

Official Journal

of the European Communities

ISSN 0378-6978

L 367

Volume 35

16 December 1992

English edition

Legislation

Contents

I *Acts whose publication is obligatory*

Commission Regulation (EEC) No 3610/92 of 15 December 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal	1
Commission Regulation (EEC) No 3611/92 of 15 December 1992 fixing the premiums to be added to the import levies on cereals, flour and malt	3
Commission Regulation (EEC) No 3612/92 of 15 December 1992 fixing the import levies on white sugar and raw sugar	5
Commission Regulation (EEC) No 3613/92 of 15 December 1992 fixing the maximum export refunds on olive oil for the third partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92	7
Commission Regulation (EEC) No 3614/92 of 15 December 1992 fixing the difference in white sugar prices to be used in calculating the levy for processed fruit and vegetable products and for wine	9
* Commission Regulation (EEC) No 3615/92 of 15 December 1992 on the determination of the quantities of agricultural products to be taken into account for the calculation of refunds payable in the case of the export of goods referred to in Council Regulation (EEC) No 3035/80	10
* Commission Regulation (EEC) No 3616/92 of 15 December 1992 adopting conversion measures for tobacco of the varieties Mavra, Tsebelia, Forchheimer Havanna II c and hybrids of Geudertheimer	13
* Commission Regulation (EEC) No 3617/92 of 15 December 1992 amending Regulation (EEC) No 1498/92 laying down detailed rules for the application of the minimum import price system for certain soft fruits originating in Hungary, Poland and the Czech and Slovak Federal Republic and fixing the minimum import prices applicable until 31 May 1993	15

Contents (continued)

- ★ **Commission Regulation (EEC) No 3618/92 of 15 December 1992 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices in the air transport sector 16**
 - ★ **Commission Regulation (EEC) No 3619/92 of 15 December 1992 introducing management measures for imports of certain bovine animals for 1993 17**
 - Commission Regulation (EEC) No 3620/92 of 15 December 1992 fixing the amount of aid for peas, field beans and sweet lupins 22**
-

II Acts whose publication is not obligatory

Commission

92/569/EEC :

- ★ **Commission Decision of 31 July 1992 concerning proposed aid by Germany to the Chinese shipping company Cosco for the construction of container vessels 29**

92/570/EEC :

- ★ **Commission Decision of 5 November 1992 amending Commission Decision 91/479/EEC concerning the animal health conditions and veterinary certification for the importation of frozen bovine semen from the United States of America 35**

92/571/EEC :

- ★ **Commission Decision of 15 December 1992 relating to new transitional measures which are necessary to facilitate the move to the system of veterinary checks provided for in Council Directive 90/675/EEC 36**

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3610/92

of 15 December 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 14 December 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 16 December 1992.

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

Done at Brussels, 15 December 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 15 December 1992 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levy (°)
0709 90 60	133,28 (°) (°)
0712 90 19	133,28 (°) (°)
1001 10 10	172,61 (°) (°) (°)
1001 10 90	172,61 (°) (°) (°)
1001 90 91	146,53
1001 90 99	146,53 (°)
1002 00 00	157,21 (°)
1003 00 10	125,45
1003 00 90	125,45 (°)
1004 00 10	115,17
1004 00 90	115,17
1005 10 90	133,28 (°) (°)
1005 90 00	133,28 (°) (°)
1007 00 90	138,09 (°)
1008 10 00	50,13 (°)
1008 20 00	111,58 (°)
1008 30 00	38,88 (°)
1008 90 10	(°)
1008 90 90	38,88
1101 00 00	217,94 (°) (°)
1102 10 00	232,90 (°)
1103 11 10	280,87 (°) (°)
1103 11 90	234,55 (°)

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

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

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

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

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

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

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

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

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

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

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

**COMMISSION REGULATION (EEC) No 3611/92
of 15 December 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 14 December 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 16 December 1992.

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

Done at Brussels, 15 December 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 15 December 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 12	1st period 1	2nd period 2	3rd period 3
0709 90 60	0	0	0	0
0712 90 19	0	0	0	0
1001 10 10	0	0	0	0
1001 10 90	0	0	0	0
1001 90 91	0	0	0	0
1001 90 99	0	0	0	0
1002 00 00	0	0	0	0
1003 00 10	0	0	0	0
1003 00 90	0	0	0	0
1004 00 10	0	0	0	0
1004 00 90	0	0	0	0
1005 10 90	0	0	0	0
1005 90 00	0	0	0	0
1007 00 90	0	0	0	0
1008 10 00	0	0	0	0
1008 20 00	0	0	0	0
1008 30 00	0	0	0	0
1008 90 90	0	0	0	0
1101 00 00	0	0	0	0

B. Malt*(ECU/tonne)*

CN code	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4
1107 10 11	0	0	0	0	0
1107 10 19	0	0	0	0	0
1107 10 91	0	0	0	0	0
1107 10 99	0	0	0	0	0
1107 20 00	0	0	0	0	0

COMMISSION REGULATION (EEC) No 3612/92
of 15 December 1992
fixing the import levies on white sugar and raw sugar

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EEC) No 3484/92 ⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Commission Regulation (EEC) No 1813/92 ⁽³⁾, as last amended by Regulation (EEC) No 3605/92 ⁽⁴⁾;

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

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

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

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

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

Whereas these exchange rates being those recorded on 14 December 1992,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 16 December 1992.

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

Done at Brussels, 15 December 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 353, 3. 12. 1992, p. 8.

⁽³⁾ OJ No L 183, 3. 7. 1992, p. 18.

⁽⁴⁾ OJ No L 366, 15. 12. 1992, p. 40.

⁽⁵⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 9.

ANNEX

to the Commission Regulation of 15 December 1992 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)

CN code	Levy ⁽¹⁾
1701 11 10	40,38 ⁽¹⁾
1701 11 90	40,38 ⁽¹⁾
1701 12 10	40,38 ⁽¹⁾
1701 12 90	40,38 ⁽¹⁾
1701 91 00	47,27
1701 99 10	47,27
1701 99 90	47,27 ⁽²⁾

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

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

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

COMMISSION REGULATION (EEC) No 3613/92

of 15 December 1992

fixing the maximum export refunds on olive oil for the third partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92

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

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

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

Whereas Commission Regulation (EEC) No 3143/92 ⁽⁴⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Council Regulation (EEC) No 1432/92 ⁽⁵⁾, as amended by Regulation (EEC) No 3534/92 ⁽⁶⁾, prohibits trade between the Community and the Republics of Serbia and Montenegro; whereas this prohibition does not apply to certain situations as given in the limitative enumeration laid down in Articles 2 and 3; whereas this should be taken into account when refunds are fixed;

Whereas Article 6 of Regulation (EEC) No 3143/92 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Commu-

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the third partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92 are hereby fixed in the Annex, on the basis of the tenders submitted by 14 December 1992.

Article 2

This Regulation shall enter into force on 16 December 1992.

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

Done at Brussels, 15 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 1.

⁽³⁾ OJ No L 145, 30. 5. 1986, p. 8.

⁽⁴⁾ OJ No L 313, 30. 10. 1992, p. 39.

⁽⁵⁾ OJ No L 151, 3. 6. 1992, p. 4.

⁽⁶⁾ OJ No L 358, 8. 12. 1992, p. 16.

ANNEX

to the Commission Regulation of 15 December 1992 fixing the maximum export refunds on olive oil for the third partial invitation to tender under the standing invitation to tender issued by Regulation (EEC) No 3143/92

<i>(ECU/100 kg)</i>	
Product code	Amount of refund (1)
1509 10 90 100	40,00
1509 10 90 900	—
1509 90 00 100	50,00
1509 90 00 900	78,00
1510 00 90 100	9,50
1510 00 90 900	39,00

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

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

COMMISSION REGULATION (EEC) No 3614/92**of 15 December 1992****fixing the difference in white sugar prices to be used in calculating the levy for
processed fruit and vegetable products and for wine**

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 10 (4) thereof,

Having regard to Council Regulation (EEC) No 822/87 of
16 March 1987, on the common organization of the
market in wine ⁽³⁾ as last amended by Regulation (EEC)
No 1756/92 ⁽⁴⁾, and in particular Article 55 (3) thereof,

Whereas, in order that the Member States may determine
the amount of the levy applicable in respect of the various
added sugars to imports of the products listed in Annex
III to Regulation (EEC) No 426/86 and of the products
falling within CN codes 2009 60 11, 2009 60 71,
2009 60 79 and 2204 30 99 which are listed in Article 1
(2) (a) of Regulation (EEC) No 822/87, it is necessary in
accordance with Article 10 (3) of Regulation (EEC) No
426/86 and Article 55 (2) of Regulation (EEC) No 822/87
to determine the difference between, firstly, the average of
the threshold prices for one kilogram of white sugar for

each month of the quarter for which the difference is
being determined and, secondly, the average of the cif
prices for one kilogram of white sugar used in fixing the
levies on white sugar, as calculated for a period compri-
sing the first 15 days of the month preceding the quarter
for which the difference is being determined and the two
months immediately preceding that month; whereas,
pursuant to the abovementioned Regulations, this diffe-
rence must be determined by the Commission for each
quarter of the calendar year,

HAS ADOPTED THIS REGULATION:

Article 1

For the period 1 January to 31 March 1993 the difference
referred to in Article 10 (3) of Regulation (EEC) No
426/86 and in Article 55 (2) of Regulation (EEC) No
822/87 is fixed at ECU 0,4653.

