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Contents

I *Acts whose publication is obligatory*

- ★ **Council Regulation (EEC) No 52/92 of 19 December 1991 amending Regulation (EEC) No 3301/91 on the arrangements for imports of certain textile products originating in Yugoslavia** 1
- Commission Regulation (EEC) No 53/92 of 10 January 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal 3
- Commission Regulation (EEC) No 54/92 of 10 January 1992 fixing the premiums to be added to the import levies on cereals, flour and malt 5
- Commission Regulation (EEC) No 55/92 of 10 January 1992 fixing the import levies on rice and broken rice 7
- Commission Regulation (EEC) No 56/92 of 10 January 1992 fixing the premiums to be added to the import levies on rice and broken rice 9
- Commission Regulation (EEC) No 57/92 of 8 January 1992 on the supply of various consignments of cereals as food aid 11
- Commission Regulation (EEC) No 58/92 of 9 January 1992 opening invitations to tender for the fixing of aid for the private storage of carcasses and half-carcasses of lamb 14
- ★ **Commission Regulation (EEC) No 59/92 of 10 January 1992 laying down a temporary provision relating to the detailed rules for the application of the subsidy system for producers of soya beans, rape seed and sunflower seed** ... 15
- ★ **Commission Regulation (EEC) No 60/92 of 9 January 1992 amending Regulation (EEC) No 3378/91 laying down detailed rules for the sale of butter from intervention stocks for exports and amending Regulation (EEC) No 569/88** 17

★ Commission Regulation (EEC) No 61/92 of 10 January 1992 amending Regulation (EEC) No 464/91 together with Annex I to Council Regulation (EEC) No 1785/81 in respect of export refunds for sugar in the form of products listed in that Annex	19
Commission Regulation (EEC) No 62/92 of 10 January 1992 fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 1	21
★ Commission Regulation (EEC) No 63/92 of 10 January 1992 amending Regulation (EEC) No 606/86 laying down detailed rules for applying the supplementary trade mechanism to milk products imported into Spain from the Community of Ten and Portugal	24
Commission Regulation (EEC) No 64/92 of 10 January 1992 adopting interim protective measures in so far as concerns Spain in regard to applications for STM licences for milk and milk products lodged between 1 and 4 January 1992	27
Commission Regulation (EEC) No 65/92 of 10 January 1992 applying the duty in the Common Customs Tariff to fresh lemons originating in Cyprus	28
Commission Regulation (EEC) No 66/92 of 10 January 1992 introducing a countervailing charge on mandarines originating in Morocco	30
Commission Regulation (EEC) No 67/92 of 10 January 1992 fixing the aid for cotton	32

II Acts whose publication is not obligatory

Council

92/9/EEC:

★ Council Decision of 17 December 1991 on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol establishing the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1991 to 19 July 1994	33
Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1991 to 19 July 1994	34

92/10/EEC:

★ Council Decision of 19 December 1991 postponing the date on which the national provisions applying Directive 89/104/EEC to approximate the laws of the Member States relating to trade marks are to be put into effect	35
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Commission

92/11/EEC :

- ★ **Commission Decision of 31 July 1991 concerning aid provided by the Derbyshire County Council to Toyota Motor Corporation, an undertaking producing motor vehicles 36**

92/12/EEC :

- ★ **Commission Decision of 18 December 1991 amending Decision 91/107/EEC authorizing certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of sawn wood of conifers originating in the USA 45**

92/13/EEC :

- ★ **Commission Decision of 18 December 1991 amending Decision 90/505/EEC authorizing certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of sawn wood of conifers originating in Canada 47**

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 52/92

of 19 December 1991

amending Regulation (EEC) No 3301/91 on the arrangements for imports of certain textile products originating in Yugoslavia

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

Having regard to the proposal from the Commission,

Whereas Council Regulation (EEC) No 3301/91⁽¹⁾ established Community quantitative quotas for imports of certain textile products originating in Yugoslavia, following the suspension, by Regulation (EEC) No 3300/91⁽²⁾, of the trade concessions provided for in the Cooperation Agreement between the European Economic Community and the Socialist Federal Republic of Yugoslavia⁽³⁾ and in related protocols and instruments, including the Additional Protocol on trade in textile products;

Whereas the conditions which led to the establishment of the quantitative quotas still exist;

Whereas the existing arrangements should be maintained for 1992 and Regulation (EEC) No 3301/91 should therefore be amended in order to carry over the quantitative quotas and other provisions into 1992;

Whereas this Regulation could be amended if necessary, in order to take account of developments in the political situation in Yugoslavia,

Article 1

Regulation (EEC) No 3301/91 is hereby amended as follows:

1. In Articles 1 (1) and 2 (1) and in the second paragraph of Article 14, '1991' shall be replaced by '1992'.
2. The last sentence of Article 1 (1) shall be deleted.
3. The descriptions and codes applying to the categories of textile products listed in the Annex to this Regulation shall replace the descriptions and codes applying to the same categories as they appear in Annexes I and II to Regulation (EEC) No 3301/91.
4. In column 7 of Annex II and Appendices A and B of Annex III, '1991' shall be replaced by '1992'.

Article 2

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

It shall apply from 1 January to 31 December 1992.

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

Done at Brussels, 19 December 1991.

For the Council

The President

P. DANKERT

⁽¹⁾ OJ No L 315, 15. 11. 1991, p. 3.

⁽²⁾ OJ No L 315, 15. 11. 1991, p. 1.

⁽³⁾ OJ No L 41, 14. 2. 1983, p. 1.

ANNEX

Category	CN Code	Description
6	6203 41 10	Men's or boys' woven breeches, shorts other than swimwear and trousers (including slacks); women's or girls' woven trousers and slacks, of wool, of cotton or of man-made fibres;
	6203 41 90	
	6203 42 31	Lower parts of tracksuits with lining, other than of category 16 or 29, of cotton or of man-made fibres
	6203 42 33	
	6203 42 35	
	6203 42 90	
	6203 43 19	
	6203 43 90	
	6203 49 19	
	6203 49 50	
	6204 61 10	
	6204 62 31	
	6204 62 33	
	6204 62 39	
	6204 63 18	
	6204 69 18	
	6211 32 42	
	6211 33 42	
	6211 42 42	
	6211 43 42	
16	6203 11 00	Men's or boys' suits and ensembles, other than knitted or crocheted, of wool, of cotton or of man-made fibres, excluding ski suits;
	6203 12 00	
	6203 19 10	Men's or boys' tracksuits with lining, with an outer shell of a single identical fabric, of cotton or of man-made fibres
	6203 19 30	
	6203 21 00	
	6203 22 80	
	6203 23 80	
	6203 29 18	
	6211 32 31	
	6211 33 31	
21	ex 6201 12 10	Parkas; anoraks, windcheaters, waister jackets and the like, other than knitted or crocheted, of wool, of cotton or man-made fibres;
	ex 6201 12 90	
	ex 6201 13 10	Upper parts of tracksuits with lining, other than of category 16 or 29, of cotton or of man-made fibres
	ex 6201 13 90	
	6201 91 00	
	6201 92 00	
	6201 93 00	
	ex 6202 12 10	
	ex 6202 12 90	
	ex 6202 13 10	
	ex 6202 13 90	
	6202 91 00	
	6202 92 00	
	6202 93 00	
	6211 32 41	
	6211 33 41	
	6211 42 41	
	6211 43 41	
29	6204 11 00	Women's or girls' suits and ensembles, other than knitted or crocheted, of wool, of cotton or man-made fibres, excluding ski suits;
	6204 12 00	
	6204 13 00	Women's or girls' tracksuits with lining, with an outer shell of a single identical fabric, of cotton or of man-made fibres
	6204 19 10	
	6204 21 00	
	6204 22 80	
	6204 23 80	
	6204 29 18	
	6211 42 31	
	6211 43 31	

COMMISSION REGULATION (EEC) No 53/92

of 10 January 1992

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 3577/90⁽²⁾, and in particular Article 13 (5) thereof,Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2661/91⁽⁵⁾ and subsequent amending Regulations;

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

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

- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 9 January 1992;

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

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2661/91 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies to be charged on products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 11 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.⁽⁵⁾ OJ No L 250, 7. 9. 1991, p. 1.

ANNEX

to the Commission Regulation of 10 January 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy
0709 90 60	136,82 ⁽²⁾ ⁽³⁾
0712 90 19	136,82 ⁽²⁾ ⁽³⁾
1001 10 10	185,33 ⁽¹⁾ ⁽³⁾
1001 10 90	185,33 ⁽¹⁾ ⁽³⁾
1001 90 91	161,58
1001 90 99	161,58
1002 00 00	167,95 ⁽⁴⁾
1003 00 10	146,12
1003 00 90	146,12
1004 00 10	136,58
1004 00 90	136,58
1005 10 90	136,82 ⁽²⁾ ⁽³⁾
1005 90 00	136,82 ⁽²⁾ ⁽³⁾
1007 00 90	145,35 ⁽⁴⁾
1008 10 00	68,53
1008 20 00	137,05 ⁽⁴⁾
1008 30 00	89,22 ⁽⁵⁾
1008 90 10	⁽⁷⁾
1008 90 90	89,22
1101 00 00	239,21 ⁽⁸⁾
1102 10 00	248,18 ⁽⁸⁾
1103 11 10	300,04 ⁽⁸⁾
1103 11 90	257,34 ⁽⁸⁾

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

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 54/92

of 10 January 1992

fixing the premiums to be added to the import levies on cereals, flour and malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 3577/90⁽²⁾, and in particular Article 15 (6) thereof,Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 1845/91⁽⁵⁾ and subsequent amending Regulation;

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

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

- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas these exchange rates being those recorded on 9 January 1992;

Whereas, on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt coming from third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 11 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 168, 29. 6. 1991, p. 4.

ANNEX

to the Commission Regulation of 10 January 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 1	1st period 2	2nd period 3	3rd period 4
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 55/92
of 10 January 1992
fixing the import levies on rice and broken rice

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

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 1806/89 ⁽²⁾, and in particular Article 11 (2) thereof,

Having regard to Commission Regulation (EEC) No 883/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports rice of the long-grain aromatic Basmati variety falling within CN codes 1006 10, 1006 20 and 1006 30 ⁽³⁾, as last amended by Regulation (EEC) No 674/91 ⁽⁴⁾, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 3487/91 ⁽⁵⁾, as last amended by Regulation (EEC) No 6/92 ⁽⁶⁾,

HAS ADOPTED THIS REGULATION :

Article 1

The import levies to be charged on the products listed in Article 1 (1) (a) and (b) of Regulation (EEC) No 1418/76 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 13 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 177, 24. 6. 1989, p. 1.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 75, 21. 3. 1991, p. 29.

⁽⁵⁾ OJ No L 328, 30. 11. 1991, p. 66.

⁽⁶⁾ OJ No L 1, 4. 1. 1992, p. 13.

