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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3263/92

of 9 November 1992

**extending the provisional anti-dumping duty on imports into the Community of
outer rings of tapered roller bearings originating in Japan**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas Commission Regulation (EEC) No 1994/92⁽²⁾ imposed a provisional anti-dumping duty on imports into the Community of outer rings of tapered roller bearings originating in Japan;

Whereas examination of the facts has not yet been completed and the Commission has informed the exporters known to be concerned of its intention to propose an

extension of the validity of the provisional duty for an additional period of two months;

Whereas the exporters have raised no objections,

HAS ADOPTED THIS REGULATION:

Article 1

The validity of the provisional anti-dumping duty on imports into the Community of outer rings of tapered roller bearings originating in Japan imposed by Regulation (EEC) No 1994/92 is hereby extended for a period of two months. It shall cease to apply if, before the expiry of that period, the Council adopts definitive measures or the proceeding is terminated pursuant to Article 9 of Regulation (EEC) No 2423/88.

Article 2

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, 9 November 1992.

For the Council

The President

D. HURD

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 199, 18. 7. 1992, p. 8.

COUNCIL REGULATION (EEC) No 3264/92**of 9 November 1992****extending the provisional anti-dumping duty on imports of synthetic fibres of polyesters originating in India and the Republic of Korea**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas Commission Regulation (EEC) No 1956/92⁽²⁾ imposed a provisional anti-dumping duty on imports of synthetic fibres of polyesters originating in India and the Republic of Korea;

Whereas examination of the facts has not yet been completed and the Commission has informed the exporters known to be concerned of its intention to propose an

extension of the validity of the provisional duty for an additional period of two months;

Whereas the exporters have raised no objections,

HAS ADOPTED THIS REGULATION:

Article 1

The validity of the provisional anti-dumping duty on imports of synthetic fibres of polyesters originating in India and the Republic of Korea imposed by Regulation (EEC) No 1956/92 is hereby extended for a period of two months. It shall cease to apply if, before the expiry of that period, the Council adopts definitive measures or the proceeding is terminated pursuant to Article 9 of Regulation (EEC) No 2423/88.

Article 2

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, 9 November 1992.

*For the Council**The President*

D. HURD

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽²⁾ OJ No L 197, 16. 7. 1992, p. 25.

COMMISSION REGULATION (EEC) No 3265/92

of 11 November 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 10 November 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 12 November 1992.

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

Done at Brussels, 11 November 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 11 November 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CN code	Levy ⁽¹⁾
0709 90 60	133,39 ⁽²⁾ ⁽³⁾
0712 90 19	133,39 ⁽²⁾ ⁽³⁾
1001 10 10	164,78 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 10 90	164,78 ⁽¹⁾ ⁽³⁾ ⁽¹⁰⁾
1001 90 91	129,61
1001 90 99	129,61 ⁽¹¹⁾
1002 00 00	153,35 ⁽⁹⁾
1003 00 10	120,35
1003 00 90	120,35 ⁽¹¹⁾
1004 00 10	112,75
1004 00 90	112,75
1005 10 90	133,39 ⁽²⁾ ⁽³⁾
1005 90 00	133,39 ⁽²⁾ ⁽³⁾
1007 00 90	136,91 ⁽⁴⁾
1008 10 00	38,29 ⁽¹¹⁾
1008 20 00	105,65 ⁽⁴⁾
1008 30 00	39,01 ⁽⁵⁾
1008 90 10	⁽⁷⁾
1008 90 90	39,01
1101 00 00	194,29 ⁽⁸⁾ ⁽¹¹⁾
1102 10 00	227,87 ⁽⁸⁾
1103 11 10	268,02 ⁽⁸⁾ ⁽¹⁰⁾
1103 11 90	209,18 ⁽⁸⁾

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

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

⁽³⁾ Where maize originating in the ACP is imported into the Community the levy is reduced by ECU 1,81/tonne.

⁽⁴⁾ Where millet and sorghum originating in the ACP is imported into the Community the levy is applied in accordance with Regulation (EEC) No 715/90.

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by ECU 0,60/tonne.

⁽⁶⁾ The import levy charged on rye produced in Turkey and transported directly from that country to the Community is laid down in Council Regulation (EEC) No 1180/77 and Commission Regulation (EEC) No 2622/71.

⁽⁷⁾ The levy applicable to rye shall be charged on imports of the product falling within CN code 1008 90 10 (triticale).

⁽⁸⁾ On importation into Portugal the levy is increased by the amount specified in Article 2 (2) of Regulation (EEC) No 3808/90.

⁽⁹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC, except if paragraph 4 of the same Article applies.

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

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

COMMISSION REGULATION (EEC) No 3266/92

of 11 November 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 10 November 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 12 November 1992.

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

Done at Brussels, 11 November 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 11 November 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 11	1st period 12	2nd period 1	3rd period 2
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	16,35	16,35	18,45
1001 90 99	0	16,35	16,35	18,45
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	0,24	0,24	0,24
1004 00 90	0	0,24	0,24	0,24
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	22,89	22,89	25,83

B. Malt

(ECU/tonne)

CN code	Current 11	1st period 12	2nd period 1	3rd period 2	4th period 3
1107 10 11	0	29,10	29,10	32,84	32,84
1107 10 19	0	21,75	21,75	24,54	24,54
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 3267/92
of 11 November 1992
fixing the import levies on rice and broken rice

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

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

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

Having regard to Commission Regulation (EEC) No 833/87 of 23 March 1987 laying down detailed rules for the application of Council Regulation (EEC) No 3877/86 on imports rice of the long-grain aromatic Basmati variety falling within CN codes 1006 10, 1006 20 and 1006 30 ⁽³⁾, as last amended by Regulation (EEC) No 674/91 ⁽⁴⁾, and in particular Article 8 thereof,

Whereas the import levies on rice and broken rice were fixed by Commission Regulation (EEC) No 2530/92 ⁽⁵⁾, as last amended by Regulation (EEC) No 3215/92 ⁽⁶⁾,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 12 November 1992.

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

Done at Brussels, 11 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 80, 24. 3. 1987, p. 20.

⁽⁴⁾ OJ No L 75, 21. 3. 1991, p. 29.

⁽⁵⁾ OJ No L 254, 1. 9. 1992, p. 21.

⁽⁶⁾ OJ No L 320, 5. 11. 1992, p. 15.

ANNEX

to the Commission Regulation of 11 November 1992 fixing the import levies on rice and broken rice

(ECU/tonne)

CN code	Levies (°)		
	Arrangement in Regulation (EEC) No 3877/86 (°)	ACP Bangladesh (°) (°) (°)	Third countries (except ACP) (°)
1006 10 21	—	149,82	306,84
1006 10 23	—	146,85	300,91
1006 10 25	—	146,85	300,91
1006 10 27	225,68	146,85	300,91
1006 10 92	—	149,82	306,84
1006 10 94	—	146,85	300,91
1006 10 96	—	146,85	300,91
1006 10 98	225,68	146,85	300,91
1006 20 11	—	188,17	383,55
1006 20 13	—	184,47	376,14
1006 20 15	—	184,47	376,14
1006 20 17	282,11	184,47	376,14
1006 20 92	—	188,17	383,55
1006 20 94	—	184,47	376,14
1006 20 96	—	184,47	376,14
1006 20 98	282,11	184,47	376,14
1006 30 21	—	233,17	490,20 (°)
1006 30 23	—	282,00	587,78 (°)
1006 30 25	—	282,00	587,78 (°)
1006 30 27	440,84 (°)	282,00	587,78 (°)
1006 30 42	—	233,17	490,20 (°)
1006 30 44	—	282,00	587,78 (°)
1006 30 46	—	282,00	587,78 (°)
1006 30 48	440,84 (°)	282,00	587,78 (°)
1006 30 61	—	248,68	522,07 (°)
1006 30 63	—	302,70	630,10 (°)
1006 30 65	—	302,70	630,10 (°)
1006 30 67	472,58 (°)	302,70	630,10 (°)
1006 30 92	—	248,68	522,07 (°)
1006 30 94	—	302,70	630,10 (°)
1006 30 96	—	302,70	630,10 (°)
1006 30 98	472,58 (°)	302,70	630,10 (°)
1006 40 00	—	67,45	140,90

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

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

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

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

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

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

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

COMMISSION REGULATION (EEC) No 3268/92**of 11 November 1992****fixing the premiums to be added to the import levies on rice and broken rice**

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

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

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

Whereas the premiums to be added to the levies on rice
and broken rice were fixed by Commission Regulation
(EEC) No 2531/92 ⁽³⁾, as last amended by Regulation
(EEC) No 3216/92 ⁽⁴⁾;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 12 November
1992.

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

Done at Brussels, 11 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 73, 19. 3. 1992, p. 7.

⁽³⁾ OJ No L 254, 1. 9. 1992, p. 24.

⁽⁴⁾ OJ No L 320, 5. 11. 1992, p. 17.

ANNEX

to the Commission Regulation of 11 November 1992 fixing the premiums to be added to the import levies on rice and broken rice

CN code	(ECU/tonne)			
	Current 11	1st period 12	2nd period 1	3rd period 2
1006 10 21	0	0	0	—
1006 10 23	0	0	0	—
1006 10 25	0	0	0	—
1006 10 27	0	0	0	—
1006 10 92	0	0	0	—
1006 10 94	0	0	0	—
1006 10 96	0	0	0	—
1006 10 98	0	0	0	—
1006 20 11	0	0	0	—
1006 20 13	0	0	0	—
1006 20 15	0	0	0	—
1006 20 17	0	0	0	—
1006 20 92	0	0	0	—
1006 20 94	0	0	0	—
1006 20 96	0	0	0	—
1006 20 98	0	0	0	—
1006 30 21	0	0	0	—
1006 30 23	0	0	0	—
1006 30 25	0	0	0	—
1006 30 27	0	0	0	—
1006 30 42	0	0	0	—
1006 30 44	0	0	0	—
1006 30 46	0	0	0	—
1006 30 48	0	0	0	—
1006 30 61	0	0	0	—
1006 30 63	0	0	0	—
1006 30 65	0	0	0	—
1006 30 67	0	0	0	—
1006 30 92	0	0	0	—
1006 30 94	0	0	0	—
1006 30 96	0	0	0	—
1006 30 98	0	0	0	—
1006 40 00	0	0	0	0

COMMISSION REGULATION (EEC) No 3269/92**of 10 November 1992**

laying down certain implementing provisions of Articles 161, 182 and 183 of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, as regards the export procedure and re-export and goods leaving the customs territory of the Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, hereinafter referred to as 'the Code', and in particular Article 249 thereof,

Whereas Article 161 of the Code introduced an export procedure in accordance with the internal market established from 1 January 1993;

Whereas, according to that procedure, the export declaration must be lodged at the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment;

Whereas certain provisions are needed in order to determine more clearly the place where the exporter is established and to provide for the derogations required to take account of certain special situations;

Whereas it is appropriate to reduce export formalities for certain means of transport as well as in the case of certain uses of a transit procedure under certain conditions;

Whereas, in order to take account of the internal market, it is appropriate to lay down the rules applicable where simplified procedures are used;

Whereas it is also appropriate to lay down the procedures applicable to re-exportation referred to in Article 182 of the Code;

Whereas it is necessary in accordance with Article 183 of the Code to adopt measures with a view to monitoring compliance with control measures on export with regard to goods leaving the customs territory of the Community with the intention of their being reintroduced into a different part of that territory, when the goods in question are not covered by a customs procedure;

Whereas it is appropriate to lay down transitional provisions to deal with the situation of goods where export

formalities were completed in 1992 but which leave the customs territory only in 1993;

Whereas it is appropriate to limit the application of Article 4 (2) of this Regulation to a period of two years; whereas it is appropriate to review the subject in the light of experience before that time;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER 1**Normal procedure***Article 1*

1. The exporter, within the meaning of Article 161 (5) of the Code, shall be considered to be the person on whose behalf the export declaration is made and who is the owner of the goods or has a similar right of disposal over them at the time when the declaration is accepted.

