

Official Journal

of the European Communities

ISSN 0378-6978

L 110

Volume 35

28 April 1992

English edition

Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1029/92

of 27 April 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 674/92⁽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 986/92⁽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 24 April 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 986/92 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 28 April 1992.

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

Done at Brussels, 27 April 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 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 105, 23. 4. 1992, p. 1.

ANNEX

to the Commission Regulation of 27 April 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levy (*)
0709 90 60	140,97 ⁽²⁾ ⁽³⁾
0712 90 19	140,97 ⁽²⁾ ⁽³⁾
1001 10 10	165,50 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 10 90	165,50 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 90 91	156,12
1001 90 99	156,12 ⁽¹¹⁾
1002 00 00	164,90 ⁽⁴⁾
1003 00 10	144,15
1003 00 90	144,15 ⁽¹¹⁾
1004 00 10	121,91
1004 00 90	121,91
1005 10 90	140,97 ⁽²⁾ ⁽³⁾
1005 90 00	140,97 ⁽²⁾ ⁽³⁾
1007 00 90	146,28 ⁽⁴⁾
1008 10 00	52,22 ⁽¹¹⁾
1008 20 00	117,92 ⁽⁴⁾
1008 30 00	59,59 ⁽⁷⁾
1008 90 10	⁽⁷⁾
1008 90 90	59,59
1101 00 00	231,57 ⁽⁸⁾ ⁽¹¹⁾
1102 10 00	243,86 ⁽⁸⁾
1103 11 10	270,10 ⁽⁸⁾ ⁽¹⁰⁾
1103 11 90	249,34 ⁽⁸⁾

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

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

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

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

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

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

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

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

(9) No 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.

(10) 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.

(11) Products falling within this code, imported from Poland, Czechoslovakia or Hungary under the Interim Agreements concluded between those countries and the Community, and in respect of which EUR.1 certificates issued in accordance with Regulation (EEC) No 585/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 1030/92

of 27 April 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 674/92 ⁽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 24 April 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 28 April 1992.

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

Done at Brussels, 27 April 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 73, 19. 3. 1992, p. 7.

⁽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 27 April 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 4	1st period 5	2nd period 6	3rd period 7
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0,85	0,85	0,85
1001 10 90	0	0,85	0,85	0,85
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt*(ECU/tonne)*

CN code	Current 4	1st period 5	2nd period 6	3rd period 7	4th period 8
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 1031/92

of 23 April 1992

imposing a provisional anti-dumping duty on imports of potassium chloride (potash) originating in Belarus, Russia or Ukraine

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 June 1990 the Commission received a complaint from the European Potash Producers' Association (EPPA), acting on behalf of producers accounting for the Community's entire potash output.
- (2) The complaint about potash imports originating in the Soviet Union included evidence of dumping and resultant material injury which was considered sufficient to justify the initiation of an investigation. Consequently, the Commission announced in a notice published in the *Official Journal of the European Communities* the initiation of an anti-dumping proceeding concerning imports of potash originating in the Soviet Union and falling within CN code 3104 20⁽²⁾. The Soviet Union's potash mines were located in what are now the republics of Belarus, Russia and Ukraine, which have therefore become the product's countries of origin.
- (3) The Commission officially notified the exporters and importers known to be concerned, the representatives of the exporting country and the complainants, gave the parties directly concerned the opportunity to make their views known in

writing and to request a hearing, and sent a questionnaire to all concerned.

- (4) The Community producers made known their views orally and in writing, as did certain exporters and their umbrella organization.

Community producers :

- Société Commerciale des Potasses et de l'Azote (SCPA), France,
- Mines des Potasses d'Alsace (MDPA), France,
- Kali und Salz, Germany,
- Comercial de Potasas (Coposa), Spain,
- Ercros, Spain,
- Potasas de Subiza, Spain,
- Cleveland Potash Limited, United Kingdom.

Exporters and their umbrella organization :

- Soyuz Agrochimexport, Russia,
- Agrochim Export Association.

Importers :

Two importers are related to the exporters :

- Ferchimex, Belgium,
- Fersam, Switzerland.

The following independent importers also completed the questionnaire :

- Ameropa, Switzerland,
- Demesa, France,
- Champagne Fertilisant SA, France,
- Société Conseil Distribution, France,
- Superfos, Netherlands.

Ameropa requested and was granted a hearing.

- (5) The Commission collected and verified all the information it deemed necessary to determine whether there was sufficient evidence of dumping and injury to justify the initiation of an investigation and carried out checks at the premises of all the above Community producers and the following importers into the Community: Ferchimex, Demesa, Superfos and Ameropa. The Community producers proposed Canada as a reference country.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No C 274, 31. 10. 1990, p. 18.

- (6) The dumping investigation covered the period from 1 January 1990 to 30 June 1990 (investigation period).
- (7) The investigation overran the normal duration of one year owing to the volume and complexity of the information collected and examined and the need to find firms in the reference country willing to cooperate after those that had initially consented to do so pulled out at a late stage.

B. PRODUCT, LIKE PRODUCT AND COMMUNITY INDUSTRY

(a) The product

- (8) The product allegedly being dumped is potassium chloride: the potassium content is variable and is expressed as the percentage of the weight of the dry anhydrous product represented by K_2O . There are three basic specifications:
- a potassium content not exceeding 40 % K_2O , by weight, on the dry anhydrous product, and therefore falling within CN code 3104 20 10,
 - a potassium content exceeding 40 % K_2O but not 62 % falls within CN code 3104 20 50,
 - a potassium content 62 % K_2O falls within CN code 3104 20 90.

The imports originating in countries once part of the Soviet Union consist entirely of products falling within CN codes 3104 20 10 and 3104 20 50.

- (9) The first two specifications cover two grades of a single product. Their physical and chemical properties are the same and their use, as agricultural fertilizers, identical. Differences in their K_2O content reflect only a difference in their potash concentration and they cannot therefore be regarded as different products. The two grades are, moreover, interchangeable. The grade used is a matter of personal preference. Potash falling within CN codes 3104 20 10 and 3104 20 50 is available either as powder ('standard' form) or granules ('granulated' form). Either form may be used a fertilizer, alone or blended with other fertilizers.
- (10) The product containing over 62 % K_2O has no agricultural use. It is a refined product and consequently has different chemical properties from the other two types of potash. It is used as a

raw material in the pharmaceutical and chemical industries. This product is not therefore interchangeable with either of the products meeting the first two specifications and has not been taken into account in the preliminary conclusions.

(b) Like product

- (11) The Community industry produces several grades of potash with the following K_2O contents: 40, 60, 60,5, 61 and 62 %.

The Commission finds that potash produced in the Community and Canada has the same physical and chemical properties as the product under investigation and must therefore be considered a like product to that exported from the countries that were formerly part of the Soviet Union.

(c) Community production

- (12) The Commission found that the Community producers on whose behalf the EPPA had lodged the complaint accounted for the Community's entire output of the like product. Consequently, the Commission deemed them to constitute the Community industry within the meaning of Article 4 (5) of the Regulation (EEC) No 2423/88.

C. DUMPING

(a) Normal value

- (13) Since the Soviet Union was, not at the time of the investigation, a market economy country, normal value had to be calculated according to Article 2 (5) of Regulation (EEC) No 2423/88. The complainants proposed Canada. The choice of the second-largest potash producer, after the Soviet Union, seemed appropriate to the Commission, especially since prices there are the result of real competition.

After several fruitless contacts, one producer finally agreed to cooperate: the Toronto-based Potash Company of Canada Limited. The Commission carried out on-the-spot checks on the data supplied by this producer and its mining subsidiary. Neither the importer given a hearing, nor the exporters or the producers opposed the choice of Canada.

- (14) Normal value was therefore established on the basis of prices on Canada's domestic market. In order to ensure that these prices generated a profit in normal trading, the Commission compared them with production costs.

It emerged that certain temporary and exceptional costs borne by the company would have to be deducted. These costs reflect the special situation of this Canadian mining area and it would be unreasonable to make exporters in the former Soviet Union bear the burden of such costs without any adjustment being made. Once they had been deducted, it was clear that Canadian market prices permitted Canadian firms to make a profit from normal trading.

- (15) Normal value was therefore determined on the basis of the average Canadian market price for the most common domestically produced granulated grade. In the case of standard grade, the volume of sales on the Canadian market only was too small to be representative, so it was necessary to take into account the prices of exports to the United States. The United States and Canada form a single highly competitive market. Since these countries display the properties of a single market, their market may be considered comparable to the Canadian domestic market for products like potash.

- (16) The prices used are the prices actually paid, net of any discounts and rebates directly connected with the sales in question.

(b) Export prices

- (17) Soviet potash was exported through both official and unofficial networks. Only the official exporters cooperated in the proceeding.
- (18) Since the independent importers bought the imported product from middlemen outside the Soviet Union, it was impossible to establish a reliable export price on the basis of the purchase prices collected by the Commission. Since, moreover, the middlemen failed to cooperate in the proceeding, the transactions concerned were not taken into account.

- (19) The links between the importers Ferchimex and Fersam and the Soviet exporters meant that the export prices had to be recalculated according to Article 2 (8) (b) of Regulation (EEC) No 2423/88. They were calculated on the basis of the prices actually paid by the first independent customer in the Community, net of all taxes, discounts, all costs incurred between the time of import and resale, and a profit margin, and after the deduction of all transport costs incurred between Community ports and the USSR and the costs of transport from the mine to the port of loading in the USSR.

- (20) The adjustments required for the calculation of the ex-mine price were calculated on the basis of the costs of importers taking part in the investigation, and on the basis of the costs actually paid or payable for transport between the USSR and the Community, but excluding transport costs within the USSR and the importer's profit margin. The profit margin deducted (5 %) equals that of the independent fertilizer importers. Since the distances between the Soviet Union's mines and ports are comparable to those in Canada, and in view of the unreliability of costing in the USSR, transport costs within the USSR were calculated on the basis of those actually paid or payable in Canada.

D. COMPARISON

- (21) Normal value and export prices were compared at the ex-mine stage, transaction by transaction and at the same stage of marketing in the case of the export prices. Adjustments made were in accordance with Article 2 (10) of Regulation (EEC) No 2423/88.
- (22) The producers of the territories formerly part of the Soviet Union asked that normal value be adjusted to take account of qualitative differences between their product and Canadian potash. Since the physical and chemical properties of Soviet potash are substantially similar to those of the Canadian products (they contain the same proportion of potassium), and the Soviet producers produced no evidence to the contrary, this request for an adjustment must be rejected in accordance with Article 2 (9) (b) of Regulation (EEC) No 2423/88.

E. DUMPING MARGIN

- (23) A preliminary of the evidence reveals that dumping has occurred. The dumping margin equals the amount by which the constructed normal value exceeds the price of exports to the Community. In view of the Soviet economic system a single weighted average dumping margin was calculated for all exporters. The weighted average dumping margin was set at 35 % of the total cif value of the exports in question.

F. INJURY**(a) Total consumption, volume and market share of imports**

- (24) The information available to the Commission suggests that Community consumption of potash in the period 1986 to 1990 was relatively stable. It stood at 6 085 000 tonnes in 1987, 5 761 000 tonnes in 1988, 5 737 00 tonnes in 1989 and 5 823 000 tonnes in 1990 (this last figure being extrapolated from the figures for the first six months of the year : 2 913 000 tonnes).
- (25) In that same period imports of potash originating in the Soviet Union rose steadily. Imports in the first half of 1990 were 109 % up on 1986 levels, having risen from 271 295 tonnes in 1986 to 326 514 tonnes in 1987, 324 388 tonnes in 1988, 487 344 tonnes in 1989 and 566 970 in 1991 (extrapolated from the figures for the first half of the year : 315 090 tonnes). Soviet imports increased their market share from 5,10 to 10,8 % in the period from January 1986 to June 1990.

(b) Prices

- (26) *Depression of prices*

The Community industry was forced to cut its selling prices by about 12 % from 1986 to 1990. Throughout that period prices fluctuated and drifted downwards, without ever recovering to 1986

levels. The downward trend accelerated between 1989 and 1990.

- (27) *Undercutting*

A price comparison shows that the Soviet producers undercut their Community counterparts by, on weighted average, about 3 %.

Since, as the considerable fall in prices shows, the potash market is transparent and reacts very quickly, and undercutting immediately brings down the prices of all the other players.

