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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1628/92

of 25 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 24 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 26 June 1992.

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

Done at Brussels, 25 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 25 June 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy (°) (ECU/tonne)
0709 90 60	141,83 ⁽²⁾ ⁽³⁾
0712 90 19	141,83 ⁽²⁾ ⁽³⁾
1001 10 10	182,24 ⁽¹⁾ ⁽⁵⁾ ⁽¹⁰⁾
1001 10 90	182,24 ⁽¹⁾ ⁽⁵⁾ ⁽¹⁰⁾
1001 90 91	150,94
1001 90 99	150,94 ⁽¹¹⁾
1002 00 00	172,81 ⁽⁶⁾
1003 00 10	150,18
1003 00 90	150,18 ⁽¹¹⁾
1004 00 10	126,65
1004 00 90	126,65
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 ⁽⁷⁾
1008 90 10	(7)
1008 90 90	69,63
1101 00 00	224,32 ⁽⁸⁾ ⁽¹¹⁾
1102 10 00	254,94 ⁽⁸⁾
1103 11 10	296,11 ⁽⁸⁾ ⁽¹⁰⁾
1103 11 90	240,58 ⁽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 1629/92

of 25 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 24 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 26 June 1992.

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

Done at Brussels, 25 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 25 June 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	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

CN code	(ECU/tonne)				
	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 1630/92

of 25 June 1992

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

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

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

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

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

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

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

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

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

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

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

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

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 22 and 23 June 1992 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

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

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

⁽²⁾ OJ No L 162, 26. 6. 1991, p. 27.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 80, 27. 3. 1991, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 80, 27. 3. 1991, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 80, 27. 3. 1991, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

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

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 2

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

Article 3

This Regulation shall enter into force on 26 June 1992.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Minimum import levies on olive oil ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	76,00 ⁽²⁾
1509 10 90	76,00 ⁽²⁾
1509 90 00	88,00 ⁽³⁾
1510 00 10	77,00 ⁽²⁾
1510 00 90	122,00 ⁽⁴⁾

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3148/91 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

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

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

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

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

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

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

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

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

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

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

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

ANNEX II

Import levies on other olive oil sector products ⁽¹⁾

(ECU/100 kg)

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

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3148/91 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 1631/92

of 25 June 1992

adopting interim protective measures on applications for STM licences in the beef and veal sector submitted during the period 15 to 18 June 1992 for trade with Portugal

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

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

Whereas Commission Regulation (EEC) No 3810/91 of 18 December 1991, laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted on 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 4026/89 and (EEC) No 3815/90 ⁽¹⁾, as last amended by Regulation (EEC) No 716/92 ⁽²⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued in May and June 1992;

Whereas Article 252 (1) of the Act of Accession makes provision for the Commission to take the interim protec-

tive measures necessary if the indicative ceiling for the year in course or part of it is reached or exceeded;

Whereas the licence applications lodged between 15 and 18 June 1992 have achieved the indicative ceiling set for the months of May and June 1992 for frozen beef and veal; whereas as an interim protective measure only no further certificates should be issued for the time being,

HAS ADOPTED THIS REGULATION:

Article 1

For frozen beef and veal, the issuing of STM licences in response to applications submitted by Portugal from 15 to 18 June 1992 onwards is suspended for the time being.

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, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 357, 28. 12. 1991, p. 53.

⁽²⁾ OJ No L 78, 24. 3. 1992, p. 5.

COMMISSION REGULATION (EEC) No 1632/92
of 25 June 1992
fixing the import levies on frozen sheepmeat and goatmeat

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

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

Whereas the import levies on frozen sheepmeat and goatmeat were fixed by Commission Regulation (EEC) No 456/92⁽³⁾, as last amended by Regulation (EEC) No 1372/92⁽⁴⁾;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 6 July 1992.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 163, 26. 6. 1991, p. 41.

⁽³⁾ OJ No L 52, 27. 2. 1992, p. 37.

⁽⁴⁾ OJ No L 145, 27. 5. 1992, p. 98.

ANNEX

to the Commission Regulation of 25 June 1992 fixing the import levies on frozen
sheepmeat and goatmeat ⁽¹⁾ ⁽²⁾

(ECU/100 kg)

CN code	Week No 27 from 6 to 12 July 1992	Week No 28 from 13 to 19 July 1992	Week No 29 from 20 to 26 July 1992	Week No 30 from 27 July to 2 August 1992
0204 30 00	137,275	130,338	127,473	126,093
0204 41 00	137,275	130,338	127,473	126,093
0204 42 10	96,093	91,237	89,231	88,265
0204 42 30	151,003	143,372	140,220	138,702
0204 42 50	178,485	169,439	165,715	163,921
0204 42 90	178,458	169,439	165,715	163,921
0204 43 00	249,841	237,215	232,001	229,489
0204 50 51	137,275	130,338	127,473	126,093
0204 50 53	96,093	91,237	89,231	88,265
0204 50 55	151,003	143,372	140,220	138,702
0204 50 59	178,458	169,439	165,715	163,921
0204 50 71	178,458	169,439	165,715	163,921
0204 50 79	249,841	237,215	232,001	229,489

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

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

COMMISSION REGULATION (EEC) No 1633/92**of 25 June 1992****fixing the import levies on live sheep and goats and on sheepmeat and goatmeat
other than frozen meat**

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

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

Whereas the import levies on live sheep and goats and on
sheepmeat and goatmeat other than frozen meat were
fixed by Commission Regulation (EEC) No 455/92⁽³⁾, as
last amended by Regulation (EEC) No 1371/92⁽⁴⁾;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 6 July 1992.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 163, 26. 6. 1991, p. 41.

⁽³⁾ OJ No L 52, 27. 2. 1992, p. 34.

⁽⁴⁾ OJ No L 145, 27. 5. 1992, p. 96.

ANNEX

to the Commission Regulation of 25 June 1992 fixing the import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat⁽¹⁾

(ECU/100 kg)

CN code	Week No 27 from 6 to 12 July 1992	Week No 28 from 13 to 19 July 1992	Week No 29 from 20 to 26 July 1992	Week No 30 from 27 July to 2 August 1992
0104 10 90 ⁽¹⁾	56,259	51,912	50,116	49,251
0104 20 90 ⁽¹⁾	56,259	51,912	50,116	49,251
0204 10 00 ⁽²⁾	119,700	110,450	106,630	104,790
0204 21 00 ⁽²⁾	119,700	110,450	106,630	104,790
0204 22 10 ⁽²⁾	83,790	77,315	74,641	73,353
0204 22 30 ⁽²⁾	131,670	121,495	117,293	115,269
0204 22 50 ⁽²⁾	155,610	143,585	138,619	136,227
0204 22 90 ⁽²⁾	155,610	143,585	138,619	136,227
0204 23 00 ⁽²⁾	217,854	201,019	194,067	190,718
0204 50 11 ⁽²⁾	119,700	110,450	106,630	104,790
0204 50 13 ⁽²⁾	83,790	77,315	74,641	73,353
0204 50 15 ⁽²⁾	131,670	121,495	117,293	115,269
0204 50 19 ⁽²⁾	155,610	143,585	138,619	136,227
0204 50 31 ⁽²⁾	155,610	143,585	138,619	136,227
0204 50 39 ⁽²⁾	217,854	201,019	194,067	190,718
0210 90 11 ⁽³⁾	155,610	143,585	138,619	136,227
0210 90 19 ⁽³⁾	217,854	201,019	194,067	190,718

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

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

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

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

COMMISSION REGULATION (EEC) No 1634/92

of 24 June 1992

reintroducing the levying of the customs duties applicable to products falling within CN code 2929 90 00, originating in Brazil, to which the preferential tariff arrangements of Council Regulation (EEC) No 3831/90 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3831/90 of 20 December 1990 applying generalized tariff preferences for 1991 in respect of certain industrial products originating in developing countries⁽¹⁾, extended for 1992 by Regulation (EEC) No 3587/91⁽²⁾, and in particular Article 9 thereof,

Whereas, pursuant to Article 1 of Regulation (EEC) No 3831/90, customs duties on certain products originating in each of the countries or territories listed in Annex III are totally suspended for 1992, and the products as such are, as a general rule, subject to statistical surveillance every three months on the reference base referred to in Article 8;

Whereas, as provided for in Article 8, where the increase of preferential imports of these products, originating in one or more beneficiary countries, causes or threatens to cause economic difficulties in the Community or a region of the Community, the levying of customs duties may be reintroduced, once the Commission has had an appropriate exchange of information with the Member States; whereas for this purpose the reference base to be considered is equal, as a general rule, to 6,615 % of the total importations into the Community, originating from third countries in 1988;

Whereas, in the case of the products falling within CN code 2929 90 00, originating in Brazil, the reference base is fixed at ECU 628 000; whereas that reference base was

reached on 18 March 1992 by charges of imports into the Community of the products in question originating in Brazil; whereas the exchange of information organized by the Commission has demonstrated that continuance of the preference threatens to cause economic difficulties in a region of the Community; whereas, therefore, customs duties for the products in question must be reintroduced with regard to Brazil,

HAS ADOPTED THIS REGULATION:

Article 1

As from 29 June 1992, the levying of customs duties, suspended for 1992 pursuant to Regulation (EEC) No 3831/90 shall be reintroduced on imports into the Community of the following products, originating in Brazil:

CN code	Description
2929	Compounds with other nitrogen function:
2929 90 00	— Other

Article 2

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

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

Done at Brussels, 24 June 1992.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 1.

⁽²⁾ OJ No L 341, 12. 12. 1991, p. 1. This Regulation was last amended by Regulation (EEC) No 1509/92 (OJ No L 159, 12. 6. 1992, p. 1).

COMMISSION REGULATION (EEC) No 1635/92

of 25 June 1992

fixing the number of young male bovine animals which may be imported on special terms in the third quarter of 1992 and derogating from Regulation (EEC) No 2377/80 in respect of that quarter as regards the allocation of the quantities available

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 Articles 13 (4), 15 (2) and 25 thereof,

Whereas the Council has drawn up an estimated supply balance of 198 000 head under the new import arrangements applicable to young male bovine animals for fattening for the period 1 January to 31 December 1992; whereas, pursuant to Article 13 (4) (a) of Regulation (EEC) No 805/68, the number which may be imported each quarter and the rate of reduction in the import levy on such animals must be determined;

Whereas detailed rules for the practical application of these special arrangements were laid down in Commission Regulation (EEC) No 612/77 ⁽³⁾, as last amended by Regulation (EEC) No 1121/87 ⁽⁴⁾, and in Commission Regulation (EEC) No 2377/80 ⁽⁵⁾, as last amended by Regulation (EEC) No 815/91 ⁽⁶⁾;

Whereas the supply requirements of certain regions of the Community which have a serious shortfall in bovine animals for fattening must be taken into account; whereas those requirements are apparent in Italy and Greece and may be estimated for the third quarter of 1992 at 42 120 head and 6 435 head respectively in those Member States;

Whereas Council Regulation (EEC) No 1432/92 ⁽⁷⁾ prohibits trade between the European Economic Community and the Republics of Serbia and Montenegro; whereas these republics are therefore excluded from the scheme;

Whereas, in accordance with letter No 2 annexed to the Interim Agreement between the European Economic

Community and the European Coal and Steel Community of the one part, and the Czech and Slovak Federal Republic of the other part, these arrangements should apply to that Republic;

Whereas the supply requirements in young bovine animals for fattening justify, for the third quarter of 1992, a higher rate of reduction in the levy on animals weighing from 220 to 300 kilograms per head, originating in and coming from Hungary, Poland or the Czech and Slovak Federal Republic;

Whereas the quantities available must be shared between the traditional trade and other potential applicants;

Whereas, in order to simplify the procedure for allocating the quantities available it is necessary to derogate from Regulation (EEC) No 2377/80; whereas in the case of the traditional trade the quantities available should be allocated directly in proportion to the number of head imported during the last three years; whereas, in the case of other applicants, the quantities available should be allocated directly in proportion to the number of head for which application is made;

Whereas, in the case of other applicants, the maximum quantity which each application for an import licence may cover must be limited, in order to permit a more equitable distribution of the quantities available; whereas for financial reasons a minimum number of head should be set for these applications;

Whereas, in order to permit regular imports, the term of validity of licences as referred to in Article 4 (b) of Regulation (EEC) No 2377/80 should be extended;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period 1 July to 30 September 1992, the maximum number referred to in Article 13 (4) (a) of

⁽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. 18.

