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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3300/83**of 22 November 1983****maintaining the export arrangements for aluminium 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 6 thereof,

Having regard to the proposal from the Commission,

Whereas, under Regulation (EEC) No 2822/83 ⁽²⁾, the
Commission suspended, under emergency measures
of conservation, the issue of export licences for alu-
minium waste and scrap falling within subheading
76.01 B of the Common Customs Tariff;

Whereas, in conformity with Article 6 of Regulation
(EEC) No 2603/69, the Commission must submit to
the Council, after the adoption of the emergency
measures, the appropriate provisions to be taken by
the Council;

Whereas the reasons which led the Commission to
adopt the emergency measures of conservation
contained in Regulation (EEC) No 2822/83 justify the
maintenance of these measures,

HAS ADOPTED THIS REGULATION:

Article 1

The export arrangements for aluminium waste and
scrap falling within subheading 76.01 B of the
Common Customs Tariff adopted by Regulation (EEC)
No 2822/83 shall apply until 31 December 1983.

Article 2

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

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

Done at Brussels, 22 November 1983.

For the Council

The President

A. GEORGIADIS

⁽¹⁾ OJ No L 324, 27. 12. 1969, p. 25.

⁽²⁾ OJ No L 278, 11. 10. 1983, p. 14.

COMMISSION REGULATION (EEC) No 3301/83

of 23 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 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 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 22 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 24 November 1983.

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

Done at Brussels, 23 November 1983.

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

ANNEX

to the Commission Regulation of 23 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	117,75 ⁽¹⁾ ⁽²⁾
10.02	Rye	79,10 ⁽⁶⁾
10.03	Barley	56,98
10.04	Oats	33,56
10.05 B	Maize, other than hybrid maize for sowing	51,68 ⁽²⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	6,90 ⁽⁴⁾
10.07 C	Grain sorghum	69,75 ⁽⁴⁾
10.07 D	Canary seed ; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	142,48
11.01 B	Rye flour	123,58
11.02 A I a)	Durum wheat groats and meal	195,84
11.02 A I b)	Common wheat groats and meal	152,94

⁽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 3302/83**of 23 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 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 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 22 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 24 November 1983.

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

Done at Brussels, 23 November 1983.

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

ANNEX

to the Commission Regulation of 23 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	0,86	0,86	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	2,52	2,52	1,20
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	6,02	6,02	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 3303/83
of 23 November 1983
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 Regulation
(EEC) No 1566/83 ⁽²⁾, and in particular Article 11 (2)
thereof,

Whereas the import levies on rice and broken rice
were fixed by Regulation (EEC) No 2454/83 ⁽³⁾, as last
amended by Regulation (EEC) No 3226/83 ⁽⁴⁾;

Whereas, if the levy 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 it follows from applying the detailed rules
contained in Regulation (EEC) No 2454/83 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 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 24
November 1983.

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

Done at Brussels, 23 November 1983.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 163, 22. 6. 1983, p. 5.

⁽³⁾ OJ No L 243, 1. 9. 1983, p. 5.

⁽⁴⁾ OJ No L 319, 17. 11. 1983, p. 9.

ANNEX

to the Commission Regulation of 23 November 1983 fixing the import levies on rice and broken rice

(ECU/tonne)			
CCT heading No	Description	Third countries ⁽³⁾	ACP or OCT ⁽¹⁾ ⁽²⁾ ⁽³⁾
ex 10.06	Rice :		
	B. Other :		
	I. Paddy rice ; husked rice :		
	a) Paddy rice :		
	1. Round grain	159,05	75,92
	2. Long grain	171,58	82,19
	b) Husked rice :		
	1. Round grain	198,81	95,80
	2. Long grain	214,47	103,63
	II. Semi-milled or wholly milled rice :		
	a) Semi-milled rice :		
	1. Round grain	316,48	146,31
	2. Long grain	402,07	189,15
	b) Wholly milled rice :		
	1. Round grain	337,05	156,17
	2. Long grain	431,02	203,16
	III. Broken rice	63,79	28,89

⁽¹⁾ Subject to the application of the provisions of Article 10 of Regulation (EEC) No 435/80.

⁽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⁾ 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 3304/83

of 23 November 1983

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 Regulation
(EEC) No 1566/83 ⁽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 2455/83 ⁽³⁾, as last amended by Regulation (EEC)
No 3227/83 ⁽⁴⁾;

Whereas, if the levy 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 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 24
November 1983.

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

Done at Brussels, 23 November 1983.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 163, 22. 6. 1983, p. 5.

⁽³⁾ OJ No L 243, 1. 9. 1983, p. 8.

⁽⁴⁾ OJ No L 319, 17. 11. 1983, p. 11.

ANNEX

to the Commission Regulation of 23 November 1983 fixing the premiums to be added to the import levies on rice and broken rice

CCT heading No	Description	(ECU/tonne)			
		Current 11	1st period 12	2nd period 1	3rd period 2
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 3305/83

of 23 November 1983

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 24 November 1983.

⁽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, 23 November 1983.

For the Commission

Poul DALSGER

Member of the Commission

ANNEX

to the Commission Regulation of 23 November 1983 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	33,35	
	(b) Other	29,88	
	(II) Flavoured or coloured sugar		0,3335
	B. Raw sugar:		
	II. Other:		
	(a) Candy sugar	30,68 ⁽¹⁾	
	(b) Other raw sugar	26,53 ⁽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 REGULATION (EEC) No 3306/83

of 23 November 1983

on the supply of various consignments of cereals and rice to the League of Red Cross Societies as food aid

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 28 thereof,

Having regard to Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organization of the market in rice⁽³⁾, as last amended by Regulation (EEC) No 1566/83⁽⁴⁾, and in particular Article 25 thereof,

Having regard to Council Regulation (EEC) No 2750/75 of 29 October 1975 fixing criteria for the mobilization of cereals intended as food aid⁽⁵⁾, as amended by Regulation (EEC) No 3331/82⁽⁶⁾, and in particular Article 6 thereof,

Having regard to Council Regulation No 129 of 23 October 1962 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy⁽⁷⁾, as last amended by Regulation (EEC) No 2543/73⁽⁸⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas, on 29 July 1983, the Commission of the European Communities expressed its intention to

grant, under a Community measure, 600 tonnes of cereals for the League of Red Cross Societies under its food-aid programme for 1983;

Whereas it is necessary to provide for the carrying out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 1974/80 of 22 July 1980 laying down general implementing rules in respect of certain food-aid operations involving cereals and rice⁽⁹⁾, as last amended by Regulation (EEC) No 3323/81⁽¹⁰⁾; whereas it is necessary to specify, for the purposes of the Community measures envisaged, the characteristics of the products to be supplied and the supply conditions which are set out in the Annexes to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The intervention agencies specified in the Annexes hereto shall implement the mobilization and supply procedures in accordance with the provisions of Regulation (EEC) No 1974/80 and with the conditions laid down in the Annexes hereto.

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, 23 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 L 166, 25. 6. 1976, p. 1.

⁽⁴⁾ OJ No L 163, 22. 6. 1983, p. 5.

⁽⁵⁾ OJ No L 281, 1. 11. 1975, p. 89.

⁽⁶⁾ OJ No L 352, 14. 12. 1982, p. 1.

⁽⁷⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁸⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁹⁾ OJ No L 192, 26. 7. 1980, p. 11.

⁽¹⁰⁾ OJ No L 334, 21. 11. 1981, p. 27.

