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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3437/82
of 14 December 1982
amending Regulation (EEC) No 878/77 on the exchange rates to be applied in
agriculture

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community, and in particular Article 43
thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European
Parliament ⁽¹⁾,

Whereas work on the proposal for a Council Regulation on the exchange rates to be applied in the agricultural sector, presented by the Commission on 20 February 1980, has not yet been completed; whereas, when the proposals concerning the fixing of the prices for certain agricultural products and certain ancillary measures, presented by the Commission on 8 February 1982, were adopted, the amendment which is the subject of this Regulation was postponed;

Whereas the current provisions of Regulation (EEC) No 878/77 ⁽²⁾, as last amended by Regulation (EEC) No 2792/82 ⁽³⁾, relating to the adjustment, following a change in the representative rates, of amounts fixed in ECU and not connected with the fixing of prices, in particular under the policy on agricultural structures, provide only for an adjustment of 2 %, irrespective of real changes in the representative rates; whereas Article 5 of the said Regulation should, therefore, be amended in this respect, so as to have effect during January 1983;

Whereas all eventualities must be covered; whereas it should therefore be laid down that the increase may not exceed the amount necessary to avoid a reduction

in national currency in the Member State for whose currency the revaluation is greatest,

HAS ADOPTED THIS REGULATION:

Article 1

Article 5 (2) of Regulation (EEC) No 878/77 shall be replaced by the following:

'2. In the event of a revaluation of one or more agricultural exchange rates, the amounts fixed in ECU which are not linked to the fixing of prices may be increased in accordance with the procedure referred to in paragraph 1.

3. As regards the amounts which Member States determine within upper and lower limits, the increase shall apply to the maximum and minimum amounts.

In the case of the upper limit, the increase may not exceed the amount necessary to avoid a reduction in national currency of the amounts actually applicable in the Member State in which the effect of the revaluation on those amounts is greatest.

In the case of the lower limit, paragraph 4 shall apply.

4. As regards amounts other than those referred to in paragraph 3, the increase may not exceed the amount necessary to avoid a reduction in national currency of the amounts in question in the Member State for whose currency the revaluation is greatest.'

Article 2

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

It shall apply throughout January 1983.

⁽¹⁾ OJ No C 97, 21. 4. 1980, p. 1 and OJ No C 104, 26. 4. 1982, p. 25.

⁽²⁾ OJ No L 106, 29. 4. 1977, p. 27.

⁽³⁾ OJ No L 295, 21. 10. 1982, p. 6.

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

Done at Brussels, 14 December 1982.

For the Council

The President

N. A. KOFOED

**COUNCIL REGULATION (EEC) No 3438/82
of 14 December 1982**

**amending Regulation (EEC) No 652/79 on the impact of the European monetary
system on the common agricultural policy**

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43 and 235 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⁽¹⁾, as last amended by Regulation (EEC) No 2543/73⁽²⁾, and in particular Article 3 thereof,

Having regard to the proposal from the Commission⁽³⁾,

Having regard to the opinion of the European Parliament⁽⁴⁾,

Whereas Regulation (EEC) No 652/79⁽⁵⁾, as last amended by Regulation (EEC) No 3605/81⁽⁶⁾, introduced the European monetary system into the common agricultural policy for a period ending 31 December 1982;

Whereas, by an amendment to Article 3 (b) of Regulation (EEC) No 652/79, Regulation (EEC) No 1011/80⁽⁷⁾ introduced a new system with regard to the franchises adopted for calculating the monetary compensatory amounts; whereas pursuant to the second subparagraph of Article 5 of Regulation (EEC)

No 652/79 this system is also limited to 31 December 1982;

Whereas the Commission submitted to the Council proposals for consolidating all the agri-monetary rules and at the same time introducing the ECU into the common agricultural policy on a permanent basis; whereas pending the Council's continuation of its work on those proposals it is necessary to adopt, as a matter of urgency and with effect until 31 January 1983, the measures necessary to extend the validity of Regulation (EEC) No 652/79 in order to avoid the harmful consequences of the lack of a decision,

HAS ADOPTED THIS REGULATION:

Article 1

The second subparagraph of Article 5 of Regulation (EEC) No 652/79 is hereby replaced by the following:

‘It shall apply until 31 January 1983’.

Article 2

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

It shall apply from 1 January 1983.

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

Done at Brussels, 14 December 1982.

For the Council

The President

N. A. KOFOED

⁽¹⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽²⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽³⁾ OJ No C 57, 7. 3. 1980, p. 11 and OJ No C 302, 19. 11. 1982, p. 4.

⁽⁴⁾ OJ No C 97, 21. 4. 1980, p. 44.

⁽⁵⁾ OJ No L 84, 4. 4. 1979, p. 1.

⁽⁶⁾ OJ No L 362, 17. 12. 1981, p. 2.

⁽⁷⁾ OJ No L 108, 26. 4. 1980, p. 3.

**COUNCIL REGULATION (EEC) No 3439/82
of 14 December 1982**

**amending Regulation (EEC) No 974/71 on certain measures of conjunctural
policy to be taken in agriculture following the temporary widening of the
margins of fluctuation for the currencies of certain Member States**

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community, and in particular Article 43
thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European
Parliament⁽¹⁾,

Whereas the work on the proposal for the Council
Regulation on monetary compensatory amounts,
submitted by the Commission on 20 February 1980
and amended by it on 30 January 1981 following the
accession of Greece, has not yet been completed;
whereas in the meantime, however, the rules in force
should be adapted, for a limited period to current
circumstances;

Whereas Article 2 (4) of Regulation (EEC) No
974/71⁽²⁾, as last amended by Regulation (EEC) No
987/79⁽³⁾, lays down that the monetary compensatory
amount to be applied in the wine sector by Member
States with depreciated currencies shall be that of the
Member State in question for the wine concerned, less
the lowest monetary compensatory amount of the
Member States with depreciated currencies for the
same wine;

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

Done at Brussels, 14 December 1982.

Whereas this rule shows itself to be inappropriate
where a producer Member State does not apply mone-
tary compensatory amounts,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 2 (4) of Regulation (EEC) No 974/71, the
following subparagraph shall be added:

‘This rule shall not apply where a producer
Member State does not apply negative monetary
compensatory amounts.’

Article 2

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

It shall apply throughout January 1983.

For the Council

The President

N. A. KOFOED

⁽¹⁾ OJ No C 234, 15. 9. 1981, p. 90.

⁽²⁾ OJ No L 106, 12. 5. 1971, p. 1.

⁽³⁾ OJ No L 123, 19. 5. 1979, p. 9.

COUNCIL REGULATION (EEC) No 3440/82

of 21 December 1982

on export arrangements for certain types of non-ferrous metal waste and scrap

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2603/69 of 20 December 1969 establishing common rules for exports ⁽¹⁾, and in particular Article 7 thereof,

Having regard to Council Regulation (EEC) No 1023/70 of 25 May 1970 establishing a common procedure for administering quantitative quotas ⁽²⁾, and in particular Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas, under Regulation (EEC) No 3568/81 ⁽³⁾, exports of aluminium and lead waste and scrap were made subject, for 1982, to production of a prior export licence to be issued by the relevant authorities of the Member States according to procedures to be laid down; whereas this arrangement expires on 31 December 1982;

Whereas, in order to avoid supply difficulties for copper ash and residues and for copper waste and scrap, Community quantitative export quotas were fixed in Regulation (EEC) No 3568/81; whereas these quotas remain in force until 31 December 1982;

Whereas it is necessary to maintain in force for 1983 the system of export licences for aluminium and lead products and the quotas for copper products;

Whereas the Committee set up by Regulation (EEC) No 2603/69 has been consulted;

Whereas the criterion for the allocation of the said quotas should be determined;

Whereas the provisions relating to the monitoring of intra-Community trade laid down in Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure ⁽⁴⁾ apply only if the measures introducing export restrictions provide for their application,

HAS ADOPTED THIS REGULATION:

Article 1

1. Community exports between 1 January and 31 December 1983 of aluminium waste and scrap falling within subheading 76.01 B of the Common Customs Tariff and lead waste and scrap falling within subheading 78.01 B shall be subject to production of an export licence to be issued by the relevant authorities of the Member States. The licence shall be issued free of charge, for such quantities as are requested subject to the provisions set out below.

2. The export licence shall be issued within not more than 15 working days of the date of the request on presentation by the applicant of a sale contract for the entire quantity requested.

The licence shall be valid for two months.

3. Each Member State shall inform the Commission of the following within the first 15 days of each month:

- (a) the quantities in tonnes and the prices of the products for which export licences have been issued during the previous month;
- (b) the quantities in tonnes of products which have been exported during the month preceding that referred to under point (a);
- (c) the quantities in tonnes authorized for export or exported as part of inward or outward processing arrangements;
- (d) the third country of destination.

The Commission shall pass this information to the Member States.

Article 2

Community quantitative export quotas shall be established as follows for 1983:

(tonnes)

CCT heading No	Description	Quantity
ex 26.03	Ash and residues of copper and copper alloys	22 300
ex 74.01 D	Waste and scrap of copper and copper alloys	32 700

⁽¹⁾ OJ No L 324, 27. 12. 1969, p. 25.

⁽²⁾ OJ No L 124, 8. 6. 1970, p. 1.

⁽³⁾ OJ No L 357, 12. 12. 1981, p. 7.

⁽⁴⁾ OJ No L 38, 9. 2. 1977, p. 20.

Article 3

The quotas fixed in Article 2 shall be allocated according to the estimate of requirements.

Article 4

Exports outside the Community of products listed in Article 2 and obtained under inward processing arrangements within the meaning of Council Directive 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing⁽¹⁾, shall be charged against the quota of the exporting Member State. However, derogations may be made in specific cases following an opinion from the Quota Administration Committee set up under Regulation (EEC) No 1023/70.

Temporary exports for working, processing or repair in a non-member country, within the meaning of Council Directive 76/119/EEC of 18 December 1975 on the harmonization of provisions laid down by law, regulation or administrative action in respect of outward processing⁽²⁾, of products which are to be re-imported for home use within the customs territory

of the Community, shall be charged against the quota of the exporting Member State. However, derogations may be made in specific cases following an opinion from the Quota Administration Committee set up under Regulation (EEC) No 1023/70.

Article 5

Regulation (EEC) No 223/77 shall apply to the movement within the Community of the products listed in Article 2.

Article 6

The Council shall decide in due time and in any case before 31 December 1983 on the measures to be taken regarding the export of the products listed in Articles 1 and 2 after the validity of this Regulation has expired.

Article 7

This Regulation shall enter into force on 1 January 1983.

It shall apply until 31 December 1983.

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

Done at Brussels, 21 December 1982.

For the Council

The President

O. MØLLER

⁽¹⁾ OJ No L 58, 8. 3. 1969, p. 1.

⁽²⁾ OJ No L 24, 30. 1. 1976, p. 58.

COMMISSION REGULATION (EEC) No 3441/82

of 22 December 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 21 December 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 23 December 1982.

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

Done at Brussels, 22 December 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 22 December 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	111.66
10.01 B II	Durum wheat	149.70 ⁽¹⁾ ⁽⁵⁾
10.02	Rye	105.69 ⁽⁶⁾
10.03	Barley	107.28
10.04	Oats	93.64
10.05 B	Maize, other than hybrid maize for sowing	109.82 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	36.33 ⁽⁴⁾
10.07 C	Grain sorghum	102.95 ⁽⁴⁾
10.07 D	Canary seed; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	170.38
11.01 B	Rye flour	162.04
11.02 A I a)	Durum wheat groats and meal	245.35
11.02 A I b)	Common wheat groats and meal	183.60

⁽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 3442/82
of 22 December 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 21 December 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 23 December 1982.

