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Contents

I *Acts whose publication is obligatory*

Commission Regulation (EEC) No 2996/92 of 16 October 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal	1
Commission Regulation (EEC) No 2997/92 of 16 October 1992 fixing the premiums to be added to the import levies on cereals, flour and malt	3
Commission Regulation (EEC) No 2998/92 of 16 October 1992 determining the extent to which applications lodged in October 1992 for import licences for certain milk products and products covered by the arrangements provided for in the Interim Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic can be accepted	5
* Commission Regulation (EEC) No 2999/92 of 15 October 1992 laying down detailed rules for the application of the specific measures for the supply of processed fruit and vegetable products to Madeira	7
Commission Regulation (EEC) No 3000/92 of 16 October 1992 opening a standing invitation to tender in Belgium, Germany, Greece, France and Italy for the free supply of common wheat flour to the victims of the conflict in what was formerly Yugoslavia	10
* Commission Regulation (EEC) No 3001/92 of 16 October 1992 amending Commission Regulation (EEC) No 2561/90 laying down provisions for the implementation of Council Regulation (EEC) No 2503/88 on customs warehouses	16
* Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention	17
Commission Regulation (EEC) No 3003/92 of 16 October 1992 altering the corrective amount applicable to the refund on malt	27

Commission Regulation (EEC) No 3004/92 of 16 October 1992 fixing the maximum buying-in price and the quantities of beef bought in for the 78th partial invitation to tender under Regulation (EEC) No 1627/89	29
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II *Acts whose publication is not obligatory*

Council

92/496/EEC :

- ★ **Council Decision of 13 July 1992 on the conclusion of an Agreement between the European Economic Community and the Government of the United States of America concerning the application of the GATT Agreement on Trade in Civil Aircraft on trade in large civil aircraft** 31
- Agreement between the European Economic Community and the Government of the United States of America concerning the application of the GATT Agreement on Trade in Civil Aircraft on trade in large civil aircraft** 32
- ★ **Information concerning the signing of the Agreement between the European Economic Community and the United States of America concerning trade in large civil aircraft** 40

Commission

92/497/EEC :

- ★ **Commission Decision of 16 October 1992 on the allocation of the remaining quantity of the import quota for meat of bovine animals, frozen, pursuant to Article 3 of Council Regulation (EEC) No 3667/91** 41

Corrigenda

- ★ **Corrigendum to Commission Regulation (EEC) No 2909/92 of 6 October 1992 introducing a countervailing charge on apples originating in New Zealand (OJ No L 291 of 7.10.1992)** 42

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2996/92

of 16 October 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 15 October 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 17 October 1992.

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

Done at Brussels, 16 October 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 16 October 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levy (*)
0709 90 60	137,91 (*) (*)
0712 90 19	137,91 (*) (*)
1001 10 10	170,50 (*) (*) (*)
1001 10 90	170,50 (*) (*) (*)
1001 90 91	140,38
1001 90 99	140,38 (*)
1002 00 00	156,03 (*)
1003 00 10	125,47
1003 00 90	125,47 (*)
1004 00 10	119,80
1004 00 90	119,80
1005 10 90	137,91 (*) (*)
1005 90 00	137,91 (*) (*)
1007 00 90	139,53 (*)
1008 10 00	53,57 (*)
1008 20 00	112,66 (*)
1008 30 00	51,60 (*)
1008 90 10	(*)
1008 90 90	51,60
1101 00 00	209,41 (*) (*) (*)
1102 10 00	231,32 (*)
1103 11 10	276,98 (*) (*) (*)
1103 11 90	225,67 (*)

(*) 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 2997/92

of 16 October 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 15 October 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 17 October 1992.

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

Done at Brussels, 16 October 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, 4th 7. 1992, p. 4.

ANNEX

to the Commission Regulation of 16 October 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

(ECU/tonne)

CN code	Current 10	1st period 11	2nd period 12	3rd period 1
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	12,08
1001 90 99	0	0	0	12,08
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	16,91

B. Malt

(ECU/tonne)

CN code	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
1107 10 11	0	0	0	21,50	21,50
1107 10 19	0	0	0	16,07	16,07
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 2998/92
of 16 October 1992

determining the extent to which applications lodged in October 1992 for import licences for certain milk products and products covered by the arrangements provided for in the Interim Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Commission Regulation (EEC) No 584/92 of 6 March 1992 laying down detailed rules for the application to milk and milk products of the arrangements provided for in the Interim Agreements between the Community and the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic⁽¹⁾, and in particular Article 4 (5) thereof,

Whereas the quantities of the products referred to in Regulation (EEC) No 584/92 and covered by import licence applications do not exceed the quantities available; whereas licences can therefore be granted in respect of the full quantities applied for and the available quantity of the products covered by that Regulation for the first period (1 January to 31 March 1993) should therefore be determined,

HAS ADOPTED THIS REGULATION:

Article 1

1. Import licences shall be granted in response to applications submitted in the period 1 October to 31 December 1992 pursuant to Regulation (EEC) No 584/92.
2. During the first 10 days of the period 1 January to 31 March 1993 applications may be lodged pursuant to Regulation (EEC) No 584/92 for import licences for the total quantity specified in the Annex.

Article 2

This Regulation shall enter into force on 23 October 1992.

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

Done at Brussels, 16 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 62, 7. 3. 1992, p. 34.

ANNEX

Total quantity available for the period 1 January to 31 March 1993

(tonnes)							
	Poland			Czechoslovakia			Hungary
CN code and product	0402 10 19 0402 21 19 0402 21 99	0405 00 10 butter	0406 cheese	0402 10 19 0402 21 19 0402 21 91	0405 00 10 butter	ex 0406 40-Niva ex 0406 90- Moravsky blok (1)	ex 0406 90 89 Balaton (2)
Quantity available	812,5	275	550	675	275	275	275

(1) Primator, Otava, Javor, Uzeny block, Kaskhaval, Akawi, Istambul, Jadel Hermelin, Ostepek, Koliba, Inovec.

(2) Cream-white, Hajdu, Marvany, Ovari, Pannonia, Trappista.

COMMISSION REGULATION (EEC) No 2999/92

of 15 October 1992

laying down detailed rules for the application of the specific measures for the supply of processed fruit and vegetable products to Madeira

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products⁽¹⁾, and in particular Article 10 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽²⁾, as last amended by Regulation (EEC) No 2205/90⁽³⁾, and in particular Article 12 thereof,

Whereas, in the application of Articles 2 and 3 of Regulation (EEC) No 1600/92, it is necessary to determine the quantities of certain processed fruit and vegetable products in the forecast supply balance, falling within CN code 2008 and qualifying for exemption from duty on direct imports from third countries or for aid for consignments from the rest of the Community;

Whereas the amount of the abovementioned aid for the supply of processed fruit products to Madeira should be fixed; whereas that aid must be fixed taking account, in particular, of the cost of supply from the world market, the conditions resulting from that region's geographical situation and current prices for exports to the latter;

Whereas Commission Regulation (EEC) No 1696/92⁽⁴⁾, as amended by Regulation (EEC) No 2132/92⁽⁵⁾, lays down common detailed rules for implementation of the specific arrangements for the supply of certain agricultural products to Madeira; whereas it is appropriate to lay down additional detailed rules in line with current commercial practice in the processed fruit and vegetable products sector, in particular regarding the duration of the validity of licences and certificates and the amount of the securities ensuring operators' compliance with their obligations;

Whereas, with a view to sound management of the supply arrangements, provision should be made for a timetable for the lodging of licence and certificate applications and for a period of reflection for their issue;

Whereas, in application of Regulation (EEC) No 1600/92, the supply arrangements apply from 1 July 1992; whereas provision should be made for the detailed rules for their implementation to apply as soon as possible;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of applying Articles 2 and 3 of Regulation (EEC) No 1600/92, the quantities covered by the forecast supply balance of processed fruit products qualifying, as the case may be, for exemption from duty on direct import from third countries or for Community aid shall be as set out in the Annex.

2. Without prejudice to a review of the supply balance during the period concerned, the quantities laid down for the various products listed in the Annex may be exceeded by up to 20 % provided that the overall quantity is not exceeded.

Article 2

For the purposes of Article 3 (2) of Regulation (EEC) No 1600/92, aid amounting to ECU 10 per 100 kilograms shall be granted for the products and quantities covered by the forecast supply balance and coming from the Community market.

Article 3

1. The provisions of Regulation (EEC) No 1696/92 shall apply.

2. Products falling within CN codes 2008 20, 2008 30, 2008 40, 2008 60, 2008 70, 2008 80, 2008 92 and 2008 99, with the exception of those listed in Annex IV to Council Regulation (EEC) No 426/86⁽⁶⁾ shall qualify for exemption from import duties on presentation of an exemption certificate as provided for in Article 3 of Regulation (EEC) No 1696/92.

⁽¹⁾ OJ No L 173, 27. 6. 1992, p. 1.

⁽²⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽³⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁴⁾ OJ No L 179, 1. 7. 1992, p. 6.

⁽⁵⁾ OJ No L 213, 29. 7. 1992, p. 25.

⁽⁶⁾ OJ No L 49, 27. 2. 1986, p. 1.

Article 4

Portugal shall designate the authority competent for:

- (a) the issue of import licences and exemption certificates;
- (b) the issue of the aid certificates provided for in Article 4 (1) of Regulation (EEC) No 1696/92; and
- (c) the payment of the aid to the operators concerned.

Article 5

1. Licence and certificate applications shall be submitted to the competent authority during the first five working days of each month. Certificate or licence applications shall be admissible only if:

- (a) they do not cover a quantity in excess of that available for each product code as set out in the Annex and published by the competent authority;
- (b) before expiry of the period provided for the submission of certificate or licence applications, proof has been provided that the party concerned has lodged a security of ECU 5 per 100 kilograms.

2. Licences and certificates shall be issued by the 10th working day of each month at the latest.

3. Where licences or certificates are issued for quantities lower than the quantities applied for pursuant to Article 5 of Regulation (EEC) No 1696/92, the operator may withdraw his application in writing within three working days of the date of issue; the security covering the licence or certificate shall be released in such cases.

Article 6

The duration of validity of certificates and licences shall expire on the last day of the month following that of their issue.

Article 7

The aid provided for in Article 2 shall be paid in respect of quantities actually supplied.

The rate to be applied for conversion into national currency of the amount of the aid shall be the agricultural conversion rate in force on the first day of the month of submission of the aid certificate application.

