

Official Journal

of the European Communities

ISSN 0378-6978

L 312

Volume 25

9 November 1982

English edition

Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 2971/82**of 8 November 1982****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 Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1451/82⁽²⁾, and in particular Article 13 (5) thereof,

Having regard to Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 2543/73⁽⁴⁾, 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 Regulation (EEC) No 2118/82⁽⁵⁾ and subsequent amending Regulations;

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

— in the case of currencies which are maintained in relation to each other at any given moment within

a band of 2.25 %, a rate of exchange based on their central rate,

— for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies in relation to the Community currencies referred to in the previous indent;

Whereas these exchange rates being those recorded on 5 November 1982;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2118/82 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 9 November 1982.

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

Done at Brussels, 8 November 1982.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁴⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁵⁾ OJ No L 223, 31. 7. 1982, p. 44.

ANNEX

to the Commission Regulation of 8 November 1982 fixing the import levies on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)		
CCT heading No	Description	Levies
10.01 B I	Common wheat, and meslin	99.93
10.01 B II	Durum wheat	147.59 ⁽¹⁾ ⁽²⁾
10.02	Rye	100.00 ⁽⁶⁾
10.03	Barley	112.75
10.04	Oats	76.75
10.05 B	Maize, other than hybrid maize for sowing	103.79 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	5.60 ⁽⁴⁾
10.07 C	Grain sorghum	98.90 ⁽⁴⁾
10.07 D	Canary seed ; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	153.69
11.01 B	Rye flour	153.81
11.02 A I a)	Durum wheat groats and meal	242.00
11.02 A I b)	Common wheat groats and meal	165.10

⁽¹⁾ Where durum wheat originating in Morocco is transported directly from that country to the Community, the levy is reduced by 0.60 ECU/tonne.

⁽²⁾ In accordance with Regulation (EEC) No 435/80, 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'.

⁽³⁾ Where maize originating in the ACP or OCT is imported into the Community the levy is reduced by 1.81 ECU/tonne.

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

⁽⁵⁾ Where durum wheat and canary seed produced in Turkey are transported directly from that country to the Community, the levy is reduced by 0.60 ECU/tonne.

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

COMMISSION REGULATION (EEC) No 2972/82**of 8 November 1982****fixing the premiums to be added to the import levies on cereals, flour and malt**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1451/82⁽²⁾, and in particular Article 15 (6) thereof,

Having regard to Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EEC) No 2543/73⁽⁴⁾, 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 Regulation (EEC) No 2119/82⁽⁵⁾ and subsequent amending Regulations;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2.25 % a rate of exchange based on their central rate,

- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies in relation to the Community currencies referred to in the previous indent;

Whereas these exchange rates being those recorded on 5 November 1982;

Whereas on the basis of today's cif prices and cif forward delivery prices, the premiums at present in force, which are to be added to the levies, should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The premiums referred to in Article 15 of Regulation (EEC) No 2727/75 to be added to the import levies fixed in advance in respect of cereals and malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 November 1982.

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

Done at Brussels, 8 November 1982.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁴⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁵⁾ OJ No L 223, 31. 7. 1982, p. 47.

ANNEX

to the Commission Regulation of 8 November 1982 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CCT heading No	Description	(ECU/tonne)			
		Current 11	1st period 12	2nd period 1	3rd period 2
10.01 B I	Common wheat, and meslin	0	0	0	0
10.01 B II	Durum wheat	0	0	0	0
10.02	Rye	0	0	0	0
10.03	Barley	0	0	0	0
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	1.10	1.10	1.10
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0	0	0
10.07 C	Grain sorghum	0	0	0	0
10.07 D	Other cereals	0	0	0	0
11.01 A	Wheat or meslin flour	0	0	0	0

B. Malt

CCT heading No	Description	(ECU/tonne)				
		Current 11	1st period 12	2nd period 1	3rd period 2	4th period 3
11.07 A I (a)	Unroasted malt, obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A I (b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 A II (a)	Unroasted malt, other than that obtained from wheat, in the form of flour	0	0	0	0	0
11.07 A II (b)	Unroasted malt, other than that obtained from wheat, other than in the form of flour	0	0	0	0	0
11.07 B	Roasted malt	0	0	0	0	0

COMMISSION REGULATION (EEC) No 2973/82
of 8 November 1982
amending Regulation (EEC) No 2518/70 as regards the list of representative
wholesale markets or ports for fishery products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products⁽¹⁾, and in particular Articles 11 (4), 15 (4) and 17 (6) thereof,

Whereas the list of representative wholesale markets or ports was fixed by Commission Regulation (EEC) No 2518/70 of 10 December 1970 on price recording and fixing the list of representative wholesale markets or ports for fishery products⁽²⁾, as last amended by Regulation (EEC) No 274/82⁽³⁾;

Whereas new species have been included in the price system provided for in Regulation (EEC) No 3796/81; whereas the representative wholesale markets and ports

for these new products should therefore be determined;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 2518/70 shall be replaced by the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 8 November 1982.

For the Commission

Giorgios CONTOGEORGIS

Member of the Commission

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 271, 15. 12. 1970, p. 15.

⁽³⁾ OJ No L 28, 5. 2. 1982, p. 24.

ANNEX

REPRESENTATIVE WHOLESALE MARKETS AND PORTS FOR FISHERY PRODUCTS

I. Products listed in Annex I (A) to Regulation (EEC) No 3796/81

- | | | |
|-------------|-------------------------|---------------------------------|
| 1. Herrings | the combined markets of | Boulogne-sur-Mer |
| | the combined markets of | Bremerhaven/Cuxhaven |
| | | Hirtshals/Skagen |
| | | Killybegs |
| | | Lerwick |
| | the combined markets of | Mallaig/Oban/Ullapool/Stornoway |
| | | Rossaveal |
| | the combined markets of | Scheveningen/IJmuiden |
| 2. Sardines | the combined markets of | Ancona/Cesenatico |
| | the combined markets of | Chioggia/Porto Garibaldi |
| | | Kavala |
| | | La Turballe |
| | | Marseille |
| | | Molfetta |
| | | Patras |
| | | Port-Vendres |
| | | Saint-Guénolé |
| | | Salerno |
| | | Salonika |
| | | Sciacca |
| | | Sète |
| | | Trapani |
| | | Viareggio |
| 3. Dogfish | the combined markets of | Boulogne-sur-Mer |
| | | Bremerhaven/Cuxhaven |
| | | Fleetwood |
| | | Grimsby |
| | | IJmuiden |
| | | Lorient |
| | | Lowestoft |
| | | Ostende |
| 4. Redfish | the combined markets of | Boulogne-sur-Mer |
| | | Bremerhaven/Cuxhaven |
| | | Ostende |
| 5. Cod | the combined markets of | Aberdeen/Peterhead |
| | | Boulogne-sur-Mer |
| | the combined markets of | Bremerhaven/Cuxhaven |
| | the combined markets of | Esbjerg/Thyborøn |
| | the combined markets of | Grimsby/Hull |
| | | Howth |
| | | IJmuiden |
| | | Ostende |
| 6. Saithe | | Aberdeen |
| | | Boulogne-sur-Mer |
| | the combined markets of | Bremerhaven/Cuxhaven |
| | the combined markets of | Grimsby/Hull |
| | the combined markets of | Hirtshals/Skagen |
| | | IJmuiden |
| | | Lorient |

