

Official Journal

of the European Communities

ISSN 0378-6978

L 170

Volume 35

25 June 1992

English edition

Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1607/92

of 22 June 1992

amending Regulation (EEC) No 2200/90 by imposing an additional anti-dumping duty on imports of silicon metal originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Articles 12 and 13 (11) thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee as provided for under the abovementioned Regulation,

Whereas :

A. Procedure

- (1) By Regulation (EEC) No 2200/90⁽²⁾, a definitive anti-dumping duty of ECU 198 per tonne was imposed on imports of silicon metal originating in the People's Republic of China.
- (2) The Commission received a complaint lodged by the Liaison Committee of Ferroalloy industries in the European Economic Community on behalf of all Community producers of silicon metal alleging that all or part of the anti-dumping duty had been borne by the exporters concerned.

- (3) Since the complaint contained sufficient evidence of absorption of anti-dumping duty by an exporter, the Commission announced the initiation of an investigation provided for in Article 13 (11) of

Regulation (EEC) No 2423/88, in a notice published in the *Official Journal of the European Communities*⁽³⁾.

- (4) The Commission officially advised the exporters and importers known to be concerned and gave the parties concerned the opportunity to make their views known in writing.
- (5) None of the exporters and only three of the importers concerned, accounting for a fraction of the total imports, made their views known in writing.
- (6) Only one organization representing user industries made comments.
- (7) None of the interested parties requested the Commission to review Regulation (EEC) No 2200/90. Moreover, on the basis of the information available, the Commission did not find that changed circumstances justified the need for such a review on the Commission's initiative.

- (8) The investigation into absorption of the anti-dumping duty by the exporters was concerned with the comparison between the period 1 January 1988 to 31 December 1988, which had been taken into account for calculation of the anti-dumping duty, and the period starting from imposition of a provisional anti-dumping duty until publication of the notice of initiation of an investigation, i.e. from 1 April 1990 to 30 September 1991.

B. Product under consideration

- (9) The product under consideration is silicon metal falling within CN code 2804 69 00, as in the original procedure.

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 198, 28. 7. 1990, p. 57.

⁽³⁾ OJ No C 273, 18. 10. 1991, p. 20.

C. Absorption of the anti-dumping duty by the exporter

I. Existence of absorption of duty

- (10) In the absence of satisfactory cooperation from either exporters or Community importers, the Commission based its findings on the facts available in accordance with Article 7 (7) (b) of Regulation (EEC) No 2423/88.

- (11) A valid assessment of the import price of a raw material, such as the product concerned, can generally be made on the basis of customs statistics.

In this case, moreover, the prices revealed by the statistics were corroborated by the information obtained from those Community importers who cooperated and from the representative of user industries.

- (12) That information shows clearly that, following the imposition of a provisional anti-dumping duty on imports of silicon metal originating in the People's Republic of China by Commission Regulation (EEC) No 720/90⁽¹⁾, the import price at Community borders (the cif price before payment of customs duties and anti-dumping duty) of silicon metal originating in the People's Republic of China fell considerably.

- (13) In these circumstances, it would appear that, by reducing their prices for export to the Community after imposition of an anti-dumping duty, the exporters of silicon metal originating in the People's Republic of China have borne the anti-dumping duty either completely or partially.

II. Amount of absorption of duty

- (14) The amount of absorption of duty is calculated on the basis of the difference between the import price of silicon metal originating in the People's Republic of China during the period 1 January 1988 to 31 December 1988, the period of the initial investigation, and the import price during the period following imposition of a provisional anti-dumping duty, from 1 April 1990 to 30 September 1991.

- (15) Expressed as a percentage of the amount of duty, the amount of absorption as defined above came to

an average monthly figure of 178 % for the period from 1 April 1990 to 30 September 1991.

In view of the extent of absorption, the effect of a possible variation in the cif costs (cost, insurance, freight) need not be taken into account.

D. Other factors

- (16) The Commission has examined two additional factors which might have had a bearing on the evolution of the export price of silicon metal originating in the People's Republic of China.

- (17) Firstly, the organization representing user industries alleged that the quality of the product concerned justified a price lower than that of the same product originating in other countries. Since this does not constitute a new fact in relation to the situation at the time of the original investigation, the alleged difference in quality cannot justify the considerable decrease in the export price of silicon metal originating in the People's Republic of China following the imposition of an anti-dumping duty. In addition, it has been established that the difference between the export price to the Community of silicon metal originating in the People's Republic of China and of the same metal originating in other countries increased during the investigation period.

- (18) Secondly, the organization representing user industries suggested that the decrease in the import price of silicon metal originating in the People's Republic of China could be linked to an overall trend in the market for imports of the product concerned into the Community. However, examination of the customs statistics clearly reveals a considerable fall in the price of silicon metal originating in the People's Republic of China while the import price of the metal from other countries remained stable over the same period.

E. Community interest

- (19) The purpose of the additional anti-dumping duty provided for in Article 13 (11) of Regulation (EEC) No 2423/88 is to compensate for the amount of the anti-dumping duty borne by the exporter.

- (20) The Commission has no reason to believe that the findings concerning Community interest expressed in recitals 18 to 21 of Regulation (EEC) No 2200/90 need to be amended.

⁽¹⁾ OJ No L 80, 27. 3. 1990, p. 9.

- (21) Moreover, given, firstly, that the absorption of an anti-dumping duty by the exporter cancels out the effect of the anti-dumping duty and therefore prevents the removal of the injury suffered by the Community industry, and, secondly, that the imposition of this duty had been considered to be in the Community's interest, a measure aimed at restoring the effect of the said duty is therefore in the Community's interest.

F. Additional anti-dumping duty

- (22) Article 13 (11) (a) of Regulation (EEC) No 2423/88 limits the additional amount to strict compensation for the amount of anti-dumping duty borne by the exporter which cannot, logically, be greater than the amount of the anti-dumping duty concerned.
- (23) In this case, since the decrease in the import price as a percentage of the amount of anti-dumping duty has been calculated at 178 %, the anti-dumping duty has been borne completely. An additional anti-dumping duty of an amount equal to the existing duty (ECU 198 per tonne) must therefore be imposed.
- (24) Since the anti-dumping duty currently in force is fixed at ECU 198 per tonne, an additional duty for the same amount must be imposed. For practical

reasons, the imposition of this additional duty takes the form of an amendment to Regulation (EEC) No 2200/90. This does not constitute a modification of the anti-dumping duty within the meaning of Article 15 (1) of Regulation (EEC) No 2423/88 and, therefore, the expiry date of the anti-dumping duty, including the additional duty, remains unchanged. The total amount of the anti-dumping duty imposed on imports of silicon metal originating in the People's Republic of China must, therefore, be ECU 396 per tonne,

HAS ADOPTED THIS REGULATION :

Article 1

Article 1 (2) of Regulation (EEC) No 2200/90 is hereby replaced by the following :

- '2. The duty shall be ECU 396 per tonne of the imported product.'

Article 2

This Regulation shall enter into force on the day following that 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, 22 June 1992.

For the Council

The President

Joaquim FERREIRA DO AMARAL

COMMISSION REGULATION (EEC) No 1608/92

of 24 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 23 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 25 June 1992.

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

Done at Brussels, 24 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 24 June 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy ^(*)
0709 90 60	141,83 ⁽²⁾ ⁽³⁾
0712 90 19	141,83 ⁽²⁾ ⁽³⁾
1001 10 10	177,92 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 10 90	177,92 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 90 91	148,89
1001 90 99	148,89 ⁽¹¹⁾
1002 00 00	172,81 ⁽⁶⁾
1003 00 10	150,18
1003 00 90	150,18 ⁽¹¹⁾
1004 00 10	125,87
1004 00 90	125,87
1005 10 90	141,83 ⁽²⁾ ⁽³⁾
1005 90 00	141,83 ⁽²⁾ ⁽³⁾
1007 00 90	147,59 ⁽⁴⁾
1008 10 00	68,74 ⁽¹¹⁾
1008 20 00	122,89 ⁽⁴⁾
1008 30 00	69,63 ⁽³⁾
1008 90 10	⁽⁷⁾
1008 90 90	69,63
1101 00 00	222,22 ⁽⁸⁾ ⁽¹¹⁾
1102 10 00	254,94 ⁽⁸⁾
1103 11 10	290,20 ⁽⁸⁾ ⁽¹⁰⁾
1103 11 90	238,32 ⁽⁸⁾

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

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

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

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

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

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

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

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

⁽⁹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC, except if paragraph 4 of the same Article applies.