2. Where ownership of a similar right of disposal belongs to a person established outside the Community pursuant to the contract on which the export is based, the exporter shall be considered to be the contracting party established in the Community.

Article 2

In cases involving sub-contracting, the export declaration may also be lodged at the customs office responsible for the place where the sub-contractor is established.

Article 3

Where, for administrative reasons, the first sentence of Article 161 (5) of the Code cannot be applied, the export declaration may be lodged with any customs office, in the Member State concerned, which is competent for the operation in question.

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1.

Article 4

1. Where there are duly justified good reasons, an export declaration may be accepted:

- at a customs office other than that referred to in the first sentence of Article 161 (5) of the Code,
- at a customs office other than that referred to in Article 3 of this Regulation.

In these cases, checks relating to the application of prohibitions and restrictions must take account of the special nature of the situation.

2. Where in the cases referred to in paragraph 1, export formalities are not completed in the exporter's Member State, the customs office where the export declaration has been lodged is to send a copy of the Single Administrative Document to a designated office in the exporter's Member State where the exporter is established.

Article 5

Without prejudice to Article 17 of Commission Regulation (EEC) No 2453/92⁽¹⁾, where the export declaration is made on the basis of the Single Administrative Document, copies No 1, No 2 and No 3 shall be used. The customs office where the export declaration has been lodged (customs office of export) shall stamp box A and, where appropriate, complete box D. On granting release of the goods, it shall retain copy No 1, send copy No 2 to the statistical office of the Member State of the customs office of export and return copy No 3 to the person concerned.

Article 6

1. Copy No 3 of the Single Administrative Document and the goods released for export must be presented to customs at the customs office of exit.

2. 'Customs office of exit' means:

- (a) in the case of goods exported by rail, post, air or sea, the customs office competent for the place where the goods are taken over under a single transport contract for carriage to a third country by the railway companies, the postal authorities of the Member States, the airlines or the shipping companies;

- (b) in the case of goods exported by pipeline and of electrical energy, the customs office designated by the Member State where the exporter is established;

- (c) in the case of goods exported by other means or in circumstances not covered by (a) and (b), the last customs office before the goods leave the customs territory of the Community.

3. The customs office of exit shall satisfy itself that the goods presented correspond to those declared and shall supervise and certify their physical departure by an endorsement on the reverse of copy No 3. The endorsement shall take the form of a stamp showing the name of the office and the date. The customs office of exit shall return copy No 3 to the person presenting it, for return to the declarant.

In the case of split departure, the endorsement shall be given only for those goods which actually leave. In the case of split departure via several different customs offices, the customs office of exit where the original of copy No 3 was presented shall, upon receiving a duly justified request, certify a copy of copy No 3 for each part of the goods in question, with a view to it being presented to another office of exit concerned. The original of copy No 3 shall be noted accordingly.

When the entire operation is carried out on the territory of one Member State, that Member State may provide for the non-endorsement of copy No 3, in which case this copy shall not be returned.

4. Where the customs office of exit establishes that goods are missing, it shall note the copy of the declaration presented and inform the customs office of export.

Where the customs office of exit establishes that there are goods in excess, it shall refuse exit to these goods until the export formalities have been completed.

When the customs office of exit establishes a discrepancy in the nature of the goods, it shall refuse exit until the export formalities have been completed, and shall also inform the customs office of export.

5. In the cases referred to in paragraph 2 (a), the customs office of exit shall endorse copy No 3 of the export declaration in accordance with paragraph 3 after making the endorsement 'Export' in red on the transport document and affixing its stamp. Where, in the case of regular shipping lines or direct transport or flights to third country destinations, the operators are able to guarantee the regularity of operations by other means, the endorsement 'Export' shall not be required.

⁽¹⁾ OJ No L 249, 28. 8. 1992, p. 1.

6. Where goods sent to a third country or a customs office of exit under a transit procedure are concerned, the office of departure shall endorse copy No 3 in accordance with paragraph 3 and return it to the declarant after making the endorsement 'Export', in red, on all copies of the transit document or any other document replacing it. The customs office of exit shall control the physical exit of the goods.

The first sub-paragraph shall not apply where presentation at the office of departure as referred to in Article 78 (4) and (7) and Article 93 (6) and (9) of Commission Regulation (EEC) No 1214/92⁽¹⁾ is dispensed with.

7. The customs office of exit may ask the exporter to provide evidence that the goods have left the customs territory of the Community.

Article 7

1. Goods which are not subject to prohibition or restriction and not exceeding ECU 3 000 in value per consignment and per declarant may be declared at the customs office of exit.

Member States may provide that this provision shall not apply when the person making the export declaration is acting as a professional customs agent on behalf of others.

2. Oral declarations may be made at the customs office of exit only.

Article 8

Where goods leave the customs territory of the Community without an export declaration, such declaration shall be lodged retrospectively by the exporter at the customs office competent for the place where he is established. The provisions of Article 3 shall apply in these circumstances.

Acceptance of this declaration shall be subject to presentation by the exporter, to the satisfaction of the customs authorities of the customs office concerned, of evidence concerning the nature and quantity of the goods in question and the fact that they left the customs territory of the Community. That office shall also endorse copy No 3 of the Single Administrative Document.

Retrospective acceptance of the declaration shall not preclude application of the penalties nor the consequences which may arise as regards the common agricultural policy.

⁽¹⁾ OJ No L 132, 16. 5. 1992, p. 1.

Article 9

1. Where goods released for export do not leave the customs territory of the Community, the exporter shall immediately inform the customs office of export. Copy No 3 of the export declaration shall be returned to that office.

2. Where, in the cases referred to in Article 6 (5) or (6), a change in the contract of carriage has the effect of terminating inside the customs territory of the Community a transport operation which should have finished outside it, the companies or authorities concerned may carry out the amended contract only with the agreement of the customs office referred to in Article 6 (2) (a) or, in the case of a transit operation, the office of departure. In this case copy No 3 should be returned.

CHAPTER 2

Simplified procedures for formalities to be carried out at the customs office of export

Article 10

The formalities referred to in Article 5 may be simplified in accordance with the provisions of this chapter.

The provisions of Articles 6 and 9 shall apply to this chapter.

Section 1: Incomplete declarations

Article 11

The procedure for incomplete declarations shall allow the customs authorities to accept, in a duly justified case, a declaration which does not contain all the particulars required, or which is not accompanied by all documents necessary at exportation.

Article 12

1. Export declarations which the customs authorities may accept, at the declarant's request, without their containing certain of the particulars referred to in Annex VII to Regulation (EEC) No 2453/92, shall contain at least the particulars referred to in boxes 1, (first subdivision), 2, 14, 17, 31, 33, 38, 44 and 54 of the Single Administrative Document and:

— where the goods are liable for export duties or subject to any other measures provided for under the common agricultural policy, all the information required for the proper application of such duties or measures,

— any further information considered necessary in order to identify the goods, apply the provisions governing their export and determine the amount of any security required before the goods may be exported.

2. The customs authorities may allow the declarant not to complete boxes 17 and 33 on condition he declares that export of the goods in question is not subject to prohibitions or restrictions and the customs authorities have no reason for doubt in this respect and that the description of the goods allows the tariff classification to be determined immediately and unambiguously.

3. The export declarations referred to in paragraph 1 must be accompanied by any documents which are required to be presented before the goods can be exported.

4. By way of derogation from paragraph 3, a declaration not accompanied by one of the documents required to be presented before the goods can be exported may be accepted once it is established to the satisfaction of the customs office that:

- (a) the document concerned exists and is valid;
- (b) it could not be annexed to the declaration for reasons beyond the declarant's control;
- (c) any delay in accepting the declaration would prevent the definitive export of the goods or make them liable to a higher rate of export duty or a lower refund.

5. Copy No 3 shall include one of the following endorsements in box 44:

- exportación simplificada,
- forenklet udførsel,
- vereinfachte Ausfuhr,
- Απλουστευμένη εξαγωγή,
- simplified exportation,
- exportation simplifiée,
- esportazione semplificata,
- vereenvoudigde uitvoer,
- exportação simplificada.

Article 13

The period allowed by the customs authorities to the declarant for the communication of particulars or production of documents missing at the time when the declaration was accepted may not exceed one month from the date of such acceptance.

Article 14

1. The customs authorities' acceptance of an incomplete declaration shall not prevent or delay the release of the goods thus declared, unless other grounds exist for so

doing. Without prejudice to the provisions of Article 12, release shall take place in accordance with the conditions laid down in paragraphs 2 and 3 of this Article.

2. Where the late production of a particular of the declaration, missing at the time when a declaration is accepted, cannot affect the amount of duty to which the goods covered by the said declaration are liable, the customs authorities shall immediately enter in the accounts the sum payable, calculated in the usual manner.

3. Where the late production of a particular of the declaration, missing at the time when a declaration is accepted, may affect the amount of duties to which the goods covered by the said declaration are liable the customs authorities shall:

- immediately enter in the accounts the duties payable at the lowest rate,
- require the lodging of a security covering the difference between that sum and the sum which would be payable were the export duty on the goods in question calculated at the maximum rate.

The declarant shall have the option, instead of lodging a security, of requesting the immediate entry in the accounts of the amount of duty calculated at the maximum rate.

Article 15

If, at the expiry of the period referred to in Article 13, the declarant has not supplied the particulars necessary, the customs authorities shall immediately enter in the accounts as duty to which the goods in question are subject the amount of the security in accordance with the provisions of Article 14 (3).

Article 16

1. An incomplete declaration accepted under the conditions set out in Articles 12 to 14 may be either completed by the declarant or, by agreement with the customs authorities, replaced by another declaration in good and due form.

In both cases, the operative date for the fixing of any duty and the application of other provisions governing export shall be the date of acceptance of the incomplete declaration.

2. Where Article 2 applies, the supplementary or replacement declaration may be lodged at the customs office responsible for the place where the exporter is established. Where the sub-contractor is established in a Member State other than where the exporter is established, this possibility shall apply only on conditions that agreements have been made between the administrations of the Member States concerned.

The incomplete declaration must include the customs office where the supplementary or replacement declaration will be lodged. The customs office where the incomplete declaration is lodged shall send copies No 1 and 2 to the customs office where the supplementary or replacement declaration is lodged.

Section 2: Simplified declaration procedure

Article 17

The simplified declaration procedure shall enable goods to be exported on presentation of a simplified declaration with subsequent presentation of a supplementary declaration which may be of a general, periodic or recapitulative nature, as appropriate.

Article 18

The customs authorities may waive the presentation of the supplementary declaration where the simplified declaration concerns goods the value of which is below the statistical threshold laid down by the Community provisions in force and the simplified declaration already contains all the information needed for export.

Article 19

1. On written request containing all the information required for the authorization to be granted, the declarant shall be authorized, under the conditions and in the manner laid down in Articles 20 and 21, to make the export declaration in a simplified form when goods are presented to customs.

2. Without prejudice to the provisions of Article 28, the simplified declaration shall take the form of the incomplete Single Administrative Document containing at least the particulars necessary for identification of the goods. Paragraphs 3, 4 and 5 of Article 12 shall apply *mutatis mutandis*.

