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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 310/92

of 10 February 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,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 222/92⁽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 7 February 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 222/92 to today's offer prices and quotations known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 11 February 1992.

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

Done at Brussels, 10 February 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 24, 1. 2. 1992, p. 10.

ANNEX

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

(ECU/tonne)	
CN code	Levy (°)
0709 90 60	131,37 (°) (°)
0712 90 19	131,37 (°) (°)
1001 10 10	174,71 (°) (°) (°)
1001 10 90	174,71 (°) (°) (°)
1001 90 91	149,59
1001 90 99	149,59
1002 00 00	167,69 (°)
1003 00 10	144,76
1003 00 90	144,76
1004 00 10	131,30
1004 00 90	131,30
1005 10 90	131,37 (°) (°)
1005 90 00	131,37 (°) (°)
1007 00 90	140,36 (°)
1008 10 00	58,37
1008 20 00	129,27 (°)
1008 30 00	69,26 (°)
1008 90 10	(°)
1008 90 90	69,26
1101 00 00	222,43 (°)
1102 10 00	247,43 (°)
1103 11 10	285,03 (°) (°)
1103 11 90	239,05 (°)

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

(°) 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.

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

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

(°) 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.

(°) The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 and Commission Regulation (EEC) No 2622/71.

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

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

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

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

COMMISSION REGULATION (EEC) No 311/92

of 10 February 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,

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 7 February 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 February 1992.

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

Done at Brussels, 10 February 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 February 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 2	1st period 3	2nd period 4	3rd period 5
0709 90 60	0	0	0	2,99
0712 90 19	0	0	0	2,99
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	2,99
1005 90 00	0	0	0	2,99
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 2	1st period 3	2nd period 4	3rd period 5	4th period 6
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 312/92
of 7 February 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 8 000 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, 7 February 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

LOT A

1. **Operation No (¹):** 1019/91
2. **Programme:** 1991
3. **Recipient (¹):** Minister of Finance and Economic Planning, Food Management Unit, PO Box 527, Maseru, Lesotho (tel. 32 39 58)
4. **Representative of the recipient (²):** Lesotho Flour Mills, Private Bag A 62, Maseru, Lesotho (tel. 32 34 98, telex 329 BB)
5. **Place or country of destination:** Lesotho
6. **Product to be mobilized:** common wheat
7. **Characteristics and quality of the goods (³) (⁴):** see OJ No C 114, 29. 4. 1991, p. 1 (under II.A.I(a))
8. **Total quantity:** 8 000 tonnes
9. **Number of lots:** one
10. **Packaging and marking:** in bulk
11. **Method of mobilization:** the Community market
12. **Stage of supply:** free at destination — Maseru
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:** Lesotho Flour Mills, Private Bag A 62, Maseru 100, Lesotho (tel. 32 34 98, telex 329 BB)
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage:** 10 — 30. 3. 1992
18. **Deadline for the supply:** 30. 5. 1992
19. **Procedure for determining the costs of supply:** tendering
20. **Date of expiry of the period allowed for submission of tenders:** 12 noon on 25. 2. 1992
21. **A. In the case of a second invitation to tender:**
 - (a) deadline for the submission of tenders: 12 noon on 3. 3. 1992
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 17. 3 — 6. 4. 1992
 - (c) deadline for the supply: 30. 5. 1992**B. In the case of a third invitation to tender:**
 - (a) deadline for the submission of tenders: 12 noon on 10. 3. 1992
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 24. 3 — 13. 4. 1992
 - (c) deadline for the supply: 30. 5. 1992
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 21. 2. 1992, fixed by Commission Regulation (EEC) No 231/92 (OJ No L 24, 1. 2. 1992, p. 36)

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer :
M.A. Kratz, PO Box MS 518 Maseru, 100, Lesotho (tel. 31 37 26 ; telex DELEGEUR 4351 LO).
- (³) The successful tenderer shall deliver to the beneficiaries 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.
- (⁴) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required and how they are to be distributed.
- (⁵) 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.
- (⁶) 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 this Annex.
- (⁷) The successful tenderer shall supply to the beneficiary or its representative, on delivery :
- phytosanitary certificate.
-

COMMISSION REGULATION (EEC) No 313/92

of 4 February 1992

imposing a provisional anti-dumping duty on imports of radio-broadcast receivers of a kind used in motor vehicles, originating in South Korea

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

After consultations within the Advisory Committee as provided for by the above Regulation,

Whereas :

A. PROCEDURE

- (1) In May 1990 the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽²⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of radio-broadcast receivers of a kind used in motor vehicles and originating in South Korea and commenced an investigation.

The products in question, hereinafter referred to as 'car radios', fall within CN codes ex 8527 21 10, ex 8527 21 90 and ex 8527 29 00.

The proceeding was initiated on the basis of a complaint lodged by Alarm, the Association for Legal Auto-Radio Measures, on behalf of producers said to account for more than 70 % of Community production of car radios. The complaint contained evidence of dumped imports of the said products originating in South Korea and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

- (2) The Commission officially informed the exporters and importers known to be concerned, the representatives of the exporting country and the complainants, and gave the parties known to be concerned the opportunity of making known their views in writing and of requesting a hearing.
- (3) Of the 14 exporters referred to in the complaint, nine made their views known in writing while the

others made no representations. Nine other Korean exporters made themselves known following initiation of the proceeding. A comparison between the Eurostat official statistics and the answers from the 18 exporters who replied to the Commission's questionnaire shows that the latter account, in terms of volume, for roughly 63 % of all the quantities exported from South Korea to the Community.

- (4) The three producers represented by the complainant and a number of importers also made their views known in writing and/or requested a hearing. A trade association representing certain Community importers of the products in question, the Foreign Trade Association, made submissions. The Electronic Industries Association of Korea ('EIAK') made representations in support of the Korean exporters.

- (5) The Commission investigated and verified all the information considered necessary for the purposes of a preliminary determination and carried out checks at the premises of the following :

(a) Community producers :

- Grundig AG, Fürth, Germany and Braga, Portugal,
- Philips, Wetzlar, Germany,
- Blaupunkt, Hildesheim, Germany and Braga, Portugal ;

(b) Korean producers/exporters :

- Goldstar Co., Ltd, Seoul,
- Tong Kook General Electronics Co., Ltd, Seoul,
- Inkel Corporation Ltd, Seoul,
- Hyundai Electronics Industries Co., Ltd, Kyongju,
- Woojin Electric Co., Ltd, Seoul,
- Woojin Industrial Co., Ltd, Seoul,
- Samsung Electronic Co., Ltd, Seoul,
- Daesung Precision Co., Ltd, Seoul,
- Hyorim Co., Seoul,
- Haitai Electronics Co., Ltd, Incheon,
- Carmen Electronic Co., Ltd, Seoul,
- Sung-Moon Trading Co., Ltd, Seoul,
- Tong-Hae Sil Up Co., Ltd, Seoul,

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No C 114, 8. 5. 1990, p. 4.

- Se Kyung Co., Kyongju,
- Daewoo Electronics Co., Ltd, Seoul,
- Yung Tai Electronics Ind., Co., Ltd, Seoul,
- Woo Kwang Co., Ltd, Kyungsangbuch-Dou,
- Osio Electronics Co., Ltd, Kyongju,
- Kolon International Co., Seol;

(c) *Importers in the Community:*

- Alpine Italia Spa, Milan, Italy,
- Daewoo Handelsgesellschaft GmbH, Frankfurt, Germany,
- Flamagás SA, Barcelona, Spain,
- Goodmans Loudspeakers Ltd, Havant, United Kingdom,
- Goldstar Deutschland GmbH, Willich, Germany,
- Großversandhaus Quelle, Fürth, Germany,
- Inkel Europe GmbH, Eschborn, Germany,
- Interconti Industrie Kontor GmbH, Oer Erkenschwick, Germany.

- (6) The Commission also heard submissions from the complainant Community producers, the abovementioned exporters and a number of importers who had requested a hearing and verified all the information supplied in the course of the investigation to the extent considered necessary. One importer failed to submit a non-confidential version of his written reply so that it was not taken into account by the Commission.
- (7) The investigation of dumping covered the period from 1 May 1989 to 30 April 1990 (the investigation period).
- (8) This investigation extended for more than one year on account of the volume and complexity of the data gathered initially.

B. PRODUCT UNDER INVESTIGATION AND LIKE PRODUCT

I. Product under investigation

- (9) The products covered by this proceeding are receivers of radio broadcasts from broadcasting stations, not capable of operating without an external source of power, of a kind used in motor or self-propelled vehicles, whether or not combined, in the same housing, with sound recording or reproducing apparatus, excluding apparatus capable of receiving also radio-telephony or radio-telegraphy. Their

basic function is to receive and process audio signals. They are powered by an external source of electricity, normally generated by the vehicle in which they are installed. When connected to one or more loudspeakers, which are not covered by this proceeding, the signals received and processed can be heard.