ANNEX

to the Commission Regulation of 10 January 1992 fixing the import levies on rice and broken rice

(ECU/tonne)			
CN code	Arrangement in Regulation (EEC) No 3877/86 ⁽¹⁾	ACP or OCT ⁽¹⁾ ⁽²⁾ ⁽³⁾ ⁽⁴⁾ Bangladesh	Third countries (except ACP or OCT) ⁽⁵⁾
1006 10 21	—	156,21	319,62
1006 10 23	227,15	147,83	302,87
1006 10 25	227,15	147,83	302,87
1006 10 27	227,15	147,83	302,87
1006 10 92	—	156,21	319,62
1006 10 94	227,15	147,83	302,87
1006 10 96	227,15	147,83	302,87
1006 10 98	227,15	147,83	302,87
1006 20 11	—	196,16	399,52
1006 20 13	283,94	185,69	378,59
1006 20 15	283,94	185,69	378,59
1006 20 17	283,94	185,69	378,59
1006 20 92	—	196,16	399,52
1006 20 94	283,94	185,69	378,59
1006 20 96	283,94	185,69	378,59
1006 20 98	283,94	185,69	378,59
1006 30 21	—	243,21	510,27 ⁽⁶⁾
1006 30 23	450,80 ⁽⁷⁾	288,65	601,07 ⁽⁷⁾
1006 30 25	450,80 ⁽⁷⁾	288,65	601,07 ⁽⁷⁾
1006 30 27	450,80 ⁽⁷⁾	288,65	601,07 ⁽⁷⁾
1006 30 42	—	243,21	510,27 ⁽⁶⁾
1006 30 44	450,80 ⁽⁷⁾	288,65	601,07 ⁽⁷⁾
1006 30 46	450,80 ⁽⁷⁾	288,65	601,07 ⁽⁷⁾
1006 30 48	450,80 ⁽⁷⁾	288,65	601,07 ⁽⁷⁾
1006 30 61	—	259,37	543,44 ⁽⁶⁾
1006 30 63	483,26 ⁽⁷⁾	309,82	644,35 ⁽⁷⁾
1006 30 65	483,26 ⁽⁷⁾	309,82	644,35 ⁽⁷⁾
1006 30 67	483,26 ⁽⁷⁾	309,82	644,35 ⁽⁷⁾
1006 30 92	—	259,37	543,44 ⁽⁶⁾
1006 30 94	483,26 ⁽⁷⁾	309,82	644,35 ⁽⁷⁾
1006 30 96	483,26 ⁽⁷⁾	309,82	644,35 ⁽⁷⁾
1006 30 98	483,26 ⁽⁷⁾	309,82	644,35 ⁽⁷⁾
1006 40 00	—	71,00	148,01

⁽¹⁾ Subject to the application of the provisions of Articles 12 and 13 of Regulation (EEC) No 715/90.

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

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

⁽⁴⁾ The levy on imports of rice, not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Regulation (EEC) Nos 3491/90 and 862/91.

⁽⁵⁾ The levy on imports into Portugal is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3808/90.

⁽⁶⁾ The levy on imports of rice of the long-grain aromatic Basmati variety is applicable under the arrangements laid down in Regulation (EEC) No 3877/86, as amended by Regulation (EEC) No 3130/91.

COMMISSION REGULATION (EEC) No 56/92**of 10 January 1992****fixing the premiums to be added to the import levies on rice and broken rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 1806/89 ⁽²⁾, and in particular Article 13 (6) thereof,

Whereas the premiums to be added to the levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2591/91 ⁽³⁾, as last amended by Regulation (EEC) No 7/92 ⁽⁴⁾;

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 shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums to be added to the import levies fixed in advance in respect of rice and broken rice originating in third countries shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 13 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 177, 24. 6. 1989, p. 1.

⁽³⁾ OJ No L 243, 31. 8. 1991, p. 8.

⁽⁴⁾ OJ No L 1, 4. 1. 1992, p. 15.

ANNEX

to the Commission Regulation of 10 January 1992 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 1	1st period 2	2nd period 3	3rd period 4
1006 10 21	0	0	0	—
1006 10 23	0	0	0	—
1006 10 25	0	0	0	—
1006 10 27	0	0	0	—
1006 10 92	0	0	0	—
1006 10 94	0	0	0	—
1006 10 96	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 13	0	0	0	—
1006 20 15	0	0	0	—
1006 20 17	0	0	0	—
1006 20 92	0	0	0	—
1006 20 94	0	0	0	—
1006 20 96	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 23	0	0	0	—
1006 30 25	0	0	0	—
1006 30 27	0	0	0	—
1006 30 42	0	0	0	—
1006 30 44	0	0	0	—
1006 30 46	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 63	0	0	0	—
1006 30 65	0	0	0	—
1006 30 67	0	0	0	—
1006 30 92	0	0	0	—
1006 30 94	0	0	0	—
1006 30 96	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0

COMMISSION REGULATION (EEC) No 57/92

of 8 January 1992

on the supply of various consignments of cereals as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management ⁽¹⁾, as last amended by Regulation (EEC) No 1930/90 ⁽²⁾, and in particular Article 6 (1)(c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management ⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas following the taking of a number of decisions on the allocation of food aid the Commission has allocated to certain countries and beneficiary organizations 50 000 tonnes of cereals;

Whereas it is necessary to provide for the carrying out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid ⁽⁴⁾, as amended by Regulation (EEC) No 790/91 ⁽⁵⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs;

Whereas, notably for logistical reasons, certain supplies are not awarded within the first and second deadlines for submission of tenders; whereas, in order to avoid republication of the notice of invitation to tender, a third deadline for submission of tenders should be opened,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilized in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annex. Supplies shall be awarded by the tendering procedure.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 8 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

ANNEX

LOTS A and B

1. **Operation Nos⁽¹⁾:** 1014/91 — 1015/91
2. **Programme:** 1991
3. **Recipient⁽²⁾:** Egypt
4. **Representative of the recipient⁽²⁾:** Ambassade de la République Arabe d'Égypte, section commerciale, 522 avenue Louise, B-1050 Bruxelles; (tel. (02) 647 32 27, telex 64809 COMRAU B, fax (02) 646 45 09)
5. **Place or country of destination:** Egypt
6. **Product to be mobilized:** common wheat
7. **Characteristics and quality of the goods⁽³⁾:** see list published in OJ No C 114, 29. 4. 1991, p. 1 (under II.A.1(a))
8. **Total quantity:** 50 000 tonnes net
9. **Number of lots:** two [A (1014/91): 25 000 tonnes, B (1015/91): 25 000 tonnes]
10. **Packaging and marking:** in bulk
11. **Method of mobilization:** the Community market
12. **Stage of supply⁽⁴⁾:** free at port of shipment — fob stowed
13. **Port of shipment:** —
14. **Port of landing specified by the recipient:** —
15. **Port of landing:** —
16. **Address of the warehouse and, if appropriate, port of landing:** —
17. **Period for making the goods available (fob stowed) at the port of shipment stage:**
 - Lot A: 10 — 19. 2. 1992
 - Lot B: 20 — 29. 2. 1992
18. **Deadline for the supply:** —
19. **Procedure for determining the costs of supply:** tendering
20. **Date of expiry of the period allowed for submission of tenders:** 12 noon on 28. 1. 1992
21. **A. In the case of a second invitation to tender:**
 - (a) deadline for the submission of tenders: 12 noon on 11. 2. 1992
 - (b) period for making the goods available (fob stowed) at the port of shipment:
 - Lot A: 24. 2 — 4. 3. 1992
 - Lot B: 5 — 14. 3. 1992
 - (c) deadline for the supply: —
- B. In the case of a third invitation to tender:**
 - (a) deadline for the submission of tenders: 12 noon on 25. 2. 1992
 - (b) period for making the goods available (fob stowed) at the port of shipment:
 - Lot A: 9 — 18. 3. 1992
 - Lot B: 19 — 28. 3. 1992
 - (c) deadline for the supply: —
22. **Amount of the tendering security:** ECU 5 per tonne
23. **Amount of the delivery security:** 10 % of the amount of the tender in ecus
24. **Address for submission of tenders⁽⁵⁾:** Bureau de l'aide alimentaire, à l'attention de Monsieur N. Arend, bâtiment Loi 120, bureau 7/46, 200 rue de la Loi, B-1049 Bruxelles; telex 22037 AGREC B or 25670 AGREC B
25. **Refund payable on request by the successful tenderer⁽⁶⁾:** refund applicable on 31. 1. 1992, fixed by Commission Regulation (EEC) No 3758/91 (OJ No L 352, 21. 2. 1991, p. 81)

Notes:

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer: see list published in OJ No C 114, 29. 4. 1991, p. 33.
- (³) The successful tenderer shall deliver to the beneficiary for each action number/shipping number a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded.
- The radioactivity certificate must indicate the caesium-134 and -137 levels.
- The radioactivity certificate must be endorsed by an Egyptian embassy or consulate.
- (⁴) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably:
- either by porter at the office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels:
 - 235 01 32,
 - 236 10 97,
 - 235 01 30,
 - 236 20 05,
 - 236 33 04.
- (⁵) Commission Regulation (EEC) No 2330/87 (OJ No L 210, 1. 8. 1987, p. 56) is applicable as regards the export refund and, where appropriate, the monetary and accession compensatory amounts, the representative rate and the monetary coefficient. The date referred to in Article 2 of the abovementioned Regulation is that referred to in point 25 of the Annexes.
- (⁶) By way of derogation from Articles 7 (3) (f) and 13 (2) of Regulation (EEC) No 2200/87, the price tendered must include the loading and stowage costs. The loading and stowage operations will be the responsibility of the successful tenderer.
- (⁷) The successful tenderer is to contact the recipient as soon as possible to establish which consignment documents are required and how they are to be distributed.
-

COMMISSION REGULATION (EEC) No 58/92

of 9 January 1992

opening invitations to tender for the fixing of aid for the private storage of carcasses and half-carcasses of lamb

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EEC) No 1741/91⁽²⁾, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 3446/90 of 27 November 1990 laying down detailed rules for granting private storage aid for sheepmeat and goatmeat⁽³⁾, as amended by Regulation (EEC) No 1258/91⁽⁴⁾, provides in particular for detailed rules on the invitation to tender;

Whereas Commission Regulation (EEC) No 3447/90 of 28 November 1990 on special conditions for the granting of private storage aid for sheepmeat and goatmeat⁽⁵⁾, as last amended by Regulation (EEC) No 1258/91, provides in particular the minimum quantities in respect of which a tender may be submitted;

Whereas the application of Article 7 (3) of Regulation (EEC) No 3013/89 results in the opening of invitations to tender for private storage aid;

Whereas that Article provides for the application of these measures on the basis of the situation of each quotation

zone; whereas it is appropriate consequently to open tenders separately for each of the zones where the conditions are fulfilled,

HAS ADOPTED THIS REGULATION:

Article 1

Separate invitations to tender are opened in Great Britain, Denmark, the Netherlands, Ireland, Northern Ireland and Germany for aid to private storage for carcasses and half-carcasses of lamb.

Subject to the provisions of Regulation (EEC) No 3447/90 tenders may be made to the intervention agencies of the Member States concerned.

Article 2

Tenders must be submitted not later than 2 p.m. on 17 January 1992 to the relevant intervention agency.

Article 3

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, 9 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 163, 26. 6. 1991, p. 41.

⁽³⁾ OJ No L 333, 30. 11. 1990, p. 39.

⁽⁴⁾ OJ No L 120, 15. 5. 1991, p. 15.

⁽⁵⁾ OJ No L 333, 30. 11. 1990, p. 46.