⁽⁴⁾ OJ No L 109, 24. 4. 1987, p. 12.

⁽⁵⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁶⁾ OJ No L 83, 3. 4. 1991, p. 6.

⁽⁷⁾ OJ No L 151, 3. 6. 1992, p. 4.

Regulation (EEC) No 805/68 shall be 48 555 head of young male bovine animals for fattening, comprising:

- (a) 6 315 weighing not more than 300 kilograms per head and subject to a 65 % reduction in the levy, and
- (b) 42 240 of a weight of 220 to 300 kilograms per head, originating in and coming from Hungary, Poland or the Czech and Slovak Federal Republic and subject to a 75 % reduction in the levy.

2. The reductions referred to in 1 shall be in respect of the levy applicable on the day of acceptance of the declaration of release for free circulation.

3. The quantities referred to in 1 shall be distributed as follows:

	<i>Italy</i>	<i>Greece</i>
(a) 6 315 head	5 480	835
(b) 42 240 head	36 340	5 600

4. Applications for licences and licences shall, notwithstanding Article 9 (1) (c) of Regulation (EEC) No 2377/80, relate to:

- either young bovine animals weighing not more than 300 kilograms per head,
- or young bovine animals weighing from 220 to 300 kilograms per head, originating in and coming from Hungary, Poland or the Czech and Slovak Federal Republic.

In the latter case, Sections 7 and 8 of applications for licences and licences shall include one of the following entries:

- *Hungria y/o Polonia y/o República Federativa Checa y Eslovaca*
- *Ungarn og/eller Polen og/eller Den Tjekkiske og Slovakiske Føderative Republik*
- *Ungarn und/oder Polen und/oder Tschechische und Slowakische Föderative Republik*
- *Ουγγαρία ή/και Πολωνία, ή/και Τσεχική και Σλοβακική Ομοσπονδιακή Δημοκρατία*
- *Hungary and/or Poland and/or Czech and Slovak Federal Republic*
- *Hongrie et/ou Pologne et/ou République fédérative tchèque et slovaque*
- *Ungheria e/o Polonia e/o Repubblica federativa ceca e slovacca*
- *Hongarije en/of Polen en/of Tsjechische en Slowaakse Federatieve Republiek*
- *Hungria e/ou Polónia e/ou República Federativa Checa e Eslovaca*

Licences shall carry with them an obligation to import from one or more of the countries indicated.

5. Import licences as specified in the first indent of the first subparagraph of paragraph 4 shall not give the right

to import animals originating in the Republic of Serbia or Montenegro.

6. In the information referred to in Article 15 (4) (a) of Regulation (EEC) No 2377/80, Member States shall specify the category of live weight and the origin of the products in the case referred to in the second indent of the first subparagraph of paragraph 4.

7. Of the number of head reserved for Italy and Greece for each category notwithstanding Article 15 (6) (a) of Regulation (EEC) No 2377/80:

- (a) 90 % may be allocated directly to applicants who provide proof of having imported animals qualifying under this scheme during the last three years.

Numbers covered by licences shall be allocated in proportion to the number of head imported in the three years concerned;

- (b) 10 % may be allocated directly to other applicants.

8. The proof referred to in paragraph 7 shall be provided by the customs document of release for free circulation.

9. In the case of the quantities covered by paragraph 7 (b) import licences shall be issued only for a minimum number of 10 head.

Article 2

1. As regards the quantities referred to in Article 1 (7) (b), applications for import licences shall

- (a) relate to a number equal to or more than 50 head, and
- (b) relate to a quantity not exceeding 10 % of the quantities available except where the said 10 % results in a figure less than 50 head.

2. In cases where applications for import licences state quantities in excess of those provided for by this Regulation those applications shall only be considered within the limits of the said quantities.

3. Numbers shall be allocated in proportion to the number of head for which application is made. If, because of the numbers for which application is made, the percentage reduction results in fewer than 10 head per import licence, the Member States shall, by drawing lots, allocate licences covering 10 head.

Article 3

In the case of quantities imported under the terms of Article 8 (4) of Commission Regulation (EEC) No 3719/88⁽¹⁾, the levy shall be collected in full in respect of quantities in excess of those stated on the import licence.

⁽¹⁾ OJ No L 331, 2. 12. 1988, p. 1.

Article 4

For the purposes of Article 15 (3) of Regulation (EEC) No 2377/80, all applications from one applicant, which relate to the same category of weight and the same rate of reduction in the levy, shall be treated as one application.

Article 5

Three weeks at the latest after import of the livestock referred to in this Regulation, importers shall inform the competent authorities which issued the import licences, of the number and origin of the animals imported. Those

authorities shall forward that information to the Commission at the beginning of each month.

Article 6

By way of derogation from Article 4(b) of Regulation (EEC) No 2377/80, the term of validity licences issued under this Regulation shall extend for four months from their actual date of issue.

Article 7

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, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1636/92**of 25 June 1992****adopting definitive measures on the issuing of STM licences for milk and milk products in regard to 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, and in particular Article 85 (3) thereof,

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

Whereas Commission Regulation (EEC) No 606/86 of 28 February 1986 laying down detailed rules for applying the supplementary trade mechanism to milk products imported into Spain from the Community of Ten and Portugal⁽³⁾, as last amended by Regulation (EEC) No 705/92⁽⁴⁾, fixes the indicative ceiling for imports into Spain of certain products in the milk and milk products sector for 1992;

Whereas applications for STM licences lodged in the Community of Ten during the period 27 April to 1 May for cheese categories 5 and 6, 4 to 8 May for cheese category 5a and 11 to 15 May for cheese category 4 relate to quantities in excess of that fraction of the indicative ceiling set aside for the month of May 1992;

Whereas the Commission adopted, by an emergency procedure, suitable interim protective measures by Regulation (EEC) No 1185/92⁽⁵⁾, (EEC) No 1262/92⁽⁶⁾ and (EEC) No 1288/92⁽⁷⁾; whereas definitive measures must

be adopted; whereas, in view of the market situation in Spain, an increase in indicative ceilings cannot be contemplated at present;

Whereas, as part of the definitive measures referred to in Article 85 (3) of the Act, the suspension of the issuing of STM licences provided for in the abovementioned Regulation until the end of the month of May 1992 should be confirmed; whereas Regulation (EEC) No 1185/92 set the date from which further applications could be lodged for all products;

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

HAS ADOPTED THIS REGULATION:

Article 1

The issuing of STM licences applied for in the Community of Ten for products in the milk and milk products sector as referred to in Regulations (EEC) No 1185/82, (EEC) No 1261/92 and (EEC) No 1288/92 is hereby definitively suspended for the month of May of 1992.

Article 2

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

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 55, 1. 3. 1986, p. 106.

⁽²⁾ OJ No L 293, 27. 10. 1988, p. 7.

⁽³⁾ OJ No L 58, 1. 3. 1986, p. 28.

⁽⁴⁾ OJ No L 75, 31. 3. 1992, p. 29.

⁽⁵⁾ OJ No L 123, 8. 5. 1992, p. 12.

⁽⁶⁾ OJ No L 131, 16. 5. 1992, p. 31.

⁽⁷⁾ OJ No L 138, 21. 5. 1992, p. 21.

COMMISSION REGULATION (EEC) No 1637/92

of 25 June 1992

fixing the import levies on live cattle and on beef and veal other than frozen

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 (8) thereof,

Whereas under Article 9 of Regulation (EEC) No 805/68 a levy is applicable to the products specified in Article 1 (1) (a) of that Regulation; whereas Article 12 fixes the amount of the levy applicable by reference to a percentage of the basic levy;

Whereas in respect of bovine animals the basic levy is determined on the basis of the difference between the guide price and the Community free-at-frontier offer price plus the amount of the customs duty; whereas the Community free-at-frontier offer price is determined in the light of the most representative purchasing possibilities, as regards quality and quantity, recorded over a certain period for bovine animals and for the fresh or chilled meat specified in section (a) of the Annex to the said Regulation under CN codes 0201 10 10, 0201 10 90, 0201 20 11 and 0201 20 19, account being taken in particular of the position with respect to supply and demand, of world market prices for frozen meat of a category which is competitive with fresh or chilled meat and of past experience;

Whereas if it is found that the price of adult bovine animals on representative Community markets is higher than the guide price, the levy applicable equals the following percentage of the basic levy:

- (a) 75 % where the market price is less than or equal to 102 % of the guide price;
- (b) 50 % where the market price is more than 102 % and less than or equal to 104 % of the guide price;
- (c) 25 % where the market price is more than 104 % and less than or equal to 106 % of the guide price;
- (d) 0 % where the market price is more than 106 % of the guide price;

Whereas if it is found that the price of adult bovine animals on representative Community markets is equal to

or less than the guide price, the levy applicable equals the following percentage of the basic levy:

- (a) 100 % where the market price is more than or equal to 98 % of the guide price;
- (b) 105 % where the market price is less than 98 % and more than or equal to 96 % of the guide price;
- (c) 110 % where the market price is less than 96 % and more than or equal to 90 % of the guide price;
- (d) 114 % where the market price is less than 90 % of the guide price;

Whereas pursuant to Article 10 (4) of Regulation (EEC) No 805/68 the basic levy on the meat specified in sections (a), (c) and (d) of the Annex hereto is equal to the basic levy determined for bovine animals, multiplied by a standard coefficient fixed for each of the products in question; whereas these coefficients are fixed by Commission Regulation (EEC) No 586/77 of 18 March 1977 laying down rules for the application of levies on beef and veal and amending Regulation (EEC) No 950/68 on the Common Customs Tariff ⁽³⁾, as last amended by Regulation (EEC) No 3988/87 ⁽⁴⁾;

Whereas the guide prices for adult bovine animals for the 1992/93 marketing year were fixed by Council Regulation (EEC) No 1377/92 ⁽⁵⁾;

Whereas Regulation (EEC) No 586/77 stipulates that the basic levy is to be calculated according to the method set out in its Article 3 and on the basis of all the representative free-at-frontier offer prices of the Community determined for the products of each of the categories and cuts specified in Article 2 and established principally by reference to the prices specified in the customs documents accompanying products imported from third countries or from other information concerning export prices obtaining in those third countries;

Whereas, however, offer prices that do not correspond to real purchasing possibilities or that relate to unrepresentative quantities should not be taken into account; whereas offer prices should also be excluded when the movement of prices in general or the information available suggests that they are unrepresentative of the true trend of prices in the country of origin;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 16.

