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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2385/92

of 14 August 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 1738/92⁽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 1820/92⁽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 13 August 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 1820/92 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 15 August 1992.

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

Done at Brussels, 14 August 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 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 185, 4. 7. 1992, p. 1.

ANNEX

to the Commission Regulation of 14 August 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy ⁽²⁾
0709 90 60	151,33 ⁽²⁾ ⁽³⁾
0712 90 19	151,33 ⁽²⁾ ⁽³⁾
1001 10 10	172,41 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 10 90	172,41 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 90 91	147,99
1001 90 99	147,99 ⁽¹¹⁾
1002 00 00	153,99 ⁽⁴⁾
1003 00 10	126,95
1003 00 90	126,95 ⁽¹¹⁾
1004 00 10	109,86
1004 00 90	109,86
1005 10 90	151,33 ⁽²⁾ ⁽³⁾
1005 90 00	151,33 ⁽²⁾ ⁽³⁾
1007 00 90	153,97 ⁽⁴⁾
1008 10 00	53,53 ⁽¹¹⁾
1008 20 00	103,75 ⁽⁴⁾
1008 30 00	51,83 ⁽²⁾
1008 90 10	⁽⁷⁾
1008 90 90	51,83
1101 00 00	219,39 ⁽⁸⁾ ⁽¹¹⁾
1102 10 00	229,35 ⁽⁸⁾
1103 11 10	280,14 ⁽⁸⁾ ⁽¹⁰⁾
1103 11 90	236,78 ⁽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 2386/92

of 14 August 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 1738/92 ⁽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 1821/92 ⁽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 13 August 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 15 August 1992.

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

Done at Brussels, 14 August 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 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 185, 4. 7. 1992, p. 4.

ANNEX

to the Commission Regulation of 14 August 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 8	1st period 9	2nd period 10	3rd period 11
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt

(ECU/tonne)

CN code	Current 8	1st period 9	2nd period 10	3rd period 11	4th period 12
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 2387/92
of 13 August 1992
amending Regulation (EEC) No 1116/92 continuing market research measures
within and outside the Community in respect of milk and milk products

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

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977⁽¹⁾ on a co-responsibility levy and on measures for expanding the markets in milk and milk products, as last amended by Regulation (EEC) No 1374/92⁽²⁾, and in particular Article 4 thereof,

Whereas Article 5 (1) of Commission Regulation (EEC) No 1116/92⁽³⁾ provides that the competent authorities are to examine the proposals received and forward them to the Commission together with a reasoned proposal by 1 September 1992; whereas this deadline should be extended by one month in view of the large number of proposals received by the competent authorities and the need to gather additional information so that they can give a reasoned opinion with full knowledge of the facts;

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

In Article 5 (1) of Regulation (EEC) No 1116/92 the date '1 September 1992' is replaced by '1 October 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, 13 August 1992.

For the Commission

Jean DONDELINGER

Member of the Commission

⁽¹⁾ OJ No L 131, 26. 5. 1977, p. 6.

⁽²⁾ OJ No L 147, 29. 5. 1992, p. 3.

⁽³⁾ OJ No L 117, 1. 5. 1992, p. 79.

COMMISSION REGULATION (EEC) No 2388/92

of 13 August 1992

laying down detailed rules applicable to the free supply of food products to the populations of Estonia, Latvia and Lithuania as provided for in Council Regulation (EEC) No 2335/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2335/92 of 7 August 1992 on an emergency measure for the free supply of food products to the populations of Estonia, Latvia and Lithuania⁽¹⁾,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽²⁾, as last amended by Regulation (EEC) No 1738/92⁽³⁾, and in particular Article 7 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rate to be applied for the purpose of the common agricultural policy⁽⁴⁾, as last amended by Regulation (EEC) No 2322/91⁽⁵⁾, and in particular Article 2 (4) thereof,

Whereas Council Regulation (EEC) No 2335/92 provides for an emergency measure for the supply of food products to the populations of Estonia, Latvia and Lithuania;

Whereas, with a view to implementing that emergency measure, detailed rules of application should be laid down for the cereals sector providing in particular for the said supply operation to be allocated by a tendering procedure; whereas common detailed rules should be laid down for invitations to tender opened for the purposes of this measure;

Whereas Regulation (EEC) No 2335/92 provides for the free supply of food products in the form of cereals in the same state as that in which they were removed from intervention stock but also of products processed from cereals and rice; whereas, therefore, provisions should also be made for invitations to tender for the free supply of processed products; whereas special detailed rules should be laid down for this, in particular to the effect that these supplies, and the processing, transport and other related costs shall be paid for in kind in the form of raw materials from intervention stocks;

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

Whereas, in order to avoid the risk of monetary distortion when converting into ecus the tenders awarded for supply costs, a rate corresponding more closely to actual economic circumstances than the agricultural conversion rate should be used with due regard to the application of the correcting factor referred to in Article 2 (2) of Regulation (EEC) No 1676/85; whereas Article 3a of Commission Regulation (EEC) No 3152/85 of 11 November 1985 laying down detailed rules for the application of Regulation (EEC) No 1676/85 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽⁶⁾, as last amended by Regulation (EEC) No 3237/90⁽⁷⁾, provides for the publication of such a rate;

Whereas products held by intervention agencies and intended for export are subject to the provisions of Commission Regulation (EEC) No 569/88⁽⁸⁾, as last amended by Regulation (EEC) No 2344/92⁽⁹⁾; whereas, however, the Annex to the said Regulation setting out the entries to be made should be expanded;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The detailed rules set out herein shall apply for the purpose of the free supply of food products to the population of Estonia, Latvia and Lithuania as provided for in Regulation (EEC) No 2335/92.
2. All supplies shall entail an invitation to tender for supply costs as defined in Article 2 (2).
3. However, in the case of the supply of processed products from the cereals and rice sector, invitations to tender shall cover the quantities of basic products to be taken from intervention stocks as payment in kind.

Article 2

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

⁽¹⁾ OJ No L 227, 11. 8. 1992, p. 2.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽³⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 213, 1. 8. 1991, p. 64.