(c) State of the Community industry

- (28) Community producers' fluctuating sales figures for the period 1986 to 1990 show that, despite considerable efforts leading to a small increase from 1987 to 1990, sales did not recover to 1986 levels.

Sales in millions of ecus went from 829 in 1986 to 701 in 1987, 758 in 1988, 808 in 1989 and 766 for the whole of 1990 (extrapolated from the figure 383 for the first half of the year).

- (29) The Community industry's market share remained stable at about 75 % from 1986 to 1990.
- (30) The capacity of the Community industry increased very slightly in the period from 1986 to 1990, rising from 6 082 000 tonnes to 6 228 000 tonnes. Output, however, fell. The percentage of capacity in use fell from 68 % in 1986 to 66 % in 1990.
- (31) The Community industry's losses increased sharply from - 14,5 % in 1989 to - 27,1 % during the investigation period.
- (32) The number of people employed in the Community potash industry fell considerable, from 16 796 in 1986 to 14 387 in 1990, a decline of 14 %.

(d) Conclusion

- (33) Although holding its market share by increasing sales from 1987 to 1990, the Community industry saw its prices fall and its financial results deteriorate considerably. Its economic position is therefore precarious and it is suffering material injury, characterized mainly by an appreciable deteriora-

tion in a situation that had been improving until the imports concerned began.

once part of the Soviet Union is causing material injury in the Community industry.

G. CAUSES OF THE INJURY

Causal link between the dumping and the injury

- (34) The Commission found that the increasing losses incurred by the Community industry coincided with the rise in cheaper potash imports from the Soviet Union. In a market as transparent and sensitive as that for potash, the slightest undercutting of prices depressed the entire market, thereby increasing the losses of a Community industry attempting to hold its share of the market by increasing sales. It was therefore the prices of the dumped Soviet imports that prevented the Community industry from raising prices and improving the situation.

The coincidence of the very substantial increase in imports of Soviet potash in 1989 and the steepening of the decline in the indicators for the Community industry, and prices in particular, from that point is very significant. It shows that dumped imports caused material injury.

Other factors

- (35) The possibility that the Community industry could have been affected by imports originating in other countries cannot be ruled out. However, the Commission excluded the possible adverse impact of such imports from the injury caused by the imports involved in this proceeding. At the end of its preliminary examination, the Commission, determining the injury solely on the basis of the imports under consideration, took account of their volume and price.
- (36) In the course of its investigation, the Commission found no evidence to suggest that the material injury suffered by the Community producers could be ascribed to shrinking demand or poor management.
- (37) The Commission therefore concludes that, taken in isolation, dumping by exporters based in countries

H. DUTY

Amount of the duty

- (38) In order to determine the measures needed to counter the injury caused by dumping by Soviet exporters, the Commission examined, in accordance with Article 13 (3) of Regulation (EEC) No 2423/77, whether a duty set at the level of the dumping margin would exceed the amount needed to remove the injury. The Commission calculated a reference price for the Community industry based on its present production costs and a profit margin (9 %) considered reasonable in view of production factors and the constraints imposed by technological advances and environmental protection. The Commission considers that the Soviet exporters' free-at-Community-frontier prices should be brought up to that target price in order to give the Community industry a chance of achieving profitability and reversing its unfortunate economic situation. However, Soviet potash prices are so low that increasing them to the target price would exceed the dumping margin. The imposition of a duty equalling the dumping margin is therefore fully justified in terms of Article 13 (3) of Regulation (EEC) No 2423/88.

Form of the duty

- (39) In view of the room for manoeuvre enjoyed by exporters in countries still without a market economy, and in view of the impact of even the slightest undercutting on the potash market, the Commission considers that neither a fixed-rate nor an *ad valorem* duty would be certain to remove the injury caused by dumping. The duty to be imposed on imports of potassium chloride from Ukraine, Belarus, and Russia should therefore take the form of a variable duty amounting to the difference between the net free-at-Community-frontier price per tonne of potassium chloride, not cleared through customs, and a minimum price established on the basis of the normal value for each specification in order to ensure that the injury caused by dumping is removed once and for all.

- (40) Since the product's value depends on its K_2O content, the value of potash matching the first specification, not produced in Canada (see recital 9), can be established pro rata according to its K_2O content: In this case, where the K_2O content is 40 % or less, normal value would be two thirds of that established for potash of the second specification (see recital 9). The second specification can cover varying contents, but these are not, however, matched by any significant variations in the commercial value of this class of product.

It was therefore considered reasonable, for the purposes of provisional measures, to calculate a minimum price for each of the first two specifications and each of their two forms (standard or granulated).

I. COMMUNITY INTEREST

(a) General

- (41) Anti-dumping duties are intended to stop dumping that is causing injury to the Community industry and restore fair competition.
- (42) Although the imposition of an anti-dumping duty can affect the prices charged by exporters to the Community and, consequently, influence the relative competitiveness of their products, the measures are not intended to reduce competition on the Community market. They are intended to abolish an advantage unfairly acquired by dumping and thus prevent the further decline of the Community industry and contribute to the restoration of a sound economic situation.

(b) Special considerations in this case

- (43) The Commission feels that the substantial injury shown to have been caused to the Community industry by dumped imports warrants countermeasures, and that without them the sector will continue to register losses and face the threat of premature extinction.
- (44) Failure to act against this unfair competition would perpetuate injury, endangering thousands of jobs in an already ailing sector in which major social intervention will be required in the years ahead.
- (45) It should be noted that potash is used mainly in agriculture and that it is vital that the Community

continue, as it sees fit, to secure its supplies from the Community industry.

- (46) Lastly, it should be stressed that the imposition of anti-dumping measures should not remove products originating in the countries concerned from the Community market or even, as the producers seem to fear, deprive them of a valuable source of the foreign exchange so desperately needed by the economies of countries once part of the Soviet Union, since the measures in question take the form of a minimum price on a market where Community demand exceeds production.

Conclusions

- (47) The Commission considers that the imposition of an anti-dumping duty in the form of a minimum price would establish fair competition, remove the injury to the Community industry and prevent the disappearance of a Community industry, with all the attendant hardship. It is therefore in the Community's interest to impose anti-dumping measures in the form of a provisional anti-dumping duty.
- (48) Those concerned should be allowed a period in which to make known their views and request a hearing. The conclusions adopted for the purposes of this Regulation are provisional and subject to review in the event of a Commission proposal, for the imposition of a definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of potash falling within CN codes 3104 20 50 and 3104 20 10 originating in Belarus, Russia or Ukraine.

The duty shall amount to the difference between the minimum prices indicated below and the net free-at-Community-frontier-price, not cleared through customs:

- potash with a K_2O content of 40 % or less :
ECU 62 per tonne KCl for standard grade (Taric code: 3104 20*10), ECU 67 per tonne KCl for granulated grade (Taric code: 3104 20 10*20),
- potash with a K_2O content exceeding 40 but not 62 % :
ECU 92 per tonne KCl for standard grade (Taric code: 3104 20 50*10), ECU 103 per tonne KCl for granulated grade (Taric code: 3104 20 50*20).

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

3. Release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and request to be heard by

the Commission within one month from the 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, 23 April 1992.

For the Commission

Frans ANDRIESEN

Vice-President

COMMISSION REGULATION (EEC) No 1032/92**of 24 April 1992****on the supply of refined rape seed oil 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 1 378 tonnes of refined rape seed oil;

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

Refined rape seed oil shall be mobilized in the Community as Community food aid for supply to the recipients listed in the Annexes, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. 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, 24 April 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 I**LOT A**

1. **Operation Nos** (1): 111/92 to 114/92
2. **Programme**: 1992
3. **Recipient** (4): World Food Programme, Via Cristoforo Colombo 426, I-00145 Rome, telex 626675 i wfp
4. **Representative of the recipient** (2): see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: Angola (111/92 and 112/92), Ethiopia (113/92 to 114/92)
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** (3): see OJ No C 114, 29. 4. 1991, p. 3 (under IIIA.1 (a))
8. **Total quantity**: 1 088 tonnes net
9. **Number of lots**: one (see Annex II)
10. **Packaging and marking**: see OJ No C 114, 29. 4. 1991, p. 3 (under IIIA.2.1, IIIA.2.3 and IIIA.3)
 - five litre metal canister without cardboard cross-pieces
 - markings in Portuguese (111/92 and 112/92) and English (113/92 to 114/92)
 - supplementary markings on the packaging: see Annex II
11. **Method of mobilization**: the Community market
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 15. 6 — 15. 7. 1992
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply** (6): tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 12. 5. 1992
21. **A. In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 26. 5. 1992
 - (b) period for making the goods available at the port of shipment: 1 — 31. 7. 1992
 - (c) deadline for the supply: —**B. In the case of a third invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon on 9. 6. 1992
 - (b) period for making the goods available at the port of shipment: 15. 7 — 15. 8. 1992
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** (7): 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**: —

LOTS B and C

1. **Operations Nos⁽¹⁾**: 117/92 and 118/92
2. **Programme**: 1992
3. **Recipient⁽⁴⁾**: CICR, 19 avenue de la Paix, CH-1202 Geneve tel.: 734-6001, telex: 22269 CICR CH
4. **Representative of the recipient⁽²⁾**:
 - lot B: Subdelegação do Comité Internacional da Cruz Vermelha, Rua Luís Inácio 276, caixa postal 1130, Beira, República Popular de Moçambique (Tel.: (2583) 32 34 72, 32 34 73, 32 36 23)
 - lot C: Comité Internacional da Cruz Vermelha, Av. Agostinho Neto 284, caixa postal 1977, Maputo 1, República Popular de Moçambique (Tel.: (2581) 49 05 45/49 24 75; fax: (2581) 49 16 52; telex 6622 CICV MO)
5. **Place or country of destination**: Mozambique
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods⁽³⁾**: (See list published in OJ No C 114, 29. 4. 1991, p. 1 (under III.A.1.a))
8. **Total quantity**: 290 tonnes net
9. **Number of lots**: two (See Annex II)
10. **Packaging and marking⁽⁷⁾**:
 - See list published in OJ No C 114, 29. 4. 1991, p. 1 (under III.A.2.2, III.A.2.3 and III.A.3)
 - PET of one litre, without cardboard cross-pieces
 - Markings in Portuguese
 - Supplementary markings on the packaging: See Annex II
11. **Method of mobilization⁽¹⁾**: the Community market
12. **Stage of supply**: free at port of landing — landed
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: lot B: Beira — lot C: Maputo
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 1 — 10. 6. 1992
18. **Deadline for the supply**: 1. 7. 1992
19. **Procedure for determining the costs of supply⁽⁶⁾**: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12. 5. 1992, not later than 12 noon.
21. **A. In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 26. 5. 1992, not later than 12 noon
 - (b) period for making the goods available at the port of shipment, where the supply is awarded at the port of shipment stage 15 — 25. 6. 1992
 - (c) deadline for the supply: 15. 7. 1991**B. In the case of a third invitation to tender**:
 - (a) deadline for the submission of tenders: 9. 6. 1992, not later than 12 noon
 - (b) period for making the goods available at the port of shipment, where the supply is awarded at the port of shipment stage 25. 6 — 5. 7. 1992
 - (c) deadline for the supply: 31. 7. 1992
22. **Amount of the tendering security**: 15 ECU 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**: —

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 114, 29. 4. 1991, p. 33.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the products 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 and iodine -131 levels.

The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents :

- phytosanitary certificate,
- certificate of origin.

- (⁴) The successful tenderer is to contact the recipient as soon as possible to establish which consignment documents are required and how they are to be distributed.
- (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) Point (g) of Article 7 (3) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.

- (⁷) Shipment to take place in containers.

The free holding period for container must be at least 15 days.

