereof,

Whereas Articles 90 and 257 of the Act of Accession provide that where difficulties arise in applying the Community arrangements, transitional measures may be adopted to facilitate the passage from the national arrangements to the Community arrangements; whereas transitional measures relating to production aid for olive oil have already been adopted, in particular by Commission Regulation (EEC) No 521/87 of 20 February 1987 laying down special measures for the 1986/87 marketing year for the grant of production aid for olive oil in Spain and Portugal<sup>(1)</sup>;

Whereas Council Regulation (EEC) No 4007/87<sup>(2)</sup> as last amended by Regulation (EEC) No 3849/89<sup>(3)</sup>, extends the period during which transitional measures may be taken until 31 December 1990 for Spain and until 31 December 1990 for Portugal; whereas, in view of the special situation existing in Spain, where many olive growers sell their production of olives to the mill, the provisions of Regulation (EEC) No 521/87 should in this respect be extended for the 1989/90 marketing year; whereas, to facilitate the implementation of the Community system of production aid in Portugal, the possibility of approving mills provisionally for the 1989/90 marketing year should be maintained;

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

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

*Article 1*

For the 1989/90 marketing year in Spain, notwithstanding Article 7 of Council Regulation (EEC) No 2261/84<sup>(4)</sup>, where an olive grower who is a member of a producer organization recognized pursuant to Council Regulation No 136/66/EEC<sup>(5)</sup>, and whose production is at least 400 kilograms within the meaning of that Regulation, has sold all or part of his production of olives to an approved mill, the quantity eligible for the aid shall be equal to that obtained by applying the oil yield, fixed pursuant to Article 18 of Regulation (EEC) No 2261/84, to the quantity of olives produced.

*Article 2*

Notwithstanding the first subparagraph of Article 13 (3) of Regulation (EEC) No 2261/84, in Portugal the provisional approval granted to mills in the 1986/87, 1987/88 and 1988/89 marketing years shall expire at the end of the 1989/90 marketing year.

*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 1 November 1989.

<sup>(1)</sup> OJ No L 52, 21. 2. 1987, p. 14.

<sup>(2)</sup> OJ No L 378, 31. 12. 1987, p. 1.

<sup>(3)</sup> OJ No L 374, 22. 12. 1989, p. 7.

<sup>(4)</sup> OJ No L 208, 3. 8. 1984, p. 3.

<sup>(5)</sup> OJ No 172, 30. 9. 1966, p. 3025/66.

## COMMISSION REGULATION (EEC) No 452/90

of 22 February 1990

laying down special measures for the 1989/90 marketing year for the granting of production aid for olive oil in Portugal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 257 (1) thereof,

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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 2902/89 <sup>(2)</sup>, and in particular Article 5 thereof,Whereas Council Regulation (EEC) No 4007/87 <sup>(3)</sup>, as last amended by Regulation (EEC) No 3849/89 <sup>(4)</sup>, extends the transitional period laid down in Article 257 of the Act of Accession until 31 December 1990;Whereas, in the case of Portugal, in order to facilitate the setting-up and recognition of producer organization in time for the 1988/89 marketing year, provision should be made for transitional measures under which organizations which do not yet have the structure provided for in Article 4 of Council Regulation (EEC) No 2261/84 <sup>(5)</sup>, as last amended by Regulation (EEC) No 1226/89 <sup>(6)</sup>, can obtain provisional recognition;

Whereas, on account of the difficulties encountered in launching the Community system of production aid in Portugal, the period laid down for olive growers to lodge crop declarations should be extended to 30 June 1990;

Whereas the recognition of producer organizations must take effect from the beginning of the 1989/90 marketing year; whereas provision should therefore be made for this Regulation to apply from 1 November 1989;

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*

In Portugal, for the 1989/90 marketing year, notwithstanding Article 4 (1) (a) and (b) of Regulation (EEC) No 2261/84, producer organizations may not be recognized under that Regulation unless:

- (a) they consist, in the case of organizations producing and increasing the market value of olives and olive oil, of at least 100 olive growers, or
- (b) they consist, in other cases, of at least 400 olive growers; should one or more organizations producing and increasing the market value of olives and olive oil be members of the organization in question, the growers concerned shall be considered individually for the purposes of calculating the minimum number of growers required.

*Article 2*

For the 1989/90 marketing year, the crop declarations referred to in Article 3 (1) and (2) of Regulation (EEC) No 2261/84 shall be lodged in Portugal by 30 June 1990 at the latest.

*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 1 November 1989.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*<sup>(1)</sup> OJ No 172, 30. 9. 1966, p. 3025/66.<sup>(2)</sup> OJ No L 280, 29. 9. 1989, p. 2.<sup>(3)</sup> OJ No L 378, 31. 12. 1987, p. 1.<sup>(4)</sup> OJ No L 374, 22. 12. 1989, p. 7.<sup>(5)</sup> OJ No L 208, 3. 8. 1984, p. 3.<sup>(6)</sup> OJ No L 128, 11. 5. 1989, p. 17.

## COMMISSION REGULATION (EEC) No 453/90

of 22 February 1990

opening an invitation to tender for the supply of olive oil to Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 2902/89<sup>(2)</sup>, and in particular Article 12 (4) thereof,

Having regard to Council Regulation (EEC) No 473/86 of 25 February 1986 laying down the general rules for the system of accession compensatory amounts for olive oil<sup>(3)</sup>, and in particular Article 7 thereof,

Whereas Council Regulation (EEC) No 282/90 of 22 January 1990 on emergency action for the supply of certain agricultural products to Romania<sup>(4)</sup>, and in particular Article 3 (2) thereof, the Community has made available to Romania 2 500 tonnes of olive oil intervention;

Whereas this quantity is held at present by the Spanish intervention agency; whereas the product made available to the Romanian authorities should be packaged and ready for consumption; whereas the costs of such supplies should be determined by tendering procedure;

Whereas it is necessary to verify that the olive oil is actually made available to Romania and to specify what evidence must be furnished as proof that the goods have been taken over;

Whereas the oil made available to the Romanian authorities under this Regulation must not qualify for the export refund provided for in Article 20 of Regulation No 136/66/EEC or for the consumption aid provided for in Article 11 of that Regulation;

Whereas neither monetary compensatory amounts nor accession compensatory amounts should be applied;

Whereas products held by intervention agencies for export are subject to Commission Regulation (EEC) No 569/88<sup>(5)</sup>, as last amended by Regulation (EEC) No 431/90<sup>(6)</sup>; whereas the Annex to the said Regulation should be extended as regards the endorsements to be entered;

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

*Article 1*

1. The Servicio Nacional de Productos Agrarios (Spain), hereinafter called 'SENPA', shall open an invitation to tender in accordance with the provisions of this Regulation for the supply to Romania of 2 500 tonnes of olive oil as defined in point 3 of the Annex to Regulation No 136/66/EEC.