Article 2

This Regulation shall enter into force on 1 January 1993.

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

Done at Brussels, 15 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 49, 27. 2. 1986, p. 1.

⁽²⁾ OJ No L 166, 20. 6. 1992, p. 5.

⁽³⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽⁴⁾ OJ No L 180, 1. 7. 1992, p. 27.

COMMISSION REGULATION (EEC) No 3615/92**of 15 December 1992****on the determination of the quantities of agricultural products to be taken into account for the calculation of refunds payable in the case of the export of goods referred to in Council Regulation (EEC) No 3035/80**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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, and to the corresponding provisions of the other Regulations on the common organization of agricultural markets referred to in Article 1 of Council Regulation (EEC) No 3035/80 of 11 November 1980 laying down for certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, general rules concerning the granting of refunds and the criteria for fixing their amount ⁽³⁾, as last amended by Regulation (EEC) No 3381/90 ⁽⁴⁾,

Whereas Council Regulation (EEC) No 3035/80 provides for refunds to be granted on exports of certain agricultural products used in the manufacture of certain goods not covered by Annex II to the Treaty; whereas in respect of exports of goods listed in Annex B to that Regulation, Article 3 thereof provides that the refund may be granted in respect of the quantity of the agricultural product used in the manufacture of the exported goods;

Whereas Regulation (EEC) No 3035/80 was adopted in application of certain Council Regulations on the common organization of agricultural markets, including Regulation (EEC) No 804/68; whereas Article 17 (1) of Regulation (EEC) No 804/68 and the corresponding Articles of the other basic Regulations provide that the difference between prices within the Community and prices on the world market for the agricultural products in question can be covered by a refund to the extent necessary to enable the products to be exported in the form of certain goods not covered by Annex II of the Treaty;

Whereas, in consequence, to qualify for a refund the agricultural products used and in particular the goods manufactured from such products must therefore be exported; whereas any exception to this rule must be given a restrictive meaning;

Whereas, however, during the process of manufacturing the said goods, producers inevitably incur losses of raw materials for which Community prices have nevertheless been paid while the losses incurred by producers established outside the Community are limited to world market prices;

Whereas the concept of products actually used in the process of manufacture of exported goods has received different interpretations in different Member States; whereas the Court of Auditors in its Annual Report ⁽⁵⁾ made observations concerning the consistent management of losses;

Whereas it is necessary to lay down common rules for determining the concept of the quantity of agricultural products actually used in the process of manufacturing the exported goods;

Whereas during the process of manufacturing certain goods by-products are obtained which differ markedly in value from the principal products; whereas many of these by-products can be used only as animal feed;

Whereas the measures laid down in this Regulation are in accordance with the opinions of all the management committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of implementing Article 8 (1) of Regulation (EEC) No 3035/80:

1. the quantities of agricultural products actually used within the meaning of Article 3 (2) of Regulation (EEC) No 3035/80 may be declared by reference to a list deposited with the competent authorities of the Member State of manufacture or of export;
2. for the purposes of this Regulation:
 - (a) 'losses' means the quantities of products or goods resulting from the process of manufacture under consideration, from the stage at which agricultural product are used unprocessed in the manufacture, other than the quantities of goods which are actu-

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 64.

⁽³⁾ OJ No L 323, 29. 11. 1980, p. 27.

⁽⁴⁾ OJ No L 327, 27. 11. 1990, p. 4.

⁽⁵⁾ OJ No C 324, 13. 12. 1991, p. 1.

ally exported, other than the residues referred to under (b) and the by-products referred to under (c), and which cannot be commercialized,

(b) 'residues' means the products of the manufacturing process under consideration, of compositions distinctly different from the goods actually exported and which cannot be commercialized,

(c) 'by-products' means the products or goods obtained in the course of the manufacturing process under consideration, of compositions or characteristics distinct from the goods actually exported and which are capable of being marketed;

3. however for the purposes of this Regulation :

(a) the products obtained in the course of the manufacturing process under consideration, of composition distinct from the goods actually exported, sold against a payment representing exclusively the costs incurred for their disposal, shall not be considered as being marketed,

(b) the products or goods resulting from the manufacturing process under consideration, and which can be disposed of, whether or not against payment, only as animal feeds, shall be assimilated to losses as provided for by point 2 under (a);

4. for the purposes of determining the quantities of agricultural products actually used, the following rules are to be applied :

(a) all agricultural products used within the meaning of Article 3 (2) of Regulation (EEC) No 3035/80 and which confer a right to a refund but which disappear during the normal course of the manufacturing process (for example as steam or smoke, or by conversion into non-recoverable powder or ash) are eligible for that refund in respect of all of the quantities used,

(b) any quantity of goods which is not actually exported is not eligible for refunds in respect of the quantities of agricultural products actually used, without prejudice of the provisions under (c).

If such goods have the same composition as those actually exported, a *pro-rata* reduction in quantities of agricultural products actually used in the manufacture of the latter may be applied,

(c) by way of derogation from point (b), losses of 2 % or less by weight inherent in the production of the goods may be taken into account. The threshold of

2 % is calculated as the proportion of the weight of the dry matter of all raw materials used, after deduction of the quantities referred to under (a), in relation to the weight of the dry matter of the actually exported goods, or any other method of calculation appropriate to the conditions of manufacture of the goods. The threshold of 2 % may be replaced by a higher one under the conditions of 5,

(d) where the losses inherent in manufacture exceed 2 % or the specific threshold established in accordance with 5, the excess loss is not eligible for refunds in respect of the quantities of agricultural products actually used.

The competent authority of the Member States may, however, accept justified higher losses. The Member States shall communicate to the Commission the cases to which this is applied,

(e) the actually used quantities of agricultural products incorporated in the residues defined as in 2 (b) shall be taken into account for the granting of refunds,

(f) in the case where by-products are obtained, the quantities of agricultural products actually used shall be attributed respectively to the good exported and to the by-products,

(g) if it is not possible to attribute the agricultural products actually used, respectively, to the goods exported and to the by-products (where appropriate by means of analysis), the case shall be referred to the Commission for its opinion. The Commission shall inform all the Member States of its opinion for harmonized application purposes;

5. the Commission shall progressively establish in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68 and in the corresponding provisions of the other Regulations on the common organization of agricultural markets referred to in Article 1 of Regulation (EEC) No 3035/80, higher specific thresholds for certain goods on the basis of communications from the Member States and of studies conducted on the usual losses under similar manufacturing conditions for goods intended for the Community market.

Article 2

1. This Regulation shall apply to all export for which, from 1 April 1993, a declaration of agricultural products actually used is submitted, in application of Article 8 (1)

of Regulation (EEC) No 3035/80. It shall also apply to prior declaration, whether new or renewed, submitted from 1 April 1993.

Any export declaration introduced as from 1 April 1994 referring to a prior declaration of the agricultural products actually used is acceptable, for the application of this Regulation, only if the prior declaration has been introduced, renewed or confirmed as from 1 April 1993.

2. The Member States shall inform the Commission by 1 April 1993 of the measures adopted for the application of this Regulation.

Article 3

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

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

Done at Brussels, 15 December 1992.