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II — ANEXO II

Designación de la partida Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation de la partie Designazione della partita Aanduiding van de partij Designação do lote	Cantidad total de la partida (en toneladas) Totalmængde (tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale de la partie (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Acción nº Aktion nr. Maßnahme Nr. Δράση αριθ. Operation No Action nº Azione n. Maatregel nr. Acção nº	Inscripciones complementarias sobre el embalaje Yderligere påskrifter Ergänzende Aufschriften auf der Verpackung Συμπληρωματικές ενδείξεις στη συσκευασία Supplementary markings on the packaging Inscriptions complémentaires sur l'emballage Iscrizioni supplementari sull'imballaggio Bijkomende vermeldingen op de verpakking Inscrições complementares na embalagem
A	1 088	117	111/92	0494500 / Programa Alimentar Mundial / Lobito
		56	112/92	0494500 / Programa Alimentar Mundial / Luanda
		700	113/92	0485600 / World Food Programme / Djibouti in transit to Ethiopia
		215	114/92	0499600 / World Food Programme / Massawa
B	217	217	117/92	• MZ-71 •
C	73	73	118/92	• MZ-70 •

COMMISSION REGULATION (EEC) No 1033/92**of 24 April 1992****on the supply of refined sunflower oil 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 966 tonnes of refined sunflower oil;

Whereas it is necessary to make these supplies 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

Refined sunflower oil 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, 24 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

ANNEX

LOTS A, B, C and D

1. **Operation Nos** ⁽¹⁾: 99/92 to 102/92
2. **Programme**: 1992
3. **Recipient** ⁽²⁾: UNRWA Headquarters, Supply Division, Vienna International Centre, PO Box 700, A-1400 Vienna (telex 135310 UNRWA A — fax (1) 230 75 29)
4. **Representative of the recipient** ⁽³⁾:

lot A	Ashdod:	UNRWA Field Supply and Transport Officer, West Bank, PO Box 19149, Jerusalem Israel, tel.: 82 80 93; telex 26194 UNRWA IL, fax (009722) 81 65 64.
lot B:	Beirut:	UNRWA Field Supply and Transport Officer, Lebanon, PO Box 947, Beirut, Lebanon; tel.: 81 00 12; fax 87 11 45 02 32; telex: 21430 UNRWA LE
lot C:	Latakia:	UNRWA Field Supply and Transport Officer, PO Box 4313, Damascus, SAR; tel. (00 963 11) 66 02 17; telex 412006 UNRWA SY
lot D:	Amman:	UNRWA Field Supply and Transport Officer, Jordan, PO Box 484, Amman, Jordan; tel.: (9626) 77 17 41; fax: 68 54 76; telex: 23402 UNRWA JFO
5. **Place or country of destination**:
 - lot A: Israel,
 - lot B: Lebanon,
 - lot C: Syria,
 - lot D: Jordan,
6. **Product to be mobilized**: refined sunflower oil
7. **Characteristics and quality of the goods** ⁽⁴⁾ ⁽⁷⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under III A 1)
8. **Total quantity**: 966 tonnes
9. **Number of lots**: four (Lot A: No 99/92 - 544 tonnes; Lot B: No 100/92 - 217 tonnes; Lot C: No 101/92 - 70 tonnes; Lot D: No 102/92 - 135 tonnes)
10. **Packaging and marking** ⁽⁶⁾:

OJ No C 114, 29. 4. 1991, p. 1 (under IIIA 21, IIIA.2.3 and IIIA.3) 200 - litre metal casks

Markings in English

Supplementary markings on the packaging:

 - lot A (Action No 99/92): 'UNRWA — TO PALESTINE REFUGEES'
 - lot B (Action No. 100/92): 'UNRWA — TO PALESTINE REFUGEES'
 - lot C (Action No. 101/92): 'UNRWA — TO PALESTINE REFUGEES'
 - lot D (Action No. 102/92): 'UNRWA — TO PALESTINE REFUGEES — Expiry date : ' ⁽⁸⁾
11. **Method of mobilization**: the Community market
12. **Stage of supply**: lots A, B, C: free at port of landing — landed; Lot D: free at destination
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Lot A: Ashdod; Lot B: Beirut; Lot C: Latakia
16. **Address of the warehouse and, if appropriate, port of landing**: Lot D: UNRWA depots in Amman — Jordan
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 8 — 18. 6. 1992
18. **Deadline for the supply**: 7. 7. 1992
19. **Procedure for determining the costs of supply**: invitation to tender
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon on 12. 5. 1992

21. A: In the case of a second invitation to tender:

- (a) deadline for the submission of tenders: 12 noon on 26. 5. 1992
- (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 26. 6 — 2. 7. 1992
- (c) deadline for the supply: 21. 7. 1992

B: In the case of a third invitation to tender:

- (a) deadline for the submission of tenders: 12 noon on 9. 6. 1992
- (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 6. 7 — 16. 7. 1992
- (c) deadline for the supply: 4. 8. 1992

22. Amount of tendering security: ECU 15 per tonne**23. Amount of delivery security: 10 % of the amount of the tender in ecus****24. Address for submission of tenders (*):** 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 application by the successful tenderer: —**

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 114, 29. 4. 1991, p. 33.
- (³) The successful tenderer shall deliver to the beneficiary 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 and iodine -131 levels.
- The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents :
- certificate of origin,
 - phytosanitary certificate.
- (⁴) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of this Annex, evidence that the tendering security referred to in Article 7 (4) (a) of Regulation (EEC) No 2200/87 has been lodged, preferably :
- either by porter at the office referred to in point 24 of this Annex,
 - or by telecopier on one of the following numbers in Brussels :
 - 235 01 32,
 - 236 10 97,
 - 235 01 30,
 - 236 20 05,
 - 236 33 04.
- (⁵) 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.
- (⁶) Lots B, C and D : consignment to be stowed in 20-foot containers. Lots B and C : the contracted shipping terms shall be considered full liner terms (iner in/liner out) free Latakia/Beirut container year and is co cover 15 days — Saturdays, Sundays and official public and religions holidays excluded — free of container detention charges at the port of discharge taken from the day-time of the arrival of the vessel. The 15 days free of container detention charges should be clearly marked on the bill of loading. Bona fide detention charges levied in respect of container detention(s) in excess of the said 15 days as detailed above will be borne by UNRWA shall not pay/not be charged any container deposit fees.
- After take-over of the goods at the delivery stage, the recipient will bear all costs of shifting the containers to the storage yard outside the port area and of moving them on to the container yard.
- (⁷) The health certificate and the certificate of origin must be signed and stamped by a Syrian consulate, including a statement that consular fees and charges have been paid (action 101/92 Lot C).
- (⁸) The date of expiry shall correspond to the date of manufacture plus two years (action 102/92 Lot D).
-

COMMISSION REGULATION (EEC) No 1034/92
of 24 April 1992
on the supply of various consignments of white sugar 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 5 862 tonnes of sugar;

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 were 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

White sugar shall be mobilized in the Community, as Community food aid for supply to the recipients listed in the Annexes, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. 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, 24 April 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 I

LOTS A, B, C, and D

1. **Operation Nos** ⁽¹⁾: 95/92, 96/92, 97/92 and 98/92
2. **Programme**: 1992
3. **Recipient** ⁽¹²⁾: UNRWA Headquarters, Supply Division, Vienna International Centre, PO Box 700, A-1400 Vienna (telex 135310 UNRWA A — Fax: (1) 230 75 29)
4. **Representative of the recipient** ⁽²⁾:
 - Lot A — 95/92: Beirut UNRWA Field Supply and Transport Officer, Lebanon, PO Box 947, Beirut, Lebanon
tel: 81 00 12; fax: 87 11 45 02 32; telex: 21430 UNRWA LE.
 - Lot B: — 96/92: Ashdod UNRWA Field Supply and Transport Officer, West Bank
PO Box 19149, — Jerusalem,
tel: 82 80 93; telex: 26194 UNRWA IL; fax: 81 65 64.
 - Lot C: — 97/92: Latakia UNRWA Field Supply and Transport Officer, SAR
PO Box 4313 Damascus, SAR
tel: (96311) 66 02 17; telex: 412006 UNRWA SY.
 - Lot D: — 98/92: Amman UNRWA Field Supply and Transport Officer, Jordan,
PO Box 484, Amman, Jordan,
tel: (9626) 77 17 41; fax: 68 54 76; telex: 23402 UNRWA JFO.
5. **Place or country of destination**: Lot A: Lebanon; Lot B: Israel; Lot C: Syria; Lot D: Jordan
6. **Product to be mobilized**: white sugar
7. **Characteristics and quality of the goods** ⁽³⁾: see OJ No C 114, 29. 4. 1991, p. 1, (under V.A.1). Lot C ⁽⁴⁾; Lot D ⁽⁴⁾
8. **Total quantity**: 1 463 tonnes
9. **Number of lots**: four (Lot A: 323 tonnes; Lot B: 714 tonnes; Lot C: 155 tonnes; Lot D: 271 tonnes)
10. **Packaging and marking** ⁽⁴⁾ ⁽¹⁰⁾ ⁽¹¹⁾ ⁽¹⁴⁾: see O.J. No C 114, 29. 4. 1991 p. 1 (under V.A.2 en V.A.3)
Markings in English
Supplementary markings on the packaging: 'UNRWA TO PALESTINE REFUGEES'
11. **Method of mobilization** ⁽⁷⁾: sugar produced in the Community as defined at (a) and (b) in the sixth subparagraph of Article 24 (1a) of Council Regulation (EEC) No 1785/81 (OJ No L 177, 1. 7. 1981, p. 4)
12. **Stage of supply**: free at port of landing — landed (Lots A, B and C)
free at destination (Lot D)
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: Lot A: Beirut; Lot B: Ashdod; Lot C; Latakia
16. **Address of the warehouse and, if appropriate, port of landing**: Lot D: UNRWA Warehouse, Amman, Jordan
17. **Period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage**: 1 — 15. 6. 1992
18. **Deadline for the supply**: 30. 6. 1992
19. **Procedure for determining the costs of supply**: invitation to tender
20. **Date of expiry of the period allowed for submission of tenders**: 12. 5. 1992 at 12 noon
21. **A. In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 19. 5. 1992 at 12 noon
 - (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage: 7 — 22. 6. 1992
 - (c) deadline for the supply: 8. 7. 1992

B. In the case of a third invitation to tender :

- (a) deadline for the submission of tenders : 26. 5. 1992 at 12 noon
- (b) period for making the goods available at the port of shipment where the supply is awarded at the port of shipment stage : 14 — 29. 6. 1992.
- (c) deadline for the supply : 16. 7. 1992

22. Amount of the tendering security : ECU 15 per tonne

23. Amount of the delivery security : 10 % of the amount of the tender in ecus

24. Address for submission of tenders :^(*)

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^(*) : periodic refund applicable to white sugar on 16. 4. 1992, fixed by Commission Regulation (EEC) No 948/92 (OJ No L 102, 16. 4. 1992, p. 5)

LOT E

1. **Operation Nos⁽¹⁾**: 59/62 to 66/92
2. **Programme**: 1992
3. **Recipient⁽¹²⁾**: WFP (World Food Programme), Via Cristoforo Colombo 426, I-00145 Roma, telex 626675 WFP I
4. **Representative of the recipient⁽²⁾**: see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: see Annex II
6. **Product to be mobilized**: white sugar
7. **Characteristics and quality of the goods⁽³⁾**: see OJ No C 114, 29. 4. 1991, p. 1, (under V.A.1.)
8. **Total quantity**: 4 116 tonnes
9. **Number of lots**: One (eight parts: see Annex II.)
10. **Packaging and marking⁽⁴⁾**: see OJ No C 114, 29. 4. 1991, p. 1 (under V.A.2 and V.A.3). Operation 65/92: ⁽⁴⁾
Markings in French (59/92 to 60/92), English (64/92 to 66/92) and Portuguese (61/92 to 63/92)
Supplementary markings on the packaging: see Annex II
11. **Method of mobilization⁽⁷⁾**: sugar produced in the Community as defined at (a) and (b) in the sixth subparagraph of Article 24 (1a) of Council Regulation (EEC) No 1785/81 (OJ No L 177, 1. 7. 1981, p. 4)
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 1 — 30. 6. 1992
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **In the case of an invitation to tender, date of expiry of the period allowed for submission of tenders**: 12. 5. 1992 at 12 noon
21. **A. In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 19. 5. 1992 at 12 noon
 - (b) period for making the goods available at the port of shipment: 7. 6 — 7. 7. 1992
 - (c) deadline for the supply: —**B. In the case of a third invitation to tender**:
 - (a) deadline for the submission of tenders: 26. 5. 1992 at 12 noon
 - (b) period for making the goods available at the port of shipment: 14. 6 — 14. 7. 1992
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders⁽⁹⁾**

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⁾**: periodic refund applicable to white sugar on 16. 4. 1992, fixed by Commission Regulation (EEC) No 948/92 (OJ No L 102, 16. 4. 1992, p. 5)

