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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1231/84**of 3 May 1984****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 2 May 1984;

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 4 May 1984.

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

Done at Brussels, 3 May 1984.

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 3 May 1984 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	89,70
10.01 B II	Durum wheat	149,36 ⁽¹⁾ ⁽²⁾
10.02	Rye	97,06 ⁽⁶⁾
10.03	Barley	81,47
10.04	Oats	88,19
10.05 B	Maize, other than hybrid maize for sowing	61,82 ⁽³⁾ ⁽³⁾
10.07 A	Buckwheat	0
10.07 B	Millet	0 ⁽⁴⁾
10.07 C	Grain sorghum	94,12 ⁽⁴⁾
10.07 D	Canary seed; other cereals	0 ⁽⁵⁾
11.01 A	Wheat or meslin flour	141,12
11.01 B	Rye flour	151,38
11.02 A I a)	Durum wheat groats and meal	245,33
11.02 A I b)	Common wheat groats and meal	149,61

⁽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 1232/84

of 3 May 1984

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
2 May 1984;

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 4 May 1984.

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

Done at Brussels, 3 May 1984.

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 3 May 1984 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 5	1st period 6	2nd period 7	3rd period 8
10.01 B I	Common wheat, and meslin	0	14,45	14,45	16,60
10.01 B II	Durum wheat	0	0	0	0,86
10.02	Rye	0	0	0	0
10.03	Barley	0	0	0	0
10.04	Oats	0	0	0	0
10.05 B	Maize, other than hybrid maize for sowing	0	1,22	1,22	0
10.07 A	Buckwheat	0	0	0	0
10.07 B	Millet	0	0	0	0
10.07 C	Grain sorghum	0	0	0	0
10.07 D	Other cereals	0	0	0	0
11.01 A	Wheat or meslin flour	0	20,24	20,24	23,24

B. Malt

CCT heading No	Description	(ECU/tonne)				
		Current 5	1st period 6	2nd period 7	3rd period 8	4th period 9
11.07 A I (a)	Unroasted malt, obtained from wheat, in the form of flour	0	25,72	25,72	29,55	29,55
11.07 A I (b)	Unroasted malt, obtained from wheat, other than in the form of flour	0	19,22	19,22	22,08	22,08
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 1233/84

of 3 May 1984

fixing the minimum levies on the importation of olive oil and levies on the importation of other olive oil sector products

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 16 (2) thereof,

Having regard to Council Regulation (EEC) No 1514/76 of 24 June 1976 on imports of olive oil originating in Algeria ⁽³⁾, as last amended by Regulation (EEC) No 663/84 ⁽⁴⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1521/76 of 24 June 1976 on imports of olive oil originating in Morocco ⁽⁵⁾, as last amended by Regulation (EEC) No 663/84 and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1508/76 of 24 June 1976 on imports of olive oil originating in Tunisia ⁽⁶⁾, as last amended by Regulation (EEC) No 1112/84 ⁽⁷⁾, and in particular Article 5 thereof,

Having regard to Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey ⁽⁸⁾, as last amended by Regulation (EEC) No 664/84 ⁽⁹⁾, and in particular Article 10 (2) thereof,

Having regard to Council Regulation (EEC) No 1620/77 of 18 July 1977 laying down detailed rules for the importation of olive oil from Lebanon ⁽¹⁰⁾;

Whereas by Regulation (EEC) No 3131/78 of 28 December 1978 ⁽¹¹⁾ the Commission decided to use the tendering procedure to fix levies on olive oil;

Whereas Article 3 of Regulation (EEC) No 2751/78 of 23 November 1978 laying down general rules for fixing the import levy on olive oil by tender ⁽¹²⁾ specifies that the minimum levy rate shall be fixed for each of the products concerned on the basis of the situation on the world market and the Community market and of the levy rates indicated by tenderers;

Whereas in the collection of the levy account should be taken of the provisions in the Agreements between the Community and certain third countries; whereas in particular the levy applicable for those countries must be fixed taking as a basis for calculation the levy to be collected on imports from the other third countries;

Whereas application of the rules recalled above to the levy rates indicated by tenderers on 30 April and 1 May 1984 leads to the minimum levies being fixed as indicated in Annex I to this Regulation;

Whereas the import levy on olives falling within subheadings 07.01 N II and 07.03 A II of the Common Customs Tariff and on products falling within subheadings 15.17 B I and 23.04 A II of the Common Customs Tariff must be calculated from the minimum levy applicable on the olive oil contained in these products; whereas, however, the levy charged for olive oil may not be less than an amount equal to 8 % of the value of the imported product, such amount to be fixed at a standard rate; whereas application of these provisions leads to the levies being fixed as indicated in Annex II to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum levies on olive oil imports are fixed in Annex I.