For the Commission

Martin BANGEMANN

Vice-President

COMMISSION REGULATION (EEC) No 3616/92

of 15 December 1992

adopting conversion measures for tobacco of the varieties Mavra, Tsebelia, Forchheimer Havanna II c and hybrids of Geudertheimer

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organization of the market in raw tobacco⁽¹⁾, and in particular Article 14 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agriculture policy⁽²⁾, as last amended by Regulation (EEC) No 2205/90⁽³⁾, and in particular Article 5 (3) thereof,

Whereas the programme for the conversion of the varieties Mavra, Tsebelia, Forchheimer, Havanna II c and hybrids of Geudertheimer to other varieties of tobacco or to agricultural crops other than tobacco must enable the quantities of such tobacco produced within the framework of the maximum guaranteed quantities to be reduced to the level of the specific guarantee thresholds fixed from the 1993 harvest;

Whereas conversion to other varieties of tobacco may take place within the limit of the quotas available and in respect of quantities resulting in expenditure corresponding to conversion to crops other than tobacco;

Whereas those qualifying under conversion measures must definitively forego their right to produce any of the varieties of tobacco in question which are eligible for a premium and must undertake to grow other varieties of tobacco or agricultural products other than tobacco; whereas the quotas thus freed remain available for other producers within the limit of the specific guarantee threshold for the Member State in accordance with Commission Regulation (EEC) No 3477/92 of 1 December 1992 laying down detailed rules for the application of the raw tobacco quota system for the 1993 and 1994 harvests⁽⁴⁾;

Whereas the aid for conversion to crops other than tobacco should be fixed at the level which producers could expect to receive if they continued to produce the variety in question in order to make it easier for them to make the necessary investments and progressively utilize that land for the new crop; whereas the aid must be reduced in the case of producers continuing to produce tobacco qualifying for the Community premium;

Whereas the inclusion in the conversion programme as a matter of course of producers whose areas fall within a former production zone no longer recognized under Commission Regulation (EEC) No 3478/92 of 1 December 1992 laying down detailed rules for the application of the premium system for raw tobacco⁽⁵⁾ will make it easier for Member States to apply a policy encouraging quality;

Whereas the quantities which may be converted to other varieties of tobacco should be defined taking account of the ratio of the aid for conversion to other varieties of tobacco to the aid for conversion to crops other than tobacco; whereas conversion to crops other than tobacco should, where appropriate, be encouraged;

Whereas the agricultural conversion rate to be applied for the conversion of aid into national currency must be the same for all recipients and must be fixed so that it corresponds to the rate applicable at the beginning of the marketing period for the harvest;

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

HAS ADOPTED THIS REGULATION:

Article 1

The conversion programme provided for in Article 14 of Regulation (EEC) No 2075/92 shall relate to a quantity equivalent to 11 500 tonnes of Mavra and Tsebelia and 5 800 tonnes of Forchheimer Havanna II c and hybrids of Geudertheimer converted to agricultural crops other than tobacco.

Article 2

1. The conversion programme shall be open to producers who:

- have obtained, pursuant to Regulation (EEC) No 3477/92, quota or cultivation certificates valid for the 1993 harvest, based on their production in 1989, 1990 and 1991 of one of the varieties referred to in Article 1,
- forego the full quantity covered by the quota or cultivation certificate and their corresponding rights in the future,

⁽¹⁾ OJ No L 215, 30. 7. 1992, p. 70.

⁽²⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽³⁾ OJ No L 201, 31. 7. 1990, p. 9.

⁽⁴⁾ OJ No L 351, 2. 12. 1992, p. 11.

⁽⁵⁾ OJ No L 351, 2. 12. 1992, p. 17.

— undertake to grow other agricultural crops or tobacco varieties belonging to another group of varieties on the area in question.

2. Producers may undertake to produce other varieties of tobacco only in so far as they have obtained quota or cultivation certificates for the group of varieties in question.

3. The quantities freed pursuant to the first paragraph by producers undertaking to convert their production shall be distributed among other producers in accordance with Regulation (EEC) No 3477/92.

Article 3

1. Producers who take part in the programme of conversion to agricultural crops other than tobacco shall receive, for the 1993, 1994 and 1995 harvests, conversion aid of ECU 2 per kilogram of tobacco in respect of which they forego their quota or cultivation certificate, pursuant to Regulation (EEC) No 3477/92.

2. Where a producer undertakes to convert to other varieties of tobacco, the conversion aid shall amount to ECU 0,8 per kilogram for the 1993, 1994 and 1995 harvests.

Article 4

Member States may include in the programme of conversion to crops other than tobacco producers growing the varieties referred to in Article 1 on areas situated in a former production area which the Member State has decided no longer to recognize in accordance with

Article 1 of Regulation (EEC) No 3478/92. In such cases, the aid shall be paid for the quantity corresponding to the quota or cultivation certificate to which the producer would have been entitled if his land had not been excluded from the production area in question.

Article 5

1. For the purposes of determining the maximum quantities which may be the subject of the conversion programme, 1 kilogram of tobacco converted to crops other than tobacco shall be equal to 2,5 kilogram of tobacco converted to other varieties of tobacco.

2. If requests for conversion exceed the available quantities, Member States shall give priority to requests for conversion to crops other than tobacco. Within each category of producers, Member States shall take account, in particular, of the need to encourage the production of tobacco which is more in line with market requirements.

Article 6

1. The conversion aid shall be paid not later than 30 September of the year of harvesting.

2. The agricultural rate to be applied for conversion into national currencies shall be that valid on 1 August of the year of harvesting.

Article 7

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

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

Done at Brussels, 15 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

**COMMISSION REGULATION (EEC) No 3617/92
of 15 December 1992**

amending Regulation (EEC) No 1498/92 laying down detailed rules for the application of the minimum import price system for certain soft fruits originating in Hungary, Poland and the Czech and Slovak Federal Republic and fixing the minimum import prices applicable until 31 May 1993

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1333/92 of 18 May 1992 on the system of minimum import prices for certain soft fruits originating in Hungary, Poland and Czechoslovakia ⁽¹⁾, and in particular Article 3 thereof,

Whereas Article 3 of Commission Regulation (EEC) No 1498/92 ⁽²⁾ provides for the third countries in question and the Member States to be notified if the average unit value of a product for a two-week period is below a certain percentage of the minimum import price where imports of significant quantities are involved; whereas, to ensure that such notifications are more effective and the import arrangements are more efficient as regards fresh produce intended for processing, with a view to preventing imports taking place at prices substantially lower than the minimum import price even over a short period, provision should be made for the Commission to take the necessary measures within each three-month period and for a specific time, to ensure that the minimum import price is observed;

Whereas Article 4 of Regulation (EEC) No 1498/92 should be amended to afford the Commission some discretion in applying the measures referred to in Regulation (EEC) No 1333/92 where the minimum import price is not observed;

Whereas the Management Committees for Fruit and Vegetables and Products Processed from Fruit and Veget-

ables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1498/92 is hereby amended as follows:

1. The following second paragraph is added to Article 3:

'In the case of products covered by CN codes ex 0810 20 10, ex 0810 30 10 and ex 0810 30 30, where the conditions referred to in the first paragraph are met for one or more consecutive two-week periods and it becomes apparent that at the end of a period of three months the minimum import price will not be observed, the Commission may take the measures referred to in Article 2 of Regulation (EEC) No 1333/92 for a period which may not extend beyond the three months in question.'

2. Article 4 is replaced by the following:

'Article 4

In cases where verification under Article 2 shows that the minimum import price is not being observed, the Commission may apply the measures referred to in Article 2 of Regulation (EEC) No 1333/92 for a period not exceeding three months.'

Article 2

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

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

Done at Brussels, 15 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 145, 27. 5. 1992, p. 3.

⁽²⁾ OJ No L 158, 11. 6. 1992, p. 15.

COMMISSION REGULATION (EEC) No 3618/92**of 15 December 1992****on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices in the air transport sector**

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

Having regard to Council Regulation (EEC) No 3976/87 of 14 December 1987 on the application of Article 85 (3) to certain categories of agreements, decisions and concerted practices in the air transport sector⁽¹⁾, as last amended by Regulation (EEC) No 2411/92⁽²⁾, and in particular Article 2 thereof,

Whereas the present block exemptions in the air transport sector laid down in Commission Regulations (EEC) No 83/91⁽³⁾ and (EEC) No 84/91⁽⁴⁾, are expiring on 31 December 1992;

Whereas the Council is expected to adopt specific rules on slot allocation at airports⁽⁵⁾ and on computer reservation systems⁽⁶⁾ in the near future;

Whereas it is desirable to take into account these future Council rules when establishing the final text of the block exemptions to be applied after 31 December 1992⁽⁷⁾;

Whereas it is convenient, therefore, to continue the existing block exemptions in force for a short period, in order to be able to take account of these Council rules,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 13 of Commission Regulation (EEC) No 83/91, the date of '31 December 1992' will be replaced by '30 June 1993'.

Article 2

In Article 6 of Commission Regulation (EEC) No 84/91, the date of '31 December 1992' will be replaced by '30 June 1993'.

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

Done at Brussels, 15 December 1992.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ No L 374, 31. 12. 1987, p. 9.

⁽²⁾ OJ No L 240, 24. 8. 1992, p. 19.

⁽³⁾ OJ No L 10, 15. 1. 1991, p. 9.

⁽⁴⁾ OJ No L 10, 15. 1. 1991, p. 14.

⁽⁵⁾ OJ No C 206, 13. 8. 1992, p. 57.