ANNEX I

1. **Programme :** 1983
2. **Recipient :** League of Red Cross Societies
3. **Place or country of destination :** Haiti
4. **Product to be mobilized :** rolled oats
5. **Total quantity :** 145 tonnes (250 tonnes of cereals)
6. **Number of lots :** one
7. **Intervention agency responsible for conducting the procedure :**
Verkoop- en Inkoopbureau (VIB), Kouvenderstraat 229, NL 6430 AZ Hoensbroek (telex 56 396)
8. **Method of mobilizing the product :** the Community market
9. **Characteristics of the goods :**
Production of quick-cooking oat flakes :
Raw oats : First quality high-density oats
Cleaning and preparation : Oats to be cleaned of extraneous matter, debittered and stabilized by treatment with steam
Hulling : Oats to be size-classified and hulled. After separation of husks, oat kernels to be scoured and polished
Groats : Oat kernels to be cut, sorted and air-cleaned. Groats dampened and pre-cooked with steam, then rolled to flakes
Quality of oat flakes :
humidity : less than 12 %
ash content : less than 2,3 % of dry matter
crude fibre : less than 1,5 % of dry matter
husk content : less than 0,10 % of dry matter
protein content : not less than 12 % of dry matter
10. **Packaging :**
 - in bags
 - quality of the bags :
 - bag composition :
 - four bags of Kraft paper, of a strength corresponding to a weight of at least 70 g/m²
 - one interposed bag made of tarred paper of a strength corresponding to a weight of at least 140 g/m²
 - one double-bound polyethylene internal pocket at least 0,06 mm thick
 - top and bottom seals of bag to be pasted
 - net weight of bags : 25 kg
 - marking on the bags :
 - a red cross, 10 × 10 cm, as well as the following :
'FLOCONS D'AVOINE / DON DE LA COMMUNAUTÉ ÉCONOMIQUE EUROPÉENNE
/ ACTION DE LA LIGUE DES SOCIÉTÉS DE LA CROIX-ROUGE / POUR DISTRIBUTION GRATUITE / PORT-AU-PRINCE'

11. **Port of shipment :** a Community port
12. **Delivery stage :** cif
13. **Port of landing :** Port-au-Prince
14. **Procedure to be applied in order to determine supply costs :** tendering
15. **Deadline for the submission of tenders :** 12 noon on 7 December 1983
16. **Shipment period :** 1 to 31 January 1984
17. **Security :** 12 ECU per tonne

Notes :

1. The successful tenderer shall forward, through the intermediary of the intervention agency, to the recipient on the latter's request and in accordance with his instructions the documents necessary for importation of the goods into the country of destination.
 2. Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
-

ANNEX II

1. **Programme :** 1983
2. **Recipient :** League of Red Cross Societies
3. **Place or country of destination :** Republic of India
4. **Product to be mobilized :** milled long grain rice
5. **Total quantity :** 86 tonnes (250 tonnes of cereals)
6. **Number of lots :** one (in two parts : 43 tonnes — Bombay and 43 tonnes — Madras)
7. **Intervention agency responsible for conducting the procedure :**
Ente Nazionale Risi, piazza Pio XI, 1, I-Milano (telex 334 032)
8. **Method of mobilizing the product :** the Community market
9. **Characteristics of the goods :**
 - rice of fair and sound merchantable quality, free from abnormal smell and pests
 - moisture : 15 %
 - broken rice : 5 % maximum
 - chalky grains : 5 % maximum
 - grains striated with red : 3 % maximum
 - spotted grains : 1,5 % maximum
 - stained grains : 1 % maximum
 - yellow grains : 0,050 % maximum
 - amber grains : 0,20 % maximum
10. **Packaging :**
 - in bags
 - quality of the bags : new jute bags ; minimum weight 600 g
 - net weight of the bags : 50 kg
 - marking on the bags :
 - a red cross 15 × 15 cm followed by (in letters at least 5 cm high):
 - 43 tonnes — Bombay :
'MILLED RICE / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY / ACTION OF THE LEAGUE OF RED CROSS SOCIETIES / FOR FREE DISTRIBUTION IN INDIA / BOMBAY'
 - 43 tonnes — Madras :
'MILLED RICE / GIFT OF THE EUROPEAN ECONOMIC COMMUNITY / ACTION OF THE LEAGUE OF RED CROSS SOCIETIES / FOR FREE DISTRIBUTION IN INDIA / MADRAS'
11. **Port of shipment :** a Community port
12. **Delivery stage :** cif
13. **Port of landing :** Bombay and Madras
14. **Procedure to be applied in order to determine supply costs :** tendering
15. **Deadline for the submission of tenders :** 12 noon on 5 December 1983
16. **Shipment period :** 1 to 31 January 1984
17. **Security :** 12 ECU per tonne

Notes :

1. The successful tenderer shall forward, through the intermediary of the intervention agency, to the recipient on the latter's request and in accordance with his instructions the documents necessary for importation of the goods into the country of destination.
2. Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.

ANNEX III

1. **Programme :** 1983
2. **Recipient :** League of Red Cross Societies
3. **Place or country of destination :** Republic of Gabon
4. **Product to be mobilized :** milled long grain rice
5. **Total quantity :** 35 tonnes (100 tonnes of cereals)
6. **Number of lots :** one
7. **Intervention agency responsible for conducting the procedure :**
Ente Nazionale Risi, piazza Pio XI, 1, I-Milano (telex 334 032)
8. **Method of mobilizing the product :** the Community market
9. **Characteristics of the goods :**
 - rice of fair and sound merchantable quality, free from abnormal smell and pests
 - moisture : 15 %
 - broken rice : 5 % maximum
 - chalky grains : 5 % maximum
 - grains striated with red : 3 % maximum
 - spotted grains : 1,5 % maximum
 - stained grains : 1 % maximum
 - yellow grains : 0,050 % maximum
 - amber grains : 0,20 % maximum
10. **Packaging :**
 - in bags
 - quality of the bags : new jute bags ; minimum weight 600 g
 - net weight of the bags : 50 kg
 - marking on the bags :
a red cross 15 × 15 cm followed by (in letters at least 5 cm high):
'RIZ BLANCHI / DON DE LA COMMUNAUTÉ ÉCONOMIQUE EUROPÉENNE /
ACTION DE LA LIGUE DES SOCIÉTÉS DE LA CROIX-ROUGE / POUR DISTRIBUTION GRATUITE / LIBREVILLE'
11. **Port of shipment :** a Community port
12. **Delivery stage :** cif
13. **Port of landing :** Libreville
14. **Procedure to be applied in order to determine supply costs :** tendering
15. **Deadline for the submission of tenders :** 12 noon on 5 December 1983
16. **Shipment period :** 1 to 31 January 1984
17. **Security :** 12 ECU per tonne

Notes :

1. The successful tenderer shall forward, through the intermediary of the intervention agency, to the recipient on the latter's request and in accordance with his instructions the documents necessary for importation of the goods into the country of destination.
2. Since the goods may be rebagged, the successful tenderer must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.

