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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3010/92

of 20 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 19 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 21 October 1992.

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

Done at Brussels, 20 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 20 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	137,04 (°) (°)
0712 90 19	137,04 (°) (°)
1001 10 10	168,77 (°) (°) (10)
1001 10 90	168,77 (°) (°) (10)
1001 90 91	138,71
1001 90 99	138,71 (11)
1002 00 00	156,03 (°)
1003 00 10	123,80
1003 00 90	123,80 (11)
1004 00 10	118,04
1004 00 90	118,04
1005 10 90	137,04 (°) (°)
1005 90 00	137,04 (°) (°)
1007 00 90	139,53 (°)
1008 10 00	51,07 (11)
1008 20 00	111,01 (°)
1008 30 00	48,86 (°)
1008 90 10	(°)
1008 90 90	48,86
1101 00 00	207,07 (°) (11)
1102 10 00	230,58 (°)
1103 11 10	274,30 (°) (10)
1103 11 90	223,14 (°)

(°) 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.

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

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

COMMISSION REGULATION (EEC) No 3011/92

of 20 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 19 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 21 October 1992.

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

Done at Brussels, 20 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. 4.

ANNEX

to the Commission Regulation of 20 October 1992 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CN code	(ECU/tonne)			
	Current 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	11,83
1001 90 99	0	0	0	11,83
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	16,56

B. Malt

CN code	(ECU/tonne)				
	Current 10	1st period 11	2nd period 12	3rd period 1	4th period 2
1107 10 11	0	0	0	21,06	21,06
1107 10 19	0	0	0	15,73	15,73
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 3012/92
of 20 October 1992
releasing the securities lodged under Regulation (EEC) No 1351/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 251 thereof,

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

Having regard to Council Regulation (EEC) No 3659/90 of 11 December 1990 on products subject to the supplementary trade mechanism during the second stage of Portuguese accession ⁽³⁾, as last amended by Regulation (EEC) No 831/92 ⁽⁴⁾, and in particular Article 1 thereof,

Whereas Commission Regulation (EEC) No 1351/92 of 26 May 1992 laying down detailed rules for applying the supplementary trade mechanism (STM) to imports of cereals into Portugal during the 1992/1993 marketing year ⁽⁵⁾ provides in particular for securities to be lodged to ensure that applications for STM licences are *bona fide*;

Whereas Commission Regulation (EEC) No 2298/92 ⁽⁶⁾ suspends the application of Regulation (EEC) No 1351/92 as from 27 July 1992, as regards imports of common

wheat and barley into Portugal; whereas, as a result, certain licences still valid at that date have not been able to be used; whereas the securities lodged when the applications for those STM licences were submitted should accordingly be released on application by the parties concerned;

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

Securities lodged pursuant to Article 3 (2) of Regulation (EEC) No 1351/92 for STM licence applications relating to imports of common wheat and barley into Portugal are submitted in June and July 1992 shall be released on application by the parties concerned.

Article 2

This Regulation shall enter into force on the seventh 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, 20 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 55, 1. 3. 1986, p. 106.

⁽²⁾ OJ No L 293, 27. 10. 1988, p. 7.

⁽³⁾ OJ No L 362, 27. 12. 1990, p. 38.

⁽⁴⁾ OJ No L 88, 3. 4. 1992, p. 14.

⁽⁵⁾ OJ No L 145, 27. 5. 1992, p. 47.

⁽⁶⁾ OJ No L 221, 6. 8. 1992, p. 41.

COMMISSION REGULATION (EEC) No 3013/92
of 20 October 1992
fixing additional amounts for poultrymeat products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat⁽¹⁾, as last amended by the Regulation (EEC) No 1235/89⁽²⁾, and in particular Article 8 (4) thereof,

Whereas if, for a given product, the free-at-frontier offer price (hereinafter called the 'offer price') falls below the sluice-gate price, the levy applicable to that product must be increased by an additional amount equal to the difference between the sluice-gate price and the offer price determined in accordance with Article 1 of Commission Regulation No 163/67/EEC of 26 June 1967 on fixing the additional amount for imports of poultry-farming products from third countries⁽³⁾, as last amended by Regulation (EEC) No 3116/89⁽⁴⁾;