The basic components of any car radio are a housing, a power supply unit, a tuner for selecting audio signals from the broadcasting stations on one or more frequency bands, circuits for processing the said signals, essentially an amplifier and other circuits controlling optional additional functions such as, *inter alia*, a fader for controlling the tone or balancing the sound in the case of stereo receivers, a radio decoder system and a system for memorizing a number of stations. Stations may be selected by means of manual tuning or digital tuning and they may be located by means of an analogue or digital display.

Car radios may be combined with equipment for recording or reproducing sound such as an audio cassette player, which can itself possess particular features such as, *inter alia*, an auto-reverse system for automatically reversing the tape, or a Dolby noise reduction system, and/or a compact disc player. Such products, whose main feature is that they receive radio broadcasts, fall within the category of the products under investigation on condition that all the equipment is contained in the same housing. Car radios which are also capable of receiving radio-telephony or radio-telegraphy, which were excluded when this proceeding was initiated since, in such cases, they possess different basic features, do not accordingly fall within the category of the products in question.

II. Like product

- (10) As regards the definition of like product within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88, it was found that car radios produced in the Community are manufactured using basic technology which is comparable to that used to produce equipment sold in Korea and exported to the Community and that they possess common basic physical and technical characteristics.

This approach is in line with the consumer's perception of the product. Apart from their differing features, appearance or reception quality, all the car radio models on the market have the same basic functions and possible uses, namely the

reception of radio broadcasts, whether or not combined with any other sound-reproducing apparatus, which enables them to be regarded as broadly interchangeable from the consumer's point of view even if, of course, the degree of interchangeability is less where there are greater differences as regards equipment and features.

As was pointed out in recital 9 above, car radios are marketed with a wide range of technical features. The differences between them have, however, not caused the Commission to take the view that a clear distinction could be made between the various car radio models, resulting in the definition of a number of categories of like products. There is no clear dividing line enabling classification by specific groups of models within the range of products manufactured using an identical process, distributed through the same marketing channels and not distinguished in any way by the manufacturers in their accounts.

- (11) A Community trade association representing the interests of the retail trade in regard to supplies from abroad claimed that car radios manufactured and sold in the Community by the Community industry and car radios imported from Korea were not like products, on the ground that the latter were very cheap products whose parts, quality and clarity of reception were inferior to those produced and sold by the Community industry. These arguments are broadly in line with those of most of the exporters, who made a distinction between like products for the different market segments, based on 'high end' and 'low end' products, the distinction depending, according to the circumstances, on an assumption that different markets exist according to the features of the products or differing prices.
- (12) These arguments cannot be upheld. Even if Korean models and Community models may have different specifications, this does not alter the fact that all the models concerned possess basic common physical and technical characteristics which place them within the same category of like product. Furthermore, no objective criterion was offered in support of these arguments that would have made it possible to distinguish between the products in question according to their basic characteristics and use. Any classification of these products into various separate categories or groups of articles would be arbitrary, open to circumvention and unworkable since what is at issue here is, in fact, a complete range of one and the same product. In any event, the arguments put forward actually relate to a past situation on account of the technical progress achieved by the Korean exporters during the years prior to the investigation period. Indeed, it was possible to establish that the models exported during the investigation period from

Korea to the Community by the exporters who cooperated incorporate, in many cases, equipment analogous to that of the European models. They were designed and produced using technology comparable to that used in the Community, in many cases on the basis of licensing agreements concluded with third country producers. Secondly, the Community producers also make models based on simplified technology, comparable to the exported models, and these form an integral part of a range of models offered for sale on the Community market by the Community industry.

Any differences in regard to quality can, moreover, have no effect on the definition of the like product and must, if necessary be taken into account when prices are compared.

- (13) In conclusion, the Commission took the view that all car radios produced in the Community and in Korea and sold on the Community market are sufficiently alike to be regarded as constituting a single range of products for the purposes of this proceeding and as a like product within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88.

C. DUMPING

(a) Normal value

- (14) In order to determine normal value, the Commission first considered whether the models sold by the Korean exporters who had made sales on the domestic market were like products with features that were sufficiently akin to those of the exported models to allow a valid price comparison to be made without its being necessary to make adjustments that were so great or of such complexity that it would be impossible to make a reasonable estimate of the value of any differences in their physical features. An initial selection of the said models was made on the basis of a list of fourteen specifications corresponding to the principal technical features. Subsequently, and, in particular, during the course of the one-the-spot investigation, checks were made on whether the external and internal structure of the preselected products sold in Korea and for export allowed a reasonable comparison to be made between prices on the domestic market and export prices.

On the basis of these criteria, the Commission reached the preliminary conclusion that four of the six Korean exporters who had made sales on the Korean domestic market had sold such models as were comparable to one or more of the exported models.

- (15) One exporter held by the Commission not to have sold a comparable model on the domestic market claimed that the only model which he had sold in Korea on the occasion of a single transaction during the investigation period was, in fact, comparable to two models exported by him, on the basis of the fourteen specifications used by the Commission to select comparable models. He claimed that the Commission had not made a reasonable decision on the ground of a lack of comparability, by reason of differences in external appearance and, in particular, internal structure, of which the consumer would be unaware.

Transmission by the Commission, however, of a list of specifications for the purposes of preselecting comparable models could not be regarded as laying down all the selection criteria before specific examination of individual proposals made on that basis by each producer/exporter.

Where models are selected in order to compare prices, account must be taken of those factors which may affect the build-up of the said prices, in relation to the buyer for whom the product is intended, such as, *inter alia*, the internal structure and the components of the products in question. The products sold in Korea and those sold for export to the Community were intended for customers who were car manufacturers and/or distributors, all of whom take full account of the internal structure of the said products.

Despite the similarity of the models in question as regards the correlation between one or other specification of the fourteen that were listed, the said models appeared dissimilar both from the standpoint of their external appearance and their internal structure.

- (16) The Commission then considered whether the domestic prices of the comparable models selected as described above could be used to determine the normal value. This was impossible. In two cases, products were sold at transfer prices to a car manufacturer related to the producer so that the said prices could not be used. Domestic sales of comparable models to independent buyers either failed to exceed, in volume terms, 5 % of sales of products exported to the Community so that they were held to be insufficiently representative, in line with the Commission's practice in previous cases, or were sufficiently representative but made at a loss, in other words the average prices of the models in question, during the investigation period, were lower than the production costs.
- (17) In these circumstances, since it was impossible to use any of the prices charged on the domestic market, normal value was constructed, provisionally, in all cases on the basis of the costs in respect of materials and manufacture of each exported model, plus an amount for selling, administrative and other general expenses (hereinafter referred to as 'SGA expenses') and a margin for profit.
- (18) It nevertheless proved necessary, to enable a valid comparison to be made with the export prices, to take into account the nature of the domestic sales as compared with that of the export sales. All the latter were made to importers acting as distributors who resold either to wholesalers or retailers and only in certain rare cases to car manufacturers. No export sales were made directly to Community car manufacturers.
- In contrast, on the Korean market, most domestic sales to independent buyers were made to car manufacturers. The rest of the sales were made to distributors who, like the importers in the Community, sell to wholesalers and retailers. In the case of the sales to car manufacturers, a significant difference in price structure and quantities sold was found, by comparison with the sales made to distributors. The investigation showed that general expenses, excluding direct selling expenses, did not appear to differ depending on the type of customer and sales volume and that the price difference accordingly lay in the lower profit margins on sales to car manufacturers. The latter are final consumers whose commercial function differs from that of distributors. As a result, in determining the normal constructed value corresponding to a level of trade comparable to that of the export sales, the profit margin to be added to the cost of production was determined provisionally by reference to the level of profit made on sales on the Korean domestic market to independent distributors.
- (19) SGA expenses were calculated by reference to those incurred by each of the producers/exporters concerned who had made sales of the like product on the domestic market in representative quantities to independent buyers, in other words where such sales were equal to not less than 5 % of the total quantities imported. In the case of Korean producers/exporters who had not made representative sales of the like product in Korea, SGA expenses were calculated by reference to the average expenses of the same kind incurred by the other Korean producers/exporters of car radios who had made sufficient sales of the like product on the domestic market.
- (20) As regards the profit used to construct the normal value, where producers/exporters had sold other car radio models to distributors in Korea in representative quantities, the average profit margin corresponding to that type of sale was used.

In the case of exporters who had sold like products to car manufacturers on the domestic market, the profit margin on such sales was adjusted on the basis of an average percentage reflecting the differing profit margins secured through the two types of sale on the domestic market. The percentage was determined by reference to the sales of producers/exporters who made the two types of sale on the Korean domestic market during the investigation period.