7. Haddock	the combined markets of	Aberdeen/Peterhead
	the combined markets of	Boulogne-sur-Mer
	the combined markets of	Bremerhaven/Cuxhaven
	the combined markets of	Grimsby/Hull
8. Whiting	the combined markets of	Hanstholm/Thyborøn
		IJmuiden
		Killybegs
		Lorient
9. Ling	the combined markets of	Ostende
		Aberdeen
		Bremerhaven/Cuxhaven
		IJmuiden
10. Mackerel	the combined markets of	Lorient
		Newlyn
		Ostende
		Peterhead
11. Anchovies	the combined markets of	Boulogne-sur-Mer
		Castletownbere
		Concarneau
		Douarnenez
12. Plaice	the combined markets of	Falmouth
		Hirtshals/Skagen
		IJmuiden
		Killybegs
13. Hake	the combined markets of	Mallaig/Ullapool
		Newlyn
		Piraeus
		Plymouth

II. Products listed in Annex I (B) to Regulation (EEC) No 3796/81

Shrimps (Crangon crangon)	the combined markets of	Cuxhaven/Dorum/Spieka/Wremen
		Den Oever
		Husum
		Zeebrugge

III. Products listed in Annex II (A) to Regulation (EEC) No 3796/81

- | | | |
|---|--|--|
| 1. Sardines
(<i>Sardina pilchardus</i>) | the combined markets of
the combined markets of | Concarneau/Douarnenez
Bayonne/Saint-Jean-de-Luz
Kavala
Salonika |
| 2. Sea-beam of the species
<i>Dentex dentex</i> and <i>Pagellus</i> spp. | | Anzio
Bari
Piraeus
San Benedetto del Tronto |

IV. Products listed in Annex II (B) to Regulation (EEC) No 3796/81

- | | |
|--|---|
| 1. Edible crabs
(<i>Cancer pagurus</i>) | Brixham
IJmuiden
Zeebrugge |
| 2. Norway lobster
(<i>Nephrops norvegicus</i>) | Kilkeel
Mallaig
North Shields
Rotterdam
Zeebrugge |
| 3. Squid (<i>Loligo</i> spp.) | Anzio
Bari
Piraeus
San Benedetto del Tronto |
| 4. Squid
(<i>Todarodes sagittatus</i>) | Anzio
Bari
Piraeus
San Benedetto del Tronto |
| 5. Squid
(<i>Illex</i> spp.) | Anzio
Bari
Piraeus
San Benedetto del Tronto |
| 6. Cuttlefish of the species
<i>Sepia officinalis</i> , <i>Rossia macrosoma</i> ,
<i>Sepiola rondeleti</i> | Anzio
Bari
Piraeus
San Benedetto del Tronto |
| 7. Octopus | Anzio
Bari
Piraeus
San Benedetto del Tronto |

V. Products listed in Annex III to Regulation (EEC) No 3796/81

- | | |
|----------------------|---|
| All species of tunny | Audierne
Cagliari
Camaret
Concarneau
Douarnenez
Saint-Jean-de-Luz
Trapani |
|----------------------|---|
-

COMMISSION REGULATION (EEC) No 2974/82
of 8 November 1982

re-establishing the levying of customs duties on titanium oxides, falling within heading No 28.25 and originating in China, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3601/81 apply

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3601/81 of 7 December 1981 applying generalized tariff preferences for 1982 in respect of certain industrial products originating in developing countries⁽¹⁾, and in particular Article 12 thereof,

Whereas, in pursuance of Articles 1 and 9 of that Regulation, suspension of customs duties shall be accorded to each of the countries or territories listed in Annex C, other than those listed in column 4 of Annex A, within the framework of the preferential tariff ceiling fixed in column 9 of Annex A;

Whereas, as provided for in Article 10 of that Regulation, as soon as the individual ceilings in question are reached at Community level, the levying of customs duties on imports of the products in question originating in each of the countries and territories concerned may at any time be re-established;

Whereas, in the case of titanium oxides falling within heading No 28.25, the individual ceiling was fixed at 447 700 ECU; whereas, on 28 October 1982, imports

of these products into the Community originating in China reached that ceiling; whereas the customs duties in respect of the products in question must therefore be re-established against China,

HAS ADOPTED THIS REGULATION:

Article 1

As from 12 November 1982, the levying of customs duties, suspended in pursuance of Council Regulation (EEC) No 3601/81, shall be re-established on imports into the Community of the following products originating in China:

CCT heading No	Description
28.25	Titanium oxides

Article 2

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

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

Done at Brussels, 8 November 1982.

For the Commission

Karl-Heinz NARJES

Member of the Commission

⁽¹⁾ OJ No L 365, 21. 12. 1981, p. 1.

COMMISSION RECOMMENDATION No 2975/82/ECSC

of 8 November 1982

imposing a definitive anti-dumping duty on certain sheets and plates, of iron or steel, originating in Brazil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission recommendation No 3018/79/ECSC of 21 December 1979 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community⁽¹⁾, as amended by recommendation No 1995/82/ECSC⁽²⁾, and in particular Article 12 thereof,

After consultations within the Advisory Committee set up by the said recommendation,

Whereas in March 1982 the Commission received a complaint, lodged by the Walzstahl-Vereinigung, Düsseldorf, on behalf of almost all Community producers of sheets and plates, of iron or steel, hot-rolled or cold-rolled, of a thickness of less than 3 mm; whereas the complaint contained evidence of dumping in respect of like products originating in Brazil, and of material injury resulting therefrom, particularly in the Federal Republic of Germany;

Whereas the information supplied provided sufficient evidence to justify initiating a proceeding; whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of a proceeding concerning imports of certain sheets and plates, of iron or steel, originating in Brazil, and commenced an investigation of the matter at Community level;

Whereas, for its preliminary determination of dumping, the Commission compared the prices of imports into the Community of cold-rolled coils and sheets originating in Brazil with the basic prices published for these products by the Commission; whereas, in addition, on the basis of the evidence made available to it during this preliminary investigation the Commission reached the conclusion that these dumped imports were causing or threatening to cause injury to a Community industry; whereas the Commission, therefore, by recommendation No 1104/82/ECSC⁽⁴⁾, imposed a provisional anti-dumping duty on imports of sheets and plates, of iron or steel, not further worked than cold-rolled, of a thickness of less than 3 mm, originating in Brazil;

Whereas this duty was equal to the amount by which the prices on import of the products concerned were lower than the basic prices published by the Commis-

sion; whereas, subsequently, the Commission found that while all the products concerned originating in Brazil were shipped directly to the Community a significant proportion of them was sold to the Community via trading companies, situated in non-member countries, related to the Community importers concerned; whereas, in order to avoid evasion of the provisional measures in force, the Commission considered it appropriate to supplement the variable duty by a specific duty and amended the abovementioned recommendation by recommendation No 2086/82/ECSC⁽⁵⁾; whereas at the same time it extended the duration of the provisional duty for a period not exceeding two months;