⁽³⁾ OJ No L 75, 23. 3. 1977, p. 10.

⁽⁴⁾ OJ No L 376, 31. 12. 1987, p. 31.

⁽⁵⁾ OJ No L 147, 29. 5. 1992, p. 6.

Whereas in cases where for one or more categories of bovine animals or cuts of meat a free-at-frontier offer price cannot be established, the most recent available price should be used for the calculation ;

Whereas if the free-at-frontier offer price differs by less than ECU 0,60 per 100 kilograms of live weight from that previously used for the calculation of the levy, the latter price should be retained ;

Whereas pursuant to Article 10 (3) of Regulation (EEC) No 805/68 a special basic levy is determined for certain third countries on the basis of the difference between the guide price and the average price recorded over a certain period plus the amount of the customs duty ;

Whereas Commission Regulation (EEC) No 611/77 ⁽¹⁾, as last amended by Regulation (EEC) No 1049/92 ⁽²⁾, provides that the special levy on products originating in and coming from Austria, Sweden and Switzerland should be determined on the basis of the weighted average of the prices of adult bovine animals recorded on the representative markets of those third countries ; whereas the weighting coefficients and representative markets are specified in the Annexes to Regulation (EEC) No 611/77 ;

Whereas Council Decision 92/232/EEC of 1 October 1991 on the conclusion of an Agreement in the form of an exchange of letters between the European Economic Community and the Republic of Austria concerning the adjustment of the Community import arrangements applicable to certain beef and veal sector products originating in Austria ⁽³⁾ lays down new provisions on preferential imports under a separate tariff quota ; whereas this must be taken into account when the levies are fixed ;

Whereas the average price is not to be used for calculating the special levy unless it is at least ECU 1,21 per 100 kilograms of live weight more than the free-at-frontier offer price determined in accordance with Article 10 (2) of Regulation (EEC) No 805/68 ;

Whereas if the average price differs by less than ECU 0,60 per 100 kilograms of live weight from that previously used to calculate the levy, the latter may be retained ;

Whereas in cases where one or more of the abovementioned third countries adopt, for reasons of health for example, measures affecting the prices recorded on their markets, the Commission may use the latest prices recorded before the entry into force of such measures ;

Whereas pursuant to Article 12 (6) of Regulation (EEC) No 805/68 the price of adult bovine animals on representative Community markets is the price established on the

basis of prices recorded over a period to be determined on the representative market or markets of each Member State in respect of the various categories of adult bovine animals or of meat from such animals, after taking into account the size of each of these categories and the relative size of the bovine herd of each Member State ;

Whereas the representative markets, categories and qualities of products and weighting coefficients are fixed in Annex II to Commission Regulation (EEC) No 610/77 of 18 March 1977 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 ⁽⁴⁾, as last amended by Regulation (EEC) No 1615/92 ⁽⁵⁾ ;

Whereas, for Member States with several representative markets, the price of each category and quality is equal to the arithmetic mean of the prices recorded on each of those markets ; whereas, for representative markets held several times in one period of seven days, the price of each category and quality is equal to the arithmetic mean of the prices recorded on each market day ; whereas in respect of Italy the price of each category and quantity is equal to the average, weighted by the special weighting coefficients fixed in Annex II to Regulation (EEC) No 610/77, of the prices recorded in the surplus and deficit zones ; whereas the price recorded in the surplus zone is equal to the arithmetic mean of the prices recorded on each of the markets within that zone ; whereas in respect of the United Kingdom the weighted average prices of adult bovine animals recorded on the representative markets of Great Britain on the one hand and Northern Ireland on the other are adjusted by the coefficient fixed in the abovementioned Annex II ;

Whereas prices for the different categories and qualities not obtained from prices which are 'live weight excluding tax' are multiplied by the live weight conversion coefficients fixed in Annex II to the said Regulation and, in the case of Italy, are first increased or reduced by the corrective amounts fixed in the said Annex ;

Whereas if one or more Member States, for veterinary or health reasons for example, adopt measures affecting the normal trend of prices recorded on their markets the Commission may disregard the prices recorded on the market or markets in question, or use the latest prices recorded on the market or markets in question before the entry into force of such measures ;

Whereas, in the absence of information, prices recorded on representative Community markets are determined mainly by reference to the most recently recorded prices ;

⁽¹⁾ OJ No L 77, 25. 3. 1977, p. 14.

⁽²⁾ OJ No L 111, 29. 4. 1992, p. 7.

⁽³⁾ OJ No L 111, 29. 4. 1992, p. 16.

⁽⁴⁾ OJ No L 77, 25. 3. 1977, p. 1.

⁽⁵⁾ OJ No L 170, 25. 6. 1992, p. 16.

Whereas for such period as the price of adult bovine animals recorded on representative Community markets differs by less than ECU 0,24 per 100 kilograms of live weight from the price previously used, the latter is retained;

Whereas the levies must be so fixed that obligations arising from international agreements concluded by the Community continue to be fulfilled; whereas the levies fixed must be consistent with international agreements entered into by the Community; whereas account should also be taken of Council Regulation (EEC) No 545/92 of 3 February 1992 concerning the arrangements applicable to the import into the Community of products originating in the Republics of Croatia and Slovenia and the Yugoslav Republics of Bosnia-Herzegovina, Macedonia and Montenegro⁽¹⁾, which provides for reductions in the levies on certain products of the beef and veal sector imported into the Community; whereas Commission Regulation (EEC) No 859/92⁽²⁾ establishes detailed rules for the importation of these products;

Whereas Council Regulation (EEC) No 715/90⁽³⁾, as last amended by Regulation (EEC) No 444/92⁽⁴⁾, lays down the arrangements applicable on agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States;

Whereas Council Regulations (EEC) No 518/92⁽⁵⁾, (EEC) No 519/92⁽⁶⁾ and (EEC) No 520/92⁽⁷⁾ of 27 February 1992 on certain procedures for applying the Interim Agreements on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic respectively, of the other part, introduce arrangements for reducing import levies on certain products; whereas Commission Regulation (EEC) No 981/92⁽⁸⁾, as amended by Regulation (EEC) No 982/92⁽⁹⁾, lays down detailed rules for applying the arrangements provided for in these agreements in regards beef;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁰⁾, no levies shall apply on imports of products originating in the overseas countries and territories; whereas, however, pursuant to Article 101 (4) of the abovementioned Decision, a special amount

shall be charged on imports of certain products originating in the overseas countries and territories in order to prevent products originating from these countries and territories from receiving more favourable treatment than similar products imported from Spain or Portugal into the Community as constituted on 31 December 1985;

Whereas the various cuts of beef and veal are defined in Regulation (EEC) No 586/77;

Whereas, pursuant to Article 33 (2) of Regulation (EEC) No 805/68, the nomenclature provided for in this Regulation is incorporated in the combined nomenclature;

Whereas the levies and special levies are fixed before the 27th day of each month and are applicable from the first Monday of the following month; whereas these levies may be altered in the period between two fixings where the basic levy or special basic levy is altered, or in the case of changes in the prices recorded on Community representative markets;

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 coefficient provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽¹¹⁾, as last amended by Regulation (EEC) No 2205/90⁽¹²⁾,
- for the other currencies, an exchange rate based on 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, having regard to the provisions of the aforementioned Regulation, and in particular to the information and quotations known to the Commission, the levies on live cattle and beef and veal other than frozen meat should be as set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies on live cattle and beef and veal other than frozen meat shall be as set out in the Annex to the present Regulation.

Article 2

This Regulation shall enter into force on 6 July 1992.

⁽¹⁾ OJ No L 63, 7. 3. 1992, p. 1.

⁽²⁾ OJ No L 89, 4. 4. 1992, p. 26.

⁽³⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽⁴⁾ OJ No L 52, 27. 2. 1992, p. 7.

⁽⁵⁾ OJ No L 56, 29. 2. 1992, p. 3.

⁽⁶⁾ OJ No L 56, 29. 2. 1992, p. 6.

⁽⁷⁾ OJ No L 56, 29. 2. 1992, p. 9.

⁽⁸⁾ OJ No L 104, 22. 4. 1992, p. 34.

⁽⁹⁾ OJ No L 104, 22. 4. 1992, p. 38.

⁽¹⁰⁾ OJ No L 263, 19. 9. 1991, p. 1.

⁽¹¹⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽¹²⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 25 June 1992 fixing the import levies on live cattle and on beef and veal other than frozen

(ECU/100 kg)

CN code	Croatia, Slovenia, Bosnia-Herzegovina, Macedonia, Montenegro ⁽¹⁾	Austria ⁽²⁾	Sweden/Switzerland	Other third countries ⁽³⁾
— Live weight —				
0102 90 10	—	17,116	0,000	131,663 ⁽⁴⁾ ⁽⁵⁾
0102 90 31	23,099	17,116	0,000	131,663 ⁽⁴⁾ ⁽⁵⁾
0102 90 33	—	17,116	0,000	131,663 ⁽⁴⁾ ⁽⁵⁾
0102 90 35	23,099	17,116	0,000	131,663 ⁽⁴⁾ ⁽⁵⁾
0102 90 37	23,099	17,116	0,000	131,663 ⁽⁴⁾ ⁽⁵⁾
— Net weight —				
0201 10 10	—	32,521	0,000	250,160 ⁽⁴⁾ ⁽⁵⁾
0201 10 90	43,888	32,521	0,000	250,160 ⁽⁴⁾ ⁽⁵⁾
0201 20 21	—	32,521	0,000	250,160 ⁽⁴⁾ ⁽⁵⁾
0201 20 29	43,888	32,521	0,000	250,160 ⁽⁴⁾ ⁽⁵⁾
0201 20 31	—	26,017	0,000	200,128 ⁽⁴⁾ ⁽⁵⁾
0201 20 39	35,110	26,017	0,000	200,128 ⁽⁴⁾ ⁽⁵⁾
0201 20 51	52,665	39,025	0,000	300,192 ⁽⁴⁾ ⁽⁵⁾
0201 20 59	52,665	39,025	0,000	300,192 ⁽⁴⁾ ⁽⁵⁾
0201 20 90	—	48,781	0,000	375,240 ⁽⁴⁾ ⁽⁵⁾
0201 30 00	—	55,799	0,000	429,221 ⁽⁴⁾ ⁽⁵⁾
0206 10 95	—	55,799	0,000	429,221 ⁽⁴⁾
0210 20 10	—	48,781	0,000	375,240
0210 20 90	—	55,799	0,000	429,221
0210 90 41	—	55,799	0,000	429,221
0210 90 90	—	55,799	0,000	429,221
1602 50 10	—	55,799	0,000	429,221
1602 90 61	—	55,799	0,000	429,221

⁽¹⁾ In accordance with amended Regulation (EEC) No 715/90, levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

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

⁽³⁾ This levy is applicable only to products complying with the provisions of the Commission Regulation (EEC) No 859/92.

