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I

*(Acts whose publication is obligatory)***COUNCIL REGULATION (EEC) No 1509/92****of 5 June 1992****withdrawing Hungary, Poland and Czechoslovakia from the lists of beneficiaries of the Community generalized preferences scheme as from 1 March 1992**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas Regulations (EEC) No 3831/90⁽²⁾, (EEC) No 3832/90⁽³⁾ and (EEC) No 3833/90⁽⁴⁾, extended by Regulation (EEC) No 3587/91⁽⁵⁾, provide for the Community generalized tariff preferences scheme to be applied to certain products originating in Hungary, Poland and Czechoslovakia;

Whereas Regulation (EEC) No 3834/90⁽⁶⁾, extended by Regulation (EEC) No 3588/91⁽⁷⁾, provides for a reduction of the levy applicable to certain agricultural products originating in particular in Hungary, Poland and Czechoslovakia;

Whereas the interim agreements on trade and related matters concluded by the Community with the Republic of Hungary⁽⁸⁾, the Republic of Poland⁽⁹⁾ and the Czech and Slovak Federal Republic⁽¹⁰⁾ respectively entered into force on 1 March 1992;

Whereas the Community generalized tariff preferences will no longer apply to these countries as from that date and these countries should therefore be withdrawn from the lists of beneficiaries and the volume of the fixed amounts within which a reduced levy is applied should be adapted,

HAS ADOPTED THIS REGULATION:

Article 1

1. The words 'Hungary', 'Poland' and 'Czechoslovakia' shall be deleted, as from 1 March 1992, from the lists annexed to Regulations (EEC) Nos 3831/90, 3832/90 and 3833/90.

2. The Annex to Regulation (EEC) No 3834/90 is replaced by the Annex to this Regulation.

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 Luxembourg, 5 June 1992.

For the Council

The President

Joaquim FERREIRA DO AMARAL

⁽¹⁾ Opinion delivered on 15 May 1992 (not yet published in the Official Journal).

⁽²⁾ OJ No L 370, 31. 12. 1990, p. 1.

⁽³⁾ OJ No L 370, 31. 12. 1990, p. 39.

⁽⁴⁾ OJ No L 370, 31. 12. 1990, p. 86.

⁽⁵⁾ OJ No L 341, 12. 12. 1991, p. 1 (Regulation amended by Regulation (EEC) No 3862/91 (OJ No L 362, 31. 12. 1991, p. 88).

⁽⁶⁾ OJ No L 370, 31. 12. 1990, p. 121.

⁽⁷⁾ OJ No L 341, 12. 12. 1991, p. 6.

⁽⁸⁾ OJ No L 116, 30. 4. 1992, p. 2.

⁽⁹⁾ OJ No L 114, 30. 4. 1992, p. 2.

⁽¹⁰⁾ OJ No L 115, 30. 4. 1992, p. 2.

ANNEX

List of products referred to in Article 1 (1) (a)

Order No	CN code	Description	Rate of duty	Fixed amount (in tonnes)
(1)	(2)	(3)	(4)	(5)
59.0010	0203 29 13 ex 0203 29 55	Loins and cuts thereof, of domestic swine, with bone in frozen Loins and cuts thereof, excluding tenderloin presented alone, of domestic swine, boneless, frozen	50 % (AGR)	600
59.0020	0207 10 59 0207 23 19	Ducks, plucked and drawn, without heads and feet and without hearts, livers and gizzards, known as '63 % ducks', or otherwise presented, fresh, chilled or frozen	50 % (AGR)	500
59.0025	ex 0207 39 55 ex 0207 43 15 ex 0207 39 73 ex 0207 43 53 ex 0207 39 77 ex 0207 43 63	Cuts of ducks, boneless, fresh, chilled or frozen Breasts and cuts thereof, of ducks, with bone in, fresh, chilled or frozen Legs and cuts thereof, of ducks, with bone in, fresh, chilled or frozen	50 % (AGR)	350
59.0030	0207 10 79 0207 23 59 0207 39 53 0207 43 11 0207 39 61 0207 43 23 ex 0207 39 65 ex 0207 43 31 ex 0207 39 67 ex 0207 43 41 0207 39 71 0207 43 51 0207 39 75 0207 43 61 ex 0207 39 81 ex 0207 43 71	Geese, plucked and drawn, without heads and feet, with or without hearts and gizzards, known as '75 % geese', or otherwise presented, fresh, chilled or frozen Cuts of geese, boneless, fresh, chilled or frozen Halves, or quarters, of geese, fresh, chilled or frozen Whole wings, with or without tips, of geese, fresh, chilled or frozen Backs, necks, backs with necks attached, rumps and wing tips, of geese, fresh, chilled or frozen Breasts and cuts thereof, of geese, fresh, chilled or frozen Legs and cuts thereof, of geese, fresh, chilled or frozen Goose paletots, fresh, chilled or frozen	50 % (AGR)	1 200
59.0040	0210 11 11 0210 12 11 0210 19 40 0210 19 51	Meat of domestic swine, salted or in brine : — Hams and cuts thereof — Bellies (streaky) and cuts thereof — Loins and cuts thereof — Others, boneless	50 % (AGR)	300
59.0050	1108 13 00	Potato starch	50 % (AGR)	50
59.0060	1601 00 91	Sausages and similar products, other than of liver, dry or for spreading, uncooked	50 % (AGR)	50
59.0070	1601 00 99	Other sausages, not of liver	50 % (AGR)	50
59.0080	1602 49 15 1602 49 19	Other prepared or preserved meat, of domestic swine	50 % (AGR)	50

(a) Notwithstanding the rules for the interpretation of the combined nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

COMMISSION REGULATION (EEC) No 1510/92

of 11 June 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 10 June 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 12 June 1992.

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

Done at Brussels, 11 June 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 11 June 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)	
CN code	Levy (°)
0709 90 60	140,08 (°) (°)
0712 90 19	140,08 (°) (°)
1001 10 10	173,79 (°) (°) (°)
1001 10 90	173,79 (°) (°) (°)
1001 90 91	151,41
1001 90 99	151,41 (°)
1002 00 00	168,46 (°)
1003 00 10	149,30
1003 00 90	149,30 (°)
1004 00 10	124,86
1004 00 90	124,86
1005 10 90	140,08 (°) (°)
1005 90 00	140,08 (°) (°)
1007 00 90	146,82 (°)
1008 10 00	65,98 (°)
1008 20 00	120,96 (°)
1008 30 00	66,67 (°)
1008 90 10	(°)
1008 90 90	66,67
1101 00 00	224,98 (°) (°)
1102 10 00	248,85 (°)
1103 11 10	282,73 (°) (°)
1103 11 90	241,30 (°)

- (°) Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.
- (°) In accordance with Regulation (EEC) No 715/90 the levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.
- (°) Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.
- (°) Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.
- (°) Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.
- (°) The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 and Commission Regulation (EEC) No 2622/71.
- (°) The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).
- (°) On importation into Portugal the levy is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3808/90.
- (°) No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC, except if paragraph 4 of the same Article applies.
- (°) An amount equal to the amount fixed by Regulation (EEC) No 1825/91 is to be levied in accordance with Article 101 (4) of Decision 91/482/EEC.
- (°) 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 1511/92

of 11 June 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 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 10 June 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 12 June 1992.

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

Done at Brussels, 11 June 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 11 June 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 6	1st period 7	2nd period 8	3rd period 9
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	2,48	2,48	3,73
1001 10 90	0	2,48	2,48	3,73
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 6	1st period 7	2nd period 8	3rd period 9	4th period 10
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 1512/92

of 11 June 1992

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1720/91⁽²⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 728/91⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 729/91⁽⁶⁾, and in particular Article 5 thereof,

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

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 730/91⁽¹⁰⁾, and in particular Article 10 (2) thereof,

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

Whereas by Regulation (EEC) No 3131/78⁽¹²⁾, as amended by the Act of Accession of Greece, the Commis-

sion decided to use the tendering procedure to fix levies on olive oil;

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

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

Whereas, with regard to Turkey and the Maghreb countries, the provisions of this Regulation should be without prejudice to the additional amount to be determined in accordance with the agreements between the Community and these third countries;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁴⁾, no levies shall apply on imports of products originating in the overseas countries and territories; whereas, however, pursuant to Article 101 (4) of the abovementioned Decision, a special amount shall be charged on imports of certain products originating in the overseas countries and territories in order to prevent products originating from these countries and territories from receiving more favourable treatment than similar products imported from Spain or Portugal into the Community as constituted on 31 December 1985;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 8 and 9 June 1992 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within 29 codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

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

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 80, 27. 3. 1991, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 80, 27. 3. 1991, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 80, 27. 3. 1991, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

Article 3

This Regulation shall enter into force on 12 June 1992.

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

Done at Brussels, 11 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Minimum import levies on olive oil⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	76,00 ⁽²⁾
1509 10 90	76,00 ⁽²⁾
1509 90 00	88,00 ⁽²⁾
1510 00 10	77,00 ⁽²⁾
1510 00 90	122,00 ⁽⁴⁾

⁽¹⁾ No 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 3148/91 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

⁽²⁾ For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

(a) Lebanon : ECU 0,60 per 100 kg ;

(b) Turkey : ECU 11,48 per 100 kg ^(*) provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;

(c) Algeria, Tunisia and Morocco : ECU 12,69 per 100 kg ^(*) provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

^(*) These amounts may be increased by an additional amount to be determined by the Community and the third countries in question.

⁽³⁾ For imports of oil falling within this CN code :

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

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

⁽⁴⁾ For imports of oil falling within this CN code :

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

(b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

ANNEX II

Import levies on other olive oil sector products⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
0709 90 39	16,72
0711 20 90	16,72
1522 00 31	38,00
1522 00 39	60,80
2306 90 19	6,16

⁽¹⁾ No 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 3148/91 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 1513/92

of 11 June 1992

fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

fixing regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 816/92 ⁽²⁾, and in particular Article 17 (4) thereof,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 876/68 of 28 June 1968 laying down general rules for granting export refunds on milk and milk products and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EEC) No 1344/86 ⁽⁴⁾, provides that when the refunds on the products listed in Article 1 of Regulation (EEC) No 804/68, exported in the natural state, are being fixed account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organization of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the need to avoid disturbances on the Community market, and

— the economic aspect of the proposed exports;

Whereas Article 3(1) of Regulation (EEC) No 876/68 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

- (a) prices ruling on third country markets;
- (b) the most favourable prices in third countries of destination for third country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and
- (d) free-at-Community-frontier offer prices;

Whereas Article 4 of Regulation (EEC) No 876/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of Regulation (EEC) No 804/68 according to destination;

Whereas Article 5(1) of Regulation (EEC) No 876/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; whereas the amount of the refund may, however, remain at the same level for more than four weeks;

Whereas, in accordance with Article 2 of Commission Regulation (EEC) No 1098/68 of 27 July 1968 on detailed rules for the application of export refunds on milk and milk products ⁽⁵⁾, as last amended by Regulation (EEC) No 2767/90 ⁽⁶⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components, one of which is intended to take account of the quantity of milk products and the other is intended to take account of the quantity of added sucrose; whereas, however, the latter component is applied only if the added sucrose was produced from sugar beet or cane harvested in the Community;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 86, 1. 4. 1992, p. 83.

⁽³⁾ OJ No L 155, 3. 7. 1968, p. 1.

⁽⁴⁾ OJ No L 119, 8. 5. 1986, p. 36.

⁽⁵⁾ OJ No L 184, 29. 7. 1968, p. 10.

⁽⁶⁾ OJ No L 267, 29. 9. 1990, p. 14.

