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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2462/92

of 26 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 25 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 27 August 1992.

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

Done at Brussels, 26 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 26 August 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)	
CN code	Levy (*)
0709 90 60	150,06 (*) (*)
0712 90 19	150,06 (*) (*)
1001 10 10	174,85 (*) (*) (*)
1001 10 90	174,85 (*) (*) (*)
1001 90 91	143,86
1001 90 99	143,86 (*)
1002 00 00	155,76 (*)
1003 00 10	129,61
1003 00 90	129,61 (*)
1004 00 10	112,48
1004 00 90	112,48
1005 10 90	150,06 (*) (*)
1005 90 00	150,06 (*) (*)
1007 00 90	156,07 (*)
1008 10 00	58,79 (*)
1008 20 00	107,51 (*)
1008 30 00	57,56 (*)
1008 90 10	(*)
1008 90 90	57,56
1101 00 00	214,36 (*) (*)
1102 10 00	231,03 (*)
1103 11 10	283,92 (*) (*)
1103 11 90	231,35 (*)

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

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

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

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

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 2463/92

of 26 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 25 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 27 August 1992.

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

Done at Brussels, 26 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 26 August 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	Current	1st period	2nd period	3rd period
	8	9	10	11
0709 90 60	0	0	0	1,36
0712 90 19	0	0	0	1,36
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	1,36
1005 90 00	0	0	0	1,36
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	Current	1st period	2nd period	3rd period	4th period
	8	9	10	11	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 2464/92
of 26 August 1992
fixing the import levies on rice and broken rice

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

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

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

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

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 1714/92 ⁽⁵⁾, as last amended by Regulation (EEC) No 2414/92 ⁽⁶⁾,

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 2

This Regulation shall enter into force on 27 August 1992.

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

Done at Brussels, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 75, 21. 3. 1991, p. 29.

⁽⁵⁾ OJ No L 179, 1. 7. 1992, p. 61.

⁽⁶⁾ OJ No L 237, 20. 8. 1992, p. 5.

ANNEX

to the Commission Regulation of 26 August 1992 fixing the import levies on rice and broken rice

(ECU/tonne)

CN code	Levies (°)		
	Arrangement in Regulation (EEC) No 3877/86 (°)	ACP Bangladesh (⁽¹⁾) (⁽²⁾) (⁽³⁾)	Third countries (except ACP) (⁽⁴⁾)
1006 10 21	—	165,46	338,12
1006 10 23	—	167,75	342,70
1006 10 25	—	167,75	342,70
1006 10 27	257,03	167,75	342,70
1006 10 92	—	165,46	338,12
1006 10 94	—	167,75	342,70
1006 10 96	—	167,75	342,70
1006 10 98	257,03	167,75	342,70
1006 20 11	—	207,72	422,65
1006 20 13	—	210,59	428,38
1006 20 15	—	210,59	428,38
1006 20 17	321,29	210,59	428,38
1006 20 92	—	207,72	422,65
1006 20 94	—	210,59	428,38
1006 20 96	—	210,59	428,38
1006 20 98	321,29	210,59	428,38
1006 30 21	—	257,48	538,82 (°)
1006 30 23	—	301,59	626,96 (°)
1006 30 25	—	301,59	626,96 (°)
1006 30 27	470,22 (°)	301,59	626,96 (°)
1006 30 42	—	257,48	538,82 (°)
1006 30 44	—	301,59	626,96 (°)
1006 30 46	—	301,59	626,96 (°)
1006 30 48	470,22 (°)	301,59	626,96 (°)
1006 30 61	—	274,57	573,85 (°)
1006 30 63	—	323,70	672,11 (°)
1006 30 65	—	323,70	672,11 (°)
1006 30 67	504,08 (°)	323,70	672,11 (°)
1006 30 92	—	274,57	573,85 (°)
1006 30 94	—	323,70	672,11 (°)
1006 30 96	—	323,70	672,11 (°)
1006 30 98	504,08 (°)	323,70	672,11 (°)
1006 40 00	—	76,33	158,66

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 2465/92**of 26 August 1992****fixing the premiums to be added to the import levies on rice and broken rice**

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

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

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

Whereas the premiums to be added to the levies on rice
and broken rice were fixed by Commission Regulation
(EEC) No 2591/91 ⁽³⁾, as last amended by Regulation
(EEC) No 2415/92 ⁽⁴⁾;

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

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

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 2

This Regulation shall enter into force on 27 August 1992.

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

Done at Brussels, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 243, 31. 8. 1991, p. 8.

⁽⁴⁾ OJ No L 237, 20. 8. 1992, p. 7.

ANNEX

to the Commission Regulation of 26 August 1992 fixing the premiums to be added to the import levies on rice and broken rice

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

COMMISSION REGULATION (EEC) No 2466/92**of 26 August 1992****altering the export refunds on white sugar and raw sugar exported in the natural state**

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

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

Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EEC) No 2416/92 ⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2416/92 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto;

Whereas Council Regulation (EEC) No 1432/92 ⁽⁴⁾, as amended by Regulation (EEC) No 2015/92 ⁽⁵⁾, prohibits

trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EEC) No 2416/92 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 August 1992.

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

Done at Brussels, 26 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 237, 20. 8. 1992, p. 9.

⁽⁴⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁵⁾ OJ No L 205, 22. 7. 1992, p. 2.

ANNEX

to the Commission Regulation of 26 August 1992 altering the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

Product code	Amount of refund (1)	
	per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
1701 11 90 100	36,85 (1)	
1701 11 90 910	36,32 (1)	
1701 11 90 950	(2)	
1701 12 90 100	36,85 (1)	
1701 12 90 910	36,32 (1)	
1701 12 90 950	(2)	
1701 91 00 000		0,4006
1701 99 10 100	40,06	
1701 99 10 910	41,79	
1701 99 10 950	10,29	
1701 99 90 100		0,4006

(1) Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

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

COMMISSION REGULATION (EEC) No 2467/92

of 25 August 1992

extending the list of arable crops laid down in Regulation (EEC) No 1765/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support scheme for producers of certain arable crops⁽¹⁾, and in particular Article 12 thereof,

Whereas sweet corn is covered by the Regulation on the common organization of the market in cereals; whereas the reduction in support and in protection against imports will apply to this product as it does to other cereals from the 1993/94 marketing year on; whereas the support system for producers of certain arable crops should therefore also apply to this product;

Whereas the production methods for peas for human consumption differ from those for peas for use as animal feed only in terms of the maturity of the peas at the moment of harvesting; whereas application of an alternative treatment can be ensured only by a disproportionate monitoring and inspection system; whereas this crop should therefore be added to the list of arable crops;

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

HAS ADOPTED THIS REGULATION:

Article 1

The following arable crops are added to Annex I to Regulation (EEC) No 1765/92:

CN code	Description
I. CEREALS	
0709 90 60	Sweet corn
II. PROTEIN CROPS	
0708 10	Peas (<i>Pisum sativum</i>)

Article 2

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

It shall apply from 1 July 1992.

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

Done at Brussels, 25 August 1992.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 12.

COMMISSION REGULATION (EEC) No 2468/92

of 26 August 1992

amending Regulation (EEC) No 1306/92 increasing to 3 000 000 tonnes the quantity of bread-making wheat held by the French intervention agency for which a standing invitation to tender for export has been opened

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 7 (6) thereof,

Having regard to Commission Regulation (EEC) No 1836/82 of 7 July 1982 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies ⁽³⁾, as last amended by Regulation (EEC) No 3043/91 ⁽⁴⁾,

Whereas Commission Regulation (EEC) No 1306/92 ⁽⁵⁾, as last amended by Regulation (EEC) No 2288/92 ⁽⁶⁾, opened a standing invitation to tender for the export of 2 000 000 tonnes of bread-making wheat held by the French intervention agency; whereas, in a communication of 20 August 1992, France informed the Commission of the intention of its intervention agency to increase by 1 000 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of bread-making wheat held by the French intervention agency for which a standing invitation to tender for export has been opened should be increased to 3 000 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EEC) No 1306/92 must 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

Article 2 of Regulation (EEC) No 1306/92 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 3 000 000 tonnes of bread-making wheat to be exported to all third countries.

2. The regions in which the 3 000 000 tonnes of bread-making wheat are stored are stated in Annex I to this Regulation.

Article 2

Annex I to Regulation (EEC) No 1306/92 is replaced by the Annex hereto.

Article 3

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, 26 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 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 288, 18. 10. 1991, p. 21.

