

# Official Journal

## of the European Communities

ISSN 0378-6978

L 16

Volume 32

20 January 1989

English edition

## Legislation

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## I

*(Acts whose publication is obligatory)*

# COMMISSION REGULATION (EEC) No 113/89

of 19 January 1989

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 2221/88<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 1636/87<sup>(4)</sup>, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the import levies on cereals, wheat and rye flour, and wheat groats and meal were fixed by Commission Regulation (EEC) No 2401/88<sup>(5)</sup> 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 other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 18 January 1989;

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 2401/88 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 20 January 1989.

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 16.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(4)</sup> OJ No L 153, 13. 6. 1987, p. 1.

<sup>(5)</sup> OJ No L 205, 30. 7. 1988, p. 96.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

### ANNEX

to the Commission Regulation of 19 January 1989 fixing the import levies on cereals and on wheat or rye flour, groats and meal

CN code	Levies	
	Portugal	Third country
0709 90 60	19,20	124,30
0712 90 19	19,20	124,30
1001 10 10	51,30	178,71 <sup>(1)</sup> <sup>(2)</sup>
1001 10 90	51,30	178,71 <sup>(1)</sup> <sup>(2)</sup>
1001 90 91	13,64	112,60
1001 90 99	13,64	112,60
1002 00 00	57,33	110,18 <sup>(3)</sup>
1003 00 10	47,89	117,37
1003 00 90	47,89	117,37
1004 00 10	38,94	71,69
1004 00 90	38,94	71,69
1005 10 90	19,20	124,30 <sup>(2)</sup> <sup>(3)</sup>
1005 90 00	19,20	124,30 <sup>(2)</sup> <sup>(3)</sup>
1007 00 90	42,54	134,82 <sup>(4)</sup>
1008 10 00	47,89	20,98
1008 20 00	47,89	92,61 <sup>(4)</sup>
1008 30 00	47,89	0,00 <sup>(5)</sup>
1008 90 10	(7)	(7)
1008 90 90	47,89	0,00
1101 00 00	33,11	171,66
1102 10 00	94,28	167,54
1103 11 10	92,90	289,31
1103 11 90	34,68	184,31

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

<sup>(2)</sup> In accordance with Regulation (EEC) No 486/85 the levies are not applied to imports into the French overseas departments of products originating in the African, Caribbean and Pacific States or in the 'overseas countries and territories'.

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

<sup>(4)</sup> Where millet and sorghum originating in the ACP or OCT is imported into the Community the levy is reduced by 50 %.

<sup>(5)</sup> 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.

<sup>(6)</sup> 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 (OJ No L 142, 9. 6. 1977, p. 10) and Commission Regulation (EEC) No 2622/71 (OJ No L 271, 10. 12. 1971, p. 22).

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

## COMMISSION REGULATION (EEC) No 114/89

of 19 January 1989

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 the Act of Accession of Spain and Portugal,

Having regard to Regulation (EEC) No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 2221/88<sup>(2)</sup>, 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<sup>(3)</sup>, as last amended by Regulation (EEC) No 1636/87<sup>(4)</sup>, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the premiums to be added to the levies on cereals and malt were fixed by Commission Regulation (EEC) No 2402/88<sup>(5)</sup> 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 other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

Whereas these exchange rates being those recorded on 18 January 1989;

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*

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 Portugal shall be zero.
2. 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 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 16.<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 1.<sup>(4)</sup> OJ No L 153, 13. 6. 1987, p. 1.<sup>(5)</sup> OJ No L 205, 30. 7. 1988, p. 99.

## ANNEX

to the Commission Regulation of 19 January 1989 fixing the premiums to be added to the import levies on cereals, flour and malt

## A. Cereals and flour

CN code	(ECU/tonne)			
	Current 1	1st period 2	2nd period 3	3rd period 4
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	10,59	10,59	10,59
1001 90 99	0	10,59	10,59	10,59
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	14,81	14,81	14,81

## B. Malt

CN code	(ECU/tonne)				
	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
1107 10 11	0	18,85	18,85	18,85	18,85
1107 10 19	0	14,08	14,08	14,08	14,08
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 115/89

of 19 January 1989

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EEC) No 2210/88<sup>(2)</sup>, and in particular Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria<sup>(3)</sup>, as last amended by Regulation (EEC) No 4014/88<sup>(4)</sup>, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco<sup>(5)</sup>, as last amended by Regulation (EEC) No 4015/88<sup>(6)</sup>, and in particular Article 5 thereof,

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

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey<sup>(9)</sup>, as last amended by Regulation (EEC) No 4016/88<sup>(10)</sup>, and in particular Article 10 (2) thereof,

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

Whereas by Regulation (EEC) No 3131/78<sup>(12)</sup> the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Council Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules

for fixing the import levy on olive oil by tender<sup>(13)</sup> specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

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

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 16 and 17 January 1989 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

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

*Article 3*

This Regulation shall enter into force on 20 January 1989.

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

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 1.

<sup>(3)</sup> OJ No L 169, 28. 6. 1976, p. 24.

<sup>(4)</sup> OJ No L 358, 27. 12. 1988, p. 1.

<sup>(5)</sup> OJ No L 169, 28. 6. 1976, p. 43.

<sup>(6)</sup> OJ No L 358, 27. 12. 1988, p. 2.

<sup>(7)</sup> OJ No L 169, 28. 6. 1976, p. 9.

<sup>(8)</sup> OJ No L 48, 26. 2. 1986, p. 1.

<sup>(9)</sup> OJ No L 142, 9. 6. 1977, p. 10.

<sup>(10)</sup> OJ No L 358, 27. 12. 1988, p. 3.

<sup>(11)</sup> OJ No L 181, 21. 7. 1977, p. 4.

<sup>(12)</sup> OJ No L 370, 30. 12. 1978, p. 60.

<sup>(13)</sup> OJ No L 331, 28. 11. 1978, p. 6.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX I

## Minimum import levies on olive oil

(ECU/100 kg)	
CN code	Non-member countries
1509 10 10	75,00 (1)
1509 10 90	75,00 (1)
1509 90 00	87,00 (2)
1510 00 10	75,00 (1)
1510 00 90	119,00 (2)

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

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

(2) For imports of oil falling within this subheading :

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

(3) For imports of oil falling within this subheading :

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

## ANNEX II

## Import levies on other olive oil sector products

(ECU/100 kg)	
CN code	Non-member countries
0709 90 39	16,50
0711 20 90	16,50
1522 00 31	37,50
1522 00 39	60,00
2306 90 19	6,00

**COMMISSION REGULATION (EEC) No 116/89**  
**of 19 January 1989**

**adjusting the agricultural conversion rates for the pigmeat sector in Spain**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Commission Regulation (EEC) No 3578/88 of 17 November 1988 laying down detailed rules for the application of the system for the automatic dismantlement of negative monetary compensatory amounts <sup>(1)</sup>, and in particular Article 7 (1) thereof,

Whereas Article 6a of Council Regulation (EEC) No 1677/85 of 11 June 1985 on monetary compensatory amounts in agriculture <sup>(2)</sup>, as last amended by Regulation (EEC) No 1889/87 <sup>(3)</sup>, lays down that the agricultural conversion rates of a Member State should be adjusted so as to avoid the creation of new monetary compensatory amounts;

Whereas the movement of the market rate for the Spanish peseta during the reference period 11 to 17 January 1989 should, given the adjustment of the agricultural conversion rate determined by Council Regulation (EEC) No 1678/85 <sup>(4)</sup>, as last amended by Regulation (EEC) No 58/89 <sup>(5)</sup>, entail, in accordance with Article 2 of Commission Regulation (EEC) No 3153/85 <sup>(6)</sup>, as last amended by Regulation (EEC) No 3521/88 <sup>(7)</sup>, an increase in the monetary compensatory amounts applicable in the pigmeat sector in Spain, effective from 23 January 1989; whereas in order to prevent this it is necessary to adjust the agricultural conversion rate so as to avoid the creation of these new monetary compensatory amounts,

HAS ADOPTED THIS REGULATION:

*Article 1*

In Annex V to Regulation (EEC) No 1678/85, the line relating to pigmeat is hereby replaced by the following:

Products	Agricultural conversion rates			
	1 ECU = ... Ptas	Applicable until	1 ECU = ... Ptas	Applicable from
Pigmeat	149,437	22 January 1989	148,444	23 January 1989 <sup>*</sup>

*Article 2*

This Regulation shall enter into force on 23 January 1989.

<sup>(1)</sup> OJ No L 312, 18. 11. 1988, p. 16.

<sup>(2)</sup> OJ No L 164, 24. 6. 1985, p. 6.

<sup>(3)</sup> OJ No L 182, 3. 7. 1987, p. 1.

<sup>(4)</sup> OJ No L 164, 24. 6. 1985, p. 11.

<sup>(5)</sup> OJ No L 10, 13. 1. 1989, p. 8.

<sup>(6)</sup> OJ No L 310, 21. 11. 1985, p. 4.

<sup>(7)</sup> OJ No L 307, 12. 11. 1988, p. 28.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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**COMMISSION REGULATION (EEC) No 117/89****of 19 January 1989****amending Regulation (EEC) No 2374/79 on the sale at reduced prices of certain products in the beef and veal sector held by intervention agencies to certain welfare institutions and bodies**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal <sup>(1)</sup>, as last amended by Regulation (EEC) No 4132/88 <sup>(2)</sup>, and in particular Article 7 (3) thereof,

Whereas Commission Regulation (EEC) No 2374/79 <sup>(3)</sup>, as last amended by Regulation (EEC) No 3639/88 <sup>(4)</sup>, fixes certain selling prices for beef and veal taken over by the intervention agencies before 1 June 1988; whereas certain selling prices for beef stored in France should be added;

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*

Annex II to Regulation (EEC) No 2374/79 is hereby replaced by the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 24.

<sup>(2)</sup> OJ No L 362, 30. 12. 1988, p. 4.

<sup>(3)</sup> OJ No L 272, 30. 10. 1979, p. 16.

<sup>(4)</sup> OJ No L 317, 24. 11. 1988, p. 12.

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

«ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II —  
ALLEGATO II — BIJLAGE II — ANEXO II»

Precios de venta expresados en ecus por tonelada (1) — Salgspriser i ECU/ton (1) — Verkaufspreise ausgedrückt, in ECU/Tonne (1) — Τιμές πωλήσεως εκφραζόμενες σε Ecu ανά τόνο (1) — Selling prices expressed in ecus per tonne (1) — Prix de vente exprimés en écus par tonne (1) — Prezzi di vendita espressi in ecu per tonnellata (1) — Verkoopprijzen uitgedrukt in ecu per ton (1) — Preços de venda expresso em ecus por tonelada (1)

## FRANCE

Catégorie A/  
Catégorie C

Filet	5 140
Faux filet	3 250
Tende-de-tranche	1 900
Tranche grasse	1 570
Rumpsteak	1 890
Bavette	1 810
Entrecôte	1 630
Boule de gîte	1 830
Gîte à la noix	1 830
Jarret	1 140
Caisse A	1 140
Boule de Macreuse	1 140

## IRELAND

## Category C

Insides	1 900
Outsides	1 570
Knuckles	1 830
Rumps	1 890
Forequarters	1 140
Briskets	1 000
Flank/plate	900

## ITALIA

## Categoria A

Filetto	5 140
Roastbeef	3 250
Scamone	1 890
Fesa esterna	1 570
Fesa interna	1 900
Noce	1 700
Girello	1 500
Geretto pesce	1 000
Collo sottospalla	1 000
Spalle geretto	1 000
Pancia	900
Petto	1 000

(1) Estos precios se entenderán netos con arreglo a lo dispuesto en el apartado 1 del artículo 17 del Reglamento (CEE) nº 2173/79.

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

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

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

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

(1) Ces prix s'entendent poids net conformément aux dispositions de l'article 17 paragraphe 1 du règlement (CEE) nº 2173/79.

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

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

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

## COMMISSION REGULATION (EEC) No 118/89

of 19 January 1989

on the sale at a price fixed in advance of certain boned beef held by certain intervention agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal <sup>(1)</sup>, as last amended by Regulation (EEC) No 4132/88 <sup>(2)</sup>, and in particular Article 7 (3) thereof,

Whereas the possibility of permanent intervention in beef and veal has led to the build-up of considerable stocks in the Community; whereas some of the intervention purchases have been stored in the form of boned meat in order to improve the intervention system in accordance with Commission Regulation (EEC) No 2226/78 <sup>(3)</sup>, as last amended by Regulation (EEC) No 3492/88 <sup>(4)</sup>;

Whereas Article 2 (1) of Council Regulation (EEC) No 98/69 <sup>(5)</sup>, as amended by Regulation (EEC) No 429/77 <sup>(6)</sup>, provides that the selling prices of frozen beef and veal bought in by the intervention agencies may be fixed in advance; whereas it is appropriate to make use of this system of selling;

Whereas it is important to comply with the provisions of Commission Regulation (EEC) No 2173/79 <sup>(7)</sup>, as amended by Regulation (EEC) No 1809/87 <sup>(8)</sup>, with regard to selling at a price fixed in advance;

Whereas Council Regulation (EEC) No 1055/77 <sup>(9)</sup> provides that, in the case of products held by an intervention agency and stored outside the territory of the Member State within whose jurisdiction that agency falls, a selling price different from that for products stored on that territory may be fixed; whereas Commission Regulation (EEC) No 1805/77 <sup>(10)</sup> laid down the method of calculating the selling prices for those products; whereas, in order to avoid any confusion, it should be

made clear that the prices fixed by this Regulation do not apply as they stand to those products;

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*

1. During the period 23 January to 7 March 1989 the sale shall take place of approximately:

- 300 tonnes of boned beef held by the Danish intervention agency and put into store before 1 June 1988,
- 700 tonnes of boned beef held by the German intervention agency and put into store before 1 January 1988,
- 1 000 tonnes of boned beef and veal held by the Irish intervention agency and put into store before 1 May 1988,
- 1 000 tonnes of boned beef held by the United Kingdom intervention agency and put into store before 1 June 1988.

The qualities and prices of this meat are given in Annex I.

2. The intervention agency shall first sell the meat which has been in storage longest.

3. Sales shall take place in accordance with the provisions of Regulation (EEC) No 2173/79, and in particular Articles 2 to 5 thereof.

4. Particulars relating to the quantities and the places where the products are stored may be obtained by interested parties at the addresses given in Annex II.

*Article 2*

This Regulation shall enter into force on 23 January 1989.

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 24.

<sup>(2)</sup> OJ No L 362, 30. 12. 1988, p. 4.

<sup>(3)</sup> OJ No L 261, 26. 9. 1978, p. 5.

<sup>(4)</sup> OJ No L 306, 11. 11. 1988, p. 20.

<sup>(5)</sup> OJ No L 14, 21. 1. 1969, p. 2.

<sup>(6)</sup> OJ No L 61, 5. 3. 1977, p. 18.

<sup>(7)</sup> OJ No L 251, 5. 10. 1979, p. 12.

<sup>(8)</sup> OJ No L 170, 30. 6. 1987, p. 23.

<sup>(9)</sup> OJ No L 128, 24. 5. 1977, p. 1.

<sup>(10)</sup> OJ No L 198, 5. 8. 1977, p. 19.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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

Precio de venta expresado en ecus por tonelada <sup>(1)</sup> <sup>(2)</sup> — Salgspriser i ECU/ton <sup>(1)</sup> <sup>(2)</sup> — Verkaufspreise, ausgedrückt in ECU/Tonne <sup>(1)</sup> <sup>(2)</sup> — Τιμές πώλησεως εκφραζόμενες σε Ecu ανά τόνο <sup>(1)</sup> <sup>(2)</sup> — Selling prices expressed in ecus per tonne <sup>(1)</sup> <sup>(2)</sup> — Prix de vente exprimés en écus par tonne <sup>(1)</sup> <sup>(2)</sup> — Prezzi di vendita espressi in ecu per tonnellata <sup>(1)</sup> <sup>(2)</sup> — Verkoopprijzen uitgedrukt in ecu per ton <sup>(1)</sup> <sup>(2)</sup> — Preço de venda expresso em ecus por tonelada <sup>(1)</sup> <sup>(2)</sup>

1. DANMARK	Ungtyre 1. kvalitet / Kategori A	Stude 1. kvalitet / Kategori C
Inderlår med kappe	3 930	3 700
Tykstegsfilet med kappe	3 385	3 120
Klump med kappe	3 385	3 125
Yderlår med lårtunge	3 610	3 365
Mørbrad med bimørbrad	9 605	8 655
Bryst og slag	2 160	1 730
Øvrigt kød af forfjerdinger	2 855	2 715

  

2. BUNDESREPUBLIK DEUTSCHLAND	Kategorie A	Kategorie C
Filet	11 450	11 870
Oberschalen	4 140	3 905
Unterschalen	3 700	3 765
Kugeln	3 910	3 655
Hüfte	3 485	3 380
Roastbeef	6 410	6 110
Kniekehlfleisch	2 425	2 425
Dünnung	1 760	1 710
Hesse	2 200	2 200

<sup>(1)</sup> En caso de que los productos estén almacenados fuera del Estado miembro al que pertenezca el organismo de intervención poseedor, estos precios se ajustarán con arreglo a lo dispuesto en el Reglamento (CEE) n° 1805/77.