LOTS F and G

1. **Operation Nos** ⁽¹⁾: 1126/91, 1127/91 and 1128/91 (Lot F) — 1129/91 and 1130/91 (Lot G)
2. **Programme**: 1991
3. **Recipient** ⁽¹²⁾ ⁽¹³⁾: Euronaid, Rhijngeesterstraatweg 40, Posbus 77, NL-2340 AB Oegstgeest
4. **Representative of the recipient** ⁽²⁾: see OJ No C 103, 16. 4. 1987
5. **Place or country of destination**: see Annex II
6. **Product to be mobilized**: white sugar
7. **Characteristics and quality of the goods** ⁽³⁾: see OJ No C 114, 29. 4. 1991, p. 1, (under V.A.1.)
8. **Total quantity**: 283 tonnes
9. **Number of lots**: two (Lot F: 54 tonnes; Lot G: 229 tonnes)
10. **Packaging and marking** ⁽⁴⁾ ⁽¹⁵⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under V.A.2 and V.A.3).
Markings in French (1129/91 and 1130/91) and Spanish (1126/91 to 1128/91)
Supplementary markings on the packaging: see Annex II
11. **Method of mobilization** ⁽⁷⁾: sugar produced in the Community as defined at (a) and (b) in the sixth subparagraph of Article 24 (1a) of Council Regulation (EEC) No 1785/81 (OJ No L 177, 1. 7. 1981, p. 4)
12. **Stage of supply**: free at port of shipment
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 1 — 20. 6. 1992
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply**: invitation to tender
20. **In the case of an invitation to tender, date of expiry of the period allowed for submission of tenders**: 12. 5. 1992 at 12 noon
21. **A. In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 19. 5. 1992 at 12 noon
 - (b) period for making the goods available at the port of shipment: 7 — 27. 6. 1992
 - (c) deadline for the supply: —**B. In the case of a third invitation to tender**:
 - (a) deadline for the submission of tenders: 26. 5. 1992 at 12 noon
 - (b) period for making the goods available at the port of shipment: 14. 6 — 4. 7. 1992
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders** ⁽⁹⁾:
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⁾: periodic refund applicable to white sugar on 16. 4. 1992, fixed by Commission Regulation (EEC) No 948/92 (OJ No L 102, 16. 4. 1992, p. 5)

Notes :

- (¹) The operation number is to be quoted in all correspondence.
- (²) Commission delegate to be contacted by the successful tenderer : see list published in OJ No C 114, 29. 4. 1991, p. 33.
- (³) The successful tenderer shall deliver to the beneficiary 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 and iodine -131 levels.

The successful tenderer shall supply to the beneficiary or its representative, on delivery, the following documents :

- phytosanitary certificate,
- certificate of origin.

- (⁴) Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁵) In order not to overload the telex, tenderers are requested to provide, before the date and time laid down in point 20 of these Annexes, 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), as last amended by Regulation (EEC) No 2226/89 (OJ No L 214, 25. 7. 1989, p. 10), 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 Annexes.
- (⁷) The rule provided at the second indent of Article 18 (2) (a) Regulation (EEC) No 2103/77 is binding for determination of the sugar category.
- (⁸) Manufacturing and expiration dates must be printed on each individual bag.
- (⁹) The phytosanitary certificate and the certificate of origin must be signed and stamped by a Syrian Consulate, including a statement that consular fees and charges have been paid.
- (¹⁰) Lots A, B and C : The contracted shipping terms shall be considered full liner terms (liner in/liner out) free Ashdod/Beirut/Latakia, container yard and is understood to cover 15 days — Saturdays, Sundays and official public and religious holidays excluded — free of container detention charges at the port of discharge taken from the day/time of the arrival of the vessel. The 15 days free of container detention charges should be clearly marked on the bill of lading. Bona fide detention charges levied in respect of container detention(s) in excess of the said 15 days as detailed above will be born by UNRWA. UNRWA shall not pay/not be charged any container deposit fees.

After take-over of the goods at the delivery stage, the recipient, will bear all costs of shifting the containers to the storage yard outside the port area and of moving them on to the container yard.

- (¹¹) Ashdod : consignment to be stowed in 20-foot containers containing not more than 17 tonnes each, net, not more than 50 containers being shipped per week on any vessel.
- (¹²) 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.
- (¹³) The supplier should send a duplicate of the original invoice to : M. De Keyzer and Schütz BV, Postbus 1438, Blaak 16, NL-3000 BK Rotterdam.
- (¹⁴) Shipment to take place in 20-foot containers.

- (¹³) Shipment to take place in 20-foot containers, condition FCL/FCL. The supplier shall be responsible for the cost of making the containers available in the stack position at the container terminal at the port of shipment. The recipient shall be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.

The provisions of Article 13 (2), second paragraph, of Regulation (EEC) No 2200/87 shall not apply.

The successful tenderer has to submit to the recipient's agent complete packing list of each container, specifying number of bags belonging to each shipping number as specified in the invitation to tender.

The successful tenderer has to seal each container with a numbered locktainer, number of which to be provided to the beneficiary's forwarder.

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II — ANEXO II

Designación de la partida Parti Bezeichnung der Partie Χαρακτηρισμός της παρτίδας Lot Désignation de la partie Designazione della partita Aanduiding van de partij Designação do lote	Cantidad total de la partida (en toneladas) Totalmængde (tons) Gesamtmenge der Partie (in Tonnen) Συνολική ποσότητα της παρτίδας (σε τόνους) Total quantity (in tonnes) Quantité totale de la partie (en tonnes) Quantità totale della partita (in tonnellate) Totale hoeveelheid van de partij (in ton) Quantidade total (em toneladas)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas)	Acción nº Aktion nr. Maßnahme Nr. Δράση αριθ. Operation No Action nº Azione n. Maatregel nr. Acção nº	Inscripciones complementarias sobre el embalaje Yderligere påskrifter Ergänzende Aufschriften auf der Verpackung Συμπληρωματικές ενδείξεις στη συσκευασία Supplementary markings on the packaging Inscriptions complémentaires sur l'emballage Iscrizioni supplementari sull'imballaggio Bijkomende vermeldingen op de verpakking Inscrições complementares na embalagem
E	4 116	107	59/92	Algérie / 0415502 / Programme Alimentaire Mondial / Alger
		107	60/92	Algérie / 0415502 / Programme Alimentaire Mondial / Alger
		78	61/92	Moçambique / 0416402 / Programa Alimentar Mundial / Maputo
		215	62/92	Moçambique / 0416402 / Programa Alimentar Mundial / Beira
		207	63/92	Moçambique / 0416402 / Programa Alimentar Mundial / Beira em trânsito para Quelimane
		902	64/92	Kenya / 04961 / World Food Programme / Mombasa
		1 300	65/92	Ethiopia / 0485600 / World Food Programme / Djibouti in transit to Ethiopia
		1 200	66/92	Ethiopia / 0485600 / World Food Programme / Djibouti in transit to Ethiopia
F	54	18	1126/91	Perú / CAM / 912034 / Lima via Callao
		18	1127/91	Perú / CAM / 912035 / Lima via Callao
		18	1128/91	Perú / CAM / 912036 / Lima via Callao
G	229	180	1129/91	Haïti / Caritas N / 910358 / Port-au-Prince
		49	1130/91	Haïti / PROTOS / 911521 / Port-au-Prince

COMMISSION REGULATION (EEC) No 1035/92

of 24 April 1992

concerning the classification of certain goods in the combined nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2658/87⁽¹⁾, on the tariff and statistical nomenclature and on the Common Customs Tariff, as last amended by Regulation (EEC) No 627/92⁽²⁾, and in particular Article 9,

Whereas in order to ensure uniform application of the combined nomenclature annexed to the said Regulation, it is necessary to adopt measures concerning the classification of the good referred to in the Annex to this Regulation;

Whereas Regulation (EEC) No 2658/87 has set down the general rules for the interpretation of the combined nomenclature and these rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivisions to it and which is established by specific Community provisions, with a view to the application of tariff or other measures relating to trade in goods;

Whereas, pursuant to the said general rules, the goods described in column 1 of the table annexed to the present

Regulation must be classified under the appropriate CN code indicated in column 2, by virtue of the reasons set out in column 3;

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

HAS ADOPTED THIS REGULATION:

Article 1

The good described in column 1 of the annexed table are now classified within the combined nomenclature under the appropriate CN code indicated in column 2 of the said table.

Article 3

This Regulation shall enter into force on the 21st day after 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, 24 April 1992.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽²⁾ OJ No L 68, 13. 3. 1992, p. 9.

ANNEX

Description	Classification CN Code	Reasons
[1]	[2]	[3]
Cigarettes made from the leaves of coltsfoot and of peppermint, not containing tobacco	2402 90 00	Classification is determined by General Rules 1 and 6 for the interpretation of the combined nomenclature, Note 1 to Chapter 24 and the wording of CN codes 2402 and 2402 90 00 (see also the Explanatory Notes to the Harmonized System, heading 2402)

COMMISSION REGULATION (EEC) No 1036/92

of 27 April 1992

laying down detailed rules for transferring Community aid granted for collective projects for the restructuring of vineyards under Council Regulation (EEC) No 458/80 and amending Decision 81/525/EEC on applications for refunds of and advances on premiums paid for collective projects for the restructuring of vineyards

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 458/80 of 18 February 1980 on collective projects for the restructuring of vineyards⁽¹⁾, as last amended by Regulation (EEC) No 596/91⁽²⁾, and in particular Articles 10 (4) and 11a (2) thereof,

Whereas the Council has provided for the Member States to be able to transfer to other projects Community aid granted for projects approved by the Commission in accordance with Article 7 of Regulation (EEC) No 458/80 which cannot be completely carried out before the deadline for execution of their completion expires;

Whereas the failure to execute a project in full or in part must be established with due respect for the rights acquired by the original recipient;

Whereas transfers of aid must relate solely to restructuring operations meeting the conditions laid down in Regulation (EEC) No 458/80;

Whereas, given the possibility they now enjoy of transferring aid between projects, the Member States must make the necessary changes to and undertake to manage such projects; whereas, as a consequence and in order to ensure transparent, consistent management, they must be able to make changes to and administer all the projects;

Whereas, since the objective of this Regulation is to fix the procedures for transferring aid, as laid down in Council Regulation (EEC) No 596/91, it should be made to apply as from the date that this Regulation entered into force;

Whereas transfers of aid must be made under conditions that avoid the risk of exceeding the quotas agreed for each Member State and that guarantee respect for the rights acquired by the original beneficiaries;

Whereas this also requires amendments to the detailed rules for submitting applications for refunds laid down in Commission Decision 81/525/EEC⁽³⁾;

Whereas detailed rules should therefore be laid down in accordance with which Member States are to keep the Commission informed periodically of changes to projects;

Whereas a deadline should be set for the completion of all operations undertaken pursuant to Regulation (EEC) No 458/80;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Agricultural Structure and Rural Development,

HAS ADOPTED THIS REGULATION:

Article 1

The Member States may transfer aid:

- which remains available on expiry of the deadline for execution laid down in the decision approving the project, or
- which the beneficiary has relinquished, or
- which remains available at the end of the eighth year following the decision approving the project if the area restructured represents on that date less than 70 % of the area originally planned, on condition that the rights of the beneficiary are maintained up to the completion date of the project.

Article 2

The Member States shall ensure that aid transferred is used for restructuring operations:

- provided for in projects approved by the Commission and areas in addition to hectares already covered by approval,
- complying with the conditions laid down in Regulation (EEC) No 458/80.

⁽¹⁾ OJ No L 57, 29. 2. 1980, p. 27.

⁽²⁾ OJ No L 67, 14. 3. 1991, p. 16.

⁽³⁾ OJ No L 196, 18. 7. 1981, p. 11.

Article 3

Premiums paid shall be kept by the recipients of projects approved by the Commission provided the payment has been used for hectares on which restructuring operations have been fully completed in compliance with the conditions laid down in Regulation (EEC) No 458/80.

Article 4

Decisions to put back the deadline for execution provided for in the final paragraph of Article 4 of Regulation (EEC) No 458/80 shall be adopted by the Member States.

They shall inform the Commission each year of decisions relating to transfers and changes adopted during the year using the form provided in Annex I. The form shall be forwarded when applications for refunds are submitted.

Article 5

The contribution by the EAGGF Guidance Section towards the expenditure incurred by the Member States is made within the quotas originally agreed and under the

conditions provided in Article 8 of Regulation (EEC) No 458/80.