⁽⁵⁾ OJ No L 139, 22. 5. 1992, p. 39.

⁽⁶⁾ OJ No L 221, 6. 8. 1992, p. 12.

ANNEX

ANNEX I

(tonnes)	
Place of storage	Quantity
Amiens	225 000
Bordeaux	110 000
Châlons	457 000
Dijon	102 000
Lille	286 000
Nancy	146 000
Nantes	160 000
Orléans	616 000
Paris	278 000
Poitiers	297 000
Rennes	65 000
Rouen	167 000
Toulouse	85 000
Clermont-Ferrand	6 000'

COMMISSION REGULATION (EEC) No 2469/92

of 26 August 1992

amending Regulation (EEC) No 1301/92 increasing to 1 500 000 tonnes the quantity of bread-making wheat held by the German intervention agency for which a standing invitation to tender for export has been opened

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 7 (6) thereof,

Having regard to Commission Regulation (EEC) No 1836/82 of 7 July 1982 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies ⁽³⁾, as last amended by Regulation (EEC) No 3043/91 ⁽⁴⁾,

Whereas Commission Regulation (EEC) No 1301/92 ⁽⁵⁾, as last amended by Regulation (EEC) No 2287/92 ⁽⁶⁾, opened a standing invitation to tender for the export of 1 200 000 tonnes of bread-making wheat held by the German intervention agency; whereas, in a communication of 20 August 1992, Germany informed the Commission of the intention of its intervention agency to increase by 300 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of bread-making wheat held by the German intervention agency for which a standing invitation to tender for export has been opened should be increased to 1 500 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EEC) No 1301/92 must 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

Article 2 of Regulation (EEC) No 1301/92 is replaced by the following:

'Article 2

1. The invitation to tender shall cover a maximum of 1 500 000 tonnes of bread-making wheat to be exported to all third countries.

2. The regions in which the 1 500 000 tonnes of bread-making wheat are stored are stated in Annex I to this Regulation.'

Article 2

Annex I to Regulation (EEC) No 1301/92 is replaced by the Annex hereto.

Article 3

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, 26 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 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 288, 18. 10. 1991, p. 21.

⁽⁵⁾ OJ No L 139, 22. 5. 1992, p. 24.

⁽⁶⁾ OJ No L 221, 6. 8. 1992, p. 10.

ANNEX

ANNEX I

(tonnes)	
Place of storage	Quantity
Schleswig-Holstein/Hamburg	276 221
Niedersachsen/Bremen	257 026
Nordrhein-Westfalen	197 353
Hessen	43 516
Rheinland-Pfalz	53 910
Baden-Württemberg	44 041
Bayern	318 824
Berlin/Brandenburg	33 213
Mecklenburg-Vorpommern	74 890
Sachsen	16 540
Sachsen-Anhalt	107 742
Thüringen	71 629
Saarland	5 000'

COMMISSION REGULATION (EEC) No 2470/92

of 26 August 1992

amending Regulation (EEC) No 1648/92 increasing to 153 000 tonnes the quantity of barley held by the Belgian intervention agency for which a standing invitation to tender for export has been opened

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 7 (6) thereof,

Having regard to Commission Regulation (EEC) No 1836/82 of 7 July 1982 laying down the procedure and conditions for the disposal of cereals held by the intervention agencies ⁽³⁾, as last amended by Regulation (EEC) No 3043/91 ⁽⁴⁾,

Whereas Commission Regulation (EEC) No 1648/92 ⁽⁵⁾, as last amended by Regulation (EEC) No 2096/92 ⁽⁶⁾ opened a standing invitation to tender for the export of 100 000 tonnes of barley held by the Belgian intervention agency; whereas, in a communication of 20 August 1992, Belgium informed the Commission of the intention of its intervention agency to increase by 53 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the Belgian intervention agency for which a standing invitation to tender for export has been opened should be increased to 153 000 tonnes;

Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regulation (EEC) No 1648/92 must 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

Article 2 of Regulation (EEC) No 1648/92 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 153 000 tonnes of barley to be exported to all third countries.

2. The regions in which the 153 000 tonnes of barley are stored are stated in Annex I to this Regulation.

Article 2

Annex I to Regulation (EEC) No 1648/92 is replaced by the Annex hereto.

Article 3

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, 26 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 202, 9. 7. 1982, p. 23.

⁽⁴⁾ OJ No L 288, 18. 10. 1991, p. 21.

⁽⁵⁾ OJ No L 172, 27. 6. 1992, p. 32.

⁽⁶⁾ OJ No L 210, 25. 7. 1992, p. 12.

ANNEX

ANNEX I

(tonnes)	
Place of storage	Quantity
Racour	22 062
Gives	5 240
Tournai	11 609
Liège	31 245
Ath	9 735
Namur	5 300
Mont-Saint-Guibert	3 670
Braine-le-Comte	1 890
Hamois	2 625
Feluy	943
Diksmuide	3 580
Ambresin	4 050
Ohey	1 009
Meeffe	6 280
Waimès	2 461
Oudenburg	4 500
Brunehaut	9 141
Riemst	2 633
Floreffe	20 241
Landen	2 856
Xhendremael	825
Moen	1 134'

COMMISSION REGULATION (EEC) No 2471/92**of 25 August 1992****establishing unit values for the determination of the customs value of certain perishable goods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Commission Regulation (EEC) No 1577/81 of 12 June 1981 establishing a system of simplified procedures for the determination of the customs value of certain perishable goods ⁽¹⁾, as last amended by Regulation (EEC) No 3334/90 ⁽²⁾, and in particular Article 1 thereof,

Whereas Article 1 of Regulation (EEC) No 1577/81 provides that the Commission shall periodically establish unit values for the products referred to in the classification in the Annex;

Whereas the result of applying the rules and criteria laid down in that same Regulation to the elements communi-

cated to the Commission in accordance with Article 1 (2) of that Regulation is that the unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 1 (1) of Regulation (EEC) No 1577/81 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 28 August 1992.

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

Done at Brussels, 25 August 1992.

For the Commission

Jean DONDELINGER

Member of the Commission

⁽¹⁾ OJ No L 154, 13. 6. 1981, p. 26.

⁽²⁾ OJ No L 321, 21. 11. 1990, p. 6.