Where a producer/exporter had not sold like products in Korea, the average profit margin secured by the producers/exporters who had sold like products to independent distributors in Korea was used.

- (21) A number of Korean exporters, together with the EIAK, objected that the method used by the Commission was incorrect since it did not take account of differences between the quantities sold to distributors in Korea and the quantities sold in the Community.

The said exporters claimed that it would be fairer to compare the sales made to car manufacturers since, in particular, the quantities were more comparable to the export sales.

- (22) The Commission was not able to accept these arguments. Any fair comparison requires prices to be compared at comparable levels of trade. The functions of the Korean distributors and the Community importers are comparable while the function of car manufacturers is totally different. Prices must therefore be compared at distributor level. As regards the argument concerning the difference between the quantities sold at distributor level on each of the two markets which, it was claimed, resulted in differing economies of scale, it must be borne in mind that the normal value of the models sold for export was determined on the basis of the manufacturing costs for the said exported models. This method accordingly takes full account of the economies of scale secured with the exported products which, moreover, were necessarily greater than those secured through the sales on the domestic market since the quantities sold for export were significantly greater than those sold in Korea. As far as selling expenses are concerned, all differences in direct costs were taken into account (see recitals 26 *et seq.*). With regard to general expenses, it was found that there was no difference according to the nature of the customer.

Lastly, with regard to profits, the investigation clearly showed that they vary depending on the commercial function of the customer concerned. As a result, it would be wrong to use, in respect of the sales to distributors, a profit margin that clearly

applied to the other type of customer on the Korean market.

In order to make a provisional determination of the normal value, the Commission accordingly held that this had to be calculated by adjusting the profit margin on sales to independent customers other than distributors so as to enable a comparison to be made at the same marketing level as that for the export prices.

(b) Export prices

- (23) In the case of all sales to independent importers in the Community, export prices were provisionally determined on the basis of the prices actually paid for car radios sold for export to the Community.
- (24) Three Korean producers/exporters effected a proportion of their sales and marketing operations in the Community through subsidiaries. In these cases export prices were constructed on the basis of those at which car radios were resold to the first independent buyer, pursuant to Article 2 (8) (b) of Regulation (EEC) No 2423/88. Account was taken both of discounts and rebates granted in connection with the said selling prices and of all costs incurred between importation and resale, including all duties and taxes and a profit margin of 8 % calculated by reference to information gathered in the course of the investigation with regard to the profit margin made by independent importers in the Community.

(c) Comparison

- (25) In order to make a fair comparison between normal value and export prices, the Commission took account, in the form of allowances, of differences affecting price comparability, such as those relating to conditions of sale, where a direct connection could be satisfactorily demonstrated between the said differences and the sales in question. These comparisons were made on the basis of the ex-works price. There was no case for making the allowances requested in respect of differences relating to physical characteristics since the normal value was constructed in every case on the basis of the production costs of the exported models. It was similarly unnecessary to make allowances for differences relating to import duties and other indirect taxes since the production costs taken into account in constructing the normal value did not include such duties.
- (26) Allowances were made in respect of differences relating to transport, insurance, handling and loading costs and to ancillary costs, conditions of payment, warranties, wages and commission paid to sales personnel.

(27) All the producers/exporters requested allowances in respect of conditions of payment. The costs in question were assessed on the basis of the periods for payments prescribed in the conditions of sale. Since, in all cases, normal value was based on production costs, allowances in respect of the cost of credit related to sales were assessed on the basis of the accounting data of the Korean producers that had sold the like product in Korea, by reference to the amount of the actual credit costs incurred by the producers. In the case of the other producers, an allowance in respect of selling expenses was determined on the basis of the average credit costs incurred by those that had sold the like product on the domestic market.

(28) With regard to requests for allowances in respect of warranties provided on the domestic market, it was found that normal practice in Korea was not to provide a warranty but to indicate on the invoice a percentage of the amount of the invoice corresponding to the supply of spare parts free of charge. The Commission provisionally granted an allowance to all the exporters in respect of the said expenses treated as equivalent to warranties, on the basis of a percentage which, following an investigation, was held to be in line with practice within the trade.

(29) As regards wages paid to sales personnel, a number of exporters included costs in respect of personnel not directly employed in selling, such as secretaries or managers. In those cases the allowance was accordingly assessed on the basis of such available facts as enabled the existence of direct links between the work of the personnel in question and sales of the like product to be established.

(30) A number of producers/exporters requested that the Commission disregard claims for allowances having an *ad valorem* effect of less than 0,5 %, pursuant to Article 2 (10) (e). The Commission found, however, that in this particular case the allowances in question, taken altogether, had an appreciable effect on the prices or the value of the transactions to which they related. It was therefore provisionally decided to take account of all the allowances requested and to dismiss the claim based on Article 2 (10) (e), the terms of which entail consideration, which the Commission undertook, of the effect of the allowances on the prices or value of the transactions affected thereby.

(d) Dumping margins

(31) Normal values, determined as described above, were compared with the export prices on a transaction-by-transaction basis. The preliminary examination of the results of the said comparison shows the existence of dumping in respect of car radios originating in the Republic of Korea sold by all the Korean producers/exporters involved in the investigation, the margin of dumping being equal in each case to the amount by which the normal value exceeded the price for export to the Community.

The dumping margins varied according to the exporter, and the weighted average margin for each

exporter, expressed as a percentage of the free-at-Community frontier cif value was as follows:

— Goldstar Co., Ltd	6,30 %
— Tong Kook General Electronics Co., Ltd	20,10 %
— Inkel Corporation Ltd	18,16 %
— Hyundai Electronics Industries Co., Ltd	14,70 %
— Woojin Electric Co., Ltd	19,21 %
— Woojin Industrial Co., Ltd	19,21 %
— Samsung Electronic Co., Ltd	0,25 %
— Daesung Precision Co., Ltd	17,30 %
— Hyorim Co.,	18,30 %
— Haitai Electronics Co., Ltd	1,06 %
— Carmen Electronic Co., Ltd	7,80 %
— Sung-Moon, Trading Co., Ltd	23,90 %
— Tong-Hae Sil Up Co., Ltd	10,80 %
— Se Kyung Co.,	7,26 %
— Daewoo Electronics Co., Ltd	7,44 %
— Yung Tai Electronics Ind., Co., Ltd	33,95 %
— Woo Kwang Co., Ltd	21,03 %
— Osio Electronics Co., Ltd	24,62 %
— Kolon International Co.,	6,30 %

Subject to any changes which may result from further investigation prior to a final decision, the dumping margins provisionally determined in regard to Samsung Electronic Co., Ltd and Haitai Electronics Co., Ltd must be regarded as minimal and, at this stage, there is no justification for taking account of them for the purpose of adopting any protective measure required.

(32) In the case of the exporters who failed to reply to the Commission's questionnaire or who did not make representations to the Commission, dumping was determined on the basis of the facts available. At the beginning of the investigation, EIAK informed the Commission that the number of such exporters was very high, in excess of 50, and it was claimed that a good number of the said Korean companies were not in a position to reply on account of their size and inadequate financial and human resources. The Commission stated that it was prepared to consider the detailed arrangements for taking a sample, on the basis of a list of all the Korean producers/exporters, that contained sufficient information, firstly, to enable the actual need for such an approach to be verified and, if appropriate, to make a representative selection from among all the Korean producers/exporters concerned. A list of the Korean producers that had exported products to the Community, indicating the volume and value of the said exports was provided out of time, after the period for replying to the Commission's questionnaire had expired. A number of exporters who had failed to reply to the questionnaire provided, during the investigation and with the support of the EIAK, certain details regarding the models which they exported and the relevant volume and value of their exports.

The Commission was, however, unable to secure any confirmation of the explanation given to it that the companies which had failed to cooperate in the investigation were not of a size sufficient to be able to reply to the questionnaire. Firstly, it was hardly possible to judge the size and precise resources of the said companies on the basis of the quantities of the like product exported alone. Secondly, it was clear that, in the case of many of the companies which had apparently exported relatively low quantities, the quantities were, in fact, comparable to those exported by some of the companies which had cooperated in the investigation. Lastly, some of the Korean exporters who had failed to cooperate had exported very large quantities to the Community without, however, making representations to the Commission. For all these reasons the Commission has very serious doubts regarding the question whether the results of the investigation into the producers that did cooperate are genuinely representative of the other Korean producers/exporters that failed to make any representations or in respect of whom only very limited unverified information is available, which does not enable any finding to be made.