COMMISSION REGULATION (EEC) No 3307/83

of 23 November 1983

on the supply of milled rice to the Republic of São Tomé and Príncipe as food aid

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 Regulation (EEC) No 1566/83 ⁽²⁾, and in particular Article 25 thereof,

Having regard to Council Regulation (EEC) No 2750/75 of 29 October 1975 fixing criteria for the mobilization of cereals intended as food aid ⁽³⁾, as amended by Regulation (EEC) No 3331/82 ⁽⁴⁾, and in particular Article 6 thereof,

Having regard to Council Regulation (EEC) No 1992/83 of 11 July 1983 laying down the implementing rules for 1983 for Regulation (EEC) No 3331/82 concerning food-aid policy and food-aid management ⁽⁵⁾,

Having regard to Council Regulation No 129 of 23 October 1962 on the value of the unit of account and the exchange rates to be applied for the purposes of the common agricultural policy ⁽⁶⁾, as last amended by Regulation (EEC) No 2543/73 ⁽⁷⁾, and in particular Article 3 thereof,

Having regard to the opinion of the Monetary Committee,

Whereas, on 29 July 1983, the Commission of the European Communities decided to grant, under a

Community measure, 1 000 tonnes of cereals to the Republic of São Tomé and Príncipe under the food-aid programme for 1983;

Whereas it is necessary to provide for the carrying out of this measure in accordance with the rules laid down by Commission Regulation (EEC) No 1974/80 of 22 July 1980 laying down general implementing rules in respect of certain food-aid operations involving cereals and rice ⁽⁸⁾, as last amended by Regulation (EEC) No 3323/81 ⁽⁹⁾; whereas it is necessary to specify, for the purposes of the Community measures envisaged, the characteristics of the products to be supplied and the supply conditions which are set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Italian intervention agency shall be charged with implementing the mobilization and supply procedures in accordance with the provisions of Regulation (EEC) No 1974/80 and with the conditions laid down in the Annex hereto.

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, 23 November 1983.

For the Commission

Poul DALSAGER

Member of the Commission

⁽¹⁾ OJ No L 166, 25. 6. 1976, p. 1.

⁽²⁾ OJ No L 163, 22. 6. 1983, p. 5.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 89.

⁽⁴⁾ OJ No L 352, 14. 12. 1982, p. 1.

⁽⁵⁾ OJ No L 196, 20. 7. 1983, p. 1.

⁽⁶⁾ OJ No 106, 30. 10. 1962, p. 2553/62.

⁽⁷⁾ OJ No L 263, 19. 9. 1973, p. 1.

⁽⁸⁾ OJ No L 192, 26. 7. 1980, p. 11.

⁽⁹⁾ OJ No L 334, 21. 11. 1981, p. 27.

ANNEX

1. **Programme :** 1983
2. **Recipient :** the Republic of São Tomé and Príncipe
3. **Place or country of destination :** São Tomé
4. **Product to be mobilized :** wholly milled long grain rice
5. **Total quantity :** 345 tonnes (1 000 tonnes of cereals)
6. **Number of lots :** one
7. **Intervention agency responsible for conducting the procedure :**
Ente nazionale Risi, piazza Pio XI, 1, I-Milano (telex 334 032)
8. **Method of mobilizing the product :** the Community market
9. **Characteristics of the goods :**
 - rice of fair and sound merchantable quality, free from abnormal smell and pests
 - moisture : 15 %
 - broken rice : 5 % maximum
 - chalky grains : 5 % maximum
 - grains striated with red : 3 % maximum
 - spotted grains : 1,5 % maximum
 - stained grains : 1 % maximum
 - yellow grains : 0,050 % maximum
 - amber grains : 0,20 % maximum
10. **Packaging :**
 - in bags⁽¹⁾
 - quality of the bags : new jute sacks, 600 g
 - net weight of the bags : 50 kg
 - marking of the bags (in letters at least 5 cm high):
'ARROZ / DOM DA COMUNIDADE ECONÓMICA EURÓPEIA À REPUBLICA
DEMOCRATICA DE SÃO TOMÉ E PRÍNCIPE'
11. **Port of shipment :** a Community port
12. **Delivery stage :** cif
13. **Port of landing :** São Tomé
14. **Procedure to be applied in order to determine supply costs :** tendering
15. **Deadline for the submission of tenders :** 12 noon on 5 December 1983
16. **Shipment period :** 1 to 31 January 1984
17. **Security :** 12 ECU per tonne

⁽¹⁾ Since the goods may be rebagged, the successful co-contractor must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.

COMMISSION REGULATION (EEC) No 3308/83**of 23 November 1983****amending for the second time Regulation (EEC) No 3177/83 introducing a countervailing charge on tomatoes originating in Romania**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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 2004/83⁽²⁾, and in particular the second subparagraph of Article 27 (2) thereof,

Whereas Commission Regulation (EEC) No 3177/83 of 10 November 1983⁽³⁾, as amended by Regulation (EEC) No 3256/83⁽⁴⁾, introduced a countervailing charge on tomatoes originating in Romania;

Whereas Article 26 (1) of Regulation (EEC) No 1035/72 laid down the conditions under which a

charge introduced in application of Article 25 of that Regulation is amended; whereas, if those conditions are taken into consideration, the countervailing charge on the import of tomatoes originating in Romania must be altered,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 3177/83, '15,21 ECU' is hereby replaced by '34,73 ECU'.

Article 2

This Regulation shall enter into force on 24 November 1983.

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

Done at Brussels, 23 November 1983.

For the Commission

Poul DALSGER

Member of the Commission

⁽¹⁾ OJ No L 118, 20. 5. 1972, p. 1.
⁽²⁾ OJ No L 198, 21. 7. 1983, p. 2.
⁽³⁾ OJ No L 310, 11. 11. 1983, p. 41.
⁽⁴⁾ OJ No L 321, 18. 11. 1983, p. 30.

COMMISSION REGULATION (EEC) No 3309/83
of 23 November 1983
fixing the amount of the subsidy on oil seeds

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation No 136/66/EEC
of 22 September 1966 on the establishment of a
common organization of the market in oils and fats ⁽¹⁾,
as last amended by Regulation (EEC) No 1413/82 ⁽²⁾,
and in particular Article 27 (4) thereof,

Whereas the amount of the subsidy referred to in
Article 27 of Regulation No 136/66/EEC was fixed by
Regulation (EEC) No 2866/83 ⁽³⁾, as last amended by
Regulation (EEC) No 3237/83 ⁽⁴⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 2866/83 to the

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

HAS ADOPTED THIS REGULATION:

Article 1

The amount of the subsidy referred to in Article 27 of
Regulation No 136/66/EEC shall be as set out in the
Annex hereto.

Article 2

This Regulation shall enter into force on 24
November 1983.

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

Done at Brussels, 23 November 1983.

For the Commission

Poul DALSGER

Member of the Commission

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

⁽²⁾ OJ No L 162, 12. 6. 1982, p. 6.

⁽³⁾ OJ No L 282, 14. 10. 1983, p. 33.

⁽⁴⁾ OJ No L 319, 17. 11. 1983, p. 34.

ANNEX

to the Commission Regulation of 23 November 1983 fixing the amount of the subsidy
on oil seeds

(ECU/100 kg)

CCT heading No	Description	Subsidy
ex 12.01	Colza and rape seed	9,408
ex 12.01	Sunflower seed	18,954

(ECU/100 kg)

CCT heading No	Description	Subsidy in the case of advance fixing for the month of —					
		November 1983	December 1983	January 1984	February 1984	March 1984	April 1984
ex 12.01	Colza and rape seed	9,408	9,928	10,655	11,175	11,547	11,652
ex 12.01	Sunflower seed	18,954	19,569	21,260	21,382	21,493	—

COMMISSION REGULATION (EEC) No 3310/83

of 23 November 1983

fixing the world market price for colza, rape and sunflower seed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the markets in oils and fats⁽¹⁾, as last amended by Regulation (EEC) No 1413/82⁽²⁾,

Having regard to Council Regulation (EEC) No 1569/72 of 20 July 1972 laying down special measures for colza, rape and sunflower seed⁽³⁾, as last amended by Regulation (EEC) No 1986/82⁽⁴⁾,

Having regard to Commission Regulation (EEC) No 2300/73 of 23 August 1973 laying down detailed rules for applying differential amounts for colza, rape and sunflower seed and repealing Regulation (EEC) No 1464/73⁽⁵⁾, as last amended by Regulation (EEC) No 2937/83⁽⁶⁾, and in particular Article 9 (4) thereof,

Having regard to the opinion of the Monetary Committee,

Whereas, pursuant to Article 9 (4) of Regulation (EEC) No 2300/73, the Commission must determine the world market price for colza, rape and sunflower seed;

Whereas the world market price should be determined in accordance with the rules and the criteria set out in Commission Regulation (EEC) No 2866/83 of 13

October 1983 fixing the amount of the subsidy on oil seeds⁽⁷⁾;

Whereas, if the price system is to operate normally, the world market price 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 it follows from applying these provisions that the world market price for colza, rape and sunflower seed should be as set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The world market price referred to in Article 9 (4) of Regulation (EEC) No 2300/73 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 November 1983.