2. The following raw materials required for the preparation of 2 500 tonnes of olive oil shall be made available for this tendering procedure by the intervention agency:

- 250 tonnes of virgin olive oil other than lampante grade,
- the necessary quantity of lampante virgin olive oil to obtain 2 250 tonnes of refined olive oil in accordance with the formula laid down in Article 17 of Commission Regulation (EEC) No 2960/77<sup>(7)</sup>.

3. The end product must be put up in metal containers in accordance with Annex II. The words 'Olive oil — Product of the European Economic Community' must appear on the packaging in Romania and one of the official languages of the Community, together with a code number identifying the packaging plant. No other markings shall be permitted.

4. Offers submitted in response to the invitation to tender shall take account of all the costs involved in the operation, including the withdrawal, refining, mixing and packaging costs and the cost of loading the product delivered at factory on the means of transport provided by the Romanian authorities.

5. Tenders shall indicate the place at which the end product is to be made available to the Romanian authorities. One such place only shall be indicated in respect of each lot.

6. The packaged oil shall be made available to the Romanian authorities before 10 April 1990 and shall continue to be available to them until 10 May 1990.

*Article 2*

The invitation to tender shall be published on 23 February 1990.

(7) OJ No L 348, 30. 12. 1977, p. 46.

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

(2) OJ No L 280, 29. 9. 1989, p. 2.

(3) OJ No L 53, 1. 3. 1986, p. 43.

(4) OJ No L 31, 2. 2. 1990, p. 1.

(5) OJ No L 55, 1. 3. 1988, p. 1.

(6) OJ No L 45, 21. 2. 1990, p. 18.

The lots of oil for which contracts are to be awarded, each corresponding to 500 tonnes of the end product, and the places where they are stored shall be displayed by 'SENPA' at its head office at Calle Beneficencia, 8, Madrid 28004, Spain.

A copy of the invitation to tender shall be forwarded forthwith to the Commission.

#### Article 3

Tenders, for 500-tonne lots, must reach SENPA, Calle Beneficencia, 8, Madrid 28004, Spain not later than 2 p.m. (local time) on 2 March 1990. They shall not be accepted unless they are accompanied by evidence that a security of Ptas 2 800 per 100 kilograms has been lodged.

#### Article 4

SENPA shall transmit to the Commission not later than three days after the expiry of the time limit fixed for the submission of tenders a list without names indicating the amounts tendered for each lot, expressed in national currency. The Commission shall award the lots in relation to the amounts.

Where several identical tenders are submitted a ballot shall be held. The Commission's decision shall be notified immediately to Spain and to the Member State of manufacture which is to make the product available.

#### Article 5

1. Removal of the goods by the successful tenderers shall be subject to the provisions of Regulation (EEC) No 569/88.

2. The security to be lodged with SENPA by the successful tenderer prior to the removal of the goods shall be Ptas 25 600 per 100 kilograms of olive oil.

#### Article 6

The competent authorities in the Member States shall verify that the oil is supplied as specified in this Regulation. The olive oil shall be made available to the Romanian authorities under the supervision of a representative of the authority responsible for the control. The control document shall be stamped when the above verification has taken place.

#### Article 7

1. The principal requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85<sup>(1)</sup> shall be:

- (a) in the case of the security referred to in Article 3:
- the continuation of the tender,
  - the lodging of the security referred to in Article 5;
- (b) in the case of the security referred to in Article 5:
- the supply of the product in accordance with Articles 1 (3) and (4) and 9 and with the terms of the invitation to tender.

2. The tendering security shall be released:

- immediately if it is decided not to award a contract,
- immediately if the tender is not accepted,
- in cases where the tender is accepted, when the principal requirements referred to in paragraph 1 (a) have been met.

3. The security referred to in Article 5 shall be released when the obligations specified in Article 7 (1) (b) have been fulfilled and following the return to SENPA of the control document provided for in Article 10 (1), and on presentation by the authorized representative of the Romanian authorities of the certificate showing that the product has been taken over.

#### Article 8

Products dispatched in accordance with this Regulation shall not qualify for export refunds or for consumption aid and shall not be subject to the arrangements governing monetary compensatory amounts or accession compensatory amounts.

#### Article 9

1. Removal of the goods by the Romanian authorities from the successful tenderers shall be conditional on the advance lodging in the Member State in which the products are to be made available of a security, for an amount equal to the intervention price of the product concerned, applicable at the time of release from stock.

2. The products shall be made available to persons duly authorized by the Romanian authorities to transport the products or have them transported in Romania. A model of the authorization is shown in Annex III.

3. The products shall be made available:

- on presentation of the original authorization referred to in paragraph 2 drawn up in the official language of the Member State in which the goods are removed, and
- after a duly completed certificate showing that the goods have been taken over has been stamped by the authorized person.

4. The security referred to in paragraph 1 shall be released in accordance with Articles 4 and 13 (1) (a) of Regulation (EEC) No 569/88. Article 18 thereof shall not apply.

#### Article 10

As regards the application of the provisions of Regulation (EEC) No 569/88 for the removal of stocks from intervention and the preparation of olive oil by the successful tenderer, the following item 33 and the relevant footnote are added to Part II of the Annex thereto entitled 'Products subject to a use and/or destination other than that mentioned under I':

<sup>(1)</sup> OJ No L 205, 3. 8. 1985, p. 5.

'33. Commission Regulation (EEC) No 453/90 of 22 February 1990 opening an invitation to tender for the supply of olive oil to Romania <sup>(33)</sup> :

- section 104 of the control copy T 5 : for refining and export to Romania — Regulation (EEC) No 453/90, —
- section 106 of the control copy T 5 : product not subject to a monetary or accession compensatory amount or export refund ;

<sup>(33)</sup> OJ No L 47, 23. 2. 1990, p. 15.'

2. As regards the application of the provisions of Regulation (EEC) No 569/88 following the taking over of the products by the Romanian authorities, the following item

57 and the relevant footnote added to Part I of the Annex thereto entitled 'Products to be exported in the same state as that in which they were removed from intervention stock' :

'57. Commission Regulation (EEC) No 453/90 of 22 February 1990 opening an invitation to tender for the supply of olive oil to Romania <sup>(57)</sup> :

<sup>(57)</sup> OJ No L 47, 23. 2. 1990, p. 15.'

#### *Article 10*

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

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

*ANNEX I***I. Model of the taking-over certificate**

I, the undersigned : .....  
(Surname, forename, business name)

on behalf of the Romanian Government hereby certify that the goods listed below have been taken over :

— Place and date of taking over : .....

— Product : .....