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

⁽²⁾ OJ No L 162, 12. 6. 1982, p. 6.

⁽³⁾ OJ No L 169, 28. 6. 1976, p. 24.

⁽⁴⁾ OJ No L 73, 16. 3. 1984, p. 10.

⁽⁵⁾ OJ No L 169, 28. 6. 1976, p. 43.

⁽⁶⁾ OJ No L 169, 28. 6. 1976, p. 9.

⁽⁷⁾ OJ No L 108, 25. 4. 1984, p. 4.

⁽⁸⁾ OJ No L 142, 9. 6. 1977, p. 10.

⁽⁹⁾ OJ No L 73, 16. 3. 1984, p. 11.

⁽¹⁰⁾ OJ No L 181, 21. 7. 1977, p. 4.

⁽¹¹⁾ OJ No L 370, 30. 12. 1978, p. 60.

⁽¹²⁾ OJ No L 331, 28. 11. 1978, p. 6.

Article 2

The levies applicable on imports of other olive oil sector products are fixed in Annex II.

Article 3

This Regulation shall enter into force on 4 May 1984.

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

Done at Brussels, 3 May 1984.

For the Commission

Poul DALSAGER

Member of the Commission

ANNEX I

Minimum import levies on olive oil

(ECU/100 kg)

CCT heading No	Non-member countries
15.07 A I a)	61,00 ⁽¹⁾
15.07 A I b)	60,50 ⁽¹⁾
15.07 A I c)	57,00 ⁽¹⁾
15.07 A II a)	69,00 ⁽²⁾
15.07 A II b)	92,00 ⁽³⁾

⁽¹⁾ For imports of oil falling within this tariff subheading and produced entirely in one of the countries listed below and transported directly from any of those countries to the Community, the levy to be collected is reduced by:

- (a) Spain and Lebanon: 0,60 ECU/100 kg;
- (b) Turkey: 22,36 ECU/100 kg provided that the operator furnishes proof of having paid the export tax applied by that country; however, the repayment may not exceed the amount of the tax in force;
- (c) Algeria and Morocco: 24,78 ECU/100 kg provided that the operator furnishes proof of having paid the export tax applied by those countries; however, the repayment may not exceed the amount of the tax in force.
- (d) Tunisia: 34,78 ECU/100 kg provided that the operator furnishes proof of having paid the export tax applied by that country; however, the repayment may not exceed the amount of the tax in force.

⁽²⁾ For imports of oil falling within this tariff subheading:

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by 3,86 ECU/100 kg;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 3,09 ECU/100 kg.

⁽³⁾ For imports of oil falling within this tariff subheading:

- (a) produced entirely in Algeria, Morocco or Tunisia and transported directly from any of those countries to the Community, the levy to be collected is reduced by 7,25 ECU/100 kg;
- (b) produced entirely in Turkey and transported directly from that country to the Community, the levy to be collected is reduced by 5,80 ECU/100 kg.

ANNEX II

Import levies on other olive oil sector products

(ECU/100 kg)

CCT heading No	Non-member countries
07.01 N II	13,31
07.03 A II	13,31
15.17 B I a)	30,25
15.17 B I b)	48,40
23.04 A II	4,56

COMMISSION REGULATION (EEC) No 1234/84
of 3 May 1984

re-establishing the levying of customs duties on other ball bearings with greatest external diameter not more than 30 mm, falling within heading No ex 84.62 and originating in Singapore, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3569/83 apply

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
3569/83 of 16 December 1983 applying generalized
tariff preferences for 1984 in respect of certain indus-
trial products originating in developing countries ⁽¹⁾,
and in particular Article 13 thereof,