⁽⁴⁾ This levy is applicable only to products complying with the provisions of the Agreement between the EEC and Austria (OJ No L 111, 29. 4. 1992, p. 21).

⁽⁵⁾ 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 898/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

⁽⁶⁾ 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 891/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 1638/92
of 25 June 1992
fixing the import levies on frozen beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 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 (8) thereof,

Whereas under Article 9 of Regulation (EEC) No 805/68 a levy is applicable to the products specified in Article 1 (1) (a) of that Regulation; whereas Article 12 fixes the amount of the levy applicable by reference to a percentage of the basic levy;

Whereas, in respect of the types of frozen meat listed in section (b) of the Annex to the said Regulation under CN codes 0202 10 00 and 0202 20 10, the basic levy is determined on the basis of the difference between:

- the guide price multiplied by a coefficient representing the ratio existing in the Community between the price of fresh meat of a category competitive with the frozen meat in question, presented in the same form, and the average price of adult bovine animals, and
- the Community free-at-frontier offer price for frozen meat, plus the amount of the customs duty and a standard amount representing the specific costs of the import operations;

Whereas, by Commission Regulation (EEC) No 586/77 of 18 March 1977 laying down rules for the application of the levies on beef and veal and amending Regulation (EEC) No 950/68 on the Common Customs Tariff ⁽³⁾, as last amended by Regulation (EEC) No 3988/87 ⁽⁴⁾, the abovementioned coefficient, calculated in accordance with the rules laid down in Article 11 (2) (a) of Regulation (EEC) No 805/68, has been fixed at 1,69 units of account and the standard amount referred to in Article 11 (2) (b) of the said Regulation has been fixed at ECU 6,65;

Whereas, if it is found that the price of adult bovine animals on representative Community markets is higher than the guide price, the levy applicable equals the following percentage of the basic levy:

- (a) 75 % where the market price is less than or equal to 102 % of the guide price;

- (b) 50 % where the market price is more than 102 % and less than or equal to 104 % of the guide price;

- (c) 25 % where the market price is more than 104 % and less than or equal to 106 % of the guide price;

- (d) 0 % where the market price is more than 106 % of the guide price;

Whereas, if it is found that the price of adult bovine animals on representative Community markets is equal to or less than the guide price, the levy applicable equals the following percentage of the basic levy:

- (a) 100 % where the market price is more than or equal to 98 % of the guide price;

- (b) 105 % where the market price is less than 98 % and more than or equal to 96 % of the guide price;

- (c) 110 % where the market price is less than 96 % and more than or equal to 90 % of the guide price;

- (d) 114 % where the market price is less than 90 % of the guide price;

Whereas the guide prices for adult bovine animals for the 1992/93 marketing year have been fixed by Council Regulation (EEC) No 1377/92 ⁽⁵⁾;

Whereas the Community free-at-frontier offer price for frozen meat is determined by reference to the world market price based on the most representative purchasing possibilities, as regards quality and quantity, recorded over a certain period preceding the fixing of the basic levy, taking into account in particular:

- foreseeable developments on the market in frozen meat,
- the most representative prices on third country markets for fresh and chilled meat of a category which is competitive with frozen meat,
- past experience;

Whereas the basic levy on the types of frozen meat listed in section (b) of the Annex to Regulation (EEC) No 805/68 under CN codes 0202 20 50, 0202 20 90, 0202 30 10, 0202 30 50 and 0202 30 90 is equal to the basic levy fixed for the products falling within CN codes 0202 10 00 and 0202 20 10, multiplied by a standard

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 150, 15. 6. 1991, p. 16.

⁽³⁾ OJ No L 75, 23. 3. 1977, p. 10.

⁽⁴⁾ OJ No L 376, 31. 12. 1987, p. 31.

⁽⁵⁾ OJ No L 147, 29. 5. 1992, p. 6.

coefficient fixed for each of the products in question; whereas these coefficients were fixed in Annex II to Regulation (EEC) No 586/77;

Whereas, for the purpose of fixing the free-at-frontier offer prices, offer prices that do not correspond to real purchasing possibilities or that relate to unrepresentative quantities should not be taken into account; whereas offer prices should also be excluded when the movement of prices in general or the information available gives reason to believe that they are unrepresentative of the true trend of prices in the country of origin;

Whereas, where the free-at-frontier offer price for frozen meat differs by less than one unit of account per 100 kilograms from that previously used for the calculation of the levy, the latter price should be retained;

Whereas pursuant to Article 12 (6) of Regulation (EEC) No 805/68 the price of adult bovine animals on representative Community markets is the price established on the basis of prices recorded over a period to be determined on the representative market or markets of each Member State for the various categories of adult bovine animals or of meat from such animals, taking into account the size of each of these categories and the relative size of the bovine herd of each Member State;

Whereas the representative markets, categories and qualities of products and weighting coefficients are fixed in Annex II to Commission Regulation (EEC) No 610/77 of 18 March 1977 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⁽¹⁾, as last amended by Regulation (EEC) No 1615/92⁽²⁾;

Whereas, for Member States with several representative markets, the price of each category and quality is equal to the arithmetic mean of the prices recorded on each of those markets; for representative markets held several times in one period of seven days, the price of each category and quality is equal to the arithmetic mean of the prices recorded on each market day; whereas in respect of Italy the price of each category and quality is equal to the average, weighted by the special weighting coefficients fixed in Annex II to Regulation (EEC) No 610/77, of the prices recorded in the surplus and deficit zones; whereas the price recorded in the surplus zone is equal to the arithmetic mean of the prices recorded on each of the markets within that zone; whereas in respect of the United Kingdom the weighted average prices of adult bovine animals recorded on the representative markets of

Great Britain on the one hand and Northern Ireland on the other are adjusted by the coefficient fixed in the abovementioned Annex II;

Whereas prices for the different categories and qualities not obtained from prices which are 'live weight excluding tax', are multiplied by the live weight conversion coefficients fixed in Annex II to the said Regulation and, in the case of Italy, are first increased or reduced by the corrective amounts fixed in the said Annex;

Whereas if one or more Member States, for veterinary or health reasons for example, adopt measures affecting the normal trend of prices recorded on their markets, the Commission may disregard the prices recorded on the market or markets in question, or use the latest prices recorded on the market or markets in question before the entry into force of such measures;

Whereas, in the absence of information, prices recorded on representative Community markets are determined mainly by reference to the most recently recorded prices;

Whereas, for such period as the price of adult bovine animals recorded on representative Community markets differs by less than ECU 0,24 per 100 kilograms of live weight from the price previously used, the latter is retained;

Whereas Council Regulation (EEC) No 715/90⁽³⁾, as last amended by Regulation (EEC) No 444/92⁽⁴⁾, lays down the arrangements applicable on agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States;

Whereas Council Regulations (EEC) No 518/92⁽⁵⁾, (EEC) No 519/92⁽⁶⁾ and (EEC) No 520/92⁽⁷⁾ of 27 February 1992 on certain procedures for applying the Interim Agreements on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic respectively, of the other part, introduce arrangements for reducing import levies on certain products; whereas Commission Regulation (EEC) No 898/92⁽⁸⁾, as amended by Regulation (EEC) No 1265/92⁽⁹⁾, lays down detailed rules for applying the arrangements provided for in these agreements as regards beef and veal;

⁽¹⁾ OJ No L 77, 25. 3. 1977, p. 1.

⁽²⁾ OJ No L 170, 25. 6. 1992, p. 16.

⁽³⁾ OJ No L 84, 30. 3. 1990, p. 85.

⁽⁴⁾ OJ No L 52, 27. 2. 1992, p. 7.

⁽⁵⁾ OJ No L 56, 29. 2. 1992, p. 3.

⁽⁶⁾ OJ No L 56, 29. 2. 1992, p. 6.

⁽⁷⁾ OJ No L 56, 29. 2. 1992, p. 9.

⁽⁸⁾ OJ No L 95, 9. 4. 1992, p. 44.

⁽⁹⁾ OJ No L 135, 19. 5. 1992, p. 6.

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

Whereas the various cuts of frozen meat are defined in Regulation (EEC) No 586/77;

Whereas, pursuant to Article 33 (2) of Regulation (EEC) No 805/68, the nomenclature provided for in this Regulation is incorporated in the combined nomenclature;

Whereas the levies are fixed before the 27th day of each month and are applicable from the first Monday of the following month; whereas these levies may be altered in the period between two fixings where the basic levy is altered, or in these case of changes in the prices recorded on Community representative markets;

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 Council Regulation (EEC) No 1676/85⁽²⁾, as last amended by Regulation (EEC) No 2205/90⁽³⁾,
- 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, having regard to the provisions of the aforementioned Regulations, and in particular to the information and quotations known to the Commission, the levies on frozen beef and veal should be as set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies on frozen beef and veal shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 6 July 1992.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 263, 19. 9. 1991, p. 1.

⁽²⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽³⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 25 June 1992 fixing the import levies on frozen beef and veal ⁽¹⁾ ⁽²⁾

(ECU/100 kg)	
CN code	Levy
	— Net weight —
0202 10 00	184,851 ⁽³⁾
0202 20 10	184,851 ⁽³⁾
0202 20 30	147,881 ⁽³⁾
0202 20 50	231,064 ⁽³⁾
0202 20 90	277,277 ⁽³⁾
0202 30 10	231,064 ⁽³⁾
0202 30 50	231,064 ⁽³⁾
0202 30 90	317,944 ⁽³⁾
0206 29 91	317,944

⁽¹⁾ In accordance with amended Regulation (EEC) No 715/90, levies are not applied to products imported directly into the French overseas departments, originating in the African, Caribbean and Pacific States.

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

⁽³⁾ 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 898/92 have been presented, are subject to the levies set out in the Annex to that Regulation.

COMMISSION REGULATION (EEC) No 1639/92
of 25 June 1992
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

fixing regard to the Treaty establishing the European Economic Community,

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

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

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

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

— the economic aspect of the proposed exports;

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

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

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

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

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

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 86, 1. 4. 1992, p. 83.

⁽³⁾ OJ No L 155, 3. 7. 1968, p. 1.

⁽⁴⁾ OJ No L 119, 8. 5. 1986, p. 36.

⁽⁵⁾ OJ No L 184, 29. 7. 1968, p. 10.

⁽⁶⁾ OJ No L 267, 29. 9. 1990, p. 14.

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

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 61/92⁽²⁾;

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

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

Whereas the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 140 per 100 kilograms;

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 June 1992.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 6, 11. 1. 1992, p. 19.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 91, 1. 4. 1984, p. 71.

⁽⁶⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽⁷⁾ OJ No L 151, 3. 6. 1992, p. 4.