Article 6

Annex II to Decision 81/525/EEC on applications for refunds of and advances on premiums paid for collective projects for the restructuring of vineyards is hereby replaced by Annex II hereto.

Article 7

Operations undertaken under Regulation (EEC) No 458/80 must be completed before 31 December 1998.

Applications for refunds of expenditure on restructuring operations must be submitted to the EAGGF Guidance Section before 1 July 1999.

Article 8

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

It is to be applied as from 14 March 1991.

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

Changes made in 19.. to projects approved under Regulation (EEC) No 458/80

Administrative unit	Project number	Number of hectares transferred				Other changes
		Quality wines psr		Tables wines		
		+	-	+	-	
		3				
1	2					

ANNEX II

Application for refund of expenditure incurred in 19... under Regulation (EEC) No 458/80 on collective projects for the restructuring of vineyards

[illegible]

(¹) Where appropriate, indicate newly planted areas in hectares, ares and centiares in brackets under each of the areas concerned.

(²) Indicate in the Annex the total area of vineyards planted and replanted in wine-growing areas with less than two hectares restructured on completion of the project.

(4) Indicate in columns 6 and 8 those categories within the meaning of Article 4 of Council Regulation (EEC) No 822/87, to which the areas replanted or newly planted belong.

COMMISSION REGULATION (EEC) No 1037/92

of 27 April 1992

on the implementation of promotional and publicity measures in respect of milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977 on a co-responsibility levy and on measures for expanding the markets in milk and milk products⁽¹⁾, as last amended by Regulation (EEC) No 1632/91⁽²⁾, and in particular Article 4 thereof,

Whereas promotional and publicity measures for milk and milk products commenced in the Community in 1978 and have continued since then owing to their effectiveness in expanding the markets in milk products in the Member States; whereas they should accordingly be continued and duly qualified organizations should again be invited to propose detailed programmes of measures which these organizations would themselves carry out;

Whereas the organizations which will be responsible for the measures must satisfy certain conditions; whereas in particular care must be taken to ensure that milk products from the Community are promoted; whereas the guidelines to be followed in this context were laid down in Commission communication 86/C 272/03 concerning State involvement in the promotion of agricultural and fisheries products⁽³⁾; whereas the activities of the organizations concerned as a whole must not in particular be liable to clash with the aim pursued in promotion the disposal of milk products; whereas it is therefore essential that proposals from organizations whose activities also cover the production, distribution or sales promotion of products which imitate milk and milk products should be barred;

Whereas amendments should be made to the earlier Regulations in the light of the experience gained in this area;

Whereas, in order to ensure that the deadline for the presentation of the report by the contractor is complied with, provision should be made where that deadline is exceeded for an amount to be withheld from the Community funds allocated;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Under the conditions laid down in this Regulation publicity and promotional measures advocating human consumption of milk and milk products in the Community shall be partially financed.
2. For the purposes of paragraph 1, 'measures' shall mean every publicity and promotion measure selected by the Commission in accordance with the procedure as referred to in Article 5.
3. Measures shall be carried out within one year of the signing of contracts as referred to in Article 5 (1).
4. The time limit fixed in paragraph 3 shall not prevent:
 - (a) subsequent agreement to an extension of that limit where the party to a contract makes an appropriate application to the competent authority before its expiry date and provides evidence that, owing to exceptional circumstances beyond his control, he is unable to meet the deadline originally stipulated. However, this extension may not exceed six months;
 - (b) measures as referred to in paragraph 2 implemented with effect from the entry into force of this Regulation from qualifying for Community financing.

Article 2

1. The publicity and promotional measures referred to in Article 1:
 - (a) shall be proposed by organizations which have several years' experience of promoting milk and milk products, have the necessary qualifications to carry out the proposed measures and can ensure the satisfactory completion of the work;
 - (b) shall be carried out as far as possible by the organization which has made the proposal. In cases where that organization must use subcontractors, the proposal must contain a duly justified application for a derogation.

⁽¹⁾ OJ No L 131, 26. 5. 1977, p. 6.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 23.

⁽³⁾ OJ No C 272, 28. 10. 1986, p. 3.

2. Such measures must:

- make use of the publicity media best suited to ensure maximum effectiveness for the measure undertaken,
- take account of the particular conditions obtaining with regard to the marketing and consumption of milk and milk products in the various regions of the Community,
- be of a generic nature and not orientated towards particular brand names or firms,
- promote Community milk products without reference to their country or region of manufacture; however, this condition does not exclude the mention of the traditional name of a product which includes a specified locality, region or country of the Community,
- not replace similar measures but, where appropriate, expand them.

Proposals put forward by organizations whose activities are exclusively or in part concerned with the production, distribution or sales promotion of products which imitate milk and milk products shall not be taken into consideration.

3. Community financing shall be limited to 90 %.

4. For the purposes of applying paragraph 3, no account shall be taken of administrative expenses incurred in carrying out the measures in question.

5. Financing of general expenses incurred in carrying out the measures referred to in Article 1 shall be limited to 2 % of the total amount approved, up to a maximum of ECU 10 000.

Article 3

1. Interested parties shall forward to the competent authority designated by the Member State in which the head office of the organization concerned is situated, hereinafter referred to as the 'competent authority', detailed proposals concerning the measures, accompanied by a summary highlighting the main features of the proposed measures.

Should the proposed measures be carried out wholly or partly in the territory of one or more Member States other than that in which the head office of the organization concerned is situated, the organization shall send a copy of its proposal to each of the competent authorities in those other Member States.

Proposals must reach the competent authority before 1 June 1992. Where this date is not complied with, proposals shall be considered null and void.

2. Further rules for the submission of proposals shall be as set out in the Annex.

Article 4

1. Complete proposals shall include:

- (a) the name and address of the party concerned;
- (b) all details concerning the measures proposed together with detailed descriptions and considerations indicating the time required for completion, the expected results and any third party who may be involved;
- (c) a detailed presentation of the planned strategy for the whole programme;
- (d) the price asked for these measures, net of taxes, expressed in ecus, giving an itemized breakdown of this amount and showing the corresponding financing plan;
- (e) the desired form of payment of the Community financing in accordance with Article 7 (1) (a), (b) or (c);
- (f) the most recent report available on the party's activities, unless this is already in the possession of the competent authority.

2. Proposals shall be valid only where they are accompanied by a written undertaking to comply with the provisions of this Regulation and the implementation criteria laid down by the Commission departments and put at the disposal of the parties concerned by the competent authority. The implementation criteria shall be attached to the contract and form an integral part thereof.

Article 5

1. Before 1 July 1992, the competent authority shall compile a list of all the proposals received and forward it to the Commission together with copies of each proposal, including any supporting documents, and a reasoned opinion indicating whether the proposal complies with the provisions applying.

The competent authority shall examine on a bilateral basis with the Commission and an expert group composed of experts on marketing, advertising and milk marketing all proposals received and any supporting documents.

After consulting the relevant interested groups and following examination of the proposals by the Management Committee for Milk and Milk Products pursuant to Article 31 of Council Regulation (EEC) No 804/68⁽¹⁾, the Commission shall establish as soon as possible a list of the proposals selected for financing and determine the date by which the competent authorities shall conclude with the interested parties contracts for the measures selected. The contracts shall be concluded in as many copies as there are signatories and shall be signed by the parties concerned and the competent authority. For that purpose the competent authorities shall use standard contracts to be provided by the Commission.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

2. The competent authorities shall inform each applicant as soon as possible of the decision taken in respect of his proposal.

Article 6

1. Contracts shall include the details referred to in Article 4 or make reference to them and supplement those details, where necessary, by additional conditions.

2. The competent authorities :

(a) shall send a copy of the contract to the Commission forthwith ;

(b) ensure compliance with the conditions of the contract, in particular by means of the following checks :

- administrative checks and audits to verify the costs financed and compliance with financing rules,
- checks to verify that measures are implemented in accordance with the provisions of the contract,
- other on-the-spot checks, where necessary.

Contracting parties must be subject to at least two inspections during the period of validity of the contract.

Article 7

1. Payment to the party concerned shall be effected in accordance with the choice indicated in the latter's proposal :

- (a) within six weeks of the date of signature of the contract, a single payment on account amounting to 60 % of the Community contribution ; or
- (b) at two-monthly intervals, four equal instalments each amounting to 20 % of the Community contribution, the first such instalment being paid within six weeks of the date of signature of the contract ; or
- (c) within six weeks of the date of signature of the contract, a single payment on account amounting to 80 % of the Community contribution ; however, this form of payment may be stipulated only for measures which will be fully completed within a maximum of two months of the date of signature of the contract.

However, while a contract is being executed, the competent authority may :

- defer payment of an instalment either wholly or in part where it finds, in particular during the checks referred to in Article 6 (2) (b), irregularities in carrying out the measures concerned or a substantial interval between the due date for payment of the instalment and the date when the party concerned actually incurs the forecast expenditure,
- in exceptional cases, pay in advance an instalment either wholly or in part if the party concerned submits

a reasoned application showing that he must incur a substantial part of the expenditure significantly earlier than the date laid down for payment.

2. The payment of each instalment shall be conditional upon the lodging with the competent authority of a security equal to the amount of the instalment, plus 10 %.

3. Securities shall be released and the balance shall be paid subject to :

- (a) the forwarding to the Commission and to the competent authority of the report referred to in Article 8 (1) and to verification of the details contained in that report ;
- (b) confirmation by the competent authority that the party concerned has fulfilled his obligations as laid down in the contract ; and
- (c) confirmation by the competent authority that the party concerned or any third party named in the contract has spent his own contribution for the purposes laid down.

However, at the reasoned request of the party concerned, the balance may be paid after the measure has been executed and the report referred to in Article 8 has been forwarded, provided that securities have been lodged which cover the total amount of the Community contribution plus 10 %.

4. In so far as the conditions set out in paragraph 3 are not fulfilled, securities shall be forfeit. In that event, the amount in question shall be deducted from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure and more particularly from that arising out of the measures referred to in Article 4 of Regulation (EEC) No 1079/77.

Article 8

1. Each party responsible for one of the measures referred to in this Regulation shall submit to the Commission and to the competent authority, within four months of the final date fixed in the contract for execution of the measures, a detailed report on the utilization of the Community funds allocated and on the foreseeable results of the measures in question, in particular as regards the trend in sales of milk and milk products. If that report is submitted later than four months after that final date, 10 % of the Community contribution shall be withheld for each month commenced after expiry of that time limit.

2. The competent authority concerned shall forward to the Commission a statement to the effect that each contract has been performed satisfactorily together with a copy of the final report.

Article 9

This Regulation shall enter into force on 1 May 1992.

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

In accordance with Article 3, interested parties are hereby informed that proposals are to be sent, within the time limits laid down, to the following competent authorities, in one original and five copies by registered letter or by messenger with acknowledgement of receipt:

Member State	Competent authority
Belgium	Office national du lait et de ses dérivés, Rue Froissart 95-99, B-1040 Bruxelles.
Denmark	EF-Direktoratet, Frederiksborggade 18, DK-1360 København K.
Germany	Bundesanstalt für landwirtschaftliche Marktordeung (BALM), Adickesallee 40, D-6000 Frankfurt am Main.
Greece	Direction for the management of agricultural products (DIDAGEP), 241 Acharnon Street, 104-46 Athens (Greece).
France	Office national interprofessionnel du lait et des produits laitiers (Onilait), 2, rue St. Charles, F-75740 Paris Cedex 15.
Ireland	Department of Agriculture and Food, Milk Policy Division, Floor 1 East, Agriculture House, Kildare Street, IRL-Dublin 2.
Italy	Azienda di Stato per gli interventi sul mercato agricolo (AIMA), via Palestro 81, I-00198 Roma.
Luxembourg	Administration des Services techniques de l'agriculture, 16, route d'Esch, L-1470 Luxembourg.
Netherlands	Produktschap voor Zuivel, Sir Winston Churchilllaan 275, NL-2288 EA Rijswijk (ZH).
United Kingdom	Intervention Board for Agricultural Produce, Livestock Products Division, Fountain House, Queen's Walk, GB-Reading, Berks RG1 7QW.

Member State	Competent authority
Spain	Secretaría General de Alimentación, Ministerio de Agricultura, Pesca y Alimentación, Paseo Infanta Isabel 1, E-28014 Madrid.
Portugal	Instituto Nacional de Intervenção e Garantia Agrícola (INGA), Rua Camilo Castelo Branco, 45, 2º, P-1000 Lisboa.

