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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3391/92

of 23 November 1992

opening a Community tariff quota for high-quality fresh, chilled or frozen meat of bovine animals falling within CN codes 0201 and 0202 and for products falling within CN codes 0206 10 95 and 0206 29 91 (1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

Having regard to the proposal from the Commission,

Whereas the Commission has undertaken, within the framework of the General Agreement on Tariffs and Trade (GATT), to open an annual Community tariff quota at a rate of duty of 20 %, for high-quality fresh, chilled or frozen meat of bovine animals falling within CN codes 0201 and 0202 and products falling within CN codes 0206 10 95 and 0206 29 91, the total quantity of which, expressed in weight of product, has been fixed at 34 300 tonnes; whereas that quota should accordingly be opened for 1993;

Whereas there should be a guarantee of, in particular, equal and continuing access by all interested traders within the Community to the said quota and of uninterrupted application of the rate laid down for that quota to all imports of the products in question until the quota is exhausted; whereas, to that end, a system for using the Community tariff quota based on the presentation of a certificate of authenticity guaranteeing the nature of the products, their provenance and their place of origin should be set up;

Whereas the detailed rules for the application of this Regulation should be drawn up in accordance with the procedure laid down in Article 27 of Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾,

1. A Community tariff quota for high-quality fresh, chilled or frozen meat of bovine animals falling within CN codes 0201 and 0202 and for products falling within CN codes 0206 10 95 and 0206 29 91, amounting to a total, expressed in weight of product, of 34 300 tonnes is hereby opened for 1993.

2. The Common Customs Tariff duty applicable to the quota referred to in paragraph 1 shall be 20 %.

*Article 1**Article 2*

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68, and in particular:

- (a) provisions to guarantee the nature of the products, where they come from and their origin;
- (b) provisions concerning recognition of the document enabling the guarantee referred to in (a) to be verified, and
- (c) the conditions governing the issue and the term of validity of import licences.

Article 3

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

It shall apply from 1 January 1993.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24. Last amended by Regulation (EEC) No 2066/92 (OJ No L 215, 30. 7. 1992, p. 49).

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

Done at Brussels, 23 November 1992.

For the Council

The President

D. CURRY

COUNCIL REGULATION (EEC) No 3392/92**of 23 November 1992****opening and providing for the administration of a Community tariff quota for meat of bovine animals, frozen, falling with CN code 0202 and products falling within CN code 0206 29 91 (1993)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

Having regard to the proposal from the Commission,

Whereas, for meat of bovine animals, frozen, falling within CN code 0202 and products falling within CN code 0206 29 91, the Community has undertaken, within the framework of the General Agreement on Tariffs and Trade (GATT), to open an annual Community tariff quota at a rate of duty of 20 %, the total quantity of which expressed in weight of boned or boneless meat, has been fixed at 53 000 tonnes; whereas that quota should accordingly be opened for 1993;

Whereas there should be a guarantee of, in particular, equal and continuing access by all interested traders within the Community to the quota and of uninterrupted application of the rate laid down for that quota to all imports of the products in question until the quota is exhausted;

Whereas the arrangements consist of the allocation by the Commission of the quantities available to the traditional operators and to operators engaging in trade in beef and veal; whereas, in order to ensure that the activities of the latter operators are genuine, only quantities of a certain size representative of trade with third countries should be considered;

Whereas, in order to ensure the quota is fully utilized, it is necessary to set a time limit for lodging import licence applications and to allow the transfer of any quantities that have not been applied for at that date during the last quarter of 1993, and their allocation to operators on the basis of the quantities remaining rather than the original allocation criteria;

Whereas the detailed rules for the application of this Regulation should be drawn up in accordance with the procedure laid down in Article 27 of Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾,

Article 1

1. A Community tariff quota for meat of bovine animals, frozen, falling within CN code 0202 and products falling within CN code 0206 29 91, totalling 53 000 tonnes, expressed in weight of boned or boneless meat, is hereby opened for 1993.

For the purposes of counting against the said quota, 100 kilograms of bone-in meat shall be equivalent to 77 kilograms of boned or boneless meat.

2. For the purposes of this Regulation, meat which is presented frozen at the time of acceptance of the import declaration shall be deemed frozen meat.

3. The Common Customs Tariff duty applicable to the quota shall be 20 %.

Article 2

The quota referred to in Article 1 shall be divided into two parts as follows:

- (a) the first, equal to 80 % or 42 400 tonnes, shall be apportioned between importers who can prove they have imported frozen meat falling within CN code 0202 or products falling within CN code 0206 29 91 to which these import arrangements apply during the last three years;
- (b) the second, equal to 20 % or 10 600 tonnes, shall be apportioned between operators who can prove that they engaged in trade, involving a minimum quantity and for a period to be determined, with third countries in beef and veal other than that to which these import arrangements apply and excluding meat which is the subject of inward or outward processing traffic.

Article 3

1. Quantities which have not been covered by an import licence application at 31 August 1993 shall be subject of a further allocation during the fourth quarter of that year, without account necessarily being taken of the apportionment referred to in Article 2.

2. Member States shall notify the Commission, before 16 September 1993, of quantities not applied for at 31 August of that year.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24. Last amended by Regulation (EEC) No 2066/92 (OJ No L 215, 30. 7. 1992, p. 49).

Article 4

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68, and in particular rules on :

- (a) the apportionment and allocation of quantities available between the operators referred to in Article 2 ;

and

- (b) the conditions governing the issue and the term of validity of the import licences.

Article 5

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

It shall apply from 1 January 1993.

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

Done at Brussels, 23 November 1992.

For the Council

The President

D. CURRY

COUNCIL REGULATION (EEC) No 3393/92

of 23 November 1992

opening a Community tariff quota for frozen buffalo meat falling within CN code 0202 30 90 (1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas the Commission has undertaken, within the framework of the General Agreement on Tariffs and Trade (GATT), to open an annual Community tariff quota at a rate of duty of 20 %, for frozen buffalo meat falling within CN code 0202 30 90, the total quantity of which, expressed in boneless meat, has been fixed at 2 250 tonnes; whereas that quota should accordingly be opened, for 1993;

Whereas there should be a guarantee of, in particular, equal and continuing access by all interested traders within the Community to the said quota and of uninterrupted application of the rate laid down for that quota to all imports of the products in question until the quota is exhausted; whereas, to that end, a system for using the Community tariff quota based on the presentation of a certificate of authenticity guaranteeing the nature of the products, their provenance and their place of origin should be set up;

Whereas the detailed rules for the application of this Regulation should be drawn up in accordance with the procedure laid down in Article 27 of Council Regulation

(EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. A Community tariff quota for frozen buffalo meat falling within CN code 0202 30 90 amounting to a total of 2 250 tonnes, expressed in weight of boneless meat, is hereby opened for 1993.
2. The Common Customs Tariff duty applicable to the quota shall be 20 %.

Article 2

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68, and in particular:

- (a) provisions to guarantee the nature of the products, where they come from and their origin;
- (b) provisions concerning recognition of the document enabling the guarantee referred to in (a) to be verified.

Article 3

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

It shall apply from 1 January 1993.

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

Done at Brussels, 23 November 1992.

For the Council

The President

D. CURRY

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24. Last amended by Regulation (EEC) No 2066/92 (OJ No L 215, 30. 7. 1992, p. 49).

COUNCIL REGULATION (EEC) No 3394/92

of 23 November 1992

opening a Community tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 21 (1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas the Commission has undertaken, within the framework of the General Agreement on Tariffs and Trade (GATT), to open an annual Community tariff quota at a rate of duty of 4 % for a total of 1 500 tonnes of frozen thin skirt of bovine animals falling within CN code 0206 29 91; whereas that quota should accordingly be opened for 1993;

Whereas there should be a guarantee of, in particular, equal and continuing access by all interested traders within the Community to the said quota and of uninterrupted application of the rate laid down for that quota to all imports of the products in question until the quota is exhausted;

Whereas the detailed rules for the application of this Regulation should be drawn up in accordance with the procedure laid down in Article 27 of Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. A Community tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91,

amounting to a total of 1 500 tonnes, expressed in weight of boneless meat, is hereby opened for 1993.

2. The Common Customs Tariff duty applicable to the quota mentioned in paragraph 1 shall be 4 %.

Article 2

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68, and in particular:

- (a) provisions to guarantee the nature of the products, where they come from and their origin;
- (b) provisions concerning recognition of the document enabling the guarantee referred to in (a) to be verified; and
- (c) the conditions governing the issue and the term of validity of import licences.

Article 3

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

It shall apply from 1 January 1993.

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

Done at Brussels, 23 November 1992.

For the Council

The President

D. CURRY

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24. Last amended by Regulation (EEC) No 2066/95 (OJ NO L 215, 30. 7. 1992, p. 49).

COMMISSION REGULATION (EEC) No 3395/92

of 26 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 25 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 27 November 1992.

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

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

(ECU/tonne)

CN code	Levy ^(?)
0709 90 60	131,31 ^(?) ⁽³⁾
0712 90 19	131,31 ^(?) ⁽³⁾
1001 10 10	168,36 ⁽¹⁾ ^(?) ⁽¹⁰⁾
1001 10 90	168,36 ⁽¹⁾ ^(?) ⁽¹⁰⁾
1001 90 91	127,38
1001 90 99	127,38 ⁽¹¹⁾
1002 00 00	154,75 ⁽⁹⁾
1003 00 10	124,02
1003 00 90	124,02 ⁽¹¹⁾
1004 00 10	114,07
1004 00 90	114,07
1005 10 90	131,31 ^(?) ⁽³⁾
1005 90 00	131,31 ^(?) ⁽³⁾
1007 00 90	137,67 ⁽⁹⁾
1008 10 00	45,37 ⁽¹¹⁾
1008 20 00	109,11 ⁽⁹⁾
1008 30 00	44,73 ⁽⁹⁾
1008 90 10	^(?)
1008 90 90	44,73
1101 00 00	191,17 ⁽⁸⁾ ⁽¹¹⁾
1102 10 00	230,11 ⁽⁸⁾
1103 11 10	273,57 ⁽⁸⁾ ⁽¹⁰⁾
1103 11 90	205,81 ⁽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 3396/92

of 26 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 25 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 27 November 1992.

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

Done at Brussels, 26 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 26 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	16,54	16,54	15,72
1001 90 99	0	16,54	16,54	15,72
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	22,96	22,96	22,01

B. Malt*(ECU/tonne)*

CN code	Current 11	1st period 12	2nd period 1	3rd period 2	4th period 3
1107 10 11	0	29,44	29,44	27,98	27,98
1107 10 19	0	22,00	22,00	20,91	20,91
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 3397/92

of 26 November 1992

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

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 No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 2046/92⁽²⁾, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria⁽³⁾, as last amended by Regulation (EEC) No 1900/92⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco⁽⁵⁾, as last amended by Regulation (EEC) No 1901/92⁽⁶⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia⁽⁷⁾, as last amended by Regulation (EEC) No 413/86⁽⁸⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey⁽⁹⁾, as last amended by Regulation (EEC) No 1902/92⁽¹⁰⁾, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon⁽¹¹⁾,

Whereas by Regulation (EEC) No 3131/78⁽¹²⁾, as amended by the Act of Accession of Greece, the Commis-

sion decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender⁽¹³⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas, in the collection of the levy, account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed, taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas, pursuant to Article 101 (1) of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁴⁾, no levies shall apply on imports of products originating in the overseas countries and territories; whereas, however, pursuant to Article 101 (4) of the abovementioned Decision, a special amount shall be charged on imports of certain products originating in the overseas countries and territories in order to prevent products originating from these countries and territories from receiving more favourable treatment than similar products imported from Spain or Portugal into the Community as constituted on 31 December 1985;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 23 and 24 November 1992 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within 29 codes 0709 90 39 and 0711 20 90 and on products falling within CN codes 1522 00 31, 1522 00 39 and 2306 90 19 must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

⁽¹³⁾ OJ No L 331, 28. 11. 1978, p. 6.