⁽⁶⁾ OJ No L 310, 21. 11. 1985, p. 1.

⁽⁷⁾ OJ No L 310, 9. 11. 1990, p. 18.

⁽⁸⁾ OJ No L 55, 1. 3. 1988, p. 1.

⁽⁹⁾ OJ No L 227, 11. 8. 1992, p. 18.

2. Such costs shall cover supply for goods loaded in bulk or in sacks on the means transport, ex-store of the intervention agency, cif Estonian, Latvian or Lithuanian maritime port of unloading.

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

Article 3

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

Article 4

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

Article 5

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

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

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

- (a) an application for an export licence quoting a reference to Regulation (EEC) No 2335/92, to be entered in section 22;
- (b) proof that a tendering security of ECU 10 per tonne has been lodged.

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

Tenders may be neither amended nor withdrawn.

Article 6

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

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

Article 7

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

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

Article 8

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

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

Article 9

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

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

3. The successful tenderer shall apply to the Estonian, Latvian or Lithuanian authorities for a certificate testifying that the quantity delivered has been taken over.

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

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

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

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

Article 10

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

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

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

Article 11

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

- (a) maintenance of the tender and removal of the goods as regards the security provided for in point (b) of the third subparagraph of Article 5;
- (b) actual delivery of the lots awarded up to the supply stage without any significant change in quality compared with that applying at the time of removal from the intervention store as regards the security provided for in Article 8.

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

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

3. The security provided for in Article 8 shall be released when the successful tenderer has presented the taking-over certificate provided for in Article 9 (3) and

when evidence has been provided that the quality of the goods supplied to the Estonian, Latvian and Lithuanian authorities is not significantly different from that applying when they were removed. That evidence shall be provided by an analysis of the samples taken for the purpose.

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

Article 12

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

- (a) maintenance of the tender and removal of the goods from intervention stocks as payment in kind as regards the security provided for in point (b) of the third subparagraph of Article 5;
- (b) actual delivery of the lots awarded up to the supply stage without any significant change in quality compared with that provided for in the invitation to tender as regards the security provided for in Article 8.

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

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

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

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

Article 13

In Part I of the Annex of Regulation (EEC) No 569/88, 'Products to be exported in the same state as that in which they were when removed from intervention stock', the following item and footnote 134 are added:

'134. Commission Regulation (EEC) No 2388/92 of 13 August 1992 laying down detailed rules applicable to the free supply of food products to the populations of Estonia, Latvia and Lithuania as provided for in Council Regulation (EEC) No 2335/92⁽¹³⁴⁾.

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

⁽²⁾ OJ No L 364, 14. 12. 1989, p. 54.

⁽¹³⁴⁾ OJ No L 233, 15. 8. 1992, p. 6.'

Article 14

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

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

2. With a view to the invitation to tender provided for in Article 2 (3) of this Regulation, the intervention agencies concerned shall publish at least five days before the date laid down for the first partial invitation to tender, a notice of invitation to tender specifying in particular:

- the additional clauses and conditions compatible with this Regulation,
- the quantity, quality and packaging of the processed product to be supplied,

- the lots or groups of lots to which the tender must relate and the places of supply to which the lots must be delivered,
- the time limits laid down for supply,
- the places of storage where the basic products to be taken as payment in kind are available.

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

Article 15

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

Article 16

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

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

Done at Brussels, 13 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2389/92
of 14 August 1992
amending Regulation (EEC) No 2203/92 fixing the refunds applicable to cereal
and rice sector products supplied as Community and national food aid

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EEC) No 1738/92 ⁽²⁾, and in particular the fourth subparagraph of Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EEC) No 674/92 ⁽⁴⁾, and in particular Article 11 (2) thereof,

Whereas Commission Regulation (EEC) No 2203/92 ⁽⁵⁾ set the funds on cereal and rice sector products supplied as Community or national food aid; whereas a refund should be set on broken rice in order to permit execution of food aid operations during the month of August; whereas the said Regulation should therefore be amended;

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

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EEC) No 2203/92 a refund of ECU 150 per tonne is entered against product code 1006 40 00 000.

Article 2

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

It shall apply to operations carried out during August 1992.

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

Done at Brussels, 14 August 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 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽⁵⁾ OJ No L 218, 1. 8. 1992, p. 31.

COMMISSION REGULATION (EEC) No 2390/92

of 14 August 1992

fixing the maximum buying-in price and the quantities of beef bought in for the
74th partial invitation to tender under Regulation (EEC) No 1627/89

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 90 thereof,

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 2066/92 ⁽²⁾, and in particular Article 6 (8) thereof,

Whereas, pursuant to Commission Regulation (EEC)
No 859/89 of 29 March 1989 laying down detailed rules
for the application of intervention measures in the beef
and veal sector ⁽³⁾, as last amended by Regulation (EEC)
No 695/92 ⁽⁴⁾, an invitation to tender was opened by
Commission Regulation (EEC) No 1627/89 of 9 June
1989 on the buying in of beef by invitation to tender ⁽⁵⁾,
as last amended by Regulation (EEC) No 1252/92 ⁽⁶⁾;

Whereas, in accordance with Article 11 (1) of Regulation
(EEC) No 859/89, a maximum buying-in price is to be
fixed for quality R3, where appropriate, for each partial
invitation to tender in the light of the tenders received ;
whereas, in accordance with Article 12 of that Regulation,
only tenders lower than or equal to the maximum price
are to be accepted, without, however, exceeding the
average national or regional market price plus the amount
mentioned in paragraph 1 ; whereas, however, pursuant to
Article 5 of that Regulation, where the intervention agen-
cies in Member States are offered meat in quantities
greater than they are able to take over forthwith, such
intervention agencies may limit buying in to the quanti-
ties they can take over ;

Whereas, after the tenders submitted for the 74th partial
invitation to tender have been examined and taking
account, pursuant to Article 6 (1) of Regulation (EEC)
No 805/68, of the requirements for reasonable support of
the market and the seasonal trend in slaughtering, the

maximum buying-in price and the quantities which may
be accepted into intervention should be fixed ;