Whereas, for products falling within CN codes ex 0402 99 11, ex 0402 99 19, ex 0404 90 51, ex 0404 90 53, ex 0404 90 91 and ex 0404 90 93, with a fat content by weight not exceeding 9,5 % and a non-fatty milk content in the dry matter equal to or greater than 15 % by weight, the former abovementioned component is fixed for 100 kilograms of the whole product; whereas, for the other products containing added sugar falling within codes 0402 and 0404, that component is calculated by multiplying the basic amount by the milk products content of the product concerned; whereas that basic amount is equal to the refund to be fixed for one kilogram of milk products contained in the whole product;

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of 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⁾;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾,
- 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 the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 140 per 100 kilograms;

Whereas Commission Regulation (EEC) No 896/84⁽⁵⁾, as last amended by Regulation (EEC) No 222/88⁽⁶⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of varying refunds according to the date of manufacture of the products;

Whereas for the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account;

Whereas it follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation;

Whereas by its Regulation (EEC) No 1432/92⁽⁷⁾ the Council prohibited trade between the Community and the Republics of Serbia and of Montenegro; that it is important to take account of it at the time of the fixing of the refunds;

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. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in the Annex.
2. There shall be no refunds for exports to Zone E for products falling within CN codes 0401, 0402, 0403, 0404, 0405 and 2309.
3. Export refunds towards the Republics of Montenegro and Serbia are not fixed.

Article 2

This Regulation shall enter into force on 12 June 1992.

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

Done at Brussels, 11 June 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 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 91, 1. 4. 1984, p. 71.

⁽⁶⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽⁷⁾ OJ No L 151, 3. 6. 1992, p. 4.

ANNEX

to the Commission Regulation of 11 June 1992 fixing the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0401 10 10 000		6,36
0401 10 90 000		6,36
0401 20 11 100		6,36
0401 20 11 500		9,61
0401 20 19 100		6,36
0401 20 19 500		9,61
0401 20 91 100		12,65
0401 20 91 500		14,67
0401 20 99 100		12,65
0401 20 99 500		14,67
0401 30 11 100		18,72
0401 30 11 400		28,65
0401 30 11 700		42,84
0401 30 19 100		18,72
0401 30 19 400		28,65
0401 30 19 700		42,84
0401 30 31 100		50,94
0401 30 31 400		79,31
0401 30 31 700		87,41
0401 30 39 100		50,94
0401 30 39 400		79,31
0401 30 39 700		87,41
0401 30 91 100		99,57
0401 30 91 400		146,17
0401 30 91 700		170,49
0401 30 99 100		99,57
0401 30 99 400		146,17
0401 30 99 700		170,49
0402 10 11 000		65,00
0402 10 19 000		65,00
0402 10 91 000		0,6500
0402 10 99 000		0,6500
0402 21 11 200		65,00
0402 21 11 300		99,72
0402 21 11 500		106,00
0402 21 11 900		112,00
0402 21 17 000		65,00
0402 21 19 300		99,72
0402 21 19 500		106,00
0402 21 19 900		112,00
0402 21 91 100		115,96
0402 21 91 200		116,87
0402 21 91 300		118,53
0402 21 91 400		128,15
0402 21 91 500		131,43
0402 21 91 600		143,96
0402 21 91 700		151,51
0402 21 91 900		159,88
0402 21 99 100		115,96
0402 21 99 200		116,87
0402 21 99 300		118,53
0402 21 99 400		128,15
0402 21 99 500		131,43
0402 21 99 600		143,96
0402 21 99 700		151,51
0402 21 99 900		159,88

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0402 29 15 200		0,6500
0402 29 15 300		0,9972
0402 29 15 500		1,0600
0402 29 15 900		1,1500
0402 29 19 200		0,6500
0402 29 19 300		0,9972
0402 29 19 500		1,0600
0402 29 19 900		1,1500
0402 29 91 100		1,1596
0402 29 91 500		1,2815
0402 29 99 100		1,1596
0402 29 99 500		1,2815
0402 91 11 110		6,36
0402 91 11 120		12,65
0402 91 11 310		19,53
0402 91 11 350		24,42
0402 91 11 370		30,28
0402 91 19 110		6,36
0402 91 19 120		12,65
0402 91 19 310		19,53
0402 91 19 350		24,42
0402 91 19 370		30,28
0402 91 31 100		24,60
0402 91 31 300		35,78
0402 91 39 100		24,60
0402 91 39 300		35,78
0402 91 51 000		28,65
0402 91 59 000		28,65
0402 91 91 000		99,57
0402 91 99 000		99,57
0402 99 11 110		0,0636
0402 99 11 130		0,1265
0402 99 11 150		0,1967
0402 99 11 310		22,53
0402 99 11 330		27,52
0402 99 11 350		37,32
0402 99 19 110		0,0636
0402 99 19 130		0,1265
0402 99 19 150		0,1967
0402 99 19 310		22,53
0402 99 19 330		27,52
0402 99 19 350		37,32
0402 99 31 110		0,2663
0402 99 31 150		38,94
0402 99 31 300		0,5094
0402 99 31 500		0,8741
0402 99 39 110		0,2663
0402 99 39 150		38,94
0402 99 39 300		0,5094
0402 99 39 500		0,8741
0402 99 91 000		0,9957
0402 99 99 000		0,9957
0403 10 02 000		—
0403 10 04 200		—
0403 10 04 300		—
0403 10 04 500		—
0403 10 04 900		—
0403 10 06 000		—
0403 10 12 000		—
0403 10 14 200		—
0403 10 14 300		—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0403 10 14 500		—
0403 10 14 900		—
0403 10 16 000		—
0403 10 22 100		6,36
0403 10 22 300		9,61
0403 10 24 000		12,65
0403 10 26 000		18,72
0403 10 32 100		0,0636
0403 10 32 300		0,0961
0403 10 34 000		0,1265
0403 10 36 000		0,1872
0403 90 11 000		65,00
0403 90 13 200		65,00
0403 90 13 300		99,72
0403 90 13 500		106,00
0403 90 13 900		115,00
0403 90 19 000		115,96
0403 90 31 000		0,6500
0403 90 33 200		0,6500
0403 90 33 300		0,9972
0403 90 33 500		1,0600
0403 90 33 900		1,1500
0403 90 39 000		1,1596
0403 90 51 100		6,36
0403 90 51 300		9,61
0403 90 53 000		12,65
0403 90 59 110		18,72
0403 90 59 140		28,65
0403 90 59 170		42,84
0403 90 59 310		50,94
0403 90 59 340		79,31
0403 90 59 370		87,41
0403 90 59 510		99,57
0403 90 59 540		146,17
0403 90 59 570		170,49
0403 90 61 100		0,0636
0403 90 61 300		0,0961
0403 90 63 000		0,1265
0403 90 69 000		0,1872
0404 90 11 100		65,00
0404 90 11 910		6,36
0404 90 11 950		19,53
0404 90 13 120		65,00
0404 90 13 130		99,72
0404 90 13 140		106,00
0404 90 13 150		115,00
0404 90 13 911		6,36
0404 90 13 913		12,65
0404 90 13 915		18,72
0404 90 13 917		28,65
0404 90 13 919		42,84
0404 90 13 931		19,53
0404 90 13 933		24,42
0404 90 13 935		30,28
0404 90 13 937		35,78
0404 90 13 939		37,44
0404 90 19 110		115,96
0404 90 19 115		116,87
0404 90 19 120		118,53
0404 90 19 130		128,15
0404 90 19 135		131,43

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0404 90 19 150		143,96
0404 90 19 160		151,51
0404 90 19 180		159,88
0404 90 19 900		—
0404 90 31 100		65,00
0404 90 31 910		6,36
0404 90 31 950		19,53
0404 90 33 120		65,00
0404 90 33 130		99,72
0404 90 33 140		106,00
0404 90 33 150		115,00
0404 90 33 911		6,36
0404 90 33 913		12,65
0404 90 33 915		18,72
0404 90 33 917		28,65
0404 90 33 919		42,84
0404 90 33 931		19,53
0404 90 33 933		24,42
0404 90 33 935		30,28
0404 90 33 937		35,78
0404 90 33 939		37,44
0404 90 39 110		115,96
0404 90 39 115		116,87
0404 90 39 120		118,53
0404 90 39 130		128,15
0404 90 39 150		131,43
0404 90 39 900		—
0404 90 51 100		0,6500
0404 90 51 910		0,0636
0404 90 51 950		22,53
0404 90 53 110		0,6500
0404 90 53 130		0,9972
0404 90 53 150		1,0600
0404 90 53 170		1,1500
0404 90 53 911		0,0636
0404 90 53 913		0,1265
0404 90 53 915		0,1872
0404 90 53 917		0,2865
0404 90 53 919		0,4284
0404 90 53 931		22,53
0404 90 53 933		27,52
0404 90 53 935		37,32
0404 90 53 937		38,94
0404 90 53 939		—
0404 90 59 130		1,1596
0404 90 59 150		1,2815
0404 90 59 930		0,6107
0404 90 59 950		0,8741
0404 90 59 990		0,9957
0404 90 91 100		0,6500
0404 90 91 910		0,0636
0404 90 91 950		22,53
0404 90 93 110		0,6500
0404 90 93 130		0,9972
0404 90 93 150		1,0600

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0404 90 93 170		1,1500
0404 90 93 911		0,0636
0404 90 93 913		0,1265
0404 90 93 915		0,1872
0404 90 93 917		0,2865
0404 90 93 919		0,4284
0404 90 93 931		22,53
0404 90 93 933		27,52
0404 90 93 935		37,32
0404 90 93 937		38,94
0404 90 93 939		—
0404 90 99 130		1,1596
0404 90 99 150		1,2815
0404 90 99 930		0,6107
0404 90 99 950		0,8741
0404 90 99 990		0,9957
0405 00 10 100		—
0405 00 10 200		127,02
0405 00 10 300		159,80
0405 00 10 500		163,90
0405 00 10 700		168,00
0405 00 90 100		168,00
0405 00 90 900		215,32
0406 10 20 100		—
0406 10 20 200		—
0406 10 20 210		—
0406 10 20 230	---	47,97
	028	—
	032	—
	400	39,03
	404	—
0406 10 20 290	---	47,97
	028	—
	032	—
	400	39,03
	404	—
0406 10 20 610	---	89,49
	028	13,50
	032	13,50
	036	—
	038	—
	400	87,23
	404	—
0406 10 20 620	---	98,13
	028	20,00
	032	20,00
	036	—
	038	—
	400	96,18
	404	—
0406 10 20 630	---	110,79
	028	24,00
	032	24,00
	036	—
	038	—
	400	109,31
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 10 20 640	---	130,00
	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
0406 10 20 650	---	135,35
	028	27,50
	032	27,50
	036	—
	038	—
	400	65,00
	404	—
0406 10 20 660	---	—
0406 10 20 810	---	21,06
	028	—
	032	—
	036	—
	038	—
	400	21,46
	404	—
0406 10 20 830	---	35,97
	028	—
	032	—
	036	—
	038	—
	400	37,62
	404	—
0406 10 20 850	---	43,62
	028	—
	032	—
	036	—
	038	—
	400	45,81
	404	—
0406 10 20 870	---	—
0406 10 20 900	---	—
0406 10 80 000	---	—
0406 20 90 100	---	—
0406 20 90 913	---	84,94
	028	—
	032	—
	400	87,74
	404	—
	---	113,25
	028	—
0406 20 90 915	---	113,25
	028	—
	032	—
	400	116,99
	404	—
	---	120,33
	028	—
0406 20 90 917	---	120,33
	028	—
	032	—
	400	124,30
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 20 90 919	...	134,49
	028	—
	032	—
	400	138,92
	404	—
0406 20 90 990		—
0406 30 10 100		—
0406 30 10 150	...	22,83
	028	—
	032	—
	036	—
	038	—
	400	20,03
	404	—
0406 30 10 200	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
0406 30 10 250	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
0406 30 10 300	...	71,42
	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
0406 30 10 350	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
0406 30 10 400	...	71,42
	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
0406 30 10 450	...	103,95
	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 30 10 500		—
0406 30 10 550	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	20,00
0406 30 10 600	...	71,42
	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	28,00
0406 30 10 650	...	103,95
	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
0406 30 10 700	...	103,95
	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
0406 30 10 750	...	126,87
	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
0406 30 10 800	...	126,87
	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
0406 30 10 900		—
0406 30 31 100		—
0406 30 31 300	...	22,83
	028	—
	032	—
	036	—
	038	—
	400	20,03
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 30 31 500	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
0406 30 31 710	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
0406 30 31 730	...	71,42
	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
0406 30 31 910	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
0406 30 31 930	...	71,42
	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
0406 30 31 950	...	103,95
	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
0406 30 39 100	...	—
0406 30 39 300	...	48,68
	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	20,00