— Tonnage (net, gross or gross for net weight) taken over : .....

— Packaging : .....

— Number of items : .....

— net weight per item (kilograms) : .....

— marked (endorsement) : .....

The goods delivered are of the quality specified.

Observations :

.....  
.....  
.....

(Signature)

\_\_\_\_\_

*ANNEX II***1. Requirements relating to packaging and perservation**

The olive oil will be contained in one-litre metal containers coated inside with food-can varnish or which have undergone treatment offering equivalent guarantees, filled to capacity and hermetically sealed.

The metal containers in turn will be packed in cardboard boxes containing 20 litres.

Any glue used in making up or closing the carboard boxes must be water resistant. Adhesive tape, if used, must not come unstuck in damp conditions.

- (a) Resistance to vertical shock : three vertical falls from a height of one metre.

This test is to be carried out in accordance with standard ISO 2248 on three different edges of different trihedrons, the packaging being suspended in such a way that its centre of gravity is vertical from the point of fall ;

- (b) Resistance to minimal compression : 6 000 newtons.

This test is to be carried out in accordance with standards ISO 2872 and 2874, the packaging being placed in its normal transportation position.

The result of each of these tests is to be evaluated on five complete packages as follows :

- the cardboard boxes may be distorted but must remain intact and have no major rips,
- there must be no leakage from the metal containers once they have been placed under vacuum.

The conformity of the packaging with the above requirements will be certified by an institute of packaging approved by the Member State concerned which will provide a detailed report and a description of the technical characteristics of the components of the packaging. The certificate of conformity will be valid for one year only.

**2. Requirements relating to labelling**

Metal containers that have been printed lithographically and printed cardboard boxes will bear in the language or languages referred to in the notice of invitation to tender the following particulars :

- (a) the words 'olive oil' ;
- (b) the words 'Product of the European Economic Community' ;
- (c) the net contents ;
- (d) the month and year of manufacture ;
- (e) the processor's code.

These particulars will appear on one side at least of the packagings and will occupy not less than one-third of the surface area.

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*ANNEX III*

**Ministry of foreign trade**

Bucharest,

**AUTHORIZATION**

The Romanian Minister for Foreign Trade hereby certifies that

Mr .....

of the State organization .....

at the Romanian Embassy in .....

is duly authorized by the Romanian Government to take over the Community agricultural products made available by the European Community pursuant to Council Regulation (EEC) No 282/90 and to take any action or sign any document, on behalf of the Romanian Government, relating thereto.

*The Romanian Minister for Foreign Trade*

(Signature and seal)

\_\_\_\_\_

## COMMISSION REGULATION (EEC) No 454/90

of 22 February 1990

laying down detailed rules for an emergency supply of cereals, beef and butter to Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

*Article 2*

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 282/90 of 23 January 1990 on emergency action for the supply of certain agricultural products to Romania <sup>(1)</sup>, and in particular Article 3 (2) thereof,

Having regard to Council Regulation (EEC) No 467/86 of 25 February 1986 laying down general rules for the system of accession compensatory amounts for cereals on account of the accession of Spain <sup>(2)</sup>, and in particular Article 7 thereof, and to the corresponding provisions relating to the other products concerned,

Whereas provision should be made for the supply to Romania of the products referred to in Regulation (EEC) No 282/90, to be effected by operators authorized by the Romanian authorities and who are to take over the products on removal from the intervention stocks designated by the Commission;

Whereas such supplies should be made subject to the provisions of Commission Regulation (EEC) No 569/88 of 16 February 1988 laying down common detailed rules for verifying the use and/or destination of products from intervention <sup>(3)</sup>, as last amended by Regulation (EEC) No 453/90 <sup>(4)</sup>, and a security ensuring departure from the customs territory of the Community should be required;

Whereas no refunds, monetary compensatory amounts or accession compensatory amounts must be paid on these products;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

*Article 1*

This Regulation lays down the detailed rules for the supply of cereals, beef and butter made available to the Romanian authorities under Regulation (EEC) No 282/90.

<sup>(1)</sup> OJ No L 31, 2. 2. 1990, p. 1.

<sup>(2)</sup> OJ No L 53, 1. 3. 1986, p. 25.

<sup>(3)</sup> OJ No L 55, 1. 3. 1988, p. 1.

<sup>(4)</sup> See page 15 of this Official Journal.

1. The Commission shall designate the stores from which the products may be withdrawn.

2. The products shall be made available, in accordance with the conditions governing removal from storage of the products concerned, to persons duly authorized by the Romanian authorities to transport or have transported the products in question to Romania.

3. The products shall be made available:

— on presentation of the original of the authorization referred to in paragraph 2 and after it has been verified, and

— after signature by the person authorized of a duly completed takeover certificate, a model of which is given in the Annex.

In addition, the agency which makes the products available shall keep a copy or photocopy of the authorization presented at the time each batch of goods is taken over.

*Article 3*

1. Removal of the goods shall be subject to the prior lodging, with the intervention agency of the Member State where the products are made available:

— in the case of cereals and butter, of a security equal to the buying-in price of the product concerned, applicable at the time of removal from storage,

— in the case of beef, of a security equal to ECU 280 per 100 kilograms.

2. The products referred to in Article 1 shall be supplied subject to the provisions of Regulation (EEC) No 569/88.

The removal order referred to in Article 3 of Regulation (EEC) No 569/88 shall bear the following additional words: 'Emergency action for Romania. Products on which refunds or monetary and/or accession compensatory amounts may not be paid'.

3. The security shall be released in accordance with Articles 4 and 13 (1) (a) of Regulation (EEC) No 569/88. Article 18 thereof shall not apply.

*Article 4*

The following point 58 and the relevant footnote are hereby added to part I ('Products to be exported in the same state as that in which they were removed from intervention stock') of the Annex to Regulation (EEC) No 569/88:

'<sup>(58)</sup> Commission Regulation (EEC) No 454/90 of 22 February 1990 laying down detailed rules for an

emergency supply of cereals, beef and butter to Romania <sup>(58)</sup>.

<sup>(58)</sup> OJ No L 47, 23. 2. 1990, p. 21.'

*Article 5*

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

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX

## Model for takeover certificate

I, the undersigned : .....  
(Surname, forename and status)

acting on behalf of the Romanian Government, hereby certify that the goods listed below have been taken over :

— Place and date of takeover : .....

— Product : .....

— Tonnage (net, gross or gross for net weight) taken over : .....

— Packaging : .....

— Number of items : .....

— net weight per item (kilograms) : .....

— marked (endorsement) : .....

Observations : .....

.....

.....