Whereas, pursuant to Articles 1 and 10 of that Regula-
tion, suspension of customs duties shall be accorded to
each of the countries or territories listed in Annex C,
other than those listed in column 4 of Annex A,
within the framework of the preferential tariff ceiling
fixed in column 9 of Annex A; whereas, as provided
for in Article 11 of that Regulation, as soon as the
individual ceilings in question are reached at Commu-
nity level, the levying of customs duties on imports of
the products in question originating in each of the
countries and territories concerned may at any time be
re-established;

Whereas, in the case of other ball bearings with
greatest external diameter not more than 30 mm,
falling within heading No ex 84.62, the individual
ceiling was fixed at 1 704 000 ECU; whereas, on 2
May 1984, imports of these products into the Commu-
nity originating in Singapore reached that ceiling after
being charged thereagainst;

Whereas, it is appropriate to re-establish the levying of
customs duties in respect of the products in question
against Singapore,

HAS ADOPTED THIS REGULATION:

Article 1

As from 7 May 1984, the levying of customs duties,
suspended pursuant to Council Regulation (EEC) No
3569/83 shall be re-established on imports into the
Community of the following products originating in
Singapore:

CCT heading No	Description
ex 84.62 (NIMEXE code 84.62-01)	Ball bearings with greatest external diameter not more than 30 mm

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, 3 May 1984.

For the Commission

Karl-Heinz NARJES

Member of the Commission

⁽¹⁾ OJ No L 362, 24. 12. 1983, p. 1.

COMMISSION REGULATION (EEC) No 1235/84**of 3 May 1984****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 1183/84⁽³⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1183/84 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 Regulation (EEC) No 1183/84, are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 May 1984.

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

Done at Brussels, 3 May 1984.

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 115, 1. 5. 1984, p. 18.

ANNEX

to the Commission Regulation of 3 May 1984 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 (ECU)
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	0,4719 — 0,4719 0,4719 0,4719	— 53,81 — — —
21.07	Food preparations not elsewhere specified or included : F. Flavoured or coloured sugar syrups : III. Isoglucose IV. Other	— 0,4719	53,81 —

COMMISSION REGULATION (EEC) No 1236/84**of 3 May 1984****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 1226/84⁽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 4 May 1984.

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

Done at Brussels, 3 May 1984.

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 117, 3. 5. 1984, p. 37.

ANNEX

**to the Commission Regulation of 3 May 1984 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 B. Raw sugar	47,19 38,45 (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 1237/84
of 3 May 1984
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 1101/84 ⁽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 1186/84 ⁽⁵⁾;

Whereas it follows from applying the detailed rules
contained in Regulation (EEC) No 1186/84 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 Regulation (EEC) No 1186/84 are hereby altered to
the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 May 1984.

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

Done at Brussels, 3 May 1984.

For the Commission

Poul DALSGER

Member of the Commission

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

⁽²⁾ OJ No L 113, 28. 4. 1984, p. 7.

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

⁽⁴⁾ OJ No L 264, 23. 11. 1972, p. 1.

⁽⁵⁾ OJ No L 115, 1. 5. 1984, p. 25.

*ANNEX***to the Commission Regulation of 3 May 1984 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	0
ex 12.01	Sunflower seed, other than for sowing	—

COMMISSION REGULATION (EEC) No 1238/84

of 3 May 1984

fixing the export refunds 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 the
fourth subparagraph of Article 16 (2),

Having regard to the opinion of the Monetary
Committee,

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

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

Whereas Article 3 of Regulation (EEC) No 2746/75
defines the specific criteria to be taken into account
when the refund on cereals is being calculated;

Whereas these specific criteria are defined, as far as
wheat and rye flour, groats and meal are concerned, in
Article 4 of Regulation (EEC) No 2746/75; whereas
furthermore, when the refund on these products is
being calculated, account must be taken of the quanti-
ties of cereals required for their manufacture; whereas

these quantities were fixed in Regulation No 162/
67/EEC⁽⁴⁾, as amended by Regulation (EEC) No
1607/71⁽⁵⁾;

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

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

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 it follows from applying the detailed rules set
out above to the present situation on the market in
cereals, and in particular to quotations or prices for
these products within the Community and on the
world market, that the refunds 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 Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1
(a), (b) and (c) of Regulation (EEC) No 2727/75,
exported in the natural state, shall be as set out in the
Annex hereto.