Article 8

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

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

Done at Brussels, 15 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

Forecast supply balance covering processed fruit and vegetable products for Madeira for the period 1 July 1992 to 30 June 1993

CN code	Description	(tonnes) Quantity
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	
2008 20	— Pineapples	300
2008 30	— Citrus fruit	40
2008 40	— Pears	80
2008 60	— Cherries	60
2008 70	— Peaches	120
	— Other, including mixtures other than those of subheading 2008 19	
2008 92	— — Mixtures	50
2008 99	— — Other than palm hearts and mixtures	30
Total		680

COMMISSION REGULATION (EEC) No 3000/92

of 16 October 1992

opening a standing invitation to tender in Belgium, Germany, Greece, France and Italy for the free supply of common wheat flour to the victims of the conflict in what was formerly Yugoslavia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2139/92 of 23 July 1992 on urgent action for the supply of agricultural products to the victims of the conflict in what was formerly Yugoslavia⁽¹⁾,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽²⁾, as last amended by Regulation (EEC) No 1738/92⁽³⁾, and in particular Article 7 (6) thereof,

Whereas Commission Regulation (EEC) No 2344/92 of 10 August 1992 laying down detailed rules applicable to the free supply of agricultural products to the victims of the conflict in what was formerly Yugoslavia⁽⁴⁾ provides for allocation of the supply of common wheat flour pursuant Council Regulation (EEC) No 2139/92 to be made by invitation to tender; whereas the invitations to tender for the free supply of processed products cover the quantities of basic products to be taken from intervention stocks as payment in kind for these supplies, and for the processing, transport and other related costs;

Whereas tenders may relate to common wheat and durum wheat; whereas criteria must therefore be laid down to determine which is the most favourable tender; whereas to that end tenders should be compared on the basis of the value of the quantity of the basic product requested as payment in kind;

Whereas it is necessary to ensure that deadlines for delivery are complied with; whereas the appropriate provisions should therefore be laid down concerning the release of delivery securities in the case of late deliveries;

Whereas a standing invitation to tender should be opened in five Member States for the supply of 55 000 tonnes of common wheat flour to be delivered to the representatives of the United Nations High Commissioner for Refugees in Ljubljana, Zagreb, Split, Belgrade, Skopje and Podgorica;

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

Under the conditions laid down in Regulation (EEC) No 2344/92, the Belgian, German, French, Greek and Italian intervention agencies shall open a standing invitation to tender for the supply of 55 000 tonnes of common wheat flour as set out in Annex I and in accordance with the provisions of this Regulation.

Article 2 (2) of Regulation (EEC) No 2344/92 notwithstanding, the aforementioned products shall be delivered in the packaging as defined in point 1.3 of Annex I.

Article 2

Tenders shall be for the quantity, in metric tonnes, of common wheat or of durum wheat necessary to cover the supply, transport and other costs, up to the delivery stage provided for, of the entire lot indicated in the notice of invitation to tender provided for in Article 15 (2) of Regulation (EEC) No 2344/92.

The quantity of wheat awarded as payment in kind for the supply shall be made available, at the successful tenderer's choice, from the intervention stocks designated for this purpose in the abovementioned notice of invitation to tender.

The tender security shall be set at ECU 15 per tonne.

Article 3

1. Where the quantities actually supplied during a one-week period are found to be less than 50 % of the quantities to be supplied pursuant to the delivery schedule laid down in point 2.4 of Annex I, the security provided for in Article 8 of Regulation (EEC) No 2344/92 shall be forfeit in respect of the quantity not supplied during the abovementioned period. However, if the operator provides proof that the quantity was delivered during the following week, only 10 % of the security shall be forfeit. Such deliveries shall not be included in the deliveries scheduled for the following week.

⁽¹⁾ OJ No L 214, 30. 7. 1992, p. 8.

⁽²⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽³⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽⁴⁾ OJ No L 227, 11. 8. 1992, p. 18.

2. The previous paragraph shall apply when the operator is responsible for the delay in deliveries.

Article 4

1. The time limit for submission of tenders for the first partial invitation to tender shall be 11 a.m. on 21 October 1992 (Brussels time).

2. The time limit for submission of tenders for the following partial invitation to tender shall expire at 11 a.m. each Wednesday (Brussels time).

3. The time limit for submission of tenders for the last partial invitation to tender shall expire at 11 a.m. on 11 November 1992 (Brussels time).

4. Notwithstanding Article 15 of Commission Regulation (EEC) No 2344/92, the intervention agency concerned shall publish an invitation to tender at least three days before the date laid down for the first partial invitation to tender.

Article 5

Tenders shall be submitted to the intervention agency concerned.

The intervention agencies concerned shall forward the tenders to the Commission in accordance with the schedule specified in Annex II.

Article 6

A specimen of the takeover certificate referred to in Article 9 (3) of Regulation (EEC) No 2344/92 is given in Annex III hereto.

The certificate shall be issued after the goods have been taken over by the authorities referred to in point 2.3 of Annex I.

Article 7

The successful tenderer shall undertake to provide the authorities laid down in point 2.3 of Annex I with the documents required for the purposes of the supply which

are specified in the invitation to tender issued by the intervention agency concerned.

Article 8

For the purposes of booking the expenditure by the European Agricultural Guidance and Guarantee Fund (EAGGF), the book value of the products concerned shall be:

Common wheat: ECU 52/tonne

Durum wheat: ECU 67/tonne.

Article 9

When scrutinizing tenders, the Commission departments shall determine the value of the quantities of basic products requested as payment in kind on the basis of the intervention price applicable during September 1992. The tender offering the lowest value for the quantity of the basic product requested as payment in kind shall be selected.

Article 10

The Member States concerned shall take all appropriate measures to ensure that no refund or monetary compensatory amount is applied within the framework of the supply, in particular by specifying this on the export licence.

Article 11

1. The Member States concerned shall adopt all additional provisions necessary for implementation of this Regulation.

2. The Member States concerned shall send to the Commission all information on the carrying out of the supply, in particular relating to the award of the contract, delivery times and the actual date of takeover by the authorities referred to in point 2.3 of Annex I.

Article 12

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, 16 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

1. Common wheat flour

1.1. Number of lots :

- Lot No 1 : 2 025 tonnes to be delivered to Ljubijana
- Lot No 2 : 6 399 tonnes to be delivered to Zagreb
- Lot No 3 : 21 870 tonnes to be delivered to Split
- Lot No 4 : 7 290 tonnes to be delivered to Belgrade
- Lot No 5 : 13 500 tonnes to be delivered to Belgrade
- Lot No 6 : 1 620 tonnes to be delivered to Skopje
- Lot No 7 : 2 296 tonnes to be delivered to Podgorica

1.2. Characteristics and quality of the goods⁽¹⁾ :

OJ No C 114, 29. 4. 1991 (point II.B.I(a))

1.3. Packaging :

New jute/polypropylene mix bags. Content 50 kg net-weight

Sacks shall be placed on disposable pallets of appropriate dimensions and each pallet shall be covered with polyethylene netting

1.4. Marking :

European flag : OJ No C 114, 29. 4. 1991 (Annexes I and II)

Inscriptions in Serbo-Croat :

'European Community' (in letters at least 5 cm high); 'Humanitarian Aid — Common wheat flour' (in letters at least 2,5 cm high)

2. Conditions of supply

2.1. Mobilization of the product : domestic market of the Member State concerned

2.2. Stage of delivery : *fas* warehouse

2.3. Authorities responsible for the takeover :

Ljubijana : Slovenia Red Cross, on behalf of the United Nations High Commissioner for Refugees (UNHCR)

Warehouse : Smartinska Street, 33, Ljubijana, tel. (38) (61) 312 576

Agent : Mr Ivan Hyala

Zagreb : United Nations High Commissioner for Refugees (UNHCR), c/o Grafika, Zagrebacka 194, 41000 Zagreb

Agent : Mr Kim Madsen

Custom clearance : Intereuropa, Valesajam, Avenija Dubrovnik 2

Agent : Mrs Koka

Split : United Nations High Commissioner for Refugees (UNHCR), c/o Adriachem, 58812 Kastel Sucurac, Split

Agent : Mr Boi Lan Van Chon

Custom clearance : Intereuropa, Valesajam, Avenija Dubrovnik 2

Agent : Mrs Koka

Belgrade : Yugoslavia Red Cross on behalf of the United Nations High Commissioner for Refugees (UNHCR), Simina 19, 1000 Belgrade, tel. (011) 621 346 ; fax (011) 621 030

Custom clearance : Jugosped, Terminal Beograd Pos. 6121

Agent : Mr Dusan Musicki, tel. (011) 648 453

Podgorica : Montenegro Red Cross on behalf of the United Nations High Commissioner for Refugees (UNHCR), Jovana Tomasevica 6, 81000 Podgorica/Titograd, tel (081) 41 819

Custom clearance : Jugosped, Terminal Beograd Pos. 6121

Agent : Mr Dusan Musicki, tel. (011) 647 453

Skopje : Montenegro Red Cross on behalf of the United Nations High Commissioner for Refugees (UNHCR), Koko Raun 13, 91000 Skopje

Agent : Mr Ivan Narasnov, tel. (91) 222 433, fax (91) 230 542

Custom clearance : Makosped

⁽¹⁾ The successful tenderer shall submit to the authorities referred to in point 2.3 a certificate issued by an official authority certifying that, for the product to be supplied, the standards relating to radioactivity in the Member State concerned have not been exceeded.