Article 20

1. The authorization referred to in Article 19 shall be granted to the declarant on condition that it is possible to guarantee an effective check on compliance with export prohibitions or restrictions or other provisions governing export.

2. Such authorization shall, in principle, be refused where the person who has made the application:

- has committed a serious infringement or repeated infringements of customs rules,
- declares goods for export only occasionally.

It may be refused where the person in question is acting on behalf of another person who declares goods for export only occasionally.

3. The authorization may be revoked where the condition referred to in paragraph 1 ceases to be fulfilled. It may also be revoked where the cases referred to in paragraph 2 arise.

4. The customs authorities shall set out the grounds for decisions refusing or revoking authorization.

Article 21

The authorization referred to in Article 19 shall:

- designate the customs office(s) competent to accept simplified declarations,
- specify the form and content of the simplified declarations,
- specify the goods to which it applies and the particulars which must appear on the simplified declaration for the purposes of identifying the goods,
- make reference to the security to be provided where necessary by the person concerned.

It shall also specify the form and content of the supplementary declarations, which may be of a general, periodic or recapitulative nature, as appropriate, and shall set the time limits within which they must be lodged with the customs authority designated for this purposes.

Section 3: Local clearance procedure

Article 22

1. The local clearance procedure shall enable formalities for the export of goods to be carried out at the premises of the person concerned or at other places designated or approved by the customs authorities.

2. On written request, authorization to use the local clearance procedure shall be granted under the conditions and in the manner laid down in Article 23 (1) to any person, hereinafter referred to as an 'approved exporter', wishing to carry out export procedures at his premises or at the other places referred to in paragraph 1.

Article 23

1. The authorization referred to in Article 22 (2) shall be granted provided that:

- the applicant's records enable the customs authorities to carry out effective checks, in particular retrospective checks,
- it is possible to guarantee an effective check of compliance with export prohibitions or restrictions or any other provisions governing export.

2. Authorization shall, in principle, be refused where the applicant :

- has committed a serious infringement or repeated infringements of customs rules,
- declares goods for export only occasionally.

Article 24

1. An authorization shall be revoked when :

- (a) a condition laid down for its issue has not been, or is no longer, fulfilled,
- or
- (b) its holder fails to fulfil an obligation imposed under the arrangements.

However, the customs authority may refrain from revoking the authorization when :

- the holder fulfils his obligations within any time limit set by the customs authority,
- or
- the failure to fulfil an obligation is without any real consequence as regards the correct operation of the arrangements.

2. An authorization shall, in principle, also be revoked where the case referred to in the first indent of Article 23 (2) arises.

3. An authorization may be revoked where the case referred to in the second indent of Article 23 (2) arises.

4. The customs authority shall set out the grounds for decisions refusing or revoking authorization.

Article 25

1. To enable the customs authorities to satisfy themselves as to the proper conduct of operations, the approved exporter shall, before removal of the goods from the places referred to in Article 22 :

- (a) duly notify the customs authorities of such removal in the form and manner specified by them for the purpose of obtaining release of the goods ;
- (b) enter the said goods in his records. Such entry may be replaced by any other formality offering similar guarantees stipulated by the customs authorities. The entry shall indicate the date on which it is made and the particulars necessary for identification of the goods ;
- (c) make available to the customs authorities any documents the presentation of which are required to be presented before the goods can be exported.

2. In certain particular circumstances justified by the nature of the goods in question and the rapid turnover of

export operations, the customs authorities may exempt the approved exporter from the requirement to notify them of each removal of goods, provided that he supplies them with all the information they judge necessary to enable them to exercise their right to examine the goods should the need arise.

In this case, entry of the goods in the records of the approved exporter shall be equivalent to release.

Article 26

1. To check that the goods have actually left the customs territory of the Community, copy No 3 of the Single Administrative Document shall be used as evidence of exit.

The authorization shall stipulate that copy No 3 of the Single Administrative Document be authenticated in advance.

2. Prior authentication may be effected in one of the following ways :

- (a) box A may be stamped in advance with the stamp of the competent customs office, and signed by an official from that office ;
- (b) the approved exporter may stamp the declaration using a special stamp conforming to the model shown in the Annex.

The imprint of this stamp may be preprinted on the forms where the printing is entrusted to a printer approved for that purpose.

3. Before the departure of the goods the approved exporter shall :

- carry out the procedures referred to in Article 25,
- indicate on copy No 3 of the Single Administrative Document the reference to entry in his records and the date on which this was done.

4. Copy No 3, completed in accordance with paragraph 2, must include in box 44 :

- the number of the authorization and the name of the issuing customs office,
- one of the endorsements referred to in Article 12 (5).

Article 27

1. The authorization referred to in Article 22 (2) shall lay down the specific rules for the operation of the procedure and in particular shall indicate :

- the goods to which it applies,
- the obligations referred to in Article 25,
- the time of release of the goods,
- the content of copy No 3 and the means by which it is to be validated,

- the procedure for presenting the supplementary declaration and the time limit within which it must be lodged.

2. The authorization shall include an undertaking by the approved exporter to take all necessary measures to ensure the safekeeping of the special stamp or of the forms bearing the imprint of the stamp of the office of export or the imprint of the special stamp.

Section 4: Provisions common to sections 2 and 3

Article 28

1. Instead of the Single Administrative Document, Member States may allow a commercial or administrative document or any other medium to be used where the whole of an export operation is carried out on the territory of a single Member State, or whenever this possibility is provided for by means of agreements concluded between the administrations of the Member States concerned.

2. The document or medium referred to in paragraph 1 shall contain at least the particulars necessary for identification of the goods plus one of the endorsements referred to in Article 12 (5) and it shall be accompanied by a request for export.

Where circumstances so permit, the competent authorities may allow this request to be replaced by a global request covering export operations to be carried out over a given period. A reference to the authorization following such a request shall be made on the document or medium in question.

3. The commercial or administrative document shall be evidence of exit from the customs territory of the Community in the same way as copy No 3 of the Single Administrative Document. Where other media are used, the arrangements for the exit endorsement shall be defined, where appropriate, in the agreements referred to in paragraph 1.

Article 29

Where the whole of an export operation takes place on the territory of a single Member State, that Member State may, in addition to the procedures referred to in sections 2 and 3 and while ensuring compliance with Community policies, provide for other simplifications.

CHAPTER 3

Re-exportation

Article 30

Where re-exportation is subject to a customs declaration, the provisions of Chapters 1 and 2 shall apply *mutatis mutandis*, without prejudice to specific provisions which may apply at the time of discharge of the previous customs procedure with economic impact.

CHAPTER 4

Other provisions

Article 31

1. Where goods, not under a customs procedure and whose exportation from the Community is prohibited or subject to restrictions, to export duty or to any charge on export, leave the customs territory of the Community with the intention of their being re-introduced into another part of that territory, their exit shall give rise to the making out of a control copy T5 in accordance with the rules laid down in Commission Regulation (EEC) No 2823/87 ⁽¹⁾.

2. The provisions of paragraph 1 shall not apply to carriage by an airline company or by a shipping company, provided that the carriage by sea is effected by a direct route and by regular shipping line without a stop outside Community customs territory.

3. The control copy T5 may be made out by any customs office where the goods in question are presented and it must be presented together with the goods in question at the customs office of exit.

4. Control copy T5 must include:

- in boxes 31 and 33 respectively, the description of the goods and the appropriate combined nomenclature code,

- in box 38, the net mass of the goods,

- in box 104, a tick in the box 'Other (specify)', and in block capitals one of the following:

'Exit from the Community subject to restrictions

- goods intended to be reintroduced into the territory of the Community',

'Exit from the Community subject to duty

- goods intended to be reintroduced into the territory of the Community'.

⁽¹⁾ OJ No L 270, 23. 9. 1987, p. 1.

5. The original of control copy T5 shall be presented together with the goods at the customs office responsible for the place where the goods are reintroduced into the customs territory of the Community.

6. The control copy T5 shall be returned without delay to the customs office which made it out by the customs office referred to in paragraph 5, after the latter has endorsed box 'J : Control of use and/or destination' by putting a cross in the first box and inserting the date when the goods were reintroduced into the customs territory of the Community.

Nevertheless in the case of irregularities, an appropriate note shall be made in the 'Remarks' box.

Article 32

For goods for which the formalities to be carried out at the office of export have been carried out in 1992 and which physically leave the customs territory of the Community only in 1993, presentation to the office of exit of copy No 3 of the export declaration shall not be required, on condition that evidence is provided that release has been granted.

This evidence may be provided *inter alia* by presentation of one of the copies or a photocopy of the export declara-

tion duly validated by the customs office of export at the request of the declarant.

Article 6 (5) and (6) shall apply to the situation referred to in the first paragraph.

Article 33

Until the establishment of Community provisions laying down the cases and the conditions in which goods leaving the customs territory of the Community are not subject to an export declaration, national rules shall continue to apply.

CHAPTER 5

Final provision

Article 34

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

It shall apply from 1 January 1993.

The provisions of Article 4 (2) shall cease to apply from 1 January 1995.

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

Done at Brussels, 10 November 1992.

For the Commission

Christiane SCRIVENER

Member of the Commission

*ANNEX***SPECIAL STAMP**

← 55 mm →	
1	2
3	4
5	6
↑ 25 mm ↓	

1. Coat of arms or any other signs or letters characterizing the Member State.
 2. Office of departure.
 3. Document number.
 4. Date.
 5. Authorized exporter.
 6. Authorization.
-

COMMISSION REGULATION (EEC) No 3270/92

of 10 November 1992

concerning the stopping of fishing for sprat by vessels flying the flag of Denmark

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

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities⁽¹⁾, amended by Regulation (EEC) No 3483/88⁽²⁾, and in particular Article 11 (3) thereof,

Whereas Council Regulation (EEC) No 3882/91 of 18 December 1991 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1992 and certain conditions under which they may be fished⁽³⁾, as last amended by Regulation (EEC) No 2985/92⁽⁴⁾, provides for sprat quotas for 1992;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of sprat in the waters of ICES division III a by vessels flying the flag of Denmark or registered in Denmark have reached the quota allocated for 1992; whereas Denmark has prohibited fishing for

this stock as from 26 October 1992; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of sprat in the waters of ICES division III a by vessels flying the flag of Denmark or registered in Denmark are deemed to have exhausted the quota allocated to Denmark for 1992.

Fishing for sprat in the waters of ICES division III a by vessels flying the flag of Denmark or registered in Denmark is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the above mentioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 26 October 1992.

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

Done at Brussels, 10 November 1992.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 306, 11. 11. 1988, p. 2.

⁽³⁾ OJ No L 367, 31. 12. 1991, p. 1.

⁽⁴⁾ OJ No L 300, 16. 10. 1992, p. 3.

COMMISSION REGULATION (EEC) No 3271/92

of 10 November 1992

concerning the stopping of fishing for hake by vessels flying the flag of the Netherlands

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

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities⁽¹⁾, as amended by Regulation (EEC) No 3483/88⁽²⁾, and in particular Article 11 (3) thereof,

Whereas Council Regulation (EEC) No 3882/91 of 18 December 1991 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1992 and certain conditions under which they may be fished⁽³⁾, as last amended by Regulation (EEC) No 2985/92⁽⁴⁾, provides for hake quotas for 1992;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of hake in the waters of ICES divisions II a (EC-zone), IV (EC-zone) by vessels flying the flag of the Netherlands or registered in the Netherlands have reached the quota allocated for 1992; whereas the Netherlands have prohibited fishing for this stock as from

17 October 1992; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of hake in the waters of ICES divisions II a (EC-zone), IV (EC-zone) by vessels flying the flag of the Netherlands or registered in the Netherlands are deemed to have exhausted the quota allocated to the Netherlands for 1992.