⁽⁶⁾ Not yet published in the Official Journal.

⁽⁷⁾ OJ No C 253, 30. 9. 1992, p. 5.

COMMISSION REGULATION (EEC) No 3619/92**of 15 December 1992****introducing management measures for imports of certain bovine animals for 1993**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1157/92 of 28 April 1992 authorizing the implementation of management measures relating to imports of live bovine animals⁽¹⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽²⁾, as last amended by Regulation (EEC) No 2066/92⁽³⁾, and in particular Article 15 (2) thereof,

Whereas, as a result of large production surpluses and other factors reducing outlets and in view of the potential for export to third countries, there is an imbalance between supply and demand on the Community beef and veal market; whereas, therefore, despite important intervention buying prices on the market are unsatisfactory; whereas an analysis of the sector for 1993 shows that the situation is unlikely to improve in the short term;

Whereas experience gained and forecasts for 1993 show that, in the absence of Community measures, massive imports into the Community of live bovine animals of up to 220 kg are likely to occur, due, in particular, to the economically favourable stockfarming conditions existing in certain third countries; whereas such imports are likely to greatly exceed both the traditional annual level of imports and the absorption capacity of the Community market; whereas, therefore, the beef and veal market would be threatened with serious disturbance endangering, in particular, market prices and producers incomes and making public intervention more difficult;

Whereas, in order to take better account of market supply needs, traditional protective measures such as that adopted by Commission Regulation (EEC) No 1023/91 of 24 April 1991 suspending the issuing of import licences for live animals of the bovine species⁽⁴⁾ should not be adopted but rather appropriate management measures

should be introduced in accordance with Article 1 of Regulation (EEC) No 1157/92;

Whereas the total absorption capacity of the Community market in 1993 is estimated at a maximum of 425 000 head other than pure-bred breeding animals;

Whereas, in view of imports planned under certain preferential arrangements for 1993, i.e. 237 600 head included in the 1993, estimate for the Council concerning young male bovine animals weighing 300 kg or less and intended for fattening for the period 1 January to 31 December 1993⁽⁵⁾, and under temporary agreements conclude with the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic, 187 400 head should be admitted for import at the full levy in 1993;

Whereas the Commission will closely monitor developments on the beef and veal market so as to be able to react immediately to any changes in the relevant economic criteria;

Whereas, in order to take account to the greatest possible extent of the traditional structure of the Community veal market, imports of animals weighing 80 kg or less must be limited;

Whereas experience shows that limiting imports can give rise to speculative import applications; whereas, in order to guarantee that the planned measures function correctly, most of the quantities available should be reserved for so-called traditional importers of live bovine animals; whereas, so as not to introduce rigidity into trade relations in the sector, a second allocation should be made available for operators able to show that they are carrying out a genuine activity involving a significant number of animals; whereas, whereas verification of those criteria requires that all applications from the same operator be submitted in the same Member State;

Whereas, so as to avoid speculation, access to the quota should be denied to operators no longer carrying out an activity in the beef and veal sector on 1 January 1993;

⁽¹⁾ OJ No L 122, 7. 5. 1992, p. 4.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽³⁾ OJ No L 215, 30. 7. 1992, p. 49.

⁽⁴⁾ OJ No L 105, 25. 4. 1991, p. 50.

⁽⁵⁾ OJ No L 28, 4. 2. 1992, p. 19.

Whereas the importation of 187 400 head during a single short period might excessively restrict economy freedom and would not adequately supply the market in view of the cyclical nature of market needs; whereas, therefore, different import periods should be laid down;

Whereas administrative and technical procedures for the allocation between the eligible operators and for the issue and use of import licenses must be established; whereas Commission Regulation (EEC) No 3719/88⁽¹⁾, as amended by Regulation (EEC) No 2101/92⁽²⁾, lays down common detailed rules for the application of the system of import and export licenses and advance fixing certificates for agricultural products; whereas Commission Regulation (EEC) No 2377/90⁽³⁾, as last amended by Regulation (EEC) No 815/91⁽⁴⁾, lays down special detailed rules for the application of the system of import and export licences in the beef and veal sector; whereas the correct functioning of the management measures laid down by this Regulation requires derogations from certain provisions of the abovementioned Regulations;

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

HAS ADOPTED THIS REGULATION:

Article 1

Imports into the Community, at full levy, of live bovine animals falling within CN codes 0102 90 05, 0102 90 21 and 0102 90 29, as referred to in Article 1 (1) (a) of Regulation (EEC) No 805/68 shall be subject to the management measures laid down in this Regulation.

Article 2

1. Import licences for 1993 may be issued in respect of not more than 187 400 animals falling within CN Code 0102 90 05.
2. The quantity referred to in paragraph 1 shall be split into two parts, as follows:
 - (a) the first part, equal to 70 %, i.e. 131 180 head, shall be allocated among importers who can furnish proof of having imported animals falling within CN Code 0102 90 10⁽⁵⁾ during 1990, 1991 and 1992 at the full levy and who are entered in the official register of a Member State;
 - (b) the second part, equal to 30 %, i.e. 56 220 head shall be allocated among importers who can furnish proof of having imported and/or exported at least 100 live

bovine animals falling within CN code 0102 90 apart from those under (a), during 1992 and who are entered in the official register of a Member State.

3. The 131 180 head shall be allocated among the eligible importers in proportion to their imports of animals within the meaning of Article 1 at the full levy during 1990, 1991 and 1992 proven in accordance with paragraph 5.
4. The 56 220 head shall be allocated in proportion to the quantities applied for by the eligible importers.
5. Proof of import and export shall be provided exclusively by means of the customs document of release for free circulation or the export document.

Article 3

1. Importers who on 1 January 1993 were no longer engaged in any activity in the beef and veal sector shall not qualify for allocation pursuant to Article 2 (2) (a).
2. Companies formed by mergers of companies each having rights under Article 2 (3) shall benefit from the same rights as the companies from which they were formed.

Article 4

1. Licence applications may be presented only in the Member State in which the applicant is registered.
2. For the purposes of Article 2 (2) (a), importers shall present the import applications to the competent authorities together with the proof referred to in Article 2 (5) by 15 January 1993 at the latest.

After verification of the documents presented, Member States shall forward to the Commission, by 29 January 1993 at the latest, a list of importers who meet the conditions for acceptance, showing in particular their names and addresses and the numbers of animals imported at the full levy during each of the reference year.

3. For the purposes of Article 2 (2) (b), importers may lodge import applications until 15 February 1993 together with the proof referred to in Article 2 (5).

Only one application may be lodged by each applicant. Where the same applicant lodges more than one application, all applications from that person shall be inadmissible. Applications may not concern a quantity larger than the available quantity.

After verification of the documents presented, Member States shall forward to the Commission, by 29 February 1993 at the latest, a list of applicants and the quantities requested.

⁽¹⁾ OJ No L 331, 2. 12. 1988, p. 1.

⁽²⁾ OJ No L 210, 25. 7. 1992, p. 18.

⁽³⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁴⁾ OJ No L 83, 3. 4. 1991, p. 6.

⁽⁵⁾ CN Code valid until 1 January 1993.

4. All notifications, including notifications of nil applications, shall be made by telex or fax, drawn up on the basis of the models in Annexes I and II in the case where applications have been lodged.

Article 5

1. The Commission shall decide to what extent applications may be accepted.

2. As regards the applications referred to in Article 4 (3), if the quantities in respect of which applications are made exceed the quantities available, the Commission shall reduce the quantities applied for by a fixed percentage.

If the reduction referred to in the preceding subparagraph results in a quantity of less than 100 head per application, the allocation shall be by drawing lots, by batches of 100 head.

Article 6

1. Imports of the quantities allocated in accordance with Article 5 shall be subject to the presentation of an import licence.

2. Licence applications may be presented only in the Member State in which the import application was lodged.

3. Licence applications and licences shall contain in section 20, one of the following entries:

Reglamento (CEE) n° 3619/92

Forordning (EØF) nr. 3619/92

Verordnung (EWG) Nr. 3619/92

Κανονισμός (ΕΟΚ) αριθ. 3619/92

Regulation (EEC) No 3619/92

Règlement (CEE) n° 3619/92

Regolamento (CEE) n. 3619/92

Verordening (EEG) nr. 3619/92

Regulamento (CEE) n° 3619/92

Article 4 a (1) of Regulation (EEC) No 2377/80 shall not apply.

4. Notwithstanding Article 4 a (2) of Regulation (EEC) No 2377/80, at the request of importers licences shall be issued:

— from 15 to 26 February 1993 for up to 25 % of the quantities allocated

— from 15 April to 30 January 1993 up to 100 % of the quantities allocated

— from 1 to 12 October 1993 for the remaining quantities but for a maximum of 30 % of the quantities allocated.