Article 2

This Regulation shall enter into force on 4 May 1984.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No 128, 27. 6. 1967, p. 2574/67.

⁽⁵⁾ OJ No L 168, 27. 7. 1971, p. 16.

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

Done at Brussels, 3 May 1984.

For the Commission

Poul DALSAGER

Member of the Commission

ANNEX

to the Commission Regulation of 3 May 1984 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU/tonne)

CCT heading No	Description	Refund
10.01 B I	Common wheat and meslin	
	(a) that have undergone treatment to prevent their being used for human consumption (1)	
	for exports to :	
	— Switzerland, Austria and Liechtenstein	20,00
	— Spain, Portugal and Zone II b)	25,00
	— other third countries	15,00
	(b) others :	
	for exports to :	
	— Switzerland, Austria and Liechtenstein	26,00
	— Zone II b)	33,00
	— other third countries	15,00
10.01 B II	Durum wheat	—
10.02	Rye	
	for exports to :	
	— Switzerland, Austria and Liechtenstein	26,00
	— other third countries	33,00
10.03	Barley	
	for exports to :	
	— Switzerland, Austria and Liechtenstein	39,00
	— Zone II b)	46,00
	— Japan	—
	— other third countries	10,00
10.04	Oats	
	for exports to :	
	— Switzerland, Austria and Liechtenstein	0
	— other third countries	—
10.05 B	Maize, other than hybrid maize for sowing	—
10.07 C	Grain sorghum	—
ex 11.01 A	Wheat flour :	
	— of an ash content of 0 to 520	68,25
	— of an ash content of 521 to 600	68,25
	— of an ash content of 601 to 900	68,25
	— of an ash content of 901 to 1 100	55,00
	— of an ash content of 1 101 to 1 650	51,00
	— of an ash content of 1 651 to 1 900	46,00

CCT heading No	Description	Refund (<i>ECU/tonne</i>)
ex 11.01 B	Rye flour : — of an ash content of 0 to 700 — of an ash content of 701 to 1 150 — of an ash content of 1 151 to 1 600 — of an ash content of 1 601 to 2 000	68,25 68,25 68,25 68,25
11.02 A I a)	Durum wheat groats and meal : — of an ash content of 0 to 1 300 ⁽²⁾ — of an ash content of 0 to 1 300 ⁽³⁾ — of an ash content of 0 to 1 300 — of an ash content of more than 1 300	214,00 202,00 180,00 169,00
11.02 A I b)	Common wheat groats and meal : — of an ash content of 0 to 520	68,25

(¹) Treatment as specified in Regulations (EEC) No 780/84, (EEC) No 781/84, (EEC) No 782/84 and (EEC) No 783/84 (OJ No L 85, 28. 3. 1984).

(²) Meal of which less than 10 % by weight is capable of passing through a sieve of 0,250 mm mesh.

(³) Meal of which less than 10 % by weight is capable of passing through a sieve of 0,160 mm mesh.

N.B. The zones are those defined in Regulation (EEC) No 1124/77 (OJ No L 134, 28. 5. 1977), as amended by Regulation (EEC) No 3634/83 (OJ No L 360, 23. 12. 1983).

COMMISSION REGULATION (EEC) No 1239/84

of 3 May 1984

fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No
2727/75 of 29 October 1975 on the common organi-
zation of the market in cereals ⁽¹⁾, as last amended by
Regulation (EEC) No 1451/82 ⁽²⁾, and in particular the
fourth subparagraph of Article 16 (2) thereof,

Having regard to the opinion of the Monetary
Committee,

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

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

Whereas Council Regulation (EEC) No 2744/75 of 29
October 1975 on the import and export system for
products processed from cereals and from rice ⁽⁴⁾, as
last amended by Regulation (EEC) No 414/83 ⁽⁵⁾,

defines the specific criteria to be taken into account
when the refund on these products is being calcu-
lated;

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

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

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

- in the case of currencies which are maintained in
relation to each other at any given moment within
a band of 2,25 %, a rate of exchange based on
their central rate,
- for other currencies, an exchange rate based on the
arithmetic mean of the spot market rates of each of
these currencies recorded for a given period in
relation to the Community currencies referred to
in the previous indent;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 May 1984.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 164, 14. 6. 1982, p. 1.