(Signature)

\_\_\_\_\_

## COMMISSION REGULATION (EEC) No 455/90

of 22 February 1990

fixing the export refunds 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<sup>(1)</sup>, as last amended by Regulation (EEC) No 201/90<sup>(2)</sup>, and in particular the fourth subparagraph of Article 16 (2),

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds<sup>(3)</sup>, provides that when refunds are being fixed, account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand, and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market;

Whereas Article 3 of Regulation (EEC) No 2746/75 defines the specific criteria to be taken into account when the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated,

account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC<sup>(4)</sup>, as amended by Regulation (EEC) No 1607/71<sup>(5)</sup>;

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

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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

- in the case of currencies which are maintained in relation to each other at any 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<sup>(6)</sup>, as last amended by Regulation (EEC) No 1636/87<sup>(7)</sup>,
- 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 it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas, pursuant to Article 275 of the Act of Accession, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 22, 27. 1. 1990, p. 7.

<sup>(3)</sup> OJ No L 281, 1. 11. 1975, p. 78.

<sup>(4)</sup> OJ No 128, 27. 6. 1967, p. 2574/67.

<sup>(5)</sup> OJ No L 168, 27. 7. 1971, p. 16.

<sup>(6)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(7)</sup> OJ No L 153, 13. 6. 1987, p. 1.

HAS ADOPTED THIS REGULATION:

The refund on export to Portugal has not been fixed.

*Article 1*

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 23 February 1990.

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

Done at Brussels, 22 February 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX

to the Commission Regulation of 22 February 1990 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

| Product code   | Destination (1) | Amount of refund |
|----------------|-----------------|------------------|
| 0709 90 60 000 | —               | —                |
| 0712 90 19 000 | —               | —                |
| 1001 10 10 000 | —               | —                |
| 1001 10 90 000 | 01              | 10,00            |
| 1001 90 91 000 | —               | —                |
| 1001 90 99 000 | 04              | 52,00            |
|                | 05              | 52,00            |
|                | 02              | 10,00            |
| 1002 00 00 000 | 03              | 60,00            |
|                | 05              | 60,00            |
|                | 02              | 10,00            |
| 1003 00 10 000 | 06              | 70,00            |
|                | 02              | 0                |
| 1003 00 90 000 | 04              | 60,00            |
|                | 02              | 10,00            |
| 1004 00 10 000 | 07              | 60,00            |
|                | 02              | 0                |
| 1004 00 90 000 | 01              | 0                |
| 1005 10 90 000 | —               | —                |
| 1005 90 00 000 | 03              | 73,00            |
|                | 02              | 0                |
| 1007 00 90 000 | —               | —                |
| 1008 20 00 000 | —               | —                |
| 1101 00 00 110 | 01              | 87,00            |
| 1101 00 00 120 | 01              | 87,00            |
| 1101 00 00 130 | 01              | 80,00            |
| 1101 00 00 150 | 01              | 77,00            |
| 1101 00 00 170 | 01              | 75,00            |
| 1101 00 00 180 | 01              | 71,00            |
| 1101 00 00 190 | —               | —                |
| 1101 00 00 900 | —               | —                |
| 1102 10 00 100 | 01              | 87,00            |
| 1102 10 00 200 | 01              | 87,00            |
| 1102 10 00 300 | 01              | 87,00            |
| 1102 10 00 500 | 01              | 87,00            |
| 1102 10 00 900 | —               | —                |
| 1103 11 10 100 | 01              | 204,00           |
| 1103 11 10 200 | 01              | 193,00           |
| 1103 11 10 500 | 01              | 172,00           |
| 1103 11 10 900 | 01              | 162,00           |
| 1103 11 90 100 | 01              | 87,00            |
| 1103 11 90 900 | —               | —                |

(<sup>1</sup>) The destinations are identified as follows :

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 05 Zone II (b),
- 06 Hungary and Poland,
- 07 Switzerland.

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*NB* : The zones are those defined in Commission Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977, p. 53), as last amended by Regulation (EEC) No 3049/89 (OJ No L 292, 11. 10. 1989, p. 10).

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## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 28 June 1989

concerning aid provided by France to certain primary processing steel undertakings

(Only the French text is authentic)

(90/70/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first paragraph of Article 93 (2) thereof,

Having given the parties concerned an opportunity to submit their comments, in accordance with Article 93 (2), and having regard to those comments,

Whereas :

By letter dated 25 February 1988, supplemented by letter dated 22 April 1988, the French Government notified the Commission of an initial series of six awards of aid to primary processing steel undertakings which are subsidiaries of Usinor Sacilor. The total amount of the aid is FF 3 236,1 million, equivalent to some ECU 456 million :

|                                                | (million FF)   |
|------------------------------------------------|----------------|
| Fillod (construction and large-scale projects) | 1 021          |
| Valexyl (small tubes)                          | 284            |
| Tréfilunion (wire drawing)                     | 1 246,4        |
| GTS (large welded tubes)                       | 293            |
| CFEM (offshore equipment for the oil industry) | 226,1          |
| CFEM (engineering)                             | 165,6          |
| <b>Total</b>                                   | <b>3 236,1</b> |

On 4 May 1988, the French Government notified the Commission of a second series of three awards of aid to primary steel processing undertakings, once again subsidiaries of Usinor Sacilor. This notification was supplemented by a letter dated 17 August 1988.

The total amount of this second series of awards is FF 652,3 million, equivalent to some ECU 92 million :

|                                       | (million FF) |
|---------------------------------------|--------------|
| Métalinox (scrap-metal dealers)       | 370,4        |
| C3F (forging and foundry undertaking) | 152          |
| Chavanne-Kétin (foundry undertaking)  | 129,9        |
| <b>Total</b>                          | <b>652,3</b> |

The French authorities argue that the aid is justified by the fact that the major restructuring being carried out by each of the undertakings will help to rationalize the Community markets on which they operate. The restructuring plans accompanying the notifications have been worked out jointly by the undertakings and by independent experts who have presented and certified them. The restructuring plans entail in particular the closure of Fillod and CFEM offshore equipment and the suspension of activity at Métalinox at the end of 1988. The restructuring plans may be summarized as follows :