The number of animals for which a licence is issued shall be expressed in units. Where necessary, numbers shall be rounded up or down, as the case may be.

5. After each period mentioned in paragraph 4, Member States shall communicate to the Commission the quantities covered by the licences issued during the period in question.

6. Notwithstanding Article 4 (c) of Regulation (EEC) No 2377/80, import licences shall be valid for 90 days from the date of actual issue.

7. Licences issued shall be valid throughout the Community.

8. Article 8 (4) of Regulation (EEC) No 3719/88 shall not apply.

Article 7

The security provided for in Article 6 (2) of Regulation (EEC) No 2377/80 shall be lodged when the licence is issued.

Article 8

This Regulation shall enter into force on 1 January 1993.

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

Done at Brussels, 15 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

EEC Fax No (0032-2) 296 60 27

COMMISSION OF THE EUROPEAN COMMUNITIES DG VI D.2 — BEEF AND VEAL SECTOR

Date : period :

Member State :

[illegible]

Member State : Fax No

Tel.:

EEC Fax No (0032-2) 296 60 27

COMMISSION OF THE EUROPEAN COMMUNITIES DG VI D.2 — BEEF AND VEAL SECTOR

Date : period :

Member State :

Member State : Fax No

Tel. :

COMMISSION REGULATION (EEC) No 3620/92

of 15 December 1992

fixing the amount of aid for peas, field beans and sweet lupins

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 1431/82 of 18 May 1982 laying down special measures for peas, field beans and sweet lupins⁽¹⁾, as last amended by Regulation (EEC) No 1750/92⁽²⁾, and in particular Article 3 (6) (a) thereof,Having regard to Commission Regulation (EEC) No 3540/85 of 5 December 1985 laying down detailed rules for the application of the special measures for peas, field beans and sweet lupins⁽³⁾, as last amended by Regulation (EEC) No 1734/92⁽⁴⁾, and in particular Article 26a (7) thereof,

Whereas, as provided for in Article 3 (1) of Regulation (EEC) No 1431/82, aid is granted for peas, field beans and sweet lupins harvested in the Community and used in the manufacture of feedingsuffs where the world market price of soya cake is lower than the activating price; whereas this aid is equal to a proportion of the difference between these prices; whereas this proportion of the price difference was fixed in Article 3a of Council Regulation (EEC) No 2036/82⁽⁵⁾, as last amended by Regulation (EEC) No 2206/90⁽⁶⁾;

Whereas, in accordance with Article 3 (2) of Regulation (EEC) No 1431/82, aid is granted for peas and field beans harvested in the Community where the world market price for these products is lower than the guide price; whereas this aid is equal to the difference between the two prices;

Whereas the threshold price activating the aid for peas, field beans and sweet lupins for the 1992/93 marketing year was fixed by Council Regulation (EEC) No 1751/92⁽⁷⁾; whereas, as provided for in Article 2a of Regulation (EEC) No 1431/82, the activating price for the aid for peas, field beans and sweet lupins is increased monthly as from the beginning of the third month of the marketing year; whereas the amount of the monthly increases in the threshold price was fixed by Council Regulation (EEC) No 1752/92⁽⁸⁾;

Whereas the abatement of the subsidy which arises from the system of maximum guaranteed quantities for the 1992/93 year, has been fixed by Commission Regulation (EEC) No 2512/92⁽⁹⁾, as amended by Regulation (EEC) No 2752/92⁽¹⁰⁾;

Whereas, pursuant to Article 4 of Regulation (EEC) No 1431/82, the world market price for soya cake must be determined on the basis of the most favourable purchase possibilities, excepting offers and quotations which cannot be considered representative of the real market trend; whereas account must be taken both of all offers on the world market and of the prices quoted on exchanges that are important for international trade;

Whereas, pursuant to Article 1 of Commission Regulation (EEC) No 2049/82⁽¹¹⁾, as last amended by Regulation (EEC) No 1238/87⁽¹²⁾, the price must be determined per 100 kilograms of bulk soya cake of the standard quality defined in Article 1 (2) of Council Regulation (EEC) No 1464/86⁽¹³⁾ delivered to Rotterdam; whereas the necessary adjustments, notably those referred to in Article 2 of Regulation (EEC) No 2049/82, must be made for offers and quotations not of the type referred to above;

Whereas, if the aid 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 moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the correcting factor provided for in Article 6 (1) of Council Regulation (EEC) No 1676/85⁽¹⁴⁾, as last amended by Regulation (EEC) No 2205/90⁽¹⁵⁾,
- 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 pursuant to Articles 121 (2) and 307 (2) of the Act of Accession the amount of the aid for products harvested and processed in either of these Member States should be reduced by the customs duty charged on importation of products from third countries;

⁽¹⁾ OJ No L 162, 12. 6. 1982, p. 28.

⁽²⁾ OJ No L 180, 1. 7. 1992, p. 17.

⁽³⁾ OJ No L 342, 19. 12. 1985, p. 1.

⁽⁴⁾ OJ No L 179, 30. 7. 1992, p. 120.

⁽⁵⁾ OJ No L 219, 28. 7. 1982, p. 1.

⁽⁶⁾ OJ No L 201, 31. 7. 1990, p. 11.

⁽⁷⁾ OJ No L 180, 1. 7. 1992, p. 18.

⁽⁸⁾ OJ No L 180, 1. 7. 1992, p. 20.

⁽⁹⁾ OJ No L 250, 29. 8. 1992, p. 15.

⁽¹⁰⁾ OJ No L 279, 23. 9. 1992, p. 18.

⁽¹¹⁾ OJ No L 219, 28. 7. 1982, p. 36.

⁽¹²⁾ OJ No L 117, 5. 5. 1987, p. 9.

⁽¹³⁾ OJ No L 133, 21. 5. 1986, p. 21.

⁽¹⁴⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽¹⁵⁾ OJ No L 201, 31. 7. 1990, p. 9.

Whereas the world market price for peas and field beans and the amount of aid referred to in Article 3 (2) of Regulation (EEC) No 1431/82 were fixed by Commission Regulation (EEC) No 1899/91⁽¹⁾; whereas in terms of Article 2a of Regulation (EEC) No 1431/82 the guide price is increased monthly as from the beginning of the third month of the marketing year;

Whereas, pursuant to Article 26a of Regulation (EEC) No 3540/85, the gross aid expressed in ecus that results from Article 3 of Regulation (EEC) No 1431/82 shall be weighted by the differential amount referred to in Article 12a of Regulation (EEC) No 2036/82 and then converted into the final aid in the currency of the Member State in which the products are harvested using the agricultural conversion rate of that Member State,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts of aid provided for in Article 3 (1) of Regulation (EEC) No 1431/82 is indicated in the Annexes hereto.

Article 2

This Regulation shall enter into force on 16 December 1992.

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

Done at Brussels, 15 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 169, 29. 6. 1991, p. 29.

ANNEX I

Gross aid

Products intended for human consumption :

(ECU per 100 kg)

	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4	5th period 5	6th period 6
Peas used :							
— in Spain	11,124	11,282	11,440	11,598	11,756	11,756	11,756
— in Portugal	11,132	11,290	11,448	11,606	11,764	11,764	11,764
— in another Member State	11,192	11,350	11,508	11,666	11,824	11,824	11,824
Field beans used :							
— in Spain	11,192	11,350	11,508	11,666	11,824	11,824	11,824
— in Portugal	11,132	11,290	11,448	11,606	11,764	11,764	11,764
— in another Member State	11,192	11,350	11,508	11,666	11,824	11,824	11,824

Products used in animal feed :

(ECU per 100 kg)

	Current 12	1st period 1	2nd period 2	3rd period 3	4th period 4	5th period 5	6th period 6
A. Peas used :							
— in Spain	11,287	11,445	11,602	12,127	12,560	12,804	12,804
— in Portugal	11,331	11,488	11,646	12,168	12,599	12,842	12,842
— in another Member State	11,331	11,488	11,646	12,168	12,599	12,842	12,842
B. Field beans used :							
— in Spain	11,287	11,445	11,602	12,127	12,560	12,804	12,804
— in Portugal	11,331	11,488	11,646	12,168	12,599	12,842	12,842
— in another Member State	11,331	11,488	11,646	12,168	12,599	12,842	12,842
C. Sweet lupins harvested in Spain and used :							
— in Spain	13,771	13,771	13,771	14,260	14,627	14,954	14,954
— in Portugal	13,829	13,829	13,829	14,315	14,680	15,004	15,004
— in another Member State	13,829	13,829	13,829	14,315	14,680	15,004	15,004
D. Sweet lupins harvested in another Member State and used :							
— in Spain	13,771	13,771	13,771	14,260	14,627	14,954	14,954
— in Portugal	13,829	13,829	13,829	14,315	14,680	15,004	15,004
— in another Member State	13,829	13,829	13,829	14,315	14,680	15,004	15,004