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

Done at Brussels, 22 December 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 22 December 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 12	1st period 1	2nd period 2	3rd period 3
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	0	0	0
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0	0	10-35
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 12	1st period 1	2nd period 2	3rd period 3	4th period 4
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 3443/82
of 22 December 1982
fixing the import levies on rice and broken rice

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
1418/76 of 21 June 1976 on the common organization
of the market in rice ⁽¹⁾, as last amended by the Act of
Accession of Greece ⁽²⁾, and in particular Article 11 (2)
thereof,

Whereas the import levies on rice and broken rice
were fixed by Regulation (EEC) No 2371/82 ⁽³⁾, as last
amended by Regulation (EEC) No 3365/82 ⁽⁴⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 2371/82 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 the products listed
in Article 1 (1) (a) and (b) of Regulation (EEC) No
1418/76 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 23 December
1982.

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

Done at Brussels, 22 December 1982.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 291, 19. 11. 1979, p. 17.

⁽³⁾ OJ No L 255, 1. 9. 1982, p. 5.

⁽⁴⁾ OJ No L 354, 16. 12. 1982, p. 5.

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11a of Regulation (EEC) No 1418/76.

COMMISSION REGULATION (EEC) No 3444/82**of 22 December 1982****fixing the premiums to be added to the import levies on rice and broken rice**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
1418/76 of 21 June 1976 on the common organization
of the market in rice ⁽¹⁾, as last amended by the Act of
Accession of Greece ⁽²⁾, and in particular Article 13 (6)
thereof,

Whereas the premiums to be added to the levies on
rice and broken rice were fixed by Regulation (EEC)
No 2372/82 ⁽³⁾, as last amended by Regulation (EEC)
No 3366/82 ⁽⁴⁾;

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 shown in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The premiums to be added to the import levies fixed
in advance in respect of rice and broken rice shall be
as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 23 December
1982.

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

Done at Brussels, 22 December 1982.

For the Commission

Poul DALSAGER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 291, 19. 11. 1979, p. 17.

⁽³⁾ OJ No L 255, 1. 9. 1982, p. 8.

⁽⁴⁾ OJ No L 354, 16. 12. 1982, p. 7.

ANNEX

to the Commission Regulation of 22 December 1982 fixing the premiums to be added to the import levies on rice and broken rice

(ECU/tonne)					
CCT heading No	Description	Current 12	1st period 1	2nd period 2	3rd period 3
ex 10.06	Rice :				
	B. Other				
	I. Paddy rice ; husked rice :				
	a) Paddy rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	b) Husked rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	II. Semi-milled or wholly milled rice :				
	a) Semi-milled rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	b) Wholly milled rice :				
	1. Round grain	0	0	0	—
	2. Long grain	0	0	0	—
	III. Broken rice	0	0	0	0

COMMISSION REGULATION (EEC) No 3445/82

of 22 December 1982

fixing the export refunds on white sugar and raw sugar exported in the natural state

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 point (a) of the first subparagraph of Article 19 (4) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Council Regulation (EEC) No 766/68 of 18 June 1968 laying down general rules for granting export refunds on sugar⁽³⁾, as last amended by Regulation (EEC) No 1489/76⁽⁴⁾, provides that when refunds on white and raw sugar, undenatured and exported in the natural state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 3 of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽⁵⁾; whereas, furthermore, this refund should be fixed in accordance with Article 5 (2) of Regulation (EEC) No 766/68; whereas candy sugar is defined in Commission Regulation (EEC) No 394/70 of 2 March 1970 on detailed rules for granting export refunds on

sugar⁽⁶⁾, as amended by Regulation (EEC) No 1467/77⁽⁷⁾; whereas the refund thus calculated for aromatized sugars or for sugars with colouring added must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

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

- in the case of currencies which are maintained in relation to each other at any given moment within a band of 2.25 %, a rate of exchange based on their central rate,
- for other currencies, an exchange rate based on the arithmetic mean of the spot market rates of each of these currencies recorded for a given period in relation to the Community currencies referred to in the previous indent;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81 undenatured and exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 23 December 1982.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 74, 18. 3. 1982, p. 1.

⁽³⁾ OJ No L 143, 25. 6. 1968, p. 6.

⁽⁴⁾ OJ No L 167, 26. 6. 1976, p. 13.

⁽⁵⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁶⁾ OJ No L 50, 4. 3. 1970, p. 1.

⁽⁷⁾ OJ No L 162, 1. 7. 1977, p. 6.

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

Done at Brussels, 22 December 1982.

For the Commission

Poul DALSAER

Member of the Commission

ANNEX

to the Commission Regulation of 22 December 1982 fixing the export refunds on white sugar and raw sugar exported in the natural state

(ECU)

CCT heading No	Description	Amount of refund	
		per 100 kg	per percentage point of sucrose content and per 100 kg net of the product in question
17.01	Beet sugar and cane sugar, solid :		
	A. White sugar ; flavoured or coloured sugar :		
	(I) White sugar :		
	(a) Candy sugar	32.68	
	(b) Other	33.03	
	(II) Flavoured or coloured sugar		0.3268
	B. Raw sugar :		
	II. Other :		
	(a) Candy sugar	30.07 ⁽¹⁾	
	(b) Other raw sugar	30.39 ⁽¹⁾	

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 5 (3) of Regulation (EEC) No 766/68.

COMMISSION DECISION No 3446/82/ECSC

of 21 December 1982

fixing the rate of the levies for the 1983 financial year and amending Decision No 3—52 on the amount of and methods for applying the levies provided for in Articles 49 and 50 of the ECSC Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION :

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 49 and 50 thereof,

Having regard to Decision No 3289/75/ECSC on the definition and conversion of the unit of account to be used in decisions, recommendations, opinions and communications for the purposes of the Treaty establishing the European Coal and Steel Community ⁽¹⁾, as amended by Decision No 3334/80/ECSC ⁽²⁾,

Whereas, in view of the variations in average values recorded during the reference period, Decision No 3—52 of 23 December 1952 on the amount of and methods for applying the levies provided for in Articles 49 and 50 of the ECSC Treaty ⁽³⁾, should be amended ;

Whereas the requirements of the European Coal and Steel Community are estimated in the operational budget for the 1983 financial year at 268 million ECU ; whereas that budget, which was adopted by the Commission of the European Communities on 21 December 1982 in the form shown in the Annex to this Decision, indicates the amount of income to be provided from levies in the course of the financial year 1983 namely 128 million ECU ;

Whereas the estimated yield of the levies at a rate of 0.01 % is 4.14 million ECU ;

Having noted the opinion delivered on 14 December 1982 by the European Parliament,

⁽¹⁾ OJ No L 327, 19. 12. 1975, p. 4.

⁽²⁾ OJ No L 349, 23. 12. 1980, p. 27.

⁽³⁾ OJ of the ECSC No 1, 30. 12. 1952, p. 4.

Article 1

The rate of the levies on output from 1 January 1983 shall be 0.31 % of the figures used as the basis of assessment for such levies.

Article 2

Article 2 of Decision No 3—52, as last amended by Article 2 of Decision No 3758/81/ECSC ⁽⁴⁾, is hereby amended to read as follows :

‘The average value in ECU of the products on which the levies are assessed shall from 1 January 1982 be as follows :

(ECU)	
Product	Average value
Brown coal briquettes and semi-coke derived from brown coal	46.61
Hard coal of all categories	70.68
Pig iron other than that used for making ingots	162.00
Steel in ingots	234.60
Finished products and end products of iron and steel as described in Annex I to the Treaty	391.00'

Article 3

Article 4 of Decision No 3—52, as last amended by Article 3 of Decision No 3758/81/ECSC, is hereby amended to read as follows :

‘The scale provided for in Article 2 (4) of Decision No 2—52 shall accordingly be as follows, the figures being given in ECU :

⁽⁴⁾ OJ No L 374, 30. 12. 1981, p. 26.

Product	Assessment January 1983 and subsequent months, and collection March 1983 and subsequent months
Brown coal briquettes and semi-coke derived from brown coal ⁽¹⁾	0.14449
Hard coal of all categories ⁽²⁾	0.21911
Pig iron other than that used for making ingots	0.36416
Steel in ingots	0.63633
Finished products and end products of iron and steel as described in Annex I to the Treaty	0.29430

⁽¹⁾ For purposes of the deductions provided for in Article 3 the levy fixed above shall be applied to the net tonnage of brown coal and semi-coke derived from brown coal, less 3 %.

⁽²⁾ For purposes of the deductions provided for in Article 3 the levy fixed above shall be applied to the net tonnage of hard coal as defined in Article 1 of Decision No 2—52, less 14 %.

The amount of the levies per tonne to be paid in the currencies of the Member States of the Community shall be determined in accordance with Article 3 of Decision No 3289/75/ECSC.

Article 4

This Decision shall enter into force on 1 January 1983.

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

Done at Brussels, 21 December 1982.

For the Commission
Christopher TUGENDHAT
Member of the Commission

ANNEX

DRAFT ECSC OPERATING BUDGET FOR 1983

(million ECU)

Requirements	Estimates	Resources	Estimates
Operations to be financed from current resources (non-repayable)		Resources for the financial year	
1. Administrative expenditure	5	1. Current resources	
2. Social expenditure	150	1.1. Yield from levy at 0.31 %	128
2.1. Aid for resettlement (Article 56)	100	1.2. Interest on investments and on loans from non-borrowed funds	80
2.2. Social measures connected with restructuring of steel industry	50	1.3. Fines and surcharges for late payment	5
3. Aid for research (Article 55)	54	1.4. Miscellaneous	p.m.
3.1. Steel	23	2. Cancellation of commitments unlikely to be implemented	5
3.2. Coal	19.5	3. Revaluation of assets and liabilities	p.m.
3.3. Social	11.5	4. Unused resources carried over from 1982	p.m.
4. Interest subsidies ⁽¹⁾	53	5. Exceptional revenue	50
4.1. Investment (Article 54)			
4.2. Conversion (Article 56)			
5. Aid for coking coal and metallurgical coke (Article 95)	6		
	268		268
Operations financed by loans from non-borrowed funds		Origin of non-borrowed funds	
6. Subsidized housing	15	6. Special reserve and former ECSC Pension Fund	15

⁽¹⁾ In the event of resources exceeding requirements, the surplus will be allocated to interest subsidies.

COMMISSION REGULATION (EEC) No 3447/82

of 20 December 1982

amending quantitative limits fixed for imports of certain textile products
originating in certain third countries

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
3059/78 of 21 December 1978 on common rules for
imports of certain textile products originating in third
countries⁽¹⁾, as last amended by Regulation (EEC) No
661/82⁽²⁾, and in particular Articles 7, 9 (2) and 15
thereof,

Whereas, by Commission Regulation (EEC) No
661/82 quantitative limits agreed with third countries
are shared between the Member States for 1982;

Whereas, in the bilateral agreements, the Community
has given undertakings to the supplier countries to
adjust the allocation of limits among Member States in
such a way as to ensure optimum utilization and to
establish efficient and speedy procedures for adjusting
the allocations;

Whereas certain supplier countries have asked that the
allocation of Community quantitative limits among

the Member States be adjusted in order to take account
of the trend of trade flows, and to enable suppliers to
utilize agreed Community limits more fully;

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

HAS ADOPTED THIS REGULATION:

Article 1

Certain Member States' shares of the Community
quantitative limits for textile products originating in
certain third countries, as fixed in Annex IV to Regu-
lation (EEC) No 3059/78, are hereby amended for
1982 as laid down in the Annex.

Article 2

This Regulation shall enter into force on the
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, 20 December 1982.

For the Commission

Wilhelm HAFERKAMP

Vice-President

⁽¹⁾ OJ No L 365, 27. 12. 1978, p. 1.