ANNEX

to the Commission Regulation of 25 June 1992 fixing the export refunds on milk and milk products

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<i>(in ECU/100 kg net weight unless otherwise indicated)</i>		
Product code	Destination (*)	Amount of refund
0406 30 39 500	***	71,42
	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	28,00
0406 30 39 700	***	103,95
	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
0406 30 39 930	***	103,95
	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
0406 30 39 950	***	126,87
	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
0406 30 90 000	***	126,87
	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
0406 40 00 100	—	—
0406 40 00 900	***	126,51
	028	—
	032	—
	038	—
	400	120,00
	404	—
	—	—
0406 90 13 000	***	159,34
	028	—
	032	—
	036	—
	038	—
	400	113,00
	404	—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 1640/92

of 25 June 1992

introducing a countervailing charge and suspending the preferential customs duty on imports of cherries 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 first 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 956/92 of 15 April 1992 fixing the reference price for cherries for the 1992; marketing year⁽³⁾ fixed the reference price for products of class I for the month of June 1992 at ECU 125,70 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, for Turkish cherries, 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 cherries;

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 cherries 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 15 % should be reintroduced for these cherries, with a minimum charge of ECU 3 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;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A countervailing charge of ECU 6,80 per 100 kilograms net is applied on imports of cherries falling within CN code 0809 20 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 102, 16. 4. 1992, p. 27.

⁽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 15 % with a minimum charge of ECU 3 per 100 kilograms net from 1 May to 15 July 1992.

Article 2

This Regulation shall enter into force on 27 June 1992.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 1641/92

of 25 June 1992

fixing the export refunds 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 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 the fourth subparagraph of Article 16 (2) thereof,

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds⁽³⁾ provides that when refunds are being fixed, account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand, and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market;

Whereas Article 3 of Regulation (EEC) No 2746/75 defines the specific criteria to be taken into account when the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC⁽⁴⁾, as last amended by Regulation (EEC) No 468/92⁽⁵⁾;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to

vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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 it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds 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 Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 26 June 1992.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No 128, 27. 6. 1967, p. 2574/67.

⁽⁵⁾ OJ No L 53, 28. 2. 1992, p. 15.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 25 June 1992 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)		
Product code	Destination (1)	Amount of refund
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 10 000	—	—
1001 10 90 000	04	50,00
	02	20,00
1001 90 91 000	—	—
1001 90 99 000	04	40,00
	05	25,00
	02	20,00
1002 00 00 000	03	21,00
	02	20,00
1003 00 10 000	—	—
1003 00 90 000	04	40,00
	02	20,00
1004 00 10 000	—	—
1004 00 90 000	—	—
1005 10 90 000	—	—
1005 90 00 000	04	60,00
	02	0
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 100	01	50,00
1101 00 00 130	01	45,00
1101 00 00 150	01	40,00
1101 00 00 170	01	35,00
1101 00 00 180	01	30,00
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 500	01	50,00
1102 10 00 700	—	0
1102 10 00 900	—	—
1103 11 10 200	01	80,00
1103 11 10 400	01	0
1103 11 10 900	01	0
1103 11 90 200	01	50,00
1103 11 90 800	—	—

(¹) The destinations are identified as follows :

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 05 Romania.

NB : The zones are those defined in Commission Regulation (EEC) No 1124/77, as last amended by Regulation (EEC) No 3049/89.

COMMISSION REGULATION (EEC) No 1642/92

of 25 June 1992

fixing the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 674/92⁽²⁾,

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

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

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

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

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

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

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

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

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

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto;

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽⁶⁾ OJ No L 131, 22. 5. 1975, p. 15.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 26 June 1992.

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

Done at Brussels, 25 June 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 25 June 1992 fixing the corrective amount applicable to the refund on cereals

(ECU/tonne)

Product code	Destination (1)	Current 6	1st period 7	2nd period 8	3rd period 9	4th period 10	5th period 11	6th period 12
0709 90 60 000	—	—	—	—	—	—	—	—
0712 90 19 000	—	—	—	—	—	—	—	—
1001 10 10 000	—	—	—	—	—	—	—	—
1001 10 90 000	01	0	0	0	0	0	—	—
1001 90 91 000	—	—	—	—	—	—	—	—
1001 90 99 000	01	0	0	0	- 10,00	- 10,00	—	—
1002 00 00 000	01	0	0	0	0	0	—	—
1003 00 10 000	—	—	—	—	—	—	—	—
1003 00 90 000	01	0	0	0	0	0	—	—
1004 00 10 000	—	—	—	—	—	—	—	—
1004 00 90 000	—	—	—	—	—	—	—	—
1005 10 90 000	—	—	—	—	—	—	—	—
1005 90 00 000	01	0	0	0	0	0	—	—
1007 00 90 000	—	—	—	—	—	—	—	—
1008 20 00 000	—	—	—	—	—	—	—	—
1101 00 00 100	01	0	+ 35,00	+ 35,00	+ 35,00	+ 35,00	—	—
1101 00 00 130	01	0	+ 35,00	+ 35,00	+ 35,00	+ 35,00	—	—
1101 00 00 150	01	0	+ 35,00	+ 35,00	+ 35,00	+ 35,00	—	—
1101 00 00 170	01	0	+ 35,00	+ 35,00	+ 35,00	+ 35,00	—	—
1101 00 00 180	01	0	+ 35,00	+ 35,00	+ 35,00	+ 35,00	—	—
1101 00 00 190	—	—	—	—	—	—	—	—
1101 00 00 900	—	—	—	—	—	—	—	—
1102 10 00 500	01	0	+ 35,00	+ 35,00	+ 35,00	+ 35,00	—	—
1102 10 00 700	01	0	0	0	0	0	—	—
1102 10 00 900	—	—	—	—	—	—	—	—
1103 11 10 200	01	0	+ 75,00	+ 75,00	+ 75,00	+ 75,00	+ 75,00	+ 75,00
1103 11 10 400	01	0	0	0	0	0	0	0
1103 11 10 900	01	0	0	0	0	0	0	0
1103 11 90 200	01	0	+ 35,00	+ 35,00	+ 35,00	+ 35,00	+ 35,00	+ 35,00
1103 11 90 800	—	—	—	—	—	—	—	—

(1) For the following destinations:
01 all third countries.

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 March 1992

on State aid in favour of Hilaturas y Tejidos Andaluces SA, now called
Mediterráneo Técnica Textil SA and its buyer

(Only the Spanish text is authentic)

(92/317/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having given notice to the parties concerned to submit their comments as provided for in the said Article 93, and having regard to those comments,

Whereas :

I

Hilaturas y Tejidos Andaluces SA or Hytasa, now called Mediterraneo Técnica Textil SA was a State undertaking up to 1990 belonging to the Spanish State via the Property Office of the Ministry of the Economic Affairs and Finance (Patrimonio).

It was established in Seville in 1937 by a private entrepreneur. In consequence of its financial difficulties the company was taken over by the Patrimonio in 1982.

Hytasa operated as an integrated manufacturer for cotton products carrying out ginning, spinning, weaving, finishing and tailoring operations; spinning, weaving and finishing are the operations of the wool sector.

The firm owns a factory in Seville where the textile operations are carried out (spinning, weaving and finishing) and

three other plants in other small towns of the region for the agro-industrial operations (ginning). Agricultural plots for a total of 100 000 m² also belong to the company.

Since the time of the acquisition of the company and up to 1986 Patrimonio launched a restructuring plan financed via the provision of a Spanish sectoral aid scheme and via capital injections for Pta 6 600 million; the plan aimed at improving the productivity of Hytasa by reducing the workforce without increasing the productive capacities.

Notwithstanding those efforts the negative economic results reduced the capital of Hytasa to virtually nil at the eve of the Spanish accession to the Communities in 1986; the 1985 economic results pointed out a turnover of about Pta 6 billion and losses reaching the level of 27 % on sales.

II

Following a complaint, the Commission requested the Spanish authorities by letter dated 4 April 1989, to send it all relevant information on alleged capital contributions that the State had made to cover operating losses of Hytasa SA after the accession of Spain to the Communities.

By letter dated 4 August 1989, the Spanish authorities provided first information. This reply being insufficient to assess the compatibility of the State interventions with the

provisions of Articles 92 and 93 of the EEC Treaty, the Commission requested further information by letter of 21 August 1989. This information was partially submitted by letter of 24 November 1989.

The main information included in these documents concerns the capital increases paid since 1986 (for a total of Pta 7 100 million), and the sale of unproductive assets (mainly land).

On 30 May during a meeting with Commission officials the Spanish authorities announced that the process of privatization was at a final stage and supplied some information on the matter, and notably the list of companies invited to make an offer together with further details on the sale of unproductive assets, totalling Pta 4 582 million.

On 5 June 1990 other information, in particular the sale's promotion documents were provided by the Patrimonio directly to the Commission.

Further information was requested by the Commission on 7 June 1990.

On 25 June 1990 the Patrimonio again supplied information on the privatization conditions and in particular the financial terms for the sale: Pta 4 300 million capital injection by the Patrimonio, price of Pta 100 million for the total capital of the company, capital increases for Pta 3 700 million (25 % at the time of the sale) to be carried out by the buyer; as well as the criteria to determine the best offer among the several received.

Such conditions were confirmed during a meeting between Spanish representatives and Commission officials held on 28 June 1990.

On 9 July 1990 the Spanish authorities supplied further information on the five year recovery plan for Hytasa. This plan assumed that sales will increase up to Pta 6,2 million in 1994 (+ 29 % v. the 1990 forecast) and that the workforce will be reduced to 700 (- 30 % v. 1990).

The abovementioned capital contributions together with the revenues from the sale of the assets were mainly utilized to finance both capital investments and the costs of workforce cut-back operations. In this respect, it should be noted that, over the period 1986 Hytasa spent some Pta 5 000 million in investments and over Pta 700 million towards redundancy costs, its workforce passing from 1 177 people by the end of 1986 to 1 034 by July 1990.

During the same period, Hytasa's turnover went down from Pta 6 170 million in 1986 to Pta 4 198 million in 1989 recording operating losses of Pta 395 million and Pta 1 633 million, respectively.

The Spanish authorities also informed the Commission that, with a view to privatizing Hytasa, they made approaches to 160 companies thought likely to be interested in the deal, by sending them a promotional brochure on the company. Later on, more detailed information was furnished to those that made known their interest. After negotiations with potential bidders, three final purchase bids were received. Finally, from amongst them, the Spanish authorities selected the one offering the highest benefit in economic terms, together with the best assurance for the future viability of the company.

According to the Spanish authorities' opinion such assurance for the future of Hytasa had to be found in the features of the industrial recovery plan suggested by the buyer, as well as in his financial ability to carry out the foreseen further capital increases, in his professional experience in the textile sector and in the comparative advantage represented by the existence of industrial and commercial structures already belonging to the buyer that had to help him implement the industrial plan of Hytasa in a short time.