COMMISSION REGULATION (EEC) No 59/92
of 10 January 1992

laying down a temporary provision relating to the detailed rules for the application of the subsidy system for producers of soya beans, rape seed and sunflower seed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the common organization of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EEC) No 1720/91 ⁽²⁾, and in particular Article 27 (5) thereof,

Having regard to Council Regulation No 142/67/EEC of 21 June 1967 on export refunds on colza, rape and sunflower seeds ⁽³⁾, as last amended by the Act of Accession of Greece, and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 1491/85 of 23 May 1985 laying down special measures in respect of soya beans ⁽⁴⁾, as last amended by Regulation (EEC) No 1724/91 ⁽⁵⁾, and in particular Article 2 (8) thereof,

Having regard to Council Regulation (EEC) No 3766/91 of 12 December 1991 establishing a support system for producers of soya beans, rape seed and sunflower seed ⁽⁶⁾, and in particular Article 11 thereof,

Whereas Article 11 (1) of Commission Regulation (EEC) No 2681/83 of 21 September 1983 laying down detailed rules for the application of the subsidy system for oilseeds ⁽⁷⁾, as last amended by Regulation (EEC) No 1905/91 ⁽⁸⁾, provides for a term of validity of the advance-fixing part of the certificate provided for in Article 4 of Council Regulation (EEC) No 1594/93 ⁽⁹⁾, as amended by Regulation (EEC) No 1321/90 ⁽¹⁰⁾, of four or five months, as the case may be, from the month following that during which the application was submitted; whereas Article 18 of Commission Regulation (EEC) No 2537/89 of 8 August 1989 laying down detailed rules for the application of the special measures for soya beans ⁽¹¹⁾, as last amended by Regulation (EEC) No 2427/90 ⁽¹²⁾, provides for a term of validity of the advance-fixing part of the certificate provided for in Article 4a of Council Regulation (EEC) No 2194/85 ⁽¹³⁾, as last amended by Regulation (EEC) No 1725/91 ⁽¹⁴⁾, of five

months from the month following that during which the application was submitted;

Whereas Article 13 of Commission Regulation (EEC) No 2041/75 of 25 July 1975 on special detailed rules for the application of the system of import and export licences and advance fixing certificates for oils and fats ⁽¹⁵⁾, as last amended by Regulation (EEC) No 557/91 ⁽¹⁶⁾, provides for a term of validity of export licences with advance fixing of the refund as provided for in Article 4a of Regulation No 142/66/EEC, of five months from the month following that during which it was issued, with the possibility of that term being reduced each time the refund is fixed;

Whereas the support system introduced by Regulation (EEC) No 3766/91 replaces the provisions on aid for rape seed, sunflower seed and soya beans in Regulations No 136/66/EEC and (EEC) No 1491/85; whereas, in order to avoid any risk of interference between the two support systems, advance fixing of the aid for such seeds or beans must be suspended for the months from and including July 1992, identification must be discontinued as from 1 July 1992 and the same must apply to export refunds on rape seed and sunflower seed;

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

Advance fixing

For rape seed and sunflower seed on the one hand and for soya beans on the other, the term of validity of the advance-fixing part of the certificate provided for respectively in Article 4 of Regulation (EEC) No 1594/83 and in Article 4a of Regulation (EEC) No 2194/85 shall not extend beyond 30 June 1992, notwithstanding Article 11 (1) of Regulation (EEC) No 2681/83 and Article 13 of Regulation (EEC) No 2537/89 respectively.

⁽¹⁵⁾ OJ No L 213, 11. 8. 1975, p. 1.

⁽¹⁶⁾ OJ No L 62, 8. 3. 1991, p. 23.

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

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No 125, 26. 6. 1967, p. 2461/67.

⁽⁴⁾ OJ No L 151, 10. 6. 1985, p. 15.

⁽⁵⁾ OJ No L 162, 26. 6. 1991, p. 35.

⁽⁶⁾ OJ No L 356, 24. 12. 1991, p. 17.

⁽⁷⁾ OJ No L 266, 28. 9. 1983, p. 1.

⁽⁸⁾ OJ No L 169, 29. 6. 1991, p. 43.

⁽⁹⁾ OJ No L 163, 22. 6. 1983, p. 44.

⁽¹⁰⁾ OJ No L 132, 23. 5. 1990, p. 15.

⁽¹¹⁾ OJ No L 245, 22. 8. 1989, p. 8.

⁽¹²⁾ OJ No L 228, 22. 8. 1990, p. 15.

⁽¹³⁾ OJ No L 204, 2. 8. 1985, p. 1.

⁽¹⁴⁾ OJ No L 162, 26. 6. 1991, p. 37.

*Article 2***Identification**

No identification of rape seed, sunflower seed or soya beans may take place as from 1 July 1992.

*Article 3***Export refunds**

For rape and sunflower seed the term of validity of export licences with advance fixing of the refund as provided for in Article 4a of Regulation No 142/67/EEC shall not

extend beyond 30 June 1992, notwithstanding Article 13 of Regulation (EEC) No 2041/75, and no exports may take place with payment of the refund as from 1 July 1992.

Article 4

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

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 60/92

of 9 January 1992

amending Regulation (EEC) No 3378/91 laying down detailed rules for the sale of butter from intervention stocks for exports and amending Regulation (EEC) No 569/88

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 (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by Regulation (EEC) No 1630/91⁽²⁾, and in particular Article 6 (7) and Article 28 thereof,

Whereas Commission Regulation (EEC) No 3378/91⁽³⁾ provides for quantities of butter in public storage to be made available to operators and invitations to tender to be organized in order, *inter alia*, to determine the minimum selling prices for butter intended for export either in the unaltered state or after processing; whereas the tenders referred to in Article 5 of that Regulation shall cover a minimum of 500 tonnes in total, originating in one or more Member States; whereas, accordingly, the quantity accepted may not necessarily correspond to the said minimum requirement; whereas tenders accepted should therefore be limited to products coming from a single Member State;

Whereas the security referred to in Article 7 (2) must be lodged in the Member State in which the concentrated butter is manufactured;

Whereas Article 10 (4) specifies the minimum milk fat content by weight of 100 kilograms of concentrated butter and the quantity of butter to be used; whereas the quantity of butter to be used should be adjusted if the milk fat content by weight of 100 kilograms of concentrated butter exceeds 99,8 %;

Whereas the competent authorities must be designated with a view to supervising the repackaging referred to in Article 9;

Whereas the sections to be completed in the documents referred to in Part II of the Annex to Commission Regulation (EEC) No 569/88⁽⁴⁾, as last amended by Regulation (EEC) No 44/92⁽⁵⁾, need to be amended;

Whereas the Management Committee for milk and milk products has not delivered an opinion within the time limit set by its chairman,

Article 1

Regulation (EEC) No 3378/91 is hereby amended as follows:

1. Article 5 is amended as follows:

— in paragraph 2:

— subparagraph (b) is replaced by the following:

'(b) the quantity applied for, specifying if the butter is to be exported unprocessed or after processing into concentrated butter,'

— subparagraph (c) is replaced by the following:

'(c) the intended country or countries of destination of the butter',

— subparagraph (f) is deleted,

— in paragraph 3, subparagraph (a) is replaced by the following:

'(a) they cover a minimum of 500 tonnes';

2. in the second subparagraph of Article 8 (2), the term 'may be lodged' is replaced by the term 'shall be lodged';

3. in Article 10 (4) the following subparagraph is added:

'However, if the milk fat content by weight exceeds 99,8 %, the quantity of butter to be used to produce a minimum of 100 kilograms of concentrated butter shall be increased to 122,5 kilograms.';

4. the first paragraph of Article 11 shall be replaced by the following:

'The competent authorities of the Member States on whose territory the processing and repackaging operations referred to in Articles 9 and 10 are carried out shall supervise those operations.'

Article 2

In Part II of the Annex to Regulation (EEC) No 569/88, paragraph 40 is replaced by the following:

'40. Commission Regulation (EEC) No 3378/91 of 20 November 1991 laying down detailed rules for the sale of butter from intervention stocks for export⁽⁴⁰⁾:

(a) on the dispatch of the butter for processing:

Section 44 of the SAD or the most appropriate section of the document used:

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 19.

⁽³⁾ OJ No L 319, 21. 11. 1991, p. 40.

⁽⁴⁾ OJ No L 55, 1. 3. 1988, p. 1.

⁽⁵⁾ OJ No L 5, 10. 1. 1992, p. 9.

1. Destinada a la transformación y exportación posterior [Reglamento (CEE) n° 3378/91];
Til forarbejdning og senere eksport [forordning (EØF) nr. 3378/91];
Zur Verarbeitung und späteren Ausfuhr bestimmt [Verordnung (EWG) Nr. 3378/91];
Προοριζόμενο για μεταποίηση και για μετέπειτα εξαγωγή [κανονισμός (ΕΟΚ) αριθ. 3378/91];
Intended for processing and, subsequently, export [Regulation (EEC) No 3378/91];
Destiné à la transformation et à l'exportation [règlement (CEE) n° 3378/91];
Destinato alla trasformazione e alla successiva esportazione [regolamento (CEE) n. 3378/91];
Bestemd om te worden verwerkt en vervolgens te worden uitgevoerd [Verordening (EEG) nr. 3378/91];
Destinada à transformação e à exportação posterior [Regulamento (CEE) n° 3378/91];
 2. time limit for submission of tenders under the special invitation to tender procedure;
- (b) on the export of the finished product:
- Section 44 of the SAD or the most appropriate section of the document used:
1. Mantequilla concentrada destinada a la exportación [Reglamento (CEE) n° 3378/91];
Koncentreret smør bestemt til eksport [forordning (EØF) nr. 3378/91];
Zur Ausfuhr bestimmtes Butterfett [Verordnung (EWG) Nr. 3378/91];
Συμπυκνωμένο βούτυρο προοριζόμενο για εξαγωγή [κανονισμός (ΕΟΚ) αριθ. 3378/91];
Concentrated butter for export [Regulation (EEC) No 3378/91];
Beurre concentré destiné à l'exportation [règlement (CEE) n° 3378/91];
Burro concentrato destinato all'esportazione [regolamento (CEE) n. 3378/91];
Boterconcentraat bestemd voor uitvoer [Verordening (EEG) nr. 3378/91];
Manteiga concentrada destinada à exportação [Regulamento (CEE) n° 3378/91];
 2. the time limit for submission of tenders for the special invitation to tender;
 3. the weight of the butter used to obtain the quantity of finished product indicated.

Article 3

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

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

Done at Brussels, 9 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 61/92

of 10 January 1992

amending Regulation (EEC) No 464/91 together with Annex I to Council Regulation (EEC) No 1785/81 in respect of export refunds for sugar in the form of products listed in that Annex

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Commission Regulation (EEC) No 464/91⁽²⁾, and in particular Article 19 (7) thereof,

Whereas Regulation (EEC) No 464/91 formally introduced the product known as 'crispbread' into Annex I to Regulation (EEC) No 1785/81 with effect from 1 July 1991 after being omitted when the old CCT was transposed into the new 'combined nomenclature' (CN); whereas Council Regulation (EEC) No 3381/90⁽³⁾, amending Council Regulation (EEC) No 3035/80⁽⁴⁾, provided for the reintroduction of this product into its field of application and that this was to be applicable also

to the refund applications the files of which had not yet been closed at that date; whereas in order to cover those applications it is necessary therefore to provide for the same retroactivity in the field of application of Regulation (EEC) No 1785/81 which constitutes the right to the export refund;

Whereas certain 'muesli' type breakfast products containing sugar and which currently fall within CN code 2106 will, from 1 January 1992, be classified either within CN code 2008 92 or CN code 2008 99; whereas any interruption in the continuity of granting export refunds for the sugar element should be avoided and it is necessary to this end that they should be listed in Annex I to Regulation (EEC) No 1785/81 with effect from 1 January 1992;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following third subparagraph is added to Article 4 of Regulation (EEC) No 464/91:

'However, on application by the party concerned, Article 3 of this Regulation shall be applicable to applications made before 1 July 1991 in respect of export refunds relating to sugar exported in the form of crispbread covered by CN code 1905 10 00, for which the file was still open on that date.'