Whereas the quantities offered at present exceed the
quantities which may be bought in ; whereas a reducing
coefficient or, where appropriate depending on the
differences in prices and the quantities tendered for,
several reducing coefficients should accordingly be
applied to the quantities which may be bought in in
accordance with Article 11 (3) of Regulation (EEC)
No 859/89 ;

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

For the 74th partial invitation to tender opened by Regu-
lation (EEC) No 1627/89 :

(a) for category A :

- the maximum buying-in price is hereby fixed at
ECU 255,70 per 100 kilograms of carcasses or half-
carcasses of quality R3,
- the maximum quantity of carcasses or half-carcasses
accepted is hereby fixed at 23 324 tonnes ; the
quantities offered are hereby reduced by 30 %
pursuant to Article 11 (3) of Regulation (EEC)
No 859/89 ;

(b) for category C :

- the maximum buying-in price is hereby fixed at
ECU 255,70 per 100 kilograms of carcasses or half-
carcasses of quality R3,
- the maximum quantity accepted of carcasses or
half-carcasses is hereby fixed at 10 419 tonnes ; the
quantities offered are hereby reduced by 30 %
pursuant to Article 11 (3) of Regulation (EEC)
No 859/89.

Article 2

This Regulation shall enter into force on 17 August 1992.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 49.

⁽³⁾ OJ No L 91, 4. 4. 1989, p. 5.

⁽⁴⁾ OJ No L 74, 20. 3. 1992, p. 42.

⁽⁵⁾ OJ No L 159, 10. 6. 1989, p. 36.

⁽⁶⁾ OJ No L 131, 16. 5. 1992, p. 10.

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

Done at Brussels, 14 August 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission

COMMISSION REGULATION (EEC) No 2391/92

of 14 August 1992

introducing a corrective amount on the import of 'certain varieties of plums' into the Community of Ten from Spain and repealing Regulation (EEC) No 2383/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

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

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

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

Whereas Commission Regulation (EEC) No 1464/92⁽²⁾ fixed, for the 1992 marketing year, the Community offer price for plums applicable with regard to Spain;

Whereas Commission Regulation (EEC) No 3815/89⁽³⁾ lays down detailed rules for applying the compensatory mechanism on imports of fruit and vegetables from Spain;

Whereas, in the case of 'certain varieties of plums', the offer price for the Spanish product as calculated in accordance with the provisions of Council Regulation (EEC) No 3709/89 has remained for two consecutive market days at a level at least ECU 0,6 below the Community offer price; whereas a corrective amount equal to the difference between the Community offer price and the Spanish offer price must therefore be introduced for these products from Spain;

Whereas Commission Regulation (EEC) No 2383/92⁽⁴⁾ introduces a corrective amount on imports of 'certain varieties

of plums' into the Community of Ten from Spain; and Regulation (EEC) No 2383/92 should be repealed;

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

- in the case of currencies the spot market rates for which are maintained in relationship to each other within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁵⁾, as last amended by Regulation (EEC) No 2205/90⁽⁶⁾;
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent,

HAS ADOPTED THIS REGULATION:

Article 1

A corrective amount of ECU 13,02 per 100 kilograms net is applied to plums (CN codes 0809 40 11 and 0809 40 19), of the following varieties: Altesse simple (common quetsche, Hauszwetschge), Reine-Claude d'Oullins (Oullins Gage), Sveskeblommer, Ruth Gerstetter, Ontario, Wangenheimer (early Wangenheim quetsche), Pershore (Yellow Egg), Mirabelle and Bosniche, originating in Spain.

Article 2

This Regulation shall enter into force on 15 August 1992.

Regulation (EEC) No 2383/92 is repealed from the same date.

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.

⁽²⁾ OJ No L 153, 5. 6. 1992, p. 14.

⁽³⁾ OJ No L 371, 20. 12. 1989, p. 28.

⁽⁴⁾ OJ No L 232, 14. 8. 1992, p. 31.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ 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, 14 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2392/92

of 14 August 1992

altering the basic amount of the import levies on syrups and certain other products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 61/92⁽²⁾, and in particular Article 16 (8) thereof,Whereas the import levies on syrups and certain other sugar products were fixed by Commission Regulation (EEC) No 2216/92⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2216/92 to the information known to the Commission that the basic amount of the levy on syrups and certain other sugar products at present in force should be altered;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central

rate, multiplied by the corrective factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁴⁾ as last amended by Regulation (EEC) No 2205/90⁽⁵⁾,

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

HAS ADOPTED THIS REGULATION:

Article 1

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to Regulation (EEC) No 2216/92 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 August 1992.

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

Done at Brussels, 14 August 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 218, 1. 8. 1992, p. 67.

⁽⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 14 August 1992 altering the basic amount of the import levies on syrups and certain other products in the sugar sector

(ECU)

CN code	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question ⁽¹⁾	Amount of levy per 100 kg of dry matter ⁽¹⁾
1702 20 10	0,4593	—
1702 20 90	0,4593	—
1702 30 10	—	54,72
1702 40 10	—	54,72
1702 60 10	—	54,72
1702 60 90	0,4593	—
1702 90 30	—	54,72
1702 90 60	0,4593	—
1702 90 71	0,4593	—
1702 90 90	0,4593	—
2106 90 30	—	54,72
2106 90 59	0,4593	—

⁽¹⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 1870/91 B to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 2393/92

of 14 August 1992

fixing the import levies on white sugar and raw sugar

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

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

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1813/92 ⁽³⁾, as last amended by Regulation (EEC) No 2384/92 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) 1813/92 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in

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

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

Whereas these exchange rates being those recorded on 13 August 1992,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 15 August 1992.

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

Done at Brussels, 14 August 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 183, 3. 7. 1992, p. 18.