Whereas, in the course of the subsequent examination, the Commission requested from Community producers, exporters, importers and agents known to be concerned all the information it deemed necessary in order to arrive at a final determination of the dumping margin and injury; whereas the Commission carried out inspections at the premises of all three Brazilian exporters: Cosipa, São Paulo, CSN, Rio de Janeiro and Usiminas, Belo Horizonte; whereas the Commission also carried out on-the-spot investigations at the offices of Thyssen AG, Duisburg, Estel Hüttenwerke Dortmund AG, Dortmund and Krupp Stahl AG, Bochum, as well as at the premises of the following importers: Thyssen Stahl Union, Düsseldorf, SEM GmbH & Co. KG, Hamburg, Coutinho, Caro & Co. KG aA, Düsseldorf and Steelpartners GmbH & Co. KG, Düsseldorf;

Whereas the Commission selected 1 June 1981 to 31 May 1982 as the investigation period for the examination of dumping;

Whereas, in order to determine definitively the existence of dumping, the Commission compared the Brazilian export prices with the normal values for sales of prime-quality material during the investigation period;

Whereas, in respect of cold-rolled coils and sheets, for which the Commission has published basic prices, based on the lowest normal prices or costs of production in the supplying countries where normal conditions of competition prevail, including the costs of transport, insurance and customs duties, the Commission determined normal value on the basis of the lowest such effective price (basic + extra) applicable to imports of products of like quality in the first five months of 1982;

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 15.

⁽²⁾ OJ No L 215, 23. 7. 1982, p. 28.

⁽³⁾ OJ No C 70, 19. 3. 1982, p. 3.

⁽⁴⁾ OJ No L 128, 11. 5. 1982, p. 9.

⁽⁵⁾ OJ No L 221, 30. 7. 1982, p. 17.

Whereas export prices were based on the prices paid or payable for products sold for export to the Community during the investigation period, adjusted to the cif-Community-frontier level, duty paid, taking into account the drawback of import charges on coal imported by CSN ;

Whereas this comparison showed weighted average dumping margins of 22.41 % for Cosipa, 32.43 % for CSN and 27.37 % for Usiminas ; whereas it was appropriate to calculate one overall margin for all three exporting companies since they are all members of the Government-owned Siderbras group ; whereas this weighted average margin based on exports made by the three companies concerned was found to be 26.3 % and equivalent to 82.77 ECU per tonne ;

Whereas, in respect of hot-rolled sheets corresponding to DIN 17100, for which no basic prices are published, the Commission established normal value on the basis of domestic selling prices in Brazil ; whereas, in order to verify the appropriateness of the published basic prices in the case of imports of cold-rolled coils and sheets from Brazil, the Commission also established normal values on the basis of domestic prices with regard to these products ; whereas the domestic selling prices were based on quarterly lists of ex-factory prices which are identical for all three exporting companies, taking account, where applicable, of extras for quality and dimensions, special surface and tolerance requirements, sheared edges and off-standard dimensions in case of lots of less than 200 tonnes ; whereas for the purpose of fair comparison between normal values and export prices the Commission adjusted normal values of all three exporting companies for the cost of finance for 60 days credit to their domestic customers, using the discount rate of the Banco do Brasil and for 0.75 % PIS tax included in the domestic price ; whereas the Commission also made an adjustment, where appropriate, for quantity discounts given on the home market and variable distribution costs where claims in this area could be satisfactorily demonstrated ; whereas claims for an additional adjustment for domestic selling expenses up to the amount of commissions paid on export sale were rejected, since no distinction could be made between selling expenses directly related to the home market sales and general overheads ;

Whereas export prices were based on the prices paid or payable for products sold for export to the Community during the investigation period ; whereas the Commission, when establishing the ex-factory export prices, made adjustments, where appropriate, for internal and ocean transport costs, handling and port charges, commissions paid to agents, packaging costs, costs for credit granted to the overseas customer and 0.75 % PIS tax included in the invoiced price ; whereas, in addition, the Commission took into account the drawback of import charges on coal imported by CSN ;

Whereas export prices and normal values were compared on a transaction by transaction basis at the ex-factory level, taking into account the exact dimen-

sions and quality of the products exported and using the average exchange rate for the month when the export shipment was made ;

Whereas, in respect of hot-rolled sheets corresponding to SAE 1008, for which no basic prices are published either, the normal value was established on the basis of constructed value since the cost information supplied by the exporting company concerned showed that production costs were above domestic list prices for this product ; whereas constructed value was calculated by taking the company's cost for materials and manufacture, an appropriate proportion of the overheads shown in the company's accounts and adding a 5 % profit margin which was considered reasonable and was not disputed by the company ; whereas for the purpose of a fair comparison with the export price this constructed value was adjusted for 60 days credit costs incurred on the domestic market ; whereas, since information on production costs was made available only for October and November 1981, the Commission could not accept the argument that prices did permit recovery of all costs within a reasonable period of time in the normal course of trade ;

Whereas the weighted average margins thus established in respect of cold-rolled coils and sheets are 42.65 % for Cosipa, 36.73 % for CSN and 38.86 % for Usiminas, the overall margin being 40 % ; whereas, since the comparison of export prices with domestic selling prices showed margins which are higher than the dumping margin obtained when the normal value is determined on the basis of the published basic prices, the Commission concluded that in the present case the use of these basic prices as provided for by Article 2 (6) (b) of recommendation No 3018/79/ECSC is appropriate ;

Whereas in respect of hot-rolled sheets, which during the period of investigation were exported only by Cosipa, weighted average dumping margin is 64.8 % ;

Whereas, with regard to injury caused to the Community industry, the Commission distinguished between cold-rolled coils and sheets and hot-rolled sheets ;

Whereas, in respect of cold-rolled coils and sheets, the Commission found that the imports originating in Brazil increased dramatically from 1 813 tonnes in 1981 to 100 748 tonnes in the first five months of 1982, 70 700 tonnes of which were shipped to the Federal Republic of Germany ; whereas these imports were not sold to the car industry ; whereas the Commission had to take into consideration that the supply of the car industry is ensured by long-term contracts between Community manufacturers and the car industry which take account of the special requirements of this sector and which are, therefore, subject to developments different from those of the general market for cold-rolled coils and sheets ; whereas, since most of the imports from Brazil were offered for sale on the general market of the Federal Republic of Germany, which accounts for a major proportion of the total Community production of the products under consideration, the Commission concentrated its

investigation on the impact of imports from Brazil on the general market in this Member State; whereas, using the information available, it found that during the first five months of 1982 the share of these imports on the general market in Germany had risen from 0 to 8 %;

Whereas the prices of these imports were very low; whereas the Commission found that a number of importers sold these imports within the Community at prices significantly below Community producers' list prices in force at the time of delivery;

Whereas the Commission has also examined the impact of the imports from Brazil on the Community industry; whereas the Commission found that this impact took the form of a serious loss of sales; whereas the information verified by the Commission shows that during the first quarter of 1982 the average quantity of monthly sales made by German producers on the general market in Germany was 19 % lower than the comparable quantity sold during the first quarter of 1981; whereas sales in April 1982 were 44 % below the monthly average of the second quarter of 1981; whereas, in addition, the monthly average of imports of cold-rolled sheets and coils from other Member States into Germany in 1981 was more than 17 000 tonnes higher than in the first five months of 1982;