⁽²⁾ OJ No L 82, 29. 3. 1982, p. 1.

ANNEX

Category	CCT heading No	NIMEXE code (1982)	Description	Third countries	Member States	Units	Quantitative limits from 1 January to 31 December 1982
2	55.09	55.09-03; 04; 05; 06; 07; 08; 09; 10; 12; 13; 14; 15; 16; 17; 19; 21; 29; 32; 34; 35; 37; 38; 39; 41; 49; 51; 52; 53; 54; 55; 56; 57; 59; 61; 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 83; 84; 86; 90; 91; 92; 93; 98; 99	Other woven fabrics of cotton:	Hungary	I UK	tonnes	94 417
			Woven fabrics of cotton, other than gauze, terry fabrics, narrow woven fabrics, pile fabrics, chenille fabrics, tulle and other net fabrics	Thailand	D F BNL UK DK	tonnes	5 098 (1) 846 (1) 1 484 (1) 1 612 (1) 957 (1)
2 a)		55.09-06; 07; 08; 51; 52; 53; 54; 55; 56; 57; 59; 61; 63; 64; 65; 66; 67; 70; 71; 80; 81; 82; 83; 84; 86; 90; 91; 92; 93; 98; 99	a) Of which other than unbleached or bleached	Hungary	I UK	tonnes	41 381
7	60.05 A II b) 4 aa) 22 33 44 55 61.02 B II e) 7 bb) cc) dd)	60.05-22; 23; 24; 25 61.02-78; 82; 84	Outer garments and other articles, knitted or crocheted, not elastic or rubberized:	Hungary	D F UK	1 000 pieces	81 56 39
			A. Outer garments and clothing accessories: II. Other Women's, girls' and infants' outer garments: B. Other: Blouses and shirt-blouses, knitted, crocheted (not elastic or rubberized), or woven, for women, girls and infants, of wool, of cotton or of man-made textile fibres	Indonesia	D F I BNL UK DK GR	1 000 pieces	1 077 370 94 642 535 123 5
8	61.03 A	61.03-11; 15; 19	Men's and boys' under garments, including collars, shirt fronts and cuffs:	Indonesia	D F I BNL UK DK GR	1 000 pieces	2 118 586 495 518 852 70 5
			Men's and boys' shirts, woven, of wool, of cotton or of man-made textile fibres	Poland	D UK	1 000 pieces	815 227
				Romania	D UK DK	1 000 pieces	3 364 660 198

(1) See Appendix.

Category	CCT heading No	NIMEXE code (1982)	Description	Third countries	Member States	Units	Quantitative limits from 1 January to 31 December 1982
25	60.04 B IV b) 2 aa) bb) d) 2 aa) bb)	60.04-51 ; 53 ; 81 ; 83	Under garments, knitted or crocheted, not elastic or rubberized :	Czecho-slovakia	F UK	1 000 pieces	114 42
			Women's, girls' and infants' (other than babies') knitted or crocheted pyjamas and nightdresses, of cotton or synthetic fibres	Hungary	UK GR	1 000 pieces	35 21
35	51.04 A IV	51.04-10 ; 11 ; 13 ; 15 ; 17 ; 18 ; 21 ; 23 ; 25 ; 27 ; 28 ; 32 ; 34 ; 36 ; 41 ; 48	Woven fabrics of man-made fibres (continuous), including woven fabrics of monofil or strip falling within heading No 51.01 or 51.02 : A. Woven fabrics of synthetic textile fibres : Woven fabrics of synthetic textile fibres (continuous) other than those for tyres and those containing elastomeric yarn :	South Korea	F I UK	tonnes	172 131 1 378
39	62.02 B II a) c) III a) 2 c)	62.02-40 ; 42 ; 44 ; 46 ; 51 ; 59 ; 65 ; 72 ; 74 ; 77	Bed linen, table linen, toilet linen and kitchen linen ; curtains and other furnishing articles : B. Other : Woven table linen, toilet and kitchen linen, other than of cotton terry fabric	Hungary	UK DK	tonnes	146 61
41	ex 51.01 A	51.01-05 ; 06 ; 07 ; 08 ; 09 ; 10 ; 12 ; 20 ; 22 ; 24 ; 27 ; 29 ; 30 ; 35 ; 36 ; 37 ; 39 ; 40 ; 45	Yarn of man-made fibres (continuous), not put up for retail sale : A. Yarn of synthetic textile fibres : Yarn of synthetic textile fibres (continuous), not put up for retail sale, other than non-textured single yarn untwisted or with a twist of not more than 50 turns per metre	Romania	D F I BNL UK IRL	tonnes	1 376 (277) (220) (123) (261) (10)
67	60.05 A II b) 5 B 60.06 B II III	60.05-93 ; 94 ; 95 ; 96 ; 97 ; 98 ; 99 60.06-92 ; 96 ; 98	Outer garments and other articles, knitted or crocheted, not elastic or rubberized : Knitted or crocheted fabric and articles thereof, elastic or rubberized (including elastic knee-caps and elastic stockings) : B. Other : Clothing accessories and other articles (except garments), knitted or crocheted, not elastic or rubberized ; articles (other than bathing costumes) of knitted or crocheted fabric, elastic or rubberized, of wool, of cotton, or of man-made textile fibres	South Korea	BNL UK	tonnes	78 547

Category	CCT heading No	NIMEXE code (1982)	Description	Third countries	Member States	Units	Quantitative limits from 1 January to 31 December 1982
110	62.04 A III B III	62.04-25 ; 75	Tarpaulins, sails, awnings, sunblinds, tents and camping goods : Woven pneumatic mattresses	Hungary	D UK DK	tonnes	830 479 53
117	54.05	54.05-21 ; 25 ; 31 ; 35 ; 38 ; 51 ; 55 ; 61 ; 68	Woven fabrics of flax or of ramie	Hungary	UK IRL	tonnes	91 198

Appendix to Annex

Category	Supplier country	Provision	
2	Thailand	The quantitative limits prescribed in the Annex include fabrics of synthetic fibres (discontinuous or waste) of category 3 ; within these limits the following sub-limits apply to cotton fabrics of category 2 :	
		(tonnes)	
			1982
		D	3 426
	F	312	
	BNL	801	
	UK	799	
	DK	800	

COMMISSION REGULATION (EEC) No 3448/82

of 22 December 1982

allocating the Community quantitative export quotas for copper ash and residues and waste and scrap

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1023/70 of 25 May 1970 establishing a common procedure for administering quantitative quotas⁽¹⁾, and in particular Article 2 thereof,

Whereas Council Regulation (EEC) No 3440/82 of 21 December 1982 on export arrangements for certain types of non-ferrous metal waste and scrap⁽²⁾ fixed Community quantitative export quotas for copper ash and residues and waste and scrap for 1983;

Whereas, in accordance with Article 3 of Regulation (EEC) No 3440/82, the quotas are to be allocated according to estimated needs and with regard to the export opportunities that already exist for the products in question;

Whereas it is necessary to provide for an adaptable and flexible method of administering the Community reserve which would allow all exporters equal and

continuous access to the quotas until they are used up;

Whereas, since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united within and jointly represented by the Benelux Economic Union, any measure concerning the administration of the shares allocated to that economic union may be carried out by any one of its members;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Quota Administration Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community quantitative export quotas opened by Regulation (EEC) No 3440/82 for the period 1 January to 31 December 1983 shall be allocated among the Member States as follows, without prejudice to Article 4 hereof:

		(tonnes)	
CCT heading No	Description	Quantity	
ex 26.03	Ash and residues of copper and copper alloys	Germany	7 700
		France	5 000
		Italy	2 550
		Benelux	1 150
		United Kingdom	2 400
		Denmark	700
		Ireland	—
		Greece	800
		+ Community reserve	2 000
74.01 D	Waste and scrap of copper and copper alloys	Germany	12 200
		France	9 200
		Italy	1 700
		Benelux	4 340
		United Kingdom	3 000
		Denmark	580
		Ireland	480
		Greece	300
		+ Community reserve	900

⁽¹⁾ OJ No L 124, 8. 6. 1970, p. 1.

⁽²⁾ See page 5 of this Official Journal.

Article 2

1. If 70 % or more of a Member State's initial share as specified in Article 1, or of that share minus the portion returned to the reserve where Article 4 is applied, has been used up, that Member State shall, by notifying the Commission, draw a second share equal to 15 % of its initial share, rounded up where necessary to the next unit, to the extent permitted by the amount of the reserve.

2. If, after its initial share has been used up, 70 % or more of the second share drawn by a Member State has been used up, that Member State shall, in accordance with the conditions imposed by paragraph 1, draw a third share equal to 7.5 % of its initial share, rounded up where necessary to the next unit.

3. If, after its second share has been used up, 70 % or more of the third share drawn by a Member State has been used up, that Member State shall, in accordance with the same conditions, draw a fourth share equal to the third.

This process shall continue to apply until the reserve is used up.

4. By way of derogation from paragraphs 1 to 3, a Member State may draw shares lower than those fixed in those paragraphs if there are grounds for believing that those fixed may not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 3

Supplementary shares drawn pursuant to Article 2 shall be valid until 31 December 1983.

Article 4

Member States shall return to the reserve, not later than 15 October 1983, the unused portion of their initial share which they estimate will not be utilized.

Member States shall, not later than 15 October 1983, notify the Commission of any quantities of the initial shares returned to the reserve.

Article 5

The Commission shall keep an account of the shares opened by the Member States pursuant to Articles 1

and 2 and shall, as soon as it has been notified, inform each State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 20 October 1983, of the amount still in reserve after amounts have been returned thereto pursuant to Article 4.

It shall ensure that the drawing which uses up the reserve is limited to the balance available and to this end shall specify the amount thereof to the Member State making the last drawing.

Article 6

1. Member States shall take all measures necessary to ensure that supplementary shares drawn pursuant to Article 2 are opened in such a way that exports may be charged without interruption against their accumulated shares in the Community tariff quota.

2. Member States shall ensure that exporters of the said goods established in their territory have free access to the shares allocated to them.

3. Member States shall charge exports of the said goods against their shares as and when such goods are presented to the customs authorities under cover of export authorizations or customs exports documents.

4. The extent to which a Member State has used up its share shall be determined on the basis of exports charged in accordance with paragraph 3.

Article 7

Member States shall supply the Commission with the information specified in Article 8 of Regulation (EEC) No 1023/70.

Article 8

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

It shall apply until 31 December 1983.

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

Done at Brussels, 22 December 1982.

For the Commission

Wilhelm HAFFERKAMP

Vice-President

COMMISSION REGULATION (EEC) No 3449/82**of 21 December 1982****on the quantities in respect of beef and veal products originating in Botswana, Kenya, Madagascar and Swaziland to be imported during 1983**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

Article 1

Having regard to Council Regulation (EEC) No 435/80 of 18 February 1980 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories⁽¹⁾, as last amended by Regulation (EEC) No 3019/81⁽²⁾, and in particular Article 23 thereof,

Applications for licences may be submitted, in accordance with Article 2 (4) of Regulation (EEC) No 486/80 during the first 10 days of January 1983 in respect of the following quantities of boned beef and veal :

Having regard to Commission Regulation (EEC) No 486/80 of 28 February 1980 laying down detailed rules for the application in beef and veal of Regulation (EEC) No 435/80⁽³⁾, as amended by Regulation (EEC) No 2377/80⁽⁴⁾, and in particular Article 2 (3) thereof,

Botswana :	18 916 tonnes
Kenya :	142 tonnes
Madagascar :	7 579 tonnes
Swaziland :	3 363 tonnes

Whereas Regulation (EEC) No 435/80 provides for the possibility of issuing import licences for beef and veal products ;

Article 2

Whereas the quantities in respect of which it will be possible to apply for licences from 1 January 1983 should be fixed,

This Regulation shall enter into force on 1 January 1983.