Fishing for hake in the waters of ICES divisions II a (EC-zone), IV (EC-zone) by vessels flying the flag of the Netherlands or registered in the Netherlands is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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

It shall apply with effect from 17 October 1992.

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

Done at Brussels, 10 November 1992.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 306, 11. 11. 1988, p. 2.

⁽³⁾ OJ No L 367, 31. 12. 1991, p. 1.

⁽⁴⁾ OJ No L 300, 16. 10. 1992, p. 3.

COMMISSION REGULATION (EEC) No 3272/92

of 10 November 1992

re-establishing the levying of customs duties on products falling within CN code ex 2904 20 90, originating in China, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3831/90 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Whereas, pursuant to Article 1 of that Regulation, suspension of customs duties shall be accorded for 1992 to each of the countries or territories listed in Annex III, and the products as such are, as a general rule, subject to statistical surveillance every three months on the reference base referred to in Article 8;

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

Whereas, in the case of products falling within CN code ex 2904 20 90, originating in China, the reference base is fixed at ECU 43 000; whereas, on 31 March 1992,

imports of these products into the Community originating in China reached the reference base in question after being charged thereagainst; whereas the exchange of information organized by the Commission has demonstrated that continuance of the preference threatens to cause economic difficulties in a region of the Community; whereas, therefore, customs duties for the products in question must be reintroduced with regard to China,

HAS ADOPTED THIS REGULATION:

Article 1

As from 15 November 1992, the levying of customs duties, suspended pursuant to Council Regulation (EEC) No 3831/90, shall be reintroduced on imports into the Community of the following products, originating in China:

CN code	Description
ex 2904 20 90	— — — 5-tert-Butyl-2,4,6-trinitro-m-xylene (musc-xylene)

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, 10 November 1992.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 370, 31. 12. 1990, p. 1.

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

COMMISSION REGULATION (EEC) No 3273/92

of 10 November 1992

concerning the stopping of fishing for anglerfish by vessels flying the flag of France

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

Having regard to Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities⁽¹⁾, as amended by Regulation (EEC) No 3483/88⁽²⁾, and in particular Article 11 (3) thereof,

Whereas Council Regulation (EEC) No 3882/91 of 18 December 1991 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1992 and certain conditions under which they may be fished⁽³⁾, as last amended by Regulation (EEC) No 2985/92⁽⁴⁾, provides for anglerfish quotas for 1992;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of anglerfish in the waters of ICES divisions VIII c, IX, X; CECAF 34.1.1 (EC zone) by

vessels flying the flag of France or registered in France have reached the quota allocated for 1992,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of anglerfish in the waters of ICES divisions VIII c, IX, X; CECAF 34.1.1 (EC zone) by vessels flying the flag of France or registered in France are deemed to have exhausted the quota allocated to France for 1992.

Fishing for anglerfish in the waters of ICES divisions VIII c, IX, X; CECAF 34.1.1 (EC zone) by vessels flying the flag of France or registered in France is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of entry into force of this Regulation.

Article 2

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, 10 November 1992.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 207, 29. 7. 1987, p. 1.

⁽²⁾ OJ No L 306, 11. 11. 1988, p. 2.

⁽³⁾ OJ No L 367, 31. 12. 1991, p. 1.

⁽⁴⁾ OJ No L 300, 16. 10. 1992, p. 3.

COMMISSION REGULATION (EEC) No 3274/92

of 11 November 1992

on the sale by the procedure laid down in Regulation (EEC) No 2539/84 of boneless beef held by certain intervention agencies and intended for export, amending Regulation (EEC) No 569/88 and repealing Regulation (EEC) No 2313/92

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EEC) No 2066/92 ⁽²⁾, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 2539/84 of 5 September 1984 laying down detailed rules for certain sales of frozen beef held by the intervention agencies ⁽³⁾, as amended by Regulation (EEC) No 1809/87 ⁽⁴⁾, has provided for the possibility of applying a two-stage procedure when selling beef from intervention stocks;

Whereas Commission Regulation (EEC) No 2824/85 of 9 October 1985 laying down detailed rules for the sale of frozen boned beef from intervention stocks for export, either in the same state or after cutting and/or repackaging ⁽⁵⁾ has provided for repackaging under certain conditions;

Whereas certain intervention agencies hold large stocks of boneless intervention meat; whereas an extension of the period of storage for the meat bought in should be avoided on account of the ensuing high costs; whereas, as there are outlets in certain third countries for the products concerned, part of the meat should be put up for sale in accordance with Regulation (EEC) No 2539/84 and (EEC) No 2824/85;

Whereas it is necessary to lay down a time limit for export of the said meat; whereas this time limit should be fixed by taking into account Article 5 (b) of Commission Regulation (EEC) No 2377/80 of 4 September 1980 on special detailed rules for the application of the system of import and export licences in the beef and veal sector ⁽⁶⁾, as last amended by Regulation (EEC) No 815/91 ⁽⁷⁾;

Whereas, in order to ensure that beef sold is exported, lodging of security, as specified in Article 5 (2) (a) of Regulation (EEC) No 2539/84, should be required;

Whereas it is appropriate to specify that, in view of the prices which have been fixed in the context of this sale in order to permit the disposal of certain cuts, exports of such cuts should not be eligible for the refunds periodically fixed in the beef and veal sector; whereas, for the same reason, the additional code No 7034 referred to in Part 3 of Annex I to Commission Regulation (EEC) No 1641/91 of 14 June 1991 fixing the monetary compensatory amounts applicable in the agricultural sector and certain coefficients and rates required for their application ⁽⁸⁾, as last amended by Regulation (EEC) No 3225/92 ⁽⁹⁾;

Whereas Article 2 (1) of Commission Regulation (EEC) No 3155/85 of 11 November 1985 providing for the advance fixing of monetary compensatory amounts ⁽¹⁰⁾, last amended by Regulation (EEC) No 3247/89 ⁽¹¹⁾, stipulates that monetary compensatory amounts may be fixed in advance only if the export refund is fixed in advance; whereas the absence of refunds for the meat in question means that this requirement cannot be met; whereas for the sake of impartiality it should in this instance be suspended so that advance fixing of the monetary compensatory amounts can be permitted;

Whereas products held by intervention agencies and intended for export are subject to the provisions of Commission Regulation (EEC) No 569/88 ⁽¹²⁾, as last amended by Regulation (EEC) No 3045/92 ⁽¹³⁾; whereas the Annex to the said Regulation should be modified;

Whereas Commission Regulation (EEC) No 2313/92 ⁽¹⁴⁾ should be repealed;

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

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 49.

⁽³⁾ OJ No L 238, 6. 9. 1984, p. 13.

⁽⁴⁾ OJ No L 170, 30. 6. 1987, p. 23.

⁽⁵⁾ OJ No L 268, 10. 10. 1985, p. 14.

⁽⁶⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁷⁾ OJ No L 83, 3. 4. 1991, p. 6.

⁽⁸⁾ OJ No L 153, 17. 6. 1991, p. 1.

⁽⁹⁾ OJ No L 323, 9. 11. 1992, p. 1.

⁽¹⁰⁾ OJ No L 310, 21. 11. 1985, p. 22.

⁽¹¹⁾ OJ No L 314, 28. 10. 1989, p. 51.

⁽¹²⁾ OJ No L 55, 1. 3. 1988, p. 1.

⁽¹³⁾ OJ No L 307, 23. 10. 1992, p. 24.

⁽¹⁴⁾ OJ No L 222, 7. 8. 1992, p. 37.

HAS ADOPTED THIS REGULATION:

Article 1

1. A sale shall be organized of approximately:
 - 5 000 tonnes of boneless beef held by the Irish intervention agency and bought in before 1 August 1992,
 - 5 000 tonnes of boneless beef held by the intervention agency of the United Kingdom and bought in between 15 June 1990 and 1 August 1992,
 - 1 000 tonnes of boneless beef held by the Danish intervention agency and bought in before 1 September 1992,
 - 3 000 tonnes of boneless beef held by the French intervention agency and bought in before 1 August 1992,
 - 200 tonnes of boneless beef held by the Italian intervention agency and bought in before 1 May 1991.

2. This meat shall be for export.

3. Subject to the provisions of this Regulation, the sale shall take place in accordance with the provisions of Regulations (EEC) No 2539/84 and (EEC) No 2824/85.

The provisions of Commission Regulation (EEC) No 985/81⁽¹⁾ shall not apply to this sale.

4. The qualities and the minimum prices referred to in Article 3 (1) of Regulation (EEC) No 2539/84 are given in Annex I hereto.

5. Only those tenders shall be taken into consideration which reach the intervention agencies concerned not later than 12 noon on 17 November 1992.

6. Particulars of the quantities and the places where the products are stored shall be available to interested parties at the addresses given in Annex II.

Article 2

The products referred to in Article 1 must be exported within five months from the date of conclusion of the contract of sale.

Article 3

1. The security provided for in Article 5 (1) of Regulation (EEC) No 2539/84 shall be ECU 30 per 100 kilograms.

2. The security provided for in Article 5 (2) (a) of Regulation (EEC) No 2539/84 shall be ECU 450 per 100 kilograms of boneless beef referred to under (a) in Annex I and ECU 200 per 100 kilograms of boneless beef referred to under (b) in Annex I. However, the security for boneless beef sold by the Italian intervention agency shall be ECU 600 per 100 kilograms.

Article 4

In the case of the meat referred to under 1 (b), 2 (b), 3 (b), and 4 (b) in Annex I:

- (a) no export refund shall be granted;
- (b) additional code No 7034 referred to in Part 3 of Annex I to Regulation (EEC) No 1641/91 shall apply; and
- (c) by way of derogation from Article 2 (1) of Regulation (EEC) No 3155/85 the monetary compensatory amount may be fixed in advance.

In cases where use is made of the option specified at (c):

- the application for advance fixing must be lodged at the same time as the application for the export licence,
- the application for advance fixing must be accompanied by the contract of sale,
- the export licence may be used for intervention meat only,
- Section 18 (a) of the export licence shall carry the following entry in one of the Community languages:
 - Válido únicamente para carnes de intervención vendidas con arreglo al Reglamento (CEE) n° 3274/92,
 - Kun gyldig for interventionskød solgt i henhold til forordning (EØF) nr. 3274/92,
 - Nur gültig für Interventionsfleisch — Verkauf gemäß der Verordnung (EWG) Nr. 3274/92,
 - Ισχύει μόνο για τα κρέατα παρέμβασης που πωλούνται βάσει του κανονισμού (ΕΟΚ) αριθ. 3274/92,
 - Valid only for intervention meat sold under Regulation (EEC) No 3274/92,
 - Seulement valable pour les viandes d'intervention vendues sous règlement (CEE) n° 3274/92,
 - Valido esclusivamente per carni di intervento vendute a norma del regolamento (CEE) n. 3274/92,
 - Uitsluitend geldig voor vlees uit de interventievoorraden dat wordt verkocht in het kader van Verordening (EEG) nr. 3274/92,
 - Apenas válido para carne de intervenção vendida nos termos do Regulamento (CEE) n° 3274/92.

⁽¹⁾ OJ No L 99, 10. 4. 1981, p. 38.