⁽¹⁴⁾ OJ No L 263, 19. 9. 1991, p. 1.

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 192, 11. 7. 1992, p. 1.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 192, 11. 7. 1992, p. 2.

⁽⁷⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁸⁾ OJ No L 48, 26. 2. 1986, p. 1.

⁽⁹⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽¹⁰⁾ OJ No L 192, 11. 7. 1992, p. 3.

⁽¹¹⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹²⁾ OJ No L 370, 30. 12. 1978, p. 60.

HAS ADOPTED THIS REGULATION :

Article 2

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

Article 1

The minimum levies on olive oil imports are fixed in Annex I.

Article 3

This Regulation shall enter into force on 27 November 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Minimum import levies on olive oil ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
1509 10 10	79,00 ⁽²⁾
1509 10 90	79,00 ⁽²⁾
1509 90 00	92,00 ⁽²⁾
1510 00 10	77,00 ⁽²⁾
1510 00 90	122,00 ⁽⁴⁾

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3094/92 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

⁽²⁾ For imports of oil falling within this CN code and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by :

- (a) Lebanon : ECU 0,60 per 100 kg ;
- (b) Tunisia : ECU 12,69 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (c) Turkey : ECU 22,36 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force ;
- (d) Algeria and Morocco : ECU 24,78 per 100 kg provided that the operator furnishes proof of having paid the export tax applied by that country ; however, the repayment may not exceed the amount of the tax in force.

⁽³⁾ For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 3,86 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 3,09 per 100 kg.

⁽⁴⁾ For imports of oil falling within this CN code :

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by ECU 7,25 per 100 kg ;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by ECU 5,80 per 100 kg.

ANNEX II

Import levies on other olive oil sector products ⁽¹⁾

(ECU/100 kg)

CN code	Non-member countries
0709 90 39	17,38
0711 20 90	17,38
1522 00 31	39,50
1522 00 39	63,20
2306 90 19	6,16

⁽¹⁾ No levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC. However, an amount equal to the amount fixed by Regulation (EEC) No 3148/91 is to be levied in accordance with Article 101 (4) of the abovementioned Decision.

COMMISSION REGULATION (EEC) No 3398/92

of 26 November 1992

adopting interim protective measures on applications for STM licences in the beef and veal sector submitted for trade with Portugal during the period 16 to 19 November 1992

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 252 (1) thereof,

Whereas Commission Regulation (EEC) No 3810/91 of 18 December 1991 laying down detailed rules for the application of the supplementary trade mechanism in the beef and veal sector between the Community as constituted at 31 December 1985 and Spain and Portugal and repealing Regulations (EEC) No 4026/89 and (EEC) No 3815/90 ⁽¹⁾, as last amended by Regulation (EEC) No 2934/92 ⁽²⁾, set the indicative ceilings applicable in the beef and veal sector and the maximum quantities for which STM licences may be issued in November and December 1992;

Whereas Article 252 (1) of the Act of Accession makes provision for the Commission to take the interim protective measures necessary if the indicative ceiling for the year in course or part of it is reached or exceeded;

Whereas the licence applications lodged between 16 and 19 November 1992 are for a quantity in excess of that set

for the months of November and December 1992 for Portugal for live animals; whereas as an interim protective measure only a percentage of the amounts applied for in that period should be granted and no further certificates issued for the time being,

HAS ADOPTED THIS REGULATION:

Article 1

For live animals of the bovine species, other than purebred breeding animals and animals for bullfights:

1. applications for STM licences submitted between 16 and 19 November 1992 and notified to the Commission shall be accepted for 63,004 % for Portugal;
2. the issuing of STM licences in response to applications submitted from 23 November 1992 onwards is suspended for the time being.

Article 2

This Regulation shall enter into force on 27 November 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 357, 28. 12. 1991, p. 53.

⁽²⁾ OJ No L 293, 9. 10. 1992, p. 10.

COMMISSION REGULATION (EEC) No 3399/92

of 26 November 1992

fixing the definitive production aid for certain processed tomato products in respect of the 1992/93 marketing year and derogating for that year from Regulations (EEC) No 1558/91 and (EEC) No 722/88

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 1569/92⁽²⁾, and in particular Article 3 (4) and 5 (5) thereof,

Whereas Article 3 (1) of Regulation (EEC) No 426/86 lays down that the system of production aid is based on contracts between producers and processors;

Whereas Article 2 of Council Regulation (EEC) No 989/84⁽³⁾, as last amended by Regulation (EEC) No 1755/92⁽⁴⁾, introducing a system of guarantee thresholds for certain processed fruit and vegetable products, in particular for processed tomato products, lays down that where the guarantee threshold is exceeded, the production aid is to be reduced for the current marketing year; whereas, moreover, the overrun in the guarantee threshold is to be calculated on the basis of the quantities covered by production aid application during the 1992/93 marketing year;

Whereas Regulation (EEC) No 989/84 fixes, in respect of the 1992/93 marketing year, a guarantee threshold corresponding to a volume of fresh tomatoes of 6 596 787 tonnes; whereas 4 317 339 tonnes are destined for the manufacture of tomato concentrate and 1 543 228 tonnes are destined for the manufacture of whole peeled tomatoes; whereas the balance corresponding to the manufacture of other processed tomato products should be taken into consideration at a later date;

Whereas, according to the final communications sent by the Member States under Commission Regulation (EEC) No 2010/92 of 20 July 1992 derogating for the 1992/93 marketing year from Regulation (EEC) No 1558/91 laying down detailed rules for the application of the system of production aid for products processed from fruit and vegetables⁽⁵⁾, the quantities of raw materials covered by processing contracts, including written amendments or supplements thereto concerned 4 298 678 tonnes for

tomato concentrate and 1 538 970 tonnes for whole peeled tomatoes; whereas the quantities under contract for tomato concentrate and peeled tomatoes are lower than the quantities specified above; whereas, the quantities which will be covered by aid application, in respect of these two groups of product, will not exceed the quantities referred to in the contract, including written amendments or supplements thereto;

Whereas it follows from the foregoing that there will be no overrun for tomato concentrates or for whole peeled tomatoes and, whereas, consequently, the provisional level of production aid fixed by Commission Regulation (EEC) No 2023/92⁽⁶⁾ becomes definitive;

Whereas Articles 12 and 14 of Commission Regulation (EEC) No 1558/91 of 7 June 1991 laying down detailed rules for the application of the system of production aid for products processed from fruit and vegetables⁽⁷⁾, as amended by Regulation (EEC) No 2008/92⁽⁸⁾, lays down that a single application for the three groups of tomato-based products may be submitted for each marketing year; whereas, in view of the foregoing, for the 1992/93 marketing year, the submission of a single application for each group of product should be allowed;

Whereas Commission Regulation (EEC) No 722/88 of 18 March 1988 laying down the detailed rules for the application of Article 3 (1a) of Regulation (EEC) No 426/86 as regards the granting of aid for processed tomato products⁽⁹⁾, lays down that processors are to submit a single premium application of 2 % of the production aid for the quantities of finished products obtained on the basis of contracts concluded with recognized producer groups or associations; whereas this application must be submitted together with the production aid application, whereas it follows from the foregoing that several aid applications may be submitted and, whereas, consequently, the application for a 2 % premium must be submitted together with the most recent application for production aid;

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

⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽²⁾ OJ No L 166, 20. 6. 1992, p. 5.

⁽³⁾ OJ No L 103, 16. 4. 1984, p. 19.

⁽⁴⁾ OJ No L 180, 1. 7. 1992, p. 25.

⁽⁵⁾ OJ No L 203, 21. 7. 1992, p. 11.

⁽⁶⁾ OJ No L 207, 23. 7. 1992, p. 11.

⁽⁷⁾ OJ No L 144, 8. 6. 1991, p. 31.

⁽⁸⁾ OJ No L 203, 21. 7. 1992, p. 9.

⁽⁹⁾ OJ No L 74, 19. 3. 1988, p. 49.

HAS ADOPTED THIS REGULATION:

In this case, Article 14 (1) and (2) of Regulation (EEC) No 1558/91 shall apply to each of the aid applications.

Article 1

The provisional level of production aid fixed by Regulation (EEC) No 2023/92 shall be definitive for the products listed in Annex I.

Article 2

For the 1992/93 marketing year the following derogation is applicable to Article 12 (4) of Regulation (EEC) No 1558/91:

a single aid application may be submitted for each of the following products:

- tomato concentrate,
- whole peeled tomatoes,
- other tomato-based products,

within a period following the end of the processing operations of the marketing year and by 15 December 1992 at the latest.

Article 3

For the 1992/93 marketing year, and by way of derogation from the first subparagraph of Article 4 of Regulation (EEC) No 722/88, the single premium application shall be submitted by the processor together with the most recent production aid application submitted pursuant to Article 2 of this Regulation.

Article 4

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, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

Production aid

Product	ECU/ 100 kg net
1. Tomato concentrates with a dry weight content of 28 % or more but less than 30 %	29,289
2. Preserved whole peeled tomatoes in tomato juice:	
(a) of the San Marzano variety	10,531
(b) of the Roma and similar varieties	7,427
3. Preserved whole peeled tomatoes of the Roma and similar varieties in water	6,313

COMMISSION REGULATION (EEC) No 3400/92

of 26 November 1992

fixing for the 1992/93 marketing year the reference price for sweet oranges

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾, and in particular Article 6 (3) thereof,

Whereas Article 23 (1) of Regulation (EEC) No 1035/72 provides that reference prices valid for the whole Community are to be fixed each year before the beginning of the marketing year;

Whereas the importance of sweet orange production in the Community is such that a reference price must be fixed for that product;

Whereas the period during which oranges harvested during a given crop year are marketed extends from October to 15 July of the following year; whereas the quantity put on the market during October and November and from 1 June to 15 July of the following year represents only a small percentage of that marketed over the whole marketing year; whereas the reference price should therefore be fixed only for a period running from 1 December to 31 May of the following year;

Whereas the fixing of a single reference price valid for the whole marketing year appears to be the solution most suited to the particular nature of the Community market in the product in question;

Whereas Article 23 (2) (b) of the abovementioned Regulation stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the standard cost of transporting Commu-

nity products between production areas and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State with regard to Article 23 (2) plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas Article 6 of Regulation (EEC) No 1677/85 provides that agricultural prices fixed in ecus must be reduced when the amendment of the agricultural conversion rate takes effect at the beginning of the marketing year following a monetary realignment, as a result of the dismantlement of transferred monetary gaps; whereas, because of automatic dismantlement of the negative monetary gaps created by the realignments of 13 to 17 September 1992. It is necessary to divide the prices in ecus by the coefficient reducing agricultural prices fixed at 1,002650 by Article 2 of Commission Regulation (EEC) No 2735/92⁽⁵⁾; however, this adjustment cannot result in a lower level of the reference prices than the prices in force during the preceding marketing year pursuant to Article 23 (2) of Regulation (EEC) No 1035/72;

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

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 277, 22. 9. 1992, p. 18.