⁽¹⁰⁾ An amount equal to the amount fixed by Regulation (EEC) No 1825/91 is to be levied in accordance with Article 101 (4) of Decision 91/482/EEC.

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

COMMISSION REGULATION (EEC) No 1609/92

of 24 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 23 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 25 June 1992.

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

Done at Brussels, 24 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 24 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	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 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 1610/92
of 24 June 1992
fixing the import levies on rice and broken rice

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

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 674/92 ⁽²⁾, and in particular Article 11 (2) thereof,

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

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 586/92 ⁽⁵⁾, as last amended by Regulation (EEC) No 1545/92 ⁽⁶⁾,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 25 June 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 75, 21. 3. 1991, p. 29.

⁽⁵⁾ OJ No L 62, 7. 3. 1992, p. 44.

⁽⁶⁾ OJ No L 164, 18. 6. 1992, p. 9.

ANNEX

to the Commission Regulation of 24 June 1992 fixing the import levies on rice and broken rice

(ECU/tonne)

CN code	Levies (°)		
	Arrangement in Regulation (EEC) No 3877/86 (°)	ACP Bangladesh (⁽¹⁾) (⁽²⁾) (⁽³⁾)	Third countries (except ACP) (⁽⁴⁾)
1006 10 21	—	159,29	325,78
1006 10 23	—	162,63	332,46
1006 10 25	—	162,63	332,46
1006 10 27	249,35	162,63	332,46
1006 10 92	—	159,29	325,78
1006 10 94	—	162,63	332,46
1006 10 96	—	162,63	332,46
1006 10 98	249,35	162,63	332,46
1006 20 11	—	200,01	407,23
1006 20 13	—	204,18	415,57
1006 20 15	—	204,18	415,57
1006 20 17	311,68	204,18	415,57
1006 20 92	—	200,01	407,23
1006 20 94	—	204,18	415,57
1006 20 96	—	204,18	415,57
1006 20 98	311,68	204,18	415,57
1006 30 21	—	247,70	519,25 (⁽⁵⁾)
1006 30 23	—	293,03	609,84 (⁽⁶⁾)
1006 30 25	—	293,03	609,84 (⁽⁶⁾)
1006 30 27	457,38 (⁽⁷⁾)	293,03	609,84 (⁽⁶⁾)
1006 30 42	—	247,70	519,25 (⁽⁵⁾)
1006 30 44	—	293,03	609,84 (⁽⁶⁾)
1006 30 46	—	293,03	609,84 (⁽⁶⁾)
1006 30 48	457,38 (⁽⁷⁾)	293,03	609,84 (⁽⁶⁾)
1006 30 61	—	264,15	553,01 (⁽⁸⁾)
1006 30 63	—	314,52	653,75 (⁽⁹⁾)
1006 30 65	—	314,52	653,75 (⁽⁹⁾)
1006 30 67	490,31 (⁽⁹⁾)	314,52	653,75 (⁽⁹⁾)
1006 30 92	—	264,15	553,01 (⁽⁸⁾)
1006 30 94	—	314,52	653,75 (⁽⁹⁾)
1006 30 96	—	314,52	653,75 (⁽⁹⁾)
1006 30 98	490,31 (⁽⁹⁾)	314,52	653,75 (⁽⁹⁾)
1006 40 00	—	72,17	150,35

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

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

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

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

(⁽⁵⁾) The levy on imports into Portugal is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3778/91.

(⁽⁶⁾) The levy 3778/91 imports of rice of the long-grain aromatic Basmati variety is applicable under the arrangements laid down in Regulation (EEC) No 3877/86, as amended by Regulation (EEC) No 3130/91.

(⁽⁷⁾) No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EEC) No 1611/92**of 24 June 1992****fixing the premiums to be added to the import levies on rice and broken rice**

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

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

Having regard to Council Regulation (EEC) No 1418/76
of 21 June 1976 on the common organization of the
market in rice ⁽¹⁾, as last amended by Regulation (EEC)
No 674/92 ⁽²⁾, and in particular Article 13 (6) thereof,

Whereas the premiums to be added to the levies on rice
and broken rice were fixed by Commission Regulation
(EEC) No 2591/91 ⁽³⁾, as last amended by Regulation
(EEC) No 1546/92 ⁽⁴⁾;

Whereas, on the basis of today's cif prices and cif forward
delivery prices, the premiums at present in force, which

are to be added to the levies, should be altered to the
amounts shown in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 2

This Regulation shall enter into force on 25 June 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 243, 31. 8. 1991, p. 8.

⁽⁴⁾ OJ No L 164, 18. 6. 1992, p. 11.

ANNEX

to the Commission Regulation of 24 June 1992 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 6	1st period 7	2nd period 8	3rd period 9
1006 10 21	0	0	0	—
1006 10 23	0	0	0	—
1006 10 25	0	0	0	—
1006 10 27	0	0	0	—
1006 10 92	0	0	0	—
1006 10 94	0	0	0	—
1006 10 96	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 13	0	0	0	—
1006 20 15	0	0	0	—
1006 20 17	0	0	0	—
1006 20 92	0	0	0	—
1006 20 94	0	0	0	—
1006 20 96	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 23	0	0	0	—
1006 30 25	0	0	0	—
1006 30 27	0	0	0	—
1006 30 42	0	0	0	—
1006 30 44	0	0	0	—
1006 30 46	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 63	0	0	0	—
1006 30 65	0	0	0	—
1006 30 67	0	0	0	—
1006 30 92	0	0	0	—
1006 30 94	0	0	0	—
1006 30 96	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0

COMMISSION REGULATION (EEC) No 1612/92

of 24 June 1992

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 61/92⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar⁽³⁾, as last amended by Regulation (EEC) No 1489/76⁽⁴⁾, provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 3 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽⁵⁾; whereas, furthermore, this refund should be fixed in accordance with Article 5 (2) of Regulation (EEC) No 766/68; whereas candy sugar is defined in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on sugar⁽⁶⁾, as last amended by Regulation (EEC) No 1714/88⁽⁷⁾; whereas the refund thus calculated for

sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas by its Regulation (EEC) No 1432/92⁽⁸⁾ 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, 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 subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁹⁾, as last amended by Regulation (EEC) No 2205/90⁽¹⁰⁾,
- 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 refund must be fixed every two weeks; whereas it may be altered in the intervening period;

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

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

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 6, 11. 1. 1992, p. 19.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 152, 18. 6. 1988, p. 23.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁹⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽¹⁰⁾ OJ No L 201, 31. 7. 1990, p. 9.

HAS ADOPTED THIS REGULATION :

and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 1

1. The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured

Article 2

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

1. The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured

This Regulation shall enter into force on 25 June 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 24 June 1992 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	(ECU)	
	Amount of refund	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	36,14 ⁽¹⁾	
1701 11 90 910	32,30 ⁽¹⁾	
1701 11 90 950	⁽²⁾	
1701 12 90 100	36,14 ⁽¹⁾	
1701 12 90 910	32,30 ⁽¹⁾	
1701 12 90 950	⁽²⁾	
1701 91 00 000		0,3929
1701 99 10 100	39,29	0,3929
1701 99 10 910	39,29	
1701 99 10 950	37,79	
1701 99 90 100		

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85, as amended by Regulation (EEC) No 3251/85.

COMMISSION REGULATION (EEC) No 1613/92

of 24 June 1992

amending Regulation (EEC) No 3556/87 laying down additional detailed rules for the application of the system of advance-fixing certificates in the case of certain cereal sector products exported in the form of pasta falling within 1902 11 00 and 1902 19 of the combined nomenclature

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

Having regard to Council Regulation (EEC) No 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 24 thereof,

Whereas Commission Regulation (EEC) No 3556/87⁽³⁾, as last amended by Regulation (EEC) No 4057/87⁽⁴⁾, laid down additional detailed rules for the application of the system of advance-fixing certificates in the case of certain cereal sector products exported in the form of pasta falling within subheadings 1902 11 00 and 1902 19 of the combined nomenclature; whereas that Regulation ceased to apply on 30 April 1988;

Whereas knowledge of the advance fixing is necessary for the application of point 6 of the arrangement between the United States of America and the European Community on pasta;

Whereas the Republic of Italy has continued sending to the Commission information about the advance fixing certificates concerning pasta exported to the United States of America; whereas it is important to know as well the advance fixing made in other Member States;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3556/87 is hereby amended as follows:

1. Points (a) and (b) of Article 1 are replaced by the following:

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

Done at Brussels, 24 June 1992.