Whereas the offer price must be determined for all imports from all third countries; whereas, if exports from one or more third countries are effected at abnormally low prices, lower than prices ruling for other third countries, a second offer price must be determined for exports from these other countries;

Whereas, pursuant to Commission Regulation (EEC) No 565/68⁽⁵⁾, as last amended by Regulation (EEC) No 3986/87⁽⁶⁾, the import levies on slaughtered fowls, ducks and geese originating in and coming from Poland are not increased by an additional amount;

Whereas, pursuant to Commission Regulation (EEC) No 2261/69⁽⁷⁾, as last amended by Regulation (EEC) No 3986/87, the import levies on slaughtered ducks and

geese originating in and coming from Romania are not increased by an additional amount;

Whereas, pursuant to Commission Regulation (EEC) No 2474/70⁽⁸⁾, as amended by Regulation (EEC) No 3986/87, the import levies on slaughtered turkeys originating in and coming from Poland are not increased by an additional amount;

Whereas, pursuant to Commission Regulation (EEC) No 2164/72⁽⁹⁾, as amended by Regulation (EEC) No 3987/87⁽¹⁰⁾, the import levies on slaughtered fowls and geese originating in and coming from Bulgaria are not increased by an additional amount;

Whereas the regular review of the information serving as a basis for the determination of average offer prices for poultrymeat products indicates that additional amounts corresponding to the figures shown in the Annex hereto should be fixed for the imports specified in that Annex;

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

HAS ADOPTED THIS REGULATION:

Article 1

The additional amounts provided for in Article 8 of Regulation (EEC) No 2777/75 shall be as set out in the Annex hereto for the products listed in Article 1 (1) of that Regulation which appear in the said Annex.

Article 2

This Regulation shall enter into force on 21 October 1992.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 77.

⁽²⁾ OJ No L 128, 11. 5. 1989, p. 29.

⁽³⁾ OJ No 129, 28. 6. 1967, p. 2577/67.

⁽⁴⁾ OJ No L 300, 18. 10. 1989, p. 10.

⁽⁵⁾ OJ No L 107, 8. 5. 1968, p. 7.

⁽⁶⁾ OJ No L 376, 31. 12. 1987, p. 7.

⁽⁷⁾ OJ No L 286, 14. 11. 1969, p. 24.

⁽⁸⁾ OJ No L 265, 8. 12. 1970, p. 13.

⁽⁹⁾ OJ No L 232, 12. 10. 1972, p. 3.

⁽¹⁰⁾ OJ No L 376, 31. 12. 1987, p. 20.

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

Done at Brussels, 20 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 20 October 1992 fixing additional amounts for poultry-meat products

<i>(ECU/100 kg)</i>		
CN code	Origin of imports ⁽¹⁾	Additional amount
0207 39 11	01	50,00
0207 41 10	01	50,00
0207 10 31	02	30,00
0207 22 10	02	30,00
0207 10 39	02	30,00
0207 22 90	02	30,00
0207 39 23	02	60,00
0207 41 51	02	60,00

⁽¹⁾ Origin :

01 Brazil, Thailand and China.

02 United States of America.

COMMISSION REGULATION (EEC) No 3014/92

of 20 October 1992

fixing the import levies on white sugar and raw sugar

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

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

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1813/92 ⁽³⁾, as last amended by Regulation (EEC) No 2946/92 ⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Commission Regulation (EEC) No 1813/92 to the information known to the Commission that the levies at present in force should be altered to the amounts set out in the Annex hereto;

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

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

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

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

Whereas these exchange rates being those recorded on 19 October 1992,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 21 October 1992.

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

Done at Brussels, 20 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 6, 11. 1. 1992, p. 19.

⁽³⁾ OJ No L 183, 3. 7. 1992, p. 18.