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

Done at Brussels, 21 December 1982.

For the Commission

Poul DALSAER

Member of the Commission

⁽¹⁾ OJ No L 55, 28. 2. 1980, p. 4.

⁽²⁾ OJ No L 302, 23. 10. 1981, p. 4.

⁽³⁾ OJ No L 56, 29. 2. 1980, p. 22.

⁽⁴⁾ OJ No L 241, 13. 9. 1980, p. 5.

COMMISSION REGULATION (EEC) No 3450/82

of 21 December 1982

fixing the quantities of frozen beef intended for processing which may be imported on special conditions for the first quarter of 1983

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by the Act of Accession of Greece, and in particular Article 14 (4) (a) and (c) thereof,

Whereas the Council, under the special import system applicable to frozen beef and veal intended for processing, has drawn up, for the period 1 January to 31 December 1983, an estimate of 60 000 tonnes divided into two equal quantities of 30 000 tonnes each, according to the type of product to be obtained;

Whereas, pursuant to Article 14 (4) (a) of Regulation (EEC) No 805/68, it is necessary to determine the quantities to be imported per quarter as well as the rate of reduction of the import levy for meat referred to in Article 14 (1) (b) of that Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the first quarter of 1983, the maximum quantities referred to in Article 14 (4) (a) of Regulation (EEC) No 805/68 shall be as follows:

- in respect of the meat referred to in Article 14 (1) (a) of Regulation (EEC) No 805/68, 7 500 tonnes of meat, expressed in bone-in meat,
- in respect of the meat referred to in Article 14 (1) (b) of the said Regulation, 7 500 tonnes of meat, expressed in bone-in meat.

Article 2

The levy on import of the meat referred to in the second indent of Article 1 shall be equal to the levy applicable on the day of import, less 55 %.

Article 3

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

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

Done at Brussels, 21 December 1982.

For the Commission

Poul DALSAER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

COMMISSION REGULATION (EEC) No 3451/82**of 21 December 1982****fixing the quantity of young male bovine animals which may be imported on special terms in the first quarter of 1983**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by the Act of Accession of Greece, and in particular Articles 13 (4), 15 (2) and 25 thereof,

Whereas the Council has established an estimate under the new import arrangements for young male bovine animals for fattening, for the period 1 January to 31 December 1983; whereas, under Article 13 (4) (a) of Regulation (EEC) No 805/68, the quantity which may be imported each quarter and the rate of reduction of the import levy on these animals must be determined;

Whereas detailed rules for the practical application of the special arrangements were laid down in Commission Regulation (EEC) No 612/77⁽²⁾, as amended by Regulation (EEC) No 1384/77⁽³⁾, and in Regulation (EEC) No 2377/80⁽⁴⁾, as last amended by Regulation (EEC) No 1617/82⁽⁵⁾;

Whereas the supply requirements of certain regions of the Community which have a serious deficit in bovine animals for fattening must be taken into account; whereas these requirements are apparent in Italy and in Greece and may be estimated for the first quarter of 1983 at 60 000 head and 9 500 head respectively in those Member States;

Whereas the supply requirements in young bovine animals for fattening justify, for the first quarter of 1983, a higher rate of reduction of the levy for animals weighing from 220 to 300 kilograms per head, originating in and coming from Yugoslavia;

Whereas the partial reduction of the levy is intended to help improve cattle rearing and beef and veal production structures in Italy and in Greece; whereas appropriate measures must therefore be taken to ensure that producers can, as far as possible, benefit directly from the arrangements without traditional trade being excluded; whereas this objective can be achieved by giving agricultural producers and their organizations priority when issuing the licences conferring entitlement to benefit from the arrangements;

Whereas, according to Article 9 (1) of Regulation (EEC) No 2377/80, the applicant shall undertake either to carry out himself or to have carried out under his responsibility the task of fattening; whereas, in the case of agricultural producers or their professional organization, it appears that the opportunity given to the applicant not to carry out himself the task of fattening could give rise to abuses in certain cases; whereas it seems appropriate consequently to abolish that opportunity for the quarter in question;

Whereas, in the case of import licence applications made by agricultural producers or their professional organizations, or the traditional trade, it is necessary, in order to permit a more equitable distribution of the quantities available, to limit the maximum quantity which each application may cover;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period from 1 January to 31 March 1983, the maximum quantity referred to in Article 13 (4) (a) of Regulation (EEC) No 805/68 shall be 71 500 head of young male bovine animals for fattening, of a live weight of 300 kilograms or less, of which 60 000 head must be imported into and fattened in Italy and 9 500 head must be imported into and fattened in Greece.

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 77, 25. 3. 1977, p. 18.

⁽³⁾ OJ No L 157, 28. 6. 1977, p. 16.

⁽⁴⁾ OJ No L 241, 13. 9. 1980, p. 5.

⁽⁵⁾ OJ No L 180, 24. 6. 1982, p. 24.

2. The levy charged on imports of the young bovine animals referred to in paragraph 1 shall be equal to the levy applicable on the day of import less 60 %.

However, the levy applicable on the day of import shall be reduced by 70 % in respect of a maximum of 15 300 young bovine animals weighing from 220 to 300 kilograms per head, originating in and coming from Yugoslavia.

This maximum quantity may be imported up to a maximum of :

- 13 000 head in Italy,
- 1 900 head in Greece, and
- 400 head in the other Member States.

3. The application for a licence and the licence shall be in accordance with Article 9 (1) (c) of Regulation (EEC) No 2377/80 and shall relate to :

- either young bovine animals of a weight per head not exceeding 300 kilograms, or
- young bovine animals of a weight per head of from 220 to 300 kilograms, originating in and coming from Yugoslavia.

In the latter case, Sections 13 and 14 of the application for a licence and the licence shall include one of the following entries :

- 'Jugoslavien',
- 'Jugoslawien',
- 'Γιουγκοσλαβία',
- 'Yugoslavia',
- 'Yougoslavie',
- 'Yugoslavia',
- 'Joegoslavië'.

The licence shall make it compulsory to import from the country indicated.

4. Member States shall specify in the communication referred to in Article 15 (4) (a) of Regulation (EEC) No 2377/80 the category of live weight, and the origin of the products in the case referred to in the second indent of the first subparagraph of paragraph 3.

5. Within the quantity reserved for Italy, import licences may be issued directly :

- (a) to agricultural producers or their organizations in respect of a maximum of 40 000 head, including a maximum of 8 660 head originating in and coming from Yugoslavia ;

Italy shall, for this purpose, specify the categories of applicants in the communication referred to in Article 15 (4) (a) of Regulation (EEC) No 2377/80 ;

- (b) to other applicants, in respect of a maximum of 20 000 head, including a maximum of 4 340 head originating in and coming from Yugoslavia.

6. Within the quantity reserved for Greece, import licences may be issued directly :

- (a) to agricultural producers or their organizations in respect of a maximum of 6 330 head, including a maximum of 1 260 head originating in and coming from Yugoslavia ;

Greece shall, for this purpose, specify the categories of applicants in the communication referred to in Article 15 (4) (a) of Regulation (EEC) No 2377/80 ;

- (b) to other applicants, in respect of a maximum of 3 170 head, including a maximum of 640 head originating in and coming from Yugoslavia.

Article 2

1. In the case of the quantity referred to in Article 1 (5) (a) and (6) (a) :

- (a) notwithstanding Article 9 (1) (d) of Regulation (EEC) No 2377/80, the applications for import licences lodged :

- by agricultural producers, directly or through their professional organizations, shall be acceptable only if the agricultural producers undertake in writing to fatten on their farms the young bovine animals imported under this Regulation,

- by professional organizations, shall be acceptable only if they undertake in writing to have the young bovine animals imported under this Regulation fattened on the farms of those who are found to be members of the said organizations at the time the declaration referred to in Article 1 (1) (d) of Regulation (EEC) No 612/77 is made ;

- (b) applications for import licences may not cover more than 100 head when made by individual applicants or more than 100 head per member when made by professional organizations. The total quantity applied for by a professional organization may not, however, exceed 2 500 head.

2. In the case of the quantity referred to in Article 1 (5) (b) and (6) (b), applications for import licences may not cover more than 10 % of that quantity.

3. Without prejudice to Article 1 (3) of Regulation (EEC) No 612/77, the security there referred to shall not be released, in whole or in part, unless proof is provided to the competent authorities of the Member State in question that the undertaking in paragraph 1 (a) has been complied with.

Article 3

For the purpose of Article 15 (3) of Regulation (EEC) No 2377/80, all applications from one applicant which relate to the same category of weight and the same rate of reduction of the levy shall be treated as one application.

Article 4

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

It shall apply with effect from 1 January 1983.

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

Done at Brussels, 21 December 1982.

For the Commission

Poul DALSGER

Member of the Commission

COMMISSION REGULATION (EEC) No 3452/82**of 21 December 1982****concerning the stopping of fishing for haddock by vessels flying the flag of a Member State**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2701/82 of 4 October 1982 on the conclusion of the Agreement in the form of an exchange of letters establishing fishing arrangements between the European Economic Community and the Kingdom of Norway for 1982 ⁽¹⁾, and notably Article 2 of the Agreement,

Whereas, in order to respect the aforesaid Agreement and notably the provisions relative to the quantitative limitations of catches of certain joint stocks, it is necessary that the Commission fixes the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the part of the TAC available to the Community;

Whereas the catches of haddock by vessels flying the flag of a Member State in Community waters of ICES

Divisions IIA (EEC zone) and IV reached the limit fixed in the aforesaid Agreement by 30 November 1982 and that it is necessary, from a date as close as possible, taking into account administrative requirements, to stop the fishery on this species,

HAS ADOPTED THIS REGULATION:

Article 1

Fishing for haddock in ICES Divisions II a) (EEC zone) and IV by vessels flying the flag of a Member State is forbidden as from 27 December 1982.

Article 2

This Regulation shall enter into force on 27 December 1982.

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

Done at Brussels, 21 December 1982.

For the Commission

Giorgios CONTOGEORGIS

Member of the Commission

⁽¹⁾ OJ No L 286, 9. 10. 1982, p. 4.

COMMISSION REGULATION (EEC) No 3453/82
of 22 December 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 3430/82⁽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 Regu-
lation (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 23 December
1982.

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

Done at Brussels, 22 December 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 361, 22. 12. 1982, p. 15.

ANNEX

to the Commission Regulation of 22 December 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	39.18
	B. Raw sugar	37.70 ⁽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 3454/82
of 22 December 1982
fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
2727/75 of 29 October 1975 on the common organi-
zation of the market in cereals ⁽¹⁾, as last amended by
Regulation (EEC) No 1451/82 ⁽²⁾,

Having regard to the opinion of the Monetary
Committee,

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

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

Whereas Council Regulation (EEC) No 2744/75 of 29
October 1975 on the import and export system for
products processed from cereals and from rice ⁽⁴⁾, as
last amended by Regulation (EEC) No 1459/82 ⁽⁵⁾,
defines the specific criteria to be taken into account

when the refund on these products is being calcu-
lated;

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

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

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

- in the case of currencies which are maintained in
relation to each other at any given moment within
a band of 2.25 %, a rate of exchange based on
their central rate,
- for other currencies, an exchange rate based on the
arithmetic mean of the spot market rates of each of
these currencies recorded for a given period in
relation to the Community currencies referred to
in the previous indent;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 23 December
1982.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 164, 14. 6. 1982, p. 22.

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

Done at Brussels, 22 December 1982.