⁽⁴⁾ OJ No L 232, 14. 8. 1992, p. 32.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 14 August 1992 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy ⁽¹⁾
1701 11 10	38,38 ⁽¹⁾
1701 11 90	38,38 ⁽¹⁾
1701 12 10	38,38 ⁽¹⁾
1701 12 90	38,38 ⁽¹⁾
1701 91 00	45,93
1701 99 10	45,93
1701 99 90	45,93 ⁽²⁾

⁽¹⁾ The levy applicable is calculated in accordance with the provisions of Article 2 or 3 of Commission Regulation (EEC) No 837/68.

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

⁽³⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 1870/91 B to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 2394/92

of 14 August 1992

fixing the amount of aid for peas, field beans and sweet lupins

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 1431/82 of 18 May 1982 laying down special measures for peas, field beans and sweet lupins⁽¹⁾, as last amended by Regulation (EEC) No 1750/92⁽²⁾, and in particular Article 3 (6) (a) thereof,

Having regard to Commission Regulation (EEC) No 3540/85 of 5 December 1985 laying down detailed rules for the application of the special measures for peas, field beans and sweet lupins⁽³⁾, as last amended by Regulation (EEC) No 1734/92⁽⁴⁾, and in particular Article 26a (7) thereof,

Whereas, as provided for in Article 3 (1) of Regulation (EEC) No 1431/82, aid is granted for peas, field beans and sweet lupins harvested in the Community and used in the manufacture of feedingstuffs where the world market price of soya cake is lower than the activating price; whereas this aid is equal to a proportion of the difference between these prices; whereas this proportion of the price difference was fixed in Article 3a of Council Regulation (EEC) No 2036/82⁽⁵⁾, as last amended by Regulation (EEC) No 2206/90⁽⁶⁾;

Whereas, in accordance with Article 3 (2) of Regulation (EEC) No 1431/82, aid is granted for peas and field beans harvested in the Community where the world market price for these products is lower than the guide price; whereas this aid is equal to the difference between the two prices;

Whereas the threshold price activating the aid for peas, field beans and sweet lupins for the 1992/93 marketing year was fixed by Council Regulation (EEC) No 1751/92⁽⁷⁾; whereas, as provided for in Article 2a of Regulation (EEC) No 1431/82, the activating price for the aid for peas, field beans and sweet lupins is increased monthly as from the beginning of the third month of the marketing year; whereas the amount of the monthly increases in the threshold price was fixed by Council Regulation (EEC) No 1752/92⁽⁸⁾;

Whereas, since there are no valid activating threshold or guide prices for the 1992/93 marketing year for peas, field beans and sweet lupins, the amount of the subsidy in the case of advance fixing for this marketing year for peas, field beans and sweet lupins has only been calculated provisionally on the basis of the proposals of the Commission to the Council of the prices and connected measures valid for the 1992/93 marketing year; whereas that amount must be applied provisionally only and will have to be confirmed or replaced when the prices and related measures for the 1992/93 marketing year are known, and notably those concerning the application of the guaranteed maximum quantities;

Whereas, owing to the lack of the adjustment in the rate of aid resulting from the maximum guaranteed quantity arrangements for the 1992/93 marketing year, the amount of the aid for this marketing year has only been able to be calculated provisionally on the basis of the abatement applicable for the 1991/92 marketing year; whereas this amount should, therefore, only be applied provisionally and should be confirmed or replaced once the consequences of the maximum guaranteed quantity arrangements are known;

Whereas the abatement of the subsidy which arises, where appropriate, from the system of maximum guaranteed quantities for the 1991/92 year, has been fixed by Commission Regulation (EEC) No 2607/91⁽⁹⁾;

Whereas, pursuant to Article 4 of Regulation (EEC) No 1431/82, the world market price for soya cake must be determined on the basis of the most favourable purchase possibilities, excepting offers and quotations which cannot be considered representative of the real market trend; whereas account must be taken both of all offers on the world market and of the prices quoted on exchanges that are important for international trade;

Whereas, pursuant to Article 1 of Commission Regulation (EEC) No 2049/82⁽¹⁰⁾, as last amended by Regulation (EEC) No 1238/87⁽¹¹⁾, the price must be determined per 100 kilograms of bulk soya cake of the standard quality defined in Article 1 (2) of Council Regulation (EEC) No 1464/86⁽¹²⁾ delivered to Rotterdam; whereas the necessary adjustments, notably those referred to in Article 2 of Regulation (EEC) No 2049/82, must be made for offers and quotations not of the type referred to above;

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 17.

⁽³⁾ OJ No L 342, 19. 12. 1985, p. 1.

⁽⁴⁾ OJ No L 179, 30. 6. 1992, p. 120.

⁽⁵⁾ OJ No L 219, 28. 7. 1982, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 11.

⁽⁷⁾ OJ No L 180, 1. 7. 1992, p. 18.

⁽⁸⁾ OJ No L 180, 1. 7. 1992, p. 20.

⁽⁹⁾ OJ No L 243, 31. 8. 1991, p. 55.

⁽¹⁰⁾ OJ No L 219, 28. 7. 1982, p. 36.

⁽¹¹⁾ OJ No L 117, 5. 5. 1987, p. 9.

⁽¹²⁾ OJ No L 133, 21. 5. 1986, p. 21.

Whereas, if the aid 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 moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the correcting factor provided for in Article 6 (1) of Council Regulation (EEC) No 1676/85 ⁽¹⁾, as last amended by Regulation (EEC) No 2205/90 ⁽²⁾,
- 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 pursuant to Articles 121 (2) and 307 (2) of the Act of Accession the amount of the aid for products harvested and processed in either of these Member States should be reduced by the customs duty charged on importation of products from third countries;

Whereas the world market price for peas and field beans and the amount of aid referred to in Article 3 (2) of Regulation (EEC) No 1431/82 were fixed by Commission Regulation (EEC) No 1899/91 ⁽³⁾; whereas in terms of Article 2a of Regulation (EEC) No 1431/82 the guide price is increased monthly as from the beginning of the third month of the marketing year;

Whereas, pursuant to Article 26a of Regulation (EEC) No 3540/85, the gross aid expressed in ecus that results from

Article 3 of Regulation (EEC) No 1431/82 shall be weighted by the differential amount referred to in Article 12a of Regulation (EEC) No 2036/82 and then converted into the final aid in the currency of the Member State in which the products are harvested using the agricultural conversion rate of that Member State,

HAS ADOPTED THIS REGULATION:

Article 1

1. The amounts of aid provided for in Article 3 (1) of Regulation (EEC) No 1431/82 is indicated in the Annexes hereto.
2. However, the amount of the subsidy for the 1992/93 marketing year for peas, field beans and sweet lupins will be confirmed or replaced as from 16 August 1992 to take into account the effects of the application of maximum guaranteed quantities.