Article 5

1. In the removal order referred to in Article 3 of Regulation (EEC) No 569/88, the export declaration, and, where appropriate, the T5 control copy shall be entered:

Carne de intervención [Reglamento (CEE) n° 3274/92];

Interventionskød [Forordning (EØF) nr. 3274/92];

Interventionsfleisch [Verordnung (EWG) Nr. 3274/92];

Κρέας παρεμβάσεως [κανονισμός (ΕΟΚ) αριθ. 3274/92];

Intervention meat [Regulation (EEC) No 3274/92];

Viande d'intervention [Règlement (CEE) n° 3274/92];

Carni d'intervento [Regolamento (CEE) n. 3274/92];

Vlees uit interventievoorraden [Verordening (EEG) nr. 3274/92];

Carne de intervenção [Reglamento (CEE) n° 3274/92].

2. With regard to the security provided for in Article 3 (2), compliance with the provisions of paragraph 1 shall constitute a primary requirement within the meaning of

Article 20 of Commission Regulation (EEC) No 2220/85⁽¹⁾.

Article 6

In part I of the Annex to Regulation (EEC) No 569/88, 'Products to be exported in the same state as that in which they were when removed from intervention stock', the following item 137 and footnote are added:

'137. Commission Regulation No 3274/92 of 11 November 1992 on the sale by the procedure laid down in Regulation (EEC) No 2539/84 of boneless beef held by certain intervention agencies and intended for export⁽¹³⁷⁾.

⁽¹³⁷⁾ OJ No L 326, 12. 11. 1992, p. 24'.

Article 7

Regulation (EEC) No 2313/92 is hereby repealed.

Article 8

This Regulation shall enter into force on 17 November 1992.

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

Done at Brussels, 11 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

*ANEXO I — BILAG I — ANHANG I — ΠΑΡΑΡΤΗΜΑ I — ANNEX I — ANNEXE I —
ALLEGATO I — BIJLAGE I — ANEXO I*

Precio mínimo expresado en ecus por tonelada⁽¹⁾ — Mindstepriser i ECU/ton⁽¹⁾ — Mindestpreise, ausgedrückt in ECU/Tonne⁽¹⁾ — Ελάχιστες τιμές πώλησεως εκφραζόμενες σε Ecu ανά τόνο⁽¹⁾ — Minimum prices expressed in ECU per tonne⁽¹⁾ — Prix minimaux exprimés en écus par tonne⁽¹⁾ — Prezzi minimi espressi in ecu per tonnellata⁽¹⁾ — Minimumprijzen uitgedrukt in ecu per ton⁽¹⁾ — Preço mínimo expresso em ecus por tonelada⁽¹⁾

1. IRELAND

a) Fillets	6 850
Striploins	3 150
Insides	2 450
Outsides	2 400
Knuckles	2 400
Rumps	2 250
Cube-rolls	4 100
b) Briskets	750
Forequarters	1 100
Shins/shanks	1 100
Plates/flanks	450

2. UNITED KINGDOM

a) Fillets	6 750
Striploins	3 050
Topsides	2 350
Silversides	2 300
Thick flanks	2 200
Rumps	2 200
b) Shins and shanks	1 000
Clod and sticking	1 000
Ponies	1 150
Thin flanks	450
Forequarter flanks	450
Briskets	600
Foreribs	1 200

3. DANMARK

a) Mørbrad med bimørbrad	6 850
Filet med entrecôte og tyndsteg	3 150
Inderlår med kappe	2 450
Tykstegsfilet med kappe	2 400
Klump med kappe	2 400
Yderlår med lårtunge	2 400
b) Bryst og slag	650
Øvrigt kød af forfjerdinger	1 250
Skank og muskel	800

4. FRANCE

a) Filet	6 850
Faux filet	3 150
Tende de tranche	2 450
Tranche grasse	2 400
Rumsteak	2 250
Gîte à la noix	2 400
Entrecôte	2 250
b) Caisse B	450
Jarret	1 000
Macreuse	700
Caisse A	1 100
Boule de gîte	1 000
Bavette	700

5. ITALIA

a) Filetto	5 000
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⁽¹⁾ Estos precios se entenderán netos con arreglo a lo dispuesto en el apartado 1 del artículo 17 del Reglamento (CEE) n° 2173/79.

⁽¹⁾ Disse priser gælder netto i overensstemmelse med bestemmelserne i artikel 17, stk. 1, i forordning (EØF) nr. 2173/79.

⁽¹⁾ Diese Preise gelten netto gemäß den Vorschriften von Artikel 17 Absatz 1 der Verordnung (EWG) Nr. 2173/79.

⁽¹⁾ Οι τιμές αυτές εφαρμόζονται επί του καθαρού βάρους σύμφωνα με τις διατάξεις του άρθρου 17 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 2173/79.

⁽¹⁾ These prices shall apply to net weight in accordance with the provisions of Article 17 (1) of Regulation (EEC) No 2173/79.

⁽¹⁾ Ces prix s'entendent poids net conformément aux dispositions de l'article 17 paragraphe 1 du règlement (CEE) n° 2173/79.

⁽¹⁾ Il prezzo si intende peso netto in conformità del disposto dell'articolo 17, paragrafo 1 del regolamento (CEE) n. 2173/79.

⁽¹⁾ Deze prijzen gelden netto, overeenkomstig de bepalingen van artikel 17, lid 1, van Verordening (EEG) nr. 2173/79.

⁽¹⁾ Estes preços aplicam-se a peso líquido, conforme o disposto no n° 1 do artigo 17º do Regulamento (CEE) n° 2173/79.

*ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II —
ALLEGATO II — BIJLAGE II — ANEXO II*

**Direcciones de los organismos de intervención — Interventionsorganernes adresser —
Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses
of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli
organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos de
intervenção**

IRELAND: Department of Agriculture and Food
Agriculture House
Kildare Street
Dublin 2
Tel. (01) 78 90 11, ext. 2278 and 3806
Telex 93292 and 93607, telefax (01) 616263, (01) 785214 and (01) 6620198

DANMARK: EF-Direktoratet
Frederiksborggade 18
DK-1360 København K
Tlf. 33 92 70 00, telex 15137 EFDIR DK, telefax 33 92 69 48

ITALIA: Azienda di Stato per gli interventi nel mercato agricolo (AIMA)
Via Palestro 81
I-00185 Roma
Tel. 49 49 91
Telex 61 30 03

UNITED KINGDOM: Intervention Board for Agricultural Produce
Fountain House
2 Queens Walk
Reading RG1 7QW
Berkshire
Tel. (0734) 58 36 26
Telex 848 302, telefax: (0734) 56 67 50

FRANCE: OFIVAL
Tour Montparnasse
33, avenue du Maine
F-75755 Paris Cedex 15
Tél. 45 38 84 00, télex 205476

COMMISSION REGULATION (EEC) No 3275/92

of 11 November 1992

adopting definitive measures on the issuing of STM licences for milk and milk products in regard to Spain

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 85 (3) thereof,

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

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

Whereas applications for STM licences lodged in the Community of Ten during the period 21 to 25 September 1992 and 5 to 9 October 1992 for cheese category 4, 5, 5a and 6 relate to quantities in excess of that fraction of the indicative ceiling set aside for the month of October 1992;

Whereas the Commission adopted, by an emergency procedure, suitable interim protective measures by Regulation (EEC) No 2882/92⁽⁵⁾ and (EEC) No 2990/92⁽⁶⁾; whereas definitive measures must be adopted; whereas, in

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

Whereas, as part of the definitive measures referred to in Article 85 (3) of the Act, the suspension of the issuing of STM licences provided for in the abovementioned Regulation until the end of the month of October 1992 should be confirmed; whereas Regulation (EEC) No 2882/92 and (EEC) No 2990/92 set the date from which further applications could be lodged for all products;

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

HAS ADOPTED THIS REGULATION:

Article 1

The issuing of STM licences applied for in the Community of Ten for products in the milk and milk products sector as referred to in Regulations (EEC) No 2882/92 and (EEC) No 2990/92 is hereby definitively suspended for the month of October of 1992.

Article 2

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

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

Done at Brussels, 11 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 55, 1. 3. 1986, p. 106.

⁽²⁾ OJ No L 293, 27. 10. 1988, p. 7.

⁽³⁾ OJ No L 58, 1. 3. 1986, p. 28.

⁽⁴⁾ OJ No L 75, 31. 3. 1992, p. 29.

⁽⁵⁾ OJ No L 287, 2. 10. 1992, p. 18.

⁽⁶⁾ OJ No L 300, 16. 10. 1992, p. 14.

COMMISSION REGULATION (EEC) No 3276/92

of 11 November 1992

fixing the aid for cotton

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

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

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

Whereas the amount of the additional aid referred to in Article 5 (1) of Regulation (EEC) No 2169/81 was fixed by Commission Regulation (EEC) No 2539/92 ⁽⁴⁾, as last amended by Regulation (EEC) No 3217/92 ⁽⁵⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2539/92 to the information at present available to the Commission that the amount of the aid at present in force should be altered as shown in Article 1 to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The aid for unginned cotton referred to in Article 5 of Regulation (EEC) No 2169/81 shall be ECU 73,783 per 100 kilograms.

Article 2

This Regulation shall enter into force on 12 November 1992.

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

Done at Brussels, 11 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 377, 31. 12. 1987, p. 49.

⁽²⁾ OJ No L 211, 31. 7. 1981, p. 2.

⁽³⁾ OJ No L 215, 30. 7. 1992, p. 12.

⁽⁴⁾ OJ No L 254, 1. 9. 1992, p. 47.

⁽⁵⁾ OJ No L 320, 5. 11. 1992, p. 19.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 October 1992

relating to a proceeding under Article 85 of the EEC Treaty
(IV/33.384 and IV/33.378 — Distribution of package tours during the 1990 World Cup)

(Only the French and Italian texts are authentic)

(92/521/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas :

Having regard to the Treaty establishing the European Economic Community,

I. THE FACTS

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular Article 3 thereof,

Having regard to the application made by Pauwels Travel BVBA on 28 November 1989, in accordance with Article 3 of Regulation No 17, for a finding that Article 85 had been infringed,

Having regard to the Commission's decision of 22 January 1991 to initiate a proceeding in this case,

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

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

A. Subject of the Decision

- (1) On 28 November 1989, the Commission received a complaint from the travel agency Pauwels Travel BVBA ('Pauwels Travel') against :
 - FIFA Local Organizing Committee Italia '90,
 - 90 Tour Italia SpA,
 - NV CIT Belgique.
- (2) The complaint, based on the provisions of Article 3 of Regulation No 17, related to the ticket distribution system applied during the FIFA World Cup held in Italy in 1990.
- (3) Pauwels Travel wanted to put together and sell in Belgium World Cup package tours comprising transport, accommodation and entrance tickets to the stadia in which the various matches were to be played. However, it found that the ticket distribution system that had been decided on did not allow travel agencies to acquire stadium entrance tickets for the purpose of putting together package tours.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

- (4) The attempts made by Pauwels Travel to sell such package tours by procuring entrance tickets through parallel channels resulted in an action to cease and desist being brought before the Belgian national courts by the travel agency authorized by the World Cup organizers to sell package tours in Belgium.
- (5) This Decision does not relate to the whole of the ticket distribution system, but only to the contracts through which the World Cup organizers conferred on the company 90 Tour Italia world exclusive rights for the supply of stadium entrance tickets for the purpose of putting together package tours.
- (6) The market on which the effects of the contracts must be assessed is thus that for the sale of package tours to the World Cup held in Italy.

In accordance with the case law of the Court of Justice, in particular in Case 23/67, *Brasserie de Haecht v. Wilkin* ⁽¹⁾, however, the whole of the distribution system must be examined and the contracts must be assessed in the context within which they operated.

B. General organization of the World Cup

- (7) On 5 August 1983, the International Federation of Association Football (Fédération internationale de football association — FIFA) drew up the specifications and conditions for the federation organizing the 1990 World Cup.