2.4. Destinations, quantities and deadlines for supply:

(tonnes)

Deadlines for supply	Lot No 1 Ljubijana	Lot No 2 Zagreb	Lot No 3 Split	Lot No 4 Belgrade	Lot No 5 Belgrade	Lot No 6 Skopje	Lot No 7 Podgorica
2. 11. 1992	55	174	520	200	328	40	60
3. 11. 1992	55	174	520	200	320	40	60
4. 11. 1992	55	174	520	200	320	40	60
5. 11. 1992	55	174	520	200	320	40	60
6. 11. 1992	55	174	520	200	320	40	60
9. 11. 1992	55	174	536	200	328	40	60
10. 11. 1992	55	174	520	200	320	40	60
11. 11. 1992	55	174	520	200	320	40	60
12. 11. 1992	55	174	520	200	320	40	60
13. 11. 1992	55	174	520	200	320	40	60
16. 11. 1992	55	174	536	200	328	40	60
17. 11. 1992	55	174	520	200	320	40	60
18. 11. 1992	55	174	520	200	320	40	60
19. 11. 1992	55	174	520	200	320	40	60
20. 11. 1992	55	174	520	200	320	40	60
23. 11. 1992	55	174	536	200	328	40	60
24. 11. 1992	55	174	520	200	320	40	60
25. 11. 1992	55	174	520	200	320	40	60
26. 11. 1992	55	174	520	200	320	40	60
27. 11. 1992	55	174	520	200	320	40	60
30. 11. 1992	55	174	536	200	328	40	60
1. 12. 1992	55	174	520	200	320	40	60
2. 12. 1992	55	174	520	200	320	40	60
3. 12. 1992	55	174	520	200	320	40	60
4. 12. 1992	55	174	520	200	320	40	60
7. 12. 1992	55	174	536	200	328	40	60
8. 12. 1992	55	174	520	200	320	40	60
9. 12. 1992	55	174	520	200	320	40	60
10. 12. 1992	55	174	520	200	320	40	60
11. 12. 1992	55	174	520	200	320	60	60
14. 12. 1992	55	174	536	200	328	40	60
15. 12. 1992	55	174	520	200	320	60	60
16. 12. 1992	55	174	520	200	320	40	60
17. 12. 1992	55	174	520	200	320	60	60
18. 12. 1992	55	174	520	200	320	40	76

(tonnes)

Deadlines for supply	Lot No 1 Ljubijana	Lot No 2 Zagreb	Lot No 3 Split	Lot No 4 Belgrade	Lot No 5 Belgrade	Lot No 6 Skopje	Lot No 7 Podgorica
21. 12. 1992	55	110	536	100	328	60	60
22. 12. 1992	45	110	520	100	320	40	60
23. 12. 1992		89	520	90	320	60	60
28. 12. 1992			520		328		
29. 12. 1992			520		320		
30. 12. 1992			479		328		
31. 12. 1992			479		300		
Total	2 025	6 399	21 870	7 290	13 500	1 620	2 296

- 2.5. Where a tender is not accepted on 22 October 1992 the start of the supplies shall be deferred by seven days. This deferral is extended for a further seven days each time a tender is not accepted in one of the subsequent tendering procedures. However, deliveries which are not met because of such deferral are to be re-scheduled for the period starting on 4 January 1993. They are to be made at the rate initially planned in the above table.
- 2.6. On the initiative of the tenderer and with agreement of the authorities referred to in point 2.3, deliveries may be made earlier than provided for in point 2.4.

ANNEX II

Standing invitation to tender for the free supply of common wheat flour to the victims of the conflict in what was formerly Yugoslavia

(Regulation (EEC) No 3000/92)

(tonnes)

Tenderer's No	Number of the lot as referred to in point 1.1 of Annex I	Quantity of common wheat required as payment in kind	Quantity of durum wheat required as payment in kind
1			
2			
3			
4			
5			

ANNEX III

Take-over Certificate

I, the undersigned,
(name, first name, position of authority)

acting on behalf of

hereby certify that the following goods have been taken over :

Product :	
Total quantity : (tonnes)	
Place and date of take-over :	
Rail wagon numbers/registration numbers of heavy goods vehicles (¹)	
Name and address of transport company	

Name of monitoring agency :

.....
.....

Name and signature of its on-the-spot representative :

.....
.....

Observations or reservations :

.....
.....
.....
.....
.....

Signature
(Stamp)

¹) Delete where inapplicable.

COMMISSION REGULATION (EEC) No 3001/92

of 16 October 1992

amending Commission Regulation (EEC) No 2561/90 laying down provisions for the implementation of Council Regulation (EEC) No 2503/88 on customs warehouses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2503/88 of 25 July 1988 on customs warehouses ⁽¹⁾, and in particular Article 28 thereof,

Whereas Commission Regulation (EEC) No 2561/90 ⁽²⁾, as amended by Regulation (EEC) No 2485/91 ⁽³⁾, lays down certain provisions for the implementation of Regulation (EEC) No 2503/88;

Whereas, for the sake of clarity, the provisions concerning the procedure for entering goods for the customs warehousing procedure in a certain type of warehouse should be aligned on the provisions of Regulation (EEC) No 2503/88 and on the definition of this type of warehouse in Regulation (EEC) No 2561/90;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Customs Warehouses and Free Zones,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2561/90 is hereby amended as follows:

1. Article 23 is replaced by the following:

Article 23

1. The procedures provided for in this chapter shall apply to all customs warehouses except type F.

2. Only the procedure provided for in Article 24 (1) (b) shall apply to type B warehouses except that it shall not be possible to use a commercial document.

Where the administrative document does not contain all the particulars shown in Annex III/A, these should be supplied on the accompanying application.';

2. Article 29 (2) is replaced by the following:

'2. In type B customs warehouses, the control office shall keep the declarations of entry for the arrangements referred to in Article 14 or the administrative documents used for entry in order to monitor their discharge. Stock records shall not be kept.

Without prejudice to other Community provisions governing the keeping of customs documents, the control office may decide as part of its internal administration how long such declarations will be kept there. Such time limit may be extended.

Where the goods to which the declaration relates have not been dealt with in one of the ways referred to in Article 21 of the basis Regulation within such time, the control office shall require that the goods be dealt with in one of those ways or that the original declaration or document of entry for the arrangements be replaced by a new declaration reproducing all the particulars of the old declaration or the old document.'

Article 2

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

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

Done at Brussels, 16 October 1992.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 225, 15. 8. 1988, p. 1.

⁽²⁾ OJ No L 246, 10. 9. 1990, p. 1.

⁽³⁾ OJ No L 228, 17. 8. 1991, p. 34.

COMMISSION REGULATION (EEC) No 3002/92

of 16 October 1992

laying down common detailed rules for verifying the use and/or destination of products from intervention

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⁾, and in particular Articles 12 (4) and 26 (3) thereof, and to the corresponding provisions of the other Regulations establishing a common organization of agricultural product markets,

Whereas Community rules relating to various sectors covered by the common organization of agricultural markets provide for the application of an intervention system ;

Whereas certain products removed from intervention may be subject to a specific use and/or destination ; whereas a system of supervision should be set up to ensure that such products are not diverted from their use and/or destination ;

Whereas Commission Regulation (EEC) No 569/88⁽³⁾, as last amended by Regulation (EEC) No 2919/92⁽⁴⁾, lays down common detailed rules for verifying the use and/or destination of products from intervention ; whereas in connection with the suppression of controls and formalities at the internal frontiers and on the occasion of further amendments to Regulation (EEC) No 569/88, and for reasons of clarity and administrative efficiency, the rules concerned should be redrafted ;

Whereas in those cases where two or more Member States are involved in the supervision, Commission Regulation (EEC) No 2823/87 of 18 September 1987 on the documents to be used for the purpose of implementing Community measures entailing verification of the use and/or destination of goods⁽⁵⁾ should apply ;

Whereas other authorities as well as customs authorities competent to issue the control copy T 5 and to verify the use and/or destination of intervention goods have to be designated ;

Whereas, for reasons of simplification and efficiency, it is appropriate to stipulate that the control copy T 5, after the necessary checks have been carried out, has to be sent directly to the agency holding the security, and that where two or more Member States are involved, the control copies T 5 have to be sent directly by each separate Member State to the agency holding the security ;

Whereas it seems desirable, in order to simplify administrative procedures, to provide for greater flexibility than is afforded by the control copy in the case of exports in accordance with the system laid down in Title X, Chapter I, of Commission Regulation (EEC) No 1214/92⁽⁶⁾ which provides that, when a carriage operation starts within the Community and is to end outside it, no formalities need be carried out at the customs office for the frontier station ;

Whereas the disproportionate number of amendments of the Annex to Regulation (EEC) No 569/88 make it necessary to delete that Annex and justify the reference to the endorsements stipulated in the specific Regulations ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION :

TITLE I

General provisions

Article 1

1. Without prejudice to the specific derogations provided for in the Community rules relating to certain agricultural products, this Regulation lays down common detailed rules for verifying the use and/or destination of products removed from intervention stock pursuant to :

— Articles 12 of Regulation (EEC) No 136/66/EEC (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 55, 1. 3. 1988, p. 1.

⁽⁴⁾ OJ No L 292, 8. 10. 1992, p. 11.

⁽⁵⁾ OJ No L 270, 23. 9. 1987, p. 1.

⁽⁶⁾ OJ No L 132, 16. 5. 1992, p. 1.

- Article 5 and 25 of Council Regulation (EEC) No 1418/76 ⁽¹⁾ (rice),
- Articles 6 to 9 of Council Regulation (EEC) No 804/68 ⁽²⁾ (milk and milk products),
- Article 7 of Council Regulation (EEC) No 805/68 ⁽³⁾ (beef and veal),
- Article 7 of Council Regulation (EEC) No 727/70 ⁽⁴⁾ (raw tobacco),
- Articles 7, 8 and 28 of Council Regulation (EEC) No 2727/75 ⁽⁵⁾ (cereals),
- Article 6 of Council Regulation (EEC) No 2759/75 ⁽⁶⁾ (pigmeat),

where such products are subject to a specific use and/or destination.

2. For the purposes of this Regulation, 'dispatch' means the consignment of goods from one Member State to another and 'exportation' means the consignment of goods from a Member State to a destination outside the customs territory of the Community.

3. The provisions of this Regulation shall also apply to:

- products sold pursuant to Article 21 of Council Regulation (EEC) No 1035/72 ⁽⁷⁾ (fruit and vegetables),
- products sold pursuant to Article 8 (4) of Council Regulation (EEC) No 426/86 ⁽⁸⁾ (products processed from fruit and vegetables),
- products sold pursuant to Articles 37 and 40 of Council Regulation (EEC) No 822/87 ⁽⁹⁾ (wine/alcohol).

4. For the purposes of this Regulation, the Belgo-Luxembourg Economic Union (BLEU) shall be considered as a single Member State.

Article 2

1. From the time of their removal from intervention stock until the use and/or destination specified has been verified, the products referred to in Article 1 shall be subject to control, comprising physical checks, scrutiny of documents and audit of accounts, by the designated

control bodies, hereafter referred to as 'the competent control authority'.

In order to avoid any discrimination on the basis of the origin of the products, each Member State shall designate, for each specific measure or part of such measure, one single control body for the verification of the use and/or destination of the relevant products, irrespective of their origin (Community or national).

2. Member States shall take all necessary measures to ensure that:

- the control referred to in paragraph 1 is effected,
- the intervention products are not replaced by other products.

These measures shall in particular prescribe that:

- firms which deal with intervention products or processed intervention products by, for instance, buying, selling, stocking, transporting, transshipping, repackaging, working or processing shall submit to any measures of inspection or supervision considered to be necessary and keep such records as to enable the authorities to carry out any checks that they consider necessary,
- the products referred to in the first indent of this subparagraph shall be stocked and transported separately from other products in such a way that they can be identified.

Member States shall communicate to the Commission the measures taken pursuant to this paragraph.