'section 20 of the application for the advance-fixing certificate and the certificate itself referred to in Commission Regulation (EEC) No 1760/83 shall indicate only that the products fall within subheadings 1902 11 00 and 1902 19 of the combined nomenclature; section 7 shall be completed "United States of America" or "other than United States of America". The certificate shall carry an obligation to export as indicated.'

2. the second indent of Article 3 (1) is replaced by the following:

'The quantities of pasta falling within subheadings 1902 11 00 and 1902 19 of the combined nomenclature for which the rate of the export refund was fixed in advance, the date on which the declaration of export of the pasta to the United States of America was accepted by the relevant customs authorities, and the date on which the used advance-fixing certificate was delivered.'

3. in the second subparagraph of Article 3 (2), 'DG III/B/2' is replaced by 'DG III/C/2';

4. the second paragraph of Article 4 is replaced by the following:

'It shall apply to certificates applied for from 1 July 1992.'

Article 2

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

For the Commission

Martin BANGEMANN

Vice-President

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 337, 27. 11. 1987, p. 57.

⁽⁴⁾ OJ No L 379, 31. 12. 1987, p. 31.

COMMISSION REGULATION (EEC) No 1614/92**of 24 June 1992****amending Regulation (EEC) No 1613/71 laying down detailed rules for fixing cif prices and levies on rice and broken rice and the corrective amounts relating thereto**

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

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EEC) No 674/92 ⁽²⁾, and in particular Article 16 (3) thereof,

Whereas Commission Regulation (EEC) No 1613/71 ⁽³⁾, as last amended by Regulation (EEC) No 2325/88 ⁽⁴⁾, lays down the corrective amounts for quantities of rice offered on the world market and the standard quality for which the threshold price is fixed;

Whereas long-grained rice from South America has been offered on the world market for a certain time; whereas that variety is not listed in the Annex to Regulation (EEC) No 1613/71;

Whereas, with a view to determining the cif prices, it is necessary to fix a corrective amount for that quality taking into account the standard Community quality on the one hand, and the difference in price and characteristics

between that quality and the qualities listed in the Annex to Regulation (EEC) No 1613/71;

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

HAS ADOPTED THIS REGULATION:

Article 1

In Annex II to Regulation (EEC) No 1613/71 under Type 12, 'USA Long' is hereby replaced by 'USA, Argentinian, Uruguayan Long'.

Article 2

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

It shall apply from 1 April 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 168, 27. 7. 1971, p. 28.

⁽⁴⁾ OJ No L 202, 27. 7. 1988, p. 41.

COMMISSION REGULATION (EEC) No 1615/92

of 24 June 1992

amending Regulation (EEC) No 610/77 on the determination of prices of adult bovine animals on representative Community markets and the survey of prices of certain other cattle in 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 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 1628/91 ⁽²⁾, and in particular Article 12 (7) thereof, and Article 25 thereof,

Whereas the information available on the trend in cattle numbers indicates that the coefficients used in calculating the price of adult bovine animals on the representative markets of the Community should be adjusted;

Whereas Annex I to Commission Regulation (EEC) No 610/77 ⁽³⁾, as last amended by Regulation (EEC) No 1614/91 ⁽⁴⁾, should therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EEC) No 610/77 is replaced by the Annex hereto.

Article 2

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

It shall apply for the purposes of calculating the levies in force from 6 July 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 16.

⁽³⁾ OJ No L 77, 25. 3. 1977, p. 1.

⁽⁴⁾ OJ No L 149, 14. 6. 1991, p. 29.

*ANNEX**ANNEX I*

**Coefficients to be used in calculating the price on the representative Community markets
for adult bovine animals**

Germany	21,1
Belgium	3,8
Denmark	2,7
Spain	6,1
France	25,8
Greece	0,8
Ireland	7,5
Italy	10,0
Luxembourg	0,2
Netherlands	6,0
Portugal	1,7
United Kingdom	14,3'

COMMISSION REGULATION (EEC) No 1616/92**of 24 June 1992****laying down detailed rules applicable to the free supply of food products to the population of Albania as provided for in Council Regulation (EEC) No 1567/92**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1567/92 of 15 June 1992 on a second emergency measure for the free supply of food products to the population of Albania⁽¹⁾,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽²⁾, as last amended by Regulation (EEC) No 674/92⁽³⁾, and in particular Article 7 thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽⁴⁾, as last amended by Regulation (EEC) No 674/92, and in particular Article 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 conversion rate to be applied for the purpose of the common agricultural policy⁽⁵⁾, as last amended by Regulation (EEC) No 2322/91⁽⁶⁾, and in particular Article 2 (4) thereof,

Whereas Council Regulation (EEC) No 1567/92 provides for an emergency measure for the supply of food products to the population of Albania; whereas, with a view to implementing that emergency measure, detailed rules of application should be laid down for the cereals sector providing in particular for the said supply operation to be allocated by a tendering procedure; whereas common detailed rules should be laid down for invitations to tender opened for the purposes of this measure;

Whereas Regulation (EEC) No 1567/92 provides for the free supply of food products in the form of cereals in the same state as that in which they were removed from intervention stock but also of products processed from cereals and rice; whereas, therefore, provision should also be made for invitations to tender for the free supply of processed products; whereas special detailed rules should be laid down for this, in particular to the effect that these supplies, and the processing, transport and other related

costs shall be paid for in kind in the form of raw materials from intervention stocks;

Whereas the detailed rules of application must also provide for arrangements governing the lodging of securities and controls to ensure the proper execution of the supply operation;

Whereas, in order to avoid the risk of monetary distortion when converting into ecus the tenders awarded for supply costs, a rate corresponding more closely to actual economic circumstances than the agricultural conversion rate should be used with due regard to the application of the correcting factor referred to in Article 2 (2) of Regulation (EEC) No 1676/85; whereas Article 3a of Commission Regulation (EEC) No 3152/85 of 11 November 1985 laying down detailed rules for the application of Regulation (EEC) No 1676/85 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽⁷⁾, as last amended by Regulation (EEC) No 3237/90⁽⁸⁾ provides for the publication of such a rate;

Whereas products held by intervention agencies and intended for export are subject to the provisions of Commission Regulation (EEC) No 569/88⁽⁹⁾, as last amended by Regulation (EEC) No 1551/92⁽¹⁰⁾; whereas, however, the Annex to the said Regulation setting out the entries to be made should be expanded;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The detailed rules set out herein shall apply for the purpose of the free supply of food products to the population of Albania as provided for in Regulation (EEC) No 1567/92.

2. All supplies shall entail an invitation to tender for supply costs as defined in Article 2 (2).

⁽¹⁾ OJ No L 166, 20. 6. 1992, p. 1.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽³⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽⁴⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 213, 1. 8. 1991, p. 64.

⁽⁷⁾ OJ No L 310, 21. 11. 1985, p. 1.

⁽⁸⁾ OJ No L 310, 9. 11. 1990, p. 18.

⁽⁹⁾ OJ No L 55, 1. 3. 1988, p. 1.

⁽¹⁰⁾ OJ No L 164, 18. 6. 1992, p. 22.

3. However, in the case of the supply of processed products from the cereals and rice sector, invitations to tender shall cover the quantities of basic products to be taken from intervention stocks as payment in kind.

Article 2

1. An invitation to tender shall be organized for the supply costs incurred between the intervention stores and the destination laid down.

2. Such costs shall cover supply for goods loaded in bulk or in sacks on the means of transport, ex store of the intervention agency, cif Albanian maritime port of unloading, or, in the case of land transport, up to the point of taking over by Albania.

3. An invitation to tender shall also be organized for the supply of processed products from the cereals and rice sector in accordance with Article 1 (3) of this Regulation.

Article 3

Participation in the invitations to tender provided for under this Regulation shall be open on equal terms to any natural person who is a national of a Member State and established in the Community or any company established in accordance with the laws of a Member State, the registered office, central administration or main establishment of which is in a Member State.

Article 4

Tenderers shall participate in the invitation to tender by forwarding to the intervention agency concerned a tender by letter or any other written means of telecommunication provided for in the notice of invitation to tender.

Article 5

1. In the case of invitations to tender as provided for in Article 2 (1) of this Regulation, tenders must cover all the supply costs referred to in Article 2 (2) of a lot or group of lots indicated in the notice of invitation to tender for a given destination. They shall be expressed in ecus per tonne. That amount shall be converted using the conversion rate specified in Article 3a of Commission Regulation (EEC) No 3152/85, applicable on the closing date for the submission of tenders.