Article 2

This Regulation shall enter into force on 16 August 1992.

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

Done at Brussels, 14 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽²⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽³⁾ OJ No L 169, 29. 6. 1991, p. 29.

ANNEX I

Gross aid

Products intended for human consumption :

(ECU per 100 kg)

	Current 8 (')	1st period 9 (')	2nd period 10 (')	3rd period 11 (')	4th period 12 (')	5th period 1 (')	6th period 2 (')
Peas used :							
— in Spain	8,162	8,320	8,478	8,636	8,794	8,952	9,110
— in Portugal	8,170	8,328	8,486	8,644	8,802	8,960	9,118
— in another Member State	8,230	8,388	8,546	8,704	8,862	9,020	9,178
Field beans used :							
— in Spain	8,230	8,388	8,546	8,704	8,862	9,020	9,178
— in Portugal	8,170	8,328	8,486	8,644	8,802	8,960	9,118
— in another Member State	8,230	8,388	8,546	8,704	8,862	9,020	9,178

Products used in animal feed :

(ECU per 100 kg)

	Current 8 (')	1st period 9 (')	2nd period 10 (')	3rd period 11 (')	4th period 12 (')	5th period 1 (')	6th period 2 (')
A. Peas used :							
— in Spain	9,402	9,560	9,631	9,789	9,946	10,018	10,176
— in Portugal	9,438	9,596	9,668	9,826	9,983	10,056	10,213
— in another Member State	9,438	9,596	9,668	9,826	9,983	10,056	10,213
B. Field beans used :							
— in Spain	9,402	9,560	9,631	9,789	9,946	10,018	10,176
— in Portugal	9,438	9,596	9,668	9,826	9,983	10,056	10,213
— in another Member State	9,438	9,596	9,668	9,826	9,983	10,056	10,213
C. Sweet lupins harvested in Spain and used :							
— in Spain	12,624	12,624	12,510	12,510	12,510	12,396	12,396
— in Portugal	12,673	12,673	12,559	12,559	12,559	12,446	12,446
— in another Member State	12,673	12,673	12,559	12,559	12,559	12,446	12,446
D. Sweet lupins harvested in another Member State and used :							
— in Spain	12,624	12,624	12,510	12,510	12,510	12,396	12,396
— in Portugal	12,673	12,673	12,559	12,559	12,559	12,446	12,446
— in another Member State	12,673	12,673	12,559	12,559	12,559	12,446	12,446

[illegible]

Corrective amount to be added to the amounts in Annex III

(in national currency per 100 kg)

[illegible]

Partial aids

Field beans intended for animal feed:

(in national currency per 100 kg)

[illegible]

Corrective amount to be added to the Amounts in Annex V

[illegible]

Partial aid

(in national currency per 100 kg)

[illegible]

ANNEX VIII

Corrective amount to be added to amounts in Annex VII

(in national currency per 100 kg)

Use of products :	BLEU	DK	DE	EL	ES	FR	IRL	IT	NL	PT	UK
Products harvested in :											
— BLEU (Bfrs/Lfrs)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Denmark (Dkr)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Federal Republic of Germany (DM)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Greece (Dr)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Spain (Pta)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— France (FF)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Ireland (£ Irl)	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000
— Italy (Lit)	0	0	0	0	0	0	0	0	0	0	0
— Netherlands (Fl)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
— United Kingdom (£)	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000

ANNEX IX

Exchange rate of the ecu to be used

	BLEU	DK	DE	EL	ES	FR	IRL	IT	NL	PT	UK
In national currency, ECU 1 =	42,4032	7,84195	2,05586	249,150	129,942	6,89509	0,767417	1 538,24	2,31643	172,969	0,720432

(¹) Amount fixed provisionally, pending and subject to the setting of the prices and related measures and of the application of the maximum guaranteed quantity arrangements for the 1992/93 marketing year.

COMMISSION REGULATION (EEC) No 2395/92
of 14 August 1992
fixing the aid for cotton

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

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

Having regard to Council Regulation (EEC) No 2169/81 of 27 July 1981 laying down the general rules for the system of aid for cotton ⁽²⁾, as last amended by Regulation (EEC) No 2053/92 ⁽³⁾, and in particular Article 5 (1) thereof,

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 2368/92 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2368/92 to

the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION :

Article 1

1. The aid for unginned cotton referred to in Article 5 of Regulation (EEC) No 2169/81 shall be ECU 73,792 per 100 kilograms.
2. However, the amount of the aid will be confirmed or replaced with effect from 15 August 1992 to take into account the effects of the application of maximum guaranteed quantities.

Article 2

This Regulation shall enter into force on 15 August 1992.

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

Done at Brussels, 14 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 215, 30. 7. 1992, p. 12.

⁽⁴⁾ OJ No L 230, 13. 8. 1992, p. 22.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 July 1992

relating to a proceeding under Article 85 of the EEC Treaty

(Case IV/32.725 — Viho/Parker Pen)

(Only the English and German texts are authentic)

(92/426/EEC)

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

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Article 15 (2) thereof,

Having regard to the complaint lodged by Viho Europe BV, Maastricht (Netherlands), on 19 May 1988 against Parker Pen Limited, Newhaven (United Kingdom) pursuant to Article 3 (1) of Regulation No 17,

Having regard to the Commission Decision of 21 January 1991 to initiate proceedings,

Having given the undertakings concerned the opportunity of being heard on the matters to which the Commission has taken objection, in accordance with Article 19 (1) of Regulation No 17 in conjunction with Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17 ⁽²⁾,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

Object of the proceeding

- (1) This proceeding relates to obstacles to parallel imports of Parker Pen products from Germany and

Italy to the Netherlands. The proceeding was initiated as a result of a complaint lodged by the Dutch undertaking Viho Europe BV on 19 May 1988. This Decision does not relate to the policy of the Parker Pen undertaking to refer enquiries from local customers to the local Parker subsidiary.