According to the sale contract supplied later by the Spanish authorities the terms of the sale were the following:

- sale price for all the shares of the company is stated at Pta 100 million,
- the buyer over a period of three years will not sell his shares unless he is authorized by Patrimonio. For the same period, changes in shareholdings will be restricted to operations ensuring the maintenance of a majority stake by the present buyer,
- for a three-year period the buyer will not carry out temporary lay-offs unless an agreement is reached with the unions of the workers or within schemes for anticipated retirements,
- the company will not pay out dividends for a five-year period,
- for the same period the buyer will not split the company or sell part of it but they will keep all the present facilities and some estate properties,
- the proceeds of the eventual sale of other estates will be kept within the company,

- the buyer will implement the recovery plan attached to the sale contract,
- all new brand names and other intangible assets will be acquired by Hytasa,
- the capital increase of Pta 4 300 million carried out by Patrimonio at the time of the sale will be used to improve the financial conditions of Hytasa, to make investments, and to pay dismissals,
- the buyer renounces to the financial benefits that could arise from an old claim of Hytasa against Patrimonio and the Ministry of Economy,
- the buyer agrees to consider the balance sheet of Hytasa as of 30 June 1990 as part of the contract with the condition that all important financial events occurring in consequence of acts prior to the sale of the company will be borne by the seller,
- the buyer is engaged to increase by Pta 3 700 million the capital of the company and to immediately pay 25 % of that sum.

After having examined the foregoing information, on 18 July 1990 the Commission decided to initiate the Article 93 (2) procedure in respect of the Pta 7 100 million capital contributions provided by the State to Hytasa between the moment of the accession of Spain to the Communities in January 1986 and 1988. The Commission considered that those financial interventions constituted an aid within the meaning of Article 92 (1), and that this aid did not qualify in principle for any of the exemptions to incompatibility provided for in Article 92 (2) and (3). The Article 93 (2) procedure initiated also covered the potential additional aid the State could have granted in accepting the purchase bid of Pta 100 million for its shareholding in Hytasa, in view that the firm's net worth was of over Pta 6 000 million before the State's providing the Pta 4 300 million capital contribution under the sale terms.

The Commission decision to initiate the Article 93 (2) procedure was notified to the Spanish Government by letter of 3 August 1990. This letter invited the Spanish Government to submit its observations and to provide the detailed information requested therein, as well as any other information it might consider relevant for the Commission to assess the eventual compatibility of the aid.

The other Member States and third interested parties were informed of the Commission decision by publication in the *Official Journal of the European Communities*⁽¹⁾ of the text of the letter sent to the Spanish Government.

On 11 September 1990 the Spanish authorities asked for a prorogation of one month of the terms to submit their comments. Their request was accepted by the Commission in a letter dated 20 September 1990.

The comments by the Spanish Government to the opening of the procedure pursuant to Article 93 of the EEC Treaty together with other information were supplied on 16 October 1990.

First of all, the Spanish Government stated that it disagreed with the provisional conclusion of the Commission that the increases in capital in 1986 to 1988 of Pta 7 100 million and the capital contribution of Pta 4 300 million before Hytasa's sale constitute State aid which does not qualify for exemption under the EEC Treaty.

Concerning the capital increases in 1986 to 1988, the Spanish Government stressed that they had formed part of a restructuring plan designed to secure the company's viability and that the investments carried out by the Government were based on sound criteria which would equally have been applied by a private investor. In its opinion, this produced good results until 1988 when there was a downturn on the market. Furthermore, the Spanish Government considered that the public interventions in question could not be said to have adversely affected competition in the common market, since the market presence of the firm declined in terms both of production capacity and actual output during that period.

Particularly in respect of the capital contributions in 1986 and 1987, the Spanish authorities stated that they took place in response to circumstances which developed prior to Spain's accession to the Communities.

As regards the terms of the sale, the Spanish Government stated that the sale of Hytasa did not involve State aid either. This was substantiated, in its opinion, by the fact that Hytasa was sold to the highest bidder, after being openly put up for sale on the international market. In addition, it emphasized that a going concern could not normally be valued on the basis of its net worth, as the Commission did, but in the light of the present value of the anticipated returns of the firm purchased. In this respect, the Spanish Government stressed that Hytasa's operation losses in 1989 exceeded Pta 1,6 billion and were already amounting to Pta 0,973 billion for the first months of 1990, and that reducing the workforce of Hytasa by 380 jobs under the restructuring programme of the buyers could cost as much as Pta 2 040 million.

⁽¹⁾ OJ No C 320, 20. 12. 1990, p. 14.

Afterwards, the Spanish Government pointed out that even if the terms of the sale did involve some aid, the sale of Hytasa was more than just putting the company into private hands. It meant implementing a recovery plan drawn up by the buyers, that would participate in its financing with a capital contribution of Pta 3 700 million and would incorporate their know-how into the company's assets. Consequently, in its opinion, the sale was not at all designed to keep simply the company in business, but to ensure its economic, technical and financial recovery, for which reason, the public interventions in question complied with the provisions applicable under Community law.

In addition the Spanish authorities stressed that in the light of the above, selling the company was both the best and the only feasible course of action from a Community, national and regional point of view: actually winding up the company would have cost far more for the dismissal of a workforce of more than 1 050, the cost to the State in unemployment benefits, the loss of the company assets, and State aid to help rebuild the industrial fabric.

Lastly, the Spanish authorities indicated that the firm's location in Seville, an area classified by the Commission as eligible for regional economic aid, suggested that the exemption provided for in Article 92 (3) (a) of the EEC Treaty would in any case be applicable.

The other information attached to the comments concerned the capital investments carried out by Hytasa in the period between 1986 and its privatization; a summary of the bids for the sale of the company and an explanation of the reasons for the choice made; general data on the buyers; a copy of the sale contract; a restructuring plan.

As for the identity of the buyer, that up to then was not yet disclosed to the Commission, it has to be noted that Hytasa was actually sold on 25 July 1990 to two private companies: Hilatura Gossypium SA located in Barcelona and Industria Textil del Guadiana, SA located in Mérida (Badajoz). Also these two companies, that evenly shared the capital of Hytasa, operate in the textile sector, mainly producing cotton yarns and fabrics with a combined turnover of over Pta 7 000 million (1990).

By letter received by the Commission on 21 January 1991 the German federation of the textile industry favourably commented upon the Commission's initiative to open the procedure pursuant to Article 93 of the EEC Treaty and stressed the importance of Hytasa as a producer in a highly competitive market. These comments were transmitted by the Commission to the Spanish authorities on 6 February 1991.

On 27 March 1991 the Spanish Government supplied its remarks to the comments of the German confederation of

the textile industry pointing out that Hytasa covered the 0,22 and 0,08 % of the Community market of cotton and wool yarn respectively, and that, more in particular, sales on the German market were an average DM 129 000 in the years 1988 to 1990.

III

Apart from the fact that the selected purchase bid for Hytasa was the highest one in economic terms, the Spanish authorities stressed that the sale was not at all designed to keep the company artificially alive, but to ensure its economic, technical and financial recovery.

An initial restructuring programme for Hytasa, drawn up by the new owners, was submitted by the Spanish authorities in their comments to the opening of the procedure.

This plan foresaw the implementation of an investment programme worth Pta 2 500 million; the main interventions of the plan concerned the cotton sector, in particular the ginning and spinning operations. As a result of such investments a general increase of the productions (1992 *vis-à-vis* 1989) ranging from 20 % to 300 %, according to the product, with the only exception of the spinning of wool yarns (- 25 %), was expected.

Together with the productive investments the plan foresaw also a large reduction in the workforce from the level of about 1 000 to 700 in a five-year period; the cost to be borne by Hytasa to provide an incentive for the departures was estimated to be around Pta 2 040 million; the aim of this policy was to double the amount of the sales per employee, thus reaching the long-term viability of the company.

According to the plan, the account of Hytasa gradually had to improve and after reporting cumulated losses reaching, up to 1993, the amount of Pta 4 700 million, a small profit of Pta 139 million was foreseen in the last year (1994).

It should be remarked here that the capital contribution of Pta 4 300 million provided by the State before the sale, plays an outstanding role in the restructuring programme. This contribution was expressly intended to bolster the financial state of the company, and to cover the expenses for incentivated dismissals and for investments.

On 18 March 1991 a meeting between Commission officials and representatives of Patrimonio was held on the issue of the restructuring plan of Hytasa.

The main points raised by the Commission officials concerned the necessity that a recovery plan for the company:

- provides for a reduction in the production capacities, sales and market share,
- ensures the viability of the company,
- does not involve aid exceeding the minimum necessary requirements.

Taking this into consideration, the Commission officially requested the Spanish authorities to present, by 10 May 1991, a newly revised restructuring plan for Hytasa involving reductions in both production capacity and market share, whilst also ensuring the company's viability. Concerning the last requirement, it should be remarked that the Commission had also serious doubts as to the restructuring programme securing Hytasa's viability, as the company was expected to record persistent negative financial results.

Having received no reply, the Commission reminded the Spanish authorities by letter of 27 May 1991 of its request, warning them that in the absence of an alternative restructuring plan by 31 May 1991, the Commission would be obliged to take a final position on the basis of the information available to that date.

The new plan was submitted by the Spanish authorities on 13 June 1991; it foresees radical changes in the productive and commercial policy of Hytasa.

In particular the company will only sell final goods like cotton and wool-finished fabrics and cotton cloths; as a consequence it will decrease its spinning and weaving operations (1994 *vis-à-vis* 1989) by 13 % to 25 %, and will increase the production of finished textiles and cloth by 50 % to 320 %, according to the product.

In order to fulfil the additional needs of half-finished material Hytasa will resort to external suppliers.

The cumulative operating results of the new plan are negative for about Pta 795 million, but show a good return — Pta 716 million or 9 % of margin on sales — in the final year.

The same revised plan foresees a direct workforce of 720 (down from a figure of 1 050 in 1990) and an external job requirement estimated by the Commission at about 150 (up from an estimated amount of 35).

A comparison between the two plans puts into evidence several points that could let one doubt the soundness of their assumptions or their results; actually the several contradictions between the two plans do not allow the Commission to agree with the final favourable forecast of the revised plan.

In particular the Spanish authorities did not give any explanation on the means to effect a further increase in

the second plan of the overall value of sales by 23 % while the company will stop the sale of yarns and raw fabrics still foreseen in the previous plan, and while it will keep the sale of finished goods and clothing at roughly the quantitative level of the first plan. Moreover, no explanation is given to justify a larger direct workforce (720 instead of 700) when a reduction in production is foreseen.

IV

On its examination of the capital contributions of Patrimonio del Estado to Hytasa both in 1986 to 1988 and under its sale contract, as well as of the other terms of the sale contract the Commission has verified to what extent these public interventions contain State aid elements within the meaning of Article 92 (1) of the EEC Treaty.

It should be remarked here that 'Patrimonio del Estado' is an intrinsic part of the Spanish State with status of Directorate-General within the Spanish Ministry of Economic Affairs. Its financial requirements are wholly covered by the State on the basis of budgetary appropriations. Accordingly, the financial resources of Patrimonio del Estado are to be considered as resources of the State and, consequently, the capital contributions provided to Hytasa constitute public interventions.