ANNEX

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
1.10	0701 90 51 0701 90 59	New potatoes	15,54	656	122,41	31,88	107,21	3 877	11,94	24 100	35,92	10,93
1.20	0702 00 10 0702 00 90	Tomatoes	68,57	2 879	538,68	139,82	472,36	17 204	52,52	105 846	157,63	49,40
1.30	0703 10 19	Onions (other than seed)	12,93	541	101,50	26,28	89,22	3 254	9,89	19 997	29,62	9,36
1.40	0703 20 00	Garlic	129,23	5 410	1 014,37	262,69	891,67	32 526	98,90	199 850	296,08	93,57
1.50	ex 0703 90 00	Leeks	30,35	1 276	240,49	61,99	211,30	7 174	23,24	46 691	69,78	21,59
1.60	ex 0704 10 10 ex 0704 10 90	Cauliflowers	31,88	1 340	252,88	65,14	221,09	7 537	24,43	48 965	73,34	22,77
1.70	0704 20 00	Brussels sprouts	53,72	2 267	423,88	110,06	374,08	11 735	41,29	82 719	124,09	37,72
1.80	0704 90 10	White cabbages and red cabbages	23,05	975	182,88	47,36	160,54	5 181	17,70	35 248	53,35	16,11
1.90	ex 0704 90 90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> var. <i>italica</i>)	88,82	3 747	702,39	182,10	613,36	22 143	68,18	137 843	205,12	62,41
1.100	ex 0704 90 90	Chinese cabbage	39,75	1 677	314,32	81,49	274,48	9 909	30,51	61 684	91,79	27,92
1.110	0705 11 10 0705 11 90	Cabbage lettuce (head lettuce)	112,52	4 747	889,76	230,67	776,98	28 050	86,37	174 612	259,84	79,06
1.120	ex 0705 29 00	Endives	22,96	965	182,14	46,92	159,25	5 429	17,59	35 268	52,83	16,40
1.130	ex 0706 10 00	Carrots	29,52	1 246	232,51	60,55	203,65	7 364	22,69	45 777	68,23	20,76
1.140	ex 0706 90 90	Radishes	76,03	3 212	604,06	156,14	526,58	18 296	58,48	117 341	175,57	53,25
1.150	0707 00 11 0707 00 19	Cucumbers	35,77	1 513	283,02	73,55	246,93	8 792	27,49	55 395	82,83	25,03
1.160	0708 10 10 0708 10 90	Peas (<i>Pisum sativum</i>)	215,34	9 016	1 690,22	437,71	1 485,77	54 198	164,80	333 005	493,36	155,93
1.170		Beans :										
1.170.1	0708 20 10 0708 20 90	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.)	207,52	8 688	1 628,84	421,82	1 431,81	52 230	158,81	320 913	475,44	150,26
1.170.2	0708 20 10 0708 20 90	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus Savi</i>)	100,24	4 232	789,51	205,63	691,51	25 006	77,06	155 438	231,70	70,51
1.180	ex 0708 90 00	Broad beans	92,83	3 894	734,40	189,09	645,42	21 793	71,04	142 837	212,96	66,61
1.190	0709 10 00	Globe artichokes	71,30	3 008	563,82	146,17	492,35	17 775	54,73	110 648	164,65	50,09
1.200		Asparagus :										
1.200.1	ex 0709 20 00	— green	374,56	15 682	2 939,92	761,35	2 584,30	94 270	286,65	579 220	858,14	271,22
1.200.2	ex 0709 20 00	— other	139,38	5 835	1 094,04	283,32	961,71	35 081	106,67	215 548	319,34	100,93
1.210	0709 30 00	Aubergines (egg-plants)	59,34	2 492	466,23	121,01	408,83	14 890	45,46	91 611	136,43	42,75
1.220	ex 0709 40 00	Ribbed celery (<i>Apium graveolens</i> var. <i>dulce</i>)	62,23	2 627	490,12	127,65	429,28	15 523	47,83	96 494	143,84	43,77
1.230	0709 51 30	Chantarelles	851,24	35 640	6 681,39	1 730,29	5 873,21	214 243	651,46	1 316 362	1 950,26	616,38
1.240	0709 60 10	Sweet peppers	69,92	2 927	548,82	142,13	482,43	17 598	53,51	108 129	160,19	50,63
1.250	0709 90 50	Fennel	40,06	1 692	318,24	82,26	277,42	9 639	30,81	61 820	92,50	28,05
1.260	0709 90 70	Courgettes	38,41	1 614	304,72	78,38	267,79	8 982	29,39	59 164	88,32	27,15
1.270	ex 0714 20 10	Sweet potatoes, whole, fresh (intended for human consumption)	98,95	4 174	781,50	202,59	690,51	22 594	75,77	151 536	228,30	69,55
2.10	ex 0802 40 00	Chestnuts (<i>Castanea</i> spp.), fresh	131,65	5 522	1 041,42	268,14	915,24	30 904	100,74	202 551	301,99	94,47
2.20	ex 0803 00 10	Bananas (other than plantains), fresh	38,81	1 625	304,63	78,89	267,78	9 768	29,70	60 018	88,92	28,10
2.30	ex 0804 30 00	Pineapples, fresh	44,69	1 871	350,81	90,84	308,37	11 249	34,20	69 116	102,39	32,36
2.40	ex 0804 40 10 ex 0804 40 90	Avocados, fresh	131,90	5 522	1 035,29	268,11	910,06	33 197	100,94	203 973	302,19	95,51

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
2.50	ex 0804 50 00	Guavas and mangoes, fresh	76,55	3 205	600,90	155,61	528,21	19 268	58,59	118 389	175,40	55,43
2.60		Sweet oranges, fresh :										
2.60.1	0805 10 11 0805 10 21 0805 10 31 0805 10 41	— Sanguines and semi-sanguines	17,76	746	139,59	36,23	122,40	4 458	13,61	27 429	40,84	12,80
2.60.2	0805 10 15 0805 10 25 0805 10 35 0805 10 45	— Navels, Navelines, Navelates, Salustianas, Vernas, Valencia lates, Maltese, Shamoutis, Ovalis, Trovita and Hamlins	40,80	1 708	320,28	82,94	281,54	10 270	31,22	63 101	93,48	29,54
2.60.3	0805 10 19 0805 10 29 0805 10 39 0805 10 49	— Others	25,04	1 048	196,57	50,90	172,79	6 303	19,16	38 729	57,37	18,13
2.70		Mandarins (including tangerines and satsumas), fresh ; clementines, wilkings and similar citrus hybrids, fresh :										
2.70.1	ex 0805 20 10	— Clementines	65,01	2 744	512,02	133,35	448,46	16 217	49,97	100 805	150,26	45,73
2.70.2	ex 0805 20 30	— Monreales and Satsumas	74,14	3 130	583,97	152,09	511,48	18 496	56,99	114 971	171,38	52,15
2.70.3	ex 0805 20 50	— Mandarins and wilkings	57,76	2 438	454,90	118,47	398,43	14 408	44,40	89 560	133,50	40,62
2.70.4	ex 0805 20 70 ex 0805 20 90	— Tangerines and others	49,28	2 063	386,80	100,17	340,02	12 403	37,71	76 208	112,90	35,68
2.80	ex 0805 30 10	Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>), fresh	52,63	2 203	413,14	106,99	363,16	13 247	40,28	81 397	120,59	38,11
2.85	ex 0805 30 90	Limes (<i>Citrus aurantifolia</i>), fresh	126,36	5 290	991,85	256,86	871,88	31 804	96,71	195 414	289,51	91,50
2.90		Grapefruit, fresh :										
2.90.1	ex 0805 40 00	— white	53,63	2 245	420,98	109,02	370,06	13 499	41,04	82 942	122,88	38,83
2.90.2	ex 0805 40 00	— pink	55,99	2 344	439,48	113,81	386,32	14 092	42,85	86 587	128,28	40,54
2.100	0806 10 11 0806 10 15 0806 10 19	Table grapes	76,46	3 201	600,15	155,42	527,56	19 244	58,51	118 242	175,18	55,36
2.110	0807 10 10	Water-melons	17,61	737	138,27	35,81	121,55	4 433	13,48	27 243	40,36	12,75
2.120		Melons (other than water-melons) :										
2.120.1	ex 0807 10 90	— Amarillo, Cuper, Honey dew (including Cantalene), Onteniente, Piel de Sapo (including Verde Liso), Rochet, Tendral, Futuro	31,52	1 319	247,44	64,08	217,51	7 934	24,12	48 751	72,22	22,82
2.120.2	ex 0807 10 90	— other	66,31	2 776	520,49	134,79	457,53	16 690	50,75	102 547	151,92	48,01
2.130	0808 10 91 0808 10 93 0808 10 99	Apples	50,80	2 126	398,73	103,25	350,49	12 785	38,87	78 557	116,38	36,78
2.140		Pears										
2.140.1	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Pears — Nashi (<i>Pyrus pyrifolia</i>)	107,56	4 541	847,16	220,64	742,01	26 832	82,68	166 788	248,62	75,66
2.140.2	0808 20 31 0808 20 33 0808 20 35 0808 20 39	Other	35,72	1 495	280,43	72,62	246,51	8 992	27,34	55 251	81,85	25,87
2.150	0809 10 00	Apricots	32,40	1 360	254,53	66,06	223,20	8 129	24,82	50 014	74,48	23,34
2.160	0809 20 10 0809 20 90	Cherries	79,83	3 352	627,19	162,79	549,98	20 031	61,15	123 238	183,53	57,51
2.170	ex 0809 30 00	Peaches	56,77	2 376	445,58	115,39	391,69	14 288	43,44	87 789	130,06	41,10

Code	CN code	Description	Amount of unit values per 100 kg net									
			ECU	Bfrs/Lfrs	Dkr	DM	FF	Dr	£ Irl	Lit	Fl	£
2.180	ex 0809 30 00	Nectarines	63,22	2 647	496,23	128,51	436,20	15912	48,38	97767	144,84	45,77
2.190	0809 40 11 0809 40 19	Plums	37,19	1 557	291,94	75,60	256,63	9 361	28,46	57 518	85,21	26,93
2.200	0810 10 10 0810 10 90	Strawberries	131,17	5 534	1 037,26	268,92	905,79	32 700	100,69	203 559	302,91	92,16
2.205	0810 20 10	Raspberries	1 686,7	71 352	13 344,9	3 467,96	11 643,49	414 554	1 296,5	2 611 963	3 905,77	1 180,3
2.210	0810 40 30	Fruit of the species <i>Vaccinium myrtillus</i>	161,42	6 779	1 268,11	329,16	1 111,99	40 501	123,65	249 172	371,08	116,29
2.220	0810 90 10	Kiwi fruit (<i>Actinidia chinensis</i> Planch.)	113,31	4 744	889,36	230,31	781,78	28 518	86,71	175 221	259,60	82,04
2.230	ex 0810 90 80	Pomegranates	64,68	2 721	513,07	132,36	450,09	15 261	49,56	99 270	148,90	45,90
2.240	ex 0810 90 80	Khakis (including Sharon fruit)	299,25	12 529	2 348,83	608,27	2 064,71	75 316	229,02	462 764	685,61	216,68
2.250	ex 0810 90 30	Lychees	518,40	21 705	4 068,95	1 053,74	3 576,77	130 474	396,73	801 661	1 187,70	375,37