<sup>(2)</sup> I tilfælde, hvor varer er oplagrede uden for den medlemsstat, hvor interventionsorganet er hjemmehørende, tilpasses disse priser i overensstemmelse med bestemmelserne i forordning (EØF) nr. 1805/77.

<sup>(3)</sup> Falls die Lagerung der Erzeugnisse außerhalb des für die betreffende Interventionsstelle zuständigen Mitgliedstaats erfolgt, werden diese Preise gemäß den Vorschriften der Verordnung (EWG) Nr. 1805/77 angepaßt.

<sup>(4)</sup> Στην περίπτωση που τα προϊόντα είναι αποθεματοποιημένα εκτός του κράτους μέλους στο οποίο υπάγεται ο αρμόδιος οργανισμός παρεμβάσεως, οι τιμές αυτές προσαρμόζονται σύμφωνα με τις διατάξεις του κανονισμού (ΕΟΚ) αριθ. 1805/77.

<sup>(5)</sup> In the case of products stored outside the Member State where the intervention agency responsible for them is situated, these prices shall be adjusted in accordance with the provisions of Regulation (EEC) No 1805/77.

<sup>(6)</sup> Au cas où les produits sont stockés en dehors de l'État membre dont relève l'organisme d'intervention détenteur, ces prix sont ajustés conformément aux dispositions du règlement (CEE) n° 1805/77.

<sup>(7)</sup> Qualora i prodotti siano immagazzinati fuori dello Stato membro da cui dipende l'organismo detentore, detti prezzi vengono ritoccati in conformità del disposto del regolamento (CEE) n. 1805/77.

<sup>(8)</sup> Ingeval de produkten zijn opgeslagen buiten de Lid-Staat waaronder het interventiebureau dat deze produkten onder zich heeft ressorteert, worden deze prijzen aangepast overeenkomstig de bepalingen van Verordening (EEG) nr. 1805/77.

<sup>(9)</sup> No caso de os produtos estarem armazenados fora do Estado-membro de que depende o organismo de intervenção detentor, estes preços serão ajustados conforme o disposto no Regulamento (CEE) n° 1805/77.

<sup>(10)</sup> Estos precios se entenderán netos con arreglo a lo dispuesto en el apartado 1 del artículo 17 del Reglamento (CEE) n° 2173/79.

<sup>(11)</sup> Disse priser gælder netto i overensstemmelse med bestemmelserne i artikel 17, stk. 1, i forordning (EØF) nr. 2173/79.

<sup>(12)</sup> Diese Preise gelten netto gemäß den Vorschriften von Artikel 17 Absatz 1 der Verordnung (EWG) Nr. 2173/79.

<sup>(13)</sup> Οι τιμές αυτές εφαρμόζονται επί του καθαρού βάρους σύμφωνα με τις διατάξεις του άρθρου 17 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 2173/79.

<sup>(14)</sup> These prices shall apply to net weight in accordance with the provisions of Article 17 (1) of Regulation (EEC) No 2173/79.

<sup>(15)</sup> Ces prix s'entendent poids net conformément aux dispositions de l'article 17 paragraphe 1 du règlement (CEE) n° 2173/79.

<sup>(16)</sup> Il prezzo si intende peso netto in conformità del disposto dell'articolo 17, paragrafo 1 del regolamento (CEE) n. 2173/79.

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

<sup>(18)</sup> Estes preços aplicam-se a peso líquido, conforme o disposto no n° 1 do artigo 17º do Regulamento (CEE) n° 2173/79.



## 3. IRELAND

*Steers / Category C*

Forequarters (excluding cube rolls)	2 800
Plates and flanks	1 800
Thin flanks	1 800
Plates	1 800
Shins and shanks	2 600
Shins	2 600
Shanks	2 600
Briskets	2 300

## 4. UNITED KINGDOM

*Steers / Category C*

Topsides	4 820
Silversides	4 510
Thick flanks	4 200
Rumps	4 855
Foreribs	3 310
Thin flanks	1 800
Flanks (plate)	1 800
Shins and shanks	2 900
Pony parts	2 300
Clod and sticking	2 900
Brisket	2 700
Ponies	3 000
Striploins	6 335
Fillets	9 500

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

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

DANMARK: Direktoratet for Markedsordningerne  
EF-Direktoratet  
Frederiksborggade 18  
DK-1360 København K  
Tlf. (01) 92 70 00, telex 151 37 DK

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

BUNDESREPUBLIK  
DEUTSCHLAND: Bundesanstalt für landwirtschaftliche Marktordnung (BALM)  
Geschäftsbereich 3 (Fleisch und Fleischerzeugnisse)  
Postfach 180 107 — Adickesallee 40  
D-6000 Frankfurt am Main 18  
Tel. (06 9) 1 56 40 App. 772/773, Telex 411 156

IRELAND: Department of Agriculture  
Agriculture House  
Kildare Street  
Dublin 2  
Tel. (01) 78 90 11, ext. 22 78  
Telex 4280 and 5118

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## COMMISSION REGULATION (EEC) No 119/89

of 19 January 1989

amending Regulation (EEC) No 2514/78 on the registration in the Member States  
of contracts for seed multiplication in non-member countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European  
Economic Community,Having regard to Regulation (EEC) No 2358/71 of the  
Council of 26 October 1971 on the common organization  
of the market in seeds <sup>(1)</sup>, as last amended by Regulation  
(EEC) No 3997/87 <sup>(2)</sup>, and in particular Articles 3a (4) and  
9 thereof,

Whereas Commission Regulation (EEC) No 2514/78 <sup>(3)</sup>  
specifies the information which the contracting party  
established in the Community must provide to the body  
responsible for registration; whereas the information  
forwarded must agree with that contained in the contract;  
whereas explicit provision should therefore be made for  
the contract to be produced; whereas for certain species it  
is difficult, at the date laid down for the registration of  
contracts, to establish the quantities likely to be imported  
into the Community; whereas in order to permit more  
accurate assessment of developments on the market a  
different date should be laid down for the transmission of  
import forecasts; whereas in order to allow some estimate  
to be made of import quantities provision should be made  
for notification of the area to be used for multiplication in  
the non-member country;

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

HAS ADOPTED THIS REGULATION:

*Article 1*Regulation (EEC) No 2514/78 is hereby amended as  
follows:

1. Article 3 is replaced by the following:

*'Article 3*For the purposes of the registration of contracts  
provided for in Article 1, in addition to producing thelatter the contracting party established in the  
Community must at the same time provide the body  
referred to in Article 4 with at least the following  
particulars:

- (a) the country in which the seed multiplication is to  
be carried out;
- (b) the species and variety of seed;
- (c) the quantity, origin and category of seeds to be  
multiplied;
- (d) the marketing years covered by the contract, the  
area to be sown, the estimated quantities to be  
imported into the Community and the scheduled  
periods for delivery.'

2. The following is added to Article 5(1):

'However, for hybrid maize seed, the data on estimated  
quantities to be imported into the Community and the  
scheduled periods for delivery may be notified no later  
than six months after the deadline for the registration  
of contracts.'

3. Article 6 is replaced by the following:

*'Article 6*

Member States shall notify to the Commission each  
year not later than 30 days after the final dates set in  
the Annex areas to be sown and estimated quantities of  
seeds resulting from multiplication to be imported into  
the Community. The figures shall be broken down by  
marketing year, species or group of varieties as  
indicated in the Annex and non-member country  
concerned.

However, for hybrid maize seed, estimated quantities  
to be imported into the Community shall be notified  
to the Commission not later than 30 days after they  
are notified to the competent body responsible for  
registration.'

*Article 2*

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

<sup>(1)</sup> OJ No L 246, 5. 11. 1971, p. 1.<sup>(2)</sup> OJ No L 377, 31. 12. 1987, p. 36.<sup>(3)</sup> OJ No L 301, 28. 10. 1978, p. 10.

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

Done at Brussels, 19 January 1989.

*For the Commission*  
Ray MAC SHARRY  
*Member of the Commission*

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## COMMISSION REGULATION (EEC) No 120/89

of 19 January 1989

laying down common detailed rules for the application of export levies and charges on agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats <sup>(1)</sup>, as last amended by Regulation (EEC) No 2210/88 <sup>(2)</sup>, and in particular Articles 19 (3) and 20 (3) thereof,

Having regard to Regulation (EEC) No 804/68 of the Council of 28 June 1968 on the common organization of the market in milk and milk products <sup>(3)</sup>, as last amended by Regulation (EEC) No 1109/88 <sup>(4)</sup>, and in particular Article 13 (3) thereof,

Having regard to Regulation (EEC) No 2180/71 of the Council of 12 October 1971 on the general rules to be applied to the market in milk and milk products in the event of supply difficulties <sup>(5)</sup>, and in particular Article 2 (1) thereof,

Having regard to Regulation (EEC) No 1603/74 of the Council of 25 June 1974 on the imposition of an export charge on certain cereal, rice and milk-based products containing added sugar in the event of sugar supply difficulties <sup>(6)</sup>, and in particular Article 1 (3) thereof,

Having regard to Regulation (EEC) No 2727/75 of the Council of 29 October 1975 on the common organization of the market in cereals <sup>(7)</sup>, as last amended by Regulation (EEC) No 2221/88 <sup>(8)</sup>, and in particular Article 12 (2) thereof,

Having regard to Regulation (EEC) No 2742/75 of the Council of 29 October 1975 on production refunds in the cereals and rice sectors <sup>(9)</sup>, as last amended by Regulation (EEC) No 1009/86 <sup>(10)</sup>, and in particular Article 8 (a) thereof,

Having regard to Regulation (EEC) No 2747/75 of the Council of 29 October 1975 laying down general rules to be applied in the event of the cereals market being

disturbed <sup>(11)</sup>, as amended by Regulation (EEC) No 2560/77 <sup>(12)</sup>, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(13)</sup>, as last amended by Regulation (EEC) No 2229/88 <sup>(14)</sup>, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1432/76 of 21 June 1976 laying down general rules to be applied in the event of the market in rice being disturbed <sup>(15)</sup>, and in particular Article 4 (1) thereof,

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 <sup>(16)</sup>, as last amended by Regulation (EEC) No 2247/88 <sup>(17)</sup>,

Having regard to Council Regulation (EEC) No 520/77 of 14 March 1977 on the imposition of an export charge on certain products processed from fruit and vegetables and containing added sugar, in the event of sugar supply difficulties <sup>(18)</sup>, and in particular Article 1 (4) thereof,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector <sup>(19)</sup>, as last amended by Regulation (EEC) No 2306/88 <sup>(20)</sup>, and in particular Articles 13 (2) and 18 (4) and (5) thereof,

Having regard to Council Regulation (EEC) No 1650/86 of 20 May 1986 on export refunds and levies on olive oil <sup>(21)</sup>, and in particular Article 6 thereof,

Whereas Regulation (EEC) No 645/75 of the Commission <sup>(22)</sup>, as last amended by Regulation (EEC) No 3677/86 <sup>(23)</sup>, lays down common detailed rules for the application of the export levies and charges on agricultural products; whereas experience has shown that new provisions should be introduced into that Regulation; whereas, for the sake of clarity and administrative efficiency, the rules applying to the subject should accordingly be recast;

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

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 1.

<sup>(3)</sup> OJ No L 148, 28. 6. 1968, p. 13.

<sup>(4)</sup> OJ No L 110, 29. 4. 1988, p. 27.

<sup>(5)</sup> OJ No L 231, 14. 10. 1971, p. 1.

<sup>(6)</sup> OJ No L 172, 27. 6. 1974, p. 9.

<sup>(7)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(8)</sup> OJ No L 197, 26. 7. 1988, p. 16.

<sup>(9)</sup> OJ No L 281, 1. 11. 1975, p. 57.

<sup>(10)</sup> OJ No L 94, 9. 4. 1986, p. 6.

<sup>(11)</sup> OJ No L 281, 1. 11. 1975, p. 82.

<sup>(12)</sup> OJ No L 303, 28. 11. 1977, p. 1.

<sup>(13)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(14)</sup> OJ No L 197, 26. 7. 1988, p. 27.

<sup>(15)</sup> OJ No L 166, 25. 6. 1976, p. 39.

<sup>(16)</sup> OJ No L 49, 27. 2. 1986, p. 1.

<sup>(17)</sup> OJ No L 198, 26. 7. 1988, p. 21.

<sup>(18)</sup> OJ No L 73, 21. 3. 1977, p. 26.

<sup>(19)</sup> OJ No L 177, 1. 7. 1981, p. 4.

<sup>(20)</sup> OJ No L 201, 27. 7. 1988, p. 65.

<sup>(21)</sup> OJ No L 145, 30. 5. 1986, p. 8.

<sup>(22)</sup> OJ No L 67, 14. 3. 1975, p. 16.

<sup>(23)</sup> OJ No L 351, 12. 12. 1986, p. 1.

Whereas the export levies and charges form part of the export duties, as defined in particular in Article 1 (2) (e) of Council Regulation (EEC) No 2144/87 of 13 July 1987 on customs debt <sup>(1)</sup>, as amended by Regulation (EEC) No 4108/88 <sup>(2)</sup>;

Whereas export levies should not be applied to exports under a licence where the refund is fixed in advance or determined by tender;

Whereas certain transactions are of no economic significance or concern very small quantities; whereas such transactions may be exempted from the export levy;

Whereas it is necessary to specify the date to be taken into consideration for purposes of determining the rate of the export levy and also the Member State which is to collect the export levy;

Whereas, in order to avoid speculative transactions, measures should be taken to ensure that products for which the export declaration has been accepted leave the customs territory of the Community within a reasonable time; whereas the 60-day period laid down for exports qualifying for refunds may also be applied where an export levy is collected; whereas, where that period is exceeded, special provisions must be laid down, in the particular case of export levies, to determine the rates thereof;

Whereas the task of customs authorities is made easier if products to which an export levy has been applied move under a procedure which is different from that used for products to which an export levy is not applied; whereas, to that end, it should be provided that products to which an export levy has been applied move under the external Community transit procedure;

Whereas, where the products concerned leave the Community territory during carriage from one point to another of the latter, appropriate provisions should be laid down to recover the export levy in question where products are not re-introduced into the Community; whereas to that end Commission Regulation (EEC) No 1062/87 of 27 March 1987 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure <sup>(3)</sup>, as last amended by Regulation (EEC) No 1469/88 <sup>(4)</sup>, should be applied;

Whereas export licences without advance fixing of the refund may have been applied for or issued before the date of application of the export levy; whereas, apart from

cases of advance fixing, the export of agricultural products should not be required where an export levy is applied; whereas, consequently, it should be provided that such applications for licences may be withdrawn or such licences may be cancelled at the request of the party concerned, with the security lodged being released;

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

HAS ADOPTED THIS REGULATION:

### Article 1

Without prejudice to the derogations provided for in the specific Community rules relating to certain agricultural products, this Regulation lays down common detailed rules for the application of the export levies and charges (hereinafter referred to as 'export levies') on agricultural products provided for in:

- the second indent of Article 20 (1) of Regulation No 136/66/EEC,
- Article 2 (1) of Regulation (EEC) No 2180/71,
- Article 1 (1) of Regulation (EEC) No 1603/74,
- Article 6 (2) of Regulation (EEC) No 2742/75,
- the first indent of Article 2 (1) of Regulation (EEC) No 2747/75,
- the first indent of Article 2 (1) of Regulation (EEC) No 1432/76,
- Article 1 (1) of Regulation (EEC) No 520/77,
- Article 18 (1) and (4) of Regulation (EEC) No 1785/81.