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 30 39 500	...	71,42
	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	28,00
	...	103,95
0406 30 39 700	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	103,95
	028	—
0406 30 39 930	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	126,87
	028	—
	032	—
0406 30 39 950	036	—
	038	—
	400	113,54
	404	—
	...	126,87
	028	—
	032	—
	036	—
0406 30 90 000	038	—
	400	113,54
	404	—
	...	126,51
	028	—
	032	—
	038	—
	400	120,00
0406 40 00 100	404	—
	...	159,34
	028	—
	032	—
	036	—
	038	—
	400	113,00
	404	—
0406 40 00 900	...	126,51
	028	—
	032	—
	038	—
	400	120,00
	404	—
	...	159,34
	028	—
0406 90 13 000	032	—
	036	—
	038	—
	400	113,00
	404	—
	...	159,34
	028	—
	032	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 90 15 100	...	159,34
	028	—
	032	—
	036	—
	038	—
	400	113,00
	404	—
0406 90 15 900		—
0406 90 17 100	...	159,34
	028	—
	032	—
	036	—
	038	—
	400	113,00
	404	—
0406 90 17 900		—
0406 90 21 100		—
0406 90 21 900	...	151,68
	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	732	139,68
0406 90 23 100		—
0406 90 23 900	...	135,35
	028	—
	032	—
	036	—
	038	—
	400	65,00
	404	—
0406 90 25 100		—
0406 90 25 900	...	135,35
	028	—
	032	—
	036	—
	038	—
	400	65,00
	404	—
0406 90 27 100		—
0406 90 27 900	...	114,71
	028	—
	032	—
	036	—
	038	—
	400	56,14
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 90 31 111		—
0406 90 31 119	...	89,96
	028	—
	032	—
	036	—
	038	15,00
	400	62,48
	404	16,00
0406 90 31 151	...	83,83
	028	—
	032	—
	036	—
	038	—
	400	58,40
	404	14,96
0406 90 31 159		—
0406 90 31 900		—
0406 90 33 111		—
0406 90 33 119	...	89,96
	028	—
	032	—
	036	—
	038	15,00
	400	62,48
	404	16,00
0406 90 33 151	...	83,83
	028	—
	032	—
	036	—
	038	—
	400	58,40
	404	14,96
0406 90 33 159		—
0406 90 33 911		—
0406 90 33 919	...	89,96
	028	—
	032	—
	036	—
	038	15,00
	400	62,48
	404	16,00
0406 90 33 951	...	83,83
	028	—
	032	—
	036	—
	038	—
	400	58,40
	404	14,96

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 90 33 959		—
0406 90 35 110		—
0406 90 35 190	...	158,54
	028	—
	032	—
	036	42,66
	400	160,00
	404	90,00
0406 90 35 910		—
0406 90 35 990	...	130,00
	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
0406 90 61 000	...	185,00
	028	—
	032	—
	036	90,00
	400	190,00
	404	140,00
0406 90 63 100	...	212,12
	028	—
	032	—
	036	105,03
	400	220,00
	404	160,00
0406 90 63 900	...	165,00
	028	—
	032	—
	036	70,00
	400	150,00
	404	80,00
0406 90 69 100		—
0406 90 69 910	...	165,00
	028	—
	032	—
	036	70,00
	400	150,00
	404	80,00
0406 90 69 990		—
0406 90 73 100		—
0406 90 73 900	...	151,00
	028	—
	032	—
	036	42,66
	400	160,00
	404	120,00
0406 90 75 100		—
0406 90 75 900	...	125,96
	028	—
	032	—
	036	—
	400	65,00
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 90 77 100	...	110,79
	028	24,00
	032	24,00
	036	—
	038	—
	400	58,77
	404	—
0406 90 77 300	...	135,35
	028	—
	032	—
	036	—
	038	—
	400	65,00
	404	—
0406 90 77 500	...	135,35
	028	—
	032	—
	036	—
	038	—
	400	75,00
	404	—
0406 90 79 100	...	—
0406 90 79 900	...	114,71
	028	—
	032	—
	036	—
	038	—
	400	56,14
	404	—
0406 90 81 100	...	—
0406 90 81 900	...	130,00
	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
0406 90 85 100	...	—
0406 90 85 910	...	158,54
	028	—
	032	—
	036	42,67
	400	160,00
	404	90,00
	...	130,00
0406 90 85 991	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 90 85 995	...	135,35
	028	27,50
	032	27,50
	036	—
	038	—
	400	65,00
	404	—
0406 90 85 999	...	—
0406 90 89 100	...	89,49
	028	13,50
	032	13,50
	036	—
	038	—
	400	87,23
	404	—
0406 90 89 200	...	98,13
	028	20,00
	032	20,00
	036	—
	038	—
	400	96,18
	404	—
0406 90 89 300	...	110,79
	028	24,00
	032	24,00
	036	—
	038	—
	400	109,31
	404	—
0406 90 89 910	...	—
0406 90 89 951	...	151,00
	028	—
	032	—
	036	42,66
	400	160,00
	404	90,00
	...	130,00
0406 90 89 959	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	135,35
0406 90 89 971	028	27,50
	032	27,50
	036	—
	038	—
	400	74,00
	404	—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
0406 90 89 972	***	47,97
	028	—
	032	—
	400	39,03
	404	—
0406 90 89 979	***	135,35
	028	27,50
	032	27,50
	036	—
	038	—
	400	74,00
	404	—
0406 90 89 990		—
0406 90 93 000		—
0406 90 99 000		—
2309 10 15 010		—
2309 10 15 100		—
2309 10 15 200		—
2309 10 15 300		—
2309 10 15 400		—
2309 10 15 500		—
2309 10 15 700		—
2309 10 15 900		—
2309 10 19 010		—
2309 10 19 100		—
2309 10 19 200		—
2309 10 19 300		—
2309 10 19 400		—
2309 10 19 500		—
2309 10 19 600		—
2309 10 19 700		—
2309 10 19 800		—
2309 10 19 900		—
2309 10 70 010		—
2309 10 70 100		19,50
2309 10 70 200		26,00
2309 10 70 300		32,50
2309 10 70 500		39,00
2309 10 70 600		45,50
2309 10 70 700		52,00
2309 10 70 800		57,20
2309 10 70 900		—
2309 90 35 010		—
2309 90 35 100		—
2309 90 35 200		—
2309 90 35 300		—
2309 90 35 400		—
2309 90 35 500		—
2309 90 35 700		—
2309 90 35 900		—
2309 90 39 010		—
2309 90 39 100		—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund
2309 90 39 200		—
2309 90 39 300		—
2309 90 39 400		—
2309 90 39 500		—
2309 90 39 600		—
2309 90 39 700		—
2309 90 39 800		—
2309 90 39 900		—
2309 90 70 010		—
2309 90 70 100		19,50
2309 90 70 200		26,00
2309 90 70 300		32,50
2309 90 70 500		39,00
2309 90 70 600		45,50
2309 90 70 700		52,00
2309 90 70 800		57,20
2309 90 70 900		—

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EEC) No 3518/91.

For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by '—'.

Where no destination is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1 (2) and (3).

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EEC) No 1514/92

of 11 June 1992

authorizing certain intervention agencies to put up for sale by tender 246 000 tonnes of common wheat for export in the form of flour

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 7 ⁽⁶⁾ thereof,

Whereas Article 3 of Council Regulation (EEC) No 1581/86 of 23 May 1986 laying down general rules for intervention on the market in cereals ⁽³⁾, as last amended by Regulation (EEC) No 2203/90 ⁽⁴⁾, provides that the sale of cereals held by intervention agencies must be by invitation to tender;

Whereas Commission Regulation (EEC) No 1836/82 ⁽⁵⁾, as last amended by Regulation (EEC) No 3043/91 ⁽⁶⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;

Whereas the Community cereal year begins on 1 July; whereas, however, in the north of the Community the common wheat harvest is not available until August; whereas, as a result, millers working for export in the north of the Community suffer from supply problems; whereas, therefore, provision should be made for supplies to the latter in July from intervention stocks at terms competitive with the market prices for the new harvest;

Whereas a conversion rate should be set to determine the quantity of flour to be exported on the basis of the common wheat used;

Whereas, to ensure that the operation is carried out smoothly, it should be stipulated that securities may be released only after completion of customs export formalities to avoid any disturbance of the market;

Whereas the Member States are to take all additional measures compatible with the provisions in force to

ensure that the scheme operates smoothly and that the Commission is kept informed;

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

HAS ADOPTED THIS REGULATION:

Article 1

The intervention agencies of the Member States listed below are hereby authorized to issue an invitation to tender for the sale on the Community market of 246 000 tonnes of common wheat in accordance with Article 4 of Regulation (EEC) No 1836/82, as follows:

	<i>tonnes</i>
Belgium	20 000
Denmark	2 000
Germany	100 000
France	100 000
Germany (Musselkanaal)	14 000
France (Ghent)	10 000

Article 2

1. The invitation to tender shall be open from 1 to 31 July 1992.

2. A quantity of common wheat flour for human consumption equal to the quantity of common wheat awarded divided by the coefficient referred to in Article 5 must be exported to third countries.

Tenders shall be valid only if they:

- are accompanied by an application for an export licence for common wheat flour having an ash content of 0 to 600 mg per 100 g with an application for advance fixing of the refund set for the relevant quality,
- are accompanied by evidence that the tenderer has lodged a security of ECU 5 per tonne,
- are accompanied by a written undertaking from the tenderer to lodge, at the latest on payment of the goods, a security covering any difference between the price provided for in Article 5 (3) of Regulation (EEC) No 1836/82 and that indicated in the tender.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 139, 24. 5. 1986, p. 36.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 5.

⁽⁵⁾ OJ No L 202, 9. 7. 1982, p. 23.

⁽⁶⁾ OJ No L 288, 18. 10. 1991, p. 21.

Article 3

The minimum sales price shall be the intervention buying-in price valid for October 1992, minus two monthly increments.

Article 4

1. Notwithstanding Article 21 (1) of Commission Regulation (EEC) No 3719/88 ⁽¹⁾, export licences issued shall, for the determination of their term of validity, be deemed to have been issued on the date of submission of the tender.

2. Export licences issued under the present invitation to tender shall be valid from the date of issue within the meaning of paragraph 1 until the end of the second month thereafter.