COMMISSION REGULATION (EEC) No 2472/92
of 26 August 1992
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2046/92⁽²⁾,

Having regard to Council Regulation (EEC) No 1650/86 of 26 May 1986 on export refunds and levies on olive oil⁽³⁾, and in particular the first sentence of Article 3 (1) thereof,

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

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

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

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

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

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

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

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

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

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

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

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁶⁾, as last amended by Regulation (EEC) No 2205/90⁽⁷⁾,
- for the other currencies, an exchange rate based on an average of the ecu rates published in the *Official Journal of the European Communities*, C series, over a period to be determined, multiplied by the coefficient referred to in the preceding indent;

Whereas Council Regulation (EEC) No 1432/92⁽⁸⁾, as amended by Regulation (EEC) No 2015/92⁽⁹⁾, prohibits trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

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

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 78, 31. 3. 1972, p. 1.

⁽⁵⁾ OJ No L 348, 30. 12. 1977, p. 53.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁹⁾ OJ No L 205, 22. 7. 1992, p. 2.

HAS ADOPTED THIS REGULATION :

*Article 2**Article 1*

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

This Regulation shall enter into force on 1 September 1992.

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

Done at Brussels, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 26 August 1992 fixing the export refunds on olive oil

<i>(ECU/100 kg)</i>	
Product code	Amount of refund ⁽¹⁾ ⁽²⁾
1509 10 90 100	41,00
1509 10 90 900	64,00
1509 90 00 100	50,50
1509 90 00 900	82,50
1510 00 90 100	11,50
1510 00 90 900	42,00

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

⁽²⁾ Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

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

COMMISSION REGULATION (EEC) No 2473/92

of 26 August 1992

fixing the maximum export refunds on olive oil for the 18th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3149/91

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EEC) No 2046/92 ⁽²⁾,

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

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

Whereas Council Regulation (EEC) No 1432/92 ⁽⁵⁾, as amended by Regulation (EEC) No 2015/92 ⁽⁶⁾, prohibits trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

Whereas Article 6 of Regulation (EEC) No 3149/91 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Commu-

nity and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the 18th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3149/91 are hereby fixed in the Annex, on the basis of the tenders submitted by 23 August 1992.

Article 2

This Regulation shall enter into force on 1 September 1992.

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

Done at Brussels, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 299, 30. 10. 1991, p. 24.

⁽⁵⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁶⁾ OJ No L 205, 22. 7. 1992, p. 2.

ANNEX

to the Commission Regulation of 26 August 1992 fixing the maximum export refunds on olive oil for the 18th partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3149/91

<i>(ECU/100 kg)</i>	
Product code	Amount of refund ⁽¹⁾
1509 10 90 100	43,50
1509 10 90 900	67,00
1509 90 00 100	53,50
1509 90 00 900	—
1510 00 90 100	13,00
1510 00 90 900	45,00

⁽¹⁾ Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

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

COMMISSION REGULATION (EEC) No 2474/92

of 26 August 1992

introducing a countervailing charge on fresh lemons originating in Uruguay

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 1754/92⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

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

Whereas Commission Regulation (EEC) No 1413/92 of 27 May 1992 fixing for the 1992/93 marketing year the reference prices for fresh lemons⁽³⁾ fixed the reference price for products of class I for the months of July and August 1992 at ECU 60,82 per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative 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 fresh lemons originating in Uruguay 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 fresh lemons;

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 corrective factor provided for in the last paragraph of Article 3 (1) of 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,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 2,44 per 100 kilograms net is applied to fresh lemons (CN code ex 0805 30 10) originating in Uruguay.

Article 2

This Regulation shall enter into force on 28 August 1992.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 146, 28. 5. 1992, p. 71.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽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, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2475/92

of 26 August 1992

introducing a countervailing charge on apples originating in Argentina

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 1754/92⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

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

Whereas Commission Regulation (EEC) No 1660/92 of 26 June 1992 fixing for the 1992/93 marketing year the reference prices for apples⁽³⁾ fixed the reference price for products of class I for the month of August 1992 at ECU 41,11 per 100 kilograms net;

Whereas the entry price for a given exporting country is equal to the lowest representative 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 apples originating in Argentina, 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 apples;

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 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 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 previous indent,

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 4,87 per 100 kilograms net is applied to apples (CN codes 0808 10 91, 0808 10 93 and 0808 10 99) originating in Argentina.

Article 2

This Regulation shall enter into force on 28 August 1992.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 172, 27. 6. 1992, p. 57.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽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, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 2476/92

of 26 August 1992

fixing the maximum export refund for white sugar for the 17th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EEC) No 920/92

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

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

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

Whereas Commission Regulation (EEC) No 920/92 of 10 April 1992 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, as amended by Regulation (EEC) No 1684/92 ⁽⁴⁾, requires partial invitations to tender to be issued for the export of this sugar;

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

Whereas, following an examination of the tenders submitted in response to the 17th partial invitation to tender, the provisions set out in Article 1 should be adopted;

Whereas Council Regulation (EEC) No 1432/92 ⁽⁵⁾, as amended by Regulation (EEC) No 2015/92 ⁽⁶⁾, prohibits

trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 17th partial invitation to tender for white sugar issued pursuant to amended Regulation (EEC) No 920/92 the maximum amount of the export refund is fixed at ECU 44,525 per 100 kilograms.

2. Refunds for exports to the Republics of Serbia and Montenegro may only be granted for humanitarian aid supplied by charitable organizations fulfilling the conditions laid down in Article 2 (a) and Article 3 of Council Regulation (EEC) No 1432/92.

Article 2

This Regulation shall enter into force on 27 August 1992.

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

Done at Brussels, 26 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 98, 11. 4. 1992, p. 11.

⁽⁴⁾ OJ No L 176, 30. 6. 1992, p. 31.

⁽⁵⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁶⁾ OJ No L 205, 22. 7. 1992, p. 2.

COMMISSION REGULATION (EEC) No 2477/92**of 26 August 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 2066/92 ⁽²⁾, and in particular Article 12 (8) thereof,

Whereas the import levies on live cattle and on beef and veal other than frozen were fixed by Commission Regulation (EEC) No 1637/92 ⁽³⁾, as amended by Regulation (EEC) No 2105/92 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1637/92 to the quotations 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 cattle and on beef and veal other than frozen shall be as specified in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 September 1992.

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

Done at Brussels, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 49.

⁽³⁾ OJ No L 171, 26. 6. 1992, p. 18.

⁽⁴⁾ OJ No L 210, 25. 7. 1992, p. 29.

ANNEX

to the Commission Regulation of 26 August 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 ⁽²⁾	Austria ⁽¹⁾	Sweden/Switzerland	Other third countries ⁽²⁾
— Live weight —				
0102 90 10	—	17,116	0,000	131,663 ⁽¹⁾ ⁽⁶⁾
0102 90 31	23,099	17,116	0,000	131,663 ⁽¹⁾ ⁽⁶⁾
0102 90 33	—	17,116	0,000	131,663 ⁽¹⁾ ⁽⁶⁾
0102 90 35	23,099	17,116	0,000	131,663 ⁽¹⁾ ⁽⁶⁾
0102 90 37	23,099	17,116	0,000	131,663 ⁽¹⁾ ⁽⁶⁾
— Net weight —				
0201 10 10	—	32,521	0,000	250,160 ⁽¹⁾ ⁽⁶⁾
0201 10 90	43,888	32,521	0,000	250,160 ⁽¹⁾ ⁽⁶⁾
0201 20 21	—	32,521	0,000	250,160 ⁽¹⁾ ⁽⁶⁾
0201 20 29	43,888	32,521	0,000	250,160 ⁽¹⁾ ⁽⁶⁾
0201 20 31	—	26,017	0,000	200,128 ⁽¹⁾ ⁽⁶⁾
0201 20 39	35,110	26,017	0,000	200,128 ⁽¹⁾ ⁽⁶⁾
0201 20 51	52,665	39,025	0,000	300,192 ⁽¹⁾ ⁽⁶⁾
0201 20 59	52,665	39,025	0,000	300,192 ⁽¹⁾ ⁽⁶⁾
0201 20 90	—	48,781	0,000	375,240 ⁽¹⁾ ⁽⁶⁾
0201 30 00	—	55,799	0,000	429,221 ⁽¹⁾ ⁽⁶⁾
0206 10 95	—	55,799	0,000	429,221 ⁽¹⁾
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 2478/92
of 26 August 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 2066/92 ⁽²⁾, and in particular Article 12 (8) thereof,

Whereas the import levies on frozen beef and veal were fixed by Commission Regulation (EEC) No 1638/92 ⁽³⁾, as amended by Regulation (EEC) No 2106/92 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1638/92 to the quotations 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 beef and veal shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 September 1992.