### Article 2

Save as otherwise provided in this Regulation, export levies shall apply to all exports, permanent or temporary, to a destination outside the customs territory of the Community of:

- (a) products which come under Article 9 (2) of the Treaty, whether or not their packaging comes under that provision;
- (b) products which do not come under Article 9 (2) of the Treaty, where they contain components subject to export levies which came wholly or in part under the said provision before being used in the manufacture of the exported products.

### Article 3

1. No export levies shall be chargeable on exports in respect of which a refund has been fixed in advance or determined by a tendering procedure.

<sup>(1)</sup> OJ No L 201, 22. 7. 1987, p. 15.

<sup>(2)</sup> OJ No L 361, 29. 12. 1988, p. 2.

<sup>(3)</sup> OJ No L 107, 22. 4. 1987, p. 1.

<sup>(4)</sup> OJ No L 132, 28. 5. 1988, p. 67.

Where in the case of a compound product a refund is fixed in advance in respect of one or more of its components, within the meaning of Article 8 (3) of Commission Regulation (EEC) No 3665/87<sup>(1)</sup>, exemption from export levies shall apply only in respect of such component or components.

2. In addition to the cases referred to in Chapter II of Council Regulation (EEC) No 918/83<sup>(2)</sup>, no export levies shall be chargeable on:

- (a) products which are loaded within the Community for victualling purposes on board sea-going vessels or aircraft serving international routes, provided that the quantity involved does not exceed that normally required for consumption on board such vessels or aircraft;
- (b) products for the armed forces of a Member State which are stationed outside the customs territory of the Community;
- (c) small consignments of a non-commercial nature, where the weight of the leviable content does not exceed three kilograms per consignment; the other conditions of application of this allowance, with the exception of those relating to the value of the products, shall be the same as those laid down in Articles 29 to 31 of Regulation (EEC) No 918/83;
- (d) goods contained in the personal luggage of travellers where the weight of the leviable content does not exceed three kilograms per traveller; the other conditions of application of this allowance, with the exception of those relating to the value of the products, shall be the same as those laid down in Articles 45 to 49 of Regulation (EEC) No 918/83;
- (e) products under one of the procedures provided for in Articles 4 and 5 of Council Regulation (EEC) No 565/80<sup>(3)</sup>;
- (f) the catering supplies referred to in Article 42 (1) of Regulation (EEC) No 3665/87, the conditions laid down in paragraphs 2, second subparagraph, 3, 4, 5, 6 and 7 of the said Article applying *mutatis mutandis*.

3. The application of paragraph 2 (b) shall be subject to the production to the competent authorities of the Member State in which the export declaration has been accepted, of a certificate issued by the armed forces concerned confirming the destination of the products in respect of which the export declaration is lodged, and to the condition that the arrival at their destination of the products concerned is guaranteed.

#### Article 4

1. Except where the export levy is fixed in advance or determined under a tendering procedure, the levy rate applicable shall be that in force on the date on which the customs authority accepts the export declaration relating

to the products on which export levies are chargeable. From the time of such acceptance the products shall remain under customs control until they leave the customs territory of the Community.

However, save in case of *force majeure*:

- where the products concerned leave the customs territory of the Community after the 60th day from the day on which the export declaration was accepted, or
- in cases where proof of exit from the customs territory of the Community is not furnished within a period of 12 months from the date on which the export declaration was accepted,

the export levy rate chargeable shall be the highest of the rates in force during the period from the date of acceptance of the export declaration to the date on which the products leave the customs territory of the Community; where a rate fixed in advance higher than the highest rate was applicable that rate shall be chargeable.

For the purposes of the foregoing subparagraph, no account shall be taken of any export refund fixed during the said period.

Proof of exit from the customs territory of the Community shall be furnished in accordance with the same procedure as that applying to refunds. Where such proof is not furnished within a period of 12 months from the date on which the export declaration was accepted, the date of exit from the Community's customs territory shall be regarded as being the last day of that period.

2. The date on which the export declaration is accepted shall be the operative date for determining the quantity, nature and characteristics of the product to be exported.

3. For the purposes of this Article, the highest rate of export levy shall be the amount of the export levy:

- expressed in ecus,
- which is the highest for the product and destination concerned for the period over which the rates are compared.

4. An export levy determined under a tendering procedure shall be a levy fixed in advance.

#### Article 5

1. The export levy shall be collected by the Member State to which the customs office which accepts the export declaration belongs.

2. Where the export levy varies according to destination:

- (a) the levy in force for the destination indicated in the export declaration referred to in Article 4 (1) shall be charged and any difference between the amount of such levy and that of the highest levy in force on the date of acceptance of the export declaration shall be covered by a security;

<sup>(1)</sup> OJ No L 351, 14. 12. 1987, p. 1.

<sup>(2)</sup> OJ No L 105, 23. 4. 1983, p. 1.

<sup>(3)</sup> OJ No L 62, 7. 3. 1980, p. 5.

- (b) where such security is given, the exporter must, save in case of *force majeure*, furnish proof, within 12 months from the date of acceptance, that the product has been imported; such proof shall be furnished in the manner provided for in Article 18 of Regulation (EEC) No 3665/87;
  - (c) where the proof referred to in (b) is not furnished within the prescribed period the products shall be regarded, save in case of *force majeure*, as having reached the destination in respect of which the highest levy rate is chargeable, and the security shall be forfeited and treated as an export levy;
  - (d) where the proof referred to in (b) is furnished within the prescribed period, the security shall be released according to the destination which the product has reached and in proportion to the quantities in respect of which such proof is furnished; any amount of the security not released shall be forfeited and treated as an export levy;
  - (e) where the exporter furnishes proof within the period specified in (b) that the product has reached a destination in respect of which the levy is lower than that charged the amount due shall be adjusted and any security given shall be released;
  - (f) the security shall consist either of a cash deposit or of a guarantee issued by an institution satisfying the criteria laid down by the Member State in which the export declaration is accepted.
3. Where the period referred to in 2 (b), (c) and (e) has not been complied with although the exporter has endeavoured to obtain the proof in time, that period may, at the exporter's request, be extended for such term as the competent authority of the exporting Member State considers necessary in view of the circumstances invoked.

#### Article 6

Where the proof referred to in the fourth subparagraph of Article 4 (1) and/or the proof referred to in Article 5 (2) (b) are furnished within six months of the expiry of the period laid down in those Articles, the amount due by way of levy shall be:

- (a) the levy which would have been collected if the said period had been complied with;
- (b) plus 15 % of the difference between the levy collected and the amount referred to at (a).

#### Article 7

Once the export declaration lodged in respect of products as referred to in Article 2 (a) has been accepted, the latter shall be deemed no longer to be covered by Article 9 (2) of the Treaty and shall accordingly move in accordance with Article 1 (2) of Council Regulation (EEC) No 222/77<sup>(1)</sup> on Community transit.

<sup>(1)</sup> OJ No L 38, 9. 2. 1977, p. 1.

#### Article 8

1. Products subject to an export levy shall move between two Member States in accordance with Title III of Regulation (EEC) No 1062/87.
2. The office of departure within the meaning of Regulation (EEC) No 222/77 shall take the necessary steps to ensure that the export levy referred to at (c) is collected:
  - (a) where an internal Community transit document giving an office belonging to a Member State as the office of destination does not contain the entry referred to in Article 21 of Regulation (EEC) No 1062/87 (second entry) because the product concerned was not subject to an export levy when the internal Community transit declaration was authenticated; and
  - (b) where, under the Agreement between the European Economic Community and the EFTA countries on common transit arrangements that product is presented at an office in an EFTA country; and
  - (c) where an export levy introduced after the date on which the internal Community transit declaration was authenticated was in force on the date on which the product was presented at the office of destination.
3. If the exporter shows to the satisfaction of the competent authority that the goods left the customs territory of the Community on a date when no export levy or a levy lower than that mentioned in paragraph 2 was applicable, no levy or, where appropriate, the lower levy shall be collected.
4. For the purposes of this Regulation the EFTA countries are Austria, Finland, Iceland, Norway, Sweden and Switzerland.

#### Article 9

1. A security shall be lodged in accordance with Article 24 (2) of Regulation (EEC) No 1062/77 in respect of products moving as provided for in Articles 24 and 25 of that Regulation to ensure that the export levy payable is charged if such products do not re-enter the customs territory of the Community.
2. As soon as proof is furnished in the Member State of departure that the products have re-entered the customs territory of the Community, the security shall be released in proportion to the quantities in respect of which such proof is furnished.

#### Article 10

Where a product is placed under one of the simplified procedures provided for in Title IV, Chapter I of Regulation (EEC) No 1062/87 for carriage to a station of destination or for delivery to a recipient on the customs



territory of the Community, the office of departure may not authorize any variation of the contract of carriage which would enable carriage to end outside the said customs territory unless it has taken the necessary steps to ensure that the export levy payable is charged. In such cases, the export levy rate applicable shall be that in force on the date on which the declaration of export to third countries is accepted by the office of departure.

#### *Article 11*

1. Where an export levy is in force and products are re-exported under the second subparagraph of Article 6 (2) or the second subparagraph of Article 11 (3) of Council Regulation (EEC) No 1430/79 <sup>(1)</sup>, a security equal to the export levy shall be lodged.

2. The security referred to in paragraph 1 :

- (a) shall be released where the decision concerning a request for reimbursement or remission of import levies is positive ;
- (b) shall be forfeited and treated as an export levy where :
  - the decision referred to at (a) is negative, and
  - the export levy is not paid within 30 days of that on which the payment notice is issued.

#### *Article 12*

During periods when the levy rate applying to a given product is higher than zero, export licences for that product may be cancelled and applications for such

licences withdrawn, at the request of the interested party, except in the following cases :

- (a) the licence specifies a refund amount fixed in advance or determined by means of a tendering procedure ;
- (b) the licence was issued in response to an application lodged on a day on which a levy was applicable, the day on which the application was lodged being determined in accordance with Article 15 of Commission Regulation (EEC) No 3719/88 <sup>(2)</sup> ;
- (c) the application was for a licence covered by (a) or (b).

In such cases, the security relating to the licence shall be released immediately.

#### *Article 13*

- 1. Regulation (EEC) No 645/75 is hereby repealed.
- 2. References to the Regulation repealed under paragraph 1 shall be construed as references to this Regulation.

References to the Articles of the repealed Regulation should be read in accordance with the correlation table in the Annex.

#### *Article 14*

This Regulation shall enter into force on 1 April 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 175, 12. 7. 1979, p. 1.

<sup>(2)</sup> OJ No L 331, 2. 12. 1988, p. 1.

*ANNEX***Correlation table**

<b>Regulation (EEC) No 645/75</b>	<b>This Regulation</b>
Article 1	Article 1
Article 2 (1)	Article 2
Article 2 (2)	
Article 2a	Article 11
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
—	Article 6
—	Article 7
Article 6	Article 8 (1)
Article 7	Article 9
Article 8	Article 10
Article 9	—
Article 10	Article 12
Article 11	Article 13
Article 12	Article 14

## COMMISSION REGULATION (EEC) No 121/89

of 19 January 1989

opening an invitation to tender for the sale of olive oil held by the Spanish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Regulation No 136/66/EEC of the Council of 22 September 1966 on the establishment of a common organization of the market in oils and fats <sup>(1)</sup>, as last amended by Regulation (EEC) No 2210/88 <sup>(2)</sup>, and in particular Article 12 (4) thereof,

Whereas Article 2 of Council Regulation (EEC) No 2754/78 <sup>(3)</sup>, provides that olive oil held by the intervention agencies shall be put up for sale by tender;

Whereas, pursuant to Article 1 (2) of Commission Regulation (EEC) No 629/86 <sup>(4)</sup>, the Spanish intervention agency holds in stock large quantities of olive oil;

Whereas Commission Regulation (EEC) No 2960/77 <sup>(5)</sup>, as last amended by Regulation (EEC) No 3818/85 <sup>(6)</sup>, laid down the conditions for the sale by tender on the Community market and for export of olive oil; whereas the state of the market in olive oil is at present favourable for the sale of part of the said oil;

Whereas in the present situation of the market in lampant virgin olive oils where supply is low compared with demand and in order to provide the greatest possible number of operators with a minimum supply for their immediate needs, it should be stipulated that each operator may only submit tenders for a maximum quantity; whereas in order to avoid any misuse of this provision and therefore prevent a limited number of operators from monopolizing the quantities put up for sale, it should be stipulated that only recognized operators may submit tenders in response to this invitation;

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 Spanish intervention agency 'Servicio Nacional de Productos Agrarios', hereinafter referred to as 'SENPA', shall open an invitation to tender in accordance with the

provisions of this Regulation and of Regulation (EEC) No 2960/77 for the sale on the Community market of approximately 25 000 tonnes of lampant virgin olive oil.

By way of derogation from Article 5 (2) of Regulation (EEC) No 2960/77, SENPA shall, where the quantity of oil in a container exceeds 500 tonnes, be authorized to establish several lots with part only of that oil.

*Article 2*

The invitation to tender shall be published on 20 January 1989.

Particulars of the lots of oil offered for sale and of the places where they are stored shall be displayed at the central office of SENPA, calle Beneficencia, 8, Madrid 28003, Spain.

A copy of the invitation to tender shall be sent without delay to the Commission.

*Article 3*

The tenders must reach SENPA, calle Beneficencia, 8, Madrid 28003, Spain, not later than 2 p.m. (local time) on 27 January 1989. Tenders shall be admissible only if submitted by a natural or legal person who exercises an activity in the olive oil sector and is registered as at 31 December 1988 in a public register of a Member State.

Furthermore, no tenderer may submit a tender for a quantity in excess of 3 000 tonnes.

*Article 4*

1. Tenders shall be submitted for an oil of 3° acidity.
2. Where the oil awarded has a different degree of acidity from that for which the tender was submitted, the price to be paid shall be equal to the price tendered, increased or reduced in accordance with the scale below:
  - up to 3° acidity:
    - increase of Pta 49,35 for each tenth of a degree of acidity below 3°,
  - above 3° up to 8° acidity:
    - reduction of Pta 49,35 for each tenth of a degree of acidity above 3°,
  - above 8°:
    - additional reduction of Pta 53,98 for each tenth of a degree above 8°.

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

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 1.

<sup>(3)</sup> OJ No L 331, 28. 11. 1978, p. 13.

<sup>(4)</sup> OJ No L 60, 1. 3. 1986, p. 8.

<sup>(5)</sup> OJ No L 348, 30. 12. 1977, p. 46.

<sup>(6)</sup> OJ No L 368, 31. 12. 1985, p. 20.

*Article 5*

Not later than one day after the expiry of the time limit laid down for the submission of tenders, SENPA shall send the Commission a list, without mentioning names, stating the highest tender received for each lot put up for sale.

*Article 6*

The minimum selling price per 100 kilograms of oil shall be fixed, in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC, on the basis of the tenders received, not later than the 10th working day after the expiry of each final date laid down for the submission of tenders. The decision fixing the minimum selling price shall be notified forthwith to the Member State concerned.

*Article 7*

The olive oil shall be sold by SENPA not later than the fifth working day after the date of notification of the decision referred to in Article 6.

SENPA shall supply the agencies responsible for storage with a list of the lots remaining unsold.

*Article 8*

The security referred to in Article 7 of Regulation (EEC) No 2960/77 shall be Pta 3 000 per 100 kilograms.

*Article 9*

The storage charge referred to in Article 15 of Regulation (EEC) No 2960/77 shall be Pta 400 per 100 kilograms.

*Article 10*

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

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

Done at Brussels, 19 January 1989..

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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**COMMISSION REGULATION (EEC) No 122/89**  
**of 19 January 1989**  
**fixing the amount of the subsidy on oil seeds**

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

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(1)</sup>, as last amended by Regulation (EEC) No 2210/88<sup>(2)</sup>, and in particular Article 27 (4) thereof,

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture<sup>(3)</sup>, as last amended by Regulation (EEC) No 4136/88<sup>(4)</sup>,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed<sup>(5)</sup>, as last amended by Regulation (EEC) No 2216/88<sup>(6)</sup>, and in particular Article 2 (3) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas the amount of the subsidy referred to in Article 27 of Regulation No 136/66/EEC was fixed by Commission Regulation (EEC) No 3806/88<sup>(7)</sup>, as last amended by Regulation (EEC) No 89/89<sup>(8)</sup>;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3806/88 to the infor-

mation known to the Commission that the amount of the subsidy at present in force should be altered to the amount set out in the Annexes hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The amounts of the subsidy and the exchange rates referred to in Article 33 (2) and (3) of Commission Regulation (EEC) No 2681/83<sup>(9)</sup> are as set out in the Annexes hereto.