The specifications and conditions, signed by the General Secretary of FIFA, state that the World Cup is a FIFA competition and that FIFA is to appoint one of the national associations affiliated to FIFA as the organizer (executive agent) of the World Cup.

- (8) Under Article 1.1 of the specifications and conditions, the national association appointed may carry out its task directly itself or it may request FIFA to appoint a local organizing committee comprising representatives of the national association concerned and of FIFA.
- (9) The specifications and conditions also stipulate that the national association appointed and its local organizing committee are placed under the control of the FIFA World Cup organizing committee, which has the last word in all matters.
- (10) On 19 May 1984, FIFA appointed the Federazione italiana gioco calcio (FIGC) as organizer of the 1990 World Cup.

- (11) In accordance with the FIFA specifications and conditions for the organization of the World Cup, FIFA and the FIGC agreed to set up a local organizing committee on 3 December 1984.
- (12) The document establishing the local organizing committee provides that the committee is to comprise a maximum of 15 members, including five from FIFA and 10 from Italy, and that its head office will be in Zurich under the auspices of FIFA, with a branch office in Rome.
- (13) In fact, the number of members was limited to 11, i.e. two from FIFA and 9 from the FIGC.
- (14) The setting up of the local organizing committee was ratified by the FIFA executive committee at a meeting held in Zurich on 28 April 1985, and on 11 June 1985 FIFA drew up the regulations governing the organization and operation of the local organizing committee for the 1990 World Cup.
- (15) The function of the local organizing committee is specified in Article 3 of the regulation as being to perform all activities relating, directly or indirectly, to the technical and logistical organization of the World Cup in Italy in 1990, in compliance with the operating limits laid down in the specifications and conditions drawn up by FIFA and the 1990 FIFA World Cup regulations.
- (16) Amongst such activities, the local organizing committee is in particular required to propose to FIFA the plan for distributing and setting entrance tickets and to deal subsequently with the implementation of the plan.
- (17) Lastly, a number of aspects of relations between FIFA and the local organizing committee were covered in a document entitled 'Agreement between FIFA and the local organizing committee Italia 90', signed by the administrative director of the local organizing committee and the General Secretary of FIFA.

With regard to the sale of tickets, the document stipulates that the directives governing the sale of tickets and their prices must be approved by FIFA (a requirement which FIFA considered essential).

C. The parties concerned

- (18) FIFA is a federation of national football associations from 158 countries and is based in Zurich. Its object is to promote football and, for this purpose, to organize the World Cup every four years.

⁽¹⁾ ECR 407 [1967].

FIFA's revenue derives from the dues paid by its members and from a percentage of revenue from international matches and world championships.

- (19) The Federazione italiana gioco calcio (FIGC) represents the various Italian football associations.

It is based in Rome and has a Chairman and a General Secretary.

- (20) The Compagnia italiana turismo SpA (CIT) is a subsidiary of the Ente ferrovie dello Stato.

It is one of the main travel agencies in Italy.

CIT Italia also has subsidiaries in other European countries, including Belgium, France and the United Kingdom.

- (21) Italia Tour SpA (Italia Tour) is a subsidiary of Alitalia — Linee Aeree Italiane SpA, which also carries out travel agency activities within and outside Italy.

- (22) 90 Tour Italia SpA (90 Tour Italia) is a company created jointly by CIT and Italia Tour for the purpose of marketing package tours to the 1990 World Cup. Its existence is closely bound up with the organization of the 1990 World Cup.

D. The financing of the World Cup

- (23) The expenditure involved in establishing the infrastructure required for the World Cup was borne by the organizing federation or the organizing country. This applied to the work involved in converting grounds, improving roads, hotels, etc.

- (24) The organizing federation received the following revenue :

- (a) some 15 % of net competition profits, calculated as follows :

- proceeds from television rights plus the sale of tickets,
- minus the expenses entailed in organizing the World Cup ;

- (b) the commercial exploitation in Italy of the 1990 World Cup emblem, created by the organizing federation ;

- (c) a proportion of match revenue to cover the reimbursement of State, provincial and municipal taxes and the hire of grounds ;

- (d) a percentage of ticket revenue, to be determined with FIFA as a contribution towards the organization expenses proper.

- (25) Contracts relating to advertising and the commercial exploitation of emblems and television contracts were concluded directly by FIFA.

- (26) Estimated total World Cup revenue was Sfr 220 million, made up as follows :

- Sfr 75 million from the sale of tickets,
- Sfr 55 million from the sale of advertising rights,
- Sfr 90 million from the sale of television rights.

E. The general ticket distribution system

- (27) The general ticket distribution system covered a total of some 2 700 000 tickets broken down as follows :

- 12 % distributed in Italy by the national football associations,
- 4 % distributed in Italy by the official World Cup sponsors,
- 34 % distributed in Italy by the Banca Nazionale del Lavoro ('BNL'),
- 15 % distributed outside Italy by the national sport associations,
- 5 % distributed outside Italy by the main European football association,
- 5 % distributed outside Italy by BNL or its representatives,
- 25 % distributed outside Italy by 90 Tour Italia as part of package tours.

F. The conditions governing distribution of tickets not included in package tours

- (28) The distribution of tickets by the football associations was subject to restrictions set out in a FIFA circular sent on 23 October 1989 to all the national FIFA associations, the main provisions of which were as follows :

- ticket sales were intended only for the associations themselves,
- sale to travel agencies or other bodies was prohibited. If the national association intended to organize a trip through the intermediary of a travel agency normally used by it, it was asked to contact 90 Tour Italia in order to ensure that such arrangements were coordinated, and
- sales were to take place only in the country itself.

- (29) The distribution of tickets by BNL and its agents was also subject to certain restrictions. BNL could not sell tickets to travel agencies, nor could BNL agents resell their tickets to travel agencies.

In addition, each spectator could acquire no more than a maximum of four series, so as to prevent any parallel procurement by travel agencies.

BNL agents could sell such tickets only in their own countries and had to inform BNL of the identity of those acquiring tickets.

These requirements were also set out in a letter which BNL sent on 16 March 1989 to the Crédit communal de Belgique as its agent for the sale of tickets in Belgium.

G. The distribution of tickets as part of package tours

- (30) On 26 June 1987, a contract was concluded between the local organizing committee, on the one hand, and CIT and Italia Tour, on the other, the main provisions of which are as follows:

- the local organizing committee entrusted CIT and Italia Tour with the task of providing, through the intermediary of 90 Tour Italia, a joint company to be created, all the tourist, hotel and transport services requested by the local organizing committee in connection with the 1990 World Cup in order to meet its requirements and the requirements of FIFA, referees, official delegations and teams, journalists and any persons specified by the local organizing committee,
- the local organizing committee also conferred on 90 Tour Italia exclusive world rights for the organization of:
 - the various 1990 World Cup package tours and any services connected with the World Cup during the period 1987 to 1990, and
 - an appropriate network for distributing such services both in Italy and in the rest of the world,
- the local organizing committee granted 90 Tour Italia exclusive world rights for the issue of stadium entrance tickets to be included in package tours and assured it of a number of tickets at least equal to 30 % of the capacity of the stadia,
- in return for the concession of the abovementioned rights, 90 Tour Italia was to pay to the local organizing committee a percentage of the turnover achieved under the contract

throughout its period of validity, such percentage being equal to 0,5 % of the gross turnover, or Lit 700 million, whichever sum was the higher,

- in carrying out its tasks, 90 Tour Italia was authorized to present itself as the exclusive authorized agent of the local organizing committee in the area of tourism and to use the title 'tour operator for the local organizing committee Italia '90',
- CIT and Italia Tour were jointly responsible together with 90 Tour to the local organizing committee,
- the contract was valid until 31 December 1990.

- (31) A second contract was concluded on 11 February 1988 between the local organizing committee and 90 Tour Italia, with the counter-signature of the chairman of CIT SpA and Italia Tour SpA.

This contract reiterates that CIT and Italia Tour have declared themselves willing to provide the local organizing committee with all the tourist services which the local organizing committee requires in connection with the World Cup and to put together package tours including entrance tickets to the various World Cup matches, package tours which would be marketed on an exclusive basis throughout the world.

The contract then goes on to repeat the provisions of the contract concluded on 26 June 1987 between the local organizing committee on the one hand and CIT and Italia Tour on the other, notably as regards:

- the supply of tourist, hotel and transport services by 90 Tour Italia to the local organizing committee,
- the world exclusive rights granted to 90 Tour Italia by the local organizing committee for the issuing of tickets as part of package tours,
- the world exclusive rights granted to 90 Tour Italia to acquire, exclusively for the package tours sector, all or some of any tickets still available when the local organizing committee has fulfilled its other engagements. This agreement was valid until 31 December 1990.

- (32) For the purpose of marketing its package tours, 90 Tour Italia concluded contracts with travel agencies in the various countries.

As far as the Member States were concerned, 90 Tour Italia concluded a contract with one agency in Ireland and one in Belgium/Luxembourg. In the other Community countries, contracts were concluded with a number of agencies.

(33) In all cases, the agencies approved by 90 Tour Italia undertook to resell the package tours at retail level only on their own territories. The agencies could if they wished resell the package tours at the wholesale level, but only to:

— agencies selling at the retail level which were established on their respective territories and which undertook to resell the package tours at the retail level,

or

— agencies selling at the wholesale level which were established on their respective territories and which undertook to resell the package tours to agencies selling at the retail level which were themselves established within the relevant territory.

(34) The authorized agencies were not in any circumstances allowed to resell the entrance tickets separately from the package tours.

(35) The relevant contracts related to a total of some 540 000 tickets to be included in the package tours.

The prices of the package tours differed considerably depending on aspects such as the number of days, the type of accommodation, the type of transport, distance and the meals included.

The prices of the package deals sold in Belgium by the agency authorized by 90 Tour Italia, for example, ranged from ECU 143 to ECU 840.

H. The question of safety

(36) The organization of the World Cup raises problems relating to safety that have to be taken into account. Such problems were outlined during the course of the proceeding by the deputy procurator of the Republic (sostituto procuratore della Repubblica Italiana), responsible for coordinating the organization of safety arrangements during the World Cup, and by the representatives of the local organizing committee and may be summarized as follows.

(37) The main problem for the organizers was to ensure that opposing groups of supporters were kept separate from one another and did not clash in or around the grounds. It was therefore necessary to ensure that spectators were grouped together by nationality within the grounds.

(38) For this purpose, the organizers carried out work within the grounds that would in particular allow all spectators to be seated.

(39) In addition, a central computerized system managed by BNL was set up with the aim of identifying the nationality of all the spectators and allowing seats to be allocated on the basis of nationality. The tickets distributed by BNL and its agents were sold only on presentation of an identity document, and the relevant information was entered in the central BNL computer.

(40) The procedure was the same for package tours; each person purchasing a package tour had to provide evidence of his identity, which was entered in the BNL computer via a computerized subsystem managed by 90 Tour Italia. Each person travelling on a package tour thus received a ticket corresponding to his nationality.

(41) The organizational arrangements still left open the possibility that individual supporters could purchase tickets not intended for them, notably on the black market.

However, according to the organizers, such practices were not widespread and posed little risk in terms of safety. The main problem was the formation of 'groups' of supporters close to or among opposing supporters.

(42) According to the organizers, it had therefore to be ensured that independent travel agencies not controlled by the local organizing committee could not acquire tickets. Such travel agencies would have been able to resell such tickets, either separately or as part of package tours, to supporters of a different nationality than that for which they were intended, thus jeopardizing spectator safety.