For the Commission

Poul DALSGER

Member of the Commission

ANNEX

to the Commission Regulation of 22 December 1982 fixing the export refunds on malt

<i>(ECU/tonne)</i>	
CCT heading No	Refund
11.07 A I b)	91.77
11.07 A II b)	99.40
11.07 B	115.84

COMMISSION REGULATION (EEC) No 3455/82

of 22 December 1982

fixing the corrective amount applicable to the refund on malt

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
2727/75 of 29 October 1975 on the common organ-
ization of the market in cereals ⁽¹⁾, as last amended by
Council Regulation (EEC) No 1451/82 ⁽²⁾,

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

Having regard to the opinion of the Monetary
Committee,

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

Whereas Council Regulation (EEC) No 2744/75 of 29
October 1975 on the import and export system for
products processed from cereals and from rice ⁽⁴⁾, as
last amended by Regulation (EEC) No 1459/82 ⁽⁵⁾,
made possible the fixing of a corrective amount for
certain products listed in Article 1 (d) of Regulation
(EEC) No 2727/75;

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

Whereas, pursuant to that Regulation, when the
corrective amount is being fixed in respect of malt,
account must be taken of the existing situation and

the future trend with regard to the possibilities and
conditions for the sale of the cereals concerned and of
malt on the world market; whereas the same Regula-
tion also provides that account must be taken of the
quantity of cereals needed for making malt, the
economic aspect of exports and the need to avoid
disturbances on the Community market;

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

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

Whereas, if the system of corrective amounts is to
operate normally, corrective amounts should be calcu-
lated 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 recorded for a given period in
relation to the Community currencies referred to
in the preceding indent;

Whereas it follows from applying the provisions set
out above that the corrective amount must be as set
out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 16 (4) of
Regulation (EEC) No 2727/75 which is applicable to
export refunds fixed in advance in respect of malt
shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 January
1983.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 164, 14. 6. 1982, p. 22.

⁽⁶⁾ OJ No L 131, 22. 5. 1975, p. 15.

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

Done at Brussels, 22 December 1982.

For the Commission

Poul DALSGER

Member of the Commission

ANNEX

to the Commission Regulation of 22 December 1982 fixing the corrective amount applicable to the refund on malt

CCT heading No	(ECU/tonne)					
	Current 1	1st period 2	2nd period 3	3rd period 4	4th period 5	5th period 6
11.07 A I a)	0	0	0	0	0	0
11.07 A I b)	0	0	0	0	0	0
11.07 A II a)	0	0	0	0	0	0
11.07 A II b)	0	0	0	0	0	0
11.07 B	0	0	0	0	0	0

CCT heading No	(ECU/tonne)					
	6th period 7	7th period 8	8th period 9	9th period 10	10th period 11	11th period 12
11.07 A I a)	0	0	0	0	0	0
11.07 A I b)	0	0	0	0	0	0
11.07 A II a)	0	0	0	0	0	0
11.07 A II b)	0	0	0	0	0	0
11.07 B	0	0	0	0	0	0

COMMISSION REGULATION (EEC) No 3456/82**of 22 December 1982****fixing the maximum export refund for raw sugar for the 17th partial invitation to tender issued within the framework of the principal standing invitation to tender provided for in Regulation (EEC) No 2013/82**

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 the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 2013/82 of 20 July 1982 on a principal standing invitation to tender in order to determine levies and/or refunds on exports of raw sugar⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 2013/82, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 17th partial invitation to

tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund for the 17th partial invitation to tender for raw sugar issued under Regulation (EEC) No 2013/82 is hereby fixed at 32.519 ECU per 100 kilograms.

Article 2

This Regulation shall enter into force on 23 December 1982.

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

Done at Brussels, 22 December 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 216, 24. 7. 1982, p. 10.

COMMISSION REGULATION (EEC) No 3457/82**of 22 December 1982****fixing the maximum export refund for the 22nd partial invitation to tender for white sugar issued within the framework of the principal standing invitation to tender provided for in Regulation (EEC) No 2014/82**

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 the first subparagraph of Article 19 (4) (b) thereof,

Whereas Commission Regulation (EEC) No 2014/82 of 20 July 1982 on a principal standing invitation to tender in order to determine levies and/or refunds on exports of white sugar⁽³⁾ requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EEC) No 2014/82, a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 22nd partial invitation to

tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund for the 22nd partial invitation to tender for white sugar issued under Regulation (EEC) No 2014/82 is hereby fixed at 35.347 ECU per 100 kilograms.

Article 2

This Regulation shall enter into force on 23 December 1982.

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

Done at Brussels, 22 December 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 216, 24. 7. 1982, p. 15.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 December 1982

relating to a proceeding under Article 85 of the EEC Treaty (IV/29.629 — Rolled zinc products and zinc alloys)

(Only the French and German texts are authentic)

(82/866/EEC)

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Whereas :

Having regard to the Treaty establishing the European
Economic Community,

THE FACTS

A. General

(a) The products in question are :

1. *Rolled products of pure zinc or titanium zinc* in strip or sheet form for use in the building industry (wall and roof coverings, gutters, drain-pipes) and in the graphic arts.

Consumption of rolled products in the building sector varies markedly from one country to another depending on the methods and types of construction used. France, Germany, Belgium and the Netherlands are traditionally the largest consumers in Western Europe.

As far as production of zinc sheet is concerned, there are six rolling mills of various sizes in the Member States :

- Compagnie Royale Asturienne des Mines (hereinafter called CRAM), France,
- Rheinisches Zinkwalzwerk GmbH & Co. KG (hereinafter called RZ), Federal Republic of Germany,
- Société des Mines et Fonderies de la Vielle-Montagne (hereinafter called VM), France,
- Pertusola, France,
- Billiton, Netherlands,
- SAMIM, Italy.

Having regard to Council Regulation No 17 of 6 February 1962⁽¹⁾, first Regulation implementing Articles 85 and 86 of the Treaty, as last amended by the Act of Accession of Greece, and in particular Articles 3 (1) and 15 (2) thereof,

Having regard to the Commission Decision of 9 June 1981 to initiate proceedings,

Having given the undertakings concerned the opportunity to make known their views on the objections raised by the Commission, in accordance with Article 19 (1) of Regulation No 17 and with Regulation No 99/63/EEC of 25 July 1963 on the hearings provided for in Article 19 (1) and (2) of Council Regulation No 17⁽²⁾,

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

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

2. *Zinc alloys* intended mainly, after processing by pressurized casting, for the motor, electrical engineering and ironmongery industries.

The majority of such alloys are sold under the Zamak trade mark (95 % of French consumption).

Since the cost of constructing an alloying shop is not prohibitive, every crude zinc producer who has metal to spare tends to equip himself with a zinc alloying shop.

(b) The companies in question are :

— *Compagnie Royale Asturienne des Mines (CRAM)*

Although its head office is still in Belgium, the Company's main centre of activity is in France at the factory in Auby-les-Douai (département du Nord). It also has mining, industrial and commercial interests in Spain, Morocco and Norway.

Nominal rolled zinc products production capacity (i.e. for a standard product made by three shifts) is 80 000 tonnes per year. Real capacity is 52 000 tonnes per year.

In the case of alloys, nominal capacity is 30 000 tonnes per year.

— *Société des Mines et Fonderies de zinc de la Vieille-Montagne (VM)*

The head office is at Angleur, near Liège, Belgium, and it has factories in Belgium, France, Germany and Sweden.

It is one of the largest producers of zinc in the world.

It has a nominal annual rolled zinc products production capacity of 70 000 tonnes. Real annual capacity is 50 000 tonnes.

— *Rheinisches Zinkwalzwerk GmbH & Co. KG (RZ)*

This company, whose head office is at Datteln (Federal Republic of Germany, forms part of the international Metallgesellschaft Group.

It operates almost exclusively in the rolled and shaped zinc products sector.

It has a rolled zinc products production capacity of 40 000 tonnes per year.

— *Société Minière et Métallurgique de Penarroya (PYA)*

whose head office is in Paris, France, is a subsidiary of IMETAL, a member of the Rothschild

Group. Its main activities concern mining, metallurgy, refining, processing and chemistry of non-ferrous metals.

It ranks first among worldwide lead producers and eighth among zinc producers.

In 1971 it ceased production of rolled zinc products.

Its annual alloy producing capacity is approximately 15 000 tonnes.

— *Société anonyme de Prayon*

Prayon is a holding company which coordinates all the metallurgical, chemical and commercial activities of its subsidiaries. In 1977 it ceased production of rolled zinc products and it markets rolled zinc products processed under contract by CRAM, especially in Belgium and Germany.

B. The practices and agreements to which objection is taken

This Decision relates to the following concerted practices and agreements :

- I. measures to protect markets ;
- II. a contract relating to reciprocal supply and servicing ;
- III. rationalization measures for the production and distribution of rolled and alloyed zinc ;
- IV. a rationalization contract.

I. Measures to protect markets

In 1974, 1975 and 1976 different prices were charged for rolled products in the various EEC countries. The prices charged by RZ, CRAM and VM were, as a rule, higher in Germany and France than in other countries such as Belgium, Denmark and Luxembourg. Such price differences were also to be found in relation to prices charged in many non-member countries.

On the other hand, the prices charged by the three producers in one and the same country differed only slightly and, in some cases, not at all.

These disparities worked to the advantage of importers, who bought rolled zinc products in a country in which prices were low and resold them in a country where prices were higher.

At the beginning of 1975, with a view to carrying out such parallel imports, Gebr. Schiltz N.V. of Aartselaar, Belgium an importer of sanitary equipment, ordered rolled sheets measuring 2×1 and 3×1 m, from CRAM. CRAM demurred on the ground that, although the dimensions requested were widely sold in France and Germany, there was no demand for them in Belgium, and for that reason it refused to supply the goods.

Subsequently, Schiltz tried to obtain the same sheet metal by giving CRAM to believe that it was intended for re-export to Egypt. On that express condition, CRAM agreed to supply the goods requested and quoted Schiltz a price of FF 4 350 per tonne delivered free at the port of Antwerp for supply to Egypt, and at a price of FF 4 455 per tonne free at warehouse in Bruges in the case of supplies intended for resale in Belgium.

Schiltz was thus able, between February and October 1976, to secure a commitment from CRAM that it would supply a total of almost 2 000 tonnes of rolled products, a large proportion of which was immediately sent by Schiltz to his German customer Kestermann. The remainder was to pass through the hands of a Dutch wholesaler, ROBA, which in turn had a supply agreement with a customer in Germany.

CRAM clearly attached importance to strict compliance with the condition concerning exportation to Egypt. The invoices and other documents were all endorsed 'destination Egypt'. In various items of correspondence Schiltz was reminded of its undertaking and was asked to prove that it was being complied with by sending the relevant documents.

Between February and August 1976, orders for about 1 000 tonnes of rolled products were thus fulfilled. Between 8 September and 11 October, CRAM accepted four further orders for a total of 915 tonnes, the sale of which was confirmed.

On 13 October 1976 CRAM started to deliver these new orders at a rate of about two lorry-loads a day. These deliveries continued until 20 October, when they were suspended without any explanation. Prior to that date, approximately 220 tonnes had been dispatched in 11 lorry-loads of 20 tonnes each.

On Monday 8 November 1976, CRAM telephoned Schiltz, accusing it of having diverted to Germany all or part of the goods intended for Egypt and

threatening to terminate deliveries. Four days later, on Friday, 12 November, CRAM called upon Schiltz by telex to settle the 11 outstanding invoices for October and to increase them by the amount of the discount and expenses. CRAM's telex continues as follows:

'2. You will have to furnish proof that the 240 tonnes have been exported to Egypt, as you promised in your orders of 7 September 1976 and 8 September 1976. We confirm our telephone conversation of 8 November 1976 when we pointed out that according to our agents in Germany, the rolled zinc products we supplied to you for export to Egypt have been sold in whole or in part on the German market. In view of the special rates we quoted you for export to the Middle East, we feel this is a breach of good faith which justifies the above demands.