Article 2

The following products are hereby inserted in Annex I to Regulation (EEC) No 1785/81:

CN code	Description
'ex 2008 92	'Muesli' type breakfast cereals containing unroasted cereal flakes
ex 2008 99 48	'Muesli' type breakfast cereals containing unroasted cereal flakes
ex 2008 99 69	'Muesli' type breakfast cereals containing unroasted cereal flakes
ex 2008 99 99	'Muesli' type breakfast cereals containing unroasted cereal flakes'

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 22.

⁽³⁾ OJ No L 327, 27. 11. 1990, p. 4.

⁽⁴⁾ OJ No L 323, 29. 11. 1980, p. 27.

Article 3

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

Article 2 shall apply with effect from 1 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 62/92

of 10 January 1992

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

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

Having regard to Council Regulation (EEC) No 3013/89
of 25 September 1989 on the common organization of
the market in sheepmeat and goatmeat⁽¹⁾, as last
amended by Regulation (EEC) No 1741/91⁽²⁾,

Having regard to Commission Regulation (EEC) No
1633/84 of 8 June 1984 laying down detailed rules for
applying the variable slaughter premium for sheep and
repealing Regulation (EEC) No 2661/80⁽³⁾, as last
amended by Regulation (EEC) No 1075/89⁽⁴⁾, and in
particular Articles 3 (1) and 4 (1) thereof,

Whereas the United Kingdom is the only country which
grants the variable slaughter premium, in region 5, within
the meaning of Article 22 (2) of Regulation (EEC) No
3013/89 whereas it is necessary therefore for the Commis-
sion to fix, for the week beginning the 16 December
1991, the level of the premium and the amount to be
charged on products leaving that region;

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

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

Whereas in the Annex to Commission Regulation (EEC)
No 3618/89 of 1 December 1989 on the application of
the guarantee limitation arrangements for sheepmeat and
goatmeat⁽⁵⁾ the weekly amounts of the guide level are set
out pursuant to Article 25 of Regulation (EEC) No
3013/89;

Whereas, pursuant to the provisions of Article 24 (2) and
(3) of Regulation (EEC) No 3013/89, for the week begin-
ning the 16 December 1991, the variable slaughter
premium for sheep certified as eligible in the United
Kingdom is to be in accordance with the amounts fixed
in the Annexes hereto; whereas, for that week, in the
light of the Judgment of the Court of Justice of 2
February 1988 in Case 61/86, the provisions of Article 9
(5) of Regulation (EEC) No 3013/89 and of Article 4 of
Regulation (EEC) No 1633/84 lead to the amounts to be
charged on products, leaving region 1, being fixed in
accordance with those Annexes;

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

HAS ADOPTED THIS REGULATION:

Article 1

For sheep or sheepmeat certified as eligible in the United
Kingdom in region 1, within the meaning of Article 22
(2) of Regulation (EEC) No 3013/89, for the variable
slaughter premium during the week beginning the 16
December 1991, the level of the premium is fixed at ECU
75,579 per 100 kilograms of estimated or actual dressed
carcase weight within the limits laid down by Article 1 (1)
(b) of Regulation (EEC) No 1633/84.

Article 2

For products referred to in Article 1 (a) and (c) of Regula-
tion (EEC) No 3013/89 which left the territory of region 1
during the week beginning the 16 December 1991, the
amounts to be charged shall be equivalent to those fixed
in the Annexes hereto.

Article 3

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

It shall apply with effect from 16 December 1991.

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 163, 26. 6. 1991, p. 41.

⁽³⁾ OJ No L 154, 9. 6. 1984, p. 27.

⁽⁴⁾ OJ No L 114, 27. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 351, 2. 12. 1989, p. 18.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 10 January 1992 fixing for Great Britain the level of the variable slaughter premium for sheep and the amounts to be charged on products leaving region 1

(ECU/100 kg)

CN code	Amounts	
	A. Products qualifying for the premium specified in Article 24 of Regulation (EEC) No 3013/89	B. Products specified in Article 4 (4) of Regulation (EEC) No 1633/84 (1)
	Live weight	Live weight
0104 10 90	35,522	0
0104 20 90		0
	Net weight	Net weight
0204 10 00	75,579	0
0204 21 00	75,579	0
0204 50 11		0
0204 22 10	52,905	
0204 22 30	83,137	
0204 22 50	98,253	
0204 22 90	98,253	
0204 23 00	137,554	
0204 30 00	56,684	
0204 41 00	56,684	
0204 42 10	39,679	
0204 42 30	62,352	
0204 42 50	73,689	
0204 42 90	73,689	
0204 43 00	103,165	
0204 50 13		0
0204 50 15		0
0204 50 19		0
0204 50 31		0
0204 50 39		0
0204 50 51		0
0204 50 53		0
0204 50 55		0
0204 50 59		0
0204 50 71		0
0204 50 79		0
0210 90 11	98,253	
0210 90 19	137,554	
1602 90 71 :		
— unboned (bone-in)	98,253	
— boned or boneless	137,554	

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

COMMISSION REGULATION (EEC) No 63/92**of 10 January 1992****amending Regulation (EEC) No 606/86 laying down detailed rules for applying the supplementary trade mechanism to milk products imported into Spain from the Community of Ten and Portugal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

this purpose the Annex to Commission Regulation (EEC) No 606/86 ⁽¹⁾, as last amended by Regulation (EEC) No 334/91 ⁽²⁾, should be replaced by the Annex hereto;

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 83 thereof,

Having regard to Council Regulation (EEC) No 569/86 of 25 February 1986 laying down general rules for applying the supplementary mechanism applicable to trade ⁽³⁾, as amended by Regulation (EEC) No 3296/88 ⁽⁴⁾, and in particular Article 7 (1) thereof,Having regard to Council Regulation (EEC) No 3792/85 of 20 December 1985 laying down the arrangements applying to trade in agricultural products between Spain and Portugal ⁽⁵⁾, as last amended by Regulation (EEC) No 3296/88, and in particular the first subparagraph of Article 5 (1) thereof,

Whereas, pursuant to the Act of Accession of Spain and Portugal, provision should be made for 1992 for the fixing of indicative ceilings for imports into Spain from the Community of Ten; whereas, given the potential for exports from the Community of Ten and in order to continue to open up the Spanish market gradually, the said ceilings should be increased by 30 %; whereas for

Whereas Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽⁶⁾, as last amended by Regulation (EEC) No 3798/91 ⁽⁷⁾, groups all fresh cheeses falling within CN code 0406 10 as from 1 January 1992; whereas Regulation (EEC) No 606/86 should accordingly be adapted as from the same date;

Whereas pursuant to Article 5 (2) of Council Regulation (EEC) No 3792/85 the supplementary trade mechanism applying to Community imports into Spain can apply to imports from Portugal where these show signs of a significant increase; whereas such a situation is likely to arise in respect of trade in milk products between Portugal and Spain; whereas the rules relating to the supplementary mechanism applicable to trade between the Community of Ten and Spain should therefore be extended to imports into Spain from Portugal and the ceilings given in the Annex raised accordingly; whereas, however, in order to prevent changes in the traditional trade in milk products in the Community, specific quantities should be maintained for Portugal;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 606/86 is hereby amended as follows:

1. In Article 1 (1) '1991' is replaced by '1992'.
2. Article 2 (2) is replaced by the following:

'2. As regards cheese, excluding curd, the indicative ceiling laid down in the Annex shall be broken down by category, prior to quarterly division, as follows:

⁽¹⁾ OJ No L 55, 1. 3. 1986, p. 106.⁽²⁾ OJ No L 293, 27. 10. 1988, p. 7.⁽³⁾ OJ No L 367, 31. 12. 1985, p. 7.⁽⁴⁾ OJ No L 58, 1. 3. 1986, p. 28.⁽⁵⁾ OJ No L 39, 13. 2. 1991, p. 15.⁽⁶⁾ OJ No L 256, 7. 9. 1987, p. 1.⁽⁷⁾ OJ No L 357, 28. 12. 1991, p. 3.

(tonnes)		
Category	Quantity	
	Community of Ten	Portugal
1. Processed cheese	1 994	738'
2. Havarti, fat content 60 %	2 564	
3. Edammer in balls, Gouda	13 096	
4. Soft, ripened cow's milk cheese	2 421	
5. Cheddar, Chester	390	
5 a Fresh cheese falling within CN code 0406 10, grated or powdered cheese, of all kinds, falling within CN code 0406 20, and cheeses manufactured exclusively from sheep's milk or goat's milk, the storage life of which does not exceed 45 days from the date of manufacture	1 170	
6. Other, excluding blue-veined cheese, Emmentaler, Gruyère, Parmigiano Reggiano, Grana Padano	5 235	

3. The Annex is replaced by the following :

' ANNEX
Indicative ceilings

(tonnes)			
CN code	Description	Quantity	
		Community of Ten	Portugal
ex 0401	Milk and cream not concentrated nor containing added sugar or other sweetening matter, other than in immediate packings of a net content not exceeding 2 litres	449 280	2 600
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, not concentrated or containing added sugar or other sweetening matter, nor flavoured, nor containing added fruit or cacao other than in immediate packings of a net content not exceeding 2 litres		
ex 0404	Whey, not concentrated nor containing added sugar or other sweetening matter; products consisting of natural milk constituents, other than in immediate packings of a net content not exceeding 2 litres		
ex 0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter in immediate packings of a net content not exceeding 2 litres	112 320	1 300
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, not concentrated nor containing added sugar or other sweetening matter, nor flavoured, or containing added fruit or cacao, in immediate packings of a net content not exceeding 2 litres		
ex 0404	Whey, not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, in immediate packings of a net content not exceeding 2 litres		
0405	Butter and other fats and oils derived from milk	3 744	65
ex 0406	Cheese, excluding curd, Emmentaler, Gruyère, blue-veined cheese, Parmigiano Reggiano and Grana Padano	26 870	868'

Article 2

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

It shall apply with effect from 1 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 64/92**of 10 January 1992****adopting interim protective measures in so far as concerns Spain in regard to applications for STM licences for milk and milk products lodged between 1 and 4 January 1992**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Whereas Commission Regulation (EEC) No 606/86, of 28 February 1986, laying down detailed rules for applying the supplementary trade mechanism to milk products imported into Spain from the Community of Ten and from Portugal ⁽¹⁾, as last amended by Regulation (EEC) No 63/92 ⁽²⁾, fixes the indicative ceilings for milk sector products for 1992 and splits these up into monthly ceilings;

Whereas applications for STM licences lodged between 1 and 4 January 1992 for milk in containers of a net content not greater than two litres as regards the quantities applied for in Portugal, and cheese of categories 5 and 6 as regards the quantities applied for in the Community of Ten, relate to quantities higher than the indicative ceiling set for the first quarter;

Whereas Article 85 (1) of the Act of Accession states that the Commission may take interim protective measures necessary by an emergency procedure where the situation indicates that the indicative ceiling will be attained or exceeded; whereas to this end it is necessary, as an interim protective measure, in view of the number of

requests, to issue licences up to a percentage of the quantities of milk applied for and to suspend all further issuing of licences for the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for STM licences as referred to in Regulation (EEC) No 606/86, lodged between 1 and 4 January 1992 with the Commission for:

- milk in containers of a net content not greater than two litres falling within CN codes ex 0401, ex 0403 and ex 0404 are hereby accepted up to 60 %, as regards the quantities applied for in Portugal,
- cheese of categories 5 and 6 are hereby accepted up to 72,40 % and 11,60 % respectively as regards the quantities applied for in the Community of Ten.