2. In the case of invitations to tender as provided for in Article 2 (3) of this Regulation, tenders must cover the quantities of basic products to be taken from intervention stocks as payment in kind.

3. Tenders shall be valid only where they are accompanied by:

(a) an application for an export licence quoting a reference to Regulation (EEC) No 1616/92, to be entered in section 22;

(b) proof that a tendering security of ECU 10 per tonne has been lodged.

Tenders not submitted in accordance with this Regulation and the invitation to tender shall not be valid.

Tenders may be neither amended nor withdrawn.

Article 6

1. The intervention agency concerned shall notify the Commission of tenders received two hours at the latest after the expiry of the closing date for the submission of tenders.

2. In accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75, the Commission shall fix either the maximum supply costs for each lot or the maximum quantity of the basic product to be taken as payment in kind, or shall decide to make no award in respect of tenders received.

Article 7

1. The intervention agency concerned shall inform all tenderers of the outcome of their tenders at the earliest opportunity. It shall forward a declaration of award by written telecommunication to the successful tenderers.

2. Where several tenderers have lodged tenders quoting the same offer in respect of the same lot, the supply shall be awarded by the intervention agency by drawing lots.

Article 8

1. In the case of invitations to tender as provided for in Article 2 (1) of this Regulation, removal of the goods shall be subject to the lodging of a security equal to the intervention buying-in price for the said cereals, adjusted in accordance with monthly increases applicable in the month of submission of tenders, that price being increased by 10 %.

2. In the case of invitations to tender as provided for in Article 2 (3) of this Regulation, the successful tenderer must lodge a supply security before the goods are shipped. The amount of the security shall be equal to the intervention buying-in price of the basic product concerned, adjusted in accordance with monthly increases applicable in the month of submission of tenders, that price being increased by 10 %.

Article 9

1. Except in cases of *force majeure*, the successful tenderer shall bear all risks which the goods may incur, in particular loss or deterioration as far as the supply stage provided for in Article 2 (2).

2. If taking over at the delivery stage is delayed owing to circumstances beyond the control of the successful tenderer, the additional costs shall be reimbursed by the Commission on the basis of supporting documents.

3. The successful tenderer shall apply to the Albanian authorities for a certificate testifying that the quantity delivered has been taken over.

4. The detailed rules for the granting of the taking-over certificate shall be defined in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75.

5. In the case of invitations to tender as provided for in Article 2 (1) of this Regulation, the supply costs shall be reimbursed in respect of the quantity appearing in the taking-over certificate, no amount being withheld for normal loss of weight.

6. In the case of invitations to tender as provided for in Article 2 (3) of this Regulation, the basic product for which a contract is awarded shall be supplied on presentation of:

- a quality certificate issued before loading on the means of transport,
- the original taking-over certificate issued by the beneficiary of the supply, or, if no such document is issued, on presentation of a certificate issued at destination by a body designated by the Member State.

Article 10

1. Representative samples of the quantities supplied shall be taken at the time of loading in the port of export and at the time of unloading in the port of destination.

The security firm monitoring unloading may not be the same as that monitoring loading and must operate independently from it. Security firms shall be designated by the tenderers before tenders are lodged and in agreement with the intervention agency, the latter acting in agreement with the Commission.

2. Samples shall be taken at the expense of the successful tenderer and made available to the intervention agency concerned.

Article 11

1. For the purpose of invitations to tender as provided for in Article 2 (1) of this Regulation 'primary requirement' within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85⁽¹⁾, as last amended by Regulation (EEC) No 3745/89⁽²⁾, means:

- (a) maintenance of the tender and removal of the goods as regards the security provided for in point (b) of the third subparagraph of Article 5;

(b) actual delivery of the lots awarded up to the supply stage without any significant change in quality compared with that applying at the time of removal from the intervention store as regards the security provided for in Article 8.

2. The security provided for in point (b) of the third subparagraph of Article 5 shall be released when:

- the tender has been rejected,
- the goods have been removed by the tenderer.

3. The security provided for in Article 8 shall be released when the successful tenderer has presented the taking-over certificate provided for in Article 9 (3) and when evidence has been provided that the quality of the goods supplied to the Albanian authorities is not significantly different from that applying when they were removed. That evidence shall be provided by an analysis of the samples taken for the purpose.

4. When the successful tenderer has provided the taking-over certificate and on presentation of the document relating to transport, the supply costs shall be reimbursed to him.

Article 12

1. For the purpose of invitations to tender as provided for in Article 2 (3) of this Regulation 'primary requirement' within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85, means:

- (a) maintenance of the tender and removal of the goods from intervention stocks as payment in kind as regards the security provided for in point (b) of the third subparagraph of Article 5;

(b) actual delivery of the lots awarded up to the supply stage without any significant change in quality compared with that provided for in the invitation to tender as regards the security provided for in Article 8.

2. The security provided for in Article 5 (3) (b) shall be released when:

- the tender has been rejected,
- the goods for payment in kind have been removed from the intervention stocks by the tenderer.

3. The security provided for in Article 8 shall be released when the successful tenderer has presented the taking-over certificate provided for in Article 9 (3) and when evidence has been provided that the quality of the goods supplied to the Albanian authorities is not significantly different from that provided for in the invitation to tender and established when samples are taken. That evidence shall be provided by an analysis of the samples taken for the purpose.

4. When the successful tenderer has provided the taking-over certificate and on presentation of the documents relating to transport and the quality of the processed product, the goods awarded for payment in kind may be removed from the intervention stocks.

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

⁽²⁾ OJ No L 364, 14. 12. 1989, p. 54.

Article 13

In Part I of the Annex to Regulation (EEC) No 569/88, 'Products to be exported in the same state as that in which they were when removed from intervention stock', the following item and footnote are added:

'130. Commission Regulation (EEC) No 1616/92 of 24 June 1992 laying down detailed rules applicable to the free supply of food product to the population of Albania as provided for in Council Regulation (EEC) No 1567/92 ⁽¹³⁰⁾.

⁽¹³⁰⁾ OJ No L 170, 25. 6. 1992, p. 18.'

Article 14

1. With a view to the invitation to tender provided for in Article 1 (2) of this Regulation, the intervention agencies concerned shall publish at least five days before the date laid down for the first partial invitation to tender, a notice of invitation to tender specifying in particular:

- the additional clauses and conditions compatible with this Regulation,
- the main physical and technical characteristics of the various lots recorded at the time of buying-in by the intervention agency or at the time of checks conducted subsequently,
- the lots or groups of lots to which the tender must relate, with the names and addresses of the stores and the places of supply to which the lots must be delivered,
- the time limits laid down for removal and supply.

2. With a view to the invitation to tender provided for in Article 2 (3) of this Regulation, the intervention agen-

cies concerned shall publish at least five days before the date laid down for the first partial invitation to tender, a notice of invitation to tender specifying in particular:

- the additional clauses and conditions compatible with this Regulation,
- the quantity, quality and packaging of the processed product to be supplied,
- the lots or groups of lots to which the tender must relate and the places of supply to which the lots must be delivered,
- the time limits laid down for supply,
- the places of storage where the basic products to be taken as payment in kind are available.

That notice, together with any amendments, shall be forwarded to the Commission before the expiry of the first closing date for the submission of tenders.

Article 15

The book value of the products disposed of pursuant to this Regulation shall be fixed in ecus per tonne in the Regulation issuing the invitation to tender. That value shall be converted into national currency at the agricultural conversion rate applying on 1 August 1991.

Article 16

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

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1617/92

of 23 June 1992

opening a standing invitation to tender for the supply to Albania of 40 880 tonnes of bread-making common wheat held in the Rouen region by the French intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1567/92 of 15 June 1992 on a second emergency measure for the free supply of certain agricultural products to Albania ⁽¹⁾,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽²⁾, as last amended by Regulation (EEC) No 674/92 ⁽³⁾, and in particular Article 7 (6) thereof,

Whereas Commission Regulation (EEC) No 1616/92 ⁽⁴⁾ provides that contracts for the supply of cereals under Regulation (EEC) No 1567/92 are to be allocated by invitation to tender;

Whereas Commission Regulation (EEC) No 1570/77 ⁽⁵⁾, as last amended by Regulation (EEC) No 606/92 ⁽⁶⁾, lays down in particular quality criteria for bread-making common wheat accepted for intervention;

Whereas a standing invitation to tender should be opened for the supply of an instalment of bread-making common wheat held by the French intervention agency;

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

HAS ADOPTED THIS REGULATION:

Article 1

On the terms laid down in Regulation (EEC) No 1616/92, the French intervention agency shall open a standing invitation to tender for the supply to Albania of bread-making common wheat held in the Rouen region by the said agency.