The provision of public funds to companies in the form of capital contribution may involve elements of State aid if those funds are provided in circumstances that would not be acceptable to a private investor operating under normal market conditions. This is the case, amongst others, where the financial position of the company, and particularly the structure and volume of its debt, is such that a normal return — in dividends or capital gains — cannot be expected within a reasonable time from the capital invested, or where, because of its inadequate cash flow if for no other reason, the company would be unable to raise the funds needed for an investment programme on the capital market. This position was made known by the Commission in its letter to the Member States of 17 September 1984 on the application of Articles 92 and 93 of the EEC Treaty to public authorities' holdings. In this respect, it should also be noted that, recently, in its communication of 24 July 1991⁽¹⁾ introducing a new reporting system to identify when aid is present in financial flows between public authorities and publicly-owned companies, the Commission has reminded Member States of the principles it will use in determining whether aid is involved in such State interventions (see Part III of the communication).

⁽¹⁾ OJ No C 273, 18. 10. 1991, p. 2.

In addition, the Court of Justice has clarified the application of Article 92 (1) of the EEC Treaty in respect of public holdings (see Judgments in Cases 323/82 (*Inter-mills*)⁽¹⁾, 234/84 (*Meura*)⁽²⁾ and 40/85 (*Boch*)⁽³⁾). In order to determine whether a capital contribution is State aid, the Court held that it is necessary to see whether the company in question could have obtained the finance on the private capital market. Where the evidence suggests that the beneficiary could not have survived without public funds because it could not have raised the capital required on the open market from a private investor, it is right to conclude that the payment constitutes State aid.

Taking into account that at the time of the first provision of capital by 'Patrimonio del Estado' in 1986, Hytasa had made losses for a long period, and considering that the State had already been obliged in the past to recapitalize the company substantially on repeated occasions to keep it in business, without getting any result in terms of capital return for its investments, it is unlikely that a private investor, basing his decision on the foreseeable probability of profit, and disregarding any social consideration or considerations of regional or sectoral policy, would have provided Hytasa over 1986 to 1988 with successive capital increases totalling Pta 7 100 million.

As regards the terms of the sale of Hytasa, the Commission considers proven that the company went to the highest bidder. Nevertheless, this fact is not sufficient to assure that no State aid element is involved in the sale of the company. In order to arrive at this conclusion, it has to be proved that the sale took place in an unconditional open bid, that is to say, through a tendering process where any potential buyer is invited to bid for the company and where the State does not impose any condition for settling the sale. In this respect, the information provided by the Spanish authorities indicates that the State imposed certain conditions to the buyers, limiting temporarily the disposal of the shareholding acquired. In addition, given that the State provided financial resources to the company just before its privatization, it is necessary to verify the rationality of the State behaviour as a private investor in respect of its capital contribution of Pta 4 300 million before concluding the Sale, and of its accepting a price of Pta 100 million for the 100 % capital shareholding held by Patrimonio del Estado in Hytasa.

In respect of the former question, a private investor operating under normal market economic conditions would intend to maximize the profitability of its investment and would only have made that capital contribution if, later on, such contribution would place him better off in economic terms considering the sale operation as a whole. The capital contribution provided by the State within the framework of the sale contract of Hytasa could only have as expected monetary return the offer presented by the bidders for the company's shareholding. Both the

capital contribution from the State and the price to be paid by the buyers were thus interrelated, since, under the terms of the sale contract, the buyers would not have paid Pta 100 million for Hytasa's capital, should the State not have previously provided the Pta 4 300 million capital contribution.

In the light of the foregoing considerations, given that the State has recovered Pta 100 million equivalent to the present value paid by the buyers of Hytasa for its capital, and considering that in the absence of the Pta 4 300 million capital contribution, the State would not have obtained any money, since the purchaser's bid was conditional on the provision by the State of that capital, the aid element contained therein amounts to Pta 4 200 million, that is to say, the difference between Pta 4 300 million and 100 million.

Concerning the other State aid element potentially involved in the acceptance by the State of a Pta 100 million price for Hytasa's shareholding, the Commission cannot conclude that an additional aid element exists in connection with this behaviour. This is substantiated by the fact that the capital shareholding in Hytasa cannot be considered as having a value for the State higher than the abovementioned price, in view of the fact that the company's past financial record, as well as the anticipated final results of the company, indicated to the State that no positive return could be expected from its capital shareholding in Hytasa without a radical change in the company's marketing and production structure that the State did not attempt to undertake.

It should also be noted that in the light of the information available to the Commission, the behaviour of the Spanish Government in selling Hytasa on the communicated terms does not reveal any State aid element additional to the Pta 4 200 million previously identified, when the chosen option of selling the company as a going concern is compared to the alternative of liquidating the company. It has to be noted that in this respect, according to the information submitted by the Spanish authorities, the cost for Hytasa to reduce its workforce will amount on average to Pta 6 million per employee. Therefore the total cost to liquidate the company would presumably reach an amount of more than Pta 6 000 million. Since the net worth of the company before the last Pta 4 300 million capital injection was about Pta 6 000 million the Patrimonio would not have drawn any net positive surplus from the liquidation alternative for Hytasa. Consequently, the identified State aid element under the sale terms continues to be the net disbursement by the State of Pta 4 200 million in the form of capital contribution previous to the company's sale.

In assessing the behaviour of the State against that of a market economy private investor, the Commission must take into account that 'the test is, in particular, whether in similar circumstances a private shareholder, having regard to the foreseeability of obtaining a return and leaving aside all social, regional-policy and sectoral considerations, would have subscribed the capital in question' (Case 234/84 (*Meura*), ground 14). If these costs were considered

(¹) [1984] ECR 3809.

(²) [1986] ECR 2263.

(³) [1986] ECR 2321.

by the Commission, it would amount to granting Member States the power to rescue companies in difficulties on the basis of pure national interest. This situation, which could create serious distortions of competition contrary to the common interest, would be in contradiction with the principles of the EEC Treaty empowering the Commission to determine the compatibility of State assistance in the context of the Community as a whole and not in that of a single Member State. Putting the abovementioned costs together with those corresponding to the behaviour of the State as owner/shareholder of a company would amount to emptying the market-economic private-investor principle of its meaning.

Therefore, in summary, after detailed examination, the Commission has reached the conclusion that the State aid granted to Hytasa is made up of the Pta 7 100 million corresponding to the capital contributions from Patrimonio del Estado within the period 1986 to 1988, and the aid element of Pta 4 200 million involved in the last capital contribution from Patrimonio del Estado before the company's privatization, both interventions having artificially strengthened Hytasa's financial position.

This aid to Hytasa affects trade between Member States and distorts or threatens to distort competition in the common market within the meaning of Article 92 (1) of the EEC Treaty.

In fact, where financial assistance from the State strengthens the position of certain enterprises compared with that of others competing with them in the Community, it must be deemed to affect those other enterprises (Judgment of the Court of Justice in Case 730/79 (Philip Morris))⁽¹⁾.

In this respect, it should be noted that the goods produced and marketed by Hytasa are traded between Member States and there is competition among producers. In 1988 the Community global production of textiles amounted to ECU 86 691 million of which over 20 % corresponded to the cotton industry and over 15 % to the wool sector.

Community production of cotton spun yarns and fabrics, grouped within the MFA categories 1, 2 and 2a, is following slightly depressed trends around the amounts of 1 000 000 tonnes and 700 000 tonnes respectively. The Spanish production represents around 11 % of the Community output of spun yarns (category 1) and 13 % of fabrics (category 2). No statistics are available for finished fabrics. The company Hytasa represents about 3,0 % of the Spanish production of spun yarns. No comparable data are available for fabrics, finished fabrics and tailoring.

The intra-Community trade is very substantial for both cotton yarns, fabrics and finished fabrics, it represents 22, 34 and 63 % of Community production.

The Community production of yarns of carded and combed wool and fabrics grouped within the MFA cate-

gories 47, 48 and 50 respectively has followed different trends according to the product.

In particular, the carded yarns sector is shrinking and 1989 production can be assessed at around 230 000 tonnes per year. Combed yarns are following a flat trend with a production of 205 000 tonnes.

After an increase of production during the years 1984 to 1988, fabrics in the recent years show a flat trend around 200 000 tonnes.

Spain manufactures 6 % of the Community production of wool carded and combed yarns and fabrics. Hytasa represents about 3 % of the Spanish production of spun yarns (carded and combed together). No comparable data are available for fabrics and finished fabrics.

The intra-Community trade of pure wool yarns covers around 7 % and 5 % for carded and combed yarns; the trade concerning mixed yarns (with synthetic fibres) is nearly one and a half times more important. The intra-Community trade of fabrics of pure wool represents 16 % of the production; in this case mixed fabrics are about one-third of the trade.

The company Hytasa participates in Community trade both directly for sales of wool fabrics in the foreign countries and indirectly by occupying, for both wool and cotton products, a large share of the Spanish market.

The Community markets for the products manufactured by Hytasa are highly competitive because of the fact that these products are price competitive more than quality competitive, and because of the present stagnation on the side of the demand coupled with an increasing pressure on the side of the imports from third countries. As a consequence the prevailing prices are depressed and large production capacities stay idle.

The market difficulties for the cotton products have been recognized within the Multi Fibre Agreement, and the categories of cotton yarns and fabrics are the first ones in the scale of sensitivity.

Also the wool sector, especially for the production of yarns can be considered particularly sensitive and the difficulties have recently increased.

In these circumstances, any aid granted to a particular competitor is liable to produce serious distortive effects on competition conditions.

V

Concerning the legal status of the aid to Hytasa under Community law, it has to be concluded that it is illegal, since the Spanish Government failed to notify it in advance to the Commission as provided for by Article 93 (3) of the EEC Treaty.

⁽¹⁾ [1980] ECR 2688.

The situation produced by this breach of the Treaty provisions is particularly serious since the aid in question has already been paid to the recipient. In this respect, it has to be recalled that, in view of the imperative character of the rules of procedure laid down in Article 93 (3) of the EEC Treaty which also are of importance as regards public policy — the direct effect of which the Court of Justice has recognized in its ruling in Cases 77/72 (Capolongo)⁽¹⁾, 120/73 (Lorenz)⁽²⁾ and 78/76 (Steinicke)⁽³⁾ — the illegality of the aid at issue here cannot be remedied *a posteriori*.

Notwithstanding this, it should be noted that the Commission is obliged to carry out its due procedures in relation to Article 93 (2) as recognized in the Court of Justice ruling in Case 301/87 (Boussac Saint Frères)⁽⁴⁾.

VI

Article 92 (1) of the EEC Treaty provides that aid of the type described therein is in principle incompatible with the common market.

The exceptions provided for in Article 92 (2) EEC are not applicable in this case because of the nature of the aid, not directed towards the attainment of such objectives.

Article 92 (3) of the EEC Treaty lists aid which may be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community as a whole and not in that of a single Member State. In order to ensure the proper functioning of the common market, and having regard to the principle embodied in Article 3 (f), the exceptions provided for in Article 92 (3) must be construed narrowly when any aid scheme or individual aid award is scrutinized. In particular, they may be invoked only when the Commission is satisfied that, without the aid, market forces alone would be insufficient to guide recipients towards patterns of behaviour that would serve one of the objectives of the said exceptions.