COMMISSION REGULATION (EEC) No 1038/92

of 27 April 1992

laying down definitive measures on the issuing of STM licences for beef and veal
in trade with Portugal

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

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 252 (3) thereof,

Having regard to Council Regulation (EEC) No 569/86 of 25 February 1986 laying down general rules for the application of the supplementary mechanism applicable to trade⁽¹⁾, as last amended by Regulation (EEC) No 3296/88⁽²⁾, and in particular Article 7 (1) thereof,

Whereas Commission Regulation (EEC) No 3810/91 of 18 December 1991 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted on 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 4026/89 and (EEC) No 3815/90⁽³⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued every two months;

Whereas STM licences issued in response to applications lodged from 30 March to 2 April 1992 in Portugal have exhausted that fraction of the indicative ceiling set aside for the second two months of 1992 for fresh and chilled beef and veal;

Whereas the Commission accordingly adopted, by an emergency procedure, appropriate interim protective measures by Regulations (EEC) No 907/92⁽⁴⁾;

Whereas definitive measures must be adopted; whereas, in view of the situation of the market, an increase in the indicative ceiling cannot be contemplated;

Whereas, as a definitive measure as referred to in Articles 252 (3) of the Act of Accession, the issue of STM licences should be definitively discontinued in order to prevent any disturbance on the market;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The issue of STM licences is hereby suspended until 30 April 1992 for fresh and chilled beef and veal.
2. Further applications for STM licences may be lodged from 20 April 1992.

Article 2

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

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 55, 1. 3. 1986, p. 106.

⁽²⁾ OJ No L 293, 27. 10. 1988, p. 7.

⁽³⁾ OJ No L 357, 28. 12. 1991, p. 53.

⁽⁴⁾ OJ No L 96, 10. 4. 1992, p. 24.

COMMISSION REGULATION (EEC) No 1039/92**of 27 April 1992****amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the common customs tariff**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables ⁽¹⁾, as last amended by Regulation (EEC) No 1943/91 ⁽²⁾, and in particular Article 17 thereof,Whereas Regulation (EEC) No 964/91 ⁽³⁾, as last amended by Regulation (EEC) No 3411/91 ⁽⁴⁾, classifies certain provisionally preserved mushrooms of the species *Agaricus* under CN code 2003 10 10 because they are completely cooked; whereas these mushrooms, which are used as a starting material in the preservation industry, are of considerable economic importance; whereas specific subheadings should therefore be created for them; whereas, at the same time, Additional Note 2 to Chapter 20 of the combined nomenclature, which defines cultivated mushrooms, can be deleted;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

*Article 1*The combined nomenclature in Annex I to Council Regulation (EEC) No 2658/87 ⁽⁵⁾ is hereby amended as follows:

1. Additional Note 2 to Chapter 20 is deleted. Additional Notes 3 to 7 become Additional Notes 2 to 6 respectively.
2. Headings 0711 and 2003 of the combined nomenclature are amended in accordance with the Annex to this Regulation.

The amendments to the subheadings of the combined nomenclature provided for in this Regulation shall be applied as subdivisions of the Integrated Tariff of the European Communities (Taric) until their inclusion in the combined nomenclature under the conditions laid down in Article 12 of Regulation (EEC) No 2658/87.

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

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.⁽²⁾ OJ No L 175, 4. 7. 1991, p. 1.⁽³⁾ OJ No L 100, 20. 4. 1991, p. 14.⁽⁴⁾ OJ No L 321, 23. 11. 1991, p. 23.⁽⁵⁾ OJ No L 256, 7. 9. 1987, p. 1.

ANNEX

Code	Description of goods	Rate of duty		Additional unit
		Autonomous (%) or levy (AGR)	Conventional (%)	
(1)	(2)	(3)	(4)	(5)
0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption :			
0711 10 00 to 0711 90 30	} Unchanged			
	— — — Mushrooms :			
0711 90 40 ⁽¹⁾	— — — — Of the species <i>Agraricus spp.</i> :	12	—	—
0711 90 60 ⁽²⁾	— — — — Other	12	—	—
0711 90 70	} Unchanged			
0711 90 90				
2003	Mushrooms and truffles, prepared or conserved otherwise than by vinegar or acetic acid :			
2003 10	— Mushrooms :			
2003 10 20 ⁽⁴⁾	— — Of the species <i>Agaricus spp.</i> :			
	— — — Provisionally preserved, completely cooked	23 ⁽³⁾	—	—
2003 10 30 ⁽³⁾	— — — Other	23 ⁽³⁾	—	—
2003 10 80 ⁽⁶⁾	— — Other	23	—	—
2003 20 00	Unchanged			

⁽¹⁾ Taric code for 1992: 0711 90 50 * 20.⁽²⁾ Taric code for 1992: 0711 90 50 * 82 and * 89.⁽³⁾ In certain conditions, an additional amount is provided for in addition to the customs duty.⁽⁴⁾ Taric code for 1992: 2003 10 10 * 31 and * 81.⁽⁵⁾ Taric code for 1992: 2003 10 10 * 39 and * 89.⁽⁶⁾ Taric code for 1992: 2003 10 10 * 90 and 2003 10 90 * 00.

COMMISSION REGULATION (EEC) No 1040/92
of 27 April 1992
fixing the aid for cotton

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

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

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

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 2880/91 ⁽⁴⁾, as last amended by Regulation (EEC) No 959/92 ⁽⁵⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2880/91 to the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The aid for unginned cotton referred to in Article 5 of Regulation (EEC) No 2169/81 shall be ECU 72,066 per 100 kilograms.

Article 2

This Regulation shall enter into force on 28 April 1992.

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 85, 30. 3. 1989, p. 7.

⁽⁴⁾ OJ No L 274, 1. 10. 1991, p. 48.

⁽⁵⁾ OJ No L 102, 16. 4. 1992, p. 33.

COMMISSION REGULATION (EEC) No 1041/92

of 27 April 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 366/92 ⁽³⁾, as last amended by Regulation (EEC) No 1025/92 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) 366/92 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 24 April 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 28 April 1992.

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

Done at Brussels, 27 April 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 39, 15. 2. 1992, p. 28.

⁽⁴⁾ OJ No L 108, 25. 4. 1992, p. 30.

⁽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 27 April 1992 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy (°)
1701 11 10	37,11 (°)
1701 11 90	37,11 (°)
1701 12 10	37,11 (°)
1701 12 90	37,11 (°)
1701 91 00	44,28
1701 99 10	44,28
1701 99 90	44,28 (°)

(°) 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. However, an amount equal to the amount fixed by Regulation (EEC) No 1870/91 B to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 1042/92**of 27 April 1992****fixing the import levies on live sheep and goats and on sheepmeat and goatmeat
other than frozen meat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EEC) No 1741/91⁽²⁾, and in particular the Article 10 thereof,

Whereas the import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat were fixed by Commission Regulation (EEC) No 455/92⁽³⁾, as amended by Regulation (EEC) No 765/92⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 455/92 to the quota-

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

HAS ADOPTED THIS REGULATION:

Article 1

The import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 May 1992.

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 163, 26. 6. 1991, p. 41.

⁽³⁾ OJ No L 52, 27. 2. 1992, p. 34.

⁽⁴⁾ OJ No L 83, 28. 3. 1992, p. 20.

ANNEX

to the Commission Regulation of 27 April 1992 fixing the import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat⁽¹⁾

(ECU/100 kg)

CN code	Week No 18 from 4 to 10 May 1992	Week No 19 from 11 to 17 May 1992	Week No 20 from 18 to 24 May 1992	Week No 21 from 27 to 31 May 1992
0104 10 90 ⁽¹⁾	95,565	93,713	90,719	87,730
0104 20 90 ⁽¹⁾	95,565	93,713	90,719	87,730
0204 10 00 ⁽²⁾	203,330	199,390	193,020	186,660
0204 21 00 ⁽²⁾	203,330	199,390	193,020	186,660
0204 22 10 ⁽²⁾	142,331	139,573	135,114	130,662
0204 22 30 ⁽²⁾	223,663	219,329	212,322	205,326
0204 22 50 ⁽²⁾	264,329	259,207	250,926	242,658
0204 22 90 ⁽²⁾	264,329	259,207	250,926	242,658
0204 23 00 ⁽²⁾	370,061	362,890	351,296	339,721
0204 50 11 ⁽²⁾	203,330	199,390	193,020	186,660
0204 50 13 ⁽²⁾	142,331	139,573	135,114	130,662
0204 50 15 ⁽²⁾	223,663	219,329	212,322	205,326
0204 50 19 ⁽²⁾	264,329	259,207	250,926	242,658
0204 50 31 ⁽²⁾	264,329	259,207	250,926	242,658
0204 50 39 ⁽²⁾	370,061	362,890	351,296	339,721
0210 90 11 ⁽³⁾	264,329	259,207	250,926	242,658
0210 90 19 ⁽³⁾	370,061	362,890	351,296	339,721

⁽¹⁾ The levy applicable is limited in the conditions laid down by Council Regulations (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 1373/90 and Commission Regulations (EEC) No 19/82, (EEC) No 1249/90, (EEC) No 1580/90 and (EEC) No 2085/90.

⁽²⁾ The levy applicable is limited to the amount bound under GATT or in the conditions laid down in Council Regulations (EEC) No 1985/82, (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 753/90 and Commission Regulations (EEC) No 19/82, (EEC) No 3652/89, (EEC) No 3989/89, (EEC) No 479/90 and (EEC) No 952/90.

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

⁽⁴⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EEC) No 1043/92**of 27 April 1992****fixing the import levies on frozen sheepmeat and goatmeat**

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EEC) No 1741/91⁽²⁾, and in particular the Article 10 thereof,

Whereas the import levies on frozen sheepmeat and goatmeat were fixed by Commission Regulation (EEC) No 456/92⁽³⁾, as amended by Regulation (EEC) No 766/92⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 456/92 to the quota-

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 May 1992.

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.
⁽²⁾ OJ No L 163, 26. 6. 1991, p. 41.
⁽³⁾ OJ No L 52, 27. 2. 1992, p. 37.
⁽⁴⁾ OJ No L 83, 28. 3. 1992, p. 22.

ANNEX

to the Commission Regulation of 27 April 1992 fixing the import levies on frozen
sheepmeat and goatmeat⁽¹⁾ ⁽²⁾

(ECU/100 kg)

CN code	Week No 18 from 4 to 10 May 1992	Week No 19 from 11 to 17 May 1992	Week No 20 from 18 to 24 May 1992	Week No 21 from 27 to 31 May 1992
0204 30 00	199,998	197,043	192,265	187,495
0204 41 00	199,998	197,043	192,265	187,495
0204 42 10	139,999	137,930	134,586	131,247
0204 42 30	219,998	216,747	211,492	206,245
0204 42 50	259,997	256,156	249,945	243,744
0204 42 90	259,997	256,156	249,945	243,744
0204 43 00	363,996	358,618	349,922	341,241
0204 50 51	199,998	197,043	192,265	187,495
0204 50 53	139,999	137,930	134,586	131,247
0204 50 55	219,998	216,747	211,492	206,245
0204 50 59	259,997	256,156	249,945	243,744
0204 50 71	259,997	256,156	249,945	243,744
0204 50 79	363,996	358,618	349,922	341,241

⁽¹⁾ The levy applicable is limited to the amount bound under GATT or in the conditions laid down in Council Regulations (EEC) No 1985/82, (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 753/90 and Commission Regulations (EEC) No 19/82, (EEC) No 3652/89, (EEC) No 3989/89, (EEC) No 479/90 and (EEC) No 952/90.

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

COMMISSION REGULATION (EEC) No 1044/92**of 27 April 1992****adjusting the corrective amount on the import of artichokes into the
Community of Ten from Spain**

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 3709/89
of 4 December 1989 laying down general rules for imple-
menting the Act of Accession of Spain and Portugal as
regards the compensatory mechanism for imports of fruit
and vegetables from Spain ⁽¹⁾, and in particular Article 4
(2) thereof,

Whereas Article 152 of the Act of Accession introduces
from 1 January 1990 a compensatory mechanism for
imports into the Community as constituted on 31
December 1985, hereinafter called 'the Community of
Ten', of fruit and vegetables from Spain for which a
reference price is fixed with regard to third countries;

Whereas Regulation (EEC) No 3709/89 lays down general
rules for applying the said compensatory mechanism and
Commission Regulation (EEC) No 3815/89 ⁽²⁾ lays down
detailed rules for applying the said compensatory
mechanism;

Whereas Commission Regulation (EEC) No 983/92 ⁽³⁾
introduces a corrective amount on imports of artichokes
into the Community of Ten from Spain;

Whereas Article 3 (4) of Regulation (EEC) No 3709/89
lays down the conditions under which a corrective
amount introduced pursuant to Article 3 (1) of the said
Regulation, is to be adjusted; whereas the said conditions
require that the corrective amount on imports of arti-
chokes from Spain into the Community of Ten be
adjusted,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 983/92 'ECU 2,17' is
replaced by 'ECU 8,78'.