3. Export licences issued under this invitation to tender must bear the following entry in section 22 :

‘Invitation to tender issued by Regulation (EEC) No 1514/92 — Tender from’.

Article 5

For the determination of the quantity of flour to be exported, the quantity of common wheat awarded shall be delivered by a coefficient of 1,37.

Article 6

1. The securities referred to in the second indent of the second subparagraph of Article 2 (2) shall be released :

- for the quantities for which the tender has not been accepted, or
- in all other cases, in accordance with Title V of Commission Regulation (EEC) No 2220/85 ⁽²⁾.

2. The securities referred to in the third indent of the second subparagraph of Article 2 (2) shall be released for the corresponding quantities of flour for which evidence of export has been furnished.

3. The primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85 shall be payment of the selling price and export within the time limit laid down for the common wheat flour under the export licence referred to in Article 4.

Evidence to be furnished shall be that applicable for the security for the export licence issued following award of the contract.

Article 7

The intervention agencies concerned shall take all necessary steps to ensure compliance with the provisions of this Regulation. They shall provide each other with all necessary information and shall inform the Commission weekly, within the Management Committee for Cereals, of progress of the invitation to tender.

Article 8

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

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

Done at Brussels, 11 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽²⁾ OJ No L 205, 3. 8. 1985, p. 5.

COMMISSION REGULATION (EEC) No 1515/92

of 11 June 1992

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3766/91 of 12 December 1991 establishing a support system for producers of soya beans, rape seed and colza seed and sunflower seed⁽¹⁾, and in particular Article 11 thereof,

Whereas Article 9 (2) of Council Regulation (EEC) No 1594/83 of 14 June 1983 on subsidies for oilseeds⁽²⁾ as last amended by Regulation (EEC) No 1321/90⁽³⁾ foresees that imports of rape seed and sunflower seed shall be subject to a system of control in order to avoid that these seeds claim for the subsidies provided for Community produced seeds; whereas Article 28 (1) and (2) of Commission Regulation (EEC) No 2681/83 of 21 September 1983 laying down detailed rules for the application of the subsidy system for oilseeds⁽⁴⁾ as last amended by Regulation (EEC) No 2964/91⁽⁵⁾ establishes the time limits for the release of the securities that may be involved in the control system for imported seeds;

Whereas Articles 10 and 11 of Commission Regulation (EEC) No 1813/84 of 28 June 1984 laying down detailed rules for applying differential amounts for colza, rape seed and sunflower seed⁽⁶⁾ as last amended by Regulation (EEC) No 1539/90⁽⁷⁾ foresees that seed subject to intra-Community trade shall be accompanied by a control copy, provided for in Article 10 of Commission Regulation (EEC) No 2823/87⁽⁸⁾ accompanied by a security; whereas Article 13 of Regulation (EEC) No 1813/84 establishes the time limits for the release of this security;

Whereas Article 2 (1) of Regulation (EEC) No 1594/83 and Article 6 of Council Regulation (EEC) No 2194/85 of 25 July 1985 adopting general rules concerning special measures for soyabeans⁽⁹⁾ as last amended by Regulation (EEC) No 1725/91⁽¹⁰⁾, provides for a control system in the undertakings to ensure that the subsidy is received only for seeds for which the subsidy is provided;

Whereas the support scheme introduced by Regulation (EEC) No 3766/91 supersedes the support provisions for rape seed, sunflower seed and soya seed established in Council Regulation (EEC) No 136/66⁽¹¹⁾, as last amended by Regulation (EEC) No 356/92⁽¹²⁾ and Council Regulation (EEC) No 1491/85⁽¹³⁾, as last amended by Regulation (EEC) No 1724/91⁽¹⁴⁾, for the 1992 oilseeds harvest; whereas in consequence the 1992 crop grains will neither be put under control in the undertakings nor identified; whereas in order to avoid any risk of fraud it is necessary to put under control in the undertakings the seed which has been imported subject to a security before the end of the current support system; whereas given that no more subsidies are provided for Community seeds it is convenient to stop the control systems for both the imported seed and the intra-Community trade; whereas in order to avoid as far as possible the interference between both support schemes it is convenient to shorten the delays provided for the release of the securities involved in imports of rape seed and sunflower seed and in intra-Community trade;

Whereas in order to avoid any risk of fraud it is convenient to control accurately the remaining stocks of Community oilseeds in the undertakings at the time where the present support scheme ends;

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

HAS ADOPTED THIS REGULATION:

Article 1

Extra-Community trade

1. All imported seeds or mixtures of rape seed or sunflower seed which are subject to the security referred to in Article 27 (1) of Regulation (EEC) No 2681/83 shall be placed under the control referred to in Article 2 of Regulation (EEC) No 1594/83 by 30 June 1992.

⁽¹⁾ OJ No L 356, 24. 12. 1991, p. 17.

⁽²⁾ OJ No L 163, 22. 6. 1983, p. 44.

⁽³⁾ OJ No L 132, 23. 5. 1990, p. 15.

⁽⁴⁾ OJ No L 266, 28. 9. 1983, p. 1.

⁽⁵⁾ OJ No L 282, 10. 10. 1991, p. 15.

⁽⁶⁾ OJ No L 170, 29. 6. 1984, p. 41.

⁽⁷⁾ OJ No L 145, 8. 6. 1990, p. 20.

⁽⁸⁾ OJ No L 270, 23. 9. 1987, p. 1.

⁽⁹⁾ OJ No L 204, 2. 8. 1985, p. 1.

⁽¹⁰⁾ OJ No L 162, 26. 6. 1991, p. 37.

⁽¹¹⁾ OJ No 172, 30. 9. 1966, p. 3025/66.

⁽¹²⁾ OJ No L 139, 15. 2. 1992, p. 1.

⁽¹³⁾ OJ No L 151, 10. 6. 1985, p. 15.

⁽¹⁴⁾ OJ No L 162, 26. 6. 1991, p. 35.

2. The control system for imports of rape seed and sunflower seed referred to in Article 26 of Regulation (EEC) No 2681/83 shall not apply to imports after 30 June 1992.

3. The deadlines foreseen in the first and second indents of Article 28 (1) of Regulation (EEC) No 2681/83 for the release of securities related to imported rape seed and sunflower seed, shall be no later than 31 March 1993.

4. Notwithstanding the provision in the second indent of Article 28 (2) Regulation (EEC) No 2681/83, if the proof referred to in paragraph 1 of the abovementioned Article is presented later than 31 March 1993 the security shall be reimbursed less 25 % thereof for each month or part of a month by which presentation of the said proof is late.

Article 2

Intra-Community trade

1. The control system for intra-Community trade of rape seed and sunflower seed referred to in Article 10 (1) of Regulation (EEC) No 1813/84 shall not apply to transactions initiated after 30 June 1992.

2. The deadline foreseen in Article 13 (1), first indent of Regulation (EEC) No 1813/84 for the release of securi-

ties related to intra-Community trade of rape seed and sunflower seed shall be no later than 31 March 1993.

3. Notwithstanding the provision of Article 13 (1), second indent of Regulation (EEC) No 1813/84, if the proof referred to in Article 12 of the abovementioned Regulation is presented later than 31 March 1993 the security shall be reimbursed less 25 % thereof for each month or part of a month by which presentation of the said proof is late.

Article 3

Control in undertakings

Member States shall make an inventory accompanied by physical checks of stocks of sunflower seed and rape seed and of soya seed placed under the controls referred to in Article 2 of Regulation (EEC) No 1594/83 and in Article 3 of Commission Regulation (EEC) No 2537/89 ⁽¹⁾ respectively held on 30 June 1992. The inventory must show for each undertaking the quantity and quality of Community identified seed and third country seed respectively. This inventory will be restricted to undertakings holding Community seed on 30 June 1992.

Article 4

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

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

Done at Brussels, 11 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 245, 22. 8. 1989, p. 8.

COMMISSION REGULATION (EEC) No 1516/92

of 11 June 1992

laying down temporary transitional arrangements for the implementation of
Regulation (EEC) No 615/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3766/91 of 12 December 1991 establishing a support system for producers of soya beans, rape seed and colza seed and sunflower seed⁽¹⁾ and in particular Article 9 (2) and Article 11 thereof,

Whereas Commission Regulation (EEC) No 615/92⁽²⁾, as amended by Regulation (EEC) No 1241/92⁽³⁾, lays down detailed rules for a support system for producers of soya beans, rape seed, colza seed and sunflower seed, and in particular Article 3 (1) (iv) thereof specifies that applications for the direct payments should be lodged by 30 May 1992;

Whereas because of exceptional meteorological circumstances during the spring of 1992 it has not been possible to sow sunflower seed in certain traditional growing areas before the end of May 1992; whereas to prevent undue hardship to sunflower seed producers in those areas the deadline for the submission of their applications for the direct payments should be, exceptionally and temporarily, extended;

Whereas because of administrative problems in Member States application forms for the direct payments have not been made available to producers in good time to apply before the deadlines specified by the Member States; whereas to protect the legitimate expectation of producers who have sown their seed but have been unable to apply for the direct payments before the deadline specified by the Member State because of administrative problems; whereas the existing system of cumulative forfeiture of the eligibility to receive the direct payments because of late application may be temporarily not applied, and a different system of forfeitures temporarily applied;

Whereas to prevent the risk of fraud against the Community budget and to ensure timeliness in the lodging of applications after the periods of the temporary arrangements it is appropriate to intensify the rate of sanction applied;

Whereas the measures provided for in this Regulation shall apply from 30 May 1992;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. In cases where, for agro-climatic reasons, producers of sunflower seed on non-irrigated land within the areas listed in the Annex have been unable to sow their sunflower seed by 30 May 1992, the competent authority may authorize the extension of the relevant date given in Annex I of Regulation (EEC) No 615/92 for these producers until not later than 15 June 1992.

2. In cases where paragraph 1 is applied, the competent authority shall not apply the provisions of Article 14 (1) of Regulation (EEC) No 615/92 relating to late submission of the application form, but shall instead apply a cumulative *per diem* forfeiture of eligibility to receive the direct payments equal to 2 % of the projected regional reference amount. This forfeiture shall be applied up to a maximum of 15 days, after which the application shall become void and the area concerned ineligible for further support during 1992/93.

Article 2

1. For the 1992/93 exercise, in cases where, by the appropriate date specified by the Member State in accordance with Article 3 (1) (iv) of Regulation (EEC) No 615/92, a producer has sown the seed but failed to lodge the application for the direct payments because of administrative problems within the Member State the competent authority of the Member State may choose not to apply the provisions of Article 14 (1) of Regulation (EEC) No 615/92 relating to the late submission of the application form.

2. In cases where paragraph 1 is applied, a cumulative *per diem* forfeiture of eligibility to receive the direct payment equal to 0 % of the projected regional reference amount for a period of 15 days immediately following the relevant date specified in accordance with Article 3 (1) (iv) of Regulation (EEC) No 615/92 and 2 % of the same amount for the subsequent 15 days shall be applied. These forfeitures shall be applied for a maximum of 30 days, after which the application shall become void and the area concerned ineligible for further support during 1992/93.

⁽¹⁾ OJ No L 356, 24. 12. 1991, p. 17.

⁽²⁾ OJ No L 67, 12. 3. 1992, p. 11.

⁽³⁾ OJ No L 130, 15. 5. 1992, p. 35.

Article 3

1. The provisions of Articles 1 and 2 may not be combined in any individual case.
2. Member States shall adopt any additional measures necessary for the application of this Regulation.
3. The competent authorities of Member States applying the provisions of Articles 1 and 2 shall submit a

succinct report on their application to the Commission by 15 September 1992.

Article 4

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

It shall apply from 30 May 1992.

