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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3026/82**of 15 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 12 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 16 November 1982.

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

Done at Brussels, 15 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 15 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	98.61
10.01 B II	Durum wheat	146.46 ⁽¹⁾ ⁽²⁾
10.02	Rye	98.12 ⁽⁶⁾
10.03	Barley	111.99
10.04	Oats	75.90
10.05 B	Maize, other than hybrid maize for sowing	100.20 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	0 ⁽⁴⁾
10.07 C	Grain sorghum	94.72 ⁽⁴⁾
10.07 D	Canary seed; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	151.84
11.01 B	Rye flour	151.18
11.02 A I a)	Durum wheat groats and meal	240.25
11.02 A I b)	Common wheat groats and meal	163.11

⁽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 3027/82**of 15 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 12 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 16 November 1982.

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

Done at Brussels, 15 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 15 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	1.93	1.93	1.66
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0	0	0
10.07 C	Grain sorghum	0	0	0	3.31
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 3028/82
of 15 November 1982
fixing the aid for soya beans

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1614/79 of 24 July 1979 laying down special measures in respect of soya beans ⁽¹⁾, as last amended by Regulation (EEC) No 1984/82 ⁽²⁾, and in particular Article 2 (5) thereof,

Whereas the amount of the aid referred to in Article 2 (1) of Regulation (EEC) No 1614/79 was fixed by Regulation (EEC) No 2653/82 ⁽³⁾, as last amended by Regulation (EEC) No 2927/82 ⁽⁴⁾;

Whereas it follows from applying the rules and other provisions contained in Regulation (EEC) No 2653/82

to the information at present available to the Commission that the amount of the aid at present in force should be altered as set out in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The aid referred to in Article 2 of Regulation (EEC) No 1614/79 is hereby fixed at 27·811 ECU per 100 kilograms.

Article 2

This Regulation shall enter into force on 16 November 1982.

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

Done at Brussels, 15 November 1982.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 190, 28. 7. 1979, p. 8.

⁽²⁾ OJ No L 215, 23. 7. 1982, p. 7.

⁽³⁾ OJ No L 280, 2. 10. 1982, p. 11.

⁽⁴⁾ OJ No L 304, 30. 10. 1982, p. 75.

COMMISSION REGULATION (EEC) No 3029/82
of 15 November 1982

re-establishing the levying of customs duties on articles of asbestos falling within subheading 68.13 B II, III, and originating in South Korea, 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 articles of asbestos, falling within subheading 68.13 B II, III, the individual ceiling was fixed at 935 000 ECU; whereas, on 5 November 1982, imports of these products into the Community originating in South Korea reached the ceiling in question after being charged thereagainst; whereas the customs duties in respect of the products

in question must therefore be re-established against South Korea,

HAS ADOPTED THIS REGULATION:

Article 1

As from 19 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 South Korea:

CCT heading No	Description
68.13	Fabricated asbestos and articles thereof (for example, asbestos board, thread and fabric; asbestos clothing, asbestos jointing), reinforced or not, other than goods falling within heading No 68.14; mixtures with a basis of asbestos and mixtures with a basis of asbestos and magnesium carbonate, and articles of such mixtures: B. Articles of asbestos: II. Fabric III. Other

Article 2

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

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

Done at Brussels, 15 November 1982.

For the Commission

Karl-Heinz NARJES

Member of the Commission

⁽¹⁾ OJ No L 365, 21. 12. 1981, p. 1.

COMMISSION REGULATION (EEC) No 3030/82
of 15 November 1982
altering the basic amount of the import levy on syrups and certain other sugar products

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 syrups and certain other sugar products were fixed by Regulation (EEC) No 2898/82⁽³⁾, as amended by Regulation (EEC) No 2945/82⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 2898/82 to the information known to the Commission that the basic

amount of the levy on syrups and certain other sugar products at present in force should be altered,

HAS ADOPTED THIS REGULATION:

Article 1

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to amended Regulation (EEC) No 2898/82, are hereby altered to the amounts shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 16 November 1982.

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

Done at Brussels, 15 November 1982.

For the Commission

Poul DALSGER

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 304, 30. 10. 1982, p. 17.

⁽⁴⁾ OJ No L 308, 4. 11. 1982, p. 25.