As a result, in the case of all the Korean exporters of car radios who failed to make representations to the Commission or failed to reply to its questionnaire, the dumping margin was determined on the basis of the facts available, in accordance with the provisions of Article 7 (7) (b) of Regulation (EEC) No 2423/88. The Commission took the view that, given the scale of non-cooperation, neither the dumping margins determined in respect of the Korean exporters who cooperated in the investigation nor the information contained in the complaint, the details of which regarding dumping appeared to be relatively incompatible with the results of the investigation and insufficiently indicative of the Korean pricing practices, constituted the most appropriate basis for determining the dumping margin for the other exporters.

In their case the Commission accordingly decided, provisionally, to use the average dumping margin determined in respect of the three models most sold for export and which accounted for some 50 % of all the quantities exported by one of the three exporters who had exported the largest quantities of car radios during the investigation period and which was also, of the said three exporters, the company which had sold the most substantial quantities of the like product on the Korean market during the same period.

On that basis, the dumping margin is 38,3 %. The Commission considers that assigning a lower dumping margin to the abovementioned group of

exporters would provide an incentive to avoid the payment of duties and would constitute a bonus for non-cooperation.

D. COMMUNITY INDUSTRY

- (33) According to the Commission's information, in addition to the three producers represented by Alarm, there are at least six car radio manufacturers producing or assembling car radios in the Community. From the information gathered during the investigation it has been possible to establish that the Community producers who are members of Alarm accounted, during the investigation period, for at least 75 % of car radio production in the Community taken as a whole, in other words a major proportion of the total Community production of the like product within the meaning of Article 4 (5) of Regulation (EEC) No 2423/88.
- (34) One of the members of Alarm imported car radios originating in Korea during the investigation period and is related to a Korean producer under an agreement for the manufacture of cassette deck mechanisms.

It was established that the manufacturing agreement with one Korean producer covered car radio components intended for sale on the Korean market and had no effect on the business practices of the Community producer in question on the Community market.

As regards the limited imports of car radios from Korea by the Community producer in question, the Commission considered, in accordance with its discretionary powers under Article 4 (5) of Regulation (EEC) No 2423/88, whether the said imports of the product under investigation required it to take the view that the Community producer in question was not part of the 'Community industry'. In this regard it should be borne in mind that it is natural for companies engaged in international trade to have recourse to other manufacturers in order to complete their model range. In the case in point, the products imported fell within that part of the range in regard to which unfair competition from imports originating in Korea was particularly serious. It is clear that the purpose of the said imports was to remain on the market with a complete range of models or even to secure market segments which would have been lost without sales of the models in question. In other words, the producer in question in fact took a legitimate measure of self-protection.

In these circumstances, the Commission concluded that the three Community manufacturers who are members of Alarm formed the 'Community industry' within the meaning of Article 4 (5) of Regulation (EEC) No 2423/88.

E. INJURY

I. Factors relating to dumped imports

(a) *Volume and market shares*

- (35) According to the Commission's information, Community market consumption of car radios has increased steadily. It increased from 12 million units in 1985 to 19,26 million units during the investigation period, that is to say by roughly 60 %.
- (36) Over the same period, dumped imports from Korea into the Community increased from 1 796 000 units in 1985 to roughly 5 093 000 units, that is to say by roughly 184 %. This trend was reflected in an increase in their market share from 15 % in 1985 to 26,5 % during the investigation period. During that time, sales by the Community industry fell by 3 % and its corresponding market share declined from 36,7 % in 1985 to 22,2 %.

It is true that the volume of Korean imports fluctuated somewhat during the period in question but that does not affect the fact that their rapid penetration of the Community market is amply demonstrated, with a 77 % increase in market share, while the Community industry's market share fell by 40 %, despite an appreciable increase in total Community consumption. In addition, as a number of Korean exporters acknowledged during the on-the-spot investigation, imports were curbed through short-term economic problems affecting production and export conditions, as a result of economic and social disturbances in Korea in 1988 and 1989.

(b) *Prices*

- (37) As regards price erosion, it was found that from 1985 to 1989 the prices of a number of car radio models sold by the Community industry which were comparable to imported Korean models and whose physical and technical features remained unchanged during the period in question, so that an examination could be made of the trend of prices, fell by 20 % or more. It was clear that, in the case of the said products, whose technological development curve is close to its maximum possible level, the price reductions found could not be explained only by factors deriving from a

normal competitive context, such as increased production volumes and improved manufacturing techniques.

- (38) The Commission also compared the prices of Korean models comparable to models produced in the Community and sold by the Community industry. For the purposes of this comparison, representative car radio models marketed by the Community industry during the investigation period were selected. A selection was then made of representative Korean models exported during the same period which were the most directly comparable to the Community producers' models, taking as a basis the list of features referred to in recital 15. Care was taken to select only Korean models having at least the same or even more features than the Community models with which they were compared. The comparison was made on the basis of sales to the first independent customers at distributor level, making adjustments, where appropriate, based on the export prices of the different models exported, so as to take account of differing features. Substantial price undercutting was found on this basis, varying according to the exporter concerned, the most extreme example amounting to 41 %.

II. Factors relating to the state of the Community industry

- (39) Production by the Community industry decreased from 5 472 000 units in 1985 to 5 137 000 units during the investigation period, that is by roughly 6 %. The decrease was particularly marked in 1988, in the order of 13 % by comparison with 1985, while Community consumption increased during those three years by 54 %.

Even if, in assessing injury, the production factor must be evaluated on the basis of the Community industry's production within the Community, it would nevertheless appear advisable, in order to make a more accurate assessment, to take into account the fact that the Community industry also established production facilities outside the Community.

This measure was initially dictated by the need to improve competitiveness by reducing the costs of components and labour. It is, however, clear from the information gathered during the investigation that imports into the Community of car radios manufactured by the Community industry in third countries began to increase considerably from 1987, at a time when the volume of imports from Korea had recently increased by 200 % over two years, during which time the Community industry's market share had declined sharply from 36,7 % to 25,7 %.

It follows from this concurrent timing that the Community industry was obliged to increase its production outside the Community in order to cope with the flood of new imports, combined with sharp decreases in market share, prices and return on sales (see recitals 37 and 42). This approach clearly enabled the Community industry to better defend its position on the Community market. There would, in fact, have been a much more adverse situation than the abovementioned 6 % decrease over five years if measures to diversify production had not been taken by the Community industry from 1987 onwards. This trend also affected the level of employment which, while stable up to 1987, fell by 9 % in 1988 and subsequently returned to its 1986 level, whereas the number of jobs could have increased, had it been possible for production in the Community to have been utilized and even expanded in order to meet the increase in demand, which existing production capacity would have made possible.

- (40) The Community industry's rate of production capacity utilization was 87 % in 1986 and 1987, declined to 80 % in 1988 and stood at 81 to 82 % in 1989 and during the investigation period.
- (41) Stocks held by the Community industry fluctuated, with an appreciable increase in 1987, an even more significant decline in 1988 and a return in 1989 and at the beginning of 1990 to a level comparable to that of 1986. This parameter for assessing injury is, however, of little significance as regards injury determination when account is taken of the fact that over the same time production capacity utilization fell and producers were obliged to resort to price reductions in order to cope with the low prices charged by competitors on the market.
- (42) From 1987 up to the investigation period, the Community industry's average return on sales steadily declined with the occurrence, in one case, in 1988, of losses, which steadily worsened subsequently. Average profit, largely positive in 1986 was close to being negative at the beginning of 1990. The reason for this was the pressure on prices resulting from massive low-priced imports.

III. Conclusions

- (43) In determining whether the Community industry suffered material injury, the Commission took into account the following factors :
 - imports of car radios originating in Korea increased extremely rapidly from 1985 to April 1990, their market share rising from 15 % to 25 % during that period, while the Community industry's market share, as regards its sales of car radios produced in the Community, fell from 36,7 % to 22,2 % ;
 - the selling prices of the complainant producers in the Community were substantially eroded and, in addition, the level of price undercutting

in the investigation period was found to be very high ;

- the Community industry's production capacity utilization, its production and sales showed a downward trend despite an increase in total consumption of 60 % from 1985 up to the investigation period ;
 - the return on sales and on capital of the complainant producers steadily fell from 1987 until the beginning of 1990.
- (44) On the basis of all the abovementioned factors, in particular the losses of market share, combined with significant erosion of profits, the Commission concluded, for the purpose of its preliminary findings, that the Community car radio industry experienced material injury within the meaning of Article 4 (1) of Regulation (EEC) No 2423/88.