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

Done at Brussels, 11 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

*ANNEX***SPAIN**

Avila
Burgos
León
Palencia
Salamanca
Segovia
Soria
Valladolid
Zamora
Huesca
Zaragoza
Granada
Cáceres
Cuenca
Badajoz

PORTUGAL

Portalegre
Beja (except Odemira)
Évora.

COMMISSION REGULATION (EEC) No 1517/92
of 11 June 1992

fixing the maximum export refunds on olive oil for the 14th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3149/91

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

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

Having regard to Council Regulation (EEC) No 1650/86 of 26 May 1986 on the refunds and levies applicable to exports of olive oil ⁽³⁾, and in particular Article 7 thereof,

Whereas Commission Regulation (EEC) No 3149/91 ⁽⁴⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas by its Regulation (EEC) No 1432/92 ⁽⁵⁾ the Council prohibited trade between the Community and the Republics of Serbia and of Montenegro; that it is important to take account of it at the time of the fixing of the refunds;

Whereas Article 6 of Regulation (EEC) No 3149/91 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any

tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the above-mentioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The maximum export refunds for olive oil for the 14th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3149/91 are hereby fixed in the Annex, on the basis of the tenders submitted by 9 June 1992.

2. Export refunds towards the Republics of Montenegro and Serbia are not fixed.

Article 2

This Regulation shall enter into force on 12 June 1992.

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

Done at Brussels, 11 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 299, 30. 10. 1991, p. 24.

⁽⁵⁾ OJ No L 151, 3. 6. 1992, p. 4.

ANNEX

to the Commission Regulation of 11 June 1992 fixing the maximum export refunds on olive oil for the 14th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3149/91

<i>(ECU/100 kg)</i>	
Product code	Amount of refund
1509 10 90 100	40,00
1509 10 90 900	67,00
1509 90 00 100	50,00
1509 90 00 900	82,00
1510 00 90 100	12,00
1510 00 90 900	—

NB: The products codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EEC) No 1518/92

of 11 June 1992

fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex II to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 816/92 ⁽²⁾, and in particular Article 17 (4) thereof,

Whereas Article 17 (1) of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 (a), (b), (c) and (e) of that Regulation and prices within the Community may be covered by an export refund; whereas Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down general rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EEC) No 3381/90 ⁽⁴⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EEC) No 804/68;

Whereas, in accordance with the first subparagraph of Article 4 (1) of Regulation (EEC) No 3035/80, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month;

Whereas, in accordance with paragraph 2 of that Article, that rate must be determined with particular reference to:

- (a) the average costs incurred by processing industries in obtaining supplies of the basic products in question on the Community market and the prices ruling on the world markets;
- (b) the level of the refunds on exports of processed agricultural products covered by Annex II to the Treaty which are manufactured under similar conditions;
- (c) the need to ensure equality of competition for the industries which use Community products and those which use third-country products under inward-processing arrangements;

Whereas Article 4 (3) of Regulation (EEC) No 3035/80 provides that, when the rate of the refund is being fixed,

account should be taken, where necessary, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organization of the market in the product in question to the basic products listed in Annex A to that Regulation or to assimilated products;

Whereas Article 11 (1) of Regulation (EEC) No 804/68 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions set out in Article 1 of Council Regulation (EEC) No 987/68 of 15 July 1968 laying down general rules for granting aid for skimmed milk processed into casein or caseinates ⁽⁵⁾, as last amended by Regulation (EEC) No 1435/90 ⁽⁶⁾;

Whereas Commission Regulation (EEC) No 570/88 of 16 February 1988 on the sale of butter at reduced prices and the granting of aid for butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽⁷⁾, as last amended by Regulation (EEC) No 124/92 ⁽⁸⁾, lay down that butter and cream at reduced prices should be made available to industries which manufacture certain goods;

Whereas by its Regulation (EEC) No 1432/92 ⁽⁹⁾ the Council prohibited trade between the Community and the Republics of Serbia and of Montenegro; that it is important to take account of it at the time of the fixing of the refunds;

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. The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EEC) No 3035/80 and listed in Article 1 of Regulation (EEC) No 804/68, exported in the form of goods listed in the Annex to Regulation (EEC) No 804/68, are hereby fixed as shown in the Annex to this Regulation.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 146, 28. 5. 1992, p. 83.

⁽³⁾ OJ No L 323, 29. 11. 1980, p. 27.

⁽⁴⁾ OJ No L 327, 27. 11. 1990, p. 4.

⁽⁵⁾ OJ No L 169, 18. 7. 1968, p. 6.

⁽⁶⁾ OJ No L 138, 31. 5. 1990, p. 8.

⁽⁷⁾ OJ No L 55, 1. 3. 1988, p. 31.

⁽⁸⁾ OJ No L 14, 21. 1. 1992, p. 28.

⁽⁹⁾ OJ No L 151, 3. 6. 1992, p. 4.

2. No rates of refund are fixed for any of the products referred to in the preceding paragraph which are not listed in the Annex to this Regulation.

3. Export refunds towards the Republics of Montenegro and Serbia are not fixed.

rate of the refund on milk products shall be that applicable to the use of reduced price butter, unless the exporter provides proof that the product does not contain reduced-price butter.

Article 2

Where Article 8 (2) of Regulation (EEC) No 3035/80 is applied to exports of one of the goods referred to in Article 4 (1), (2) or (3) of Regulation (EEC) No 570/88, the

Article 3

This Regulation shall enter into force on 12 June 1992.

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

Done at Brussels, 11 June 1992.

For the Commission

Martin BANGEMANN

Vice-President

ANNEX

to the Commission Regulation of 11 June 1992 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description	<i>(ECU/100 kg)</i> Rate of refund
ex 0402 10 19	Powdered milk, obtained by the spray process, with a fat content of less than 1,5 % by weight and with a water content of less than 5 % by weight (PG 2): a) On exportation of goods of CN code 3501 b) On exportation of other goods	— 65,00
ex 0402 21 19	Powdered milk, obtained by the spray process, with a fat content of 26 % by weight and a water content of less than 5 % by weight (PG 3): a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EEC) No 570/88 are exported b) On exportation of other goods	52,86 112,00
ex 0405 00 10	Butter, with a fat content by weight of 82 % (PG 6): a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EEC) No 570/88 are exported b) On exportation of goods of CN code 2106 90 99 containing 40 % or more by weight of milk fat c) On exportation of other goods	15,00 174,00 168,00

COMMISSION REGULATION (EEC) No 1519/92

of 11 June 1992

amending the list annexed to Regulation (EEC) No 55/87 establishing the list of vessels exceeding eight metres length overall permitted to use beam trawls within certain areas of the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources⁽¹⁾, as last amended by Regulation (EEC) No 3500/91⁽²⁾,

Having regard to Commission Regulation (EEC) No 55/87 of 30 December 1986 establishing the list of vessels exceeding eight metres length overall permitted to use beam trawls within certain areas of the Community⁽³⁾, as last amended by Regulation (EEC) No 1132/92⁽⁴⁾, and in particular Article 3 thereof,

Whereas the Danish and Dutch authorities have requested replacement in the list annexed to Regulation (EEC) No 55/87 of three vessels that no longer meet the requirements laid down in Article 1 (2) of that Regulation; whereas the national authorities have provided all

the information in support of the request required under Article 3 of Regulation (EEC) No 55/87; whereas scrutiny of this information shows that the requirements of the Regulation are met; whereas the vessels in question should be replaced in the list,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 55/87 is amended as indicated in the Annex to this Regulation.

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, 11 June 1992.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 288, 11. 10. 1986, p. 1.

⁽²⁾ OJ No L 331, 3. 12. 1991, p. 2.

⁽³⁾ OJ No L 8, 10. 1. 1987, p. 1.

⁽⁴⁾ OJ No L 120, 5. 5. 1992, p. 15.

ANNEX

The Annex to Regulation (EEC) No 55/87 is amended as follows :

— vessels to be replaced :

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS				
UQ 4	Rottum		Usquert	220
OD 28	De Kraak		Ouddorp	199
HA 106	Reseda	PHAH	Harlingen	221

— vessels replacing the above-mentioned vessels :

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS				
HA 92			Harlingen	220
KW 44	Willy Alida		Katwijk	199
DENMARK				
E 106	Østbank	OWMN	Esbjerg	220

COMMISSION REGULATION (EEC) No 1520/92

of 11 June 1992

amending the list annexed to Regulation (EEC) No 3715/91 establishing, for 1992, the list of vessels exceeding eight metres length overall permitted to fish for sole within certain areas of the Community using beam trawls whose aggregate length exceeds nine metres

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources⁽¹⁾, as last amended by Regulation (EEC) No 3500/91⁽²⁾,

Having regard to Commission Regulation (EEC) No 3554/90 of 10 December 1990 adopting provisions for the establishment of the list of vessels exceeding eight metres length overall which are permitted to fish for sole within certain areas of the Community using beam trawls of an aggregate length exceeding nine metres⁽³⁾, and in particular Article 2 thereof,

Whereas Commission Regulation (EEC) No 3715/91⁽⁴⁾, as last amended by Regulation (EEC) No 1129/92⁽⁵⁾, establishes for 1992 the list of vessels exceeding eight metres length overall permitted to fish for sole within certain areas of the Community using beam trawls of aggregate length exceeding nine metres;

Whereas the Dutch authorities have requested replacement in the list annexed to Regulation (EEC) No 3715/91

of three vessels that no longer meet the requirements laid down in Article 1 (2) of Regulation (EEC) No 3554/90; whereas the national authorities have provided all the information in support of the request required under Article 2 of Regulation (EEC) No 3554/90; whereas scrutiny of this information shows that the requirements of the Regulation are met; whereas the vessels in question should be replaced in the list,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 3715/91 is amended as indicated in the Annex to this Regulation.

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, 11 June 1992.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 288, 11. 10. 1986, p. 1.

⁽²⁾ OJ No L 331, 3. 12. 1991, p. 2.

⁽³⁾ OJ No L 346, 11. 12. 1990, p. 11.

⁽⁴⁾ OJ No L 351, 20. 12. 1991, p. 11.

⁽⁵⁾ OJ No L 120, 5. 5. 1992, p. 9.

ANNEX

The Annex to Regulation (EEC) No 3715/91 is amended as follows :

— vessels to be replaced :

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS				
UQ 4	Rottum	PHAH	Usquert	220
OD 28	De Kraak		Ouddorp	199
HA 106	Reseda		Harlingen	221

— vessels replacing the above-mentioned vessels :

External identification Letters + numbers	Name of vessel	Radio call sign	Port of registry	Engine power (kW)
THE NETHERLANDS				
HA 92	Willy Alida		Harlingen	220
KW 44			Katwijk	199

COMMISSION REGULATION (EEC) No 1521/92

of 11 June 1992

fixing the corrective amount applicable to the refund on cereals

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⁾,

Having regard to Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds⁽³⁾,

Whereas Article 16 (4) of Regulation (EEC) No 2727/75 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount must be applied to the refund;

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice⁽⁴⁾, as last amended by Regulation (EEC) No 1906/87⁽⁵⁾, made possible the fixing of a corrective amount for certain products listed in Article 1 (c) of Regulation (EEC) No 2727/75;

Whereas Commission Regulation (EEC) No 1281/75⁽⁶⁾ laid down detailed rules for the advance fixing of export refunds for cereals and certain products processed from cereals;

Whereas, pursuant to that Regulation, when the corrective amount is being fixed, account must be taken of the existing situation and the future trend with regard to prices

and availabilities of cereals on the Community market on the one hand and possibilities and conditions for the sale of cereals and cereal products on the world market on the other; whereas the same Regulation provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of exports and the need to avoid disturbances on the Community market;

Whereas for the products listed in Article 1 (c) of Regulation (EEC) No 2727/75 account should be taken of the specific criteria laid down in Article 2 (2) of Regulation (EEC) No 1281/75;

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

Whereas the corrective amount must be fixed at the same time as the refund and according to the same procedure; whereas it may be altered in the period between fixings;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- 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 it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto;

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽⁶⁾ OJ No L 131, 22. 5. 1975, p. 15.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

export refunds fixed in advance in respect of cereals shall be as set out in the Annex hereto.