ANNEX

to the Commission Regulation of 15 November 1982 altering the basic amount of the import levy on syrups and certain other sugar products

(ECU)

CCT heading No	Description	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question	Amount of levy per 100 kg of dry matter
17.02	Other sugars in solid form ; sugar syrups, not containing added flavouring or colouring matter ; artificial honey, whether or not mixed with natural honey ; caramel :		
	C. Maple sugar and other syrup	0.4039	—
	D. Other sugars and syrups (other than lactose, glucose and malto-dextrine) :		
	I. Isoglucose	—	51.66
	ex II. Other	0.4039	—
	E. Artificial honey, whether or not mixed with natural honey	0.4039	—
	F. I. Caramelized sugar and molasses containing, in the dry state, 50 % or more by weight of sucrose	0.4039	—
21.07	Food preparations not elsewhere specified or included :		
	F. Flavoured or coloured sugar syrups :		
	III. Isoglucose	—	51.66
	IV. Other	0.4039	—

COMMISSION REGULATION (EEC) No 3031/82
of 15 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 3012/82⁽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 16 November 1982.

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

Done at Brussels, 15 November 1982.

For the Commission

Poul DALSGER

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 316, 12. 11. 1982, p. 31.

ANNEX

to the Commission Regulation of 15 November 1982 fixing the import levies on white sugar and raw sugar

(ECU/100 kg)		
CCT heading No	Description	Levy
17.01	Beet sugar and cane sugar, in solid form :	
	A. White sugar : flavoured or coloured sugar	40.39
	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.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 2 June 1982

amending Decision 71/57/Euratom on the reorganization of the Joint Research Centre (JRC)

(82/755/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Article 1

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 8 thereof,

Decision 71/57/Euratom is hereby amended as follows:

(a) Article 1 is replaced by the following:

'Article 1

Having regard to the Treaty establishing a single Council and a single Commission of the European Communities, and in particular Article 16 thereof,

Within the Directorate-General for Science, Research and Development, the Joint Research Centre (JRC) shall consist of the Research establishments set up by the Commission to carry out the Community's research and training programmes, and of the necessary ancillary services.'

Whereas on 13 January 1971 the Commission adopted Decision 71/57/Euratom ⁽¹⁾, as last amended by Decision 75/241/Euratom ⁽²⁾;

(b) Article 2 is replaced by the following:

'Article 2

Whereas on 15 July 1981 the Commission created a Directorate-General for Science, Research and Development, incorporating the Joint Research Centre, with the aim of launching a new research and development strategy;

The administrative organs of the JRC shall be:

- the Director-General, who shall also serve as Deputy Director-General of the Directorate-General for Science, Research and Development,
- the Governing Board,
- the Scientific Committee.'

Whereas the new structure of Commission departments responsible for science, research and development affects neither the operational budget of the JRC nor the flexibility which is essential if research work is to progress smoothly,

(c) The first indent of the third paragraph of Article 3 is replaced by the following:

'— he shall prepare — in agreement with the Director-General for Science, Research and Development — and submit to the Commission the JRC's draft programmes, indicating the financial aspects thereof.'

⁽¹⁾ OJ No L 16, 20. 1. 1971, p. 14.

⁽²⁾ OJ No L 98, 19. 4. 1975, p. 40.

(d) Article 4 is replaced by the following :

'Article 4

A Governing Board of the JRC is hereby set up to assist the members of the Commission responsible for research in the management of the JRC.

The Board shall consist of leading experts from Member States who are specialized in the management of major research laboratories and their scientific and technical programmes. It shall consist of a chairman and seven members, appointed by the Commission. They shall be appointed for a three-year term, renewable once for the same period.

The Governing Board of the JRC shall normally be convened six times a year. It shall advise the Director-General of the JRC on the following matters :

1. implementation of current research and development programmes and allocation of available resources ;
2. formulation of proposals relating to new programmes and their funding ;
3. the JRC's establishment plan and the recruitment of senior staff (A 1, A 2 and appointments of comparable importance) ;
4. major investments.

The Director-General of the JRC shall provide the secretariat of the Governing Board. He shall furnish the Board with all the information it requires for the performance of its task.

The chairman shall draw up the agenda for each meeting.'

(e) Article 6 is replaced by the following :

'Article 6

1. The Director-General of the JRC, having due regard to the general policy adopted by the

Council and to the general guidelines issued by the Commission and the Directorate-General for Science, Research and Development, shall prepare the JRC's draft programmes on his own responsibility and in close consultation with the Directorate for Scientific and Technical Coordination, cooperation with non-member countries and COST.

2. The Governing Board of the JRC shall be consulted on these draft programmes.

3. The Commission shall examine the draft programme in the light of the general policy and budgetary situation of the Community. It shall adopt the proposals in accordance with the provisions of the Treaty and lay them before the Council.'