## France non-ECSC : Restructuring operations

|                                       |                | 31. 12. 1985 | 31. 12. 1990 | 1985/1990 | Comments                                |
|---------------------------------------|----------------|--------------|--------------|-----------|-----------------------------------------|
| Valexy<br>(small tubes)               | Workforce      | 1 689        | 894          | - 47 %    | 2 plants closed<br>(Noisy and Bessèges) |
|                                       | Capacity       | 580 Kt       | 400 Kt       | - 31 %    |                                         |
|                                       | Output         | 377 Kt       | 345 Kt       | - 8,5 %   |                                         |
| Tréfilunion<br>(wire)                 | Workforce      | 3 801        | 1 532        | - 60 %    | 2 plants closed                         |
|                                       | Capacity       | 421          | 281          |           |                                         |
|                                       | (wire-drawing) | 357 Kt       | 324 Kt       | - 9 %     | (Le Havre Aciers<br>and La Triche)      |
|                                       | Output         | 2 119 KF     | 1 876 KF     | - 12 %    |                                         |
| GTS<br>(large welded<br>tubes)        | Workforce      | 1 546        | 685          | - 56 %    | 3 plants closed                         |
|                                       | Capacity       | 4 740 Km     | 2 000 Km     | - 57 %    |                                         |
|                                       | Output         | 780 Kt       | 590 Kt       | - 24 %    |                                         |
|                                       |                | 557 Kt       | 514 Kt       | - 8 %     | (Sedan, Maubeuge,<br>La Rougeville)     |
| CFEM (Offshore)                       | Workforce      | 489          | 0            | - 100 %   | 3 plants closed                         |
| CFEM (Engineering)                    | Workforce      | 1 002        | 430          | - 57 %    |                                         |
| C3F (forging<br>and foundry business) | Workforce      | 2 530        | 1 538        | - 39 %    |                                         |
| Chavanne-Kétin<br>(foundry business)  | Workforce      | 889          | 450          | - 49 %    |                                         |
|                                       | Output         | 26 Kt        | 21 Kt        | - 19 %    |                                         |
| Métalinor<br>(scrap metal dealers)    | Workforce      | 616          | 0            | - 100 %   |                                         |
|                                       | Output         | 1 567 Kt     | 0            | - 100 %   |                                         |

On 15 June 1988, the Commission decided not to raise any objections to the granting of aid to Fillod, on the grounds that the aid did not fall within the scope of Article 92 (1) of the EEC Treaty, since it did not affect trade between Member States; in so doing, the Commission merely reiterated the assessment of aid to the undertaking which it had made in Decision 87/506/EEC<sup>(1)</sup>. It also decided to initiate the Article 93 (2) procedure in respect of the aid for the five other undertakings receiving aid under the first series.

In reaching its decision, the Commission noted that the aid related to costs connected with the workforce (FF 1 619,2 million), direct restructuring costs (FF 641,9 million), the completion of contracts after closure (FF 489,2 million), the writing-off of losses (FF 68 million) and investment (FF 301 million), with the remainder still having to be specified (FF 116,8 million). It explained that it had not been able to establish that the restructuring plans presented in this connection were distinct from those which the Commission had ruled against in its abovementioned Decision 87/506/EEC covering some of the undertakings involved in the present case. Lastly, given the fact that the sectors in question have surplus capacity at Community level, the extent of the aid poses a

threat which the Commission cannot overlook that competition might be distorted in a way that is contrary to the common interest.

On 28 September 1988, the Commission also decided to initiate the Article 93 (2) procedure in respect of the aid for the undertakings covered by the second series of notifications. In the first place, it noted that the aid related to costs connected with the workforce (FF 302,3 million), costs associated with closures (FF 112 million) and the settlement of Métalinor's financial liabilities (FF 238 million). This latter heading includes repayments intended for the parent company Usinor Sacilor. The aid could thus distort competition in the ECSC area to an extent contrary to the common interest. Secondly, the Commission wondered why the Government had to act instead of the undertakings concerned, or at any rate of their parent company, in assuming closure costs which are normally for the undertakings themselves to bear.

## II

The French authorities presented their comments by letters dated 18 July 1988 and 17 January 1989 with regard to the first proceedings, by letters dated 28 October 1988 and 1 February 1989 with regard to the second proceedings and by letters dated 27 February and 3 March 1989 on both proceedings.

<sup>(1)</sup> OJ No L 290, 14. 10. 1987, p. 21.

The letters stipulate first that, both as regards the restructuring measures and as regards the financial flows, the new restructuring plans presented are wholly distinct from those underlying the previous measures notified to the Commission, which the Commission declared to be unlawful in its Decision of 25 March 1987.

The French authorities emphasize that the new restructuring plans are intended to restore the viability of the undertakings which remain in activity, by means of major restructuring of the activities maintained. The cost of such restructuring is well beyond the financial capacity of the undertakings concerned, and assistance from the State is therefore necessary if the restructuring is to be successfully carried out. They state that, in their view, the assistance is such that any shareholder in the same situation would have provided in order to restore the viability of the undertakings.

As regards Tréfilunion in particular, the French authorities point to its modest share of Community markets outside France (1,55 %). They state that, if the market develops unfavourably, further restructuring is anticipated. With regard to GTS, it is stated that there is to be a decrease not only in capacity (—57,7 %) but also in output (— 7,7 %) turnover (— 14 %).

With regard to Métalnor, the French authorities acknowledge that, in writing off the financial liabilities of the company, the repayment of certain debts vis-à-vis Usinor Sacilor transforms a doubtful liability for Usinor Sacilor into an inflow of funds. This creates a risk of competition being distorted in the ECSC area. Consequently, the French authorities have withdrawn the FF 83,7 million in aid for the settlement of such liabilities from the notification. The new amount of proposed aid for Métalnor is

now down to FF 286,7 million, including FF 154,3 million for the writing-off of financial liabilities.

Noting that Métalnor has activities involving scrap metal, which is an ECSC product, but mainly involving dealing, which is an EEC activity, the Commission has taken the view, on the basis of the breakdown of the company's turnover, that 80 % of the aid to be provided to it comes under the EEC Treaty and 20 % under the ECSC Treaty.

Because of the difference in the legal basis of the EEC and ECSC proceedings, a distinction should be made between such proceedings and between the aid deemed to come under the EEC and that deemed to come under the ECSC. Of the notified total of FF 2 783,6 million (ECU 392 million), FF 2 726,26 million (ECU 384 million) must accordingly be assessed under the EEC Treaty and are covered by this Decision, whereas FF 57,34 million (ECU 8 million) will be assessed subsequently under the ECSC Treaty.

With regard to costs connected with the workforce (social costs), the French authorities have specified all the measures taken, indicating the workforce concerned in each case. In addition, in five cases the aid is also intended to cover bridging costs; this involves the wage costs for part of the workforce which is due to be laid off under the social plans approved by the 'Comité d'établissement', but which the undertakings have been obliged to continue to keep on since, in order to maintain employment in certain districts, the authorities would have used certain administrative procedures to delay the redundancies.