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

Done at Brussels, 26 August 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 49.

⁽³⁾ OJ No L 171, 26. 6. 1992, p. 22.

⁽⁴⁾ OJ No L 210, 25. 7. 1992, p. 31.

ANNEX

to the Commission Regulation of 26 August 1992 fixing the import levies on frozen beef and veal ⁽¹⁾ ⁽²⁾

(ECU/100 kg)	
CN code	Levy
	— Net weight —
0202 10 00	195,795 ⁽³⁾
0202 20 10	195,795 ⁽³⁾
0202 20 30	156,636 ⁽³⁾
0202 20 50	244,744 ⁽³⁾
0202 20 90	293,693 ⁽³⁾
0202 30 10	244,744 ⁽³⁾
0202 30 50	244,744 ⁽³⁾
0202 30 90	336,767 ⁽³⁾
0206 29 91	336,767

⁽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 2479/92

of 26 August 1992

altering the import levies on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 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 14 (4) 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 12 (4) 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⁽⁵⁾ as last amended by Regulation (EEC) No 2205/90⁽⁶⁾, and in particular Article 3 thereof,

Whereas the import levies on products processed from cereals and rice were fixed by Commission Regulation (EEC) No 2319/92⁽⁷⁾, as last amended by Regulation (EEC) No 2461/92⁽⁸⁾;

Whereas Council Regulation (EEC) No 1906/87⁽⁹⁾, amended Council Regulation (EEC) No 2744/75⁽¹⁰⁾, as regards products falling within CN codes 2302 10, 2302 20, 2302 30 and 2302 40;

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 25 August 1992;

Whereas the aforesaid corrective factor affects the entire calculation basis for the levies, including the equivalence coefficients;

Whereas the levy on the basic product as last fixed differs from the average levy by more than ECU 3,02 per tonne of basic product; whereas, pursuant to Article 1 of Commission Regulation (EEC) No 1579/74⁽¹¹⁾, as last amended by Regulation (EEC) No 1740/78⁽¹²⁾, the levies at present in force must therefore 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 processed from cereals and rice covered by Regulation (EEC) No 2744/75 as fixed in the Annex to amended Regulation (EEC) No 2197/92 are hereby altered to the amounts set out in the Annex.

Article 2

This Regulation shall enter into force on 27 August 1992.

⁽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 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁷⁾ OJ No L 218, 1. 8. 1992, p. 9.

⁽⁸⁾ OJ No L 244, 26. 8. 1992, p. 10.

⁽⁹⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽¹¹⁾ OJ No L 168, 25. 6. 1974, p. 7.

⁽¹²⁾ OJ No L 202, 26. 7. 1978, p. 8.

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

Done at Brussels, 26 August 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX

to the Commission Regulation of 26 August 1992 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CN code	Import levies (*)	
	ACP	Third countries (other than ACP) (*)
1102 30 00	167,87	170,89
1102 90 30	202,28	208,32
1103 12 00	202,28	208,32
1103 14 00	167,87	170,89
1103 29 30	202,28	208,32
1103 29 50	167,87	170,89
1104 12 10	114,63	117,65
1104 12 90	224,76	230,80
1104 19 91	285,07	291,11
1104 22 10 10 (*)	114,63	117,65
1104 22 10 90 (*)	202,28	205,30
1104 22 30	202,28	205,30
1104 22 50	179,81	182,83
1104 22 90	114,63	117,65
1108 19 10	240,72	271,55

(*) Taric code: clipped oats.

(*) Taric code: CN code 1104 22 10, other than 'clipped oats'.

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

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 30 July 1992

relating to a proceeding under Article 85 of the EEC Treaty (Case No IV/33.494
— Scottish Salmon Board)

(Only the English text is authentic)

(92/444/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas :

Having regard to the Treaty establishing the European Economic Community,

I. THE FACTS

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 3 thereof,

Having regard to the Commission's decision of 21 June 1990 to initiate proceedings in this case,

Having given the undertakings concerned the opportunity to make known their views on the objections raised by the Commission, pursuant to Article 19 (1) of Regulation No 17 and Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Regulation No 17⁽²⁾,

Having heard the undertakings concerned in accordance with Article 19 (2) of Regulation No 17 and Regulation No 99/63/EEC,

After consultation of the Advisory Committee on Restrictive Practices and Monopolies,

A. Subject-matter of procedure

- (1) This procedure concerns a price-fixing agreement in respect of farmed salmon concluded between Fiskeoppdretternes Salgslag A/L (the Norwegian Fish Farmers' Sales Organization) and the Scottish Salmon Growers' Association Limited, the Scottish Salmon Farmers' Marketing Board Limited and the Shetland Salmon Farmers' Association. The agreement came into effect at the end of 1989.

B. The product

- (2) The product is farmed salmon. Farmed salmon are reared in pens or cages and the farmer controls the production factors such as farm size, stocking and feeding of fish. The production cycle for farmed salmon is a period of one to two years in a brood-stock farm where the smolts (young salmon) develop before being transferred to grow-out farms where they are harvested when they reach a weight of between 1 and 5 kg.

Farmed salmon are sold gutted or round. The distribution chain extends from growers, usually through wholesalers and exporters, to processing outlets and the retail and catering sectors.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

In Europe the principal producers of farmed salmon are located in Norway, Scotland, Ireland, the Faroes and Iceland.

C. The parties

(3) The parties in this case are :

- Fiskeoppdretternes Salgslag Organization (FOS),
- The Scottish Salmon Growers' Association Limited (SSGA),
- The Scottish Salmon Farmers' Marketing Board Limited (SSB),
- The Shetland Salmon Farmers' Association (SSFA).

(4) FOS was established in 1978. Membership was open to licensed fish farmers. Under an Act of 14 December 1951 (Råfiskloven) and a Royal Decree of 28 July 1978, amended by a Royal Decree of 29 June 1990, FOS was given certain exclusive rights. These included the right to issue purchase licences and set minimum prices for farmed fish. All first hand sale of farmed fish had to go through or be approved by FOS.

FOS was financed by an operational fee on every transaction between a fish farmer and a first hand buyer of farmed fish. Each party paid 1,5 % of the amount of the sale to FOS.

FOS first introduced a minimum price system for farmed salmon in 1978. Minimum prices were established annually after negotiations between FOS and Norges Ferskfiskomsetnings Landsforening (the Norwegian Fresh Fish Trade Association) (the NFOL), which represents exporters. The minimum price was intended to correspond to the expected market price. That price was obligatory and sales below it infringed Norwegian law. On 13 November 1991, FOS was declared bankrupt. As a result, its minimum price system was brought to an end.

(5) The SSGA was incorporated in 1982 to represent the interests of Scottish salmon growers. Its objects include the promotion of the profitable sale of Scottish salmon, the maintenance and improvement of the quality of Scottish salmon and the compilation and dissemination of salmon industry statistics. Membership is voluntary and currently stands at 61, accounting for approximately 80 % of total Scottish salmon production.

Since May 1987 the SSGA has operated a price information system based on weekly returns by participating members. A recent review of the system resulted in the issue on a weekly basis of more comprehensive reports which include infor-

mation not only on average prices for gutted and round salmon by weight categories but also high and low price information, volume of fish sold, Norwegian minimum prices, and production forecasts of SSGA members for the coming week, month and quarter. According to the SSB, the main objective of the price information system is to provide accurate average industry prices and Norwegian delivered minimum prices at actual exchange rates to strengthen members' negotiating position with the trade. A fax dated 19 April 1989 stated in relation to the new system : 'As a result, from 1 May, the SSB will be able to monitor trade prices better in the future and hopefully be able to motivate Scottish suppliers thereafter to sell at market or above market prices.'