⁽³⁾ OJ No L 281, 1. 11. 1975, p. 78.

⁽⁴⁾ OJ No L 281, 1. 11. 1975, p. 65.

⁽⁵⁾ OJ No L 51, 24. 2. 1983, p. 1.

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

Done at Brussels, 3 May 1984.

For the Commission

Poul DALSGER

Member of the Commission

ANNEX

to the Commission Regulation of 3 May 1984 fixing the export refunds on malt

<i>(ECU/tonne)</i>	
CCT heading No	Refund
11.07 A I b)	34,58
11.07 A II b)	75,21
11.07 B	87,66

COMMISSION REGULATION (EEC) No 1240/84
of 3 May 1984
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 1101/84 ⁽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 1013/84 ⁽³⁾, as last amended by Regulation (EEC) No 1192/84 ⁽⁴⁾;

Whereas, in the absence of the target price for the 1984/85 marketing year for colza, rape and sunflower seed and in the absence of the amount of the monthly increase for September and October 1984 for colza and rape seed, the amount of the subsidy in the case of advance fixing for July, August, September and October 1984 for colza and rape seed and August and September 1984 for sunflower seed has been obtainable only provisionally on the basis of the target price and the monthly increase proposed by the Commission to the Council for the marketing year 1984/85; whereas this amount may, therefore, be applied on a temporary basis and should be confirmed or replaced when the indicative price of the 1984/85 marketing year is known;

Whereas it follows from applying the detailed rules contained in Regulation (EEC) No 1013/84 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

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.
2. The amount of the subsidy in the case of advance fixing for July, August, September and October 1984 for colza and rape seed and August and September 1984 for sunflower seed will, however, be confirmed or replaced as from 4 May 1984 to take into account the indicative price which is fixed for these products for the 1984/85 marketing year, and the amount of the monthly increase for September and October 1984 for colza and rape seed.

Article 2

This Regulation shall enter into force on 4 May 1984.

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

Done at Brussels, 3 May 1984.

For the Commission

Poul DALSGER

Member of the Commission

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

⁽²⁾ OJ No L 113, 28. 4. 1984, p. 7.

⁽³⁾ OJ No L 101, 13. 4. 1984, p. 30.

⁽⁴⁾ OJ No L 115, 1. 5. 1984, p. 39.

ANNEX

to the Commission Regulation of 3 May 1984 fixing the amount of the subsidy
on oil seeds

(ECU/100 kg)

CCT heading No	Description	Subsidy
ex 12.01	Colza and rape seed	1,250
ex 12.01	Sunflower seed	11,515

(ECU/100 kg)

CCT heading No	Description	Subsidy in the case of advance fixing for the month of					
		May 1984	June 1984	July 1984	August 1984	September 1984	October 1984
ex 12.01	Colza and rape seed	1,250	1,250	0,— ⁽¹⁾	0,— ⁽¹⁾	5,322 ⁽¹⁾	8,707 ⁽¹⁾
ex 12.01	Sunflower seed	11,515	11,649	11,497	7,823 ⁽¹⁾	9,214 ⁽¹⁾	—

⁽¹⁾ Subject to confirmation.

COMMISSION REGULATION (EEC) No 1241/84

of 3 May 1984

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 1101/84⁽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 2027/83⁽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 699/84⁽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 1013/84 of 12

April 1984 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 4 May 1984.

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

Done at Brussels, 3 May 1984.

For the Commission

Poul DALSAGER

Member of the Commission

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

⁽²⁾ OJ No L 113, 28. 4. 1984, p. 7.

⁽³⁾ OJ No L 167, 25. 7. 1972, p. 9.

⁽⁴⁾ OJ No L 199, 22. 7. 1983, p. 14.

⁽⁵⁾ OJ No L 236, 24. 8. 1973, p. 28.