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 16 (4) of Regulation (EEC) No 2727/75 which is applicable to

Article 2

This Regulation shall enter into force on 12 June 1992.

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

Done at Brussels, 11 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 11 June 1992 fixing the corrective amount applicable to the refund on cereals

(ECU/tonne)

Product code	Destination (*)	Current 6	1st period 7	2nd period 8	3rd period 9	4th period 10	5th period 11	6th period 12
0709 90 60 000	—	—	—	—	—	—	—	—
0712 90 19 000	—	—	—	—	—	—	—	—
1001 10 10 000	—	—	—	—	—	—	—	—
1001 10 90 000	01	0	0	0	0	0	—	—
1001 90 91 000	—	—	—	—	—	—	—	—
1001 90 99 000	01	0	0	0	- 10,00	- 10,00	—	—
1002 00 00 000	01	0	0	0	0	0	—	—
1003 00 10 000	—	—	—	—	—	—	—	—
1003 00 90 000	01	0	0	0	0	0	—	—
1004 00 10 000	—	—	—	—	—	—	—	—
1004 00 90 000	—	—	—	—	—	—	—	—
1005 10 90 000	—	—	—	—	—	—	—	—
1005 90 00 000	01	0	0	0	0	0	—	—
1007 00 90 000	—	—	—	—	—	—	—	—
1008 20 00 000	—	—	—	—	—	—	—	—
1101 00 00 100	01	0	+ 31,50	+ 31,50	+ 31,50	+ 31,50	—	—
1101 00 00 130	01	0	+ 31,50	+ 31,50	+ 31,50	+ 31,50	—	—
1101 00 00 150	01	0	+ 31,50	+ 31,50	+ 31,50	+ 31,50	—	—
1101 00 00 170	01	0	+ 31,50	+ 31,50	+ 31,50	+ 31,50	—	—
1101 00 00 180	01	0	+ 31,50	+ 31,50	+ 31,50	+ 31,50	—	—
1101 00 00 190	—	—	—	—	—	—	—	—
1101 00 00 900	—	—	—	—	—	—	—	—
1102 10 00 500	01	0	+ 31,50	+ 31,50	+ 31,50	+ 31,50	—	—
1102 10 00 700	01	0	0	0	0	0	—	—
1102 10 00 900	—	—	—	—	—	—	—	—
1103 11 10 200	01	0	+ 70,00	+ 70,00	+ 70,00	+ 70,00	+ 70,00	+ 70,00
1103 11 10 400	01	0	0	0	0	0	0	0
1103 11 10 900	01	0	0	0	0	0	0	0
1103 11 90 200	01	0	+ 31,50	+ 31,50	+ 31,50	+ 31,50	+ 31,50	+ 31,50
1103 11 90 800	—	—	—	—	—	—	—	—

(*) For the following destinations :

01 all third countries.

NB : The zones are those defined in Commission Regulation (EEC) No 1124/74, as last amended by Regulation (EEC) No 3049/89.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 November 1991

concerning aid granted by the Italian Government to Nuova Cartiera di Arbatax

(Only the Italian text is authentic)

(92/296/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having, in accordance with the abovementioned Article, given notice to the parties concerned to submit their comments to it,

Whereas :

I

Nuova Cartiera di Arbatax (NCA) was constituted on 23 May 1988. Its initial capital of Lit 200 million was subscribed by Società finanziaria industriale rinascita Sardegna SpA (SFIRS) (55 %) and by Cartiera Burgo SpA (45 %). In July 1989 its capital was increased to Lit 100 billion, consisting of Lit 56 billion ordinary shares and Lit 44 billion privileged shares. Additional shareholders were the companies SIVA SpA and SAF SpA, belonging to the Ente nazionale per la cellulosa e la carta (ENCC), the Credito industriale sardo (CIS) and Cartiera di Toscolano SpA.

The capital of NCA was now subdivided as follows :

(in Lit billion)

Shareholders	Ordinary shares	Privileged shares
Burgo	16,4	—
Toscolano	1,6	—
CIS	16	—
SFIRS	6	—
ENCC (SIVA + SAF)	16	44

CIS also provided a loan of Lit 14,5 billion to NCA, whereas SFIRS provided a loan of Lit 10 billion. The possibility was left open for the ENCC to provide an additional Lit 12 billion in other forms than ordinary shares at a later stage.

Neither the provision of capital nor the provision of loans by public entities was notified to the Commission in advance pursuant to Article 93 (3) of the Treaty.

On 11 July 1989 NCA took over the largest manufacturer of newsprint in Italy, Cartiera di Arbatax, which had been declared insolvent on 25 March 1985 and had been put under *amministrazione straordinaria* by decree of the Minister of Industry dated 16 April 1985⁽¹⁾. NCA's conduct of business was now managed by Burgo.

⁽¹⁾ *Gazzetta ufficiale della Repubblica italiana* No 93, 19. 4. 1985.

II

90/215/EEC for Arbatax during its restructuring, i.e. for a period of five years.

Already in 1986 the Commission learned of the plans of the Italian Government and the Sardinian authorities to restructure Cartiera di Arbatax. The Commission requested information on all aid provided or planned in favour of this company by letters dated 19 November 1986 and 2 April 1987.

In a bilateral meeting held on 11 July and by letter dated 12 July 1989 the Commission replied that it could not agree to a continuation of the operating aid to Cartiera di Arbatax. Any new investments at Arbatax would however be eligible for regional aid under the terms of the aid regime for the Mezzogiorno, provided the usual conditions of eligibility for such aid were met.

The Italian Government replied by letter dated 12 February 1987 and by telex dated 5 May 1987 that no aid at all had been provided to Cartiera di Arbatax since it had been put under *amministrazione straordinaria*.

By letter dated 10 August 1989 the Italian Government informed the Commission that it would comply with Decision 90/215/EEC and that it had instructed the ENCC accordingly. In view of the Commission's unfavourable opinion on any continuation of the aid to Arbatax, the Italian Government had decided in favour of the constitution of a new and larger company with public and private shareholders, among which Burgo and SIVA, which would carry out the restructuring of Arbatax.

By letter dated 21 May 1987 the Commission made it clear that if the Italian Government were to envisage public shareholdings in a new legal entity in order to continue Cartiera di Arbatax's activities, this could well contain elements of State aid within the meaning of Article 92 (1) and recalled the necessity of prior notification of such aid pursuant to Article 93 (3) of the Treaty.

As this letter did not contain any precise information, the Commission requested, by letter dated 9 October 1989, to be informed of the sums made available by public and private investors and the conditions attached to these interventions, of the anticipated restructuring measures and their financing and of any other public support given directly or indirectly. A reminder was sent on 11 April 1990.

Commission Decision 90/215/EEC⁽¹⁾ dealt with aid granted by the Italian Government to the newsprint industry via the ENCC. The Decision stated that the ENCC had been misusing an aid scheme for the press in order to aid the Italian newsprint industry as well, by buying increasing amounts of domestically produced newsprint at artificially high purchase prices in comparison with the market price. The Commission estimated in its Decision that the Italian newsprint industry received aid of some Lit 900 million in 1985, Lit 21 billion in 1986 and Lit 12 billion in 1987. Cartiera di Arbatax was the main beneficiary of this operating aid. The Decision declared the aid incompatible with the common market and demanded its immediate abolition. The Decision was notified to the Italian Government under cover of a letter dated 7 June 1989.

By letter dated 15 June 1990 the Italian Government provided some information but it was only by letter dated 17 December 1990, after additional reminders dated 10 July, 9 August and 19 November 1990, that the Commission received the information it needed for a first assessment of the various interventions on the basis of Article 92 of the Treaty.

The Italian Government replied by letter dated 9 June 1989, drawing the Commission's attention to the grave consequences of Decision 90/215/EEC for Cartiera di Arbatax, as this company was about to be taken over by a new legal entity, which had drawn up a restructuring and investment plan. In view of the difficult regional and industrial problems involved, the Italian Government requested that an exception be made under Decision

On the basis of this information the Commission concluded that the financial means necessary for the continuation and restructuring of Cartiera di Arbatax could not have been found on the capital market and that, consequently, the Lit 66 billion shareholdings provided by ENCC and SFIRS constituted State aid. The Commission also concluded that the loan of Lit 10 billion provided by SFIRS constituted State aid and possibly the interventions of CIS as well. The Commission considered that the aid was likely to distort competition and affect trade between Member States within the meaning of Article 92 (1) of the Treaty and that none of the exceptions set out in that Article could apply. The Commission therefore decided to initiate the procedure laid down in Article 93 (2).

⁽¹⁾ OJ No L 114, 5. 5. 1990, p. 25.

The Italian Government was informed of this decision by letter dated 20 March 1991 and, by letter dated 7 May 1991, was urged to provide its comments within one month. The other Member States and interested third parties were also given notice to submit their comments ⁽¹⁾.

III

Within the framework of the procedure, meetings took place with representatives of the Italian Government on 14 June, 22 July and 24 July 1991. In the meetings held on 14 June and 24 July the Italian representatives announced that written observations, of which an advance copy was informally provided, would be submitted officially; the representatives of the Commission in these meetings urged the Italian delegation to do this swiftly, given that the Commission intended to take a final decision in September. After a further reminder dated 11 September 1991, the Italian Government announced, by letter dated 4 October 1991, that it would send all the information the Commission needed for its evaluation within a week's time. After a last reminder dated 17 October 1991, meetings with representatives of the Italian Government took place on 21 October and 14 November 1991. In these meetings the Italian Government submitted a parliamentary document dated 17 October 1991 and a study made by GEPI on NCA dated 31 October 1991. However, the Italian Government did not submit any written comments under the procedure and did not present any new elements, such as, for instance, a restructuring plan leading to a situation of profitability, which might have led the Commission to change its assessment of the case.

In this situation the Commission is obliged to terminate the procedure by adopting its decision on the basis of the information available to it (see judgment of the Court of Justice in Case 301/87 Boussac, ground 22).

As part of the procedure, the Government of Denmark, the British Newsprint Manufacturers' Association, SFIRS and NCA submitted their observations. These observations were submitted to the Italian Government for its comments by letter dated 2 July 1991. No such comments were received.

IV

Under Article 92 (1) of the Treaty and the relevant jurisprudence of the Court of Justice ⁽²⁾, as well as the Commission's general approach to acquisition of share-

holdings by public authorities of which all Member States were informed in 1984, the provision of public funds to companies in the form of subscriptions of capital may involve elements of State aid. In order to verify whether such a provision of public funds is aid, it would be appropriate, ignoring any social elements or regional or sectoral policy, to consider whether under similar circumstances a market economy investor would go ahead with such an injection of capital in the same conditions on the basis of expected profitability.

In this content it should be noted that Cartiera di Arbatax made losses of Lit 17 billion in 1983, 30 billion in 1984 and 29 billion in 1985, which represented 20 %, 24 % and 27 % of its turnover in these years. In 1985 the company was declared insolvent and put under *amminis-trazione straordinaria*; Cartiera di Arbatax financial results for the following years were not communicated to the Commission by the Italian authorities.