HAS ADOPTED THIS REGULATION:

kilograms net and applicable to class I all sizes, packed, shall, for the period 1 December 1991 to 31 May 1993, be : 22,75.

Article 1

For the 1992/93 marketing year, the reference price for fresh sweet oranges (CN codes 0805 10 11, 15, 19, 21, 25, 29, 31, 35, 39, 41, 45 and 49) expressed in ecus per 100

Article 2

This Regulation shall enter into force on 1 December 1991.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3401/92

of 26 November 1992

fixing for the 1992/93 marketing year the reference price for clementines

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾, and in particular Article 6 (3) thereof,

Whereas Article 23 (1) of Regulation (EEC) No 1035/72 provides that reference prices for the whole Community are to be fixed each year before the beginning of the marketing year;

Whereas the importance of clementine production in the Community is such that a reference price must be fixed for that product;

Whereas the period during which clementines harvested during a given crop year are marketed extends from October to 15 May of the following year; whereas the quantities put on the market at the beginning and at the end of the marketing year represent only a relatively small percentage of that marketed over the whole marketing year; whereas the reference price should therefore be fixed only for the period running from 1 December to the last day of February of the following year;

Whereas the fixing of a single reference price valid for the whole marketing year appears to be the solution most suited to the particular nature of the Community market in the product in question;

Whereas Article 23 (2) (b) of Regulation (EEC) No 1035/72 stipulates that reference prices are to be fixed at the same level as for the preceding marketing year, adjusted, after deducting the amount referred to in paragraph 2 (a) of that Article and the standard cost of transporting Community products between production areas

and Community consumption centres in the preceding year, by:

- the increase in production costs for fruit and vegetables, less productivity growth, and
- the amount referred to in paragraph 2 (a) of that Article,
- the standard rate of transport costs in the current marketing year;

Whereas the resulting figure may nevertheless not exceed the arithmetic mean of producer prices in each Member State, with regard to Article 23, of the amount referred to in paragraph 2 (a), plus transport costs for the current year, after this amount has been increased by the rise in production costs less productivity growth; whereas the reference price may, however, not be lower than in the preceding marketing year;

Whereas producer prices are to correspond to the average of the prices recorded on the representative market or markets situated in the production areas where prices are lowest, during the three years prior to the date on which the reference price is fixed, for a home-grown product with defined commercial characteristics, being a product or variety representing a substantial proportion of the production marketed over the year or over part thereof and satisfying specified requirements as regards market preparation; whereas, when the average of prices recorded on each representative market is being calculated, prices which could be considered excessively high or excessively low in relation to normal price fluctuations on that market are to be disregarded;

Whereas Article 6 of Regulation (EEC) No 1677/85 provides that agricultural prices fixed in ecus must be reduced when the amendment of the agricultural conversion rate takes effect at the beginning of the marketing year following a monetary realignment, as a result of the dismantlement of transferred monetary gaps; whereas, because of automatic dismantlement of the negative monetary gaps created by the realignments of 13 to 17 September 1992. It is necessary to divide the prices in ecus by the coefficient reducing agricultural prices fixed at 1,002650 by Article 2 of Commission Regulation (EEC) No 2735/92⁽⁵⁾; however, this adjustment cannot result in a lower level of the reference prices than the prices in force during the preceding marketing year pursuant to Article 23 (2) of Regulation (EEC) No 1035/72;

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 23.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 277, 22. 9. 1992, p. 18.

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

per 100 kilograms net of packed products of quality class I, of all sizes, shall, for the period 1 December 1992 to 28 February 1993, be : 59,57.

HAS ADOPTED THIS REGULATION :

Article 1

For the 1992/93 marketing year, the reference price for fresh clementines (CN code 0805 20 10) expressed in ecus

Article 2

This Regulation shall enter into force on 1 December 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3402/92**of 26 November 1992****fixing for the 1992/93 marketing year the Community offer price for clementines
applicable with regard to Spain and Portugal**

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 Regulations (EEC) No 3709/89⁽¹⁾ and No 3648/90⁽²⁾ laying down general rules for implementing the Act of Accession of Spain and Portugal as regards the compensation mechanism on imports of fruit and vegetables originating respectively in Spain and Portugal, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾, and in particular Article 6 (3) thereof,

Whereas, Commission Regulation (EEC) No 3820/90⁽⁵⁾, lays down detailed rules for the application of the compensation mechanism to imports of fruit and vegetables from Spain;

Whereas, pursuant to Article 152 and Article 318 of the Act of Accession, a compensation mechanism is to be introduced on imports into the Community as constituted at 31 December 1985, hereinafter referred to as the 'Community of Ten', of fruit and vegetables from Spain and Portugal for which a reference price is fixed with regard to third countries; whereas, the Community offer price for clementines coming from Spain and Portugal should be fixed only during the period where the reference price is fixed with regard to third countries, this means from 1 December up to the last day of February of the following year;

Whereas, in accordance with Articles 152 (2) (a) and 318 (1) (a) of the Act of Accession, a Community offer price is to be calculated annually on the basis of the arithmetic mean of the producer prices in each Member State of the Community of Ten, plus transport and packaging costs incurred by the products from the production regions to the representative consumption centres of the Community and bearing in mind developments in the cost of production in the fruit and vegetable sector; whereas the

abovementioned producer prices correspond to the average prices recorded during the three years preceding the date of fixing of the Community offer price; whereas, however, the annual Community offer price cannot exceed the reference price applied for third countries;

Whereas, in accordance with Article 1 of Regulations (EEC) Nos 3709/89 and 3648/90, the producer prices to be used for the determination of the Community offer price are to be those of a domestic product defined by its commercial characteristics recorded on the representative market or markets located in the production areas where prices are lowest for products or varieties representing a considerable proportion of production marketed throughout the year or during a part of the latter and which meet quality Class I requirements and conditions laid down as regards packaging; whereas the average price for each representative market must be established after disregarding prices which may be considered excessively high or excessively low compared with the normal fluctuations recorded on the market; whereas, moreover, if the average price for a Member State shows excessive variations with respect of normal price fluctuations, it shall not be taken into account;

Whereas Article 6 of Regulation (EEC) No 1677/85 provides that agricultural prices fixed in ecus must be reduced when the amendment of the agricultural conversion rate takes effect at the beginning of the marketing year following a monetary realignment, as a result of the dismantlement of transferred monetary gaps; whereas, because of automatic dismantlement of the negative monetary gaps created by the realignments of 13 to 17 September 1992. It is necessary to divide the prices in ecus by the coefficient reducing agricultural prices fixed at 1,002650 by Article 2 of Commission Regulation (EEC) No 2735/92⁽⁶⁾; whereas, this adjustment does not, for opportunity reasons, in all cases lead to a lower Community offer price than in the preceeding marketing year;

Whereas the application of the abovementioned criteria results in a Community offer price being fixed for clementines for the period 1 December 1992 to 28 February 1993;

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

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.

⁽²⁾ OJ No L 362, 27. 12. 1990, p. 16.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 6.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 366, 29. 12. 1990, p. 43.

⁽⁶⁾ OJ No L 277, 22. 9. 1992, p. 18.

HAS ADOPTED THIS REGULATION:

100 kilograms net of packed products of Class I, of all sizes, shall be as follows:

from 1 December 1992 to 28 February 1993: 51,40.

Article 1

For the 1992/93 marketing year, the Community offer price for clementines (CN code 0805 20 10) applicable with regard to Spain and Portugal, expressed in ecus per

Article 2

This Regulation shall enter into force on 1 December 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3403/92

of 26 November 1992

fixing for the 1992/93 marketing year the Community offer price for sweet oranges applicable with regard to Spain and Portugal

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 Regulations (EEC) No 3709/89 ⁽¹⁾ and No 3648/90 ⁽²⁾ laying down general rules for implementing the Act of Accession of Spain and Portugal as regards the compensation mechanism on imports of fruit and vegetables originating respectively in Spain and Portugal, and in particular Article 4 (1) thereof,Having regard to Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture ⁽³⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁴⁾, and in particular Article 6 (3) thereof,Whereas, Commission Regulation (EEC) No 3820/90 of 19 December 1990 ⁽⁵⁾, lays down detailed rules for the application of the compensation mechanism to imports of fruit and vegetables from Spain;

Whereas, pursuant to Article 152 and Article 318 of the Act of Accession, a compensation mechanism is to be introduced on imports into the Community as constituted at 31 December 1985, hereinafter referred to as the 'Community of Ten', of fruit and vegetables from Spain and Portugal for which a reference price is fixed with regard to third countries; whereas, the Community offer price for sweet oranges coming from Spain and Portugal should be fixed only during the period where a reference price is fixed with regard to third countries, this means from 1 December up to and including 31 May of the following year;

Whereas, in accordance with Articles 152 (2) (a) and 318 (1) (a) of the Act of Accession, a Community offer price is to be calculated annually on the basis of the arithmetic mean of the producer prices in each Member State of the Community of Ten, plus transport and packaging costs

incurred by the products from the production regions to the representative consumption centres of the Community and bearing in mind developments in the cost of production in the fruit and vegetable sector; whereas the abovementioned producer prices correspond to the average prices recorded during the three years preceding the date of fixing of the Community offer price; whereas, however, the annual Community offer price cannot exceed the reference price applied for third countries;

Whereas, in accordance with Article 1 of Regulations (EEC) Nos 3709/89 and 3648/90, the producer prices to be used for the determination of the Community offer price are to be those of a domestic product defined by its commercial characteristics recorded on the representative market or markets located in the production areas where prices are lowest for products or varieties representing a considerable proportion of production marketed throughout the year or during a part of the latter and which meet Quality Class I requirements and conditions laid down as regards packaging; whereas the average price for each representative market must be established after disregarding prices which may be considered excessively high or excessively low compared with the normal fluctuations recorded on the market; whereas, moreover, if the average price for a Member State shows excessive variations with respect of normal price fluctuations, it shall not be taken into account;

Whereas Article 6 of Regulation (EEC) No 1677/85 provides that agricultural prices fixed in ecus must be reduced when the amendment of the agricultural conversion rate takes effect at the beginning of the marketing year following a monetary realignment, as a result of the dismantlement of transferred monetary gaps; whereas, because of automatic dismantlement of the negative monetary gaps created by the realignments of 13 to 17 September 1992. It is necessary to divide the prices in ecus by the coefficient reducing agricultural prices fixed at 1,002650 by Article 2 of Commission Regulation (EEC) No 2735/92 ⁽⁶⁾; whereas, this adjustment does not, for opportunity reasons, in all cases lead to a lower Community offer price than in the preceeding marketing year;

Whereas the application of the abovementioned criteria results in a Community offer price being fixed for sweet oranges for the period 1 December 1992 to 31 May 1993;

⁽¹⁾ OJ No L 363, 13. 12. 1989, p. 3.⁽²⁾ OJ No L 362, 27. 12. 1990, p. 16.⁽³⁾ OJ No L 164, 24. 6. 1985, p. 6.⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.⁽⁵⁾ OJ No L 366, 29. 12. 1990, p. 43.⁽⁶⁾ OJ No L 277, 22. 9. 1992, p. 18.