3. The control copy T 5 procedure referred to in Article 1 of Regulation (EEC) No 2823/87, shall apply where the control referred to in paragraph 1 is to be carried out in whole or in part:

- in a Member State other than that in which the products are removed from intervention stock,
- or
- in a Member State other than that in which the security was lodged.

The control copy T 5 shall be issued and used in accordance with the provisions of Regulation (EEC) No 2823/87 unless otherwise stipulated in this Regulation.

4. Where the selling intervention agency, in accordance with Article 3 (1) (a) does not issue a control copy T 5, it shall provide a removal order. Member States may allow the issue of extracts of a removal order.

The removal order or extract shall be presented by the person concerned to the competent control authority.

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽³⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽⁴⁾ OJ No L 94, 28. 4. 1970, p. 1.

⁽⁵⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽⁶⁾ OJ No L 282, 1. 11. 1975, p. 1.

⁽⁷⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁸⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 84, 27. 3. 1987, p. 1.

Article 3

1. (a) The control copy T 5 referred to in Article 2 (3) shall be issued by :

- the selling intervention agency where intervention products are dispatched to another Member State in the same state as that in which they were removed from intervention stock, hereafter referred to as 'the unaltered state',
- or
- the competent control authority, where intervention products are dispatched after processing to another Member State,
- or
- the customs office of departure :
 - on production of a removal order, issued by the intervention agency, where intervention products are exported in the unaltered state and are to cross the territory of one or more other Member States,
 - on production of a control document, issued by the competent control authority and stating that processing took place under control, where intervention products are exported after processing and are to cross the territory of one or more other Member States.

Where products pursuant to Council Regulation (EEC) No 1055/77⁽¹⁾ are stocked in a Member State other than that where the selling intervention agency is situated, the selling intervention agency shall issue the control copy T 5 or have it issued under its responsibility.

Member States may :

- allow the control copy T 5 to be issued by an authority designated for that purpose instead of by the selling agency,
- decide that authorized stockholders of intervention products can issue a control copy T 5 under the responsibility of the intervention agency. Authorization shall be granted to the stockholder according to the conditions of Articles 17 to 24 of Regulation (EEC) No 2823/87 *mutatis mutandis*.

In these cases, issue shall be subject to production of a removal order.

(b) The removal order and the control document as referred to in subparagraph (a) shall bear a serial number and shall give :

- a description of the products, such description being made in the manner prescribed for completion of box 31 of the control copy T 5 referred to in Article 2 (3), and where appropriate any other information necessary for the purposes of control,
- the number and type of packages, and the marks and numbers borne by such packages,
- the gross and net mass of the products,
- a reference to the regulation applicable,
- the information to be provided in boxes 104 and 106 of the control copy T 5, among which the number of the contract of sale with the intervention agency.

The control document shall show the number of the preceding control copy T 5 or removal order.

The removal order and the control document shall be kept by the office of departure.

- (c) The person concerned shall make out the control copy T 5 in one original and two copies. The authority issuing the control copy T 5 shall send a copy, for information, to the agency where the security is lodged, as required pursuant to Article 5, and shall keep a copy.
- (d) The original control copy T 5 shall be returned to the person concerned or his representative, who shall present it to the competent control authority in the Member State of use and/or destination.

2. The original of the control copy T 5 shall, after appropriate endorsement by the competent control authority in the Member State of use and/or destination, be sent back directly to the agency holding the security referred to in Article 5.

The full name and address of the agency holding the security shall be entered in box B of the control copy T 5 by the person concerned.

3. Where only a part of the products mentioned in the control copy T 5 has complied with the prescribed provisions, the competent authority shall indicate in the section of the control copy T 5 headed 'Control of use and/or destination' the quantity of products that complied with these provisions, and also the date or dates on which the operation was carried out.

Article 4

Proof that the requirements as to control laid down in Article 2 (1) have been complied with shall be furnished as follows :

⁽¹⁾ OJ No L 128, 24. 5. 1977, p. 1.

- (a) for products in respect of which the removal from intervention stock and the use and/or destination have been verified by the authority of a single Member State, by the production of documents specified by that Member State;
- (b) for products in respect of which the use and/or destination have been verified by the authorities in one or more Member States other than that in which the removal from intervention stock took place, by all control copies T 5 issued for control of use and/or destination, duly certified and endorsed by the competent control authorities;
- (c) for products in respect of which the use and/or destination have been verified by the authorities in both the Member State where the removal from intervention stock took place and in one or more other Member States, by means of the documents referred to under both (a) and (b);
- (d) for products in respect of which the export formalities and departure from the customs territory of the Community took place in the Member State where the final processing took place and in which the security was lodged, by the document or documents, laid down by this member State for proof of exportation and by the documents referred to under (a) and/or (b), if these cover the processing.

Article 5

1. Where a security is required in order to guarantee the proper use and/or destination of the products referred to in Article 1, it shall be lodged prior to taking over of the products. Such security shall be lodged:

- in the case of products to be processed or to be processed and exported, with the intervention agency of the Member State in which processing is to take place or to commence,
- in all other cases, with the selling intervention agency.

2. Where a security is lodged with the intervention agency of a Member State other than that where the selling intervention agency is situated, the former shall forthwith forward to the selling intervention agency a communication in writing, showing:

- the number of the relevant regulation,
- the date and/or number of tender/sale,
- the contract number,
- the name of the buyer,
- the amount of the security in ecus,
- the product,
- the quantity of products,

- the date on which the security was lodged,
- the use and/or destination (where appropriate).

The selling intervention agency shall check the security data.

Article 6

1. Where the prescribed provisions on the use and/or destination cannot be complied with as a result of *force majeure*, the authority of the Member State in which the security was lodged or, if no security was lodged, the authority in the Member State in which the removal from intervention stock took place shall, at the request of the person concerned, decide:

- (a) that the time limit prescribed for the transaction shall be extended for such period as may be considered necessary in view of the circumstances invoked;
or
- (b) if the products have been irretrievably lost, that control shall be deemed to have been carried out.

However, in those cases of *force majeure* where the measures referred to in (a) and (b) are not appropriate, the competent authority shall inform the Commission, which may provide for the necessary measures under the procedure laid down in Article 38 of Regulation No 136/66/EEC and in the corresponding Articles of the other regulations on the common organization of the markets.

2. The request referred to in paragraph 1 shall be lodged within 30 days of that on which information was received by the person concerned that circumstances indicating a possible case of *force majeure* had arisen, but within the period laid down in the specific Regulation for producing the evidence needed to release the security.

3. The person concerned shall furnish proof of the circumstances relied upon as constituting *force majeure*.

TITLE II

Products subject to a prescribed use or specific destination within the Community

Article 7

1. Products shall be considered as having complied with the prescribed use and/or destination when it is established that:

- (a) in respect of products to be processed and/or to have other products incorporated in them, both such types of operation being hereinafter referred to as 'processing', they have been processed;
- (b) in respect of products to be sold for direct consumption as concentrated products, they have been concentrated, packaged for retail sale and taken over by the retail trade;
- (c) in respect of products to be consumed by certain institutions or organizations or by the army and similar forces, they have been delivered to and taken over by them;

and, where appropriate, that the operations referred to in (a), (b) and (c) have been carried out within the prescribed period.

2. The requirements mentioned under 1 (a), (b) and (c) shall constitute primary requirements within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85⁽¹⁾.

Article 8

1. Where the control copy T 5 is used, boxes 103, 104, 106 and 107 of the part headed 'Additional information' shall be completed.

Boxes 104 and 106 shall carry the endorsements specified in the relevant regulation.

Box 106 shall also show:

- the number of the contract of sale with the intervention agency,
- and, where appropriate, the number of the removal order,

Box 107 shall show the number of the relevant regulation.

2. Where products are dispatched to a third Member State, the provisions of Article 21 shall apply *mutatis mutandis*.

3. Where two or more operations take place successively in the same Member State, the provisions of Article 22 shall apply *mutatis mutandis*.

Article 9

Release of the security shall be subject to production of the proof referred to in Article 4.

Article 10

Where a control copy T 5 is not received by the agency referred to in Article 3 (2) within three months

- of expiry of the period fixed for completion of the transaction in question,

or

- of its issue, where no such period is fixed,

owing to circumstances beyond the control of the party concerned, the latter may make application to the competent authorities for other documents to be accepted as equivalent, stating the grounds for such application and furnishing supporting documents. Such supporting documents must bear a reference to the control copy T 5 and include confirmation from the competent control authority that verified the use of the products, or had it verified, that the specified use was complied with indicating the date on which the products have received the use and/or destination.

TITLE III

Products exported from the Community in the unaltered state

Article 11

1. Products shall be considered as having complied with the prescribed destination when it is established that:

- (a) they have left the customs territory of the Community in the unaltered state; for the purposes of this Regulation deliveries of any products intended solely for consumption on board drilling or extraction platforms, including work-points providing support services for such operations, situated within the area of the European continental shelf, or within the area of the continental shelf of the non-European part of the Community, but beyond a three-mile zone starting from the base line used to determine the extent of a Member State's territorial waters, shall be considered to have left the customs territory of the Community;

or

- (b) in the case specified in Article 34 (1) of Commission Regulation (EEC) No 3665/87⁽²⁾, they have reached their destination;

or

- (c) they have been placed in a victualling warehouse approved pursuant to Article 38 of Regulation (EEC) No 3665/87;

or

- (d) they have been cleared through customs for release for consumption in a specific third country where products are to be imported into that specific country;

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

⁽²⁾ OJ No L 351, 14. 12. 1987, p. 1.

and, where appropriate, that the operations referred to in (a) to (d) have been carried out within the prescribed period.

2. The requirements laid down in 1 (a) to (d) shall constitute primary requirements within the meaning of Article 20 of Regulation (EEC) No 2220/85.

3. Where products have been placed in a victualling warehouse as referred to at 1 (c), the provisions of Article 38 to 41 of Regulation (EEC) No 3665/87 shall apply, with the exception of Article 40 (3), even though no refund is applicable.

4. The provisions of the second subparagraph of Article 4 (3) of Regulation (EEC) No 3665/87 shall apply.

Article 12

1. Where intervention products are to be exported in the unaltered state, acceptance by the customs authorities of the export declaration shall take place in the Member State where the products were removed from stock.

2. The export declaration and any accompanying documents required in conformity with Community legislation shall, as the case may be, carry the entry:

— 'Intervention products with refund — Regulation (EEC) No 3002/92',

or

— 'Intervention products without refund — Regulation (EEC) No 3002/92'.

3. Even where no refund is applicable to the products to be exported, they shall, upon acceptance of the relevant export declaration, be considered to be no longer covered by Article 9 (2) of the Treaty and the provisions of Article 3 (2) (c) of Council Regulation (EEC) No 2726/90⁽¹⁾ shall apply to their movement.