2. The amount of the compensatory aid referred to in Article 14 of Council Regulation (EEC) No 475/86<sup>(10)</sup> are as shown in Annex III to this Regulation for sunflower seed harvested in Spain.

3. The amount of the special subsidy provided for by Council Regulation (EEC) No 1920/87<sup>(11)</sup> for sunflower seed harvested and processed in Portugal is fixed in Annex III.

*Article 2*

This Regulation shall enter into force on 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 1.

<sup>(3)</sup> OJ No L 164, 24. 6. 1985, p. 11.

<sup>(4)</sup> OJ No L 362, 30. 12. 1988, p. 13.

<sup>(5)</sup> OJ No L 167, 25. 7. 1972, p. 9.

<sup>(6)</sup> OJ No L 197, 26. 7. 1988, p. 10.

<sup>(7)</sup> OJ No L 335, 7. 12. 1988, p. 18.

<sup>(8)</sup> OJ No L 13, 17. 1. 1989, p. 21.

<sup>(9)</sup> OJ No L 266, 28. 9. 1983, p. 1.

<sup>(10)</sup> OJ No L 53, 1. 3. 1986, p. 47.

<sup>(11)</sup> OJ No L 183, 3. 7. 1987, p. 18.

## ANNEX I

## Aids to colza and rape seed other than 'double zero'

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
1. Gross aids (ECU):						
— Spain	0,580	0,580	0,580	0,580	0,580	0,580
— Portugal	0,000	0,000	0,000	0,000	0,000	0,000
— Other Member States	19,077	19,157	19,317	19,476	19,715	19,556
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	45,45	45,64	46,02	46,40	46,97	46,83
— Netherlands (Fl)	50,68	50,90	51,32	51,74	52,38	52,16
— BLEU (Bfrs/Lfrs)	921,17	925,03	932,76	940,44	951,98	944,30
— France (FF)	139,26	139,81	140,99	142,16	143,95	142,71
— Denmark (Dkr)	166,88	167,57	168,97	170,37	172,47	171,05
— Ireland (£ Irl)	15,488	15,549	15,680	15,810	16,010	15,871
— United Kingdom (£)	12,128	12,174	12,277	12,365	12,525	12,321
— Italy (Lit)	29 634	29 748	29 937	30 068	30 454	29 842
— Greece (Dr)	1 944,97	1 940,32	1 936,99	1 930,70	1 963,69	1 851,32
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	89,44	89,44	89,44	89,44	89,44	89,44
— in another Member State (Pta)	3 008,45	3 022,66	3 041,15	3 054,27	3 091,56	3 030,74
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00	0,00
— in another Member State (Esc)	4 159,46	4 173,71	4 197,25	4 215,20	4 259,88	4 181,63

## ANNEX II

## Aids to colza and rape seed 'double zero'

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
1. Gross aids (ECU):						
— Spain	3,080	3,080	3,080	3,080	3,080	3,080
— Portugal	2,500	2,500	2,500	2,500	2,500	2,500
— Other Member States	21,577	21,657	21,817	21,976	22,215	22,056
2. Final aids:						
(a) Seed harvested and processed in:						
— Federal Republic of Germany (DM)	51,35	51,54	51,92	52,30	52,87	52,73
— Netherlands (Fl)	57,30	57,52	57,94	58,36	59,00	58,78
— BLEU (Bfrs/Lfrs)	1 041,89	1 045,75	1 053,48	1 061,15	1 072,69	1 065,02
— France (FF)	158,22	158,77	159,95	161,12	162,91	161,67
— Denmark (Dkr)	188,98	189,67	191,08	192,47	194,58	193,16
— Ireland (£ Irl)	17,597	17,658	17,789	17,920	18,120	17,981
— United Kingdom (£)	13,815	13,862	13,965	14,053	14,212	14,008
— Italy (Lit)	33 721	33 835	34 025	34 156	34 542	33 930
— Greece (Dr)	2 316,97	2 312,32	2 308,98	2 302,70	2 335,69	2 223,32
(b) Seed harvested in Spain and processed:						
— in Spain (Pta)	474,98	474,98	474,98	474,98	474,98	474,98
— in another Member State (Pta)	3 393,98	3 408,19	3 426,69	3 439,81	3 477,09	3 416,27
(c) Seed harvested in Portugal and processed:						
— in Portugal (Esc)	470,02	470,02	470,02	470,02	470,02	470,02
— in another Member State (Esc)	4 629,48	4 643,73	4 667,27	4 685,21	4 729,90	4 651,65

## ANNEX III

## Aids to sunflower seed

(amounts per 100 kg)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5
1. Gross aids (ECU):					
— Spain	5,170	5,170	5,170	5,170	5,170
— Portugal	0,000	0,000	0,000	0,000	0,000
— Other Member States	24,084	24,449	24,993	25,371	25,558
2. Final aids:					
(a) Seed harvested and processed in (1):					
— Federal Republic of Germany (DM)	57,27	58,13	59,41	60,31	60,75
— Netherlands (Fl)	63,94	64,90	66,34	67,34	67,84
— BLEU (Bfrs/Lfrs)	1 162,94	1 180,57	1 206,83	1 225,09	1 234,12
— France (FF)	177,24	180,01	184,19	187,06	188,44
— Denmark (Dkr)	211,15	214,38	219,21	222,55	224,19
— Ireland (£ Irl)	19,713	20,022	20,487	20,806	20,959
— United Kingdom (£)	15,508	15,755	16,130	16,372	16,493
— Italy (Lit)	37 821	38 419	39 263	39 769	40 061
— Greece (Dr)	2 690,53	2 738,50	2 807,49	2 842,06	2 862,31
(b) Seed harvested in Spain and processed:					
— in Spain (Pta)	797,28	797,28	797,28	797,28	797,28
— in another Member State (Pta)	3 811,20	3 867,36	3 942,41	3 988,38	4 018,48
(c) Seed harvested in Portugal and processed:					
— in Portugal (Esc)	0,00	0,00	0,00	0,00	0,00
— in Spain (Esc)	6 800,67	6 871,14	6 970,98	7 033,07	7 068,38
— in another Member State (Esc)	6 627,84	6 696,52	6 793,82	6 854,33	6 888,75
3. Compensatory aids:					
— in Spain (Pta)	3 759,15	3 817,23	3 894,20	3 940,18	3 972,21
4. Special aid:					
— in Portugal (Esc)	6 627,84	6 696,52	6 793,82	6 854,33	6 888,75

(1) For seed harvested in the Community as constituted at 31 December 1985 and processed in Spain, the amounts shown in 2 (a) to be multiplied by 1,0260760.

## ANNEX IV

Exchange rate of the ECU to be used for converting final aids into the currency of the processing country when the latter is a country other than the country of production

(value of 1 ECU)

	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
DM	2,084900	2,080970	2,077730	2,074380	2,074380	2,064400
Fl	2,353700	2,350230	2,347080	2,343650	2,343650	2,333430
Bfrs/Lfrs	43,636100	43,626800	43,616500	43,605000	43,605000	43,573800
FF	7,106920	7,112370	7,116850	7,120600	7,120600	7,131790
Dkr	8,066270	8,070040	8,072690	8,074720	8,074720	8,081260
£Irl	0,779399	0,779101	0,779082	0,779406	0,779406	0,779853
£	0,638827	0,640238	0,641388	0,642658	0,642658	0,646746
Lit	1 531,68	1 537,21	1 542,15	1 547,50	1 547,50	1 562,61
Dr	172,93000	174,19800	175,39200	176,72500	176,72500	181,23200
Esc	171,15900	171,70200	172,28500	172,79200	172,79200	174,88600
Pta	130,55800	131,03800	131,51200	132,02200	132,02200	133,53400



**COMMISSION REGULATION (EEC) No 123/89**  
**of 19 January 1989**  
**fixing production refunds in the cereals and rice sectors**

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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 2221/88 <sup>(2)</sup>, and in particular Article 11a (5) thereof,

Having regard to Council Regulation (EEC) No 1009/86 of 25 March 1986 establishing general rules applying to production refunds in the cereals and rice sectors <sup>(3)</sup>, and in particular Article 6 thereof,

Whereas Article 2 of Commission Regulation (EEC) No 2169/86 of 10 July 1986 laying down detailed rules for the control and payment of production refunds in the cereals and rice sectors <sup>(4)</sup>, as last amended by Regulation (EEC) No 1863/88 <sup>(5)</sup>, provides that the production refund shall be fixed on a quarterly basis using the difference between the intervention price for maize applicable in the first month of the period in question and the cif price used for calculation of the maize import levy, multiplied by a coefficient of 1,6; whereas the same Article provides for the possibility of altering the calculated refund in the event of significant movements in the prices of maize and wheat;

Whereas the production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex to Regulation (EEC) No 2169/86 to establish the exact amount payable;

Whereas it is necessary, during the transitional period established by Title II of Regulation (EEC) No 1009/86,

to fix separate production refunds for maize and potato starch, wheat starch and rice starch; whereas Article 10 of Regulation (EEC) No 2169/86 provides that the refund payable in the absence of proof of origin of the starch shall be that fixed for wheat starch, where applicable adjusted by the coefficients listed in the Annex to Regulation (EEC) No 2169/86;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The production refunds payable in the cereals and rice sectors in accordance with Regulation (EEC) No 1009/86 and calculated in accordance with amended Regulation (EEC) No 2169/86 shall be as follows:

	<i>ECU/tonne</i>
(i) for maize starch and products derived from maize starch:	92,45
(ii) for rice starch and products derived from rice starch:	90,85
(iii) for wheat starch and products derived from wheat starch:	89,25
(iv) for potato starch and products derived from potato starch:	92,45

*Article 2*

This Regulation shall enter into force on 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 16.

<sup>(3)</sup> OJ No L 94, 9. 4. 1986, p. 6.

<sup>(4)</sup> OJ No L 189, 11. 7. 1986, p. 12.

<sup>(5)</sup> OJ No L 166, 1. 7. 1988, p. 23.

**COMMISSION REGULATION (EEC) No 124/89****of 19 January 1989****fixing the export refunds on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES;

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(1)</sup>, as last amended by Regulation (EEC) No 2221/88<sup>(2)</sup>, and in particular the fourth subparagraph of Article 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice<sup>(3)</sup>, as last amended by Regulation (EEC) No 2229/88<sup>(4)</sup>, and in particular the fourth subparagraph of Article 17 (2) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 16 of Regulation (EEC) No 2727/75 and Article 17 of Regulation (EEC) No 1418/76 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

Whereas Article 2 of Council Regulation (EEC) No 2746/75<sup>(5)</sup>, and Article 2 of Council Regulation (EEC) No 1431/76<sup>(6)</sup> laying down general rules for granting export refunds on cereals and rice respectively and criteria for fixing the amount of such refunds, provide that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other; whereas the same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market;

Whereas Article 6 of Council Regulation (EEC) No 2744/75 of 29 October 1975 on the import and export

system for products processed from cereals and from rice<sup>(7)</sup>, as last amended by Regulation (EEC) No 1906/87<sup>(8)</sup>, defines the specific criteria to be taken into account when the refund on these products is being calculated;

Whereas, on the basis of the criteria laid down in Regulation (EEC) No 2744/75, particular account should be taken of the prices and quantities of basic products used to calculate the variable component of the levy; whereas Article 8 of Regulation (EEC) No 2744/75 and Article 1 of Commission Regulation (EEC) No 1077/68<sup>(9)</sup>, as amended by Regulation (EEC) No 2764/71<sup>(10)</sup>, provide that the amount of the export refund should, for certain products, be reduced by an amount equal to the production refund granted in respect of the basic products;

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

Whereas when the refund is being calculated account should be taken of the quantities of raw materials used to determine the variable component of the levy; whereas the quantities of raw materials used for certain processed products may vary according to the end use of the product; whereas, depending on the manufacturing process used, products other than the main product are obtained, the quantity and value of which may vary with the nature and quality of the main products being manufactured; whereas cumulation of the refunds on the various products manufactured by a single process from the same basic product may make it possible, in certain cases, to export to third countries at prices which are lower than world market prices; whereas the refund on certain products should therefore be limited to an amount which, while allowing access to the world market, will ensure that the aims of the common organization of the markets are respected;

Whereas the refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product;

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 16.

<sup>(3)</sup> OJ No L 166, 25. 6. 1976, p. 1.

<sup>(4)</sup> OJ No L 197, 26. 7. 1988, p. 30.

<sup>(5)</sup> OJ No L 281, 1. 11. 1975, p. 78.

<sup>(6)</sup> OJ No L 166, 25. 6. 1976, p. 36.

<sup>(7)</sup> OJ No L 281, 1. 11. 1975, p. 65.

<sup>(8)</sup> OJ No L 182, 3. 7. 1987, p. 49.

<sup>(9)</sup> OJ No L 181, 27. 7. 1968, p. 1.

<sup>(10)</sup> OJ No L 283, 24. 12. 1971, p. 30.

Whereas there is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products; whereas, for certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time;

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

Whereas Commission Regulation (EEC) No 2806/71<sup>(1)</sup> lays down additional rules for granting export refunds for certain products processed from cereals and rice;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85<sup>(2)</sup>, as last amended by Regulation (EEC) No 1636/87<sup>(3)</sup>,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in rela-

tion to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

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

Whereas, pursuant to Article 275 of the Act of Accession of Spain and Portugal, refunds may be granted in the case of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The export refunds on the products listed in Article 1 (d) of Regulation (EEC) No 2727/75 and in Article 1 (1) (c) of Regulation (EEC) No 1418/76 and subject to Regulation (EEC) No 2744/75 are hereby fixed as shown in the Annex to this Regulation.

The refund on export to Portugal has not been fixed.

#### *Article 2*

This Regulation shall enter into force on 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 284, 28. 12. 1971, p. 9.

<sup>(2)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(3)</sup> OJ No L 153, 13. 6. 1987, p. 1.

## ANNEX

to the Commission Regulation of 19 January 1989 fixing the export refunds on products processed from cereals and rice

(ECU/tonne)		(ECU/tonne)	
Product code	Refund	Product code	Refund
1102 20 10 100	112,00	1104 22 10 100	57,70
1102 20 10 300	96,00	1104 22 10 900	—
1102 20 10 900	—	1104 22 30 100	61,30
1102 20 90 100	96,00	1104 22 30 900	—
1102 20 90 900	—	1104 22 50 000	—
1102 30 00 000	—	1104 23 10 100	120,00
1102 90 10 100	104,79	1104 23 10 300	92,00
1102 90 10 900	71,26	1104 23 10 900	—
1102 90 30 100	64,91	1104 29 10 100	—
1102 90 30 900	—	1104 29 10 900	—
1103 12 00 100	64,91	1104 29 91 000	61,65
1103 12 00 900	—	1104 29 95 000	61,65
1103 13 11 100	144,00	1104 30 10 000	16,25
1103 13 11 300	112,00	1104 30 90 000	20,00
1103 13 11 500	96,00	1107 10 11 000	115,70
1103 13 11 900	—	1107 10 91 000	124,35
1103 13 19 100	144,00	1108 11 00 100	116,00
1103 13 19 300	112,00	1108 11 00 900	—
1103 13 19 500	96,00	1108 12 00 100	120,00
1103 13 19 900	—	1108 12 00 900	—
1103 13 90 100	96,00	1108 13 00 100	120,00
1103 13 90 900	—	1108 13 00 900	—
1103 14 00 000	—	1108 14 00 100	—
1103 19 10 000	61,65	1108 14 00 900	—
1103 19 30 100	108,28	1108 19 10 100	172,64
1103 19 30 900	—	1108 19 10 900	—
1103 21 00 000	66,30	1108 19 90 100	—
1103 29 20 000	71,26	1108 19 90 900	—
1103 29 30 000	—	1109 00 00 100	0,00
1103 29 40 000	81,60	1109 00 00 900	—
1104 11 90 100	104,79	1702 30 91 000	156,75
1104 11 90 900	—	1702 30 99 000	120,00
1104 12 90 100	72,12	1702 40 90 000	120,00
1104 12 90 300	57,70	1702 90 50 100	156,75
1104 12 90 900	—	1702 90 50 900	120,00
1104 19 10 000	66,30	1702 90 75 000	164,25
1104 19 50 110	128,00	1702 90 79 000	114,00
1104 19 50 130	104,00	2106 90 55 000	120,00
1104 19 50 150	—	2302 10 10 000	17,19
1104 19 50 190	—	2302 10 90 100	17,19
1104 19 50 900	—	2302 10 90 900	—
1104 19 91 000	—	2302 20 10 000	17,19
1104 21 10 100	104,79	2302 20 90 100	17,19
1104 21 10 900	—	2302 20 90 900	—
1104 21 30 100	104,79	2302 30 10 000	17,19
1104 21 30 900	—	2302 30 90 000	17,19
1104 21 50 100	139,72	2302 40 10 000	17,19
1104 21 50 300	111,78	2302 40 90 000	17,19
1104 21 50 900	—	2303 10 11 100	60,00
		2303 10 11 900	—

NB: The products codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 as amended (OJ No L 366, 24. 12. 1987, p. 1).