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

Done at Brussels, 23 November 1983.

For the Commission

Poul DALSAGER

Member of the Commission

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

⁽²⁾ OJ No L 162, 12. 6. 1982, p. 6.

⁽³⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁴⁾ OJ No L 215, 23. 7. 1982, p. 10.

⁽⁵⁾ OJ No L 236, 24. 8. 1973, p. 28.

⁽⁶⁾ OJ No L 288, 21. 10. 1983, p. 20.

⁽⁷⁾ OJ No L 282, 14. 10. 1983, p. 33.

ANNEX

to the Commission Regulation of 23 November 1983 fixing the world market price for
colza, rape and sunflower seed

(ECU/100 kg) ⁽¹⁾

CCT heading No	Description	World market price
ex 12.01	Colza and rape seed	40,372
ex 12.01	Sunflower seed	39,986

(ECU/100 kg) ⁽¹⁾

CCT heading No	Description	World market price where the subsidy is fixed in advance for the month of					
		November 1983	December 1983	January 1984	February 1984	March 1984	April 1984
ex 12.01	Colza and rape seed	40,372	40,372	40,165	40,165	40,313	40,728
ex 12.01	Sunflower seed	39,986	39,986	38,910	39,403	39,907	—

⁽¹⁾ The conversion rates from ECU into currency as foreseen by Article 9 (5) (a) of Regulation (EEC) No 2300/73 are the following :

1 ECU = DM	2,24184
1 ECU = Fl	2,52595
1 ECU = Bfr/Lfr	44,9008
1 ECU = FF	6,87456
1 ECU = Dkr	8,14104
1 ECU = £ Irl	0,725690
1 ECU = £	0,572446
1 ECU = Lit	1 362,81
1 ECU = Dr	79,8811

COMMISSION REGULATION (EEC) No 3311/83**of 23 November 1983****altering the export refunds on oil seeds**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation No 136/66/EEC
of 22 September 1966 on the establishment of a
common organization of the market in oils and fats ⁽¹⁾,
as last amended by Regulation (EEC) No 1413/82 ⁽²⁾,

Having regard to Council Regulation No 142/67/EEC
of 21 June 1967 on export refunds on colza, rape and
sunflower seeds ⁽³⁾, as last amended by Regulation
(EEC) No 2429/72 ⁽⁴⁾, and in particular the second
sentence of Article 2 (3) thereof,

Whereas the export refunds on oil seeds were fixed by
Regulation (EEC) No 3069/83 ⁽⁵⁾, as amended by
Regulation (EEC) No 3145/83 ⁽⁶⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 3069/83 to the

information at present known to the Commission that
the export refunds at present in force should be altered
to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION :

Article 1

The refunds on the products referred to in Article 21
of Regulation No 136/66/EEC, as fixed in the Annex
to amended Regulation (EEC) No 3069/83, are hereby
altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 24
November 1983.

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

Done at Brussels, 23 November 1983.

For the Commission

Poul DALSAGER

Member of the Commission

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

⁽²⁾ OJ No L 162, 12. 6. 1982, p. 6.

⁽³⁾ OJ No 125, 26. 6. 1967, p. 2461/67.

⁽⁴⁾ OJ No L 264, 23. 11. 1972, p. 1.

⁽⁵⁾ OJ No L 301, 1. 11. 1983, p. 24.

⁽⁶⁾ OJ No L 307, 9. 11. 1983, p. 20.

ANNEX

to the Commission Regulation of 23 November 1983 altering the export refunds on oil seeds

<i>(ECU/100 kg)</i>		
CCT heading No	Description	Refund
ex 12.01	Colza and rape seed, other than for sowing	7,00
ex 12.01	Sunflower seed, other than for sowing	—

COMMISSION REGULATION (EEC) No 3312/83

of 23 November 1983

altering the basic amount of the import levies on syrups and certain other products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Whereas the import levies on syrups and certain other sugar products were fixed by Regulation (EEC) No 3066/83⁽³⁾, as last amended by Regulation (EEC) No 3295/83⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 3066/83 to the information known to the Commission that the basic

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

HAS ADOPTED THIS REGULATION:

Article 1

The basic amounts of the import levy on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1785/81, as fixed in the Annex to amended Regulation (EEC) No 3066/83 are hereby altered to the amounts shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 24 November 1983.

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

Done at Brussels, 23 November 1983.

For the Commission

Poul DALSAER

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 301, 1. 11. 1983, p. 17.

⁽⁴⁾ OJ No L 326, 23. 11. 1983, p. 12.

ANNEX

to the Commission Regulation of 23 November 1983 altering the basic amount of the import levies on syrups and certain other products in the sugar sector

CCT heading No	Description	Basic amount per percentage point of sucrose content and per 100 kg net of the product in question	Amount of levy per 100 kg of dry matter
17.02	Other sugars in solid form ; sugar syrups, not containing added flavouring or colouring matter ; artificial honey, whether or not mixed with natural honey ; caramel : C. Maple sugar and other syrup D. Other sugars and syrups (other than lactose, glucose and malto-dextrine) : I. Isoglucose ex II. Other E. Artificial honey, whether or not mixed with natural honey F. I. Caramelized sugar and molasses containing, in the dry state, 50 % or more by weight of sucrose	0,3791 — 0,3791 0,3791 0,3791	— 47,36 — — —
21.07	Food preparations not elsewhere specified or included : F. Flavoured or coloured sugar syrups : III. Isoglucose IV. Other	— 0,3791	47,36 —

COMMISSION REGULATION (EEC) No 3313/83
of 23 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 3296/83⁽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 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 24
November 1983.

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

Done at Brussels, 23 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 326, 23. 11. 1983, p. 14.

ANNEX

to the Commission Regulation of 23 November 1983 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	37,91
	B. Raw sugar	32,13 ⁽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 3314/83

of 23 November 1983

fixing the maximum export refund for white sugar for the 19th partial invitation to tender issued within the framework of the principal standing invitation to tender provided for in Regulation (EEC) No 1880/83

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 1880/83 of 8 July 1983 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 1880/83, 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 19th partial invitation to

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

Whereas the Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund for the 19th partial invitation to tender for white sugar issued under Regulation (EEC) No 1880/83 is hereby fixed at 32,182 ECU per 100 kilograms.

Article 2

This Regulation shall enter into force on 24 November 1983.

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

Done at Brussels, 23 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 187, 12. 7. 1983, p. 5.