4. The conditions as regards the time-limit to be respected for the grant of a refund and the proof to be produced for this purpose are applicable as far as the release of the security is concerned.

Article 13

1. Where the control copy T 5 is used, boxes 103, 104, 106, 107 and where appropriate, 105 of the part headed 'Additional information' shall be completed.

Boxes 104 and 106 shall carry the endorsements specified in the relevant regulation.

Box 106 shall also show:

- the number of the contract of sale with the intervention agency,
- and
- the number of the removal order.

Box 107 shall show the number of the relevant regulation.

2. Where the control copy T 5 proving the exportation of goods is requested for release of the security referred to in Article 5 and for payment of the refund, the competent authority holding the security shall immediately send a copy of the control copy T 5, certified as being a true copy, direct to the authority competent for payment of the refund.

In that case the person concerned shall make the following entry in box 106 of the control copy T 5:

'Refund to be paid by... (indicating the full name and address of the authority competent for payment of the refund)'.

3. Where it has not been possible to comply with the 12-month time limit for the proof of exportation for the payment of refund in accordance with Article 47 (2) of Regulation (EEC) No 3665/87 because of administrative delays in the forwarding of the control copy T 5 by the agency holding the security to the authority competent for the payment of the refund, the date of receipt by the security agency shall also be deemed to be the date of receipt by the refund authority.

Article 14

1. Where, on acceptance by customs of the export declaration, products are placed under one of the procedures provided for in Title X, Chapter 1, of Regulation (EEC) No 1214/92 for carriage to a station of destination or delivery to a consignee outside the customs territory of the Community, they shall be deemed to have been exported as soon as they are placed under that procedure.

2. When paragraph 1 applies, the customs office of departure accepting the export declaration shall ensure that one of the endorsements indicated in, as appropriate, Article 7 (4) or (5) of Regulation (EEC) No 3665/87, is entered on the document issued as proof of export.

3. The customs office of departure may permit the contract of carriage to be varied so that carriage ends within the Community only if it is established either:

- that, if a security has been given to an intervention agency for the purpose of ensuring that export does take place, this security has not been released,
- or
- that a new security has been given.

⁽¹⁾ OJ No L 262, 26. 9. 1990, p. 1.

However, if the security has been released pursuant to paragraph 1 and the product has not in fact left the customs territory of the Community within the period allowed, the customs office of departure shall so inform the agency responsible for releasing the security and shall provide it as soon as possible with all the necessary particulars. In such cases the release shall be regarded as having been made in error and an equivalent amount must be recovered.

Article 15

Release of the security shall be subject to production of the proof referred to in Article 4, and

- where the products are to be imported into a specific third country, or
- where, in cases where the products are to be exported from the Community, serious doubts exist about the true destination,

to production of the proof specified in Articles 17 and 18 of Regulation (EEC) No 3665/87.

The competent authorities of the Member States may require satisfactory additional proof that the products have in fact been placed on the market in the importing third country.

Where there are serious doubts as to the real destination of the products, the Commission may request Member States to apply the provisions of this Article.

Article 16

1. Where the provisions of Article 2 (2) of Council Regulation (EEC) No 754/76⁽¹⁾ apply:

- the security referred to in Article 5 (1) shall be forfeited if it has not yet been released,
- an amount equivalent to the security must be recovered if the latter has already been released.

2. Where products for which a security as referred to in Article 5 (1) has been lodged leave the customs territory of the Community and the formalities for obtaining a refund have not been completed, those formalities shall, for the purposes of application of Regulation (EEC) No 754/76, be deemed to have been completed and paragraph 1 shall apply.

3. The amount of the security referred to in paragraphs 1 and 2 shall be regarded as a forfeited security within the meaning of Article 2 of Council Regulation (EEC) No 352/78⁽²⁾.

⁽¹⁾ OJ No L 89, 2. 4. 1976, p. 1.

⁽²⁾ OJ No L 50, 22. 2. 1978, p. 1.

4. The person concerned shall prove to the competent authority, by means of a certificate issued by the intervention agency concerned, that the provisions of paragraph 1 have been complied with or that no security was provided.

Article 17

Where a control copy T 5 intended to act as proof that products have complied with the prescribed destination referred to in Article 11 (1) is not received by the agency referred to in Article 3 (2) within three months of its issue owing to circumstances beyond the control of the party concerned, the latter may, in accordance with the provisions of Article 47 (3) of Regulation (EEC) No 3665/87, submit to the competent authority a reasoned request that other documents be regarded as equivalent.

TITLE IV

Products exported from the Community after processing

Article 18

Products shall be considered as having complied with the prescribed use and destination when it is established that the requirements of Articles 7 and 11 have been met.

Article 19

Where products are to be exported after processing, acceptance by the customs authorities of the export declaration shall take place in the Member State where final processing takes place.

Article 20

1. Where products are to be dispatched in the unaltered state for processing followed by exportation, the control copy T 5 shall be issued by the selling intervention agency and boxes 103, 104, 106 and 107 of the part headed 'Additional information' shall be completed.

Boxes 104 and 106 shall carry the endorsements specified in the relevant regulation.

Box 106 shall also show:

- the number of the contract of sale with the intervention agency,
- where appropriate, the number of the removal order, and
- the endorsement 'Products from intervention to be placed on exportation under the external Community transit procedure'.

Box 107 shall show the number of the relevant regulation.

2. (a) Where products are to be dispatched after processing in the Member State in which the removal from intervention stock took place, for further processing followed by exportation, the control copy T 5 shall be issued by the authority verifying the processing.
- (b) In that part of the control copy T 5 headed 'Additional information', boxes 103, 104, 106 and 107 shall be completed.

Boxes 104 and 106 shall carry the endorsements specified in the relevant regulation.

Box 106 shall also show :

- the number of the contract of sale with the intervention agency, and
- the endorsement 'Products from intervention to be placed on exportation under the external Community transit procedure'.

Box 107 shall show the number of the relevant regulation.

3. (a) Where products are to be exported after processing and are to cross the territory of one or more other Member State(s), the control copy T 5 shall be issued by the customs office of departure on production of a document issued by the authority verifying the processing. That document shall be kept by the customs office of departure.

However, production of the document shall not be required in cases where the customs office of departure has verified the relevant processing.

- (b) In that part of the control copy T 5 headed 'Additional information', boxes 103, 104, 106 and 107 and where appropriate, 105 shall be completed.

Boxes 104 and 106 shall carry the endorsements specified in the relevant regulation.

Box 106 shall also show :

- the number of the contract of sale with the intervention agency, and
- where appropriate, the number of the document referred to at (a).

Box 107 shall show the number of the relevant regulation.

4. Where the control copy T 5 proving exportation of the goods is requested for release of the security referred to in Article 5 and for payment of the refund, the competent authority holding the security shall immediately send a copy of the control copy T 5, certified as being a true

copy, direct to the authority competent for payment of the refund.

In that case the person concerned shall make the following entry in box 106 of the control copy T 5 :

'Refund to be paid by...' (indicating the Member State and the full name and address of the authority competent for the payment of the refund).

Article 21

1. Where products have been dispatched to another Member State for processing and the processed products :

- are to be sent to a third Member State or another Member State for further processing,

or

- are to cross the territory of a third Member State or other Member State in order to be exported,

then the competent authority referred to in Article 20 (2) or (3), as appropriate, shall issue one or more control copies T 5.

The control copy or copies T 5 shall be completed :

- where the first indent of the first subparagraph applies, as indicated in Article 20 (2) (b),
- where the second indent of the first subparagraph applies, as indicated in Article 20 (3) (b),

using the information given in the original control copy T 5. In addition, in box 106 of the control copy or copies T 5 there shall be entered the registration number and date of issue of the preceding document and the name of the authority that issued it.

2. In the case referred to under paragraph 1, the competent authority which verified the operation shall, after the appropriate endorsement, immediately return the original control copy T 5 directly to the agency referred to in Article 3 (2) and shall indicate on the original control copy T 5 in the box headed 'Control of use and/or destination', that the product has been dispatched to another Member State for further processing, packaging, taking over or export. The original control copy T 5 shall show the registration number or numbers of or a reference to the control copies T 5 issued for that purpose.

3. The document referred to in Article 4 (a) shall carry similar endorsements to those provided for in paragraph 2.

Article 22

1. Where two or more operations, except exportation, (such as : processing, packaging, taking-over) 212,2 take place successively in the same Member State, this Member State may decide that these operations are considered one operation. In this case no following control copy T 5 shall be issued until all involved operations have been carried out.

The original control copy T 5 shall be returned to the agency referred to in Article 3 (2) after the controls of all operations involved have been carried out. Member States shall take all appropriate measures to ensure the proper working of such system.

2. Where Member States decide not to follow the procedure referred to under paragraph 1, the competent authority shall after each operation subsequently issue a control copy T 5. The competent authority which verified the operation shall indicate on the control copy T 5 in the box headed 'Control of use and/or destination' that the product has been sent within the same Member State for further processing, packaging, taking over or export. The original control copy T 5 shall show the registration number or numbers of or a reference to the control copies T 5 issued for that purpose.

3. The document referred to in Article 4 (a) shall carry similar endorsements to those provided for in paragraph 2.

Article 23

The provisions of Articles 10, 12 (2) to (4), 13 (3) and 14 to 17 shall be applicable to this Title.

TITLE V

Final provisions

Article 24

1. Member States shall inform the Commission of the full name and address of competent control authorities as referred to in Article 2 (1). The Commission shall inform the other Member States.

2. Member States shall inform the Commission every quarter of cases in which they have applied Article 6 (1), specifying the circumstances invoked, the quantities involved and the measures taken.

3. Member States shall on 1 March and 1 September each year send returns to the Commission showing the number of applications made pursuant to Article 10 or 17, the reasons, where known, for failure to return the control copy T 5, the quantities concerned and the nature of the documents accepted as equivalent.

Article 25

1. Regulation (EEC) No 569/88 is hereby repealed. It shall, however, remain applicable to operations for which the removal from intervention stock took place by 31 December 1992.

The Annex to Regulation (EEC) No 569/88 shall remain valid for a transitional period during which the specific Community acts still refer thereto. Where that Annex refers to the single administrative document or to the document proving the Community status of the products as mentioned in Article 2 (4) of Regulation (EEC) No 569/88, the reference shall be construed as to the control copy T 5.