## COMMISSION REGULATION (EEC) No 125/89

of 19 January 1989

## fixing the export refunds on cereal-based compound feedingstuffs

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<sup>(1)</sup>, as last amended by Regulation (EEC) No 2221/88<sup>(2)</sup>, and in particular the fourth subparagraph of Article 16 (2) thereof,

Having regard to the opinion of the Monetary Committee,

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

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

Whereas it follows from applying these detailed rules to the present situation on the market in cereal-based compound feedingstuffs that the export refund should be fixed at an amount which will cover the difference between Community prices and world market prices;

Whereas Article 7 (1) of Council Regulation (EEC) No 2743/75 of 29 October 1975 on the system to be applied to cereal-based compound feedingstuffs<sup>(4)</sup>, as last amended by Regulation (EEC) No 944/87<sup>(5)</sup>, provides

that, when export refunds on cereal-based compound feedingstuffs are being fixed, only certain products used in the manufacture of compound feedingstuffs for which a refund may be fixed should be taken into account;

Whereas Commission Regulation (EEC) No 1913/69 of 29 September 1969 on the granting and the advance fixing of the export refund on cereal-based compound feedingstuffs<sup>(6)</sup>, as last amended by Regulation (EEC) No 1349/87<sup>(7)</sup>, provides that calculation of the export refund must be based on the averages of the refunds granted and the levies calculated on the most commonly used basic cereals, adjusted on the basis of the threshold price in force during the current month; whereas that calculation must also take account of the cereal products content; whereas, therefore, in the interest of simplification, compound feedingstuffs should be placed in categories and the refund for each category should be fixed on the basis of the quantity of cereal products content for the category concerned; whereas, furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export;

Whereas, however, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as between the Community and world markets, allowing more accurate account to be taken of the commercial conditions under which such products are exported;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for compound feedingstuffs according to composition and destination; whereas, for purposes of varying the refund, the destination zones laid down in Annex II to Commission Regulation (EEC) No 1124/77 of 27 May 1977 redefining the destination zones for export refunds or levies and for certain export licences for cereals and rice<sup>(8)</sup>, as amended by Regulation (EEC) No 296/88<sup>(9)</sup>, should be used;

(<sup>1</sup>) OJ No L 281, 1. 11. 1975, p. 1.

(<sup>2</sup>) OJ No L 197, 26. 7. 1988, p. 16.

(<sup>3</sup>) OJ No L 281, 1. 11. 1975, p. 78.

(<sup>4</sup>) OJ No L 281, 1. 11. 1975, p. 60.

(<sup>5</sup>) OJ No L 90, 2. 4. 1987, p. 2.

(<sup>6</sup>) OJ No L 246, 30. 9. 1969, p. 11.

(<sup>7</sup>) OJ No L 127, 16. 5. 1987, p. 14.

(<sup>8</sup>) OJ No L 134, 28. 5. 1977, p. 53.

(<sup>9</sup>) OJ No L 30, 2. 2. 1988, p. 9.

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2,25 %, a rate of exchange based on their central rate, multiplied by the corrective factor provided for in the last paragraph of Article 3 (1) of Council Regulation (EEC) No 1676/85 <sup>(1)</sup>, as last amended by Regulation (EEC) No 1636/87 <sup>(2)</sup>,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent, and the aforesaid coefficient;

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

Whereas, pursuant to Article 275 of the Act of Accession of Spain and Portugal, refunds may be granted in the case

of exports to Portugal; whereas, in the light of the situation and the level of prices no refund should be fixed in the case of exports to Portugal;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 2727/75 and subject to Regulation (EEC) No 2743/75 are hereby fixed as shown in the Annex to this Regulation.

The refund on export to Portugal has not been fixed.

*Article 2*

This Regulation shall enter into force on 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(2)</sup> OJ No L 153, 13. 6. 1987, p. 1.

## ANNEX

to the Commission Regulation of 19 January 1989 fixing the export refunds on cereal-based compound feedingstuffs

(ECU/tonne)

Product code	Destination (1)	Amount of refund
2309 10 11 050	—	—
2309 10 11 110	01	4,40
	09	—
2309 10 11 190	01	3,71
	09	—
2309 10 11 210	01	8,80
	09	—
2309 10 11 290	01	7,42
	09	—
2309 10 11 310	01	17,60
	09	—
2309 10 11 390	01	14,83
	09	—
2309 10 11 900	—	—
2309 10 13 050	—	—
2309 10 13 110	01	4,40
	09	—
2309 10 13 190	01	3,71
	09	—
2309 10 13 210	01	8,80
	09	—
2309 10 13 290	01	7,42
	09	—
2309 10 13 310	01	17,60
	09	—
2309 10 13 390	01	14,83
	09	—
2309 10 13 900	—	—
2309 10 31 050	—	—
2309 10 31 110	01	4,40
	09	—
2309 10 31 190	01	3,71
	09	—
2309 10 31 210	01	8,80
	09	—
2309 10 31 290	01	7,42
	09	—
2309 10 31 310	01	17,60
	09	—
2309 10 31 390	01	14,83
	09	—
2309 10 31 410	01	26,40
	09	—
2309 10 31 490	01	22,25
	09	—
2309 10 31 510	01	35,20
	09	—

(ECU/tonne)

Product code	Destination (!)	Amount of refund
2309 10 31 590	01	29,67
	09	—
2309 10 31 610	01	44,00
	09	—
2309 10 31 690	01	37,09
	09	—
2309 10 31 900	—	—
2309 10 33 050	—	—
2309 10 33 110	01	4,40
	09	—
2309 10 33 190	01	3,71
	09	—
2309 10 33 210	01	8,80
	09	—
2309 10 33 290	01	7,42
	09	—
2309 10 33 310	01	17,60
	09	—
2309 10 33 390	01	14,83
	09	—
2309 10 33 410	01	26,40
	09	—
2309 10 33 490	01	22,25
	09	—
2309 10 33 510	01	35,20
	09	—
2309 10 33 590	01	29,67
	09	—
2309 10 33 610	01	44,00
	09	—
2309 10 33 690	01	37,09
	09	—
2309 10 33 900	—	—
2309 10 51 050	—	—
2309 10 51 110	01	4,40
	09	—
2309 10 51 190	01	3,71
	09	—
2309 10 51 210	01	8,80
	09	—
2309 10 51 290	01	7,42
	09	—
2309 10 51 310	01	17,60
	09	—
2309 10 51 390	01	14,83
	09	—
2309 10 51 410	01	26,40
	09	—
2309 10 51 490	01	22,25
	09	—
2309 10 51 510	01	35,20
	09	—
2309 10 51 590	01	29,67
	09	—
2309 10 51 610	01	44,00
	09	—



(ECU/tonne)		
Product code	Destination (1)	Amount of refund
2309 10 51 690	01	37,09
	09	—
2309 10 51 710	01	52,80
	09	—
2309 10 51 790	01	44,50
	09	—
2309 10 51 810	01	57,60
	09	—
2309 10 51 890	01	48,55
	09	—
2309 10 51 900	—	—
2309 10 53 050	—	—
2309 10 53 110	01	4,40
	09	—
2309 10 53 190	01	3,71
	09	—
2309 10 53 210	01	8,80
	09	—
2309 10 53 290	01	7,42
	09	—
2309 10 53 310	01	17,60
	09	—
2309 10 53 390	01	14,83
	09	—
2309 10 53 410	01	26,40
	09	—
2309 10 53 490	01	22,25
	09	—
2309 10 53 510	01	35,20
	09	—
2309 10 53 590	01	29,67
	09	—
2309 10 53 610	01	44,00
	09	—
2309 10 53 690	01	37,09
	09	—
2309 10 53 710	01	52,80
	09	—
2309 10 53 790	01	44,50
	09	—
2309 10 53 810	01	57,60
	09	—
2309 10 53 890	01	48,55
	09	—
2309 10 53 900	—	—
2309 90 31 050	—	—
2309 90 31 110	01	4,40
	09	—

(ECU/tonne)		
Product code	Destination (1)	Amount of refund
2309 90 31 190	01	3,71
	09	—
2309 90 31 210	01	8,80
	09	—
2309 90 31 290	01	7,42
	09	—
2309 90 31 310	01	17,60
	09	—
2309 90 31 390	01	14,83
	09	—
2309 90 31 900	—	—
2309 90 33 050	—	—
2309 90 33 110	01	4,40
	09	—
2309 90 33 190	01	3,71
	09	—
2309 90 33 210	01	8,80
	09	—
2309 90 33 290	01	7,42
	09	—
2309 90 33 310	01	17,60
	09	—
2309 90 33 390	01	14,83
	09	—
2309 90 33 900	—	—
2309 90 41 050	—	—
2309 90 41 110	01	4,40
	09	—
2309 90 41 190	01	3,71
	09	—
2309 90 41 210	01	8,80
	09	—
2309 90 41 290	01	7,42
	09	—
2309 90 41 310	01	17,60
	09	—
2309 90 41 390	01	14,83
	09	—
2309 90 41 410	01	26,40
	09	—
2309 90 41 490	01	22,25
	09	—
2309 90 41 510	01	35,20
	09	—
2309 90 41 590	01	29,67
	09	—
2309 90 41 610	01	44,00
	09	—
2309 90 41 690	01	37,09
	09	—
2309 90 41 900	—	—
2309 90 43 050	—	—
2309 90 43 110	01	4,40
	09	—
2309 90 43 190	01	3,71
	09	—

(ECU / tonne)		
Product code	Destination (°)	Amount of refund
2309 90 43 210	01	8,80
	09	—
2309 90 43 290	01	7,42
	09	—
2309 90 43 310	01	17,60
	09	—
2309 90 43 390	01	14,83
	09	—
2309 90 43 410	01	26,40
	09	—
2309 90 43 490	01	22,25
	09	—
2309 90 43 510	01	35,20
	09	—
2309 90 43 590	01	29,67
	09	—
2309 90 43 610	01	44,00
	09	—
2309 90 43 690	01	37,09
	09	—
2309 90 43 900	—	—
2309 90 51 050	—	—
2309 90 51 110	01	4,40
	09	—
2309 90 51 190	01	3,71
	09	—
2309 90 51 210	01	8,80
	09	—
2309 90 51 290	01	7,42
	09	—
2309 90 51 310	01	17,60
	09	—
2309 90 51 390	01	14,83
	09	—
2309 90 51 410	01	26,40
	09	—
2309 90 51 490	01	22,25
	09	—
2309 90 51 510	01	35,20
	09	—
2309 90 51 590	01	29,67
	09	—
2309 90 51 610	01	44,00
	09	—
2309 90 51 690	01	37,09
	09	—
2309 90 51 710	01	52,80
	09	—
2309 90 51 790	01	44,50
	09	—
2309 90 51 810	01	57,60
	09	—

(ECU / tonne)

Product code	Destination (1)	Amount of refund
2309 90 51 890	01	48,55
	09	—
2309 90 51 900	—	—
2309 90 53 050	—	—
2309 90 53 110	01	4,40
	09	—
2309 90 53 190	01	3,71
	09	—
2309 90 53 210	01	8,80
	09	—
2309 90 53 290	01	7,42
	09	—
2309 90 53 310	01	17,60
	09	—
2309 90 53 390	01	14,83
	09	—
2309 90 53 410	01	26,40
	09	—
2309 90 53 490	01	22,25
	09	—
2309 90 53 510	01	35,20
	09	—
2309 90 53 590	01	29,67
	09	—
2309 90 53 610	01	44,00
	09	—
2309 90 53 690	01	37,09
	09	—
2309 90 53 710	01	52,80
	09	—
2309 90 53 790	01	44,50
	09	—
2309 90 53 810	01	57,60
	09	—
2309 90 53 890	01	48,55
	09	—
2309 90 53 900	—	—

(1) The destinations are as follows:

01 Zones A, B, C, D and E as specified in Annex II to Regulation (EEC) No 1124/77,

09 Other destinations.

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 as amended (OJ No L 366, 24. 12. 1987, p. 1).

## COMMISSION REGULATION (EEC) No 126/89

of 19 January 1989

fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 2 to 8 January 1989

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1347/86 of 6 May 1986 on the granting of a premium for the slaughter of certain adult bovine animals in the United Kingdom <sup>(1)</sup>, as amended by Regulation (EEC) No 467/87 <sup>(2)</sup>,Having regard to Commission Regulation (EEC) No 1695/86 of 30 May 1986 laying down detailed rules for the application of the premium for the slaughter of certain adult bovine animals for slaughter in the United Kingdom <sup>(3)</sup>, as amended by Regulation (EEC) No 3988/87 <sup>(4)</sup>, and in particular Article 7 (1) thereof,

Whereas, under Article 3 of Regulation (EEC) No 1347/86, an amount equivalent to the amount of the variable slaughter premium granted in the United Kingdom is levied on meat and meat preparations from animals on which it has been paid, when they are consigned to other Member States or to non-member countries;

Whereas, under Article 7 (1) of Regulation (EEC) No 1695/86 the amounts to be charged on departure from the territory of the United Kingdom of the products listed

in the Annex to the said Regulation must be fixed each week by the Commission;

Whereas, accordingly, the amounts to be levied on products which left the United Kingdom during the week 2 to 8 January 1989 should be fixed,

HAS ADOPTED THIS REGULATION:

*Article 1*

Pursuant to Article 3 of amended Regulation (EEC) No 1347/86, the amounts to be levied on the products referred to in Article 7 (1) of Regulation (EEC) No 1695/86 which left the territory of the United Kingdom during the week 2 to 8 January 1989 shall be those set out in the Annex.

*Article 2*This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 2 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*<sup>(1)</sup> OJ No L 119, 8. 5. 1986, p. 40.<sup>(2)</sup> OJ No L 48, 17. 2. 1987, p. 1.<sup>(3)</sup> OJ No L 146, 31. 5. 1986, p. 56.<sup>(4)</sup> OJ No L 376, 31. 12. 1987, p. 31.

## ANNEX

to the Commission Regulation of 19 January 1989 fixing the amounts to be levied in the beef sector on products which left the United Kingdom during the week 2 to 8 January 1989

(ECU/100 kg net weight)	
CN code	Amount
0201 10 10	23,29176
0201 10 90	23,29176
0201 20 11	23,29176
0201 20 19	23,29176
0201 20 31	18,63341
0201 20 39	18,63341
0201 20 51	27,95011
0201 20 59	27,95011
0201 20 90	18,63341
0201 30	31,90971
0202 10 00	23,29176
0202 20 10	23,29176
0202 20 30	18,63341
0202 20 50	27,95011
0202 20 90	18,63341
0202 30 10	31,90971
0202 30 50	31,90971
0202 30 90	31,90971
0206 10 95	31,90971
0206 29 91	31,90971
0210 20 10	18,63341
0210 20 90	26,55261
0210 90 41	26,55261
1602 50 10 <sup>(1)</sup>	26,55261
1602 50 10 <sup>(2)</sup>	18,63341

<sup>(1)</sup> Containing 80 % or more by weight of beef meat.

<sup>(2)</sup> Other.