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

Spain and Portugal, expressed in ecus per 100 kilograms net of packed products of class I, of all sizes, shall be as follows:

— From 1 December 1992 to 31 May 1993: 22,66.

HAS ADOPTED THIS REGULATION:

Article 1

For the 1992/93 marketing year, the Community offer price for sweet oranges (CN codes 0805 10 11, 15, 19, 21, 25, 29, 31, 35, 39, 41, 45 and 49) applicable with regard to

Article 2

This Regulation shall enter into force on 1 December 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3404/92

of 26 November 1992

**fixing the import levies on live sheep and goats and on sheepmeat and goatmeat
other than frozen meat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EEC) No 2069/92⁽²⁾, and in particular the Article 10 thereof,Whereas the import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat were fixed by Commission Regulation (EEC) No 455/92⁽³⁾, as last amended by Regulation (EEC) No 3099/92⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 455/92 to the quotations and other information known to the Commission

that the levies at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 December 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.⁽²⁾ OJ No L 215, 30. 7. 1992, p. 59.⁽³⁾ OJ No L 52, 27. 2. 1992, p. 34.⁽⁴⁾ OJ No L 311, 28. 10. 1992, p. 34.

ANNEX

to the Commission Regulation of 26 November 1992 fixing the import levies on live sheep and goats and on sheepmeat and goatmeat other than frozen meat (*)

(ECU/100 kg)

CN code	Week No 49 from 7 to 13 December 1992	Week No 50 from 14 to 20 December 1992	Week No 51 from 21 to 27 December 1992	Week No 52 from 28 December 1992 to 3 January 1993
0104 10 90 ⁽¹⁾	61,612	65,532	69,443	72,441
0104 20 90 ⁽¹⁾	61,612	65,532	69,443	72,441
0204 10 00 ⁽²⁾	131,090	139,430	147,750	154,130
0204 21 00 ⁽²⁾	131,090	139,430	147,750	154,130
0204 22 10 ⁽²⁾	91,763	97,601	103,425	107,891
0204 22 30 ⁽²⁾	144,199	153,373	162,525	169,543
0204 22 50 ⁽²⁾	170,417	181,259	192,075	200,369
0204 22 90 ⁽²⁾	170,417	181,259	192,075	200,369
0204 23 00 ⁽²⁾	238,584	253,763	268,905	280,517
0204 50 11 ⁽²⁾	131,090	139,430	147,750	154,130
0204 50 13 ⁽²⁾	91,763	97,601	103,425	107,891
0204 50 15 ⁽²⁾	144,199	153,373	162,525	169,543
0204 50 19 ⁽²⁾	170,417	181,259	192,075	200,369
0204 50 31 ⁽²⁾	170,417	181,259	192,075	200,369
0204 50 39 ⁽²⁾	238,584	253,763	268,905	280,517
0210 90 11 ⁽²⁾	170,417	181,259	192,075	200,369
0210 90 19 ⁽²⁾	238,584	253,763	268,905	280,517

⁽¹⁾ The levy applicable is limited in the conditions laid down by Council Regulations (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 1373/90 and Commission Regulations (EEC) No 19/82, (EEC) No 1249/90, (EEC) No 1580/90 and (EEC) No 2085/90.

⁽²⁾ The levy applicable is limited to the amount bound under GATT or in the conditions laid down in Council Regulations (EEC) No 1985/82, (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 753/90 and Commission Regulations (EEC) No 19/82, (EEC) No 3652/89, (EEC) No 3989/89, (EEC) No 479/90 and (EEC) No 952/90.

⁽³⁾ The levy applicable is limited in the conditions laid down in Council Regulation (EEC) No 715/90 and Commission Regulation (EEC) No 19/82.

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

COMMISSION REGULATION (EEC) No 3405/92
of 26 November 1992
fixing the import levies on frozen sheepmeat and goatmeat

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

Having regard to Council Regulation (EEC) No 3013/89 of 25 September 1989 on the common organization of the market in sheepmeat and goatmeat⁽¹⁾, as last amended by Regulation (EEC) No 2069/92⁽²⁾, and in particular the Article 10 thereof,

Whereas the import levies on frozen sheepmeat and goatmeat were fixed by Commission Regulation (EEC) No 456/92⁽³⁾, as last amended by Regulation (EEC) No 3098/92⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 456/92 to the quota-

tions and other information known to the Commission that the levies should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The import levies on frozen sheepmeat and goatmeat shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 December 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 59.

⁽³⁾ OJ No L 52, 27. 2. 1992, p. 37.

⁽⁴⁾ OJ No L 311, 28. 10. 1992, p. 32.

ANNEX

to the Commission Regulation of 26 November 1992 fixing the import levies on frozen
sheepmeat and goatmeat ⁽¹⁾ ⁽²⁾

(ECU/100 kg)

CN code	Week No 49 from 7 to 13 December 1992	Week No 50 from 14 to 20 December 1992	Week No 51 from 21 to 27 December 1992	Week No 52 from 28 December 1992 to 3 January 1993
0204 30 00	154,568	160,823	167,063	171,848
0204 41 00	154,568	160,823	167,063	171,848
0204 42 10	108,198	112,576	116,944	120,294
0204 42 30	170,025	176,905	183,769	189,033
0204 42 50	200,938	209,070	217,182	223,402
0204 42 90	200,938	209,070	217,182	223,402
0204 43 00	281,314	292,698	304,055	312,763
0204 50 51	154,568	160,823	167,063	171,848
0204 50 53	108,198	112,576	116,944	120,294
0204 50 55	170,025	176,905	183,769	189,033
0204 50 59	200,938	209,070	217,182	223,402
0204 50 71	200,938	209,070	217,182	223,402
0204 50 79	281,314	292,698	304,055	312,763

⁽¹⁾ The levy applicable is limited to the amount bound under GATT or in the conditions laid down in Council Regulations (EEC) No 1985/82, (EEC) No 3643/85, (EEC) No 715/90 and (EEC) No 753/90 and Commission Regulations (EEC) No 19/82, (EEC) No 3652/89, (EEC) No 3989/89, (EEC) No 479/90 and (EEC) No 952/90.

⁽²⁾ No import levy applies to OCT originating products according to Article 101 (1) of Decision 91/482/EEC.

COMMISSION REGULATION (EEC) No 3406/92

of 26 November 1992

suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of uniflorous (standard) carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as amended by Regulation (EEC) No 3551/88⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 lays down the conditions for applying a preferential duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports into the Community of fresh cut flowers;

Whereas Council Regulation (EEC) No 3341/92⁽³⁾ opened and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 of Regulation (EEC) No 4088/87 provides, on the one hand, that for a given product of a given origin, the preferential customs duty is to be applicable only if the price of the imported product is at least equal to 85 % of the Community producer price; whereas, on the other hand, the preferential customs duty is, except in exceptional cases, suspended and the Common Customs Tariff duty introduced for a given product of a given origin:

- (a) if, on two successive market days, the prices of the imported product are less than 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on representative import markets;
- or
- (b) if, over a period of five to seven successive market days, the prices of the imported product are alternatively above and below 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on the representative import markets and if, for three days during that period, the prices of the import product have been below that level;

Whereas Commission Regulation (EEC) No 2960/92⁽⁴⁾ fixes the Community producer prices for carnations and roses for the application of the import arrangements;

Whereas Commission Regulation (EEC) No 700/88⁽⁵⁾, as amended by Regulation (EEC) No 3556/88⁽⁶⁾, lays down the detailed rules for the application of the arrangements;

Whereas, in order to enable the arrangements to operate normally, the following should be used for the calculation of the import prices:

- for the currencies which are maintained against one another within a maximum spread at any given moment for spot rate transactions of 2,25 %, a conversion rate based on their central rate adjusted by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾,
- 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, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for uniflorous (standard) carnations originating in Israel; whereas the Common Customs Tariff duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of uniflorous (standard) carnations (CN code ex 0603 10 53) originating in Israel, the preferential customs duty fixed by Council Regulation (EEC) No 3341/92 is hereby suspended and the Common Customs Tariff duty is hereby reintroduced.

Article 2

This Regulation shall enter into force on 27 November 1992.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 336, 20. 11. 1992, p. 8.

⁽⁴⁾ OJ No L 298, 14. 10. 1992, p. 9.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3407/92

of 26 November 1992

suspending the preferential customs duties and re-introducing the Common Customs Tariff duty on imports of multiflorous (spray) carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco ⁽¹⁾, as amended by Regulation (EEC) No 3551/88 ⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 lays down the conditions for applying a preferential duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports into the Community of fresh cut flowers;

Whereas Council Regulation (EEC) No 3341/92 ⁽³⁾ opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel respectively;

Whereas Article 2 of Regulation (EEC) No 4088/87 provides, on the one hand, that for a given product of a given origin, the preferential customs duty is to be applicable only if the price of the imported product is at least equal to 85 % of the Community producer price; whereas, on the other hand, the preferential customs duty is, except in exceptional cases, suspended and the Common Customs Tariff duty introduced for a given product of a given origin:

(a) if, on two successive market days, the prices of the imported product are less than 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on representative import markets;

or

(b) if, over a period of five to seven successive market days, the prices of the imported product are alternatively above and below 85 % of the Community producer price in respect of at least 30 % of the quantities for which prices are available on the representative import markets and if, for three days during that period, the prices of the import product have been below that level;

Whereas Commission Regulation (EEC) No 2960/92 ⁽⁴⁾ fixes the Community producer prices for carnations and roses for the application of the import arrangements;

Whereas Commission Regulation (EEC) No 700/88 ⁽⁵⁾, as amended by Regulation (EEC) No 3556/88 ⁽⁶⁾, lays down the detailed rules for the application of the arrangements;

Whereas, in order to enable the arrangements to operate normally, the following should be used for the calculation of the import prices:

- for the currencies which are maintained against one another within a maximum spread at any given moment for spot rate transactions of 2,25 %, a conversion rate based on their central rate adjusted by the correcting factor provided for in the last subparagraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 ⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90 ⁽⁸⁾,
- 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, on the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2 (2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for multiflorous (spray) carnations originating in Israel; whereas the Common Customs Tariff duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of multiflorous (spray) carnations (CN code ex 0603 10 53) originating in Israel, the preferential customs duty fixed by Council Regulation (EEC) No 3341/92 is hereby suspended and the Common Customs Tariff duty is hereby reintroduced.

Article 2

This Regulation shall enter into force on 27 November 1992.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 311, 17. 11. 1988, p. 1.

⁽³⁾ OJ No L 336, 20. 11. 1992, p. 8.

⁽⁴⁾ OJ No L 298, 14. 10. 1992, p. 9.