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

The aid to Hytasa in the form of capital contributions of Pta 7 100 million over the period 1986 to 1988 represented a big effort to create the basis for a definitive viable restructuring of the company. This is provided by the fact that it was mainly used in practice during that period to finance rationalization investments amounting to over Pta 5 000 million, as well as dismissals costing over Pta 700 million. It should also be noted that, notwithstanding the investments carried out, Hytasa kept the actual production for the period in question well below its capacity ceilings. On the other hand the Commission can also share the Spanish authorities' view that the capital contributions in 1986 and 1987 were in response to circumstances which developed prior to Spain's accession to the Communities.

The Commission considers that this judgment can also be extended to the contribution that took place in 1988. Preaccession industrial policy in Spain in respect of public companies was sometimes based on principles radically different from those inspiring the competition policy under the EEC Treaty. At that time, certain loss-making public companies were run according to decisions opposed to sound managerial principles and were kept artificially in business thanks to the financial assistance of the State. After the accession of Spain to the Communities, these companies have been forced to adapt themselves to an environment of fair competition. The aids to Hytasa here in question were mainly aiming at facilitating that adaptation. This fact confirms that this aid was not used to artificially relaunch the activities of the company, which would have produced an unacceptable negative for the sector; in the light of the foregoing considerations, the Commission has reached the conclusion that the capital contributions of Pta 7 100 million in 1986 to 1988 can be considered as compatible with the common market pursuant to the exception provided for in Article 92 (3) (c) of the EEC Treaty, for they contributed to implement genuine restructuring for the activities of the company, without having unacceptable effects contrary to the common interest.

In respect of the State aid element to Hytasa of Pta 4 200 million contained in the capital contribution made just before the company's sale, Article 92 (3) (a) lays down an exception for aid that promotes the development of areas where the standard of living is abnormally low or where there is serious underemployment. In this respect, although Hytasa is situated in Seville, which is an assisted area pursuant to Article 92 (3) (a) qualifying for regional aid, the aid measure to Hytasa in question was not granted under the corresponding regional aid schemes but on the basis of *ad hoc* decisions of the Spanish Government, taking the form of discretionary capital contributions.

⁽¹⁾ [1973] ECR 611.

⁽²⁾ [1973] ECR 1471.

⁽³⁾ [1977] ECR 595.

⁽⁴⁾ [1990] ECR I-307.

Even if the aid in question were to be considered as regional, it would not however be eligible for compatibility under Article 92 (3) (a), because aid granted pursuant to the provisions of that Article must contribute to the long-term development of the region — this notably means in this case that the aid must at least serve for restoring the company's viability, an objective not attained for Hytasa in the light of the information submitted so far to the Commission (this aspect was already discussed in part IV above) — without having unacceptable negative effects on competition conditions within the Community.

On the other hand, even though the Pta 4 200 million aid element was explicitly granted by the State on the condition that part of it be used by Hytasa in investments — a requisite feature for aid to facilitate the development of certain economic areas as established in the 1979 Commission communication⁽¹⁾ on the principles of coordination of regional aid systems — this aid to Hytasa cannot be considered automatically as compatible since, in view that its grant was made outside the scope of aid regimes approved by the Commission, the Commission must assess its compatibility on its own merits verifying, amongst other aspects, both that the aided investment projects are in line with the interest of the Community for the sector concerned and that they contribute to a sound restructuring of the company (both aspects are discussed further below).

In any case, the aid of Pta 4 200 million largely surpasses the level of investments of Pta 2 500 million foreseen by the company, a situation which is in any case unacceptable for investment aid.

As regards the exceptions provided for in Article 92 (3) (b) the aid measures in question were not intended to nor have the features of a project of common interest or of a project likely to remedy a serious disturbance in the Spanish economy. Moreover, the Spanish authorities have not invoked this exception in their observations to the Commission.

As regards the exception for in Article 92 (3) (c) of the EEC Treaty, for aid to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, it should firstly be noted that the aid to Hytasa falls under the category of aid to companies in difficulties, as both the company's financial position

and financial record have always been precarious. Aid to firms in difficulties carries the greatest risk of transferring unemployment and industrial problems from one Member State to another; it acts as a means of preserving the *status quo* by preventing forces at work in the market economy from their normal consequences in terms of disappearance of uncompetitive firms in their process of adaptation to changing conditions in competition. For this reason the Commission takes a strict approach in assessing the compatibility of aid for restructuring firms in difficulty. In particular, the Commission requires that such public intervention be strictly conditional on the implementation of a sound restructuring or conversion programme capable of restoring the long-term viability of the beneficiary, that must also contain a compensatory justification for the aid in the form of a contribution by the beneficiary over and above the normal play of market forces altered by the aid to the achievement of Community objectives as established in Article 92 (3) of the EEC Treaty.

In this respect, as regards aid in the textile sector, the Commission worked out with the help of national experts a number of criteria to guide the Governments of the Member States on the interventions they might possibly wish to make therein. These criteria were defined in the Community guidelines of 1971 and 1977 on aid to the textile and clothing sectors which are still in force. The major principles set out therein are that aid should be such as to assist the adaptation of the industry by eliminating excess capacity, by facilitating joint R & D activities and by assisting structural changes. Genuine restructuring and adaptation is a prerequisite under the guidelines for the granting of any specific funds for investment purposes. In any case, aid should not simply seek to maintain uncompetitive position.

In the light of the foregoing considerations, it should be noted that the State aid element to Hytasa of Pta 4 000 million will produce its effects on competition mainly in future, as it will contribute to the realization by the company of future investments within the framework of the restructuring plan presented by the buyers. In these circumstances the Commission must verify carefully the characteristics of the planned restructuring programme. In connection with this, it should be remarked that the Commission is suitably placed not only to anticipate and adjust the potential negative effects that this aid element could have on competition, but also to correct the negative effects that the increase in capacity caused by the aid in 1986 to 1988 could have in future if Hytasa relaunches artificially its activities.

⁽¹⁾ OJ No C 31, 3. 2. 1979, p. 9.

In this respect, after detailed examination of the initial restructuring programme for Hytasa and of its revised version, the Commission noted that even if some reductions in the productions and sale of intermediate goods are foreseen, they are largely offset by the increases in the manufacture and sale of finished products. As a consequence the Commission considers that the restructuring plan of Hytasa does not provide the commitment for reducing its activities that could be regarded as a compensatory justification for aid.

Moreover, since no programme for the disposal of productive assets is contained in the plan, nothing could prevent Hytasa in the future from easily re-expanding its activities by having recourse to its idle capacity and thus enjoying more favourable conditions than other competitors. In this respect, it should be noted that in the future the idle capacity rates of Hytasa in spinning and weaving operations, calculated by comparing the installed capacity before the privatization with the planned productions, will be around 50 %.

In order to complete the information on the restructuring plan of Hytasa on 1 August 1991 the Spanish authorities submitted detailed papers on the initiatives taken by the company to reduce its workforce. The dismissals already carried out at an average cost of Pta 4,5 million per head concern 160 workers who were mainly close to the retiring age; moreover up to about 100 additional dismissals have been programmed, mainly due to incapacity to work of the employees; at the same time shifts of temporary lay-offs for an average of 210 workers over a period of four-and-a-half months have been set up.

The abovementioned reductions totalling about 260 do not seem to be able to fully meet the target of a stable workforce of 720 by 1992 contained in the restructuring plan; on the contrary the resort to temporary lay-offs — this possibility was in principle excluded by a clause of the sale contract — allows the company to keep its productive capacity stand by for possible opportunities to expand its sales and its market share.

This personnel policy is at odds with the possibility that the restructuring plan of Hytasa is a compensatory justification for the aid received.

The Spanish authorities not having submitted to date any new plan, the Commission is obliged to conclude that the State aid element to Hytasa of Pta 4 200 million involved in the capital contribution before the company's sale has to be considered as incompatible with the common market, as it affects trading conditions within the

Community to an extent contrary to the common interest, for it does not contribute to a genuine restructuring fully ensuring the viability of the company.

VII

In case of aid which is incompatible with the common market, the Commission, making use of a possibility given to it by the Court of Justice in its Judgment in Case 70/72 (*Kohlegesetz*)⁽¹⁾, confirmed in Case 310/85 (*Deufil*)⁽²⁾, can require Member States to recover from recipients aid granted illegally.

Consequently, Hytasa must repay the Pta 4 200 million illegally received.

Repayment must be made in accordance with the procedure and provisions of Spanish law, in particular those relating to interest on arrears on State liabilities, with interest starting to run on the date on which the illegal aid was granted. This measure is necessary in order to restore the *status quo* by removing all the financial benefit which the firm receiving the unlawful aid has improperly enjoyed since the date on which the aid was paid (see Judgment in Case 142/87 (*Tubemeuse*)⁽³⁾).

The Commission recalls that 'the relevant provisions of national law must be applied in such a way that the recovery required by Community law is not rendered practically' (Judgment in Case 94/87 (*Commission v. Germany*)⁽⁴⁾, ground 12).

The sales contract provides that any important financial events occurring in consequence of acts prior to the sale of the company are to be borne by the seller. This clause would allow the State to indemnify the buyer for any reimbursement of aid imposed by the Commission deciding that part or whole of the aid is incompatible. This would clearly neutralize the essence of the Commission decision and would in particular perpetuate the incompatible distortion of competition produced by the aid. This clause and such provisions of national law constitute therefore a means of getting around the rules of the Treaty on aid; it is therefore illegal under Article 92 (1) and, by virtue of the principle of the primacy of Community law, may not be carried out,

⁽¹⁾ [1973] ECR 813.

⁽²⁾ [1987] ECR 901.

⁽³⁾ [1990] ECR I-959.

⁽⁴⁾ [1989] ECR 175.

HAS ADOPTED THIS DECISION :

Article 1

The aid to Hilaturas y Tejidos Andaluces SA in the form of capital contributions of Pta 7 100 million over the period 1986 to 1988 was granted illegally, since it was granted by the Spanish Government in breach of the procedural rules established in Article 93 (3) of the EEC Treaty.

Nevertheless, the said aid meets the conditions which must be fulfilled in order for the Article 92 (3) (c) exception to apply, for which reason it is compatible with the common market.

Article 2

The State aid element of Pta 4 200 million contained in the capital contribution provided by 'Patrimonio del Estado' to Hytasa before its privatization in July 1990 is illegal, since it was awarded by the Spanish Government in violation of the provisions of Article 93 (3).

Furthermore, the said aid element does not meet any of the conditions which must be fulfilled in order for one of the exceptions of Article 92 (2) and (3) to apply, for which reason it is incompatible with the common market.

Article 3

The incompatible State aid element shall be withdrawn by way of recovery. Accordingly, 'Patrimonio del Estado'

shall recover Pta 4 200 million from Mediterráneo Técnica Textil SA, (formerly Hytasa SA).

The aid element shall be recovered in accordance with the procedures and provisions of national law, in particular those relating to interest on arrears payable on State liabilities, with interest starting to run on the date on which the illegal aid was granted.

Article 4

Any agreement providing for an indemnity for the buyers by the State or the 'Patrimonio del Estado' for an obligation imposed by this Decision to reimburse aid shall not be carried out.

Article 5

The Spanish Government shall inform the Commission within two months of the date of notification of this Decision of the measures taken to comply herewith.

Article 6

The Decision is addressed to the Kingdom of Spain.

Done at Brussels, 25 March 1992.

For the Commission

Leon BRITTAN

Vice-President