(6) The SSB was incorporated in 1988 to represent the marketing interests of both the SSGA and the SSFA. The company's objects include the maintenance of a premium price level for Scottish farmed salmon. Until the end of 1989 SSB membership consisted of 80 % SSGA members and 20 % SSFA members. In December 1989 the SSFA withdrew from the SSB.

(7) The SSFA was formed in June 1985. It represents, on a voluntary basis, the interests of the 59 salmon farms currently operational in the Shetland Islands.

D. The market

(8) Salmon farming began in the 1960s. The industry developed slowly at first but advances in fish husbandry and factory-farming techniques have revolutionized the industry over the last decade. Norway plays a leading role in the production of farmed salmon. Norwegian farmed salmon production grew from 601 tonnes in 1974 to 45 675 tonnes in 1986 and 114 866 tonnes in 1989. Norway's share of the Community market for farmed salmon amounted to approximately 58 % in 1986 and 1987 and increased to 65 % in 1988 and an estimated 70 % in 1989. Scottish production grew from 250 tonnes in 1978 to 28 000 tonnes in 1989. Of this, Shetland farmed salmon production increased from 700 tonnes in 1985 to 6 731 tonnes in 1989. Scotland's share of the Community market is 26 %. Ireland's production, 69 % of which is exported to the EC, increased from 1 000 tonnes in 1987 to 6 000 tonnes in 1989. From 1986 to 1989 the combined Irish and Scottish shares of the Community market remained stable at around 32 %, while Community consumption increased by nearly 190 %. However, in 1989 Community producers saw their market share fall by 2,3 % on the previous year, their sales having risen by only 31,59 % against an increase in Community consumption in 1989 of 40,98 %.

- (9) Consumption of fresh and chilled salmon in the Community rose from 36 500 tonnes in 1986 to an estimated 106 000 tonnes in 1989, an increase of some 190 %. The major Community markets are France, the United Kingdom and Germany.

France is the largest Community market for farmed salmon. In 1987 it imported 46 000 tonnes, of which the bulk was fresh salmon mainly from Norway but which significant quantities from Scotland and Ireland. Imports of farmed salmon into France in 1987 included :

(in tonnes)

Country	Fresh gutted	Frozen	Smoked
Norway	9 868	2 152	150
United Kingdom	2 681	234	341
Ireland	1 116	31	48

French imports of salmon increased by 250 % over the period 1980 to 1987.

The United Kingdom is the second largest salmon market in Europe after France, consuming approximately 16 000 tonnes in 1987. It is a major producer and exporter of farmed salmon with a large domestic market. Scottish farmed salmon now represents nearly 60 % of United Kingdom supplies, having risen from negligible proportions in 1980. The United Kingdom also imports farmed salmon from Norway.

Germany imported 11 000 tonnes of salmon in 1987. Seventy percent of salmon imports are fresh chilled, the remainder is mainly smoked. Germany imports from Denmark substantial quantities of smoked salmon of Norwegian origin. Imports into Germany in 1987 included :

(in tonnes)

Country	Fresh gutted	Frozen	Smoked
Norway	4 566	423	94
United Kingdom	267	5	14
Denmark	751	397	1 978

- (10) Despite the significant increase in consumption of farmed salmon in the Community, an analysis of salmon prices shows a decline over recent years. The cif price of imported salmon fell by 17 %

between 1986 and 1989. The impact of price competition on the French, Dutch and German markets coupled with the effect of volume forced Community producers to cut the price of sales on the Community market. Scottish trade prices fell by 25 % over the period 1988 to 1989. There was a drop of 18 % in weighted average sale prices during the second half of 1989.

However, a comparison of the prices reported in the SSGA price information system for the last 12 weeks of 1989 with those for the first 12 weeks of 1990 show that the prices of Scottish salmon exported to Europe increased by nearly 25 % on average for gutted fish. The figures for 1 to 2 kg gutted fish show an even greater price increase, 30 % on average. SSGA records show that prices within the United Kingdom rose by between 9 to 16 %. Norwegian prices reported by the SSGA to its members show average increases of around 13 to 14 % for this period.

E. Price-fixing agreement

- (11) The decline in salmon prices in 1989 was attributed to a combination of over production of farmed salmon by Norwegian producers and breaches of the Norwegian minimum price system which set the bench-mark for the industry. Following the implementation in 1985 of legislation liberalizing smolt production in Norway the number of smolt-production licences increased from 152 in 1985 to 692 in 1988. This resulted in an over production of smolts, some 20 million of which were put in sea cages on a temporary basis in 1988. Following the growth cycle of 16 to 18 months these smolts came on the market in 1989 adding a surplus 30 000 tonnes of farmed salmon to available supplies. As a result of this oversupply, farmed salmon was being sold at prices below the established minimum prices. On 8 June 1989, in the face of intense pressure from Norwegian exporters who claimed that Norwegian minimum prices were not competitive, the FOS was forced to reduce its minimum prices by an average of 15 %.

Despite this measure, prices for farmed salmon did not stabilize. A fax sent to the FOS on 22 November 1989 by the chairman of the SSB states, 'Since we spoke about two weeks ago, all producers and sellers in Scotland have seen a further drastic reduction in prices in all markets but particularly in France and Germany. I am sorry to report that on each occasion, heavy supplies of Norwegian salmon are cited as being the cause. In addition, all sectors of the trade report that the minimum prices are being consistently breached and to all extents and purposes do not exist.'

- (12) On 13 December 1989 the SSB, acting on behalf of the SSGA and the SSFA, and the Irish Salmon Growers' Association (ISGA) lodged a complaint with the Commission in respect of the alleged dumping in the Community of Norwegian salmon. On 2 February 1990 the Commission announced the initiation of an anti-dumping proceeding concerning imports of Atlantic salmon originating in Norway. Contacts were made between the Commission and the Norwegian Government during the course of the investigation involved. The investigation resulted in a finding that Norwegian salmon was being sold in the Community with a dumping margin of 11,3 %, causing in a drop in prices in the Community and causing financial difficulties for Community producers. During the course of the investigation the Norwegian fish farming industry took action to try to restore the effectiveness of its minimum price scheme. Concurrently, the Norwegian Government adopted a series of measures aimed at restricting the volume of salmon supplied to the market. Further, it offered to enter into consultations with the Commission, upon notification of a market problem causing an abnormal development of prices, with a view to finding appropriate solutions to these problems in conjunction with the Norwegian industry and exporters. Having regard to these circumstances, together with the fact that salmon prices on the Community market had stabilized in 1990, and despite the finding of a dumping margin of 11,3 %, the Commission considered that it was unnecessary to impose anti-dumping measures in respect of farmed salmon originating in Norway. Accordingly, the anti-dumping proceeding was terminated without the imposition of trade protection measures. Commission Decision 91/142/EEC to this effect was adopted on 15 March 1991⁽¹⁾.

- (13) The Norwegian salmon farming industry was in difficulties at this time. The combined pressure of severe market conditions affecting its members and complaints from other producers, culminating in the initiation of anti-dumping proceedings, resulted in FOS taking steps to improve the situation.

It reviewed its minimum price system and drew up concrete plans to restore its effectiveness. The new plan, which was to take effect from 2 January 1990, proposed the introduction of a freezing programme for fresh salmon which producers could not sell on

the market at the minimum price level. FOS would pay farmers the full minimum price for such fish. In order to finance the freezing storage, FOS would levy on all fresh fish sales a Nkr 5 surcharge. This in effect meant that an exporter would need to pay the fish farmer at least Nkr 5 above the current minimum prices in order for the fish farmer to deliver fresh fish to the exporter rather than to FOS for freezing. These measures were expected to result in higher prices for Norwegian salmon. The Commission was notified of these measures on 13 December 1989.