Article 2

This Regulation shall enter into force on 28 April 1992.

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

Done at Brussels, 27 April 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.
⁽²⁾ OJ No L 371, 20. 12. 1989, p. 28.

⁽³⁾ OJ No L 104, 22. 4. 1992, p. 39.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 92/30/EEC

of 6 April 1992

on the supervision of credit institutions on a consolidated basis

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first and third sentences of Article 57 (2) thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas Council Directive 83/350/EEC of 13 June 1983 on the supervision of credit institutions on a consolidated basis⁽³⁾ established the necessary framework for the introduction of supervision of credit institutions on a consolidated basis; whereas, following the transposition of that Directive into the national law of the Member States, the principle of supervision on a consolidated basis is now applied throughout the Community;

Whereas, in order to be effective, supervision on a consolidated basis must be applied to all banking groups, including those the parent undertakings of which are not credit institutions; whereas the competent authorities must hold the necessary legal instruments to be able to exercise such supervision;

Whereas, in the case of groups with diversified activities the parent undertakings of which control at least one credit institution subsidiary, the competent authorities must be able to assess the financial situation of a credit institution in such a group; whereas, pending subsequent coordination, the Member States may lay down appropriate methods of consolidation for the achievement of

the objective of this Directive; whereas the competent authorities must at least have the means of obtaining from all undertakings within a group the information necessary for the performance of their function; whereas cooperation between the authorities responsible for the supervision of different financial sectors must be established in the case of groups of undertakings carrying on a range of financial activities;

Whereas rules limiting the risks taken by a credit institution on the mixed-activity holding company of which it is a subsidiary, as well as those taken on the other subsidiaries of the same mixed-activity holding company, can be particularly useful; whereas it would, however, appear to be preferable to settle this question in a more systematic manner in the framework of a future Directive on the limitation of large exposures;

Whereas the Member States can, furthermore, refuse or withdraw banking authorization in the case of certain group structures considered inappropriate for carrying on banking activities, in particular because such structures could not be supervised effectively; whereas in this respect the competent authorities have the powers mentioned in Article 8 (1) (c) of the First Council Directive (77/780/EEC) of 12 December 1977 on the coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions⁽⁴⁾ and in Articles 5 and 11 of the Second Council Directive (89/646/EEC) of 15 December 1989 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions⁽⁵⁾, in order to ensure the sound and prudent management of credit institutions;

⁽¹⁾ OJ No C 326, 16. 12. 1991, p. 106, and OJ No C 94, 13. 4. 1992.

⁽²⁾ OJ No C 102, 18. 4. 1991, p. 19.

⁽³⁾ OJ No L 193, 18. 7. 1983, p. 18.

⁽⁴⁾ OJ No L 322, 17. 12. 1977, p. 30. Directive as last amended by Directive 89/646/EEC (OJ No L 386, 30. 12. 1989, p. 1).

⁽⁵⁾ OJ No L 386, 30. 12. 1989, p. 1.

Whereas the Member States can equally apply appropriate supervision techniques to groups with structures not covered by this Directive; whereas, if such structures become common, this Directive should be extended to cover them;

Whereas supervision on a consolidated basis must take in all activities defined in the Annex to Directive 89/646/EEC; whereas all undertakings principally engaged in such activities must therefore be included in supervision on a consolidated basis; whereas, as a result, the definition of a financial institution given in Directive 83/350/EEC must be widened to cover such activities;

Whereas, regarding the consolidation of financial institutions involved in activities principally subject to market risks and subject to particular rules of supervision, the coordination of the methods for the consolidated supervision of market risks is possible in the framework of Community harmonization of capital adequacy of investment firms and credit institutions, for which the Commission has introduced a proposal for a Directive; whereas such harmonization concerns, *inter alia*, the conditions which must be applied when offsetting opposing positions in the group and the case where these financial institutions are subject to specific supervisory rules regarding their financial stability; whereas this implies that, until the future Directive on capital adequacy to cover market risks is brought into effect, the competent authorities shall include in consolidated supervision financial institutions which are principally exposed to market risks, in accordance with methods determined by those authorities in the light of the particular nature of the risks involved;

Whereas, following the adoption of Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions⁽¹⁾, which, together with the Seventh Council Directive (83/349/EEC) of 13 June 1983 on consolidated accounts⁽²⁾, established the rules of consolidation applicable to consolidated accounts published by credit institutions, it is now possible to define more precisely the methods to be used in prudential supervision exercised on a consolidated basis;

Whereas this Directive is fully in keeping with the objectives defined in the Single European Act; whereas it will, in particular, ensure the homogeneous application throughout the Community of prudential rules established by other Community legislation, which must be observed on a consolidated basis; whereas this Directive is, in particular, necessary for the correct application of Council Directive 89/299/EEC of 17 April 1989 on the own funds of credit institutions⁽³⁾;

Whereas supervision of credit institutions on a consolidated basis must be aimed at, in particular, protecting the interests of the depositors of the said institutions and at ensuring the stability of the financial system;

Whereas it is desirable that agreement should be reached, on the basis of reciprocity, between the Community and third countries with a view to allowing the practical exercise of consolidated supervision over the largest possible geographical area;

Whereas the amendments to be made to Directive 83/350/EEC are so considerable that it is preferable that it be wholly replaced by this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Definitions

For the purposes of this Directive:

- *credit institution* shall mean a credit institution within the meaning of the first indent of Article 1 of Directive 77/780/EEC, or any private or public undertaking which corresponds to the definition in the first indent of Article 1 of Directive 77/780/EEC and has been authorized in a third country,
- *financial institution* shall mean an undertaking, other than a credit institution, the principal activity of which is to acquire holdings or to carry on one or more of the activities referred to in numbers 2 to 12 of the list appearing in the Annex to Directive 89/646/EEC,
- *financial holding company* shall mean a financial institution the subsidiary undertakings of which are either exclusively or mainly credit institutions or financial institutions, one at least of such subsidiaries being a credit institution,
- *mixed-activity holding company* shall mean a parent undertaking, other than a financial holding company or a credit institution, the subsidiaries of which include at least one credit institution,
- *ancillary banking services* undertaking shall mean an undertaking the principal activity of which consists in owning or managing property, managing data-processing services, or any other similar activity which is ancillary to the principal activity of one or more credit institution,
- *participation* shall mean the ownership, direct or indirect, of 20 % or more of the voting rights or capital of an undertaking,

⁽¹⁾ OJ No L 372, 31. 12. 1986, p. 1.

⁽²⁾ OJ No L 193, 18. 7. 1983, p. 1. Directive as last amended by Directive 90/605/EEC (OJ No L 317, 16. 11. 1990, p. 60).

⁽³⁾ OJ No L 124, 5. 5. 1989, p. 16.

- *parent undertaking* shall mean a parent undertaking within the meaning of Article 1 (1) of the Directive 83/349/EEC and any undertaking which, in the opinion of the competent authorities, effectively exercises a dominant influence over another undertaking,
- *subsidiary* shall mean a subsidiary undertaking within the meaning of Article 1 (1) of Directive 83/349/EEC and any undertaking over which, in the opinion of the competent authorities, a parent undertaking effectively exercises a dominant influence. All subsidiaries of subsidiary undertakings shall also be considered subsidiaries of the undertaking that is their original parent,
- *competent authorities* shall mean the national authorities which are empowered by law or regulation to supervise credit institutions.

Article 2

Scope

This Directive shall apply to credit institutions that have obtained the authorization referred to in Article 3 of Directive 77/780/EEC, financial holding companies and mixed-activity holding companies which have their head offices in the Community.

The institutions permanently excluded by Article 2 of Directive 77/780/EEC, with the exception, however, of the Member States' central banks, shall be treated as financial institutions for the purposes of this Directive.

Article 3

Supervision on a consolidated basis of credit institutions

1. Every credit institution which has a credit institution or a financial institution as a subsidiary or which holds a participation in such institutions shall be subject, to the extent and in the manner prescribed in Article 5, to supervision on the basis of its consolidated financial situation. Such supervision shall be exercised at least in the areas referred to in paragraphs 5 and 6.

2. Every credit institution the parent undertaking of which is a financial holding company shall be subject, to the extent and in the manner prescribed in Article 5, to supervision on the basis of the consolidated financial situation of that financial holding company. Such supervision shall be exercised at least in the areas referred to in paragraphs 5 and 6. The consolidation of the financial situation of the financial holding company shall not in any way imply that the competent authorities are required to play a supervisory role in relation to the financial holding company standing alone.

3. The Member States or the competent authorities responsible for exercising supervision on a consolidated basis pursuant to Article 4 may decide in the cases listed below that a credit institution, financial institution or auxiliary banking services undertaking which is a subsidiary or in which a participation is held need not be included in the consolidation :

- if the undertaking that should be included is situated in a third country where there are legal impediments to the transfer of the necessary information,
- if, in the opinion of the competent authorities, the undertaking that should be included is of negligible interest only with respect to the objectives of monitoring credit institutions and in all cases if the balance sheet total of the undertaking that should be included is less than the smaller of the following two amounts : ECU 10 million or 1 % of the balance sheet total of the parent undertaking or the undertaking that holds the participation. If several undertakings meet the above criteria, they must nevertheless be included in the consolidation where collectively they are of non-negligible interest with respect to the aforementioned objectives, or
- if, in the opinion of the competent authorities responsible for exercising supervision on a consolidated basis, the consolidation of the financial situation of the undertaking that should be included would be inappropriate or misleading as far as the objectives of the supervision of credit institutions are concerned.

4. When the competent authorities of a Member State do not include a credit institution subsidiary in supervision on a consolidated basis under one of the cases provided for in the second and third indents of paragraph 3, the competent authorities of the Member State in which that credit institution subsidiary is situated may ask the parent undertaking for information which may facilitate their supervision of that credit institution.

5. Supervision of solvency, and of the adequacy of own funds to cover market risks and control of large exposures, as governed by the relevant Community acts in force, shall be exercised on a consolidated basis in accordance with this Directive. Member States shall adopt any measures necessary, where appropriate, to include financial holding companies in consolidated supervision, in accordance with paragraph 2.

Compliance with the limits set in Article 12 (1) and (2) of Directive 89/646/EEC shall be supervised and controlled on the basis of the consolidated or sub-consolidated financial situation of the credit institution.

6. The competent authorities shall ensure that, in all the undertakings included in the scope of the supervision on a consolidated basis that is exercised over a credit institution in implementation of paragraphs 1 and 2,

there are adequate internal control mechanisms for the production of any data and information which would be relevant for the purposes of supervision on a consolidated basis.

7. Without prejudice to specific provisions contained in other Directives, Member States may waive application, on an individual or sub-consolidated basis, of the rules laid down in paragraph 5 to a credit institution that, as a parent undertaking, is subject to supervision on a consolidated basis, and to any subsidiary of such a credit institution which is subject to their authorization and supervision and is included in the supervision on a consolidated basis of the credit institution which is the parent company. The same exemption option shall be allowed where the parent undertaking is a financial holding company which has its head office in the same Member State as the credit institution, provided that it is subject to the same supervision as that exercised over credit institutions, and in particular the standards laid down in paragraph 5.

In both cases, steps must be taken to ensure that capital is distributed adequately within the banking group.

If the competent authorities do apply those rules individually to such credit institutions, they may, for the purpose of calculating own funds, make use of the provision in the last subparagraph of Article 2 (1) of Directive 89/299/EEC.

8. Where a credit institution the parent of which is a credit institution has been authorized and is situated in another Member State, the competent authorities which granted that authorization shall apply the rules laid down in paragraph 5 to that institution on an individual or, when appropriate, a sub-consolidated basis.