3. Not until points 1 and 2 have been settled will we discuss with you the question of the deliveries concerning the 631 tonnes for Egypt plus 44 tonnes for Iran. ...'

From April to October 1976, Schiltz used the same stratagem (ordering rolled zinc products for delivery to Antwerp with a view to re-exporting them to Egypt) *vis-à-vis* RZ. Still under the pretext of exporting to the Middle East, and in particular to Egypt, Schiltz ordered in turn from RZ 1 252 tonnes of rolled zinc products which it then proceeded to sell in Germany. The orders were fulfilled by RZ and dispatched to Antwerp at the prices then charged by that firm for its sales in Belgium, which were, at least initially, 19 % lower than those which it charged on the German market. To start with, at least, RZ delivered goods to Schiltz at prices virtually identical to those charged at that time by CRAM for its deliveries to the same exporter.

As in the case of orders from CRAM, RZ's supplies were granted to Schiltz on the express condition that they were re-exported to the Middle East, and in particular to Egypt (see telex from RZ dated 9 April 1976: 'We offer to you conditionally — and only for export overseas — ...' — 'Subject to acceptance of the country of destination, which has still to be named.' See also telex dated 22 April 1976: 'We should appreciate it if you would furnish proof of exportation as agreed ...').

This destination, which, as far as RZ was concerned, was a fundamental term of the agreement, was accepted by Schiltz since it confirmed, by telex dated 26 October 1976, an order for 550 tonnes accompa-

nied by the following instructions : 'Delivery : one ton pallet free at port of Antwerp Dock 130 at the premises of our freighter "United Stevedoring". Ask for "John". Each pallet must be marked "Genoa-Alex". Destination : via Genoa to Alexandria and Iran.'

But instead of being loaded onto ships bound for the Middle East, the rolled products were stored at the port of Antwerp, only to be loaded shortly afterwards onto lorries bound for Germany. So that the 'diversion' did not appear in the foreign trade statistics, Schiltz declared the goods to the customs as 'double galvanized sheet metal'.

At that time, its earlier orders had not yet been entirely fulfilled and a delivery in this connection was expected on 28 October.

This delivery was the last one, since RZ, having had two visits made to Schiltz's premises by its employees on 27 October in Antwerp and on 29 October at Kestermann's premises in Hertzen, had proof that the rolled zinc was being re-imported into Germany and it thus decided to cease making outstanding deliveries.

During this period, CRAM and RZ were maintaining regular contacts in connection with their trading policies and, in particular, their prices, as can be seen from telex 672/MY/SCN from RZ to CRAM dated Tuesday, 26 October 1976 :

'Change in prices of zinc semi-finished products in Germany

As a result of exchange rate trends and the resulting fall in raw material prices, the domestic German price of zinc in strip and sheet form has dropped from DM 318.20/100 kg to DM 307.90/100 kg with effect from 26 October 1976.

Basic gauge : 0.70 mm.

This price applies to quantities of at least five tonnes carriage paid. The current price differentiation according to different gauges remains unchanged.

This for your information.

Signed : MFG, Meyer, Rheinzink, Datteln'.

II. Contract between CRAM, RZ and VM concerning the reciprocal provision of emergency supplies

On 5 August 1974, CRAM, RZ and VM concluded a contract whereby they undertook to supply each other with rolled zinc products in the event of serious disruption resulting in significant loss of production at

any one of their factories, for whatever reason. Under the contract, each firm undertakes in those circumstances to supply the other parties by doing jobbing rolling work. The rolled products supplied must be of the same grades as those normally produced by the undertaking in deficit, and must bear the applicant's trade marks (Article 3 of the agreement). Assistance must be forthcoming as soon as the production shortfall of the undertaking invoking the agreement exceeds 20 tonnes per day, or a total of 200 tonnes (Article 1). The procedure is as follows :

'Article 4.2 : Each contracting party undertakes to effect delivery of not more than 1 500 tonnes on condition, however, that its own production is not disrupted. Where only one contracting party suffers a loss of production, it may only require that the shortfall be made up equally by the other two contracting parties ...'

'Article 4.3 : Where two contracting parties are affected simultaneously by a total loss of production, the third contracting party undertakes to supply not more than 2 000 tonnes per month to make up for the quantities lost and to divide that amount equally between the two contracting parties concerned, unless one of them asks for a smaller quantity. In the event of a partial loss of production by one or both contracting parties, the supplier shall determine the quotas corresponding to the losses in question ...'

Clauses 11.1 and 11.3 fix the duration of the contract of 5 August 1974 between CRAM, RZ and VM as follows :

- *Clause 11.1 :* 'This contract shall be valid until 31 December 1976 and shall be renewed for successive periods of one calendar year unless terminated in writing at least six months before the end of a calendar year by one or two contracting parties',
- *Clause 11.3 :* 'In the event of termination by only one contracting party, the contract shall remain in force between the two remaining contracting parties ...'

At the end of 1979, none of the three undertakings had availed itself of the right to terminate provided for in these clauses of the contract. One year later, therefore, the contract was still binding on the parties.

Even before conclusion of the contract, VM had secured delivery in 1972 and 1973 of 5 900 tonnes of rolled zinc products by RZ and 5 502 tonnes by CRAM, following delays in the commissioning of its new rolling mill.

Since the contract entered into force, it has been resorted to during the following periods and in the following circumstances :

- from April to June 1977, by the delivery by CRAM to VM, following stoppage due to a strike at the latter's plant, of 2 427 tonnes of rolled zinc products,
- from May to August 1977, again because of the strike, by the delivery by RZ of 850 tonnes of rolled zinc products to VM's German subsidiary.

According to VM, these two emergency operations were carried out 'in the spirit of the agreement concluded in 1974 between the three parties'; however, the terms were apparently negotiated separately between the parties concerned :

- in 1977, by the delivery by RZ to CRAM, following technical problems with the latter's slitting line, of 550 tonnes of rolled products out of an 'open-ended' contract for a total of 750 tonnes. These deliveries were stopped as soon as the defective machinery was again working properly.

III. *Rationalization measures agreed between CRAM and PYA in respect of the production and sale of rolled zinc products and zinc alloys*

On 4 May 1971, CRAM and PYA concluded a contract for the 'rationalization' and coordination of their respective activities in the field of rolled zinc products and zinc alloys. This contract is valid for an initial period of 15 years. Its term of validity is then automatically extended for periods of five years, unless terminated by one of the parties who must give three years' notice.

The contract is designed to establish, between two undertakings which manufacture the products covered by the agreement in France, close collaboration in the production of rolled zinc products and zinc alloys and, in respect of those same products, in investment, research, trade and distribution.

For production of rolled zinc products, the agreement includes the following clauses :

- *Clause I.2* : 'PYA undertakes to give jobbing rolling work to CRAM, and CRAM undertakes to carry out jobbing rolling work for PYA at its factory at Auby, involving a quantity of zinc corresponding to its sales requirements in France'.

- *Clause I.14* : 'During the lifetime of this agreement, save where CRAM is unable to honour its commitments and save, of course, as otherwise agreed with CRAM, PYA hereby undertakes to refrain, whether directly or indirectly, from rolling or causing to be rolled in France all grades of zinc or zinc alloys which CRAM might wish to roll using its continuous rolling mill. PYA also undertakes to refrain from importing into France rolled zinc products or zinc alloys which CRAM is capable of supplying.

Consequently, except in the circumstances provided for at I.12⁽¹⁾, PYA shall gradually close down its rolling mill at Noyelles-Godault ...'

As far as the production of alloys is concerned, point III — 'Proposal by PYA' — of the preamble to the contract states that ... 'PYA has undertaken the creation of an alloy production capacity. The workshop, which became operational at the beginning of 1971, has an initial annual production capacity of 10 000 tonnes of alloys: this tonnage represents the minimum which is technically necessary for starting production. Later on, PYA plans to increase its alloy production, its aim being gradually to supply 30 % of the French market by 1975.

This intention is justified by the desire to seek and promote increasingly elaborate applications for the crude metal with a view to increasing the return on the investment by each French producer in the context of harmonious long-term market growth.'

The agreement specifies as follows the consideration to be granted by CRAM to PYA in return for the latter's undertaking to terminate production of its rolled products :

- *Clause II.6* : '... as consideration for the closure of the rolling mill at Noyelles-Godault, CRAM shall not increase its alloy production capacity as long as that of PYA's workshop does not exceed 15 000 tonnes and shall, if necessary, reduce production by its alloy manufacturing shop in correlation with the undertaking to carry out processing on a jobbing basis, this being the consideration for the jobbing rolling work'.

⁽¹⁾ The clause referred to concerns the possible refusal by CRAM to roll certain types of zinc and zinc alloys, demand for which is too small for production to be economically viable.

- *Clause II.8*: 'In order to ensure full utilization of PYA's alloying shop and to enable CRAM to meet its customers' requirements, CRAM undertakes to give production work to PYA on a jobbing basis and PYA undertakes to produce for and supply to CRAM, in pursuance of a contract to undertake processing on a jobbing basis, a quantity of alloys equal to the difference between the requirements as stated by CRAM for its sales in France and production at CRAM's alloying shop. This quantity, unless agreed otherwise, shall be limited to 5 000 tonnes per year.

Such processing on a jobbing basis shall terminate at such time as PYA produces for its own sales in France an annual quantity of 15 000 tonnes'.

- *Clause II.11*: 'Orders placed by CRAM for processing by PYA shall be calculated so as to ensure full utilization of PYA's alloying shop up to a maximum of 5 000 tonnes of processing on a jobbing basis on behalf of CRAM'.
- *Clause II.15*: 'During the life of this agreement, save where PYA is unable to honour its commitments and save, of course, as otherwise agreed by PYA in advance, CRAM hereby undertakes to refrain, whether directly or indirectly, from producing or causing to be produced in France all grades of zinc alloys which PYA might wish to produce in its alloying shop ...'.

The agreement also applies to investment by the parties in the fields covered by the agreement.

Clauses I.14 (in fine) and II.6, which have already been quoted, testify to this since they require PYA, except in quite exceptional and, furthermore very improbable circumstances, 'gradually to close down its rolling mill at Noyelles-Godault' (I.14), and CRAM 'not to increase its alloy production capacity as long as that of PYA's workshop does not exceed 15 000 tonnes' (II.6) and to 'reduce, if necessary, production by its alloy manufacturing shop in correlation with the undertaking to carry out processing on a jobbing basis, this being the consideration for the jobbing rolling work' (II.6).

Clause II.7 supplements these terms as it states that 'once PYA has achieved its objectives as set out in the preamble, both companies shall cooperate with a view to creating new alloy production capacity'.

In the field of rolled products, the only field in which one of the parties undertakes to cease all production, Clause I.4 of the contract stipulates that 'PYA and CRAM pool the research which they have carried out separately into the rolling of zinc. Consequently, PYA shall transmit to CRAM the documents drawn up

following the work carried out by the Ecole des Mines, Paris, on behalf of PYA, and CRAM shall transmit to PYA the documents drawn up at Aubry and at Liège following the work carried out in casting, rolling and lubrication ...'.

The contract also contains clauses which directly concern trade with producers in other Community countries.

Under Clause I.14, PYA undertakes to refrain 'from importing into France rolled zinc products or zinc alloys which CRAM could supply itself'. Conversely, under Clause II.15 CRAM undertakes to refrain 'from importing into France zinc alloys which PYA is capable of supplying'.

The undertaking by CRAM to supply rolled products to PYA concerns only those quantities which satisfy 'the sales requirements in France' of that undertaking. This restriction is repeated in Clause I.9 of the agreement, under which 'the quantities which CRAM agrees to job roll shall correspond to the requirements as stated by PYA for its sales in France'.