⁽⁴⁾ OJ No L 294, 10. 10. 1992, p. 19.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 20 October 1992 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy ⁽¹⁾
1701 11 10	39,68 ⁽¹⁾
1701 11 90	39,68 ⁽¹⁾
1701 12 10	39,68 ⁽¹⁾
1701 12 90	39,68 ⁽¹⁾
1701 91 00	46,80
1701 99 10	46,80
1701 99 90	46,80 ⁽²⁾

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

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

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

**COMMISSION REGULATION (EEC) No 3015/92
of 20 October 1992**

introducing a countervailing charge on cucumbers originating in Romania

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

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

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1754/92⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

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

Whereas Commission Regulation (EEC) No 258/92 of 3 February 1992 fixing for the 1992 marketing year the reference prices for cucumbers⁽³⁾ fixed the reference price for products of class I at ECU 81,62 per 100 kilograms net for the period 1 October to 10 November 1992;

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

Whereas, in accordance with Article 3 (1) of Commission Regulation (EEC) No 2118/74⁽⁴⁾, as last amended by Regulation (EEC) No 3811/85⁽⁵⁾, the prices to be taken

into consideration must be recorded on the representative markets or, in certain circumstances, on other markets; whereas it is necessary to multiply the prices with the coefficient fixed in the first indent of Article 1 (2) of Regulation (EEC) No 258/92;

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

A countervailing charge of ECU 34,24 per 100 kilograms net is applied to cucumbers (CN codes 0707 00 11 and 0707 00 19) originating in Romania.

Article 2

This Regulation shall enter into force on 22 October 1992.

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

Done at Brussels, 20 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 28, 4. 2. 1992, p. 6.

⁽⁴⁾ OJ No L 220, 10. 8. 1974, p. 20.

⁽⁵⁾ OJ No L 368, 31. 12. 1985, p. 1.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

COMMISSION REGULATION (EEC) No 3016/92
of 20 October 1992

determining the extent to which applications lodged in October 1992 for import licences for fresh, chilled or frozen beef under the import 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 898/92 of 8 April 1992 laying down detailed rules for the application of the import arrangements for fresh, chilled or frozen beef provided for in the Interim Association Agreements between the Community and the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic⁽¹⁾, amended by Regulation (EEC) No 1265/92⁽²⁾, and in particular Article 3 (4) thereof,

Whereas Article 1 (1) and (2) of Regulation (EEC) No 898/92 fixes the quantity of fresh, chilled and frozen beef originating in Poland, Hungary and the Czech and Slovak Federal Republic which may be imported under special conditions in respect of the period 1 October to

31 December 1992; whereas the quantities covered by import licence applications are such that import licences may be granted for the full quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

Import licences shall be granted for the full quantities covered by applications submitted for the period 1 October to 31 December 1992 under the import arrangements referred to in Regulation (EEC) No 898/92,

Article 2

This Regulation shall enter into force on 21 October 1992.

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

Done at Brussels, 20 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 95, 9. 4. 1992, p. 44.

⁽²⁾ OJ No L 135, 19. 5. 1992, p. 6.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE 92/76/EEC

of 6 October 1992

recognizing protected zones exposed to particular plant health risks in the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾, as last amended by Commission Directive 92/10/EEC⁽²⁾, and in particular the first subparagraph of Article 2 (1) (h) thereof,

Having regard to the requests made by Denmark, Greece, Spain, France, Ireland, Italy, Portugal and the United Kingdom,

Whereas under the provisions of Directive 77/93/EEC, 'protected zones' exposed to particular plant health risks may be defined and therefore may be accorded special protection under conditions compatible with the internal market;

Whereas, moreover, Member States may request the recognition as protected zone, in particular, of a zone in which one or more harmful organisms referred to in the said Directive, which are established in one or more parts of the Community, are not endemic or established, despite conditions being favourable for them to establish themselves there;

Whereas certain Member States have requested that certain zones be recognized as protected zones;

Whereas the abovementioned requests should be based on the grounds that the results of appropriate surveys, monitored by Commission experts, confirm that one or more of the harmful organisms, in respect of which the zone is to be recognized as a protected zone, are not endemic or established there;

Whereas, however, the details of such surveys are not yet fully established at Community level;

Whereas the recognition should be provisional only and based on the available information submitted by the Member States concerned;

Whereas an extension of the recognition beyond 1994 will be decided only on the basis of the results of the required surveys as monitored by Commission experts;

Whereas a provision should be foreseen for modifying later, if necessary, the list of protected zones;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The zones in the Community listed in the Annex are hereby recognized for a period expiring on 31 December 1994 as 'protected zones' referred to in the first subparagraph of Article 2 (1) (h) of Directive 77/93/EEC, in respect of the harmful organism(s) listed against their names in the Annex.