2. The issuing of STM licences is hereby provisionally suspended for the aforementioned products over and above the percentages referred to in paragraph 1.

Article 2

This Regulation shall enter into force on 13 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 58, 1. 3. 1986, p. 28.

⁽²⁾ See page 24 of this Official Journal.

COMMISSION REGULATION (EEC) No 65/92**of 10 January 1992****applying the duty in the Common Customs Tariff to fresh lemons originating in Cyprus**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Whereas Article 5 (2) and (3) of Annex I to the Agreement establishing an Association between the European Economic Community and the Republic of Cyprus provides for a reduced rate of duty on imports into the Community of fresh lemons originating in Cyprus; whereas, during the period in which reference prices are applied, this reduction is dependent on the observance of a specified price on the Community market; whereas detailed rules for the application of this system are contained in Regulation (EEC) No 1252/73; whereas, in certain respects, these rules refer to provisions of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽²⁾ as last amended by Regulation (EEC) No 1623/91⁽³⁾;

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

Whereas the conversion factors and import charges other than customs duties are those used for the purpose of

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

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3(1) of Council Regulation (EEC) No 1676/85⁽⁴⁾, as last amended by Regulation (EEC) No 2205/90⁽⁵⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

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

HAS ADOPTED THIS REGULATION:

Article 1

As 14 January 1992, the duty in the Common Customs Tariff shall be applied to fresh lemons CN code ex 0805 30 10 imported into the Community and originating in Cyprus.

Article 2

This Regulation shall enter into force on 14 January 1992.

⁽¹⁾ OJ No L 133, 21. 5. 1973, p. 113.

⁽²⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽³⁾ OJ No L 150, 15. 6. 1991, p. 8.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 66/92

of 10 January 1992

introducing a countervailing charge on mandarines originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Whereas Article 25a (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a non-member country is alternatively above and below the reference price for five to seven consecutive market days a countervailing charge is introduced in respect of that non-member country, save in exceptional cases; whereas that charge is introduced when three entry prices fall below the reference price and one of those entry prices is at least ECU 0,6 below the reference price; whereas that charge is equal to the difference between the reference price and the last available entry price by at least ECU 0,6 below the reference price;

Whereas Commission Regulation (EEC) No 2905/91 of 2 October 1991 fixing for the 1991/92 marketing year the reference prices for mandarines⁽³⁾ fixed the reference price for products of class I at ECU 59,57 per 100 kilograms net for the period 1 December 1991 to 9 February 1992;

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

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

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

Whereas for mandarines originating in Morocco the entry prices calculated in this way have for six consecutive market days been alternatively above and below the reference price; whereas three of these entry prices are at least ECU 0,6 below the reference prices; whereas a countervailing charge should therefore be introduced for these mandarines;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 0,68 per 100 kilograms net is applied to mandarines (CN code ex 0805 20 10) originating in Morocco.

Article 2

This Regulation shall enter into force on 14 January 1992.

Subject to the provisions of the second subparagraph of Article 26 (2) of Regulation (EEC) No 1035/72, this Regulation shall be applicable until 19 January 1992.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 8.

⁽³⁾ OJ No L 276, 3. 10. 1991, p. 20.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 67/92**of 10 January 1992****fixing the aid for cotton**

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

Having regard to the Act of Accession of Greece, and in particular paragraphs 3 and 10 of Protocol 4 thereto, as amended by the Act of Accession of Spain and Portugal, and in particular Protocol 14 annexed thereto, and Commission Regulation (EEC) No 4006/87 ⁽¹⁾,

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton ⁽²⁾, as last amended by Regulation (EEC) No 791/89 ⁽³⁾, and in particular Article 5 (1) thereof,

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 2880/91 ⁽⁴⁾, as last amended by Regulation (EEC) No 3826/91 ⁽⁵⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2880/91 to

the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION :

Article 1

The aid for unginned cotton referred to in Article 5 of Regulation (EEC) No 2169/81 shall be ECU 73,662 per 100 kilograms.

Article 2

This Regulation shall enter into force on 11 January 1992.

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

Done at Brussels, 10 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 85, 30. 3. 1989, p. 7.

⁽⁴⁾ OJ No L 274, 1. 10. 1991, p. 48.

⁽⁵⁾ OJ No L 357, 28. 12. 1991, p. 95.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 17 December 1991

on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol establishing the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1991 to 19 July 1994

(92/9/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros ⁽¹⁾, hereinafter referred to as 'the Agreement', signed in Brussels on 20 July 1988,

Having regard to the proposal from the Commission,

Whereas the Community and the Islamic Federal Republic of the Comoros have held negotiations with a view to determining amendments or additions to be made to the Agreement at the end of the period of application of the first Protocol to the Agreement;

Whereas, as a result of those negotiations, a new Protocol was initialled on 16 July 1991;

Whereas, under that Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Islamic Federal Republic of the Comoros for the period from 20 July 1991 to 19 July 1994;

Whereas, in order to avoid interruption of fishing activities by Community vessels, it is essential that the said Protocol be approved as quickly as possible; whereas both Contracting Parties have therefore initialled an Agreement in the form of an exchange of letters providing for the provisional application of the initialled Protocol from

the day following the date of expiry of the Protocol previously in force; whereas the Agreement in the form of an exchange of letters should be concluded subject to a definitive decision under Article 43 of the Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1991 to 19 July 1994 is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in the form of an exchange of letters in order to bind the Community ⁽²⁾.

Done at Brussels, 17 December 1991.

For the Council

The President

P. BUKMAN

⁽¹⁾ OJ No L 137, 2. 6. 1988, p. 19.

⁽²⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

AGREEMENT

in the form of an Exchange of Letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1991 to 19 July 1994

A. Letter from the Government of the Comoros

Sir,

With reference to the Protocol, initialled on 16 July 1991, setting out the fishing opportunities and financial contribution for the period from 20 July 1991 to 19 July 1994, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol provisionally from 20 July 1991, pending its entry into force in accordance with Article 6 thereof, provided that the European Economic Community is prepared to do likewise.

It is understood that, in this case, a first instalment equal to one third of the financial compensation stipulated in Article 2 of the Protocol must be paid before 30 November 1991.

I should be grateful if you would confirm that the European Economic Community is in agreement with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

*For the Government of the
Islamic Federal Republic of the Comoros*

B. Letter from the Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows :

'With reference to the Protocol initialled on 16 July 1991 setting out the fishing opportunities and financial contribution for the period from 20 July 1991 to 19 July 1994, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol provisionally from 20 July 1991, pending its entry into force in accordance with Article 6 thereof, provided that the European Economic Community is prepared to do likewise.

It is understood that, in this case, a first instalment equal to one third of the financial compensation stipulated in Article 2 of the Protocol must be paid before 30 November 1991.

I should be grateful if you would confirm that the European Economic Community is in agreement with the foregoing.'

I have the honour to confirm that the Community is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration.

*For the Council
of the European Communities*

COUNCIL DECISION**of 19 December 1991**

postponing the date on which the national provisions applying Directive 89/104/EEC to approximate the laws of the Member States relating to trade marks are to be put into effect

(92/10/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks ⁽¹⁾, and in particular Article 16 (2) thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 16 (1) of Directive 89/104/EEC, Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive not later than 28 December 1991;

Whereas pursuant to Article 16 (2) of that Directive, on a proposal from the Commission, the Council, acting by qualified majority, may defer the date referred to in paragraph 1 of that Article until 31 December 1992 at the latest;

Whereas this exceptional provision was included in the said Directive to ensure, if necessary, that the date of the putting into effect of the national provisions applying the Directive should, as far as possible, be aligned with the date as from which it would be possible for Community trade mark applications to be filed;

Whereas the Commission's proposal for a Council Regulation on the Community trade mark ⁽²⁾ has not yet been

adopted; whereas it is expected that the said Regulation will be adopted shortly;

Whereas it seems therefore appropriate to postpone until 31 December 1992 the date provided for in Article 16 (1) of Directive 89/104/EEC, so that the objective referred to above may be the more easily pursued;

Whereas the objectives set for the completion of the internal market continue to be respected notwithstanding this postponement,

HAS ADOPTED THIS DECISION:

Article 1

The date set in Article 16 (1) of Directive 89/104/EEC shall be replaced by 31 December 1992.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 19 December 1991.

For the Council

The President

P. DANKERT

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 1.

⁽²⁾ OJ No C 351, 31. 12. 1981, p. 1 and
OJ No C 230, 31. 8. 1984, p. 1.

COMMISSION

COMMISSION DECISION

of 31 July 1991

concerning aid provided by the Derbyshire County Council to Toyota Motor Corporation, an undertaking producing motor vehicles

(Only the English text is authentic)

(92/11/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given notice⁽¹⁾ in accordance with the above Article to interested parties to submit their comments,

Whereas :

I

On 18 April 1989 Toyota Motor Corporation (Toyota) and the United Kingdom Government announced that Toyota had decided to build a new plant to produce passenger cars on a 280-acre site at Burnaston, Derbyshire, United Kingdom. Production was envisaged to commence by the end of 1992 with an initial target of 100 000 vehicles a year rising eventually to 200 000 at which stage direct employment at the plant should amount to 3 000. Total investment was estimated at £ 400 million (ECU 570 million). The investment would proceed with no financial assistance from central government. The local authorities in Derbyshire had offered modest assistance towards a number of aspects of the project, such as site preparation and road access. It was made clear that, should such assistance be deemed notifiable to the Commission, the United Kingdom Government would take the necessary steps. On 26 April 1989 the United Kingdom authorities wrote to the Commission confirming this commitment on notification.

On 7 February 1990 the United Kingdom authorities wrote to the Commission informing it that discussions

between Toyota and the Derbyshire County Council (DCC) on the provision of a package of local measures for the former were near finalization. These measures consisted of various infrastructure services outside the Toyota site and other services required to meet increased local needs arising from the Toyota investment. None of these measures, the United Kingdom authorities stated, contained anything which could be regarded as State aid as defined in Article 92 of the EEC Treaty.

About this period press reports appeared indicating that the site had increased in size from the initial 280 acres to 580 acres and had been sold to Toyota for less than its full market value. Most of these press reports drew in large part on the minutes of a meeting of the Policy Committee of the DCC held on 21 November 1989, which had also become available to the Commission. These minutes disclosed that the DCC had agreed a package of measures on the assembly and preparation of a site for the plant and on the sale to Toyota of a core 280-acre site as the company had originally requested as well as an additional contiguous site of 300 acres which Toyota had subsequently requested. The financial breakdown of this package was estimated by the DCC as follows :

— sale of 280 acres at £ 35 350 per acre :	£ 9,9 million
— sale of 300 acres at £ 28 000 per acre :	£ 8,4 million
Total	£ 18,3 million
— estimated cost of land assembly :	£ 13,4 million
— estimated net cost of access and service provision :	£ 4,9 million
Total	£ 18,3 million

⁽¹⁾ OJ No C 325, 28. 12. 1990.

The land sale prices purported to reflect the market value of such a large site 'with significant planning and other constraints' and to cover the associated cost of access and servicing. They also purported 'to meet the EEC requirement that such investments in the motor industry should not be subsidized.'