**COMMISSION REGULATION (EEC) No 127/89**  
**of 19 January 1989**  
**concerning applications for STM licences in the beef and veal sector submitted**  
**during the first 10 days of January 1989**

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

Having regard to Commission Regulation (EEC) No 574/86 of 28 February 1986 laying down detailed rules for the application of the supplementary trade mechanism (STM) <sup>(3)</sup>, as last amended by Regulation (EEC) No 3296/88, and in particular Article 6 thereof,

Whereas Regulation (EEC) No 569/86 provides for the use of STM licences in order to ensure that the tonnages traded of certain products do not exceed those laid down in the Act of Accession and in Commission Regulation (EEC) No 3972/88 <sup>(4)</sup>; whereas, therefore, the Commission has to decide, in accordance with Article 6 of Regulation (EEC) No 574/86, whether STM licences can be issued for all, some, or none of the tonnages applied for;

Whereas, in the light of the quantities available and the applications for licences submitted during the first 10 days of January 1989, licences may, for certain products,

be issued for the tonnages applied for and up to a percentage of the tonnages applied for in the case of other products,

HAS ADOPTED THIS REGULATION:

*Article 1*

Applications for STM licences, submitted during the first 10 days of January 1989 and notified to the Commission,

(a) shall be accepted for the tonnages applied for in the case of the following products:

— meat of animals of the bovine species, frozen, and offal of animals of the bovine species;

(b) shall, in the case of the following products, be accepted up to the percentage shown:

— fresh or chilled meat of animals of the bovine species: 0,155 %,

— live animals of the bovine species, other than pure-bred breeding animals and animals for bull fights: 0,149 %.

*Article 2*

This Regulation shall enter into force on 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

<sup>(1)</sup> OJ No L 55, 1. 3. 1986, p. 106.

<sup>(2)</sup> OJ No L 293, 27. 10. 1988, p. 7.

<sup>(3)</sup> OJ No L 57, 1. 3. 1986, p. 1.

<sup>(4)</sup> OJ No L 351, 21. 12. 1988, p. 17.

**COMMISSION REGULATION (EEC) No 128/89****of 19 January 1989****altering, from 20 January 1989, the rate of refunds applicable for certain products of the cereals and rice sectors, exported in the form of goods not covered by Annex II to the Treaty**

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 <sup>(1)</sup>, as last amended by Regulation (EEC) No 2221/88 <sup>(2)</sup>, and in particular the first sentence of the fourth subparagraph of Article 16 (2) thereof,Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice <sup>(3)</sup>, as last amended by Regulation (EEC) No 2229/88 <sup>(4)</sup>, and in particular the first sentence of the fourth subparagraph of Article 17 (2) thereof,Whereas the rates of the refunds applicable from 1 January 1989 to the products listed in the Annex, exported in the form of goods not covered by Annex II to the Treaty, were fixed by Commission Regulation (EEC) No 4150/88 <sup>(5)</sup>;

Whereas it follows from applying the rules and criteria contained in Regulation (EEC) No 4150/88 to the

information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The rates of refund fixed by Regulation (EEC) No 4150/88 are hereby altered as shown in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Martin BANGEMANN

*Vice-President*<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 16.<sup>(3)</sup> OJ No L 166, 25. 6. 1976, p. 1.<sup>(4)</sup> OJ No L 197, 26. 7. 1988, p. 30.<sup>(5)</sup> OJ No L 362, 30. 12. 1988, p. 49.



## ANNEX

to the Commission Regulation of 19 January 1989 altering the rates of the refunds applicable to certain cereal and rice products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description	(ECU/100 kg) Rate of refund
1001 10 90	Durum wheat : — On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America — In all other cases	13,843 13,983
1001 90 99	Common wheat, and meslin (mixed wheat and rye) : — For the manufacture of starch — Other than for the manufacture of starch : — On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America — In all other cases	5,800 6,435 6,500
1002 00 00	Rye	6,165
1003 00 90	Barley	6,986
1004 00 90	Oats	3,606
1005 90 00	Maize, other than hybrid maize for sowing : — For the manufacture of starch — Other than for the manufacture of starch	7,500 8,000
1006 20	Round grain husked rice Medium grain husked rice Long grain husked rice	38,206 37,945 37,945
1006 30	Round grain wholly milled rice Medium grain wholly milled rice Long grain wholly milled rice	49,298 54,993 54,993
1006 40 00	Broken rice : — For the manufacture of starch — Other than for the manufacture of starch	11,358 11,958
1007 00 90	Sorghum	6,403
1101 00 00	Wheat or meslin flour : — On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America — In all other cases	7,575 7,652
1102 10 00	Rye flour	16,041
1103 11 10	Durum wheat groats and meal : — On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America — In all other cases	21,457 21,674
1103 11 90	Common wheat groats and meal : — On exports of goods falling within CN codes 1902 11 00 and 1902 19 to the United States of America — In all other cases	7,575 7,652

**COMMISSION REGULATION (EEC) No 129/89  
of 19 January 1989**

**fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European  
Economic Community,

Having regard to 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<sup>(1)</sup>, as last amended by Regulation (EEC)  
No 2221/88<sup>(2)</sup>, and in particular the fourth subparagraph  
of Article 16 (2),

Having regard to the opinion of the Monetary Committee,

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

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

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

Whereas these specific criteria are defined, as far as wheat  
and rye flour, groats and meal are concerned, in Article 4  
of Regulation (EEC) No 2746/75; whereas furthermore,  
when the refund on these products is being calculated,

account must be taken of the quantities of cereals  
required for their manufacture; whereas these quantities  
were fixed in Commission Regulation No 162/67/EEC<sup>(4)</sup>,  
as amended by Regulation (EEC) No 1607/71<sup>(5)</sup>;

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

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

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

- in the case of currencies which are maintained in rela-  
tion to each other at any given moment within a band  
of 2,25 % a rate of exchange based on their central  
rate, multiplied by the corrective factor provided for in  
the last paragraph of Article 3 (1) of Council Regula-  
tion (EEC) No 1676/85<sup>(6)</sup>, as last amended by Regula-  
tion (EEC) No 1636/87<sup>(7)</sup>;
- for other currencies, an exchange rate based on the  
arithmetic mean of the spot market rates of each of  
these currencies recorded over a given period in rela-  
tion to the Community currencies referred to in the  
previous indent and the aforesaid coefficient;

Whereas it follows from applying the detailed rules set  
out above to the present situation on the market in  
cereals, and in particular to quotations or prices for these  
products within the Community and on the world  
market, that the refunds should be as set out in the  
Annex hereto;

Whereas, pursuant to Article 275 of the Act of Accession  
of Spain and Portugal, refunds may be granted in the case  
of exports to Portugal; whereas, in the light of the situa-  
tion and the level of prices no refund should be fixed in  
the case of exports to Portugal;

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

<sup>(1)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(2)</sup> OJ No L 197, 26. 7. 1988, p. 16.

<sup>(3)</sup> OJ No L 281, 1. 11. 1975, p. 78.

<sup>(4)</sup> OJ No 128, 27. 6. 1967, p. 2574/67.

<sup>(5)</sup> OJ No L 168, 27. 7. 1971, p. 16.

<sup>(6)</sup> OJ No L 164, 24. 6. 1985, p. 1.

<sup>(7)</sup> OJ No L 153, 13. 6. 1987, p. 1.

HAS ADOPTED THIS REGULATION:

The refund on export to Portugal has not been fixed.

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 20 January 1989.

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

Done at Brussels, 19 January 1989.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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## ANNEX

to the Commission Regulation of 19 January 1989 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

Product code	Destination (1)	Amount of refund
0709 90 60 000	—	—
0712 90 19 000	—	—
1001 10 10 000	01	0
1001 10 90 000	04	21,00 (2)
	02	20,00 (2)
1001 90 91 000	01	0
1001 90 99 000	05	49,00
	07	22,00
	06	54,00
	02	20,00
1002 00 00 000	06	54,00
	02	20,00
1003 00 10 000	01	0
1003 00 90 000	05	57,00
	07	22,00
	02	20,00
1004 00 10 000	01	0
1004 00 90 000	01	0
1005 10 90 000	—	—
1005 90 00 000	03	67,00
	02	0
1007 00 90 000	—	—
1008 20 00 000	—	—
1101 00 00 110	01	83,00
1101 00 00 120	01	83,00
1101 00 00 130	01	75,00
1101 00 00 150	01	65,00
1101 00 00 170	01	55,00
1101 00 00 180	01	45,00
1101 00 00 190	—	—
1101 00 00 900	—	—
1102 10 00 100	01	83,00
1102 10 00 200	01	83,00
1102 10 00 300	01	83,00
1102 10 00 500	01	83,00
1102 10 00 900	—	—
1103 11 10 100	01	189,00
1103 11 10 200	01	179,00
1103 11 10 500	01	160,00
1103 11 10 900	01	151,00
1103 11 90 100	01	83,00
1103 11 90 900	—	—

(<sup>1</sup>) The destinations are identified as follows :

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Austria and Liechtenstein,
- 04 Algeria,
- 05 Switzerland, Austria, Liechtenstein, Ceuta and Melilla,
- 06 Zone II b),
- 07 Poland.

(<sup>2</sup>) The refund cannot be granted if the quality of durum wheat exported corresponds to less than the quality defined in paragraph 2 of Article 2 of Commission Regulation (EEC) No 1569/77 with the exception of impurities constituted by grain (other than mottled grains and grains affected with fusariosis) ; 7 % maximum of which 5 % of soft wheat or other cereals.

*NB* : The zones are those defined in Commission Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977, p. 53), as last amended by Regulation (EEC) No 296/88 (OJ No L 30, 2. 2. 1988, p. 9).

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## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 26 July 1988

on aids granted by the Italian Government to ENI-Lanerossi

*(Only the Italian text is authentic)*

(89/43/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 given notice to the parties concerned to submit their comments as provided for in the said Article 93, and having regard to those comments,

Whereas :

## I.

In 1962, Lanerossi SpA was taken over by the State holding company Ente Nazionale Idrocarburi (ENI) both for the purpose of creating a vertically fully integrated textile group and to resolve the economic and financial problems of a number of private textile and clothing companies which for this purpose were in turn taken over by Lanerossi.

Over the years, and by way of considerable restructuring efforts, it was possible to return some of these subsidiaries to viability so that they could be transferred to the private sector again.

Certain other subsidiaries, however, remained loss-making and continued to receive financial assistance in the form of loss compensations through the Italian Government in order to remain in business. This, particularly, was the case for four subsidiaries of Lanerossi SpA in the subsector of men's outer wear: Lanerossi Confezioni (Arezzo, Macerata, Orvieto), Intesa (Maratea, Nocera, Gagliano), Confezioni di Filottrano (Ancona) and Confezioni Monti (Pescara). Between 1974 and 1979, the yearly losses of these firms grew from Lit 2 billion to Lit

39 billion and, in 1979, the Commission received an official complaint from the European Association of the Clothing Industry (AEIH) and later from other textile industry federations which considered that the continuing compensation of operating losses of these subsidiaries would considerably distort competition in the Community.

On the basis of a detailed examination of the situation and development of the State-owned manufacturers of men's outer wear and taking into account the information provided by the Italian Government in this respect, the Commission took the view that the interventions in favour of these enterprises had to be considered as aids within the meaning of Article 92 (1) of the EEC Treaty. In its letter of 26 June 1980, it informed the Italian Government that these measures could only be granted an exemption from the incompatibility rule of Article 92 (1) provided that the assistance was granted for a limited period and under the condition that the restructuring programme as presented to the Commission was carried out for the purpose of reducing the capacities of the companies concerned and returning them to viability and to financial self-support in the short term.

After having followed the subsequent development of the State-owned manufacturers of men's outer wear very closely, the Commission, in a letter to the Italian Government dated 20 May 1983, considered that as regards a fifth subsidiary of Lanerossi in this sector, Lebole SpA, the financial assistance which had been given in order to compensate for its losses was matched by restructuring efforts already implemented and to be implemented shortly afterwards which were of such a kind as to exclude any simple rescue operation or operating aid. The Commission, therefore, concluded that

this financial assistance could benefit from the derogation of Article 92 (3) (c) of the EEC Treaty and thus could be regarded as being compatible with the common market. On the basis of a monitoring of progress on the implementation of the restructuring programme of this firm after 31 December 1983, the Commission was able to confirm its earlier position and to close the file on Lebor SpA definitively.

As regards the four other abovementioned subsidiaries of ENI/Lanerossi, the economic and financial results achieved by the end of 1982 showed that the restructuring efforts of the past years had not been successful and it was evident that these factories would continue to suffer from serious structural difficulties in spite of constant support through public funds. Losses between 1980 and 1982 had reached well over Lit 150 billion. Equally, in the restructuring programme for the years 1983 to 1986, which had been made known to the Commission by the Italian Government, these four companies were expected to continue to rely heavily on State intervention and public funds in order to compensate for their losses.

In its letter of 20 May 1983, already referred to, the Commission stated that in a business marked by very strong competition and overcapacity at Community level, depressed prices and heavy intra-Community trade, the artificial maintenance through public financial assistance of even relatively small amounts of production and exports is likely to increase the difficulties of undertakings which are not in receipt of State aid. The Commission, having taken into account the social and regional importance of these factories, raised no objections to the aids granted until the end of 1982, but expressed very serious doubts as to whether financial assistance from public funds in order to cover operating deficits of these subsidiaries could in future be regarded as compatible with the orderly functioning of the common market. The Commission informed the Italian Government that if there were to be future interventions of this kind, it would be obliged to take appropriate measures. It also reminded the Italian Government that under Article 93 (3) of the EEC Treaty there exists an obligation on Member States to inform the Commission, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. It requested the Italian Government to indicate within two weeks of receipt of the letter of 20 May 1983 its intentions in this respect.

By telex of 24 June 1983, the Italian Government informed the Commission that it would notify any future interventions in favour of these four men's outer wear factories pursuant to Article 93 (3) of the EEC Treaty.

Having received information according to which these factories continued to suffer considerable losses, the Commission, by letter of 22 July 1983, reminded the

Italian Government of its letter of 20 May of that year and repeated that no further aids in favour of these subsidiaries of ENI/Lanerossi could, in view of their history and the situation the market concerned was in, be regarded as being compatible with the common market.

By letter of 2 November 1983, the Italian Government confirmed that no State aids were envisaged in favour of these factories which were regarded by the ENI/Lanerossi management as unrestructurable, so that the abovementioned restructuring programme for the years 1983 to 1986 would not be executed.

## II.

Subsequently, press reports suggested that, despite the Italian Government's confirmation, these factories remained in business, continued to suffer losses and, to avoid bankruptcy, would probably have to receive State aids again. Therefore, the Commission repeatedly requested the Italian Government to submit information as regards the real situation in this respect.

By letter of 30 August 1984, the Italian Government transmitted to the Commission a summary of a new restructuring programme for the men's outer wear factories of ENI/Lanerossi. From this document it appeared that the management of ENI/Lanerossi continued to consider these factories not to be restruc-turable. However, they continued to stay in business despite their operating deficit, which in the operating year 1983 alone reached Lit 78 billion. By way of reduction and subsequent increase of capital these losses had been compensated through public finance. From the summary of the new restructuring programme it became obvious that also in future years loss compensation would be required as the factories were not expected to break even quickly.

It also appeared that the abovementioned compensation had taken place after the end of 1982, which had been fixed by the Italian Government as the definite end of the restructuring efforts for these factories.

Following a scrutiny of the aid granted in the form of loss compensation, the Commission considered that it had not been notified to it beforehand and that it was illegal as the Italian Government had failed to fulfil its obligations under Article 93 (3) of the EEC Treaty. The Commission also took the view that the intervention in favour of these four subsidiaries of ENI/Lanerossi was to be considered as rescue aid in view of the factories' financial and economic record and situation. As it is the Commission's policy that rescue aids pending a restructuring plan can only be

granted for a short period and in the form of credit or loans at the market rate, of which the Member States had been informed by letter of 24 January 1979, the aids in question did not meet the conditions set out by the Commission.

The Commission also considered that the aids had been granted in contravention of its decision not to assist these factories as from the end of 1982 onwards, as communicated to the Italian Government by letters of 20 May and 22 July 1983 and repeated and reconfirmed by letter of 7 December 1983.

The Commission took the view that the aids, already granted and possibly envisaged, would not promote a development which from the Community point of view would be adequate to counteract their trade-distorting effects, particularly in a situation where the sector concerned is faced with serious problems of structural overcapacity, depressed prices and a high level of intra-Community trade, which is why it is considered as one of the most sensitive subsectors of the whole textile and clothing industry. Thus, the Commission considered that the aids could not be regarded as compatible with the common market and could not benefit from one of the derogations provided for by Article 92 (3) of the EEC Treaty.