Article 2

The invitation to tender shall cover 40 880 tonnes of bread-making common wheat in bulk to be supplied from the port of Caen-Blainville, cif (ex-ship), to the Albanian port of Durres.

⁽¹⁾ OJ No L 166, 20. 6. 1992, p. 1.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽³⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽⁴⁾ See page 18 of this Official Journal.

⁽⁵⁾ OJ No L 174, 14. 7. 1977, p. 18.

⁽⁶⁾ OJ No L 65, 11. 3. 1992, p. 25.

Article 3

Tenders may relate only to the entire lot of 40 880 tonnes specified in the notice of invitation to tender provided for in Article 13 of Regulation (EEC) No 1616/92, in accordance with the delivery specifications in Annex III hereto.

Article 4

1. The time limit for the submission of tenders in response to the first partial invitation to tender shall be 11 a.m., Brussels time, on 2 July 1992.

2. The time limit for the submission of tenders in response to the last partial invitation to tender shall be 11 a.m., Brussels time, on 16 July 1992.

3. Notwithstanding Article 14 of Regulation (EEC) No 1616/92 the intervention agency concerned shall publish at least three days before the date laid down for the first partial invitation to tender, a notice of invitation

Article 5

Tenders must be submitted to the French intervention agency.

The French intervention agency shall forward tenders to the Commission in accordance with the model in Annex I hereto.

Article 6

The taking-over certificate referred to in Article 9 (3) of Regulation (EEC) No 1616/92 shall take the form shown in Annex II.

Certificates shall be issued after unloading of the goods.

Article 7

The successful tenderer shall undertake to provide the Albanian authorities with the documents required for supply purposes as specified in the notice of invitation to tender drawn up by the French intervention agency.

Article 8

For the purposes of entering EAGGF expenditure in the accounts, the book value of the product referred to in Article 1 is hereby fixed at ECU 52 per tonne.

Article 9

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

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

Done at Brussels, 23 June 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX I

Standing invitation to tender for the supply to Albania of 40 880 tonnes of bread-making common wheat held in the Rouen region by the French intervention agency

(Regulation (EEC) No 1617/92)

Tenderer number	Quantity (tonnes)	Supply cost applied for (ECU/tonne)
1	2	3
1		
2		
3		
4		
etc.		

ANNEX II**SUPPLY BY SEA****TAKING-OVER CERTIFICATE**

I, the undersigned :
(name, first name, business name)

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

— Name of vessel :

— Place and date of taking-over :

— Product :

— Tonnage taken over :

Remarks or reservations :

.....

.....

ANNEX III**Delivery specifications**

Delivery in bulk, cif (ex-ship) to the Albanian port of Durres.

One lot of 40 880 tonnes in four shipments :

- 10 880 tonnes : departure date 7 July 1992. Arrival date between 16 and 17 July 1992,
- 10 000 tonnes : departure date 17 July 1992. Arrival date between 26 and 27 July 1992,
- 10 000 tonnes : departure date 28 July 1992. Arrival date between 5 and 6 August 1992,
- 10 000 tonnes : departure date 6 August 1992. Arrival date between 15 and 16 August 1992.

The deliveries may take place before the dates laid down on the initiative of the successful tenderer and under his responsibility if the necessary conditions are met for unloading and removal in the port of Durres.

If no bid has been accepted on 2 July 1992, the above dates should be postponed by seven days.

The same should apply if no bid has been accepted on 9 July 1992.

COMMISSION REGULATION (EEC) No 1618/92

of 24 June 1992

introducing a corrective amount on the import of tomatoes into the Community
of Ten from Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 3709/89 of 4 December 1989 laying down general rules for implementing the Act of Accession of Spain and Portugal as regards the compensatory mechanism for imports of fruit and vegetables from Spain ⁽¹⁾, and in particular Article 4 (2) thereof,

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

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

Whereas Commission Regulation (EEC) No 781/92 ⁽²⁾ fixed, for the 1992 marketing year, the Community offer price for tomatoes applicable with regard to Spain;Whereas Commission Regulation (EEC) No 3815/89 ⁽³⁾ lays down detailed rules for applying the compensatory mechanism on imports of fruit and vegetables from Spain;

Whereas, in the case of tomatoes, the offer price for the Spanish product as calculated in accordance with the provisions of Council Regulation (EEC) No 3709/89 has

remained for two consecutive market days at a level at least ECU 0,6 below the Community offer price; whereas a corrective amount equal to the difference between the Community offer price and the Spanish offer price must therefore be introduced for these products from Spain;

Whereas if the system is to operate normally the offer price of the Spanish product should be calculated on the following basis:

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

HAS ADOPTED THIS REGULATION:

Article 1

On import into the Community of Ten of tomatoes (CN code 0702 00) from Spain a corrective amount of ECU 11,25 per 100 kilograms net shall be levied.

Article 2

This Regulation shall enter into force on 26 June 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.

⁽²⁾ OJ No L 84, 31. 3. 1992, p. 21.

⁽³⁾ OJ No L 371, 20. 12. 1989, p. 28.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 201, 31. 7. 1990, p. 9.

COMMISSION REGULATION (EEC) No 1619/92

of 24 June 1992

introducing a countervailing charge and suspending the preferential customs duty on imports of tomatoes originating in Turkey

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1156/92⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Article 25 (1) of Regulation (EEC) No 1035/72 provides that, if the entry price of a product imported from a third country remains at least ECU 0,6 below the reference price for two consecutive market days, a countervailing charge must be introduced in respect of the exporting country concerned, save in exceptional circumstances; whereas this charge is equal to the difference between the reference price and the arithmetic mean of the last two entry prices available for that exporting country;

Whereas Commission Regulation (EEC) No 655/92 of 16 March 1992 fixing the reference price for tomatoes for the 1992; marketing year⁽³⁾ fixed the reference price for products of class I for the month of June 1992 at ECU 99,96 per 100 kilograms net;

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

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74⁽⁴⁾, as last amended by Regulation (EEC) No 3811/85⁽⁵⁾, the prices to be taken into consideration must be recorded on the representative markets or, in certain circumstances, on other markets;

whereas it is necessary to multiply the prices with the coefficient fixed in the third indent of Article 1 (2) (a) of Regulation (EEC) No 655/92;

Whereas, for Turkish tomatoes, the entry price calculated in this way has remained at least ECU 0,6 below the reference price for two consecutive market days; whereas a countervailing charge should therefore be introduced for these tomatoes;

Whereas, in Article 1 of Council Regulation (EEC) No 3671/81 of 15 December 1981 on imports into the Community of certain agricultural products originating in Turkey⁽⁶⁾, as amended by Regulation (EEC) No 1555/84⁽⁷⁾, when the Commission introduces a countervailing charge on imports of tomatoes originating in Turkey, at the same time it reintroduces for the product in question the conventional rate of customs duty; whereas, therefore, a rate of customs duty of 18 % should be reintroduced for these tomatoes, with a minimum charge of ECU 3,5 per 100 kilograms net;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the coefficient provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁸⁾, as last amended by Regulation (EEC) No 2205/90⁽⁹⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent,

HAS ADOPTED THIS REGULATION:

Article 1

1. A countervailing charge of ECU 24,31 per 100 kilograms net is applied on imports of tomatoes falling within CN code 0702 00 originating in Turkey.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 122, 7. 5. 1992, p. 3.

⁽³⁾ OJ No L 70, 17. 3. 1992, p. 10.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 367, 23. 12. 1981, p. 3.

⁽⁷⁾ OJ No L 150, 6. 6. 1984, p. 4.

⁽⁸⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁹⁾ OJ No L 201, 31. 7. 1990, p. 9.

2. The rate of customs duty on imports of these products shall be 18 % with a minimum charge of ECU 3,5 per 100 kilograms net from 15 May 1992.

Article 2

This Regulation shall enter into force on 26 June 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1620/92

of 24 June 1992

fixing the import levy on molasses

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

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

Whereas the import levy on molasses was fixed by Commission Regulation (EEC) No 277/92 ⁽³⁾, as last amended by Regulation (EEC) No 1499/92 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 277/92 to the information at present available to the Commission that the levy at present in force should be altered pursuant to Article 1 of this Regulation;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁶⁾,

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

Whereas these exchange rates being those recorded on 23 June 1992,

HAS ADOPTED THIS REGULATION:

Article 1

1. The import levy referred to in Article 16 (1) of Regulation (EEC) No 1785/81 shall be, in respect of molasses falling within CN codes 1703 10 00 and 1703 90 00, ECU 0,93 per 100 kilograms.
2. However, no import levy applies to OCT originating products according to Article 101 (1) of Council Decision 91/482/EEC ⁽⁷⁾.