2. For transactions pursuant to Article 2 (3) for which the removal from intervention stocks takes place by 31 December 1992 at the latest and for which the prescribed use and/or destination are likely to be complied with on or after 1 January 1993, the documents accompanying the products shall show one of the following endorsements:

- Aplicación del procedimiento establecido en el Reglamento (CEE) n° 569/88
- Anvendelsesprocedure forordning (EØF) nr. 569/88
- Anwendung des Verfahrens gemäß der Verordnung (EWG) Nr. 569/88
- Εφαρμογή της διαδικασίας του κανονισμού (ΕΟΚ) αριθ. 569/88
- Application of Procedure under Regulation (EEC) No 569/88
- Application de la procédure du règlement (CEE) n° 569/88
- Applicazione del procedimento secondo il regolamento (CEE) n. 569/88
- Toepassing procedure Verordening (EEG) nr. 569/88
- Aplicação do procedimento previsto no Regulamento (CEE) n° 569/88.

Article 26

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

The provisions of this Regulation shall apply to products removed from intervention stock on or after 1 January 1993. However, the provisions of Article 25 (2) shall apply from 1 November 1992.

Notwithstanding the provisions of Article 25, all Community acts referring to Commission Regulation (EEC) No 1687/76⁽¹⁾ or Regulation (EEC) No 569/88 or to Articles thereof shall be construed as referring to this Regulation or to the corresponding Articles thereof.

⁽¹⁾ OJ No L 190, 14. 7. 1976, p. 1.

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

Done at Brussels, 16 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3003/92
of 16 October 1992
altering the corrective amount applicable to the refund on 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 the fourth sentence of the second subparagraph of Article 16(4) thereof,

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

Whereas the corrective amount applicable to the refund on malt was fixed by Regulation (EEC) No 2517/92 ⁽⁴⁾, as amended by Regulation (EEC) No 2846/92 ⁽⁵⁾;

Whereas, on the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the

market into account, the corrective amount at present applicable to the refund on malt should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 16(4) of Regulation (EEC) No 2727/75 which is applicable to the export refunds fixed in advance in respect of malt is hereby altered to the amount set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 19 October 1992.

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

Done at Brussels, 16 October 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 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 250, 29. 8. 1992, p. 27.

⁽⁵⁾ OJ No L 285, 30. 9. 1992, p. 51.

ANNEX

to the Commission Regulation of 16 October 1992 altering the corrective amount applicable to the refund on malt

Product code	(ECU/tonne)					
	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2	5th period 3
1107 10 11 000	0	0	0	0	0	0
1107 10 19 000	0	0	0	0	0	0
1107 10 91 000	0	0	0	0	0	0
1107 10 99 000	0	0	0	0	0	0
1107 20 00 000	0	0	0	0	0	0

Product code	(ECU/tonne)					
	6th period 4	7th period 5	8th period 6	9th period 7	10th period 8	11th period 9
1107 10 11 000	0	0	0	0	0	0
1107 10 19 000	0	0	0	0	0	0
1107 10 91 000	0	0	0	0	0	0
1107 10 99 000	0	0	0	0	0	0
1107 20 00 000	0	0	0	0	0	0

COMMISSION REGULATION (EEC) No 3004/92

of 16 October 1992

fixing the maximum buying-in price and the quantities of beef bought in for the
78th partial invitation to tender under Regulation (EEC) No 1627/89

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 90 thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EEC) No 2066/92⁽²⁾, and in particular Article 6 (8) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 859/89 of 29 March 1989 laying down detailed rules for the application of intervention measures in the beef and veal sector⁽³⁾, as last amended by Regulation (EEC) No 695/92⁽⁴⁾, an invitation to tender was opened by Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender⁽⁵⁾, as last amended by Regulation (EEC) No 2939/92⁽⁶⁾;

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

Whereas, after the tenders submitted for the 78th partial invitation to tender have been examined and taking account, pursuant to Article 6 (1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market and the seasonal trend in slaughterings, the maximum buying-in price and the quantities which may be accepted into intervention should be fixed;

Whereas the quantities offered at present exceed the quantities which may be bought in; whereas a reducing

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 78th partial invitation to tender opened by Regulation (EEC) No 1627/89:

(a) for category A:

in the Member States or regions of Member States which meet the conditions laid down in Article 6 (4) of Regulation (EEC) No 805/68:

- the maximum buying-in price is hereby fixed at ECU 255,60 per 100 kilograms of carcasses or half-carcasses of quality R3,
- the maximum quantity of carcasses or half-carcasses accepted is hereby fixed at 19 302 tonnes; the quantities offered are hereby reduced by 30 % pursuant to Article 11 (3) of Regulation (EEC) No 859/89;

(b) for category C:

(i) in the Member States or regions of Member States which meet the conditions laid down in Article 6 (2) of Regulation (EEC) No 805/68:

- the maximum buying-in price is hereby fixed at ECU 255,60 per 100 kilograms of carcasses or half-carcasses of quality R3,
- the maximum quantity accepted of carcasses or half-carcasses is hereby fixed at 3 105 tonnes; the quantities offered are hereby reduced by 30 % pursuant to Article 11 (3) of Regulation (EEC) No 859/89;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 49.

⁽³⁾ OJ No L 91, 4. 4. 1989, p. 5.

⁽⁴⁾ OJ No L 74, 20. 3. 1992, p. 42.

⁽⁵⁾ OJ No L 159, 10. 6. 1989, p. 36.

⁽⁶⁾ OJ No L 294, 10. 10. 1992, p. 5.

(ii) in the Member States or regions of Member States which meet the conditions laid down in Article 6 (4) of Regulation (EEC) No 805/68 :

— the maximum buying-in price per 100 kilograms of carcasses or half-carcasses of quality R3 is hereby fixed at :

- ECU 261,552 in Denmark,
- ECU 257,889 in Germany,
- ECU 257,851 in Ireland,
- ECU 265,399 in Northern Ireland,
- ECU 261,530 in Great Britain,

— the maximum quantity accepted of carcasses or half-carcasses is hereby fixed at 36 555 tonnes.

Article 2

By derogation from the first sentence of Article 13 (2) of Regulation (EEC) No 859/89 the time limit for delivery to intervention stores is extended by one week.

Article 3

This Regulation shall enter into force on 19 October 1992.

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

Done at Brussels, 16 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 13 July 1992

on the conclusion of an Agreement between the European Economic Community and the Government of the United States of America concerning the application of the GATT Agreement on Trade in Civil Aircraft on trade in large civil aircraft

(92/496/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas the Agreement negotiated between the European Economic Community and the Government of the United States of America concerning the application of the GATT Agreement on Trade in Civil Aircraft on trade in large civil aircraft in Brussels on 31 March 1992 should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Economic Community and the Government of the United States of

America concerning the application of the GATT Agreement on Trade in Civil Aircraft on trade in large civil aircraft is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Agreement referred to in Article 1 in order to bind the Community.

Done at Brussels, 13 July 1992.

For the Council

The President

N. LAMONT

AGREEMENT

between the European Economic Community and the Government of the United States of America concerning the application of the GATT Agreement on Trade in Civil Aircraft on trade in large civil aircraft

THE EUROPEAN ECONOMIC COMMUNITY (hereinafter referred to as 'the Community'),
and

THE GOVERNMENT OF THE UNITED STATES OF AMERICA (hereinafter referred to as 'the United States'),

RECOGNIZING the need to promote a more favourable environment for international trade in large civil aircraft and to reduce trade tensions in the area,

RECOGNIZING that the disciplines in the GATT Agreement on Trade in Civil Aircraft should be strengthened with a view to progressively reducing the role of government support,

RECALLING the principles and objectives agreed upon by representatives of the United States and of the Community at their meeting held in London on 27 October 1987,

IN PURSUIT OF their common goal of preventing trade distortions resulting from direct or indirect government support for the development and production of large civil aircraft and of introducing greater disciplines on such support and of encouraging the adoption of such disciplines multilaterally within the GATT,

NOTING their intention to act without prejudice to their rights and obligations under the GATT and under other multilateral agreements negotiated under the auspices of the GATT,

HAVE AGREED AS FOLLOWS:

Article 1

Government-directed procurement, mandatory subcontracts and inducements

With respect to issues concerning Article 4 of the GATT Agreement on Trade in Civil Aircraft ('Aircraft Agreement'), the Parties agree to act in conformity with the interpretative note to Article 4 of the Aircraft Agreement contained in Annex I to this Agreement.

already been firmly committed for the production of large civil aircraft. This prohibition shall apply both to existing and to future programmes.

Article 4

Development support

Article 2

Prior government commitments

Government support to current large civil aircraft programmes, committed prior to the date of entry into force of this Agreement, is not subject to the provisions of this Agreement except as otherwise provided below. The terms and conditions on which such support is granted shall not be modified in such a manner as to render it more favourable to the recipients: however, *de minimis* modifications shall not be deemed inconsistent with this provision.

4.1. Governments shall provide support for the development of a new large civil aircraft programme only where a critical project appraisal, based on conservative assumptions, has established that there is a reasonable expectation of recoupment, within 17 years from the date of first disbursement of such support, of all costs as defined in Article 6 (2) of the Aircraft Agreement, including repayment of government supports on the terms and conditions specified below.

4.2. As of entry into force of this Agreement, direct government support committed by a Party for the development of a new large civil aircraft programme or derivative shall not exceed:

Article 3

Production support

As of entry into force of this Agreement, Parties shall not grant direct government support other than what has

(a) 25 % of that programme's total development cost as estimated at the time of commitment (or of actual

development costs, whichever is lower); royalty payments on this tranche shall be set at the time of commitment of the development support so as to repay this support at an interest rate no less than the cost of borrowing to the government within no more than 17 years from first disbursement; plus

- (b) 8 % of that programme's total development cost as estimated at the time of commitment (or of actual development costs, whichever is lower); royalty payments on this tranche shall be set at the time of commitment of the development support so as to repay such support at an interest rate no less than the cost of borrowing to the government plus 1 % within no more than 17 years from first disbursement.

These calculations shall be made on the basis of the forecast of aircraft deliveries in the critical project appraisal.

4.3. Royalty payments per aircraft shall be calculated at the time of commitment of the development support to be repaid on the following basis:

- (a) 20 % of aggregate payments calculated in accordance with Article 4.2 is payable on the basis of the delivery of a number of aircraft corresponding to 40 % of forecast deliveries;
- (b) 70 % of aggregate payments calculated in accordance with Article 4.2 is payable on the basis of the delivery of a number of aircraft corresponding to 85 % of forecast deliveries.

Article 5

Indirect government support

5.1. Parties shall take such action as is necessary to ensure that indirect government support neither confers unfair advantage upon manufacturers of large civil aircraft benefiting from such support nor leads to distortions in international trade in large civil aircraft.