II. LEGAL ASSESSMENT

A. The concept of undertaking

(43) In accordance with the case law of the Court of Justice, any entity carrying on activities of an economic nature, regardless of its legal form, constitutes an undertaking within the meaning of Article 85 of the EEC Treaty (see in particular Cases 36/74 of 12 December 1974, *Walrave v. Union Cycliste Internationale* ⁽¹⁾ and C-41/90 of 23 April 1991, *Höfner v. Elser/Macrotron* ⁽²⁾).

An activity of an economic nature means any activity, whether or not profit-making, that involves economic trade (see Case 41/83 of 20 March 1985, *Italy v. Commission (British Telecommunications)* ⁽³⁾).

⁽¹⁾ ECR 1405 [1974].

⁽²⁾ ECR I-1979 [1991].

⁽³⁾ ECR 873 [1985].

(44) *Regarding the commercial nature of the World Cup*

The World Cup is indisputably a major sporting event.

However, it also involves activities of an economic nature, notably as regards :

- the sale of 2 700 000 entrance tickets for matches, more than 20 % of which are included in package tours comprising hotel accommodation, transport and sightseeing,
- the conclusion of contracts for advertising on panels within the grounds,
- the commercial exploitation of the FIFA emblems, the World Cup, the FIFA fair-play trophy and the World Cup mascot,
- the commercial exploitation by the local organizer of a specific emblem for the 1990 World Cup, and
- the conclusion of television broadcasting contracts.

(45) The economic value of the World Cup is, moreover, acknowledged in Article 3.4 of the specifications and conditions laid down by FIFA for the organizing federation.

(46) The economic value of the World Cup was also acknowledged by FIFA representatives at the hearing (see page 126 of the hearing record).

(47) *FIFA*

FIFA is a federation of sports associations and accordingly carries out sports activities.

However, FIFA also carries out activities of an economic nature, notably as regards :

- the conclusion of advertising contracts,
- the commercial exploitation of the World Cup emblems, and
- the conclusion of contracts relating to television broadcasting rights.

(48) In the case of the 1990 World Cup, the sale of advertising and television broadcasting rights by FIFA accounted for some 65 % of total World Cup revenue, estimated at Sfr 220 million.

(49) It must therefore be concluded that FIFA is an entity carrying on activities of an economic nature and constitutes an undertaking within the meaning of Article 85 of the EEC Treaty.

(50) *The Federazione Italiana Gioco Calcio (FIGC)* is the national Italian football association, appointed by FIFA to organize the 1990 World Cup.

(51) The FIGC was accordingly responsible for the entire organization of the event in accordance with the provisions of the 1990 World Cup regulations and had in particular the task of ensuring that grounds were in order, press facilities provided, parking spaces laid out, etc.

(52) For the purpose of financing such expenditure, the FIGC had a share in the net profits of the competition and was able to exploit commercially in Italy the 1990 World Cup emblem, which it had itself created.

(53) The FIGC thus also carries on activities of an economic nature and is consequently an undertaking within the meaning of Article 85 of the EEC Treaty.

(54) *Local organizing committee*

The local organizing committee is a body set up jointly by FIFA and the FIGC for the purpose of carrying on all activities relating directly or indirectly to the technical and logistical organization of the World Cup.

The local organizing committee's tasks included the establishment and implementation of the ticket distribution arrangements.

(55) The local organizing committee's revenue derived partly from television rights, advertising rights, the sale of tickets and the commercial exploitation in Italy of the World Cup emblem.

(56) The exclusive rights granted to 90 Tour Italia resulted in remuneration for the local organizing committee, in accordance with the provisions of Article 5 of the contract of 26 June 1987.

(57) It must therefore be concluded that the local organizing committee was a body carrying on activities of an economic nature and consequently constituted an undertaking within the meaning of Article 85.

(58) *The Compagnia Italiana Turismo SpA (CIT)* is an Italian company engaged in travel agency activities. It is therefore an undertaking within the meaning of Article 85.

(59) *Italia Tour SpA* is a company carrying on an activity similar to that of CIT and is thus also an undertaking within the meaning of Article 85.

(60) *90 Tour Italia SpA* is a company established under Italian law by CIT and Italia Tour for the purpose of putting together and marketing package tours to the 1990 World Cup. It is therefore an undertaking within the meaning of Article 85 of the EEC Treaty.

B. The contracts

- (61) The conditions under which 90 Tour Italia was active in marketing the package tours derive from two contracts:
- a contract concluded on 26 June 1987 between the local organizing committee on the one hand and CIT SpA and Italia Tour on the other, and
 - a contract concluded on 11 February 1988 between the local organizing committee and 90 Tour Italia reiterating the main provisions of the abovementioned contract.
- (62) These two contracts were for an identical term of validity, ending on 31 December 1990. The contract concluded on 11 February 1988 does not contain any provision cancelling or replacing the contract concluded on 26 June 1987.
- (63) It should also be noted that the contract concluded on 11 February 1988 between the local organizing committee and 90 Tour Italia was countersigned by CIT and Italia Tour which, under Article 8 of the contract, declared themselves jointly responsible with 90 Tour Italia *vis-à-vis* the local organizing committee.
- (64) Consequently, contrary to the statements made by the representatives of CIT during the proceeding, it cannot be argued that any anti-competitive effect of the contract between the local organizing committee and 90 Tour Italia cannot be blamed on CIT and Italia Tour. The two abovementioned contracts must therefore be taken into account in this proceeding.

C. On the responsibility of FIFA and FIGC

- (65) The two contracts which are the subject of this proceeding were concluded between the local organizing committee on the one hand and 90 Tour Italia, CIT and Italia Tour on the other. The contracts were not signed by FIFA or the FIGC.
- (66) However, it should be borne in mind that the local organizing committee, although having a separate legal personality, did not have any real autonomy as regards its conduct. Such lack of autonomy is due in particular to the following aspects.
- (67) The local organizing committee was set up jointly by the FIGC and FIFA specifically for the purpose of carrying on all activities relating directly or indirectly to the technical and logistical organization of the 1990 World Cup in Italy, in compliance with the operating constraints laid down in the specifications and conditions established by FIFA and the 1990 World Cup regulations (Article 3 of the local organizing committee regulations of 14 August 1985).

- (68) The existence of the local organizing committee was consequently closely linked to the organization of the 1990 World Cup and was to end once the 1990 World Cup was over.
- (69) The local organizing committee comprised 9 representatives of the FIGC and the President and General Secretary of FIFA. These 11 members, meeting in plenary session, had full powers of decision over the committees' activities.
- (70) The local organizing committee's restricted executive committee, which included FIFA's General Secretary, could be drawn only from the local organizing committee's own members.
- (71) As a result of the presence of their representatives within the local organizing committee's decision-making body, the FIGC and FIFA directly and effectively controlled the whole of the committee's activities on a joint basis, notably as regards ticket distribution.

In this area, the local organizing committee was subject to the instructions of FIFA and the FIGC.

- (72) In addition, in accordance with the provisions stipulated in the specifications and conditions, FIFA had the last word in all decisions of principle in all matters, including the ticket distribution system, which was a key element in the organization of the World Cup.
- (73) The ticket distribution system had in any case to be approved by FIFA. Thus, the contracts concluded on 26 June 1987 between the local organizing committee and CIT/Italia Tour and on 11 February 1988 between the local organizing committee and 90 Tour Italia regarding the distribution of tickets to be included in package tours included a suspensory clause to the effect that the policy on ticket sales had to be approved by FIFA.
- (74) All in all, it must be concluded that the local organizing committee was not in a position to determine in a really autonomous manner its behaviour on the market and that the conclusion of the above-mentioned contracts of 26 June 1987 and 11 February 1988 is attributable jointly to the local organizing committee, the FIGC and FIFA.

D. The concept of agreement

- (75) The two contracts of 26 June 1987 and 11 February 1988 constitute agreements between undertakings within the meaning of Article 85 of the EEC Treaty.

E. On the nature of the contracts in question

- (76) During the proceeding, some of the parties stated that the purpose of the contracts was to entrust to 90 Tour Italia the function of carrying out a task which the local organizing committee was not in a position to perform.

It might be concluded from this that 90 Tour Italia acted solely as an agent and that the contracts in question were not caught by the provisions of Article 85 of the Treaty.

(77) Such an analysis cannot be accepted for the following reasons:

— 90 Tour Italia was able to acquire entrance tickets to the grounds from the local organizing committee, but subsequently it provided different services, namely package tours, of which the tickets were only one element; the package tours were marketed at the prices and on the conditions set by 90 Tour Italia,

— 90 Tour Italia had to undertake to acquire, and did actually acquire, a considerable number of tickets for matches whose appeal to spectators was heavily dependent on the qualification of their team and hence unpredictable, and

— 90 Tour Italia thus accepted a high commercial risk, as the representatives of CIT pointed out at the hearing (see pages 60 and 70 of the hearing record).

(78) Accordingly, the functions of 90 Tour Italia went well beyond those of a mere agent, and the contracts are therefore caught by Article 85 of the Treaty.

F. Effect on competition

(79) The purpose of this Decision is solely to establish the effect on competition produced by the two abovementioned contracts concluded between the local organizing committee, 90 Tour Italia, CIT and Italia Tour.

However, in assessing the object and effects of the contracts in the light of Article 85 (1) of the Treaty, it is necessary to take into account the context within which they operated, notably entire ticket distribution system as described above.

(80) Under the two contracts of 26 June 1987 and 11 February 1988, the local organizing committee:

— conferred on 90 Tour Italia world exclusive rights in organizing the various package tours to the World Cup and in establishing an appropriate network for the distribution of such package tours in Italy and in the rest of the world,

— allowed 90 Tour Italia to present itself as the exclusive agent of the local organizing committee and to use the description 'Tour Operator for Italia 90', and

— within this framework, also granted 90 Tour Italia world exclusive rights to issue ground entrance tickets for inclusion in package tours and made available to it a number of tickets at least equal to 30 % of the capacity of the grounds.

(81) These exclusive rights were not granted by the local organizing committee free of charge, but entailed remuneration by 90 Tour Italia in accordance with the provisions of Article 5 of the contract of 26 June 1987.

(82) 90 Tour Italia subsequently authorized agencies in the various countries to sell its package tours.

(83) The result of these exclusive rights was that 90 Tour Italia was the only tour operator able to acquire ground entrance tickets from the local organizing committee for the purpose of putting together and selling package tours that included such tickets.

(84) Other tour operators, and travel agencies as well, were not able to acquire ground entrance tickets from the local organizing committee or from other sources of supply such as the sports associations or BNL because of the restrictions imposed on the sale of such tickets, and in particular the ban on resale to travel agencies.

(85) Consequently, the only package tours including ground entrance tickets available on the market were those put together by 90 Tour Italia. Other tour operators were able to offer only package tours that did not include ground entrance tickets.

(86) Obviously, for anyone wishing to go to Italy for the World Cup, it was crucial to have a package tour that did include ground entrance tickets.

Consequently, tour operators that were not able to offer such package tours were at a considerable competitive disadvantage *vis-à-vis* 90 Tour Italia.

(87) The world exclusive rights granted to 90 Tour Italia thus had the effect of restricting competition between tour operators in the Community.

(88) Furthermore, travel agencies wishing to sell package tours that included match entrance tickets were able to obtain such package tours from only one tour operator.

If world exclusive rights had not been granted to 90 Tour Italia, travel agencies would have been able to choose between a number of tour operators and possibly obtain more favourable terms, thus enabling them to gain a competitive edge over other travel agencies.

(89) Consequently, the world exclusive rights enjoyed by 90 Tour Italia also had the effect of restricting competition between travel agencies within the Community.