On the basis of all of this information and of the amendments made, the assistance to be provided by the French Government may be summarized as follows:

Breakdown of the proposed aid

|                                | (million FF) |                |               |        |          |
|--------------------------------|--------------|----------------|---------------|--------|----------|
|                                | Social costs | Bridging costs | Closure costs | Other  | Total    |
| Valexy                         | 106,9        | 35,8           | 73,3          | 68     | 284      |
| Tréfilunion                    | 336,6        | 336,9          | 237,4         | 335,5  | 1 246,4  |
| GTS                            | 129,7        | 22             | 49,9          | 91,3   | 292,9    |
| CFEM offshore                  | 145,9        | 48             | 32,2          | —      | 226,1    |
| CFEM engineering               | 124,2        | 39             | 1,8           | 0,6    | 165,6    |
| C3F                            | 101          | —              | 51            | —      | 152      |
| Chavanne-Kétin                 | 88,9         | —              | 41            | —      | 129,9    |
| Métalnor (EEC-portion)         | 89,92        | —              | 16            | 123,44 | 229,36   |
| Totals                         | 1 123,12     | 481,7          | 502,6         | 618,84 | 2 726,26 |
| p.m. : Métalnor (ECSC portion) | 22,48        | —              | 4             | 30,86  | 57,34    |

As part of the proceedings four Member States and two trade associations submitted comments.

the Court of Justice of the European Communities, but subsequently decided to withdraw the appeal. The French Government has also confirmed its intention of withdrawing and recovering the unlawful aid.

### III

As stated under I, the notifications were made after the Commission had adopted Decision 87/506/EEC concerning aid granted to primary processing steel undertakings, some of which are the same as the undertakings in question here. The Decision related to aid amounting to FF 3 147 million (some ECU 443 million) and the Commission's negative stance was based on the lack of any restructuring plans which might help the undertakings concerned to re-establish their viability and which might, in terms of restructuring, constitute a compensatory benefit for the Community within the meaning of Article 92 (3) (c).

The French Government and Usinor-Sacilor acting on behalf of its subsidiaries appealed against the decision to

In submitting its new notifications, the French Government has presented detailed supplementary restructuring measures which, in its view, represent a compensatory Community benefit in connection with the aid. It stressed that, if all or part of its requests were accepted by the Commission, it did not intend payment of the new aid to overlap with the aid declared unlawful by Decision 87/506/EEC.

The Commission has checked that there was a clear distinction between, on the one hand, the restructuring measures for the first period (1982 to 1985), which relate to the aid applications covered by the abovementioned 1987 decision and, on the other, the restructuring measures involved in the current notifications. The latter restructuring measures were outlined in point I, while the former are set out in the following table :

First set of restructuring measures

|                                |                                                            | 31. 12. 1981                          | 31. 12. 1985                          |
|--------------------------------|------------------------------------------------------------|---------------------------------------|---------------------------------------|
| Valexy<br>(small tubes)        | Workforce<br>Capacity<br>Output                            | 2 080<br>n.a.<br>460 Kt               | 1 689<br>580 Kt<br>377 Kt             |
| Tréfilunion<br>(wire)          | Workforce<br>Capacity (wire drawing)<br>Output<br>Turnover | 4 981<br>489<br>387 Kt<br>n.a.        | 3 801<br>421<br>357 Kt<br>2 119 KF    |
| GTS<br>(large welded<br>tubes) | Workforce<br>Capacity<br>Output                            | 1 672<br>4 740 Km<br>780 Kt<br>600 Kt | 1 546<br>4 740 Km<br>780 Kt<br>557 Kt |
| CFEM<br>Offshore               | Workforce                                                  | 2 994                                 | 489                                   |
| CFEM<br>Engineering            | Workforce                                                  |                                       | 1 002                                 |

### IV

The assistance which the French Government proposes to grant these eight undertakings cannot fail to affect trade between Member States within the meaning of Article 92 (1).

With regard to tubes, with which Valexy and GTS are concerned, a very large proportion of Community production is for export, as the following table shows :

|                    | 1986           |                  | 1987           |                  |
|--------------------|----------------|------------------|----------------|------------------|
|                    | EEC production | of which exports | EEC production | of which exports |
| All tubes          | 13 133         | 8 410 (64 %)     | 12 874         | 7 611 (59 %)     |
| Seamless tubes     | 3 722          | 3 071 (83 %)     | 3 742          | 3 001 (80 %)     |
| Small welded tubes | 6 069          | 2 293 (38 %)     | 6 582          | 2 360 (36 %)     |
| Large welded tubes | 3 342          | 3 046 (91 %)     | 2 550          | 2 250 (88 %)     |

In 1986, Valexy accounted for 35 % of the French market in the above products, with 40 % of the market being supplied by other Community producers. In the same year, Valexy supplied 73 % of its output to the French market, 16,5 % to other Community markets and 10,5 % to non-Community markets.

GTS, which in 1986 had an output of 525 000 tonnes of tubes intended for the gas and oil market (more than 90 % of its output), produces 35 times the amount accounted for by the French market in such products (15 000 tonnes). Its sales in 1986 accounted for 9,5 % of non-Community markets (mainly the USSR), 19 % of Community markets outside France and 80 % of the French market. International trade is on a particularly high level in the products in question.

With regard to Tréfilunion, the EEC market in its products was 4,62 million tonnes in 1985, of which 1,24 million tonnes were accounted for by imports (27 %). In the same year, Tréfilunion sold 63 % of its output on the French market, 21 % on the other Community markets and 16 % on non-Community markets.

With regard to CFEM engineering, 53 % of its output in 1986 was sold on the French market, 14 % on other Community markets and 33 % on non-Community markets. By comparison, French production of this type of product, of which CFEM engineering accounts for some 5 %, amounted to 617 000 tonnes in 1986, of which 570 000 tonnes were supplied in France (92,5 %) and 47 000 tonnes were exported (7,5 %).

There are no detailed figures available for C3F and Chavanne-Kétin, but it may be said that their products (supplies for the steel industry such as rolling mill rollers and metal crushers) involve considerable intra-Community trade.

The products in which Métaliner deals (scrap iron and scrap from non-ferrous metals) also involve considerable trade between Member States, for example to countries whose steel industries have a large proportion of electric steel plants.

On the other hand, as the French Government has itself emphasized, re-establishing the viability of the undertakings concerned depends on the carrying-out of the restructuring programmes initiated with State assistance. Without such assistance, given their previous financial

losses and the difficulties facing the sectors concerned in the Community<sup>(1)</sup>, the undertakings would not have been able to obtain on the capital market the financial resources necessary for carrying-out their recovery programmes. Consequently, not only their return to viability, but also the very existence of the undertakings would have been undermined. Accordingly, the financial assistance in question is aid liable to distort competition within the meaning of Article 92 (1) and does not simply reflect the normal behaviour of a shareholder.

## V

Article 92 (1) of the EEC Treaty provides that in principle any aid having features such as those described above, i.e. aid which affects trade between Member States and threatens to distort competition by favouring certain undertakings or the production of certain goods, shall be incompatible with the common market.