Several factors help explain these losses: Firstly, Cartiera di Arbatax, being situated on Sardinia, had to pay high transport costs on its raw material — wood and cellulose — coming from the mainland and on the newsprint it produced, which had to be shipped back, mainly to Northern Italy. Secondly, cellulose accounted for 20 to 25 % of Arbatax's raw materials, whereas the average newsprint manufacturer in the Community had reduced his consumption of cellulose to ± 4 % and had started using waste paper instead. Without a de-inking installation and more capacity for producing wood-pulp and thermomechanical pulp, which would have allowed Cartiera di Arbatax to process waste paper and more wood, the company was forced to continue to rely on the much more expensive cellulose. Thirdly, natural gas not being available, the company's use of energy was relatively high. Fourthly, Cartiera di Arbatax was overstaffed and, fifthly, its real production of some 130 000 tonnes per year was too low compared to its capacity of 183 000 tonnes per year.

It is the Commission's opinion that in this situation Cartiera di Arbatax could not have found the funds it needed for its continued operations and for necessary investments on the capital market.

The fact that a new company NCA was constituted which took over Cartiera di Arbatax does not alter this appraisal. In its general approach to the acquisition of shareholdings by the public authorities the Commission stated in point 3.3 (iv) that there is aid where the public authorities' holding involves the taking over or the continuation of all or part of the non-viable operations of an ailing company through the formation of a new legal entity.

⁽¹⁾ OJ No C 123, 9. 5. 1991, p. 12.

⁽²⁾ See ruling on cases 323/82 (Intermills) dated 14. 11. 1984, C-142/87 (Tubemeuse) dated 21. 3. 1990, C-303/88 (ENI-Lanerossi) and C-305/89 (Alfa Romeo) dated 21. 3. 1991.

SFIRS commented under the procedure that its decision to acquire a shareholding in NCA had been taken on the basis of a restructuring plan elaborated by Burgo and on the basis of SFIRS' own report, which foresaw a situation of profitability within two years. Both the plan and the report were submitted by SFIRS to the Commission.

The Commission notes that this plan is based on, among others, a continuation of the aid granted by the ENCC for the sale of newsprint for a period of five years. Given that the Commission in Decision 90/215/EEC found this misuse of aid to the press to be incompatible with the common market and given that the regional aid scheme in favour of transport costs based on Law 64/86 expired on 30 September 1990, the restructuring plan in question was founded on the unsound assumption that an aid of Lit 45 would be paid to NCA for every kilogram of newsprint sold during a period of five years. With a production target of 183 150 tonnes per year the restructuring plan hence involved an aid of Lit 8,2 billion every year. The Commission concludes that without this aid NCA can be expected to make a loss of Lit 5 billion in 1991 instead of the profit of Lit 3,2 billion the restructuring plan foresaw in 1989.

The Commission also notes that the restructuring plan for NCA has proved overly optimistic in its social and environmental aspects. NCA was forced to stop its operations between 15 December 1989 and 9 February 1990 for environmental reasons and it lost additional days due to strikes later that year. Its financial losses amounted to Lit 12 billion in 1990. According to the parliamentary document dated 17 October 1991, its losses for 1991 are expected to amount to between Lit 18 and 20 billion.

In view of the preceding considerations, it is the Commission's finding that the provision of capital by public entities to NCA cannot be assimilated with the act of a market economy investor, but rather constitutes State aid.

In this context, the fact that Burgo as a private company also invested in NCA does not change this appraisal. Burgo, being a large paper manufacturing group, pursues group-strategic purposes in which NCA may play a role, a consideration which does not apply to SFIRS or to the ENCC. This difference is also reflected by the fact that NCA's management is in the hands of Burgo. The Commission also notes that after Burgo's investment in NCA's initial capital of Lit 200 million, in which it had a stake of 45 %, there has been a relative disentanglement of Burgo in favour of public groups, given that its stake in the much larger share capital of Lit 100 billion is reduced to 16,4 %. In this situation, it is the Commission's opinion that the conditions set out in point 3.3 (v) of its general approach to acquisitions of shareholdings by

public authorities referred to above are fulfilled ; i.e. that there is aid, where the injection of capital into companies whose capital is divided between private and public shareholders makes the public holding reach a significantly higher level than originally and the relative disengagement of private shareholders is largely due to the companies' poor profit outlook.

The Commission also notes that Burgo's real risk in investing in NCA was different from that of a market economy investor. Until the Commission adopted Decision 90/215/EEC, Burgo could be assured that NCA's production would be bought by the ENCC at inflated prices for at least five years. After Decision 90/215/EEC Burgo was assured of an additional financial cushion in NCA of Lit 60 billion and ultimately Lit 72 billion, most of it in a form not limiting its voting power, with which inevitable losses of NCA would be absorbed.

According to Article 4 of its Statute, the majority of SFIRS' shares are held by public enterprises and authorities ; at present 95,5 % of its capital is held by the autonomous region of Sardinia. SFIRS has the statutory task of promoting and helping economic and particularly industrial initiatives in Sardinia, among others by taking shareholdings in Sardinian companies, notably in small and medium-sized enterprises.

The Commission notes that the financial reports SFIRS provided within the framework of the procedure show that it made losses on its participation in every one of the years on which a report was provided. The Commission concludes from this that SFIRS' main concern is the development of Sardinia rather than its own profitability and that it therefore differs from a market economy investor.

The ENCC is a corporation under public law consisting of all producers of paper and cellulose as well as undertakings using cellulose in Italy. The ENCC has the statutory task of promoting the development of cellulose production in Italy, of facilitating the production and use of domestic raw materials for the production of cellulose, of organizing the production and sale of paper and of collecting and providing information concerning the production of cellulose and paper. The Commission notes that the ENCC was only authorized by the Italian Minister for Industry to take a stake in NCA on 10 July 1989, more than a month after the Commission had notified its Decision 90/215/EEC to Italy. The Commission concludes from this and from the Italian Government's letters dated 9 June and 10 August 1989 referred to in point II that the Italian Government's decision to authorize the ENCC to provide capital to NCA was taken as an alternative to its previous wish to continue to grant

operating aid to NCA for five more years. As the Court of Justice stated in its ruling in case 323/82 (Intermills)⁽¹⁾ no distinction can be drawn between aid granted in the form of loans and grants and aid granted in the form of a holding acquired in the capital of an undertaking. Aid taking either form falls within the prohibition laid down in Article 92 where the conditions set out in that provision are fulfilled.

The provision of Lit 6 billion capital by SFIRS, Lit 0,5 billion of which out of its own funds and Lit 5,5 billion out of a special fund based on Regional Law 66/76 for which a decision of the Sardinian authorities was required, constitutes State aid within the meaning of Article 92 of the Treaty.

The Lit 60 billion provided by the ENCC's subsidiaries SIVA and SAF equally constitute State aid within the meaning of Article 92, as well as the Italian Government's intention to provide an additional Lit 12 billion through the ENCC at a later stage. The fact that Lit 44 billion of the Lit 60 billion was used to acquire privileged shares in NCA does not change this appraisal, given that the additional dividend on privileged shares depends on NCA's being profitable, as does the dividend on normal shares. To the contrary, as the privileged shares have limited voting rights, the ENCC's shareholding mainly serves as a financial cushion to absorb expected losses of NCA.

Lit 16 billion capital was provided to NCA by CIS. In the Commission's letter dated 20 March 1991, in which the Commission informed the Italian Government of its decision to initiate the procedure, that Government was invited to supply evidence that CIS is acting independently and is not influenced in its actions by the public authorities. If this were not the case, the amount of Lit 16 billion injected by CIS would also constitute State aid.

In its observations under the procedure, the Italian Government stated that CIS is a corporation under public law, created by Law No 298 of 11 April 1953, with the task of financing industrial enterprises in order to favour the economic development in Sardinia. Neither of CIS' shareholders has a controlling stake. CIS obtains its financial means in the capital market and uses them independently of regional or national authorities, but under the control of the Bank of Italy, just like other public or private credit institutions.

The Commission also notes that, according to the information submitted by SFIRS, CIS had a claim of Lit 33 billion on Cartiera di Arbatax in *amministrazione straordinaria*. Its shareholding in NCA came about by

conversion of Lit 16 billion of its claim into capital as part of the takeover of Cartiera di Arbatax by NCA. Of the remainder of CIS' claim, Lit 2,5 billion were repaid immediately by NCA and Lit 14,5 billion will be repaid within five years.

On the basis of these observations the Commission accepts that in this particular case CIS did not act differently from what a private investor in a similar situation might have done and that, consequently, the provision of Lit 16 billion capital by CIS does not constitute State aid.

Apart from capital, SFIRS also provided a 10-year loan of Lit 10 billion at an interest rate of 5 % to NCA on 1 May 1990 in order to finance its investment programme. In its letter dated 16 January 1991, before the Article 93(2) procedure was opened, the Italian Government acknowledged that this loan constituted State aid. Within the framework of the procedure, SFIRS on the other hand claimed that neither the loan nor its shareholding constituted aid.

It is the Commission's opinion that NCA was the beneficiary of an interest subsidy of 9,66 % on a Lit 10 billion loan, this subsidy being the difference between the 5 % interest charged and the reference rate in Italy in 1990 which was 14,66 %. This interest subsidy out of public funds constitutes aid because it allows NCA to carry out investments without having to bear all the costs thereof. SFIRS could not reasonably have expected that a reduced interest rate on the money it lent to NCA would be a profitable investment.

Finally, the Commission also investigated the price at which Cartiera di Arbatax was sold to NCA. The Commission notes that a call for tender was published in 1987 and that several offers for taking over Arbatax and four other companies in *amministrazione straordinaria* were submitted. Within the framework of the procedure SFIRS submitted copies of the sales contract as well as of two other offers. The Commission notes that the price NCA paid for Cartiera di Arbatax amounted to Lit 38 958 million. One of the other two bidders offered a similar amount, albeit with deferred payment, whereas the third offer concerned all five companies together. Under these conditions and in the absence of other information the Commission concludes that the sales price itself did not involve additional aid.

The Commission therefore identifies the following aid to NCA: aid of Lit 6 billion in the form of capital and aid of Lit 10 billion in the form of a subsidized loan via SFIRS and aid of Lit 60 billion in the form of capital provided by the ENCC. The ENCC's plans to inject an additional Lit 12 billion capital into NCA would equally constitute State aid.

⁽¹⁾ [1984] ECR 3830, ground 31.

V

The Italian Government failed to notify the aid in advance pursuant to Article 93 (3) of the Treaty. At least since the Commission's letter dated 21 May 1987 the Italian Government knew that the Commission was likely to regard public shareholdings in a new legal entity in order to continue Cartiera di Arbatax's activities as aid.

The Commission notes in this context that it approved, by letter dated 20 November 1974, intervention by the ENCC in favour of forestry, papermaking research and the press. Even if the Lit 60 billion capital provided by the ENCC to NCA was in conformity with the Italian Legal dispositions governing the ENCC's operations, it is clearly not one of the types of intervention approved by the Commission.

As for the operations of SFIRS, the Commission requested the Italian Government in its letter dated 20 March 1991 to specify which aid scheme had been applied. Within the framework of the procedure the Italian Government failed to identify any specific aid scheme approved by the Commission as the basis of SFIRS' operations.

Since the Italian Government did not notify the aid before granting it, as it should have pursuant to Article 93 (3) of the EEC Treaty, the Commission was unable to make known its views on the measures before they were implemented. The aid has thus been illegal under Community law from the date it was granted. The situation resulting from this breach of the legal requirements is particularly serious, since the aid has already been paid to the recipient. Moreover, the aid measures have had effects deemed to be incompatible with the common market.