[illegible]

[illegible]

[illegible]

ANNEX VIII

Corrective amount to be added to amounts in Annex VII

(in national currency per 100 kg)

Use of products :	BLEU	DK	DE	EL	ES	FR	IRL	IT	NL	PT	UK
Products harvested in :											
— BLEU (Bfrs/Lfrs)	0,00	0,00	0,00	1,53	8,23	0,00	0,00	9,62	0,00	0,00	3,46
— Denmark (Dkr)	0,00	0,00	0,00	0,28	1,52	0,00	0,00	1,78	0,00	0,00	0,64
— Federal Republic of Germany (DM)	0,00	0,00	0,00	0,07	0,40	0,00	0,00	0,47	0,00	0,00	0,17
— Greece (Dr)	0,00	0,00	0,00	9,24	49,74	0,00	0,00	58,15	0,00	0,00	20,95
— Spain (Pta)	0,00	0,00	0,00	5,01	27,01	0,00	0,00	31,58	0,00	0,00	11,38
— France (FF)	0,00	0,00	0,00	0,25	1,34	0,00	0,00	1,56	0,00	0,00	0,56
— Ireland (£ Irl)	0,000	0,000	0,000	0,028	0,149	0,000	0,000	0,174	0,000	0,000	0,063
— Italy (Lit)	0	0	0	62	334	0	0	391	0	0	141
— Netherlands (Fl)	0,00	0,00	0,00	0,08	0,45	0,00	0,00	0,53	0,00	0,00	0,19
— Portugal (Esc)	0,00	0,00	0,00	6,52	35,12	0,00	0,00	41,06	0,00	0,00	14,79
— United Kingdom (£)	0,000	0,000	0,000	0,029	0,154	0,000	0,000	0,180	0,000	0,000	0,065

ANNEX IX

Exchange rate of the ecu to be used

	BLEU	DK	DE	EL	ES	FR	IRL	IT	NL	PT	UK
In national currency, ECU 1 =	40,6304	7,51410	1,96992	257,916	139,896	6,60683	0,735334	1 729,81	2,21958	175,324	0,797302

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 31 July 1992

concerning proposed aid by Germany to the Chinese shipping company Cosco
for the construction of container vessels

(Only the German text is authentic)

(92/569/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having regard to Council Directive 90/684/EEC of 21 December 1990 on aid to shipbuilding⁽¹⁾, and in particular Article 4 (7) thereof,

Having given notice in accordance with Article 93 to interested parties to submit their comments and having regard to these comments,

Whereas :

I

Following a letter of 4 March 1991 from a Community yard complaining that distortion of competition would result from the German Government's intention to grant development aid to a Chinese shipping company for the construction of four container vessels, the Commission, by letter of 2 April, invited the German authorities to notify the project pursuant to Article 4 (7) and 11 (2) (c) of Directive 90/684/EEC. By letter of 22 April, the German authorities stated that a negative decision had been taken on a request from a shipbuilding consortium (Bremer Vulkan, HDW and ex-GDR yards) for financial support

on certain development aid conditions for the shipbuilding contract of Cosco (China Ocean Shipping Company).

Following another complaint from the same yard on 12 August 1991 the Commission, by letter of 28 August 1991, again invited the German authorities to notify the development aid plans relating to the Cosco contract. The German authorities, by letter dated 19 September 1991, stated that the question of whether and to what extent development aid could be granted for the Cosco contract was awaiting a project assessment by the Kreditanstalt für Wiederaufbau.

However, on 20 September 1991, the German authorities notified to the Organization for Economic Cooperation and Development (OECD) under the development aid provisions of the OECD Understanding on export credit for ships the terms and conditions of a subsidized loan related to a project to build three 3 765 teu container vessels for Cosco.

The Danish Government, in a letter of 2 October 1991, complained to the Commission about the Cosco aid project.

The Commission, by letter of 14 October 1991, gave the German authorities a final 10 working days to notify the Cosco aid project. The German answer came in two letters dated 31 October 1991 and 4 November 1991 respectively.

⁽¹⁾ OJ No L 380, 31. 12. 1990, p. 27.

II

According to information available to the Commission, the transaction between the German yards and Cosco concerned the building of three 3 765 teu container ships and one 2 700 teu container ship.

In its notification, the German Government gave the following information regarding the details of the case. Cosco, of Peking, ordered three container ships of 3 765 teu each, for a total price of DM 604 140 000. The following yards were mentioned as those which would build the ships: Bremer Vulkan (Bremen), HDW (Kiel), Mathias-Thesen-Werft (Wismar) and Warnow-Werft (Warnemünde).

The following details were given with regard to the loan: the loan would cover 90 % of the contract price with a duration of 11 years and an annual interest rate of 3,5 %. These conditions result in an OECD grant element of 25,35 %. As the Commission had raised questions relating to the price of the ships the German Government, in its notification, responded that the high price per 3 765 teu container vessel is related to the high quality and speed specifications (24 knots) of these vessels. The German authorities considered that the contracts involved a normal commercial price for the ships, once deductions were made for the speed and quality specifications (DM 15 million), the cost of prefinancing and credit insurance, and the normal operating aid ceiling (13 % in 1991). In their view, the Commission should incorporate in its assessment the long-standing satisfactory procedure as regards development aid. The German Government also stated that incorporation of price considerations in the Commission's assessment of the development aid project would create uncertainty in the award of shipbuilding contracts.

In terms of the development content of the aid, the German authorities stated that it was intended to help China to cover a greatly increased transport need and save hard currency by boosting exports. The container ships would further the development of an integrated transport system (door-to-door transport). In the Chinese eighth five year plan 1991 to 1995 a major objective — in addition to that of acquiring or saving foreign currency to a greater extent — is the maintenance of maximum independence from foreign countries with regard to overseas transport. The increased transportation need should be seen against a background of economic growth in China and also the relatively underdeveloped rail and inland waterways system.

III

The loan to Cosco has to be assessed in accordance with the provisions of Article 4 (7) of Directive 90/684/EEC. Article 4 (7) states that the aid for shipbuilding and ship

conversion granted as development aid is not subject to the prevailing common maximum aid ceiling of Article 4 (2).

By letter SG(89) D/311 of 3 January 1989 the Commission informed the Member States that such aid is subject to prior individual notification to the Commission, which will verify the specific development content of the proposed aid. The letter goes on to indicate a number of criteria which must be complied with so that the Commission can satisfy itself that the proposed aid falls within the scope of the OECD Understanding on Export Credits for Ships. These include the requirement that the grant element should be at least 25 % of the contract value and that the recipient country should be on the list of 'eligible' countries.

China is on the list of eligible countries and the credit conditions for the Cosco contract notified under the OECD Understanding on Export Credits for Ships appear to be just over the minimum 25 % grant equivalent.

In spite of the German authorities' explanations in their letters of 31 October 1991 and 4 November 1991 stating its development considerations and previous practices as regards development aid relations with China, the Commission still had serious doubts about the genuine development aid character of the proposed aid, due among other things to the lack of transparency on the pricing aspect.

In view of the fact that it had received information indicating that the prevailing market prices for the container vessels in question were 20 to 30 % below the reported contract price of DM 600 million for the three 3 765 teu container vessels, it was not clear to the Commission whether the proposed aid should be considered as development aid to China or as operating aid to the German shipyards concerned. The replies of the German authorities dated 31 October 1991 and 4 November 1991 did not contain any information which allowed the doubts surrounding the alleged overpricing to be eliminated.

Strong reactions from the shipbuilding market reinforced the impression of overpricing by the German yards. In this context, financing support under the heading of development aid was seen more as an operating subsidy in favour of the German shipbuilding industry by allowing the normal aid ceiling to be exceeded rather than as genuine development aid.

The Commission also took into account the fact that the vessels in question were intended for Cosco's worldwide services, probably operating between Europe and the Far East.

The Commission thus still had serious doubts as regards the genuine development character of the proposed aid. The involvement of yards situated in the former German Democratic Republic was a further complicating factor as the Commission had not, at that time, received an official notification of operating aid schemes for the Mecklenburg-Vorpommern shipyards and therefore had not authorized the granting of any aid to these yards.

Finally, it was not clear to the Commission how the one 2 700 teu container vessel fitted into the Cosco project as a whole or in which yard this vessel would be built and which level of support under which schemes would be made available for that part of the contract.

Against this background the Commission decided to initiate the Article 93 (2) procedure in order to allow it to examine the genuine development aid character of the aid project to build three 3 765 teu container vessels and one 2 700 teu container vessel, which could form part of this aid project, for Cosco and assess its overall compatibility with the common market.