F. CAUSATION OF INJURY BY DUMPING

(a) Effect of dumped imports

- (45) The Commission found that the very rapid penetration of Korean imports coincided with an equally rapid loss by the Community industry of market share, which stabilized more or less when the pressure from Korean exports weakened somewhat from 1989 onwards because of the short-term economic situation obtaining in Korea, referred to in recital 36. The same concurrent timing is discernible in regard to the erosion and reduction of prices of the Community car radio models, the marked decrease in average profits of the Community industry and its unavoidable recourse to imports of car radios produced outside the Community. In so far as the market in question is very price sensitive, it is clear that, having regard to the substantial price undercutting found, the dumped imports significantly affected the injury suffered by the Community industry. The very low prices of the very large quantities of dumped imports from Korea necessarily had an adverse effect on the volumes sold by the Community industry on a market that was, nevertheless, experiencing growth ; they likewise had an adverse effect on the general level of selling prices and, as a result, on that of the Community industry's profits ; the trend of these different parameters coincides precisely with the trend of imports originating in Korea.
- (46) According to the Korean exporters, the fact that the market share of imports from Korea declined significantly from 1987 to 1989 made it impossible to conclude that the Korean imports caused injury to the Community industry ; the injury stemmed from other factors. However, it has already been shown that the relative decline in imports from Korea is attributable to circumstances with which the exporters were necessarily faced and that this, moreover, curbed, to some extent, the decline in the Community industry's market share. This factor highlights

rather than weakens the direct link between the volume of dumped imports from Korea and the injury caused to the Community industry. It is also certain that the steps taken by the Community industry from 1987 onwards helped to slow down the flood of dumped imports from Korea which, however, remained substantial and clearly continued to have a major impact on the Community market.

(b) The effect of other factors

(47) All the Korean exporters claimed that the injury was caused by factors other than the imports from Korea. Since their exports declined from 1988, while total consumption increased during the same period, it was claimed that any injury was attributable to other imports, essentially those originating in third countries where the Community industry established car radio production facilities. They maintained that the Eurostat statistics showed that in 1989 the prices of the said imports were even lower than Korean prices, which had shown a significant increase, and certain exporters also claimed that these factors were evidence of dumping.

(48) In the case of imports originating in third countries other than Korea, only those originating in countries where the Community industry established car radio production facilities, namely China, Malaysia and Singapore, showed a volume increase, like the imports from Korea, greater than that of total consumption from 1985 up to the reference period. However, while the total of such imports in 1985 exceeded, in volume terms, the imports from Korea, it accounted for no more than 47,7 % in 1987 and roughly 90 % during the investigation period. The corresponding market shares increased from 15,8 % in 1985 to 24,9 % at the beginning of 1990.

Of the said imports, those effected by the Community industry accounted for less than 50 % during the investigation period. They showed an increase of the same order as that of the imports from Korea for the reasons given in recital 39, namely the need to take a necessary and legitimate measure of trade protection.

(49) As regards the level of prices of the products imported by the Community industry, it is virtually inconceivable that the industry could have contributed to its own injury, unless it were shown that not only the Community producers who imported radios but also the other producers making up the Community industry had thus been victims of a

practice inconsistent with normal business operations. No evidence of this was furnished. Furthermore, the information gathered during the investigation showed that the pricing policy of the Community producers depended on the specific characteristics of the models sold and did not vary appreciably according to the place where car radios sold by them in the Community were produced. This is all the more to be expected in that it is difficult to imagine that a Community producer would jeopardize his sales of products manufactured in the Community by selling competing products imported by him at low prices. There is, moreover, no evidence that the products imported by the Community industry were sold at price levels that caused injury to other Community producers.

It cannot, of course, be ruled out that the proportion of imports originating in the three third countries in question brought in by importers other than the Community industry could have had some effect on the volume and prices of sales in the Community. In this regard there is nothing that would allow the conclusion to be drawn that the said imports were being dumped. The statistics in respect of the said imports provided no reliable information as to their actual price level, on account of the inclusion, when calculating the average import prices, of a wide variety of car radio models. The Korean exporters failed to produce the slightest evidence to support their allegations of dumping as regards imports originating in the other third countries to which they referred. In any event, even if the imports other than those of the Community industry originating in the said third countries, whose market share is much lower than that of the imports from Korea and which increased more slowly than the imports from Korea, could have had some impact on the level of prices on the Community market, the injury caused by the imports originating in Korea, considered separately, must still be regarded as material.

(50) It should be noted that imports into the Community originating in third countries other than Korea and the three third countries referred to in recital 48 remained relatively stable, increasing, in volume terms, only by 26 % from 1985 up to the reference period, while during that time imports from Korea increased by 190 %, while total consumption increased by 60 %. The market share of the said imports declined from 26,5 % in 1985 to 20,7 % at the beginning of 1990. It is, accordingly, not apparent that the said imports could have had an impact on the Community industry comparable to that of the imports from Korea.

(51) The above conclusions imply that the Korean exporters' argument that this investigation constitutes discrimination in regard to exports from Korea in breach of Article 13 (5) of Regulation (EEC) No 2423/88 must be regarded as unfounded. In the absence of any evidence of dumping as regards the imports from other third countries, there can be no breach of Article 13 (5), which lays down a requirement of non-discrimination in respect of all imports of a like product found to be dumped and causing injury.

(52) It was also claimed that, faced with very keen competition from other imports originating *inter alia* in Brazil and Japan, the Community industry had lost shares of its traditional market in 'high end' car radios, on which the Korean exporters were not present, and that it had accordingly sought belatedly to penetrate the 'low end' car radio market developed by the Korean exporters. According to them, the injury was therefore caused by those other factors.

It must be pointed out that the Community industry offers for sale the whole range of the like product on the Community market. By reason of the interchangeability of models of the like product, sales in one market segment clearly have an impact on those in other segments, although the dividing lines between the said segments are, in any event, not clearly definable. Moreover, it was indicated in recital 11 that the models imported from Korea are very broadly in line with the range of the models produced and sold by the Community industry. Lastly, even if the Korean exporters had helped to develop one or more segments of the car radio market, this did not entitle them to claim that they could completely take over such segments by selling dumped products on them, thus preventing the Community industry from seeking, through increased sales, to offset any losses of market share resulting from the operation of normal competition in other market segments in which it had originally been more active.

(53) Two Korean exporters also claimed that the products exported by them were of higher quality and more highly priced than those exported by the other Korean exporters. Two exporters also claimed that they had exported small quantities. The said exporters accordingly contended that they could not have caused any injury. Injury must, however, be assessed on an overall basis. It is, accordingly, neither necessary nor possible to identify the proportion of injury attributable to each exporter involved.

(54) The Commission accordingly concluded that the dumped imports from Korea, taken in isolation,

caused serious injury to the Community car radio industry.

G. COMMUNITY INTEREST

(55) On account of the significant injury suffered by the Community industry, and having regard, in particular, to its very worrying financial situation, the Commission takes the view that, unless measures are taken against the imports from Korea which are being dumped and have, accordingly, caused injury, a significant short-term reduction in the production of car radios in the Community by the complainant producers is inevitable and that it would appear probable that in the medium-term the said production would cease to exist. All the investment and rationalization operations undertaken in recent years by the Community industry would have been in vain and thousands of jobs would be lost.

In addition, the industry in question is part of an industrial sector in which the relevant technologies are used and developed to cover an entire range of electronic products. Any weakening in one part of the sector in terms of know-how, research and development has repercussions on the overall competitiveness of the industry concerned.

(56) The Korean exporters claimed that the only effect of the measures taken solely against the imports from Korea would be to increase imports originating in third countries other than Korea without, however, eliminating the injury caused by the Korean imports and without any resulting investment or job creation in the Community by the Community industry. It was claimed that the said industry had recently indicated its preference for establishing its own production facilities outside the Community.

It was also argued that consumers' costs would increase without their deriving any compensatory benefit as a result of an improvement in the health of the Community industry.

(57) As regards the first argument, it should be borne in mind that the purpose of anti-dumping measures is to restore fair competition on the Community market. Any increased market share secured by imports other than those originating in Korea, resulting from anti-dumping measures imposed on the latter, should be regarded as resulting simply from the operation of normal competition since no evidence has been adduced that other imports are being dumped. Furthermore, imports from Korea can continue to compete under fair-pricing conditions, which the measures seek to restore. As regards the effects of the measures on the development within the Community of the Community industry, the latter has recently made major invest-

ments and taken rationalization measures in regard to its production within the Community. This is a clear indication of its intention to maintain and improve the said production. It is therefore not possible to accept the arguments put forward by the Korean exporters who, by engaging in massive dumping of exports, have caused material injury, one consequence of which has been unavoidable recourse to increased production of car radios at locations where the costs of manufacture are lower, so that an attempt can be made to compete with low-priced imports. The fact that production within the Community increased somewhat on account of the fact that, for unavoidable reasons, the Korean exporters were unable to keep up the level of their exports, also makes it clear that the Community industry had no intention of decreasing its production in the Community.