(f) In Article 7 (2), the following text is inserted after the word 'Commission' :

'..., in agreement with the Director-General for Science, Research and Development, ...'

(g) In Article 8, the words 'General Advisory Committee' are replaced by the words 'Governing Board of the JRC'.

(h) Article 11 is repealed.

Article 2

This Decision shall take effect on 1 June 1982.

Done at Brussels, 2 June 1982.

For the Commission

The President

Gaston THORN

COMMISSION DECISION

of 27 October 1982

imposing a fine on the *Fédération nationale de l'industrie de la chaussure de France* pursuant to Article 15 (1) (c) of Council Regulation No 17
(Case IV/AF 528)

(Only the French text is authentic)

(82/756/EEC)

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation No 17 of 6
February 1962⁽¹⁾, and in particular Articles 14 and 15
thereof,

Having taken note of the view expressed by the
*Fédération nationale de l'industrie de la chaussure de
France* in its letter dated 14 May 1982 concerning the
objections communicated by the Commission on 14
April 1982 pursuant to Article 19 (1) of Regulation No
17,

Having regard to the opinion of the Advisory
Committee on Restrictive Practices and Dominant
Positions, delivered on 23 September 1982, pursuant to
Article 10 of Regulation No 17,

I

Whereas :

1. On 4 March 1982, the Director-General for
Competition gave written authorization for two offi-
cials of the inspection directorate to carry out an
investigation at the *Fédération nationale de l'industrie
de la chaussure de France* (hereinafter referred to as
'the FNICF') in Paris, pursuant to Article 14 of
Council Regulation No 17.

The investigation was carried out on 9 and 10 March
1982 at the FNICF's head office in the presence of
several members of its management, in particular the
secretary-general and one of his advisers, and a repre-
sentative of the competent French authority.

The main purpose of the investigation was to obtain
information on the application of French measures to
improve the situation of the footwear and leather
industry, in order to assess whether and to what extent
the FNICF had, on behalf of its members, entered into
undertakings to limit imports or to impose other
restrictions within the meaning of Article 85 of the
EEC Treaty.

2. Having produced his authorization, the inspector
drew the attention of the FNICF's management to the
provisions of Articles 14 and 15 of Regulation No 17
concerning the Commission's powers of investigation,

and in particular to the provisions of Article 15 (1), as
set out in the authorization and under which the
Commission may by decision impose fines on under-
takings and associations of undertakings where they
submit to an investigation but, intentionally or negli-
gently, produce the required books or other business
records in incomplete form.

When they were duly called upon, the FNICF's repre-
sentatives expressed willingness to submit to the investi-
gation and to comply with all obligations which might
arise therefrom.

3. On 9 March 1982, the Commission's official
requested FNICF to supply, for the purpose of an
examination within the meaning of Article 14 (1) (a) of
Regulation No 17 :

- (1) correspondence, internal memoranda and minutes
of meetings with other associations representing
the footwear industry in France or in certain other
Community countries ;
- (2) records or minutes of meetings of the FNICF's
management bodies : firstly, the Federal Council,
comprising representatives of the regional unions,
specialist member groupings of the FNICF and
individual member manufacturers, and, secondly,
the Bureau of the Federal Council, presided over
by a board of three persons.

The documents requested were those covering the
period from 1 January 1981 to the date of the investi-
gation.

In response to this request, the representatives of the
FNICF produced various files of correspondence and
records of meetings with other organizations repre-
senting the footwear industry, but failed to produce
any of the records or minutes of meetings of the
FNICF's Federal Council and of the Bureau of the
Federal Council since 1 January 1981.

The Secretary-General of the FNICF has stated that
the last three meetings of the Federal Council took
place in October 1981, in December 1981 and on 24
February 1982 and that minutes of these meetings
were drawn up ; he has also confirmed that these
documents existed at the very time of the investigation
at the FNICF's head office.

4. In a written statement, recorded in the minutes
on 10 March 1982, the Secretary-General of the

(¹) OJ No 13, 21. 2. 1962, p. 204/62.

FNICF confirmed that 'the FNICF's management bodies had been given a verbal account of the gentlemen's agreement (accord de bonne volonté) reached on 25 November'.

This 'gentlemen's agreement' of 25 November 1981, specifically mentioned by the Secretary-General of the FNICF, was one of the very vehicles for preparing and implementing the French measures to improve the situation in the footwear and leather industry which were mentioned in the investigation authorization.