⁽⁵⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁶⁾ OJ No L 311, 17. 11. 1988, p. 8.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

COMMISSION REGULATION (EEC) No 3408/92
of 26 November 1992
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

— the economic aspect of the proposed exports ;

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EEC) No 2071/92 ⁽²⁾, and in particular Article 17 (4) thereof,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund ;

Whereas Council Regulation (EEC) No 876/68 of 28 June 1968 laying down general rules for granting export refunds on milk and milk products and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EEC) No 1344/86 ⁽⁴⁾, provides that when the refunds on the products listed in Article 1 of Regulation (EEC) No 804/68, exported in the natural state, are being fixed account must be taken of :

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organization of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the need to avoid disturbances on the Community market, and

Whereas Article 3(1) of Regulation (EEC) No 876/68 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of :

- (a) prices ruling on third country markets ;
- (b) the most favourable prices in third countries of destination for third country imports ;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries ; and
- (d) free-at-Community-frontier offer prices ;

Whereas Article 4 of Regulation (EEC) No 876/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of Regulation (EEC) No 804/68 according to destination ;

Whereas Article 5(1) of Regulation (EEC) No 876/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks ; whereas the amount of the refund may, however, remain at the same level for more than four weeks ;

Whereas, in accordance with Article 2 of Commission Regulation (EEC) No 1098/68 of 27 July 1968 on detailed rules for the application of export refunds on milk and milk products ⁽⁵⁾, as last amended by Regulation (EEC) No 2767/90 ⁽⁶⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components, one of which is intended to take account of the quantity of milk products and the other is intended to take account of the quantity of added sucrose ; whereas, however, the latter component is applied only if the added sucrose was produced from sugar beet or cane harvested in the Community ;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 64.

⁽³⁾ OJ No L 155, 3. 7. 1968, p. 1.

⁽⁴⁾ OJ No L 119, 8. 5. 1986, p. 36.

⁽⁵⁾ OJ No L 184, 29. 7. 1968, p. 10.

⁽⁶⁾ OJ No L 267, 29. 9. 1990, p. 14.

Whereas, for products falling within CN codes ex 0402 99 11, ex 0402 99 19, ex 0404 90 51, ex 0404 90 53, ex 0404 90 91 and ex 0404 90 93, with a fat content by weight not exceeding 9,5 % and a non-fatty milk content in the dry matter equal to or greater than 15 % by weight, the former abovementioned component is fixed for 100 kilograms of the whole product; whereas, for the other products containing added sugar falling within codes 0402 and 0404, that component is calculated by multiplying the basic amount by the milk products content of the product concerned; whereas that basic amount is equal to the refund to be fixed for one kilogram of milk products contained in the whole product;

Whereas the second component is calculated by multiplying the sucrose content of the product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1 (1) (d) of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 61/92⁽²⁾;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽³⁾, as last amended by Regulation (EEC) No 2205/90⁽⁴⁾,
- 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 the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 140 per 100 kilograms;

Whereas Commission Regulation (EEC) No 896/84⁽⁵⁾, as last amended by Regulation (EEC) No 222/88⁽⁶⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of varying refunds according to the date of manufacture of the products;

Whereas for the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account;

Whereas it follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation;

Whereas Council Regulation (EEC) No 1432/92⁽⁷⁾, as amended by Regulation (EEC) No 2015/92⁽⁸⁾, prohibits trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in the Annex.
2. There shall be no refunds for exports to Zone E for products falling within CN codes 0401, 0402, 0403, 0404, 0405 and 2309.

Article 2

This Regulation shall enter into force on 27 November 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 6, 11. 1. 1992, p. 19.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁵⁾ OJ No L 91, 1. 4. 1984, p. 71.

⁽⁶⁾ OJ No L 28, 1. 2. 1988, p. 1.

⁽⁷⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁸⁾ OJ No L 205, 22. 7. 1992, p. 2.

ANNEX

to the Commission Regulation of 26 November 1992 fixing the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0401 10 10 000		6,36
0401 10 90 000		6,36
0401 20 11 100		6,36
0401 20 11 500		9,61
0401 20 19 100		6,36
0401 20 19 500		9,61
0401 20 91 100		12,65
0401 20 91 500		14,67
0401 20 99 100		12,65
0401 20 99 500		14,67
0401 30 11 100		18,72
0401 30 11 400		28,65
0401 30 11 700		42,84
0401 30 19 100		18,72
0401 30 19 400		28,65
0401 30 19 700		42,84
0401 30 31 100		50,94
0401 30 31 400		79,31
0401 30 31 700		87,41
0401 30 39 100		50,94
0401 30 39 400		79,31
0401 30 39 700		87,41
0401 30 91 100		99,57
0401 30 91 400		146,17
0401 30 91 700		170,49
0401 30 99 100		99,57
0401 30 99 400		146,17
0401 30 99 700		170,49
0402 10 11 000		65,00
0402 10 19 000		65,00
0402 10 91 000		0,6500
0402 10 99 000		0,6500
0402 21 11 200		65,00
0402 21 11 300		99,72
0402 21 11 500		106,00
0402 21 11 900		115,00
0402 21 17 000		65,00
0402 21 19 300		99,72
0402 21 19 500		106,00
0402 21 19 900		115,00
0402 21 91 100		115,96
0402 21 91 200		116,87
0402 21 91 300		118,53
0402 21 91 400		128,15
0402 21 91 500		131,43
0402 21 91 600		143,96
0402 21 91 700		151,51
0402 21 91 900		159,88
0402 21 99 100		115,96
0402 21 99 200		116,87
0402 21 99 300		118,53
0402 21 99 400		128,15
0402 21 99 500		131,43
0402 21 99 600		143,96
0402 21 99 700		151,51
0402 21 99 900		159,88

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0402 29 15 200		0,6500
0402 29 15 300		0,9972
0402 29 15 500		1,0600
0402 29 15 900		1,1500
0402 29 19 200		0,6500
0402 29 19 300		0,9972
0402 29 19 500		1,0600
0402 29 19 900		1,1500
0402 29 91 100		1,1596
0402 29 91 500		1,2815
0402 29 99 100		1,1596
0402 29 99 500		1,2815
0402 91 11 110		6,36
0402 91 11 120		12,65
0402 91 11 310		19,53
0402 91 11 350		24,42
0402 91 11 370		30,28
0402 91 19 110		6,36
0402 91 19 120		12,65
0402 91 19 310		19,53
0402 91 19 350		24,42
0402 91 19 370		30,28
0402 91 31 100		24,60
0402 91 31 300		35,78
0402 91 39 100		24,60
0402 91 39 300		35,78
0402 91 51 000		28,65
0402 91 59 000		28,65
0402 91 91 000		99,57
0402 91 99 000		99,57
0402 99 11 110		0,0636
0402 99 11 130		0,1265
0402 99 11 150		0,1967
0402 99 11 310		22,53
0402 99 11 330		27,52
0402 99 11 350		37,32
0402 99 19 110		0,0636
0402 99 19 130		0,1265
0402 99 19 150		0,1967
0402 99 19 310		22,53
0402 99 19 330		27,52
0402 99 19 350		37,32
0402 99 31 110		0,2663
0402 99 31 150		38,94
0402 99 31 300		0,5094
0402 99 31 500		0,8741
0402 99 39 110		0,2663
0402 99 39 150		38,94
0402 99 39 300		0,5094
0402 99 39 500		0,8741
0402 99 91 000		0,9957
0402 99 99 000		0,9957
0403 10 02 000		—
0403 10 04 200		—
0403 10 04 300		—
0403 10 04 500		—
0403 10 04 900		—
0403 10 06 000		—
0403 10 12 000		—
0403 10 14 200		—
0403 10 14 300		—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0403 10 14 500		—
0403 10 14 900		—
0403 10 16 000		—
0403 10 22 100		6,36
0403 10 22 300		9,61
0403 10 24 000		12,65
0403 10 26 000		18,72
0403 10 32 100		0,0636
0403 10 32 300		0,0961
0403 10 34 000		0,1265
0403 10 36 000		0,1872
0403 90 11 000		65,00
0403 90 13 200		65,00
0403 90 13 300		99,72
0403 90 13 500		106,00
0403 90 13 900		115,00
0403 90 19 000		115,96
0403 90 31 000		0,6500
0403 90 33 200		0,6500
0403 90 33 300		0,9972
0403 90 33 500		1,0600
0403 90 33 900		1,1500
0403 90 39 000		1,1596
0403 90 51 100		6,36
0403 90 51 300		9,61
0403 90 53 000		12,65
0403 90 59 110		18,72
0403 90 59 140		28,65
0403 90 59 170		42,84
0403 90 59 310		50,94
0403 90 59 340		79,31
0403 90 59 370		87,41
0403 90 59 510		99,57
0403 90 59 540		146,17
0403 90 59 570		170,49
0403 90 61 100		0,0636
0403 90 61 300		0,0961
0403 90 63 000		0,1265
0403 90 69 000		0,1872
0404 90 11 100		65,00
0404 90 11 910		6,36
0404 90 11 950		19,53
0404 90 13 120		65,00
0404 90 13 130		99,72
0404 90 13 140		106,00
0404 90 13 150		115,00
0404 90 13 911		6,36
0404 90 13 913		12,65
0404 90 13 915		18,72
0404 90 13 917		28,65
0404 90 13 919		42,84
0404 90 13 931		19,53
0404 90 13 933		24,42
0404 90 13 935		30,28
0404 90 13 937		35,78
0404 90 13 939		37,44
0404 90 19 110		115,96
0404 90 19 115		116,87
0404 90 19 120		118,53
0404 90 19 130		128,15
0404 90 19 135		131,43

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0404 90 19 150		143,96
0404 90 19 160		151,51
0404 90 19 180		159,88
0404 90 19 900		—
0404 90 31 100		65,00
0404 90 31 910		6,36
0404 90 31 950		19,53
0404 90 33 120		65,00
0404 90 33 130		99,72
0404 90 33 140		106,00
0404 90 33 150		115,00
0404 90 33 911		6,36
0404 90 33 913		12,65
0404 90 33 915		18,72
0404 90 33 917		28,65
0404 90 33 919		42,84
0404 90 33 931		19,53
0404 90 33 933		24,42
0404 90 33 935		30,28
0404 90 33 937		35,78
0404 90 33 939		37,44
0404 90 39 110		115,96
0404 90 39 115		116,87
0404 90 39 120		118,53
0404 90 39 130		128,15
0404 90 39 150		131,43
0404 90 39 900		—
0404 90 51 100		0,6500
0404 90 51 910		0,0636
0404 90 51 950		22,53
0404 90 53 110		0,6500
0404 90 53 130		0,9972
0404 90 53 150		1,0600
0404 90 53 170		1,1500
0404 90 53 911		0,0636
0404 90 53 913		0,1265
0404 90 53 915		0,1872
0404 90 53 917		0,2865
0404 90 53 919		0,4284
0404 90 53 931		22,53
0404 90 53 933		27,52
0404 90 53 935		37,32
0404 90 53 937		38,94
0404 90 53 939		—
0404 90 59 130		1,1596
0404 90 59 150		1,2815
0404 90 59 930		0,6107
0404 90 59 950		0,8741
0404 90 59 990		0,9957
0404 90 91 100		0,6500
0404 90 91 910		0,0636
0404 90 91 950		22,53
0404 90 93 110		0,6500
0404 90 93 130		0,9972
0404 90 93 150		1,0600