COMMISSION REGULATION (EEC) No 3315/83**of 23 November 1983****fixing the maximum export refund for raw sugar for the 18th partial invitation to tender issued within the framework of the principal standing invitation to tender provided for in Regulation (EEC) No 1882/83**

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 1882/83 of 8 July 1983 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 1882/83, 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 18th 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 18th partial invitation to tender for raw sugar issued under Regulation (EEC) No 1882/83 is hereby fixed at 28,100 ECU per 100 kilograms.

Article 2

This Regulation shall enter into force on 24 November 1983.

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

Done at Brussels, 23 November 1983.

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 187, 12. 7. 1983, p. 15.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 16 November 1983

relating to a proceeding under Article 85 of the EEC Treaty (IV/30.696 — Distribution system of Ford Werke AG)

(Only the German text is authentic)

(83/560/EEC)

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

WHEREAS:

Having regard to the Treaty establishing the European
Economic Community,

I. THE FACTS

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

Having regard to the Dealer Agreements for Ford
vehicles notified on 30 January 1963, 29 October
1964, 14 September 1973 and 14 May 1976 by Ford
Werke AG, Cologne, Federal Republic of Germany, in
accordance with Article 4 of Regulation No 17,

Having regard to the Commission Decision of 2 July
1982 to initiate proceedings,

Having heard the undertakings concerned and inter-
ested third parties, in accordance with Article 19 (1)
and (2) of Regulation No 17, and Article 5 of Com-
mission 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⁾,

After consultation with the Advisory Committee on
Restrictive Practices and Dominant Positions,

A. The firms

- (1) Ford Motor Company (hereinafter referred to as
'Ford US') is a company incorporated in the
State of Delaware, USA, and has its principal
place of business at Dearborn, Michigan, USA.
- (2) Ford-Werke AG (hereinafter referred to as 'Ford
Germany') is a company incorporated under the
laws of the Federal Republic of Germany and
registered at Cologne. It is a 100 %-owned
subsidiary of the Ford Motor Company.
- (3) Ford Motor Company Limited (hereinafter
referred to as 'Ford Britain') is a company incor-
porated in England and has its registered office
at Brentwood. It is, like Ford Germany, a subsi-
diary of Ford US.
- (4) Similar Ford-US subsidiaries are operating in all
other Member States except Luxembourg, where
Ford US is represented by their Belgian subsi-
diary, the Ford Motor Company (Belgium) NV.
- (5) Ford of Europe Incorporated (hereinafter
referred to as 'Ford Europe') is a company also
registered in the State of Delaware, USA. It is a
100 %-owned subsidiary of Ford US and has
offices in the United Kingdom, the Federal

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

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

Republic of Germany and Belgium. Ford Europe has responsibility for coordinating the allocation of certain economic functions among the direct Ford companies.

All these companies call themselves the 'Ford Group'.

B. The manufacture of Ford motor cars

1. *The product*

- (6) The products concerned are new Ford motor cars (passenger cars) and parts of them.

The Ford cars can be divided into certain car models, such as the 'Fiesta', the 'Escort', the 'Taunus' / 'Cortina' (name given in the UK to the 'Taunus') the 'Sierra', the 'Granada' and the 'Capri'.

Each model is manufactured in certain versions, as far as, for example, the engine, the gearbox and the transmission are concerned. These different versions have also specific and different specifications. Among these specifications one can distinguish between specifications which are compulsory according to the national laws and road regulations of the Member States, and others which meet the consumer's demand or which the manufacturer or his distributors thinks appropriate for one selling area. Left-hand drive ('LHD') or right-hand drive ('RHD') fall under the second category, they are not obligatory specifications of a car.

2. *The manufacture*

- (7) Ford Germany, which has plants in Cologne, Saarlouis (Germany) and in Genk (Belgium), produces the full range of Ford cars marketed in Europe with LHD. It also produces some Ford car models such as the 'Granada' and the 'Capri' range in all versions with RHD. Some other car models, such as the 'Sierra', the 'Escort' and the 'Fiesta', are produced only in some versions with RHD. Until mid-1982 it manufactured also certain versions of the 'Cortina' with RHD. There are no substantial cost differences between the production of LHD and that of RHD cars.
- (8) Ford Britain currently manufactures at its Dagenham and Halewood plants in the United Kingdom certain versions of the 'Fiesta', the 'Escort' and the 'Sierra'. Until mid-1982 it also manufactured certain versions of the 'Cortina'. The versions produced by Ford Britain are almost exclusively RHD cars.

Ford Britain purchases from Ford Germany RHD cars manufactured by the latter. These purchases account for a substantial proportion of Ford Germany's total production and exports.

C. The provisions of Ford Germany's Distribution Agreement to be considered

- (9) Ford Germany, which is not only a manufacturer of Ford cars but is also a Ford sales company, notified the Commission on 14 May 1976 of a standard agreement between itself and selected main dealers (Ford dealers), the Main Dealer Agreement (Haupthändlervertrag).
- (10) Article 1 of this agreement refers to Ford Germany's standard series production passenger vehicles, which are in turn defined according to model ('Fiesta', 'Escort', 'Taunus', 'Capri' and 'Granada').
- (11) Under Article 2 of the Agreement, Ford Germany undertakes to sell all its products (vehicles and parts of motor vehicles) to the Ford dealer. The dealer in turn undertakes to sell those Ford products to final consumers or to retail dealers. No restriction based on particular specifications (e.g. the driving position (LHD or RHD)) is mentioned with regard to the term 'vehicle' ('Fahrzeuge') as employed in the Agreement. The Agreement defines 'vehicles' as 'the normal series production models of all the passenger cars ...'.
- (12) The Ford dealer is free to sell vehicles to final customers within the Community regardless of where they are resident and to other retail dealers authorized to sell Ford cars by a company of the Ford Group within the Community (Article 2).
- (13) Paragraph 1 of Article 5 stipulates that the Ford dealer shall not without the prior written consent of Ford Germany conclude or maintain any agreement or other arrangement for the sale of new vehicles that have not been manufactured or delivered by Ford Germany or by a Ford Group company. The same shall apply to direct or indirect trade conducted either through the dealer's premises or other sales points.

Paragraph 2 of Article 5 prohibits the dealer without the prior written consent of Ford Germany to distribute in any appreciable quantity high-quality, non-motor trade goods, or to engage in any other activity in the motor trade through other persons or companies.

(14) Paragraph 2 of Article 6 assigns to Ford dealers an area of responsibility (Marktverantwortungsgebiet). Ford Germany engages itself to the Ford dealer, not in general to permit any other Ford dealer to set up or to rent directly or indirectly any centres for the distribution or servicing of new Ford cars or for the distribution or reconditioning of used vehicles in this area (paragraph 2). Only within that area of responsibility, the dealer may maintain a downstream organization at locations approved by Ford Germany (paragraph 3). Paragraph 8 obliges the dealer to achieve a certain sales target.

(15) The Main Dealer Agreement contains further clauses which appear either to restrict the Ford dealers in their business behaviour or to reinforce the effects of the abovementioned Articles (paragraphs 11 to 14). Finally the practical application of certain provisions of the Main Dealer Agreement by Ford Germany appears to be restrictive.

However, none of these other clauses and practices are the object of this Decision. The Commission reserves the right to deal with them in separate proceedings.

D. Practical application of the Main Dealer Agreement to be considered

(16) By 31 March 1982, the Main Dealer Agreement had been signed by 733 dealers. Before 1 May 1982, Ford Germany made available to its Ford dealers all standard series car models in their different versions and specifications according to Article 1 of the Main Dealer Agreement.