IV

After giving notice of the initiation of the procedure⁽¹⁾ the following Member States and other parties concerned submitted their comments:

- the United Kingdom,
- the Danish Government,
- the European Community Shipowners' Associations,
- the Association of Danish Shipbuilders,
- the Danish Shipowners' Association.

In summary, the comments received referred basically to the two following points:

1. the prices quoted for the three container vessels by Bremer Vulkan were above the going market price which would be justified in a normal competitive situation. Therefore serious doubts were expressed regarding the genuine development character of the proposed aid which was viewed rather as a subsidy to the shipbuilding industry;
2. the granting of the aid would lead to the distortion of competition in the shipping market. This claim was based on the fact that Cosco, which is the world's fifth largest container shipping company and constitutes a

strong competitor to Community shipowners by pursuing an aggressive freight pricing policy, would, by virtue of the subsidy, be able to upgrade the quality of its fleet, increase its carrying capacity and maintain its low freight rate policy to the detriment of Community shipowners.

The comments received from the other Member States and parties concerned were transmitted by the Commission to the German Government by letter dated 18 March 1992 to give the German Government the opportunity to submit a reply.

V

The German Government reacted to the opening of the procedure by letters dated 4 March 1992 and 1 July 1992 and faxes dated 10 July 1992 and 3 July 1992. By letter dated 13 April 1992, the German Government reacted to the comments of other Member States and parties concerned. Its comments can be summarized as follows:

1. The German Government explained that the price is based on a market price assessment for a 3 765 teu container ship of DM 142 million taken from the *Study of the Shipbuilding Market 1991* (November 1991), made for the Commission by an independent consultant.

The actual price for the Cosco ships is higher (DM 201,4 million per ship) as some of the specifications differ in the following respects:

- the higher speed (25 instead of 21 knots) required a stronger motor and an increase in the length of the ship. The ships will therefore be able to carry more containers (4 070 teu) and more cool containers. This last specification requires extra energy supply for which a new type of control system will be used. This results in additional costs of: DM 25 million,
- in contrast to the consultant's study which was based on payment in cash (5 × 20 % during building time) it was agreed that 10 % would be paid on signing the contract and 90 % upon delivery. The additional prefinancing costs amount to: DM 7 million,

⁽¹⁾ OJ No C 22, 29. 1. 1992, p. 4.

- furthermore, the yard has to pay a credit-insurance-premium (except in the event of a cash payment as in the consultant's study) of : DM 12 million,
- in the consultant's study no account is taken of the price of the containers so that the cost of containers and supplementary equipment must be added to the basic price : DM 15 million,
DM 59 million.

The additional costs of DM 59 million lead to a final price of DM 201 million in comparison to the consultant's basic price of DM 142 million.

2. The German Government states that the aid is in the nature of development aid since the relevant criteria (see Article 4 (7) of Directive 90/684/EEC and Commission letter SG(89) D/311 of 3 January 1989) are fulfilled, i.e.:

- a 25,35 % credit equivalent,
- the aid is aimed to support the opening of China's foreign trade as well as to improve its economic and social development,
- China is on the list of eligible countries.

3. Regarding the feared distortion of competition in the shipping market the German Government pointed out that Directive 90/684/EEC does not forbid development aid for the construction of merchant ships.

4. The German Government stated that the smaller 2 700 teu container vessel to be delivered to Rubymonte Maritime Inc., a subsidiary of Cosco, will be financed without development aid and in accordance with normal OECD conditions.

5. The German Government stated that of the yards in the former German Democratic Republic only the Mathias Thesen yard would be involved in the construction of the 3 765 teu vessels. A derogation from Directive 90/684/EEC in favour of the shipyards in the former German Democratic Republic was adopted by the Council on 20 July 1992. It also stated that the Mathias Thesen yard would not reduce its capacity below 87 275 cgt (as at 1 July 1990). The German

Government reasons therefore that a decision on the Cosco case does not have to await agreement on the timetable of the 40 % shipbuilding capacity reduction in the former German Democratic Republic required under the derogation.

VI

According to Article 4 (7) of Directive 90/684/EEC, aid for shipbuilding granted as development aid is not subject to the normal ceiling for operating aid and may be deemed compatible with the common market if it complies with the OECD Understanding on Export Credits for Ships. By letter of 3 January 1989, the Commission informed the Member States of its interpretation of Article 4 (7) of Directive 90/684/EEC. It repeated that any individual aid proposal was subject to prior notification to the Commission which would verify, on the basis of the notification, whether the proposed aid constituted development aid and whether it fell within the scope of the OECD Understanding. It also investigates whether the proposed aid complies with the criteria laid down in OECD Document C/WP6 (84)3 of 18 January 1984 concerning the interpretation of Article 6 of the Understanding on Export Credits for Ships according to which the following basic criteria must be adhered to by Member States granting development aid:

1. the aid may not be granted for the construction of ships which will be operated under a flag of convenience;
2. in the event that the aid cannot be classified as official development aid in the framework of the OECD Understanding the donor must confirm that the aid is part of an intergovernmental agreement;
3. the donor must provide proof that the owner is resident in the recipient country and that the recipient company is not a non-operational subsidiary of a foreign company;
4. the recipient must give undertakings not to sell the ship without prior Government approval;
5. the grant element must be at least 25 % of the contract value in accordance with the OECD method of calculation (see OECD Document C/WP6 (85)62 of 21 October 1985);

6. the country involved must be on the Commission's list of countries eligible for development aid under Article 4 (7) of Directive 90/684/EEC.

It is clear from the above that the Commission is required to establish whether the aid granted in respect of each individual contract and liable to individual notification according to Article 11 (2) of the Directive constitutes development aid and whether the other criteria and conditions are met. In relation to the Cosco contracts, the Commission would make the following remarks :

1. The German authorities explain the higher contract price for the three ships by reference to the different specifications (higher speed, etc.) and the extra financial costs due to the soft loan conditions. Even after these explanations the price remains at the upper end of the prevailing market prices for this type of ship. However, the Commission is not in a position, on the basis of the information available to it, to demonstrate that the pricing package acts as an aid to the ship-building yards.

2. The German authorities point to China's increased transport needs and the resulting possibility of earning or saving more hard currencies through imports and exports. It also mentions China's objective of maintaining maximum independence from foreign countries for overseas transport and the relatively under-developed rail and inland waterways system. However, in assessing this aid the Commission must establish both that it is necessary and that it represents genuine development aid rather than an operating subsidy to German shipyards. The necessity of the aid is an essential condition for such assessment as has been stated by the Court of Justice in Case 730/79 Philip Morris⁽¹⁾. Officially, Cosco currently has a fleet of 630 owned/long-term chartered vessels. Experts estimate that through its subsidiaries and other interests Cosco has control over an even higher number of ships. The vast majority of these vessels are operating in the time charter and spot charter markets all over the world. Around 80 of the above vessels are container ships, the fastest growing part of Cosco's fleet in recent years, making it the fifth largest container operator in the world.

The average age of the Cosco fleet is now 14 years and this accounts for its aim of engaging in long-term fleet renewal programmes. According to information available to the Commission the new container tonnage will be deployed on the Pacific and on the company's services to the Mediterranean and North West Europe. At the moment Cosco operates six 1 100/1 300 teu vessels on its Mediterranean service and a similar number on its North West Europe service. One of the company's major aims seems to be to set up an integrated network in Europe. Cosco has for the past two to three years been self-financing and any fleet renewal programmes must be self-generated.

This all leads to the conclusion that Cosco is not a company which needs development aid in order to contribute to China's development. The company is financially capable of buying new ships on the normal market and since it operates on international shipping routes with time charter and spot contracts, its operations are not directly linked to China's import or export trade. In view of this situation the granting of unjustified aid to Cosco carries the risk of creating a serious distortion of competition to an extent contrary to the common interest. Cosco is, because of its size and independence from the freight conferences, an important player in the world shipping market and is regarded by competitors as potentially a high destabilizing force in the Pacific/Far East and Far East/Europe trades.

3. This conclusion is reinforced by the fact that Cosco is willing and able to buy the smaller 2 700 teu container vessel without development aid at normal market prices. The German Government's information shows that the smaller vessel, to be delivered to a foreign subsidiary of Cosco, Rubymonte Maritime Inc. (Panama) and to be built by HDW, will not be supported with development aid. This makes it possible for the Commission to approve the contract for this ship and close the procedure in this respect.

On these grounds the Commission considers that the aid for the construction of three container vessels for Cosco cannot be considered as genuine development aid within the meaning of Article 4 (7) of Directive 90/684/EEC and that the aid distorts or threatens to distort competition in the common market and affects trade between Member States both in the shipbuilding and in the shipping sectors to an extent contrary to the common interest within the meaning of Article 92 (1),

⁽¹⁾ ECR 2671 [1980].