9. Notwithstanding the requirements of paragraph 8, the competent authorities responsible for authorizing the subsidiary of a parent undertaking which is a credit institution may, by bilateral agreement, delegate their responsibility for supervision to the competent authorities which authorized and supervise the parent undertaking. The Commission must be kept informed of the existence and content of such agreements. It shall forward such information to the competent authorities of the other Member States and to the Banking Advisory Committee.

10. Member States shall provide that their competent authorities responsible for exercising supervision on a consolidated basis may ask the subsidiaries of a credit institution or a financial holding company which are not included within the scope of supervision on a consolidated basis for the information referred to in Article 6. In such a case, the procedures for transmitting and verifying the information laid down in that Article shall apply.

Article 4

Competent authorities responsible for exercising supervision on a consolidated basis

1. Where a parent undertaking is a credit institution, supervision on a consolidated basis shall be exercised by the competent authorities that authorized it under Article 3 of Directive 77/780/EEC.

2. Where the parent of a credit institution is a financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities which authorized that credit institution under Article 3 of Directive 77/780/EEC.

However, where credit institutions authorized in two or more Member States have as their parent the same financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities of the credit institution authorized in the Member State in which the financial holding company was set up.

If no credit institution subsidiary has been authorized in the Member State in which the financial holding company was set up, the competent authorities of the Member States concerned (including those of the Member State in which the financial holding company was set up) shall seek to reach agreement as to who amongst them will exercise supervision on a consolidated basis. In the absence of such agreement, supervision on a consolidated basis shall be exercised by the competent authorities that authorized the credit institution with the greatest balance sheet total; if that figure is the same, supervision on a consolidated basis shall be exercised by the competent authorities which first gave the authorization referred to in Article 3 of Directive 77/780/EEC.

3. The competent authorities concerned may by common agreement waive the rules laid down in the first and second subparagraphs of paragraph 2.

4. The agreements referred to in the third subparagraph of paragraph 2 and in paragraph 3 shall provide for procedures for cooperation and for the transmission of information such that the objectives of this Directive may be achieved.

5. Where Member States have more than one competent authority for the prudential supervision of credit institutions and financial institutions, Member States shall take the requisite measures to organize coordination between such authorities.

Article 5

Form and extent of consolidation

1. The competent authorities responsible for exercising supervision on a consolidated basis must, for the purposes of supervision, require full consolidation of all the credit institutions and financial institutions which are subsidiaries of a parent undertaking.

However, proportional consolidation may be prescribed where, in the opinion of the competent authorities, the liability of a parent undertaking holding a share of the capital is limited to that share of the capital because of the liability of the other shareholders or members whose solvency is satisfactory. The liability of the other shareholders and members must be clearly established, if necessary by means of formal, signed commitments.

2. The competent authorities responsible for carrying out supervision on a consolidated basis must, in order to do so, require the proportional consolidation of participations in credit institutions and financial institutions managed by an undertaking included in the consolidation together with one or more undertakings not included in the consolidation, where those undertakings' liability is limited to the share of the capital they hold.

3. In the case of participations or capital ties other than those referred to in paragraphs 1 and 2, the competent authorities shall determine whether and how consolidation is to be carried out. In particular, they may permit or require use of the equity method. That method shall not, however, constitute inclusion of the undertakings concerned in supervision on a consolidated basis.

4. Without prejudice to paragraphs 1, 2 and 3, the competent authorities shall determine whether and how consolidation is to be carried out in the following cases :

- where, in the opinion of the competent authorities, a credit institution exercises a significant influence over one or more credit institutions or financial institutions, but without holding a participation or other capital ties in these institutions,
- where two or more credit institutions or financial institutions are placed under single management other than pursuant to a contract or clauses of their memoranda or articles of association,
- where two or more credit institutions or financial institutions have administrative, management or supervisory bodies with the same persons constituting a majority.

In particular, the competent authorities may permit, or require use of, the method provided for in Article 12 of Directive 83/349/EEC. That method shall not, however, constitute inclusion of the undertakings concerned in consolidated supervision.

5. Where consolidated supervision is required pursuant to Article 3 (1) and (2), ancillary banking services undertakings shall be included in consolidations in the cases, and in accordance with the methods, laid down in paragraphs 1 to 4, of this Article.

Article 6

Information to be supplied by mixed-activity holding companies and their subsidiaries

1. Pending further coordination of consolidation methods, Member States shall provide that, where the parent undertaking of one or more credit institutions is a mixed-activity holding company, the competent authorities responsible for the authorization and supervision of those credit institutions shall, by approaching the mixed-activity holding company and its subsidiaries either directly or via credit institution subsidiaries, require them to supply any information which would be relevant for the purposes of supervising the credit institution subsidiaries.

2. Member States shall provide that their competent authorities may carry out, or have carried out by external inspectors, on-the-spot inspections to verify information received from mixed-activity holding companies and their subsidiaries. If the mixed-activity holding company or one of its subsidiaries is an insurance undertaking, the procedure laid down in Article 7 (4) may also be used. If a mixed-activity holding company or one of its subsidiaries is situated in a Member State other than that in which the credit institution subsidiary is situated, on-the-spot verification of information shall be carried out in accordance with the procedure laid down in Article 7 (7).

Article 7

Measures to facilitate the application of this Directive

1. Member States shall take the necessary steps to ensure that there are no legal impediments preventing the undertakings included within the scope of supervision on a consolidated basis, mixed-activity holding companies and their subsidiaries, or subsidiaries of the kind covered in Article 3 (10), from exchanging amongst themselves any information which would be relevant for the purposes of supervision in accordance with this Directive.

2. Where a parent undertaking and any of its subsidiaries that are credit institutions are situated in different Member States, the competent authorities of each Member State shall communicate to each other all relevant information which may allow or aid the exercise of supervision on a consolidated basis.

Where the competent authorities of the Member State in which a parent undertaking is situated do not themselves exercise supervision on a consolidated basis pursuant to Article 4, they may be invited by the competent authorities responsible for exercising such supervision to ask the parent undertaking for any information which would be relevant for the purposes of supervision on a consolidated basis and to transmit it to these authorities.

3. Member States shall authorize the exchange between their competent authorities of the information referred to in paragraph 2, on the understanding that, in the case of financial holding companies, financial institutions or ancillary banking services undertakings, the collection or possession of information shall not in any way imply that the competent authorities are required to play a supervisory role in relation to those institutions or undertakings standing alone.

Similarly, Member States shall authorize their competent authorities to exchange the information referred to in Article 6 on the understanding that the collection or possession of information does not in any way imply that the competent authorities play a supervisory role in relation to the mixed-activity holding company and those of its subsidiaries which are not credit institutions, or to subsidiaries of the kind covered in Article 3 (10).

4. Where a credit institution, financial holding company or a mixed-activity holding company controls one or more subsidiaries which are insurance companies or other undertakings providing investment services which are subject to authorization, the competent authorities and the authorities entrusted with the public task of supervising insurance undertakings or those other undertakings providing investment services shall cooperate closely. Without prejudice to their respective responsibilities, those authorities shall provide one another with any information likely to simplify their task and to allow supervision of the activity and overall financial situation of the undertakings they supervise.

5. Information received pursuant to this Directive and in particular any exchange of information between competent authorities which is provided for in this Directive shall be subject to the obligation of professional secrecy defined in Article 12 of Directive 77/780/EEC.

6. The competent authorities responsible for supervision on a consolidated basis shall establish lists of the financial holding companies referred to in Article 3 (2). Those lists shall be communicated to the competent authorities of the other Member States and to the Commission.

7. Where, in applying this Directive, the competent authorities of one Member State wish in specific cases to verify the information concerning a credit institution, a financial holding company, a financial institution, an ancillary banking services undertaking, a mixed-activity holding company, a subsidiary of the kind covered in Article 6 or a subsidiary of the kind covered in Article 3 (10), situated in another Member State, they must ask the competent authorities of that other Member State to have that verification carried out. The authorities which receive such a request must, within the framework of their competence, act upon it either by carrying out the verifi-

cation themselves, by allowing the authorities who made the request to carry it out, or by allowing an auditor or expert to carry it out.

8. Without prejudice to their provisions of criminal law, Member States shall ensure that penalties or measures aimed at ending observed breaches or the causes of such breaches may be imposed on financial holding companies and mixed-activity holding companies, or their effective managers, that infringe laws, regulations or administrative provisions enacted to implement this Directive. In certain cases, such measures may require the intervention of the courts. The competent authorities shall cooperate closely to ensure that the abovementioned penalties or measures produce the desired results, especially when the central administration or main establishment of a financial holding company or of a mixed-activity holding company is not located at its head office.

Article 8

Third countries

1. The Commission may submit proposals to the Council, either at the request of a Member State or on its own initiative, for the negotiation of agreements with one or more third countries regarding the means of exercising supervision on a consolidated basis over:

- credit institutions the parent undertakings of which have their head offices situated in a third country, and
- credit institutions situated in third countries the parent undertakings of which, whether credit institutions or financial holding companies, have their head offices in the Community.

2. The agreements referred to in paragraph 1 shall in particular seek to ensure both:

- that the competent authorities of the Member States are able to obtain the information necessary for the supervision, on the basis of their consolidated financial situations, of credit institutions or financial holding companies situated in the Community and which have as subsidiaries credit institutions or financial institutions situated outside the Community, or which hold participations in such institutions,
- that the competent authorities of third countries are able to obtain the information necessary for the supervision of parent undertakings the head offices of which are situated within their territories and which have as subsidiaries credit institutions or financial institutions situated in one or more Member States, or which hold participations in such institutions.

3. The Commission and the Advisory Committee set up under Article 11 of Directive 77/780/EEC shall examine the outcome of the negotiations referred to in paragraph 1 and the resulting situation.

*Article 9***Final provisions**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1993. They shall forthwith inform the Commission thereof.

When Member States adopt the abovementioned measures, the measures shall contain a reference to this Directive or 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.

2. Notwithstanding the provisions of Article 3 (5) and until the future Directive on capital adequacy to cover market risks is brought into effect, the competent authorities shall include in consolidated supervision financial institutions which are principally exposed to market risks in accordance with methods to be determined by those authorities in the light of the particular nature of the risks involved.

3. Member States shall communicate to the Commission the texts of the main provisions of internal law which they adopt in the field governed by this Directive.

Article 10

1. Directive 83/350/EEC is hereby repealed with effect from 1 January 1993.

2. In the following provisions, the words 'Directive 83/350/EEC' shall be replaced by 'Directive 92/350/EEC':

— Article 5 of Directive 89/299/EEC,

— Articles 12 (5), 13 (3) and 15 (2) and the fifth indent of the first subparagraph of Article 18 (2) of Directive 89/646/EEC,

— Article 3 (3) of Directive 89/647/EEC.

3. In Article 1, point 5, of Directive 89/646/EEC and the first indent of Article 2 (1) of Directive 89/647/EEC, the definition of competent authorities shall be replaced by the following:

'the national authorities which are empowered by law or regulation to supervise credit institutions'.

Article 11

This Directive is addressed to the Member States.

Done at Luxembourg, 6 April 1992.

For the Council

The President

João PINHEIRO

CORRIGENDA**Corrigendum to Commission Regulation (EEC) No 3795/91 of 18 December 1991 amending the Annex to Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds**

(Official Journal of the European Communities No L 358 of 30 December 1991)

On page 49 in the Annex, against Product code 0406 90 89 100 :

for: 'Of less than 5 % and of a content, by weight, in the dry matter of 32 % or more',

read: 'Of less than 5 % and of a dry matter content, by weight, of 32 % or more';

against Product code 0406 90 89 200 :

for: 'Of less than 5 % and of a content, by weight, in the dry matter of 32 % or more',

read: 'Of less than 5 % and of dry matter content, by weight, of 32 % or more';

insert CN code 0406 90 93 before CN code 0406 90 99.

Corrigendum to Commission Regulation (EEC) No 691/92 of 19 March 1992 fixing the amounts by which import duties on beef and veal originating in the African, Caribbean and Pacific States (ACP) are to be reduced

(Official Journal of the European Communities No L 74 of 20 March 1992)

On page 34 in the Annex in the table, in the column headed 'Portugal':

— against CN code 0202 20 30 :

for: '25 663,13',

read: '26 073,85';

— against CN code 0202 20 50 :

for: '40 098,74',

read: '40 740,49';

— against CN code 0202 30 90 :

for: '55 115,48',

read: '55 757,22'.