As far as RHD cars equipped according to German road traffic regulations (e.g. the Straßenverkehrszulassungsordnung) were concerned these vehicles were sold by Ford Germany to German Ford dealers under the notified Agreement and at the usual price for LHD cars plus a supplement of ... DM⁽¹⁾ for administrative costs. These cars contributed to

the achievement of the dealers sales targets (see paragraph 14 above).

(17) In respect of LHD or RHD cars with other specifications than according to German road traffic regulations, the Ford dealers acted according to Ford Germany as 'intermediaries' for such orders from buyers not resident in Germany. Such vehicles were — according to Ford Germany — delivered to German Ford dealers, not under the Main Dealer Agreement but under a 'Visit Europe Plan' which was not notified to the Commission. Legally, these motor cars were sold to individual buyers, the Ford dealer acting as the buyer's agent. Nevertheless the profits for the dealers were similar to those for cars usually sold under the Main Dealer Agreement. The obligations of the Ford dealers in respect of warranty, after-sales service, etc. as agreed under the Agreement were the same but these sales did not contribute to the achievement of the dealers' sales targets.

(18) Ford Germany produced in 1981 some ... cars including some ... RHD cars. In addition to some ... RHD cars, which it sold directly to Ford Britain for sale in the UK, about ... RHD cars had a specification as usually sold in the UK and about ... RHD cars had a specification as usually sold in Germany.

Between January and June 1982 about ... RHD cars were delivered under the Main Dealer Agreement to Ford dealers in Germany with specifications according to the German road traffic regulation and at substantially the same prices as for LHD vehicles.

(19) The customers for RHD vehicles in Germany included *inter alia* UK citizens living in Germany and wishing to import their vehicles into the United Kingdom when they subsequently returned there as well as customers resident outside Germany.

(20) In 1981, RHD-vehicle sales in Germany under the Main Dealer Agreement were handled by 92 Ford dealers, although 20 of them accounted for the bulk of business.

(21) On 27 April 1982, Ford Germany sent a circular to the Ford dealers who had sold or distributed RHD vehicles with German and other specifications.

⁽¹⁾ In the published version of this Decision, some data have hereinafter been omitted, pursuant to the provisions of Article 21 of Regulation No 17 concerning non-disclosure of business secrets.

The circular states *inter alia*: 'As our business is to distribute vehicles for the German market, which requires only LHD vehicles, RHD versions are not part of our normal sales range ... Your function of exploiting the German market in the best way for our products is central to our domestic distribution organization ... We would therefore inform you that we can accept orders for RHD vehicles only where the Ford dealer took them before 1 May 1982. This decision also applies to orders placed under the Visit Europe Plan.... The Visit Europe Plan with its personal specifications for tourists, diplomats and business travellers mainly from other continents, will continue to be available for LHD vehicles. RHD vehicles may be obtained from Ford Personal Import and Export Ltd (PIE), London ... If you are approached by customers looking for RHD vehicles, we would ask you to refer them to PIE or to any authorized Ford dealer in the United Kingdom....'

Ford Germany put this announcement into effect and refused to accept any orders for RHD vehicles from German dealers.

E. Grounds for modifying the practice with regard to deliveries

- (22) From studies carried out by Ford Group companies and a comparison of the retail prices recommended for new Ford vehicles in the Member States, it emerges that comparing the before-tax dealers' selling price, there were in the years 1981 and 1982 differences, depending on the model, of to % between Germany and the United Kingdom (British price equals 100 %, car specification differences are considered).
- (23) As early as 27 April 1981, Ford Europe had recommended to Ford Germany that Ford Germany refrain from offering RHD vehicles to German dealers. Ford Germany's legal department expressed misgivings regarding this recommendation on the grounds that RHD vehicles were covered by the term 'vehicles' of the Main Dealer Agreement and that German dealers were entitled to sell such vehicles.

In a letter to Ford Europe dated 3 December 1981, Ford Britain had the following to say regarding sales of RHD vehicles by Ford Germany to German dealers:

'... The more this happens the greater will be the press comment and public outcry each time we price. Taken to extremes, this could even limit the extent to which price moves may be taken. From all points of view in Britain the situation has become serious and concerning. Ford of Britain therefore recommends that the sale of German-built RHD units to dealers on the Continent, be they German or British specifications, should be stopped....'

- (24) A memo of Ford Germany's Financial Director dated 11 December 1981 regarding RHD car sales to German Ford dealers and the subsequent 'export' of these cars by the customers to the United Kingdom reads *inter alia* as follows:

'Ford Werke AG exports a substantial part of its production to England.

...

Ford Werke AG's financial results will be decisively influenced by these exports.... The financial results are possible because the level of vehicle prices in England is influenced by the English cost-structure, but we produce at German costs.

As an enterprise, Ford Werke AG should have every interest in keeping the English vehicle price structure intact and in doing everything that is legally possible to hold down these re-imports'.

From Ford Group's own documents — Z/BP-1 — it is obvious that substantial differences existed between the German price and the UK price for Ford cars and that Ford Germany's object in cutting off supplies of RHD vehicles to German dealers was to protect Ford Britain (note dated 5 April 1982 and signed by D. Goeudevert).

F. Reaction of third parties

- (25) Several Ford dealers in Germany protested to Ford Germany about its decision to discontinue deliveries of RHD cars to German dealers, mainly on the ground that sales of RHD vehicles in Germany would be handled by PIE and even then only on behalf of special customers (diplomats, British military personnel and other UK citizens permanently resident abroad)

and not 'normal' Community citizens. This means that a 'non-Ford dealer' (PIE) can sell Ford products in Germany, even in the dealer's area of responsibility, and the dealers claim that this would be in breach of the Main Dealer Agreement.

Several Ford dealers from the United Kingdom argued *inter alia* to the Commission that availability of RHD vehicles to German dealers for sale to mostly UK customers would undermine their own sales substantially. The current Ford system of distribution gives UK dealers a sound base on which to invest and to operate profitably. Since tremendous differences exist between Ford car prices in Germany and the United Kingdom, selling of RHD cars by German (or other continental) dealers to UK customers would cause financial loss to UK dealers. The long-term effect of the availability of RHD cars to German dealers would be a reduction in the prices of RHD cars in the United Kingdom. On the other hand, a dealership requires a significant financial investment. The adequate return on investment would be reduced, if not destroyed, if RHD cars from the continent at substantially continental prices could be purchased by UK customers.

It is noted that none of the UK Ford dealers concerned had attempted, nor was interested in importing Ford cars in parallel, even though the distribution system allowed it and on some models they could have made more than by buying from Ford UK.

- (26) The Bureau européen des unions de Consommateurs (BEUC) a consortium of consumer organizations in the Member States made *inter alia* the following main comments:

As a matter of fact consumers will essentially — if not to say only — buy cars abroad if price disparities make it worthwhile. The repeated attempts by several car manufacturers to partition the common market and restrict parallel imports whenever price disparities make it financially interesting for consumers to buy abroad are seriously undermining the basic principles of the Treaty.

G. Procedure

- (27) On 18 August 1982, the Commission required Ford Germany by interim measure Decision 82/628/EEC⁽¹⁾ *inter alia* to withdraw its circular dated 27 April 1982 to German Ford dealers and to refrain from taking any measures having the same effect as the circular. This interim measure Decision was to apply until adoption of the Decision concluding the proceeding, that is the present Decision.

On 3 September 1982, Ford Germany applied to the European Court of Justice to declare the Commission Decision void and to suspend the operation of the contested Decision. On 29 September 1982, the President of the Court, by way of interim decision:

- suspended the Commission Decision in so far as it required Ford Germany to deliver RHD vehicles constructed to British specifications to its German dealers,
- maintained the Decision in so far as it required Ford Germany to deliver RHD vehicles constructed under German specifications to its German dealers, but limited the scope of that requirement to a certain number of cars.