Whereas the Commission also took into account the fact that the Community steel industry is in a state of crisis; whereas between 1974 and 1980 production of the products concerned fell by more than 21 %, while the numbers employed fell by 244 700 or 30.8 % between 1974 and 1981; whereas the situation of the Community producers continues to be one of extremely low capacity utilization levels and seriously reduced profits or of losses;

Whereas, in order to remedy this situation, the Community's steel policy seeks to ensure sufficient price levels for the products concerned sold in the Community through the use of internal and external measures; whereas the internal measures consist of production quotas for ECSC companies and the obligation to respect certain price levels; whereas, in order to keep imports within reasonable limits, the Community has concluded steel arrangements with a large number of supplying countries which involve quantitative limitations on exports to the Community and the observance of arrangement prices which are closely linked to the development of internal price levels in the Community;

Whereas production quotas for Community producers are adjusted periodically on the basis of a forecast of supply and demand for the products concerned, taking into account the development of imports from third countries including those whose exports are not covered by a bilateral arrangement with the Community; whereas any sharp increase of imports from these countries, such as Brazil, requires a downward adjust-

ment of the quotas of Community producers and thereby increases their indirect costs and further reduces their margins;

Whereas imports of significant quantities of dumped products into the Community also puts into question the objectives sought by the external measures adopted within the framework of the Community steel policy; whereas third countries which have concluded steel trade arrangements with the Community will only respect and renew these arrangements if they see a reasonable chance of selling the quantities provided for at the price levels agreed; whereas significant imports of dumped products from sources not covered by an arrangement jeopardize the equilibrium not only of the internal quantity and pricing system but also of the quantities and prices agreed with most of the supplying countries;

Whereas the Commission has considered whether injury has been caused by other factors which individually or in combination could adversely affect the Community industry, such as volume and prices of other imports or reduction in demand; whereas, while in fact the level of consumption in the Community has declined, the volume of imports from other sources has fallen at a much greater rate, from 1 440 000 tonnes in 1977 to 740 204 tonnes in 1981; whereas during the same period the volume of these imports into the Federal Republic of Germany has fallen from 660 000 tonnes to 281 751 tonnes and has remained relatively stable between 1981 and the first five months of 1982; whereas from January to May 1982 almost all of these imports originated in arrangement countries, whose exports have to respect strict minimum price levels; whereas the impact of the dumped imports from Brazil, which accounted for over 85 % of imports from non-arrangement countries, has been isolated from other factors;

Whereas the facts as finally established show that, taking into account the already extremely difficult situation of the Community industry and the restructuring efforts being undertaken at present, material injury has been caused by dumped imports from Brazil and that further injury would have been caused if provisional action had not been taken;

Whereas in the serious conditions experienced by the Community steel industry the interests of the Community call for the imposition of a definitive anti-dumping duty and the definitive collection of the amount secured by way of provisional duty; whereas the Commission has also explored the possibility of a constructive remedy as stipulated by Article 13 of the Anti-Dumping Code; whereas it has, however, concluded, after hearing the opinions of Member States, that it would be inappropriate at this time to seek such a solution of the issue given that these exports were made at price levels below the published basic prices which the Brazilian Government had undertaken to observe; whereas, having regard to the extent of the injury caused, it is appropriate that the amount of the definitive duty should be equal to the

weighted average dumping margin of 82.77 ECU per tonne;

Whereas, with regard to hot-rolled sheets of a thickness of less than 3 mm, the Commission found that during the investigation period Brazilian exports were 4 572 tonnes; whereas, in addition, the Commission received insufficient information from the Community industry to evaluate the impact of these exports; whereas in view of the small quantities exported the Commission has concluded that it is not necessary at this time to take protective measures in respect of imports of hot-rolled sheets,

MAKES THE FOLLOWING RECOMMENDATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on sheets and plates, of iron or steel, not further worked than cold-rolled, of a thickness of less than 3 mm, falling within subheadings 73.13 B II b) and c) of the Common Customs Tariff and corresponding to NIMEXE codes 73.13-43, 45, 47 and 49, originating in Brazil.

2. The amount of the duty shall be 82.77 ECU per 1 000 kilograms net.

3. This duty shall, however, be reduced to the extent that the importer establishes to the satisfaction of the competent national authorities that the quality of these products is inferior to the lowest quality

described in the last publication of basic prices by the Commission.

4. The provisions in force concerning customs duties shall apply for the application of this duty.

Article 2

The amounts secured by way of provisional anti-dumping duty pursuant to recommendation No 1104/82/ECSC, as amended by recommendation No 2086/82/ECSC, shall be definitively collected to the extent that they did not exceed of 82.77 ECU per 1 000 kilograms net.

Article 3

The anti-dumping proceeding concerning sheets and plates, of iron or steel, not further worked than hot-rolled, of a thickness of less than 3 mm, is hereby terminated.

Article 4

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

Done at Brussels, 8 November 1982.

For the Commission

Étienne DAVIGNON

Vice-President

COMMISSION REGULATION (EEC) No 2976/82
of 8 November 1982
fixing the import levies on white sugar and raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EEC) No 606/82⁽²⁾, and in particular Article 16 (8) thereof,

Whereas the import levies on white sugar and raw sugar were fixed by Regulation (EEC) No 1716/82⁽³⁾, as last amended by Regulation (EEC) No 2968/82⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1716/82 to the information known to the Commission that the levies

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

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 2

This Regulation shall enter into force on 9 November 1982.

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

Done at Brussels, 8 November 1982.

For the Commission

Poul DALSAGER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 74, 18. 3. 1982, p. 1.

⁽³⁾ OJ No L 189, 1. 7. 1982, p. 42.

⁽⁴⁾ OJ No L 310, 6. 11. 1982, p. 15.

ANNEX

to the Commission Regulation of 8 November 1982 fixing the import levies on white sugar and raw sugar

<i>(ECU/100 kg)</i>		
CCT heading No	Description	Levy
17.01	Beet sugar and cane sugar, in solid form :	
	A. White sugar: flavoured or coloured sugar	40.65
	B. Raw sugar	36.23 ⁽¹⁾

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the levy applicable is calculated in accordance with the provisions of Article 2 of Regulation (EEC) No 837/68.

COMMISSION REGULATION (EEC) No 2977/82

of 8 November 1982

altering the import levies 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 Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EEC) No 1451/82⁽²⁾, and in particular Article 14 (4) thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by the Act of Accession of Greece⁽⁴⁾, and in particular Article 12 (4) thereof,

Having regard to Council Regulation No 129 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽⁵⁾, as last amended by Regulation (EEC) No 2543/73⁽⁶⁾, and in particular Article 3 thereof,

Having regard to the advice of the Monetary Committee,

Whereas the import levies on products processed from cereals and rice were fixed by Regulation (EEC) No 2847/82⁽⁷⁾, as last amended by Regulation (EEC) No 2954/82⁽⁸⁾;

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,

— for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies in relation to the Community currencies referred to in the previous indent;

Whereas these exchange rates being those recorded on 5 November 1982;

Whereas the levy on the basic product as last fixed differs from the average levy by more than 3.02 ECU per tonne of basic product; whereas, pursuant to Article 1 of Regulation (EEC) No 1579/74⁽⁹⁾, the levies at present in force must therefore 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 processed from cereals and rice covered by Regulation (EEC) No 2744/75⁽¹⁰⁾, as last amended by Regulation (EEC) No 1459/82⁽¹¹⁾, as fixed in the Annex to amended Regulation (EEC) No 2847/82 are hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 November 1982.