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽²⁾ OJ No L 70, 17. 3. 1992, p. 27.

Article 2

The extension of the recognition beyond the date referred to in Article 1, and any amendment to the list of protected zones referred to in Article 1, shall be made in accordance with the procedure laid down in Article 16a of Directive 77/93/EEC, taking into account the results of appropriate surveys based on Community conditions and monitored by Commission experts.

Article 3

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive on the date referred to in Article 3 (1) of Council Directive 91/683/EEC⁽¹⁾. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, these shall contain a reference to this Directive or shall be accom-

panied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall immediately communicate to the Commission all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 6 October 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 376, 31. 12. 1991, p. 29.

ANNEX

ZONES IN THE COMMUNITY RECOGNIZED AS 'PROTECTED ZONES', IN RESPECT OF HARMFUL ORGANISM(S) LISTED AGAINST THEIR NAMES

Harmful organisms	Protected zones : territory of
(a) Insects, mites and nematodes, at all stages of their development	
1. <i>Anthonomus grandis</i> (Boh.)	Greece, Spain, Italy
2. <i>Bemisia tabaci</i> Genn. (European populations)	Denmark, Ireland, Portugal, United Kingdom
3. <i>Cephalcia lariciphila</i> (Klug.)	France, Ireland, United Kingdom (Northern Ireland and the Isle of Man)
4. <i>Dendroctonus micans</i> Kugelan	Greece, Spain, Ireland, Italy, Portugal, United Kingdom (Scotland, Northern Ireland, England : the following counties : Bedfordshire, Berkshire, Buckinghamshire, Cambridgeshire, Cleveland, Cornwall, Cumbria, Devon, Dorset, Durham, Essex, Hampshire, Hertfordshire, Humberside, Isle of Man, Isle of Wight, Isles of Scilly, Kent, Lincolnshire, Norfolk, Northants, Northumberland, Nottinghamshire, Oxfordshire, Somerset, Suffolk, Surrey, Sussex East, Sussex West, Tyne and Wear, Wiltshire, Yorkshire South, Yorkshire West, and the following parts of counties : Avon ; that part of the county to the north of the southern boundary of the M4 motorway ; Derbyshire ; the districts of North-east Derbyshire, Chesterfield, Bolsover ; Leicestershire ; the districts of Charnwood, Melton, Rutland, Harborough, Oadby and Wigston, Leicester, Blaby ; Yorkshire North ; the districts of Scarborough, Ryedale, Hambleton, Richmondshire, Harrogate, York, Selby)
5. <i>Gilpinia hercyniae</i> (Hartig)	Greece, France, Ireland, United Kingdom (Northern Ireland and the Isle of Man)
6. <i>Gonipterus scutellatus</i> Gyll	Greece, Portugal
7. <i>Ips amitinus</i> Eichhof	Greece, Spain, France (Corsica), Ireland, Italy, Portugal, United Kingdom
8. <i>Ips cembrae</i> Heer	Greece, Spain, Ireland, Portugal, United Kingdom (Northern Ireland and the Isle of Man)
9. <i>Ips duplicatus</i> Sahlberg	Greece, Spain, Ireland, Italy, Portugal, United Kingdom
10. <i>Ips sexdentatus</i> Boerner	Greece, Ireland, United Kingdom (Northern Ireland and the Isle of Man)
11. <i>Ips typographus</i> Heer	Greece, Spain, Ireland, Portugal, United Kingdom
12. <i>Leptinotarsa decemlineata</i> Say	Spain (Menorca and Ibiza), Ireland, Portugal (Azores and Madeira), United Kingdom
13. <i>Matsuccoccus feytaudi</i> Duc.	France (Corsica)
14. <i>Pissodes</i> spp. (European)	Ireland, United Kingdom (Northern Ireland and the Isle of Man)
15. <i>Sternochetus mangiferae</i> Fabricius	Spain, Portugal
16. <i>Thaumetopoea pityocampa</i> (Den. et Schiff.)	Spain (Ibiza)
17. All unknown non-European organisms harmful to fruit of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf. and their hybrids	Greece, France (Corsica), Italy