- (58) The Commission also considered whether the foreseeable effects of imposing anti-dumping duties as far as consumers are concerned could be contrary to the Community interest.

Imposition of duty will result in an increase of costs at the import stage and these will have to be passed on at subsequent stages of consumption. This increase in costs should, however, be fairly limited, in view of the large number of other suppliers on the Community market. The view has been taken that the duties, which are limited to the amount of the dumping margins, will result only in a partial reduction of the appreciable undercutting of the prices of models sold by the Community industry.

The effect of the measures on consumers will, accordingly, be limited to a degree that enables the removal of an advantage in terms of prices resulting from a practice which is unfair and detrimental to the Community industry, whose situation, unless protective measures are taken, appears destined to deteriorate unavoidably.

- (59) It is, moreover, in the interests both of the Community industry and consumers that fair competition be restored on the Community market. As things stand, imposition of anti-dumping duties should make it possible to avoid the probable disappearance of the Community industry in the medium-term, which would be liable to seriously diminish competition on the Community market in car radios.
- (60) The Commission accordingly considers that it is in the Community interest to remove the effects of the injury caused to the Community industry by the dumping that has been found. The overriding need to protect the viability and maintain the competitiveness of this industry is, to a large extent,

consonant with the interests of consumers and offsets the disadvantages, which are limited both in scale and over time, capable of impinging on consumers in the short term.

H. DUTY

- (61) Since the differences between the Korean prices and those of the Community producers are, in all cases, greater than the dumping margins found, the duty must be aligned on those dumping margins, as indicated in recital 33, in accordance with Article 13 (3) of Regulation (EEC) No 2423/88.
- (62) In the case of the companies which failed to reply to the Commission's questionnaire, did not make themselves otherwise known or failed to provide the information which the Commission considered necessary, it would appear, for the reasons already set out in recital 32, that the duty to be imposed should be based on the facts available and held to be most appropriate, i.e. 38,3 %.
- (63) One importer claimed that when imposing anti-dumping duties, the Commission should take account of the specific nature of sales made by correspondence on the basis of catalogues, in so far as the setting of prices is less flexible in such cases, and that it should, accordingly, adjust the detailed arrangements governing the application of any duties imposed. Since, however, anti-dumping measures are applied when the products in question are released for free circulation, there is no statutory basis for distinguishing between particular marketing channels following definitive importation, whereby anti-dumping duties may be imposed that vary over time.
- (64) A period should be fixed within which the parties known to be concerned may make their views known and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may be reconsidered for the purpose of imposing any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping of 38,3 % of the net free-at-Community frontier price before duty is hereby imposed on imports of radio-broadcast receivers of a kind used in motor vehicles, falling within CN codes ex

8527 21 10 (Taric code : 8527 21 10*10), ex 8527 21 90 (Taric code : 8527 21 90*10) and ex 8527 29 00 (Taric code : 8527 29 00*10), originating in the Republic of Korea (additional code : 8622).

These duties shall apply to broadcast receivers not capable of operating without an external source of power, of a kind used in motor vehicles, whether or not combined, in the same housing, with sound recording or reproducing apparatus, excluding apparatus capable of receiving also radio-telephony or radio-telegaphy.

2. The rate of anti-dumping duty in respect of the apparatus referred to in paragraph 1 and produced by the following undertakings shall be :

— Goldstar Co., Ltd, Seoul (additional code : 8605),	6,3 %
— Tong Kook General Electronics Co., Ltd, Seoul (additional code : 8606),	20,1 %
— Inkel Corporation Ltd, Seoul (additional code : 8607),	18,1 %
— Hyundai Electronics Industries Co., Ltd, Kyongju (additional code : 8608),	14,7 %
— Woojin Electric Co., Ltd, Seoul (additional code : 8609),	19,2 %
— Woojin Industrial Co., Ltd, Seoul (additional code : 8609),	19,2 %
— Daesung Precision Co., Ltd, Seoul (additional code : 8610),	17,3 %
— Hyorim Co., Seoul (additional code : 8611),	18,3 %
— Carmen Electronic Co., Ltd, Seoul (additional code : 8612),	7,8 %
— Sung Moon Trading Co., Ltd, Seoul (additional code : 8613),	23,9 %
— Tong Hae Sil Up Co., Ltd, Seoul (additional code : 8614),	10,8 %
— Se Kyung Co., Bucheon Citry, Kyongju (additional code : 8615),	7,2 %

— Daewoo Electronics Co., Ltd, Seoul (additional code : 8616),	7,4 %
— Yung Tai Electronics Ind. Co., Ltd, Seoul (additional code : 8617),	33,9 %
— Woo Kwang Co., Ltd, Kyungsangbuch-Dou (additional code : 8618),	21,0 %
— Osio Electronics Co., Ltd, Kyongju (additional code : 8619),	24,6 %
— Kolon International Co., Seoul (additional code : 8620).	6,3 %

of the net free-at-Community frontier price before duty.

3. The duties shall not apply to imports of the products specified in paragraph 1, manufactured and sold for export by Samsung Electronic Co., Ltd, Seoul and Haitai Electronics Co., Ltd, Inchon, (additional code : 8621).

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

5. The release for free circulation in the Community of the products referred to in paragraphs 1 and 2 shall be subject to the provisions of a security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) of Regulation (EEC) No 2423/88, the parties known to be concerned may make their views known and apply to be heard by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 13 of Regulation (EEC) No 2423/88, Article 1 of this Regulation shall apply for a period of four months, unless the Council adopts definitive measures before the expiry of that period.

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

Done at Brussels, 4 February 1992.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 314/92

of 7 February 1992

on arrangements for imports into Germany, Benelux, United Kingdom, Ireland, Denmark, Greece, Spain and Portugal of certain textile products (category 36) originating in South Korea

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4136/86 of 22 December 1986 on common rules for imports of certain textile products originating in third countries ⁽¹⁾, as last amended by Regulation (EEC) No 3734/91 ⁽²⁾, and in particular Article 11 thereof,

Whereas Article 11 of Regulation (EEC) No 4136/86 lays down the conditions under which quantitative limits may be established; whereas imports into the Community of certain textile products (category 36) specified in the Annex hereto and originating in South Korea have exceeded the level referred to in paragraph 2 of the said Article 11;

Whereas imports of these products into France and Italy are already subject to regional quantitative limits for 1992 by Regulation (EEC) No 3734/91;

Whereas the Agreement on trade in textile products between South Korea and the Community, applied since 1 January 1987, has been extended until the end of 1992 by an exchange of letters initialled on 16 October 1991 and provisionally from 1 January 1992;

Whereas, in accordance with paragraph 5 of the said Article 11 of Regulation (EEC) No 4136/86, on 11 November 1991 South Korea was notified of a request for consultations; whereas, pending a mutually satisfactory solution, the imports into Germany, United Kingdom, Benelux, Ireland, Denmark, Greece, Spain and Portugal of products falling within category 36 have been subjected to provisional limits for the period 11 November 1991 to 10 February 1992 by Commission Regulation (EEC) No 3790/91 ⁽³⁾;

Whereas, as a result of consultations held on 14 and 15 January 1991 it was agreed to submit the textile products of category 36 to a quantitative limit for the period 1 January to 31 December 1992;

Whereas Article 11 (13) ensures that the quantitative limits are observed by means of a double-checking system in accordance with Annex VI to Regulation (EEC) No 4136/86;

Whereas these quantitative limits should not prevent the importation of products covered by them shipped from South Korea before the date of entry into force of Regulation (EEC) No 3790/91;

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

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to the provisions of Article 2, imports into Germany, Benelux, United Kingdom, Ireland, Denmark, Greece, Spain and Portugal of the category of products originating in South Korea and specified in the Annex hereto shall be subject to the quantitative limits set out in that Annex for the period 1 January to 31 December 1992.

Article 2

1. Products referred to in Article 1 shipped from South Korea to Germany, Benelux, United Kingdom, Ireland, Denmark, Greece, Spain and Portugal before the date of entry into force of Regulation (EEC) No 3790/91 and not yet released for free circulation, shall be so released subject to the presentation of a bill of lading or other transport document providing that shipment actually took place during that period.

2. The quantitative limits referred to in Article 1 shall not prevent the importation of products covered by them but shipped from South Korea before the date of entry into force of Regulation (EEC) No 3790/91.

Article 3

1. Imports of products referred to in Article 1, shipped from South Korea to Germany, Benelux, United Kingdom, Ireland, Denmark, Greece, Spain and Portugal

⁽¹⁾ OJ No L 387, 31. 12. 1986, p. 42.

⁽²⁾ OJ No L 352, 21. 12. 1991, p. 7.