The parties

- (2) (a) Parker Pen Ltd (Parker), Newhaven, United Kingdom is a leading manufacturer of a variety of writing utensils with a worldwide turnover of £ [...] ⁽³⁾ (some ECU [...]) in 1989 as against £ [...] (some ECU [...]) in 1988. In 1991, Parker's turnover in the Community was £ [...] (some ECU [...]). Some 2 600 persons were employed by Parker worldwide in 1991.
- (b) API SpA, Italy, (API), deals essentially in office equipment and maintains a distribution network mainly in Italy. API has been distributing Parker products in Italy since 1949. Its turnover in 1990 amounted to ECU [...] million, of which some ECU [...] million was accounted for by Parker products. API is a medium-sized family undertaking with 188 employees. There are no written agreements with Parker.
- (c) Herlitz AG, Germany (Herlitz), manufactures a broad range of office supply articles and associated products. It operates at both the wholesale and retail stages. At the retail stage, distri-

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

⁽³⁾ In the published version of the Decision, some information has hereinafter been omitted, pursuant to the provisions of Article 21 of Regulation No 17 concerning non-disclosure of business secrets.

bution is carried out through McPaper GmbH and a variety of dependent shops and sales areas ('shop within a shop') in Germany. As part of its business at both the wholesale and the retail stage, Herlitz also distributes the products of other manufacturers.

Herlitz carries out about one third of its business outside Germany. Its turnover in 1988 was DM [...] (some ECU [...]). On 18 August 1986, Parker and Herlitz concluded an agreement on the distribution of Parker products in Germany. Article 7 of the agreement prohibits any export without Parker's written consent. The products concerned were Parker writing utensils in the medium-price range, which are sold mostly in department stores.

- (d) Viho Europe BV (Viho), the Netherlands, deals in the import and export of office equipment and cinematographic productions, particularly in the Community countries. Its turnover in 1988 was Hfl [...] (ECU [...]).

The products

- (3) The relevant products are writing utensils, except pencils and technical drawing instruments, manufactured and distributed by Parker. In particular, the products involved are fountain pens and ball-point pens.

The market

- (4) The relevant product market comprises writing utensils in the medium and upper price ranges. The Commission believes that the Parker group holds a strong position on the relevant market. However, it has not been possible to establish that it holds a dominant position on the market. According to the information provided by Parker, it has the following market shares on the individual European markets:

— Portugal :	[...] %
— Denmark :	[...] %
— Greece :	[...] %
— Netherlands :	[...] %
— Belgium :	[...] %
— Italy :	[...] %
— United Kingdom :	[...] %
— Spain :	[...] %
— Germany :	[...] %
— France :	[...] %

There are no precise figures for Ireland and Luxembourg. The Community market share including those two countries is around [...] %.

- (5) Parker's turnover in the Member States of the Community in the 12 months up to 29 February 1988 was as follows:

(in £'000)

Worldwide turnover	Turnover in the Community (*)				
		1988	1989	1990	1991
[...]	<i>Sales by subsidiaries to trade customers</i>				
	United Kingdom	[...]	[...]		
	France	[...]	[...]		
	Germany	[...]	[...]	[...]	[...]
	Spain	[...]	[...]		
	Netherlands	[...]	[...]		
	Belgium and Luxembourg	[...]	[...]		
	<i>Sales by Parker to independent distribution companies:</i>				
	Vialga, Portugal	[...]	[...]		
	Econ SA, Greece	[...]	[...]		
	API SpA, Italy	[...]	[...]		
	William Gaw, Ireland	[...]	[...]		
	Aktieselskabet Chr. Olsen Holding, Denmark	[...]	[...]		

(*) Turnover in the Community broken down into sales by subsidiaries to trade customers and sales by Parker to its independent distribution companies in Portugal, Greece, Italy, Ireland and Denmark.

(Source: Parker)

- (6) Parker has wholly-owned subsidiaries in Spain, France, the United Kingdom, the Netherlands, Belgium and Germany. In the other Member States of the Community, Parker has concluded distribution agreements with independent importers.

The conduct against which complaint has been made

- (7) Viho has for a number of years been endeavouring to distribute Parker products. For this purpose, it has obtained price quotations from various Parker subsidiaries in the Community. In its complaint, Viho states that it has never been supplied.

During the hearing, however, the complainant conceded that it had obtained Parker products from firms which were not Parker distributors. It is also evident from the telex message of 25 November 1987 from Viho to the Italian firm API that Viho declared that it was prepared to supply individual Parker products or possibly the whole range of such goods (see recital 8).

- (8) On 19 November 1986, Viho asked API for a price quotation. On 24 November 1986, API replied: 'Sorry, we cannot be of help but we are distributors for Parker for the Italian market only and we cannot export'.

It should be added, however, that, on 19 November 1987, Viho approached API for a second time, asking it for a price quotation for a relatively large quantity of goods (20 000 Vector Rollerballs). On 24 November 1987, API replied that it had difficulty supplying such a large amount because of brisk business in the run-up to Christmas, but nevertheless quoted a price of Lit [...] and stated that in principle it was prepared to supply Viho.

On 25 November 1987, Viho replied that it found the price quoted to be excessively high and therefore not of interest and added that it could if need be itself supply API with all the Parker products, since it had the whole range of such products.

- (9) On 20 and 24 April 1989, Viho asked Herlitz to quote a price. On 24 April 1989, Herlitz replied: 'Leider müssen wir Ihnen mitteilen, daß wir keine der o.g. Produkte exportieren dürfen' (Unfortunately we must inform you that we are not allowed to export any of the abovementioned products). The telex message of 25 April 1989 from Herlitz contains the following statement: '[...] we can sell

quite a number of (our products) but not the product that you had asked for [...] It is not that Herlitz does not want to sell, but is bound to a contract'.