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

Done at Brussels, 8 November 1982.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 291, 19. 11. 1979, p. 17.

⁽⁵⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁶⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁷⁾ OJ No L 299, 27. 10. 1982, p. 16.

⁽⁸⁾ OJ No L 309, 5. 11. 1982, p. 18.

⁽⁹⁾ OJ No L 168, 25. 6. 1974, p. 7.

⁽¹⁰⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽¹¹⁾ OJ No L 164, 14. 6. 1982, p. 22.

ANNEX

to the Commission Regulation of 8 November 1982 altering the import levies on products processed from cereals and rice

(ECU/tonne)

CCT heading No	Import levies	
	Third countries (other than ACP or OCT)	ACP or OCT
07.06 A I	113.00 ⁽¹⁾	111.19 ⁽¹⁾ ⁽²⁾
07.06 A II	116.02 ⁽¹⁾	111.19 ⁽¹⁾ ⁽²⁾
11.01 C ⁽²⁾	209.44	203.40
11.02 A II ⁽²⁾	187.12	181.08
11.02 A III ⁽²⁾	209.44	203.40
11.02 B I a) 1 ⁽²⁾	183.82	180.80
11.02 B I b) 1 ⁽²⁾	183.82	180.80
11.02 B II b) ⁽²⁾	136.82	133.80
11.02 C II ⁽²⁾	163.98	160.96
11.02 C III ⁽²⁾	288.54	282.50
11.02 D II ⁽²⁾	105.63	102.61
11.02 D III ⁽²⁾	118.28	115.26
11.02 E I a) 1 ⁽²⁾	118.28	115.26
11.02 E I b) 1 ⁽²⁾	232.04	226.00
11.02 E II b) ⁽²⁾	187.12	181.08
11.02 F II ⁽²⁾	187.12	181.08
11.02 F III ⁽²⁾	209.44	203.40
11.04 C I	116.02	109.37 ⁽³⁾
11.07 A II a)	212.02 ⁽⁴⁾	201.14
11.07 A II b)	161.17	150.29
11.07 B	186.03 ⁽⁴⁾	175.15

⁽¹⁾ This levy is limited to 6 % of the value for customs purposes.

⁽²⁾ For the purpose of distinguishing between products falling within heading Nos 11.01 and 11.02 and those falling within subheading 23.02 A, products falling within heading Nos 11.01 and 11.02 shall be those meeting the following specifications:

- a starch content (determined by the modified Ewers polarimetric method), referred to dry matter, exceeding 45 % by weight,
- an ash content by weight, referred to dry matter (after deduction of any added minerals), not exceeding 1.6 % for rice, 2.5 % for wheat, 3 % for barley, 4 % for buckwheat, 5 % for oats and 2 % for other cereals.

Germ of cereals, whole, rolled, flaked or ground, falls in all cases within heading No 11.02.

⁽⁴⁾ In accordance with Regulation (EEC) No 1180/77 this levy is reduced by 5.44 ECU/tonne for products originating in Turkey.

⁽³⁾ In accordance with Regulation (EEC) No 435/80 the levy shall not be charged on the following products originating in the African, Caribbean and Pacific States and in the overseas countries and territories:

- arrowroot falling within subheading 07.06 A,
- flours and meal of arrowroot falling within subheading 11.04 C,
- arrowroot starch falling within subheading 11.08 A V.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 26 October 1982

under the Treaties, concerning fishery activities in waters under the sovereignty or jurisdiction of Member States taken on a temporary basis pending the adoption of permanent Community measures

(82/739/EEC)

The Council refers to its declaration of 30 May 1980 on the common fisheries policy⁽¹⁾.

Pending a decision in this area and bearing in mind the Community's exclusive competence in the matter and the obligations on the Member States as defined by the Court of Justice, the Council has decided as follows:

From 1 November 1982 pending a Council decision or until 30 November 1982, whichever is the earlier, the Member States shall conduct their fishing activities in accordance with the usual seasonal cycles, taking into account the TACs proposed by the Commission on 21 June 1982, as amended on 29 June, 21 July and 27 August 1982, and the portion of those TACs which remains available to the Community bearing in mind its commitments to third countries.

Done at Luxembourg, 26 October 1982.

For the Council

The President

H. CHRISTOPHERSEN

⁽¹⁾ OJ No C 158, 27. 6. 1980, p. 2.

COMMISSION

COMMISSION DECISION

of 22 July 1982

on the designation of development areas pursuant to Article 11 of the Belgian Law of 30 December 1970

(Only the Dutch and French texts are authentic)

(82/740/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⁽¹⁾ to the parties concerned to submit their comments, in accordance with Article 93, and having regard to those comments,

Whereas :

I

By letter dated 14 November 1980, the Belgian Government notified in accordance with Article 93 (3) of the EEC Treaty, a plan showing the designated development areas in which it intends to apply the regional aid measures provided for in the Economic Expansion Law of 30 December 1970, consisting largely of interest subsidies, capital grants, State guarantees and tax reliefs for industrial firms and firms in the service sector.

The Belgian Government notified the plan with the intention of complying with its obligation under Article 2 of Commission Decision 72/173/EEC of 26 April 1972 on the aid granted under the Belgian Economic Expansion Law of 30 December 1970⁽²⁾. The first paragraph of that Article requires greater selectivity in the geographical scope of regional aid and provides that the plan must specify those areas which lose development status and those which do not. The second paragraph of that Article provides that the development areas must be classified in two cate-

gories according to the severity of the problems facing the regions concerned and that the maximum aid intensity must be differentiated as between those two categories.

The plan notified provides for the granting of regional aid throughout almost the entire territory of Belgium, the proposed development areas being located in each of the nine provinces and in 40 of the country's 43 'arrondissements' (administrative districts), accounting for more than 80 % of the population. While only parts of many of these 'arrondissements' are designated as development areas, these areas still cover 55 % of the population. A single aid intensity ceiling is adopted for all the areas proposed.

The Belgian authorities used fundamentally different methods for selecting assisted areas in Flanders and in Wallonia.

On 5 December 1980 the Commission asked for further information within one month. By telex dated 22 December 1980, the Belgian Government requested that this deadline be extended until 8 February 1981, to which the Commission agreed by telex dated 13 January 1981. No further information was received thereafter from the Belgian Government. The Commission was consequently obliged to make its first scrutiny of the plan on the basis of the information in its possession.

II

The plan, notified more than six years after the appointed date, does not meet the requirements of Article 2 of Commission Decision 72/173/EEC which stipulates greater selectivity in the geographical scope of the regional aid and a classification of the development areas into two categories according to the severity of the problems facing the regions concerned.

⁽¹⁾ OJ No C 316, 4. 12. 1981, p. 4.

⁽²⁾ OJ No L 105, 4. 5. 1972, p. 13.

Upon scrutinizing the plan, the Commission discovered certain deficiencies in the methods employed, in particular that they do not make it possible to place the phenomena observed in a sufficiently wide regional context or to establish the causes thereof.