Harmful organisms	Protected zones : territory of
(b) Bacteria	
1. <i>Curtobacterium flaccumfaciens</i> pv. <i>flaccumfaciens</i> (Hedges) Col.	Greece, Spain, Italy, Portugal
2. <i>Erwinia amylovora</i> (Burr.) Winsl. et al.	Spain, France (Champagne-Ardenne, Alsace (except Department Bas Rhin), Lorraine, Franche-Comté, Rhône-Alpes, Bourgogne, Auvergne, Provence-Alpes-Côte d'Azur, Corse, Languedoc-Roussillon), Ireland, Italy, Portugal, United Kingdom (Northern Ireland, the Isle of Man and the Channel Islands)
3. All unknown non-European organisms harmful to fruit of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf. and their hybrids	Greece, France (Corsica), Italy
(c) Fungi	
1. <i>Glomerella gossypii</i> Edgerton	Greece, Italy (Sicily)
2. <i>Gremmeniella abietina</i> (Lag.) Morelet	Ireland, United Kingdom (Northern Ireland and the Isle of Man)
3. <i>Hypoxyylon mommatum</i> (Wahl.) J. Miller	Ireland, United Kingdom (Northern Ireland and the Isle of Man)
4. <i>Phytophthora cinnamoni</i> Rands	Greece (Crete)
5. All unknown non-European organisms harmful to fruit of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf. and their hybrids	Greece, France (Corsica), Italy
(d) Viruses and virus-like organisms	
1. Beet necrotic yellow vein virus	Denmark, Ireland, Portugal (Azores), United Kingdom
2. Tomato spotted wilt virus	Denmark
3. All unknown non-European organisms harmful to fruit of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf. and their hybrids	Greece, France (Corsica), Italy

COMMISSION DECISION

of 7 October 1992

imposing a fine pursuant to Article 15 (1) of Council Regulation No 17 on CSM
NV (Case IV/33.791 — CSM — ex IV/33.638 — Sugar)

(Only the Dutch text is authentic)

(92/500/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 14 and 15 thereof,Having given the undertaking in question the opportunity to make known its views of the objections raised by the Commission, pursuant to Article 19 (1) of Regulation No 17 and Commission Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17 ⁽²⁾,

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

Whereas :

I. THE FACTS

- (1) By decision of 6 December 1990, adopted pursuant to Article 14 (3) of Regulation No 17, the Commission ordered CSM NV (hereinafter referred to as CSM) to submit to an investigation. The decision was notified to CSM on 12 December 1990. In the body of the decision it was explained that the verification was ordered because the Commission had been informed of allegations that NV Centrale Suiker Maatschappij had participated in arrangements or concerted practices with certain other Community producers concerning the marketing of sugar.

The Commission officials charged with the investigation began carrying it out immediately after the decision had been notified. This included examina-

tion of the 12 documents specified in Annex I ⁽³⁾. The Commission officials intended to take copies of those documents which related to the exchange of information between CSM and Suiker Unie concerning the purchasing of sugar beet, as well as the passing on of information emanating from Tiense Suikerraffinaderij NV which involved its purchase prices for sugar beet. However, CSM prevented them from doing so. It stated that it was not prepared to give copies of the documents in question because it could not reasonably be argued that the documents could prove any fact covered by the subject matter of the investigation, as specified in the written authorization presented by the abovementioned Commission officials.

The Commission officials took minutes of the above. These were signed by CSM. Extracts from the documents allowing only their identification were annexed to the minutes.

The investigation was continued on the following day, 13 December 1990. In the course of that day, CSM stated that it was now prepared to allow copies to be taken of four of the abovementioned 12 documents. It stated that it had been mistaken about the content of the four documents. The Commission officials took copies of them and confirmed this in writing (Annex II to this Decision) ⁽³⁾.