5.2. As of entry into force of the Agreement, identifiable benefits to the development or production of any of the products covered by this Agreement, net of recoupment, derived from indirect support shall not exceed in any one year:

- (a) 3 % of the annual commercial turnover of the civil aircraft industry in the Party concerned for the products covered by this Agreement; or
- (b) 4 % of the annual commercial turnover of any one firm in the Party concerned for the products covered by this Agreement.

5.3. Benefits from indirect support shall be deemed to arise when there is an identifiable reduction in costs of

large civil aircraft resulting from government-funded research and development in the aeronautical area performed after the entry into force of this Agreement.

Where it can be demonstrated that the results of research and development have been made available on a non-discriminatory basis to large civil aircraft manufacturers of the Parties, benefits deriving from such technologies shall be excluded from the calculation in paragraph 5.2. However, identifiable benefits may result when large civil aircraft manufacturers are responsible for, or have early access to, the conduct or results of such research.

If a Party has reason to believe that other indirect supports provided by a government are resulting in identifiable reductions in the costs of large civil aircraft, the Parties shall consult with a view towards quantifying such reductions and including them in the calculation described above.

Benefits from indirect support resulting from the technology obtained through government-funded research and development or through other government programmes shall normally be calculated in terms of the reduction in the cost of research and development and in the reduction in the cost of the production equipment or production process technology.

Article 6

General purpose loans

Parties shall assume no liability for specific loans that aircraft manufacturers make or make available, through direct loans, guarantees, or otherwise, to airlines, other than through official export credit financing consistent with the Large Aircraft Sector Understanding of the OECD Understanding on Official Export Financing.

Article 7

Equity infusions

Equity infusions are excluded from the scope of this Agreement. Equity infusions will not, however, be provided in such a manner as to undermine the disciplines in the Agreement.

Article 8

Transparency

8.1. To the extent necessary to ensure effective implementation of this Agreement, Parties shall exchange on a regular, systematic basis, all public information of a kind governments make available to their respective national elected assemblies relating to matters covered by this Agreement and its Annexes.

Such public information will include at minimum the total amount of government support for new development projects and its share of total development costs, aggregate data on disbursements and repayments relating to direct government supports for commercial aircraft programmes, the annual commercial turnovers of the civil aircraft industry as specified in Article 8.5 (b) and the aggregate amounts of identifiable indirect benefits received by large civil aircraft manufacturers.

8.2. Furthermore, with regard to prior government commitments for large civil aircraft programmes described in Article 2, a complete list of such commitments by the Parties to this Agreement already disbursed or committed shall be separately provided, including information on the type of repayment obligation and the planned period of repayment. Annual disbursements and repayments relating to these programmes on an aggregate basis shall also be notified to the other Party for each government providing these supports. In addition, a Party shall notify the other Party to this Agreement of any changes which render the terms and conditions of such support commitments more favourable to the recipient, including: changes in the repayment period, failure to repay the support, or reduction of the scheduled repayments.

8.3. Furthermore, with regard to future large civil aircraft programmes, Parties shall provide, at the time of government commitment, the following specific information in relation to development support for each of the governments providing such support:

- the total amount of government support,
- the share of government support as a percentage of estimated total development cost,
- the anticipated return to the government,
- the planned period of repayment of government support, and
- the forecast number of planes on which the calculations made in accordance with Article 4.2 are based.

8.4. In the course of the consultations provided for under Article 11 of this Agreement, Parties shall exchange information on government commitments and support for each of the governments providing such support including both not limited to:

- any changes which render the terms and conditions more favourable to the recipient, including: changes in the repayment period, failure to repay the support, or reduction of the scheduled repayments, and
- annual disbursements and repayments on a per programme basis for new programmes launched in accordance with Article 4. Such information will be provided at the first regular consultation taking place at least 12 months after the end of the year in which the disbursements and repayments are made.

8.5. In the course of consultations under Article 11,

- (a) Parties will on an annual basis provide information on new government-funded research and development undertaken or initiated during the previous year and on ongoing research and development projects in the aeronautical area, including per programme details on those projects in which large civil aircraft manufacturers participate. This shall include information on the area of activity and the amount of government funding for such projects;
- (b) Parties will provide information on identifiable benefits derived from indirect supports for each large civil aircraft programme.

This will include recoupment per programme received from large civil aircraft manufacturers. The following specific information will be provided on an annual basis for each of the governments providing such support:

1. the annual commercial turnover of the civil aircraft industry in the Party concerned in relation to products covered by the Agreement;
2. the annual commercial turnover in relation to products covered by the Agreement of each firm in the Party concerned which manufacturers products covered by the Agreement; and
3. the total amount of indirect benefits as defined in Article 5.2 for the civil aircraft industry in relation to the products covered by the Agreement and for each firm involved in the manufacture of such products.

8.6. If a Party considers that additional information directly relevant to the implementation of the provisions of this Agreement is necessary, such information will be provided upon duly motivated request.

8.7. Parties shall, upon duly motivated request, provide at the time of commitment of new development support non-proprietary information on the critical project appraisal in so far as this relates to the provisions of Article 4.1.

8.8. Any information not in the public domain, which a Party may provide, shall at the request of the Party providing the information, be considered as proprietary. A recipient government shall take all measures necessary to ensure that information thus designated not be disclosed to anyone outside that government even after expiry or termination of the present Agreement. In addition, proprietary information shall not be used in possible trade disputes except for the purposes of confidential internal government discussion and decisions in relation to the implementation of the Agreement.

8.9. Parties shall, unless otherwise indicated, exchange the information specified above on an annual basis. Any disagreement concerning information to be provided pursuant to this Article shall be resolved through consultations under Article 11.

8.10. Parties shall provide information on new infusions of equity or changes in equity positions by governments into firms engaged in civil aircraft production, including the amount and type of equity provided.

8.11. Parties will encourage firms engaged in the manufacture of large civil aircraft to increase the public disclosure of disaggregated financial results of their civil aircraft operations through the separation of reporting on military and civilian aircraft operations and the adoption of lines of business financial reporting. These disaggregated financial results would at a minimum be expected to include information on sources and uses of funds including specific information on revenue, operating income, net assets, capital investment and government equity infusions.

8.12. Nothing in this Agreement shall be construed to require any contracting Party to furnish any information the disclosure of which it considers contrary to its essential security interests.

Article 9

Exceptional circumstances

9.1. Where, as a result of an unforeseen, exceptional situation, the survival of a significant proportion of the civil aircraft manufacturing activities in one of the Parties⁽¹⁾ and the continued financial viability of the company or the division of a company responsible for such civil aircraft manufacture are put in jeopardy, that Party may derogate temporarily from the disciplines laid down in this Agreement. In this context, the disaggregated financial results of civil aircraft operations will be reported publicly by that company or division⁽²⁾. This derogation may not be invoked, however, in respect to the disciplines applying to the launch of new civil aircraft programmes as specified in Article 4.

9.2. The Party concerned shall provide notice of its intentions to the other Party and an opportunity for prior consultations unless it is prevented from doing so for legal reasons and shall in any event notify the other Party immediately of its reasons for invoking this Article and fully disclose the specific measures which it has taken, including the amount and nature of the measures, and their expected duration.

(¹) For the purposes of this paragraph, 'Parties' shall be deemed to include any of the individual Member States of the Community.

(²) These disaggregated financial results would at a minimum include information on sources and uses of funds including specific information on revenue, operating income, net assets, capital investment and government equity infusions.

9.3. Specific measures taken by a Party in accordance with this Article :

- (a) shall be limited in scope and duration to the extent strictly necessary to remedy the difficulties referred to in paragraph 1 ;
- (b) shall be designed to return as quickly as possible the beneficiary company to commercial viability ;
- (c) shall take due account of the possible implications for other large civil aircraft manufacturers and shall avoid depressing prices on the world market for civil aircraft by the manufacture of inventory for which no firm order exists.

9.4. If, after consultations pursuant to Article 11, a Party determines that the action taken under this Article significantly undermines the objectives of this Agreement, it shall have the right to suspend some or all of the provisions of this Agreement or to terminate it within 15 days of the conclusion of consultations.

Article 10

Avoidance of trade conflicts and litigation

10.1. Parties shall seek to avoid any trade conflict on matters covered by the present Agreement⁽³⁾.

10.2. They will not self-initiate action under their national trade laws with respect to government supports granted in conformity with this Agreement for as long as this Agreement is in force. However, nothing in this paragraph shall prevent a Party from abrogating this Agreement on grounds of non-compliance by the other Party.

10.3. In order to avoid trade conflict they will strongly encourage private parties to request the use of the provisions of Article 11 to resolve any disputes on matters covered by this Agreement. If, however, private petitioners request that action be taken under national laws on matters covered by this Agreement, the petitioners' government will immediately inform the other Party and offer to enter into consultations in accordance with Article 11. The Party against whom such action is brought shall have the right either to suspend the application of some or all of the provisions of the present Agreement or to terminate the Agreement 15 days after the conclusion of consultations.

(³) Action with respect to 'matters covered by the present Agreement' refers to trade actions relating to direct and indirect government support as defined by this Agreement. It does not include actions relating to dumping, intellectual property protection, or anti-trust or competition laws.

10.4. In the conduct of any investigations of trade allegations concerning products covered by this Agreement that have been initiated under national trade laws as the result of private petitions, Parties shall, consistent with their law take account of representations concerning compliance with the terms of this Agreement.

Article 11

Consultations

11.1. Parties shall consult regularly and, in any case, at least twice a year, to ensure correct functioning of the Agreement.

11.2. A Party may request consultations on any development related to the functioning of the present Agreement. Such consultations shall be held not later than 30 days following the date on which the request is received.

11.3. Parties agree to seek to resolve any disputes within three months of the date of the initial request for consultations. Consultations will not be deemed to be concluded for the purposes of Articles 8 and 9 of this Agreement before this three-month period has expired.

Article 12

GATT Agreement on Trade in Civil Aircraft

12.1. The Parties shall propose jointly to other signatories of the Aircraft Agreement that disciplines along the lines of those laid down in the present Agreement and the interpretative note given in Annex I be incorporated

into the aforementioned GATT Agreement. The Parties shall also propose that the improved dispute settlement provisions agreed in the Uruguay Round be used to resolve any dispute arising out of the implementation of the new Aircraft Agreement.

12.2. The Parties shall make their utmost efforts to ensure that these or similar disciplines are incorporated into the Aircraft Agreement or adopted by key signatories at the earliest possible date, and also to expand the coverage of the disciplines provided by this Agreement to all of the products covered in the Aircraft Agreement.

12.3. If multilateralization has not been achieved in one year, the Parties shall review the question of the continued application of this bilateral Agreement.