There followed a series of correspondence and a meeting between the Commission and the United Kingdom authorities designed to establish the relevant facts and figures pertaining to the project and the package of measures offered by the DCC. The Commission wrote to the United Kingdom authorities on 9 and 26 February 1990 noting recent press reports to the effect that the site sold to Toyota in Derbyshire had been underpriced, and requesting relevant information, in particular the report of Derbyshire District Valuer⁽¹⁾ on the sale as well as reports of the DCC on the matter, prior to a meeting.

The United Kingdom authorities wrote to the Commission on 26 February 1990 enclosing an information note on the package of measures being offered to Toyota by the DCC. According to this note the DCC was assembling a 580-acre site for on-sale to Toyota at a price of £ 18,3 million (ECU 26,1 million). Various infrastructure services would be provided free of charge to Toyota, almost entirely on site. The DCC's intention was as far as possible to break even on the transaction as a whole with the direct cost of land purchase and infrastructure provision being covered by income from the sale of the fully serviced site. The market value of the land needed to be considered in two stages: a 'core' site of 280 acres in public ownership and the remaining 300 acres in various, mainly private, ownerships which were being acquired compulsorily. The 'core' site had been valued by the vendor's valuer, the City Estates and Valuations officer in June 1989 at £ 12,6 million (ECU 18 million). This valuation had been discussed informally with the District Valuer, who had expressed himself content with the basis on which it had been established.

On 28 February the United Kingdom authorities wrote again to the Commission, noting that the District Valuer's opinion on the site valuation had been given orally and enclosing background correspondence from the DCC on the basis of the valuation. This correspondence argued that it was, in fact, more meaningful to consider the assembly and sale of the 580-acre site as a single whole rather than splitting it down into the 'core' 280-acre and 'expansion' 300-acre areas.

On the same date a meeting took place between the Commission and the United Kingdom authorities. The latter acknowledged that, because of budget overruns, the original DCC intention of breaking even on the whole transaction was now unlikely to be realized. The Commission requested further information in writing, including a copy of the original site sale agreement between the DCC and Toyota, evidence that the sale price of the site corresponded to an open market price, and written confirmation by the District Valuer of his opinion. On 10 May the United Kingdom authorities forwarded this information to the Commission.

Under the terms of the site sale agreement between the DCC and Toyota of 21 February 1990, Toyota would purchase the first 280 acres of the site from the DCC for £ 9 900 000 (ECU 14,1 million), equivalent to an average sale price per acre of £ 35 357, and will purchase as much of the remaining 300 acres of the same site as it requires for £ 28 000 per acre. Assuming that Toyota decided to purchase all of the remaining 300 acre site, this would bring the sale price of the remaining site to £ 8,4 million (ECU 12 million) and that of the total 580-acre site to £ 18,3 million (ECU 26,1 million).

The first 280 acres of the site had been formally valued by the Derby District Valuer at £ 12,6 million (ECU 18 million), equivalent to £ 45 000 per acre. This valuation assumed it was a vacant freehold site with services available at the site perimeter and was calculated at current market values, discounted to take account of the likely timescale before such infrastructure is completed. The District Valuer acknowledged that considerably smaller sites suitable for industrial development in this area can fetch from £ 200 000 to £ 250 000 per acre, but advised that a large discount factor should be applied to the value per acre of sales of very large sites. Account must also be taken, of course, of the particular characteristics of each individual site.

The Commission accepted the case for discounting sales prices when applying the evidence of small site transactions to very large site transactions, while noting the high discount of some 80 % applied in the present case. It noted, however, that the 280-acre site was sold to Toyota at an average price per acre of only £ 35 357 or 78,6 % of its average value of £ 45 000 according to the District Valuer, despite the legal obligation on the DCC and all local authorities to realize the best value from the sale of assets. The Commission was therefore of the view that £ 45 000 per acre should be the minimum sale price of the first 280 acres. On this basis the sale price of the first 280 acres should have been, as a minimum, £ 12,6 million, or £ 2,7 million more than the price charged to Toyota.

⁽¹⁾ The District Valuer is a Government (Inland Revenue) employee with statutory functions to provide *inter alia* the valuations for various local authority purposes.

Accordingly the Commission decided on 25 July 1990 to initiate the procedure provided by Article 93 (2) of the EEC Treaty with respect to the terms of sale of the 580-acre site at Burnaston by the DCC to Toyota. These terms seemed to indicate the existence of State aid of at least £ 2,7 million in respect of the sale of the 280-acre element of the site. The Commission was not aware of any valuation by the District Valuer of the remaining 300 acres. The situation regarding the sale of these 300 acres needed to be clarified in the light of additional information to be provided by the United Kingdom authorities and depending on whether the operation should be treated as two separate sales or as the sale of a single site. If Toyota was enabled to buy the site at less than its full market value, the fact that it did not have to bear the full cost of such an acquisition under normal commercial conditions would constitute indirect aid within the meaning of Article 92 (1).

By letter dated 17 September 1990 the Commission gave the United Kingdom Government notice to submit its comments within one month and provide all information necessary for the appraisal of the case. In accordance with Article 93 (2) of the EEC Treaty, the other Member States and third parties were also given notice to submit their comments.

II

Within the framework of the Article 93 (2) procedure, the United Kingdom Government submitted comments by letters dated 16 October 1990, 1 February and 17 May 1991 and at meetings with the Commission services held on 19 March, 28 May and 20 June 1991. This last meeting was also attended by representatives of the Toyota Motor Company. The comments made by the company representatives were subsequently forwarded to the Commission by their legal representatives by letter dated 20 June 1991. Throughout these comments the United Kingdom Government maintained that the sale of the site to Toyota by the DCC contained no State aid.

No other Member State or interested party submitted comments under the procedure.

III

By letter dated 16 October 1990 the United Kingdom Government replied to the Commission letter of 17 September 1990 on the initiation of the procedure. They argued that the transactions between the DCC and Toyota as outlined in earlier correspondence reflected the outcome of normal commercial negotiations and contained no element of State aid. Among the points made by the United Kingdom Government were the following:

- the transfer of the 580 acres should be considered as one single transaction covering the whole site. While Toyota had opened negotiations with the DCC in January 1989 on the sale of the 'core site' of 280 acres, within one month they had requested the DCC to investigate the possibility of assembling the whole site of 580 acres, before any discussions on price had commenced. By the summer of 1989 Toyota had made a firm decision to buy the whole site outright. Accordingly, from February 1990 onwards the DCC did not consider that only the 280-acre site would be developed but rather that Toyota would either require the total site, in which case the sale price would be determined across the 580 acres, or would take the 'core site' and the DCC would develop the remainder of the site for industrial or commercial purposes, in which case the £ 9,9 million (ECU 14,1 million) paid for the 'core site' would be justified by reference to the 'flagship' nature of Toyota's presence. In any event the £ 9,9 million figure was no more than a 'historic relic' of the earliest days of the negotiations and had no real significance. The site sale agreement had expressed the transaction in terms of separate tranches of land only because the Compulsory Purchase Orders (CPOs) issued to acquire the remaining 300 acres were open to challenge until end January 1990,
- the sale price of £ 18,3 million (ECU 26,1 million) reflected the DCC's intention of at least breaking even on the deal. The DCC had taken possession of the land by CPOs in March 1990 and transferred it to Toyota in June 1990. The total acquisition price to be paid by the DCC could not be determined until all claims for compensation for the CPOs had been processed. The best estimate was £ 13,4 million (ECU 9,1 million), comprising £ 11 million paid to Derby City Council for the transfer of the 'core' 280 acres and £ 2,4 million in compensation payments for the remaining 300 acres, reflecting largely their absence of development potential prior to Toyota's arrival because of lack of access and services,
- on the difference between the sale price to Toyota of the core 280 acres of £ 9,9 million and its valuation by the District Valuer at £ 12,6 million, several factors should be borne in mind. Land valuation is not an exact science particularly for a unique and exceptionally large site such as this one. The sale price reflected the outcome of a hard-fought commercial negotiation where Toyota was in a particularly strong bargaining position. Moreover, the District Valuer had not been aware of a number of constraints which would burden and add to the costs of developing the land but which the DCC had been aware of. In particular the gradient of the land, which required considerable earthworks to provide a level site, and the adverse ground conditions which would give rise to extensive piling prior to building works, would cost Toyota a total of £ 16 million.

By letter dated 20 December 1990 the Commission requested further information on certain aspects of the land transactions between the DCC and Toyota in advance of a bilateral meeting requested by the United Kingdom authorities. These included the regulatory provisions governing sales of assets by local authorities, evidence of comparable transactions elsewhere in the United Kingdom if available, trends in land prices, and evidence of other potential purchasers of the site at Burnaston.

By letter dated 1 February 1991 the United Kingdom Government replied to the Commission. They provided further background information on the site transfer to indicate that it should be considered as a single whole transaction covering the 580 acres. They also enclosed the relevant legal provision in the Local Government Act 1972 governing the criteria for the disposal of assets. This stipulates that local authorities are generally not allowed to dispose of land 'for a consideration less than the best that can reasonably be obtained'. Little conclusive evidence on comparable land transactions elsewhere in the United Kingdom or another potential purchaser of the site in question was available or forthcoming. The letter did point out that, in general, advice given to a local authority by a District Valuer was neither legally required nor legally binding.

At a meeting with representatives of the United Kingdom Government on 19 March 1991, the Commission stated that, in the light of the evidence and arguments presented in the most recent correspondence, they now accepted that the sale of the 580-acre site by the DCC to Toyota should be viewed as one single transaction. To establish whether this transaction contained elements of State aid, however, it was necessary to have a valuation carried out of this total site and the Commission requested the United Kingdom authorities to arrange accordingly. The Commission suggested, but did not insist, that the District Valuer appeared the obvious choice to carry out this exercise in the interests of consistency and in view of his statutory role. They also indicated the terms of reference they would wish to attach to the valuation. The United Kingdom representatives did not object to the suggestion that the District Valuer carry out the valuation, providing he was willing to do so, or to the proposed terms of reference.

By letter dated 26 March 1991 the Commission wrote to the United Kingdom authorities confirming the request for a valuation of the 580-acres site, with the following terms of reference:

'The valuation should follow the assumptions and methodology adopted in the original valuation of the core element of the site in the absence of any compel-

ling reason to depart from them. Specifically, the valuation should be based on values on the date of sale agreement, i.e. February 1990 and should assume that services are available up to the perimeter of the site and that vacant possession is given. It should ignore alleged disadvantages pertaining to the expansion element of 300 acres — e.g. access and lower development potential. However relevant these may be if this element of the site were being valued in isolation, they are irrelevant when the total 580 acres is considered as one single site being sold with full planning permission for industrial development. Finally I do not consider that the valuation should attempt to take account of the two "significant constraints" relating to the gradient of the land and adverse ground conditions you cite in your letter of 16 October 1990. In our experience these "constraints" are, in fact, a standard feature of large sites assembled for industrial development. The related piling costs are also a standard cost for greenfield motor assembly plants.'

Shortly afterwards the United Kingdom authorities informed the Commission authorities that the District Valuer was agreeable to carrying out the valuation.

By letter dated 17 May 1991 the United Kingdom authorities forwarded the report of the District Valuer to the Commission and requested an early meeting to discuss it.

In his report, the District Valuer describes in detail the site, its former uses, the planning permission granted on 9 August 1989 for the erection of a vehicle assembly and production plant together with the accompanying conditions and the sale agreement which had been made available to him. He then acknowledged the terms of reference for his valuation and described the nature of his valuation in the following terms:

'I wish to make clear therefore that my valuation is my assessment of the price at which the property might reasonably have been expected to be sold in the open market at the date of valuation assuming a willing seller and with the benefit of the terms of the agreement for sale and planning permission available.