The principal aim of the investigation was thus to collect all the information relating to this agreement, in so far as it was likely to contain specific provisions for increasing sales of French footwear on the domestic market and hence to limit imports of such products into France.

The inspector also drew the FNICF's attention to a document which had come to the Commission's notice during a previous investigation carried out at another French trade association and which, according to the management representatives of that association, had actually been discussed at the meeting on 25 November 1981 mentioned by the Secretary-General of the FNICF.

This document, which is unsigned and has no title or heading, comprises three sections (A, B and C) relating to the agreement to be signed by the wholesale and retail trade associations, the FNICF and the public authorities with a view to limiting imports according to percentage increases of sales on the domestic market varying from 10 to 25 %.

One of the main objectives of the investigation was to determine precisely the conditions under which this document was submitted to the FNICF's Federal Council and the board of the Federal Council for discussion, any preparatory work done during previous meetings of those same bodies, any decisions adopted in this connection and any instructions given to the various members of the FNICF.

5. On 10 March 1982, the inspectors repeated their request, which was recorded in the minutes, for the following documents to be produced:

- (1) correspondence, internal memoranda and records of meetings with various other trade organizations since 1 January 1981;
- (2) minutes or records of meetings held by the FNICF's Federal Council and by the Bureau of the Federal Council since 1 January 1981.

The written reply from the Secretary-General of the FNICF, recorded in the same minutes, states that the documents referred to in (1) 'were given to the inspector', but that 'the documents referred to at (2) are confidential documents dealing with all the problems of the FNICF, and therefore go far beyond the investi-

gators' terms of reference, so that the agreement of the FNICF's bureau must be obtained before they can be produced'.

The inspectors immediately recorded a statement in the minutes that 'the FNICF had produced documents which were incomplete within the meaning of Article 15 (1) (c) of Regulation No 17'.

II

6. By letter, dated 14 May 1982, replying to the Commission's statement of objections, the FNICF put forward the following arguments:

- (1) With regard to the way in which the investigation was carried out, the FNICF admitted that the inspector had drawn its attention at the outset to the provisions of Articles 14 and 15 of Regulation No 17, but complained that he had formally informed it only at the end of the interview that it was entitled to refuse the inspection.
- (2) As the document discussed at the meeting on 25 November 1981 was simply a working paper, the FNICF had not kept it; furthermore, owing to its origin, the inspectors should not have required the FNICF to produce it.
- (3) With regard to the production of the minutes of the FNICF's Federal Council, the FNICF considered that there was no point in going back as far as 1 January 1981, that the documents were confidential and related to all sorts of matters which had no bearing on the subject of the investigation and, finally, that the FNICF's bureau had subsequently adopted the same position and had felt that the inspectors were exceeding their powers.
- (4) With regard to the opportunity for a hearing pursuant to Article 7 of Commission Regulation No 99/63/EEC⁽¹⁾ the FNICF considered that, as such a hearing would be useful only if it were given the opportunity of expressing its views on matters of substance and not merely on procedural problems, it was not worthwhile requesting a hearing at a meeting which the Commission would convene specially for that purpose.

III

7. Under Article 14 of Regulation No 17, the Commission, in carrying out the duties assigned to it by Article 89 of the EEC Treaty, may undertake all necessary investigations into undertakings. To this end, the officials authorized by the Commission are vested with the powers described in Article 14 (1) of the said Regulation *inter alia* to examine the books and other

⁽¹⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

business records, to take copies of or extracts from the books and business records, and to enter any premises of undertakings.

Under Article 14 (2) of the said Regulation, the officials authorized by the Commission for the purpose of these investigations shall exercise their powers upon production of an authorization in writing specifying the subject matter and purpose of the investigation and the penalties provided for in Article 15 (1) (c) of the Regulation in cases where production of the required books or other business records is incomplete.

Under Article 15 (1) of Regulation No 17, the Commission may, by decision, impose on undertakings fines of from 100 to 5 000 units of account where, intentionally or negligently, they produce the required books or other business records in incomplete form during investigations under Article 14.

The FNICF does not dispute the fact that the inspector drew its attention at the beginning of the interview to the provisions of Articles 14 and 15 of Regulation No 17 and that it thereupon agreed to submit to the investigation and to all the obligations arising therefrom under those provisions.

Consequently, the argument that the FNICF was not informed until the end of the interview of its right to refuse to submit to an investigation which the Commission had not ordered by decision taken pursuant to Article 14 (3) is at variance with the fact that the FNICF's representatives acknowledged that their attention had been drawn in good time to all the provisions of Articles 14 and 15 of that Regulation, and these representatives admit, in their letter dated 14 May 1982, that there was no reason to refuse such an investigation.