- (10) During an investigation carried out on Herlitz's premises on 19 and 20 September 1989, Commission officials found a distribution agreement stated 18 August 1986. The agreement entered into force on 1 March 1987 and had a term of five years.

Paragraph 7 of the agreement reads as follows: 'Herlitz wird Parker-Artikel ausschließlich in der Bundesrepublik Deutschland vertreiben. Jeglicher Vertrieb über die Landesgrenzen hinaus ist Herlitz untersagt bzw. nur mit schriftlicher Erlaubnis durch Parker gestattet.' (Herlitz will distribute Parker articles solely in the Federal Republic of Germany. Any distribution by Herlitz outside Germany is prohibited and may take place only with Parker's written consent.)

Although Parker submitted that the express export ban had been inserted into the distribution agreement on the personal initiative of a marketing director who did not have Parker's authority to do so, the company did not contest the objective fact of an infringement. It limited itself to the comment that the action of which it was accused was unintentional.

Price differences in the Community and termination of the infringement

- (11) As may be seen from the table in recital 4, Parker products have a not insignificant market share in the Community. There are in the case of such products price differences between Member States that result in conditions under which a parallel trade may develop. This is confirmed by Viho's repeated attempts to obtain the products from distributors in other Member States. The above-mentioned refusals to export impeded parallel imports from Germany. These restrictions operated as from 1986 at the latest.

- (12) Parker acknowledges that the wording of the distribution agreement concluded between it and Herlitz in August 1986 infringes Article 85 (1) of the EEC Treaty. For this reason, as part of a wide-ranging programme to comply with the competition rules (the so-called compliance programme) initiated by Parker (see recital 14), Parker revoked this clause with immediate effect in a letter to Herlitz dated 28 September 1989.

On 18 December 1989, Parker sent Herlitz the draft of a new distribution agreement which was to enter into force with retroactive effect as from 1 October 1989. The new agreement does not contain any clause prohibiting exports, but it has not yet entered into force.

Acting promptly in response to the Commission's express representations, Parker informed its exclusive distributors in Denmark, Ireland, Italy, Greece and Portugal by letter dated 14 May 1991 they they were free to supply customers outside their territory.

- (13) In the case of API, it cannot be deduced from its answer to Viho dated 19 November 1986 whether there was an agreement between it and Parker to prohibit exports from Italy, as Viho claimed. API did send Viho a telex message on 24 November 1987 offering to supply Parker products. It has, however, not been possible to show, as Viho asserted, that API made this offer only for appearances' sake and, accordingly, at unacceptable prices.
- (14) Lastly, it should be mentioned that Parker drew up, both for its Community subsidiaries and also for its sole distributors, a wide-ranging programme on compliance with Community competition law, so as to ensure that the competition rules were observed in future.

II. LEGAL ASSESSMENT

A. Article 85 (1)

- (15) Parker and Herlitz are undertakings within the meaning of Article 85 of the EEC Treaty. The agreement between Parker and Herlitz is an agreement within the meaning of that Article.
- (16) The distribution agreement concluded between Parker and Herlitz on 18 August 1986 contains an express ban on exports. This export ban had as its object the restriction of competition through the prevention of parallel imports.

Provisions of this type infringe Article 85 (1). The Court of Justice has ruled in various judgments (Miller⁽¹⁾, Tipp-Ex⁽²⁾, Sandoz⁽³⁾) that agreements on the restriction of exports within the common

market are by their nature a restriction of competition within the meaning of Article 85 (1) and that, if this proves to be the object of an agreement, the actual implementation of a restriction laid down in an agreement does not have to be proved.

According to Parker, the express export ban in the distribution contract is attributable to the personal initiative of a marketing director who had not consulted the firm's competent departments. The circumstances in which the clause in question was inserted into the contract and signed by an official of the company who did not have the relevant authority does not remove Parker's responsibility at all. The company remains liable whether on the principle of *culpa in eligendo* or of *culpa in vigilando*.

It is true that the distribution agreement was concluded between Parker and Herlitz and that the abovementioned telex message to Viho was sent by Herlitz GmbH Co. KG.

It is also true that, as Herlitz asserts, these are two different companies having their own legal personality. However, in view of the fact that Herlitz GmbH & Co. KG is a wholly-owned subsidiary of Herlitz, both companies are regarded as forming a single economic entity. As is evident from the telex message of 25 April 1989, the subsidiary pursued the parent company's policy and felt itself bound to the agreements with it⁽⁴⁾.

Herlitz further stated during the hearing that it was a service undertaking with ancillary activity as a producer and supplied mainly department stores on the basis of the 'shop within a shop' principle. It supplemented its range with products from other brands, such as Parker products. However, it was not interested in supplying any firms that wished to pick and choose only given products. After the hearing, Herlitz added that its reference to the export ban as the justification for refusing Viho had been made only so as not to appear too disobliging in turning down the request. The prevention of parallel imports or the safeguarding of individual markets within the European Community had never been the object, purpose or even the result of the export ban clause. In addition, the distribution agreement concluded between Parker and Herlitz had never been implemented.

⁽¹⁾ Case 19/77, Miller International Schallplatten v. Commission, [1978] ECR 131.

⁽²⁾ Case C-279/87, Tipp-Ex v. Commission, [1990] ECR I-261.

⁽³⁾ Case C-277/87, Sandoz v. Commission, [1990] ECR I-45.

⁽⁴⁾ See Case 107/82, AEG-Telefunken v. Commission, [1983] ECR 3151, paragraph 50 at p. 3199.

The Commission cannot agree this reasoning. Furthermore, it takes the view the arguments which Herlitz derives from the application of the 'shop within a shop' principle are irrelevant. The telex message of 25 April 1989 from Herlitz to Viho proves that Herlitz also dealt in products not manufactured by it.

The fact that Herlitz exported Parker products to Austria and Switzerland proves that it traded in such products. Within the common market, however, despite its assertions to the contrary, it did apply the distribution agreement that existed between it and Parker. This is evident from the two telex messages from Herlitz to Viho. Herlitz therefore felt bound by the agreement with Parker under which it was prohibited in particular from engaging in exports.