Article 13

Final provisions

13.1. This Agreement shall enter into force on the date of its acceptance by both Parties.

13.2. This Agreement may be amended by mutual consent of the Parties to take into account any new situation which may arise including possible amendments to the Aircraft Agreement.

13.3. One year after the entry into force of this Agreement, either party may withdraw from the Agreement. If a Party wishes to withdraw from the present Agreement it shall notify the other Party in writing of its intentions. The withdrawal shall take effect 12 months after the date on which the notification was received.

Signed at Brussels and Washington on the seventeenth day of July in the year one thousand nine hundred and ninety-two.

*For the Council of the European
Communities*

Frans ANDRIESEN

*For the Government of the United States of
America*

Michael MOSKOW

*ANNEX I***INTERPRETATION OF ARTICLE 4 OF THE GATT AGREEMENT ON TRADE IN CIVIL AIRCRAFT BY SIGNATORIES OF THE AGREEMENT**

Article 4 of the GATT Agreement on Trade in Civil Aircraft (hereinafter referred to as 'the Agreement') deals with three specific issues:

- government-directed procurement (paragraph 2),
- mandatory subcontracts (paragraph 3),
- inducements (paragraph 4).

Article 4.1

Paragraph 4.1 states the general principle, applicable throughout Article 4, that purchasers of civil aircraft⁽¹⁾ should be free to select supplies on the basis of commercial and technological factors.

*Article 4.2***(Government-directed procurement)**

This paragraph states that 'signatories shall not require airlines, aircraft manufacturers, or other entities engaged in the purchase of civil aircraft, nor exert unreasonable pressure on them, to procure civil aircraft from any particular source, which would create discrimination against suppliers from any signatory'.

This means that signatories must abstain from imposing preference policies in favour of or against the suppliers of one or more signatories.

Unreasonable government pressure relating to the selection of suppliers by airlines, aircraft manufacturers or other entities engaged in the purchase of civil aircraft ('purchasers') is also prohibited. 'Unreasonable pressure' is any action favouring products or suppliers or which influences procurement decisions in a manner which creates discrimination against suppliers from any other signatory.

The signatories agree that the following are examples of practices which are not considered as exerting unreasonable pressure:

- the participation of government or former government representatives on the boards of wholly or partly government-owned purchasers, but only if they act in the best commercial interest of the purchaser concerned and do not influence procurement decisions in a manner which creates discrimination against suppliers from any other signatory,
- government decisions concerning safety and environmental considerations.

*Article 4.3***(Mandatory subcontracts)**

The first sentence states that 'signatories agree that the purchase of products covered by the Agreement should be made only on a competitive price, quality and delivery basis'. This means that signatories will not intervene to obtain favoured treatment for particular firms and that they will not interfere with the selection of vendors in a situation where vendors of different signatories are competing.

By emphasizing that the only factors which should be involved in purchase decisions are price, quality and delivery terms, the signatories agree that Article 4.3 does not permit government-mandated offsets. Further, they will not require that other factors, such as subcontracting, be made a condition or consideration of sale. Specifically, a signatory may not require that a vendor must provide offset, specific types or volumes of business opportunities, or other types of industrial compensation.

Signatories shall not therefore impose conditions requiring subcontractors or suppliers to be of a particular national origin.

The second sentence of this paragraph states that 'in conjunction with the approval or awarding of procurement contracts for products covered by this Agreement a signatory may ... require that its qualified firms be provided with access to business opportunities on a competitive basis and on terms no less favourable than those available to the firms of other signatories.' This means that a signatory may require that the manufacturer not discriminate against the signatory's qualified firms with respect to any bid opportunities and to the evaluation of any competitive bids made by those firms.

⁽¹⁾ For the purpose of this Annex, 'civil aircraft' is defined as in Article 1 of the GATT Agreement on Trade in Civil Aircraft.

*Article 4.4***(Inducements)**

This paragraph states that 'signatories agree to avoid attaching inducements of any kind to the sale or purchase of civil aircraft from any particular source which would create discrimination against suppliers from any signatory'.

This means that signatories shall refrain from the use of negative or positive linkages between the sale or purchase of civil aircraft and other government decisions or policies which might influence such sale or purchase whenever there is a competition between suppliers of signatories. The following is an agreed illustrative, non-exhaustive list of such prohibited inducements :

- rights and restrictions relating to the airline industry, such as landing or route rights,
- general economic programmes and policies, such as import policies, measures aiming at changes in bilateral trade imbalances, policies on alien workers or debt rescheduling,
- development assistance programmes and policies, such as grant aid, loans and infrastructure financing ; it is understood that the use of such assistance for the purchase of civil aircraft does not fall under this category to the extent that the granting of these funds is not conditional on such purchase taking place,
- defence and national security policies and programmes.

Without prejudice to Article 4.3, this also means that signatories shall not intervene in any way, nor exert any direct or indirect pressure on other governments or any entity involved in procurement decisions, including the establishment of any link of a negative or positive character between decisions concerning the procurement of civil aircraft and any other issue or action in any other area which might affect the interest of the importing country.

*Articles 4.2 and 4.4***(Political representations)**

All participants of signatories in the domestic political decision-making process shall not take any action, including, but not limited to, political representations, pressure or inducements to other governments or foreign airlines, which would be contrary to Article 4 as interpreted in this Annex. Signatories shall draw the participants' attention to this interpretation of Article 4 and shall also use their best efforts to assure that the participants do not take such action.

ANNEX II

For the purposes of the present Agreement, the following definitions shall apply:

1. 'large civil aircraft': with respect to such aircraft produced in the US by existing manufacturers of large civil aircraft and in the European Community by the Airbus consortium, or their successor entities, all aircraft, as defined in Article 1 of the GATT Agreement on Trade in Civil Aircraft, except engines as defined in Article 1.1 (b) thereof, that are designed for passenger or cargo transportation and have 100 or more passenger seats or its equivalent in cargo configuration;
 2. 'derivative' means an aircraft model the major design elements of which are derived from a prior aircraft model;
 3. 'Total development cost', as referred to in Article 4.2: the following cost items, incurred prior to the date of certification, are those which may be taken into account in assessing the 'total development cost' referred to in Article 4.2:
 - preliminary design,
 - engineering design,
 - wind-tunnel, structural, system and laboratory tests,
 - engineering simulators,
 - equipment development work, except for work directly financed by equipment and engine manufacturers,
 - flight tests, including associated ground support, and analysis necessary to obtain certification,
 - documentation required for certification,
 - the cost of manufacture of prototypes and test aircraft, including spares and such modifications as may be necessary to obtain certification, less the estimated fair market value of flight aircraft after refurbishment,
 - jigs and tools, except machine tools, for use on specific programmes;
 4. 'production': all manufacturing, marketing and sales activities other than those described under point 3 with the exception of official export credit financing consistent with the Large Aircraft Sector Understanding of the OECD Understanding on Official Export Financing;
 5. 'indirect government support': financial support provided by a government or by any public body within the territory of a Party for aeronautical applications, including research and development, demonstration projects and development of military aircraft, which provide an identifiable benefit to the development or production of one or more specific large civil aircraft programmes;
 6. 'direct government support' means any financial support provided by a government or by any public body within the territory of a Party which is provided:
 1. for specific large civil aircraft programmes or derivatives; or
 2. to specific companies to the extent that large civil aircraft programmes or derivatives directly benefit;
 7. 'royalty payment' means repayment of a certain predetermined amount of development support per aircraft delivered.
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Information concerning the signing of the Agreement between the European Economic Community and the United States of America concerning trade in large civil aircraft

The Agreement between the European Economic Community and the United States of America concerning trade in large civil aircraft was signed on 17 July 1992 on behalf of the European Economic Community by Mr Frans Andriessen, Vice-President of the Commission of the European Communities, duly empowered by the President of the Council, and by Mr Michael Moskow, Deputy Trade Representative of the United States of America.

COMMISSION

COMMISSION DECISION

of 16 October 1992

on the allocation of the remaining quantity of the import quota for meat of bovine animals, frozen, pursuant to Article 3 of Council Regulation (EEC) No 3667/91

(92/497/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3667/91 of 11 December 1991 opening and providing for the administration of a Community tariff quota for meat of bovine animals, frozen, falling within CN code 0202 and products falling within CN code 0206 29 91 (1992) (1), and in particular Article 4 thereof,

Whereas Regulation (EEC) No 3667/91 provides for the allocation during the fourth quarter of 1992 of quantities not covered by import licence applications at 31 August 1992; whereas those quantities amount to 40,654 tonnes according to notifications from the Member States;

Whereas, when the reference quantities and quantities applied for pursuant to Article 4 (1) and the third subparagraph of Article 4 (2) of Commission Regulation (EEC) No 3701/91 (2), as amended by Regulation (EEC) No 324/92 (3), were notified to the Commission by the national authorities, the figures were wrong in certain cases;

Whereas, in view of the fact that the operators concerned are not responsible for the mistakes made and with a view to ensuring sound administration of this Community import quota, the remaining quantities should be shared out among the operators affected by the mistake in forwarding the figures; whereas, since the remaining quantities are less than the quantities to be corrected, the latter should be reduced proportionately;

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

HAS ADOPTED THIS DECISION:

Article 1

In the framework of the Community tariff quota for meat of bovine animals, frozen, provided for in Regulation (EEC) No 3667/91, the quantities which were not covered by import licence applications at 31 August 1992, namely 40,654 tonnes, shall be allocated as follows:

1. 24,200 tonnes to SA Tarbouriech, Villeneuve-sur-Lot (France);
2. 16,454 tonnes to Heine Foods Ltd (United Kingdom).

Article 2

1. Import licences for the quantities referred to in Article 1 may be issued from the day of notification of this Decision.

2. The provisions of Commission Regulation (EEC) No 2377/80 (4) shall apply.

3. However, notwithstanding Articles 3 and 6 of Regulation (EEC) No 2377/80, the security for import licences shall be ECU 10 per 100 kilograms net weight and the term of validity of licences shall expire on 31 December 1992.

4. Securities as referred to in paragraph 3 shall be lodged when the licences referred to in Article 2 (1) are issued.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 16 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

(1) OJ No L 349, 18. 12. 1991, p. 1.

(2) OJ No L 350, 19. 12. 1991, p. 34.

(3) OJ No L 35, 12. 2. 1992, p. 13.

(4) OJ No L 241, 13. 9. 1980, p. 5.

CORRIGENDA

**Corrigendum to Commission Regulation (EEC) No 2909/92 of 6 October 1992 introducing
a countervailing charge on apples originating in New Zealand**

(Official Journal of the European Communities No L 291 of 7 October 1992)

On page 9, in the title :

for: 'introducing',

read: 'abolishing';

and in the second recital :

for: 'in Chile',

read: 'in New Zealand'.