On 24 August 1982, the Commission sent a statement of objections to Ford Germany, to which the latter answered on 5 November 1982. Ford Germany did not request an oral hearing.

II. LEGAL ASSESSMENT

A. Applicability of Article 85 (1) of the EEC Treaty

- (28) The present Decision considers only the Main Dealer Agreement as it has been operated by Ford Germany since 1 May 1982 in application of which Ford Germany does not any longer supply RHD vehicles to its German dealers.
- (29) The Ford distribution system in Germany is based on the Main Dealer Agreement, concluded between undertakings (Ford Germany and its authorized dealers).

⁽¹⁾ OJ No L 256, 2. 9. 1982, p. 20.

- (30) According to paragraph 2 of Article 6 of the Main Dealer Agreement, Ford Germany allots to the dealer an area of responsibility (Marktverantwortungsgebiet) and commits itself not to conclude distribution and servicing agreements for new Ford cars as a matter of principle with other undertakings operating within the allotted area.

This restricts Ford Germany in the exercise of its freedom of contract to choose other resellers for the sale of Ford cars and thus restricts competition.

- (31) Ford dealers are prohibited under Article 2 of the Main Dealer Agreement from selling vehicles to independent dealers. Such independent undertakings are unable to purchase and resell the products covered by the Main Dealer Agreement. Article 5 stipulates that the Ford dealer must not — except with the consent of Ford Germany — sell new motor vehicles which were not manufactured by Ford Germany or any other company of the Ford group; it further obliges the Ford dealer not to engage in any distribution and servicing agreement with third parties in respect of products which may compete with Ford products. Finally, paragraph 3 of Article 6 obliges the Ford dealer not to engage in any special sales activity outside its area of responsibility.

- (32) These clauses restrict competition by limiting the number of dealers available to other car manufacturers. By limiting dealers to their allotted areas and to the Ford products they also restrict the intensity of competition within and outside the allotted area both within the Ford-Germany distribution network and in inter-brand competition.

Authorized Ford dealers cannot freely draw up agreements with other dealers, within and outside their allotted area, through whom they want to distribute and service Ford vehicles.

These obligations on the Ford dealer afford to him only limited scope for determining his marketing policy.

- (33) The Main Dealer Agreement has an appreciable effect on trade between Member States for the same reasons as set out in paragraph 19 of Commission Decision 75/73/EEC of 13

December 1974 (BMW) ⁽¹⁾, namely that dealers who would otherwise have been able to export Ford products but were not admitted to the distribution system were prevented from supplying customers in other Member States. Approved German Ford dealers are not allowed to promote sales actively outside Germany or to deliver Ford vehicles to retail dealers in other Member States who do not belong to any Ford distribution system. The refusal to supply prevents all deliveries of RHD vehicles by Ford dealers in Germany either to other authorized Ford dealers or to final customers, primarily in the United Kingdom.

- (34) Due to these provisions, which constitute the most important part of the Ford Main Dealer Agreement, Article 85 (1) applies to that agreement. Therefore, in the present Decision it is not necessary to deal with the other clauses and practices as mentioned in paragraph 15.

B. Non-applicability of Article 85 (3) of the EEC Treaty

- (35) In the application of Article 85 (3), the Commission has a discretion (see Judgment of the Court in Case 26/76 — Metro v. Commission, 1977 ECR at p. 1916). Every time the Commission has to decide whether the four requirements of Article 85 (3) (improvement of the production or distribution of goods or promotion of economic progress; equitable share in the benefits to users; indispensability of the restrictions; no elimination of competition) are fulfilled, it also (see Judgment of the Court in Cases 56/64 and 58/64 — Consten and Grundig v. Commission, 1966 ECR at p. 502, in the English text at p. 348) must see whether the benefits flowing from the distribution agreement as practised compensate for the disadvantages due to the restriction of competition in its practical application. As the decision of the Court in the case AEG emphasized (paragraph 37 of Decision 107/82 of 25 October 1983) account must be taken *inter alia* of the fact, whether or not, the setting-up of a selective distribution system has the tendency to maintain high price levels and prevent the development of certain channels of distribution.

⁽¹⁾ OJ No L 29, 3. 2. 1975, p. 1.

- (36) The Court of Justice has consistently said that in applying Article 85 (3) the agreements have to be looked at in the light of all the surrounding circumstances. The Commission considers that, of all the factors that must be taken into account, priority must be given to the issue of whether a party has restricted competition by impeding parallel imports.

Ford Germany argues that the omission to do something that would put the German dealers in a position to compete in a certain way cannot be equated with a restriction imposed on them by means of an agreement. The refusal to supply RHD cars, according to Ford Germany, is a unilateral act which cannot be taken into account when considering whether to grant an exemption for the Main Dealer Agreement.

The Commission, on the other hand, considers that it is justified in not granting an exemption if the parties to an agreement exercise rights or take measures to prevent dealers or consumers from obtaining the goods to which the agreement relates either in the territory or elsewhere. This is made clear by, for example Article 3 of Regulation 67/67/EEC⁽¹⁾ and Article 3 of Regulation (EEC) No 1983/83⁽²⁾. This means that unilateral measures which as such do not constitute agreements or practices within the meaning of Article 85 (1) may have to be considered in deciding whether an exemption can be given. If the connection between the unilateral act and the agreement is sufficiently close and direct and if the act has a sufficient impact on competition, it may be immaterial for an examination of the agreement under Article 85 (3) whether the act is a direct consequence of the agreement or not.

Contrary to the allegation of Ford Germany, a unilateral act may be taken into account by the Commission even if it is not directly caused by the agreement because the Commission must consider an agreement in the economic context in which it has been applied. Even if Ford Germany's allegation were correct, the refusal to supply substantially reduced the benefits of the Main Dealer Agreement to buyers wishing to obtain RHD cars at favourable prices. In asses-

sing whether any national distribution system within the Community fulfils the requirements of Article 85 (3), the possibility of parallel imports to and from the Member State in question must always be considered, since these will have an important effect on intra-brand price competition in the Member States concerned and therefore on the benefits of the agreement to consumers: 'consumers' in Article 85 (3) means consumers throughout the Community, not just in one Member State.

- (37) Ford Germany's Main Dealer Agreement as operated before 1 May 1982 seems to give some of the benefits which distribution agreements usually give in the car industry but no special or exceptional benefits.
- (38) Although Ford Germany still produces RHD cars in Germany and could easily make them available there, since 1 May 1982 German Ford dealers are unable to compete in the supply of RHD cars to authorized dealers and final users either within their area or outside.
- (39) Consumers within Germany and in the United Kingdom are no longer able to buy RHD Ford cars from German dealers, as they were before 1 May 1982. Since cars are one of the most expensive single items which most consumers buy and since consumer demand in the United Kingdom is almost exclusively for RHD cars, the disadvantage to their interests is substantial: consumers within the Community and above all car buyers in the United Kingdom are now deprived of an important source of supply of RHD cars produced at lower cost than in the United Kingdom and available at low prices.
- (40) RHD cars which were delivered in accordance with the contract in question are suitable for export. Many of the RHD cars manufactured in Germany by Ford Germany are exported to another Member State. They have been and can conveniently be sold to or by approved dealers in Germany at prices substantially below those at which the goods are available elsewhere.
- (41) The only reason for refusing to supply local approved dealers with goods suitable for export is the wish to protect the market in the other Member State from parallel imports at more favourable prices. At least in all these circumstances the refusal to supply can be regarded as a key element in partitioning the common

⁽¹⁾ OJ No 57, 25. 3. 1967, p. 849/67.