⁽⁶⁾ OJ No L 74, 17. 3. 1984, p. 32.

⁽⁷⁾ OJ No L 101, 13. 4. 1984, p. 30.

ANNEX

to the Commission Regulation of 3 May 1984 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	51,130
ex 12.01	Sunflower seed	49,885

(ECU/100 kg)⁽¹⁾

CCT heading No	Description	World market price where the subsidy is fixed in advance for the month of					
		May 1984	June 1984	July 1984	August 1984	September 1984	October 1984
ex 12.01	Colza and rape seed	51,130	51,130	50,223	50,525	42,458	39,593
ex 12.01	Sunflower seed	49,885	49,751	49,903	50,397	49,006	—

⁽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 = £	0,589807
1 ECU = Lit	1 381,39
1 ECU = Dr	88,3759

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 April 1984

relating to a proceeding under Article 85 of the EEC Treaty (IV/30.849 IBM personal computer)

(84/233/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the application for negative clearance and notification made on 18 January 1983 by IBM Europe SA concerning a selective distribution system for the IBM personal computer,

Having regard to the publication of a summary of the application and notification ⁽²⁾ pursuant to Article 19 (3) of the said Regulation No 17 and of the Commission's intention to take a favourable decision,

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

Whereas

I. THE FACTS

The parties

- (1) IBM Europe SA is a subsidiary of IBM World Trade Europe/Middle East/Africa Corporation,

itself ultimately a subsidiary of the International Business Machines Corporation of the State of New York in the USA. It made the said application and notification on behalf of:

- IBM UK International Products Ltd, and of:
- IBM Belgium Distribution Company SA,
- IBM Danmark Produkt Distribution Selskab A/S,
- IBM Deutschland Produktvertrieb GmbH,
- IBM EMEA Product Distribution Corporation,
- IBM France Diffusion SA,
- IBM Ireland Product Distribution Ltd,
- IBM Italia Distribuzione Prodotti Srl,
- IBM Nederland Distributie BV, and
- IBM UK Product Sales Ltd.

The IBM group is the largest manufacturer or provider of information-handling systems, equipment and services in the world. IBM UK International Products Ltd supplies the IBM personal computers to the other companies listed, which are the IBM subsidiaries that sell this computer to dealers (and also to end users) within their Member State (apart from IBM Belgium Distribution Company SA which also sells to dealers in the Grand Duchy of Luxembourg). IBM UK International Products Ltd also supplies IBM subsidiaries outside the Community, and any independent distributor appointed by IBM.

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 285, 22. 10. 1983, p. 2.

The product and market

- (2) The goods affected by the arrangements are the IBM personal computers and related peripheral and software products. These are now the smallest systems in the IBM range of products. They are based on a micro-processor. They are in competition with other micro-computers. These are sold mainly for private use in the home, for individual use in business or education, for personal professional use or for small firms. The IBM personal computers are at the more expensive end of the range of micro-computers.
- (3) Most mainframe and mini-computer manufacturers sell direct to the end user. IBM continues to do this for most of its product range. Micro-computers, however, have mostly been sold through independent retail outlets or software houses. IBM intends to offer its personal computer systems direct to end users from those of its own offices equipped to do so, but also to sell through both wholesalers and retailers.
- (4) When micro-computers first became widely available, they were often sold through non-specialized outlets such as the retailers of consumer electronics, bookshops or mail-order houses. Some micro-computers (more particularly the smaller ones aimed more at home use) are still sold through such outlets. However, some manufacturers (IBM among them) of larger micro-computers, more often bought for business or professional use, believe that some users inexperienced in such use of data processing have bought from such outlets inappropriate systems they were unable to use satisfactorily, and that this has harmed the reputation of their products. It is for this reason and to ensure that users receive proper after-sales service that IBM wish to create a selective distribution system. It is based on objective criteria, and IBM will appoint as an authorized dealer or distributor, as the case may be, every applicant satisfying the criteria. Their object is to make the IBM personal computer hardware and software available to users through as many outlets capable of offering skilled pre- and after-sales service as possible.
- (5) The markets in which the arrangements have their effects, therefore, are the retailing of micro-computer hardware and software for business or

professional use and the supplying of retailers and wholesalers of such micro-computers.