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0404 90 93 170		1,1500
0404 90 93 911		0,0636
0404 90 93 913		0,1265
0404 90 93 915		0,1872
0404 90 93 917		0,2865
0404 90 93 919		0,4284
0404 90 93 931		22,53
0404 90 93 933		27,52
0404 90 93 935		37,32
0404 90 93 937		38,94
0404 90 93 939		—
0404 90 99 130		1,1596
0404 90 99 150		1,2815
0404 90 99 930		0,6107
0404 90 99 950		0,8741
0404 90 99 990		0,9957
0405 00 10 100		—
0405 00 10 200		129,29
0405 00 10 300		162,66
0405 00 10 500		166,83
0405 00 10 700		171,00
0405 00 90 100		171,00
0405 00 90 900		220,00
0406 10 20 100		—
0406 10 20 200		—
0406 10 20 210		—
0406 10 20 230	028	—
	032	—
	400	39,03
	404	—
	...	47,97
0406 10 20 290	028	—
	032	—
	400	39,03
	404	—
	...	47,97
0406 10 20 610	028	13,50
	032	13,50
	036	—
	038	—
	400	87,23
	404	—
	...	89,49
0406 10 20 620	028	20,00
	032	20,00
	036	—
	038	—
	400	96,18
	404	—
	...	98,13
0406 10 20 630	028	24,00
	032	24,00
	036	—
	038	—
	400	109,31
	404	—
	...	110,79

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 10 20 640	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	130,00
0406 10 20 650	028	27,50
	032	27,50
	036	—
	038	—
	400	65,00
	404	—
	...	135,35
0406 10 20 660		—
0406 10 20 810	028	—
	032	—
	036	—
	038	—
	400	21,46
	404	—
	...	21,06
0406 10 20 830	028	—
	032	—
	036	—
	038	—
	400	37,62
	404	—
	...	35,97
0406 10 20 850	028	—
	032	—
	036	—
	038	—
	400	45,81
	404	—
	...	43,62
0406 10 20 870		—
0406 10 20 900		—
0406 10 80 000		—
0406 20 90 100		—
0406 20 90 913	028	—
	032	—
	400	87,74
	404	—
	...	84,94
0406 20 90 915	028	—
	032	—
	400	116,99
	404	—
	...	113,25
0406 20 90 917	028	—
	032	—
	400	124,30
	404	—
	...	120,33

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 20 90 919	028	—
	032	—
	400	138,92
	404	—
	...	134,49
0406 20 90 990		—
0406 30 10 100		—
0406 30 10 150	028	—
	032	—
	036	—
	038	—
	400	20,03
	404	—
	...	22,83
0406 30 10 200	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
	...	48,68
0406 30 10 250	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
	...	48,68
0406 30 10 300	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
	...	71,42
0406 30 10 350	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
	...	48,68
0406 30 10 400	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
	...	71,42
0406 30 10 450	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	103,95

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 30 10 500		—
0406 30 10 550	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	20,00
	...	48,68
0406 30 10 600	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	28,00
	...	71,42
0406 30 10 650	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	103,95
0406 30 10 700	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	103,95
0406 30 10 750	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
	...	126,87
0406 30 10 800	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
	...	126,87
0406 30 10 900		—
0406 30 31 100		—
0406 30 31 300	028	—
	032	—
	036	—
	038	—
	400	20,03
	404	—
	...	22,83

<i>(in ECU/100 kg net weight unless otherwise indicated)</i>		
Product code	Destination (°)	Amount of refund (°)
0406 30 31 500	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
	...	48,68
0406 30 31 710	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
	...	48,68
0406 30 31 730	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
	...	71,42
0406 30 31 910	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	—
	...	48,68
0406 30 31 930	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	—
	...	71,42
0406 30 31 950	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	103,95
0406 30 39 100		—
0406 30 39 300	028	—
	032	—
	036	—
	038	—
	400	43,52
	404	20,00
	...	48,68

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (")	Amount of refund (")
0406 30 39 500	028	—
	032	—
	036	—
	038	—
	400	63,88
	404	28,00
	...	71,42
0406 30 39 700	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	103,95
0406 30 39 930	028	—
	032	—
	036	—
	038	—
	400	93,03
	404	—
	...	103,95
0406 30 39 950	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
	...	126,87
0406 30 90 000	028	—
	032	—
	036	—
	038	—
	400	113,54
	404	—
	...	126,87
0406 40 00 100		—
0406 40 00 900	028	—
	032	—
	038	—
	400	120,00
	404	—
	...	126,51
0406 90 13 000	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	159,34

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 90 15 100	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	159,34
0406 90 15 900		—
0406 90 17 100	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	159,34
0406 90 17 900		—
0406 90 21 100		—
0406 90 21 900	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	151,68
0406 90 23 100		—
0406 90 23 900	028	—
	032	—
	036	—
	038	—
	400	65,00
	404	—
	...	135,35
0406 90 25 100		—
0406 90 25 900	028	—
	032	—
	036	—
	038	—
	400	65,00
	404	—
	...	135,35
0406 90 27 100		—
0406 90 27 900	028	—
	032	—
	036	—
	038	—
	400	56,14
	404	—
	...	114,71

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 90 31 111		—
0406 90 31 119	028	—
	032	—
	036	—
	038	15,00
	400	62,48
	404	16,00
	...	89,96
0406 90 31 151	028	—
	032	—
	036	—
	038	—
	400	58,40
	404	14,96
	...	83,83
0406 90 31 159		—
0406 90 31 900		—
0406 90 33 111		—
0406 90 33 119	028	—
	032	—
	036	—
	038	15,00
	400	62,48
	404	16,00
	...	89,96
0406 90 33 151	028	—
	032	—
	036	—
	038	—
	400	58,40
	404	14,96
	...	83,83
0406 90 33 159		—
0406 90 33 911		—
0406 90 33 919	028	—
	032	—
	036	—
	038	15,00
	400	62,48
	404	16,00
	...	89,96
0406 90 33 951	028	—
	032	—
	036	—
	038	—
	400	58,40
	404	14,96
	...	83,83

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (**)
0406 90 33 959		—
0406 90 35 110		—
0406 90 35 190	028	—
	032	—
	036	42,66
	400	160,00
	404	90,00
	...	158,54
0406 90 35 910		—
0406 90 35 990	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	130,00
0406 90 61 000	028	—
	032	—
	036	90,00
	400	190,00
	404	140,00
	...	185,00
0406 90 63 100	028	—
	032	—
	036	105,03
	400	220,00
	404	160,00
	...	212,12
0406 90 63 900	028	—
	032	—
	036	70,00
	400	150,00
	404	80,00
	...	165,00
0406 90 69 100		—
0406 90 69 910	028	—
	032	—
	036	70,00
	400	150,00
	404	80,00
	...	165,00
0406 90 69 990		—
0406 90 73 100		—
0406 90 73 900	028	—
	032	—
	036	42,66
	400	160,00
	404	120,00
	...	151,00
0406 90 75 100		—
0406 90 75 900	028	—
	032	—
	036	—
	400	65,00
	404	—
	...	125,96

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 90 77 100	028	24,00
	032	24,00
	036	—
	038	—
	400	58,77
	404	—
	...	110,79
0406 90 77 300	028	—
	032	—
	036	—
	038	—
	400	65,00
	404	—
	...	135,35
0406 90 77 500	028	—
	032	—
	036	—
	038	—
	400	75,00
	404	—
	...	135,35
0406 90 79 100		—
0406 90 79 900	028	—
	032	—
	036	—
	038	—
	400	56,14
	404	—
	...	114,71
0406 90 81 100		—
0406 90 81 900	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	130,00
0406 90 85 100		—
0406 90 85 910	028	—
	032	—
	036	42,67
	400	160,00
	404	90,00
	...	158,54
0406 90 85 991	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	130,00

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 90 85 995	028	27,50
	032	27,50
	036	—
	038	—
	400	65,00
	404	—
	...	135,35
0406 90 85 999		—
0406 90 89 100	028	13,50
	032	13,50
	036	—
	038	—
	400	89,49
	404	—
	...	89,49
0406 90 89 200	028	20,00
	032	20,00
	036	—
	038	—
	400	96,18
	404	—
	...	98,13
0406 90 89 300	028	24,00
	032	24,00
	036	—
	038	—
	400	109,31
	404	—
	...	110,79
0406 90 89 910		—
0406 90 89 951	028	—
	032	—
	036	42,66
	400	160,00
	404	90,00
	...	151,00
0406 90 89 959	028	—
	032	—
	036	—
	038	—
	400	130,00
	404	—
	...	130,00
0406 90 89 971	028	27,50
	032	27,50
	036	—
	038	—
	400	74,00
	404	—
	...	135,35

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
0406 90 89 972	028	—
	032	—
	400	39,03
	404	—
	...	47,97
0406 90 89 979	028	27,50
	032	27,50
	036	—
	038	—
	400	74,00
	404	—
	...	135,35
0406 90 89 990		—
0406 90 93 000		—
0406 90 99 000		—
2309 10 15 010		—
2309 10 15 100		—
2309 10 15 200		1,50
2309 10 15 300		2,00
2309 10 15 400		2,50
2309 10 15 500		3,00
2309 10 15 700		3,50
2309 10 15 900		—
2309 10 19 010		—
2309 10 19 100		—
2309 10 19 200		1,50
2309 10 19 300		2,00
2309 10 19 400		2,50
2309 10 19 500		3,00
2309 10 19 600		3,50
2309 10 19 700		3,75
2309 10 19 800		4,00
2309 10 19 900		—
2309 10 70 010		—
2309 10 70 100		19,50
2309 10 70 200		26,00
2309 10 70 300		32,50
2309 10 70 500		39,00
2309 10 70 600		45,50
2309 10 70 700		52,00
2309 10 70 800		57,20
2309 10 70 900		—
2309 90 35 010		—
2309 90 35 100		—
2309 90 35 200		1,50
2309 90 35 300		2,00
2309 90 35 400		2,50
2309 90 35 500		3,00
2309 90 35 700		3,50
2309 90 35 900		—
2309 90 39 010		—
2309 90 39 100		—

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (*)	Amount of refund (")
2309 90 39 200		1,50
2309 90 39 300		2,00
2309 90 39 400		2,50
2309 90 39 500		3,00
2309 90 39 600		3,50
2309 90 39 700		3,75
2309 90 39 800		4,00
2309 90 39 900		—
2309 90 70 010		—
2309 90 70 100		19,50
2309 90 70 200		26,00
2309 90 70 300		32,50
2309 90 70 500		39,00
2309 90 70 600		45,50
2309 90 70 700		52,00
2309 90 70 800		57,20
2309 90 70 900		—

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EEC) No 3518/91.

For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by '—'.

Where no destination is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1 (2).