The derogations from this principle provided for in Article 92 (2) do not apply in this particular case, given the nature and objectives of the proposed aid.

Article 92 (3) specifies the aid which may be considered to be compatible with the common market. The derogations may be applied only if the Commission establishes that, in the absence of aid, market forces would not in themselves be enough to prompt the possible recipients of the aid to take action in order to achieve one of the objectives referred to.

The proposed aid is not covered by the derogation provided for in Article 92 (3) (a) concerning 'aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment'. The geographical areas within the Community eligible for this possible derogation were

<sup>(1)</sup> Mention should be made here of the framework for aid to the steel sectors not covered by the ECSC Treaty (OJ No C 320, 13. 2. 1988, p. 3). In that framework, the Commission noted that the market conditions for steel products prevailing since the 1970s had produced grave problems of over-capacity. It also noted that the crisis had affected both ECSC and non-ECSC steel activities. It should be mentioned that the scope of this Decision is specific and not general as was that of the framework; there is, however, no contradiction between the two measures, which arise from the monitoring of aid to the non-ECSC steel industry.

determined on the basis of a method for the application of Article 92 to regional aid<sup>(1)</sup>. None of the areas in mainland France, in which all of the undertakings in question are situated, is eligible for regional aid under Article 92 (3) (a). In any case, the French authorities did not notify the aid under this heading but as sectoral aid.

Nor can the derogation provided in Article 92 (3) (b) be invoked, since the aid is not intended to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State.

The derogation provided for in Article 92 (3) (c) relates to 'aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest'.

As has already been pointed out above, the aid in question has not been granted as part of a regional aid scheme. This aspect will not be taken into account here, except to mention that, in a significant number of cases, the production plants concerned are situated in areas eligible for French regional aid because of the employment difficulties with which they are confronted (steel producing areas in Nord and Lorraine, and the region of Le Havre). From this point of view, the number of jobs maintained through the rationalization of the industry is not inconsiderable in the regions concerned.

In sectoral terms, the Commission may consider to be compatible with the common market aid for restructuring or conversion that is in line with the following criteria<sup>(2)</sup>:

- (a) sectoral aid should be limited to cases where it is justified by circumstances in the industry concerned, for example, in order to overcome a structural or cyclical crisis; in restoring the viability of the undertakings, the aid should not preserve the status quo or postpone decisions or changes which are inevitable;
- (b) industrial problems and unemployment should not be transferred from one Member State to another;
- (c) since adjustment takes time, a limited use of resources to reduce the social and economic cost of change is admissible in certain circumstances and subject to strict conditions;
- (d) the intensity of aid should be proportionate to the problems it is designed to resolve so that distortions of competition are kept to a minimum.

In the light of these criteria, the Commission notes that:

- 1. the restructuring programmes described above were necessary for the rationalization of the undertakings concerned. The undertakings, which were confronted with serious structural difficulties that threatened their existence, were not capable of financing their programmes from their own resources alone;
- 2. the viability prospects of the undertakings remaining in activity have been examined and certified by independent experts.

Such prospects are satisfactory, since they are expected to be as follows by 1990:

|                                  | Net profit | Turnover | Gross operating profit (GOP) <sup>(1)</sup> | GOP as a % of turnover |
|----------------------------------|------------|----------|---------------------------------------------|------------------------|
| (million FF)                     |            |          |                                             |                        |
| Valexyl (small tubes)            | 85         | 1 454    | 150                                         | 10,33 %                |
| Tréfilunion wire                 | 49         | 1 909    | 175                                         | 9,45 %                 |
| GTS large welded tubes           |            |          |                                             |                        |
| lower assumption                 | 1          | 1 355    | 67                                          | 4,9 %                  |
| upper assumption                 | 11         | 1 531    | 81                                          | 5,3 %                  |
| CFEM engineering                 | 20,4       | 752      | 35,7                                        | 4,75 %                 |
| C3F forging and foundry business | 37         | 1 040    | 127                                         | 12,21 %                |
| Chavanne-Kétin foundry business  | 9          | 337      | 38                                          | 11,28 %                |

<sup>(1)</sup> The gross operating profit or loss, i.e. turnover minus operating costs, is an indicator of an undertaking's capacity to generate the capital to cover depreciation and financial charges and to provide a return on equity capital.

<sup>(1)</sup> Commission communication (OJ No C 212, 12. 8. 1988, p. 2).

<sup>(2)</sup> Eight Report on Competition Policy, point 1.7.6.

The gross operating profit criterion may be considered to be satisfactory in all six cases, since write-offs and financial charges can be financed from own resources, sometimes even leaving an appreciable net profit. The recovery is very noticeable compared with 1986, when the six undertakings recorded losses and indeed gross operating losses, with the sole exception of C3F, which achieved a modest gross operating profit of 0,7 % of turnover. These improvements reflect productivity gains, the rationalization of management and production (marked by an increase in the rate of capacity utilization and a fall in financial costs) and, in the case of Tréfilunion, the shift in production to higher value-added products.

In the case of GTS, the gross operating profit is sufficient to allow a profit to be achieved after depreciation and financial charges. It should be noted that the above forecasts are based on cautious market assumptions. More than 90 % of this undertaking's market is accounted for by the oil and gas industry. That market is characterized by large scale contracts which are concluded in the light of the trend in oil and gas prices, which determine the transport requirements for such products. Such contracts can lead to significant fluctuations in turnover and profits. Recent trends indicate that the outlook for GTS is favourable.

With regard to the activities of CFEM which are kept in operation (corresponding to around 60 % of the 1986 turnover figure), it should also be noted that the gross operating profit is sufficient to allow a net profit. As with GTS, CFEM engineering is subject to fluctuations in its level of activities, depending on the conclusion of contracts. In addition, CFEM's activities comprise a higher proportion of project study and development and a lower proportion of manufacture than other undertakings involved in primary steel processing, which means a lower level of depreciations to be covered than in the case of other undertakings ;

3. by closing several establishments and by concentrating or reducing capacity in various ways in sectors suffering from surplus capacity at Community level, the restructuring programmes for the eight undertakings concerned contribute to solving the structural problems facing the primary steel processing sectors and do not have the effect of transferring the relevant industrial problems and unemployment from one Member State to another ;
4. in so far as the proposed aid is restricted to covering the costs of social measures for staff leaving the workforce and costs directly associated with the closure operations, it may be authorized.

The social measures relate to early retirement and non-active status allowances (1 906 employees), training and retraining leave (1 161 employees), redeployment (541 employees), redundancy (827 employees), the 'fonds national pour l'emploi' (73 employees),

assisted departure (427 employees) and other measures (194 employees). Their total cost is FF 1 123,12 million (ECU 158,2 million). For the purposes of this Decision, as far as Métalnor is concerned, the Commission took into account only 80 % of this type of expenditure as corresponding to the EEC portion of the undertaking's activities (see point 11).