Nevertheless, the scope of these clauses is restricted by Clause I.10, which stipulates that 'CRAM agrees, moreover, subject to its available capacity, to job roll for PYA, on terms to be agreed, zinc intended for sale outside France. Unless otherwise agreed, PYA shall refrain from exporting to Spain, Portugal and the Portuguese overseas territories, Norway or Sweden, and CRAM to Italy and Greece ...'.

A similar restriction concerning alloys is to be found in Clause II.14. This stipulates that 'PYA agrees, moreover, subject to its available capacity, to produce on a jobbing basis for CRAM, on the terms set out at II.8 (1), and II.9 (2), alloys for sale by CRAM outside France, on condition that CRAM does not export to Italy and Greece without prior agreement ...'.

Furthermore, as regards the marketing of zinc from sources other than CRAM in the event that CRAM should be unable to supply, PYA would have to comply with the rules of fair competition.

IV. *Rationalization agreement between CRAM and Prayon*

On 1 October 1977, CRAM and the Société de Prayon of Prayon-Trooz, Belgium (hereinafter called Prayon), concluded a 'rationalization' contract whereby Prayon undertook to obtain all its rolled zinc products requirements from CRAM under a contract for the jobbing rolling of crude zinc produced and supplied by Prayon.

The contract covers an initial period of 15 years. Its term of validity is then automatically extended for periods of five years, unless it is terminated by one of the parties who must give two years notice.

As regards the production by CRAM of rolled zinc products on behalf of Prayon and the undertaking by that firm to procure its supplies solely from the other party, the contract states:

- *Clause I.2*: 'Prayon undertakes to have rolled by CRAM and CRAM undertakes to job roll for Prayon at its factory at Auby, a quantity of zinc of not less than 7 000 tonnes and not more than 10 000 tonnes per year, corresponding to Prayon's normal requirements for sale in its traditional markets. This agreement shall take effect in full on 1 January 1979 ...'.
- *Clause I.3*: 'The processing on a jobbing basis shall be carried out on the terms of the most favoured colleague, namely: a flat-rate rolling charge will be paid to CRAM by Prayon ...' (the method for calculating the charge follows).
- *Clause I.12*: 'During the life of this agreement, save in the cases of non-competitiveness on the part of CRAM provided for in Articles I.9 and I.10, or save where CRAM is unable to honour its commitments or save, of course, where otherwise agreed by CRAM in advance, Prayon hereby undertakes to refrain, whether directly or indirectly, from rolling, causing to be rolled or supplying all quantities of zinc or zinc alloys which CRAM might wish to roll using its continuous rolling mill'.

The 'cases of non-competitiveness on the part of CRAM' which are mentioned in Clause I.12, and in which Prayon is therefore released from its obligations, relate exclusively, as far as rolled products are concerned, to circumstances in which CRAM does not offer Prayon terms comparable to those of its competitors in regard to its supplies 'intended for sale by Prayon outside its traditional markets or beyond its normal requirements' (Clause I.9).

LEGAL ASSESSMENT

1. The market protection measures (1976)

1. Concerted action to protect the German market

Various signs indicate that, at least in 1976 and on the occasion of the supplies to Schiltz of rolled zinc products allegedly intended for Egypt, a concerted practice existed as between CRAM and RZ, the main

purpose of which was to protect the German market in respect of sales of those products.

It was during the same brief period culminating on 21 October 1976 (cessation of deliveries by CRAM) and 29 October 1976 (cessation of deliveries by RZ) that these two producers exerted pressure on Schiltz in order to induce it to cease its exports to the Federal Republic of Germany.

It has been established that, on the same date as that on which CRAM suspended its deliveries for no apparent reason, namely 21 October 1976, RZ accused Schiltz of not complying with the export-to-Egypt clause. It is impossible to perceive only a coincidence in this identity of date when it is noted that, on 26 October 1976, RZ informed CRAM by telex of a reduction in its prices of approximately 3 % on the German market. This notification is devoid of purpose as between competitors other than as part of a concerted effort to combat together parallel exports to that market. In this connection, RZ has referred to direct supplies by CRAM which might have explained such a telex, but the content and tone of the telex in no way support any claim that it was intended to secure a reduction in CRAM's prices for supplies to RZ. The falseness of this argument is glaringly apparent from the reference in the telex to a price reduction for standard gauges, whereas CRAM has always supplied RZ, in very small quantities, with nothing but ultra-low gauges.

Furthermore, it is significant that CRAM awaited the outcome of the enquiries conducted by RZ in regard to Schiltz and Kestermann before demanding from Schiltz, on 8 November 1976, payment of the sums which were owed to it.

None of these findings can be explained other than by the existence of an exchange of information between CRAM and RZ with a view to taking parallel and concurrent action against Schiltz in a concerted practice for the protection of the German market's price for the level, by means in particular of preventing parallel exports or re-imports of rolled zinc products originating in Germany. Such a concerted practice falls within the scope of Article 85 in view of its obvious effect on trade between Member States.

2. Obligation to resell in a specific country

The clause stipulating that Schiltz shall export to Egypt the tonnages of rolled zinc products supplied by CRAM and RZ constitutes, by its very object, a restriction on competition. This clause limits the freedom of the subsequent seller to market the goods where he

wishes and is designed to enable the two producers to prevent any parallel imports within the common market.

In the case in point it is noteworthy that the prices which Schiltz was charged by RZ and CRAM for sales intended for Egypt were practically identical, or very close, to those charged by the same producers for sales intended for Belgium. The export-to-Egypt clause was thus essentially a means of protecting the producers' respective markets and above all the German market, which is the most vulnerable in view of the high level of prices and of the distribution facilities.

The export-to-Egypt clause also had a restrictive effect, since the suppliers immediately and permanently ceased supplies contracted for and refused the additional orders already received as soon as it became apparent that the clause was not being complied with and that the goods were being resold in Germany. RZ's attitude in this connection is unambiguous, as is that of CRAM, which refers to delays in payment by Schiltz, but which took 17 days to raise the matter with Schiltz following its sudden suspension of deliveries, without formally calling upon Schiltz to pay.

The restriction of competition which results from the obligation to resell in a specific country may itself affect trade between Member States to an appreciable degree owing to the fact that the subsequent seller is established in the common market, within which he must remain free to sell the goods where he wishes depending on the circumstances and *inter alia* on the prices quoted to him. In the present case, such resale from Belgium was an easy matter in the Federal Republic of Germany and even in France, since price levels in those countries were considerably higher.

Furthermore, the application of Article 85 (3) cannot be contemplated in the present case, firstly because it has not been requested, and secondly because there are none of the benefits referred to in that provision, in a clause which is, in reality, designed only to protect the respective markets of the producers. Even if, in certain circumstances, a clause concerning resale in a specific country might be granted an exemption, in this case there can be no question of an exemption in the light of RZ's and CRAM's prices.

Accordingly, the clause concerning resale in a specific country concluded between CRAM and Schiltz on the one hand, and between RZ and Schiltz on the other, is therefore caught by Article 85 of the Treaty.

II. Reciprocal assistance contract between CRAM, RZ and VM

1. The contract of 5 August 1974, whereby CRAM, RZ and VM undertook to supply each other with rolled zinc products in case of need, constitutes a restriction of competition by virtue both of its object and its effect, as it deprives the parties, at least in the situations for which it provides and which have occurred, of their independence of action and their ability to adapt individually to circumstances. Under the contract, each party undertakes not to benefit, by increasing direct sales to customers, from production stoppages or reductions in output sustained by the other parties, while conversely shielding itself against the risk of such action by the others.

The contract could oblige, and can still oblige, the parties to supply each other with considerable tonnages.

A contract of such general scope and of such long duration, being automatically renewable any number of times, institutionalizes mutual aid in lieu of competition and is likely to prevent any change in the respective positions on the market.

At the very time when an incursion by one party into the market of another could be accomplished with the least difficulty, especially as the products involved are virtually identical apart from the trade mark, the former party must, on the contrary, divert part of its production from the normal sales channel and supply it to the latter party. The effect of the contract will be to place the latter party in a position of dependence such that it will never use goods received under the contract for competitive purposes. The restriction noted is likely to affect trade between Member States, since it affects the conduct on their respective markets of three of the principal European producers of rolled zinc products.

2. Although, in the absence of any notification, the granting of an exemption pursuant to Article 85 (3) is ruled out, it must be stressed that the substantive conditions for such exemption are not met.

The parties have maintained that the agreement was concluded at a time when they were commissioning ultra-modern rolling plant whose operation was intricate, especially in the beginning, and that, consequently, the agreement was necessary to ensure supplies to subsequent sellers in the event of one of the new machines breaking down.

The Commission does not object to occasional and irregular deliveries between competitors. It considers that the compatibility of or likelihood of exemption for possible agreements on a non-exclusive basis, limited in time, for deliveries between competitors in order to guarantee supplies would have to be examined. In this case, however, no exemption is possible. Production cannot be held to have been improved since the investments had already been made. In any event, an agreement so widely cast and of such long duration would not have been necessary to accommodate the accident risk occasioned by lack of experience of the operation of the new machines. Similarly, distribution cannot be held to have been improved in respect of security of supply. Customers of a producer unable to supply would merely have had to organize the dispatch of the consignments requested without having abruptly to set up a new sales network, as has been claimed by the parties.

III. Measures agreed between CRAM and PYA concerning the production, supply and sale of rolled zinc products and zinc alloys

A. Restrictions of competition

1. Production

The contract of 4 May 1971 contains, as far as the production of rolled products and alloys is concerned, provisions in restraint of competition.

PYA's undertaking (Article I.14) to refrain from manufacturing rolled zinc products alters the structure of supply within the common market by reducing from three to two the number of producers on the French market, with the two remaining producers, CRAM and VM, accounting for more than half of Community production.

In reply to the Commission's objections on this point, it was claimed that PYA was obliged for other reasons to cease production of rolled zinc products. One cannot fail to note, however, that the agreement in question establishes a direct and indisputable link between such cessation of production, coupled with an undertaking to refrain therefrom for at least 15 years (minimum duration of the agreement) and the following undertakings by CRAM concerning alloys, which can be viewed only as a reciprocal measure. That is, moreover, how the Commission Française de la

Concurrence interpreted the agreement in its opinion of 8 February 1979.

For its part, CRAM renounced (Article II.6) its freedom to determine the level of its production of zinc alloys by undertaking not to increase its production capacity and even, if necessary, to reduce its production, until alloy production by PYA reached 15 000 tonnes per year.

Similarly, the mutual undertaking by CRAM and PYA (Article II.7) to cooperate in creating new alloy production capacity once PYA had reached its objective of 15 000 tonnes per year (30 % of the French market at that time) deprives the parties of their normal freedom of action in this respect.

The various clauses referred to above are therefore designed to restrict competition on the market in general and, between the parties themselves, at the production stage.

2. Supply and sales

The contract of 4 May 1971 also contains restrictions on the purchase and sale of goods which are, in fact, closely interwoven with the abovementioned restrictions.

Firstly, PYA undertakes, in respect of its sales in France (Article I.2), to procure rolled zinc products only from CRAM, which undertakes to supply PYA. In respect of its sales of the same products outside France, PYA is obliged (Article I.10) to grant CRAM preferential treatment on equal terms, which, despite the less rigorous term imposed, lessens its freedom of procurement. In both cases, the obligation on the part of CRAM to supply PYA may have the effect of reducing the amount of goods available for its own exports.

Even if CRAM were unable to supply the goods, in which case PYA becomes free once more to procure its supplies from third parties, the obligation on the part of PYA (Article I.13) to 'comply with the rules of fair competition' when marketing rolled products supplied by third parties is clearly designed to protect CRAM from any competitive disturbance, and implies fairly clearly that CRAM expects no less from PYA in respect of the marketing of rolled products which it itself supplies to the latter.

The prohibition imposed on CRAM (Article I.10) forbidding it to export to Greece and Italy completes, despite the fact that such exports could only be limited in quantity, the list of restrictions concerning rolled products.

As regards zinc alloys, CRAM undertakes (Article II.8) to order up to 5 000 tonnes from PYA (which undertakes to supply them) so as to enable the latter to attain a production of 15 000 tonnes per year. Although this provision is only one aspect of CRAM's undertaking, referred to above, to reduce if necessary its own production (Article II.6), it implies the supplying of goods to a company by a competitor on terms which rule out any competition.

On a more general plane, CRAM grants PYA preferential treatment in respect of all alloys supplied throughout the duration of the agreement (Article II.15). These provisions, together with those concerning production (see section A.1 above), imply an undertaking by the parties to refrain, when selling alloys, from competitive conduct likely to run counter to the objective of harmonization of production and of sales policies, which is clear from the agreement of 4 May 1971 (see *inter alia* Article I.3 of the preamble).

The various clauses referred to above must therefore be considered as being intended to restrict, at the procurement of supplies and distribution stages, competition between the parties in respect of the two types of product in question.

B. Effect on trade between Member States

The clauses referred to above concerning production and the sale of goods in Greece and Italy are likely to influence to an appreciable degree the opportunities which the parties have to export in the common market. Those concerning mutual supplies reduce the freedom of the parties to import goods from the common market, and even to export to it, at least in a fully competitive manner, as far as the obligation on the part of CRAM to supply PYA with rolled products, is concerned.

It must be stressed that, as far as alloys are concerned, the statement in the agreement (Article II.8 in fine) whereby the annual production by PYA of 15 000 tonnes would be 'for its own sales in France' does not lead to the confinement to sales in France only of the unconditional limitation of production capacity, or perhaps even of production, agreed to by CRAM.

The same applies to the mutual undertaking (Article II.7) to confer together regarding capacity once PYA had reached this objective of 15 000 tonnes per year. It is improbable that the cooperation agreed upon would cover only the capacity intended for sale in France,

with complete freedom of action being retained with regard to that intended for export.

Nor, as regards the undertaking by PYA to procure rolled products only from CRAM, does the reference (in Article I.2) 'to (PYA's) sales requirements in France' have the effect of leaving PYA free to procure supplies outside France. However, to make doubly sure, Article I.14 (end of first paragraph) formally prohibits it from doing so, save as indicated above in the event of CRAM being prevented from supplying the goods.

C. Inapplicability of Article 85 (3)

As a result of the failure to notify the agreement of 4 May 1971, it is not possible to contemplate its exemption pursuant to Article 85 (3) of the Treaty.

In this respect, the Commission would emphasize that it does not consider it impossible that it might, subject to the deletion or amendment of certain unnecessary or excessive provisions, have granted an exemption, for a limited period, under Article 85 (3) to the essential provisions of the agreement, in so far as they would have been likely to improve production or distribution by enabling PYA to penetrate the alloys market, while retaining its presence as a dealer on that in rolled products.

Nevertheless, should that have been the case, the Commission would not in view of the circumstances of the case have considered it indispensable for the purposes of Article 85 (3) that the restrictions provisionally allowed should have been agreed to for a period of 15 years, renewable for periods of five years.

Furthermore, the Commission could not have considered as indispensable the clauses concerning:

- PYA's undertaking to grant CRAM preferential treatment on equal terms for the supply of its sales requirements outside France,
- the prohibition on exports by CRAM of rolled zinc products to Italy,
- the prohibition on imports by PYA of rolled zinc products into France, save where CRAM is unable to supply.

IV. Rationalization contract between CRAM and Prayon

1. By letter dated 17 June 1981, the Commission complained to CRAM and Prayon about the commitment entered into by the latter under the agreement of 1 October 1977 to cease production of rolled zinc products.

It is clear from the undertakings' answers to the Statement of Objections and from the explanations given at the hearing that Prayon's decision to close down its rolling mill is unrelated to, and was taken before the conclusion of the contract of 1 October 1977. It was made for reasons of profitability and industrial policy. This being so, the objection concerning the undertaking to cease production of rolled zinc products must be dropped.

2. Nevertheless, the agreement of 1 October 1977 contains other provisions which restrict competition.

The undertaking to entrust to CRAM jobbing rolling work on its behalf, involving between 7 000 and 10 000 tonnes of zinc per year, on the terms 'of CRAM's most favoured customer' (terms defined precisely in the agreement) is likely to prevent Prayon from dealing, possibly on better terms, with another producer in the common market.

Prayon is also obliged (Article I.12 of the agreement) to approach CRAM alone for its supplies of rolled products 'beyond its normal requirements' (i.e. a maximum of 10 000 tonnes of zinc per year) or so as to enable it to supply goods 'outside its traditional markets'. It is only in these two sets of circumstances that CRAM loses its preference if it does not offer terms comparable to those of any third party. Despite this mitigating factor, the clause constitutes a restriction of competition in that it increases still further Prayon's dependence on CRAM.

These restrictions are appreciable and likely to affect trade between Member States owing both to the size of the undertakings in question and to their position as exporters.

3. A declaration of the inapplicability pursuant to Article 85 (3) of the EEC Treaty of the provisions of Article 85 (1) has not been requested and moreover could not have been granted.

According to the parties, the objective of the agreement is to enable Prayon to retain its presence on the rolled products market despite the closure of its rolling mill. CRAM's undertaking to carry out jobbing rolling work for Prayon is said to guarantee the latter supplies in such quantity and quality and on such terms as would enable it to continue to distribute the product. The sole rights granted to CRAM by Prayon in respect

of part of the work and the preferential treatment accorded in respect of the remainder are claimed to be necessary to guarantee CRAM continuous access to this outlet and to enable it to take certain technical and commercial measures.

In the present case, however, these obligations are, in view of their duration, not indispensable to the attainment of the objective of the agreement. No factor justifies an initial duration of 15 years with provision for renewal for five years, save where notice of termination is given subject to two years' notice. Such a long duration might be justified in the case of agreements which require major investment on the part of the supplier and which concern a specific product which the purchaser cannot easily procure elsewhere on the market. Not only, however, did CRAM underutilize its new rolling mill, but rolled zinc products, the subject matter of the agreement, were also produced by at least two other manufacturers.

ARTICLE 15 (2) OF REGULATION No 17

By virtue of Article 15 (2), the Commission may by decision impose on undertakings fines of from 1 000 to 1 000 000 ECU or a sum in excess thereof but not exceeding 10 % of the turnover in the preceding business year of each of the undertakings participating in the infringement where, either intentionally or negligently, they infringe Article 85 (1) of the Treaty. In fixing the amount of the fine, regard is to be had both to the gravity and to the duration of the infringement.

The Commission considers that fines should be imposed on CRAM and RZ in respect of their participation in a concerted practice for the protection of the German market against parallel imports of rolled zinc products by Schiltz.

These two undertakings, by their participation in this concerted practice, have infringed intentionally, or at the very least negligently, Article 85 (1) of the Treaty. They knew or should have known that the prevention of parallel exports is a serious infringement of Article 85 (1), as is made clear by a long line of judgments of the Court of Justice and Commission decisions.

With regard to the gravity of the infringement it is evident that CRAM and RZ tried, by means of the concerted practice, to impede the creation of a single market between the Member States of the Community, one of the EEC Treaty's fundamental aims.

With regard to its duration, the infringement began at the latest on 21 October 1976 and persisted until at least 29 October 1976, as has been shown above.

As for the amount of the fines, although the infringement is serious, account must be taken of the short duration of the concerted practice.

Furthermore, the responsibility of the two undertakings in the concerted practice is the same. However, the size of the two undertakings should be taken into account,

HAS ADOPTED THIS DECISION :

Article 1

1. The concerted action taken in 1976 by CRAM and RZ with a view to protecting the German market against parallel imports of rolled products by Schiltz constitutes an infringement of Article 85 of the Treaty.

2. The agreement concluded in 1976 between CRAM and Schiltz on the one hand, and between RZ and Schiltz on the other requiring the latter to resell rolled zinc products in a specific country with the object of restricting parallel imports into the Community constituted an infringement of Article 85 of the Treaty.

Article 2

1. For their involvement in the infringement referred to in Article 1 (1), the following fines are hereby imposed on the following undertakings :

- CRAM, a fine of 400 000 (four hundred thousand) ECU, i.e. FF 2 625 000,
- Rheinische Zinkwalzwerk GmbH and Co., a fine of 500 000 (five hundred thousand) ECU, i.e. DM 1 157 230.

2. These fines shall be paid

- by CRAM to Société Générale de Paris to the account of the Commission of the European Communities, No 5 770 006 5,
- by RZ to SAL Oppenheim, Cologne to the account of the Commission of the European Communities, No 64910,

within three months of the date of notification of this Decision.

Article 3

The reciprocal assistance contract dated 5 August 1974 between CRAM, RZ and VM constitutes an infringement of Article 85 of the Treaty.

Article 4

The following provisions of the contract of 4 May 1971 between CRAM and PYA constitute an infringement of Article 85 of the Treaty :

1. Undertaking by PYA to refrain from manufacturing rolled zinc products (Article I.14).
2. Undertaking by CRAM not to increase its production capacity in the field of zinc alloys as long as that of PYA does not exceed 15 000 tonnes per year, and to reduce, if necessary, its own production by having up to 5 000 tonnes per year produced on its behalf by PYA (Article II.6 and 8).
3. Mutual undertaking by CRAM and PYA to cooperate with a view to creating new alloy production capacity once PYA's production has reached 15 000 tonnes per year (Article II.7).
4. Undertaking by PYA to procure rolled products only from CRAM in respect of part (sale in France) of its requirements (Article I.2), to grant it preferential treatment on equal terms in respect of the remainder (Article I.10), and to 'comply with the rules of fair competition' when selling rolled products acquired from third parties in the event of CRAM's being unable to supply (Article I.13); prohibition on CRAM exporting rolled products to Greece and Italy (Article I.10) and on PYA importing rolled products save where CRAM is unable to supply (Article I.14).
5. Undertaking by CRAM to grant preferential treatment to PYA in respect of all supplies of alloys.

Article 5

The exclusive rights granted by Prayon to CRAM under their contract of 1 October 1977 as regards jobbing rolling up to a certain tonnage, and the preferential treatment on equal terms which is granted to it above that tonnage or with a view to non-customary sales, constitute an infringement of Article 85 of the Treaty.

Article 6

The parties referred to in Article 7 are hereby ordered to bring to an end forthwith the infringements established and to refrain in future from any contractual provision or concerted practice having the same effect.

Article 7

This Decision is addressed to :

1. in its entirety :

Compagnie royale asturienne des mines
42, avenue Gabriel
F-Paris Cedex 08 ;

2. as regards Articles 1, 2 and 3 :

Rheinisches Zinkwalzwerk GmbH & Co.
Bahnhofstraße 90
Postfach 4354
D-4354 Datteln ;

3. as regards Article 3 :

Société des mines et fonderies de zinc de la Vieille
Montagne SA
B-4900 Angleur, Liège ;

4. as regards Article 4 :

Penarroya SA
Tour Maine Montparnasse
33, avenue du Maine
F-75755 Paris ;

5. as regards Article 5 :

Société de Prayon SA
144, rue J. Wauters
B-4130 Engis.

This Decision shall be enforceable in accordance with
Article 192 of the Treaty establishing the European
Economic Community.

Done at Brussels, 14 December 1982.

For the Commission

Frans ANDRIESEN

Member of the Commission