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

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

COMMISSION REGULATION (EEC) No 3409/92

of 26 November 1992

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

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds⁽³⁾ provides that when refunds are being fixed, account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand, and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances on the Community market;

Whereas export possibilities exist for a quantity of 50 000 tonnes of rye flour to certain destinations; whereas the procedure laid down in Article 9 (4) of Commission Regulation (EEC) No 891/89⁽⁴⁾, as last amended by Regulation (EEC) No 2804/92⁽⁵⁾, should be used; whereas account should be taken of this when the refunds are fixed;

Whereas Article 3 of Regulation (EEC) No 2746/75 defines the specific criteria to be taken into account when the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as wheat and rye flour, groats and meal are concerned, in Article 4 of Regulation (EEC) No 2746/75; whereas furthermore, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Commission Regulation No 162/67/EEC⁽⁶⁾, as last amended by Regulation (EEC) No 468/92⁽⁷⁾;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 % a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁸⁾, as last amended by Regulation (EEC) No 2205/90⁽⁹⁾,
- 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 it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas Council Regulation (EEC) No 1432/92⁽¹⁰⁾ as amended by Regulation (EEC) No 2015/92⁽¹¹⁾, prohibits

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 171, 26. 6. 1992, p. 47.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 94, 7. 4. 1989, p. 13.

⁽⁵⁾ OJ No L 282, 26. 9. 1992, p. 40.

⁽⁶⁾ OJ No 128, 27. 6. 1967, p. 2574/67.

⁽⁷⁾ OJ No L 53, 28. 2. 1992, p. 15.

⁽⁸⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁹⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽¹⁰⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽¹¹⁾ OJ No L 205, 22. 7. 1992, p. 2.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 2727/75, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 November 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 26 November 1992 fixing export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)		
Product code	Destination (1)	Amount of refund (2)
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 10 000	—	—
1001 10 90 000	04	50,00
	02	20,00
1001 90 91 000	01	0
1001 90 99 000	04	60,00
	05	21,00
	02	20,00
1002 00 00 000	03	21,00
	02	20,00
1003 00 10 000	06	63,00
	02	0
1003 00 90 000	04	63,00
	02	20,00
1004 00 10 000	—	—
1004 00 90 000	—	—
1005 10 90 000	—	—
1005 90 00 000	04	80,00
	02	0
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 100	01	96,00
1101 00 00 130	01	90,00
1101 00 00 150	01	83,00
1101 00 00 170	01	77,00
1101 00 00 180	01	72,00
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 500	01	123,50 (3)
1102 10 00 700	—	—
1102 10 00 900	—	—
1103 11 10 200	01	140,00
1103 11 10 400	01	120,00
1103 11 10 900	01	0
1103 11 90 200	01	96,00
1103 11 90 800	—	—

(¹) The destinations are identified as follows :

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 05 Poland,
- 06 zone II c).

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

(³) Refund fixed under the procedure laid down in Article 9 (4) of amended Regulation (EEC) No 891/89 in respect of a quantity of 50 000 tonnes of rye flour destined for all third countries.

NB: The zones are those defined in Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EEC) No 3410/92

of 26 November 1992

fixing the corrective amount applicable to the refund on cereals

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⁾,

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

Whereas Article 16 (4) of Regulation (EEC) No 2727/75 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount must be applied to the refund;

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice⁽⁴⁾, as last amended by Regulation (EEC) No 1906/87⁽⁵⁾, made possible the fixing of a corrective amount for certain products listed in Article 1 (c) of Regulation (EEC) No 2727/75;

Whereas Commission Regulation (EEC) No 1281/75⁽⁶⁾ laid down detailed rules for the advance fixing of export refunds for cereals and certain products processed from cereals;

Whereas, pursuant to that Regulation, when the corrective amount is being fixed, account must be taken of the existing situation and the future trend with regard to prices

and availabilities of cereals on the Community market on the one hand and possibilities and conditions for the sale of cereals and cereal products on the world market on the other; whereas the same Regulation provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of exports and the need to avoid disturbances on the Community market;

Whereas for the products listed in Article 1 (c) of Regulation (EEC) No 2727/75 account should be taken of the specific criteria laid down in Article 2 (2) of Regulation (EEC) No 1281/75;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination;

Whereas the corrective amount must be fixed at the same time as the refund and according to the same procedure; whereas it may be altered in the period between fixings;

Whereas, if the system of corrective amounts is to operate normally, corrective amounts should be calculated on the following basis:

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85⁽⁷⁾, as last amended by Regulation (EEC) No 2205/90⁽⁸⁾;
- 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 it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto;

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽⁶⁾ OJ No L 131, 22. 5. 1975, p. 15.

⁽⁷⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁸⁾ OJ No L 201, 31. 7. 1990, p. 9.

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

export refunds fixed in advance in respect of cereals shall be as set out in the Annex hereto.

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 16 (4) of Regulation (EEC) No 2727/75 which is applicable to

Article 2

This Regulation shall enter into force on 27 November 1992.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 26 November 1992 fixing the corrective amount
applicable to the refund on cereals

(ECU/tonne)

Product code	Destination (*)	Current 11	1st period 12	2nd period 1	3rd period 2	4th period 3	5th period 4	6th period 5
0709 90 60 000	—	—	—	—	—	—	—	—
0712 90 19 000	—	—	—	—	—	—	—	—
1001 10 10 000	—	—	—	—	—	—	—	—
1001 10 90 000	01	0	0	0	0	0	—	—
1001 90 91 000	01	0	0	0	0	0	—	—
1001 90 99 000	01	0	0	0	0	0	—	—
1002 00 00 000	01	0	0	0	0	0	—	—
1003 00 10 000	01	0	0	0	0	0	—	—
1003 00 90 000	01	0	0	0	0	0	—	—
1004 00 10 000	—	—	—	—	—	—	—	—
1004 00 90 000	—	—	—	—	—	—	—	—
1005 10 90 000	—	—	—	—	—	—	—	—
1005 90 00 000	01	0	0	0	0	0	—	—
1007 00 90 000	—	—	—	—	—	—	—	—
1008 20 00 000	—	—	—	—	—	—	—	—
1101 00 00 100	01	0	0	0	0	0	—	—
1101 00 00 130	01	0	0	0	0	0	—	—
1101 00 00 150	01	0	0	0	0	0	—	—
1101 00 00 170	01	0	0	0	0	0	—	—
1101 00 00 180	01	0	0	0	0	0	—	—
1101 00 00 190	—	—	—	—	—	—	—	—
1101 00 00 900	—	—	—	—	—	—	—	—
1102 10 00 500	01	0	0	0	0	0	—	—
1102 10 00 700	01	0	0	0	0	0	—	—
1102 10 00 900	—	—	—	—	—	—	—	—
1103 11 10 200	01	0	0	0	0	0	0	0
1103 11 10 400	01	0	0	0	0	0	0	0
1103 11 10 900	01	0	0	0	0	0	0	0
1103 11 90 200	01	0	0	0	0	0	0	0
1103 11 90 800	—	—	—	—	—	—	—	—

(*) For the following destinations:

01 all third countries.

NB: The zones are those defined in Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EEC) No 3411/92

of 26 November 1992

fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Whereas Article 16 of Regulation (EEC) No 2727/75 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75 of 29 October 1975 laying down general rules for granting export refunds on cereals and criteria for fixing the amount of such refunds ⁽³⁾ provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals on the Community market on the one hand and prices for cereals and cereal products on the world market on the other; whereas the same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on cereal markets and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market;

Whereas Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export system for products processed from cereals and from rice ⁽⁴⁾, as last amended by Regulation (EEC) No 1906/87 ⁽⁵⁾, defines the specific criteria to be taken into account when the refund on these products is being calculated;

Whereas it follows from applying these detailed rules to the present situation on the market in products processed from cereals and rice that the export refund should be fixed at an amount which will cover the difference between Community prices and world market prices;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to

vary the refund for certain products according to destination;

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

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

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on malt listed in Article 1 (d) of Regulation (EEC) No 2727/75 subject to Regulation (EEC) No 2744/75 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 27 November 1992.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 182, 3. 7. 1987, p. 49.

⁽⁶⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁷⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁸⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁹⁾ OJ No L 205, 22. 7. 1992, p. 2.

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

Done at Brussels, 26 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

to the Commission Regulation of 26 November 1992 fixing the export refunds on malt

<i>(ECU/tonne)</i>	
Product code	Refund (1)
1107 10 19 000	78,00 (1)
1107 10 99 000	108,00 (1)
1107 20 00 000	126,00 (1)

(1) In view of the lack of a decision by the Council on the Commission's proposal COM(92) 275 of 8 July 1992, the attention of interested parties is drawn to the possibility that, for agri-monetary reasons, an adjustment will be made in the refund on exports made from 1 January 1993.

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

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 92/100/EEC

of 19 November 1992

on rental right and lending right and on certain rights related to copyright in
the field of intellectual property

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 57 (2), 66 and 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas differences exist in the legal protection provided by the laws and practices of the Member States for copyright works and subject matter of related rights protection as regards rental and lending; whereas such differences are sources of barriers to trade and distortions of competition which impede the achievement and proper functioning of the internal market;

Whereas such differences in legal protection could well become greater as Member States adopt new and different legislation or as national case-law interpreting such legislation develops differently;

Whereas such differences should therefore be eliminated in accordance with the objective of introducing an area without internal frontiers as set out in Article 8a of the

Treaty so as to institute, pursuant to Article 3 (f) of the Treaty, a system ensuring that competition in the common market is not distorted;

Whereas rental and lending of copyright works and the subject matter of related rights protection is playing an increasingly important role in particular for authors, performers and producers of phonograms and films; whereas piracy is becoming an increasing threat;

Whereas the adequate protection of copyright works and subject matter of related rights protection by rental and lending rights as well as the protection of the subject matter of related rights protection by the fixation right, reproduction right, distribution right, right to broadcast and communication to the public can accordingly be considered as being of fundamental importance for the Community's economic and cultural development;

Whereas copyright and related rights protection must adapt to new economic developments such as new forms of exploitation;

Whereas the creative and artistic work of authors and performers necessitates an adequate income as a basis for further creative and artistic work, and the investments required particularly for the production of phonograms and films are especially high and risky; whereas the possibility for securing that income and recouping that investment can only effectively be guaranteed through adequate legal protection of the rightholders concerned;

⁽¹⁾ OJ No C 53, 28. 2. 1991, p. 35 and

OJ No C 128, 20. 5. 1992, p. 8.

⁽²⁾ OJ No C 67, 16. 3. 1992, p. 92 and Decision of 28 October 1992 (not yet published in the Official Journal).

⁽³⁾ OJ No C 269, 14. 10. 1991, p. 54.