Article 2

This Regulation shall enter into force on 25 June 1992.

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

Done at Brussels, 24 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 30, 6. 2. 1992, p. 17.

⁽⁴⁾ OJ No L 158, 11. 6. 1992, p. 19.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁷⁾ OJ No L 263, 19. 9. 1991, p. 1.

COMMISSION REGULATION (EEC) No 1621/92

of 24 June 1992

fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the 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 export refunds and levies on olive oil ⁽³⁾, and in particular the first sentence of Article 3 (1) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 20 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Regulation (EEC) No 1650/86 and Commission Regulation (EEC) No 616/72 ⁽⁴⁾, as last amended by Regulation (EEC) No 2962/77 ⁽⁵⁾;

Whereas the first indent of Article 2 of Regulation (EEC) No 1650/86 provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 4 of Regulation (EEC) No 1650/86, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market;

Whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period;

Whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market;

⁽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 78, 31. 3. 1972, p. 1.

⁽⁵⁾ OJ No L 348, 30. 12. 1977, p. 53.

Whereas, in accordance with Article 5 of Regulation (EEC) No 1650/86, it may be decided that the refund shall be fixed by tender;

Whereas the tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 2 of Regulation (EEC) No 1650/86 provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas Article 3 (1) of Regulation (EEC) No 1650/86 provides that the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

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 ⁽⁶⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁷⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas by its Regulation (EEC) No 1432/92 ⁽⁸⁾ 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 Oils and Fats,

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

HAS ADOPTED THIS REGULATION :

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

Article 1

1. The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 July 1992.

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

Done at Brussels, 24 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 24 June 1992 fixing the export refunds on olive oil

<i>(ECU/100 kg)</i>	
Product code	Amount of refund ⁽¹⁾
1509 10 90 100	38,50
1509 10 90 900	64,00
1509 90 00 100	48,50
1509 90 00 900	79,00
1510 00 90 100	10,50
1510 00 90 900	42,00

⁽¹⁾ For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 as well as for exports to third countries.

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

COMMISSION REGULATION (EEC) No 1622/92**of 24 June 1992****fixing the maximum export refunds on olive oil for the 15th 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 Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. The maximum export refunds for olive oil for the 15th 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 16 June 1992.

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

Article 2

This Regulation shall enter into force on 1 July 1992.

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

Done at Brussels, 24 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 24 June 1992 fixing the maximum export refunds on olive oil for the 15th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3149/91

(ECU/100 kg)	
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	45,00

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

COMMISSION REGULATION (EEC) No 1623/92**of 24 June 1992****fixing the maximum export refund for white sugar for the eighth partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 920/92**

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 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 61/92 ⁽²⁾, and in particular the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 920/92 of 10 April 1992 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾ requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 920/92, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the eighth partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas by its Regulation (EEC) No 1432/92 ⁽⁴⁾ 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 Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the eighth partial invitation to tender for white sugar issued pursuant to Regulation (EEC) No 920/92 the maximum amount of the export refund is fixed at ECU 41,840 per 100 kilograms.
2. Export refunds towards the Republics of Montenegro and Serbia are not fixed.

Article 2

This Regulation shall enter into force on 25 June 1992.

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

Done at Brussels, 24 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 98, 11. 4. 1992, p. 11.

⁽⁴⁾ OJ No L 151, 3. 6. 1992, p. 4.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 11 March 1992

concerning aid envisaged by the Netherlands Government in favour of an environmentally-sound disposal of manure

(Only the Dutch text is authentic)

(92/316/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 Articles, given notice to the parties concerned to submit their comments to it,

Whereas :

I

The Netherlands Government intends to institute an aid scheme for stimulating an environmentally-acceptable disposal of surplus manure (*stimulerend milieuhygiënisch verantwoorde afzet van mestoverschotten*). This scheme, which is to be financed entirely with the yield of a levy to be paid by animal husbandry units who produce more manure than their land can take (i.e. more than 125 kg phosphates per hectare per annum), will finance the activities of the public foundation national manure bank (*Stichting Landelijke Mestbank — SLM*) in regions where there is a concentration of such units. The SLM as the statutory task of disposing of surplus manure in an environmentally-acceptable manner.

The nature of the environmental damage which may be caused by the inappropriate disposal of animal manure comes under many headings. These include contamination of surface and subterranean water supplies, gaseous emissions and residual heavy metals, through to bacteriological and aesthetic aspects. Whether or not environmental damage will be caused by the disposal of animal manure depends critically upon the conditions under which the disposal takes place, in terms of methods, timing and quantities.

By letter dated 8 April 1991 the Netherlands Government notified the Commission, pursuant to Article 93 (3) of the Treaty, of its intentions.

After a first examination of the notification, the Commission considered that the aid was likely to distort competition and affect trade between Member States by favouring certain animal farmers in the Netherlands. The Commission noted that the description of activities to be financed by the SLM was not very clear, but that these would seem to concern transportation, storage and price regulation for manure disposal.

In so far as the aid would be used to supply manure processing factories with manure, aid would seem to be granted to those factories as well. The Commission also took into consideration that it had previously-accepted two other manure aid schemes in the Netherlands : an aid scheme for the distribution of high quality manure with decreasing aid intensities until its expiration in 1995 and an aid scheme in favour of the construction of some 20 manure processing factories in 1990 to 1994⁽¹⁾.

The Commission concluded that the aid scheme for stimulating an environmentally-acceptable disposal of surplus manure would seem to involve operation aid, to which in principle none of the derogations in Article 92 can apply. Furthermore, the new aid scheme would seem to be incompatible with the conditions under which the Commission had approved the two previous schemes referred to above. The degressivity and the date of expiration of the scheme for distributing high-quality manure would have no real significance if the new scheme were adopted. As for the manure processing factories, the

⁽¹⁾ OJ No C 82, 27. 3. 1991, p. 3.

Commission had based its approval on, among others, the Netherlands Government's assurance that no additional aid would be granted to these factories. The Commission's letter of approval dated 7 February 1991 had specifically noted this point and indicated the Commission's a priori negative attitude towards any further manure aid in the Netherlands. The Commission therefore decided to initiate the procedure laid down in Article 93 (2) of the Treaty.

The Netherlands Government was informed of this decision by letter dated 4 June 1991 and was invited to provide its comments within one month. The other Member States and interested third parties were also given notice to submit their comments⁽¹⁾.

II

Within the framework of the procedure the Netherlands Government submitted observations by letters dated 5 July 1991, in bilateral meetings on 7 October and 17 October 1991 and by letter dated 18 November 1991. The Netherlands Government explained the operations of the manure bank SLM and the way these would be financed by means of levies and tariffs. The Netherlands Government accepted that the scheme had to be assessed by the Commission on the basis of Article 92 of the Treaty, but believed that there would be no distortion of competition, nor an effect on trade, given that the scheme would be financed entirely by means of a levy paid by animal husbandry units. In this context, the Netherlands Government also held that the scheme respected the 'polluter pays principle' and claimed that the draft scheme in question would not entail additional aid to manure processing factories, nor would it serve to prolong the existing aid scheme for transporting high quality manure. With its latest letter, the Netherlands Government submitted the SLM's budget for 1992, which it had adapted in order to meet the Commission's concerns regarding the types of activity to be aided under the scheme.

Within the framework of the procedure, observations were also submitted by the Danish Government, by the European fertilizer manufacturers association EFMA, by the Italian federation of pig-breeders, by a German agricultural organization and by five individual manure processors in the Netherlands, Belgium and France. These observations were submitted to the Netherlands Government for its comments by letter dated 29 August 1991. The Netherlands Government submitted such comments by letter dated 7 October 1991.

⁽¹⁾ OJ No C 189, 20. 7. 1991, p. 5.

III

The cost of an environmentally-sound disposal of the waste an economic operator produces is basically an element of his production cost. Animal husbandry units having an economic advantage through intensive production methods and relatively low transportation cost for feed due to their being concentrated in certain regions, must also bear the cost of an environmentally-sound disposal of their manure, in accordance with the polluter pays principle and Article 130r (2) of the Treaty, especially the principle that the polluter must pay. In the same way as the cost of production and profits are different for every individual operator, the cost of manure disposal will also differ, depending among others on the availability of and distance to potential outlets, such as land that can take additional manure or processing facilities.