Consequently, the Commission initiated the procedure provided for in the first subparagraph of Article 93 (2) of the EEC Treaty.

By letter of 19 December 1984, it gave the Italian Government notice to submit its comments. The other Member States were informed on 12 February 1985 and interested parties on 23 February 1985.

### III.

Having received a reminder from the Commission dated 26 February 1985 and having requested and obtained a new deadline for submitting its comments under the procedure thus initiated, the Italian Government, by letter of 28 May 1985, pointed out that a tendency towards reduced losses of the factories in question can be observed. Equally, the workforce is being reduced. The fact that the factories were taken over from the private sector at a time when they were practically bankrupt implied that restructuring efforts cannot succeed in a short period. Having realized now that these factories are probably unrestructurable, there is a need to reconvert them to other activities while at the same time ensuring that Lanerossi's activities as such are not endangered. To reach satisfactory results, it must be accepted, therefore,

that this will take a longer period of time. The Commission's request to stop all interventions in favour of these companies immediately would thus destroy all past efforts and would have serious social consequences.

In its letter of 28 May 1985, the Italian Government also took the view that the State interventions in the form of gifts of capital in favour of ENI only partially went to Lanerossi so that they do not constitute State aid altogether. Furthermore, in view of Italian legislation, losses have to be compensated immediately by shareholders in order to avoid bankruptcy which is why a notification pursuant to Article 93 (3) of the EEC Treaty was impossible. Finally, the Italian Government referred to the market and export shares of the factories which had gone down between 1980 and 1983 so that aids in favour of these companies would have no effect on trade and competition.

During a bilateral meeting held on 21 June 1985, the Italian Government announced additional information on the new programme to restructure certain parts of these factories and to reconvert others in order to enable the Commission to examine the restructuring/reconversion programme as a whole. It was also indicated that this programme would shortly lead to a definite solution so that not only the current efforts but also their final results could be examined by the Commission shortly.

Not having received this data, the Commission reminded the Italian Government by telex of 7 August 1985. By telex dated 25 September 1985 and again by letter of 12 December 1985, the Italian Government successively requested and obtained additional deadlines.

By letter dated 5 February 1986, it transmitted a partial reply concerning the progress of the restructuring and reconversion programme, announcing that a definite solution would be found in the near future on the basis of which the Commission should then examine the case.

During a bilateral meeting held on 12 June 1986, the Italian authorities confirmed a figure of Lit 78 billion for the loss compensation in 1983 and figures of Lit 56,8 billion and Lit 42,2 billion for the years 1984 and 1985 respectively. They also confirmed that the factories in question would either be transferred to the private sector or reconverted to other activities or both. They underlined, however, that a definite solution would take time.

The Commission insisted that the loss compensations of 1984 and 1985 had again been undertaken without prior notification and that, in order to examine the aid case in full, certain information was still missing.



Again, a partial reply was sent by letter dated 8 September 1986 and, following a reminder of 17 September 1986 from the Commission, a bilateral meeting held on 7 November 1986 clarified certain other information and data. At the same time, the Italian authorities insisted that a definite solution would soon be found and that they would communicate the details to the Commission in good time.

During a bilateral meeting held on 11 September 1987, it appeared that a transfer of the men's outer wear factories to the private sector and a reconversion to other activities was under way but had still not been finalized. Confirmation of this information and certain details of the transfers already executed were communicated by the Italian Government in a letter dated 15 December 1987.

During a further meeting held on 26 January 1988, it appeared that by March 1988 ENI/Lanerossi would transfer all remaining factories to the private sector thus terminating State participation in the sector of men's outer wear. The economic result of the various transfers would be that of the original 3 563 employees in 1983, 38 % would have taken early retirement, 25 % would have been transferred to the private men's outer wear sector (civil), 20 % to the private men's outer wear sector (military) and 17 % transferred to other subsectors of the textile and clothing industry and other industrial branches, e. g. shoes. Production output would be transferred in the same way. The Italian Government argued that these reconversions, by reducing the pressure in the men's outer wear sector, benefited the Community textile and clothing industry as a whole.

The transfer of machinery, equipment and stocks took place on market terms and on the basis of an evaluation carried out by an international bank.

This information was confirmed by telex of 5 March and letter of 22 July 1988. Also, the Italian Government informed the Commission that loss compensation amounted to Lit 45,9 billion in 1986 and, finally, to Lit 37,5 billion in 1987.

Three other Member States and three parties concerned other than Member States commented under this procedure.

#### IV.

The interventions by the Italian State in favour of ENI/Lanerossi which were intended to cover operating losses suffered by its men's outer wear subsidiaries between 1983

and 1987 and amounted to Lit 260,4 billion took the form of capital donations explicitly and specifically intended to serve the above purpose. Where it is apparent that a public authority which injects capital into a company is not merely providing such equity capital under normal market economy conditions, the case has to be assessed in the light of Article 92 of the EEC Treaty.

Here, the interventions in the form of loss compensation granted to the men's outer wear subsidiaries of ENI/Lanerossi prevented forces at work in the market economy from having their normal consequences, namely the disappearance of these uncompetitive factories, kept them in business artificially over a long period of time and encumbered the structure of the Community men's outer wear industry facing severe adaptation difficulties resulting from structural overcapacity, depressed prices and fierce competition from both within and outside the Community.

Loss compensations were granted in circumstances that would not be acceptable to a private investor operating under normal market economy conditions, as in the present case the financial and economic position of these factories, particularly in view of the duration and volume of their losses, was such that a normal return in dividends or capital gains could not be expected for the capital invested. Furthermore, the Italian Government and ENI/Lanerossi had taken the view that the factories were unrestructurable so that they would have to continue to suffer operating losses unless closed or reconverted.

It should also be noted in this respect that the Court of Justice clarified the application of Article 92 (1) of the EEC Treaty in respect of public holdings (see judgment of 14 November 1984 in Case 323/82, *Intermills*, and judgment of 10 July 1986 in Cases 234/84, *Meura*, and 40/85 *Boch*). In order to determine whether a contribution to capital is State aid, the Court held that it is necessary to see whether the company in question could have obtained the finance on the private capital market. Where the evidence suggests that the beneficiary could not have survived without public funds because it could not have raised the capital required on the open market from a private investor, it is right to conclude that the payment constitutes State aid.

This position was also made clear in the Commission's letter to Member States of 17 September 1984.

In the case in question here and on the basis of the facts outlined above it is unlikely that the factories concerned could have obtained sufficient capital to ensure their survival on the private capital market, as no private company or investor, basing its or his decision on the foreseeable possibility of profit, and disregarding any social considerations or considerations of regional or sectoral policy, would have made capital subscriptions to cover the operating losses over such a long time. In consequence, the interventions of Lit 260,4 billion constitute State aid within the meaning of Article 92 (1) of the EEC Treaty.

## V

Therefore, these aids had to be notified to the Commission as provided for by Article 93 (3) of the EEC Treaty. Since the Italian Government failed to notify the aids in question in this case in advance, the Commission was unable to state its views on the measures before they were implemented. Thus, the aids are illegal in relation to Community law from the time that they came into operation. The situation produced by this failure to fulfil obligations is particularly serious since the aids have already been paid to the recipient. Furthermore, as confirmed by the Italian Government a large part of the total aid was granted after the Commission had initiated the formal examination procedure under Article 93 (2) of the EEC Treaty on 5 December 1984.

In this respect it has to be recalled that — in view of the imperative character of the rules of procedure as laid down in Article 93 (3) of the EEC Treaty which also are of importance as regards public policy, the direct effect of which the Court of Justice has recognized in its ruling of 19 June 1973 in Case 77/72 — the illegality of the aids at issue here cannot be remedied *a posteriori*.

The illegal character of all aids at issue here results from the failure to respect the rules of procedure as laid down in Article 93 (3) of the EEC Treaty. Moreover, in the case of aids which are incompatible with the common market, the Commission, making use of a possibility given to it by the Court of Justice in its judgment of 12 July 1973 in Case 70/72, confirmed in the judgment of 24 February 1987 in Case 310/85, can require Member States to recover from recipients aid granted illegally.

## VI.

Here, the aids in question are incompatible with the common market under Article 92 of the EEC Treaty.

In the textile and clothing industry and particularly in the subsector of men's outer wear there is trade between Member States, as sufficiently documented by statistical evidence, and competition is very keen. Intra-Community trade in this product group, which comprises the Multi-fibre categories 14 A + B, woven coated and other woven coats for men, category 16, woven suits for men, and category 17, woven jackets for men, represented 19,3 % of production in 1983 and 29,1 % in 1986. Italian production in these categories represents 38,6 % of total Community output and exports of Italian men's outer wear to other Member States increased by 32 % between 1983 and 1986.

The four factories in question here represented in 1983 in terms of production output 2,5 % of the Italian industry in this sector. In terms of labour force, however, they had a share of 11 %. With 3 563 employees in 1983, these subsidiaries were among the most important men's outer wear manufacturers in the Community as, in this sector throughout the Community, the small firm is typical and the large firm rare. Even large firms often have modest sized plants. Moreover, below the firms considered industrial (20 or more employees), there were and are large numbers of workshops. ENI/Lanerossi's exports amounted in 1983 to 14 % their total men's outer wear production, thus the group participated actively in intra-Community trade in the sector at issue here. Since 1983 and by way of closure or reconversion to other subsectors of the textile and clothing industry or other branches of industry the abovementioned shares were reduced. However, certain sites, representing approximately 45 % of the 1983 workforce, were sold to independent private companies continuing to produce men's outer wear (civil and military) and, moreover, the reconversion of other production facilities, representing some 17 % of the 1983 workforce and production, led to increases of production in sectors which are equally characterized by keen competition and high and constantly increasing levels of trade between Member States, like jeans, women's wear, pyjamas, and shoes and leather.

The aids at issue here distorted competition because they calculably improved the financial position of ENI/Lanerossi and its four subsidiaries in question, thereby giving them a competitive advantage over other manufacturers, all suffering from stagnation of demand, depressed prices and overcapacity. Moreover, the aids which have been granted to cover the operating losses of these factories — amounting approximately to their turnover in the years 1983 to 1987 — restored the finances of firms which under normal circumstances would have disappeared in 1983 at the latest. Financial assistance amounting to Lit 260,4 billion in the form of loss compensation

restored the factories' finances and facilitated the reconversion and takeovers by such a margin as to give ENI/Lanerossi a very considerable advantage over its unaided competitors.

When State financial aid strengthens the position of an undertaking compared with other undertakings competing in intra-Community trade, the latter must be regarded as affected by that aid. In this case, the aids which enabled the four subsidiaries of ENI/Lanerossi to survive after 1982 and, secondly, facilitated the reconversion and selling-off of certain production sites, all costs which ENI/Lanerossi would normally have to bear itself, are liable to affect trade and distort or threaten to distort competition between Member States by favouring this group within the meaning of Article 92 (1) of the EEC Treaty.

Article 92 (1) of the EEC Treaty lays down the principle that aid having the features there described is incompatible with the common market.

The exceptions from the principle of incompatibility as set out in Article 92 (2) are not applicable in this case because of the character of the aids which, furthermore, were not intended for such purposes.

Article 92 (3) sets out which aids may be considered to be compatible with the common market. Compatibility with the Treaty must be determined in the context of the Community and not of a single Member State. In order to safeguard the proper functioning of the common market and taking into account the principles of Article 3 (f) of the Treaty, the exceptions from the principle of Article 92 (1) as set out in Article 92 (3) must be construed narrowly when an aid scheme or any individual aid award is scrutinized.

In particular, they may be applied only when the Commission is satisfied that the free play of market forces alone, without aid, would not induce the prospective aid recipient to adopt a course of action contributing to the attainment of one of the said objectives.

To apply the exceptions to cases not contributing to one of the objectives set out in Article 92 (3) or where an aid is not necessary to that end would be to give unfair advantages to certain industries or undertakings, the financial positions of which would merely be bolstered, and would allow trading conditions between Member States to be affected and competition to be distorted

without any justification on grounds of Community interest as set out in Article 92 (3).

The Italian Government has been unable to give, or the Commission to discover, any justification for a finding that the aids fall within one of the categories of exceptions in Article 92 (3).

## VII.

The four subsidiaries of ENI/Lanerossi concerned here were part of the men's outer wear industry which is a subsector of the textile and clothing industry. Also, the group ENI/Lanerossi had other important interests in this branch of industry during the period in question. Therefore, the financial assistance granted to ENI between 1983 and 1987 and amounting to Lit 260,4 billion is in full subject to the conditions for aids to the textile and clothing industry, as defined in the Community guidelines for aid to this sector of 1971 and 1977, as communicated to the Member States by letters of 30 July 1971 and 4 February 1977.

These guidelines contain a number of criteria worked out by the Commission with the aid of national experts in order to guide the Governments of the Member States on interventions they may possibly wish to make in this sector. In the 1971 guidelines the Commission points out that aids in the textile and clothing sector, which is marked by a very high degree of competition at Community level, involve a risk of causing distortion of competition which is unacceptable to competitors who do not benefit from such measures. Aids, which generally have very marked repercussions in this sector of industry, may under these guidelines be justified if they improve the structure of the textile industry. Such structural aids must be understood, according to the guidelines, to refer to aids to textile undertakings intended, *inter alia*, to facilitate the elimination of surplus capacity in the branches or sub-branches where it exists and to encourage the conversion of marginal activities to activities other than those of the textile sector. Aids of this nature must, however, meet certain conditions specified in the guidelines of 1971.

Subsequent developments, in particular several aid schemes and individual aid awards introduced because of the pressure of the economic situation and employment considerations and found to conflict with the Community interest in a number of respects, confirmed the Commission's concern so that it specified the guidelines in 1977.

The Community textile and clothing industry has undergone an extremely rapid process of change over the last 10 years. Production has declined under the pressure of outside competition both on traditional export markets and on the Community market. One million jobs, representing nearly 40 % of total employment in these industries, were lost between 1975 and 1985. Both the severity and length of the crisis have forced undertakings in this sector to make great efforts to restructure and to modernize their production plants. As a result, the industry has been able to adapt and to reestablish progressively its competitiveness and profitability. The important role played by the Community guidelines for aid to this sector in restoring a certain balance and in maintaining or reestablishing a true market economy has been widely recognized. As, however, the industry remains very vulnerable, not least because it continues to be subject to extremely strong international competition, the Commission takes the view that uncoordinated State intervention would conflict with the Community interest, particularly by putting at serious risk the past and, indeed, present efforts undertaken by the Community textile and clothing producers to adapt to changing market conditions. Therefore, the Commission continues to attach the greatest value to the taking into account by Member States of the abovementioned guidelines.

The aids in issue here do not meet several of the conditions set out in the guidelines: Firstly, these guidelines contain no provision for the granting of aids for the purpose of maintaining a company in business. On the contrary, in textiles the rescue of ailing companies has always been rightly regarded as not bringing about any lasting improvement in the industry either at national or at Community level, but would instead affect conditions of competition in the common market without facilitating an improvement in the industry's competitive position which is a prerequisite for its recovery and success on the international textile market.

Secondly, the guidelines require aids to textile and clothing companies to apply for a short period only. This condition is not fulfilled in the case at issue here as, after the period from 1974 to 1982 for which the Commission had approved aids in view of several restructuring programmes to be executed in order to return the men's outer wear factories to viability and financial self-support (which proved to be unsuccessful), the Italian Government continued to grant financial assistance during a further five years, that is in the period 1983 to 1987.

Thirdly, under the guidelines the aim of aids must be to provide the beneficiary in the short term with a level of competitiveness sufficient to ensure success on the Community textile and clothing market. The four men's

outer wear factories at issue here, however, after having received very substantial aids before 1983, continued to suffer great losses, which during most of the following years reached the level of their turnover, so that this condition equally is not fulfilled. It should be added in this respect that at least from 1984 onwards it was obvious to all parties involved that the factories were unrestructurable which is why the objective of aids intended to improve the structure of the industry by way of adaptation and restructuring could no longer be attained.

Fourthly, the aids granted in this case were not earmarked for specific operations but were intended and used in general to improve the financial situation of the factories so that, from the beginning in 1983, it was highly unlikely that the aids could serve any other purpose but artificially maintaining the production in question.

In such a situation a further condition set in the guidelines also is not met. As there is no direct or, indeed, indirect link between the aids and individual operations, an appraisal of the impact of the aids on benefiting operations is not possible.