This restriction in commercial freedom of manoeuvre meets the applicability criteria of Article 85 (1). The Commission therefore concludes that there is a clear breach of competition law.

- (17) Article 85 (1) is thus applicable to the agreement between Herlitz and Parker.
- (18) Parker has substantial market share with its products on the Community market described above. The agreement between Parker and Herlitz was such as to appreciably affect trade between Member States by restricting parallel imports and exports.
- (19) As is evident from its reply of 19 November 1986 in which it stated 'sorry, we cannot export ...', API has in at least one instance declined to quote prices to Viho for Parker products. However, this is not sufficient evidence to allow the commission to conclude that on this point Viho's complaint was founded. This view is borne out by the fact that API had already, half a year before the complaint was lodged, started quoting prices to Viho at its request.

B. Article 85 (3)

- (20) The agreement between Parker and Herlitz that contained the export ban or had such a ban as its object was not notified to the Commission. Furthermore, such a restriction of exports is one of the exceptions specified in Article 4 (2) of Regulation No 17. Individual exemption under Article 85 (3) cannot therefore be granted.

Even if the agreement had been notified, it would not have been possible to grant exemption from the prohibition laid down in Article 85 (1), since the export ban cannot be regarded as indispensable to improving and because it is moreover harmful to consumers.

C. Article 15 (2) of Regulation No 17

- (21) The above considerations lead the Commission to conclude that Parker and Herlitz have infringed Article 85 (1) of the EEC Treaty and that Article 85 (3) is not applicable.
- (22) Under Article 15 (2) of Regulation No 17, the Commission may by decision impose on undertakings fines from ECU 1 000 to ECU 1 million, or a sum in excess thereof but not exceeding 10 % of the turnover in the preceding business year of each of the undertakings participating in the infringement where, either intentionally or negligently of the fine, regard must be had both to the gravity and to the duration of the infringement.
- (23) The Commission is of the opinion that the imposition of a fine on Parker is justified in the instant case. Parker should have known that the agreement had the object of preventing parallel imports or exports. Community law is clear on this point: export bans are always restrictions of competition. This has long been established in the decisions and case law of the Commission and the Court of Justice. It was not possible for Parker to be unaware of this fact.
- (24) As regards the amount of the fine imposed on Parker, the Commission took the following points in particular into account:
 - 1. the actions which are the subject of this Decision represent a serious infringement of the competition rules laid down in the EEC Treaty, since they significantly hinder the integration of the common market;
 - 2. since Community law is unmistakably clear on this point, the restrictions of competition with which the undertaking is charged represent serious infringements of Community competition law;
 - 3. the infringement lasted at least from the beginning of March 1987 to the end of September 1989. The infringement was terminated only by the letter dated 26 September 1989 from Parker to Herlitz, after Commission officials had brought the illegal agreement to light during the investigation carried out on the premises of Herlitz on 19 and 20 September 1989;
 - 4. Parker is part of a large group of companies with considerable turnover and with subsidiaries and major representatives on the market for writing utensils in the community;
 - 5. during the investigations, Parker was very co-operative. At the time it declared itself ready to cease all practices that proved incompatible with Community competition law and, in September 1989, withdrew the illegal provision in its distribution agreement with Herlitz;

6. Parker attempted in 1987 to place its relationship with its subsidiaries and its exclusive dealers on a legally unobjectionable basis by instructing a legal adviser to draw up a wide-ranging programme on compliance with community competition law, which was completed in 1989.

However, Parker did not apply the programme to its agreement with Herlitz. Nevertheless, in order to ensure future compliance with the competition rules and in response to express representations by the Commission, Parker did in 1991 inform all its distributors in the community that they were free to supply customers outside their territory.

- (25) A fine must also be imposed on Herlitz. It too signed the agreement and implemented it until 1989 at any rate. Herlitz was under no illusions as to the applicability of the provisions laying down the prohibition. The management of the undertaking was aware that the export ban clause was incompatible with Article 85, but it abided by it so as to meet Parker's wishes and in agreement with it, although the fact cannot have escaped Herlitz that this resulted in the prevention of parallel imports and exports.

- (26) In imposing the fine on Herlitz, the commission recognizes that Herlitz's own responsibility in bringing about the provision in the agreement that restricted competition is smaller, since it is to be assumed that Herlitz was merely complying with Parker's wishes.

In view of Herlitz's subordinate role, the Commission takes the view that the fine to be imposed on Herlitz should therefore be smaller than that imposed on Parker,

HAS ADOPTED THIS DECISION :

Article 1

Parker Pen Ltd and Herlitz AG have infringed Article 85 (1) of the EEC Treaty by including an export ban in an agreement concluded between them.

Article 2

The following fines are hereby imposed on the undertakings specified below :

- a fine of ECU 700 000 on Parker Pen Ltd,
- a fine of ECU 40 000 on Herlitz AG.

The fines shall be paid within three months of the date of notification of this Decision to the following account of the European Communities :

Account No 310-0933000-43
Commission of the European Communities
Banque Bruxelles-Lambert
Agence Européenne
5, Rond-Point Schuman
B-1040 Brussels.

After three months, interest shall automatically be payable at the reate charged by the European Monetary Cooperation Fund on its ECU transactions on the first working day of the month in which this Decision was adopted, plus 3,5 percentage points, i.e. 13,75 %.

Should payment be made in national currency, the exchange rate applicable shall be that prevailing on the day preceding payment.

Article 3

Parker Pen Ltd shall not adopt any measures having the same object or the same effect as the Treaty infringements established.

Article 4

This Decision is addressed to :

1. Parker Pen Ltd
Newhaven
GB-East Sussex BN9 0AU
2. Herlitz AG
Reuchlingstraße 10
D-1000 Berlin 21

This Decision is enforceable pursuant to Article 192 of the EEC Treaty.

Done at Brussels, 15 July 1992.

For the Commission

Leon BRITTAN

Vice-President