⁽³⁾ OJ No L 356, 24. 12. 1991, p. 71.

after the entry into force of Regulation No 3790/91 shall be subject to the double-checking system described in Annex VI to Regulation (EEC) No 4136/86.

2. All quantities of such products shipped from South Korea to Germany, Benelux, United Kingdom, Ireland, Denmark, Greece, Spain and Portugal on or after 1 January 1992 and released for free circulation shall be deducted from the quantitative limits laid down for the period 1 January to 31 December 1992.

Article 4

This Regulation shall enter into force on the day following 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 Commission

Frans ANDRIESEN

Vice-President

ANNEX

Category	CN code	Description	Third country	Unit	Member State	Quantitative limits from 1 January until 31 December 1992
36	5408 10 00	Woven fabrics of continuous artificial fibres other than those for tyres of category 114	South Korea	tonnes	D	2 200
	5408 21 00				F	375
	5408 22 10				I	467
	5408 22 90				BNL	400
	5408 23 10				UK	180
	5408 23 90				IRL	7
	5408 24 00				DK	25
	5408 31 00				GR	34
	5408 32 00				ES	113
	5408 33 00				PT	14
	5408 34 00				EEC	3 815
	ex 5811 00 00					
	ex 5905 00 70					

COMMISSION REGULATION (EEC) No 315/92**of 10 February 1992****amending Regulation (EEC) No 1538/91 introducing detailed rules for implementing Regulation (EEC) No 1906/90 on certain marketing standards for poultry**

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 1906/90 of 26 June 1990 on certain marketing standards for poultry⁽¹⁾, and in particular Article 9 thereof,*Article 1*

Whereas Article 15 of Commission Regulation (EEC) No 1538/91⁽²⁾, as amended by Regulation (EEC) No 2988/91⁽³⁾, lays down an exemption by which operators were authorized to use packing material bearing old indications until 31 December 1991; whereas, in view of the continued existence of stocks of old packing material, and in order to make the transitional period easier for small and medium-sized enterprises, this date should be extended until 31 March 1992;

In Article 15 of Regulation (EEC) No 1538/91 '31 December 1991' is hereby replaced by '31 March 1992'.

Article 2

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

This Regulation shall enter into force on the seventh 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 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 173, 6. 7. 1990, p. 1.

⁽²⁾ OJ No L 143, 7. 6. 1991, p. 11.

⁽³⁾ OJ No L 284, 12. 10. 1991, p. 26.

COMMISSION REGULATION (EEC) No 316/92**of 10 February 1992****abolishing the countervailing charge and re-establishing a preferential customs duty on imports of fresh sweet oranges originating in Turkey**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

Whereas Commission Regulation (EEC) No 112/92⁽³⁾ introduced a countervailing charge on fresh sweet oranges originating in Turkey and suspended the preferential customs duty on imports of these products;

Whereas for this product originating in Turkey there were no prices for six consecutive days; whereas the conditions specified in Article 26 (1) of Regulation (EEC) No

1035/72 are therefore fulfilled and the countervailing charge on imports of fresh sweet oranges originating in Turkey can be abolished;

Whereas, in accordance with Article 2 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey⁽⁴⁾, as amended by Regulation (EEC) No 1555/84⁽⁵⁾, the preferential rate of customs duty should be re-established at the same time as the countervailing charge is abolished,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 112/92 is hereby repealed.

Article 2

This Regulation shall enter into force on 11 February 1992.

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

Done at Brussels, 10 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 8.

⁽³⁾ OJ No L 12, 18. 1. 1992, p. 16.

⁽⁴⁾ OJ No L 367, 23. 12. 1981, p. 9.

⁽⁵⁾ OJ No L 150, 6. 6. 1984, p. 4.

COMMISSION REGULATION (EEC) No 317/92
of 10 February 1992
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 61/92⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 262/92⁽³⁾, as amended by Regulation (EEC) No 269/92⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) 262/92 1849/91 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

Whereas, 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 subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90⁽⁶⁾,

- 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 7 February 1992,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of white sugar and standard quality raw sugar, as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 11 February 1992.

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

Done at Brussels, 10 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 6, 11. 1. 1992, p. 19.

⁽³⁾ OJ No L 28, 4. 2. 1992, p. 14.

⁽⁴⁾ OJ No L 29, 5. 2. 1992, p. 9.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 10 February 1992 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy (°)
1701 11 10	41,15 (°)
1701 11 90	41,15 (°)
1701 12 10	41,15 (°)
1701 12 90	41,15 (°)
1701 91 00	45,90
1701 99 10	45,90
1701 99 90	45,90 (°)

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

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

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

COMMISSION REGULATION (EEC) No 318/92

of 10 February 1992

on the issue of import licences for high-quality fresh, chilled or frozen beef and veal

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

Having regard to Council Regulation (EEC) No 3668/91 of 11 December 1991 opening a Community tariff quota for high-quality fresh, chilled or frozen meat of bovine animals falling within CN codes 0201 and 0202 and for products falling within CN codes 0206 10 95 and 0206 29 91 (1992) (1), and in particular Article 2 thereof,

Whereas Commission Regulation (EEC) No 3743 of 18 December 1991 laying down detailed rules for the application of import arrangements provided for by Council Regulations (EEC) No 3668/91 and (EEC) No 3669/91 in the beef and veal sectors (2) provides in Article 7, that applications for and the issue of import licences for the meat referred to in Article 1 (1) (d) thereof are to be effected in accordance with the provisions of Articles 12 and 15 of Commission Regulation (EEC) No 2377/80 of 4 September 1980 on special detailed rules for the application of the system of import and export licences in the beef and veal sector (3), as last amended by Regulation (EEC) No 815/91 (4);

Whereas Article 1 (1) (d) of Regulation (EEC) No 3743/91 fixes the amount of high-quality fresh, chilled or frozen beef and veal originating in and imported from the

United States of America and Canada which may be imported on special terms in 1992 at 10 000 tonnes;

Whereas it should be recalled that licences issued pursuant to this Regulation will, throughout the period of validity, be open for use only in so far as provisions on health protection in force permit,

HAS ADOPTED THIS REGULATION:

Article 1

1. All applications for import licences from 1 until 5 February 1992 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 1 (1) (d) of Regulation (EEC) No 3743/91 shall be met in full.

2. Applications for licences may be submitted, in accordance with Article 12 of Regulation (EEC) No 2377/80, during the first five days of March 1992 for 2 495 tonnes.

Article 2

This Regulation shall enter into force on 11 February 1992.

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

Done at Brussels, 10 February 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

(1) OJ No L 349, 18. 12. 1991, p. 3.

(2) OJ No L 352, 21. 12. 1991, p. 36.

(3) OJ No L 241, 13. 9. 1980, p. 5.

(4) OJ No L 83, 3. 4. 1991, p. 6.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE 92/1/EEC

of 13 January 1992

on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 89/108/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to quick-frozen foods intended for human consumption⁽¹⁾, and in particular Article 11 thereof,

Whereas the legal provisions must, in this case, be restricted solely to the requirements that are necessary in order to meet essential and imperative needs regarding the monitoring of temperatures in means of transport, warehousing and storage in such a way as to ensure that the temperatures required by Article 5 of Directive 89/108/EEC are fully maintained;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive concerns the monitoring of temperatures in the means of transport, warehousing and storage for quick-frozen foods.

Article 2

1. The means of transport, warehousing and storage must be fitted with suitable recording instruments to

monitor, at frequent and regular intervals, the air temperatures to which quick-frozen foods intended for human consumption are subjected.

In the case of transport, the measuring instruments must be approved by the competent authorities of the country in which means of transport is registered.

Temperature recordings obtained in this manner must be dated and stored by the operator for at least one year or longer according to the nature of food.

2. The air temperature during storage in retail display cabinets, and in the course of local distribution, shall be measured by at least one easily visible thermometer which, in the case of open retail display cabinets, shall indicate the temperature at the air return side at the level of the clearly marked maximum load line.

3. Member States may permit a derogation from paragraph 1 in the case of cold chambers of less than 10 cubic metres for storing stock in retail outlets, so as to permit the air temperature to be measured by an easily visible thermometer.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions needed in order to comply with this Directive by 31 July 1993, except for railways for which the date of implementation will be decided later.

They shall immediately inform the Commission thereof.

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

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 34.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 13 January 1992.