⁽²⁾ OJ No L 173, 30. 6. 1983, p. 1.

market artificially, and in maintaining price levels in a high-price Member State (where prices are high because Ford costs there are high — see paragraph 24 above).

- (42) Contrary to what Ford Germany alleges, the connection between the refusal to RHD cars to German dealers and the Main Dealer Agreement is close and direct. The circular of 27 April 1982 was exclusively addressed to German dealers who were parties to the German Main Dealer Agreement. Previously, Ford Germany sold RHD cars in Germany only to and through those dealers and the dealers' right to obtain Ford motor cars (Article 2 of the Agreement) and the dealers' sales targets (Article 6 of the Agreement) included RHD with German specifications. It was Ford Germany's relationship with the dealers party to the Main Dealer Agreement which was altered by the circular. It was therefore Ford Germany's dealer agreement and the relationship it created that was at issue when Ford Germany sent out the circular and terminated the supplies. The circular makes the effect of the agreement much more restrictive and the benefits of it less advantageous than they would otherwise have been had exports of RHD Ford cars still been possible for German dealers.

- (43) In balancing the improvement in distribution of cars resulting from the agreement — and the share in those advantages allowed to consumers — against the disadvantages in all the legal and economic circumstances, the Commission finds that Ford Germany's distribution system as applied since 1 May 1982 does not allow adequate competition at the distribution level, because it is no longer possible to buy RHD Ford cars in Germany at the very significantly lower German prices (see paragraph 22), and so, the competitive pressure in the United Kingdom is significantly reduced.

In general, consumers should be free to purchase Ford cars where ever they wish within the Community and, unless there are strong reasons to the contrary, Ford dealers should be able and free to deal in substantially all important Ford car versions especially those which are produced by the Ford Group company which supplies them. In general it is a prerequisite of

an exemption that dealers and consumers should enjoy these freedoms and that an enterprise should not take steps to prevent customers in one Member State from obtaining its products in another Member State. This is the more so when the only purpose of these steps is to prevent competition between authorized dealers and to protect higher price levels.

- (44) Contrary to what Ford Germany says, for an exemption it is not sufficient for Ford Germany to impose no restriction on the Ford dealers' selling and exporting the Ford cars in their hands. Since the effects of a restrictive agreement must be considered in its economic and legal context, other acts of one or both parties to the agreement must also be taken into account. The refusal to deliver cars for which there is a certain demand inside Germany and a strong demand outside Germany has substantially the same economic effect as a prohibition on exporting RHD cars from Germany.

If prices for RHD cars charged by Ford Germany to its German dealers were at or around the significantly higher level of the corresponding prices in the United Kingdom, this would also have substantially the same economic effect as a prohibition on exports.

Since it is normally a prerequisite for an exemption that intra-brand competition at the distribution level across national frontiers should be possible, or at least unobstructed, and hence that distribution systems within the Community should not cause a substantial part of the Community to be deliberately insulated from the rest (see Article 3 of Regulation 67/67/EEC and Article 3 of Regulation (EEC) No 1983/83), the withdrawal of supplies of RHD Ford cars in Germany makes exemption inappropriate in the circumstances of this case.

- (45) Ford Germany alleges that refusal of an exemption would oblige it to practise 'full line availability', that is, to make available to its German dealers all of the series production cars marketed by any Ford Group company anywhere in the Community. Ford Germany also says a refusal would amount to imposing an obligation on it to manufacture RHD cars. Neither argument is correct.

This Decision merely concludes that a unilateral termination of supplies which has practical effects similar to an export ban may make Article 85 (3) inapplicable and that in all the circumstances, for Ford Germany to obtain an exemption, it should make RHD cars available to its German dealers as it did before May 1982. Ford Germany is free, if it wishes, to adopt a dealer agreement which does not fall under Article 85 (1). The Commission is not deciding whether and if so how far Ford Germany or any other company could be expected, as a condition of exemption of a dealer agreement, to make available products which were not manufactured or sold by it in the Member State in question, or the full range of products manufactured by its group in the Community. This Decision does not suggest that it would be a prerequisite for exemption of Ford Germany's dealer agreement that dealers should be able to sell cars having minor features which were not important to a significant number of consumers of which could be installed easily and cheaply by buyers who want them. But right-hand drive is not a feature of that kind. On the contrary, as a result of the present Decision, Ford Germany remains free to deliver RHD vehicles with German or with other specifications. Nor is the Commission deciding whether it would be a prerequisite for an exemption that RHD cars should be available to German Ford dealers if Ford Germany no longer manufactured them, or was unable to produce them at a cost substantially below its production costs in the United Kingdom: in the present circumstances those questions do not arise.

- (46) Ford dealers in the United Kingdom argue that they will suffer a serious drop in sales if Ford Germany makes available RHD cars to its German dealers, as it did before 1 May 1982, at substantially the same prices as for LHD cars. But different price levels cannot justify protection against intra-brand competition, especially if such protection would conflict with the fundamental principle of the common market which necessitates that competition from import can take place.

C. Application of Article 3 of Regulation No 17

- (47) For the reasons set out above, the Main Dealer Agreement infringes Article 85 (1) and it cannot

as applied since 1 May 1982 be exempted pursuant to Article 85 (3). The Main Dealer Agreement therefore constitutes an infringement of Article 85 (1). The Commission considers it necessary to require Ford Germany, in accordance with Article 3 of Regulation No 17, to terminate the infringement without delay and to refrain from any other agreement or concerted practice having the same object or effect.

HAS ADOPTED THIS DECISION:

Article 1

The Main Dealer Agreement concluded by Ford Werke Aktiengesellschaft with German car dealers for the selling of Ford products restricts competition and affects trade between Member States in the sense of Article 85 (1) of the EEC Treaty. An exemption pursuant to Article 85 (3) for the Main Dealer Agreement as applied by Ford AG since 1 May 1982 is refused.

Article 2

Ford Werke Aktiengesellschaft is hereby ordered to bring the abovementioned infringement to an end immediately.

Article 3

The Commission Decision of 18 August 1982 addressed to Ford Werke Aktiengesellschaft, Cologne, is revoked with the effect on the date of notification of this Decision to Ford Werke Aktiengesellschaft.

Article 4

This Decision is addressed to Ford Werke Aktiengesellschaft, Ottoplatz 2, Köln, Federal Republic of Germany.

Done at Brussels, 16 November 1983.

For the Commission

Frans ANDRIESEN

Member of the Commission

CORRIGENDA

Corrigendum to Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)

(Official Journal of the European Communities No L 263 of 24 September 1983)

Page 27, Article 7 (1):

the second paragraph is hereby replaced by the following:

'For the purposes of measuring asbestos in the air as referred to in the preceding paragraph, only fibres with a length of more than five micrometres, a width of less than three micrometres and a length/breadth ratio greater than 3 : 1 shall be taken into consideration.'

Corrigendum to Commission Regulation (EEC) No 3159/83 of 9 November 1983 authorizing the Federal Republic of Germany to permit under certain conditions an additional increase in the alcoholic strength of certain wines and certain products intended for wine making

(Official Journal of the European Communities No L 309 of 10 November 1983)

Page 21, title:

for: '... authorizing the Federal Republic of Germany to permit ...',

read: '... authorizing the Federal Republic of Germany and the United Kingdom to permit ...'.

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