8. The request for the FNICF to produce the minutes of its Federal Council and its other management bodies was in conformity with the aim of the investigation authorization issued to the inspectors.

These documents constitute business records within the meaning of Article 14 (1) (a) of Regulation No 17; it has not been contested that these documents were at the FNICF's head office at the time of the investigation.

Undertakings or associations of undertakings which are the subject of an investigation are not entitled to assess whether a request for documents to be produced is justified or whether the period in respect of which they are required is appropriate. Furthermore, undertakings or associations of undertakings may invoke the

confidentiality of such documents only within the framework of Article 20 of Regulation No 17.

It is not for representatives of undertakings or associations of undertakings to choose between documents which they consider to be relevant to the subject of an investigation and those which they consider not to be relevant. According to the case law of the Court of Justice of the European Communities (see the judgment of 18 May 1982 in Case 155/79, *AM & S Ltd v. Commission of the European Communities*), officials authorized by the Commission are empowered to request those books and other business records necessary for them to carry out their tasks and to decide which of them should be copied as being relevant to their investigation.

9. In producing documentation which was clearly incomplete to Commission inspectors carrying out an investigation under Article 14 of Regulation No 17, the FNICF intentionally infringed Article 15 (1) (c) of Regulation No 17. Furthermore, it must have been aware of the extent of the Commission's investigatory powers.

The conditions for the application of Article 15 (1) are thus fulfilled.

10. The infringement committed by the FNICF is clearly serious because the failure to produce the documents requested made the Commission's task of ensuring compliance with the Treaty rules on competition more difficult. Furthermore, the FNICF indicated in its letter dated 14 May 1982 that its bureau had, after the investigation, maintained an identical position, thereby accentuating the intentional nature of the infringement.

A fine must therefore be imposed in proportion to the gravity of the infringement committed by the FNICF,

HAS ADOPTED THIS DECISION:

Article 1

The production by the Fédération nationale de l'industrie de la chaussure de France of incomplete documentation during an investigation carried out on 9 and 10 March 1982 by the Commission, under Article 14 of Regulation No 17, constitutes an infringement of Article 15 (1) (c) of that Regulation.

Article 2

The Commission hereby imposes, on the Fédération nationale de l'industrie de la chaussure de France, a fine of 5 000 units of account or FF 33 252.85. This amount shall be paid within three months of notifica-

tion of this Decision, to the association concerned, to the following account of the Commission of the European Communities: No 5.770.006.5 at the Société générale Bank in Paris.

Article 3

This Decision is addressed to the Fédération nationale de l'industrie de la chaussure de France (FNICF), 55, avenue Kléber, F-75784 Paris.

This Decision shall be enforceable as laid down in Article 192 of the EEC Treaty.

Done at Brussels, 27 October 1982.

For the Commission

Frans ANDRIESEN

Member of the Commission

COMMISSION DECISION

of 11 November 1982

accepting undertakings given in connection with the anti-dumping procedure concerning decabromodiphenylether originating in the United States of America and terminating the procedure

(82/757/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽¹⁾, as amended by Regulation (EEC) No 1580/82⁽²⁾, and in particular Article 10 thereof,

Whereas in October 1981 the Commission received a complaint lodged by the European Council of Chemical Manufacturers' Federations (CEFIC) on behalf of a German company alleged to be the major Community producer of decabromodiphenylether; whereas the complaint contained sufficient evidence of the existence of dumping in respect of decabromodiphenylether originating in the United States of America and of material injury resulting therefrom;

Whereas the said evidence was sufficient to justify initiating an investigation;

Whereas the Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of a procedure concerning imports of decabromodiphenylether originating in the United States of America and commenced an investigation at Community level;

Whereas the Commission officially so advised the exporters and importers known to be concerned;

Whereas in the course of the investigation it has been established that the German company on whose behalf the complaint had been lodged was not in fact producing decabromodiphenylether but nonabromodiphenyl, claimed to be a like product; whereas, however, a French producer of decabromodiphenylether submitted, in response to the notice of initiation of the procedure, a complementary complaint, non-confidential copies of which were distributed to the exporters and importers known to be concerned;

Whereas the Commission announced by a notice published in the *Official Journal of the European Communities*⁽³⁾, that the procedure would be con-

tinued on the basis of the complementary complaint lodged by the French producer of decabromodiphenylether;