For the Commission

Martin BANGEMANN

Vice-President

COMMISSION DIRECTIVE 92/2/EEC

of 13 January 1992

laying down the sampling procedure and the Community method of analysis for the official control of the temperatures of quick-frozen foods intended for human consumption

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 89/108/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to quick-frozen foods intended for human consumption⁽¹⁾, and in particular Article 11 thereof,

Whereas the temperature of quick-frozen foods should be controlled;

Whereas the Member States may use other methods scientifically valid provided that this does not hinder the free movement of quick-frozen foods and that the rules of competition are not altered;

Whereas after checking air temperature records according to procedures laid down in Commission Directive 92/1/EEC of 13 January 1992 on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption⁽²⁾ and taking into account temperatures required in Article 5 of Directive 89/108/EEC, and where this leaves reasonable doubt, Member States may proceed to a destructive test;

Whereas the inspection conforms to Council Directive 89/397/EEC of 14 June 1989, concerning the official control of foodstuffs⁽³⁾ and principally to its Articles 4 and 14;

Whereas the provisions provided for in this Directive are in line with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall ensure that the sampling procedure and the method of analysis needed for the official inspection of the temperatures of quick-frozen foods is carried out in accordance with the provisions described in Annexes I and II of this Directive.

2. However, the method of analysis described in Annex II of this Directive may be used only in the case where the inspection leaves reasonable doubts on the threshold of temperatures provided for in Directive 89/108/EEC on the approximation of the laws of the Member States relating to quick-frozen foods intended for human consumption.

Article 2

The introduction of requirements provided for in Article 1 (1) and Annexes I and II shall not preclude Member States from using other scientifically valid methods provided that this does not hinder the free movement of quick-frozen foods recognized as complying with the rules by virtue of the method described in Annex II of this Directive.

However, in the event of differences in the results, those obtained by the use of Community methods shall take precedence.

Article 3

1. Member States shall put into effect the laws, regulations and administrative provisions needed in order to comply with this Directive by, at the latest by 31 July 1993.

They shall forthwith inform the Commission thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 13 January 1992.

For the Commission

Martin BANGEMANN

Vice-President

⁽¹⁾ OJ No L 40, 11. 2. 1989, p. 34.

⁽²⁾ See page 28 of this Official Journal.

⁽³⁾ OJ No L 186, 30. 6. 1989, p. 23.

*ANNEX I***PROCEDURE FOR THE SAMPLING OF QUICK-FROZEN FOODS INTENDED FOR HUMAN CONSUMPTION****1. Selection of packages for inspection**

The type and quantity of packages selected shall be such that their temperature is representative of the warmest points of the consignment inspected.

1.1. Cold-storage

Samples should be selected from several critical points in the cold store, for example : near the doors (upper and lower levels), near the centre of the cold store (upper and lower levels), and near to the air return of the cooling unit. The duration of storage of any products should be taken into account (for the stabilization of the temperature).

1.2. Transport**(a) Where it is necessary to select samples during transport :**

Select from the top and the bottom of the consignment adjacent to the opening edge of each door or pair of doors.

(b) Sampling during unloading :

Choose four samples from amongst the following critical points :

- top and bottom of the consignment adjacent to the opening edge of doors,
- top rear corners of the consignment (at a point as far away from the refrigeration unit as possible),
- centre of the consignment,
- centre of the front surface of the consignment (as close as possible to the refrigeration unit),
- top and bottom corners of the front surface of the consignment (as close as possible to the return air to the refrigeration unit).

1.3. Retail display cabinets

A sample must be selected for testing from each of three locations representative of the warmest points within the retail display cabinet used.

ANNEX II

**METHOD OF MEASURING THE TEMPERATURE OF QUICK-FROZEN FOODSTUFFS
INTENDED FOR HUMAN CONSUMPTION****1. Scope**

Under Article 1 (2) (1) of Directive 89/108/EEC the temperature throughout the product, following thermal stabilization, must be maintained at all times at a temperature of -18°C or colder with possible brief upward fluctuations as specified in Article 5 of the Directive.

2. Principle

Measurement of the temperature of quick-frozen foodstuffs consists of accurately recording the temperature of a sample selected in accordance with Annex 1 by means of appropriate equipment.

3. Definition of temperature

'Temperature' means the temperature measured at the specified location by the temperature sensitive part of the measuring instrument or device.

4. Apparatus**4.1. Thermometric measuring device.****4.2. Product-penetration instruments.**

A pointed metallic instrument shall be used such as an ice punch, a hand drill or an auger that is easy to clean.

5. General specification for the temperature measuring instruments

The measuring instruments shall meet the following specifications:

- (a) the response time should achieve 90 % of the difference between the initial and final reading within three minutes;
- (b) the instrument must have an accuracy of $\pm 0,5^{\circ}\text{C}$ within the measurement range -20°C to $+30^{\circ}\text{C}$;
- (c) the measuring accuracy must not be changed by more than $0,3^{\circ}\text{C}$ during operation in the ambient temperature range -20°C to $+30^{\circ}\text{C}$;
- (d) the display resolution of the instruments should be $0,1^{\circ}\text{C}$;
- (e) the accuracy of the instrument should be checked at regular intervals;
- (f) the instrument should have a current certificate of calibration;
- (g) the temperature probe should be capable of being easily cleaned;
- (h) the temperature-sensitive part of the measuring device must be so designed as to ensure good thermal contact with the product;
- (i) the electrical equipment must be protected against undesirable effects due to the condensation of moisture.

6. Procedure for measurement**6.1. Pre-cooling of instruments**

The temperature measuring probe and the product penetration instrument should be pre-cooled before measuring the temperature of the product.

The pre-cooling method used should ensure that both instruments equilibrate as close to the product temperature as possible.

6.2. Preparation of samples for temperature measurement

Temperature measuring probes are not generally designed to penetrate a quick-frozen product. Therefore it is necessary to make a hole in the product in which to insert the probe by using the pre-cooled product penetration instrument. The diameter of the hole should provide a close fit to that of the probe, and its depth will depend on the type of product (as described in 6.3).

6.3. *Measurement of product temperature*

The sample preparation and its temperature measurement should be undertaken whilst the sample remains in the selected refrigerated environment. Measurement is as follows:

- (a) Where the product dimensions allow, insert the pre-cooled probe to a depth of 2,5 mm from the surface of the product;
 - (b) Where (a) is not possible the probe should be inserted to a minimum depth from the surface of 3 to 4 times the diameter of the probe.
 - (c) Certain foods, because of their size or composition (e.g. green peas) cannot be drilled to determine their internal temperature. In these cases, the internal temperature of the food package should be determined by insertion of a suitable pre-cooled sharp-stemmed probe to the centre of the pack to measure the temperature in contact with the food.
 - (d) Read the temperature indicated when it has reached a steady value.
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COMMISSION DECISION

of 9 January 1992

laying down the requirements relating to equipment and structure of dispatch and purification centres for live bivalve molluscs, for which derogations may be granted

(92/92/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs⁽¹⁾, and in particular Article 5 thereof,

Whereas, in accordance with the second subparagraph of Article 5 (1) (a) of Directive 91/492/EEC, Member States may, for the requirements relating to equipment and structures laid down in Chapter IV of the Annex to the aforesaid Directive, grant to dispatch and purification centres a further period within which to comply with the conditions of approval set out in that Chapter IV, subject to the express condition that live bivalve molluscs coming from such centres meet the hygiene standards set by Directive 91/492/EEC;

Whereas it is up to the Commission to fix, in accordance with the procedure laid down in Article 12 of Directive 91/492/EEC, the requirements relating to equipment and structures for which such derogations may be granted;

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

HAS ADOPTED THIS DECISION:

Article 1

The requirements relating to equipment and structures laid down in Chapter IV of the Annex to Directive 91/492/EEC for which derogations may be granted are laid down in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 9 January 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 268, 24. 9. 1991, p. 1.

*ANNEX***REQUIREMENTS LAID DOWN IN CHAPTER IV OF THE ANNEX TO DIRECTIVE
91/492/EEC FOR WHICH DEROGATIONS MAY BE GRANTED**

For the following requirements, derogations may be granted :

1. I, 1(a) insofar as the construction of buildings or facilities is concerned, as well as (b), (c), (d) and (e).
 2. I, 2 insofar as the number of changing rooms is concerned, and 5.
 3. II, 6 insofar as a separate area for the storage of waste products is concerned, provided products cannot be contaminated by waste or leakage therefrom.
 4. II, 7 provided products are sheltered from the sun and the elements and from any source of dirt or contamination.
 5. III, 1 insofar as water-storage containers and the slope of the base of purification tanks are concerned.
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CORRIGENDA

Corrigendum to Commission Regulation (EEC) No 3694/91 of 17 December 1991 amending Regulation (EEC) No 645/89 of 14 March 1989 and repealing Commission Regulation (EEC) No 2404/89 of 31 July 1989 concerning the classification of certain goods in the combined nomenclature

(Official Journal of the European Communities No L 350 of 19 December 1991)

On page 18 in the Annex in column (2) 'Classification CN code' against product (b):

for: '6204 63 19',

read: '6204 63 18'.