In the case of aid which is incompatible with the common market, the Commission may — as the Court of Justice has confirmed in its Judgments of 12 July 1973 in Case 70/72 (*Kohlegesetz*), of 21 March 1990 in Case 142/87 (*Tubemeuse*) and of 20 September 1990 in Case 5/89 (*BUG-Alutechnik*) — require the Member States to have the recipients repay aid granted illegally.

VI

There is competition between manufacturers of newsprint in the Community and there is trade in newsprint between Member States, even though the Community as a whole imports more than half of the newsprint it needs from third countries.

According to the data collected annually by the European confederation of pulp, paper and board industries, CEPAC, Italy produced 242 000 tonnes of newsprint in 1987, 264 000 tonnes in 1988 and 252 800 tonnes in 1989, representing some 10 % of community production and some 4 % of Community consumption. With its

capacity of 183 000 tonnes per year of newsprint, NCA has a very important position on the domestic market.

In 1987 Italy imported 303 000 tonnes of newsprint, of which 125 000 tonnes (41 %) from other Member States; in 1988 265 000 tonnes, of which 124 800 tonnes (47 %) from other Member States; in 1989 Italy imported 363 800 tonnes of newsprint, of which 139 400 tonnes (38 %) from other Member States.

Italy exported 28 000 tonnes of newsprint in 1987, 25 100 tonnes in 1988 and 11 700 tonnes in 1989, mainly to third countries.

In its observations within the framework of the procedure, the Italian Government stressed that Nuova Cartiera di Arbatax does not engage in exports and that the effect of the measures in question on intra-Community trade would therefore be limited to shutting out potential imports from other Member States.

The Italian Government also stated that even if the production of Nuova Cartiera di Arbatax were replaced by imports from other Member States, the final effect would be a net increase of imports from third countries, given that consumption of newsprint in the Community is higher than available production capacity.

In this context the Commission notes that the Court of Justice, in its ruling in Case 102/87 (*SEB*)⁽¹⁾, stated that :

'... aid to an undertaking may be such as to affect trade between the Member States and distort competition where that undertaking competes with products coming from other Member States, even if it does not itself export its products. Such a situation may exist even if there is no overcapacity in the sector at issue. Where a Member State grants aid to an undertaking, domestic production may for that reason be maintained or increased with the result that, in circumstances such as those found to exist by the Commission, undertakings established in other Member States have less chance of exporting their products to the market in that Member State. Such aid is therefore likely to affect trade between Member States and distort competition.'

Consequently, the aid which the Italian Government has granted to Nuova Cartiera di Arbatax affects trade between Member States and distorts competition between newsprint manufacturers within the meaning of Article 92 (1) of the Treaty⁽²⁾.

VII

Article 92 (1) of the EEC Treaty lays down the principle that aid having the characteristics which it specifies is incompatible with the common market. As far as the exceptions from that principle are concerned, those

⁽¹⁾ [1988] ECR 4087.

⁽²⁾ Ruling of the Court of Justice in Joined Cases 296/82 and 318/82 (*Leeuwarder Papierwarenfabriek*).

provided for in Article 92 (2) of the EEC Treaty do not apply in the case in point, given the nature and objectives of the aid.

For the purposes of Article 92 (3) of the EEC Treaty, so as to maintain the proper functioning of the common market and take account of the objectives set out in Article 3 (f) of the EEC Treaty, the exceptions from the principle of incompatibility of aid must be construed restrictively in assessing any aid scheme or individual aid measure.

In particular, the exceptions may be applied only if the Commission establishes that, without the aid, market forces would not in themselves be sufficient to persuade any recipients to act in such a way as to achieve one of the desired objectives.

Applying the exceptions to cases which do not contribute to such an objective, or where the aid is not necessary for this purpose, would amount to conferring advantages on the industries or firms of certain Member States, whose financial position would be artificially strengthened and to affecting trade between Member States and distorting competition without any justification based on the common interest, referred to in Article 92 (3) of the EEC Treaty.

In view of the above, the aid to which this Decision relates does not qualify for one of the exceptions set out in Article 92 (3) of the EEC Treaty.

As far as the exceptions set out in Article 92 (3) (b) of the EEC Treaty are concerned, the aid is clearly not intended to promote a project of common European interest or to remedy a serious disturbance in the Italian economy. Nor has the Italian Government attempted to justify the aid on such grounds.

As regards the exception provided for in Article 92 (3) (a) and (c) ⁽¹⁾ concerning aid to promote the development of certain areas and notably the exception in Article 92 (3) (a) in favour of aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, the Commission is aware of the fact that Nuova Cartiera di Arbatax is located in Ogliastra, Nuoro, on the island of Sardinia, which meets these definitions. Even though the Commission generally does not consider operating aid compatible with the common market, it decided on 2 March 1988 by Decision 88/318/EEC ⁽²⁾ to apply the exception of Article 92 (3) (a) to Law No 64/86, which provides for special

intervention in the Mezzogiorno, for *inter alia* temporary aid to alleviate the transport costs of Sardinian companies.

In its letter dated 20 March 1991 with which it informed the Italian Government of its decision to initiate the Article 93 (2) procedure, the Commission invited the Italian Government to inform it of any other aid to NCA, such as the application of regional aid schemes in favour of this company's investments and transport costs.

Within the framework of the procedure the Italian Government replied that the transport aid had stopped on 30 September 1990. No other intervention in favour of NCA had taken place on the basis of Law No 64/86 in 1989 or in the following years.

On this point the Commission notes that Cartiera di Arbatax and subsequently NCA had the benefit of aid towards transport costs for several years. In 1990 NCA received Lit 1 billion for this purpose. The Commission also notes that NCA's restructuring plan foresees that investment aid under Law No 64/86 will be granted for its Lit 37 billion investments foreseen in the first phase of this plan, including the investments that took place during the period of *amministrazione straordinaria*. The Commission therefore concludes that the disadvantages which Nuova Cartiera di Arbatax faces due to its location in Sardinia are offset by a specific aid scheme and that there is no regional justification for additional aid in the form of capital or subsidized loans. Furthermore, the Commission is of the opinion that aid to a company without a perspective of viability cannot be said to promote the economic development of a region. As set out below, this perspective is lacking for NCA.

Lastly, as regards the exception set out in Article 92 (3) (c) of the Treaty for aid to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, the Commission has examined the restructuring plan for Cartiera di Arbatax developed in 1987 and used for NCA in 1989. The Commission notes that this plan contained several indispensable elements, such as investment in order to reduce the use of cellulose as a raw material. But the Commission contests that this restructuring plan was sufficient for making NCA a profitable company, given that it was based on an aided sales price for the newsprint produced by NCA that was incompatible with the common market (see point IV). It was also too optimistic: the investments foreseen in the plan were not carried out within the time limits set, the social arrangements led to strikes and the local standards for the protection of the environment were not met. As a consequence NCA only reached 75 % of its production target for 1990 by producing 122 000 tonnes of newsprint, of which 97 % was sold to the ENCC, and made a loss of Lit 12 billion in that year. As stated above, losses for 1991 are expected to amount to between Lit 18 and 20 billion.

⁽¹⁾ Method for application of Article 92 (3) (a) and (c) to regional aid (OJ No C 212, 12. 8. 1988, p. 2).

⁽²⁾ OJ No L 143, 10. 6. 1988, p. 37.

Within the framework of the procedure NCA and SFIRS recognized the limited value of the 1989 plan and claimed that a new restructuring plan for NCA was to be drawn up by June/July 1991. NCA explicitly requested the Commission to judge the compatibility of the interventions in 1989 on the basis of this new plan. Despite its requests to the Italian Government in the course of several meetings and to NCA by letter dated 31 July 1991, no new restructuring plan was submitted to the Commission within the framework of the procedure. The Commission is therefore obliged to assess whether the 1989 plan, on the basis of which the aids were granted, was likely to lead NCA to a situation of profitability. For the reasons set out in the preceding paragraph the Commission concludes that a perspective of viability was lacking for NCA. The Commission notes that its criticism of the restructuring plan is shared by GEPI's analysis dated 31 October 1991.

The Commission concludes that the aids granted to NCA in 1989 and 1990 permitted it to take over and continue Cartiera di Arbatax's loss-making activities, without effecting any changes that might bring about a profitable exploitation. The aid therefore does not facilitate the development of the newsprint industry, but merely serves artificially to preserve NCA. It is operating aid, i.e. aid for continued production, which allows NCA to compensate its operating losses.

Within the framework of the procedure the Italian Government also claimed that newsprint production is a strategic sector. The Commission recognizes the importance for the press in the Community to have access to cheap newsprint. This concern can, however, not justify the artificial maintenance of a company by means of operating aid. If the Italian Government was concerned about the future supply of newsprint to its press, it could have taken other measures which are compatible with the common market, such as the building up of stocks of newsprint acquired on the world market, in order to use these for bridging periods of short supply.

VIII

In conclusion, the aid granted by the Italian Government to NCA is not compatible with the common market, since it was granted in violation of Article 93 (3) of the Treaty and furthermore does not meet any of the conditions provided for in Article 92 (3).

The aid must be abolished and any aid granted must be repaid (see judgment of the Court of Justice in Case C-301/87 Boussac, ground 22).

The aid consists of Lit 66 billion capital provided by SFIRS and the ENCC in July 1989 and an interest

subsidy of 9,66 % (the difference between the 5 % interest charged and the reference rate in Italy in 1990, which was 14,66 %) on a Lit 10 billion loan granted by SFIRS on 1 May 1990. From this date until 1 December 1991 the interest subsidy granted to NCA amounts to Lit 1 529,5 million. In case of non-repayment of this sum within the two months set by the present Decision, the interest subsidy on the Lit 10 billion loan will be increased by a supplementary amount of Lit 80,5 million for every month of delay.

Repayment must be made in accordance with the procedures and provisions of Italian law, in particular those relating to interest on arrears on State liabilities, with interest starting to run on the date on which the unlawful aid was granted. This measure is necessary in order to restore the status quo by removing all the financial benefits which the firms receiving the unlawful aid have improperly enjoyed since the date on which the aid was paid (see Judgment of 21 March 1990 in Case C-142/87 Tubemeuse, ground 66),

HAS ADOPTED THIS DECISION:

Article 1

1. The aid in the form of Lit 66 billion capital granted in 1989 and the aid of Lit 1 529,5 million resulting from the interest subsidy of 9,66 % on the loan of Lit 10 billion granted to the company Nuova Cartiera di Arbatax in 1990 are illegal for violation of the provisions laid down in Article 93 (3) of the Treaty and are furthermore incompatible with the common market within the meaning of Article 92 (1).

2. The aid in the form of Lit 12 billion capital in favour of this company is incompatible with the common market under Article 92 (1).

Article 2

1. The Italian Government shall abolish the interest subsidy and ensure that the aids of Lit 66 billion and Lit 1 529,5 million referred to in Article 1 (1) are recovered within two months of the notification of this Decision. Lit 80,5 million is to be added to the aid of Lit 1 529,5 million for every month of delay in recovery from the date of the present Decision. The aid shall be recovered in accordance with the procedures and provisions of national law, in particular those relating to interest on arrears payable on State liabilities, with interest starting to run on the dates on which the unlawful aid was granted.

2. The Italian Government shall refrain from granting the aid of Lit 12 billion in the form of capital referred to in Article 1 (2).

Article 3

The Italian Government shall inform the Commission, within two months of the notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 27 November 1991.

For the Commission

Leon BRITTAN

Vice-President