Whereas the Commission has given the parties directly concerned the opportunity to make known their views in writing and to be heard orally, and to meet so that opposing views might be presented and arguments put forward in rebuttal;

Whereas the majority of the parties concerned have taken this opportunity;

Whereas, in order to arrive at a preliminary determination of the existence of dumping, the Commission sought to obtain and verify all information which it deemed to be necessary and carried out inspections at the premises of the US producers, viz. Dow Chemical Company, Midland, Michigan; Great Lakes Chemical Corporation, West Lafayette, Indiana and Saytech Inc., Sayreville, New Jersey; whereas the Commission compared export prices to the Community with US domestic prices for each company in the USA; whereas, for Dow Chemical Company and Great Lakes Chemical Corporation, in view of the inter-company relationship with their importers in the Community, these export prices were constructed on the basis of the prices at which the imported product was first resold to an independent buyer with allowances being made where appropriate for duties, taxes, transport, handling and for a reasonable margin for overheads allocated according to sales and administration costs; whereas the price comparisons were made at the ex-factory level for sales made during the period 1 January to 31 December 1981;

Whereas the investigations on dumping showed the following weighted average dumping margins:

- Dow Chemical Company 49.66 %
- Great Lakes Chemical Corporation 41.76 %
- Saytech Inc. 27.69 %

Whereas, in order to arrive at a preliminary determination of the existence of injury, the Commission contacted a number of agents and importers and carried out investigations at the premises of Dow Chemical (Nederland) BV, the Netherlands, and Great Lakes Chemical Europe Ltd, United Kingdom;

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 178, 22. 6. 1982, p. 9.

⁽³⁾ OJ No C 337, 24. 12. 1981, p. 6.

whereas the Commission also carried out — investigations at the premises of the main complainant Community producer, namely Produits Chimiques Ugine Kuhlmann, Paris, France ;

Whereas, with regard to the injury caused to the Community industry, the evidence available to the Commission shows that total imports into the Community of decabromodiphenylether originating in the United States of America rose from approximately 1 099 tonnes in 1979 to 1 267 tonnes in 1980 and 1 288 tonnes in 1981 ;

Whereas, in the absence of separate import figures relating to decabromodiphenylether, it is difficult to gauge exactly the size of the Community market for this product ; whereas, nevertheless, the best information available suggests that US exports held a market share in the Community of 78.7 % in 1981 ;

Whereas market conditions in this sector have been such that the Community producer has aligned his sales prices with those of the US exporters ; whereas this has allowed the Community producer to increase sales but at the cost of serious financial losses ;

Whereas material injury to the Community industry is characterized by depression of Community prices and prevention of price increases which otherwise would have occurred, with consequent operating losses ;

Whereas the Commission has considered the injury caused by other factors which, individually or in combination, may also be affecting the Community industry ; whereas the information available suggests that there have been little or no imports from countries other than the USA and that there has been no contraction in demand which might have adversely affected the Community industry ;

Whereas the preliminary examination of the facts shows that there is dumping of decabromodiphenylether exported by Dow Chemical Company, Great Lakes Chemical Corporation and Saytech Inc., and that these dumped imports have in themselves consequences which have to be considered as material injury to the Community industry ;

Whereas the exporters concerned were informed of the main findings of the preliminary investigation and commented on them ; whereas undertakings were subsequently offered by Dow Chemical Company,

Great Lakes Chemical Corporation and Saytech Inc., concerning imports originating in the USA ;

Whereas the effect of these undertakings will be to increase resale prices in the Community to a level considered necessary by the Commission to eliminate injury, having taken account of the Community producer's prices, costs and profitability and the marketing conditions governing the importers' reselling costs ; whereas these increases in no case exceed the dumping margin ;

Whereas the Commission has, therefore, determined that it is not now necessary to take protective action in respect of imports of decabromodiphenylether originating in the USA ;

Whereas, in these circumstances, the undertakings offered are considered acceptable and the procedure may, therefore, be terminated without imposition of anti-dumping duties ;

Whereas no objection to this course was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS :

Article 1

The undertakings given by Dow Chemical Company, Great Lakes Chemical Corporation and Saytech Inc. in connection with the anti-dumping procedure concerning decabromodiphenylether falling within Common Customs Tariff subheading ex 29.08 A III c) and corresponding to NIMEXE code ex 29.08-18, originating in the United States of America are hereby accepted.

Article 2

The anti-dumping procedure concerning imports of decabromodiphenylether originating in the United States of America is hereby terminated.

Done at Brussels, 11 November 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President

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