HAS ADOPTED THIS DECISION:

building and is therefore incompatible with the common market.

Article 1

The Commission has established that no development aid is involved in the Cosco contract for the construction of a 2 700 teu container ship by Howaldtswerke-Deutsche Werft AG, Kiel, and that the export credit terms applied are compatible with the common market.

Article 2

The proposed aid for the contract to build three further container vessels for the State-owned Chinese shipping company Cosco, at the Bremer Vulkan yard, Bremen, and the Mathias Thesen yard, Wismar, cannot be regarded as genuine development aid within the meaning of Article 4 (7) of Council Directive 90/684/EEC on aid to ship-

Article 3

The German Government shall inform the Commission within two months of the date of notification of this Decision of the measures taken to comply herewith.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 31 July 1992.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 5 November 1992

amending Commission Decision 91/479/EEC concerning the animal health conditions and veterinary certification for the importation of frozen bovine semen from the United States of America

(92/570/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of deepfrozen semen of domestic animals of the bovine species⁽¹⁾, as last amended by Council Directive 90/425/EEC⁽²⁾, and in particular Article 10 and 11 thereof,

Whereas Commission Decision 91/479/EEC⁽³⁾ lays down the animal health conditions and veterinary certification for the importation of bovine semen from the United States of America;

Whereas recent advances in the understanding of the epidemiology of bluetongue and technological advances in the testing for this disease have been made;

Whereas Decision 91/479/EEC must be amended accordingly;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The text of paragraph 5 of Annex II A to Commission Decision 91/479/EEC is replaced by the following text:

'5. Semen which falls into the following category is classified as bluetongue-free for the purposes of export of that semen to the European Community:

semen collected at any time from a bluetongue sero-negative bull when a sample of blood from the bull concerned, collected twenty-one days after the end of the semen collection period, has been submitted, with negative result, to an Elisa test for bluetongue virus antibodies and to an AGID and VNT test for antibodies to all serotypes of epizootic haemorrhagic disease virus known to occur in the United States of America according to the protocols set out in Annex 4.'

Article 2

This Decision comes into force 15 days after notification to the Member States.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 5 November 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 194, 22. 7. 1988, p. 10.

⁽²⁾ OJ No L 224, 18. 8. 1990, p. 29.

⁽³⁾ OJ No L 258, 16. 9. 1991, p. 1.

COMMISSION DECISION

of 15 December 1992

relating to new transitional measures which are necessary to facilitate the move to the system of veterinary checks provided for in Council Directive 90/675/EEC

(92/571/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries⁽¹⁾, as last amended by Decision 92/438/EEC⁽²⁾, and in particular Article 30 thereof,

Whereas Directive 90/675/EEC makes arrangements for a new system of veterinary checks for products entering the Community from third countries;

Whereas the Commission, in Decision 92/399/EEC⁽³⁾, adopted certain transitional measures to facilitate the move to the new system of veterinary checks provided for in Council Directive 90/675/EEC;

Whereas it is necessary to lay down new transitional measures which facilitate the gradual implementation of the system established by Directive 90/675/EEC; whereas Commission Decision 92/399/EEC must therefore be revoked;

Whereas, although at this stage controls on harmonized products can be carried out at the external border of the Community, it is nevertheless appropriate that in certain cases, for non-harmonized products, some controls should still be carried out in the Member State of destination;

Whereas pending the application of a lesser frequency of checks, determined for certain third countries in accordance with Article 8 (3) of Council Directive 90/675/EEC, Member States need to continue to apply the frequencies in force before 1 July 1992;

Whereas the cost of veterinary controls is chargeable either to the importer or to his representative, and whereas the absence of a fixed tariff of costs can distort competition between Member States; whereas it is advisable for Member States to take the necessary measures to permit their establishment and payment;

Whereas, moreover, it is justified to allow the option of controls during transportation provided that they do not jeopardize the abolition of internal borders pursuant to Council Directive 89/662/EEC of 11 December 1989

concerning veterinary checks in intra-Community trade with a view to the completion of the internal market⁽⁴⁾, as last amended by Directive 92/67/EEC⁽⁵⁾;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The provisions of Article 8 of Council Directive 90/675/EEC shall apply to the list of products appearing in the Annex hereto.

Nevertheless, a Member State which conducts identification checks and physical checks when products are brought into the territory of the Community may, when special conditions so warrant, submit a request on or before 18 December 1992, duly accompanied by supporting evidence seeking permission from the Commission to carry out those controls in a place in that Member State other than the pre-selected border inspection post of entry. In that event, the forwarding of the products to that place shall be subject to the conditions of Article 2 (b) hereof.

The request shall be followed by the adoption of a Decision by the Commission.

Article 2

Article 11 of Directive 90/675/EEC shall apply subject to the following rules:

- (a) the competent veterinary authority in the Member States into which the products are brought shall in all cases carry out the documentary check on those products either at the pre-selected border inspection posts or at the border crossing points;
- (b) when, in accordance with the procedure of bilateral agreements under Article 11 (2) (b) of that Directive, identification checks and physical checks are conducted in the Member State of destination, those controls shall be carried out, after carriage of the

⁽¹⁾ OJ No L 373, 31. 12. 1990, p. 1.

⁽²⁾ OJ No L 243, 25. 8. 1992, p. 27.

⁽³⁾ OJ No L 221, 6. 8. 1992, p. 54.

⁽⁴⁾ OJ No L 395, 30. 12. 1989, p. 13.

⁽⁵⁾ OJ No L 268, 14. 9. 1992, p. 73.

products under customs supervision and in sealed transport, in one of the places appearing on a list proposed by the Member State and approved by the Commission.

The Member State into which the products are brought shall lay down a sanction which is effective, proportional and deterrent in cases where no proof has been provided that the products have been presented to the competent authority of the place of destination within 15 days;

- (c) the checks provided by Article 11 (2) (a) shall apply for as long as Community provisions have not entered into force in the Member State into which the products are brought. In such a case, Member States shall forward the provisions applicable pursuant to Article 11 (2) (a) to the Commission and the other Member States;
- (d) the procedure for the bilateral agreements referred to in paragraph (b) may be applied *mutatis mutandis* in the circumstances envisaged in Article 11 (2) (a).

Article 3

Member States shall carry out identification checks at the same place as physical checks are carried out and, if need be, at the same time as those controls.

Article 4

Member States shall apply, as soon as they enter into force, the provisions on the frequencies of the checks as determined in accordance with Article 8 (3) of Directive 90/675/EEC.

Pending those provisions:

- when Member States carry out identification checks and physical checks, they shall carry them out in accordance with the frequencies in force on their territory before 1 July 1992,
- Member States shall forward those frequencies of checking to the Commission and the other Member States.

Article 5

Member States shall take the necessary measures to establish the cost of veterinary controls carried out and to

ensure that those costs have been paid by either the importer or his representative.

Article 6

In addition to the checks on products covered by Directive 90/675/EEC, as laid down in Article 6 (1) of Directive 89/662/EEC and in Article 7 (1) of Directive 90/425/EEC⁽¹⁾, Member States may carry out documentary controls at any stage during the transportation of those products, subject to observance of the principle that controls at internal borders of the Community have been removed.

Article 7

As far as the checks laid down by Article 12, paragraph 1 (b) of Directive 90/675/EEC are concerned, Member States shall carry out only documentary controls on the products.

Article 8

This Decision shall apply from 1 January 1993 until 31 December 1993.

Nevertheless, as regards the dates appearing in Article 1 and in the Annex, the relevant provisions shall enter into force on the date on which this Decision is published in the *Official Journal of the European Communities*.

Article 9

Commission Decision 92/399/EEC is revoked from 1 January 1993.

Article 10

This Decision is addressed to the Member States.

Done at Brussels, 15 December 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 29.

*ANNEX***LIST OF HARMONIZED PRODUCTS****Fresh meat (64/433/EEC ; 72/461/EEC ; 72/462/EEC)**

Where implementing decisions taken in pursuance of Directive 72/462/EEC allow permissive importation, those Member States that ask for additional guarantees must forward them to the other Member States and to the Commission at the latest on 18 December 1992. Each Member State must inform the border inspection posts located on its territory of the additional guarantees.

Meat products (72/462/EEC)

Each Member State shall inform the other Member States and the Commission, at the latest on 18 December 1992, of the lists of establishments in third countries other than Argentina, Brazil and Uruguay from which they authorize the importation of meat products. On the basis of this information the Commission shall lay down, before 1 January 1993, a transitional list of establishments in third countries authorized to import meat products into the Community.

Bovine semen (88/407/EEC).