In order to assess the degree of compatibility with the common market, within the meaning of Article 92 of the aids proposed by the Belgian Government, the Commission first of all compared the regions concerned in the Community context and then sought to establish whether there were sufficiently serious disparities at national level to warrant the granting of regional aids.

Having concluded its scrutiny, the Commission decided to initiate the procedure provided for in Article 93 (2) of the EEC Treaty in respect of the Belgian Government's plan to grant regional aid in the following 'arrondissements': those of Antwerpen and Mechelen in the province of Antwerpen; those of Halle-Vilvoorde, Leuven and Nivelles in the province of Brabant; those of Kortrijk, Ostende, Roeselare and Tielt in the province of West Flanders; those of Aalst, Oudenaarde, Eeklo, Sint-Niklaas and Dendermonde in the province of East Flanders; those of Ath, Soignies, except its southern part (municipalities of La Louvière and Le Rœulx), and Tournai in the province of Hainaut; those of Huy, except its southern part (municipalities of Clavier, Ferrières, Hamoir and Ouffet); those of Verviers, except its southern part (municipalities of Amel, Büllingen, Burg-Reuland, Bütgenbach, Lierneux, Malmédy Saint-Vith, Stavelot, Stoumont, Trois-Ponts and Waimes), and Waremmé in the province of Liège; that of Namur, except its southern part (municipalities of Gesves, Mettet and Ohey), in the province of Namur. For the purposes of the procedure, the Commission gave the Belgian Government notice, by letter dated 19 November 1981, to submit its comments.

Since the Belgian Government's plan contained no provisions to that effect, the Commission, in the letter giving notice, classified the development areas into two categories, according to the severity of the problems facing the regions concerned, and stated that the maximum intensity of regional aid should be limited to 20 % of the investments in net grant equivalent in the development areas located in the 'arrondissements' of Charleroi, Mons, the southern part of the 'arrondissement' of Soignies, as defined above, and in the northern part of the 'arrondissement' of Thuin (municipalities of Anderlues, Binche and Morlanwelz) in the province of Hainaut, in the 'arrondissement' of Liège in the province of Liège and in the 'arrondissements' of Hasselt, Maaseik and Tongeren in the

province of Limburg; and further stated that the maximum aid intensity should be limited to 15 % net grant equivalent in the development areas located in the 'arrondissement' of Turnhout in the province of Antwerpen, in the 'arrondissement' of Diksmuide, Veurne and Ieper in the province of West Flanders; in the 'arrondissements' of Mouscron and Thuin, except its northern part, as defined above, in the province of Hainaut; in the southern parts of the 'arrondissements' of Huy and Verviers, as defined above, in the province of Liège, in the 'arrondissements' of Arlon, Bastogne, Marche-en-Famenne, Neufchâteau and Virton in the province of Luxembourg; in the 'arrondissements' of Dinant; in the southern part of the 'arrondissement' of Namur, as defined above, and in the 'arrondissement' of Philippeville in the province of Namur.

In its aforementioned letter giving notice, the Commission limited to a period of three years, subject to a review of the socio-economic situation, the grant of regional aid in the 'arrondissement' of Mouscron in the province of Hainaut and the classification of the 'arrondissements' of Hasselt, Maaseik and Tongeren in the province of Limburg in the category of regions in which aid of up to 20 % net grant equivalent are permitted.

III

The Kingdom of Belgium submitted its comments by letters, dated 1 and 22 February 1982, from the office of its Permanent Representative to the European Communities. Further information and explanations were supplied at bilateral meetings between the Belgian authorities and the Commission.

In its comments of 1 and 22 February 1982, the Belgian Government criticizes the methods employed by the Commission in its socio-economic analysis. The criticisms differ depending on whether they emanate from the Flemish or Walloon regional authorities. While agreeing with the Commission's basic contention that only large homogeneous economic units should be recognized as assisted areas, the Flemish regional authorities consider that the methods employed by the Commission are confusing and result in the underrating of regional problems in Flanders and the overrating of those in Wallonia. The Walloon regional authorities, on the other hand, criticize the Commission on the grounds that it recognizes only excessively large geographical units which conceal local differences, that it employs methods which do not permit the correct selection of areas on the basis of the nature of their economic problems, and that it underrates the problems of Wallonia in comparison with those of other European regions.

In its comments of 1 and 22 February 1982, the Belgian Government again submits two entirely different methods and approaches for Flanders and Wallonia which, moreover, make no reference to the European context. The selection made is almost the same as the original one, the proposed development areas still being located in each of the country's nine provinces and in 39 'arrondissements' out of 43, which include nearly 75 % of the Belgian population, whilst the development areas themselves still cover 50 % of the total population of the country compared with 55 % in the original plan. A single intensity ceiling is again proposed.

In the course of the procedure initiated under Article 93 (2) of the EEC Treaty, three Member States besides the Kingdom of Belgium submitted comments to the Commission. One of those States entirely endorses the Commission's position; another is critical of the Commission's approach in certain respects but, by and large, supports the Commission's position; the third considers that the Commission should not take a decision on the Belgian aid scheme until after the current review of the principles of coordination of regional aid systems has been completed and the proposals which the Commission is expected to make on the cumulation of all forms of aid to industry have produced a solution.

In the course of the procedure several other interested parties submitted their comments to the Commission advocating the retention of aid in certain regions.

IV

The assistance proposed by the Belgian Government for certain regions is likely to affect trade between Member States and distort or threaten to distort competition within the meaning of Article 92 (1) of the EEC Treaty by favouring certain undertakings or the production of certain goods.

Article 92 (1) provides that aid answering the criteria it contains is, in principle, incompatible with the common market. The derogations provided for in Article 92 (3) (a) and (c) — the only ones which might be applicable to the regional aid case in question — specify the pursuit of objectives which are in the interests of the Community rather than in the interests of recipients. These derogations must be strictly interpreted when any regional or industry aid scheme or any individual case of application of a general aid scheme is scrutinized. In particular, they must be

allowed only in cases where the Commission can establish that, without the aid, market forces alone would be insufficient to guide the recipients towards patterns of behaviour that would serve one of the aims of the derogations.

To grant a derogation in respect of aid where no such aim can be served would be tantamount to agreeing to a distortion of intra-Community trade and competition with no justification on grounds of the Community interest, while granting certain Member States undue advantages.

In applying the principles set out above to the scrutiny of regional aid schemes, the Commission must satisfy itself that the regions concerned are experiencing difficulties which are serious enough, in a Community-wide comparison, to warrant the grant of aid, at the level proposed; in other words that the aid is necessary to ensure attainment of the objectives set out in Article 92 (3) (a) or (c) of the EEC Treaty. Where this cannot be demonstrated, it is evident that the aid does not contribute to the attainment of the objectives of the derogations, but is essentially designed to favour the undertakings in question.

Following a communication from the Commission on the coordination of general systems of regional aid, the representatives of the Governments of the Member States meeting in the Council recognized in their first resolution of 20 October 1971⁽¹⁾ that regional aid, when it is adequate and judiciously applied, forms one of the essential instruments of regional development and enables the Member States to follow regional policies aimed at a more balanced growth of the various regions of the same country and of the Community. Accordingly, and on the basis of the principles of coordination of regional aid systems in force, which aim to limit the risks of outbidding, the Commission must, when assessing the compatibility of regional aid with Article 92 (3) (a) and (c), take account both of the socio-economic situation in the regions concerned in comparison with the rest of the Community, and of any serious disparities between regions in the same country.