Consequently the provision of public funds to the manure bank SLM in order to finance certain of its operations constitutes a type of State aid. The fact that these funds are raised by means of a levy on the production of surplus manure does not alter this appraisal. In the present case the levy is introduced by a regulation of the Landbouwschap (Agricultural Board), i.e. as an obligatory measure under public law; payment of the levy can be enforced. In its judgment of 11 November 1987 in Case 259/85⁽²⁾, the Court of Justice stated that the mere fact that a system of subsidies which benefits certain companies in a specific sector is financed by a parafiscal charge levied on every supply of national goods in that sector is not sufficient to divest the system of its character as aid granted by a Member State within the meaning of Article 92 of the Treaty.

The rate of levy on surplus manure is fixed annually by the Landbouwschap. In doing so the Landbouwschap takes into account several factors: whether there is a regional surplus of manure, the type of manure produced and the magnitude of surplus production at farm level. For example, in 1992 the levy on surplus pig manure in the east of the Netherlands will be Hfl 3,23 per tonne, in the south of the Netherlands Hfl 3,69 per tonne and in the rest of the Netherlands nil.

The yield is in the first place used to cover the fixed cost (infrastructure and overheads) of the manure banks, in the second place their variable operation cost. The remainder of its operation cost is financed by means of tariffs paid by those units that actually supply manure to the SLM. Of the Hfl 71,6 million total expenditure the SLM is expected to have in 1992, Hfl 40 million will be covered by levies, Hfl 31,5 million by means of tariffs.

The effect of the proposed aid scheme will be to partly harmonize the cost of manure disposal, and therefore part

⁽²⁾ France v. Commission, [1987] ECR 4418, paragraph 23.

of the production cost of animal husbandry units, by means of the levy. A second effect of the scheme will be an increasing willingness of manure producers to deliver their surplus manure to the SLM rather than to dispose of it through direct contacts with owners of land elsewhere, given that they will in any case have to finance part of the cost of the SLM, whether they use that manure bank or not.

In so far as the yield of the levy is used to finance part of the cost of supplying processing factories with manure, the aid is likely to favour these factories as well. The scheme will enable the SLM to create storage facilities and to regulate the supply of manure and the price at which it is offered to processing factories, thus limiting their normal entrepreneurial risk. Even though the Netherlands Government in its letter dated 5 July 1991 denied that the objective of the scheme was to grant additional aid to manure processing factories and stressed that the SLM will negotiate with these factories on a commercial basis in order to determine the quantities of manure that will be delivered and the price thereof, the Commission holds that the effect of the aid to the SLM will be to absorb part of the risk manure processing factories would normally have to bear. In this context the Commission notes that the Dutch delegation at the meeting held on 17 October 1991 recognized that the proposed scheme will have the effect of speeding up the construction of large-scale manure processing plants, so that these will be available when needed.

IV

There is competition between animal farmers in the Community and animals and their meat are traded between Member States. The Dutch animal husbandry sector accounts for an important part of Community production. In 1989 15 % of pork production in the Community, 9,2 % of egg production and 7,2 % of poultry production took place in the Netherlands.

In 1988 the Netherlands exported 759 049 tonnes of pigmeat (CN code 0203) to other Member States, in 1989 751 252 tonnes and in 1990 761 772 tonnes, which represented almost 50% of the totality of intra-Community trade in these products. In those years the Netherlands imported 24 214 tonnes, 16 747 tonnes and 22 227 tonnes respectively from other Member States.

In 1988 the Netherlands exported 365 938 tonnes of eggs (CN code 040700) to other Member States, in 1989 370 523 tonnes and in 1990 373 930 tonnes, which represented approximately 75 % of the totality of intra-Community trade in these products. In those years the Netherlands imported 9 407 tonnes, 13 253 tonnes and 19 556 tonnes respectively from other Member States.

In 1988 the Netherlands exported 218 480 tonnes of poultry meat (CN code 0207) to other Member States, in 1989 221 937 tonnes and in 1990 248 793 tonnes, which represented 40 to 45 % of the totality of intra-

Community trade in these products. In those years the Netherlands imported 46 365 tonnes, 48 755 tonnes and 52 043 tonnes respectively from other Member States.

Manure processing is one of the four mechanisms with which the Netherlands Government intends to prevent and to dispose of surplus manure. The other mechanisms are: prohibition of expansion of manure production in units which already produce more manure than their land can take; reduction of manure production and minerals in manure by using appropriate feeds; distribution of manure inside the Netherlands.

In 1989 there was processing capacity available in the Netherlands for 420 000 tonnes of manure per annum. The environmental targets set by the Netherlands Government make it necessary to have processing capacity for 6 million tonnes per annum by the end of 1994 and for 20 million tonnes per annum by the year 2000. These ambitious targets call for the building of up to 20 large-scale processing plants with capacities of 250 000 to 500 000 tonnes per year before 1995.

Processed animal manure contains N, P and K in proportions similar to those in chemical fertilizers, but in lower concentrations (6 % — 6 % — 6 %). Its content of organic matter is, however, much higher. This organic matter improves the soil structure and the soil's ability to absorb water and minerals. Notably in a warm and dry climate, organic fertilizers used over a longer period have been shown to lead to significantly higher crop yields.

When used as a fertilizer, manure competes with other organic fertilizers. According to a study made for the responsible Dutch Ministry in 1990 on the sales potential in other countries for Dutch processed animal manure⁽¹⁾, this product will compete with local animal manure, fish-meal, bone-meal, milled seed-waste, compost and sewage sludge. The potential market for processed animal manure depends in the first place on the price at which it is offered. According to the study referred to above, potential markets can be found inside the Community in France and in Spain and to a lesser extent in Portugal, Italy and Greece and in third countries such as the USA, Japan and Canada.

Depending on soil and crops, processed animal manure may also be in competition with chemical fertilizers. In a study paper on animal manure in Europe dated September 1991, EFMA calculated that if 50 % of the total one million tonnes of nitrogen coming from animal husbandry based on imported feedstuff were to be processed, the use of nitrogen from animal manure would rise by 100 000 tonnes, which represents about 1 % of the total sale of nitrogen fertilizer in Europe in 1988. In the paper EFMA assumed, however, that processing on such a scale would not take place, because the costs to the farmers would be prohibitive.

⁽¹⁾ Booz-Allen & Hamilton : Afzetmogelijkheden voor verwerkte dierlijke mest, Den Haag 1990.

There is trade between Member States in animal and vegetable fertilizers, whether or not mixed together or chemically treated (CN code 3101). In 1988 the Netherlands exported 160 877 tonnes to other Member States, in 1989 210 170 tonnes and in 1990 253 182 tonnes, mainly to the Belgium-Luxembourg Economic Union, Germany and France, which represented 44 to 60 % of the totality of intra-Community trade in these products. In those years the Netherlands imported 44 404 tonnes, 37 357 tonnes and 65 994 tonnes respectively from other Member States. Dutch exports of processed animal manure to other Member States and to third countries can be expected to increase markedly if the planned processing plants are built.

Intensive, concentrated animal husbandry exists not only in the Netherlands, but also in other Member States, especially Belgium, France, Germany and Italy. In order to cope with the associated environmental problems, Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrate from agricultural sources⁽¹⁾ requires all Member States to take measures in order to dispose of their manure surplus in an environmentally-sound manner. There will consequently be increased competition between suppliers of manure, processed or not, in the Community and some replacement of chemical fertilizers by organic fertilizers.

Where financial aid strengthens the position of certain undertakings compared with others that are competing with them in the Community, such aid must be deemed to affect competition with such other undertakings. The measures envisaged may well increase competition from Dutch intensive animal husbandry and from processed manure.

Consequently, the aid which the Netherlands Government intends to grant to an environmentally-sound disposal of surplus manure affects trade between Member States and distorts competition between animal-farmers within the meaning of Article 92 (1) of the Treaty. In so far as the surplus manure in question is processed in order to be brought on the market as a dry organic fertilizer, the aid is also likely to distort competition with other manufacturers of organic and chemical fertilizers.

Article 92 (1) of the Treaty lays down the principle that aid having certain characteristics which it specifies is incompatible with the common market.

The derogations from that principle which are set out in Article 92 (2) of the Treaty are inapplicable in this instance, given the nature and objectives of the aid, and were not in any case invoked by the Netherlands Government.

V

Article 92 (3) of the Treaty specifies the aid which may be considered to be compatible with the common market. Compatibility with the Treaty must be viewed in the context of the Community and not of a single Member State. So as to maintain the proper functioning of the common market and take account of the principles laid down in Article 3 (f) of the Treaty, the derogations to the principle of Article 92 (1) which are set out in Article 92 (3) must be interpreted strictly in examining any aid scheme or any individual aid measure.