- (14) Before implementation of the new measures, however, FOS contacted SSB on 14 December 1989 to advise them of the details. A letter dated 15 December 1989 from SSB to its members attaching a circular outlining the new measures stated, referring to the pressure brought to bear against the Norwegians by other salmon growers, 'The attached paper indicates this pressure has had a material effect. It is hoped that the Norwegian action will improve the position considerably, i.e. by maintaining the official minimum prices and increasing them by Nkr 5 per kilo for fresh and chilled salmon. There is still some way to go by the Norwegians before we would be convinced that the action would be 100 % effective, and this will not be evident until January.' The circular dated 15 December 1989 stated, 'We were contacted yesterday by the Norwegian Fish Farm Sales Organization (FOS) who advised us of their new proposals to introduce stability into the market and to improve prices.' Details of the proposals were then outlined. The circular continued, 'The effect of this proposal will be dramatic since the integrity of the minimum price system will be re-established and will in effect be increased for fresh fish by Nkr 5 per kg.' It concludes, 'This is clearly a most welcome move by the Norwegian Fish Farm Sales Organization and one which should have an enormous impact on our own pricing.'

On 19 December 1989 FOS sent faxes to the SSB, the ISGA, the SSFA, and representatives of salmon producers in The Faroes and Iceland stating, 'The Fishfarmers Sales Organization and the Norwegian exporters have agreed upon a plan to stabilize and improve the salmon prices. To introduce this plan, we should like to arrange a telephone meeting at 9.30 hrs (Norwegian time) Wednesday 20 December.'

Hand-written notes of this telephone conference, taken from an office at SSB premises, recorded details of the proposed Norwegian plan and

⁽¹⁾ OJ No L 69, 16. 3. 1991, p. 32; Corrigendum OJ No L 75, 21. 3. 1991, p. 64.

included the comments 'no benefit to fish farmer, benefit to Scots, Irish, Faroes, Iceland. Norwegian fish farmers paying the burden. Support from others ... little competition ... will follow suit ... test period for first half of year ...'.

Following this telephone conference the SSB sent a circular dated 20 December 1989 to its members stating:

1. We are confident that the Norwegian proposals will be effective in stabilizing and improving prices.
2. The speed with which the proposals are implemented will be affected by the response of other producing countries.'

It then cited proposed Norwegian minimum prices and Scottish minimum prices adding a premium of 5 to 10 % which Scottish salmon has traditionally achieved over Norwegian prices.

The circular continued, 'These Norwegian proposals are perhaps the most dramatic event in the history of the salmon farming industry.'

On 21 December 1989, following the telephone conference, the SSFA sent a circular to its members stating: 'The Norwegian initiative is extremely welcome and should, with effect from 2 January 1990 be instrumental in dramatically increasing prices for fresh salmon to at least Nkr 5 per kg above Norwegian minimum prices. However, in order to succeed, the United Kingdom and Irish industries must give their complete and immediate support. ... In particular, therefore all sales companies and members who sell independently are strongly urged to ensure that they at least bring their prices into line with Norway from 2 January 1990 onwards.'

The SSB circulars dated 15 and 20 December 1989 were faxed to FOS on 22 January 1990 with the comment, 'Please find attached the letters put out to all our members, which explained the effects of FOS proposals. It is in the interests of all salmon farmers to adhere to these levels.'

The Commission has further evidence of communication between the Scottish organizations and FOS to clarify the situation before the introduction of the new minimum prices.

- (15) The new minimum price scheme took effect on 2 January 1990 and in the first week the scheme resulted in the freezing of 35 000 tonnes of Norwegian farmed salmon. Following the introduction of the new scheme communication continued between the parties to ensure coordination of their pricing strategies.

In a circular to its members dated 1 February 1990 the SSB quotes Norwegian minimum prices in the market and continues, 'we made contact with the Norwegian Fish Farm Sales Organization (FOS) to ascertain why their system did not appear to be taking effect on the smaller sizes of fish. The response was as follows:

1. They were not aware that Norwegian fish were being generally quoted at these price levels. They undertook to investigate any particular case which was brought to their attention ...'

A copy of this letter was faxed to FOS on 2 February 1990 with the comment:

'As promised, I attach a copy of my letter to all SSGA members and sales groups. I hope this will help quell the rumours which are so damaging.'

The Commission has other communications between FOS and the SSB exchanging price information and drawing attention to breaches of the agreement.

On 18 April 1990 FOS sent a fax to the SSB stating 'FOS' plan to increase and to stabilize the salmon prices is carried out with only small deviations from the original plan.' It then outlined quantities and prices and expressed the frustrations of the Norwegian fish farmers in the following terms,

'They are feeling little support in their attempt to increase the prices. We experience from time to time unbelievable low Scottish prices ... The Norwegian fish farmers' willingness to cooperate seems to meet increasing difficulty.

I feel sure that the less intelligent way to solve the temporary problems we are in, is to fight each other.

A cooperation as in "good old days", is a much better way to go.'

The SSB replied to this fax by letter dated 20 April 1990 in which it states, '... the members present at our meeting yesterday wished me to convey to you their strong appreciation of the efforts of your organization and its members which have reversed the price declines in the marketplace.' The suggestion is made for the visit of a delegation to Norway and the hope that the visit will be of value 'in maintaining and strengthening the dialogue between our two industries.'

A circular dated 24 April 1990 from the SSB to its members concludes, 'In summary then the new Norwegian minimum prices are now very well established and have raised general market price levels throughout the world.'

In a FOS memorandum entitled 'current situation sales of salmon in Norway' dated 27 April 1990 and sent to SSB on 3 May 1990, the comment is made, 'Today, in late April, the plan has been successfully implemented and we are pleased to observe that the positive effects exceed our sober forecast in most areas Prices are improving and are approaching a level corresponding to the objective of the measures introduced in 1990.'

- (16) On 2 October 1991, the SSB sent to all members of the SSGA and the SSFA letters in which it stated that 'it is not the function of the SSGA or SSFA to make recommendations about the prices you charge or about any aspect of your pricing policy or in any way whatsoever to influence your decisions about the prices you charge'. The communications to members dated 15 and 20 December 1989, which referred to Norwegian minimum prices, were formally withdrawn. On the same date a letter was sent to FOS advising them of this action.

II. LEGAL ASSESSMENT

A. Article 85 (1) of the EEC Treaty

- (17) Article 85 (1) prohibits as incompatible with the common market all agreements between undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition, and, in particular, those which directly or indirectly fix prices.

1. Undertakings

- (18) The Norwegian Fish Farmers' Sales Organization (FOS), the Scottish Salmon Farmers' Marketing Board Limited (SSB), the Scottish Salmon Growers' Association Limited (SSGA) and the Shetland Salmon Farmers' Association (SSFA) are associations of undertakings within the meaning of Article 85 (1).

These organizations act on behalf of their members who are producers of farmed salmon and, therefore, undertakings. An agreement between such associations of undertakings which has as its object or effect the restriction of competition within the common market between their members who are undertakings falls within the type of conduct which is prohibited by Article 85 (1).

2. Agreement

- (19) It is considered that during the course of a series of communications, both written and verbal, between FOS, the SSB, the SSGA and the SSFA, an agreement was reached. The object of the agreement was to fix minimum prices for farmed salmon. The Commission considers that there were two elements in this agreement:

- FOS measures on the one hand, minimum prices backed by a freezing scheme,
- on the other, supporting measures taken by the SSB, the SSGA and the SSFA to ensure price discipline on the part of their members.

Prior to the implementation of the new minimum price system, FOS contacted the SSB on 14 December 1989 to advise them of its plan to introduce stability into the market and to improve prices. Following this, on 20 December 1989, FOS held a telephone conference with representatives of farmed salmon producers in Europe, including the SSB and the SSFA. It is the Commission's view that the purpose of this telephone conference was, in exchange for FOS's commitment to price discipline through its minimum price system, to secure the support of the other producers for the new measures and to ensure price discipline on their part by maintaining, on the basis of the Norwegian minimum price, the traditional price differential between Scottish and Norwegian farmed salmon.

Following the telephone conference, the SSB and the SSFA sent circulars to their members in which they outlined details of the FOS measures, cited the new Norwegian minimum prices and gave new Scottish prices based on the Norwegian minimum prices plus the traditional Scottish premium of 5 to 10 %. They strongly urged their members to comply with the new minimum prices. The SSB later faxed copies of its circulars to FOS, thus demonstrating its implementation of the agreed supporting measures.

In its defence to the statement of objections FOS stated that the purpose of the telephone conference was to inform the British and Irish salmon farmers of the new measures and to persuade them to withdraw the anti-dumping complaint. In this regard, it is noted that the SSB had had this information since 14 December. Furthermore, this defence does not explain the follow-up measures taken by the SSB and the SSFA. It is also noted that salmon producers not party to the anti-dumping procee-

dings, such as those from the Faroes and Iceland, were invited to participate in the telephone conference. FOS has stated that the new measures were taken unilaterally. Even if those measures were unilateral at the outset, this does not prevent them from also being part of the object of the agreement.