On 19 May 1991 the Commission decided to initiate a proceeding against CSM pursuant to Regulation No 17. On 13 June 1991 a decision was adopted pursuant to Article 16 (1) of Regulation No 17 imposing a periodic penalty payment on CSM and a statement of objections sent in the context of the abovementioned proceeding.

On 14 June 1991, as a result of the Commission Decision imposing a periodic penalty payment, CSM declared its readiness, although protesting that it had no choice, to allow the Commission to make copies of the documents referred to in Annex I to the Decision and not included in Annex II.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

⁽³⁾ This Annex has not been published.

These copies were made at the offices of CSM on 2 July 1991.

On 12 July 1991 the Commission received a reply under the abovementioned proceeding. CSM declined a hearing.

- (2) By letter of 21 December 1990 CSM asked the Commission to return the copy of a business document concerning sugar-beet prices which the Commission officials had taken during the investigation. The grounds advanced for the request were the same as those given in the statement recorded in the abovementioned minutes.

The Commission provisionally refused this request since the inquiries in the proceeding which led to the investigation at the premises of CSM have not yet been completed. It could not, consequently, be established with certainty that the document was not relevant to the investigation. In any case, the document is not, according to the Commission, one that is obviously not related to the subject matter of the investigation as specified in the decision of 6 December 1990.

II. LEGAL ASSESSMENT

1. Article 14 of Regulation No 17

Pursuant to Article 14 of Regulation No 17, the Commission may, in carrying out the duties assigned to it by Article 89 and by provisions adopted pursuant to Article 87 of the Treaty, undertake all necessary investigations into undertakings. To this end, the officials authorized by the Commission are empowered, *inter alia*, to examine the books and other business records of the undertaking and to take copies of or extracts from these books and business records.

Pursuant to Article 14 (3) of the same Regulation, undertakings are required to submit to investigations ordered by decision of the Commission.

The decision of 6 December 1990 requires CSM to allow the Commission officials charged with the investigation to examine the business records specified by them and to take copies of such business records. CSM failed to comply with this requirement in respect of all of the documents listed in Annex I.

The fact that, in the case of the documents in Annex II, on the second day of the investigations, and in the case of the other documents, after receiving the Commission Decision imposing periodic penalty payments, CSM nevertheless allowed the Commission to take the necessary copies where it had previously refused to let it do so, has no bearing on this infringement. The obligation incumbent on an undertaking to submit to an investigation ordered by a decision adopted pursuant to Article 14

(3) of Regulation No 17 is not satisfied even if the undertaking's refusal to let officials charged with the investigation by the Commission to exercise their powers is only temporary. Any other interpretation would jeopardize the effectiveness of the investigation.

CSM's view that the documents in question cannot prove any facts covered by the subject matter of the investigation, as specified in the Commission's decision of 6 December 1990, is unacceptable. It cannot be deduced either from Article 14 of Regulation No 17 or from the abovementioned Commission decision that the undertaking's obligation to cooperate in the investigation is limited to supplying such documents as it considers relevant. It has consistently been held in the case law of the Court of Justice of the European Communities that it is for the Commission to determine which business records must be presented for examination and from which any copies of extracts are to be taken (Cases 155/79, *AM&S v. Commission* ⁽¹⁾ and 46/87, *Hoechst v. Commission* ⁽²⁾; confirmed, with regard to requests for information under Article 11 of Regulation No 17, by Case 374/87, *Orkem v. Commission* ⁽³⁾).

CSM however considers that an undertaking's obligation to cooperate in an investigation is limited by the subject matter and purpose of the investigation as defined in the Commission decision. CSM concludes that it is up to the undertakings themselves to judge the extent to which they are required to cooperate. Both of these positions are supported, in CSM's view, by the abovementioned Hoechst judgment.

The Commission does not call into question that in the first instance it is up to the company itself to assess its rights in the framework of a verification in the case of dispute. However, at issue is the question how an undertaking should assert its rights. The answer is that the undertaking cannot take matters into its own hands but must apply to the Court of First Instance of the European Communities, which alone is competent to supervise the Commission's conduct.