The detailed socio-economic analysis of the regions of Belgium shows that the derogation provided for in Article 92 (3) (a) of the EEC Treaty cannot be granted, since there is not an abnormally low standard of living

⁽¹⁾ OJ No C 111, 4. 11. 1971, p. 1.

or serious under-employment in the Belgian regions. This was not disputed by the Belgian Government either in its original proposal or in the comments it submitted in the course of the Article 93 (2) procedure. Consequently, only the derogation provided for in Article 92 (3) (c), whereby aid to facilitate the development of certain economic areas may be considered to be compatible with the common market, where it does not adversely affect trading conditions to an extent contrary to the common interest, can be considered in the case in point.

In order to determine whether the aids proposed by the Belgian Government for certain regions are compatible with the common market, the Commission applied the principles described above. The Commission placed the Belgian regions in question in a Community context by comparing gross domestic product and the employment situation in those regions with the corresponding Community averages and then sought to establish whether there were disparities between the regions at national level which might justify the grant of regional aid. For this purpose, the Commission used certain indicators of economic development and employment, namely taxable income, unemployment, employment trends, the structure of economic activities, net migration and demographic factors.

Unlike the methods employed by the Belgian authorities, this approach, through the analysis of the structure of activities and other indicators of causal factors, made it possible to identify the nature of the economic problems of the regions concerned and to establish whether they were structural. The criticisms voiced by the Flemish regional authorities are not well-founded, since the Commission systematically used the same indicators for the analysis of the Walloon and the Flemish regions, and the sole reason why the areas that might qualify for the derogation of Article 92 (3) (c) are larger in Wallonia is that regional problems in Wallonia are more extensive and more severe than in Flanders. Having regard to the considerations herein expounded, the Commission may not, in view of the principle of regional specificity⁽¹⁾, determine the assisted areas by reference to highly localized phenomena, as suggested by the Walloon regional authorities. A comparative analysis was made of the situation of all the Belgian regions, including Wallonia, in the light of the situation of the regions of the Community as a whole.

The Belgian Government's comments of 1 and 22 February 1982 are aimed at maintaining, virtually intact, the plan originally notified to the Commission, and the greater part of the national territory — with the exception of the urban areas in the centre and north of the country — would thereby be eligible for regional aid. Such a scheme would not comply with the principle of regional specificity laid down in the principles of coordination of regional aid systems, as it would confer hardly any compensatory benefits on regions suffering from real structural handicaps; nor would it satisfy the requirements of the first paragraph of Article 2 of the Commission Decision of 26 April 1972, referred to above, which requires greater selectivity in the designation of development areas. To maintain a single aid intensity ceiling would be a departure from the requirements of the second paragraph of that Article.

The comments submitted by other interested parties contain no argument that would change the assessment of the regions of Belgium based on the Commission's socio-economic analysis referred to above. For both practical and legal reasons, the Commission cannot establish a temporal link, as suggested by one Member State, between the implementation of the new principles of coordination of regional aid systems and its obligations under Article 93 of the EEC Treaty.

On the basis of the socio-economic analysis of the regions of Belgium, referred to above, it is established that the situation is sufficiently serious in the following Belgian regions and sub-regions to justify the derogations provided for in Article 92 (3) (c) of the EEC Treaty: Westhoek, the Kempen region, the Liège iron and steel area, the Hainaut coalfields and iron and steel area, the Ardennes-Condroz-Gaume region and the textile area of Mouscron-Comines.

These regions and sub-regions correspond to the following administrative units or parts of administrative units:

- Westhoek: 'arrondissements' of Diksmuide, Ieper and Veurne,
- Kempen: province of Limburg, 'arrondissement' of Turnhout; municipalities of Aarschot, Begijnendijk, Bekkevoort, Diest, Geetbets, Holsbeek, Kortenaeken, Linter, Scherpenheuvel-Zichem, Tieltinge and Zoutleeuw (hereinafter referred to as 'Noord Hageland') in the 'arrondissement' of Leuven,
- Liège iron and steel area: 'arrondissement' of Liège,

⁽¹⁾ OJ No C 31, 3. 2. 1979, p. 11.

- Hainaut coalfields and iron and steel area : 'arrondissement' of Charleroi and Mons, southern part of the 'arrondissement' of Soignies (municipalities of La Louvière and Le Roeulx), northern part of the 'arrondissement' of Thuin (municipalities of Anderlues, Binche and Morlanwelz),
- Ardennes-Condroz-Gaume : province of Luxembourg, 'arrondissements' of Thuin (except the northern municipalities mentioned above), southern part of the 'arrondissement' of Namur (municipalities of Gesves, Mettet and Ohay), southern part of the 'arrondissement' of Huy (municipalities of Clavier, Ferrières, Hamoir and Ouffet), southern part of the 'arrondissement' of Verviers (municipalities of Amel, Büllingen, Burg-Reuland, Bütgenbach, Lierneux, Malmédy, Saint-Vith, Stavelot, Stoumont, Trois-Ponts and Waimes),
- textile area of Mouscron-Comines : 'arrondissement' of Mouscron.

The socio-economic analysis referred to above also shows that the seriousness of the problems facing the province of Limburg in the Kempen region, the Liège iron and steel area and the Hainaut coalfields and iron and steel area, justify the retention of a maximum aid ceiling of 20 % of the investment in net grant equivalent (or 3 500 ECU per job created up to a maximum of 25 % of the investment in net grant equivalent); but that the same does not apply to the other regions and sub-regions qualifying for the derogation provided for in Article 92 (3) (c) of the EEC Treaty, where the ceiling on aid must not exceed 15 % of the investment in net grant equivalent (or 2 500 ECU per job created, up to a limit of 20 % of the investment in net grant equivalent). By classifying the areas in separate categories on the basis of the seriousness of the problems in the regions concerned, the Commission complies with the principle of regional specificity referred to above, and mitigates the effect of the failure of the Kingdom of Belgium to comply with the second paragraph of Article 2 of Commission Decision 72/173/EEC.

The socio-economic analysis shows that the particular socio-economic situation in the textile areas of Mouscron, with the changes observed over the past few years and problems that are highly localized, justifies the grant of regional aid in that area for a period of no longer than three years. The proximity of Noord Hageland to the developed areas in the provinces of Brabant and Antwerpen and the fact that the present employment situation in that sub-region could be assessed only on the basis of estimates, constitute grounds for limiting the grant of regional aids to a

three-year period in that area also. The situation in the two areas will be reviewed before this period expires.

The socio-economic analysis suggests that, by reason of its vigorous economic growth over the past few years, the province of Limburg may be classified as eligible for up to 20 % of the investment in net grant equivalent (or the alternative ceiling referred to above for a period of no longer than three years, it being understood that the situation in the province will be reviewed before this period expires).

The socio-economic analysis shows that the situation in the 'arrondissement' of Oudenaarde is such that it may no longer be designated as an assisted area; but that to avoid compromising the efforts that have been made to ensure diversification, transitional arrangements are needed whereby this 'arrondissement' may continue to be eligible for regional aids up to a ceiling of 15 % of the investment in net grant equivalent (or the alternative ceilings referred to above) until 31 December 1983.