Taking all these elements together it is considered that the measures implemented by FOS on 2 January 1990 were used as the basis of a coordinated plan to stabilize and increase salmon prices. The SSB, the SSGA and the SSFA contributed to this plan by assuring FOS that they had urged their members to exercise price discipline in support of the Norwegian action. Thus, any uncertainty on the part of FOS as to the reaction of SSGA and SSFA members to the Norwegian measures was substantially reduced, if not eliminated.

The cooperation between the organizations continued after the implementation of the new measures. The SSB provided FOS with the confidential volume and price statistics reported by SSGA members for the first quarter of 1990 and requested a comparison with prices being achieved by FOS members. The SSGA price information system was one of the instruments used to implement the agreement.

The regular contacts to exchange price information provided the parties with an opportunity to monitor the success of their agreement. There is evidence that details of producers selling below the minimum price were exchanged between the parties and undertakings given to investigate breaches by their respective members of the agreed pricing system.

3. Restriction of competition

- (20) The agreement had as its object and effect the restriction or distortion of competition within the common market. An agreement to fix prices *per se* limits competition within the meaning of Article 85 (1). The agreement between FOS and the SSB, the SSGA and the SSFA to fix minimum prices was intended to ensure price discipline and thus eliminate competition.

The agreement enabled the parties to coordinate their pricing strategies in order to stabilize and increase market prices for their produce. The agreement thus reduced uncertainty on the part of each organization as to the activities of the other.

The economic context in which the agreement was made also provides further evidence of its restrictive object and nature. At that time the farmed salmon industry had considerable surplus capacity and, as a result, prices were falling. The Norwegians were held responsible for this situation by their competitors. As a result of international pressure culminating in the initiation of an anti-dumping proceeding by the Commission upon notification of a complaint by the SSB and the ISGA, the Norwegians undertook a review of their minimum price system. It is in this context that the agreement between FOS and the SSB, the SSGA and the SSFA to fix minimum prices was made. FOS, the major supplier in the market, could unilaterally have put into effect controls to stabilize prices. FOS, however, required discipline from its competitors. The Scottish producers of farmed salmon agreed to comply with Norwegian measures to increase prices and took the steps outlined above to implement the agreement.

By planning common action on price initiatives the producers has as their object the elimination of the risks which would be involved in any unilateral attempt to increase prices.

There is evidence to prove that the effect of the agreement between FOS and the SSB, the SSGA and the SSFA was an increase in the price of farmed salmon in the Community. Prices of farmed salmon from Norway and Scotland rose significantly in the weeks following the introduction of FOS' minimum price system. An increase was noticeable within weeks of the telephone conference of 20 December 1989 and the introduction of the new minimum prices on 2 January 1990.

4. Effect on trade between Member States

- (21) The agreement between the producers was likely to have an appreciable effect on trade between Member States by increasing the market price for farmed salmon within the common market.

Producers in Norway and Scotland account for over 90 % of farmed salmon supplied to the Community. Their agreement to fix prices at an artificial level was designated to, and did, restrict price competition throughout the Community. It was likely to have an appreciable effect on trade, in particular, between the continental Member States, which are the major consumers of farmed salmon, and those Member States which are producers of farmed salmon.

B. Inapplicability of Council Regulation No 26

- (22) Regulation No 26⁽¹⁾ provides for the exemption from the application of Article 85 (1) of certain agreements which form an integral part of a national market organization or are necessary for the attainment of the objectives set out in Article 39 of the Treaty.

For Article 2 (1) of Regulation No 26 to apply, the agreement must relate to a product listed in Annex II to the Treaty. Fish is a product which is listed in this Annex.

However, it is considered that the agreement between FOS and the SSB, the SSGA and the SSFA cannot be exempted from the application of Article 85 (1) by the provisions of Article 2 of Regulation No 26 for the following reasons:

1. Provision has been made for the establishment within the Community of a common organization of the market in fishery products by Council Regulation (EEC) No 3796/81⁽²⁾. Given the existence of the common organization of the market, there is no scope for a national market organization. For that reason, the agreement which is the subject of this procedure cannot be considered to form an integral part of a national market organization.
2. The agreement cannot qualify for the exemption contained in Regulation No 26 since it was not necessary for the attainment of the objectives set out in Article 39 of the Treaty. It was not necessary because Community law provides procedures aimed at redressing economic difficulties such as that described above. In this case an anti-dumping procedure was availed of. Following a complaint in December 1989 by the ISGA and the SSB the Commission initiated an anti-dumping proceeding in respect of imports of farmed salmon from Norway. Concurrently, however, and without awaiting the outcome of that proceeding, the SSB, the SSGA and the SSFA entered into a private price-fixing agreement with FOS, the organization representing Norwegian producers of farmed salmon.

A further possible remedy available under Community law was the safeguard clause contained in Regulation (EEC) No 3796/81.

This clause specifically provides for the granting, in certain circumstances, of compensation to producers of salmon in order to safeguard their income level.

Regulation (EEC) No 3796/81 also provides for the establishment of a minimum import price for fish.

Accordingly, having regard to the procedures available under Community law, it was not necessary, within the terms of Article 2 of Regulation No 26, for the parties to enter into an agreement to fix prices.

Even if these procedures resulted in unilateral measures by the Commission resolving the problem, the parties could in no way justify taking supplementary supporting measures in contravention of Article 85.

3. The agreement could not qualify for the exclusion provision in the second sentence of Article 2 (1) of Regulation No 26 since it is not an agreement of farmers, farmers associations or associations of such associations belonging to a single Member State.

C. Article 85 (3)

- (23) The agreement between FOS and the SSB to fix minimum prices does not qualify for an exemption under Article 85 (3) since it was not properly notified in accordance with Article 4 of Regulation No 17.

Nor was the agreement exempt from notification under paragraphs 1 and 2 of Article 4 (2) of Regulation No 17.

Even if the agreement had been properly notified, it could not have been exempted since, given the remedies provided by Community law, the restrictions imposed on the undertakings concerned were not indispensable to the attainment of the objectives outlined in Article 85 (3) and, in particular, could not allow consumers a fair share of the resulting benefit.

D. Article 3 of Regulation No 17

- (24) The Commission considers that the infringement has now ended. In October 1991, the SSB and the SSGA wrote to members withdrawing the circulars referring to Norwegian minimum prices. In November 1991, the bankruptcy of FOS brought the Norwegian minimum price system to an end.

⁽¹⁾ OJ No 30, 20. 4. 1962, p. 993/62.

⁽²⁾ OJ No L 379, 31. 12. 1981, p. 1.

However, it is the Commission's practice to issue a decision establishing an infringement, even in cases where the infringement has ended, if the decision might clarify a point of law and thus prevent the same or similar infringements from being committed in the future, as stated in Commission Decision 75/497/EEC⁽¹⁾. Such a practice makes for legal certainty and has been endorsed by the Court of Justice (see ground 25 of the Court's judgment in Case 7/82 GVL v. Commission [1983] ECR 483).

In this case the point of law requiring clarification is that undertakings or associations of undertakings, when confronted by a situation requiring the intervention of the Community by way of procedures such as an anti-dumping proceeding or safeguard clauses, are not permitted under Regulation No 26, either in addition to or instead of such procedures, to enter into a restrictive private agreement in order to remedy the situation,

HAS ADOPTED THIS DECISION :

Article 1

Fiskeoppdretternes Salgslag A/L, the Scottish Salmon Growers' Association Limited, the Scottish Salmon Farmers' Marketing Board Limited and the Shetland Salmon Farmers' Association infringed Article 85 of the

EEC Treaty by entering at the end of 1989 into an agreement to fix minimum prices for farmed salmon.

Article 2

This Decision is addressed to :

- The Scottish Salmon Growers' Association Limited, Drummond House, Scott Street, UK-Perth PH1 5EJ,
- The Scottish Salmon Farmers' Marketing Board Limited, Drummond House, Scott Street, UK-Perth PH1 5EJ,
- The Shetland Salmon Farmers' Association, 18 Alexandra Buildings, Lerwick, UK-Shetland ZE1 0LL,
- The Fiskeoppdretternes Salgslag A/L, Pir-Senteret, N-7005 Trondheim.

Done at Brussels, 30 July 1992.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ No L 228, 29. 8. 1975, p. 3.