Of course, the Commission officials charged with the investigation have only such powers as are specified in Article 14 of Regulation No 17 and in the investigation decision. They are under an obligation not to examine business records, or to stop examining such records, if they are obviously or in the Commission officials' opinion not related to the subject matter of the investigation.

However, such documents are not, in the Commission's opinion, involved in this instance. Nor does CSM's minuted statement justifying its refusal to have copies taken, provide any evidence that the relevant documents are obviously not related to the subject matter of the investigation as specified in the decision of 6 December

⁽¹⁾ [1982] ECR 1575.

⁽²⁾ [1989] ECR 2859.

⁽³⁾ [1989] ECR 3283.

1990. The exchange of information concerning the purchasing of sugar beet, which is itself a major component in the cost price of the final product, could, by virtue of Commission Decision 82/895/EEC⁽¹⁾ in Case UGAL/BNIC, constitute an infringement of the competition rules of the EEC Treaty in relation to the marketing of sugar.

However, only the Court of First Instance of the European Communities is entitled to review the lawfulness of an investigation decision and of the associated actions by the Commission officials charged with the investigation. If those officials take copies of or extracts from business records which, in the opinion of the undertaking concerned, are not related to the subject matter of the investigation, the undertaking can ask the Commission to return the copies or extracts taken. The undertaking is also able to apply to have the investigation decision declared void. At all events, the Commission is not allowed to make use of evidence which it acquired on the basis of an unlawful investigation decision or outside the scope of any such decision (orders of the President of the Court of Justice of 26 March and 28 October 1987 in Cases 46/87R⁽²⁾ and 85/87R⁽³⁾).

2. Article 15 of Regulation No 17

Pursuant to Article 15 (1) (c) of Regulation No 17, the Commission may by decision impose on an undertaking a fine of from 100 to 5 000 units of account where, intentionally or negligently, the undertaking refuses to submit to an investigation ordered by decision issued in implementation of Article 14 (3).

CSM has not submitted, within the meaning of that provision, to the investigation ordered by the Commission by decision of 6 December 1990, since it prevented the Commission officials charged with the investigation (as explained above) from taking copies of the documents referred to in Annex I.

Consequently, the Commission considers that there are grounds for imposing a fine on CSM. In setting the amount of this fine, account is taken of the fact that, on the second day of the investigation, CSM at its own initiative allowed the Commission officials to take copies of the four documents referred to in Annex II. It is therefore assumed that in respect of these documents the infringement of Article 14 of Regulation No 17 occurred through negligence. Moreover, it cannot be disputed that CSM otherwise cooperated in the investigation. On the other hand, CSM intentionally prevented copies of the other documents from being taken, and allowed such copies to

be taken only when threatened with the imposition of periodic penalty payments. Even if CSM had been mistaken about the content and extent of its obligations, in respect of these further documents there can be no question of negligence since CSM acted in full knowledge of all relevant facts,

HAS ADOPTED THIS DECISION:

Article 1

CSM NV failed to submit fully to the investigation ordered by the Commission in its decision of 6 December 1990 adopted pursuant to Article 14 (3) of Regulation No 17 by temporarily preventing the taking of copies of the documents specified in Annex I.

Article 2

A fine of ECU 3 000 is hereby imposed on CSM NV.

Article 3

The fine imposed by Article 2 shall be paid, within three months of notification of this Decision, to the following bank account:

No 310-0933000-43,
Banque Bruxelles Lambert,
Agence européenne,
Rond-Point Schuman 5,
B-1040 Brussels.

After the expiry of that period, interest shall be automatically payable at the rate charged by the European Monetary Cooperation Fund for transactions in ecus on the first working day of the month in which this Decision was adopted, plus 3,5 % percentage points, i.e. 14,25 %.

Article 4

This Decision is addressed to:

CSM NV,
Nienoord 13,
NI-1112 XE Diemen.

Done at Brussels, 7 October 1992.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ No L 379, 31. 12. 1982, p. 1.

⁽²⁾ [1987] ECR 1549.

⁽³⁾ [1987] ECR 4367.