The selective distribution system

- (6) The criteria for appointment as an authorized dealer are :
 1. Sales staff experienced in business use of micro-computers, trained, or ready to be trained (one week), in the IBM personal computers ;
 2. Appropriate space for demonstration and display of the computers and willingness to keep at least one available for demonstration purposes ;
 3. Ability to provide customers with technical support and training ;
 4. Service facilities and experienced staff trained (three days) in servicing the IBM personal computers ;
 5. Ability to run a micro-computer sales business ;
 6. Favourable banker's reference and credit rating ;
 7. Prospective dealer has no contractual obligation preventing him becoming a dealer ;
 8. Acceptance of IBM terms and conditions ;
 9. Compliance with the law and IBM's code of professional conduct ; this code forbids the dealer to make false claims for IBM's products or false or disparaging statements about competitors' products.
- (7) A chain of dealers with its own distribution system asked IBM whether IBM would grant it an extra discount if the chain bought in bulk from IBM's factory and provided its dealers with the delivery and back-up after-sales service normally supplied to dealers by IBM's national distribution companies. IBM agreed, and is offering to appoint any other chain of outlets or independent wholesaler as a distributor on the same terms. The selection criteria for distributors are similar to those for dealers.
- (8) IBM sells to distributors fob Greenock at its published distributor prices, which are expressed in £ sterling. IBM sells to dealers from its personal-computer product sales subsidiaries or branches at their published dealer prices expressed in local currency, and to end users from its own sales force and retail outlets at their published retail prices again expressed in local

currency. Distributors are free to fix their own selling prices and to buy from or sell to any other authorized distributor or dealer in any Western European country, which includes all Member States. Dealers are also free to fix their own selling prices and to buy from any other authorized dealer or distributor and to sell to any end-user or any other authorized dealer or distributor, in any Western European country.

- (9) IBM has a standard contract for distributors, expressed in English, and a standard contract for dealers expressed in the language or languages appropriate for each Member State (save that the Greek dealer contract is expressed in English). The various dealer's contracts are identical apart from language and some minor differences necessary to adapt them to the different systems of law of each Member State.

- (10) After amendments, following discussion with the Commission, aimed at ensuring that the selection criteria be objectively applied without discrimination and that the contracts offer no opportunity of abuse, the following are among the terms of the dealer contracts :

1. A dealer is appointed for three years, renewable ; a dealer may terminate the agreement without reason at any time ; IBM may terminate only if IBM decides to cease completely distribution through dealers (this at one year's notice to all dealers) or for breach of contract by the dealer, duly reasoned and notified ;
2. The dealer is specifically free to fix its own prices without any reference to or influence from IBM ;
3. IBM may only refuse a dealer's order if out of stock ;
4. A dealer must submit its advertisements (but not including any advertised prices or conditions) for IBM approval ;
5. A dealer must maintain a record of customers' names and addresses, serial numbers of purchases and dates of delivery, for the purposes of repairs under warranty, and make the record available to IBM in the event of any necessary safety changes ;
6. Within the warranty period, a dealer must provide service under warranty for any

machine whether originally supplied by it or by IBM or any other authorized dealer within Western Europe (which includes the whole of the Community) ; IBM pays dealers for warranty services performed ;

7. A dealer is free to sell competing products, and has an obligation to describe IBM and competing products to prospective customers fairly ;
8. A dealer may nominate other prospective dealers ; IBM undertake to process such nominations within two months (the time they take to process direct applications and train applicants' staff) and appoint if the prospective dealer is qualified.

The distributor's contract contains similar terms. The main differences are : the duration is one year instead of three ; IBM undertakes to appoint distributor's nominees for dealerships by default if their applications are not processed within two months ; the distributor agrees to buy in bulk ex factory and service the dealers it supplies.