For the avoidance of doubt it reflects all the site characteristics and constraints that would have influenced the vendors and purchasers in normal commercial open market negotiations.'

On this basis the District Valuer concluded that the value of the site was £ 22,5 million. He added that extensive research on a national scale had revealed no comparable transactions of this size and little useful evidence.

At a meeting between the United Kingdom Government representatives and the Commission on 28 May 1991, the former argued that the District Valuer's report, while valid within its own terms, still did not establish that there was State aid to the project. There was no evidence of any intention on the part of Toyota to request or receive State aid. On a technical point, the United Kingdom representatives argued that the District Valuer should have been requested to base his valuation on land prices at April 1989 — when the terms of the sale were actually agreed — and not February 1990 — when the sale agreement was formally signed. Finally, even if there were State aid, the amount was so negligible that it would not affect trade between Member States.

At a further meeting on 20 June, also attended by representatives of Toyota, certain documents were handed over to the Commission; others were referred to and formally submitted by letter later the same day by Toyota's legal representatives. These latter documents included:

- the speaking note of the principal Toyota representative,
- a comparison of land costs in South Wales, Burnaston and Humberside,
- a wider comparison of prices of undeveloped industrial land examined by Toyota.

The other documents handed over by the United Kingdom representatives included:

- a copy of a letter dated 3 June 1991 from the District Valuer in response to a request from the Department of Trade and Industry to consider the effect choosing April 1989 as opposed to February 1990 as a valuation date might have had on this report. This letter stated that market conditions had in fact deteriorated over that period and stated the Valuer's 'firm conclusion that the value in April 1989 would not have been less than that which I reported at February 1990. In fact I would put the value the same at both dates',
- copies of two reports dated 13 and 14 June 1991 made by a United Kingdom private property consultancy firm, following a request of 7 June by the DTI, acting on its own initiative; the first analysed the changes in land values during the period April 1989 to February 1990 in the Derby area and the second provided an alternative valuation of the 580 acres as of February 1990. The latter report, which draws in part on information provided for by DTI, valued the site at £ 19 million. The other study concluded that, exclud-

ing the Toyota effect, the growth in land values over the 10-month period would have been 18 %,

- tables of the range of industrial and warehouse land values as of 1 April 1989 and 1990 drawn from the Property Market Report by the Valuation Office.

During the meeting the United Kingdom representatives argued that land prices in general increased significantly between April 1989 and February 1990. Moreover, as land valuation is inevitably arbitrary and contains a subjective element, the parties should be more concerned with establishing a reasonable price range rather than a single absolute figure, particularly as the District Valuer himself had acknowledged that he had little or no point of reference for his valuation.

The Toyota representatives emphasized their publicly-stated intention from the outset to proceed with the project at Burnaston without requesting or receiving State aid from central government or local authorities. They outlined their strictly commercial approach to the consideration of alternative sites and their decision to choose the Burnaston site on the understanding that the price offered by the DCC represented its commercial value. They echoed the United Kingdom representatives' view that a range of site values rather than a single value would have been a more reasonable approach to the question of valuation.

By letter dated 11 July 1991 the United Kingdom authorities enclosed a further internal document prepared by Toyota on the transaction. They requested the Commission to take account of the evidence presented therein, particularly that relating to the prices offered to Toyota for alternative sites in the United Kingdom, while respecting the commercial confidentiality of some of the information. This document also repeated and developed some of the general arguments advanced earlier by the United Kingdom side that the transaction did not entail State aid. Among the points made are:

- as this could be the first case where the Commission takes a decision on State aid on a sale of public land, it should not be 'based upon only cursory investigation and insubstantial evidence',
- any valuation of the site should take account of all the relevant considerations and objectives of the parties, including the fact that Toyota were in a strong bargaining position *vis-à-vis* the DCC who were offering a large undeveloped site which could prove difficult to sell in the future and who were also conscious of the considerable non-financial benefits to the DCC if the sale went through,

- the alternative valuation commissioned by the United Kingdom authorities highlights certain shortcomings in the District Valuer's report, and adds to the case for adopting a price range of, for example £ 16 million to £ 24 million, rather than a fixed sum as the valuation.

IV

Toyota Motor Corporation is the largest motor-vehicle producer based in Japan. In 1990 total group sales worldwide amounted to 4,4 million units, and group net sales were valued at ECU 58,084 million. Imports of Toyota vehicles into the Community in the same year amounted to 351 000 units, representing 2,7 % of Community car registrations. The investment by the company in the Burnaston plant announced in 1989 continued a series of ventures designed to strengthen the company's ties with Europe. Toyota is, in its own words, 'committed to becoming a fully-accepted member of the European automobile industry'.

The passenger car market in Western Europe underwent a period of rapid growth in the late 1980s but the market, with the sole exception of Germany, has declined sharply in recent times and the short-term outlook remains difficult and uncertain. In the medium to long term, it would appear reasonable at this point to assume a return to an underlying annual growth rate of the order of 1 to 2 %.

V

In initiating the present procedure, the Commission stated that 'The question of the existence or not of State aid centres on whether the terms and conditions of sale of the site to Toyota by the DCC depart from normal commercial practice and criteria to such an extent as to constitute State aid in favour of Toyota within the meaning of Article 92 (1) of the EEC Treaty'. This remains the point of departure for consideration of the case. The Commission fully accepts that the United Kingdom Government did not itself intend that aid should be given to the project. The Commission has also accepted from the outset that there is no evidence to suggest that Toyota requested State aid or intended benefiting directly or indirectly from State aid through the terms of transfer of the site. However, this absence of intention on the part of Toyota does not mean that no State aid was entailed in the sale of the site by the DCC. It is also clear that the amount of aid involved is small in relation to the overall cost of the project and that Toyota would have gone ahead with the project in any event without the aid.

The DCC was obliged by domestic statute to sell the site to Toyota for the best consideration that could reasonably

be obtained. In practice, according to the United Kingdom authorities, this should account for factors such as the nature and location of the land, planning and other development constraints and the market for land. This perspective is consistent with the Commission's point of view, that the behaviour of a public authority in disposing of an asset to a commercial interest, trading in the Community, should correspond to the rationale of a private vendor operating under normal market economy conditions analogous to the Commission's position on public authorities' holdings in company capital⁽¹⁾. In these conditions, a private vendor would examine the possibility of alternative purchase offers and sell the asset to the person making the highest offer. Where the vendor feels that because of special circumstances such as, say, the size of a site or the importance of planning conditions, alternative potential purchasers are not immediately available and where he has no reliable reference for market values for the asset, he would have the asset professionally valued, taking account of all the prevailing circumstances and non-price conditions of sale, prior to selling it. He would then seek the resulting valuation figure as the sale price from the purchaser.

In the case of the sale of the site at Burnaston, the DCC did not carry out any valuation of the site prior to offering it to Toyota in April 1989. The only valuation available to the DCC related to the core 280 acres of the site was carried out in June 1989, i.e. after the price offer to Toyota. As noted in the opening of the present procedure, this valuation exceeded the price sought from Toyota by £ 2,7 million and no attempt was made by the DCC to revise the sale price to take account of this difference. No valuation of the remainder of the site was carried out by the DCC on its own initiative.

The Commission cannot accept that the break-even approach by the DCC to the package which it offered to Toyota, as evidenced by the minutes of the Policy Committee of the DCC of 21 November 1989 cited above and confirmed in subsequent correspondence with the United Kingdom authorities, corresponded to the behaviour of a commercial vendor. This approach was based explicitly on the estimated cost of assembling the land and of providing access and services to the site. The 'significant planning and other constraints' which, according to the DCC, characterized the site and influenced its market price did not apply to the purchasers, Toyota. The Commission cannot accept the proposition that a rough estimate of the cost of assembling mainly agricultural land and providing services to it as a valid substitute for the market price or the best that the DCC

⁽¹⁾ Bulletin EC 9-1984.

could have reasonably obtained, as it bore no relation to industrial land values⁽¹⁾.

In these circumstances, and given its acceptance that the site sale should be viewed as one single transaction, the Commission saw no alternative to having the total site valued with the same terms of reference as the original valuation carried out on the 280-acre element and comparing the resulting valuation with the price paid by Toyota in order to establish if the transaction entailed State aid. The United Kingdom authorities accepted this approach in March 1991 and did not query or object to the proposed terms of reference for the valuation or the suggestion that it be carried out by the District Valuer.

On the arguments put forward by the United Kingdom Government and Toyota subsequent to the District Valuer's report, the Commission would firstly make the general point that these arguments would have carried more conviction if they had been put forward prior to the United Kingdom authorities' accepting the terms of reference of the valuation requested by the Commission and the submission by the District Valuer of his report. On the particular argument that the valuation should have been based on April 1989 and not February 1990 prices, the District Valuer himself has confirmed that this would not have affected his conclusion. Moreover, the Commission does not find sufficient evidence in the study on land price movements during this period commissioned by the United Kingdom authorities to warrant querying this conclusion. On the argument that costs arising from alleged constraints relating to the gradient of the land and adverse ground conditions, the Commission is of the view that such costs are a common feature of large sites assembled for industrial development, in particular the related piling costs associated with greenfield motor assembly plants. They did not warrant special consideration by the District Valuer over and above the 'particular account of the topography' which his report already incorporates.

On the alternative valuations commissioned by the United Kingdom authorities on their own initiative subsequent to receiving the District Valuer's report and his letter confirming that a February 1990 price basis would make no difference to his conclusion, the Commission cannot agree to embark on a second-guessing exercise whereby one party wishes to substitute *ex post* a private valuer for an officially-designated one in the absence of any compelling reason to do so. This would not be in the interests of equity and consistency in Commission decision making. Moreover the Commission does not

consider that the contents of this confidential valuation justify the criticisms of the District Valuer's methodology subsequently made by Toyota.

The Commission can see no valid argument for attempting at this late stage to substitute a 'representative range of prices' for the single price which emerged from the District Valuer's report, in the absence of any earlier proposal to this effect or of any reasonable criteria for delimiting such a range. To attempt to introduce a range of values at this stage would only introduce an element of unwarranted arbitration and uncertainty and would run counter to the pursuit of fairness and objectivity which has been the Commission's goal in this whole procedure. The Commission would point out in this context that the valuation report commissioned independently by the United Kingdom authorities itself concluded with a precise single figure valuation and made no reference to a range within which a 'fair commercial value' may be.

Finally, the Commission has examined the confidential evidence produced by Toyota on alternative site offers, together with the evidence on industrial and warehouse land values from the Valuation Office forwarded by the United Kingdom authorities and has found that it does not detract from the conclusion that the transaction between the DCC and Toyota contained State aid of £ 4,2 million.

In these circumstances, the Commission concludes that the difference of £ 4,2 million between the District Valuer's valuation of the site of £ 22,5 million and the price paid by Toyota of £ 18,3 million represents State aid by the DCC to the company.

There is considerable intra-Community trade in passenger motor vehicles; amounting to 6 398 000 units in 1990, equivalent to ECU 48,292 million. the aid of £ 4,2 million granted by the DCC to Toyota will, therefore, affect intra-Community trade in cars and therefore threatens to distort competition in this market. Consequently, it constitutes State aid in favour of Toyota within the meaning of Article 92 (1) of the Treaty.