The costs directly associated with closures and with the reorganization of production relate to the closure and restructuring of plants, the demolition of buildings, the transfer and resiting of equipment, the termination of contracts in connection with closures, the handling of disputes and proceedings in this connection, capital losses on transfers of assets, and the depreciation of fixed assets (amortizations and stocks). These costs amount to a total of FF 502,6 million (ECU 70,8 million). In the case of Métalnor the Commission has taken account of only 80 % of this type of costs (EEC portion), i.e. FF 16 million.

The total amount of aid which the Commission considers compatible with the proper functioning of the common market since it meets the criteria for exemption provided for in Article 92 (3) (c) of the EEC Treaty is thus FF 1 625,72 million (ECU 229 million) out of the notified total of FF 2 783,6 million (ECU 392 million), of which FF 2 726,26 million (ECU 384 million) are assessed in this Decision as falling within the scope of the EEC Treaty.

The Commission considers that, up to this amount, which is proportionate to the scale of the problems to be overcome, the aid may be considered to contribute to the development of the activities concerned without adversely affecting trading conditions to an extent contrary to the common interest ;

5. by contrast, examination of the other expenditure to which the French authorities propose to provide assistance shows that the aid threatens to affect trading conditions to an extent contrary to the common interest.

The expenditure in question is, firstly, that referred to under the heading of 'bridging costs', i.e. FF 481,7 million (ECU 67,8 million). Such costs are incurred in respect of the wages of the employees covered by the various social measures between the time when the social plan was adopted by the 'comité d'établissement' and the time when it actually entered into force, after the necessary administrative procedures had been completed. It is impossible to check whether the employees concerned did or did not during that period contribute to the productive activity of the undertaking. Contributing to the cost of such wages would therefore entail the risk of covering the operating costs of such undertakings through State aid, which cannot be deemed to be compatible with the proper functioning of the common market in sectors suffering from considerable surplus capacity.

The costs in question are, secondly, investment expenditure totalling FF 300,9 million (ECU 42,4 million) for investment to be covered out by Tréfilunion and GTS on the development of new products, research and development, anti-pollution and energy conservation measures and productivity gains. The costs also relate to State contributions to writing-off of past losses totalling FF 317,94 million (ECU 44,8 million). Such aid is directly linked to the re-establishment and maintenance of the future financial and technical structure of the undertakings concerned. Given the market situation in the sectors concerned, in which there is considerable surplus capacity, authorizing such aid would amount to giving certain producers an undue advantage and, consequently, to creating a distortion of competition contrary to the common interest. The Commission considers that this type of expenditure forms part of the risk normally assumed by undertakings, for which the State is not responsible.

The total amount of the aid which the Commission considers to be incompatible with the proper functioning of the common market pursuant to Article 92 (1) of the EEC treaty is FF 1 100,54 million (ECU 155 million), since such aid is not eligible for any of the exemptions provided for in Article 92 (3) of the EEC Treaty.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The aid totalling FF 1 625,72 million which the French Government proposes to grant to the following undertakings: Valexy (FF 180,2 million), Tréfilunion (FF 574 million), GTS (FF 179,6 million), CFEM offshore equipment (FF 178,1 million), CFEM engineering (FF 126 million), C3F (FF 152 million), Chavanne-Kétin (FF 129,9 million) and Métalinor (FF 105,92 million), and which is intended either to cover expenditure connected with the workforce or direct closure costs under the 1986 to 1990 restructuring plans which the French Government submitted to the Commission, is hereby declared to be compatible with the common market under the exemption provided for in Article 92 (3) (c) of the EEC Treaty.

#### *Article 2*

The aid totalling FF 1 100,54 million which the French Government proposes to grant to the following undertakings: Valexy (FF 103,8 million), Tréfilunion (FF 672,4

million), GTS (FF 113,3 million), CFEM offshore (FF 48 million), CFEM engineering (FF 39,6 million), Métalinor (FF 123,44 million) and which is intended for the payment of the wages of the employees covered by the social plans between the time of the approval of the plan by the 'comité d'établissement' and its actual entry into force (bridging costs), the aid for investment not linked to reducing capacity and the aid intended to cover past losses are hereby declared to be incompatible with the common market under Article 92 (1) of the EEC Treaty.

Under this Decision, the French Government is required not to grant such aid. Within two months of the date of notification of this Decision, the French Government shall inform the Commission of the measures it has taken to withdraw the prohibited aid plans so as to bring its total level down to the amount authorized in Article 1 of this Decision.

#### *Article 3*

This Decision shall not apply to the portion of the notified aid which is to be granted to Métalinor and which falls within the scope of the ECSC Treaty, i.e. FF 57,34 million.

#### *Article 4*

The French Government shall inform the Commission within two months of the date of notification of this Decision of the arrangements for granting the authorized aid to the recipient undertakings. With regard to the restructuring period (1986 to 1990), the French Government shall present to the Commission an annual report, before 30 June of the year following the period under review, on the financial results of the undertakings remaining in activity. The report shall indicate in particular the state of progress of the restructuring measures to be carried out (reductions in workforce, capacity shut-downs) and the turnover, gross operating profit or loss and the net profit or loss for each of the undertakings.

#### *Article 5*

This Decision is addressed to the French Republic.

Done at Brussels, 28 June 1989.

*For the Commission*

Leon BRITTAN

*Vice-President*

**CORRIGENDA**

**Corrigendum to Council Decision 89/690/EEC of 21 December 1989 concerning the conclusion of an Agreement between the European Economic Community and the Republic of Finland on trade electronic data interchange systems**

*(Official Journal of the European Communities No L 400 of 30 December 1989)*

On page 8, Agreement, final phrase :

*for:* 'Done at Brussels on the seventh day of December...'

*read:* 'Done at Brussels on the fifteenth day of December...'

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**Corrigendum to Council Decision 89/691/EEC of 21 December 1989 concerning the conclusion of an Agreement between the European Economic Community and the Republic of Iceland on trade electronic data interchange systems**

*(Official Journal of the European Communities No L 400 of 30 December 1989)*

On page 13, Agreement, final phrase :

*for:* 'Done at Brussels on the seventh day of December...'

*read:* 'Done at Brussels on the fifteenth day of December...'

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**Corrigendum to Council Decision 89/692/EEC of 21 December 1989 concerning the conclusion of an Agreement between the European Economic Community and the Kingdom of Norway on trade electronic data interchange systems**

*(Official Journal of the European Communities No L 400 of 30 December 1989)*

On page 18, Agreement, final phrase :

*for:* 'Done at Brussels on the seventh day of December...'

*read:* 'Done at Brussels on the eighth day of December...'

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