In particular, the derogations may be applied only if the Commission finds that, if the aid were not granted, market forces alone would not be sufficient to induce the recipients to act in such a way as to achieve one of the objectives pursued.

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

With regard to the derogations provided for in Article 92 (3) (a) and (c) for aid intended to promote or facilitate the promotion of certain regions, it should be noted that the standard of living in none of the regions of the Netherlands is abnormally low nor does one of the regions suffer from serious underemployment within the meaning of the derogation laid down in Article 92 (3) (a). Several regions in the Netherlands qualify for regional aid within the meaning of the derogation provided for in Article 92 (3) (c); these regions are mainly situated in the north of the Netherlands, whereas the manure problem is the largest in the south and the east. Moreover, the Netherlands Government has not claimed that the aid in question would serve to facilitate the development of certain regions.

With regard to the derogations provided for in Article 92 (3) (b), it is firstly to be noted that the aid is not intended to remedy a serious disturbance in the Dutch economy; nor, indeed, has the Netherlands Government put forward any argument calling for the application of this derogation. With respect to the derogations for aid to promote the execution of an important project of common European interest, the Commission has taken into consideration that the Community framework on State aids in environmental matters, of which all Member States were informed by letters dated 7 November 1974 and 7 July 1980, foresees that during a transitional period State aids designed to assist existing firms in adapting to laws or regulations imposing new major burdens relating to envi-

⁽¹⁾ OJ No L 375, 31. 12. 1991, p. 1.

ronmental protection will qualify for derogation under Article 92 (3) (b) of the Treaty, by being aids to promote the execution of an important project of common European interest. The framework specifies however that, in order to qualify for exemption under Article 92 (3) (b), national aids will have to be granted to finance investments necessary to the adaptation which the recipient firms will have to make to their plants in order to satisfy new major environmental obligations imposed by the State or the Community.

In the present case, the aid planned by the Netherlands Government is not designed to finance investments in animal husbandry units in order to comply with new environmental legislation, but on the contrary to allow manure producers to maintain their present production, by financing a new outlet for their surplus manure. The framework does not exclude environmental aids other than those it declares compatible with the common market; such other aids must then, however, qualify for the exemptions in Article 92 (3) (a) or (c).

With regard to the derogations provided for in Article 92 (3) (c) 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 notes that the aid scheme proposed by the Netherlands Government — even though it serves to maintain the present intensive, concentrated production structure of a large part of Dutch animal husbandry — can be said to facilitate its developments, by creating a system for an environmentally-sound disposal of its surplus manure. Having due regard to Article 130r of the Treaty the Commission notes that the environmental policy pursued by the Netherlands Government, in so far as it reduces manure pollution, is in the interest of the Community as a whole.

When the Commission decided in December 1990 not to object to the Netherlands Government's intention to grant 35 % investment aid for the construction of large-scale manure processing plants until the end of 1994, it did so on the basis of the environmental considerations referred to above and the high commercial risk involved in large-scale manure processing. At the same time the Commission expressed its concerns that if these processing plants should turn out to be less profitable than expected, the Netherlands Government might be tempted to introduce a system of operating aid.

With regard to the aid scheme now proposed, the Commission has taken note of the Netherlands Government's reasoning that a central organization such as the SLM serves a useful purpose for the sector as a whole: the SLM is obliged to accept all manure offered to it, thus creating a controllable and environmentally-sound outlet

for animal husbandry units that will find it increasingly difficult to dispose of their manure by other means. The Commission has also taken account of the argument presented by the Dutch delegation in the meeting held on 17 October 1991, that the necessary processing capacity will be available when it is needed, thanks to the scheme.

The Commission is of the opinion that the aid to be granted under the scheme *Stimuleren milieuhygiënisch verantwoorde afzet van mestoverschotten* consists of two components:

First, the financing of the SLM's fixed costs (administrative apparatus, creation and maintenance of storage facilities) in order to have an organization available to all manure producers who may, at any given time, have a surplus of manure and no other outlet. It is the Commission's view that the SLM serves a useful purpose for the Dutch animal husbandry sector as a whole and the facilities it offers can therefore well be financed by means of a levy. The Commission has previously approved aid in other Member States to collective sectoral activities financed by means of quasi-fiscal levies on domestic production⁽¹⁾.

Secondly, as for the financing of the variable costs the SLM will increasingly have, that is the cost of transporting, storing and delivering manure to other areas in the Netherlands or to processing factories, it is the Commission's view that these variable costs should eventually be entirely covered by the tariffs that manure producers who actually use the SLM as an outlet have to pay. In the SLM's budget for 1992, its variable cost is only partially covered by tariffs and partly by the yield of the levy. If this situation was to become permanent, the Dutch authorities could well grant operating aid to manure processing factories via the SLM, once these factories have been built, for their exploitation and for their export of processed manure to other Member States. Such operating aid would adversely affect trading conditions to an extent contrary to the common interest, to the detriment of other suppliers of fertilizers.

The second component of the aid proposed by the Netherlands Government can therefore not be allowed to continue to be granted after the initial period in which the first processing factories are to be built, that is the period until the end of 1994. The Netherlands Government itself has repeatedly stated that 35 % investment aid will only be necessary for the construction of the first large-scale processing factories to be built in this period, given the extraordinary risks involved in this stage.

⁽¹⁾ e.g. 20th Competition Report, point 274.

Similarly, the use of part of the yield of the levy on surplus manure for financing other than infrastructural and overhead cost in the SLM can be considered to promote the creation of an environmentally-sound disposal mechanism for manure without adversely affecting trading conditions to an extent contrary to the common interest, if it remains limited to the initial period, in which the SLM has to start up its operations and manure producers will become acquainted with it, and if it is entirely financed by the sector itself.

VI

Conclusion: The scheme Stimuleren milieuhygiënisch verantwoorde afzet van mestoverschotten involves aid fulfilling the tests set out in Article 92 (1) of the Treaty. The aid is completely financed by means of a levy imposed on the overproduction of manure. The aid to the fixed cost of the manure bank SLM can be considered compatible with the common market under Article 92 (3) (c). The aid to the variable cost of actually handling manure can only be considered compatible during the starting period ending on 31 December 1994. From 1 January 1995 on the latter aid cannot be granted. Reporting obligations will ensure verification that this condition is complied with,

HAS ADOPTED THIS DECISION:

Article 1

The aid entirely financed by means of a levy on manure surplus production, which the Netherlands intend to grant for stimulating an environmentally-acceptable disposal of surplus manure, can be considered compatible with the common market under Article 92 (3) (c) of the EEC Treaty, in so far as the aid does not exceed the fixed

cost of the administrative apparatus and the creation and maintenance of storage facilities by the Stichting Landelijke Mestbank (SLM).

Article 2

The aid referred to in Article 1 can also be considered compatible with the common market if it covers part of the variable cost of the SLM in its starting period for manure disposal 1992 to 1994.

From 1 January 1995 on, however, such aid no longer meets the conditions for exception provided for in Article 92 (3) and therefore may not be granted after that date.

Article 3

The Netherlands shall submit annual reports on the operations of the SLM and the way these are financed, allowing the Commission to verify that this Decision is complied with.

Article 4

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

Article 5

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 11 March 1992.

For the Commission

Leon BRITTAN

Vice-President

CORRIGENDA**Corrigendum to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant products on the market**

(Official Journal of the European Communities No L 230 of 19 August 1991)

On page 10, Article 13 (3) (d), point (d) shall be replaced by the following :

'(d) for a period of five years from the date of a decision, following receipt of further information necessary for first inclusion in Annex I, or to vary the conditions for, or to maintain the inclusion of an active substance in Annex I, which has been taken either to vary the conditions for, or to maintain, the inclusion of an active substance in Annex I, unless the five-year period expires before the period provided for in paragraphs 3 (b) and (c), in which case the period of five years shall be extended so as to expire on the same date as those periods.'

in Article 13 (5), line 3 :

for: '... where they consider an active substance to be listed ...',

read: '... where they consider an active substance as listed ...' ;

on page 11, in Article 16 (1) (c) :

for: '(c) the name and amount of each active substance expressed as provided for in Article 6 of Directive 67/548/EEC ...'.

read: '(c) the name and amount of each active substance expressed as provided for in Article 6 of Directive 78/631/EEC and ...' ;

on page 13, in Article 20, the second indent shall read as follows :

'The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.'