Finally, the guidelines require that aids must not affect competition and trade more than is absolutely necessary. In this respect it has to be pointed out that in 1983 the four men's outer wear subsidiaries of ENI/Lanerossi exported 14,3 % of their production and received loss compensations of Lit 78 billion in a situation where their 1983 turnover was Lit 78,2 billion. In subsequent years, turnover fell because of closures, selling and reconversion of sites but losses remained at levels close to turnover to reach Lit 37,5 billion in 1987 when turnover stood at Lit 36,8 billion in a situation where Community production in the product groups concerned here fell by 15,3 % between 1983 and 1986 while the share of this production traded within the Community increased by 27,7 % to reach a share of 29,1 %. It is obvious that the maintenance of the uncompetitive production of the four men's outer wear subsidiaries of ENI/Lanerossi, a considerable part of which was exported to other Member States, must have adversely affected competition and trading conditions. This is particularly so because ENI/Lanerossi's men's outer wear subsidiaries with 3 563 employees in 1983 were among the most important manufacturers of such products in the Community. In a situation where the industry concerned is highly splintered and where there are many hundreds of small competitors, aids in favour of one of the largest manufacturers in the sector have particularly adverse effects on trade and competition.

In view of the foregoing considerations it is concluded that all the aids in question here were granted in contravention of the Community guidelines on aid to the textile and clothing industry.

## VIII.

All the aids in question, that is Lit 260,4 billion, were primarily paid in order to restore the finances, of the four men's outer wear factories. It has to be pointed out that the Commission had informed Member States by letter of 24 January 1979 of the conditions under which rescue aids could be regarded as compatible with the common market. Rescue aids, which may merely be granted to keep a firm in business while the causes of its difficulties are discovered and a remedy is worked out, must observe, *inter alia*, the following conditions:

- They must consist of cash aid in the form of loan guarantees or loans bearing normal commercial interest rates.

The aids of Lit 260,4 billion do not meet this condition.

- They must be paid only for the time needed, generally not exceeding six months, to draw up the necessary and feasible recovery measures.

In this case, the rescue aids of the years 1983 to 1987 which took the form of successive loss compensations by way of injecting new capital were definitely not granted for a short period and neither a duration nor a selling price was fixed in advance nor have they been recovered. The aids were granted without any conditions to be met by the subsidiaries and their only aim was to keep the ailing companies in business.

Also, the aids were granted without the necessary and feasible recovery measures being drawn up. Several restructuring plans elaborated to this end were given up shortly after having been implemented and, in 1984, both the Italian Government and ENI/Lanerossi acknowledged the fact that the four subsidiaries were unrestructurable.

- They must not have any adverse effects on the industrial situation in other Member States.

In this case, however, the subsidiaries in question participated actively in intra-Community trade, as documented above. Also, as from the early 1970s this subsector of the textile and clothing industry has always been considered to be in a very serious and difficult situation because of fierce competition both from within and outside the Community, reduced production, depressed prices and an uncontested and persistent overcapacity at Community level currently still estimated at some 20 to 25 %.

In its reply to these challenges, the Community men's outer wear industry, which primarily consists of small to medium-sized companies to be numbered by the hundreds, has undertaken extensive efforts to adjust, to modernize plants and equipment and to increase efficiency. Firms which could not be restructured went out of business as documented by the large number of factory closures and reduction in employment in this sector since 1975. Taking the Community as a whole, it can be observed that the clothing industry lost nearly 3 000 companies or 28 % and the workforce was reduced by 398 000 or 36,6 %, both between 1975 and 1985. In Italy, the number of clothing companies was reduced by approximately 600 or 32 %, while the workforce in this sector fell by 83 000 or 42 %.

In such circumstances the industrial situation in other Member States has been adversely affected by the aids in question here. Even if in terms of production output the four subsidiaries of ENI/Lanerossi only represented 2,5 % of the Italian men's outer wear industry, the aids of Lit 260,4 billion contained an advantage amounting approximately to the factories' turnover of the years 1983 to 1987 and thus saved the factories from bankruptcy and considerably strengthened their position compared to their competitors in intra-Community trade. Consequently, the latter and, indeed, the whole industrial situation of this sector in other Member States were adversely affected.

- They must be notified to the Commission in advance in significant individual cases.

The case in question here is significant, particularly in view of the size of the aids and because of the absolute and relative size of ENI/Lanerossi and its four men's outer wear subsidiaries, so that it must be concluded that the Italian Government did not fulfil its obligation to notify the aids in sufficient time to enable the Commission to submit its comments and, if necessary, initiate in respect of them the administrative procedure provided for in Article 93 (2) of the EEC Treaty. It should be recalled that a considerable part of the aids was even paid after the opening of such a procedure on 5 December 1984. The failure to notify is particularly serious since the Italian Government, by telex of 24 June 1983, had informed the Commission that it would notify any future interventions in favour of these four men's outer wear factories in good time and pursuant to Article 93 (3) of the EEC Treaty.

It is in view of this confirmation that the Italian Government's argument, advanced under the procedure in its letter of 28 May 1985, that it could not notify the aids in advance because of Italian legislation must be rejected. Such legislation cannot be used to defend State action which is incompatible with the Treaty.

Moreover, the losses of the factories had been accumulated during the course of the various operating years, so that an *a priori* notification of loss compensation would, in any case, have been possible, even if it did not specify the exact amounts involved.

Finally, it is clear from the judgements of the Court of Justice in Cases 234/84 and 40/85, already referred to above, that rescue aid will not qualify for one of the derogations under Article 92 where it does not help to restore a firm to health, that is to say where the firm cannot be expected to be operating on a viable basis without further assistance in a reasonable time, particularly where there is excess production capacity in the industry concerned in the Community. In this case it was clear from 1983 onwards, and after considerable aids had been granted for the purpose of covering losses during the period 1974 to 1982, that the four men's outer wear subsidiaries of ENI/Lanerossi would continue to rely heavily on State interventions and public funds. This expectation was borne out by the events up to March 1988 when it was announced that State participation in this sector would now finally be terminated.

In view of the above arguments, it has to be concluded that the financial injections in the form of loss compensations did not meet several conditions linked to rescue aids as set out in the Commission's letter to Member States of 24 January 1979 and as defined by the Court of Justice in the abovementioned judgments.

#### IX.

Between 1983 and March 1988, ENI transferred most of its Lanerossi men's outer wear factories to the private sector. Of the 3 563 employees in 1983, 38 % went into early retirement and the rest was transferred to independent private companies together with the production sites in question. According to information received from the Italian Government, these sites were sold on the basis of an economic and financial evaluation carried out by an international bank.

By way of the abovementioned transfers, ENI/Lanerossi has terminated its participation in the men's outer wear sector.

As a result of these transfers, 45 % of the original (1983) production capacity remained in men's outer wear (civil and military) and 17 % was reconverted to other subsectors of the textile and clothing industry and to other branches of industry.

Under the procedure, the Italian Government argued that these reconversions considerably reduced the pressure in the men's outer wear sector and thus benefited the Community textile and clothing industry. In this respect it has to be pointed out above all that it is by no means certain that production capacity in the men's outer wear sector has really gone down by 55 %. The figures submitted by the Italian Government in this respect have not been calculated on the basis of machinery and equipment but by using the reduction in workforce as an indicator. In view of the severe overmanning of the factories in question in 1983, it is highly likely that production output could have been maintained while at the same time considerably reducing the personnel. In any case, and in order to increase productivity, the workforce had to be significantly reduced, because, compared to the private Italian clothing industry, labour productivity in the State owned companies in this sector was much lower, as documented by the Central Italian Statistical Institute (ISTAT) for the years in question here.

Moreover, the reconversions concerned involve transfers to the following subsectors of the textile and clothing industry: jeans, women's outer wear, pyjamas, stockings and tights. All these subsectors are equally highly sensitive at Community level because of depressed prices, stagnant or reduced demand and production, pressure from third countries, a certain degree of overcapacity and very keen and growing intra-Community competition and trade.

The same holds true as far as the situation in the non-textile sectors, leather and shoes, is concerned to which two other production sites were reconverted.

Therefore, it has to be concluded that these reconversions, while possibly and in the end, that is after 1987, somewhat reducing the pressure on the men's outer wear industry in the Community by certain capacity reductions, which, as indicated above, definitely did not go as far as claimed by the Italian Government, at the same time increased the pressure by way of adding capacities in other subsectors of the textile and clothing industry and in other branches of industry where similar or, indeed, identical structural difficulties exist. These difficulties were therefore increased by these reconversions, so that it must be concluded that they did not facilitate the development of the Community industry in these sectors.

#### X.

In view of all the above considerations and with regard to the exemption provided for in subparagraph 3 (c) of Article 92 of the EEC Treaty in favour of 'aid to facilitate the development of certain economic activities' it must be observed that the aids, while facilitating the development of ENI, which in the mean time has sold Lanerossi and thus its remaining interests in the textile industry, did not facilitate the development of the sectors concerned at Community level and at the same time affected trading

conditions to an extent contrary to the common interest. They artificially kept the men's outer wear factories in business in a sector where there is a high and constantly increasing level of trade in the Community and competition is very keen. They lowered the costs of ENI, weakened the competitive position of other producers in the Community and therefore had the effect of further increasing the pressure on these firms and depressing prices in the Community market, to the detriment of and possible withdrawal from the market of producers which have hitherto survived owing to restructuring, productivity and quality improvements and, indeed, capacity and workforce reductions undertaken from their own resources. Thus, the aids which favoured ENI, which was artificially relieved of costs and whose market position therefore was no longer solely determined by its own efficiency, merits and powers, cannot be considered as contributing to a development which from the Community point of view would be adequate to counteract their trade-distorting effects. Therefore, the aids cannot benefit from the sectoral derogation under Article 92 (3) (c) of the EEC Treaty.

With regard to the exemptions provided for in Article 92 (3) (a) and (c) relating to aids intended to promote or facilitate the development of certain areas, it must be observed that only in some of the areas concerned here (Pescara, Maratea, Nocera, Gagliano) the standard of living is very low and that they suffer from considerable underemployment. In certain other areas concerned here, namely Ancona, Orvieto, Arezzo and Macerata, the standard of living is not abnormally low nor is there serious underemployment within the meaning of the exemption specified in Article 92 (3) (a). The concept of regional development to which the exception of Article 92 (3) (a) is linked is based essentially on the provision of aid for new investment or major expansions or conversions of undertakings involving investments of a physical nature and the costs associated with these. In this case, the interventions in respect of factories that have fallen into financial difficulties and the consequent and successive sanitization of their balance sheets cannot be said to fall under the prescriptions of this derogation.

Moreover, and concerning all regions in question here, it has to be pointed out not only that the Commission must undertake its analysis of the economic and social situation in the framework of the Community interest, which in the sector of men's outer wear is to reduce capacities and avoid State aids in favour of the maintenance of uncompetitive production, and in this way control the sectoral

effects of regional aids even in depressed areas, but also that such aids have to promote regional development. Also, the Community guidelines on textile aids specify that the regional aspect of aids must be assessed in the light of the problems of regional development and of their effects on the sector from the viewpoint of competition and intra-Community trade.

In the situation that the industry concerned was and at present is in (and in which it is likely to remain in future), the aids did not make the production plants financially and economically more viable and did not secure the jobs provided. The aids merely kept these sites in business by compensating their operating losses while at the same time employment was being reduced. Therefore, the aids did not promote the economic development of the areas concerned within the meaning of Article 92 (3) (a) and (c), as they did not bring to them any lasting increase in income or reduction in unemployment.

Concerning the regional derogation under Article 92 (3) (c) and in view of the situation of the men's outer wear industry and the other sectors of industry to which some of the sites were reconverted, the aids affected trading conditions to an extent contrary to the common interest.

In view of all the above arguments, the aids did not meet the conditions which must be fulfilled in order to benefit from the regional derogations of Article 92 (3) (a) and (c).

Finally, as regards the exemptions provided for in Article 92 (3) (b), it results from the foregoing that the aids in question were not intended or suited to promote the execution of an important project of common European interest or to remedy a serious disturbance in the Italian economy. Furthermore, the Italian Government has not invoked this derogation.

In view of all the foregoing considerations the aids in question (Lit 260,4 billion) are illegal because the Italian Government did not fulfil its obligations under Article 93 (3). Moreover, they do not meet the conditions which must be fulfilled in order for one of the derogations of Article 92 (2) and (3) to apply.

## XI.

As pointed out above, the Commission can in such cases require Member States to recover aid granted illegally from recipients.

In the case at issue here, the amount of aid awarded was a large amount and it even considerably exceeds the amount of other national aid scheme proposals rejected by the Commission on the grounds of potential distortion of competition, such as the French parafiscal levies scheme for the textile and clothing industry (final negative Decision 85/380/EEC <sup>(1)</sup>), the textile and clothing industry aid scheme put forward by the UK (final negative Decision 85/305/EEC <sup>(2)</sup>) and the 1984 Belgian textile and clothing industry aid scheme (final negative Decision 84/564/EEC <sup>(3)</sup>).

Furthermore, the seriousness and scale of the breach of Community legislation in this case requires appropriate measures.

As a result, the total amount of aids illegally granted, that is Lit 260,4 billion, must be withdrawn by recovery,

HAS ADOPTED THIS DECISION:

*Article 1*

The aids granted between 1983 and 1987 to ENI/Lanerossi in the form of capital injections in favour of the group's men's outer wear subsidiaries and amounting to Lit 260,4 billion are illegal as they were provided in viola-

tion of the provisions of Article 93 (3) of the EEC Treaty. Moreover, they are incompatible with the common market within the meaning of Article 92 of the Treaty.

*Article 2*

These aids shall be withdrawn by recovery.

*Article 3*

The Italian 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 Italian Republic.

Done at Brussels, 26 July 1988.

*For the Commission*

Peter SUTHERLAND

*Member of the Commission*

<sup>(1)</sup> OJ No L 217, 14. 8. 1985, p. 20.

<sup>(2)</sup> OJ No L 155, 14. 6. 1985, p. 55.

<sup>(3)</sup> OJ No L 312, 30. 11. 1984, p. 27.



## CORRIGENDA

Corrigendum to Council Regulation (EEC) No 4185/88 of 16 December 1988 opening and providing for the administration of Community tariff quotas for certain types of fruit and fruit juices (1989)

(Official Journal of the European Communities No L 368 of 31 December 1988)

Page 23, Annex II:

Annex II is hereby replaced by the Annex attached hereto.

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

País de origen Oprindelsesland Ursprungsland Χώρα καταγωγής Country of origin Pays d'origine Paese di origine Land van oorsprong País de origem	Autoridad competente Kompetent myndighed Zuständige Behörde Αρμόδια υπηρεσία Competent authority Autorité compétente Autorità competente Bevoegde autoriteit Autoridade competente
1. Para los 3 contingentes — For de 3 kontingenter — Für die 3 Kontingente — Για τις 3 ποσοστάσεις — For the 3 quotas — Pour les 3 contingents — Per i 3 contingentii — Voor de 3 contingenten — Para os 3 contingentes	
Estados Unidos De Forenede Stater USA ΗΠΑ USA États-Unis d'Amérique Stati Uniti Verenigde Staten Estados Unidos da América	United States Department of Agriculture
Cuba Cuba Kuba Κούβα Cuba Cuba Cuba Cuba Cuba	Ministère de l'Agriculture
2. Únicamente para los híbridos de agrios conocidos por el nombre de « Minneolas » — udelukkende til krydsninger af citrusfrugter, benævnt « Minneolas » — Nur für Kreuzungen von Zitrusfrüchten, bekannt unter dem Namen „Minneolas“ — μόνο για τα υβρίδια εσπεριδοειδών γνωστά με την ονομασία «Minneolas» — Only for citrus fruit known as 'Minneolas' — Uniquement pour les hybrides d'agrumes connus sous le nom de « Minneolas » — Solo per gli ibridi d'agrumi conosciuti sotto il nome di « Minneolas » — Uitsluitend voor kruisingen van citrusvruchten die bekend staan als „minneola's" — Somente para os citrinos híbridos conhecidos pelo nome de « Minneolas »	
Israel Israel Israel Ισραήλ Israël Israele Israël Israel	Ministry of Agriculture Department of Plant Protection and Inspection
Chipre Cypern Zypern Κύπρος Cyprus Chypre Cipro Cyprus Chipre	Ministry of Commerce and Industry Produce Inspection Service