Whereas these creative, artistic and entrepreneurial activities are, to a large extent, activities of self-employed persons; whereas the pursuit of such activities must be made easier by providing a harmonized legal protection within the Community;

Whereas, to the extent that these activities principally constitute services, their provision must equally be facilitated by the establishment in the Community of a harmonized legal framework;

Whereas the legislation of the Member States should be approximated in such a way so as not to conflict with the international conventions on which many Member States' copyright and related rights laws are based;

Whereas the Community's legal framework on the rental right and lending right and on certain rights related to copyright can be limited to establishing that Member States provide rights with respect to rental and lending for certain groups of rightholders and further to establishing the rights of fixation, reproduction, distribution, broadcasting and communication to the public for certain groups of rightholders in the field of related rights protection;

Whereas it is necessary to define the concepts of rental and lending for the purposes of this Directive;

Whereas it is desirable, with a view to clarity, to exclude from rental and lending within the meaning of this Directive certain forms of making available, as for instance making available phonograms or films (cinematographic or audiovisual works or moving images, whether or not accompanied by sound) for the purpose of public performance or broadcasting, making available for the purpose of exhibition, or making available for on-the-spot reference use; whereas lending within the meaning of this Directive does not include making available between establishments which are accessible to the public;

Whereas, where lending by an establishment accessible to the public gives rise to a payment the amount of which does not go beyond what is necessary to cover the operating costs of the establishment, there is no direct or indirect economic or commercial advantage within the meaning of this Directive;

Whereas it is necessary to introduce arrangements ensuring that an unwaivable equitable remuneration is obtained by authors and performers who must retain the possibility to entrust the administration of this right to collecting societies representing them;

Whereas the equitable remuneration may be paid on the basis of one or several payments at any time on or after the conclusion of the contract;

Whereas the equitable remuneration must take account of the importance of the contribution of the authors and performers concerned to the phonogram or film;

Whereas it is also necessary to protect the rights at least of authors as regards public lending by providing for specific arrangements; whereas, however, any measures based on Article 5 of this Directive have to comply with Community law, in particular with Article 7 of the Treaty;

Whereas the provisions of Chapter II do not prevent Member States from extending the presumption set out in Article 2 (5) to the exclusive rights included in that chapter; whereas furthermore the provisions of Chapter II do not prevent Member States from providing for a rebuttable presumption of the authorization of exploitation in respect of the exclusive rights of performers provided for in those articles, in so far as such presumption is compatible with the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (hereinafter referred to as the Rome Convention);

Whereas Member States may provide for more far-reaching protection for owners of rights related to copyright than that required by Article 8 of this Directive;

Whereas the harmonized rental and lending rights and the harmonized protection in the field of rights related to copyright should not be exercised in a way which constitutes a disguised restriction on trade between Member States or in a way which is contrary to the rule of media exploitation chronology, as recognized in the Judgment handed down in *Société Cinéthèque v. FNCF* ⁽¹⁾,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

RENTAL AND LENDING RIGHT

Article 1

Object of harmonization

1. In accordance with the provisions of this Chapter, Member States shall provide, subject to Article 5, a right to authorize or prohibit the rental and lending of originals and copies of copyright works, and other subject matter as set out in Article 2 (1).

⁽¹⁾ Cases 60/84 and 61/84, ECR 1985, p. 2605.

2. For the purposes of this Directive, 'rental' means making available for use, for a limited period of time and for direct or indirect economic or commercial advantage.

3. For the purposes of this Directive, 'lending' means making available for use, for a limited period of time and not for direct or indirect economic or commercial advantage, when it is made through establishments which are accessible to the public.

4. The rights referred to in paragraph 1 shall not be exhausted by any sale or other act of distribution of originals and copies of copyright works and other subject matter as set out in Article 2 (1).

Article 2

Rightholders and subject matter of rental and lending right

1. The exclusive right to authorize or prohibit rental and lending shall belong :

- to the author in respect of the original and copies of his work,
- to the performer in respect of fixations of his performance,
- to the phonogram producer in respect of his phonograms, and
- to the producer of the first fixation of a film in respect of the original and copies of his film. For the purposes of this Directive, the term 'film' shall designate a cinematographic or audiovisual work or moving images, whether or not accompanied by sound.

2. For the purposes of this Directive the principal director of a cinematographic or audiovisual work shall be considered as its author or one of its authors. Member States may provide for others to be considered as its co-authors.

3. This Directive does not cover rental and lending rights in relation to buildings and to works of applied art.

4. The rights referred to in paragraph 1 may be transferred, assigned or subject to the granting of contractual licences.

5. Without prejudice to paragraph 7, when a contract concerning film production is concluded, individually or collectively, by performers with a film producer, the performer covered by this contract shall be presumed, subject to contractual clauses to the contrary, to have transferred his rental right, subject to Article 4.

6. Member States may provide for a similar presumption as set out in paragraph 5 with respect to authors.

7. Member States may provide that the signing of a contract concluded between a performer and a film

producer concerning the production of a film has the effect of authorizing rental, provided that such contract provides for an equitable remuneration within the meaning of Article 4. Member States may also provide that this paragraph shall apply *mutatis mutandis* to the rights included in Chapter II.

Article 3

Rental of computer programs

This Directive shall be without prejudice to Article 4 (c) of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs (1).

Article 4

Unwaivable right to equitable remuneration

1. Where an author or performer has transferred or assigned his rental right concerning a phonogram or an original or copy of a film to a phonogram or film producer, that author or performer shall retain the right to obtain an equitable remuneration for the rental.

2. The right to obtain an equitable remuneration for rental cannot be waived by authors or performers.

3. The administration of this right to obtain an equitable remuneration may be entrusted to collecting societies representing authors or performers.

4. Member States may regulate whether and to what extent administration by collecting societies of the right to obtain an equitable remuneration may be imposed, as well as the question from whom this remuneration may be claimed or collected.

Article 5

Dérogation from the exclusive public lending right

1. Member States may derogate from the exclusive right provided for in Article 1 in respect of public lending, provided that at least authors obtain a remuneration for such lending. Member States shall be free to determine this remuneration taking account of their cultural promotion objectives.

2. When Member States do not apply the exclusive lending right provided for in Article 1 as regards phonograms, films and computer programs, they shall introduce, at least for authors, a remuneration.

(1) OJ No L 122, 17. 5. 1991, p. 42.

3. Member States may exempt certain categories of establishments from the payment of the remuneration referred to in paragraphs 1 and 2.

4. The Commission, in cooperation with the Member States, shall draw up before 1 July 1997 a report on public lending in the Community. It shall forward this report to the European Parliament and to the Council.

CHAPTER II

RIGHTS RELATED TO COPYRIGHT

Article 6

Fixation right

1. Member States shall provide for performers the exclusive right to authorize or prohibit the fixation of their performances.

2. Member States shall provide for broadcasting organizations the exclusive right to authorize or prohibit the fixation of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite.

3. A cable distributor shall not have the right provided for in paragraph 2 where it merely retransmits by cable the broadcasts of broadcasting organizations.

Article 7

Reproduction right

1. Member States shall provide the exclusive right to authorize or prohibit the direct or indirect reproduction :

- for performers, of fixations of their performances,
- for phonogram producers, of their phonograms,
- for producers of the first fixations of films, in respect of the original and copies of their films, and
- for broadcasting organizations, of fixations of their broadcasts, as set out in Article 6 (2).

2. The reproduction right referred to in paragraph 1 may be transferred, assigned or subject to the granting of contractual licences.

Article 8

Broadcasting and communication to the public

1. Member States shall provide for performers the exclusive right to authorize or prohibit the broadcasting by wireless means and the communication to the public

of their performances, except where the performance is itself already a broadcast performance or is made from a fixation.

2. Member States shall provide a right in order to ensure that a single equitable remuneration is paid by the user, if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting by wireless means or for any communication to the public, and to ensure that this remuneration is shared between the relevant performers and phonogram producers. Member States may, in the absence of agreement between the performers and phonogram producers, lay down the conditions as to the sharing of this remuneration between them.

3. Member States shall provide for broadcasting organizations the exclusive right to authorize or prohibit the rebroadcasting of their broadcasts by wireless means, as well as the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

Article 9

Distribution right

1. Member States shall provide

- for performers, in respect of fixations of their performances,
- for phonogram producers, in respect of their phonograms,
- for producers of the first fixations of films, in respect of the original and copies of their films,
- for broadcasting organizations, in respect of fixations of their broadcast as set out in Article 6 (2),

the exclusive right to make available these objects, including copies thereof, to the public by sale or otherwise, hereafter referred to as the 'distribution right'.

2. The distribution right shall not be exhausted within the Community in respect of an object as referred to in paragraph 1, except where the first sale in the Community of that object is made by the rightholder or with his consent.

3. The distribution right shall be without prejudice to the specific provisions of Chapter I, in particular Article 1 (4).

4. The distribution right may be transferred, assigned or subject to the granting of contractual licences.

*Article 10***Limitations to rights**

1. Member States may provide for limitations to the rights referred to in Chapter II in respect of:

- (a) private use;
- (b) use of short excerpts in connection with the reporting of current events;
- (c) ephemeral fixation by a broadcasting organization by means of its own facilities and for its own broadcasts;
- (d) use solely for the purposes of teaching or scientific research.

2. Irrespective of paragraph 1, any Member State may provide for the same kinds of limitations with regard to the protection of performers, producers of phonograms, broadcasting organizations and of producers of the first fixations of films, as it provides for in connection with the protection of copyright in literary and artistic works. However, compulsory licences may be provided for only to the extent to which they are compatible with the Rome Convention.

3. Paragraph 1 (a) shall be without prejudice to any existing or future legislation on remuneration for reproduction for private use.

CHAPTER III**DURATION***Article 11***Duration of authors' rights**

Without prejudice to further harmonization, the authors' rights referred to in this Directive shall not expire before the end of the term provided by the Berne Convention for the Protection of Literary and Artistic Works.

*Article 12***Duration of related rights**

Without prejudice to further harmonization, the rights referred to in this Directive of performers, phonogram producers and broadcasting organizations shall not expire before the end of the respective terms provided by the Rome Convention. The rights referred to in this Directive for producers of the first fixations of films shall not expire before the end of a period of 20 years computed from the end of the year in which the fixation was made.

CHAPTER IV**COMMON PROVISIONS***Article 13***Application in time**

1. This Directive shall apply in respect of all copyright works, performances, phonograms, broadcasts and first fixations of films referred to in this Directive which are, on 1 July 1994, still protected by the legislation of the Member States in the field of copyright and related rights or meet the criteria for protection under the provisions of this Directive on that date.

2. This Directive shall apply without prejudice to any acts of exploitation performed before 1 July 1994.

3. Member States may provide that the rightholders are deemed to have given their authorization to the rental or lending of an object referred to in Article 2 (1) which is proven to have been made available to third parties for this purpose or to have been acquired before 1 July 1994. However, in particular where such an object is a digital recording, Member States may provide that rightholders shall have a right to obtain an adequate remuneration for the rental or lending of that object.

4. Member States need not apply the provisions of Article 2 (2) to cinematographic or audiovisual works created before 1 July 1994.

5. Member States may determine the date as from which the Article 2 (2) shall apply, provided that that date is no later than 1 July 1997.

6. This Directive shall, without prejudice to paragraph 3 and subject to paragraphs 8 and 9, not affect any contracts concluded before the date of its adoption.

7. Member States may provide, subject to the provisions of paragraphs 8 and 9, that when rightholders who acquire new rights under the national provisions adopted in implementation of this Directive have, before 1 July 1994, given their consent for exploitation, they shall be presumed to have transferred the new exclusive rights.

8. Member States may determine the date as from which the unwaivable right to an equitable remuneration referred to in Article 4 exists, provided that that date is no later than 1 July 1997.

9. For contracts concluded before 1 July 1994, the unwaivable right to an equitable remuneration provided for in Article 4 shall apply only where authors or performers or those representing them have submitted a request to that effect before 1 January 1997. In the absence of agreement between rightholders concerning the level of remuneration, Member States may fix the level of equitable remuneration.

*Article 14***Relation between copyright and related rights**

Protection of copyright-related rights under this Directive shall leave intact and shall in no way affect the protection of copyright.

*Article 15***Final provisions**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 July 1994. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official pub-

lication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the main provisions of domestic law which they adopt in the field covered by this Directive.

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 19 November 1992.

For the Council

The President

E. LEIGH