(90) During the proceeding, the parties argued that tour operators could sell package tours without ground entrance tickets and ask their customers to obtain the tickets from BNL or from the football associations.

(91) This cannot be regarded as a valid option. In such a situation, a customer buying a package tour without tickets would have to go to a BNL branch or agent to obtain tickets corresponding to the dates of the package tour. Given the time and effort this would entail, potential customers would obviously give preference to the travel agencies authorized by 90 Tour Italia to sell package tours with tickets.

(92) A second possibility suggested by the parties during the proceeding was that potential customers could book a package tour without tickets at a travel agency and ask the travel agency to purchase the ground entrance tickets for them.

(93) This approach similarly cannot be regarded as a satisfactory alternative solution.

Such a procedure would have meant that, for each package tour sold, a travel agency not authorized by 90 Tour Italia would have to go to the BNL branch or agent with the customer's identity papers in order to obtain the ground entrance tickets.

This procedure would have meant extra work and hence extra costs for the non-authorized travel agency and would still have left some doubt in the mind of the customer as to the real chances of obtaining the entrance tickets.

This sort of procedure thus placed agencies that did not have tickets at a competitive disadvantage *vis-à-vis* the agencies authorized by 90 Tour Italia, which were the only ones that were able to state in their advertising that they were able to guarantee entrance tickets.

(94) Account must also be taken of the fact that, by fax dated 26 January 1990, BNL instructed all its sales outlets outside Italy to stop selling entrance tickets as from 31 January 1990.

(95) As a result, as from 1 February 1990, tour operators other than 90 Tour Italia were unable to sell package tours for which their customers were supposed to purchase the tickets from BNL branches or agents.

(96) All in all, by granting exclusive rights to 90 Tour Italia to supply entrance tickets to be included in package tours, alternative sources for the procurement of tickets not being available, the agreements concluded between, on the one hand, the local organizing committee in its capacity as a body belonging jointly to FIFA and the FIGC and, on the other, 90 Tour Italia, CIT and Italia Tour had the effect of restricting competition in the Community within the meaning of Article 85 (1) of the Treaty between our operators and between travel agencies on the market for the sale of package tours to the 1990 World Cup. The conditions of Article 85 (1) are thus met.

G. Commission Regulation (EEC) No 1983/83 ⁽¹⁾

(97) During the proceeding, the parties argued that the agreements could have been exempted under Regulation (EEC) No 1983/83 on the application of Article 85 (3) of the Treaty to categories of exclusive distribution agreements.

(98) Regulation (EEC) No 1983/83 was adopted by the Commission pursuant to Council Regulation (EEC) No 19/65/EEC of 2 March 1965 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices ⁽²⁾.

(99) Article 1 (1) of Regulation (EEC) No 19/65/EEC explicitly limits the Commission's power to adopt an exemption regulation to agreements relating to goods only.

This restriction is also evident in the wording of the Article, which covers transactions in which one party purchases a good for resale.

⁽¹⁾ OJ No L 173, 30. 6. 1983, p. 1.

⁽²⁾ OJ No 36, 6. 3. 1965, p. 533/65.

- (100) Such purchasing and reselling transactions cannot be applied to services.
- (101) It must therefore be concluded that services are excluded from the scope of Council Regulation (EEC) No 19/65/EEC.
- (102) Regulation (EEC) No 1983/83 is thus bound to have the same scope of application, defined as 'agreements to which only two undertakings are party and whereby one party agrees with the other to supply certain goods for resale within the whole or a defined area of the common market only to that other'.
- (103) In point 11 of its Notice concerning Regulation (EEC) No 1983/83 ⁽¹⁾, the Commission stipulated that 'exclusive agreements for the supply of services rather than the resale of goods are not covered by the Regulation'.
- (104) The agreements to which this proceeding relates concern the supply on an exclusive basis of entrance tickets to grounds for the purpose of putting together package tours comprising transport, accommodation and meals.
- (105) It is thus obvious that the agreements relate to the supply of services and do not fall within the scope of application of Regulation (EEC) No 1983/83.
- (106) Even if the package tours in question had been deemed to be goods within the meaning of Article 1 of Regulation (EEC) No 1983/83, the conditions for exemption set out in Article 3 of the Regulation were not met.
- Thus, contrary to the provisions of Article 3 (c), users could obtain the package tours with match entrance tickets in the contract territory only from the exclusive distributor or its representatives and had no alternative source of supply outside the contract territory, the contract territory being the entire world.
- (107) With regard to the exclusive rights enjoyed by 90 Tour Italia, the representatives of the local organizing committee stated during the proceeding that such exclusive rights were *de facto* exclusive rights resulting from the lack of any other tour operator interested in concluding a contract with the local organizing committee.
- (108) This argument cannot be accepted for the following three reasons:

- if the parties did not wish to conclude an exclusive contract, there is no reason why they should have incorporated such a clause in the contract,
- the first contract between the local organizing committee and CIT/Italia Tours, signed on 26 June 1987, already provided for such exclusivity. As from that date, the local organizing committee was thus not in a position to conclude a contract with any other interested tour operator,
- if exclusivity had not been desired by the parties, there is no reason why the parties should have provided by contract for the financial consideration in respect of such exclusivity.

H. The question of safety

- (109) During the proceeding, the parties claimed that any restrictions of competition were justified by safety requirements.

The separation of spectators within the grounds by nationality and the need for safety arrangements around the grounds, it was claimed, meant that only one tour operator could be authorized to put together the package tours comprising entrance tickets for sale at world level.

- (110) From the legal point of view, the parties argued that such restrictions of competition had to be examined in the light of Article 36 of the Treaty, whose provisions took precedence over the competition rules laid down in Article 85. The parties referred in this respect to the judgment of the Court of Justice in Case 40/70 *Sirena v. Eda* ⁽²⁾.
- (111) With regard to the application of Article 36 of the EEC Treaty, the court of Justice held, in its judgment in Case 40/70 referred to by the parties, that 'Article 36, although it appears in the chapter of the Treaty dealing with quantitative restrictions on trade between Member States, is based on a principle equally applicable to the question of competition, in the sense that even if the rights recognized by the legislation of a Member State on the subject of industrial and commercial property are not affected, so far as their existence is concerned, by Articles 85 and 86 of the Treaty, their exercise may still fall under the prohibitions imposed by those provisions'.

⁽¹⁾ OJ No C 101, 13. 4. 1984, p. 2.

⁽²⁾ ECR 69 [1971].

- (112) It must be deduced from this judgment that, as in the case of the rules governing the free movement of goods, the competition rules may set limits to the exercise of industrial property rights. The argument put forward by the parties takes the opposite line in that it claims that Article 36 sets limits to the application of the competition rules.
- (113) At all events, even if this principle were accepted, it would be necessary to ensure that, in accordance with the provisions of Article 36, the practices in question did not constitute disguised restrictions of competition and that they were indispensable to the attainment of their objective.
- (114) In his evidence on the problems of safety, the deputy procurator of the Republic, who was responsible for the coordination of safety arrangements during the World Cup, did not mention the need to establish world exclusivity for the distribution of package tours inclusive of entrance tickets to the grounds.
- (115) During the hearing, a representative of the local organizing committee stated, with regard to the package tours, that all the tour operators willing to create a computerized subsystem and ensure its coordination with that of BNL could have been selected. The local organizing committee's representative stated in particular that 'two, fifteen or twenty' tour operators could have been selected (see page 89 of the hearing record).
- (116) It must therefore be concluded from the statements of the local organizing committee's representative himself that the world exclusive rights granted to 90 Tour Italia were not essential in order to ensure safety during the World Cup.

Consequently, even if the principle of Article 36 of the Treaty could be applied to the present case, the world exclusive rights granted to 90 Tour Italia were disproportionate to the objective pursued and cannot therefore be justified by the need to maintain safety.

- (117) With regard to package tours inclusive of tickets, strict control of ticket distribution was necessary. It was particularly important that a tour operator putting together such package tours should be able to make sure that the travel agencies distributing them downstream complied with the distribution conditions imposed by the tour operator.
- (118) For this reason, the Commission considers it justified that travel agencies not controlled by the organizers, such as the agency which has brought the

complaint in this case, should not have been able to acquire blocks of entrance tickets with a view to putting together package tour that would have been sold in a way that was not controlled.

- (119) However, the Commission considers that a number of tour operators imposing the same distribution conditions on travel agencies authorized to sell their package tours could have competed on the market without jeopardizing spectator safety.
- (120) The Commission notes that this possibility was acknowledged by the representatives of the local organizing committee during the hearing when they stated that any tour operators fulfilling the same criteria as 90 Tour Italia could have been selected.

I. Article 85 (3)

- (121) The agreements in question were not notified to the Commission with a view to exemption under Article 85 (3) of the EEC Treaty.
- (122) In any case, the Commission considers that the agreements did not fulfil the conditions required for the granting of such exemption.
- (123) Even if it had been considered that the agreements could contribute to improving the distribution of tickets and package tours, the Commission takes the view that the agreements imposed restrictions that were not indispensable to the attainment of the objectives pursued and, moreover, afforded the undertakings the possibility of eliminating competition in respect of a substantial part of the services in question.

J. Effect on trade between Member States

- (124) The contracts related to the exclusive distribution of package tours inclusive of tickets in the Community and the rest of the world, without any possibility of alternative sources of supply. The contracts thus appreciably affected trade between Member States, since, if they had not been concluded, trade on the market for such tours could have been expected to have been greater.

K. Imposition of fines

- (125) It must be borne in mind that this is the first time that the Commission has taken action on the distribution of tickets for a sporting event.

Furthermore, this case involved undoubted complicating factors in view of major safety aspects.

Lastly, the infringement came to an end with the completion of the 1990 World Cup.

Consequently, the Commission considers that fines should not be imposed on the parties to the agreements.

- (126) However, the Commission considers that a Decision is necessary in order to clarify the legal position and prevent the same or any similar infringement from being committed in future. In accordance with the case law of the Court of Justice (Case 7/82, *GVL v. Commission*⁽¹⁾), the Commission therefore has a legitimate interest in finding that the contracts infringed Article 85 of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

FIFA, the FIGC, the local organizing committee Italia '90, CIT SpA, Italia Tour SpA and 90 Tour Italia SpA have infringed Article 85 (1) of the EEC Treaty as regards the provisions of the contracts of 26 June 1987 and 11 February 1988 concluded between the local organizing committee Italia '90 and CIT SpA and Italia Tour SpA, on the one hand, and 90 Tour Italia SpA, on the other, which provided for the exclusive supply at world level to 90 Tour Italia SpA of ground entrance tickets for the purpose of putting together package tours to the 1990 World Cup. Such tickets formed part of a general system for the distribution of ground entrance tickets developed and implemented by the local organizing committee Italia '90 in accordance with the instructions of the FIGC

and FIFA, after approval by FIFA, a system which prohibited the sale of tickets for the putting together of such package tours, thus making it impossible for other tour operators and travel agencies to find sources of supply other than 90 Tour Italia SpA.

Article 2

This Decision is addressed to:

- 90 Tour Italia SpA
Via Laura Mantegazza, 75
I—Roma,
- Col Italia/Italia '90
Via Po, 36
I—00198 Roma,
- Compagnia Italiana Turismo spA
Piazza della Repubblica 68
I—00185 Roma,
- Federation internationale de football association
PO Box 85
Hitzigweg 11
Ch—8030 Zurich,
- Federazione italiana gioco calcio
Via Po 36
I—00198 Roma,
- Italia Tour SpA
Piazzale Schuman 78
I—Roma.

Done at Brussels, 27 October 1992.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ ECR 483 [1983].