II. LEGAL ASSESSMENT

- (11) Article 85 (1) prohibits as incompatible with the common market all agreements between undertakings, decisions by associations of undertakings, and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market.
- (12) As the Court of Justice of the European Communities held in the AEG-Telefunken case : 'Agreements that create a selective distribution system necessarily affect competition within the common market' (Case 107/82 Allgemeine Elektrizitäts-Gesellschaft AEG-Telefunken AG, 33rd ground, judgment of 25 October 1983, not yet reported).
- (13) On the other hand, the Court has also recognized that the nature of some goods and services is such that they cannot usefully be offered to the public other than by specialized outlets — for example, other than by someone capable of providing expert advice, or in the absence of expert servicing (see *ibidem* or Case 31/80 L'Oreal v. De Nieuwe AMCK (1980) ECR 3775 at paragraphs 15 and 16).

(14) Computers are not simple products. Moreover, apart from the simplest computer bought for use as it were as a toy at home, they are not even single products, but rather a range of different products used together, as are the amplifier, the turntable and loudspeakers in a hi-fi system. The capabilities and price of the IBM personal computer make the business or professional user the most likely customer. In order first to choose and then operate a computer for business or professional purposes, the buyer must have, or be able to obtain information or advice on a number of different topics :

1. The nature of the business or professional operations capable of being performed by computers ;
2. How to program computers to perform such operations and (and increasingly) the capabilities of available ready-made programs (i.e. software) ;
3. How to choose appropriate different products capable of working together in a system, and how to make them so work ; and
4. The costs and capabilities of alternative systems (i.e. different combination of products) and their relation to the potential advantages or cost savings they make possible in the particular business or professional circumstances.

It is reasonable that a manufacturer should insist that its dealers are able to give such information or advice about the manufacturer's computers. In addition, most users will wish to try out different systems before purchasing, and rely on the availability of expert post-sales advice and repair and maintenance service. There are no national rules governing admission to or conditions of sale in the trade. Computer products such as the IBM personal computers do, therefore, at present justify a selective distribution system.

(15) This conclusion is based on the present situation in this market in which new highly technical products are being sold mainly to inexperienced users who have not enjoyed the education in computers that is now being offered in many schools and colleges.

(16) The criteria outlined at paragraph 6 above are of an objective nature and relate to the qualifications of the distributor or dealer or of his staff and the suitability of his premises. Moreover the conditions of contract have been drafted or modified so as to remove the possibility of abuse, and IBM have stated that it is their intention to appoint any candidate satisfying their criteria, and their

object to appoint as many qualified distributors or dealers as possible.

(17) The criteria for the selection of dealers set out in paragraph 6 go no further than may reasonably be thought necessary for the distribution of the products in question and do not, therefore, fall under Article 85 (1). For this reason, and in the circumstances of this case, in particular because the evidence is that there will be no effort to maintain resale prices, the terms of the agreements summarized at paragraph 10 do not fall under Article 85 (1) either. The Commission therefore has adequate grounds for granting IBM a negative clearance for their selective distribution system,

HAS ADOPTED THIS DECISION :

Article 1

On the basis of the facts in its possession the Commission has no grounds for action under Article 85 (1) of the Treaty establishing the European Economic Community in respect of the selective distribution system for the IBM personal computers.

Article 2

This Decision is addressed to :

- IBM United Kingdom International Products Ltd
28 The Quadrant
Richmond
UK-Surrey TW9 1DW ;
- IBM Belgium Distribution Company SA
Square Victoria Regina 1
B-1030 Bruxelles ;
- IBM Danmark Produkt Distribution Selskab A/S
Nymøllevej 91
DK-2800 Lyngby ;
- IBM Deutschland Produktvertrieb GmbH
Hahnstraße 68
D-6000 Frankfurt 71 ;
- IBM EMEA Product Distribution Corporation
26, Philellinon Street
GR-Athens 119 ;
- IBM France Diffusion SA
Cedex 22
F-92088 Paris La Défense ;
- IBM Ireland Product Distribution Ltd
2 Burlington Road
IRL-Dublin 4 ;
- IBM Italia Distribuzione Prodotti Srl
via Fara 35
I-20124 Milano ;

- IBM Nederland Distributie BV
Johan Huizingalaan 257
NL-1066 AP Amsterdam ;
- IBM UK Product Sales Ltd
PO box 32
Alencon Link
Basingstoke
UK-Hampshire RG21 1EJ.

Done at Brussels, 18 April 1984.

For the Commission

Frans ANDRIESEN

Member of the Commission