VI

This aid, which falls outside the scope of any approved scheme, should have been notified to the Commission as provided for by Article 93 (3) of the EEC Treaty. Moreover, the particular commercial activity involved comes within the parameters of the Community framework on State aid to the motor vehicle industry⁽²⁾. This provides that 'As regards aid to be granted outside the scope of an approved aid scheme, any such project, whatever its cost

(1) As noted above, the calculations underlying this 'break-even' approach are now unlikely to be realized and there will be considerable cost overruns by the DCC on the provision of related services.

(2) OJ NO C 123, 18. 5. 1989, p. 3.

and aid intensity, is of course subject without exception to the obligation of notification pursuant to Article 93 (3) of the EEC Treaty.'

Since the United Kingdom Government failed to notify the aid in this case in advance, the Commission was unable to state its views on the measures before they were implemented. Thus, the aid is illegal in that it was awarded in violation of Article 93 (3) of the Treaty.

In this respect, it has to be recalled that — in view of the imperative character of the rules of procedure as laid down in Article 93 (3) of the EEC Treaty which also are of importance as regards public order, and whose direct effect the Court of Justice has recognized in its ruling of 19 June 1973 in Case 77/72 ⁽¹⁾ — the illegality of the aid at issue here cannot be remedied *a posteriori*.

VII

Article 92 (3) of the Treaty lists aid which may be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not of a single Member State. In order to safeguard the proper functioning of the common market and taking into account the principles of Article 3 (f), the exceptions from the principle of Article 92 (1) as set out in Article 92 (3) must be construed narrowly when an aid scheme or any individual aid award is scrutinized. In particular, they may be applied only when the Commission is satisfied that the free play of market forces alone, without the aid, would not induce the prospective aid recipient to adopt a course of action contributing to the attainment of one of the said objectives.

With regard to the exceptions provided for in Article 92 (3) (a) and (c) for aids that promote or facilitate the development of certain areas, in the present case, Burnaston, which is located in Derbyshire, is not situated in a region eligible for State aid pursuant to Article 92 (3) (a) or (c).

As to the exceptions provided for in Article 92 (3) (b), the facts of the case provide no grounds whatsoever for considering that the aid in question is intended to promote a project of common European interest or to remedy a serious disturbance in the United Kingdom economy. Furthermore, the United Kingdom Government has not presented any such arguments to justify the aid in question.

With regard to the exception provided for in paragraph 3 (c) of Article 92 of the EEC Treaty in favour of 'aid to facilitate the development of certain economic activities',

the Commission may accept certain aid in the motor-vehicle industry as compatible with the common market if it fulfils one of the positive criteria for appreciation of aid cases — other than regional aid — cited in the guidelines to the Community framework on State aid to that sector. These concern aid with the following objectives: rescue and restructuring aid, innovation or fundamental rationalization, research and development, environmental protection, basic vocational training. None of these objectives are applicable to the aid and project in question, nor has the United Kingdom Government claimed otherwise.

VIII

In cases of aid incompatible with the common market, the Commission — marking use of a possibility given to it by Article 93 (2) of the Treaty and by the Court of Justice in its judgment of 12 July 1973 in Case 70/72 ⁽²⁾, confirmed in the judgment of 24 February 1987 in Case 310/85 ⁽³⁾ — can require Member States to recover from recipients the aid granted. To this end, it is necessary that the United Kingdom authorities recover within two months the incompatible aid awarded to Toyota by the Derbyshire County Council, such recovery to be realized according to the provisions of national law including those referring to the late repayment charges on obligations to the State in the event that repayment takes place later than decided by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

The aid in the form of a subsidy amounting to £ 4,2 million to Toyota Motor Corporation entailed in the sale to that company of the 580-acre site at Burnaston by the Derbyshire County Council in February 1990 is illegal as it was provided in violation of the provisions of Article 93 (3) of the EEC Treaty. Moreover it is incompatible with the common market within the meaning of Article 92 of the Treaty.

Article 2

The United Kingdom Government is hereby required to ensure that this aid is withdrawn by means of a refund of £ 4,2 million by Toyota to the Derbyshire County Council within two months from the notification of this Decision. This refund amount shall be increased by the

⁽¹⁾ [1973] ECR, p. 611.

⁽²⁾ [1973] ECR, p. 813.

⁽³⁾ [1987] ECR, p. 901.

interest advantage from which the company might unlawfully benefit in the event of the refund taking place later than the two months indicated above.

Article 3

The United Kingdom Government shall inform the Commission within two months from the notification of this Decision of the measures taken to comply herewith.

Article 4

This Decision is addressed to the United Kingdom.

Done at Brussels, 31 July 1991.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 18 December 1991

amending Decision 91/107/EEC authorizing certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of sawn wood of conifers originating in the USA

(Only the Spanish, German, Greek, English, French, Italian, Dutch and Portuguese texts are authentic)

(92/12/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products ⁽¹⁾, as last amended by Commission Directive 91/27/EEC ⁽²⁾, and in particular the second and third indents of Article 14 (3) thereof,

Having regard to the requests made by Belgium, the Federal Republic of Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom,

Whereas under the provisions of Directive 77/93/EEC, because of the risk of introducing harmful organisms, wood of *Coniferae* which meets the descriptions in CN code ex 4407 10, originating in Canada, China, Japan, Korea and the USA may not be introduced into the Community, unless it is properly kiln-dried and identified as such ;

Whereas, however, Article 14 (3), second indent, of Directive 77/93/EEC permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms ;

Whereas, moreover, Article 14 (3), third indent, of the abovementioned Directive permits derogations from the rule requiring a phytosanitary certificate, if equivalent safeguards are given and provided that it is established that there is no risk of spreading harmful organisms ;

Whereas wood of conifers originating in the USA is currently introduced into the Community ; whereas in the case of sawn wood, phytosanitary certificates are not generally issued in that country ; whereas it appears that kiln-drying capacity is at present limited in the USA ;

Whereas, in respect of the USA, the Commission has established, on the basis of the information supplied by the USA and collected in that country during a mission carried out in 1990, that an officially approved and monitored programme of issuing certificates of debarking and grub-hole control has been set up to ensure proper debarking and to reduce the risk from harmful organisms ; whereas the risk of spreading harmful organisms is reduced provided that the wood is accompanied by a Certificate of Debarking and Grub-Hole Control issued under that programme ;

Whereas by Commission Decisions 91/107/EEC ⁽³⁾ and 91/636/EEC ⁽⁴⁾ the Commission authorized such derogations under technical conditions in respect of sawn wood of conifers originating in the USA, based on the use of the aforementioned Certificate of Debarking and Grub-Hole Control ;

Whereas there have been no findings of grub-holes on sawn wood of conifers imported pursuant to Decision 91/107/EEC ; whereas it has not been established, on the basis of available information, that there are elements which would militate against the proper functioning of the aforementioned debarking and grub-hole control programme ;

Whereas Decision 91/636/EEC stipulated that the authorization should expire on 31 December 1991 ;

Whereas at present, proper kiln-drying is an effective measure to protect the Community against the introduction of certain organisms affecting wood of conifers ; whereas, however, various kiln-drying schedules are commonly applied to different timber species in order to dry them to a suitable level for end-use application ; whereas these drying processes require the application of heat at various intensities and durations ;

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 16, 22. 1. 1991, p. 29.

⁽³⁾ OJ No L 56, 2. 3. 1991, p. 26.

⁽⁴⁾ OJ No L 341, 12. 12. 1991, p. 34.

Whereas a Community research programme has been set up to define parameters in the case of heat-treatment which ensure the eradication of the *Bursaphelenchus xylophilus* and its vectors, in order to enable the Commission to lay down the permanent requirements to safeguard against the spread of the said organisms;

Whereas the results of that research are not yet fully available;

Whereas the authorization should therefore be extended for a further limited period of one year;

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

HAS ADOPTED THIS DECISION:

Article 1

Decision 91/107/EEC is hereby amended as follows:

Article 3 is replaced by:

'The authorization granted in Article 1 shall expire on 31 December 1992, being the last date of entry into

the Community. It shall be revoked earlier if it is established that the conditions laid down in Article 1 (2) are not sufficient to prevent the introduction of harmful organisms or have not been complied with.'

Article 2

This Decision is addressed to the Kingdom of Belgium, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Portugal and the United Kingdom.

Done at Brussels, 18 December 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION DECISION

of 18 December 1991

amending Decision 90/505/EEC authorizing certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of sawn wood of conifers originating in Canada

(Only the Spanish, German, Greek, English, French, Italian, Dutch and Portuguese texts are authentic)

(92/13/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products⁽¹⁾, as last amended by Commission Directive 91/27/EEC⁽²⁾, and in particular the second and third indents of Article 14 (3) thereof,

Having regard to the requests made by Belgium, the Federal Republic of Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom,

Whereas pursuant to the provisions of Directive 77/93/EEC, because of the risk of introducing harmful organisms, wood of *Coniferae* which meets the descriptions in CN code ex 4407 10, originating in Canada, China, Japan, Korea, and the USA may not be introduced into the Community, unless it is properly kiln-dried and identified as such;

Whereas, however, Article 14 (3), second indent, of Directive 77/93/EEC permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms;

Whereas, moreover, Article 14 (3), third indent, of Directive 77/93/EEC permits derogations from the rule requiring a phytosanitary certificate, if equivalent safeguards are given and provided that it is established that there is no risk of spreading harmful organisms;

Whereas wood of conifers originating in Canada is currently introduced into the Community; whereas in the case of sawn wood, phytosanitary certificates are not generally issued in that country; whereas it appears that kiln-drying capacity is at present limited in Canada;

Whereas, in respect of Canada, the Commission has established, on the basis of the information available at present, that an officially approved and monitored programme of issuing certificates of debarking and grub-hole control has been set up to ensure proper debarking and to reduce the risk from harmful organisms; whereas the risk of spreading harmful organisms is reduced provided that the wood is accompanied by a Certificate of Debarking and Grub-Hole Control issued under that programme;

Whereas by Commission Decisions 90/505/EEC⁽³⁾ and 91/635/EEC⁽⁴⁾ the Commission authorized such derogations under technical conditions in respect of sawn wood of conifers originating in Canada, based on the use of the aforementioned Certificate of Debarking and Grub-Hole Control;

Whereas the United Kingdom informed the other Member States and the Commission that wood imported pursuant to Decision 90/505/EEC showed some grub-holes; whereas, however, no *Monochamus* nor *Bursaphelenchus xylophilus* have been detected in that wood; whereas, it has not been established, on the basis of available information, that there are elements which would militate against the proper functioning of the aforementioned debarking and grub-hole control programme;

Whereas Decision 91/635/EEC, stipulated that the authorization should expire on 31 December 1991;

Whereas at present, proper kiln-drying is an effective measure to protect the Community against the introduction of certain organisms affecting wood of conifers; whereas, however, various kiln-drying schedules are commonly applied to different timber species in order to dry them to a suitable level for end-use application; whereas these drying processes require the application of heat at various intensities and durations;

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 16, 22. 1. 1991, p. 29.

⁽³⁾ OJ No L 282, 13. 10. 1990, p. 63.

⁽⁴⁾ OJ No L 341, 12. 12. 1991, p. 32.

Whereas a Community research programme has been set up to define parameters in the case of heat-treatment which ensure the eradication of the *Bursaphelenchus xylophilus* and its vectors, in order to enable the Commission to lay down the permanent requirements to safeguard against the spread of the said organisms;

Whereas the results of that research are not yet fully available;

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Article 1

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Done at Brussels, 18 December 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission