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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3284/83

of 14 November 1983

amending Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables as regards producers' organizations

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 14 of Council Regulation (EEC) No 1035/72 ⁽⁴⁾, as last amended by Regulation (EEC) No 2004/83 ⁽⁵⁾, makes provision for measures to encourage the formation and facilitate the operation of producers' organizations; whereas such measures consist, in particular, of two systems of aid:

- aid, in respect of the three years following the date on which they are formed, fixed in proportion to the value of marketed production only, and
- a transitional system for aid not exceeding the actual cost of formation and administrative operation concerned to be granted over a five-year period;

Whereas experience in the application of these measures has shown that some adjustment is necessary in order to ensure that producers' organizations comply more closely with the conditions laid down and that the period in respect of which aid is granted is more accurately and suitably determined;

Whereas the introduction of a system whereby producers' organizations are recognized and are granted aid on the basis of such recognition may help to meet some of these requirements; whereas provision should

also be made for producers' organizations to keep specific accounts in respect of activities for which recognition is given;

Whereas the second of the two systems of aid referred to above for the formation and operation of producers' organizations should, in the long term, help further to underpin the operation of the organizations concerned; whereas, accordingly, provision should be made for this particular system to be maintained definitely and for the level of the aid granted under it to be raised; whereas an adjustment in the method used for calculating the aid involving a reference to the value of the production actually marketed by the producers' organizations is also likely to help ensure that such organizations actually perform the tasks entrusted; whereas, however, provision should also be made for the possibility of having recourse to the first system of aid for a limited period;

Whereas the level of the aid to be granted should be determined accurately and in an appropriate manner in cases of mergers of organizations which already comply with the conditions;

Whereas measures by the producers' organizations, within the meaning of Article 13 of Regulation (EEC) No 1035/72, are likely to contribute towards attaining the objectives of the common market organization in the sector concerned; whereas in order to reinforce measures by these organizations, thus encouraging greater market stability, Member States should be permitted to extend, under certain conditions, to all producers not members of the organization in a region, the rules relating in particular to production and marketing adopted for its members by the organization or association in the region concerned;

Whereas, in order to ensure the correct application of the scheme thus amended, a permanent power to check this scheme should be granted to the Commission; whereas, to this end any extension of the marketing rules issued by the organization or association in question should be submitted to the Commission for its approval;

⁽¹⁾ OJ No C 281, 4. 11. 1981, p. 3.

⁽²⁾ OJ No C 182, 19. 7. 1982, p. 29.

⁽³⁾ OJ No C 112, 3. 5. 1982, p. 34.

⁽⁴⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁵⁾ OJ No L 198, 21. 7. 1983, p. 2.

Whereas application of the scheme described above entails expenditure by the organization or association whose rules have been so extended; whereas it is therefore appropriate to oblige non-member producers to contribute towards these costs; whereas it also seems desirable to oblige these producers to contribute towards the cost of certain measures undertaken by the organization or the association in question; whereas compensation should also be granted to these producers for products which, while complying with quality standards, cannot be marketed or which have been withdrawn from the market;

Whereas, in order to ensure greater market stability for certain sensitive products, provision should be made for public buying in where a state of serious crisis has been recorded by an accelerated procedure following a drop in prices; whereas, since the degree of development of the producers' organizations varies as between Member States and its influence on maintaining market stability in those States, provision should be made for exempting Member States from compulsory buying in where the producers' organizations control a sufficient share of production, or where the production of the product in question is very small in comparison to Community production;

Whereas experience has shown that certain producers store less perishable products beyond the marketing year corresponding to the year of harvest; whereas, to prevent these products depressing the market during the following marketing year and thus being able to benefit from intervention measures during that year, such measures should, except in certain abnormal circumstances, apply only to products marketed during the marketing year in which they were harvested;

Whereas Article 23 of Regulation (EEC) No 1035/72 lays down certain criteria to be taken into account when fixing reference prices in the fruit and vegetables sector;

Whereas reference prices will help to ensure Community preference if the variation of their level takes account in a more systematic manner of production cost trends;

Whereas, in order to calculate reference prices for citrus fruit, the existing link between trends in the basic price and the buying-in price, in financial compensation and reference prices should be modified; whereas at the same time the reference prices should be updated to take account to a certain extent of the delay that this link has caused in the development of reference prices;

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1035/72 is hereby amended in accordance with the following Articles 2 to 11.

Article 2

Article 13 is replaced by the following:

Article 13

1. For the purposes of this Regulation, "producers' organization" means any organization of fruit and vegetable producers:

(a) which is formed on the producers' own initiative for the purposes, in particular:

- of promoting the concentration of supply and the stabilization of prices at the producer stage in respect of one or more of the products referred to in Article 1, and
- of making suitable technical facilities available to producer members for presenting and marketing the relevant products;

(b) which requires the producer members:

- to sell through the producers' organization their total output of the product or products by reason of which they have become members; the organization may, however, waive this requirement in respect of certain quantities,
- to apply, with regard to production and marketing, rules which have been adopted by the producers' organization with a view to improving product quality and adapting the volume of supply to market requirements, and
- to provide the information requested by the organization on harvests and supplies;

(c) which has been recognized by the Member State concerned pursuant to paragraph 2.

2. Member States shall at the request of the organizations concerned grant them the recognition referred to in paragraph 1 (c) if:

- there is sufficient evidence as regards the duration and effectiveness of their activities, in particular the tasks referred to in paragraph 1,
- from the date of recognition they keep specific accounts in respect of the activities for which recognition is sought.

Member States :

- shall take a decision on the granting of recognition within three months from the filing of the request,
- shall notify the Commission, within a time limit of two months, of any decision to grant, refuse or withdraw recognition,
- shall draw up each year a report on the application of this Article and of Article 14 and forward it to the Commission by 1 April and for the first time by 1 April 1985. The report shall describe, in particular, the functioning of producers' organizations and the size of the output marketed through them in the various regions.'

Article 3

Article 14 is replaced by the following :

'Article 14

1. Member States may grant aid to recognized producers' organizations in respect of the five years following the date of their recognition, to encourage their formation and to facilitate their administrative operation. The amount of such aid :

- shall be, for the first, second, third, fourth and fifth years respectively, 5 %, 5 %, 4 %, 3 % and 2 % of the value of production marketed under the auspices of the producers' organization,
- shall not exceed the actual cost of formation and administrative operation of the organization concerned,
- shall be paid in annual instalments for a maximum of seven years following the date of recognition.

The value of each year's production shall be calculated on the basis of :

- the annual volume actually marketed in accordance with Article 13 (1) (b), first indent,
- the average producer prices obtained.

2. However, notwithstanding paragraph 1, Member States may grant to producers' organizations recognized before 1 July 1988 aid not exceeding, for the first, second and third years respectively, 3 %, 2 % and 1 % of the value of production marketed under the auspices of the producers' organization.

In such cases :

- (a) in respect of each year, the value of production marketed shall be calculated on a standard basis, namely :

- producer members' average marketed production during the three calendar years immediately preceding the year in which they became members,
- average producer prices obtained by those members over the same period ;

- (b) the aid shall be paid in annual instalments for a maximum of five years following the date of recognition.

3. Producers' organizations deriving from organizations which already comply to a large extent with the conditions of this Regulation shall qualify for aid under this Article only if they are formed as the result of a merger enabling the objectives referred to in Article 13 to be achieved more effectively.

However, in such a case, the aid shall be granted only in respect of the cost of formation of the organization (expenditure incurred in connection with the preparatory work and the drawing up of the memorandum and articles of association).

4. Member States may, during the five years immediately following the setting up of the intervention fund referred to in Article 15, grant aid to producers' organizations, either directly or through credit institutions, in the form of loans on special terms to cover part of the anticipated cost of the market intervention operations referred to in Article 15.

5. The aid referred to in this Article shall be notified to the Commission in a report from the Member States at the close of each financial year.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33.'

Article 4

The following Article 15b shall be inserted :

'Article 15b

1. In cases where

- a producers' organization or
- an association of producers' organizations having adopted the same rules,

operating in a specific economic area, is considered to be representative of production and producers in that area, the Member State concerned may, at the request of the organization or association and, during the first three years of application, after

consultation with the producers in the area, make the following rules binding on producers established in the area who do not belong to one of the organizations referred to above :

- (a) the rules on notifying production referred to in the third indent of Article 13 (1) (b) ;
- (b) the rules on production referred to in the second indent of Article 13 (1) (b) ;
- (c) the rules on marketing referred to in the second indent of Article 13 (1) (b) ;
- (d) for products listed in Annex II, the rules adopted by the organization or association with regard to market withdrawals, provided that the withdrawal price does not exceed the level laid down in Article 18 (1) (a),

on condition that these rules have been in force for at least one year.

2. For the purposes of this Article "economic area" shall be understood to mean a region made up of bordering or neighbouring production zones in which production and marketing conditions are homogeneous.

3. Member States shall notify the Commission of the rules which they intend to make binding on all producers in a specific economic area.

4. The rules which are made binding on all producers in a specific economic area must not cause any harm to intra-Community trade.

5. The rules referred to in paragraph 1 (c) may not be made binding until after they have been approved by the Commission. The Commission shall decide not later than 45 days after such rules are notified.

6. The Commission shall decide that the rules notified cannot be made binding, or shall repeal the extension of the rules decided on by the Member State,

- if it finds that the extension in question excludes competition in a substantial part of the common market or jeopardizes free trade, or that the objectives of Article 39 of the EEC Treaty are endangered,
- if it finds, pursuant to Article 2 of Regulation No 26, that Article 85 (1) of the Treaty is applicable to the agreement, decision or practice, the extension of which is notified or decided. The Commission's decision with regard to that agreement, decision or practice shall apply only from the date of such finding.

7. Member States shall take all appropriate measures

- to ensure that the rules referred to above are respected,
- to penalize infringements of these rules.

They shall notify the Commission of such measures immediately.

8. Where paragraph 1 is applied, the Member State concerned may decide that non-member producers are liable to the organization, or where appropriate the association, for all or part of the membership fees paid by the producer members in so far as these are used to cover :

- administrative costs resulting from application of the scheme referred to in paragraph 1,
- the cost of research, market research and sales promotion measures undertaken by the organization or association and benefiting all producers in the area.

9. Where paragraph 1 (c) and (d) is applied, Member States shall, through the producers' organizations or any other agency or natural or legal persons designated for the purpose, ensure the withdrawal of those products which do not comply with the marketing rules or which have not been able to be sold at a price level at least equal to the withdrawal price.

10. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the general rules for this Article.

11. The Member States shall forward the list of economic areas referred to in paragraph 2 to the Commission. Within one month after forwarding, the Commission shall approve the list or shall, after consultation with the Member State concerned, decide on the amendments which the latter must make to it.

12. The rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 33.

13. On expiry of the third year of application of the arrangements defined in this Article the Commission shall forward to the Council a report accompanied by, where appropriate, proposals enabling the Council to decide whether the arrangements referred to above should be maintained, amended or repealed.

As long as the Council has not taken a decision, the Article shall remain in force.'

Article 5

The following Article 18a shall be inserted:

'Article 18a

1. Where the provisions of Article 15b (1) (c) and (d) are applied, the Member State shall grant compensation to non-member producers in respect of the quantities of products covered by Annex II

— which cannot be marketed pursuant to Article 15b (1) (c), or

— which have been withdrawn from the market pursuant to Article 15b (1) (d).

2. This compensation shall be calculated in accordance with the second subparagraph of Article 19 (2).

3. Article 18 (3) shall apply to the granting of the compensation for products withdrawn from the market.

4. Detailed rules for the application of this Article shall be adopted where necessary in accordance with the procedure laid down in Article 33.'

Article 6

In Article 19 (1), 'peaches' is replaced by 'apricots, aubergines, peaches and tomatoes'.

In Article 19 (2), 'Article 15 (1)' is replaced by 'Article 15 (1) and 15b (1)'.

Article 7

Article 19a is replaced by the following:

'Article 19a

1. Notwithstanding Article 19, in cases where, for pears during the period 1 July to 31 August, for peaches, apricots, tomatoes and aubergines and on one of the representative markets referred to in Article 17 (2), the prices communicated to the Commission pursuant to paragraph 1 of that Article remain below the buying-in price, plus 5 % of the basic price, for two consecutive market days, the Commission shall, without delay, record that the market in the product in question is in a state of serious crisis.

2. Upon that finding, the producer Member States shall, through the body or the natural or legal persons appointed by them for the purpose, buy in the products of Community origin offered to them, provided that these products satisfy the quality and grading requirements laid down by the

quality standards and that they have not been withdrawn from the market pursuant to Article 15 (1) or Article 15b (1). The products concerned shall be bought in at the price referred to in the second subparagraph of Article 19 (2) obtaining in the Member State in which the product originated.

3. Buying-in operations shall be suspended as soon as prices remain higher than the buying-in price plus 5 % of the basic price for two consecutive market days. Once this condition is fulfilled, the Commission shall record the fact without delay.

4. The Commission may exempt a producer Member State at its request from the obligation laid down in paragraph 2 provided that:

— in that Member State at least two-thirds of the national output of the product concerned is marketed through producers' organizations, or if

— in that Member State the national output of the product concerned is less than 8 % of the average Community output of that product; if a Member State makes the request for summer pears, the percentage may be 12 %.

5. Where the representative production markets in a given Member State do not permit the recording of prices the provisions referred to in paragraphs 1, 2 and 3 may be applied on the basis of the prices recorded at the wholesale stage on the most representative markets in the Member State concerned.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedures laid down in Article 33.'

Article 8

The following Article 19b shall be inserted:

'Article 19b

Intervention operations may be carried out pursuant to this Regulation only in respect of products which are marketed in the marketing year during which they were harvested.

However, where abnormal circumstances so justify, measures derogating from the first subparagraph may be adopted in accordance with the procedure referred to in Article 33.'

Article 9

In Article 20 (1), 'Articles 18, 19 and 19a' is replaced by 'Articles 18, 18a, 19 and 19a'.

Article 10

In Article 21 (1) and (2), 'under Article 18' is replaced by 'under Articles 15b and 18'.

Article 11

1. The first subparagraph of Article 23 (2) is replaced by the following :

'2. Reference prices shall be fixed for the first marketing year of application :

- on the basis of the arithmetic mean of producer prices in each Member State plus the amount defined in paragraph 4.
- taking into account the trend in production costs in the fruit and vegetables sector.

For subsequent marketing years they shall be fixed :

- (a) for oranges, mandarins, satsumas, tangerines and other similar citrus hybrids, with the exception of clementines, until the 1989/90 marketing year at a level equal to that of the previous marketing year adjusted by an amount equal to the difference between, firstly, the amount resulting from the application to that reference price of the percentage increase in the basic prices and the buying-in prices in relation to the preceding marketing year, and, secondly, the amount corresponding to the increase in the financial compensation laid down by Regulation (EEC) No 2511/69 in relation to the said marketing year ;
- (b) for the other products at a level equal to that of the previous year, plus, after deduction of the amounts referred to in paragraphs 2a and 4,
 - a percentage corresponding to that of the average production cost trend in the fruit and vegetables sector less a figure corresponding to the growth in productivity,
 - the amounts referred to in paragraphs 2a and 4 applying to the marketing year in question.

However, the level thus obtained may not exceed the arithmetic mean of producer prices of each Member State plus the amounts defined in paragraphs 2a and 4, plus a figure corresponding to the trend in production costs in the fruit and vegetables sector, less a figure corresponding to the growth in productivity; the level to be adopted may moreover not be less

than the reference price of the previous marketing year.

However, when calculating the reference prices of lemons, clementines and other citrus fruits referred to in the previous subparagraph, the amount of the reference price shall be increased beforehand by up to 15 % in order to take into account the difference between the amounts representing :

- on the one hand, the trend that reference prices for these products would have followed, had there been no variation in the financial compensation, and
- on the other hand the trend recorded for that compensation.

This increase shall be shared in equal parts between the first two marketing years following the date of entry into force of Regulation (EEC) No 3284/83.'

Article 12

1. In the case of producers' organizations which, before the date of entry into force of this Regulation, and acquired entitlement to aid under Article 14 (1) or (1) (a) of Regulation (EEC) No 1035/72 in the version which applied up to that date :

- (a) those provisions shall continue to apply to annual payments yet to be made where the first annual payment had been made without granting the recognition referred to in Article 13 (2) of Regulation (EEC) No 1035/72 as it appears in this Regulation ;
- (b) at their request, Article 14 (1) of Regulation (EEC) No 1035/72, as it appears in this Regulation, shall apply if, by the date on which recognition was granted in accordance with Article 13 (2) of the said Regulation, no annual payment had yet been made.

From the date of entry into force of this Regulation no further rights to aid under the version which is applicable up to that date of Article 14 (1) or (1) (a) of Regulation (EEC) No 1035/72 may be acquired.

2. The producers' organizations which have not been granted the recognition referred to in Article 13 (2) of Regulation (EEC) No 1035/72 shall cease to be entitled to the financial compensation referred to in Article 18 at the end of a period of 12 months calculated from the date of entry into force of this Regulation ; for Greece, however, the period shall be 24 months.

Article 13

This Regulation shall enter into force as soon as the Community has presented to the two candidate countries its declaration concerning the accession negotiations on fruit and vegetables.

The Council, acting by a qualified majority, on a proposal from the Commission, shall note when the

condition referred to in the first paragraph has been fulfilled and shall fix the date on which this Regulation shall enter into force in accordance with that paragraph.

However, Article 11 shall apply to each product as from the beginning of the year following the date of entry into force of this Regulation.

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

Done at Brussels, 14 November 1983.

For the Council

The President

C. SIMITIS

COUNCIL REGULATION (EEC) No 3285/83**of 14 November 1983****laying down general rules for the extension of certain rules issued by producers' organizations in the fruit and vegetables sector**

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽¹⁾, as last amended by Regulation (EEC) No 3284/83⁽²⁾, and in particular to Article 15b thereof,

Having regard to the proposal from the Commission,

Whereas pursuant to Article 15b of Regulation (EEC) No 1035/72, Member States may, in certain circumstances, extend to the generality of non-member producers established in a defined economic area, certain rules issued, for its members, by a producer organization considered as being representative of production and marketing in that area;

Whereas the representative nature of the organization concerned must be established on the basis of the scale of the production and marketing activity undertaken by that organization in the market of the area concerned; whereas, in order to facilitate the implementation of this system, the criteria to be laid down for the representative nature should be less strict than for the future; whereas, however, for this first period of application provision should be made that the rules applied by an organization or a representative association may not always be extended if they meet with substantial opposition from producers in the area;

Whereas, in order to harmonize the application of the system described above in the Member States, the rules which may be extended to non-members should be defined;

Whereas, where produce is sold on the tree, the rules extended to the producer and the buyer respectively should be specified;

Whereas, in order to provide the said system with the necessary flexibility, the period of application of the extended rules should not exceed a certain period,

Article 1

This Regulation lays down general rules for implementing the system under which the rules of producers' organizations in the fruit and vegetables sector are to be extended to non-members, as provided for in Article 15b of Regulation (EEC) No 1035/72.

Article 2

The producers referred to in this Regulation are those whose produce is basically intended for marketing.

Article 3

A producers' organization or association of producers' organizations shall be considered representative within the meaning of Article 15b (1) of Regulation (EEC) No 1035/72:

- during the first three years of the application of this Regulation, if it covers more than 50 % of the producers in the economic area in which it operates and more than 50 % of the production of that area,
- for following years, if it covers at least two-thirds of the producers in the economic area in which it operates and at least two-thirds of the production of that area.

Article 4

During the period referred to in the first indent of Article 3, the rules referred to in Article 15b of Regulation (EEC) No 1035/72 shall not have a binding effect where, under the consultations provided for in paragraph 1 of that Article, at least one-third of the producers in that area make known their opposition.

Article 5

The rules which may have a binding effect upon producers established in a given area who are not members of a producers' organization as referred to in Article 15b of Regulation (EEC) No 1035/72 shall be those covering the activities listed in the Annex.

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽²⁾ See page 1 of this Official Journal.

Article 6

1. In cases where a producer not belonging to a producers' organization sells his produce on the tree, the buyer shall, for the purposes of compliance with the rules referred to in point 1 (e) and (f), point 3 (a), (b), (c) and (d) and point 4 of the Annex, be considered as having produced that produce.

2. The rule referred to in point 4 of the Annex shall apply on the re-sale of the product.

3. The Member State concerned may decide that rules listed in the Annex other than those referred to in paragraph 1 may have a binding effect upon buyers where the latter are responsible for orchard management.

Article 7

Rules made binding under Article 15b of Regulation (EEC) No 1035/72 shall apply in respect of each product :

- for a period of not more than three marketing years in the case of the rules referred to in points 1, 2 and 4 of the Annex,
- until the end of each marketing year at the latest in the case of the rules referred to in point 3 of the Annex.

Article 8

This Regulation shall enter into force as soon as the Community has presented to the two candidate countries its declaration concerning the accession negotiations on fruit and vegetables.

The Council, acting by a qualified majority on a proposal from the Commission, shall note when the condition referred to in the first paragraph has been fulfilled and shall fix the date on which this Regulation shall enter into force in accordance with that paragraph.

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

Done at Brussels, 14 November 1983.

For the Council

The President

C. SIMITIS

ANNEX**Restrictive list of those rules applied by producers' organizations which may be extended to non-member producers under Article 15b of Regulation (EEC) No 1035/72**

1. *Rules covering information on production* (Article 13 (1) (b), third indent):
 - (a) declarations of planting intentions, by product and possibly by variety;
 - (b) notification of plantings;
 - (c) declarations of total area under cultivation, broken down by product and if possible by variety;
 - (d) declarations of anticipated harvest, with expected dates, by product and if possible, by variety;
 - (e) periodic declarations of quantities harvested and/or available stocks, by variety;
 - (f) information on storage capacity.
 2. *Rules covering production* (Article 13 (1) (b), second indent):
 - (a) use of specified seed depending on the intended outlet (fresh food market, industrial processing);
 - (b) rules on the thinning out of orchards.
 3. *Rules covering marketing* (Article 13 (1) (b), second indent):
 - (a) prescribed dates for the beginning of harvesting and the staggering of marketing in the case of pome and drupe fruit;
 - (b) minimum criteria governing quality and size for pome and drupe fruit outside low production periods;
 - (c) rules on market preparation and presentation (packaging and marking) at the first stage of marketing;
 - (d) indication of the origin of the product.
 4. *Observance of the withdrawal price of the product*
— under the conditions set out in Article 15b (1) (d) and (9).
-

COMMISSION REGULATION (EEC) No 3286/83
of 21 November 1983

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 organi-
zation 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 agricul-
tural 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 Regula-
tion (EEC) No 2157/83⁽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
18 November 1983 ;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 2157/83 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 22
November 1983.

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

Done at Brussels, 21 November 1983.

For the Commission

Poul DALSAGER

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 206, 30. 7. 1983, p. 47.

ANNEX

to the Commission Regulation of 21 November 1983 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	92,41
10.01 B II	Durum wheat	119,05 ⁽¹⁾ ⁽⁵⁾
10.02	Rye	79,10 ⁽⁶⁾
10.03	Barley	56,98
10.04	Oats	34,64
10.05 B	Maize, other than hybrid maize for sowing	50,21 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	6,90 ⁽⁴⁾
10.07 C	Grain sorghum	68,87 ⁽⁴⁾
10.07 D	Canary seed ; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	143,22
11.01 B	Rye flour	124,55
11.02 A I a)	Durum wheat groats and meal	197,85
11.02 A I b)	Common wheat groats and meal	153,74

⁽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 3287/83

of 21 November 1983

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 organ-
ization 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 agricul-
tural 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
2158/83 ⁽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
18 November 1983;

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 22
November 1983.

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

Done at Brussels, 21 November 1983.

For the Commission

Poul DALSAGER

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 206, 30. 7. 1983, p. 50.

ANNEX

to the Commission Regulation of 21 November 1983 fixing the premiums to be added to the import levies on cereals, flour and malt

A. Cereals and flour

CCT heading No	Description	(ECU/tonne)			
		Current 11	1st period 12	2nd period 1	3rd period 2
10.01 B I	Common wheat, and meslin	0	0	0	0
10.01 B II	Durum wheat	0	3,60	3,60	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	3,60	3,60	24,00
10.07 C	Grain sorghum	0	0	0	0
10.07 D	Other cereals	0	0	0	0
11.01 A	Wheat or meslin flour	0	0	0	0

B. Malt

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

COMMISSION REGULATION (EEC) No 3288/83

of 18 November 1983

re-establishing the levying of customs duties applicable to third countries on certain products originating in Yugoslavia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Cooperation Agreement between the European Economic Community and the Socialist Federal Republic of Yugoslavia ⁽¹⁾, and in particular Protocol 1 thereto,Having regard to Article 1 of Council Regulation (EEC) No 3611/82 of 21 December 1982 establishing ceilings and Community supervision for imports of certain products originating in Yugoslavia ⁽²⁾,

Whereas Article 1 of the abovementioned Protocol provides that the products listed below, imported under reduced duty rates according to Article 15 of the Cooperation Agreement are subject to the annual ceiling indicated below, above which the customs duties applicable to third countries may be re-established:

(tonnes)		
CCT heading No	Description	Ceiling
94.01	Chairs and other seats (other than those falling within heading No 94.02), whether or not convertible into beds, and parts thereof: B. Other: ex II. Other excluding seats specially designed for motor vehicles	5 516

Whereas imports into the Community of those products, originating in Yugoslavia, have reached that ceiling; whereas the situation on the Community market requires that customs duties applicable to third countries on the products in question be re-established,

HAS ADOPTED THIS REGULATION:

Article 1

From 25 November to 31 December 1983, the levying of customs duties applicable to third countries shall be re-established on imports into the Community of the following products:

CCT heading No	Description	Origin
94.01	Chairs, and other seats (other than those falling within heading No 94.02), whether or not convertible into beds, and parts thereof: B. Other: ex II. Other, excluding seats specially designed for motor vehicles	Yugoslavia

⁽¹⁾ OJ No L 41, 14. 2. 1983, p. 2.⁽²⁾ OJ No L 380, 31. 12. 1982, p. 22.

Article 2

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

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

Done at Brussels, 18 November 1983.

For the Commission
Karl-Heinz NARJES
Member of the Commission

COMMISSION REGULATION (EEC) No 3289/83
of 21 November 1983
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 1789/83⁽³⁾, as last amended by Regulation (EEC) No 3283/83⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1789/83 to the information known to the Commission that the levies

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 22 November 1983.

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

Done at Brussels, 21 November 1983.

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 176, 1. 7. 1983, p. 48.
⁽⁴⁾ OJ No L 322, 19. 11. 1983, p. 42.

ANNEX

to the Commission Regulation of 21 November 1983 fixing the import levies on white sugar and raw sugar

<i>(ECU/100 kg)</i>		
CCT heading No	Description	Levy
17.01	Beet sugar and cane sugar, in solid form:	
	A. White sugar: flavoured or coloured sugar	38,23
	B. Raw sugar	33,32 ⁽¹⁾

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 November 1983

accepting undertakings given in connection with the anti-dumping proceeding concerning imports of sanitary fixtures of porcelain or china originating in Czechoslovakia and Hungary and terminating that proceeding

(83/559/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

After consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

A. Procedure

- (1) In December 1982, the Commission received a complaint lodged by NV Koninklijke Sphinx, Netherlands, supported by Community producers whose collective output constitutes all Community production of the products in question. The complaint contained evidence of dumping and of material injury resulting therefrom, which was

considered sufficient to justify the initiation of a proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports into the Community of sinks, wash basins, bidets, water closet pans, urinals, baths and like sanitary fixtures of porcelain or china, falling within Common Customs Tariff heading No ex 69.10 and corresponding to NIMEXE code 69.10-10 originating in Czechoslovakia and Hungary and commenced an investigation.

- (2) The Commission officially so advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.
- (3) The Czechoslovakian and Hungarian exporters made their views known in writing and requested and were granted hearings.
- (4) The major importers and representatives of the products in question made their views known in writing.
- (5) No submissions were made by or on behalf of Community purchasers of sanitary fixtures.

⁽¹⁾ OJ No L 339, 31. 12. 1979, p. 1.

⁽²⁾ OJ No L 178, 22. 6. 1982, p. 9.

⁽³⁾ OJ No C 87, 29. 3. 1983, p. 4.

- (6) The Commission sought and verified all information it deemed to be necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following:

EEC producers:

- NV Koninklijke Sphinx, Netherlands,
- Kerafina — N. Stasinopoulos SA, Greece,
- Federation of European Producers of Sanitary Fixtures, Italy;

Non-EEC producer:

- Öspag, Österr. Sanitär, Keramik- und Porzellan- Industrie AG, Austria;

EEC agents:

- Bergsing BV Agenturen, Netherlands,
- H. Simons Agenturen BV, Netherlands.

- (7) The Commission requested and received detailed written submissions from complainant Community producers, the exporters and the importers and verified the information therein to the extent considered necessary.
- (8) The investigation of dumping covered the period 1 January to 31 December 1982.

B. Normal value

- (9) In order to establish whether the imports from Czechoslovakia and Hungary were dumped, the Commission had to take account of the fact that these countries do not have market economies and the Commission therefore had to base its determinations on the normal value in a market-economy country.
- (10) In this connection, the complainants had suggested the Austrian export prices as basis for comparison; no objection was made to this suggestion.
- (11) The Commission is satisfied that in Austria as well as in the exporting countries there are no extraordinary differences in production processes and the scale of production is similar. The Commission therefore concluded that it would be appropriate and not unreasonable to determine normal value on the basis of Austrian export prices to third countries.

C. Export price

- (12) Export prices were determined on the basis of the prices actually paid or payable for the products sold for export to the Community.

D. Comparison

- (13) In comparing normal value with export prices, the Commission took account, where appropriate, of differences affecting price comparability. These covered mainly the differences in quality, due to inferior glazing and polishing of the imported products in question, the varying delivery of the products, market applicability, payment and other contractual conditions, where claims in these areas could be satisfactorily demonstrated. All comparisons were made at ex-works level and all parties agreed with the adjustments made.

E. Margins

- (14) The above preliminary examination of the facts shows the existence of dumping in respect of Czechoslovak Ceramics, Prague, Czechoslovakia and Ferunion, Budapest, Hungary, the margins of dumping being equal to the amount by which the normal value as established exceeds the prices for export to the Community. The weighted average margin for the products in question for each of the exporters investigated being as follows:
- Czechoslovak Ceramics, Prague,
Czechoslovakia : 26,99 %,
 - Ferunion, Budapest, Hungary : 25,98 %.

F. Injury

- (15) With regard to the injury caused by the dumped imports, the evidence available to the Commission shows that imports into the Community from Czechoslovakia and Hungary of the products in question increased from 1 819 tonnes in 1978 to 3 126 tonnes in 1982 and that in the Netherlands, the market most affected, their market share rose from 5,7 % in 1978 to 16,2 % in 1982.
- (16) The resale prices of the Czechoslovakian and Hungarian imports undercut the prices of the Community producers during the investigation period by up to 49 and 45 % respectively. The resale prices of these imports were lower than those required to cover the costs of Community producers and provide a reasonable profit.
- (17) The Community industry in respect of which the impact of the dumped imports must be assessed is the entire Community industry, particular regard being paid to the Netherlands, the market most affected.
- (18) The main features of the consequent impact of the dumped imports on the Community industry have been a decline in production, capacity utilization, sales, market share and, above all, price depression, financial losses and a reduction in employment.

- (19) Community production decreased from 428 803 tonnes in 1978 to 381 693 tonnes in 1982 with consequent decrease in capacity utilization which is more severe for the Netherlands where capacity utilization decreased from 99 to 77 %. In order to meet competition from dumped Czechoslovakian and Hungarian imports, especially in the white model ranges, a number of Community producers have forgone necessary price increases which would have allowed them to cover their costs and provide for a reasonable profit. Sales on the Community market have decreased from 407 834 tonnes in 1978 to 358 027 tonnes in 1982. As a result, Community producers' profitability has been eroded to the extent that since 1980 all producers suffered losses, in most cases very substantial ones. Employment figures verified by the Commission show a fall of about 8 % between 1978 and 1982.
- (20) The Commission has considered whether injury has been caused by other factors such as the volume and prices of undumped imports or changes in demand. It has been established that total imports from all other countries have always held a market share of about 3 %. Furthermore, consumption in the Community fell by about 12 % between 1978 and 1982. It has, however, been established that this decline has affected the Community production more than it has affected the dumped imports. In fact, these increased by 72 % between 1978 and 1982.
- (21) All these factors, and in particular the exceptional price undercutting felt particularly in a period where the Community industry experiences substantial difficulties, led the Commission to determine that the effects of the dumped imports of certain sanitary fixtures of porcelain or china originating in Czechoslovakia and Hungary, taken in isolation, have to be considered as constituting material injury to the Community industry concerned.

G. Community interest

- (22) After having considered the interest of the Community and both the dumping and the injury provisionally established, the Commission has come to the conclusion that action should be taken.

H. Undertakings

- (23) The exporters concerned were informed of the main findings of the preliminary investigation

and commented on them. Undertakings were subsequently offered by the Czechoslovakian and the Hungarian exporters concerning their exports of certain sanitary fixtures of porcelain or china to the Community.

- (24) The effect of the said undertakings will be to increase export prices to the Community to the level necessary to eliminate the dumping. These increases in no case exceed the injury found in the investigation.
- (25) In these circumstances, the undertakings offered are considered acceptable and the proceeding may, therefore, be terminated without imposition of anti-dumping duties.
- (26) No objection to this course was raised in the Advisory Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission hereby accepts the undertakings given by the Czechoslovak Ceramics, Prague, Czechoslovakia and Ferunion, Budapest, Hungary in connection with the anti-dumping proceeding concerning certain sanitary fixtures of porcelain or china falling within Common Customs Tariff heading No ex 69.10 and corresponding to NIMEXE code 69.10-10 originating in Czechoslovakia and Hungary.

Article 2

The anti-dumping proceeding concerning imports of certain sanitary fixtures of porcelain or china is hereby terminated.

Done at Brussels, 15 November 1983.

For the Commission

Wilhelm HAFERKAMP

Vice-President

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