The socio-economic analysis shows that the situation in the region of Ardennes-Condroz-Gaume is such that a ceiling of 15 % of the investment in net grant equivalent (or the alternative ceiling mentioned above) should be applied to regional aid, but that the particular situation in the former iron and steel area of Athus — municipalities of Aubange and Messancy in the 'arrondissement' of Arlon, municipalities of Musson, Saint-Léger and Virton in the 'arrondissement' of Virton — calls for the retention of transitional arrangements whereby a ceiling of 20 % of the investment in net grant equivalent (or the alternative ceilings) may continue to apply until 31 December 1983.

In view of the serious employment situation brought about by the crisis in the industries of the European Coal and Steel Community in the Liège iron and steel area and in the Hainaut coalfields and iron and steel area, exclusion from the status of development area could be waived for individual cases of application of regional aid in the 'arrondissements' of Ath, Tournai and Waremme and in the northern parts of the 'arrondissements' of Huy and Verviers, after prior notification to the Commission, in accordance with Article 93 (3) of the EEC Treaty, and provided that the Commission is satisfied that the aid has the effect of directly alleviating the employment situation resulting from the difficulties brought about by the crisis in the industries of the European Coal and Steel Community in the coalfields and iron and steel areas adjacent to the 'arrondissements' or parts of 'arrondissements' referred to above.

V

To enable it to keep the system under constant review, as required by Article 93 (1) of the EEC Treaty, the Commission must be provided with an annual report on the implementation of the scheme and must examine a number of specific cases.

The Commission has introduced or will introduce special rules for the grant of aid to undertakings in specific sectors that also cover assistance granted under regional aid legislation,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Belgium may grant aids on the basis of the plan for the designation of development areas notified to the Commission, by letter dated 14 November 1980, only in the following 'arrondissements' or parts of 'arrondissements' and under the conditions laid down herein:

- (a) Up to a limit of 20 % of the investment cost in net grant equivalent, or 3 500 ECU per job created up to a limit of 25 % of the investment in net grant equivalent:
 - province of Hainaut:
 - 'arrondissement' of Charleroi; 'arrondissement' of Mons; southern part of the 'arrondissement' of Soignies, comprising the municipalities of La Louvière and Le Roeulx; northern part of the 'arrondissement' of Thuin, comprising the municipalities of Anderlues, Binche and Morlanwelz,
 - province of Liège:
 - 'arrondissement' of Liège,
 - province of Limburg:
 - 'arrondissement' of Hasselt; 'arrondissement' of Maaseik; 'arrondissement' of Tongeren,
 - province of Luxembourg:
 - southern part of the 'arrondissement' of Arlon, comprising the municipalities of Aubange and Messancy; southern part of the 'arrondissement' of Virton, comprising the municipalities of Musson, Saint-Léger and Virton.

The inclusion of the southern part of the 'arrondissement' of Arlon and Virton in the province of Luxembourg, in this category of regions where the maximum aid intensity may be up to 20 % of the investment in net grant equivalent shall be terminated on 31 December 1983.

The inclusion in this category of the 'arrondissements' of Hasselt, Maaseik and Tongeren in the province of Limburg shall be limited to a period of three years from the date of this Decision; the

Commission shall review the socio-economic situation of those 'arrondissements' before that period expires.

- (b) Up to a limit of 15 % of the investment in net grant equivalent, or 2 500 ECU per job created up to a limit of 20 % of the investment in net grant equivalent:
 - province of Antwerp:
 - 'arrondissement' of Turnhout,
 - province of Brabant:
 - 'Noord Hageland', comprising the municipalities of Aarschot, Begijnendijk, Bekkevoort, Diest, Geetbets, Holsbeek, Kortenaeken, Linter, Scherpenheuvel-Zichem, Tielt-Winge and Zoutleeuw in the 'arrondissement' of Leuven,
 - province of West Flanders:
 - 'arrondissement' of Diksmuide; 'arrondissement' of Veurne; 'arrondissement' of Ieper,
 - province of East Flanders:
 - 'arrondissement' of Oudenaarde,
 - province of Hainaut:
 - 'arrondissement' of Mouscron; 'arrondissement' of Thuin, except its northern part as defined in paragraph (a),
 - province of Liège:
 - southern part of the 'arrondissement' of Huy, comprising the municipalities of Clavier, Ferrières, Harmoir and Ouffet; southern part of the 'arrondissement' of Verviers, comprising the municipalities of Amel, Büllingen, Burg-Reuland, Bütgenbach, Lierneux, Malmédy, Saint-Vith, Stavelot, Stoumont, Trois-Ponts and Waimes,
 - province of Luxembourg:
 - 'arrondissement' of Arlon, except its southern part as defined in paragraph (a); 'arrondissement' of Bastogne; 'arrondissement' of Marcheen-Famenne; 'arrondissement' of Neufchâteau; 'arrondissement' of Virton, except its southern part as defined in paragraph (a),
 - province of Namur:
 - 'arrondissement' of Dinant; southern part of the 'arrondissement' of Namur, comprising the municipalities of Gesves, Mettet and Ohey; 'arrondissement' of Philippeville.

The grant of aid in the 'arrondissement' of Oudenaarde in the province of East Flanders shall terminate on 31 December 1983.

The grant of aid in the 'arrondissement' of Mouscron in the province of Hainaut and in Noord Hageland in the 'arrondissement' of Leuven shall be limited to a period of three years from the date of this Decision; the Commission shall review the socio-economic situation of these areas before that period expires.

Article 2

Notwithstanding this Decision, the Kingdom of Belgium may grant regional aid in the 'arrondissements' of Ath, Tournai and Waremme and in the northern parts of the 'arrondissements' of Huy and Verviers which do not have the status of development areas, after prior notification to the Commission, in accordance, with Article 93 (3) of the EEC Treaty, and provided that the Commission has taken a decision finding that the aids have the effect of directly alleviating the employment situation resulting from the difficulties brought about by the crisis in the industries of the European Coal and Steel Community in the coalfields and iron and steel areas adjacent to the 'arrondissements' or parts of 'arrondissements' referred to above.

Article 3

Before the end of June each year, the Kingdom of Belgium shall submit a report to the Commission specifying the amount of regional aid granted, the amount of aided investment, and the number of cases involved. The regional breakdown of this information shall be based on the 'level III' regions of the nomenclature of territorial statistical units of the Statistical Office of the European Communities, and the sectoral breakdown on the two-digit classes of the general industrial classification of economic activities within the European Communities, also produced by the Statistical Office.

In addition, the Kingdom of Belgium shall provide the Commission, on request, with such information as

it needs to examine a certain number of individual cases.

Article 4

The provision of aid pursuant to this Decision shall be without prejudice to any specific rules on aid to certain industries applicable either at present or in the future.

Article 5

The Kingdom of Belgium shall inform the Commission within three months of the date of this Decision of the measures it has taken to comply therewith.

Article 6

This Decision replaces Articles 1 and 2 of Commission Decision 72/173/EEC on aid granted under the Belgian Economic Expansion Law of 30 December 1970.

Article 7

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 22 July 1982.

For the Commission

Frans ANDRIESEN

Member of the Commission
